

# CITY COUNCIL WORK SCHEDULE

## October 1, 2024, Business Meeting

1. West Metro Fire Updates (Presentations)
2. Community Development Presentation (Presentations)
3. Swearing in of Judge Gina Hickman

## October 1, 2024, Work Session Meeting

- 1.
- 2.

## October 15, 2024, Business Meeting

- 1.
- 2.

## October 15, 2024, Work Session

- 1.

## Parking Lot:

July-December 2024  
Jeffco SWAT IGA  
Stadium Sale Funds  
Sales Tax - SUTS Update  
Charter Committee  
Sustainability Policy Revisions

## Tentative 2024 City Council Meeting Schedule

<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>
10/1/24 Council Meeting	11/5/24 No Mtg.	12/3/24 Council Meeting
10/15/24 Council Meeting	11/19/24 Budget Workshop	12/17/24 Council Meeting
10/29/24 Exec. Session		



**EDGEWATER CITY COUNCIL  
BUSINESS MEETING AND WORK SESSION  
HELD AT 1800 HARLAN STREET  
EDGEWATER, CO 80214 AND  
VIRTUALLY THROUGH  
THE GOTO MEETING APP**

**<https://meet.goto.com/665049109>**

You can also dial in using your phone.

**United States: [+1 \(646\) 749-3122](tel:+16467493122)**

**Access Code: [665-049-109](tel:+16467493122)**

**September 17, 2024**

**6:30 pm**

**\*\*Requests for ADA accommodations (including American Sign Language interpretation or CART) can be made by emailing [cityclerk@edgewaterco.com](mailto:cityclerk@edgewaterco.com)\*\***

Notice: City Council packets are prepared several days prior to the meeting. Please be advised that items will be addressed and acted upon with little discussion. These items have usually been presented at a prior City Council workshop and may appear as part of a consent agenda.

**3 or more other City Board or Commission members may attend this meeting**

General public comments will be limited to **three minutes** each and must be pre-scheduled a minimum of 6 hours prior to the meeting by completing the form at the link below. Attendees present in the Council Chambers will have the opportunity to speak after all scheduled public comment requests have been heard.

Public Comment Registration can be found [here](#), or on the City's website.

Public Comments will be heard in the order in which the request was received.

City Council may or may not respond to your comments, but instead take your comments and suggestions under advisement and direct your questions to the appropriate person or department for follow-up.

**The principal purpose of a Business Meeting is to consider and take formal action concerning matters that have come before the Council for formal action.**

**ITEM 1. BUSINESS MEETING CALL TO ORDER**

**ITEM 2. Roll Call**

**ITEM 3. Pledge of Allegiance**

**ITEM 4. Consent Agenda**

1. Agenda
2. Minutes – August 20, 2024

**ITEM 5. Public Comment**

**ITEM 6. Communications from the City Manager, and Staff**

**ITEM 7. Communication from Boards, Commissions and Membership Organizations**

**ITEM 8. Presentations**

1. JEFFCO Community Response Team Presentation - West Metro Fire
2. Communications and Events Updates
3. Community Services Update Updates

**ITEM 9. Resolution 2024-16**

Discussion and Possible Action on Resolution 2024-16, A RESOLUTION APPROVING THE 2040 EDGEWATER COMPREHENSIVE PLAN

**ITEM 10. Ordinance 2024-07 (PUBLIC HEARING)**

Discussion and Possible Action on the Second Reading of Ordinance 2024-07, AN ORDINANCE appropriating funds from the GENERAL FUND for PURPOSES OF adjusting the 2023 General Fund BUDGET

**ITEM 11. Ordinance 2024-06 (PUBLIC HEARING)**

Discussion and Possible Action on the Second Reading of Ordinance 2024-06, AN ORDINANCE ADOPTING BY REFERENCE THE NATIONAL ELECTRIC CODE, 2023 EDITION; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND MAKING CONFORMING AMENDMENTS TO THE EDGEWATER MUNICIPAL CODE

**ITEM 12. General Business**

1. Sustainability Plan Update Contract
2. Authorization of Guest Judge to Administer Presiding Judge Oath

**ITEM 13. Public Comment**

**ITEM 14. Mayor and Council Comments**

**ITEM 15. Discussion of Upcoming Agendas**

**ITEM 16. BUSINESS MEETING ADJOURNMENT**

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**ITEM 17. WORK SESSION CALL TO ORDER**

**ITEM 18. General Business**

1. City Council Vacancy Process
2. Natural Medicine Business Regulation
3. City Manager Review Process

4. Code Review – Chapters 1, 2, 4, 6 & 10

**ITEM 19. Mayor and Council Comments**

**ITEM 20. WORK SESSION ADJOURNMENT**

**EDGEWATER CITY COUNCIL  
BUSINESS MEETING & WORK SESSION  
MINUTES  
August 20, 2024**

**ITEM 1. BUSINESS MEETING CALL TO ORDER**

Mayor Conklin called the Business Meeting to order at 6:30pm

**ITEM 2. Roll Call**

Present: Mayor, Steve Conklin, Council Member Joie Iten, Council Member John Thomsen, Council Member, Lilly Steirer, Council Member, Kali Janda, and Council Member, and Mercedes Valdez

Also Present: City Manager, Dan Maples, Deputy City Manager/Community Development Director, Jocelyn Mills, Community Services Director, Kit Lammers, Police Chief, Eric Sonstegard, and City Attorney, Carmen Beery.

**ITEM 3. Pledge of Allegiance**

**ITEM 4. Consent Agenda**

1. Agenda
2. Minutes – July 16, 2024

Council Member Valdez made a motion to approve the Consent Agenda as presented. Seconded by Council Member Gay Keao and passed unanimously.

**ITEM 5. Public Comment**

None

**ITEM 6. Communications from the City Manager, and Staff**

Chief Sonstegard shared a memo of understanding with Jefferson County Community Response Team or Crisis Community Response Team, coming to the community the first week of September and will be on a future agenda with a more comprehensive presentation. It is a partnership with law enforcement agencies, Jefferson County Public Health, Jeffco Sheriffs and West Metro Fire. There will be a West Metro paramedic along with a clinician available to respond to calls that PD

is unable to offer much help and need a more comprehensive one-on-one communication which this team will offer. Resident Kevin Meyer will be the crisis community response paramedic. Sounds like a great pilot program for the next year.

Council Member Gay Keao asked about the posting of past minutes and recordings. City Manager Maples stated the website is going through upgrades attempting to be ADA compliant. It could take some time before things are back to normal.

Council Member Janda asked for clarification on the Finance report included in the packet. There is reporting at the beginning of the year but do not continue through the following months. City Manager Maples clarified that some tax reports are quarterly and reported a month after each quarter and will not appear on the report every month. Also tax delinquency, penalties and interest are all one time reports.

**ITEM 7. Communication from Boards, Commissions and Membership Organizations**

Mayor Conklin DRCOG is not having a meeting this week, there was a work session earlier in the month. The DRCOG awards are next week. Went on an engineering and industrial areas tour with the Jefferson County Economic Development Corporation at Metropolitan State. It was an outstanding experience. Edgewater joining Jeffco EDC has been a very positive thing in terms of making connections. After receiving a scholarship that Jeffco EDC has provided, he will be joining a group of people on the board on a trip to Detroit to look into what Detroit has done with economic stability and workforce development.

**ITEM 8. Presentations**

None

**ITEM 9. Resolution 2024-13**

Mayor Conklin gave a brief explanation of the Housing Blueprint and introduced Wheat Ridge Mayor, Bud Starker who has been involved in the Housing Blueprint since 2022, also gave a brief explanation of the Housing Blueprint.

Council Member Valdez thanked Joel Newton for being a part of the committee.

Council Member Gay Keao asked about the three year time horizon and what will happen at the end of the 3 years.

Mayor Starker stated they will reconvene at year two/three and do a recap of the outcomes, successes, challenges and what needs to be tweaked in order to continue to support communities as they build affordable housing options.

Council Member Thomsen asked about the community development reforming construction defect laws.

Council Member Janda made a motion to approve Resolution 2024-13, A RESOLUTION IN SUPPORT OF THE JEFFCO HOUSING BLUEPRINT, as presented. Seconded by Council Member Steirer and passed unanimously.

**ITEM 10. Resolution 2024-14**

Council Member Steirer made a motion to approve Resolution 2024-14, A RESOLUTION APPROVING THE CITY'S PARTICIPATION IN THE NATIONAL OPIOIDS SETTLEMENT WITH THE KROGER COMPANY AND DELEGATING APPROVAL AUTHORITY FOR FUTURE OPIOIDS SETTLEMENT PARTICIPATION TO THE CITY MANAGER, as presented. Seconded by Council Member Valdez and passed unanimously.

**ITEM 11. Ordinance 2024-07**

Council Member made a motion to approve the First Reading of Ordinance 2024-07, AN ORDINANCE appropriating funds from the GENERAL FUND for PURPOSES OF adjusting the 2023 General Fund BUDGET, as presented. Seconded by Council Member and passed unanimously.

**ITEM 12. Ordinance 2024-06**

Council Member Gay Keao made a motion to approve the First Reading of Ordinance 2024-06, AN ORDINANCE ADOPTING BY REFERENCE THE NATIONAL ELECTRIC CODE, 2023 EDITION; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND MAKING CONFORMING AMENDMENTS TO THE EDGEWATER MUNICIPAL CODE, as presented. Seconded by Council Member Steirer and passed unanimously.

**ITEM 13. General Business**

1. Declaration of City Council Vacancy – Bill Berg

Council Member Steirer made a motion to approve the declaration of a City Council Vacancy. Seconded by Council Member Janda and passed unanimously.

**ITEM 14. Public Comment**

None

**ITEM 15. Mayor and Council Comments**

Council Member Iten – Thanked Mayor Starker for his presentation. Thanked everyone for their hard work.

Council Member Valdez – With the big gap between meetings, it took a bit for her to get back into the rhythm of things. Covered a lot of important items this meeting, from housing blueprint to the opioid settlement participation. It was all very interesting. Thanked Council Member Gay Keao for taking the initiative to contact the City Manager and Xcel Energy to get things rolling with the power outages. It made a big difference on her block and general areas.

Council Member Gay Keao – Thanked Council Member Valdez for her kind words, stated she was on the phone with the City Manager, who was on the phone with Kit Lammers, who was on the phone with Xcel to get some truth and honesty, which was greatly appreciated. Appreciates City staff being liaisons with government affairs counterparts and some of the for-profit entities that serve the residents in very essential ways. She did contact the Public Utilities Commission, as a resident, because she was angry. A few days later was the Quarry fire. PUC said they are going to be discussing wildfire mitigation and Xcel's strategy over two years coming up soon. There will be a lot of opportunities for public engagement. Wanted to clarify her comments from the last meeting regarding the Organization Chart. She does not believe changes need to be made to the Org. Chart in Policing or anywhere else. She wants Council to do their job near the top of that chart. Being right under the voters, they need to take responsibility for the trust and support within the community across the board. Gave a couple of appreciations for the Police Department. She is super pumped about the Jeffco Crisis Response program. It is also cool that Kevin Meyer is involved in that. She is proud of the work that the Police have done around Narcan distribution within the community. Chief Sonstegard and the County Coroner went door-to-door in the neighborhood businesses talking to them about Narcan and how that could help save lives within the community. A statement from Senator Warnock hit her heart and soul of what she is doing up on the dais. Quote being, "I need my neighbor's children to be ok,



so that my children will be ok” Thinks it is a very metaphorical statement that their role is to run with and take accountability for the collective responsibility that they have for big issues they discuss on the dais. She is proud of the work they’ve done, like climate change, gun violence prevention, public health, keeping people housed and tenant rights. Is glad to be sitting next to everyone Council member on the dais.

Council Member Janda – Thanked Chief for the rollout of the Crisis response team. Enjoyed the concert series this summer and was able to pick up Narcan at one of the concerts. If you don’t have Narcan in your car, or home, please pick some up at the Police Department. Noticed that SCRAPS is partnering with Edgewater restaurants to increase composting in the community. Jeffco schools are officially in session, so please slow down, and keep your eyes out for the little ones on the road or sidewalks nearby.

Council Member Steirer – gave an update on the Sustainability Board. They had their annual retreat on August 10<sup>th</sup> where they reviewed the sustainability plan and what has been completed in the past four years and began discussing the updates. They made some decisions around a contractor who will be assisting them in that process. There is a rain barrel workshop on Thursday at 5:30 pm. You do need to sign up in advance and there is a fee that will include the equipment needed for the rain barrels. She is thrilled about the crisis response team and having Kevin Meyer participating, since he was in all of the mental health meetings. This is the direction they need to be going in and is an excellent pivot from the -co-responder position that they have been trying and not fully successful on. This is exactly what they wanted. The mental health meeting discussions mentioned how so often mental health crisis moments, addiction, falls into the hands of PD who are not fully equipped to deal with that as they need to be, because they are not mental health experts. She deeply appreciates the work that Chief continues to do for the PD to pull the City out of where they’ve been in the past, and to really care about all of the people on his team and the community.

Council Member Thomsen – Appreciates everyone’s comments tonight. The theme of his summer has been bragging about 25<sup>th</sup> Ave. improvements and was able to give a speech about it at a cyclist group meet up a few weeks ago. Gave a shoutout to Lot 46 Edgewater Inn for their cyclist discount program.

Mayor Conklin – Thanked Chief Sonstegard for his work on the Crisis Response Team program. It is a great opportunity and is excited of what that brings to Edgewater. Spoke to an Edgewater citizen who had a vehicle stolen and raved about how wonderfully the Police handled the situation, how they felt responded to, how they felt the situation was addressed and the vehicle was discovered quickly

thereafter. Spoke about the recent Xcel Energy issues in Edgewater and the impact their new protocols have on the community and is appreciative and understanding of their wildfire response. Urban Land Institute attended the Metro Mayor's Caucus where they had community leaders play the roll of the developer and the developers played the roll of City Council as decision makers. It was an enlightening task for all. He will be attending the Colorado Women's Chamber of Commerce Gala where they are honoring the 25 most powerful women in business. Dr. Flo Raitano, one of the executives with DRCOG, is being honored at that event. Expressed his respect, advocacy and honor serve with the powerful women in the room. Received an email from a former Edgewater resident who is writing a book about their life and wanted to be sure to capture the information about KIMN's location and the rold that played in their experience in living in Edgewater.

**ITEM 16. Discussion of Upcoming Agendas**

**ITEM 17. BUSINESS MEETING ADJOURNMENT**

Mayor Conklin adjourned the Business Meeting at 8:00 pm

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**ITEM 18. WORK SESSION CALL TO ORDER 8:11 pm**

**ITEM 19. General Business 8:12 pm**

1. Judge Contract Process & Compensation Discussion
2. 24th Ave Visioning – Kit/Blue Zone 8:30 pm
3. Edgewater Housing RFFP Submission Review
4. Code Review – Chapters 1-6 & 10 – 9:22 pm

**ITEM 20. Mayor and Council Comments**

**ITEM 21. WORK SESSION ADJOURNMENT 10:05 pm**



# COUNCIL COMMUNICATION & REPORTS

## Monthly Communication from City Manager

**Badge Pinning Ceremony:** The Edgewater Police Department will be holding a brief badge pinning ceremony on Tuesday (9/17) prior to the Council meeting at 6pm to recognize newly promoted Sergeant Tristan Robenalt. Everyone is welcome to attend.

**Edgewater StoryWalk:** During the month of September we are collaborating with the [Jefferson County Public Library](#) to promote the importance of reading to children through a [StoryWalk](#)® experience. StoryWalks® allow families a sense of discovery while promoting reading, talking and movement outdoors. This is a self-directed learning opportunity, consisting of a deconstructed picture book, with each page mounted separately on an outdoor path. The [StoryWalk](#)® is part of the library’s Raise a Reader month long celebration. The celebration includes a variety of activities and events. The StoryWalk is currently set up on the path directly north of the Civic Center.

**On-Line Business Licensing:** The Clerks Department has initiated a program to get all our business licensing to an on-line portal, Community Core (same system we use for building permits). This new process will streamline the process for all new and renewal applications. Staff have started communicate these changes with business owners. Please feel free to send any questions or concerns you hear to the Clerk’s Office.

Department	Report	#	Department	Report	#
City Clerk	Monthly Business License	2	Parks & Recreation	Fitness Center Usage	10
	Monthly Court Report	2		Programs Update	11
Community Development	Neighborhood Compliance	3		Parks Update	11
	Sustainability Report	4	Police	Crime Statistics	12
	Building/ Planning Report	6		Calls for Service	12
Finance Department	Monthly Revenue Summary	7	Utilities	Community Engagement	13
Human Resources	Trainings	9		Monthly Utility Report	14
		Employment Summary	9		

**Attachments:**

1. P&Z Minutes
2. HARP Minutes

# City Clerk Department

## ***Business Licenses New/ Renewed***

<b>Business Name</b>	<b>Address</b>	<b>Type</b>	<b>New/ Renewed</b>
Deka Lash	1931 Sheridan Blvd. Ste G-4	Salon	Renewed
Driftless roots	1931 Sheridan Blvd.	Salon	Renewed
Happy Lemon	1391 Sheridan Blvd. #Q	Tea shop	Renewed
McDonalds (3PI)	1701 Sheridan Blvd.	Fast Food	Renewed
Sustain Salon	1931 Sheridan Blvd. Units H&I	Salon	Renewed
Washway Laundry	1711 Sheridan Blvd. #F	Laundromat	Renewed

## ***Monthly Court Report***

Per Section 2-5-260 of the Edgewater Municipal Code here are the required reports for the preceding month.

- (1) The total number of convictions: 50
- (2) The total number of dismissals: 25
- (3) The total number of bonds paid: 3 FOR \$800.00
- (4) The total number of appeal bonds approved: 0
- (5) The total moneys collected: \$4,428.00

## Community Development

End of Month Report Neighborhood Compliance 8/1 through 8/31/2024		
Violation Type	Open	Closed
Abandoned/ Junked Vehicle on City Streets	0	0
Garbage/ Junk/ Trash on Private Property	0	0
Graffiti	25	25
Illegal Dump	0	0
Nuisance Trees or Hanging Trees	1	1
Nuisances Prohibited/ Working Hours	1	1
Nuisance Weeds	0	0
RV or Oversized Truck Parked on City Streets	1	1
Snow Removal	0	0
Utility Trailer	1	1
Vehicle on Private Property	1	1
<b>Total</b>	<b>30</b>	<b>30</b>
Friendly Reminders	Open	Closed
Abandoned/ Junked Vehicle on City Streets	3	3
Garbage/ Junk/ Trash on Private Property	15	15
Graffiti	18	18
Illegal Dump	1	1
Nuisance Trees or Hanging Trees	4	4
Nuisances Prohibited/ Working Hours	1	1
Nuisance Weeds	30	30
RV or Oversized Truck Parked on City Streets	0	0
Snow Removal	0	0
Utility Trailer	0	0
Vehicle on Private Property	7	7
<b>Total</b>	<b>79</b>	<b>79</b>
Miscellaneous/ Other	Open	Closed
Dumpsters/ Storage Pods	2	2
Fences	3	3
Public Notice Postings	2	2
Rental Tenant Complaints	0	0
Temporary Signs/ Banners	0	0
<b>Total</b>	<b>7</b>	<b>7</b>
<p>7 Edgewater Excellence recipients for month of August - 2195 Harlan, 2405 Harlan, 2039 Ingalls, 2079 Ingalls, 2494 Ingalls , 2440 Lamar, and 2458 Otist Ct.</p>		

## **Sustainability Report**

**Exploration of DRCOG Grant Navigator Services:** WSB consultant, Amy Fredregill, has offered to provide grant application support services that she can bill to DRCOG. We are exploring the partnership possibilities.

**Scraps contracted to manage waste services at Hometown Festival:** As a pilot to experience what operating the festival in a zero waste capacity requires, Scraps will completely manage the waste, recycling, and composting options provided.

**Continued issues with Solar United Neighbors:** A board member received an email offering their services for solar installation. We emailed them asking them to refrain from further communication to Edgewater residents and use of the City logo. We have only 2 remaining permit applications.

**Sustainability Board discussion:** Half of the last meeting was used to review UFMP priorities and discuss tree ordinance recommendations to Council given their code review process. Specifics pending.

**Participation in the DRCOG Active Transportation Plan Advisory Group meeting:** The meeting focused on universal design best practices and guidance, local planning and policy initiatives, and challenges to implementing sidewalk networks.

**Drive Clean Colorado tentative Ride and Drive canceled:** They have canceled the possibility as they do not hold events in the weeks surrounding presidential elections. We asked that they conduct an informational seminar on November 14th. Their response is pending and we may ask Partners In Energy instead.

**Sharp increase in Resource Central Garden In A Box purchases:** There was a significant jump in total orders from 35 to 44 orders from July 17th to Aug 4<sup>th</sup>

**Restaurant Composting Pilot launched with Scraps and Playa Bowls:** Joint meeting held to determine logistics and set expectations. Contract still pending.

**Consultants nearly contracted for the Sustainability Plan update:** Contract drafts with Crescendo Planning + Design and Big Glasses Consulting have been finalized and are ready for Council's review on September 17th

### **Sustainability Seminars:**

- Rain barrel workshop with Jessica Swindon of Groundwork Denver held August 22nd 11 people attended, free barrels were given to attendees

**First interdepartmental UFMP management plan meeting held:** Community Planning, Community Services, and Parks & Recreation directors met to discuss how to go about developing a management plan and implementation process

**CLEAR**Results contract for Home Energy Squad Services still pending: Meghan Whittaker sent the contract draft on August 26th but we returned it with a few edit requests. It is now going back through their legal review process

**Waste Diversion Updates** - Republic has not yet provided figures for August.

	<b>Recycle</b>	<b>Yard Waste</b>	<b>Organics</b>	<b>Trash</b>	<b>% Diverted</b>
<b>June</b>	20.93	0	8.4	96.33	23.3%
<b>July</b>	18.6	0	9.1	91.23	23.3%
<b>August</b>					

	Residential				Commercial				One Stop	Other	Engineering	Fire	Land Use	Misc	Planning	Public Works	Subdivision	Zoning	Total
	Residential New	Residential Alteration	Residential Miscellaneous	Residential One Stop	Commercial New	Commercial Alteration	Commercial Miscellaneous	Commercial One Stop											
<b>Inspection Activity</b>																			
Number of Inspections	18	31	0	5	0	14	0	0	16	0	0	0	0	0	0	2	0	0	86
Number Passed	11	26	0	4	0	4	0	0	10	0	0	0	0	0	0	2	0	0	57
Inspection Passed %	61.11 %	83.87 %	0.00 %	80.00 %	0.00 %	28.57 %	0.00 %	0.00 %	62.50 %	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %	100.00 %	0.00 %	0.00 %	66.28 %
% Completed on Sched Date																			100.00 %
<b>Permit Activity</b>																			
Applications Filed	0	10	0	27	0	2	0	0	13	1	0	0	0	0	0	6	0	0	59
Valuation - Applications	0.00	201,163.32	0.00	306,148.44	0.00	75,406.00	0.00	0.00	51,918.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	634,635.76
Permits Issued	0	1	0	27	0	1	0	0	9	1	0	0	0	0	10	0	0	0	49
Valuation - Issued	0.00	24,000.00	0.00	306,148.44	0.00	15,000.00	0.00	0.00	39,986.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	385,134.94
Avg wk days submit to issue	0	23	0	0	0	25	0	0	1	1	0	0	0	0	29	0	0	0	7
Total fees billed	5,454.75	753.30	0.00	4,686.00	0.00	1,086.15	0.00	0.00	1,325.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13,305.37
Avg fees/permit (billed)	5,454.75	753.30	0.00	173.56	0.00	1,086.15	0.00	0.00	147.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	271.54
Total fees paid	20,398.00	1,427.52	0.00	11,579.36	0.00	2,123.20	0.00	0.00	2,446.22	60.00	0.00	0.00	0.00	0.00	0.00	4,103.00	0.00	0.00	42,137.30
Avg fees/permit (all fees)	20,398.00	1,427.52	0.00	428.87	0.00	2,123.20	0.00	0.00	271.80	60.00	0.00	0.00	0.00	0.00	0.00	410.30	0.00	0.00	859.94
<b>Voided Permits</b>																			
Number of Voided permits	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	2
<b>Plan Reviews - Submittals</b>																			
Initial Submittals Received	0	4	0	0	0	2	0	0	2	0	0	0	0	0	2	0	0	0	10
Resubmittals Received	3	0	0	0	0	1	0	0	0	0	0	0	0	0	3	0	0	0	7
Total Submittals Received	3	4	0	0	0	3	0	0	2	0	0	0	0	0	5	0	0	0	17
Approved Submittals	2	2	0	0	0	3	0	0	2	0	0	0	0	0	4	0	0	0	13
Avg Days In Review	1	8	0	0	0	7	0	0	11	0	0	0	0	0	22	0	0	0	49
<b>Plan Reviews - Reviews</b>																			
Total Plan Reviews Completed	3	5	0	0	0	4	0	0	2	0	0	0	0	0	6	6	0	0	26
Total Plan Reviews Created	3	4	0	0	0	4	0	0	2	0	0	0	0	0	5	0	0	0	18
Total Approved Plan Reviews	2	4	0	0	0	4	0	0	2	0	0	0	0	4	6	0	0	0	22



# Finance Department

## **Revenue Report**

Type	January	February	March	April	May	June	July	August	YTD Total	%	YTD Budget
In City Sales Tax	664,876.46	629,813.05	677,383.83	636,937.09	650,558.11	724,186.21			3,983,754.75	54%	7,368,671.62
Out of City Sales Tax	60,030.63	37,539.62	130,953.86	125,032.43	38,067.13	38,706.03			430,329.70	46%	943,405.92
City Permit Use tax	16,713.92	22,665.74	16,730.17	9,756.40	8,082.06	5,429.79	5,010.31	2,605.41	86,993.80	29%	300,000.00
State Retail Marijuana Tax	11,150.88	18,539.09	7,242.91						36,932.88	13%	291,000.00
Penalties/Interest on Tax Delinquency	12,267.53								12,267.53	82%	15,000.00
Motor Vehicle	29,369.36	39,932.13	21,046.62	28,474.87					118,822.98	32%	370,600.00
Cigarette Taxes	686.36	1,141.39	780.04	404.33	-				3,012.12	25%	12,000.00
Franchise Taxes	12,647.48	23,018.41	18,420.26	23,345.16	13,538.23	23,185.86			114,155.40	67%	170,000.00
Mineral Taxes					-				-	0%	800.00
HIGHWAY USERS TAX									-	0%	120,000.00
ROAD AND BRIDGE TAX									-	0%	42,000.00
<b>Total</b>	<b>807,742.62</b>	<b>772,649.43</b>	<b>872,557.69</b>	<b>823,950.28</b>	<b>710,245.53</b>	<b>791,507.89</b>	<b>5,010.31</b>	<b>2,605.41</b>	<b>4,786,269.16</b>	<b>50%</b>	<b>9,633,477.54</b>

<b>Preliminary Other General Fund Revenue Summary</b>				
<b>January-Aug 2024</b>				
<b>Sectors</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>%</b>	<b>Unexpended</b>
Taxes	5,643,653.43	9,633,477.54	59%	3,989,824.11
Judicial	34,191.01	38,950.00	88%	4,758.99
Parks & Recreation	268,688.95	270,000.00	99.51%	1,311.05
Licenses, Permits and Fee	250,679.98	795,475.00	31.51%	544,795.02
Grants	16,453.00	8,000.00	205.66%	(8,453.00)
Other City revenues	96,769.66	143,000.00	67.67%	46,230.34
TRANSFER FROM OPEN SPACE FUND		25,000.00	0.00%	25,000.00
UTILITY OPERATING SPLIT		70,425.00	0.00%	70,425.00
UTILITY OPERATING SALARIES		384,358.14	0.00%	384,358.14
TRSFER OPEN SPACE - FITNESS CTR		67,000.00	0.00%	67,000.00
<b>Total Fund Revenue</b>	<b>6,310,436.03</b>	<b>11,435,685.68</b>	<b>55%</b>	<b>5,125,249.65</b>

<b>Preliminary Expenditures Summary</b>				
<b>January-August 2024</b>				
<b>Sectors</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>%</b>	<b>Unexpended</b>
Mayor & Council	65,288.81	143,698.00	45.43%	78,409.19
City Clerk	107,170.68	155,265.10	69.02%	48,094.42
Court	103,292.17	195,358.81	52.87%	92,066.64
Police	2,063,062.04	3,578,504.25	57.65%	1,515,442.21
City Attorney	206,583.96	220,000.00	93.90%	13,416.04
Public Works	300,430.54	555,284.53	54.10%	254,853.99
Buildings	414,224.45	480,900.00	86.14%	66,675.55
Parks & Recreation	292,962.96	605,463.68	48.39%	312,500.72
Fitness Center	145,434.88	316,341.50	45.97%	170,906.62
Finance	238,542.29	453,749.41	52.57%	215,207.12
Community Services	184,856.06	363,678.16	50.83%	178,822.10
Communications & Events	151,269.36	350,284.74	43.18%	199,015.38
City Manager	121,993.80	402,095.83	30.34%	280,102.03
Community Development	418,249.40	842,828.43	49.62%	424,579.03
Sustainability	13,023.91	70,000.00	18.61%	56,976.09
Human Resources	68,265.82	391,424.72	17.44%	323,158.90
Non-Departmental	1,640,511.12	3,290,383.00	49.86%	1,649,871.88
<b>Total Fund Expenditures</b>	<b>6,535,162.25</b>	<b>12,415,260.16</b>	<b>52.64%</b>	<b>5,880,097.91</b>

## Human Resources Department

### **Trainings**

August: Flagger Certifications: Comm Serv Dir & all Public Works Workers  
CPR Certification internally in P & R  
CIRSA trainings internally all staff

### **Hired Positions (July – to date):**

Instructor (7/10) Sarah McGlinchy

### **Open Positions (July – to date):**

Police Officer  
Police Officer in Training  
P & R Assistant sub

### **August New Staff**

Dominic Gomez, Facilities Assistant  
Rafael Jones, Facilities Assistant  
Lateffa Ramsey, Program (Toddler) Instructor  
Elisa Cohen, Program Instructor  
Sarah McGlinchy, Program Instructor  
Jay Mencia-Cabrera, Recreation Specialist-Facilities  
Meghan Murphy, Mental Health Coordinator

### **August Anniversaries**

Meghan Hollenga 8/8, 2 yrs  
Derek Stakley 8/9, 3 yrs  
Monique Bechard 8/10, 4 yrs  
Olga Valadez 8/20, 2 yrs

## Parks & Recreation Department

### **Monthly Fitness Center Use**

	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug.</b>	<b>Sept.</b>	<b>Oct.</b>	<b>Nov.</b>	<b>Dec.</b>
Totals for Resident Adult Drop-In	277		208	231	235				
Totals for DDRC/Mosaic Discount	20		1	2	2				
Totals for Non-Resident Adult Drop-In	93		74	107	73				
Totals for Non-Resident Youth Drop-In	5		5	0	5				
Totals for Personal Training Session	32		32	10	10				
Totals for Resident Senior Drop-In	7		6	22	22				
Totals for Shower	38		60	52	51				
Totals for Resident Youth Drop-In	137		56	76	78				
<b>Monthly Total</b>	<b>609</b>		<b>454</b>	<b>500</b>	<b>476</b>				
<b>55+ Fitness</b>	50		50	63	132				
Active Minds Lecture Series	0		0	14	8				
Youth Dance	0		0	0	121				
Child Watch				0	7				
Indoor Cycling Classes	129		129	39	61				
Pound Fitness Classes	21		21	16	16				
Strength, Conditioning & Weight Room Classes	69		69	80	67				
Yoga & Meditation Classes	249		251	86	106				
Youth Fitness Orientation	2		2	0	0				
Youth Soccer	0		0	0	110				
Youth Volleyball	0		0	0	25				
Zumba Classes	30		30	20					
<b>Monthly Totals</b>	<b>550</b>		<b>550</b>	<b>287</b>	<b>670</b>				

## **Parks**

- Old signage at Citizens has been removed.
- Old picnic tables at Memorial are officially removed and new ones have been placed.
- Men's and women's bathroom signs have been installed at Citizens' Park.
- Pet waste trash can has been installed on the poop bag station post at 29<sup>th</sup> and Kendall and Memorial.
- New mulch is being installed at Gold Crown and along the path at the Civic Center.

## **Programs**

- Afterschool program started at Edgewater Elementary, art and geometry.
- Skate program extended through fall based on positive feedback from participants.
- Ballet III class started for winter session. First time Jackie has had an additional instructor on board to help grow the program.
- New Tuesday/Thursday Toddler programs added for fall with Lateffa.
- Adult basketball collaboration established with Sports Kind; trial run this October
- John received several positive shoutouts from the baseball end of season survey.

There's a participant that's been going to Christine's chair yoga class that could not get out of her chair without assistance before she started. Now she can get out easily and move around on her own without any help. A nice little story about the benefits of these programs!

## **Fitness Center**

- New staff, Jay, Dominic and Rachael
- New elliptical ordered for replacement
- Annual Survey
  - 28% participation increase in the Fitness Center Survey Results from 2023 to 2024
  - "All staff are professional, courteous, and friendly. The facility exceeds in cleanliness and rarely has nonfunctioning equipment."
  - "Super friendly staff and the gym always feels clean. Staff are always cleaning and making sure it's tidy - it's very much appreciated."
  - "Your staff are so friendly and helpful. I love going to this Rec center and the staff are always welcoming and positive. So glad to have this gym in the neighborhood!!"
  - "I love how much effort you all put towards optimizing the gym layout. The number of improvements that have been made towards it over the last couple years have been so noticeable, and it is clear how intentional you are towards every decision that is made."

## **HARP**

- Working on e-book and Spanish translation of the history book.
- Bi-annual Orum House cleaning in November.
- Working on 3 "collector" postcards to distribute at events.
- 1 current vacancy, new member Alex Donaldson

## **General**

- Story Walk in partnership with library for the month of September
- New security contract with ADS
- New Consulting Arborist, Rich Wilson

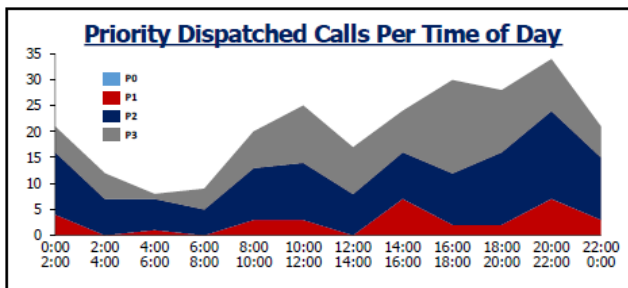
# Police Department

## Monthly Report-September 2024

### CRIME STATISTICS

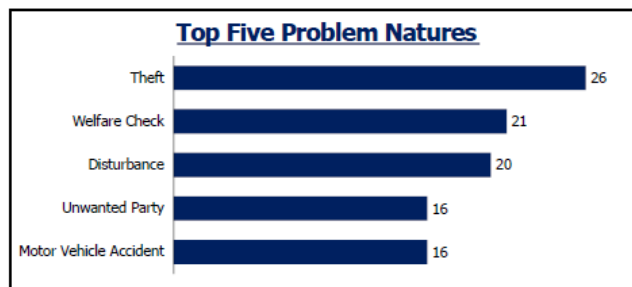
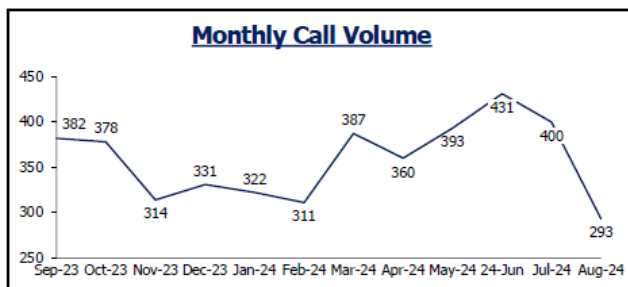
Offense	August-2023	July-2024	August-2024
Murder	0	0	0
Rape/Sodomy/Sex Assault w/ Object	0	0	0
Aggravated Assault	1	0	1
Simple Assault	4	1	1
<b>Arson</b>	<b>0</b>	<b>0</b>	<b>0</b>
Burglary/Breaking & Entering	2	0	2
Destruction/Damage/Vandalism of Property	5	3	1
Robbery	0	0	0
Shoplifting/All Thefts/All Other Larceny	21	32	20
Motor Vehicle Theft	4	0	5
<b>Drug/Narcotic Violations</b>	<b>10</b>	<b>5</b>	<b>1</b>
Drug Equipment Violations	8	9	1
Weapon Law Violations	0	2	0
<b>Total Group A Offenses</b>	<b>57</b>	<b>53</b>	<b>32</b>
<b>Total Group A Arrests</b>	<b>28</b>	<b>37</b>	<b>16</b>
<b>Driving Under the Influence</b>	<b>3</b>	<b>0</b>	<b>2</b>
Trespass of Real Property	1	2	1
<b>Total Group B Arrests</b>	<b>19</b>	<b>13</b>	<b>16</b>

### CALLS FOR SERVICE



Day of Week	P0	P1	P2	P3	Total	Average
Sunday	0	5	17	10	32	8
Monday	0	8	19	10	37	9
Tuesday	0	4	11	11	26	7
Wednesday	0	0	16	16	32	8
Thursday	0	5	20	18	43	9
Friday	0	4	12	14	30	6
Saturday	0	6	26	17	49	10
<b>Assignment &lt;2 min</b>		<b>66%</b>	<b>62%</b>			
<b>Assignment &lt;4 min</b>		<b>78%</b>	<b>80%</b>			

Notes: Call received, processed, and dispatched by Jeffcom. Self-initiated activity removed.



### COMMUNITY ENGAGEMENT

Positive comments received via our new [PowerEngage](#) civic engagement tool:

Very professional and fast acting to the situation! I appreciate their professionalism which is hard to find in our society !	Officer Thomas very committed and communicative and responsive- as a citizen i back the blue- we need you guys and i support the police - you are vital part of our communities safety and security
I appreciate the response. It was very quick. They were very helpful and the young lady I talked on the phone was very helpful so I was very satisfied with the outcome. Thank you.	Thanks for talking with me
Response time was very quick. The officers were respectful and thorough. And they offered to have someone patrol our neighborhood more.	Appreciated the prompt report about patient status
	Very professional and quick to respond

### ADDITIONAL ITEMS OF INTEREST

- The Juvenile Assessment Center (JAC) nominates an Officer of the Month for outstanding interactions with staff or youth. For the month of August, **Edgewater Officer Aidan Naso** was nominated because of his "*incredible ability in calming a juvenile down when she was agitated and yelling. Naso even provided comforting and supportive words to her so that she would agree to stay at the JAC. Staying back and playing board games with the youth was also amazing of him! Thank you so much for your help and support!!*"
- At the September 11th Wheat Ridge Optimist Club meeting, they recognized the Edgewater Police Department and our 2024 recipient of their Community Service Award, **Officer Sandy Santti**. Officer Santti was hired in 2023 and endured a serious medical issue during field training that would have derailed many careers...but instead, Sandy came back stronger than ever and finished field training to become Edgewater's newest solo patrol officer. In her short time in Edgewater, she has set the bar high for neighborhood engagement as she can often be found playing ball with local children during her patrol shifts. She can also be found at almost every Edgewater community event and has set a great example for others as to what neighborhood engagement can be for a police department.

# Utilities

## WATER

	January	February	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Annual Total
# Customers	1549	1573	1568	1567	1557	1559	1566						1562.714286
# Units (1,000 gal)	1552	1577	1571	1571	1560	1563	1570						1566.285714
Water Usage \$	\$87,476.28	\$70,646.70	\$1,028,819.57	\$87,772.27	\$81,653.45	\$142,038.48	\$186,155.19						\$1,684,561.94
Water Service Taps	1609	1609	1567	1609	1609	1613	1611						1603.857143
Water Service Fee Taps \$	\$17,133.39	\$17,134.09	\$17,633.73	\$17,585.75	\$17,636.58	\$17,660.78	\$17,641.04						\$122,425.36
<b>Monthly Water Totals</b>	<b>\$104,609.67</b>	<b>\$87,780.79</b>	<b>\$87,904.78</b>	<b>\$105,358.02</b>	<b>\$99,290.03</b>	<b>\$159,699.26</b>	<b>\$203,796.23</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,806,987.30</b>

## SEWER

	January	February	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Annual Total
# Customers	1007	1007	1007	1006	1007	1010	1008						1007.428571
# Units (Non-metered)	1311	1311	1311	1310	1311	1314	1312						1311.428571
Sewer Service Charge \$	\$24,150.19	\$24,153.29	\$24,710.35	\$24,557.57	\$24,666.25	\$28,472.32	\$28,706.34						\$179,416.31
Sewer Units (taps)	1302	1302	1302	1301	1302	1305	1303						1302.428571
Usage \$	\$10,327.09	\$10,329.87	\$10,624.41	\$10,588.77	\$10,602.76	\$10,621.87	\$10,627.26						\$73,722.03
<b>Monthly Sewer Totals</b>	<b>\$34,477.28</b>	<b>\$34,483.16</b>	<b>\$35,334.76</b>	<b>\$35,146.34</b>	<b>\$35,269.01</b>	<b>\$39,094.19</b>	<b>\$39,333.60</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$253,138.34</b>

## TRASH

	January	February	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Annual Total
Trash - 32 gallon	261	262	260	259	255	254	255						258
Trash - 64 gallon*	509	509	510	507	506	506	506						507.5714286
Trash - 96 gallon**	596	598	593	592	595	592	591						593.8571429
Additional Bins	161	161	0	0	0	0	0						46
<b>Total Units</b>	<b>1527</b>	<b>1530</b>	<b>1363</b>	<b>1358</b>	<b>1356</b>	<b>1352</b>	<b>1352</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1405.428571</b>
<b>Total Billed</b>	<b>\$24,850.00</b>	<b>\$24,902.00</b>	<b>\$22,870.00</b>	<b>\$22,794.00</b>	<b>\$22,802.00</b>	<b>\$22,729.00</b>	<b>\$22,718.00</b>						<b>\$163,665.00</b>

## COMPOSTING

	January	February	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Annual Average
# Customers	199	200	198	192	190	186	189						193.4285714
<b>Total Amount</b>	<b>\$3,410.00</b>	<b>\$3,426.00</b>	<b>\$3,219.00</b>	<b>\$3,143.00</b>	<b>\$3,125.00</b>	<b>\$3,106.00</b>	<b>\$3,121.00</b>						<b>\$22,550.00</b>

## MONTHLY TOTALS

<b>Total Amount Billed</b>	<b>\$167,346.95</b>	<b>\$150,591.95</b>	<b>\$149,328.54</b>	<b>\$166,441.36</b>	<b>\$160,486.04</b>	<b>\$224,628.45</b>	<b>\$268,968.83</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,246,340.64</b>





**History Art Recreation and Parks (HARP) Board  
Regular Meeting**

**August 28, 2024 at 6:00pm**

Held at 1800 Harlan Street, Edgewater, 80214 and Virtually through the GoTo Meeting App: <https://meet.goto.com/589745869>

Telephone Number: 1 (872) 240-3311  
Meeting ID/Access Code: 589-745-869

Get the app now and be ready when your first meeting starts:  
<https://meet.goto.com/install>

3 or more other City Board or Commission members may attend this meeting.

Public Comment: Except for comments concerning matters that are set for public hearing, members of the public are invited to be heard during the public comment portions of the meeting.

**ITEM 1. Work Session Call to Order**

- a. 6:03 pm MT

**ITEM 2. Roll Call**

- a. Board Members Present: Casey Davis, Lauren Klepac, Joel Newton, Anne Yoncha, and Alex Donaldson
- b. Board Members Absent: Laney Rudell
- c. Staff: Amber Magee - Present
- d. City Council: Hannah Gay Keo – Present
- e. Public: N/A

**ITEM 3. Consent Agenda**

- . Approval of Agenda
  - i. Changes or additions to the Agenda - None
- b. Approval of Minutes from July 24<sup>th</sup> Meeting

**ITEM 4. Public Comment (Non-Agenda Items)**

- a. None

**ITEM 5. 25<sup>th</sup> Avenue Sign Retrofit**

- a. Discussion
  - i. Maintenance is between \$1500-3000K annually
  - ii. Retrofitting
    - 1. Cost?
    - 2. Energy savings?
    - 3. FB group called “save the signs”
    - 4. <https://www.morrysneon.com/>
    - 5. Lauren to email updates about neon

**ITEM 6. Section Updates**

- a. History
  - i. History Storage Cleanup
    - a. Orum house - needs to be inventoried.
    - b. Lauren and Alex have started inventory of museum items and updating existing inventory, adding new items to catalog and proposing items for dissolution.
      - i. Next steps finish inventory. Timeline TBD.
    - c. Joel to reach out to prospective donor to ascertain if their donation of school items may be of value.
  - ii. E-Book
    - a. Casey and Laney have had formatting challenges. Will need to explore having more help for this.
  - iii. Spanish Translation
    - a. 169 pages in English, 30% longer in Spanish
    - b. Anne to reach out to local translator, Laney was not getting responses from existing contacts.
    - c. Initial estimates were higher than original budgeted amount

- b. Art
  - i. Murals – no updates
  - ii. Postcard - All approved the back of the postcard that Laney put together. Exploring UPS or C&D printing. Will order 500 of each.
  - iii. Home Town Staff - Anne, Alex, and Casey
- c. Recreation
  - i. Director Update provided by Amber
- d. Parks – no updates

**ITEM 7. Old Business**

- a. Orum House Cleanup: November – 6<sup>th</sup> at 6:00 pm
  - i. Outlook invite has been sent
- b. Reallocation of Special Event Funds
  - i. T-shirts, Postcard (~1000K), Canvas Bags, Event, Orum Signage, Murals, Scanning, Art, Translation/E-book. Revisit after we understand the cost of in-flight projects.

**ITEM 8. City Staff and Council Updates**

- a. HARP Booth at Hometown Festival – September 21<sup>st</sup>
  - i. Lauren to start thread for Hometown details with Kalah and volunteers.
- b. Announced that City Council has a vacancy

**ITEM 9. Board Comments**

**ITEM 10. Discussion of Upcoming Agendas and Next Meeting Date**

- a. September 25<sup>th</sup> at 6:00pm

**ITEM 11. Meeting Adjournment**

- a. 6:55 pm MT



**EDGEWATER PLANNING AND ZONING COMMISSION  
BUSINESS MEETING MINUTES  
July 31, 2024**

**ITEM 1. Call to Order**

Chair Fleck called the meeting to order at 6:02pm

**ITEM 2. Roll Call**

Deputy City Clerk Sofia Mitchell called the roll

Present: Commissioner David Fleck, Commissioner Tim Wellner,  
Commissioner Madeline Burnham, Commissioner Janka Flaska

Absent: Commissioner Thea Samson

Also Present: Deputy City Manager/Community Development Director Jocelyn  
Mills, Board Liaison Joie Iten

Full and timely notice of the meeting was given, and a quorum was present.

**ITEM 3. Pledge of Allegiance**

**ITEM 4. Approval of Agenda**

Commissioner Burnham motioned to approve the Agenda. Seconded and  
passed unanimously

**ITEM 5. Public Comment (Non-Agenda Items)**

**ITEM 6. Consent Agenda-**

1. Minutes – April 17, 2024

Commissioner Burnham motioned to approve the Consent Agenda as  
presented. Seconded and passed unanimously

**ITEM 7. General Business**

1. Public Hearing - Resolution 2024-02

Chair Fleck opened the Public Hearing at 6:28pm

A resident of Edgewater appreciates the work that was put into the plan.

Chair Fleck closed the Public Hearing at 6:38

Discussion and possible adoption of Resolution 2024-02, A  
RESOLUTION ADOPTING THE 2040 EDGEWATER  
COMPREHENSIVE PLAN AND REFERRING THE SAME TO THE  
EDGEWATER CITY COUNCIL FOR APPROVAL.

Commissioner Burnham motioned to approve Resolution PC 2401-02.  
Seconded and passed unanimously

**ITEM 8. Commissioner Comments**

Chair Fleck gives his thanks to Edgewater City Staff and the Commissioners of Planning and Zoning

**ITEM 9. Discussion of Upcoming Agendas; Staff and City Council Liaison Comments**

City Council Liaison commends the Comprehensive Plan community engagement.

Deputy City Manager/Community Development Director Mills says that the Planning and Zoning Commission will review their Rules of Procedure at the next meeting.

**ITEM 10. Adjournment**

Chair Fleck Adjourned the meeting at 6:43pm



## City Council Agenda Item Form

<b>Agenda Item #:</b>	<b>Item 8(1)</b>
<b>Agenda Item Title:</b>	<b>JeffCo Community Response Team (JCRT)</b>
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: <input checked="" type="checkbox"/> City Council Business Meeting:
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member: Chief Eric S. Sonstegard
<b>Staff Contact:</b>	Name: Eric S. Sonstegard  Email: <a href="mailto:esonstegard@edgewaterpd.com">esonstegard@edgewaterpd.com</a>  Phone: 720-763-3040
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input checked="" type="checkbox"/> Informational/ Presentation <input type="checkbox"/> Policy Change/ Addition/ Deletion <input type="checkbox"/> Resolution Approval <input type="checkbox"/> Contract Approval <input type="checkbox"/> Other:
<b>Brief Topic Description:</b>	Representatives from West Metro Fire will give a brief presentation on the new JeffCo Community Response Team and its impact on Edgewater.
<b>Financial Impact:</b>	n/a
<b>History/ Background:</b>	n/a
<b>Staff Information:</b>	

Attachments:



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 8(2)</b>
<b>Title:</b>	<b>Communications &amp; Events Department Update</b>
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: 7 <input checked="" type="checkbox"/> City Council Business Meeting: 9/17/24
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Kalah Hardt Email: khardt@edgewaterco.com Phone: 720-763-3030
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input checked="" type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Communication and Events Department Presentation.
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	Annual Department presentation to City Council.
<b>Staff Analysis/Information:</b>	No additional information at this time.

**Attachments:**

1. Communication & Events 2024 Department Presentation

# Communciations & Events

City Council Update

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The Communications & Events Department provides accurate and prompt information that educates and engages the public and creates a sense of community through the use of intentional engagement to all residents, visitors, and staff.

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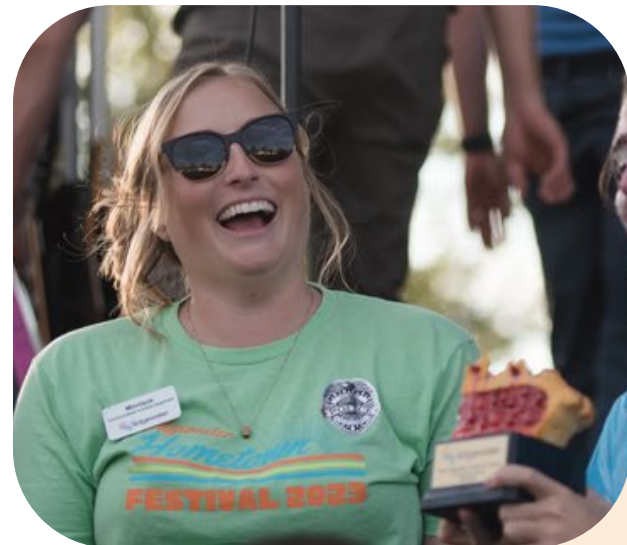


# Meet the Team



**Kalah Hardt**

Communications & Events Director



**Monique Bechard**

Communications & Events Coordinator



**Kiki Carpenter**

Events & 55+ Activities Assistant



Our  
team  
In the  
wild

# Community Survey Feedback

## What we are doing well:

- “You reach out to the community. There's good communication regarding community events and involvements.”
- “Creates a strong sense of community through annual events, opportunities for kids and seniors, volunteer opportunities, etc.”
- “I like the Town Cryer that lets me know what is happening around the city and upcoming events.”

89.5 % Satisfaction  
with Communications &  
Events Department

## What can we improve in the next 5 years?

- Many responses called ~~for~~ *more community and social events!*
- Events to *support businesses and local fundraising*
- “Be more open to hearing from and working with residents. The benefit of being a small town should be that we are able to communicate. Continue making events *more friendly open to everyone*—my family LOVED the pancake breakfast this year that was neutral and not tied to Easter. Made a HUGE difference, and was a fantastic event.”
- “*Better communication with city construction projects* and the citizens and the individuals affected by it.”

79% of residents rate community and special events as “good.”  
Among those who said “good”, 42% said “excellent.”

# Communications



## 2025 Goals:

1. Implementation and Optimization of ADA Digital Accessibility Plan.
2. Increase collaboration with internal staff to enhance each department's projects and engagement.
3. Increase integration of Spanish translation to digital and print assets.
4. Boost adoption and engagement of the AskEdgewater Mobile app.

---

All metrics from January 1, 2024 - September 1, 2024

# ADA Digital Accessibility

The City of Edgewater is in compliance with the HB 24 -1454 Grace Period Bill and Colorado Office of Information Technology Rules .

## Inventory & Testing

- Create an inventory of websites, applications, PDFs, databases, digital signage, etc.
- 3rd party testing and integrative hurricane testing.
- Begin 3rd party vendor inventory and ADA commitment clauses i.e. CommunityCore, Xpress Bill Pay, ArcGIS, etc...

## Transition Plan

- Create Priorities, assessment checklist, and completion dates for initial remediation of websites, documents, and apps.
- Update status in Digital Accessibility Plan once per month.
- Assess and assign PDF priority status.

## Optimization

- Implement reporting/decision mechanism and maintain records.
- Make organizational changes to improve IT accessibility.
- Integrate accessibility content into agency communication plans.
- Fully integrated accessibility criteria into key development life cycle processes and is using these processes to improve the accessibility of its product / service offerings.

## Policies & Plans

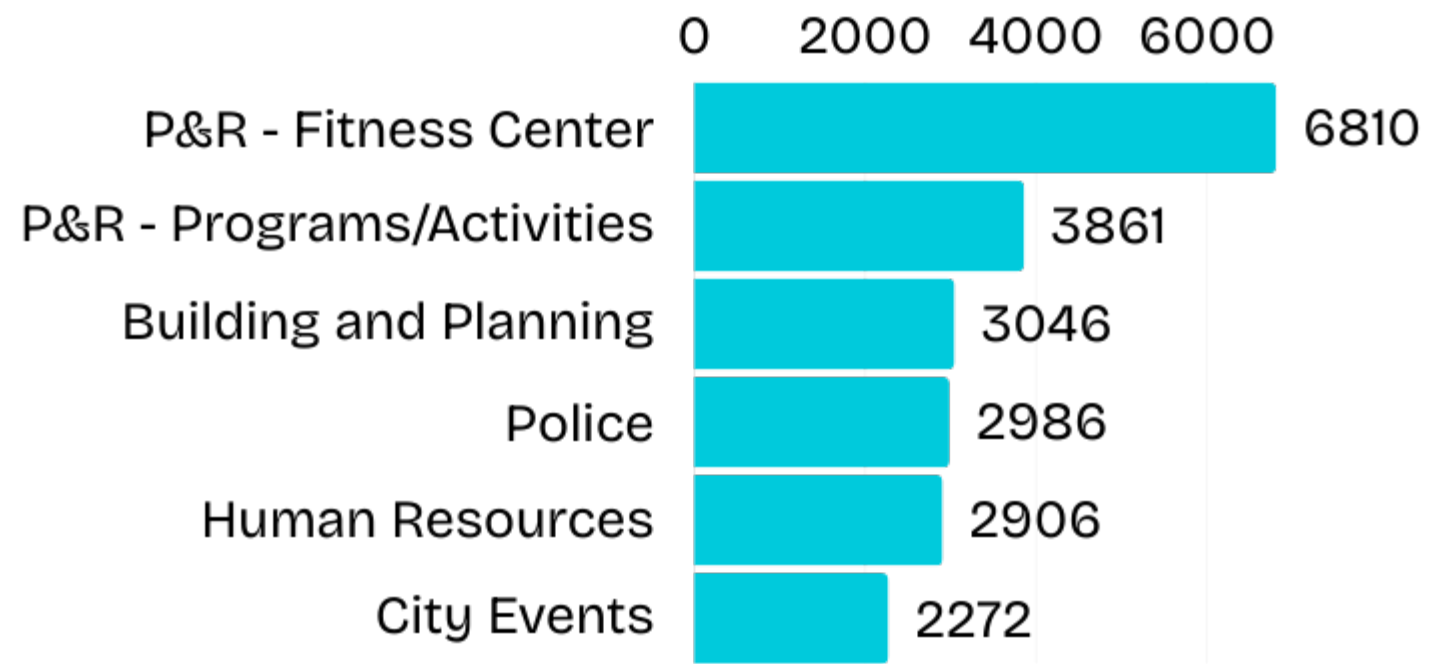
- Complete draft of Digital Accessibility Plan.
- Complete addition of Digital Accessibility commitment on ADA Webpage.
- Assign internal responsibilities for implementation.
- Complete Internal plan for tracking/resolution of accessibility complains/feedback.

We are here!

- Develop accessibility skills training and resources that are unique to the city and those available statewide.
  - Currently available in the Digital Accessibility Plan.
- Clear understanding of ADA rules set by OIT with staff.
- Identify and create role based training.
- Begin using modified processes across website and PDFs.

## Most Visited Pages

Does not include "Home" Page



# City Website

## www.EdgewaterCO.gov

Google Analytics used to measure engagement.

## How Visitors Find Us

**Organic** Google, Bing, Search Engine

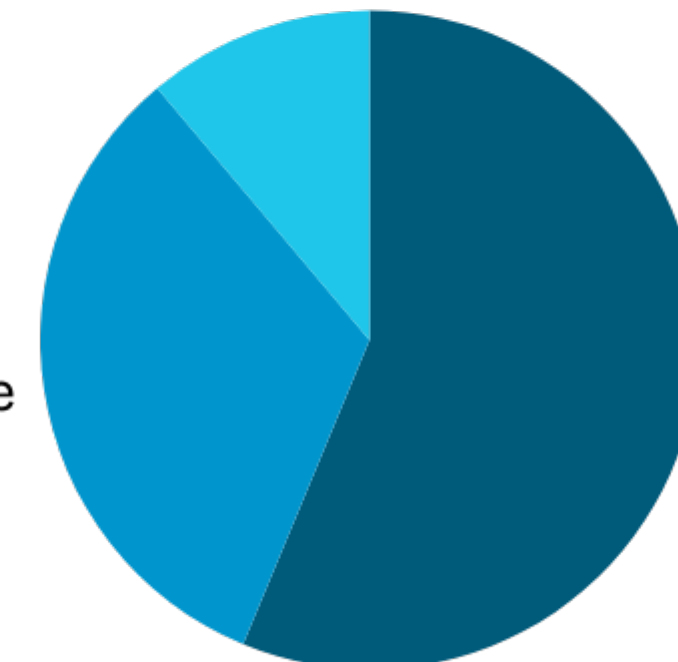
**Direct:** Enter www.EdgewaterCO.gov

**Social Media:** link from socials or newsletters

Social Media  
11.2%

Direct Website  
32.6%

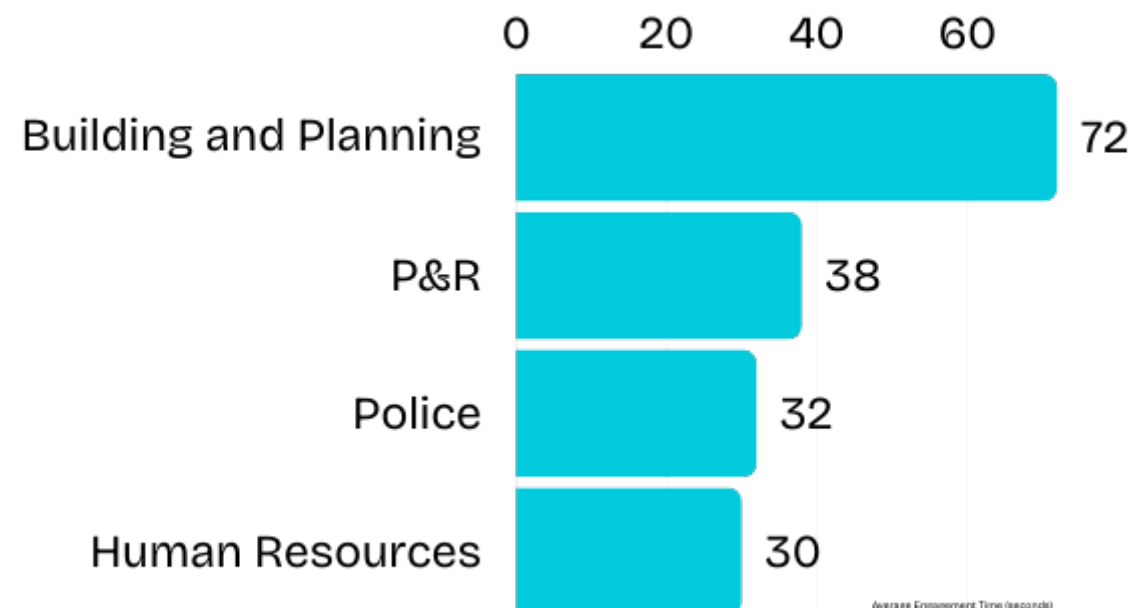
Organic Search  
56.3%



## Average Engagement Time

in seconds

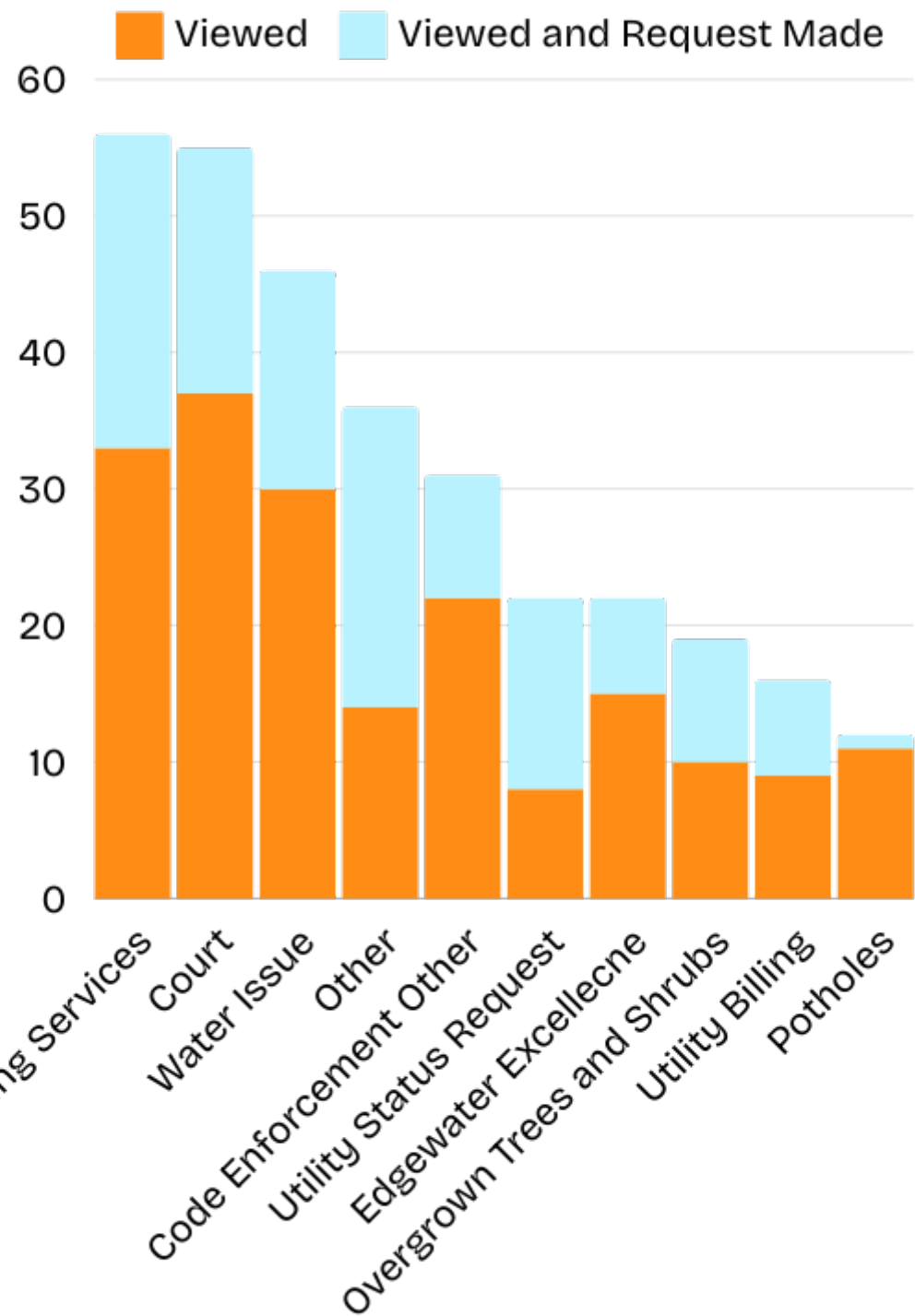
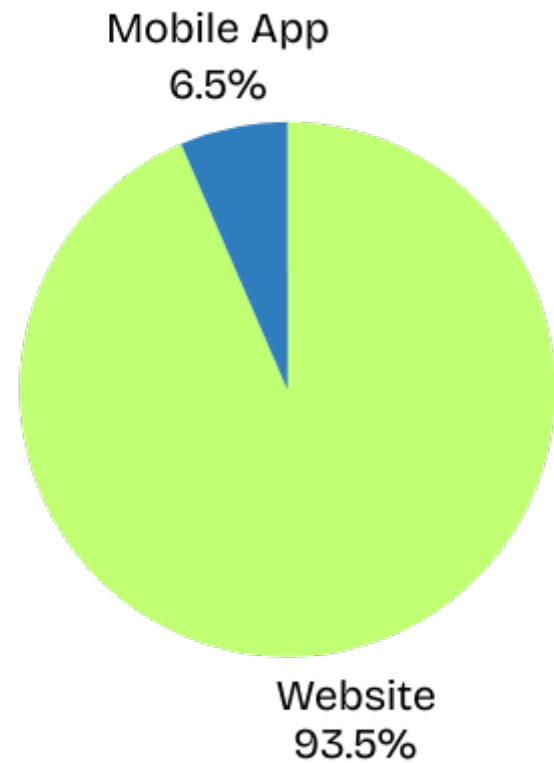
\*Average engagement time can help understand when users are actively using a website.





AskEdgewater is the city's customer service center. Reporting can be done online or via the AskEdgewater mobile app.

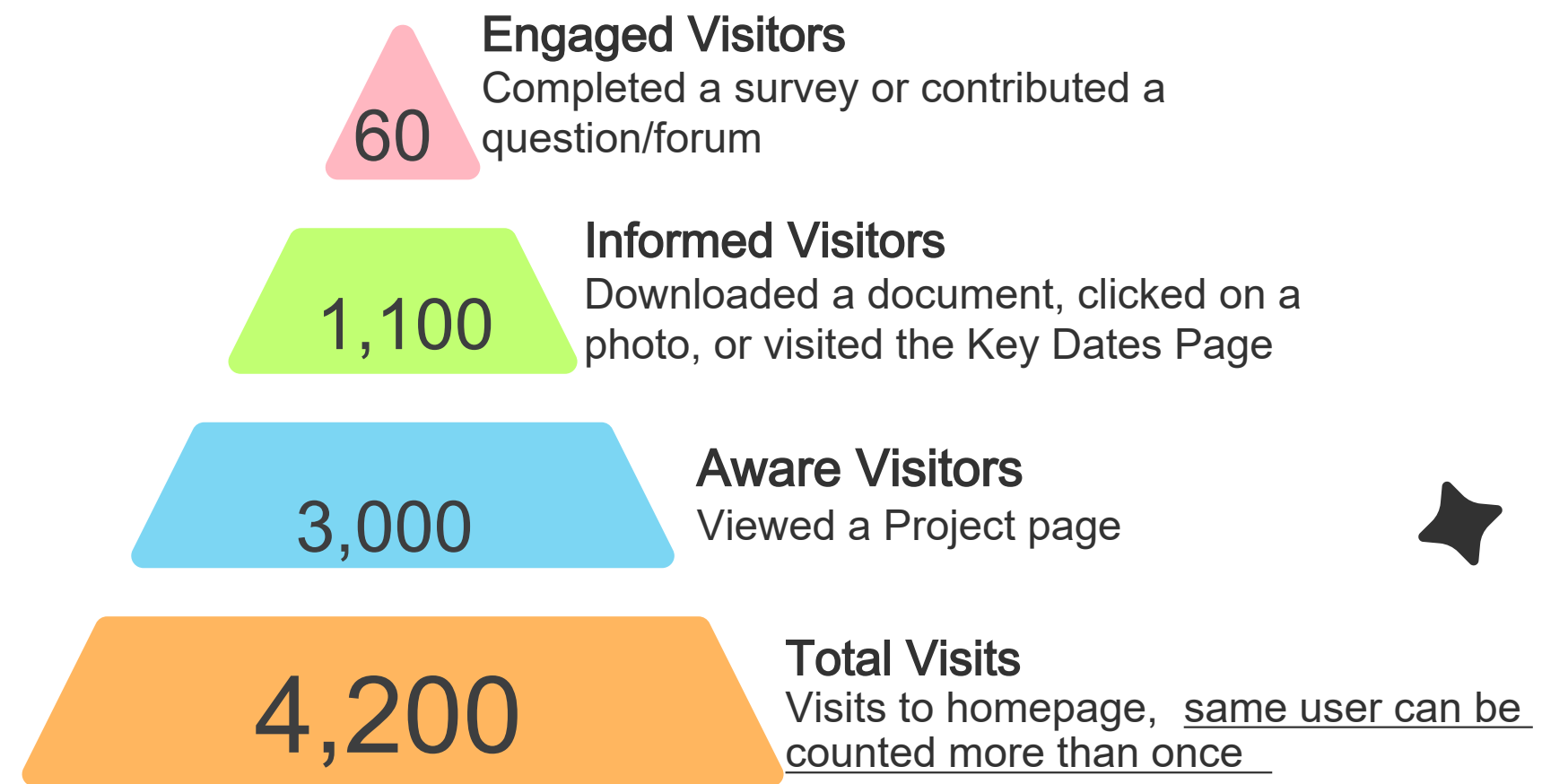
### Platform of Request



Envision Edgewater is a space for the community to share ideas, discuss important topics, provide feedback on policy, planning and contribute to the future of Edgewater.

### Top Projects

- 1.25th Ave Streetscape
- 2.Edgewater 2040: Comprehensive Plan
- 3.Sheridan Corridor Multimodal Plan

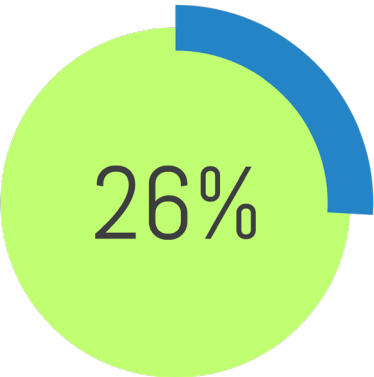




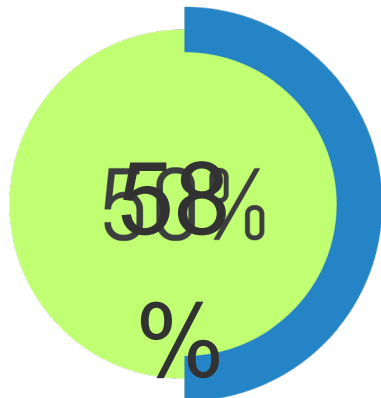
# Weekly Town Cryer City Newsletter

Town Cryer is the weekly city newsletter delivered via email. The newsletter provides information about city happenings like events, programs, construction, and board meetings.

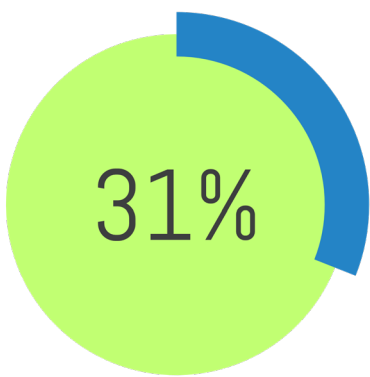
Growth past 12 months



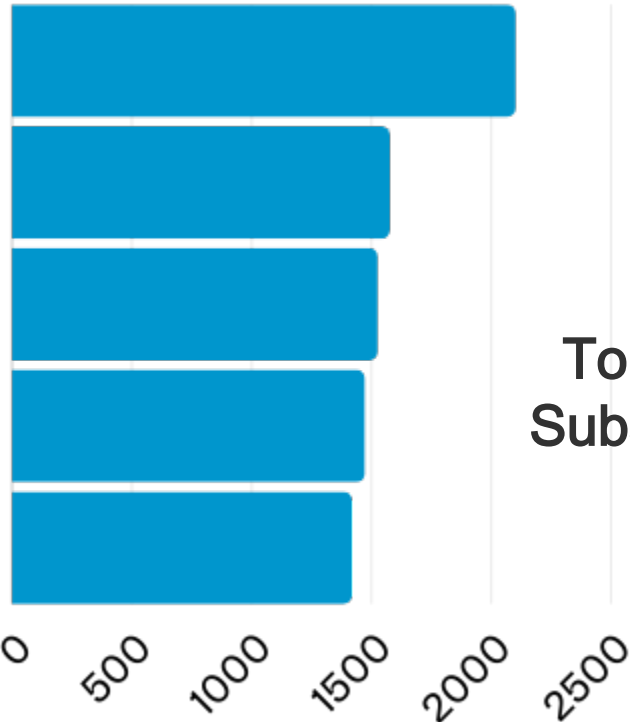
Open Rate



Subscribes through EdgewaterCO.gov Overlay



Adult and Fitness  
City Events  
City News  
Road Closures  
Job Opportunities



Top 5 Topic Subscriptions

# Monthly Gazette Neighborhood Gazette

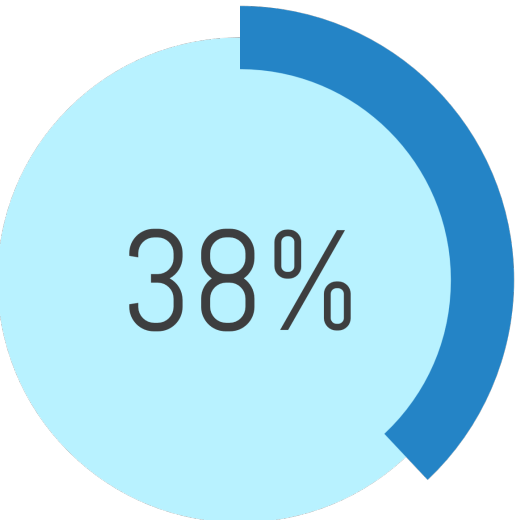
The Neighborhood Gazette provides stories on local issues, news and events from the Wheat Ridge and Edgewater neighborhoods. Paper is delivered directly to residents and is available for pick up at the Edgewater Civic Center.

## Recent Articles

- School Safety Tips and School Resource Officer
- Neighborhood Compliance and Sidewalks
- Urban Forest Master Plan
- 25th Ave Reopening
- 55+ Opportunities and Events
- Love My Air Program

*All Community Events are included in the "What's Happening" section.*

Residents who use the Gazette to learn about the city



# CITY BROCHURE



City Brochure is sent directly to all residences of Edgewater, including apartment complexes! You can pick up a brochure at the Edgewater Civic Center as well.

## City Reminders and Campaigns

- Important City Info and reminders
- About Council
- Events, and More!

## Parks and Recreation Activity Guide

- Registration Info
- Class Info
- Fitness Center info

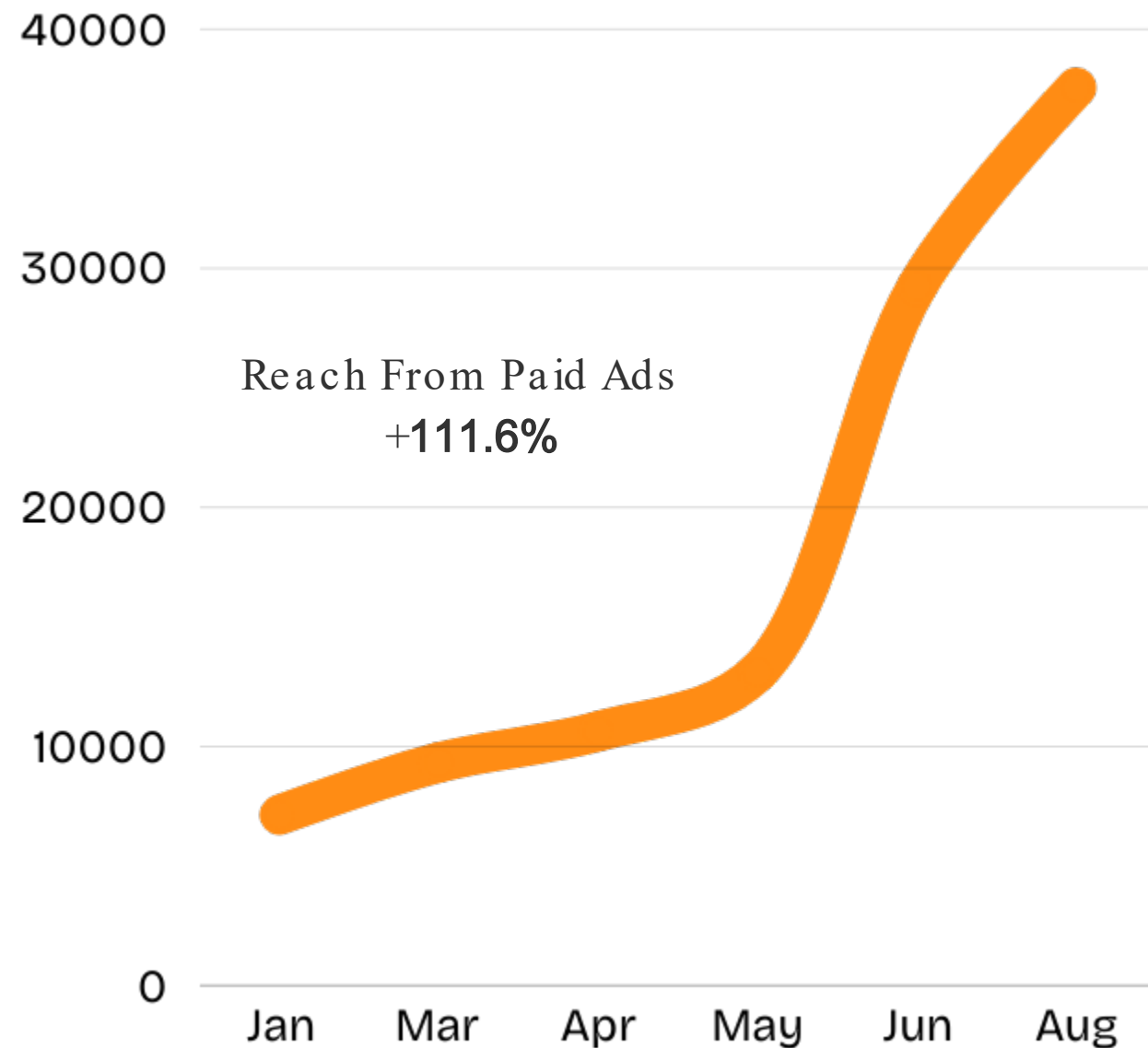
**In English and  
Español!**

# City Facebook

## City of Edgewater Official Page

The City Facebook page is a useful tool to communicate with residents and build a community. Here are a few ways we use Facebook?

**Monthly Reach**  
Including Ads and Tags



### Communication

- Sharing news, updates, and critical information in a cost-effective and efficient way
- Updating the community on time sensitive announcements (Local Alerts tool)
- Providing important information, such as crime and public safety updates, and emergency contact information

### Engagement

- Interacting/Engagement with residents, businesses, and local partners
- Using paid ads to reach a higher percentage of community and diverse audience
- Increasing traffic to websites, surveys, and resources

### Trust

- Increasing public trust
- Active involvement in community interests
- Prompt response to messages and comments

# Events



## 2025 Goals:

1. Integrate more events benefitting local partnerships and nonprofits.
  2. Collaborate with local businesses for community events and gatherings.
  3. Introduce diverse opportunities in current catalog of events to build more inclusivity.
-

# Events Recap

## Winter Warm Up

with a donation collection of 2 trailers full for the Action Center.

*Approx. 110 attendees*

## Ring in Spring

Pancake breakfast sponsored by Huff & Leslie

*Approx. 120 attendees*

## Community Garage Sale

Sponsored by Judy Ahart, State Farm

*39 Edgewater Sales registered*

## Edgewater Pride Parade

Sponsored by the City of Edgewater

*Approx. 500 attendees*

## Bike to Work Day

In partnership with DRCOG and Joyride Brewing

*Approx. 100 attendees*

## Return of the Block

Collaboration with 25th Ave. businesses

*Approx. 3,000 attendees*

## Concert in the Park Series

The Tracers with the Outdoor Lab Foundation.

Jon Romero and the Taco Cats Edgewater Pride

in connection with CuBe staff family party

Chicano Heat with National Night Out (EPD),

Edgewater Collective, and Edgewater Pride

*Approx. 500 attendees total*



# Homestead Fest



**Saturday, September 21**  
**2pm -8:30pm**



**Celebrating all things Edgewater!**



[www.EdgewaterCO.gov/HometownFest](http://www.EdgewaterCO.gov/HometownFest)

# Upcoming Events

[www .EdgewaterCO .gov/Events](http://www.EdgewaterCO.gov/Events)

## Dia de Muertos

Hosted by Edgewater Collective

Jefferson Jr/Sr High School

Saturday, October 26

4pm-7pm



## Town Square

## Sleigh Rides

Sponsored by the City of Edgewater

Edgewater Beer Garden

Wednesday, December 4



## Santa Home Visits

*With West Metro Fire and Rescue*

Registration opens Monday, December 2

Visits on Tuesday, December 24

## Christmas Crusade

*Edgewater Police Department annual presentation  
giveaway to students.*

Friday, December 20

## Winter Warm Up 2025

Memorial Park

Friday, January 31

# 55+ Events and Trips

## 2025 Goals:

1. Develop the 55+ Social Club ~~to~~ year event.
  2. Collaborate with city partners to supplement the First Friday coffee series.
  3. Enhance reach of 55+ community in Edgewater.
  4. Foster collaboration of Snow Angels program with Public Works and community
- 





# 55+ Trips Recap

- January Butterfly Pavilion - *9/10 attendees*
- February Valentine's Day Bingo - *25 attendees*
- March St. Patty's Day Party - *cancelled now storm*
- April Mystery Lunch - *9/10 attendees*
- May Hudson Gardens - *10/10 attendees*
- June Wine Tasting - *12/10 attendees*
- July Summer Brunch - *22 attendees*



## Upcoming Trips

- September Mystery Lunch (*Filled*)
- October Four Mile Historic Park
- November Transportation Museum
- December Holiday Luncheon

## 55+ Social Club

Nearly 15 attendees showed up for the very first 55+ Social Club in April. The club is a casual gathering for older residents to spend time with their peers on the second Thursday of each month at the Edgewater Beer Garden.

*55+ Social Club was a temporary event that has been re-continue monthly through the year.*

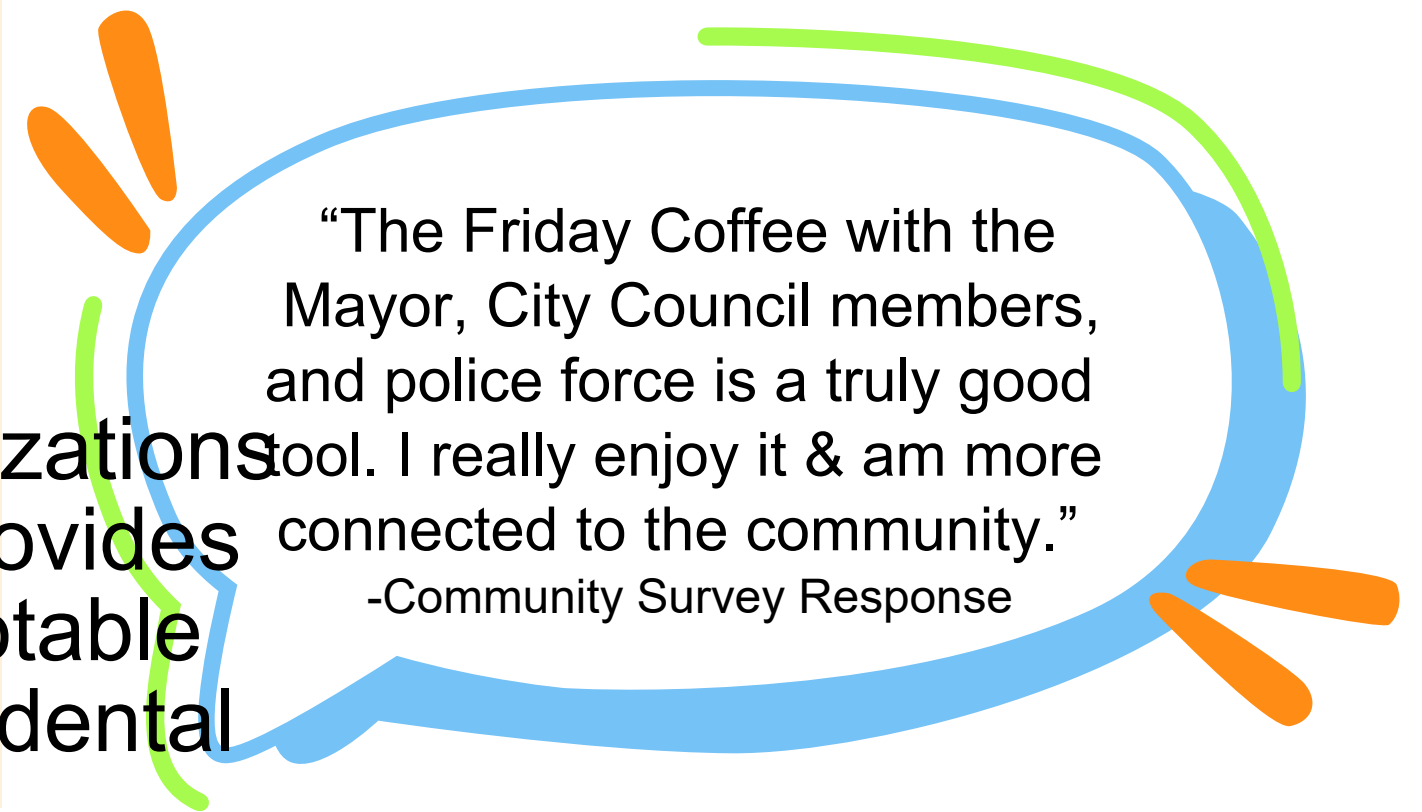
# Coffee & Conversation

## \*New\* First Friday Coffees

First Fridays launched in January as an opportunity for Edgewater's 55+ community to connect with local organizations offering services tailored to their needs. This program provides valuable resources and fosters new connections, with notable outcomes—one participant was even able to receive free dental care through these partnerships.

### 2024 Contributing Groups:

- Parks & Recreation Department
- Jefferson County Clerk
- West Metro Fire,
- DRCOG
- Colorado Gerontological Society
- Coach for Aging Adults



“The Friday Coffee with the Mayor, City Council members, and police force is a truly good tool. I really enjoy it & am more connected to the community.”  
-Community Survey Response

## ‘23-’24 Snow Angels Program

The 55+ Events team has partnered with Public Works to ensure successful operation of the Snow Angels Program, ensuring successful execution and meeting expectations.

We now provide free, friendly ice melt buckets to each home involved in the program for an added level of service, thanks to the kind donation of Edgewater Ace Hardware.

**23** Neighbors in Need

**28** Snow Angels (Volunteers)

**51** Neighborly Connections!

**Thank you!**





## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 8(3)</b>
<b>Title:</b>	<b>Community Services Department Update</b>
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: 7 <input checked="" type="checkbox"/> City Council Business Meeting: 9/17/24
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Kit Lammers Email: klammers@edgewaterco.com Phone: 720-763-3008
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input checked="" type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Community Services Department Presentation.
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	Annual Department presentation to City Council.
<b>Staff Analysis/Information:</b>	No additional information at this time.

**Attachments:**

1. Community Services 2024 Department Presentation



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 9</b>
<b>Title:</b>	<b>Edgewater 2040 Comprehensive Plan</b>
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: <input checked="" type="checkbox"/> City Council Business Meeting: 9/17/2024
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member: Jocelyn Mills/Comp Plan Project Team
<b>Staff Contact:</b>	Name: Jocelyn Mills  Email: <a href="mailto:jmills@edgewaterco.com">jmills@edgewaterco.com</a>  Phone: 720.763.3053
<b>Type:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input checked="" type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Edgewater 2040 Comprehensive Plan (Plan) was adopted by the Planning Commission on July 31, 2024. Per the City Charter, City Council is required to formally approve the Plan.
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input checked="" type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:  The Comprehensive Plan update project is an update of the City's 2013 Comprehensive Plan.
<b>Financial Impact:</b>	N/A – no additional request
<b>History/ Background:</b>	Edgewater's most recent Comprehensive Plan was adopted in 2013. In 2019, the City had started a process to update it, however, that plan ultimately was not moved forward.

	<p>Edgewater 2040 Comprehensive Plan project got underway in early 2023. Edgewater partnered with the firm, MIG, to assist with the project.</p> <p>The process re-evaluated of the existing plan's vision, goals, policies, researched changing demographic and socio-economic conditions, reviewed shifting economic and development trends, and identified current community goals, values and priorities for Edgewater's future.</p> <p>Over the past 16 months, the community engagement has included: 5 Advisory Committee Meetings; 3 Community Leader Meetings; 7 Community Events; 4 Online Surveys; 850 Survey Respondents; and a total of 1350 Conversations.</p> <p>Edgewater 2040 was adopted by Planning Commission in July, 2024.</p>
<p><b>Staff Information:</b></p>	<p>Information about the process, technical analyses, and community engagement can be found on Envision Edgewater’s Comprehensive Plan project webpage.  <a href="https://envisionedgewaterco.com/edgewater2040">https://envisionedgewaterco.com/edgewater2040</a></p>

Attachments:

Due to length, the Edgewater 2040 Comp Plan and appendices for the Plan can be found on the Comp Plan Envision Edgewater project page under the documents section on the righthand side. Please see the project page: <https://envisionedgewaterco.com/edgewater2040>

**CITY OF EDGEWATER**

**RESOLUTION NO. 2024-16  
SERIES OF 2024**

**A RESOLUTION APPROVING THE 2040 EDGEWATER COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to Section 11.3(1) of the City of Edgewater Home Rule Charter (“Charter”) and C.R.S. § 31-23-208, the Edgewater Planning and Zoning Commission (“Commission”) has prepared a master plan for the physical development of the City of Edgewater (“City”), known as the 2040 Edgewater Comprehensive Plan (“Plan”); and

**WHEREAS**, on July 31, 2024, the Commission conducted a properly noticed public hearing on the Plan, after which the Commission unanimously adopted the same and referred the Plan to the Edgewater City Council for approval; and

**WHEREAS**, pursuant to Charter Section 11.3(1), the Plan does not become effective until approved by the Edgewater City Council (“City Council”); and

**WHEREAS**, the City Council has reviewed the Plan and finds that it is designed to guide and accomplish a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; and

**WHEREAS**, the City Council desires to approve the Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:**

The City Council hereby approves the 2040 Edgewater Comprehensive Plan. The City Clerk is directed to file an attested copy of the 2040 Edgewater Comprehensive Plan with the Jefferson County Clerk and Recorder in accordance with C.R.S. § 31-23-208.

INTRODUCED, READ AND ADOPTED this 17<sup>th</sup> day of September, 2024.

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

\_\_\_\_\_  
Lenore Pedroza, MMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carmen Beery, City Attorney



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 10</b>
<b>Title:</b>	<b>Ordinance 2024-07: 2023 Appropriations Ordinance</b>
<b>Agenda Date:</b>	<input checked="" type="checkbox"/> City Council Workshop: 7/16/24 <input checked="" type="checkbox"/> City Council Business Meeting: 08/20/24, 9/17/24
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Dan Maples Email: dmaples@edgewaterco.com Phone: 720-763-3012
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input checked="" type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Approval of 2023 Appropriations.
<b>Plan Alignment:</b>	<input checked="" type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	As staff work to get caught up on past years audits, we need to finalize the financials for past years. In order to finalize the financials we need to complete the end-of-year appropriations. This appropriation process aligns the budget with expenditures from within that year.
<b>Staff Analysis/Information:</b>	The appropriations being discussed are for the calendar year 2023. The appropriations are funds that have already been spent within 2023. Typically, staff will ask for these appropriations following the close of the year. 2023 appropriations are being done now as we are closing the financials for 2022 in preparation for the 2022 Audit process. A Public Hearing for approval of an Ordinance will be scheduled.

Attachments:

1. Memorandum: 2023 Appropriations





2. Ordinance:



**OFFICE OF THE CITY MANAGER**

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**MEMORANDUM**

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**TO:** MAYOR CONKLIN AND CITY COUNCIL

**FROM:** DAN MAPLES, CITY MANAGER  
ARIANY YOUNG, FINANCE DIRECTOR

**SUBJECT:** 2023 APPROPRIATIONS

**DATE:** 09/17/24

---

Staff need to complete the annual appropriations for the calendar year 2023 to close out the financial statements. Appropriations amend the budget to align with actual costs from that calendar year. These funds have already been spent and accounted for in the 2024 budget. Below is a list of the appropriations needed to align the budget with approved expenditures from 2023.

<b>Department</b>	<b>Account Number</b>	<b>2023 Budget</b>	<b>Appropriation</b>	<b>New Budget</b>	<b>Explanation</b>
City Attorney	01-0500-63211	\$95,000	\$2,000	\$97,000	Overage in costs due to Attorney work.
Buildings	01-0700-63720	\$20,000	\$30,000	\$50,000	Budget reflected 10 months of electric costs covered by solar. Solar system was not active until late November.
Parks & Recreation	01-0800-61140	\$26,243	\$10,000	\$36,243	Overage of part time staff due to increased programs. Off set with revenue.
Non-Departmental	01-2000-65150	\$25,000	\$2,500,000	\$2,525,000	Property purchase at 5440 W. 25 <sup>th</sup> Ave.
Non-Departmental	01-2000-63102	\$900,000	\$104,000	\$1,04,000	Increased Sales Tax Rebate with Target. Off set with revenue.
Police	01-0400-63915	\$20,000	\$45,000	\$65,000	Increased costs from hail storm. Off-set with claim revenue.

**CITY OF EDGEWATER**  
**ORDINANCE NO. 2024-07**  
**SERIES OF 2024**

**AN ORDINANCE APPROPRIATING FUNDS FROM THE GENERAL FUND FOR PURPOSES OF ADJUSTING THE 2023 GENERAL FUND BUDGET**

WHEREAS, pursuant to section 12.12 of the City of Edgewater Home Rule Charter, appropriations in addition to those contained in the City’s budget may be made by ordinance, after a public hearing thereon, if there is available a sufficient surplus or unencumbered monies available to meet such appropriation; and

WHEREAS, City staff are in the process of completing prior budget year reconciliations and referring the same to auditors and, in association therewith, are closing out the 2023 City budget; and

WHEREAS, Staff has determined that six (6) supplemental appropriations are needed for the 2023 budget year for the budget to accurately reflect the actual expenditures made during said year; and

WHEREAS, in approving the supplemental appropriations for the 2023 budget year, the City Council finds that it is memorializing and affirming expenditures previously made; and

WHEREAS, after public hearing, the City Council has determined that, in 2023, there was available a surplus in the budget sufficient to meet the appropriations set forth in this ordinance; and

WHEREAS, pursuant to the City of Edgewater Charter, every act of the City Council making an appropriation shall be by Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER THAT:

Section 1. For budget year 2023, within the General Fund Budget, the following supplemental appropriations are made: The amount of Two Thousand Dollars (\$2,000) is hereby appropriated from the General fund for the purpose of City Attorney service cost overage. The amount of Thirty Thousand Dollars (\$30,000) is hereby appropriated from the General fund for the purpose of electrical costs anticipated to be covered by solar but not realized due to solar system activation in late November. The amount of Ten Thousand Dollars (\$10,000) is hereby appropriated from the General fund for the purpose of increased costs of part-time staff due to an increase in programs. The amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) is hereby appropriated from the General fund for the purchase of the real property and improvements known as 5440 W. 25th Ave, Edgewater CO 80214. The amount of One Hundred Four Thousand Dollars (\$104,000) is hereby appropriated from the General fund for the purpose of Sales Tax Rebate payment to Target. The amount of Forty-Five

Thousand Dollars (\$45,000) is hereby appropriated from the General fund for the purpose of paying increased costs due to hail storm.

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Repeal. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. Effective Date. This ordinance shall become effective five (5) days after publication following final passage.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 20<sup>th</sup> day of August, 2024.

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

\_\_\_\_\_  
Lenore Pedroza, MMC  
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 17<sup>th</sup> day of September, 2024.

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

---

Lenore Pedroza, MMC  
City Clerk

APPROVED AS TO FORM:

---

Carmen Beery, City Attorney



## City Council Agenda Item Form

<b>Agenda Item #:</b>	<b>Item 11 - Public Hearing</b>
<b>Agenda Item Title:</b>	<b>National Electrical Code Update</b>
<b>Agenda Date:</b>	City Council Business Meeting: September 17, 2024
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member: Jocelyn Mills
<b>Staff Contact:</b>	Name: Jocelyn Mills, Community Development  Email: jmills@edgewaterco.com  Phone: 720-763-3053
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/ Presentation <input checked="" type="checkbox"/> Resolution/Ordinance Approval 2 <sup>nd</sup> Reading <input type="checkbox"/> Contract Approval <input type="checkbox"/> Other: _____
<b>Brief Topic Description:</b>	<p>The State of Colorado requires all municipalities in the state to adopt the latest version of the National Electrical Codes (NEC), on a every three-year cycle. Currently, Edgewater is on the 2020 NEC and the State moved to the 2023 NEC as of July 1 this year.</p> <p>An ordinance is required to update to the 2023 NEC.</p>
<b>Financial Impact:</b>	No impact to 2021 budget.
<b>History/ Background:</b>	<p>As mentioned above, this is a State of Colorado requirement to update Edgewater’s Electrical codes from the 2020 NEC to the 2023 NEC.</p> <p>Edgewater’s electrical codes are found in the Building Code, Article 18, Chapter 4.</p> <p>Should the first reading of this ordinance pass, second reading and public hearing is scheduled for September 17, 2024.</p>

Attachments: Ordinance 2024-06 Adopt 2023 Electrical Code, 2023 NEC Significant Changes for Residential Projects

**CITY OF EDGEWATER**  
**ORDINANCE NO. 2024-06**  
**SERIES OF 2024**

**AN ORDINANCE ADOPTING BY REFERENCE THE NATIONAL ELECTRIC CODE, 2023 EDITION; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND MAKING CONFORMING AMENDMENTS TO THE EDGEWATER MUNICIPAL CODE**

WHEREAS, pursuant to Part 2 of Article 16 of Title 31 of the Colorado Revised Statutes and Section 6.8 of the Edgewater Home Rule Charter (“Charter”), the Edgewater City Council (“Council”) possesses the authority to adopt codes by reference; and

WHEREAS, pursuant to this authority, the Council previously adopted by reference the 2020 edition of National Electric Code (NEC) and codified such code within Chapter 18 of the Edgewater Municipal Code (“Municipal Code”); and

WHEREAS, the National Fire Protection Association has prepared and published a 2023 edition of the NEC previously adopted by the Council; and

WHEREAS, from time to time, the State Electrical Board adopts minimum electrical standards that apply statewide, typically in the form of the most recent edition of the NEC; and

WHEREAS, Colorado municipalities must adopt, at a minimum, the same electrical standards established by the State within a year of the State’s adoption; and

WHEREAS, the state adopted the 2023 edition of the NEC as the minimum State electrical standards as of August 1, 2023; and

WHEREAS, the Council recognizes that the City must adopt the 2023 edition of the NEC to maintain the required statewide uniformity on the subject; and

WHEREAS, a public hearing on this Ordinance at second reading, and proper notice thereof, was provided in accordance with C.R.S. § 31-16-203; and

WHEREAS, penalties for violating the NEC adopted hereby are set forth in full in this Ordinance and shall be published in full after final adoption in accordance with C.R.S. § 31-16-204 and Charter Section 6.8(2); and

WHEREAS, certified copies of the NEC adopted hereby were filed with the City Clerk at least fifteen (15) days prior to public hearing on this Ordinance and remain open to public inspection and purchase; and

WHEREAS, the Council therefore desires to adopt by reference the 2023 edition of the National Electric Code specifically referenced herein, provide penalties for violating the same, and make conforming amendments to the Edgewater Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:

Section 1. Article 4 of Chapter 18 of the Edgewater Municipal Code, concerning the adoption of the National Electric Code by reference, is hereby repealed and reenacted to read in its entirety as follows:

**ARTICLE 4 – Electrical Code**

**Sec. 18-4-10. Adoption.**

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the electrical code of the City, by reference thereto, the *NFPA 70 National Electric Code 2023*, (hereinafter the “National Electric Code”) together with all appendices and tables thereto, published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02169-7471, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code concerns life and safety requirements for the installation and maintenance of electrical wiring and systems.

**Sec. 18-4-20. Copy on file.**

At least one (1) copy of the National Electric Code, certified to be a true copy, has been and is now on file in the office of the City Clerk and may be inspected by any interested person during regular business hours. The National Electric Code as finally adopted shall be available for sale to the public through the office of the City Clerk at a moderate price.

**Sec. 18-4-30. Amendments.**

The National Electric Code adopted by this Article is modified by the following amendments: none.

Section 2. The penalty clause applicable to violations of the National Electric Code adopted by reference by this Ordinance is as set forth in Municipal Code Section 1-4-20(a) and reads as follows:

(a) Any person convicted of a violation of this Code for which a different penalty is not provided shall be punished by a fine not exceeding nine hundred ninety-nine dollars (\$999.00) or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. Each day that a violation continues shall be deemed a separate offense.

Section 3. The City Clerk shall cause at least one certified copy of the National Electric Code adopted by reference by this Ordinance to be on file in her office at least



fifteen (15) days prior to the public hearing on this Ordinance and, after adoption, shall maintain a reasonable supply of copies of such Codes available for purchase by the public at a moderate price.

Section 4. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Repeal. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 7. Effective Date. This ordinance shall become effective five (5) days after publication following second reading, but at the option of the applicant, shall have no effect as to a complete application that is pending with the City Building Official at the time this Ordinance comes into effect if the applicant shall choose to proceed with that application under the regulations otherwise repealed hereby.

INTRODUCED, READ, PASSED ON FIRST READING, PUBLIC HEARING SCHEDULED, AND ORDERED PUBLISHED this 20<sup>th</sup> day of August, 2024.

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

\_\_\_\_\_  
Lenore Pedroza, MMC, City Clerk

PASSED AND ADOPTED ON SECOND READING AFTER PUBLIC HEARING AND ORDERED PUBLISHED this 17<sup>th</sup> day of September, 2024.

Steve Conklin, Mayor

ATTEST:

Lenore Pedroza, MMC, City Clerk

APPROVED AS TO FORM:

Carmen Beery, City Attorney

## Public Notice

### NOTICE OF PUBLIC HEARING ON ADOPTION OF 2023 NATIONAL ELECTRICAL CODE BY REFERENCE

NOTICE is hereby given that the City Council of the City of Edgewater, Colorado, has scheduled a public hearing on an ordinance adopting by reference the 2023 National Electrical Code (the "NEC").

A copy of the NEC is on file and available for public inspection during regular business hours at the office of the Edgewater City Clerk, 1800 Harlan Street, Edgewater, Colorado, 80214. If adopted by reference by ordinance, the NEC will not be published in full, but in accordance with state law, a copy will remain on file in the City Clerk's Office.

The NEC is published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, and concerns life and safety requirements for the installation and maintenance of electrical wiring and systems.

The purpose of the adopting ordinance and the NEC is to provide commonly-adopted uniform standards for public health, safety and welfare issues relating to the installation of electrical wiring and equipment and as such standards are recommended by the City Building Official.

The public hearing shall take place at the following time and place:

**Date:** September 17, 2024

**Time:** 6:30 p.m., or as soon thereafter as may be heard

**Place:** City of Edgewater Civic Center  
City Council Chambers  
1800 Harlan Street  
Edgewater, CO 80214

Dated this 22nd day of August 2024

Lenore Pedroza, MMC, City Clerk

Legal Notice No. 418862

First Publication: August 29, 2024

Last Publication: September 5, 2024

Publisher: Golden Transcript



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>12(1)</b>
<b>Title:</b>	<b>Contracts for Sustainability Plan Update</b>
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: <input checked="" type="checkbox"/> City Council Business Meeting:
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member: Jocelyn Mills
<b>Staff Contact:</b>	Name: Shaima Shahbaz  Email: sshahbaz@edgewaterco.com  Phone: (720) 763-3052
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input checked="" type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	
<b>Plan Alignment:</b>	<input checked="" type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input checked="" type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	Approved for 2024 budget: \$23,400.00 for Crescendo Planning and Design \$20,545.00 for Big Glasses Consulting Total Cost of \$43,945.00
<b>History/ Background:</b>	Conceived by a Sustainability Committee nominated by Mayor Laura Keegan in 2018, the development of Edgewater's Sustainability Plan 2019 was informed by the International Council of Local &

	<p>Environmental Initiatives’ (ICLEI) model. It was the City’s first sustainability plan and many of the recommendations in it have been successfully implemented. Since its adoption, the plan has provided clear guidance for City staff on initiatives in the four realms of its focus: Land &amp; Water, Waste &amp; Materials, Energy, Social Vibrancy. It has also influenced the contents of other new plans and plan updates.</p>
<p><b>Staff Analysis/Information:</b></p>	<p>Edgewater’s Sustainability Plan 2019 is due for an update. Over the last five years the City has experienced much development and continues to strive toward responding in ways that preserve the community’s character and desirability while also ensuring that it responsibly uses natural resources and maintains a low carbon footprint. A dedicated board and City staff navigate ways to best respond to changing conditions and needs. Conducting an update to the Sustainability Plan presents an opportunity to assess performance metrics and outcomes and refine the original goals/actions for greater efficiency and impact.</p> <p>The Sustainability Board spent time at its annual retreat (on August 10<sup>th</sup>) reviewing proposals submitted by firms interested in facilitating the plan update process. They motioned and voted six out of six to recommend Crescendo Planning &amp; Design and Big Glasses Consulting.</p> <p>Crescendo Planning &amp; Design specializes in community-oriented planning, design, and implementation in smaller-scale communities such as Edgewater. With over 15 years of experience working in both the public and private sectors, Andy Rutz (Principal/Owner) brings a wealth of experience in community engagement and strategic planning. With a desire to help communities “better position themselves for realizing [their] visions,” Andy possesses the kind of collaborative approach that will support Edgewater in building on its progress to step into its next phase of sustainable development.</p> <p>Big Glasses Consulting, run by Melissa Baldrige (Founder/Owner), conducted the initial 2017 Inventory of Community and Government Operations Greenhouse Gas Emissions and Solutions report for Edgewater. Her report directly informed the goals and actions delineated in Sustainability Plan 2019. Partnering with her to provide the greenhouse gas inventory for the plan update ensures consistency in methodology and provides certainty about the quality of the final product. By contracting with Melissa, Edgewater will receive a high-quality report on its energy, carbon, water, waste and transportation activity and output. In collaboration with Andy Rutz, her findings and recommendations will be integrated into the updated sustainability plan. Melissa brings 20 years of industry experience in environmental management and boasts expertise in ESG program development, renewable energy, carbon offsetting, and net-zero pathways.</p>

Attachments: contractor resumes, firm bios, proposals



## **Firm Bio**

Crescendo Planning + Design is a consultancy founded in the fall of 2022 by Andy Rutz, after having served as a Director of Planning and Design Services at MIG, Inc., because he is passionate about community-oriented planning, design and implementation, specifically in smaller-scale communities, like the City of Edgewater. Crescendo Planning + Design was founded with a desire to help those communities more clearly articulate their visions and better position themselves for realizing those visions. Leveraging over 15 years of experience working in both the public and private sector, Crescendo is focused on collaborating with clients – and importantly, their community – to build toward implementation with intention. Crescendo strives to demonstrate progress in the short-term as a strategic step toward long-term aspirations. Partnerships and collaboration are core values for Crescendo, with a conviction that bringing together people of diverse backgrounds, disciplines, and beliefs helps to achieve a better outcome for all.



## Andy Rutz, CNU-A *Principal/Owner*

Andy has over 15 years of professional experience in urban design, architecture & urban planning. He has worked extensively in both the public and private sectors, which gives him a unique perspective that helps in fostering successful collaboration

between both sides. As a planner & designer, Andy's passion is rooted in bringing tangible, physical change and improvement to the communities in which he works.

From community engagement and strategic planning, downtown planning and design, community masterplanning and transit-oriented development, to streetscapes and architectural design, Andy has applied his knowledge and expertise to help balance the redevelopment ideas and hopes of people for their public spaces. His design skills are complemented by his varied experiences in graphic visualization, and verbal and written communication, which allow him to promote contextual and compatible design solutions in a manner that is accessible to both the development community and the general public. He transitioned from architecture to urban planning & design when he recognized its broad scale impact on the public realm. Andy is passionate about ensuring that every project he contributes to is responsive to its context, aspires to elevate the public realm around it, and creates opportunities for economic development, revitalization, and healthy and safe social gathering.

### SELECTED PROJECT EXPERIENCE

- Plan Manitou - Strategic Plan Update, Manitou Springs, CO
  - Livingston Downtown Master Plan, Livingston, MT
  - South Ark Neighborhood Plan, Salida, CO
  - Hunt Avenue Cultural Trail, Alamosa, CO
  - On-Call Consulting Services, Town of Mountain Village, CO
  - Alamosa Downtown Design Plan, Alamosa, CO\*
  - Arapahoe Square Design Standards and Guidelines, Denver, CO\*
  - DOLA Resiliency and Recovery Roadmaps, Costilla County, SE Colorado, NW Colorado and Mesa County, CO\*
  - DRCOG Complete Streets Toolkit, Denver, CO\*
  - Downtown's Next Step - Main Avenue Streetscape Design, Durango, CO\*
  - Downtown Pueblo Union Ave & Main Street Master Plan, Pueblo, CO\*
  - Downtown Two-Way Feasibility Study (4th & 5th Street), Grand Junction, CO\*
  - Firestone Historic Neighborhood Plan, Firestone, CO\*
  - I-25 and Broadway Urban Design Standards and Guidelines, Denver, CO\*
  - Square Lake Subarea Plan, Adams County & Arvada, CO\*
  - Upper Downtown Master Plan, Denver, CO\*
- \*Experience prior to founding Crescendo Planning + Design

### AREAS OF EXPERTISE

- Community Engagement
- Comprehensive and Strategic Planning
- Downtown, Neighborhood and Small Area Planning
- Urban Design and Placemaking
- Streetscape and Corridor Design
- Compatible Redevelopment and Infill Development
- Design Standards and Guidelines

### EDUCATION

- Masters of Architectural Design & Urbanism, University of Notre Dame
- Bachelor of Architecture, University of Notre Dame

### AWARDS AND PUBLICATIONS

- Alamosa Downtown Design Plan, Governor's Award for Downtown Excellence, Best Plan
- Arapahoe Square Design Standards and Guidelines, Best Urban Intervention Award, CNU Colorado
- After Burnham: The Notre Dame Plan of Chicago 2109, Award of Merit, CNU
- Graduate Thesis - "Creating Place with Transit: Revitalizing, Retrofitting and Reshaping the Suburbs by way of Transit-Oriented Development"

### PROFESSIONAL AFFILIATIONS

- Congress for the New Urbanism (CNU)
- Downtown Colorado, Inc.

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered into this 23 day of September, 2024, by and between the City of Edgewater, a Colorado home rule municipality (the "City") and Crescendo Planning & Design, LLC., a Colorado limited liability corporation as an independent contractor ("Consultant").

WHEREAS, the City requires professional services; and

WHEREAS, Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **I. SCOPE OF SERVICES**

A. Consultant shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall constitute any material change or amendment of services or work which is different from or additional to the Scope of Services. No such change, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City is authorized to modify any term of this Agreement, either directly or implied by a course of action.

### **II. REPORTS, DATA AND WORK PRODUCT**

A. The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform the Scope of Services. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

B. Other than sharing information with designated third parties as previously directed by the City, no project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure.

C. The City acknowledges that the Consultant's work product is an instrument of professional service. Nevertheless, all work product prepared under this Agreement shall become the property of the City upon completion of the work.



Consultant shall retain its rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary property. Nothing in this Agreement shall be deemed to prohibit Consultant from using completed work product and other deliverables prepared in connection with the Scope of Services for marking and business development purposes.

D. Upon request, Consultant shall provide to the City electronic versions of all work product, in the format directed by the City.

### **III. COMPENSATION**

A. In consideration for the completion of the Scope of Services by Consultant, the City shall pay Consultant an amount not to exceed twenty three thousand, four hundred Dollars (\$23,400).

B. At intervals determined appropriate by Consultant, Consultant shall invoice the City for services rendered. Upon receipt of such invoices, the City shall make payment in full within thirty (30) days.

C. Notwithstanding the maximum amount specified in subsection A hereof, Consultant shall only be paid for work performed. If Consultant completes the Scope of Services for a lesser amount than the maximum amount, Consultant shall be paid the lesser amount, not the maximum amount.

### **IV. COMMENCEMENT AND COMPLETION OF WORK**

Within seven (7) days of receipt of a Notice to Proceed, Consultant shall commence work as set forth in the Scope of Services or that portion of such work as is specified in said Notice. Except as may be changed in writing by the City, the Scope of Services shall be complete and Consultant shall furnish the City the specified deliverables as provided in Exhibit A.

### **V. PROFESSIONAL RESPONSIBILITY**

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms or individuals in the same or similar type of work in the applicable community. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely submittal, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant

shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for actual costs caused by uncorrected errors and omissions that fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the work. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

E. Because the City has hired Consultant for its professional expertise, Consultant agrees not to employ subcontractors to perform more than twenty-five percent (25%) of the work required under the Scope of Services. Upon execution of this Agreement, Consultant shall furnish to the City a list of proposed subcontractors, and Consultant shall not employ a subcontractor to whose employment the City reasonably objects. All contracts between Consultant and subcontractors shall conform to this Agreement.

## **VI. INSURANCE**

A. During the term of this Agreement, Consultant shall maintain, in full force and effect, a commercial general liability insurance policy with combined single limits of ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION DOLLARS (\$2,000,000.00) annual aggregate limit that will insure against liability or financial loss resulting from bodily injury, property damage, products-completed operations and personal injury occurring to persons or property as a result of any acts or activities of Consultant under this Agreement.

B. During the term of this Agreement, Consultant shall maintain, in full force and effect, comprehensive automobile liability insurance with minimum combined limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate with respect to each of Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the services under this Agreement. If Consultant has no owned automobiles, the requirements of this VI.B. shall be met by each employee of Consultant providing services to the City under this Agreement.

C. During the term of this Agreement, Consultant shall maintain, to the extent required by law, in full force and effect, Workmen's Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement.

D. Every policy required under this Section VI shall be primary insurance, and any insurance carried by the City, its officers, or its employees, or that is carried by or provided through any insurance pool of the City, shall be excess and not contributory

insurance to that provided by Consultant. The policies shall be written by a company or companies that are admitted and authorized to do business in the State of Colorado and shall be rated at least B+:XIII in the *A.M. Best and Company Insurance Guide*. The policies shall be in an occurrence form and in accordance with the limits and provisions specified herein. Consultant shall cause the City to be named as an additional insured on the policies required by Sections VI.A. and VI. B. above, and such policies shall contain a “waiver of subrogation” provision, and a “cross liability,” severability of interest,” or “separation of insureds” clause. Prior to the commencement of any work under this Agreement, the Consultant shall provide the City with certificates of insurance, with appropriate endorsements, that shall clearly state all of the following:

1. The policy number; name of insurance company; name and address of the agent or authorized representative; name address and telephone number of the insured; project name and address; policy expiration date; and specific coverage amounts;
2. That the City shall receive thirty (30) days prior notice of cancellation; and
3. That Consultant’s insurance is primary as respects any other valid or collectible insurance that the City may possess, including any self insured retentions the City may have; and any other insurance that the City does possess shall be considered excess insurance only and shall not be required to contribute with the subject insurance.

E. Consultant shall be solely responsible for the payment of any deductible amounts under any insurance policy required by this Article VI and Consultant shall not be relieved of any liability under this Agreement by reason of its failure to obtain or maintain the types or amount of insurance required by this Article VI. In the event any services are performed by a subcontractor, Consultant shall require such subcontractor to provide the insurance and certificates that are required by this Section.

F. Failure on the part of Consultant to procure or maintain the insurance required herein shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.

## **VII. LIMITATION ON LIABILITY**

Notwithstanding anything to the contrary in this Agreement, the Consultant’s liability to the City under this Agreement shall be limited to the proceeds of any insurance payments payable as a result of such liability; provided, however, that if insufficient proceeds are available due solely to Consultant’s failure to maintain the insurance required by this Agreement, the limit of liability shall be the amount the City has paid to Consultant pursuant to Section III. Consultant and the City hereby waive all claims for

punitive and/or consequential damages against each other arising from or related to this Agreement and the Services provided in connection herewith, which waiver shall expressly apply to any claims for indemnification under Section VIII below. Under no circumstances will any officer, director, shareholder, manager, member or employee of either Consultant or the City, or of either of their affiliates, be personally liable for any claims arising from or related to this Agreement or obligations of either party with respect hereto. This Section will survive termination or expiration of this Agreement.

#### **VIII. INDEMNIFICATION**

Consultant agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney's fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of Consultant's breach of this Agreement or negligence or intentional misconduct in performing the Scope of Services.

#### **IX. TERMINATION**

A. This Agreement shall terminate: (a) at such time as the work described in the Scope of Services is completed and the requirements of this Agreement are satisfied, (b) on December 31st, 2025, or (c) upon the City's providing Consultant with seven (7) days advance written notice, whichever occurs first. After termination, the City shall pay Consultant for all work previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Scope of Services, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Consultant.

B. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution Article X, Section 20. Notwithstanding any other provision of this Agreement, the City's obligations under this Agreement are subject to annual appropriation by the City Council of the City. Any failure of the City Council annually to appropriate adequate monies to finance the City's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to Consultant of any failure to appropriate such adequate monies.

#### **X. CONFLICT OF INTEREST**

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such interest, the City shall

determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

## **XI. INDEPENDENT CONTRACTOR AND LIVING WAGE REQUIREMENT**

A. Consultant is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Consultant to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it or any one of its employees or agents is a City employee for any purpose.

B. Consultant shall compensate each and every employee or agent who performs work under this Agreement in an hourly amount that is not less than Seventeen Dollars and Forty Cents (\$17.40). Consultant shall ensure, through written contractual requirements, that any subcontractor that it may engage to perform work under this Agreement compensates its employees and agents that perform work under this Agreement in an hourly amount that is not less than Seventeen Dollars and Forty Cents (\$17.40).

## **XII. MISCELLANEOUS**

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Jefferson County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Consultant and the City, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented, delivered via email, or sent pre-paid, first-class United States Mail, addressed as follows:

The City: Lenore Pedroza, City Clerk  
1800 Harlan Street, Suite C  
Edgewater, Colorado 80214

Consultant: Crescendo Planning & Design, LLC.  
Attn: Andy Rutz

9425 East Prairie Meadow Drive  
Denver, Colorado 80238

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

I. Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently one hundred fifty thousand dollars (\$150,000) per person and six hundred thousand dollars (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the City and its officers or employees.

J. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

**CITY OF EDGEWATER**

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

\_\_\_\_\_  
Lenore Pedroza, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carmen Beery, City Attorney

**CONSULTANT**

Crescendo Planning & Design, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Andrew R. Rutz, Manager

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as \_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

[SCOPE OF SERVICES]



**CITY OF EDGEWATER - SUSTAINABILITY PLAN STRATEGIC UPDATE**

August 7, 2024

Shaima Shahbaz  
Sustainability Coordinator / Planner  
City of Edgewater  
1800 Harlan Street  
Edgewater, Co. 80214

**Re: Proposal for 2019 Sustainability Plan Strategic Update**

Dear Shaima,

Thank you for the opportunity to contribute to the forthcoming Strategic Update to the City of Edgewater's 2019 Sustainability Plan. Given the Plan's relative youth - though great progress has already been made in implementing many of its recommendations - Crescendo Planning & Design would be thrilled to have the opportunity to work with the Sustainability Board, City of Edgewater Staff, and the broader community, to facilitate a process focused on identifying the next round of short-term, measurable steps toward implementing the Plan's vision. Please find a proposed project scope and budget for your review below.

The overall focus of this effort will be about fostering a community-led conversation around Sustainability in Edgewater - assessing and communicating progress already made toward implementing the existing Sustainability Plan, identifying areas of renewed focus, and articulating measurable goals and actions that can be pursued in the short-term to continue the City's momentum in implementing the community's vision. Importantly, the intention of this project would be to lean heavily on the existing Sustainability Plan, providing strategic updates where necessary, rather than positioning it as an effort to write a new Plan. The scope below assumes a 6 month process, aimed at quickly garnering community input and showing a more immediate return on community members investment in the process.

**PROPOSED SCOPE OF WORK - TOTAL BUDGET = \$23,400**

**TASK 1 - PROJECT MANAGEMENT/COORDINATION WITH STAFF**

**[\$3,000]**

Over the anticipated 6 month duration of this project, Crescendo Planning & Design (Crescendo) will work closely with City of Edgewater Staff, conducting biweekly coordination calls. Crescendo will coordinate with the City's Project Manager on project scheduling and will also prepare monthly invoices.

- **Project Initiation Meeting** - As a part of this task, Crescendo will conduct an initial kick-off meeting with City Staff to confirm the intended scope and deliverables, identify key issues to be addressed, gather background data and information for Task 2, identify key stakeholders that will be engaged in Task 2 (in addition to the Sustainability Board), and identify key meeting dates for engagement opportunities in Tasks 2 & 3.

## **TASK 2 - PLAN ASSESSMENT**

**[\$9,000]**

The Plan Assessment will be focused on conducting an audit of the 2019 Sustainability Plan to determine what has already been accomplished/implemented, what is working well and should be carried forward, and what could be missing and/or would benefit from additional guidance to better position the City of Edgewater for implementation. Knowing that the City has completed an Energy Action Plan (2020), an Electric Vehicle Plan (2023), an Urban Forest Plan (2024), and is in the midst of a Comprehensive Plan update, this Task presents the opportunity to identify areas of additional alignment for the Sustainability Plan with that more recent policy guidance. The Plan Assessment will combine quantitative analysis – leveraging Melissa Baldrige’s updated Greenhouse Gas Inventory Report, best practice standards, information from that list of recently completed/on-going planning efforts in Edgewater, and any other available updated data to assess progress – with a more robust qualitative analysis, built upon community and stakeholder input outlined below:

- **Sustainability Board Work Session** – Crescendo will design and facilitate a work session with the Sustainability Board to gather their first-hand insights on their current use of the Plan – identifying which components provide clear guidance, where they may be seeking additional guidance, and where they feel they could use more insight on the community’s priorities. This interactive session will allow the Sustainability Board members to take a leading role in shaping the Strategic Update to the Plan. This session will also allow the Sustainability Board to provide insight into the types of questions that they would like to see asked during subsequent Stakeholder Interviews and the wider reaching Community Survey.
- **Stakeholder Interviews** – Using the list of Community Partners from the original Sustainability Plan effort as a starting point, Crescendo will work with City Staff and the Sustainability Board to identify participants for 3-4 Stakeholder Interview sessions. Each of these sessions will be conducted in small groups of 8-10 participants, allowing for more personalized, nuanced feedback and discussion on how those key stakeholders feel the Sustainability Plan is currently working, relative to how it was intended to be used; and what steps may be taken to ensure that it is well-positioned and well-utilized in subsequent years.
- **Community Survey** – Leveraging the Envision Edgewater platform, Crescendo will work with City Staff – building upon input that was gained from the Sustainability Board Work Session – to create an online survey interface to solicit broad online community input. This will allow the community the opportunity to provide confirmation of the continued relevance of the overall Goals and Actions in the Sustainability Plan, while allowing for additional insight into emerging priorities and/or areas where more demonstrable progress is desired.

At the close of this Task, Crescendo will provide City Staff with a slide presentation summarizing the input received, along with a set of Plan Assessment takeaways. This slide presentation can then be shared by City Staff with the Sustainability Board prior to start of Task 3 for any additional feedback to inform a draft of preliminary priorities.

## **TASK 3 - STRATEGIC PRIORITY IDENTIFICATION**

**[\$6,000]**

Building off of the work conducted in Task 2, Crescendo will draft a set of preliminary priorities that highlight the intended scope of strategic updates that may be made to the Plan. Understanding that

resources are finite – particularly in a community the size of Edgewater – it is critical at this stage in the process that community members are asked to assess potential trade-offs of prioritizing certain implementation items over others. This Task, therefore, will conduct an in-person Community Priorities Workshop to gain community-led insight into what the City and the Sustainability Board should prioritize, before seeking direction again from the Sustainability Board on its priorities. Crescendo will make materials used at the Workshop available to City Staff to deploy – at their discretion – at pop-up events in the community and/or at other community gatherings to solicit additional input.

- **Community Priorities Workshop** – Crescendo will design an in-person, open-house style Workshop, where participants will be asked to identify their Sustainability Plan implementation priorities and weigh in on the potential trade-offs associated with those. Activities will be designed to ensure that the often complex implementation strategies can be more easily understood by the general public. An emphasis of the Workshop will be to hone in on how to promote near-term, incremental implementation, without precluding long-term goals.
- **Sustainability Board Work Session** – Following the Community Priorities Workshop, Crescendo will compile all of the community input gathered and present it to the Sustainability Board, soliciting input on the individual Board member’s priorities to find opportunities for alignment or the need for further discussion and direction. During this session, Crescendo will also seek input from the Sustainability Board and City Staff on specific sections of the Plan that would be most beneficial to update in response to community and stakeholder feedback.

#### **TASK 4 - DRAFT STRATEGIC UPDATE & FINAL PLAN**

**[\$5,400]**

During Task 4, Crescendo will create a redline version of the 2019 Sustainability Plan document, clearly showing which portions of the Plan are being edited. This Draft Strategic Update of the Plan will be presented to the Sustainability Board in a final Work Session format, to gain final guidance on the draft, and enable a call to action in helping to support the adoption of the Strategic Update. At this time, City Staff will also be asked to provide one round of consolidated edits to the Draft Strategic Update, informing a Final Plan draft produced by Crescendo.

Crescendo will also provide City Staff with Adoption support during this Task – preparing materials and slide presentations necessary for City Council adoption hearings, and presenting at the hearing, if necessary.

Once you have had an opportunity to review this proposal, please feel free to call or email me with any questions you may have. Thank you again for the opportunity to work with you and the Edgewater community!

Most Sincerely,



Andrew Rutz, CNU-A  
Principal/Owner

# Quote

## Environmental Footprint Reporting for the Year 2023

*Revised*

The City of Edgewater  
1800 N. Harlan St.  
Edgewater, CO 80214  
c/o Shaima Shahbaz,  
Sustainability Leader





# Melissa Baldrige

*Founder & Owner*

## AREAS OF EXPERTISE

- ESG program creation, development & integration
- Climate-risk scenario analysis
- Sustainable finance & investment
- Greenhouse gas emissions, carbon offsetting & net-zero pathways
- Business case development for ESG/sustainability initiatives & renewable energy
- Supply and value-chain mapping
- Data analysis
- Internal & external communications and marketing
- Behavioral economics and programming for ESG uptake
- ESG policy, regulations & law



## INDUSTRY EXPERIENCE

Consulting – boutique to large-scale firms

ESG program creation & development

Middle-market companies (\$10MM to \$1B)

Green & high-performance building

Waste management

Renewable energy

Environmental management

Circular products & processes

Net-zero, net-positive regenerative business



# Certifications & Education

## CERTIFICATIONS

- SASB FSA Credential – Sustainability Accounting Standards Board, Fundamentals of Sustainability Accounting
- Sustainability certificate | Corporate Innovation focus – Harvard University, Harvard Extension School
- CEM, Certified Energy Manager – Association of Energy Managers
- NABCEP Photovoltaic Associate
- LEED Accredited Professional Management (AP O+M, Operations & Management)

## EDUCATION

- Harvard University, Harvard Extension School – ALM (masters), Sustainability
- Rice University, BA, Managerial Studies (Business), art history

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered into this 23 day of September, 2024, by and between the City of Edgewater, a Colorado home rule municipality (the "City") and Big Glasses Consulting, a Colorado public benefit corporation (PBC) as an independent contractor ("Consultant").

WHEREAS, the City requires professional services; and

WHEREAS, Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **I. SCOPE OF SERVICES**

A. Consultant shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall constitute any material change or amendment of services or work which is different from or additional to the Scope of Services. No such change, including any additional compensation, shall be effective or paid unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City is authorized to modify any term of this Agreement, either directly or implied by a course of action.

### **II. REPORTS, DATA AND WORK PRODUCT**

A. The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform the Scope of Services. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

B. Other than sharing information with designated third parties as previously directed by the City, no project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure.

C. The City acknowledges that the Consultant's work product is an instrument of professional service. Nevertheless, all work product prepared under this Agreement shall become the property of the City upon completion of the work.

Consultant shall retain its rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Scope Services shall remain the property of Consultant.

D. Upon request, Consultant shall provide to the City electronic versions of all work product, in the format directed by the City.

### **III. COMPENSATION**

A. In consideration for the completion of the Scope of Services by Consultant, the City shall pay Consultant an amount not to exceed **twenty thousand five hundred forty-five** Dollars (\$20,545.00).

B. The balance will be paid in two parts: (1) Half at signing to initiate the project, and (2) the remaining half in monthly installments Consultant shall invoice the City for services rendered during the prior month at a rate of \$120.15/hour. Upon receipt of such invoices, the City shall make payment in full within thirty (30) days.

C. Notwithstanding the maximum amount specified in subsection A hereof, Consultant shall only be paid for work performed. If Consultant completes the Scope of Services for a lesser amount than the maximum amount, Consultant shall be paid the lesser amount, not the maximum amount.

### **IV. COMMENCEMENT AND COMPLETION OF WORK**

Within seven (7) days of receipt of a Notice to Proceed, Consultant shall commence work as set forth in the Scope of Services or that portion of such work as is specified in said Notice. Except as may be changed in writing by the City, the Scope of Services shall be complete and Consultant shall furnish the City the specified deliverables as provided in Exhibit A.

### **V. PROFESSIONAL RESPONSIBILITY**

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms or individuals in the same or similar type of work in the applicable community. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this



Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for costs caused by errors and omissions that fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the work. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

E. Because the City has hired Consultant for its professional expertise, Consultant agrees not to employ subcontractors to perform more than twenty-five percent (25%) of the work required under the Scope of Services. Upon execution of this Agreement, Consultant shall furnish to the City a list of proposed subcontractors, and Consultant shall not employ a subcontractor to whose employment the City reasonably objects. All contracts between Consultant and subcontractors shall conform to this Agreement.

## **VI. INSURANCE**

A. During the term of this Agreement, Consultant shall maintain, in full force and effect, a commercial general liability insurance policy with combined single limits of ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION DOLLARS (\$2,000,000.00) annual aggregate limit that will insure against liability or financial loss resulting from bodily injury, property damage, products-completed operations and personal injury occurring to persons or property as a result of any acts or activities of Consultant under this Agreement.

B. During the term of this Agreement, Consultant shall maintain, in full force and effect, comprehensive automobile liability insurance with minimum combined limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate with respect to each of Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the services under this Agreement. If Consultant has no owned automobiles, the requirements of this VI.B. shall be met by each employee of Consultant providing services to the City under this Agreement.

C. During the term of this Agreement, Consultant shall maintain, in full force and effect, Workmen's Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement.

D. Every policy required under this Article IV shall be primary insurance, and any insurance carried by the City, its officers, or its employees, or that is carried by or

provided through any insurance pool of the City, shall be excess and not contributory insurance to that provided by Consultant. The policies shall be written by a company or companies that are admitted and authorized to do business in the State of Colorado and shall be rated at least B+:XIII in the *A.M. Best and Company Insurance Guide*. The policies shall be in an occurrence form and in accordance with the limits and provisions specified herein. Consultant shall cause the City to be named as an additional insured on the policies required by Sections VI.A. and VI. B. above, and such policies shall contain a “waiver of subrogation” provision, and a “cross liability,” severability of interest,” or “separation of insureds” clause. Prior to the commencement of any work under this Agreement, the Consultant shall provide the City with certificates of insurance, with appropriate endorsements, that shall clearly state all of the following:

1. The policy number; name of insurance company; name and address of the agent or authorized representative; name address and telephone number of the insured; project name and address; policy expiration date; and specific coverage amounts;
2. That the City shall receive thirty (30) days prior notice of cancellation; and
3. That Consultant’s insurance is primary as respects any other valid or collectible insurance that the City may possess, including any self insured retentions the City may have; and any other insurance that the City does possess shall be considered excess insurance only and shall not be required to contribute with the subject insurance.

E. Consultant shall be solely responsible for the payment of any deductible amounts under any insurance policy required by this Article VI and Consultant shall not be relieved of any liability under this Agreement by reason of its failure to obtain or maintain the types or amount of insurance required by this Article VI. In the event any services are performed by a subcontractor, Consultant shall require such subcontractor to provide the insurance and certificates that are required by this Section.

F. Failure on the part of Consultant to procure or maintain the insurance required herein shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.

## **VII. INDEMNIFICATION**

Consultant agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney's fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any

other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement or the Scope of Services if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Consultant, any subcontractor of Consultant, or any officer, employee, representative, or agent of Consultant or of any subcontractor of Consultant, or which arise out of any workmen's compensation claim of any employee of Consultant or of any employee of any subcontractor of Consultant.

## **VIII. TERMINATION**

A. This Agreement shall terminate: (a) at such time as the work described in the Scope of Services is completed and the requirements of this Agreement are satisfied, (b) on June 30th, 2025, or (c) upon the City's providing Consultant with seven (7) days advance written notice, whichever occurs first. After termination, the City shall pay Consultant for all work previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Scope of Services, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Consultant.

B. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution Article X, Section 20. Notwithstanding any other provision of this Agreement, the City's obligations under this Agreement are subject to annual appropriation by the City Council of the City. Any failure of the City Council annually to appropriate adequate monies to finance the City's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to Consultant of any failure to appropriate such adequate monies.

## **IX. CONFLICT OF INTEREST**

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

## **X. INDEPENDENT CONTRACTOR AND LIVING WAGE REQUIREMENT**

A. Consultant is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Consultant to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it or any one of its employees or agents is a City employee for any purpose.

B. Consultant shall compensate each and every employee or agent who performs work under this Agreement in an hourly amount that is not less than Seventeen Dollars and Forty Cents (\$17.40). Consultant shall ensure, through written contractual requirements, that any subcontractor that it may engage to perform work under this Agreement compensates its employees and agents that perform work under this Agreement in an hourly amount that is not less than Seventeen Dollars and Forty Cents (\$17.40).

## **XI. MISCELLANEOUS**

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Jefferson County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Consultant and the City, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

The City: Lenore Pedroza, City Clerk  
1800 Harlan Street, Suite C  
Edgewater, Colorado 80214

Consultant: Big Glasses Consulting  
2820 N Monaco Parkway  
Denver, CO 80207

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

I. Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently one hundred fifty thousand dollars (\$150,000) per person and six hundred thousand dollars (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the City and its officers or employees.

J. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

**CITY OF EDGEWATER**

\_\_\_\_\_  
Steve Conklin, Mayor

ATTEST:

\_\_\_\_\_  
Lenore Pedroza, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carmen Beery, City Attorney

**CONSULTANT**

By: \_\_\_\_\_  
Melissa Baldrige, Owner

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_  
\_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

## EXHIBIT A

### [SCOPE OF SERVICES]



**Big Glasses Consulting**  
 2820 N Monaco Parkway  
 Denver Colorado 80207  
 U.S.A

# QUOTE

# EST-000066\_Rev 2024-8-21

Bill To  
**The City of Edgewater (COE)**  
 1800 Harlan St.  
 Edgewater  
 80214 Colorado  
 U.S.A

Quote Date : 21 Aug 2024  
 Expiry Date : 18 Sep 2024  
 Reference# : INVENT\_COE\_Communit  
 y + City Ops

Subject :

Environmental footprint reporting for City of Edgewater (COE) for community and city operations - Revised 2024-8-21

#	Item & Description	Qty	Rate	Amount
1	<p>ENVIRONMENTAL FOOTPRINT REPORTING, Including Energy, Carbon, Water, Waste and Transportation</p> <p>Deliverable to include (but not limited to) sections devoted to the City of Edgewater's (COE) performance ...</p> <ul style="list-style-type: none"> <li>- Introduction - Climate change and its impacts (regional and local), economic, health and human impact (HHI) and policy</li> <li>- Community Profile - Demographics, real estate footprint, equity lens for COE</li> <li>- Community-wide Data - Energy, carbon, water, waste and transportation</li> <li>- City Operations - Street lights and traffic signals, vehicle fleet (Scope 1 emissions), Employee commuting and work-from-home calculation (WFH, Scope 3), real estate footprint (Scopes 1 and 2)</li> <li>- Community Comparisons - Compare community-wide aggregates to other places and municipal entities (State of Colorado, Boulder, Denver, Commerce City, Englewood and other comparable cities)</li> <li>- Methodology - Greenhouse gas emissions, what they are, how they're measured, the three scopes (1, 2 and 3), "Source-" versus "Activity-based" emissions (agency and scope of influence)</li> </ul> <p>All content areas will include as much as is possible:</p> <ul style="list-style-type: none"> <li>- All data interpreted and made accessible</li> <li>- Paragraph(s) with recommendations (Measurement, Monitoring &amp; Verification, MM&amp;V) and possible solutions, also exploring what other entities are doing.</li> <li>- Comparison(s) to data points from "The City of Edgewater Colo., 2017 Inventory of Community and Government Operations Greenhouse Gas Emissions" completed in 2019 by Melissa Baldrige, Big Glasses Consulting founder</li> </ul> <p>Big Glasses Consulting will also (1) provide to COE and (2) present a slide deck presentation distilling the highlights from the Environmental Footprint Report to COE's Sustainability Board of Directors. This is included in this work scope.</p> <p>In 2019, Ms. Baldrige entered the City of Edgewater's Civic Center</p>	1	20,545.00	20,545.00

	<p>Big Glasses Consulting will also (1) provide to COE and (2) present a slide deck presentation distilling the highlights from the Environmental Footprint Report to COE's Sustainability Board of Directors. This is included in this work scope.</p> <p>In 2019, Ms. Baldrige entered the City of Edgewater's Civic Center into the ENERGY STAR Portfolio Manager database for energy and carbon management. There are changes and updates needed to this, including mandatory reporting to the State of Colorado for the building. Big Glasses Consulting will do these gratis for the City of Edgewater as part of this larger work scope.</p> <p>Deliverable includes a report delivered electronically (.pdf). This includes three rounds (x3) of edits with COE's sustainability leaders and any designates.</p>			
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## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 12(2)</b>
<b>Title:</b>	Authorize guest judge to administer presiding judge oath of office
<b>Agenda Date:</b>	<input type="checkbox"/> City Council Workshop: <input checked="" type="checkbox"/> City Council Business Meeting: 9/17/24
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member: Carmen Beery, City Attorney
<b>Staff Contact:</b>	Name: Dan Maples Email: <a href="mailto:dmaples@edgewaterco.com">dmaples@edgewaterco.com</a> Phone: 720-763-3012
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Other: Motion to authorize Ret. Denver County Court Senior Judge Jackson to administer oath of office to Judge Hickman
<b>Topic Description:</b>	<p>Currently, the people authorized to administer City oaths of office are City Clerk Pedroza and the municipal court judges.</p> <p>Judge Hickman inquired if she could choose one of her mentors to administer her presiding judge oath of office at the next regular Council meeting (October 1).</p> <p>You are authorized by law (CRS 24-12-103) to permit this if you wish. You may accomplish this by motion (provided in your Motions Guidelines).</p>
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan: Housing <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other: N/A
<b>Financial Impact:</b>	None

<b>Staff Impact:</b>	None
<b>History/ Background:</b>	<p>During your August 20, 2024 Work Session, you directed Staff to place on an upcoming agenda the possible appointment of Judge Hickman to the permanent presiding municipal court judge position. Judge Hickman has served as the interim presiding municipal court judge since June 1, 2024.</p> <p>Judge Hickman asked if one of her mentors could swear her in: Hon. Gary M. Jackson, retired Denver County Court Senior Judge. Judge Jackson’s bio is attached for your reference.</p> <p>Judge Hickman further asked if her swearing in could occur at your October 1<sup>st</sup> regular meeting. Judge Jackson has confirmed his availability and willingness to attend the October 1<sup>st</sup> meeting to administer the oath, if authorized.</p>
<b>Staff Analysis/Information:</b>	<p>You may authorize someone other than the City Clerk to swear in the presiding judge. If you wish to grant Judge Hickman’s request, you may authorize Judge Jackson to administer her oath by simple motion. A suggested motion is included in your Motions Guidelines.</p> <p>If you do <u>not</u> wish to authorize a “guest” oath administrator, you do not need to take any action. No motion is necessary.</p>

Attachments: Judge Jackson bio

## Gary M. Jackson

Hon. Gary M. Jackson is a Denver native having lived in the north Cherry Creek area for 77 years. Gary graduated from George Washington High School in 1963, the University of Colorado at Boulder in 1967 and CU Law in 1970.

Gary spent 37 as a partner in the law firms of DiManna Eklund Ciancio & Jackson and DiManna & Jackson. His legal accomplishments included co-founding the Sam Cary Bar Association, the Sam Cary Scholarship Endowment Fund, and Colorado Criminal Defense Bar. His legal accomplishment included representing the Denver Metropolitan Baseball Stadium District as a trial attorney in acquiring the property to build Coors Baseball Stadium, special counsel to Resolution Trust Corporation and Federal Deposit of Insurance Corporation, of counsel to the Denver City Attorney's Office under Mayor Wellington Webb and John Hickenlooper, member of the Lowry Redevelopment Authority Board, and representing thousands of Colorado citizens in their individual legal matters.

With a celebrated legal career spanning five decades, Gary has been recognized with many accolades and awards including: the US Attorney's Special Commendation, the National Bar Association's Wiley A. Branton Award, the Order of the Coif from CU Law School, Colorado Super Lawyer, CU's George Norlin Award, the William Lee Knous Award from CU Law School, the Colorado Bar Association's Award of Merit, the George Washington High School Inaugural Hall of Fame, the National Black District Attorney's Association Norman Early Founder's Award.

The Honorable Gary M. Jackson, who retired on December 30, 2020, presided in the Criminal and General Session Divisions of the Denver County Court. In 2018 the Colorado Judicial Institute recognized Gary with its Judicial Excellence Award for County Court Judge of the year. Denver Mayor Michael Hancock presented Gary with the Monte Pascoe Civic Leadership Award in 2018. In 2019 Colorado Law Week selected Gary as Trial Judge of the year. In 2020 the Center for Legal Inclusiveness awarded Gary the Hon. Wiley Daniel Lifetime Achievement Award. On July 23, 2021 the National Bar Association selected Gary to its Fred Gray Hall of Fame. In addition, Gary was inducted into the Denver Public Library's Black Hall of Fame. Recently, Gary was selected by the Metropolitan State College, Rachel B. Noel's Distinguished Visiting Professorship for its Future of Hope Award.

In his retirement years he is actively involved in historical presentations surrounding the 100 year anniversary of Lincoln Hills and pursuing opportunities as the Vice President of Marketing for Action Jackson Realty at Compass. Gary is married to Regina Jackson, a New York Times best selling author, documentary movie maker, and real estate owner. Together they have two children and four grandchildren.



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 18(1)</b>
<b>Title:</b>	<b>Council Vacancy Process</b>
<b>Agenda Date:</b>	<input checked="" type="checkbox"/> City Council Workshop: 09/17/24 <input type="checkbox"/> City Council Business Meeting:
<b>Initiated By:</b>	<input checked="" type="checkbox"/> City Council <input type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Mayor Conklin
<b>Type:</b>	<input checked="" type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Discussion of the process of filling vacant Council seat
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	Council Member Bill Berg resigned his position in July, and the Council officially declared the vacancy on August 20th. The Council will now consider whether to appoint an individual to the vacant seat or to hold a special election. Following this discussion, staff will receive instructions on the appropriate steps to fill the vacancy.
<b>Staff Analysis/Information:</b>	No additional information at this time.

**Attachments:**

1. Vacancy Process Memo from City Attorney's Office



ATTORNEYS AT LAW

**TO:** Mayor Conklin and Members of the Edgewater City Council  
**CC:** Dan Maples, City Manager  
**FROM:** Carmen Beery  
**DATE:** September 10, 2024  
**RE:** Council Vacancy Process – work session discussion on 9/17

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At your last regular meeting, you formally recognized and declared the vacancy on City Council caused by Councilor Berg’s resignation. On September 17, Staff will seek your direction on how you wish to proceed with filling the vacancy. The Charter provides two (2) options. Those options and some considerations are:

### **1. Fill the vacancy by appointment**

To pursue appointment of someone to fill the vacancy, Charter Section 3.6(5) requires the following:

*“(a) Council shall cause to be posted and published notice of the vacancy for at least fourteen (14) but no more than thirty (30) days prior to making the appointment. After thirty (30) days, if there are no applications, the application period shall be held open for successive additional thirty (30) day periods thereafter until application is made. During this application period, those interested and qualified to fill the vacancy may submit an application therefor to the City Clerk. The names of those persons who will be considered for appointment shall be posted and published as part of the agenda for the meeting at which the Council will consider and make the appointment.*

*“(b) At the next regular Council meeting following the close of the application period, or as soon as practicable thereafter, Council may act by a majority vote to appoint a member from the applications submitted; provided, however . . . if the Council does not act by a majority vote to appoint a member from the applications submitted within ninety (90) days after the close of the application period and there is no regular election scheduled within one hundred twenty (120) days and not less than ninety (90) days thereafter, then the City Clerk shall call and conduct a special election” to fill the vacancy.*

Pros: Process can proceed quickly, minimizing length of vacancy; current Council is invested in process; opportunity can be given to those who might not wish to run for office; minimal cost involved.

Cons: Not a direct democratic process; publication and advertisement of vacancy may not reach the entire community; if one (1) person or very few people apply, Council may feel forced to act.

### **2. Call a special election to fill the vacancy**

A special election is required if the appointment process does not yield an appointment within a few months (see above). However, the Council may also choose to call a special election in lieu of pursuing the appointment process. To do so, Council would adopt a resolution calling a special election for this purpose.

Pros: True democratic selection by City electors; removes Council from perception/accusation of bias or preferential treatment.

Cons: Cost (higher than appointment); stress and demand on City Clerk to conduct the election locally; potentially low voter-turnout for one-issue special election; if no one runs, Council appoints anyway, time has lapsed.



ATTORNEYS AT LAW

**TO:** Mayor Conklin and Members of the Edgewater City Council  
**CC:** Dan Maples, City Manager  
**FROM:** Carmen Beery  
**DATE:** September 12, 2024  
**RE:** Natural Medicines under SB 23-290

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At your March 5, 2024 regular meeting, we discussed SB 23-290, a bill regulating “natural medicines” (the “Bill”). A prior memorandum summarizing the Bill and the City’s options is again provided with this memorandum. Council direction given on March 5<sup>th</sup> was to bring this item back after the State concluded its rulemaking on natural medicine businesses.

On August 9, 2024, the State issued its final rules governing natural medicine businesses, viewable [here](#) and effective on October 1, 2024 (the “Rules”). The Rules are fairly comprehensive and address the following business license types:

1. Natural medicine healing center (where natural medicine is administered on-site)
2. Natural medicine cultivation facility
3. Natural medicine products manufacturer
4. Natural medicine testing facility

Similar to the state rules regulating marijuana businesses, these Rules address topics such as security, criminal background standards and qualifications of licensees, safety and hygiene in manufacturing, dosing standards, labeling and packaging requirements, testing requirements, advertising limitations, lawful financial interests, record keeping, inventory tracking and disciplinary proceedings by the State (license suspension and revocation and fines).

Given the breadth of the Rules, there are few unaddressed topics that represent gaps that the City may wish to fill in. As a reminder, local rules and regulations that supplement State law and Rules are permitted but not required. Any local regulations are constrained to “time, place, manner” restrictions and must not be “unreasonable” or conflict with the State’s laws or Rules.

**Request for Direction**

1. Do you wish to adopt any local laws expressly addressing natural health businesses or do you prefer to defer to the state’s Rules and existing City zoning laws?
2. If you do wish to adopt local laws, which topics do you wish to address:
  - Hours of Operation – the Rules do not restrict hours of operation
  - Additional Distance Requirements – the Rules prohibit Healing Centers within 1,000 feet from child care center/facilities and schools.
    - Amend the 1,000 foot buffer?
    - Add categories of buffers – parks and open space areas, residential uses (Boulder), the Library, other Healing Centers?
  - Other ideas/topics (within the time, place, manner spectrum)



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 8(3)</b>
<b>Title:</b>	<b>City Manager Review Process</b>
<b>Agenda Date:</b>	<input checked="" type="checkbox"/> City Council Workshop: 09/17/24 <input type="checkbox"/> City Council Business Meeting:
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Dan Maples Email: dmaples@edgewaterco.com Phone: 720-763-3030
<b>Type:</b>	<input type="checkbox"/> Open Discussion for direction <input checked="" type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Discussion of City Manager Review Process
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input type="checkbox"/> Other:
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	City council has scheduled a Executive Session for October 29 to discuss the City Managers Annual Review. This discussion is to set out the process leading into this executive session.
<b>Staff Analysis/Information:</b>	No additional information at this time.

Attachments:

1. 2023 City Manager Review Form

## **Edgewater City Manager Performance Review**

The purpose of the review process is to provide written feedback and an interactive assessment with the City Manager to discuss goals, workload, challenges or opportunities and other topics.

In addition to the written evaluation, at least annually, the City Council will meet with the City Manager to discuss the goals of the City Manager in tandem with the goals of the City Council, as a means of providing regular feedback.

### **Written performance review:**

- On an annual basis (at a minimum), initiated by the Mayor or the City Manager, the Council will be given a review form to complete on the assessment of the services and performance of the City Manager and his/her office.
- Council members will be asked to complete and return the evaluation form.
- The City Manager will use the same evaluation tool to complete a self-assessment.
- City Council will meet in executive session to discuss the City Manager's performance and to assimilate the individual performance reviews **to reflect the view of the Council as a body, rather than individual Council members.**
- Several designated members, or City Council as a whole, will meet with the City Manager to discuss the review.
- The Mayor will direct that the performance evaluation and any subsequent actions be placed in the City Manager's contract employment file.

### **DIRECTIONS:**

**Please rate the City Manager using the following scale for all items within each topic area. Please supplement your quantitative ranking with comments, especially if an item is exceptional or sub-standard. Comments may be to specific sub-topic or to the broader topic area. Comments are not necessary for all items, but numeric scores should be given on EVERY item. Only if you are absolutely unable to assign a numeric value on a specific item, use "NA".**

**A review that recognizes strength areas and areas for development is typically more helpful than a review that rates every area the same.**

5-Outstanding    4-Exceeding expectations    3-Meeting Expectations    2-Below Expectations    1-Fails to Meet Expectations    NA – No reply



1. Community Relations, Collaboration, Public Interaction	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. interact with everyone in a courteous and respectful manner; actively listen; clearly and effectively share information; demonstrate effective oral and written communication skills; and consistently present themselves in constructive and professional manner?</li> <li>2. anticipate and meet citizen needs; build positive relationships with constituents; follow through with commitments in a timely manner; and value the importance of delivering quality customer service to clients?</li> <li>3. demonstrate regional leadership, a commitment to respecting elected officials, community interest groups, individual citizens and a collaborative decision-making process?</li> <li>4. collaborate, inform, and involve the community in decisions that may affect them?</li> </ol>		

2. City Council Relations	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. strive to work well and collaborate with the City Council including keeping them informed of issues or concerns including administrative issues on a regular basis?</li> <li>2. interact in a respectful and courteous manner with City Council members?</li> <li>3. respond to City Council members requests for information appropriately and in a timely manner, and provide appropriate documentation for Council meeting</li> </ol>		

3. Implementation of Goals:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. effectively tie Council goals to proposed action (ordinances, plans, targets, action items)?</li> <li>2. skillfully orchestrate alignment of departmental goals and objectives with council goals and objectives</li> <li>3. ensure that the City organization implements their goals with City Council goals in a timely manner?</li> <li>4. collect and communicate to the City Council, regular status reports to document progress on City Council and City Manager goals and objectives?</li> </ol>		

4. Team Development:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. treat colleagues with dignity and respect, value the contributions of others?</li> <li>2. engage with staff in a manner that fosters trust and fairness?</li> <li>3. direct staff through the use of goals that translate the City Council's vision for the City of Edgewater</li> <li>4. promote a collaborative working style and a culture that welcomes constructive feedback and demonstrates a high level of customer service?</li> <li>5. lead an integrated team willing to shift department resources when necessary to address a larger or urgent organizational need or opportunity</li> <li>6. encourage and require professional development for employees and provide opportunities for advancement within the organization</li> <li>7. build teams while encouraging personal initiative and establish a culture of productivity and trust with high morale, a commitment to teamwork and continuous improvement?</li> </ol>		

5. Organizational Management and Development:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. manage service delivery in functional areas (i.e. public safety, planning and building safety, economic development, public works, etc.) anticipating future needs, and effectively controlling costs successful?</li> <li>2. plan and organize responses to public requests and complaints or areas of concern brought to the attention of Staff by Council?</li> <li>3. create effective processes for selecting, evaluating and developing City staff?</li> <li>4. encourage diversity and inclusivity within the organization's workforce and develop ways to engage, outreach and serve the growing diverse Edgewater community?</li> <li>5. provide mentoring and coaching to key staff?</li> <li>6. ensures that staff has the skills and strengths to implement programs?</li> <li>7. drive results and expect to reach or exceed goals?</li> <li>8. assure that manager and staff's goals and objectives are achieved (separate from Council Goals)?</li> <li>9. prepare the organization to act in a crisis?</li> <li>10. negotiate skillfully?</li> <li>11. demonstrate proficiency in job knowledge and professional skills?</li> </ol>		

6. Economic and Community Development:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. work well with the City Council to develop effective strategies for economic development?</li> <li>2. work well with and support the City’s business community, collaborating to create and sustain a positive business climate?</li> <li>3. collaborate effectively with local, state, and regional economic development organizations to create economic drivers for the region?</li> <li>4. actively seek and recruit business development opportunities that are consistent with community values and City Council priorities?</li> </ol>		

7. Financial Management:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. effectively use long term financial forecasting.</li> <li>2. provide timely reporting of financial information and budget to actual comparisons for City Council review?</li> <li>3. plan, organize and supervise the most economic utilization of staffing/materials/equipment/assets?</li> <li>4. effectively evaluate outsourcing options?</li> <li>5. plan and organize the preparation of an annual budget and a system of monthly Executive reports for City Council that provides the most up-to-date data available concerning expenditures, revenues and fund balances?</li> </ol>		

8. Strategic Leadership:	Ratings	Comments
<p><b><i>Does the City Manager:</i></b></p> <ol style="list-style-type: none"> <li>1. anticipate future needs for new technologies, systems, methods and program planning?</li> <li>2. keep council advised of new and pending legislation and developments in the area of public policy?</li> <li>3. establish and maintain an awareness of developments occurring within other cities or other jurisdictions that may have an impact on City activities?</li> <li>4. regularly benchmark other cities and jurisdictions that may provide new ideas for Edgewater?</li> <li>5. successfully translate strategies into objectives and action plans that guide the work of the organization to realize the goals established by the City Council?</li> <li>6. use forecasts and models effectively to project budget variances and cost overruns?</li> <li>7. anticipate future trends accurately and create productive approaches to continuously improve services?</li> <li>8. resiliently and capably adapt to changing conditions and requirements?</li> </ol>		

**Appreciated aspects of the City Manager:**

**Suggestions for areas of change and/or improvement for the City Manager:**

**Other General comments/observations:**

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Signature/ Printed Name of Person Completing Review

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Date



## City Council Agenda Item Form

<b>Agenda Item Number:</b>	<b>Item 18(4)</b>
<b>Title:</b>	<b>Chapter 1-6 &amp; 10 Code Review</b>
<b>Agenda Date:</b>	<input checked="" type="checkbox"/> City Council Workshop: 08/20/24, 9/17/24 <input type="checkbox"/> City Council Business Meeting:
<b>Initiated By:</b>	<input type="checkbox"/> City Council <input checked="" type="checkbox"/> Staff member:
<b>Staff Contact:</b>	Name: Dan Maples Email: dmaples@edgewaterco.com Phone: 720-763-3012
<b>Type:</b>	<input checked="" type="checkbox"/> Open Discussion for direction <input type="checkbox"/> Informational/Presentation <input type="checkbox"/> Policy/Code Change <input type="checkbox"/> Resolution/Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other:
<b>Topic Description:</b>	Review of Edgewater Municipal Code Chapters 1,2,3,4,5,6 & 10
<b>Plan Alignment:</b>	<input type="checkbox"/> Council Strategic Plan <input type="checkbox"/> Comprehensive Plan <input type="checkbox"/> Parks and Recreation Master Plan <input type="checkbox"/> Sheridan Boulevard Multimodal Corridor Plan <input type="checkbox"/> Sustainability Plan <input type="checkbox"/> Traffic Calming and Mobility Plan <input type="checkbox"/> Walker Branch Master Plan <input checked="" type="checkbox"/> Other: Charter: 6.10 Ordinance Review
<b>Financial Impact:</b>	No additional costs at this time.
<b>Staff Impact:</b>	No additional staff impacts at this time.
<b>History/ Background:</b>	Article 6.10 of the Edgewater Municipal Charter require Council to review the ordinances of a general or permanent nature at least once every six (6) years. Mayor and Council have developed a schedule to review and make any changes within 2024.
<b>Staff Analysis/Information:</b>	Please see staff memorandum and redline version of code for all staff comments.

**Attachments:**

1. Memorandum: Code Updates- Staff 7824
2. Chapter 1-6 Review Redline (002)
3. CHAPTER\_10\_General Offenses Redline



CITY MANAGER

MEMORANDUM

**TO:** MAYOR AND CITY COUNCIL

**FROM:** DAN MAPLES, CITY MANAGER

**SUBJECT:** EDGEWATER MUNICIPAL CODE UPDATE: CHAPTER 1-6, 10

**DATE:** 7/8/24

**CC:** CARMEN BEERY, CITY ATTORNEY

City Council is set to review Chapters 1-6 & 10 at the July 16 Workshop. Attached to this memorandum is a staff redline of the code. Below is a summary of changes requested by staff. The summary does not include all suggested changes.

All Code Change:

- (1) Change *his or her* to their, *he or she* to they, *himself or herself* to themselves.
- (2) Add *or Designee* to staff description of Manager of Department Head.
- (3) Various language/ spelling changes.

Chapter 1-6:

Code	Change	Reason
1-2-10	<i>Personal property</i> includes every species of property except real property, as herein described, including but not limited to money, goods, chattels, <del>things in action</del> movable property and evidence of debt.	Language clean-up
1-2-50	(1) <del>Any gender includes the other genders</del>	Correct all gender language so this is not needed.
1-3-40, 1-3-100	affecting,	Grammer
1-3-70	So long as hard copy Code books are maintained by the City, supplements to this Code shall be periodically prepared and printed in the industry standard manner of codifiers.	Deletion, clean-up
1-3-80, 1-3-90	Delete, Copy on File and Code Books for Sale	On-line no need to provide printed copies.
7	two thousand six hundred and fifty dollars (\$2650 <del>999.00</del> ) or by imprisonment for not more than one hundred eighty ( <del>364</del> <del>180</del> ) days, or by both such fine and imprisonment,	CRS: 13-10-113
1-4-20	to <del>twenty (20)</del> <b>sixty-four (64)</b> days before	Clean up
2-1-20	Delete (b)	Unify section.



2-3-40	Delete Sec. 2-3-40 Workweek	Covered in Employee Handbook.
2-3-50	Delete Sec. 2-3-50 Use of CDBG funds for lobbying	Covered in Federal Law
2-3-70	Delete Sec/ 2-3-70. City Treasurer	Not needed.
2-3-300	For purposes of this Section, "relative" means <del>husband, wife, partner,</del> <b>spouse</b> , children, parents, grandparents, spouse's grandparents, grandchildren, sisters, brothers, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law, aunts, uncles, stepparents, stepchildren, nephews, nieces and cousins.	Add spouse
2-4-30	<del>The Department of Parks and Recreation established by Section 10.6 of the Charter, and as further defined in Section 2 4 30, is hereby consolidated within the Department of Community Services. In the absence of any other individual that may be so designated by the City Manager, the Director of Community Services shall serve as the Director of Parks and Recreation. In the event that a separate individual is designated as the Director of Parks and Recreation, that individual shall be a department head in accordance with provisions of the Charter and ordinances of the City.</del>	No need as department is not consolidated.
2-4-30	<del>(c) Rules and regulations for recreational programs may be promulgated by the City Council by resolution. The City Council may also establish by ordinance such fees for participation in recreational programs it deems appropriate in relationship to the costs of such programs. The Director of Parks and Recreation may, for good cause, deny or terminate participation of any individual or group violating any ordinance, rule or regulation related to recreational programs.</del>	Remove language.
2-4-40	<del>(c) The Director of Public Works shall be responsible for:  (1) Supervising and directing all employees of the Department of Public Works.  (2) Operating and maintaining all public works and facilities including, without limitation, water utilities, sanitary and storm sewers, drainage, streets, alleys, buildings, properties, lands and parks (subject to the provisions of <a href="#">Chapter 11</a>), solid waste, traffic and public signs, equipment and motor vehicles (except police and fire equipment and vehicles).  (3) Preparing and administering the Department's annual budget and assisting with the preparation of the capital projects budget and capital projects program.  (4) Coordinating the activities of the Public Works Department with all other City departments and all other persons within the City associated with such activities.  (5) Preparing such reports and providing such information as required by the City Manager, requested by City Council</del>	Removed duties from Code.

	<p>through the City Manager, and as necessary for the administration of the Department of Public Works.</p> <p>(6) Responding to inquiries, complaints and comments from the public regarding such matters as set forth in Paragraphs (1) and (2) hereof; provided, however, that such responses related to City policies shall be subject to approval of the City Manager, and responses related to legal issues and legal policies shall be subject to approval of the City Attorney.</p> <p>(7) Performing such other duties as required by the City Manager or as prescribed by ordinance.</p>	
2-5-20	Upon request for a transcript of proceedings of the Municipal Court, the Court <del>Clerk</del> <b>Administrator</b> shall be responsible for causing preparation of the same. The actual cost for preparation of the transcript shall be paid by the person making such request.	Position title change.
2-5-20	(b) With such request for a transcript, there shall also be paid to the <del>Court Clerk</del> <b>City</b> the fee set forth in the Fee Schedule adopted by the City Council from time to time.	Payment recipient change.
2-5-50	Add section on virtual court.	Addition
2-5-60	(a) When the Municipal Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor up to the maximum penalties authorized by Section 1-4-20 of this Code.	Align
2-5-210	The <del>presiding Municipal Judge</del> <b>Chief of Police</b> , with the approval of the <del>City Clerk</del> <b>Municipal Judge</b> , shall appoint a person to serve as Court <del>Administrator</del> <b>Clerk</b> . The duties of the Court <del>Administrator</del> <b>Clerk</b> , in addition to the duties set forth in this Division, shall be those assigned by the Municipal Judge. The Municipal Judge may also act as Court <del>Administrator</del> <b>Clerk</b> in accordance with state statutes.	Supervisor Change and Title change
Various	Various changes from Cort Clerk to Court Administrator	Title Change
2-5-450	<b>Sec. 2-5-450. Juror Pay's fees.</b>	Language change
2-5-480	In any case in which the defendant has entered a plea of guilty, the Municipal Court has the power, with the written consent of the defendant and the City Prosecutor, to continue the case for a period not to exceed <del>eighteen (18)</del> <b>twelve (12)</b> months from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty.	Change

2-5-520	For each interpreter retained to assist the defendant, complaining party or any other witness, <b>fee established within the fee schedule</b> <del>thirty dollars (\$30.00);</del>	Change stated fee
2-6-20	(c) The provisions of Subsections (a) and (b) hereof shall not apply to any vacancy in the office of Chief of Police. Such a vacancy shall be filled in accordance with Section 10.3 of the Charter. When the office of Chief of Police is vacant, the City Manager may choose to appoint an Interim Chief; <b>alternatively, the City Manager may elect to temporarily assume the duties and responsibilities of the Chief position until such time as a Chief is selected or an interim is appointed.</b>	Addition
2-6-70	The Police Department and <b>or Community Development</b> may include one (1) or more Community Service Officers. A Community Service Officer is not required to be certified by the Colorado Peace Officer Standards and Training Board.	Addition
2-6-70	Community Service Officers shall perform such other duties as may be prescribed from time to time by the <del>Police Chief</del> <b>Department Head</b> , consistent with the provisions of this Section.	Change
2-6-80	The Chief of Police shall <del>establish and shall</del> present to the City Council for its approval from time to time, a list of administrative services for which a fee is charged <b>within the approved Fee Schedule</b> , provided that such services:	Changes
2-6-110	Removed 2-6-110 City Police Reserve	Do not use.
2-10-30	(4) In accordance with Section 16-23-160, to hear and decide applications for conditional use permits within a flood hazard area.	Addition
2-11-20	Delete past term language. Question as to add similar language on other boards or commissions.	Deletion / Question
2-12-10	Sustainability <b>Advisory</b> Board	Addition
2-12-30	The Community <del>Services</del> <b>Development</b> Director or designee shall serve as the liaison to the Sustainability Board pursuant to Section 9.2(12) of the City Charter. The City Council may designate a Council liaison to the Sustainability Board.	Position change

4-1-110	Every paper check in an amount less than one hundred thousand dollars (\$100,000.00) may be signed by the City Manager or the City Clerk, in the City Manager or City Clerk absence, by the Deputy City Manager.	Addition of Deputy City Manager
4-2-70	<del>Municipal Center, 2401 Sheridan Blvd.</del> Civic Center, 1800 Harlan St.	Address Change
4-6-70	Add language for joint bidding with another City or group of Cities.	New process
4-6-70	Add electronic process to submit bids.	New process
4-6-110	Notwithstanding any other provision of this Code, every written City contract for services, supplies or construction in an amount equal to or less than <del>fifty</del> one-hundred thousand dollars (\$100,000.00) and in an amount that has been previously approved in the City's budget or otherwise appropriated may be approved by the City Manager and executed by the Mayor, or the Mayor Pro Tem in the Mayor's absence, and attested to by the City Clerk under the seal of the City.	Update in line with other language.
4-6-120	(b) The conveyance of any interest in real property does not include the issuance of a permit to occupy or conduct activity within the public right-of-way pursuant to Article 10 of Chapter 6 (special events) or Chapter 11 (Streets, Sidewalks and Public Property).	Addition
6-1-30	(7) In accordance with CRS § 39-26-802.9, a retailer that has a state standard retail license, makes retail sales within the City, and either does not have physical presence in the City or has an incidental physical presence in the City, according to the records of the state department of revenue.	Addition
6-1-50	(9) The days and hours of operation of the business, including a separate listing, if applicable, of proposed hours of operation of all outdoor areas (including covered patios, balconies and partially-enclosed areas) and proposed hours of use of any sound amplification equipment in such area(s); and	Addition
6-1-110	(c) If an applicant has paid the license fee but no license is issued, the City Clerk shall refund the license fee, less an administrative fee <del>listed in the approved fee schedule</del> of <del>twenty five dollars (\$25.00)</del> .	Update to keep in line with fee schedule.
6-1-130	Consider replacing Council with the Municipal Judge or a Hearing Officer - someone with experience in conducting an appellate record-based review of a lower hearing (as req'd by subsection (d)).	Question
6-3-10	minor children, and to <del>assure</del> ensure that body artists are utilizing safe practices and techniques in safe and sanitary environments	Language
6-4-20	(b) Nothing in this Article shall require any electrician licensed by the State to obtain a contractor's license from the City. However, electricians	Department Update

	licensed by the State shall register with the <del>City Clerk</del> <b>Building Department</b> prior to performing any electrical work in the City. There shall be no cost for such registration.	
6-4-40	Add section about the Building Official being able to utilize other municipal tests for examinations.	Addition
6-4-40	Class C License. This license shall be issued to those engaged in contracting for labor or for labor and material involving specialized trades, such as brick, plastering, framing, dry walling, glazing, irrigation systems, burglar alarms, swimming pools, <b>exterior water and sewer line work</b> , sheds and fence contractors.	Addition
6-4-50	To keep streets and sidewalks that are adjacent to construction sites and open to the public traffic free of obstructions, construction materials, equipment, debris, mud, dirt or any other material that may be a hindrance or hazard to vehicular or pedestrian traffic except during the construction or repair of a street or sidewalk <b>and to maintain Best Management Practices (BMP) to prevent mud and sediment runoff from construction site</b> ; and	Addition
6-4-60	Insurance Question -City Attorney	
6-5-60	A <b>major</b> home occupation license shall apply only to the applicant, occupation and premises stated in the initial application and shall not be transferable or assignable. The license shall remain in force for one (1) year unless suspended or revoked. Following revocation, any subsequent application to operate the same or substantially the same home occupation shall be <b>neither be accepted nor acted upon by the City for a period of one (1) year after revocation.</b>	Addition
6-7-20	6-7-20 Delete reference to Badge and add License in place	Change
6-7-40	Upon verification that the application meets all <b>the</b> requirements of this Code, the City Clerk shall issue a peddler's and solicitor's permit. The permit shall be valid for the time stated on the permit. No permit shall be transferable.	Language
6-17-50	An applicant shall pay an application fee in the amount set forth in the fee schedule. The purpose of the fee is to cover the City's administrative costs of processing the application, and of monitoring and enforcing licenses issued pursuant to this Article.	Updated language

Chapter 10

Code	Change	Reason
10-1-40	A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, the person engages in conduct constituting a substantial step toward the commission of the offense. A <i>substantial_ step</i> is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.	Language
10-9-40, 10-12-65	<i>Change maximum fine to \$2,600</i>	Change
10-10-60	<i>Delete Sales near schools</i>	Deletion
10-10-250	It is unlawful for any person to possess any hypodermic needle, syringe or similar device which may be adapted or used for injecting drugs or other substances by subcutaneous or intracutaneous injection into the body, unless such possession has been authorized for medical or physical treatment by a licensed medical doctor or osteopathic physician; provided, however, that the prohibitions contained in this Section shall not apply to manufacturers, jobbers, licensed medical technicians, hospitals, nursing homes, technologists, nurses, laboratories, research teaching institutes, medical doctors, osteopathic physicians, dentists, veterinarians, pharmacists and embalmers selling or using such devices in the legal course of their respective businesses or professions <b>or to any person participating as an employee, volunteer, or participant in an approved syringe exchange program created pursuant to C.R.S. § 25-1-520..</b> A violation of this Section shall be subject to the penalty provided in Section 1-4-20.	Addition
10-12-90	<i>Delete section</i>	Deletion
10-14-10	<i>Add section on Construction Noise</i>	Addition
10-14-10	<i>Possible to get rid of Decibel Limits. Will need a process to control unreasonable noise during day.</i>	Change
10-14-20	<i>Exterior Loudspeaker or Amplifier</i> means a device for the amplification of sound which: 1.Is located on an exterior deck, patio or balcony of any structure; 2.Is affixed to the exterior wall of any structure; 3.Is located in or on any lawn or landscaped area outside of any structure; or 4.Is otherwise placed, affixed or located outside the exterior walls of any structure.	Addition

## CHAPTER 1 General Provisions

### *ARTICLE 1 Code*

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

The published code known as the Edgewater Municipal Code, published by Colorado Code Publishing Company, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the City of Edgewater, Colorado, as a codification of all the ordinances of the City of Edgewater of a general and permanent nature through Ordinance No. 12-08, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the City.

#### **Sec. 1-1-20. How Code designated and cited.**

This Code shall constitute a compilation, revision and codification of all the ordinances of the City of Edgewater, Colorado, of a general and permanent nature, and shall be known as the *Edgewater Municipal Code* and may be so cited.

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

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the City Council.

#### **Sec. 1-1-40. Repeal of ordinances not contained in Code.**

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

#### **Sec. 1-1-50. Matters not affected by repeal.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-40 shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.

#### **Sec. 1-1-60. Ordinances not affected by Code.**

- (a). Nothing in this Code or the ordinance adopting this Code shall affect any of the following:
- (1). Any ordinance or resolution creating, dedicating, naming, renaming, opening, accepting, vacating or closing specific streets, alleys and other public ways in the City
  - (2). Any ordinance or resolution establishing the grades or lines of specific streets, sidewalks and other public ways.

- 
- (3). Any ordinance or resolution creating specific sewer and paving districts and other local improvement districts
  - (4). Any ordinance or resolution authorizing the issuance of general obligation or specific local improvement district bonds
  - (5). Any ordinance or resolution making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds or promising or guaranteeing the payment of money for the City or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness
  - (6). Any ordinance or resolution annexing territory to the City or excluding territory from the City
  - (7). Any ordinance or resolution dedicating or accepting any specific plat or subdivision
  - (8). Any ordinance or resolution calling or providing for a specific election
  - (9). Any ordinance or resolution authorizing specific contracts for purchase of beneficial use of water by the City
  - (10). Any ordinance or resolution approving, authorizing or otherwise relating to any contract, agreement, lease, deed or other legal instrument with the State, with other governmental bodies or with others
  - (11). Any ordinance or resolution authorizing a specific lease, sale or purchase of property
  - (12). Any ordinance or resolution granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers
  - (13). Any ordinance or resolution granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys
  - (14). Any ordinance or resolution granting any license, permit or other right;
  - (15). Any ordinance or resolution granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company
  - (16). Any ordinance or resolution appropriating money.
  - (17). Any appropriation ordinance or resolution providing for the levy of taxes or for an annual budget
  - (18). Any ordinance or resolution relating to the salaries of City officers or employees
  - (19). Any ordinance or resolution levying special assessments
  - (20). Any ordinance or resolution amending the Official Zoning Map
- (b). All such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

(Prior code 1-3; Ord. 12-08 §1, 2008)

## ***ARTICLE 2 Definitions and Usage***

### **Sec. 1-2-10. Definitions.**

The following words and phrases, whenever used in this Code shall be defined as follows unless a different meaning is intended from the context or is specifically defined:



*Charter* means the Home Rule Charter of the City of Edgewater adopted in pursuance and under the authority of Article XX of the Colorado Constitution

*City* means the City of Edgewater, Colorado, or the area within the territorial limits of the City of Edgewater, Colorado

*City Council* means the City Council of the City of Edgewater, Colorado

*Code* means the Edgewater Municipal Code as published and subsequently amended, unless the context requires otherwise.

*County* means Jefferson County, Colorado

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

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

*May* is permissive

*Month* means a calendar month

*Newspaper* in accordance with Section 20.1(13) of the Edgewater Home Rule Charter, for purposes of the City's legal publications and legal notices, means a newspaper of general circulation in the City which meets the requirements for a legal newspaper as established in Section 24-70-101, et seq., C.R.S

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

*Or* may be read *and*, and may be read *or* if the sense requires it

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

*Person* means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word *person* is used in any section of this Code prescribing a penalty or fine, as to firms, associations and other organizations, the words shall include the partners, members or agents who are responsible for any violation of such section thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section

*Personal property* includes every species of property except real property, as herein described, including but not limited to money, goods, chattels, ~~things in action~~ and evidences of debt

*Property* includes real and personal property

*Public place* means any street or highway, sidewalk, park, cemetery, schoolyard or open space adjacent thereto and any lake or stream that is open to the public. *Public place* includes any private property accessible to the public such as a trail, bike path, alley, hiking path or shopping center parking lot

*Real property* includes lands, tenements and hereditaments

*Shall* and *must* are both mandatory

**Commented [TN1]:** Suggest changing "chattels, things in action" with "moveable property"

**Commented [CB2R1]:** Keep chattels - a legal term - agree with deleting "things in action"

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*Sidewalk* means that improved portion of a street between the curblines and the adjacent property line intended for the use of pedestrians

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

*State* means the State of Colorado

*Street* includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated by law

*Tenant and occupant*, applied to a building or land, includes any person who occupies all or a part of such building or land, whether alone or with others

*Year* means a calendar year.

### **Sec. 1-2-20. Rules of construction.**

- (a). In the construction of this Code, the rules and definitions set out in this Section shall be observed, unless such construction would be inconsistent with the intent of the City Council
- (b). All general provisions, terms, phrases and expressions in this Code shall be liberally construed in order that the intent and meaning of the City Council may be fully carried out
- (c). The provisions of this Code shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling
- (d). The provisions of this Code, and all proceedings under it, are to be construed with a view to effect their objects and to promote justice.

(Prior code 1-2; Ord. 12-08 §1, 2008)

### **Sec. 1-2-30. Computation of time.**

The time within which an act is to be done shall be computed by excluding the first day and including the last day; but if the time for an act to be done falls on a Saturday, Sunday or legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday.

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

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning.

### **Sec. 1-2-50. Grammatical interpretation.**

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

- (1). Any gender includes the other genders
- (2). The singular number includes the plural and the plural includes the singular
- (3). Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable. (Prior code 1-2; Ord. 12-08 §1, 2008)

**Commented [GU3]:** Just eliminate any gender references

### ***ARTICLE 3 General***

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

- (a). The captions of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the captions, are amended or reenacted
- (b). The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section
- (c). All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.

(Prior code 1-7; Ord. 12-08 §1, 2008)

#### **Sec. 1-3-20. Title of office.**

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City, or ~~their~~~~his or her~~ designated representative. Whenever reference is made to an officer, employee, official, representative, agent, department, commission or other agency, the same shall be construed as if followed by the words "of the City of Edgewater, Colorado."

#### **Sec. 1-3-30. Authorized acts.**

Whenever in accordance with this Code any specific act is required to be done by any designated department officer, official or employee of the City, such act may be performed by any duly authorized person. When this Code requires an act to be done which may as well be done by an agent, designee or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent, designee or representative.

#### **Sec. 1-3-40. Prohibited acts.**

Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, ~~a~~effecting, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

#### **Sec. 1-3-50. Designation of place for publication of legal notices.**

The City Council shall designate from time to time, by ordinance, the newspaper or other place, including but not limited to the City's website, which shall be utilized by all officers, employees, departments and agencies of the City for legal publications and legal notices.

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**Sec. 1-3-60. Amendments or additions to Code.**

Any additions or amendments to this Code, when passed in such form as to indicate the intention of the City Council to make the same a part hereof, shall be deemed to be incorporated in this revision so that reference to this Code shall be understood as including them.

**Sec. 1-3-70. Supplementation of Code.**

- (a). ~~So long as hard copy Code books are maintained by the City, S~~supplements to this Code shall be periodically prepared and printed in the industry standard manner of codifiers. ~~whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative or referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement~~
- ~~(b).~~ ~~In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages~~
- ~~(e)~~b). When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may only make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1). Organize the ordinance material into appropriate subdivisions;
  - (2). Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3). Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers; and
  - (4). Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Prior code 1-9)

**Sec. 1-3-80. Copy of Code on file.**

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

**Sec. 1-3-90. Sale of Code books.**

Copies of this Code book may be purchased from the City Clerk upon the payment of a fee to be set by the City Council.

**Commented [CB4]:** Consider deletion as obsolete.

**Sec. 1-3-100. Ratification.**

- (a). When the term *ratification* is used in the Charter, it shall mean that the action or appointment is subject to approval by City Council at the sole discretion of City Council. Whenever any action or appointment is described in the Charter as being "subject to ratification" by the City Council or requiring ratification as a condition precedent, it shall mean that the City Council must approve the action or appointment for such action or appointment to take effect
- (b). In the event City Council declines to ratify any action or appointment, the action or appointment requiring ratification shall be null and void.

(Ord. 08-06 §1, 2006)

**Sec. 1-3-110. Severability.**

The provisions of this Code are declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. Unless expressly provided to the contrary, it is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid by a court, such invalidity shall not affect the remaining portions of this Code which can be given effect, and to this end are declared to be severable. The application thereof to other persons shall not be affected thereby.

**ARTICLE 4 General Penalty**

**Sec. 1-4-10. Violations.**

- (a). It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code
- (b). Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful.

(Ord. 12-08 §1, 2008)

**Sec. 1-4-20. General penalty.**

- (a). Any person convicted of a violation of this Code for which a different penalty is not provided shall be punished by a fine not exceeding nine hundred ninety-nine dollars (~~\$2650.999.00~~) or by imprisonment for not more than ~~one hundred eighty (364-180)~~ days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. Each day that a violation continues shall be deemed a separate offense
- (b). The suspension or revocation of any license, certificate evidencing accord of inspection services, or other privilege conferred by the City shall not be regarded as a penalty for the purposes of this Code, but shall be in addition to the penalty provided in Subsection (a) hereof
- (c). Nothing herein shall be construed to limit the power of the Municipal Court to take such action as it may deem appropriate, in the sound exercise of its discretion, to summon, try and punish any person who may be found in contempt of the Court

**Commented [GU5]:** CRS: 13-10-113,

**Commented [CB6R5]:** The City's Court is not bound by the statutory maximum penalty, as a home rule court.

This amount can be increased to this statutory maximum, but it is not required to be.

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**Commented [GU7]:** Needs to be changed to "three-hundred and sixty-four"

**Commented [CB8R7]:** Same as above - changing this is a choice, not a legal mandate.

**Commented [GU9]:** CRS: 13-10-113, Judge Cahn mentioned there may be limitations with having less than 181 days of potential imprisonment.

**Commented [CB10R9]:** No limitations under that statute. Some other limitation?

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(d). The Municipal Court may order payment of restitution to the damaged party by the person responsible for damage resulting from a violation of this Code.

(Prior code 1-11; Ord. 12-08 §1, 2008)

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than nine hundred ninety-nine dollars (\$999.00) per violation or count. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. No person under the age of eighteen (18) years as of the date of the violation of which convicted shall be subject to imprisonment.

### Sec. 1-4-40. Commitment for failure to pay fine.

- (a). ~~Every person against whom a fine or penalty has been assessed under the ordinances of the City, who refuses or neglects to pay the same when demanded, upon execution ordered by the Municipal Judge may be committed in default thereof to the County Jail or such other suitable place as provided by the City under the direction of the proper officer until the fine or penalty is fully paid and satisfied or the person has served up to the maximum incarceration period for the offense of which such person was convicted, whichever first occurs. In the case of a person over the age of eighteen (18) years who has failed to pay a fine or penalty assessed for a crime they or she committed prior to reaching the age of eighteen (18) years, such person may be committed to the County Jail, or other suitable place as set forth above, for such failure for up to one hundred and eighty (180) days or until the fine or penalty is fully paid and satisfied, whichever occurs first. Such satisfaction shall be made at such monetary rate as the Court deems appropriate in its discretion. Any such person may be required to do any reasonable work. The foregoing notwithstanding, in the discretion of the Municipal Judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installment payments. In case the defendant refuses or neglects to comply with the terms of the stay of execution, then execution may issue and the defendant may be committed to the County Jail, as hereinabove provided, until such fine, penalty or judgment is fully paid or otherwise satisfied~~
- (b). ~~Upon the failure or neglect by a person to pay a fine as directed by the Municipal Court, the Court shall inquire as to the grounds for the person's neglect or failure to pay such fine. Should the Court be satisfied that the grounds for a person's failure to pay the fine is solely indigency, the Court shall not incarcerate the person; provided, however, that the person who owes the fine has the burden of going forward and persuading the Court on the issue of indigency.~~

(Prior code 1-12; Ord. 12-08 §1, 2008; Ord. 04-12 §1, 2012)

## ARTICLE 5 Inspections

### Sec. 1-5-10. Entry.

Whenever necessary to make an inspection to enforce this Code or whenever there is probable cause to believe there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized ~~employee or agent official~~ of the City may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon ~~them~~ ~~him or her~~ by this Code. Except in emergency situations or when consent of the owner and/or occupant to the inspection has been obtained, the

**Commented [GU11]:** This section may need attention from the City Attorney, mostly concerning the commitment to the County Jail items.

**Commented [CB12R11]:** This Section now out dated, must be removed.

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~~employee or agent official~~ shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four (24) hours' written notice of intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that, if entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized ~~judge or~~ magistrate. ~~If the occupant or, if unoccupied, the owner, refuses entry to such building or premises, or the authorized official is unable to obtain permission of such occupant or owner to enter such building or premises after the request has been made, the official may seek assistance from any court of competent jurisdiction in obtaining such entry.~~

Commented [CB13]: Unnecessary sentence

## ARTICLE 6 Seal

### Sec. 1-6-10. City seal.

The City seal in use on the adoption date of this Code is ratified and confirmed.

## CHAPTER 2 Administration

### ARTICLE 1 Elections

#### Sec. 2-1-10. Applicability of election codes.

- (a) Except as otherwise provided in the City Charter, the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S., as amended, shall govern, in lieu of the "Colorado Municipal Election Code of 1965," the conduct of each City election which is held as a part of a coordinated election for which the County Clerk and Recorder is the coordinated election official.
- (b) Except as otherwise provided in Subsection (a) hereof, and except as otherwise provided in the City Charter, the Municipal Election Code of 1965, Article 10 of Title 31, C.R.S., as amended, shall govern the conduct of City elections.

(Prior code 6-1)

#### Sec. 2-1-20. Write-in candidates.

- ~~(a) Pursuant to Section 31-10-306, C.R.S., in any election of Mayor or Councilmember conducted pursuant to the Municipal Election Code, no write-in vote shall be counted unless an affidavit of intent has been filed with the City Clerk, by the person whose name is written in, prior to sixty-four (64) twenty (20) days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.~~
- ~~(b) Pursuant to Sections 1-4-1101 and 1-4-1102(2), C.R.S., in any election of Mayor or Councilmember conducted pursuant to the Uniform Election Code, no write-in vote shall be counted unless an affidavit of intent has been filed with the City Clerk, by the person whose name is written in, on or before the close of business on the sixty-fourth day before the election stating that such person desires the office and is qualified to assume the duties of that office if elected.~~

Commented [CB14]: The affidavit deadline is same under both election laws. This section can be unified.

(Prior code 6-2)

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**Sec. 2-1-30. Cost of recount.**

Pursuant to Sections 31-10-1207 and 1-10.5-106, C.R.S., when a recount is not mandated by law, the cost of a recount requested by a losing candidate or by the supporters of a losing question shall be paid by the party requesting the recount. Prior to conducting the recount, the City Clerk or County Clerk, as applicable, shall determine the cost thereof and notify the requesting party.

**Sec. 2-1-40. Election may be cancelled — When.**

- (a) In the event that the City is conducting an election under the Colorado Municipal Election Code of 1965, and pursuant to section 31-10-507, C.R.S., if the only matter before voters is the election of persons to office and if, at the close of business on the ~~sixty-fourth (64<sup>th</sup>)~~ <sup>nineteenth</sup> day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the City Clerk, if instructed by resolution of the City Council either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected as of the date of the first regular City Council meeting following the date that had been scheduled for the election. The City Clerk shall publish notice of the cancellation of such election in a manner that follows the method for publishing ordinances as nearly as practicable, and shall post such notice at each polling place and in not less than one other public place.
- (b) In the event that the City is conducting an election under the Uniform Election Code of 1992, and pursuant to section 1-5-208, C.R.S., if the only matter before voters is the election of persons to office and if, at the close of business on the ~~sixty-third (63<sup>rd</sup>)~~ <sup>day</sup> before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the City Clerk, if instructed by resolution of the City Council either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected as of the date of the first regular City Council meeting following the date that had been scheduled for the election. The City Clerk shall publish notice of the cancellation of such election in a manner that follows the method for publishing ordinances as nearly as practicable, and shall post such notice at each polling place and in not less than one other public place.

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(Ord. 18-11 §1, 2011)

**ARTICLE 2 Mayor and City Council**

**Sec. 2-2-10. Compensation of Mayor.**

In accordance with Section 2.5 of the Charter, the compensation for the position of Mayor is five hundred dollars (\$500.00) per month.

**Sec. 2-2-20. Compensation of City Council.**

In accordance with Section 3.3 of the Charter, the compensation for each position on the City Council is three hundred dollars (\$300.00) per month.

**ARTICLE 3 Officers and Employees**

*Division 1 General Provisions*



**Sec. 2-3-10. Reserved.**

**Sec. 2-3-20. Oath of office; bond.**

- (a) Each ~~peace public safety~~ officer, board or commission member, municipal court judge, clerk and assistant clerk, before entering upon the duties of ~~his or her~~their office, shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the ordinances of the City.
- (b) In all cases where, by law, a bond is required of any ~~such~~ officer, employee or any other person to perform any function or duty involving the handling of City monies, ~~he or she~~they shall make and execute to the City a bond in such sum as is required, to be approved by the City Council, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the City coming into ~~his or her~~their hands and the proper accounting for or delivery of the same.

**Commented [CB15]:** From charter sec. 19.4

(Ord. 12-08 §1, 2008; Ord. 18-11 §4, 2011)

**Sec. 2-3-30. Reserved.**

**Sec. 2-3-40. Workweek.**

The workweek for all permanent City employees shall be forty (40) hours except in cases where the job description of an employee in a supervisory position includes duties exceeding such forty-hour period.

**Commented [CB16]:** Consider deleting - a matter better addressed in employee handbook.

**Sec. 2-3-50. Use of CDBG funds for lobbying.**

- (a) The City and its officials, representatives or employees are prohibited from spending Community Development Block Grant (CDBG) funds to influence or attempt to influence federal officers or employees of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- (b) The City and its officials, representatives or employees are required to file a Disclosure Form to Report Lobbying if non-CDBG funds will be or are paid to any person for influencing or attempting to influence an officer or employee of any agency, member of Congress, an officer or employee of Congress, or an employee of a member of Congress related to a federal contract, grant, loan or cooperative agreement.
- (c) The City shall require certification provisions to be included in all contracts, subcontracts and agreements involving CDBG funds to the effect that parties to the contracts, subcontracts and agreements certify that CDBG funds will not be and have not been used to influence or in an attempt to influence federal officials and certifying that a Disclosure Form to Report Lobbying will be filed when non-CDBG funds are used for such purposes as provided in this Section.

**Commented [CB17]:** Consider deleting - this is a requirement imposed by Federal law. It does not need to be restated here - nor does it hurt.

(Prior code 2-32)

**Sec. 2-3-60. Reserved.**

**Sec. 2-3-70. City Treasurer.**

The City Treasurer, as the department head of the Department of Finance pursuant to Section 10.5 of the Charter, shall also be known as the "Finance Director."

Commented [CB18]: Not needed

*Division 2 Uniform Selection Process*

**Secs. 2-3-80-210. Reserved.**

**Sec. 2-3-220. City Manager; responsibilities.**

The City Manager shall be responsible for the administration of employee matters in accordance with the Charter and this Division, including but not limited to the following responsibilities:

- (1) To adopt and amend from time to time the personnel regulations of the City, consider any revisions to such regulations as recommended by the City Council, and provide such regulations to each employee with acknowledgment of receipt thereof by each employee;
- (2) To appoint each department head;
- (3) Prepare or cause to be prepared job descriptions for each position of permanent and temporary employment, and review and amend such descriptions from time to time;
- (4) To include, in the proposed annual budget of the City, provisions for the compensation of all employees, including overtime compensation and benefits; and
- (5) To propose, for inclusion in the compensation plan, the positions of permanent and temporary employment and the number of employees in each position.

**Sec. 2-3-230. Positions; compensation plan.**

- (a) No person shall be hired into any position of employment unless the position is provided for in the compensation plan as approved by the City Council from time to time.
- (b) No position shown in the compensation plan ~~as part-time shall be changed to full-time, and no position shown in the compensation plan~~ as temporary shall be changed to permanent, without an amendment to the plan and appropriate budgetary adjustments.

Commented [DM19]: Ordinance 2024-04

(Prior code 2-102; Ord. 18-11 §10, 2011)

**Secs. 2-3-240—2-3-290. Reserved.**

**Sec. 2-3-300. General conditions of employment.**

- (a) A relative of an employee shall not be considered for employment by the City in circumstances where:
  - (1) One (1) relative directly or indirectly would exercise supervisory, appointment or dismissal authority or disciplinary action over the other relative;
  - (2) One (1) relative would audit, verify, receive, or be entrusted with moneys received or handled by the other relative; or

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- (3) One (1) relative has access to the City's confidential information, including personnel records.
- (b) If City employees become relatives after employment by the City, and any of the circumstances exist or would exist as described in Subsections (a)(1), (2) or (3), one (1) of the related employees shall be separated from employment. The affected employees may choose the one to be separated but, if no agreement can be reached, the City Manager shall decide.
- (c) A relative of the Mayor or a member of the City Council shall not be considered for employment by the City. If a City employee becomes a relative of the Mayor or a member of the City Council after employment by the City, ~~his or her~~their employment shall not be affected thereby.
- (d) For purposes of this Section, "relative" means ~~spouse, husband, wife,~~ children, parents, grandparents, spouse's grandparents, grandchildren, sisters, brothers, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law, aunts, uncles, stepparents, stepchildren, nephews, nieces and cousins. ["Spouse" means and includes a person who is married pursuant to the Uniform Marriage Act, Part 1 of Article 2, Title 14, C.R.S., and a person who has entered a civil union in accordance with the requirements of Article 15, Title 14, C.R.S.](#)

**Commented [GU20]:** Should we expand this to also include "partner" as part of the definition of relative?

(Prior code 2-109; Ord. 18-11 §12, 2011)

## **ARTICLE 4 City Departments**

### **Sec. 2-4-10. Department of Human Resources.**

- (a) In accordance with Section 10.7 of the Charter, there is hereby established a Department of Human Resources.
- (b) The Department shall be administered by the Director of Human Resources, who shall be a department head and who shall be responsible to the City Manager for administration of the Department and such duties as may be established by the City Manager or as may be set forth by ordinance.

(Ord. No. 2023-09 , § 1, 2023)

Editor's note(s)—Ord. No. 2023-09 , § 1, adopted Aug. 15, 2023, repealed the former § 2-4-10 and enacted a new § 2-4-10 as set out herein. The former § 2-4-10 pertained to Department of Administrative Services and derived from Ord. 2021-05 §1, adopted in 2021.

### **Sec. 2-4-20. Department of Community Services.**

- (a) In accordance with Section 10.7 of the Charter, there is hereby established a Department of Community Services.
- (b) The Department shall be administered by the Director of Community Services, who shall be a department head and who shall be responsible to the City Manager for administration of the Department and such duties as may be established by the City Manager or as may be set forth by ordinance.
- (c) The Department of Public Works established by Section 10.4 of the Charter, and as further defined in Section 2-4-40, is hereby consolidated within the Department of Community Services. In the absence of any other individual that may be so designated by the City Manager, the Director of Community Services shall serve as the Public Works Director. In the event that a separate individual is designated as the Public Works Director, that individual shall be a department head in accordance with provisions of the Charter and ordinances of the City.

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(Supp. No. 20)

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- (d) The Department of Parks and Recreation established by Section 10.6 of the Charter, and as further defined in Section 2-4-30, is hereby consolidated within the Department of Community Services. In the absence of any other individual that may be so designated by the City Manager, the Director of Community Services shall serve as the Director of Parks and Recreation. In the event that a separate individual is designated as the Director of Parks and Recreation, that individual shall be a department head in accordance with provisions of the Charter and ordinances of the City.

Commented [DM21]: Take out?

(Prior code 2-51; Ord. 18-11 §14, 2011; Ord. 2021-05 §2, 2021)

### Sec. 2-4-30. Department of Parks and Recreation.

- (a) In accordance with Section 10.6 of the Charter, there is established a Department of Parks and Recreation.
- (b) The Director of Parks and Recreation shall administer the City's recreational programs, oversee the management of city facilities and parks and shall be responsible to the City Manager for same.
- (c) ~~Rules and regulations for recreational programs may be promulgated by the City Council by resolution.~~ The City Council may also establish by ordinance such fees for participation in recreational programs it deems appropriate in relationship to the costs of such programs. The Director of Parks and Recreation may, for good cause, deny or terminate participation of any individual or group violating any ordinance, rule or regulation related to recreational programs.

(Prior code 16-1, 16-3, 16-4; Ord. 18-11 §15, 2011)

### Sec. 2-4-40. Department of Public Works.

- (a) In accordance with Section 10.4 of the Charter, there is established a Department of Public Works.
- (b) The Department of Public Works shall be administered by a Director of Public Works, who shall be a department head and who shall be responsible to the City Manager for administration of the Department and such duties as may be established by the City Manager or as may be set forth by ordinance. ~~who shall be head of the Department and who shall have the powers and duties as are set forth by ordinance.~~
- (c) ~~The Director of Public Works shall be responsible for:~~
- ~~(1) Supervising and directing all employees of the Department of Public Works.~~
  - ~~(2) Operating and maintaining all public works and facilities including, without limitation, water utilities, sanitary and storm sewers, drainage, streets, alleys, buildings, properties, lands and parks (subject to the provisions of Chapter 11), solid waste, traffic and public signs, equipment and motor vehicles (except police and fire equipment and vehicles).~~
  - ~~(3) Preparing and administering the Department's annual budget and assisting with the preparation of the capital projects budget and capital projects program.~~
  - ~~(4) Coordinating the activities of the Public Works Department with all other City departments and all other persons within the City associated with such activities.~~
  - ~~(5) Preparing such reports and providing such information as required by the City Manager, requested by City Council through the City Manager, and as necessary for the administration of the Department of Public Works.~~
  - ~~(6) Responding to inquiries, complaints and comments from the public regarding such matters as set forth in Paragraphs (1) and (2) hereof; provided, however, that such responses related to City policies shall~~

Commented [GU22]: Why is this section so detailed but other departments don't have it? For example don't other departments prepare and administer their annual budget?

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~~be subject to approval of the City Manager, and responses related to legal issues and legal policies shall be subject to approval of the City Attorney.~~

~~(7) — Performing such other duties as required by the City Manager or as prescribed by ordinance.~~

(Prior code 2-66, 2-67; Ord. 18-11 §16, 2011)

#### **Sec. 2-4-50. Department of Community Development.**

- (a) In accordance with Section 10.7 of the Charter, there is hereby established a Department of Community Development.
- (b) The Department shall be administered by the Director of Community Development, who shall be a department head and who shall be responsible to the City Manager for administration of the Department and such duties as may be established by the City Manager or as may be set forth by ordinance.

( Ord. 2021-05 §3, 2021)

#### **Sec. 2-4-60. Department of Communications and Events.**

- (a) In accordance with Section 10.7 of the Charter, there is hereby established a Department of Communication and Events.
- (b) The Department shall be administered by the Director of Communications and Events, who shall be a department head and who shall be responsible to the City Manager for administration of the Department and such duties as may be established by the City Manager or as may be set forth by ordinance.

( Ord. 2021-05 §4, 2021)

### ***ARTICLE 5 Municipal Court***

#### ***Division 1 General Provisions***

#### **Sec. 2-5-10. Court of record.**

A verbatim record of the proceedings of the Municipal Court shall be maintained. Such record shall be maintained for a period of six (6) months after judgment is entered, provided that all rights of appeal have expired. If a notice of appeal has been filed, the verbatim record shall be maintained for a period of thirty (30) days after all rights of appeal have expired, if not perfected, or four (4) years after any decision rendered by a higher court.

#### **Sec. 2-5-20. Transcription costs.**

- (a) Upon request for a transcript of proceedings of the Municipal Court, the Court ~~Clerk-Administrator~~ shall be responsible for causing preparation of the same. The actual cost for preparation of the transcript shall be paid by the person making such request.
- (b) With such request for a transcript, there shall also be paid to the ~~Court Clerk-City~~ the fee set forth in the Fee Schedule adopted by the City Council from time to time.

(Prior code 13-4; Ord. 12-08 §1, 2008; Ord. 18-11 §18, 2011)

**Sec. 2-5-30. Failure to appear.**

No person shall fail to appear in response to any summons or subpoena served on ~~them~~him or her.

**Sec. 2-5-40. Original jurisdiction.**

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

**Sec. 2-5-50. Sessions.**

- (a) The Municipal Court shall convene for at least one (1) regular session of the Municipal Court each month and more often as needed. The session of the court may be held during the day or during the evening hours, at the discretion of the presiding Municipal Judge. The Municipal Judge may hold special sessions of court at any time, including Sundays, holidays and evenings.
- (b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared.

(Prior code 13-1; Ord. 12-08 §1, 2008; Ord. 32-08 §1, 2008)

**Commented [DM23]:** Add a section for virtual court hearings?

**Sec. 2-5-60. Contempt power.**

- (a) When the Municipal Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor ~~up to the maximum penalties authorized by Section 1-4-20 of this Code, a fine not to exceed three hundred dollars (\$300.00) and imprisonment not to exceed a term of one hundred eighty (180) days.~~
- (b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury.

(Ord. 12-08 §1, 2008)

**Commented [GU24]:** I'm not sure about the state maximums here, if there is interest in raising the maximum for our general penalties than this might be worth looking into as well.

**Commented [CB25R24]:** To render this + 1-4-20 always consistent, a cross-reference added here.

*Division 2 Municipal Judge*

**Sec. 2-5-110. Municipal Judges.**

The Municipal Court shall be presided over by a Municipal Judge and such Deputy Municipal Judges as shall be appointed by the City Council.

**Sec. 2-5-120. Oath of office.**

Before entering upon the duties of ~~his or her~~their office, the Municipal Judge and each Deputy Judge shall take an oath of affirmation that ~~they~~he or she will support the Constitution of the United States, the Constitution of the State and the laws of the City, and will faithfully perform the duties of ~~his or her~~their office.

**Sec. 2-5-130. Compensation of Municipal Judges.**

The compensation of the presiding Municipal Judge shall be two thousand dollars (\$2,000.00) per month, provided that, at such time as a Deputy Municipal Court Judge has served for more than two (2) sessions of the Municipal Court in any calendar year, the presiding Municipal Judge's compensation shall be adjusted downward, on a pro-rata basis, to reflect the City's payment for judicial services provided by a Deputy Municipal Judge in any given month in lieu of services that would otherwise be provided by the presiding Municipal Court Judge, but for such Judge's absence. The compensation of any Deputy Municipal Judge shall be one hundred fifty dollars (\$150.00) per hour of service; provided, however, that the Deputy Municipal Court Judge shall be paid not less than three hundred dollars (\$300.00) for each instance of service.

*Division 3 Court Clerk Administrator*

**Commented [DM26]:** Not sure this can be done, but thought it may make it easier to adjust with market.  
**Commented [CB27R26]:** No. Charter requires ordinance.

**Sec. 2-5-210. Court Clerk Administrator.**

The presiding Municipal Judge, Chief of Police, with the approval of the City Clerk Manager, Municipal Judge, shall appoint a person to serve as Court Clerk Administrator. The duties of the Court Clerk Administrator, in addition to the duties set forth in this Division, shall be those assigned by the Municipal Judge, City Clerk Manager. The Municipal Judge may also act as Court Clerk Administrator (or Clerk) in accordance with state statutes.

**Commented [GU28]:** Trying to align with CRS 13-10-108, if necessary.  
**Commented [CB29R28]:** Don't have to align with state statute on this topic.  
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**Sec. 2-5-220. Oath.**

Before entering upon the duties of office, the Court Clerk Administrator and any deputy or assistant clerk shall take and subscribe before the Municipal Court and file with the City Clerk an oath or affirmation to support the Constitutions of the United States and of the state and the Charter and ordinances of the City, and faithfully perform the duties of office.

**Sec. 2-5-230. Register of actions and dockets.**

The Court Clerk Administrator shall keep a register of the actions in the Municipal Court, including all fees and moneys collected and an index thereof. The Court Clerk Administrator shall also prepare and keep dockets.

**Sec. 2-5-240. Collection and receipt of money.**

The Court Clerk Administrator shall collect, receive and remit to the Finance Director all fees, fines, penalties, costs and other sums receivable by or payable to the Municipal Court and shall give a receipt for same.

**Sec. 2-5-250. Preparations of writs and papers.**

The Court Clerk Administrator shall prepare all writs, notices and other papers pertaining to the business of the Municipal Court.

**Sec. 2-5-260. Report.**

The Court Clerk Administrator shall make and file monthly with the Finance Director and City Manager a report for the preceding month. This report shall show:

- (1) The total number of convictions;

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- (2) The total number of dismissals;
  - (3) The total number of bonds paid;
  - (4) The total number of appeal bonds approved;
  - (5) The total moneys collected; and
  - (6) Such other information as may be pertinent. (Prior code 13-35; Ord. 12-08 §1, 2008; Ord. 18-11 §24, 2011)

*Division 4 Reserved*

*Division 5 Rules of Procedure*

**Sec. 2-5-410. Complaints generally.**

Any complaint made for the violation of an ordinance of the City may be made upon information and belief.

**Sec. 2-5-420. Dismissal of action for defect in form.**

No action before the Municipal Court shall be dismissed for any defect in form in the statement, complaint or affidavit, if it substantially sets forth the nature of the violation alleged so as to give the defendant notice of the charge the defendant is required to answer. Such statement or complaint may include several persons charged with the same offense.

**Sec. 2-5-430. Change of venue.**

There shall be no change of venue granted in any case before the Municipal Court.

**Sec. 2-5-440. Attachment for jurors.**

In all cases where a person is summoned as a juror to try any case before the Municipal Court and fails to attend at the time and place appointed in such summons, the Municipal Court shall have power to issue an attachment, directed to any person authorized to serve warrants of arrest commanding such person forthwith to bring such juror before the Municipal Court to show cause why such juror should not be punished for contempt. On the appearance of such juror, the Municipal Court may punish the juror for contempt or wholly discharge the juror if a satisfactory excuse is made.

**Sec. 2-5-450. Juror ~~Pay's~~ fees.**

Each person appearing before the Municipal Court in response to a notice to serve as a juror shall receive a fee of five dollars (\$5.00) for each such appearance. Each person serving as a juror shall receive a fee of ten dollars (\$10.00) per day or court session of such service.

**Sec. 2-5-460. Witness fees.**

Every witness subpoenaed before the Municipal Court, except an officer or employee of the City, shall be entitled to a witness **fee** of five dollars (\$5.00) for each session of court attended under such subpoena.

**Commented [GU30]:** Just sounds weird to "receive a fee" as apposed to receive compensation.

**Commented [GU31R30]:** I agree, I like "Juror Pay" There has also been movement to increase compensation for Jurors the last couple of years:  
<https://www.ncsc.org/newsroom/at-the-center/2023/following-ncsc-report,-six-states-increase-juror-pay>

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**Sec. 2-5-470. Bond fee.**

A bond fee in the amount set forth in the Fee Schedule adopted by the City Council from time to time is hereby imposed, which shall be collected by the Court ~~Clerk Administrator~~.

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**Sec. 2-5-480. Deferred sentence.**

- (a) In any case in which the defendant has entered a plea of guilty, the Municipal Court has the power, with the written consent of the defendant and the City Prosecutor, to continue the case for a period not to exceed ~~eighteen (18)~~ twelve (12) months from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty. The Municipal Court may impose as conditions of such deferred judgment and sentence any requirements which could be imposed through probation, including payment of restitution.
- (b) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the City Prosecutor, in the course of plea discussions, is authorized to enter into a written stipulation to be signed by the defendant, ~~his or her~~ their attorney of record, if any, and the City Prosecutor, under which the defendant obligates ~~themselves~~ himself or herself to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. In addition, the stipulation may require the defendant to perform community service or charitable work service projects. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the action against the defendant dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any condition regulating the conduct of the defendant, the Municipal Court shall enter judgment and impose sentence upon such guilty plea. When, as a condition of the deferred sentence, the Municipal Court orders the defendant to make restitution and finds that ~~they have~~ he or she has the ability to pay, evidence of failure to pay the said restitution shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the Municipal Court without a jury, upon application of the City Prosecutor and upon notice of hearing thereon of not less than five (5) days to the defendant or ~~his or her~~ their attorney of record. Application for entry of judgment and imposition of sentence may be made by the City Prosecutor at any time within the term of the deferred judgment or within thirty (30) days thereafter. The burden at such hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation shall apply.
- (c) When a defendant signs a stipulation by which it is provided that sentence and judgment shall be deferred for a certain time period, ~~they~~ he or she thereby waives all rights to speedy trial as provided by law.
- (d) Upon acceptance of any deferred judgment and sentence, the Municipal Court shall impose court costs as set forth in the fee schedule adopted by the City Council from time to time.

Commented [GU32]: Spoke with Judge Hickman and Prosecutor Rogers. Both agreed that jurisdiction is 1 year or 12 months.

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(Prior code 13-58; Ord. 12-08 §1, 2008; Ord. 03-10 §1, 2010; Ord. 18-11 §27, 2011)

*Division 6 Costs and Fines*

**Sec. 2-5-510. Cost credit to general fund.**

All costs assessed in such cases shall be credited to the account of the general fund of the City.

**Sec. 2-5-520. Assessment of court costs.**

In any matter over which the Municipal Court has jurisdiction, the Municipal Court shall assess court costs as follows:

- (1) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, the Municipal Court shall assess as court costs the amount set forth in the fee schedule adopted by the City Council from time to time. No costs shall be assessed when the conviction is obtained by entry of a plea of guilty in person or by mail prior to the scheduled arraignment date.
- (2) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the court or a jury, in any of which a stay of execution is granted, the court shall assess as an additional cost the amount set forth in the fee schedule adopted by the City Council from time to time.
- (3) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, in a case in which a warrant has been issued by the Municipal Court for failure to appear in response to any summons served upon the defendant the Municipal Court may assess additional costs not to exceed the amount set forth in the fee schedule adopted by the City Council from time to time.
- (4) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, the Municipal Court shall assess witness fees in the following amounts:
  - a. For each subpoenaed City police officer or other City employee who testified, the amount set forth in the fee schedule adopted by the City Council from time to time;
  - b. For each subpoenaed lay witness who testified, the amount set forth in the fee schedule adopted by the City Council from time to time; and
  - c. For each subpoenaed expert witness who testified, the actual cost to the City.
- (5) In any case set for trial, pretrial conference or other hearing set before the Municipal Court, and where the defendant either fails to appear in court or requests a continuance on the appearance date, additional costs in the following amounts shall be assessed for each such failure to appear or continuance granted, which costs shall be assessed regardless of the final outcome of the case:
  - a. For each interpreter retained to assist the defendant, complaining party or any other witness, the amount set forth in the fee schedule adopted by the City Council from time to time;
  - b. For each subpoenaed City police officer or other City employee, the amount set forth in the fee schedule adopted by the City Council from time to time;
  - c. For each subpoenaed lay witness, the amount set forth in the fee schedule adopted by the City Council from time to time; and
  - d. For each subpoenaed expert witness, the actual cost to the City.
- (6) In any case set for trial, pretrial conference or other hearing set before the Municipal Court where the attorney of record fails to appear in court, costs in the following amounts shall be assessed against the attorney for each such failure to appear:
  - a. For each interpreter retained to assist the defendant, complaining party or any other witness, the amount set forth in the fee schedule adopted by the City Council from time to time ~~thirty dollars (\$30.00)~~;
  - b. For each subpoenaed City police officer or other City employee, the amount set forth in the fee schedule adopted by the City Council from time to time;

**Commented [GU33]:** Would this also be appropriate to reference the fee schedule versus a dollar amount (\$30)?

**Commented [CB34R33]:** Yes - so long as the fee appears on the fee schedule.

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- c. For each subpoenaed lay witness, the amount set forth in the fee schedule adopted by the City Council from time to time; and
  - d. For each subpoenaed expert witness, the actual cost to the City.
- (7) In any case involving a traffic accident, additional costs in the amount set forth in the fee schedule adopted by the City Council from time to time shall be assessed. The assessment of costs pursuant to this Subsection is to reimburse the City a portion of the costs incurred in investigating the accident and preparing the necessary reports.
- (8) In any case where a defendant who is charged with a violation of Subsection (1), (2) or (3) of Section 1409 of the Model Traffic Code as adopted by the City, and which charge is later dismissed or an acquittal obtained as a result of the defendant's production of documents proving that a complying policy or certificate of self-insurance was in full force and effect at the time of the alleged violation, court costs in the amount set forth in the fee schedule adopted by the City Council from time to time shall be assessed. The assessment of costs pursuant to this Subsection is to reimburse the City a portion of the costs incurred as a result of the defendant's failure to have and/or produce motor vehicle insurance when required to do so by the issuing officer pursuant to law. These costs include, but are not limited to, the administrative and judicial expenses incurred in processing and handling the summons and determining that the defendant did, in fact, have insurance as required by law at the time of the alleged violation even though such defendant did not provide proof thereof at the time of issuance of the summons and complaint. These costs may be imposed only when the Municipal Court finds or the defendant admits that the required proof of insurance was not provided to the issuing officer on the date alleged in the summons and complaint.
- (9) In any prosecution based upon the complaint of any person other than a police officer, if the complaining witness who signed the complaint fails to testify at the time of trial requiring a dismissal, or appears at court and requests a dismissal of the charges, the Municipal Court may assess costs in the amount set forth in the fee schedule adopted by the City Council from time to time against the complaining witness. The provisions of this Section shall be in addition to all other obligations, rights and remedies provided by law.
- (10) In any case set for trial by jury, upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the jury, the Municipal Court shall assess juror fees equal to ~~in~~ the amounts of Juror Pay owed pursuant to set forth in Section 2-5-450. Such juror fees shall not be imposed if the defendant appears before the court at least ten (10) days prior to the scheduled trial date and enters a plea of guilty, no contest or nolo contendere and waives ~~his or her~~ their right to a trial.
- (11) In any case in which a defendant is ordered to complete community service, whether as a result of a stipulated motion by the prosecutor, as a condition of a deferred judgment and sentence, or as otherwise ordered by the Municipal Court, a community service fee in the amount set forth in the fee schedule adopted by the City Council from time to time shall be assessed as court costs. This fee may be suspended or waived by the Municipal Court if the community service is imposed as a condition of a deferred judgment and sentence or the Municipal Court determines that the defendant, or a juvenile defendant's parents or legal guardians, are indigent.
- (12) In any case in which a bench warrant is issued for failure to appear or for failure to comply with an order of the Municipal Court, a warrant fee in the amount set forth in the fee schedule adopted by the City Council from time to time shall be assessed as court costs. This fee may be suspended or waived by the Municipal Court if the Municipal Court determines that:
- a. A defendant who failed to appear had rescheduled ~~his or her~~ their court date before the bench warrant for said defendant had issued;
  - b. The Court is imposing only incarceration against a defendant who is currently incarcerated; or

c. A defendant is indigent.

- (13) In any case in which an outstanding judgment warrant (OJW) is issued for failure to pay all fines and costs due on a traffic matter, a fee in the amount set forth in the fee schedule adopted by the City Council from time to time may be assessed. Fifteen dollars (\$15.00) of each collected OJW fee shall be forwarded to the Colorado Department of Revenue, Division of Motor Vehicles, pursuant to the Division's regulations.

Commented [GU35]: <https://leg.colorado.gov/bills/hb21-1314>

### Sec. 2-5-530. Victim Assistance, Defendant Locator and Law Enforcement Programs.

- (a) The City Council hereby finds and determines that the creation of the victim assistance, defendant locator and law enforcement program is consistent with the City's powers as a home rule municipality, and that the exercise of said powers in the manner set forth in this Chapter is in furtherance of the public health, safety and welfare.
- (b) A twenty-five-percent surcharge is hereby levied on every fine imposed for a violation of this Code resulting in a conviction, a deferred judgment and sentence, or a plea of guilty or nolo contendere, entered on or after the effective date of the ordinance enacting this Section, provided that the total of said fine and surcharge shall not exceed the maximum fine established for such violation under this Code. This surcharge shall be paid to the Court ~~Clerk Administrator~~, who shall deposit the same in the General Fund.
- (c) The surcharge levied by this Section shall be mandatory and shall be in addition to any other surcharge, fine or cost. The surcharge levied by this Section may not be suspended or waived by the Municipal Court unless the Municipal Court determines that the defendant is indigent. Calculated surcharge amounts shall be rounded to the nearest whole dollar.
- (d) The revenues collected by means of the surcharge imposed pursuant to this Section shall be expended pursuant to the Charter and ordinances of the City and other applicable laws for the following purposes only:
- (1) Programs for the assistance of children, juveniles or adults who are victims of crime children, juveniles or adults who are at a special risk of becoming victims of crime and children or juveniles who are at a special risk of other involvement in the juvenile justice system or the criminal justice system;
  - (2) Defraying the costs incurred by the City in locating defendants who have failed to appear in Municipal Court or who have otherwise failed to comply with an order of the Municipal Court;
  - (3) Training of City employees and authorized volunteers of the City concerning victim assistance matters; and
  - (4) Acquisition of equipment required by the City for the performance of law enforcement and victim assistance responsibilities.
- (e) The use of any funds for any program, activity or service which involves any governmental entity other than the City shall be subject to an intergovernmental agreement approved by the City Council.
- (f) The purchase of any equipment, supplies or services for use by any person or entity, other than the City, its employees or its authorized volunteers, and the use of any funds for any program, activity or service which involves any nongovernmental entity, shall be subject to a written contract approved by the City Council.

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(Prior codes 18-80, 18-81, 18-83; Ord. 24-08 §1, 2008; Ord. 18-11 §29, 2011)

### Sec. 2-5-540. School Resource Officer Program.

- (a) The City Council hereby finds and determines that the creation of the school resource officer fund as provided in this Chapter is consistent with the City's powers as a home rule municipality, and that the

exercise of said powers in the manner set forth in this Chapter is in furtherance of the public health, safety and welfare.

- (b) A five-dollar surcharge is hereby levied on every fine imposed for a violation of this Code resulting in a conviction, a deferred judgment and sentence, or a plea of guilty or nolo, contendere, entered on or after March 1, 2003 provided that the total of said fine and all surcharges shall not exceed the maximum fine established for such violation under this Code. This surcharge shall be paid to the Court ~~Clerk Administrator~~, who shall deposit the same in the school resource officer fund established by this Article.
- (c) The surcharge levied by this Section shall be mandatory and shall be in addition to any other surcharge, fine or cost. The surcharge levied by this Section may not be suspended or waived by the Municipal Court unless the Municipal Court determines that the defendant is indigent.

(Prior codes 18-100, 18-101)

### *Division 7 Probation*

#### **Sec. 2-5-610. Generally.**

Whenever a person is adjudged guilty of a violation of any ordinance of the City and the Municipal Court is satisfied that the ends of justice and the best interest of the public, as well as the defendant, will be best served, the Municipal Court may suspend the imposition or execution of the judgment and place the person on probation. When placing a person on probation the Municipal Court may impose such conditions as it deems best. The Municipal Court may revoke or modify any condition of probation, or may change the period of probation. The period of probation, together with any extension thereof, shall not exceed eighteen (18) months.

#### **Sec. 2-5-620. Restitution and cost.**

A defendant who has been granted probation may be required, so far as possible and upon such reasonable terms as the Municipal Court may impose, to make restitution or reparation to any aggrieved person for actual damage or loss caused by the offense for which the conviction was had. The defendant may also be required to give fingerprints to the Police Department and to pay the court costs.

#### **Sec. 2-5-630. Statement of conditions.**

Whenever probation is granted, the Municipal Court shall set forth in writing the conditions under which such probation is granted and shall furnish to each person released on probation a copy of the statement of such conditions. Each defendant shall be required to sign an acceptance of the conditions of probation before the order of probation is granted. The Court Clerk shall send a copy of the statement of the conditions of probation to the Police Department where it shall be kept on file.

#### **Sec. 2-5-640. Violation of probation.**

- (a) It shall be the duty of the Police Department, or such other officers or employees of the City as may be assigned to such duties, whenever they may have reason to believe that the conditions of probation have been violated by any probationer, to bring the matter to the attention of the office of the City Attorney who in turn shall bring the matter to the attention of the Municipal Court.
- (b) If facts are presented to the Municipal Court from which it reasonably appears that the conditions of probation have been violated by any person on probation, the Municipal Court shall issue a warrant for the arrest of the person and require that the person be brought before the Municipal Court to show cause why

**Commented [GU36]:** Clarification needed - per case or per charge would help for instances when there is more than one charge on a ticket/case, especially if it is eligible for an early pay option.

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**Commented [GU37]:** This section probably needs further review/discussion. Maybe even incorporating Restorative Justice elements.

the probation should not be revoked. If the probationer is taken into custody, the Municipal Court may admit such probationer to bail conditioned upon ~~his or her~~their appearance before the Municipal Court on a day certain. Such bail may be continued from time to time until final order of the Municipal Court. If at such a hearing the Municipal Judge determines that such probationer is not guilty of a violation of the conditions of probation, ~~they he or she~~ shall enter an order in accordance therewith and forthwith order the probationer's release, if in custody. If the Municipal Judge determines that the violation of the conditions of such probation has been committed, the Municipal Judge shall either revoke or continue the probation within three (3) days after the hearing. In that event the Municipal Court may impose any sentence which might originally have been imposed, or the Municipal Court may vacate the suspension of sentence and reinstate the sentence originally imposed. Any person who has been admitted to probation and against whom proceedings for the revocation of probation have not been commenced within the term of probation shall be conclusively presumed to have satisfied the sentence and/or fine imposed.

(Prior code 13-79)

## **ARTICLE 6 Police Department**

### *Division 1 General Provisions*

#### **Sec. 2-6-10. Duties of Chief of Police.**

- (a) The Chief of Police shall have full charge of the Police Department, subject to the supervision of the City Manager, and shall:
- (1) Be charged with the duty of crime prevention, crime detection, criminal apprehension, the enforcement of all ordinances of the City, laws of the State and rules and regulations of the Police Department, and the efficient conduct of the Police Department generally;
  - (2) Direct the operations of the Police Department, subject to the rules and regulations thereof;
  - (3) As sergeant at arms, attend personally, or by personal representative, all meetings of the City Council;
  - (4) Render such accounts of the Police Department, ~~his or her~~their duties and receipts as may be required by the City Council, and keep the records of ~~his or her~~their office open to inspection by the City Council at any time;
  - (5) Report monthly to the City Manager all arrests made by the Police Department, the disposition of persons arrested, the number of persons remaining in confinement for ordinance violations and such other information as the City Manager requires;
  - (6) ~~With approval of the City Manager, p~~Prescribe rules for the government of the police officers of the City, which shall be entered in a book of Police Department rules and orders and may be amended or revoked from time to time ~~with the approval of the City Manager;~~
  - (7) Institute an established training program for all members of the Police Department;
  - (8) Perform such other duties as may be prescribed for ~~him or her~~them from time to time by the City Manager.
- (b) Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that ~~they he or she~~ will support the Constitution of the United States, the Constitution and laws of the State and ordinances of the City, and that ~~they he or she~~ will faithfully perform the duties of the office upon which ~~they he or she~~ areis about to enter.

**Commented [GU38]:** A question - wondering if we should pare down this section about the PD - no other dept has this level of detail and it may not be necessary to go into this level of details.

**Commented [GU39R38]:** I meant this comment to be for all Section 2-6, which covers the PD.

(Prior code 18-17; Ord. 12-08 §1, 2008; Ord. 18-11 §31, 2011)

**Sec. 2-6-20. Acting Chief.**

- (a) The Chief of Police shall designate, from time to time, an officer of the department to serve as Acting Chief during times when the Chief of Police is absent or unable to act as Chief of Police.
- (b) In the event the Chief of Police becomes absent or unable to act as chief and has failed to designate an Acting Chief, or in the event the Acting Chief designated by the Chief of Police becomes absent or unable to serve as Acting Chief, the City Manager shall either designate some other officer to serve as Acting Chief or assume temporary responsibility for performing the Chief's duties until such time as the Chief returns or an Acting Chief is designated.
- (c) The provisions of Subsections (a) and (b) hereof shall not apply to any vacancy in the office of Chief of Police. Such a vacancy shall be filled in accordance with Section 10.3 of the Charter. When the office of Chief of Police is vacant, the City Manager may choose to appoint an Interim Chief; alternatively, the City Manager may elect to temporarily assume the duties and responsibilities of the Chief position until such time as a Chief is selected or an interim is appointed may be appointed by the City Manager while the procedures to fill such a vacancy on an ongoing basis are being completed.
- ~~(d) No officer shall be eligible to serve as Acting Chief or Interim Chief pursuant to this Section unless the officer holds the rank of sergeant or higher.~~

**Commented [DM40]:** City Manager may take over admin duties while Chief is being hired??

(Prior code 18-16; Ord. 18-11 §32, 2011)

**Sec. 2-6-30. Duties of Police Department.**

The officers of the Police Department shall:

- (1) Be the enforcement officers of the City and shall see that the provisions of all state laws and City ordinances are complied with;
- (2) Perform all duties required by applicable laws, City ordinances and the Chief of Police;
- (3) Obey the rules of the Police Department.
- (4) Execute and return all writs and processes to them directed by the Municipal Court in any case arising under a City ordinance. They may serve the same in any part of the County.

**Sec. 2-6-40. Departmental regulations.**

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Chief of Police pursuant to Section 2-6-10.

**Sec. 2-6-50. Oath of officers.**

Before entering upon the duties of ~~his or her~~their office, each police officer shall take and subscribe an oath that ~~they~~he or she will support the Constitution of the United States, the Constitution and laws of the State and the ordinances of the City, and that ~~they~~he or she will faithfully perform the duties of the office upon which ~~they~~he or she is about to enter.

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**Sec. 2-6-60. Unauthorized removal of property.**

It is unlawful for any person to remove any property from the custody and possession of the Police Department or any authorized agent thereof, without having first obtained a release of the property from the Police Department. This Section shall apply to all persons irrespective of ownership or any claim or right any person may have with respect to such property.

**Sec. 2-6-70. Community Service Officers.**

- (a) The Police Department and or Community Development may include one (1) or more Community Service Officers. A Community Service Officer is not required to be certified by the Colorado Peace Officer Standards and Training Board.
- (b) Community Service Officers are authorized to enforce all the laws of the City, except for:
  - (1) The provisions of Chapter 10 of this Code, entitled General Offenses, specifically excluding Article 14 of Chapter 10, concerning noise, which Community Service Officers may enforce; and
  - (2) The provisions of the Model Traffic Code for Colorado, as adopted by reference in Chapter 8 of this Code, specifically excluding Part 12 thereof, concerning parking, which the Community Service Officers may enforce.
- (c) Community Service Officers may execute and issue summonses and complaints into the Municipal Court for all City laws they are authorized to enforce.
- (d) Community Service Officers shall perform such other duties as may be prescribed from time to time by their Chief of Police Department Head, consistent with the provisions of this Section.

(Ord. 25-08 §1, 2008)

**Sec. 2-6-80. Administrative services, fees and exemptions.**

- (a) Administrative services authorized.
  - (1) The Chief of Police shall ~~establish, and shall~~ present to the City Council for its approval from time to time, a list of administrative services for which a fee is charged within the approved Fee Schedule, provided that such services:
    - a. Are not services provided pursuant to Section 2-6-30 of this Article;
    - b. Are provided only at the request of a person or persons; and
    - c. Do not substantially interfere with those duties required of the Police Department by Section 2-6-30 of this Article or any other law.
  - (2) The list of services established pursuant to Paragraph (a)(1) above shall include for each service listed the amount of the fee charged for the service and the day or times during which a service may be requested. Each fee charged shall be calculated so as to be only that amount that defrays the actual cost of providing administrative service to those charged and shall be effective upon approval of the fee amount by ordinance of the City Council. The Chief of Police is authorized to amend the list of services as to the days and times during which a service is provided at any time, in ~~his or her~~their sole discretion.
- (b) Administrative services fees collection and disposition.



- (1) The Police Department shall collect the fee for any administrative service authorized and provided pursuant to Subsection (a) above and shall give a receipt for the same.
  - (2) All fees collected pursuant to this Subsection shall be credited to the General Fund of the City.
  - (3) This Section shall in no way alter or affect the validity or enforceability of any other fees established by ordinance for Police Department services. Unless explicitly provided otherwise, in the event of a conflict between a fee amount established pursuant to this Section and elsewhere in the Code, or by other action of the City Council, the higher fee amount shall apply.
- (c) Administrative services fees exemptions.
- (1) General exemptions.
    - a. Administrative services fees charged for fingerprinting services shall be waived when:
      - 1. The person being fingerprinted represents that ~~they are~~~~he or she is~~ a resident of the City and is requesting the service as part of the process of becoming a foster or adoptive or respite home for the County Department of Human Services; and
      - 2. The Police Department employee receiving the request for fingerprinting service has no reason to believe that the person being fingerprinted has provided any false statements or documentation concerning ~~his or her~~~~their~~ eligibility for a fee waiver.
    - b. Other general exemptions may be established by ordinance of the City Council. No such exemption shall be established in such a way that it benefits only a single person.
  - (2) Individual exemptions. Upon a showing of good cause, one-time waivers of fees established pursuant to this Section may be granted to individuals by the Chief of Police or ~~his or her~~~~their~~ designee.

(Ord. 12-09 §1, 2009; Ord. 18-11 §34, 2011)

***Division 2 Police Reserve***

**Commented [DM41]:** We do not have this and not sure we could justify the training needed to have reserve officers.

**~~Sec. 2-6-110. Established; purpose.~~**

~~There is established a City Police Reserve. Its mission shall be to cooperate with and render service and assistance to the regular Police Department, under the direction of the Chief of Police. It shall serve the purpose of augmenting the field and administrative strengths of the Police Department. Reserve selection criteria shall meet those for full time officers, except for entry level age.~~

**~~Sec. 2-6-120. Composition, duties and pay.~~**

~~Subject to the approval of the City Manager, the Chief of Police may establish not more than ten (10) positions in the Police Reserve. Such members shall perform such duties as may be assigned by the Chief of Police. Such members shall serve without compensation and shall serve on duty when called into service by the Chief of Police.~~

**~~Sec. 2-6-130. Training.~~**

~~Reserve officers are commissioned only after completion of a training program equal to that required for full-time officers. Reserve officers shall receive in-service training equivalent to that of full-time officers performing like functions and shall be tested for firearms proficiency with the same frequency as full-time officers performing like functions.~~

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**Sec. 2-6-140. Functions and powers.**

The primary function of the Police Reserve shall be to gain information by observation to be submitted to a regularly constituted officer for appropriate action and processing. Members of the Police Reserve may, upon view, arrest any person who may be guilty of a breach of the ordinances of the City or of any crimes against the laws of the State or of the United States. Members shall, under normal circumstances, be assigned to duty only when a regular police officer is also on duty and exercising supervision. A member of the Police Reserve shall always be subordinate to a regularly constituted police officer on duty.

**Sec. 2-6-150. Misconduct.**

Any member of the Police Reserve who willfully disobeys any rules or lawful order or regulations of the Police Department concerning such duty shall be subject to dismissal by the Chief of Police.

**Sec. 2-6-160. Insurance.**

Members of the Police Reserve shall be covered by state compensation insurance while on authorized duty for the Police Department. Each officer shall be covered by false arrest insurance or be insured from false arrest liability by the City.

***ARTICLE 7 Volunteer Firefighter Pension Fund***

**Sec. 2-7-10. Volunteer firefighter pension fund.**

- (a) For so long as any person is eligible or can become eligible for payment of a benefit from the City's volunteer firefighter pension fund, the City shall, except as otherwise provided herein, maintain a volunteer firefighter pension fund in accordance with the authority and requirements set forth in Title 31, Article 30, Part 11, C.R.S., as amended (the "Volunteer Firefighter Pension Act").
- (b) Any provision of the Volunteer Firefighter Pension Act notwithstanding, the Board of Trustees of the City of Edgewater Volunteer Firefighter Pension Board shall consist of the following members:
  - (1) The Mayor for a term equal to the Mayor's tenure as Mayor;
  - (2) The Finance Director for a term equal to the Finance Director's tenure as Finance Director; and
  - (3) Three (3) other persons appointed by and for terms determined by the City Council.
- (c) In making appointments under Paragraph (b)(3) above, the City Council shall give a preference of appointment to former members of the City's volunteer fire department.

(Ord. 02-13 §1, 2013)

***ARTICLE 8 Code of Ethics***

**Sec. 2-8-10. Intent and purpose.**

The purpose of this Article is to ensure that the Mayor and all elected and appointed officials and employees of the City adhere to high ethical conduct so that the public will have confidence that that the City's government operates in a fair, ethical and accountable manner. All officials and employees of the City shall adhere to the letter

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and spirit of the Code of Ethics and strive to avoid situations which create any appearance of impropriety. By adopting this Code of Ethics, it is the City Council's intent to supersede the provisions of Article XXIX of the Colorado Constitution in its entirety.

### Sec. 2-8-20. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

*Appointed official* means any person appointed to any City board or commission by the City Council or the Mayor.

*Confidential information* means matters required by state or federal law or regulation to be kept confidential, as well as attorney-client privileged communications, personnel matters and other matters that may be discussed in executive session.

*Elected official* means the Mayor and members of the City Council.

*Employee* means any person in the employ of the City or of any of its agencies or departments, excluding independent contractors; provided that, solely for the purposes of this Article, volunteer firefighters shall be considered "employees."

*Immediate family member* means husband, wife, domestic partner, son, daughter, mother, father, brother, sister, stepson, stepdaughter, stepmother, stepfather, grandmother, grandfather or grandchild.

*Official* means any elected or appointed official of the City.

*Official action* means any action that involves:

- a. Negotiating, approving, disapproving, administering, enforcing or recommending for or against a contract, purchase order, lease, concession, franchise, grant or other similar instrument in which the City is a party;
- b. Enforcing laws or regulations or issuing, enforcing or regulating permits;
- c. Selecting or recommending the selection of vendors, concessionaires or other types of entities to do business with the City;
- d. Appointing and terminating employees, temporary workers or independent contractors;
- e. Doing research for, representing or scheduling appointments for an official or employee; provided that these activities are provided in connection with that official or employee's performance of the actions specified in Subparagraphs (a) through (d) hereof.

### Sec. 2-8-30. Gift ban.

- (a) It is a violation of this Article for any official, employee or any immediate family member of an official or employee to solicit or to accept any of the following items if the official or employee is in the position to take an official action with regard to the donor or if the City has an existing, ongoing or pending contract, business or regulatory relationship with the donor:
  - (1) A gift that would tend to improperly influence the official or employee to depart from the faithful and impartial discharge of ~~his or her~~their public duties; or
  - (2) A gift that is solicited or given for the primary purpose of rewarding the official or employee for an official action ~~they have~~he or she has taken.

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(b) Officials, employees and members of their immediate family may accept the following even if the official or employee is in a position to take official action with regard to the donor or if the official or employee has an existing, ongoing or pending contract, business or regulatory relationship with the donor:

- (1) Gifts from other officials or employees and their immediate family members;
- (2) Campaign contributions as permitted by law;
- (3) Nonpecuniary awards that are publicly presented by an organization in recognition of public service if the award is not extraordinary when viewed in light of the position held by the recipient;
- (4) Educational scholarships and grants available to members of the general public who are similarly situated;
- (5) Grants and services for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;
- (6) An occasional, unsolicited gift having a fair market value of fifty dollars (\$50.00) or less;
- (7) Unsolicited informational material, publications or subscriptions related to the official's or employee's performance of ~~his or her~~their official duties;
- (8) Items of perishable or nonpermanent value, including but not limited to meals, lodging or tickets to sporting, recreational, educational or cultural events, provided, however, that the acceptance of any such gift having a value in excess of one hundred dollars (\$100.00) shall be publicly disclosed at the next regular City Council meeting by its recipient;
- (9) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or other similar item;
- (10) Payment of actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar or other meeting at which the official or employee is scheduled to participate as a representative of the City or to attend as part of ~~his or her~~their official duties;
- (11) An occasional unsolicited opportunity to participate in a business meeting or social function where a meal is served or entertainment is provided if the official or employee's attendance would not be considered extraordinary when viewed in light of the position held by the official or employee;
- (12) Gifts received by an official or employee, or one (1) of their immediate family members, that are unrelated to the official's or employee's official duties; and
- (13) Charitable or recreational scholarships received by an official or employee or one (1) of their immediate family members.

(Prior code 2-602; Ord. 01-07 §1, 2007; Ord. 18-11 §38, 2011)

#### **Sec. 2-8-40. Confidential information.**

All confidential information shall be kept confidential. No disclosure ~~of~~ any confidential information shall be made to anyone other than members of the City Council, the City Attorney or the Mayor.

#### **Sec. 2-8-50. Enforcement and penalties.**

(a) The City Council shall have exclusive authority for enforcement of violations of this Article by City Council members and the Mayor, the members of any board or commission appointed or overseen by the City Council, ~~any member of the Personnel Board~~ and any volunteer worker overseen by the City Council.

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- (b) The Mayor shall have exclusive authority for enforcement of violations of this Article by City employees, officers, ~~volunteer firefighters~~, the members of any board or commission appointed or overseen by the Mayor and volunteer workers overseen by the Mayor.
  - (c) All complaints hereunder shall be filed with the Mayor or City Council, as appropriate, within sixty (60) days after the date of discovery of the alleged violation. All complaints shall be made in writing and signed by the complainant; anonymous complaints shall not be accepted.
  - (d) The Mayor or City Council, as appropriate, shall take such action and impose such penalties thereon, if any, as deemed proper. All persons alleged to have violated this Article shall be entitled to be heard on the matter prior to any action being taken. For employees, the procedures shall comply with the City's current personnel manual, and the penalties imposed on employees found to have violated this Article may include termination of employment.
  - (e) Final action by the Mayor or City Council shall be deemed final action by the City on the matter.

(Prior code 2-604; Ord. 01-07 §1, 2007)

## **ARTICLE 9 Special Committees**

### **Sec. 2-9-10. Definitions.**

For purposes of this Article, a *special committee* shall be defined as a group established by resolution by the City Council pursuant to this Article which has specific duties and responsibilities and a defined purpose as established by the City Council. A special committee shall only be established if the City Council determines that such a special committee is necessary to assist the City Council with reports and recommendations on a specific and discrete project. A special committee shall not have any final decision-making authority, shall not be an agent of the City, shall not have authority to bind the City or issue requests for proposals or qualifications, and shall only serve in an advisory capacity to the City Council as set forth in this Article.

### **Sec. 2-9-20. Creation.**

A special committee shall be established by the City Council by resolution, and the resolution establishing the special committee shall contain the following specific information:

- (1) Name. Each special committee shall have the name as specified in the establishing resolution.
- (2) Purpose. Each special committee shall have a specifically defined purpose as set forth in the establishing resolution.
- (3) Duties and responsibilities. Each special committee shall have specifically defined duties and responsibilities which shall include, at a minimum, the following:
  - a. To make reports to the City Council as specified by the City Council related to its charge or area of responsibility in the establishing resolution;
  - b. To make recommendations to the City Council related to its charge or area of responsibility in the establishing resolution;
  - c. To meet as required by the establishing resolution.
  - d. To issue a final written recommendation to the City Council.
- (4) Number of members. The number of members to serve on a special committee shall be determined in the establishing resolution for each special committee.

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**Sec. 2-9-30. Membership.**

The members of any special committee shall be appointed by majority vote of the members of City Council present at a regular City Council meeting. The City Council may determine the nature of any application and screening process it determines appropriate, depending on the nature of the special committee being established and the duties and responsibilities thereof. Unless specifically provided to the contrary in the establishing resolution, all members of any special committee shall be City residents.

**Sec. 2-9-40. Removal and resignation.**

- (a) Any member of a special committee may be removed by majority vote of the City Council for any one (1) or more of the following reasons:
  - (1) Unexcused absences. Unexcused absences from three (3) consecutive regular meetings of a special committee shall be considered an automatic resignation from the special committee unless the City Council specifically takes action to the contrary. In addition, the consistent failure to attend the regularly scheduled meetings of the special committee may also be grounds for removal by the City Council.
  - (2) Misconduct. Misconduct at meetings, which shall include any act that may interrupt the orderly process of said meetings.
- (b) Any member of a special committee subject to removal as provided herein shall be provided the opportunity to resign prior to the City Council taking action on any proposed removal. In the event that a member chooses not to resign, the member shall be given no less than five (5) days' notice in writing that the City Council will be considering the member's removal, and said notice shall include the reasons for the proposed removal. The member shall be given an opportunity to respond to the proposed grounds for removal at a regular City Council meeting prior to the City Council taking any action to remove said member.

(Prior code 2-533; Ord. 04-05 §1, 2005)

**Sec. 2-9-50. Support duties.**

- (a) Facilities. The City shall provide City facilities for any special committee to conduct its meetings. However, nothing in this Section shall require all meetings to be held in City facilities in the event the special committee determines it necessary and appropriate to meet at another location.
- (b) Leadership. Each special committee shall be led by a Chair, who shall be appointed by the City Council. The Chair shall be responsible for scheduling and leading the special committee meetings and activities, and shall be responsible for determining whether to excuse absences of special committee members, pursuant to Paragraph 2-9-40(a)(1).
- (c) Minutes. Each special committee shall appoint a Secretary, who shall be responsible for keeping a full and accurate summary account and record of all meetings of the special committee.

(Prior code 2-534; Ord. 04-05 §1, 2005; Ord. 12-08 §1, 2008)

**Sec. 2-9-60. Dissolution.**

Any special committee established pursuant to the provisions of this Article shall be dissolved by resolution of the City Council following the completion of its specifically defined duties and responsibilities as set forth in the establishing resolution. The City Council may also determine to dissolve any established special committee by

resolution in the event the City Council determines that the special committee is no longer in the best interests of the City. Upon dissolution of any special committee, all records kept by the special committee shall be provided to the City Clerk.

## ARTICLE 10 Board of Adjustment

### Sec. 2-10-10. Creation.

In accordance with Section 11.4 of the Charter, the Board of Adjustment and Appeals ("the Board") has been created for the City. The term *Board of Adjustment*, as used throughout this Code, is synonymous with the term *Board of Adjustment and Appeals*, both terms referring to the Board created pursuant to Charter Section 11.4.

### Sec. 2-10-20. Membership.

- (a) In addition to the five (5) regular members provided for by the Charter, the Mayor may appoint one (1) or more alternate members. An alternate member shall be appointed for an indefinite term and shall serve at the pleasure of the Mayor. If any regular member is absent from any meeting of the Board, an alternate member may serve in such absent member's place with all of the powers, duties, functions and responsibilities of such regular member.
  - (b) The Board shall elect a Chair from among its members and shall create and elect such other of its officers as it may determine. The term of the Chair shall be one (1) year, without limitation as to the number of terms. The Board shall hold such meetings as may be required to fulfill its purposes, and it shall adopt rules for the transaction of business. The Board shall keep a record of its resolutions, transactions, findings and determinations, which record shall be public. With respect to any matter for which this Code does not provide a requirement as to the identity of the person or body to whom the Board is to report, the Board shall report to the City Council.
  - (c) Any appointment of a member to fill an unexpired term shall be for the balance of the term of the member being replaced.
  - (d) If any member ceases to reside in the City, ~~his or her~~their membership shall immediately terminate.
- (Prior code 23-421; Ord. 12-08 §1, 2008; Ord. 21-09 §1, 2009)

### Sec. 2-10-30. Powers.

The Board shall have the following powers and duties:

- (1) In accordance with Section 16-24-10, to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based upon or made in the enforcement of Chapter 16.
- (2) In accordance with Section 16-24-60, to hear and decide applications for variances from the requirements of Chapter 16.
- (3) In accordance with Section 18-1-30, to hear and decide appeals from the orders, requirements, decisions or determinations of the Building Official or other City official authorized to administer and enforce the provisions of Chapter 18.

[\(4\) In accordance with Section 16-23-160, to hear and decide applications for conditional use permits within a flood hazard area.](#)

Commented [GU42]: Should we add also Conditional Use Permits for development in a flood zone? 16-23-160

Commented [DM43R42]: YES

Commented [CB44R42]: Agreed - added

## **ARTICLE 11 Parks, Recreation, Historic Preservation and Arts Advisory Board**

### **Sec. 2-11-10. Creation.**

Pursuant to Section 11.1 of the Charter, the City Council hereby creates the History, Arts, Recreation and Parks Advisory Board (the "Board") with the powers and duties set forth in this Article.

### **Sec. 2-11-20. Membership.**

- (a) The Board shall consist of seven (7) members, each appointed by the Mayor for a term of two (2) years. No appointment to the Board shall be made without posting and publishing notice of the vacancy at least fourteen (14) days prior to the appointment. The Mayor shall consider the recommendation of the Board regarding any appointment. ~~In order to reconcile the new terms of office established by Ordinance No. 21-08, on and after June 1, 2021, the term of office of each member of the Board that was appointed to a five (5) year term shall expire on March 1, 2022, and the term of office of each member of the Board that was appointed to a four (4) year term shall expire on March 1, 2023.~~
- (b) All members of the Board shall serve without compensation.
- (c) Any member may be removed for negligence of duty, malfeasance or inefficiency by the Mayor with the approval of the City Council, after written notice of the charge by the Mayor and an opportunity for a hearing before the City Council.
- (d) No person convicted of embezzlement, bribery, solicitation of bribery, perjury, subornation of perjury or any offense involving fraud shall be eligible to serve on the Board.
- (e) No elected official, officer or employee of the City shall be appointed to the Board.

(Prior code 2-501; Ord. 06-11 §1, 2011; Ord. No. 2021-08 §2, 2021)

**Commented [GU45]:** Should any of these items also be included with the other boards/commissions. It seems only listed for HARP.

### **Sec. 2-11-30. Purpose and duties.**

- (a) The Board shall, upon the request of the City Council from time to time, cooperate with ~~its liaison~~ staff to make recommendations to the City Council on:
  - (1) Methods and procedures to preserve, enhance, protect and display items of historic, artistic and cultural value, such as pictures, albums, trophies and memorabilia;
  - (2) Methods and procedures to encourage and assist with the establishment of educational and cultural programs, tours and events of historic, artistic or cultural value;
  - (3) Maintenance and preservation of buildings, improvements, structures and facilities within the City as museums;
  - (4) Designation of historic landmarks in the City, as provided in Section 2-11-50;
  - (5) A proposed master plan for the maintenance of a modern park system;
  - (6) The portions of the proposed City budget pertaining to parks and recreation; and
  - (7) The establishment and conduct of recreational programs for the City.



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- (b) The Board shall choose its own Chair and Vice Chair and such other officers as it deems appropriate.
  - (c) The Board shall adopt its own rules of procedure, which shall provide that all meetings of the Board shall be open to the public, except that the Board may adjourn into executive session as provided by law. Such rules shall not conflict with the Charter or the ordinances of the City and shall not take effect until reviewed and approved by the City Council.
  - (d) The Board shall meet at least once each year with the City Council.
  - (e) The City Council may delegate such other duties to the Board as the City Council deems necessary to effect the purposes of the Board.

(Prior code 2-502; Ord. 06-11 §1, 2011)

**Commented [GU46]:** Should we add this to all boards/commissions? It's only listed for HARP.

**Commented [CB47R46]:** Not necessary - meeting w Council once a year is required by Charter.

### Sec. 2-11-40. Powers.

The Board is empowered to conduct activities in furtherance of the purposes and duties set forth in Section 2-11-30, such as holding public meetings, performing independent research, enlisting the assistance of volunteers and others, coordinating with other agencies and similar activities. The Commission has only advisory power, and, except as may be otherwise set forth in this Article, shall report its recommendations to the City Council. The Parks and Recreation Director shall be the liaison between the Board, City staff members and the City Council.

### Sec. 2-11-50. Nomination and designation of historic landmarks.

- (a) Properties may be nominated for designation as historic landmarks by the property owner, a resident of the City or the Board, by filing a letter of nomination with the Board with a copy to the property owner. The property owner must consent to the nomination.
- (b) Upon nomination, the Board shall determine whether the Board should recommend to the City Council that the property be designated as a historic landmark based on the criteria in Subsection (c) hereof. Such determination shall be based on all information provided to the Board and obtained by the Board through its own research.
- (c) When making its determination, the Board shall consider the following criteria:
  - (1) The association of the property with events that have made a significant contribution to history;
  - (2) The connection of the property with persons of historical significance;
  - (3) The apparent distinctive characteristics of a type, period, method of construction or artisan on the property;
  - (4) The geographic importance of the property; and
  - (5) The possibility of important historical discoveries on the property.
- (d) No property shall be eligible for nomination or designation as an historic landmark solely by virtue of its age.
- (e) After consideration of the criteria set forth in Subsection (c) hereof, the Board may make a recommendation to the City Council that the property be designated as an historic landmark. The recommendation shall include a description of the property and the findings upon which the recommendation is based.
- (f) Upon receipt of the Board's recommendation, the City Council, acting by resolution, may designate the property as an historic landmark. Upon designation, the City shall supply a plaque to be affixed to the outside of the building or placed on the property, including any information the City Council deems appropriate to convey the historic natures of the property.

(g) The City Clerk shall maintain a list of all historic landmark designations made by the City Council pursuant to this Article.

(h) Designation of a property as an historic landmark pursuant to this Article shall not restrict the property owner's rights with respect to the property.

(Prior code 2-504; Ord. 06-11 §1, 2011)

## **ARTICLE 12 Sustainability Advisory Board**

### **Sec. 2-12-10. Sustainability Advisory Board.**

There is hereby created a Sustainability Advisory Board for the City, which Board shall be comprised of five (5) members.

### **Sec. 2-12-20. Powers and duties.**

(a) The Sustainability Board shall advise the City Council and City Manager on all matters concerning sustainability within the City.

(b) The duties of the Sustainability Board shall be:

(1) To review and update from time to time, and to submit to the City Council for its consideration for adoption, the sustainability plan for the City of Edgewater;

(2) To assist in the implementation of the sustainability plan and report to Council annually on plan progress;

(3) To review, upon the request of the City Council, all existing and proposed legislation relating to sustainability matters;

(4) To make recommendations on sustainability matters to the City Council;

(5) To regularly consult with the City Manager or City Manager's sustainability designee;

(6) To promote and develop positive relationships with community groups, neighboring municipalities, and the general public;

(7) To encourage the widest possible resident understanding of sustainability activities;

(8) To make recommendations to the City Council on budget matters concerning sustainability as requested;

(9) To act as a liaison between the City and the community at large for sustainability matters;

(10) To serve as the Edgewater Tree Commission as set forth in Section 11-4-20.

(Ord. 2019-14 §1, 2019)

### **Sec. 2-12-30. Membership and liaison.**

(a) The Sustainability Board shall consist of five (5) members appointed by the Mayor, each of whom shall serve for a term of two (2) years; provided, however, that the initial appointments to the Board shall consist of two (2) members appointed for a one-year term, two (2) members appointed for a two-year term, and the

**Commented [GU48]:** Maybe delete now that we have a sustainability coordinator staff position?

**Commented [GU49]:** # 9 and # 6 seem kinda like the same thing - maybe combine into one?

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remaining member appointed to serve a three-year term, in order to establish a staggering of terms of Board Members after each such initial term.

- (b) The Mayor may also appoint an alternate member to the Sustainability Board. The alternate shall be appointed for a term of two (2) years. Alternates are invited and requested to attend all meetings of the Sustainability Board, but are not required to do so. Alternate members may take part in the discussion of any matter that comes before the Board. An alternate member may not vote on any such matter unless designated to do so by the chairperson of the Board in place of an absent member. The alternate member may be considered for appointment to fill the unexpired term of a vacant position on the Board.
- (c) The ~~Community Services Director~~ Community Development Director or designee shall serve as the liaison to the Sustainability Board pursuant to Section 9.2(12) of the City Charter. The City Council may designate a Council liaison to the Sustainability Board.

(Ord. 2019-14 §1, 2019)

**Commented [GU50]:** Change to Sustainability Coordinator

**Commented [GU51R50]:** Or if that needs to be a dept director - Comm Dev Director or designee?

### **Sec. 2-12-40. Meetings; officers.**

The Board shall select a chairperson, vice-chairperson, and secretary from among the appointed members of the Board. The terms of the chairman, vice-chairperson, and secretary shall be for one (1) year. The Sustainability Board shall meet regularly at a time and date established by the rules of the Board, which rules shall be adopted pursuant to the provisions of Section 11.1(6)(b) of the Charter. Except as may be otherwise permitted under Section 11.1(12) of the Charter and the state statutes referred to therein, all meetings of the Board shall be open to the public and residents shall have a reasonable opportunity to be heard under such rules as the Board may prescribe. Notice of each meeting will be posted in accordance with legal requirements prior to the meeting. Additional meetings may be called by the chairperson of the Board, or any three (3) Board members or the City Manager on at least twenty-four (24) hours written notice.

## ***ARTICLE 13 Planning and Zoning Commission***

### **Sec. 2-13-10. Creation.**

In accordance with Section 11.2 of the Charter, the Planning and Zoning Commission has been created for the City. With respect to any matter for which this Code does not provide a requirement as to the identity of the person or body to whom the Commission is to report, the Commission shall report to the City Council.

### **Sec. 2-13-20. Purpose.**

In addition to the functions set out in the Charter, the Planning and Zoning Commission is created for the following purposes:

- (1) To implement the provisions of Chapters 16 and 17, and to perform all functions and powers referred to in said chapters where reference is made.
- (2) To exchange information with the Board of Adjustment and with the various governmental agencies charged with planning and zoning responsibilities.
- (3) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning and Zoning Commission to make amendments or changes in the zoning of the City, such powers expressly being reserved by the City Council.

## ***ARTICLE 14 Edgewater Redevelopment Authority***

### **Sec. 2-14-10. Creation.**

In accordance with Section 11.1 of the Charter, and Resolution 8-82 of the City Council, as amended, the Edgewater Redevelopment Authority has been established.

### **Sec. 2-14-20. Membership.**

Not more than one (1) commissioner of the Edgewater Redevelopment Authority may be a member of the City Council of Edgewater. In the event that a member of the City Council is appointed as a commissioner of the Authority, acceptance or retention of such appointment is not deemed a forfeiture of ~~his or her~~their office, or incompatible therewith, and does not affect ~~his or her~~their tenure or compensation in any way. The term of office of a commissioner of the Authority who is a member of the City Council is not affected or curtailed by the expiration of ~~his or her~~their term of office as a member of the City Council. Any provision of Resolution 8-82 of the City Council notwithstanding, not more than two (2) commissioners of the Edgewater Redevelopment Authority may, without regard to their status as residents of the City of Edgewater, serve as commissioners of the Authority so long as each such individual is, and remains during all times that the individual serves as a commissioner of the authority: (i) an owner of real property in the City; (ii) an owner or manager of a business within the City; or (iii) a duly authorized representative of such property or business owner. For purposes of this Section, an individual shall be deemed to be an "owner of real property" or an "owner of a business" if the individual holds a majority ownership interest in a real property or business within the City, or has control of a corporate or other business entity that holds a majority ownership interest in the real property or business within the City. For purposes of this Section, a "duly authorized representative" is an individual who has been and remains authorized in writing by an owner of real property or owner of a business to represent that owner as a commissioner of the Edgewater Redevelopment Authority.

## ***ARTICLE 15 Repealed***

## ***ARTICLE 16 Reserved<sup>1</sup>***

## **CHAPTER 4 Revenue and Finance**

## ***ARTICLE 1 General and Special Funds***

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<sup>1</sup>Ord. 20-14, § 1, adopted January 15, 2015, repealed art. 16, §§ 2-16-10—2-16-70, in its entirety. Former art. 16 pertained to charter review and compliance commission and was derived from Ord. No. 25-10 § 1, adopted 2010.

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**Sec. 4-1-10. Custody and management of funds.**

Moneys in the funds created by this Chapter shall be in the custody of and managed by the Finance Director. The Finance Director shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the City shall be invested or deposited by the Finance Director in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the City Council may transfer out of any fund any amount at any time to be used for such purpose as the City Council may direct.

**Sec. 4-1-20. General Fund created.**

Pursuant to Section 13.1 of the Charter, there is created a fund known as the General Fund, which shall consist of the following:

- (1) All cash balances of the City not specifically belonging to any special or other fund of the City.
- (2) All fixed assets of the City (to be separately designated in an account known as the General Fixed Assets) not specifically belonging to any special or other fund of the City.

**Sec. 4-1-30. Special funds.**

- (a) The Finance Director shall maintain, in the accounting records of the City, separate accounts for the Capital Improvement Fund, the Capital Equipment Fund, each utility fund, and any other fund in compliance with generally accepted accounting principles for municipal governments. The principal and interest earned by the amounts in each such fund shall be credited separately in each such account.
- (b) Subsection (a) of this Section shall not prohibit the Finance Director from commingling, for investment or deposit purposes, the monies from any fund with any other fund(s), as long as the interest earned by each fund is accounted for separately and credited to the appropriate fund.

(Prior code 2-350.3; Ord. 06-12 §3, 2012)

**Sec. 4-1-40. Capital Equipment Fund created.**

As set forth in Section 13.2 of the Charter, there is created a fund, to be known as the Capital Equipment Fund, and the funds therein shall be used only for capital equipment, as defined in Section 21.8 of the Charter.

**Sec. 4-1-50. Capital Improvement Fund created.**

As set forth in Section 13.2 of the Charter, there is created a fund, to be known as the Capital Improvement Fund, and the funds therein shall be used only for capital improvements, as defined in Section 21.9 of the Charter.

**Sec. 4-1-60. Conservation Trust Fund created.**

There is hereby created a special fund, to be known as the Conservation Trust Fund, and the funds therein shall be used only for the purposes allowed by law.

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**Sec. 4-1-70. Police Seizure Special Account created.**

- (a) A special account, to be known as the Police Seizure Special Account, is hereby created. The source of monies to be deposited in said account shall be proceeds which have been forfeited to the Police Department pursuant to Article 13 of Title 16, C.R.S., or any other law which provides for the crediting of forfeited proceeds to the Police Department. The monies in said account shall remain therein until expended in the manner provided in this Section and other applicable laws.

(Prior code 18-90; Ord. 12-08 §1, 2008; Ord. 06-12 §6, 2012; Ord. 2018-16 §3, 2018)

**Sec. 4-1-80. Reserved.**

Editor's note(s)—Ord. No. 2018-16 , § 4, adopted Dec. 6, 2019, repealed § 4-1-80, which pertained to School Resource Officer Account created and derived from the prior code 18-102; Ord. 12-08 §1, 2008; Ord. 06-12 §7, 2012.

**Sec. 4-1-90. Unclaimed Property Account.**

There is created a special fund of the City, to be known as the Unclaimed Property Account. Monies collected under Article 7, including the proceeds from the sale of unclaimed property, shall be credited to this account and may be appropriated to the Finance Director for the payment of claims as provided in Article 7. There shall be maintained in this account at all times the lesser of the amount of all monies collected under Article 7 or five thousand dollars (\$5,000.00) for the prompt payment of all claims. Monies received in excess of this amount may be credited to the general fund of the City for the City's use and benefit. No expenditures from this account are authorized except as specifically set forth in this Article. Before crediting any monies, the Finance Director shall record the name and last known address of each owner of unclaimed property, if known, and the amount to which the owner of such property is entitled, which record shall be available for public inspection at all reasonable times during normal business hours.

**Sec. 4-1-100. Reserved.**

Editor's note(s)—Ord. No. 2018-16 , § 5, adopted Dec. 6, 2019, repealed § 4-1-100, which pertained to Victim Assistance Account created and derived from the prior code 18-82; Ord. 20-10 §1, 2010; Ord. 06-12 §8, 2012.

**Sec. 4-1-110. Signatures on checks.**

Every paper check in an amount less than one hundred thousand dollars (\$100,000.00) may be signed by the City Manager or the City Clerk or, in the City Manager ~~or City Clerk's absence, by the Deputy City Manager. Every check absence, by the Deputy City Manager. Every check~~ in the amount of one hundred thousand dollars (\$100,000.00) or more drawn on any account of the City shall be cosigned as follows:

- (1) The City Manager; and
- (2) The City Clerk, Mayor, or Mayor Pro Tem; or
- (3) If the City Manager is absent, the Deputy City Manager and some other individual listed in Subsection (2) hereof.

***ARTICLE 2 Sales and Use Tax***

### *Division 1 Generally*

#### **Sec. 4-2-10. Short title.**

The ordinance codified in this Article shall be known as the "City Sales and Use Tax Ordinance."

#### **Sec. 4-2-20. Definitions.**

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

*Access services* means the services furnished by a local exchange company to its customers who provide telecommunications services, which allow them to provide such telecommunications services.

*Acquisition charges or costs* includes *purchase price*, as defined in this Section.

*Auction or auction sales* means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

*Automotive vehicle* means any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. *Automotive vehicle* includes, but is not limited to, motor vehicles, trailers, semitrailers or mobile homes. *Automotive vehicle* shall not include devices moved by human power or used exclusively upon stationary rails or racks.

*Building Inspector* means the Building Inspector for the City.

*Building Official* means any individual who determines the estimate of the cost of materials and supplies to be permanently affixed to or incorporated in any building, dwelling or other structure or improvement to realty for which a use tax is required to be paid pursuant to Section 4-2-310.

*Business* means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

*Charitable organization* means any entity which: (1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and (2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

*Commercial packaging materials* means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. Commercial Packaging Materials does not include Commercial Shipping Materials.

*Commercial shipping materials* means materials that do not become part of the finished product delivered to the purchaser which are used exclusively in the shipping process. Commercial Shipping Materials include but are not limited to containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

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*Construction materials* means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project, including public and private improvements. *Construction materials* include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.

*Consumer* means any person in the City who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the City.

*County Clerk and Recorder* means the County Clerk and Recorder for the County.

*Department of Revenue* means the Department of Revenue of the State.

*District Court* means the District Court in and for Jefferson County, Colorado.

*Doing business in the City* means providing or performing services, or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. *Doing business in the City* includes, but is not limited to, any one (1) of the following activities by a person:

- (1) Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the City;
- (2) Sends one (1) or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one (1) or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
- (5) Makes more than one (1) delivery into the taxing jurisdiction within a twelve-month period by any means other than a common carrier.

*Farm close-out sale* means the full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

*Finance Department* means the Finance Department of the City.

*Food* means food for domestic home consumption as defined in 7 U.S.C. § 2012(g) as amended, as such section existed on October 1, 1987, or is thereafter amended for purposes of the federal food stamp program as defined in 7 U.S.C. § 2012(h), as amended; except that *food* does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; cold sandwiches; deli trays; and food or drink vended by or through machines or non-coin-operated or coin-collecting food and snack devices on behalf of a vendor.

*Gross sales* means the total amount received in money, credit, property or other consideration valued in money for all sales, leases or rentals of tangible personal property or services

*Gross taxable sales* means the total amount received in money, credits or property, excluding the fair market value of exchanged property which is to be sold thereafter in the usual course of the retailer's business, or other



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consideration valued in money from sales and purchases at retail within this City, and embraced within the provisions of this Article. The taxpayer may take credit in ~~his or her~~their report of gross sales for an amount equal to the sale price of property returned by the purchaser when the full sale price thereof is refunded, whether in cash or by credit. The fair market value of any exchanged property which is to be sold thereafter in the usual course of the retailer's business, if included in the full price of a new article, shall be excluded from the gross sales. On all sales at retail that are valued in money, when such sales are made under conditional sales contract or under other forms of sale where the payment of the principal sum thereunder is extended over a period longer than sixty (60) days from the date of sale thereof, only such portion of the sale amount thereof may be counted for the purpose of imposition of the tax imposed by this Article as has actually been received in cash by the taxpayer during the period for which the tax imposed by this Article is due and payable.

*License* means a City sales and/or use tax license.

*Linen services* means services involving provision and cleaning of linens, including but not limited to rags, uniforms, coveralls and diapers.

*Local telephone exchange company* means any person who provides public telephone or telecommunication exchange access lines, mobile telecommunication or channels necessary to effect the transfer of two-way voice or data grade information between the final user and the local telecommunication network.

*Marketplace* means a physical or electronic forum, including but not limited to a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property or services are offered for sale.

*Marketplace facilitator* means a person who:

- (1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's or multichannel seller's tangible personal property or services through the person's marketplace;
- (2) Engages directly or indirectly, through one (1) or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and
- (3) Either directly or indirectly, through agreements or arrangements with third parties, collect payment from the purchaser on behalf of the seller.

*Marketplace facilitator* does not include a person that exclusively provides internet advertising services or lists tangible personal property or services for sale, and does not otherwise meet this definition.

*Marketplace seller* means a person that has an agreement with a marketplace facilitator and offers tangible personal property or services, through a marketplace owned, operated or controlled by a marketplace facilitator.

*Mayor* means the Mayor of the City.

*Medical supplies* means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine and blood testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses or hearing aids.

*Modified or customized computer program* means a computer program created or modified for a specific customer where the preparation, modification or selection of the program for the customer's use requires an analysis of the customer's requirements and system by the program vendor or independent consultant; and the program requires adaptation by the vendor to be used in a specific computer hardware environment.

*Multichannel seller* means a retailer that offers for sale tangible personal property or services through a marketplace owned, operated or controlled by a marketplace facilitator, and through other means.

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*Newspaper* means a publication, printed on newsprint, intended for general circulation and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term *newspaper* does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

*Pay television* shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

*Person* means any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

*Prescription drugs for animals* means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

*Prewritten computer program* means a system program or application or canned program that is not written specifically for the user.

*Price or purchase price* means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if: (1) such exchanged property is to be sold thereafter in the usual course of the retailer's business, or (2) such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

*Price or purchase price* includes:

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

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- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

*Price or purchase price* shall not include:

- (1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out of state trade-ins are an allowable adjustment to the purchase price.
- (3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

*Prosthetic device* means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. *Prosthetic device* includes but is not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

*Purchase or Sale* means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold, used, stored, distributed or consumed. These terms include capital leases, installment and credit sales, and property and services acquired by:

- (1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services;
- (3) Performance of taxable services; or
- (4) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms *Purchase* and *Sale* do not include:

- (1) A division of partnership assets among the partners according to their interests in the partnership;
- (2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
- (3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
- (4) A transfer of a partnership or limited liability company interest;
- (5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
- (6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
- (7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

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- (8) The transfer of assets from a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company to a parent company or to another subsidiary which is owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;
  - (9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this subsection shall constitute a sale. For the purposes of this subsection, a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

*Retail sale, purchased at retail or selling at retail* means all sales except wholesale sales made within the City.

*Retailer or vendor* means any person selling, leasing, renting or granting a license to use tangible personal property or services at retail. Retailer shall include, but is not limited to, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;
- (4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property; and
- (5) Marketplace facilitator, marketplace seller, or multi-channel seller.

*Retailer-Contractor* means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

*Return* means the sales and use tax reporting form used to report sales and use tax.

*Rooms, accommodations or lodging services* means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known, to a person who for a consideration uses, possesses or has the right to use or possess any room in a hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp or trailer court and park, or any similar type establishment, for a period of less than thirty (30) consecutive days under any concession, permit, right of access, license to use or other agreement, or otherwise.

*Sales tax* means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Article.

*School* means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

*Security system services* means electronic alarm and/or monitoring services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

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*Sound system services* means sound system services involving provision of broadcast or pre-recorded audio programming to a building or portion thereof. Such term does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

*Storage* or *storing* means any keeping or retention of, or exercise of dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or without the City from any person or vendor.

*Tangible personal property* means personal property that can be one (1) or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses.

*Tax* means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

*Tax deficiency* means any amount of tax that is not reported or not paid on or before the due date.

*Taxable sales* means gross sales less any exemptions and deductions specified in this Article.

*Taxable services* means services subject to tax pursuant to Section 4-2-210.

*Taxpayer* means any person obligated to collect and/or pay tax under the terms of this Article.

*Telecommunications service* means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication.

*Use tax* means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

*Wholesale sales* means a sale by wholesalers to retailers, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; the latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this Article.

*Wholesaler* means any person doing an organized wholesaling or jobbing business, and selling to retailers, jobbers, dealers or other wholesalers, for the purpose of resale, and not for storage use, consumption or distribution.

#### **Sec. 4-2-30. Confidential nature of returns.**

- (a) Except in accordance with judicial order or as otherwise provided herein, the City Council, the City Manager and the City's agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this Article.
- (b) The City officials charged with the custody of returns filed pursuant to this Article shall not be required to produce such returns or evidence of any matters contained therein in any action or proceeding in any court, except on behalf of the City in an action under the provisions of this Article to which the City is a party or on behalf of any party to an action or proceeding under the provisions of this Article, or to punish a violator thereof or pursuant to any judicial order, in which event the court may require the production of and may admit in evidence so much of such returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.

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- (c) No provision of this Section shall be construed to prohibit the delivery to a taxpayer or to ~~his or her~~ their duly authorized representative of a copy of any return or report filed in connection with ~~his or her~~ their tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the information contained therein, nor to prohibit the inspection by the City Attorney or any other legal representative of the City of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon or against whom an action or proceeding is contemplated or has been instituted under this Article.
- (d) The provisions of this Section shall not preclude the City Manager, or the City's agents, clerks and employees from divulging any information gained from any return or audit to the federal government, the State, the Department of Revenue, the City or any other municipality, the City Attorney, the Finance Director or the City Clerk, nor shall the City Manager or the City's agents, clerks or employees be liable to any person for such disclosure made for the purpose of computing or collecting the tax due and owing from any person or for the purpose of verifying compliance with this Article or for the purpose of investigating any criminal or illegal activity.
- (e) Any City officer or employee, or any agent thereof, who shall divulge any information classified by this Article as confidential in any manner except in accordance with proper judicial order or as otherwise provided herein or by other law, shall be guilty of a violation of this Article and shall be punished in the manner provided by state law.

(Ord. 06-12 §10, 2012)

#### **Sec. 4-2-40. Tax cannot be absorbed.**

It is unlawful for any retailer to advertise, hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Article shall be assumed or absorbed by the retailer, that it shall not be added to the selling price of the property sold or the services tendered, or, if added, that it or any part thereof shall be refunded.

#### **Sec. 4-2-50. Excess tax; remittance.**

If any vendor, during any reporting period, collects as a tax an amount in excess of three and one-half percent (3½%) of ~~his or her~~ their total taxable sales, then ~~they he or she~~ shall remit to the City the full net amount of the tax imposed in this Article and also such excess amount. The retention by the retailer or vendor of any excess amount of tax collections over the three and one-half percent (3½%) of the total taxable sales of such retailer or vendor or the intentional failure to remit punctually to the City the full amount required to be remitted by the provisions of this Article is declared to be a violation of this Article and shall be recovered, together with interest, penalties and costs, as provided in Section 4-2-420 of this Article.

#### **Sec. 4-2-60. License and tax additional.**

The license and tax imposed by this Article shall be in addition to all other licenses and taxes imposed by law, except as otherwise provided in this Article.

#### **Sec. 4-2-70. Duty to keep records.**

It is the duty of every taxpayer to keep and preserve suitable records and such other books or accounts as may be necessary to determine the amount of tax for the collection of which ~~they are he or she is~~ liable under this Article. It is the duty of every such taxpayer to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased. All such books, invoices and other records shall be open for examination and

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audit at any time by the Finance Director. The taxpayer shall produce all such records, if required by the Finance Director, at the Edgewater ~~Municipal Center, 2401 Sheridan Boulevard~~Civic Center 1800 Harlan St, Edgewater, Colorado 80214. Taxpayers licensed with the City under this Article, and who hold a similar sales tax license in at least four (4) other Colorado municipalities which administer their own sales tax collection, may request a coordinated audit as provided for in this Section.

**Sec. 4-2-80. Administration.**

The City Council shall adopt rules and regulations in conformity with this Article for the proper administration and enforcement of this Article. The administration of this Article is vested in and shall be exercised by the City Manager. The Finance Director shall assist the City Manager in the administration of this Article to the extent provided herein and in the rules and regulations promulgated hereunder.

**Sec. 4-2-90. Receipts; disposition.**

The monies received by the Finance Director from the tax imposed and collected pursuant to this Article shall be deposited in the general fund of the City. Such monies, prior to any other use or application, shall first be applied to the payment of the principal of, interest on, and redemption premium, if any, on any bonds or other obligations to which the City has pledged such monies, if the City Council has determined, in the ordinance authorizing the issuance of such bonds or other obligations, that such payment shall have priority over uses of such monies for capital improvement or capital equipment expenditures.

**Sec. 4-2-100. Applicability to banks.**

The provisions of this Article shall apply to national banking associations and to banks organized and chartered under state law.

**Sec. 4-2-110. Statute of limitations.**

The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Article shall not be assessed, nor shall any notice of lien be filed, distraint warrant issued or suit for collection be instituted, nor any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for one (1) year after the filing of notice thereof. The statute of limitations period as set forth hereinabove in this Section shall not apply if:

- (1) A taxpayer files a false or fraudulent return with the intent to evade the tax imposed by this Article; or
- (2) A taxpayer fails to file a return as required by Section 4-2-220 of this Article.

In the case of a false or fraudulent return with the intent to evade the tax imposed by this Article, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. In the case of failure to file a return, the tax, together with interest and penalties thereon, may be assessed and collected at any time. Before the expiration of such period of limitation, the taxpayer and the Finance Director may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

*Division 2 Sales Tax*<sup>2</sup>

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**Sec. 4-2-210. Definitions.**

All terms used in this Division 2 shall have the meanings assigned to them by Section 4-2-20 of this Code unless such definition conflicts with the same defined term under C.R.S. § 39-26-102, as existing or as hereafter amended, in which case the Colorado Revised Statute definition shall control.

( Ord. No. 2023-11 , §1, 10-24-2023)

**Sec. 4-2-220. Imposition, collection, administration, and enforcement of sales tax.**

Unless otherwise provided herein or under Article 2, Title 29, C.R.S., the provisions of Article 26, Title 39, C.R.S., shall govern the collection, administration, and enforcement of this sales tax.

- (1) Imposition of sales tax. There is hereby imposed and there shall be collected a tax on all sales of tangible personal property and services described in Section 4-2-220(2) and occurring within the City. The tax is imposed as provided for in Section 29-2-105(1)(d), C.R.S. The sales tax shall be set at a rate of three and one-half percent (3.5%) of the amount of each sale. The taxable amount of a sale shall not include the amount of any sales or use tax imposed by Article 26, Title 39, C.R.S.
- (2) Property and services taxed. The sales of tangible personal property and services taxable under this Division shall be the same as the sales of tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., subject to the exemptions set forth under Section 4-2-230.
- (3) For the purpose of this sales tax, all retail sales are sourced as specified in Section 39-26-104(3), C.R.S.
- (4) Without limiting the broad application of Section 4-2-220(2) and recognizing that mobile telecommunications services are subject to particular legal requirements, this sales tax shall apply to mobile telecommunications services to the greatest extent permitted under Section 29-2-105(1.5), C.R.S.

( Ord. No. 2023-11 , §1, 10-24-2023)

**Sec. 4-2-230. Exemptions.**

- (1) General sales tax exemptions. Except as otherwise provided herein or in Section 29-2-105(1)(d), C.R.S., the sales of tangible personal property and services taxable under this Division shall be subject to the same exemptions as those specified in part 7, article 26, title 39, C.R.S.

<sup>2</sup>Ord. No. 2023-11 , § 1, adopted Oct. 24, 2023, repealed the former Div. 2, §§ 4-2-210—4-2-240, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from Prior code 21-30—21-32, 21-34—21-36; Ord. 04-08 §1, adopted in 2008; Ord. 12-08 §1, adopted in 2008; Ord. 01-12 §§1,2, adopted in 2012; Ord. 06-12 §§15—17, adopted in 2012; Ord. 03-14 §1, adopted in 2014; Ord. No. 2017-07, §2, adopted May 4, 2017 ; Ord. No. 2021-09 §2, adopted in 2021.



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- (2) Exemptions required to be express. Pursuant to Section 29-2-105(1)(d)(I)(A)–(R), C.R.S., which requires the City to expressly exempt certain sales from the City's tax code if such sales are to be exempted, the City adopts the following additional express exemptions:
- (a) The exemption for sales by a charitable organization specified in Section 39-26-718(1)(b), C.R.S.;
  - (b) The exemption for sales that benefit a Colorado school specified in Section 39-26-725, C.R.S.; and
  - (c) The exemption for manufactured homes set forth in Section 39-26-721(3), C.R.S.
- (3) Food. Notwithstanding any other provision of this sales tax regarding the taxation of food, this sales tax shall not apply to the following:
- (a) Sales of food purchased with food stamps. For the purposes of this subsection (a), "food" has the same meaning as provided in 7 U.S.C. § 2012, as currently in effect and subsequently amended.
  - (b) Sales of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. § 1786. For the purposes of this subsection (b), "food" has the same meaning as provided in 42 U.S.C. § 1786, as currently in effect and subsequently amended.
- (4) Certain Construction and Building Materials. This sales tax shall not apply to the sale of "construction and building materials," as the term is used in Section 29-2-109, C.R.S., if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City evidencing that a local use tax has been paid or is required to be paid on the materials.
- (5) Cigarettes. This sales tax shall not apply to sales of cigarettes.
- (6) Sales to a telecommunications provider. This sales tax shall not apply to sales to a telecommunications provider of equipment used directly in the provision of telephone service, cable television service, broadband communications service, or mobile telecommunications service. It is the policy of this City that this exemption be applied in a uniform and nondiscriminatory manner to the telecommunications providers of telephone service, cable television service, broadband communications service, and mobile telecommunications service.
- (7) Sales subject to prior ownership tax. Sales of personal property on which a specific ownership tax has been paid or is payable are exempt from this sales tax when the sale meets both of the following conditions: (i) the purchaser is a nonresident of the City or has ~~their~~<sup>his</sup> principal place of business outside the City and (ii) the personal property sold is registered or required to be registered outside the City's limits under the law of the State of Colorado.
- (8) Sales subject to prior payment of sales or use tax. This sales tax shall not apply to the sale of tangible personal property or services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city, or town equal to or in excess of that sought to be imposed by this sales tax. A credit shall be granted against this sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or town. The amount of the credit shall not exceed the sales tax imposed herein.

( Ord. No. 2023-11 , §1, 10-24-2023)

#### **Sec. 4-2-240. Administration and enforcement.**

Notwithstanding any provision of Division 4 of this Chapter 4, the collection, administration and enforcement of this Division 2 shall be performed by the executive director of the Colorado Department of Revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax, as supplemented by Article 2, Title 29, C.R.S.

### *Division 3 Use Tax*

#### **Sec. 4-2-310. Property and services taxed.**

There is hereby imposed and shall be collected from every person in this City a use tax at the rate of three and one-half percent (3½%) for the privilege of storing, using or consuming in the City any articles of tangible personal property or taxable services purchased at retail. Such use tax shall be computed in accordance with schedules or systems set forth in the rules and regulations prescribed therefor.

#### **Sec. 4-2-320. Collection of use tax.**

(a) Generally.

- (1) Except as otherwise provided in this Section, every person who uses, stores or consumes tangible personal property or service, which property or service is purchased either inside or outside the City and is subject to the use tax imposed pursuant to Section 4-2-310, and who has not paid the sales or use tax imposed by this Article to a retailer, shall make a return and remit the use tax imposed by Section 4-2-310 to the City for the preceding period covered by the remittance on forms prescribed by the Finance Director, showing in detail the tangible personal property or service stored, used or consumed by such person within the City in the preceding period covered by the remittance and on which property the sales or use tax has not been paid. Every person subject to the provisions of Section 4-2-310 shall maintain monthly records of the amount of use tax due. Such person shall make a return and remit the use tax due before the twentieth day of the following month.
- (2) Any such return shall be subscribed by the taxpayer or ~~his or her~~their authorized agent and shall contain a written declaration that it is made under the penalties of perjury.

- (b) Except as otherwise provided in this Section, every retailer doing business in this City and making sales of tangible personal property for the storage, use, or consumption in the City which are not exempt from taxation as provided in Section 4-2-330, shall, at the time of making such sales or taking the orders therefor, or if the storage, use or consumption of such tangible personal property is not then taxable under Section 4-2-310, then at the time that such storage, use or consumption becomes taxable under Section 4-2-310, collect the tax imposed by Section 4-2-310 from the purchaser and give the purchaser a receipt therefor, which receipt shall identify the property taxed, the date that such property was sold or ordered, and the amount of tax collected and paid. The tax required to be collected by such retailer from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips or other proof of sales. The tax required to be collected by any retailer or ~~his or her~~their authorized agent shall be remitted to the City in like manner as otherwise provided in this Article for the remittance of sales taxes collected by retailers, and all such retailers or agents collecting the use tax imposed by Section 4-2-310 shall make returns on forms provided by the Finance Director at such times and in such manner as is provided for the making of returns in the payment of the sales tax imposed pursuant to Section 4-2-210. The procedure for assessing and collecting use taxes from such retailers or agents, or from the user when not paid to a retailer or agent, shall be the same as provided in this Article for the collection of sales tax imposed pursuant to Section 4-2-210.

(c) Agreements.

- (1) If the owner of an automotive vehicle for which registration, licensing or titling is required by the State pursuant to Section 42-6-137(2), C.R.S., is required to register, license or obtain a certificate of title for

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such automotive vehicle at an address located within the City, then the use tax imposed pursuant to Section 4-2-310 shall be collected by the authorized agent of the Department of Revenue in the County pursuant to an agreement or agreements entered into between the City and the authorized agent of the Department of Revenue in the County. The proceeds of such use tax shall be paid to the City periodically in accordance with such agreement or agreements. If the authorized agent of the Department of Revenue in the County fails to collect any use tax imposed pursuant to Section 4-2-310, then the City shall collect such use tax in the manner set forth in Section 4-2-420.

(d) Construction materials.

- (1) For construction materials, the use tax imposed pursuant to Section 4-2-310 shall be collected by the City as hereinafter provided in this Subsection (d), and shall be collected in the amount of three and one-half percent (3½%) of the sale value of the construction materials. For purposes of this Subsection (d), fifty percent (50%) of the estimated general contract costs and/or fifty percent (50%) of the estimated mechanical contract costs shall be deemed to be the sale value of such construction materials.
- (2) Any person who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever, including underground improvements, within the City, and who shall purchase the necessary lumber, fixtures, materials or any other supplies needed therefor from any source inside or outside the corporate limits of the City shall keep and preserve all invoices and statements from both the general and subcontractors along with a summary sheet showing such purchases, such person shall on or before the tenth day of each succeeding month following the start of such construction, file a return with the City to which ~~they~~~~he or she~~ shall attach such statements and invoices from both the general and subcontractors, along with a summary sheet for the lumber, fixtures, materials and other supplies purchased the previous month, and shall thereupon pay to the City the full amount of the use tax due thereon for the preceding month or months. Any failure to preserve such statements and invoices and to make such return and payment of such use tax shall be deemed a violation of this Article, and any offending persons shall be subject to the penalties and punishment provided in this Article. It shall be the duty of the Building Inspector and the contractors and subcontractors who are hired to construct any such improvements to furnish the City with such information as ~~he or she~~~~they~~ may require as to any purchase of lumber, fixtures, materials and supplies for such improvements which were obtained from sources inside and outside the City. The full amount of any use tax due and not paid for lumber, fixtures, materials and supplies purchased from such inside or outside sources, together with penalties and interest thereon as herein provided, shall be and constitute a lien upon the real property benefitted by such improvements, and the Finance Director is hereby authorized to file a notice of such lien with the County Clerk and Recorder.
- (3) Any person who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever, including underground improvements, within the City, and who shall purchase the necessary lumber, fixtures, materials or any other supplies needed therefor from any source either within or without the corporate limits of the City, may at such person's election remit a deposit to the City prior to the issuance of any building permit, such deposit to insure and indemnify the City for the amount of use tax due within three (3) years from the date of issuance of the certificate of occupancy for the project or the date of the final inspection of the project by the City. The amount of the deposit shall be based upon an estimate of the use tax to be payable on the lumber, fixtures, materials and supplies needed therefor at the time that the respective building permit is obtained. The estimate of the cost of such lumber, fixtures, materials and supplies for a particular project structure shall be determined by the Building Official, and this estimate shall be subject to adjustment if the actual cost of such lumber, fixtures, materials or supplies needed for the project is either less than or greater than such estimate. If the taxpayer elects this basis for estimating the use tax and providing a deposit to insure the use tax payment when due, then the provisions of Subsection (2) hereof which provide for the

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filing of a tax return supported by related invoices shall be waived. Upon payment of such deposit to the City, which is computed on the basis of three and one-half percent (3½%) of fifty percent (50%) of the estimated general contract costs and/or fifty percent (50%) of the estimated mechanical contract costs, the taxpayer shall be issued a receipt identifying the property that is the subject of this deposit and the building permit number. Within three (3) years from the date of issuance of the certificate of occupancy for the project or the date of the final inspection by the City of the project, if it is determined by the City that the actual cost of the lumber, fixtures, materials and supplies needed for the project is greater than the estimate therefor and that the amount of the use tax deposit is not sufficient to provide for full payment of the use tax, then the additional use tax due must be received by the City within thirty (30) days of such determination. If it is determined by the City that the deposit is sufficient to pay for the use tax due, then the deposit shall be used to pay the amount of the use tax due, and any excess amount of the deposit shall be returned by mail to the person who made the deposit within thirty (30) days of such determination. If the taxpayer purchases such lumber, fixtures, materials or supplies from City vendors possessing a valid City retail sales tax license, then ~~they~~~~he or she~~ may submit invoices or statements reflecting the purchase therefor and make application to the City within thirty (30) days directly following the determination by the City of the use tax due, which determination shall be made within three (3) years from the date of issuance of the certificate of occupancy for the project or date of the final inspection by the City of the project, for credit or refund of any amount paid as sales taxes to the City, in which event it shall be the duty of the person making such application to furnish all necessary bills and invoices evidencing the payment of the tax. If the Finance Director is satisfied that there has been such payment, then ~~he or she~~~~they~~ shall either credit the account of the taxpayer if the use tax has not been levied or refund the amount if the use tax levy has been paid through such deposit within sixty (60) days after such application has been received by the City. The amount of any use tax due and not paid constitutes a lien upon the real property benefitted by the use of such lumber, fixtures, materials or supplies.

- (e) The City's use tax shall not apply to the storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality legally imposed on the purchaser or user equal to or in excess of the use tax required to be paid pursuant to Section 4-2-310. A credit shall be granted against the City's use tax with respect to the person's storage, use or consumption in the City of tangible personal property, the amount of the credit to equal the tax paid by ~~him or her~~~~them~~ by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on ~~his or her~~~~their~~ purchase or use of the property. The amount of the credit shall not exceed the amount of the use tax required to be paid pursuant to Section 4-3-310.

(Prior code 21-40; Ord. 12-08 §1, 2008; Ord. 06-12 §19, 2012)

#### **Sec. 4-2-330. Exemptions.**

The use tax imposed pursuant to Section 4-2-310 is declared to be supplementary to the sales tax imposed pursuant to Section 4-2-210 and shall not apply:

- (1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to the sales tax imposed pursuant to Section 4-2-210.
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in the City, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

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- (3) To the storage, use or consumption of gasoline which is taxed under the provisions of Part 1, Article 27, Title 39, C.R.S., and all gasoline which is taxed under such provisions and for which the tax is refunded, and to the storage, use or consumption of special fuel, as defined in Section 39-27-208(1), C.R.S., used for the operation of farm vehicles when the same are being used on farms or ranches.
  - (4) To the storage, use or consumption of tangible personal property brought into the City by a nonresident thereof for ~~his or her~~their own storage, use or consumption while temporarily within the City.
  - (5) To the storage, use, consumption or loan of tangible personal property by or to the United States government, the State or its institutions or political subdivisions in their governmental capacities only, or any charitable organizations in the conduct of its regular charitable functions and activities.
  - (6) Tangible personal property.
    - a. To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished, and the container, label or furnished shipping case.
    - b. As used in Subsection a. hereof with regard to food products, tangible personal property enters into the processing of such products and, therefore, is exempt from taxation when:
      1. It is intended that such property become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption; or
      2. Such property, whether or not it becomes an integral or constituent part of a food product: a) is a chemical solvent, agent, mold skin casing or other material; b) is used for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition; and c) is directly utilized and consumed, dissipated, or destroyed to the extent that is rendered unfit for further use, in the processing of a food product which is intended to be sold ultimately at retail for human consumption.
  - (7) To the storage, use or consumption of electricity, coal, coke, fuel oil, nuclear fuel or gas for use in mining, refining, irrigation, building construction, telecommunication services and street and railroad transportation services.
  - (8) To the storage and use of cattle, sheep, lambs, swine and goats within the City, or to the storage and use within the City of mares and stallions kept, held and used for breeding purposes only.
  - (9) To the storage, use or consumption of newsprint and printer's ink for storage, use or consumption by publishers of newspapers and commercial printers and to the storage, use or consumption of newspapers, as such term is defined in Section 24-70-102, C.R.S.
  - (10) To the storage, use or consumption of cigarettes.
  - (11) The storage, use or consumption of tangible personal property acquired outside the City and brought into the City by a nonresident acquiring residency.
  - (12) To the storage or use of an automotive vehicle for which registration, licensing or titling is required by the State pursuant to Section 42-6-137(2), C.R.S., if the owner is or was, at the time of purchase, a nonresident of the City, and ~~they~~he or she purchased such motor vehicle outside the City for use outside the City, and actually so used it for a substantial and primary purpose for which it was acquired, and ~~he or she~~they registered, licensed and titled such automotive vehicle outside the City.

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- (13) To the storage, use or consumption of a mobile home, as such vehicle is defined in Section 42-1-102(82)(b), C.R.S., after such mobile home has been subject to the payment of use tax by virtue of Subsection 4-2-320(d)(3).
- (14) To the storage or use of a new or used trailer, semi-trailer, truck, truck-tractor or truck body manufactured within the City if such vehicle is purchased from the manufacturer for use exclusively outside the City or in interstate commerce and is delivered by the manufacturer to the purchaser within the City, if the purchaser drives or moves such vehicle to any point outside the City within thirty (30) days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle shall be permanently licensed and registered outside the City and shall be removed from the City within thirty (30) days after the date of delivery.
- (15) To the storage or use of a new or used trailer, semi-trailer, truck, truck-tractor or truck body if such vehicle is purchased for use exclusively outside the City or in interstate commerce and is delivered by the manufacturer or licensed dealer to the purchaser within the City, if the purchaser drives or moves such vehicle to any point outside the City within thirty (30) days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle shall be permanently licensed and registered outside the City and shall be removed from the City within thirty (30) days after the date of delivery.
- (16) To the storage, use or consumption of tangible personal property which is thereafter transferred to a vendee located outside the City without consideration (other than the purchase, sale or promotion of the transferor's product) for use outside of the City in selling products normally sold at wholesale by the person storing, using or consuming such property.
- (17) To the testing, modification, inspection or similar type activities of tangible personal property acquired for ultimate use outside the City in manufacturing or similar type of activities if the test, modification or inspection period does not exceed ninety (90) days.
- (18) To the storage, use or consumption of any article by a retailer or vendor of food, meals or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail; if:
- a. A separate charge is not made for the article to the consumer or user;
  - b. Such article becomes the property of the consumer or user, together with the food, meals or beverages purchased; and
  - c. A tax is paid on the retail sale as required by Subsection 4-2-210(1) or (5).
- (19) To the storage, use, or consumption of any container or bag by a retailer or vendor of food, meals or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packing or bagging articles of tangible personal property purchased at retail, if:
- a. A separate charge is not made for the container or bag to the consumer or user;
  - b. Such container or bag becomes the property of the consumer or user, together with the food, meals or beverages purchased; and
  - c. A tax is paid on the retail sale as required by Subsection 4-2-210(1) or (5).
- (20) To the storage, use or consumption of food or meals that are provided to employees of the places described in Section 4-2-210(5) if such food or meals are provided to such employees at no charge or at a reduced charge and are considered as part of their salary, wages or income.
- (21) To the storage, use or consumption by a contractor or subcontractor of construction materials for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned and used by:

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- a. The United States government, the State, its department and institutions and the political subdivisions thereof in their governmental capacities only;
  - b. Charitable organizations in the conduct of their regular charitable functions and activities; or
  - c. Schools, other than schools held or conducted for private or corporate profit.
- (22) To the storage, use or consumption of aircraft used or purchased for use in interstate commerce by a commercial airline.
- (23) To the storage of construction materials.
- (24) The City's use tax shall not be imposed with respect to the use or consumption of tangible personal property within the City which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State for the principal purpose for which it was purchased.
- (25) To the storage, use or consumption of food, as specified in 7 U.S.C. § 2012(g), as such section existed on October 1, 1987, or is thereafter amended, which is purchased with food stamps pursuant to the Federal Food Stamp Program, or the storage, use or consumption of food, as specified in 42 U.S.C. § 1786, as such section existed on October 1, 1987, or is thereafter amended, which is purchased with WIC vouchers or checks pursuant to the federal special supplemental program for women, infants and children.

**Sec. 4-2-340. Proration of use tax for certain construction equipment.**

- (a) Construction equipment that is located within the boundaries of the City for a period of more than thirty (30) consecutive days shall be subjected to the full applicable use tax of the City.
- (b) Construction equipment that is located within the boundaries of the City for a period of thirty (30) consecutive days or less shall be subjected to the City's use tax in an amount that does not exceed the amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one (1) and the denominator of which is twelve (12), and the result shall be multiplied by the amount of the use tax imposed pursuant to Section 4-2-310 hereof.
- (c) Where the provisions of Subsection (b) hereof are utilized, the credit provisions of Section 4-2-320 shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any such equipment equal the amount of the use tax imposed pursuant to Section 4-2-310.
- (d) In order to avail ~~themselves~~~~himself~~~~or herself~~ of the provisions of Subsection (b) hereof, the taxpayer shall comply with the following procedure:
  - (1) Prior to or on the date that the equipment is located within the boundaries of the City, the taxpayer shall file with the City an equipment declaration on a form provided by the Finance Director. Such declaration shall state the dates on which the taxpayer anticipates that the equipment shall be located within and removed from the boundaries of the City, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment and shall include such other information as reasonably deemed necessary by the City.
  - (2) The taxpayer shall file an amended equipment declaration with the City reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of the City or, for equipment that is brought into the boundaries of the City for a project of less than ninety (90) days' duration, no later than ten (10) days after substantial completion of such project.

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- (3) The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars (\$2,500.00).
- (e) If the equipment declaration is given as provided in Subsection (d) hereof, then as to any item of construction equipment for which the customary purchase price is less than two thousand five hundred dollars (\$2,500.00) that was brought into the City temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the use tax imposed pursuant to Section 4-2-310 and that such local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the City, the Executive Director of the Department of Revenue or the District Court shall be on the City to prove that such local sales or use tax was not paid.
- (f) If the taxpayer fails to comply with the provisions of Subsection (d) hereof, then the taxpayer may not avail ~~themselves~~~~himself or herself~~ of the provisions of Subsection (b) hereof and shall be subject to the provisions of Subsection (a) hereof. Substantial compliance with the provisions of Subsection (d) shall allow the taxpayer to avail ~~themselves~~~~himself~~ of the provisions of Subsection (b). (Prior code 21-42; Ord. 12-08 §1, 2008; Ord. 06-12 §20, 2012)

### *Division 4 Refunds and Enforcement*

#### **Sec. 4-2-410. Refunds.**

- (a) A refund shall be made, or a credit allowed, for the sales or use tax so paid under dispute by any purchaser or user who claims an exemption pursuant to Section 4-2-260 or 4-2-330. Such refund shall be made by the City after compliance with the following conditions precedent: Applications for refund shall be made within sixty (60) days after the purchase, storage, use or consumption of the goods or services whereon an exemption is claimed, must be supported by the affidavit of the purchaser or user accompanied by the original paid invoice or sales receipt and certificate issued by the seller and shall be made upon such forms as shall be prescribed therefor.
- (b) Upon receipt of an application, the Finance Director shall examine the same with due speed and shall give notice to the applicant by order in writing of ~~their~~~~his or her~~ decision thereon. Aggrieved applicants, within twenty (20) days after such decision is mailed to them, may petition the Finance Director for a hearing on the claim in the manner provided in Section 4-2-510 and may either appeal to the District Court in the manner provided in Section 4-2-520 or to the Department of Revenue in the manner provided in Section 4-2-530. The right of any person to a refund under this Article shall not be assignable, and except as provided in Subsection (d) hereof, such application for refund must be made by the same person who purchased the goods or services and paid the tax thereon as shown in the invoice of the sale thereof.
- (c) A refund shall be made or a credit allowed by the Finance Director to any person entitled to an exemption where such person establishes that:
- (1) A tax was paid by another person, the purchaser, on a purchase made on behalf of the person entitled to an exemption;
  - (2) A refund has not been granted to such purchaser; and
  - (3) The person entitled to the exemption paid or reimbursed such purchaser for such tax.

The burden of proving that sales, services and commodities on which tax refunds are claimed are exempt from taxation under this Article or were not at retail shall be on the person making such claim under such reasonable requirements of proof as set forth in the rules and regulations prescribed therefor. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on such purchase retained by the vendor pursuant to Subsection 4-2-220(a).



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- (d) Such application for refund under Subsection (c) hereof shall be made on forms furnished by the Finance Director. Upon receipt of such application and proof of the matters contained therein, the Finance Director shall give notice to the applicant by order in writing of ~~their~~<sup>his or her</sup> decision thereon. Aggrieved applicants, within twenty (20) days after such decision is mailed to them, may petition the Finance Director for a hearing on the claim in the manner provided in Subsection 4-2-510(a) and may either appeal to the District Court in the manner provided in Section 4-2-520 or to the Department of Revenue in the manner provided in Section 4-2-530. Any applicant for a refund under the provisions of this Subsection (d) or any other person who makes any false statement in connection with an application for a refund of any taxes is guilty of a violation of this Article and shall be punished in the manner provided by state law.
- (e) Claims for tax moneys paid in error or by mistake shall be made within three (3) years after the date of purchase, storage, use or consumption of the goods or services for which the refund is claimed and shall be processed for refund in accordance with the rules and regulations prescribed therefor under Subsection (d) hereof, except that the proceeds of any such claim for a refund shall first be applied by the Finance Department to any tax deficiencies or liabilities existing against the claimant before allowance of such claim by the Finance Department, and further except that, if such excess payment of tax moneys in any period is discovered as a result of an audit by the Finance Department, and deficiencies are discovered and assessed against the taxpayer as a result of such audit, then such excess moneys shall be first applied against any deficiencies outstanding to the date of the assessment but shall not be applied to any future tax liabilities.
- (f) If any person is convicted under the provisions of this Section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Finance Director is empowered to bring appropriate action for recovery of such refunds. A brief summary statement of the above-described penalties shall be printed on each form application for a refund.

(Prior code 21-43; Ord. 06-12 §21, 2012)

#### **Sec. 4-2-420. Recovery of taxes, penalty and interest.**

- (a) All sums of money paid by the purchaser to the retailer as taxes imposed by this Article shall be and remain public money, the property of the City, in the hands of such retailer, and ~~they~~<sup>he or she</sup> shall hold the same in trust for the sole use and benefit of the City until paid to the City. For failure to so pay to the City, such retailer shall be punished as provided herein.
- (b) Delinquency.
- (1) If a person neglects or refuses to make a return in payment of the sales tax or to pay any sales tax as required by this Article, then the Finance Director shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty of ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 4-2-450, plus one-half percent (½%) per month from the date when due; not exceeding eighteen percent (18%) in the aggregate.
  - (2) If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required by this Article, then the Finance Director shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 4-2-450, plus one-half percent (½%) per month from the date when due.
  - (3) Promptly thereafter, the Finance Director shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice shall be sent by first-class mail directed to the last address of such person on file with the Finance Department. Such estimate shall thereupon become a

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notice of deficiency. Within twenty (20) days after the notice of deficiency is mailed, the taxpayer may petition the Finance Director for a hearing in the manner provided in Subsection 4-2-510(a) and either may appeal to the District Court as provided in Section 4-2-520 or to the Department of Revenue as provided in Section 4-2-530.

(c) Notice.

- (1) If any taxes, penalty or interest imposed by this Article and shown due by returns filed by the taxpayer or as shown by assessments duly made as provided in this Section are not paid within five (5) days after the same are due, then the Finance Director shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the City claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice as provided in this Section on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer.
- (2) Said notice shall be on forms furnished by the Finance Director and shall be verified by the City Manager, the Finance Director or any duly qualified agent of the City Manager or the Finance Director, whose duties are the collection of such tax, and may be filed in the office of the county clerk and recorder in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create a lien on such property in that county and constitute notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice has been filed or not, the Finance Director may issue a warrant directed to any duly authorized revenue collector, or to the sheriff of the county, commanding ~~them~~~~him or her~~ to levy upon, seize and sell sufficient of the real and personal property of the amount due together with interest, penalties and costs, as may be provided by law, subject to valid preexisting claims or liens.

(d) Such revenue collector or the sheriff shall forthwith levy upon sufficient of the property of the taxpayer or any property used by such taxpayer in conducting ~~their~~~~his or her~~ retail business, except property made exempt from the tax lien pursuant to the provisions of Paragraph 4-2-430(a)(2), and said property so levied upon shall be sold in all respects with like effect and in the same manner as is prescribed by law with respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fee in executing such warrants as are allowed by law for similar services.

(e) Any lien for taxes as shown on the records of the county clerks and recorders as provided in this Section, upon payment of all taxes, penalties and interest covered thereby, shall be released by the Finance Director in the same manner as mortgages and judgments are released.

(f) Recovery.

- (1) The Finance Director may also treat any such taxes, penalties or interest due and unpaid as a debt due to the City from the vendor. The return of the taxpayer or the assessment made by the Finance Director, as provided in this Article, shall be prima facie proof of the amount due.
- (2) To recover such taxes, penalties or interest due, the Finance Director may bring an action in attachment, and a writ of attachment may be issued to the sheriff. In any such proceedings, no bond shall be required of the Finance Director, nor shall any sheriff require of the Finance Director an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Finance Director may prosecute appeals in such cases without the necessity of providing bond therefor. It is the duty of the City Attorney, when requested by the Finance Director, to commence action for the recovery of taxes due under this Article, and this remedy shall be in addition to all other existing remedies or remedies provided in this Article.

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- (g) In any action affecting the title to real estate or the ownership or rights to possession of personal property, the City may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein. In any such action, service of summons upon the Finance Director or any person in charge of the office of the Finance Director shall be sufficient service and shall be binding upon the City.
  - (h) The Finance Director is authorized to waive, for good cause shown, any penalty assessed as provided in this Article, and any interest imposed in excess of the rate determined pursuant to Subsection (b) hereof shall be deemed a penalty.
  - (i) If a taxpayer pays for any tax imposed pursuant to this Article by check for which there are insufficient funds to cover such check, then the Finance Director may assess a penalty against such taxpayer in accordance with the fee schedule as adopted by ordinance of the City Council from time to time. If a penalty or penalties of twenty-five dollars (\$25.00) or more has been assessed against a taxpayer by the Finance Director, then the Finance Director may require such taxpayer to pay all tax payments, whether due or to be due in the future, by certified funds, cashier's check or cash. The penalty imposed by this Section is in addition to all other penalties imposed pursuant to this Article.
  - (j) The City shall participate with other cities in the State concerning intercity claims for the recovery of sales and use taxes paid to the wrong taxing jurisdiction. The intent and procedure for filing a "claim for recovery" is set forth in this Section.

(Prior code 21-44; Ord. 06-12 §22, 2012)

#### **Sec. 4-2-430. Tax lien; exemption from lien.**

- (a) Generally.
  - (1) The sales tax imposed pursuant to Section 4-2-210 shall be a first and prior lien upon the tangible personal property and business fixtures of or used by any retailer under lease, title retaining contract or other contract arrangement, excepting stock of goods sold or for sale in the ordinary course of business, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature. The use tax imposed by Section 4-2-310 shall be a first and prior lien on the tangible personal property stored, used, or consumed, subject only to any valid mortgage or other liens of record on and prior to the recording of notice as set forth in Subsection 4-2-420(c)(2), which lien shall have precedence over all other liens of whatsoever kind or nature, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice on such tangible personal property.
  - (2) The real or personal property of an owner who has made a bona fide lease to a retailer or to any taxpayer owing a use tax shall be exempt from the lien created in Paragraph (1) hereof if such property can reasonably be identified from the lease description, and if the lessee is given no right to become the owner of the leased property. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the County Clerk and Recorder of the County where the property is located or based, or if a memorandum of the lease is filed with the Finance Department within ten (10) days after the execution of the lease. Motor vehicles which are properly registered in the City, showing the lessor as the owner thereof, shall be exempt from the lien created in Subsection (1) hereof, except that said lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value or similar interest which is or may be credited to the lessee. Where the lessor and the lessee are blood relatives or relatives by law or have twenty-five percent (25%) or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes to this Section.

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- (3) Any retailer who is in possession of property under the terms of a lease, which property is exempt from the tax lien as provided in this Section, may be required by the Finance Director to remit taxes collected at more frequent intervals than monthly, but no more frequently than semimonthly, or may be required to furnish security for the proper payment of taxes whenever the collection of taxes appears to be in jeopardy.
- (4) Any retailer who sells out ~~their~~~~his or her~~ business or stock of goods, or quits business, shall be required to make out the return as provided in this Article, within ten (10) days after the date ~~he or she~~~~they~~ sold ~~his or her~~~~their~~ business or stock of goods or quit business, and ~~their~~~~his or her~~ successor in business shall be required to withhold sufficient purchase money to cover the amount of said taxes due and unpaid until such time as the former owner produces a receipt from the Finance Director showing that the taxes have been paid or a certificate that no taxes are due.
- (5) If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in Paragraph (4) hereof, and the taxes are due and unpaid after the ten-day period allowed, ~~they~~~~he or she~~, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes the same subject to the lien for any delinquent sales taxes owed by such retailer and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of property so taken or acquired.
- (b) Whenever the business or property of any taxpayer subject to this Article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for property taxes, all taxes, penalties and interest imposed by this Article and for which said retailer is in any way liable under the terms of this Article shall be a prior and preferred claim against all the property of said taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing or the notice as provided in Subsection 4-2-420(c)(2) hereof on the property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Article under process or order of any court without first ascertaining from the Finance Director the amount of any taxes due and payable under this Article, and if there are any such taxes due, owing or unpaid, it is the duty of such officer to first pay the amount of said taxes out of the proceeds of said sale before making payment of any moneys to any judgment creditor or other claims of whatsoever kind or nature, except the costs of the proceedings and other preexisting claims or liens as provided in this Section. For the purposes of this Subsection, "taxpayer" includes "retailer."

(Prior code 21-45; Ord. 06-12 §23, 2012)

#### **Sec. 4-2-440. Tax deficiency.**

If the deficiency in payment of the sales or use tax occurs without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under Section 4-2-460 on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable twenty (20) days after written notice and demand to such person by the Finance Director. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable twenty (20) days after written notice and demand by the Finance Director, and an additional three percent (3%) per month on said amount shall be added from the date that the return was due until paid.

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**Sec. 4-2-450. Interest rate on delinquent taxes.**

When interest is required or permitted to be charged under Section 4-2-420(b), 4-2-440, 4-2-460(a) or 4-2-470, the annual rate of interest shall be that rate of interest established by the State Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S.

**Sec. 4-2-460. Interest on underpayment, overpayment, nonpayment or extensions of time for payment of tax.**

- (a) If any amount of sales or use tax is not paid on or before the last date prescribed for payment, then interest on such amount at the rate imposed under Section 4-2-450 shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment shall be deemed to be the date that the liability for the tax arises, in no event shall such date be later than the date that notice and demand for the tax is made by the Finance Director.
- (b) Interest prescribed under this Section and Sections 4-2-420(b), 4-2-440 and 4-2-470 shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the tax to which such interest is applicable.
- (c) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.
- (d) Interest prescribed under this Section and Sections 4-2-420(b), 4-2-440 and 4-2-470 on any sales or use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected.

(Prior code 21-48; Ord. 12-08 §1, 2008; Ord. 06-12 §25, 2012)

**Sec. 4-2-470. Penalty interest on unpaid use tax.**

Any use tax due and unpaid shall be a debt to the City and shall draw interest at the rate imposed under Section 4-2-450, in addition to the interest provided by Section 4-2-460, from the time when due until paid.

**Sec. 4-2-480. Other remedies.**

No provision of this Article shall preclude the City from utilizing any other lawful penalties or other remedies applicable to the collection of sales or use taxes. The Finance Director shall have the authority to make a compromise settlement of any claim for sales or use tax due under this Article.

*Division 5 Hearings and Appeals*

**Sec. 4-2-510. Hearings by Finance Director.**

- (a) If any person contests any deficiency notice or denial of refund received from the Finance Director, then ~~he or she~~ they may apply to the Finance Director by petition in writing, within twenty (20) days after such deficiency notice or denial of refund is mailed to ~~them~~ him or her, for a hearing and a correction of the amount of the tax so assessed or refund requested, in which petition ~~he or she~~ they shall set forth the

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reasons why the amount by which such tax should be reduced or the amount of the refund requested should be granted. The Finance Director shall notify the petitioner in writing of the time and place fixed by ~~them~~ ~~or her~~ for such hearing. After such hearing, the hearing officer shall make such order in the matter as is just and lawful and shall furnish a copy of such order to the petitioner.

- (b) Every decision of the hearing officer shall be in writing, and notice thereof shall be mailed to the petitioner within twenty (20) days after such hearing. All such decisions shall become final and all amounts due shall be paid upon the expiration of thirty (30) days after notice of such decision has been mailed to the petitioner, unless proceedings are begun within such time for review thereof as provided in Section 4-2-520 or 4-2-530.

(Prior code 21-51; Ord. 06-12 §27, 2012)

#### **Sec. 4-2-520. Review by District Court.**

If the petitioner or if an applicant for a refund is aggrieved at the final decision of the hearing officer, then ~~he~~ ~~or she~~ may proceed to have the decision reviewed by the District Court.

#### **Sec. 4-2-530. Alternate review by Department of Revenue.**

In lieu of the procedure provided for in Section 4-2-520, the taxpayer may elect to appeal to the Executive Director of the Department of Revenue as set forth in Section 29-2-106.1, C.R.S.

### ***ARTICLE 3 Enhanced Sales Tax Incentive Program***

#### **Sec. 4-3-10. Creation.**

There is hereby established within the City the Enhanced Sales Tax Incentive Program ("ESTIP").

#### **Sec. 4-3-20. Purpose and public benefit.**

- (a) The purpose of the ESTIP is to encourage the establishment and substantial expansion of retail sales tax-generating businesses within the City, thereby stimulating the economy of the City and providing employment for City residents and others, further expanding the goods available for purchase and consumption by City residents, and further increasing the sales taxes collected by the City, which increased sales taxes will enable the City to provide expanded and improved municipal services to and for the benefit of City residents, while at the same time providing public or public-related improvements at no cost, or at deferred cost, to City taxpayers and residents.
- (b) The ESTIP provides a joint benefit to the public at large and to private owners by: generating increased sales tax revenues for the City; allowing for the completion of public improvements by private owners through no debt obligation being incurred on the part of the City; and allowing participants an opportunity to improve properties which generate sales activities to make those properties more competitive in the marketplace and to provide additional sources of revenues for upgrading said properties.

(Prior code 21-202; Ord. 08-05 §1, 2005)

#### **Sec. 4-3-30. Definitions.**

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

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*Enhanced sales tax* means the amount of the sales tax collected by the City over and above a base amount agreed upon by the ESTIP applicant and the City, which base amount shall not be lower than the amount of sales tax collected by the City at the property in question in the previous twelve (12) months plus a reasonable and agreed-upon percentage of anticipated increase in sales taxes or, in the case of a new business, an amount which represents the good faith determination by the applicant and the City as to the amount of sales taxes which could be generated from the new business without the participation by the applicant in the ESTIP, which, in the case of a new business, may be zero.

*Owner* means the record owner or operator of an individual business, or the owner of the real property upon which more than one (1) business is operated, provided that said owner (whether an individual, corporation, partnership or other entity) is the owner or lessor of the individual businesses operated thereon.

*Public or public-related improvements* includes, but is not limited to, streets, sidewalks, curbs, gutters, pedestrian malls, street lights, drainage facilities, landscaping, decorative structures, statuary, fountains, identification signs, traffic safety devices, bicycle paths, trails, off-street parking facilities, benches, restrooms, information booths, public meeting facilities, buildings, upgrades, historical restoration and construction that will generate additional employment opportunities or sales tax revenues, and all necessary, incidental and appurtenant structures and improvements, together with the relocation and improvement of existing utilities and any other improvements of a similar nature.

#### **Sec. 4-3-40. Application.**

Any owner of a newly established or proposed retail sales tax-generating business, or the owner of an existing retail sales tax-generating business who wishes to expand substantially, may apply to the City for inclusion within the ESTIP, provided that the new or expanded business is reasonably likely to generate enhanced sales taxes of at least one thousand dollars (\$1,000.00) in the first year of operation.

#### **Sec. 4-3-50. Agreement.**

Each application shall be accompanied by an agreement between the owner and the City, which agreement shall contain, at a minimum:

- (1) A list of those public or public-related improvements which justify approval, and the approximate amount to be spent on said improvements.
- (2) The maximum amount of enhanced sales taxes to be shared and the term of the agreement, it being expressly understood that the agreement will expire and be of no further force and effect upon the occurrence of the earlier of the expiration of the term of the agreement (whether or not the maximum amount to be shared has been reached) or the maximum amount to be shared (whether or not the term has expired);
- (3) A statement that the agreement is a personal agreement which is not transferable and which does not run with the land;
- (4) A statement that the agreement shall never constitute a debt or obligation of the City within any constitutional or statutory provision;
- (5) The base amount which is agreed upon, which shall consider the historic level of sales at the property in question, or a similar property within the area in the event of a new business, and a reasonable allowance for increased sales due to the improvements and upgrades completed as a result of inclusion within the ESTIP;

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- (6) A provision that any enhanced sales taxes subject to sharing shall be escrowed in the event there is a legal challenge to the ESTIP or the approval of the agreement;
  - (7) An affirmative statement that the obligations, benefits and provisions of the agreement may not be assigned in whole or in any part without the express authorization of the City Council, and further that no third party shall be entitled to rely upon or enforce provision thereof; and
  - (8) Any other provisions agreed upon by the parties and approved by the City Council.

**Sec. 4-3-60. Approval.**

- (a) The City Council shall hold a public hearing on any request to participate in the ESTIP, and shall consider the following in deciding whether to approve the application:
  - (1) The amount of enhanced sales taxes which are reasonably to be anticipated to be derived by the City through the expanded or new retail sales tax-generating business;
  - (2) The public or public-related improvements proposed by the owner, and the amount of expenditures which may be deferred by the City based upon public or public-related improvements being completed by the owner;
  - (3) The conformance of the project with the City's comprehensive plan and land development regulations; and
  - (4) The terms of the agreement required by Section 4-3-50.
- (b) Approval by the City Council of inclusion in the ESTIP shall entitle the owner to share in enhanced sales taxes derived from the owner's business in an amount not to exceed fifty percent (50%) of the annual enhanced sales taxes; provided, however, that the applicant may use said amounts only for public and public-related improvements which are expressly approved by the City Council at the time of application. The time period in which said enhanced sales taxes may be shared shall not commence until all public or public-related improvements are completed, and shall be limited by the City Council, in its discretion, to a specified time, or until a specified amount is reached.

(Prior code 21-206; Ord. 08-05 §1, 2005)

**Sec. 4-3-70. Computation of rebate.**

- (a) The City shall collect and hold all enhanced sales taxes in a separate account apart from the sales taxes generated by and collected from the other sales tax-generating uses and businesses within the City.
- (b) The amount of rebate shall be calculated based on an agreed-upon base figure, which in the case of a new business may be zero.
- (c) If, in any year, the agreed upon base figure is not met by the applicant so as to create enhanced sales tax for that year, no funds shall be shared with applicant for that year.
- (d) It is an overriding consideration and determination of the City Council that existing sources of City sales tax revenues shall not be used, impaired or otherwise affected by the ESTIP. Therefore, it is hereby conclusively determined that only enhanced sales taxes generated by the properties described in an application shall be subject to sharing under the ESTIP, and that this Article would not be adopted or implemented but for the provisions of this Section.

(Prior code 21-207; Ord. 08-05 §1, 2005; Ord. 06-12 §28, 2012)



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**Sec. 4-3-80. No joint venture.**

Notwithstanding any provision of this Article, the City shall never be a joint venture in any private entity or activity which participates in the ESTIP, and the City shall never be liable or responsible for any debt or obligation of any participant in the ESTIP.

***ARTICLE 4 Telephone Tax***

**Sec. 4-4-10. Scope.**

The tax provided for in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article be construed to mean that any telephone utility company is issued a franchise by the City.

**Sec. 4-4-20. Levied; amount.**

There is levied on and against each telephone utility company operating within the City a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the City and of supplying local exchange telephone service to the inhabitants of the City. The annual amount of tax levied shall be equal to four dollars (\$4.00) per telephone account for which local exchange telephone service is provided within the corporate limits of the City on January 1 of each year.

**Sec. 4-4-30. Due date.**

The tax levied by this Article shall be due and payable in twelve (12) equal monthly installments.

**Sec. 4-4-40. Filing statement.**

- (a) On or before January 31 of each year, each telephone utility company subject to this Article shall file with the City, in such form as the Finance Director may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the City on the preceding January 1.
- (b) If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Article fails, neglects or refuses to make or file the annual statement of accounts provided in Subsection (a) hereof, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Each day after such statement becomes delinquent during which the officer, agent, manager or person so fails, neglects or refuses to make and file such statement shall be considered a separate and distinct offense.

(Prior code 21-59; Ord. 06-12 §29, 2012)

**Sec. 4-4-50. Failure to pay; penalty for late payment.**

If any telephone utility company subject to the provisions of this Article fails to pay the taxes as provided in this Article, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is declared to be a debt due and owing from such company to the City.

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**Sec. 4-4-60. Inspection of records.**

The City shall have the right at all reasonable hours and times to examine and copy the books and records of the telephone utility company which are subject to the provisions of this Article.

**Sec. 4-4-70. Tax in lieu of other taxes or fees.**

The tax imposed by this Article shall be in lieu of all other payments by fees or occupation taxes on any telephone utility subject to the provisions of this Article.

**Sec. 4-4-80. Service charge to finance emergency telephone service.**

- (a) The City imposes a charge of fifty-two cents (\$0.52) per month, or such other amount as may be set forth in the fee schedule adopted by ordinance of the City Council from time to time, per subscriber line upon all telephone exchange facilities within the City. The charge shall be uniformly imposed and collected, such charge to be utilized for the installation and operation of emergency telephone services within the County and the City.
- (b) Authority is delegated to the Board of the Jefferson County Emergency Telephone Service Authority, created by the intergovernmental agreement to which the City is a party signatory, to direct the telephone exchange facility to commence collection within the City of the charge authorized in this Section, and to further direct the telephone exchange facility to comply with the reporting and remittance procedures and requirements established in Section 29-11-103, C.R.S.

(Prior code 21-1; Ord. 12-08 §1, 2008; Ord. 06-12 §30, 2012)

***ARTICLE 5 Admissions Tax***

**Sec. 4-5-10. Definition.**

For purposes of this Article, *place or event open to the public* means any place or event the admission or access to which is open to members of the public upon payment of a charge or fee. This term includes, by way of illustration only, the following places and events when a charge or fee for admission to such places and events is placed upon members of the public:

- (1) Any performance of a motion picture, stage show, play, concert or other manifestation of the performing arts;
- (2) Any sporting or athletic contest, exhibition or event whether amateur or professional;
- (3) Any lecture, rally, speech or dissertation;
- (4) Any showing, display or exhibition of any type, such as an art exhibition;
- (5) Any restaurant, tavern, lounge, bar or club, whether the admission charge is termed a cover charge, door charge or any other such term.

**Sec. 4-5-20. Legislative intent.**

It is the legislative intent of the City Council that every person who pays to gain admission to any place or event open to the public in the City shall pay, and every person, whether owner, lessee or the operator, who charges or causes to be charged admission to any such place or event, shall collect the tax imposed by this Article.

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**Sec. 4-5-30. Imposition and rate of tax.**

There is levied and shall be paid and collected an excise of tax of fifteen percent (15%) on the price paid to gain admission to any place or event in the City which is open to the public.

**Sec. 4-5-40. Exemptions and limitation on tax rate.**

- (a) Exemptions. This Article does not apply to:
  - (1) Sales which the City is prohibited from taxing under the Constitution and laws of the United States or under the Colorado Constitution;
  - (2) Sales to or by the United States government or the State, its departments or institutions and the political subdivisions thereof, in their governmental capacities only; and all sales to or by the City or any department thereof;
  - (3) Sales to religious, charitable, lodge, civic and eleemosynary corporations or organizations in the conduct of their regular religious, charitable, civic and eleemosynary functions or activities; or
  - (4) Admissions for which no consideration of any sort is paid.
- (b) Limitation on tax rate. The tax rate under this Article shall be five percent (5%) on the price paid to gain admission to any event that is co-sponsored by the City, meaning that the City provides funding, property, or in-kind services for the event.

(Prior code 21-79; Ord. 12-08 §1, 2008; Ord. 2018-16 §9, 2018)

**Sec. 4-5-50. Payment required.**

It is unlawful for any person who pays to gain admission to any place or event in the City that is open to the public to fail to pay, or for any person, whether owner, lessee or operator, who charges or causes to be charged admission to any place or event in the City that is open to the public, to fail to collect the tax levied by this Article.

**Sec. 4-5-60. Liability and reporting procedure; rules.**

- (a) The burden of proving that any transaction is not subject to the tax imposed in this Article shall be upon the person upon whom the duty to collect the tax is imposed by this Article.
- (b) The Finance Director may require any person to make such return, render such statement or keep and furnish such records as the Finance Director may deem sufficient and reasonable to show whether or not such person is liable under this Article for the payment or collection of the tax imposed herein.
- (c) Every owner or operator who charges or causes to be charged admission to any place or event that is open to the public shall be liable for the collection and remittance of the tax levied in this Article.
- (d) Every owner, operator or person who has the duty to collect the tax imposed in this Article shall report, on forms prescribed by the Finance Director, such taxes and remit to the City the collected taxes within the following time periods:
  - (1) For regularly continuing or recurring events, such as the charging of admission to motion picture theaters, reports and remittances must be filed with the Finance Director on or before the seventh day of the month for the preceding month or months under report;

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- (2) For single, noncontinuing or nonrecurring events, such as the charge of admission to a single performance or concert, reports and remittances are due within three (3) calendar days of the performance or event, unless specific arrangements are made in advance with the Finance Director;
  - (3) If remittances and reports are not received on the due dates, a penalty shall be imposed in the amount of twenty percent (20%) of the tax liability and the total amount due, including tax and penalty, will bear interest at the rate of one percent (1%) per month or a fraction thereof until such reports and remittances are received by the Finance Director.
- (e) The Finance Director may require an advance deposit of the estimated amount of admissions tax due under this Article from any owner or operator who holds single, noncontinuing or nonrecurring events, or any owner or operator who has been delinquent in any remittances or reports required by this Article. The amount of the deposit shall be determined by the Finance Director based upon the owner's or operator's reasonable estimate of the number of taxable admissions to be sold during the month in the case of regularly continuing or recurring events, and for the event in the case of a single, noncontinuing, or nonrecurring event. In addition to any other applicable penalty, if the owner or operator fails to provide a deposit as required by this Subsection, the Finance Director may revoke, suspend, not issue or not renew any license or permit that the owner or operator is required to obtain pursuant to this Code. The Finance Director shall determine, following the end of the month or the completion of the event, as applicable, whether the deposit constituted an underpayment or overpayment of actual taxes due, and shall require an additional remittance or grant a refund, as the case may be. The owner or operator shall have the burden of establishing, by competent evidence, the actual number of taxable admissions sold.
- (f) The Finance Director is authorized to promulgate rules and regulations regarding the payment, deposit, collection, reporting and accounting criteria and periods, settlement of disputes over payment, refund and enforcement of the tax imposed by this Article.

(Prior code 21-81; Ord. 12-08 §1, 2008; Ord. 06-12 §31, 2012)

## **ARTICLE 6 Purchasing and Sale Procedures**

### **Sec. 4-6-10. Purposes.**

- (a) The purposes of this Article are:
- (1) To provide an efficient contracting procedure;
  - (2) To ensure that contracts are executed with contractors of sufficient quality and reliability to serve the City's needs;
  - (3) To avoid duplication, waste and obsolescence;
  - (4) To provide appropriate budgetary and fiscal control over expenditures; and
  - (5) To provide a procedure for the sale or other disposition of articles not needed by the City.
- (b) Such purposes, and the provisions of this Article, are declared to serve the public interest and the best interests of the City.

(Prior code 2-366; Ord. 06-12 §32, 2012)

**Commented [GU53]:** Can we add a permit system? This is impossible to track other than catching someone who is charging an entrance fee.

**Commented [CB54R53]:** Not sure a permit requirement would motivate non-compliant businesses/vendors.

If a business/vendor does not comply with this Article, Code already provides "cause" to suspend or revoke the business license.

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**Sec. 4-6-20. Definitions.**

For purposes of this Article, the following terms shall have the following meanings, unless the context clearly indicates another meaning:

*City Manager* means the City Manager of the City of Edgewater, or ~~their~~*his or her* designee.

*Construction* means the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvement of any kind, but does not include any such activities by City employees.

*Contract* means any type of agreement, including any purchase order, for the procurement of supplies, services or construction. However, the term does not include:

- a. Any employment agreement with an employee;
- b. Any intergovernmental agreement;
- c. Any contract made by another governmental entity pursuant to an intergovernmental agreement with the City; or
- d. Any contract for the purchase of supplies for a price which has been established by a formal bid process of the State, or other governmental entity or agency, and which price is extended to the City.

*Contractor* means any person having a contract with the City.

*Emergency* means an existing condition actually arising from unforeseen contingencies which immediately endangers public property, health, peace or safety.

*Employee* means any compensated person who is designated as an employee of the City pursuant to the ordinances of the City.

*Officer* means any elected official of the City.

*Services* means the furnishing of labor, time or effort by a contractor, not involving the delivery of tangible personal property other than written materials which are incidental to the required performance. For purposes of this Article, *services* shall include short-term lodging and other travel-related accommodations for City employees, officers and volunteer workers on authorized overnight travel.

*Spending agency* means each department, agency, office or other spending unit of the City.

*Supplies* means tangible personal property, including but not limited to equipment, materials and printed matter.

*Volunteer worker* means any member of a City board or commission or any member of the City's Volunteer Fire Department.

**Sec. 4-6-30. City Manager; powers and responsibilities.**

The City Manager shall have the following powers and responsibilities, which shall be exercised consistently with the requirements of this Article and the City Charter:

- (1) To oversee contracts for construction, supplies, and services for the City;
- (2) To adopt from time to time, regulations which pertain to this Article and which are not inconsistent with this Article or the City Charter; and
- (3) To join in cooperative purchasing arrangements with other units of government.

**Sec. 4-6-40. Contracts for purchase of supplies.**

- (a) The City Manager may adopt regulations for the approval of contracts for the purchase of supplies. All such contracts shall be subject to the requirements of this Section.
- (b) A contract for the purchase of supplies valued at ten thousand dollars (\$10,000.00) or less may be approved without the solicitation of competitive prices or quotes; except that, where practicable, at least two (2) prospective contractors shall first be contacted informally to obtain prices or quotes.
- (c) A contract for the purchase of supplies valued at more than ten thousand dollars (\$10,000.00), but less than fifty thousand dollars (\$50,000.00), shall not be approved unless at least three (3) prospective contractors have first been contacted and have provided prices or quotes in writing. If fewer than three (3) prospective contractors could be located, or if fewer than three (3) prospective contractors were willing to provide a price or quote in writing, the efforts made to locate such contractors and to obtain prices or quotes shall be documented.
- (d) A contract for the purchase of supplies or construction valued at fifty thousand dollars (\$50,000.00) or more shall not be approved except in compliance with Section 4-6-70.

(Prior code 2-369; Ord. 12-08 §1, 2008; Ord. 06-12 §35, 2012; Ord. 2018-16 §12, 2018)

**Commented [GU55]:** Maybe look at both 4-6-40 and 4-6-50 to see if amounts should be increased to 2024 era dollar amounts?

**Sec. 4-6-50. Contracts for construction.**

- (a) The City Manager may adopt, with the approval of the City Council, regulations for the approval of contracts for construction. All such contracts shall be subject to the requirements of this Section.
- (b) A contract for construction valued at ten thousand dollars (\$10,000.00) or less may be approved without the solicitation of competitive bids; except that, where practicable, at least two (2) prospective contractors shall first be contacted informally to obtain prices or quotes.
- (c) A contract for construction valued at more than ten thousand dollars (\$10,000.00), but less than fifty thousand dollars (\$50,000.00), shall not be approved unless at least three (3) prospective contractors have first been contacted and have provided prices or quotes in writing. If fewer than three (3) prospective contractors could be located, or if fewer than three (3) prospective contractors were willing to provide a price or quote in writing, the efforts made to locate such contractors and to obtain prices or quotes shall be documented.
- (d) A contract for construction valued at fifty thousand dollars (\$50,000.00) or more shall not be approved except in compliance with Section 4-6-70.

(Prior code 2-370; Ord. 12-08 §1, 2008; Ord. 06-12 §36, 2012; Ord. 2018-16 §13, 2018)

**Commented [GU56]:** Should the amounts be looked at to see if they should be increased?

**Sec. 4-6-60. Contracts for services.**

Except as otherwise provided by the Charter or ordinance, contracts for the procurement of services in amounts which have previously been approved within the City's budget shall be negotiated, approved and executed by the Mayor.

**Sec. 4-6-70. Competitive sealed bidding.**

- (a) This Section applies to each contract for the purchase of supplies and each contract for construction valued at fifty thousand dollars (\$50,000.00) or more.

**Commented [GU57]:** Any chance for using another cities bid process if done within a year for the same services?

**Commented [CB58R57]:** Bidders would have to agree to such sharing and disclosure. Bid process can be as you choose - however, it should recognize that some state/fed grant programs have their own bidding requirements, with which City must comply to get those dollars.

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(b) The City Manager may adopt, with the approval of the City Council, regulations for the approval of contracts which are subject to the requirements of this Section. All such contracts shall be subject to the following requirements:

- (1) A notice inviting bids shall be published at least once in a newspaper of general circulation in the City or the Rocky Mountain E-Purchasing System website at least ten (10) days preceding the last day set for the receipt of bids. The notice shall also be sent to prospective contractors on any applicable bidder's list maintained by the City.
- (2) The notice inviting bids shall include a general description of the contract to be awarded, the date where bid specifications may be secured and the time and place for opening bids.
- (3) Bids shall be submitted sealed and shall be identified as such on the envelope in the manner prescribed by the City Clerk. The bids shall remain sealed and no person shall have any access to the bids before they have been opened in public.
- (4) The bids shall be opened in public at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be presented to the City Manager, together with any recommendations of the City Clerk, the affected spending agency or both. The tabulation shall be available for public inspection upon request. [Do we want to include virtual bid openings?](#)
- (5) Subject to Subsection (7), the City Manager may accept the bid or part thereof determined by the City Manager to be the most advantageous to the City and may, subject to the provisions of Section 4-6-110 below, negotiate, approve, and provide to the Mayor for execution written agreements to provide for the purchase of supplies or construction under this Section. All bids or parts of bids may be rejected if such rejection is determined by the City Manager to be in the best interests of the City.
- (6) Subject to Subsection (7), when the City Manager determines that no satisfactory bids are received, contracts subject to the requirements of this Section may be negotiated.
- (7) No acceptance of a contract subject to the requirements of this Section and greater in amount than the amount set forth in Subsection 4-6-110(e) shall be effective until the City Council, by motion, has approved such acceptance.
- (8) No bid shall be accepted from any contractor who is in default on the payment of taxes, fees, assessments or other moneys due the City, or in default of any other obligations to the City.
- (9) The terms and conditions of all contracts subject to the provisions of this Section shall be in writing.

(Prior code 2-372; Ord. 12-08 §1, 2008; Ord. 06-12 §38, 2012; Ord. 2018-16 §14, 2018)

#### **Sec. 4-6-80. Emergencies.**

- (a) The City Manager may adopt, with the approval of the City Council, regulations for the approval of a contract in an emergency which necessitates such approval, which regulations shall provide for a waiver of the competitive bidding requirements set forth in this Article and in the City Charter.
- (b) Following the approval of a contract pursuant to this Section, a written report describing the circumstances of the emergency and the contract necessitated thereby shall be furnished to the City Clerk, the City Manager and the City Council.

(Prior code 2-373; Ord. 12-08 §1, 2008; Ord. 06-12 §39, 2012)

Commented [GU59]: Most are electronic now....

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**Sec. 4-6-90. General.**

- (a) Each department head shall identify to the City Clerk available opportunities for joint purchasing arrangements with other governmental entities for the purchase of supplies and constructions. Such arrangements shall be utilized whenever determined by the City Clerk to be practical and cost-effective.
- (b) No contract shall be approved unless there exists in the budget a sufficient unencumbered appropriated sum, in excess of all unpaid obligations, to defray the amount of the contract.
- (c) No contract made contrary to this Article, or made contrary to regulations established pursuant to this Article, shall be approved, and the City shall not be bound thereby.
- (d) Nothing in this Article shall create or confer any right or entitlement upon any person to bid on or to receive any award of any contract.
- (e) Except as otherwise provided in this Article or other applicable law, all records made, maintained or kept under the provisions of this Article shall be public records to the full extent required or permitted by law.
- (f) When any contract for supplies, services or construction is available from a prospective contractor located in the City which meets the standards and criteria established by the City Clerk as to quality, responsibility and reliability, and the price therefor is comparable to the price charged by prospective contractors located outside the City, the contract shall be awarded to the contractor located in the City.
- (g) In determining quality, responsibility and reliability of a prospective contractor, the following criteria shall be considered, to the extent relevant, in addition to any other criteria established by the City Clerk:
  - (1) The ability, capacity and skill of the prospective contractor;
  - (2) The ability of the prospective contractor to meet the time requirements of the City;
  - (3) The reliability, character, integrity, reputation, judgment, experience and efficiency of the prospective contractor;
  - (4) The quality of the prospective contractor's performance in previous contracts;
  - (5) The ability and record of the prospective contractor with regard to compliance with applicable laws and ordinances;
  - (6) The sufficiency of the financial resources of the prospective contractor;
  - (7) The quality of the supplies, services or work furnished by the prospective contractor, their availability, and their adaptability to the needs of the City;
  - (8) Warranties or repair, maintenance, replacement arrangements available from the prospective contractor; and
  - (9) The number and scope of conditions attached to the prospective contractor's bid or proposal.

(Prior code 2-375; Ord. 12-08 §1, 2008; Ord. 06-12 §40, 2012)

**Sec. 4-6-100. Petty expenditures revolving funds.**

- (a) There is appropriated out of any money in the General Fund that is not otherwise appropriated the sum of two hundred dollars (\$200.00). Such sum shall be known as the General Petty Expenditures Revolving Fund and shall be administered by the Finance Director. From this fund shall be paid all contracts for incidental supplies not exceeding sixty dollars (\$60.00) each, except contracts for the Police Department.

**Commented [GU60]:** City Clerk or City Clerk and Department Head?

**Commented [GU61]:** Should this section be looked at? Curious if it's needed still or not? If yes, should the amounts be revised to more current budget numbers?



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- (b) There is appropriated out of any money in the City Treasury that is not otherwise appropriated the sum of one hundred dollars (\$100.00). Such sum shall be known as the Police Department Petty Expenditures Revolving Fund and shall be administered by the Finance Director. From this fund shall be paid all contracts for incidental supplies for the Police Department not exceeding sixty dollars (\$60.00) each.
  - (c) At such intervals as deemed appropriate by the City Manager, the Finance Director shall prepare a statement showing the actual expenditures for each spending agency made out of each petty expenditures revolving fund, and each revolving fund shall be reimbursed accordingly for such expenditures.

(Prior code 2-377; Ord. 12-08 §1, 2008; Ord. 06-12 §41, 2012)

#### **Sec. 4-6-110. Review and approval of City contracts.**

- (a) Notwithstanding any other provision of this Code, every City contract whether for services, supplies or otherwise, shall be reviewed and approved by the City Attorney before the contract may be executed by the City.
- (b) No City official or employee shall submit any proposed contract, whether for services, supplies or otherwise, to any other party for execution until the contract has been reviewed and approved by the City Attorney.
- (c) Except in the case of an emergency as determined by the City, no contractor shall commence performance under any contract with the City, whether for services, supplies or otherwise, until the contract has been fully and properly executed by both parties.
- (d) No changes shall be made to any contract with the City, whether for services, supplies or otherwise, after the City Attorney's review and approval, unless the City Attorney also reviews and approves such changes.
- (e) Notwithstanding any other provision of this Code, every written City contract for services, supplies or construction in an amount equal to or less than fifty thousand dollars (~~\$50~~100,000.00) and in an amount that has been previously approved in the City's budget or otherwise appropriated may be approved by the City Manager and executed by the Mayor, or the Mayor Pro Tem in the Mayor's absence, and attested to by the City Clerk under the seal of the City.

(Prior code 2-378; Ord. 05-06 §1, 2006; Ord. 06-12 §42, 2012)

#### **Sec. 4-6-120. Acquisition or conveyance of interest in real property.**

- (a) For purposes of this Section, the acquisition and conveyance of any interest in real property includes:
  - (1) The purchase or sale of real property or any interest therein.
  - (2) The lease or rental of real property, whether as tenant or landlord, and any amendments to any lease or rental agreement.
  - (3) The acceptance of any donated real property or the donation of real property.
- (b) The conveyance of any interest in real property does not include the issuance of a permit to occupy or conduct activity within the public right-of-way pursuant to Article 10 of Chapter 6 (special events) or Chapter 11 (Streets, Sidewalks and Public Property).
- (~~b~~c) Every acquisition or conveyance by the City of any interest in real property shall first be approved by ordinance.
- (~~d~~e) Prior to enacting any such ordinance, the City Council shall:

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- (1) If the proposal is for the purchase or sale of real property, review the City's current property holdings, including leases and rentals.
  - (2) Determine whether the proposed acquisition or conveyance is compatible with the City's Master Plan and vision.
  - (3) If the proposal is for the acquisition of real property, consider the following:
    - a. Whether the purchase price is reasonable.
    - b. The estimated cost to the City to conduct due diligence regarding the condition of the property.
    - c. The estimated cost to the City of any mitigation, remediation, remodeling or structural engineering that may be required prior to occupancy.
    - d. The mechanisms available to finance the acquisition.

(de) Prior to adoption of any ordinance approving the acquisition or conveyance of real property, the City Council shall find that the applicable requirements of Subsections (c)(1) through (c)(3) have been satisfied.

(fe) Prior to the adoption of any ordinance purchasing or selling real property, the City shall have obtained at least one (1) appraisal of the property from a state licensed appraiser, the selection of whom shall be done publicly and by resolution of the City Council.

(Prior code 2-379; Ord. 16-07 §1, 2007; Ord. 06-12 §43, 2012; Ord. No. 2016-07, §1, 4-7-2016 )

## **ARTICLE 7 Disposition of Unclaimed Property**

### **Sec. 4-7-10. Purpose.**

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession or under the control of the City. The following shall be exempt from application of this Article:

- (1) Abandoned motor vehicles as defined in Section 8-3-10;
- (2) Property the possession of which is illegal under City, state or federal law;
- (3) Property the seizure of which is governed by state or federal law;
- (4) Property the disposition of which is provided for by an order of a court having jurisdiction concerning the same; or
- (5) Property the City Manager reasonably determines is of no value.

### **Sec. 4-7-20. Definitions.**

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

*Owner* means a depositor in the case of a cash deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant or payee in the case of other intangible property or a person having a legal or equitable interest in unclaimed property held by the City or such person's legal representative.

*Person* means an individual, business, association, state or other government, governmental subdivision or agency other than the City, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest or any other legal or commercial entity.

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*Unclaimed property* means and includes any tangible or intangible property, including money, securities and any income or increment derived from any money or securities, less any lawful charges, which has been:

- a. Held for its owner by or under the control of the City and which has not been claimed by its owner for a period of more than one (1) year after it became payable, demandable or returnable.
- b. Lost or abandoned and which has been left in the custody of the City by a person other than its owner. Such property shall be deemed to be unclaimed property immediately upon its transfer to the custody of the City.
- c. Held as evidence by or under the control of the City for criminal justice purposes, and for which more than ninety (90) days have elapsed after the date of final disposition of pending charges or after the last day for filing an appeal.

**Sec. 4-7-30. Procedure for disposition of property.**

- (a) Prior to the disposition of any unclaimed property having an estimated value of five hundred dollars (\$500.00) or more, the City Clerk shall send written notice by certified mail, return receipt requested, to the last known address of the owner of such property. The last known address of the owner shall be the last address of the owner as shown by the records of the City department or agency holding the property. The notice shall include a description of the property, plus the following information if known: the date on which the property became payable, demandable or returnable; the date of the last transaction with the owner with respect to the property; and the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may inquire about or claim the property. The notice shall also state that, if the owner fails to provide the City Clerk with a written claim for the return of the property within thirty (30) days of the date of the notice, the property shall be deposited into the unclaimed property account of the City or held for disposition pursuant to Section 4-7-40.
- (b) Prior to disposition of any unclaimed property having an estimated value of five hundred dollars (\$500.00) or more and having no last known address of the owner, the City Clerk shall cause notice to be published on the City's website for a period of not less than ten (10) days. The notice shall include a description of the property, plus the following information if known: its owner; the date on which the property became payable, demandable or returnable; the date of the last transaction with the owner with respect to the property; and the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may inquire about or claim the property. The notice shall also state that, if the owner fails to provide the City Clerk with a written claim for the return of the property within thirty (30) days of the date of the publication of the notice, the property shall be deposited into the unclaimed property account of the City or held for disposition pursuant to Section 4-7-40.
- (c) The City Clerk is not required to mail or publish notice pursuant to this Section regarding any unclaimed property valued at less than five hundred dollars (\$500.00), unless the City Clerk considers such mailing or publication to be in the public interest. If not claimed by its owner within thirty (30) days of the date on which it is deemed to be unclaimed property, such property shall be deposited into the unclaimed property account of the City or held for disposition pursuant to Section 4-7-40.
- (d) If a claim is received within the thirty-day claim period, the City Clerk shall evaluate the claim and give written notice to the claimant within sixty (60) days after receipt that the claim has been accepted or denied in whole or in part. Each such claim shall be accompanied by proof sufficient to establish the claimant as the owner of the property. The City Clerk may investigate the validity of a claim and request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.
- (e) If there is more than one (1) claimant for the same property, the City Clerk may, in the City Clerk's sole discretion, resolve such claims or may direct the City Attorney to deposit the disputed property with the registry of the District Court in an interpleader action.

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- (f) If a claim is upheld with respect to any unclaimed property, the claimant shall, as a prerequisite to recovering possession, reimburse the City for all reasonable expenses incurred in storing or handling such property.
  - (g) If a claim is denied with respect to any unclaimed property, such property shall be deposited into the unclaimed property account of the City or held for public sale or disposition pursuant to Section 4-7-40.
  - (h) Any legal action filed challenging a decision of the City Clerk shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the City Clerk pursuant to the order of the court having jurisdiction over such claim.
  - (i) The Chief of Police is authorized to establish and administer procedures consistent with this Article for the safekeeping, administration and disposition of unclaimed property in the custody or control of the Police Department. The City Manager is authorized to establish and administer procedures consistent with this Article for the safekeeping, administration and disposition of unclaimed property in the custody or control of all other City departments, offices and agencies, including compliance requirements for other City officers and employees in the identification and disposition of such property.
  - (j) The failure of any owner of unclaimed property to submit a timely claim under this Section shall neither preclude the subsequent filing of a claim nor extinguish any legal or equitable interest of such owner in such property or, if sold or otherwise disposed of pursuant to Section 4-7-40, the proceeds of such sale or an amount equal to the estimated value of such property as determined by the City Clerk at the time of final disposition.
  - (k) The City Clerk may immediately dispose of property that reasonably appears to pose a sanitary, health or safety hazard if stored, but the City Clerk shall keep a log of all property so disposed.

(Prior code 18-63; Ord. 12-08 §1, 2008; Ord. 06-12 §46, 2012)

**Sec. 4-7-40. Final disposition.**

- (a) Following the expiration of the thirty-day claim period and the resolution of all outstanding claims pursuant to Section 4-7-30, the City may, at the discretion of the City Clerk:
  - (1) Use any unclaimed property in City operations if, in the opinion of the City Clerk, its use will serve a public purpose;
  - (2) Destroy any unclaimed property which the City is otherwise unable to dispose of or use if, in the opinion of the City Clerk, such property is of negligible value; or
  - (3) Transfer possession to the finder of any unclaimed property which has been lost or abandoned and which has been left in the custody or control of the Police Department upon written request of the individual or individuals who found such property.
- (b) Weapons shall be disposed of as follows:
  - (1) Weapons forfeited pursuant to Section 10-12-30 shall be destroyed.
  - (2) Weapons which remain unclaimed following the expiration of the thirty-day claim period shall become the property of the Police Department, if usable by the Police Department for training, repairs or similar uses. If unusable by the Police Department, such weapons shall be destroyed.
- (c) Any proceeds from the sale of unclaimed property pursuant to this Section shall be deposited in the unclaimed property account of the City.
- (d) Any purchaser or donee of unclaimed property under this Section shall take such property without warranty against any claim of the owner or previous holder thereof and of all persons claiming through or under them.

**Commented [CB62]:** Forfeiture of weapons in association with Muni. Ct. convictions/pleas for weapon offenses.

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The City Clerk shall execute all documents necessary to complete the transfer of ownership. (Prior code 18-64; Ord. 12-08 §1, 2008; Ord. 06-12 §47, 2012)

## CHAPTER 6 Business Licenses and Regulations

### ARTICLE 1 Business Licenses

#### Sec. 6-1-10. Purpose.

The City Council, having considered the businesses and occupations within the City and their relation to the public health, safety and welfare and to the expenditures required by the City, and having further considered the necessity for proper regulation of the same, finds, determines and declares that the regulations and business license fees imposed upon each business and occupation defined in this Chapter are reasonable, proper and nondiscriminatory and are necessary for a just and proper regulation of such businesses and occupations.

#### Sec. 6-1-20. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

*Application fee* means and includes any fee required by ordinance to be paid at the time of application for any license or permit, as a charge for the processing and consideration of the application. An application fee is not refundable in the absence of express provision for refund.

*Cause* means and includes the doing or omitting of any act, or permitting any condition to exist, in connection with any trade, profession, business, occupation or privilege for which a business license is granted or upon any premises used in connection therewith, which act, omission or condition is:

- (1) Fraudulent in nature;
- (2) Unauthorized or beyond the scope of the license granted;
- (3) In violation of this Code, the Charter or any other City regulation; or
- (4) In violation of any applicable law, rule or regulation.

*Fee* means and includes any application fee, license fee, permit fee, renewal fee, reinstatement fee and any licensing cost, charge or expense provided by ordinance to be paid to the City of Edgewater, including a penalty provided in connection with the payment, time of payment, or non-payment thereof, but does not include a fine or tax.

*Hearing* means a hearing called and held upon notice, as provided by ordinance or by statute.

*License or permit fee* means and includes any fee required by ordinance to be paid for the permission, privilege or right granted by any license or permit.

*Location* means a particular parcel of land that may be identified by an address or by other descriptive means.

*Notice* means and includes any notice required by ordinance or by statute to be given; "actual notice" means notice in fact delivered, communicated or received.

*Permit* means a document granting official permission to act with or in respect to any specified thing or activity issued by the City of Edgewater pursuant to provisions of an ordinance or statute requiring a permit therefor.

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*Premises* means a distinct and definite location which may include a building, a part of a building, a room or any other definite contiguous area.

*Revoke* means to terminate permanently.

*Suspend* means to cause to stop temporarily.

### **Sec. 6-1-30. License required; exceptions.**

- (a) No person shall establish, engage or be engaged in the operation, conduct or carrying on of any trade, profession, business, privilege, occupation or calling of any kind within the City without first obtaining a general business license as required by this Article.
- (b) If a person owns or operates more than one (1) business or has more than one (1) business location, a separate license for each business or location shall be obtained. A business that consists of related trades or activities need not obtain a separate license for each trade or activity.
- (c) The following are exempt from the requirements of this Article:
  - (1) Activities performed by the City or under the sponsorship of the City.
  - (2) An individual having an occasional or isolated sale of tangible personal property from ~~their~~his or her private residence.
  - (3) Any sexually oriented business, pawnbroker, refuse hauler, contractor, peddler, home occupation, purchaser of valuable articles or body art establishment that is subject to another Article of this Chapter.
  - (4) A person conducting a garage sale as set forth in Article 11 of this Chapter.
  - (5) A person who has registered a residential rental dwelling under the provisions of Article 13.
  - (6) A marketplace facilitator, marketplace seller or multi-channel seller, each as defined in Section 4-2-20, is not required to obtain a business license pursuant to this article if the marketplace facilitator, marketplace seller or multi-channel seller: (1) does not have a physical place of business within the City; and (2) holds a valid license for the use of the statewide sales and use tax system established pursuant to C.R.S. § 39-26-802.7, as amended, and makes use of that system for payment of taxes due to the City, or (3) in the case of a marketplace seller or multichannel seller, if any tax that would otherwise be due from the marketplace seller or multichannel seller has been collected by a marketplace facilitator and remitted to the City through the statewide sales and use tax system.
  - (7) [In accordance with CRS § 39-26-802.9, a retailer that has a state standard retail license, makes retail sales within the City, and either does not have physical presence in the City or has an incidental physical presence in the City, according to the records of the state department of revenue.](#)

(Prior code 11-3; Ord. 13-05 §1, 2005; Ord. 12-08 §1, 2008; Ord. 09-12 §3, 2012; Ord. 15-13 §1, 2013; Ord. 2015-08, §1, 7-16-2015 ; Ord. No. 2021-09 §3, 2021)

### **Sec. 6-1-40. Business licensed by other government agency.**

The fact that a license has been granted to any person by the State or any other governmental agency to engage in the operation, conduct or carrying on of any trade, profession, business, privilege, occupation or calling of any kind shall not exempt such person, except as otherwise required by state or federal law [or as otherwise provided in this Article](#), from the necessity of securing any license required by this Article.

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**Sec. 6-1-50. Application.**

- (a) Application for a general business license shall be made to the City Clerk, upon forms provided by the City Clerk. It is unlawful for any person to make any false statement or representation on any license application. The City Clerk shall not act on any license application which is incomplete.
- (b) No license shall be issued until all required license fees have been fully paid.
- (c) Each application shall include:
  - (1) The name of the person, corporation, limited liability company, partnership, association or other entity desiring such license;
  - (2) The mailing address of such applicant;
  - (3) The date of birth of such applicant or, in the event the applicant is an entity, the date of birth of the onsite manager;
  - (4) The last four (4) digits of the social security number of such applicant or, in the event the applicant is an entity, the last four (4) digits of the social security number of the onsite manager;
  - (5) A statement of the type of business, trade or profession to be performed, practiced or carried on;
  - (6) The address of the premises location and, if the applicant is not the owner of the premises, the term, including the beginning and ending dates, of the licensee's possessory interest in the premises for which the license is to be issued;
  - (7) The telephone contact numbers, email address and website address of the applicant;
  - (8) The name of the onsite manager of the business, ~~their~~~~his~~~~or~~~~her~~ home address, business cell phone number, email address, driver's license number, and jurisdiction that issued the driver's license;
  - (9) The days and hours of operation of the business, [including a separate listing, if applicable, of proposed hours of operation of all outdoor areas \(including covered patios, balconies and partially-enclosed areas\) and proposed hours of use of any sound amplification equipment in such area\(s\)](#); and
  - (10) Additional information reasonably required by the City Clerk.
- (d) If the applicant is not the owner of the property in which the business is located, the application shall be accompanied by a copy of a fully executed lease or other legal instrument demonstrating the licensee's right to possess such premises.
- (e) If the applicant is a sole proprietor, ~~he or she~~~~they~~ must submit a notarized lawful presence affidavit.
- (f) The City Clerk shall not grant any license without written verification from applicable City departments that the applicant is in compliance with the applicable requirements of this Code.
- (g) Each application shall be verified and acknowledged under oath to be true and correct as follows:
  - (1) If the applicant is an individual or sole proprietorship, by the individual or proprietor;
  - (2) If the applicant is a partnership, by at least one (1) general partner;
  - (3) If the applicant is a corporation, by its president;
  - (4) If the applicant is a limited liability company, by at least one (1) of its managers; or
  - (5) If the applicant is any other organization or association, by the principal or chief administrative official; and
  - (6) Additional information reasonably required by the City Clerk.

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- (h) The City Clerk may also require the applicant to submit with the application proof of general liability or other insurance naming the City, its officers and employees as additional insureds when the activity that requires a general business license takes place in whole or in part on public property. The City Clerk's determination shall be based upon: the type of business; the recommendation of other City departments; and the risks to the general public of bodily injury and property damage.

(Prior code 11-5; Ord. 13-05 §1, 2005; Ord. 03-08 §1, 2008; Ord. 09-12 §4, 2012; Ord. 2018-17 §2, 2018)

#### **Sec. 6-1-60. General business license fees.**

The annual general business license fees are established in the fee schedule adopted by the City Council from time to time. Any provision of such schedule notwithstanding, there shall be no annual general business license fee for any entity organized and established as a not-for-profit entity under the laws of the state of incorporation of the entity.

#### **Sec. 6-1-70. Renewal.**

- (a) An application for renewal of a general business license shall be considered in the same manner as an original application.
- (b) Unless otherwise provided in this Chapter, all renewal applications and fees shall be due at least thirty (30) days prior to expiration of the existing license. Any applicant who fails to submit the renewal application and fee within the required time shall be subject to the following additional fees: an additional twenty-five percent (25%) of the license fee for the first fifteen (15) days, and thereafter, an additional fifty percent (50%) of such fee.
- (c) The City Clerk may refuse to renew a license [for cause. The Clerk may also refuse to renew a license](#) if any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, would have warranted the City Clerk in refusing originally to issue such license.
- (d) The City Clerk may, upon ~~their~~~~his or her~~ motion or upon complaint, hold a hearing concerning any application for license renewal.

(Prior code 11-7; Ord. 13-05 §1, 2005; Ord. 09-12 §6, 2012)

#### **Sec. 6-1-80. Transferability.**

No general business license shall be transferable and no license is valid as to any person other than the person named thereon.

#### **Sec. 6-1-90. Changes.**

The licensee shall, within seven (7) days, notify the City Clerk, in writing, of any change in the information provided in the license application. The City Clerk may investigate the change for compliance with this Code, including but not limited to whether such change requires the licensee to provide additional off-street parking spaces pursuant to Section 16-3-160. The City Clerk shall refer such information to the City Planner for ~~their~~~~his or her~~ evaluation and determination concerning compliance with said Section 16-3-160. In the event additional off-street parking spaces are required in association with a change in the business license, the City Clerk shall neither approve nor issue an amended license until the licensee presents proof of compliance with said Section 16-3-160.



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**Sec. 6-1-100. Posting.**

Each license shall be posted on the licensed premises in a conspicuous location open to public view.

**Sec. 6-1-110. Authority to deny license application.**

- (a) The City Clerk may deny any license application for cause.
- (b) If the City Clerk denies a license, the City Clerk shall notify the applicant in writing, stating the specific grounds for denial.
- (c) If an applicant has paid the license fee but no license is issued, the City Clerk shall refund the license fee, less an administrative fee of twenty-five dollars (\$25.00).

(Prior code 11-11; Ord. 13-05 §1, 2005)

**Sec. 6-1-120. Suspension or revocation.**

- (a) The City Clerk may suspend or revoke any license for cause, after written notice to the licensee and the opportunity for a hearing before the City Clerk. The licensee shall file a written request for hearing with the City Clerk within ten (10) days after the date of the written notice.
- (b) If a timely request is not filed, the suspension or revocation shall become effective on the eleventh (11) day after the date of said written notice.
- (c) If a timely request is filed, the City Clerk shall schedule and hold a hearing and issue a written decision within thirty (30) days after the hearing; except that the decision date may be extended by written order of the City Clerk. In the City Clerk's discretion, the City Clerk may retain an independent hearing officer to hear and decide the matter.
- (d) No fees paid by a licensee whose license has been suspended or revoked shall be refunded. No licensee whose license has been revoked shall be eligible to apply for a new license for the same business for a period of one (1) year after such revocation.

(Prior code 11-12; Ord. 13-05 §1, 2005)

**Sec. 6-1-130. Appeal.**

- (a) Any party aggrieved by the decision of the City Clerk under this Article may appeal the decision to the City Council, by filing a written appeal with the City Clerk within ten (10) days after the date of the decision. The City Council shall not have jurisdiction to consider any appeal that was not filed in a timely manner.
- (b) The appeal shall be decided by the City Council not later than thirty (30) days from the filing of the appeal; except that the City Council may, by motion, extend the decision date.
- (c) The appellant shall be notified of the City Council's decision in writing within fifteen (15) days after the date of the decision.
- (d) The appeal shall be limited to a review by the City Council of the evidence presented at the hearing before the City Clerk or hearing officer and a determination as to whether, on the basis of said evidence, the decision should be affirmed, reversed or modified.

(Prior code 11-13; Ord. 13-05 §1, 2005)

**Commented [GU63]:** Should we take this \$25 fee out of the code and put it in the fee schedule / and revise this section to say it's per the fee schedule approved by council, whatever that specific verbiage is? Or at least look at the fee schedule to make sure the clerk research fee and this fee match?

**Commented [CB64]:** Consider replacing Council with the Municipal Judge or a Hearing Officer - someone with experience in conducting an appellate record-based review of a lower hearing (as req'd by subsection (d)).

**Sec. 6-1-140. Remedies not exclusive.**

In addition to the remedies provided in this Article, nothing shall be deemed to prohibit the City from imposing other penalties authorized by this Code for any violation thereof, or seeking any other relief as is available to the City, including but not limited to filing a summons and complaint in the Municipal Court.

**Sec. 6-1-150. Register.**

The City Clerk shall keep a register of all licenses issued under this Article, including the name and address of the licensee, the nature of the license, the number of the license, the amount paid therefor, the license expiration date and any reports of violations.

**Sec. 6-1-160. License term.**

All general business licenses shall be annual, shall begin on the date of issuance and shall terminate one (1) year following the date of issuance.

**Sec. 6-1-170. Application of state law.**

~~(a) The Colorado Escort Service Code, Section 12-25.5-101, et seq., C.R.S., shall apply to escort services in the City, and violations of such Code shall be violations of this Article.~~

Commented [CB65]: No longer exists

~~(b) The Colorado Massage Parlor Code, Section 12-48.5-101, et seq., C.R.S., shall apply to massage parlors in the City, and violations of such Code shall be violations of this Article.~~

Commented [CB66]: same

(c) The state statutes governing secondhand dealers, Sections 18-13-114 through 18-13-118, C.R.S., shall apply to secondhand dealers in the City, and violations of such statutes shall be violations of this Article.

(Prior code 11-17; Ord. 13-05 §1, 2005)

**Sec. 6-1-180. Additional regulations.**

The City Clerk may make such additional rules and regulations not in conflict with this Article as necessary for the administration and enforcement of this Article, including required forms and requirements for additional reports.

**Sec. 6-1-190. Sales and use tax license required.**

Commented [CB67]: Now that state collects for City - is a local tax license wanted or needed?

(a) General.

- (1) A sales and use tax license shall be required for any person to engage in the business of selling at retail in the City tangible personal property or services that are taxable hereunder which are purchased in the City and are subject to sales and use tax pursuant to this Article. A sales and use tax license may be required for tangible personal property that is stored, used or consumed in the City and is subject to use tax pursuant to this Article. Such sales and use tax licenses shall be granted and issued by the Finance Director and shall be in force and effect until the earlier of: (a) revocation of such license; or (b) sale or termination of the business, if any, relating to such license. Such licenses shall be granted only upon application stating the name and address of the person desiring such license, the name of such business, if any, and the location, including the street number of such business, if any, and such other facts as the Finance Director may require. No license issued pursuant to this Section shall be transferable.

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- (2) For each sales and use tax license issued, no fee shall be required for those businesses holding a current City business license; a fee in the amount set forth in the fee schedule adopted by the City Council from time to time shall be required for those businesses not holding a current City business license.
- (b) In case business is transacted at two (2) or more separate places by one (1) person, a separate license for each place of business shall be required.
- (c) Each license shall be numbered and shall show the name of the licensee and the place of business of the licensee and shall be posted in a conspicuous place at the place of business for which it is issued. If the licensee does not have a place of business, then the license shall show the mailing address of such licensee.
- (d) The Finance Director, after reasonable notice and a full hearing, may revoke the license of any person found by ~~them~~ him or her to have violated any provision of this Article.
- (e) Any finding and order of the Finance Director revoking the license of any person shall be subject to review by the District Court upon application of the aggrieved party. The procedure for review shall be, as nearly as possible, the same as provided for the review of findings as provided by proceedings in the nature of certiorari.
- (f) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article.
- (g) No license shall be required for a marketplace facilitator, marketplace seller or multi-channel seller, each as defined in Section 4-2-20, if the marketplace facilitator, marketplace seller or multi-channel seller: (1) does not have a physical place of business within the City; and (2) holds a valid license for the use of the statewide sales and use tax system established pursuant to C.R.S. § 39-26-802.7, as amended, and makes use of that system for payment of taxes due to the City, or (3) in the case of a marketplace seller or multichannel seller, if any tax that would otherwise be due from the marketplace seller or multichannel seller has been collected by a marketplace facilitator and remitted to the City through the statewide sales and use tax system.
- (Prior code 21-29; Ord. 13-05 §1, 2005; Ord. 09-12 §9, 2012; Ord. 2018-17 §3, 2018; Ord. No. 2021-09 §4, 2021)

## ***ARTICLE 2 Alcoholic Beverages***

### **Sec. 6-2-10. License required.**

It is unlawful for any person to sell or offer for sale any malt, vinous, spirituous liquor or fermented malt beverages in the City until having first obtained a license therefor under this Article, the rules and regulations of the City, and applicable state law and regulations, in addition to any other license required by the State or the City.

### **Sec. 6-2-20. State procedures apply.**

- (a) The Colorado Liquor Code and Regulations and the Colorado Beer Code and Regulations regarding procedures for applications, hearings and decisions for malt, vinous or spirituous liquor or fermented malt beverages shall apply to City licenses.
- (b) To obtain a license under this Article, an applicant must have first met, and provide proof of such to the satisfaction of the Local Licensing Authority, all conditions prescribed by the Colorado Liquor Code and the Colorado Beer Code, except that fees for a City license are those prescribed in this Article.

(Prior code 11-801; Ord. 13-05 §1, 2005)

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**Sec. 6-2-30. Local Licensing Authority.**

The City Council shall serve as the Local Licensing Authority.

**Sec. 6-2-40. Fees.**

The annual license fees set forth in Section 12-47-505, C.R.S., shall apply to this Article. In addition, fees for the following liquor license applications, registrations and investigations shall be paid to the City in amounts as shall be set forth from time to time in the fee schedule adopted by the City Council:

- (1) Applications for new licenses.
- (2) Applications for transfers of location or ownership of existing licenses.
- (3) Applications for temporary and permanent modification of premises.
- (4) Applications for renewals of existing licenses.
- (5) Late renewal applications.
- (6) Applications for temporary permits.
- (7) Applications for special event permits.
- (8) Manager registrations for hotel and restaurant licensees.
- (9) Background investigations for corporate and limited liability company applicants.
- (10) Corporate entity change (per person).
- (11) Duplicate license.
- (12) Expansion to add optional premises.
- (13) Retail warehouse storage permit.

**Sec. 6-2-50. Optional premises.**

- (a) An optional premises license and optional premises for a hotel and restaurant license may be issued by the Authority.
- (b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for optional premises for a hotel and restaurant license.
  - (1) Eligible facilities. Outdoor sports and recreational facilities as defined in Section 12-47-103(13.5), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.
  - (2) Number of optional premises. There are no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility.
  - (3) Minimum size of facility. There is no restriction on the minimum size of an outdoor sports or recreational facility which would be eligible for issuance of an optional premises license or optional premises for a hotel and restaurant license.
- (c) The application for an optional premises license or optional premises for a hotel or restaurant license shall be accompanied by the following:

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- (1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested;
  - (2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use; and
  - (3) A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises.

(Ord. 12-08 §1, 2008)

**Sec. 6-2-60. Alcohol beverage tasting authorized.**

- (a) Pursuant to Section 12-47-301(10), C.R.S., and this Section, the City authorizes alcohol beverage tastings for licensed retail liquor stores and liquor-licensed drug stores within the City.
- (b) For purposes of this Section, the following term shall have the following meaning:

*Liquor tastings* means the sampling of malt, vinous and spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor-licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of both this Section and applicable provisions of Article 47 of Title 12, C.R.S., and 1 C.C.R. 203-2 of the Colorado Code of Regulations.
- (c) License and permit required.
  - (1) No person shall manufacture, sell or possess for sale any alcoholic beverage or conduct liquor tastings within the City unless such person holds a valid and effective license and, if applicable, a liquor tastings permit issued in accordance with both this Article and applicable provisions of Articles 46, 47 and 48 of Title 12, C.R.S., and all applicable fees and taxes have been paid in full, and subject to approval by the Local Licensing Authority.
  - (2) A retail liquor store or a liquor-licensed drugstore licensee who wishes to conduct tastings shall submit an application for a permit to the Local Licensing Authority on forms supplied by the City Clerk. Such application shall be accompanied by a nonrefundable fee as set forth in the fee schedule adopted by the City Council from time to time. In addition to any other information reasonably required by the City Clerk, the applicant shall submit a written control plan to establish how the tastings will be conducted in accordance with the provisions of state law and this Section, and shall list the individuals who will be serving, along with the date on which each such individual attended the "Tastings Responsible Serving Class."
  - (3) A liquor tastings permit shall be valid for the period of the then-existing liquor license. The permit may be renewed at the time of any liquor license renewal or at any time within twelve (12) months of the permit's expiration. If a liquor tastings permit has been expired for more than twelve (12) months, then an applicant must submit a new application and pay the initial application fee.
- (d) Liquor tastings are subject to the following limitations:
  - (1) Liquor tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue and is a retail liquor store or liquor-licensed drugstore licensee, or a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant promoting the alcohol beverages for the tasting, or an employee of such a licensee, and only on a licensee's licensed premises.

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- (2) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to Article 47 of Title 12, C.R.S., at a cost that is not less than the laid-in cost of such alcohol.
  - (3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (½) of one (1) ounce of spirituous liquor.
  - (4) The licensee may conduct tastings on no more than one hundred fifty-six (156) days per year. Liquor tastings shall be conducted only during operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol, and in no case earlier than 11 a.m. or later than 9 p.m.
  - (5) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
  - (6) The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples, or store any open containers of unconsumed alcohol beverages in a secure area outside of the sales area of the licensed premises for use at a tasting conducted at a later time or date, immediately following the completion of the liquor tasting.
  - (7) The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated.
  - (8) The licensee shall not serve more than four (4) individual samples to a patron during a liquor tasting.
  - (9) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
  - (10) Retail liquor establishment licensees conducting liquor tastings are subject to the same revocation, suspension and enforcement provisions as apply to any liquor license holder.
  - (11) A violation of a limitation specified by a retail liquor establishment, whether by ~~their~~<sup>his or her</sup> employees, agents or otherwise, shall be the responsibility of the retail liquor establishment licensee who is conducting the tasting.
  - (12) A liquor tasting shall only be conducted if the licensee has notified the City Clerk, in writing, not less than seven (7) days prior to conducting the tasting.

**(Ord. 12-08 §1, 2008; Ord. 09-12 §11, 2012; Ord. 2018-17 §4, 2018) assure**

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#### **Sec. 6-2-70. Educational requirements.**

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Authority with an application of renewal of a liquor license.

#### **Sec. 6-2-80. Distance limitations.**

Any provision of Colorado statutes notwithstanding, there shall be no distance limitation between a public or private school, or the principal campus of any college, university or seminary and the premises of any of the following types of licensed businesses: retail liquor store license; beer and wine license; hotel and restaurant license, tavern license, brew pub license; vintner's restaurant license, distillery pub license; limited winery license; and a manufacturer's license.

### ***ARTICLE 3 Body Art***

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**Sec. 6-3-10. Declaration and purpose.**

- (a) The protection of the public health, safety and welfare from the dangers of blood-borne pathogens present in the practices and procedures of body art calls for the continual review, implementation and utilization of the scientific developments in safety precautions.
- (b) The purposes of this Article are to:
  - (1) Regulate all body art practices, including but not limited to tattooing and body piercing, that present legitimate health concerns under the same regulations;
  - (2) Allow adults to have control over the decision of whether to have various body art techniques performed upon their own bodies, and the bodies of their minor children, and to ensure assure that body artists are utilizing safe practices and techniques in safe and sanitary environments, so as to minimize any risk of the transmission of blood-borne pathogens; and
  - (3) Delegate to the City Clerk the authority to act quickly to prevent and abate imminent hazards to the public health, welfare or safety, including but not limited to the authority to issue appropriate orders to the body artists and body art establishments, and to summarily suspend operations when reasonably necessary.

(Prior code 11-500; Ord. 13-05 §1, 2005)

**Sec. 6-3-20. Definitions.**

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

*Body art* means the practice of physical body adornment by establishments and artists utilizing subcutaneous piercing procedures, including but not limited to the techniques of body piercing and tattooing, but excluding ear piercing.

*Body art establishment* means any permanent building, place, premises or structure, whether private or public, where body art procedures are performed.

*Body artist* means any person who conducts or practices body art procedures on another living human being.

*Body piercing* means puncturing or penetration of the skin of a person using needles and the temporary insertion of jewelry or other adornment thereto in the opening, so that the result is the jewelry or adornment can be easily, frequently and reasonably removed by the client without an additional procedure, including but not limited to the piercing of a navel, eyebrow, genitals, lip, nipple, nose or tongue, but not including ear piercing.

*Client* means the person having the body art procedure performed upon ~~their~~his or her body.

*Ear piercing* means the procedure or practice of puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud ear piercing system, while following the system's manufacturer's directions on use and applicable United States Food and Drug Administration requirements.

*Equipment* means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

*Instruments* means hand pieces, needles, needle bars, needle tubs, forceps, hemostats, tweezers, pliers or other implements that may come in contact with a client's body or possibly be exposed to bodily fluids during body art procedures.

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*Local manager* means the individual who is primarily responsible for the management, operation and control of the licensed body art establishment.

*Physician* means a person holding a valid license to practice medicine issued by the State Board of Medical Examiners pursuant to the Colorado Medical Practices Act.

*Tattoo, tattooed or tattooing* means inserting pigment under the surface of the human skin by pricking with a needle, or otherwise, to permanently change the color or appearance of the human skin or to produce an indelible mark or figure visible through the human skin, such as eyeliner, lip color, lip liner, camouflage, stencil designs and freehand designs.

### **Sec. 6-3-30. License required.**

- (a) It is unlawful for any person to operate a body art establishment, or engage in the provision of body art, without first obtaining a license from the City Clerk.
- (b) It is unlawful for any licensed body artist to perform any body art procedure upon another person, in exchange for anything of value, in a location other than a licensed body art establishment.
- (c) It is unlawful for any body artist to fail to have ~~their his or her~~ current license prominently displayed and visible in the licensed body art establishment where ~~he or she~~they performs body art procedures.
- (d) The following individuals are exempt from the licensing requirements of this Article:
  - (1) Physicians.
  - (2) Persons otherwise authorized by the State to perform the specific body art procedure at issue.
  - (3) Individuals who perform ear-piercing procedures only.
  - (4) Persons rendering services under the personal and responsible direction and supervision of a physician.

(Prior code 11-502; Ord. 13-05 §1, 2005; Ord. 09-12 §12, 2012)

### **Sec. 6-3-40. Application.**

Application for a body art establishment license or body artist license shall be made to the City Clerk on forms provided by the City Clerk. Each application shall be accompanied by the license fee as set forth in the fee schedule adopted by the City Council from time to time.

### **Sec. 6-3-50. Issuance.**

- (a) A license shall only be issued upon verification that the establishment meets all requirements of this Code.
- (b) The licensee shall install the minimum required equipment, personnel and other facilities as indicated in the plans as approved or modified by orders of the Building Official, Fire Department or other official.
- (c) No license shall be issued for a premises licensed for the sale of fermented malt beverages, or the sale of vinous or spirituous liquors, under the provisions of the Colorado Liquor Code or the Colorado Beer Code.
- (d) Each license shall be valid for one (1) year from the date of issuance, unless revoked or suspended by the City Clerk.
- (e) No license shall be transferable.

(Prior code 11-504; Ord. 13-05 §1, 2005)



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**Sec. 6-3-60. Reserved.**

**Sec. 6-3-70. Inspections; corrective orders.**

- (a) The City Clerk or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee may conduct periodic inspections of any body art establishment for the purpose of determining whether or not the establishment and the persons performing body art techniques therein are in compliance with all applicable laws. The City Clerk or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee may enter, inspect, issue citations and, upon obtaining a court order, impound or copy records, and secure any samples, photographs or other evidence from any body art establishment, whether or not said establishment, vehicle or facility has a valid license.
- (b) It is unlawful for any person to willfully interfere with or hinder the City Clerk or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee in the discharge of ~~their~~ ~~his~~ ~~or~~ ~~her~~ duties.
- (c) The City Clerk or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee may issue to any body artist or establishment an order to comply with this Article within a specified reasonable time. It is unlawful for any licensee to knowingly fail to obey a lawful order of the City Clerk.

(Prior code 11-506; Ord. 13-05 §1, 2005; Ord. 09-12 §15, 2012)

**Sec. 6-3-80. Revocation and suspension.**

The City Clerk may revoke or suspend any license for cause, as defined in Section 6-1-20, after providing the licensee notice and an opportunity to be heard. Any revocation or suspension shall be issued in writing, listing the reasons therefor.

**Sec. 6-3-90. Appeal.**

Any decision of the City Clerk under this Article may be appealed to the City Council following the procedures outlined in Section 6-1-130.

**Sec. 6-3-100. Records.**

Permanent records for each body artist and client shall be maintained by each body art establishment. Such records shall include the client's date of birth, the method by which such date of birth was verified, and a copy of the written consent provided by the parent or guardian when necessary.

**Sec. 6-3-110. Registration of local resident agent.**

Each body art establishment shall file a current registration with the City Clerk, designating an authorized local resident agent who is at least twenty-one (21) years of age and resides or has an office within the City, for receipt of legal notices of violations and receiving service of process. Whenever such local agent is changed or the address of the local agent is changed, the licensee shall, within five (5) days, register the new local agent or the new address with the City Clerk.

**Sec. 6-3-120. Prohibitions.**

It is unlawful for any person to perform any body art procedure upon another person who is:

- (1) Visibly intoxicated or under the influence of a controlled substance; or

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- (2) Under the age of eighteen (18) without prior written consent of a parent or guardian, signed in the presence of the body artist performing the procedure. It is the responsibility of both the body artist and the body art establishment to verify the age of all clients by valid picture identification prior to any procedure being performed.

## **ARTICLE 4 Contractors**

### **Sec. 6-4-10. Contractor's license required.**

- (a) No person shall contract for or erect, alter, repair, move or demolish any building, structure or property regulated by the building codes as adopted by the City and contained in Chapter 18 of this Code, whether as a contractor or a subcontractor, within the boundaries of the City, without a valid contractor's license. No permits shall be issued for work to be done by a contractor who does not have a valid license as required in this Article. When a contractor is required to perform construction work, any building permits issued shall be suspended if there are no current contractor licenses in connection with the work to be performed. Whenever any work for which a license is required by this Section is commenced without first obtaining said license, or when work is done and the license is expired, an ~~special~~ investigation shall be made before a license may be issued or renewed for such work and an investigation fee, in an amount equal to the license fee, shall be collected whether or not a license is then or subsequently issued. The investigation fee shall be in addition to the license fee as set forth in the fee schedule adopted by City Council from time to time.
- (b) Incomplete work. In the event a structure is not pursued to completion and work is stopped for any period exceeding one hundred eighty (180) days, the licensee shall notify the Building Official in writing of such stoppage and shall take reasonable steps to protect and to prevent the structure from deteriorating to the condition of a dangerous or unsafe building.
- (c) For the purposes of this Article, a *contractor* is a person who:
- (1) Undertakes to build, construct, alter, remodel, repair, move or wreck any building structure, or any portion thereof, for which a permit from the City is required;
  - (2) Holds ~~themselves~~~~himself or herself~~ out to perform house moving or the moving of buildings or structures from one (1) location to another; or
  - (3) Holds ~~themselves~~~~himself or herself~~ out to perform the service of wrecking a building or other structure.

(Prior code 11-200; Ord. 13-05 §1, 2005; Ord. 09-12 §16, 2012)

### **Sec. 6-4-20. Exemptions.**

- (a) Nothing in this Article shall require any individual to hold a license to perform any work described in this Article on ~~their~~~~his or her~~ own personal residence, nor shall it require any individual to hold a license to perform work with a homeowner as a volunteer on a project for which a homeowner is not required to hold a license, nor shall it prevent a person from employing an individual on either a full-time or part-time basis to do routine repair or maintenance; except that, if such property is intended for sale by a person engaged in the business of constructing or remodeling such structures, rental property which is occupied or is to be occupied by tenants or a commercial or industrial building, the owner shall be subject to this Article.
- (b) Nothing in this Article shall require any electrician licensed by the State to obtain a contractor's license from the City. However, electricians licensed by the State shall register with the ~~City Clerk~~~~Building Department~~ prior to performing any electrical work in the City. There shall be no cost for such registration.

(Prior code 11-201; Ord. 13-05 §1, 2005; Ord. 09-12 §17, 2012)

### Sec. 6-4-30. Application.

The Building Official shall review applications under this Article, in the protection of the public health, welfare and safety, so that those who are licensed under this Article are qualified, in terms of their skills, knowledge and practical experience, to contract for or to do the work for which they seek to be licensed. Applications for contractor's licenses shall be on such forms and shall contain such information as may be required by the Building Official. Applicants may at any time, or from time to time, be required to furnish additional information with respect to their qualifications and financial status, or other matters relating to or affecting their license, as may be deemed necessary or desirable by the Building Official. Failure to furnish such information within a reasonable time, or to furnish supplemental information as may be required by the Building Official, shall be grounds for denial or revocation of license. Every applicant for a plumbing contractor license or electrical contractor license shall be required to present with the application ~~their~~ his or her valid State of Colorado Master Electricians' or Electrical License or a Master Plumbers' License. The license shall not be issued unless:

- (1) All conditions imposed upon the applicant as prerequisites to the issuance of the license have been met;
- (2) A license fee as set forth in the fee schedule adopted by the City Council from time to time has been paid;
- (3) The required proof of insurance, if any, has been provided;
- (4) The applicant is not in arrears to the City for any administrative or court fines, assessments or fees and has no outstanding arrest warrants in any jurisdiction; and
- (5) No fraudulent, misrepresented or false statement of material or relevant fact is contained within the application.

### Sec. 6-4-40. Examinations.

- (a) The Building Official may, before issuing a license, require the applicant to take a written or oral examination.
- (b) The Building Official may set standards for the examining requirements consistent with this Article.
- (c) The Building Official shall limit the examination requirements to areas applicable to the license being sought.
- (d) All persons who have been previously licensed by the City under this Article shall be exempt from this Section.
- (e) The Building Official may license, without examination, upon the payment of the required fees, applicants who are duly licensed under the laws of the State and/or municipalities and/or counties having requirements for the licensing and regulating of the plumbing trade, mechanical trade, building or other trades deemed by the Building Official to be equivalent to the requirements of this Article.
- (f) The following classes of contractors' licenses are established, and the fees for an application for any such license shall be as set forth in a fee schedule adopted by the City Council from time to time:
  - (1) Class A License. This class license shall entitle the holder to contract for the construction, alteration, or repair of any type of structure permitted by the building codes set forth in Chapter 18 of this Code. A Class A License is required for all work requiring the supervision of an architect or structural engineer. Possession of a Class A License permits the activities authorized by Class B or Class C License.
  - (2) Class B License. This license shall entitle the holder to contract for the construction, alteration or repair of one-family and two-family residences of two (2) stories or less. This contractor may not contract for

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public buildings or places of public assembly. The aforementioned limitations shall not apply to repairs on buildings not involving structural members. Possession of a Class B License permits the activities authorized by a Class C License.

- (3) **Class C License.** This license shall be issued to those engaged in contracting for labor or for labor and material involving specialized trades, such as brick, plastering, framing, dry walling, glazing, irrigation systems, burglar alarms, swimming pools, sheds and fence contractors. Such license may include more than one (1) such trade carried on by the licensee. This license shall be issued to wrecking contractors, moving contractors and mobile home set-up contractors. No wrecking shall be done except by a licensed wrecking contractor, except that a licensed general contractor of the Class A or Class B category may wreck minor buildings or remove portions of a building where such wrecking is a portion of a program of alteration or remodeling.
- (4) **Mechanical Contractor License.** This license shall be issued to those engaged in contracting to erect, install or construct all mechanical systems, including hot water heating systems, air conditioning systems and refrigeration systems, or to install boilers, evaporative coolers, and complete sheet metal work. This license shall entitle the holder to replace existing domestic water heaters and all connections thereto. Any connections to the potable water system must be performed by licensed plumbing contractor. Line voltage electrical work must be done by a licensed electrical contractor.
- (5) **Plumbing Contractor License.** This license shall be issued to a person who must be either a master plumber or employ a full-time master plumber who possesses a valid State of Colorado Master Plumber License. Plumbing shall include, but not be limited to, those engaged in contracting to install, alter, repair, renovate or add to any plumbing fixtures and traps, gas or drainage piping and building drains, including respective joints and connections, devices, water heating or treating equipment connected to a public or private potable water distribution system or any public or private sewer system.
- (6) **Electrical Contractor License.** This license shall be issued to those engaged in contracting to install, alter, repair, renovate or add to electrical wiring, appliances or apparatus for the purpose of electrical light, heat, power or signal systems or other similar purposes within or affixed to any building or structure, and who possess a valid State of Colorado Master Electrician License. There shall be no annual fee for an Electrical Contractor License.
- (g) Licensees wishing to upgrade their license to a higher classification must submit a new application and the total fee for the new classification. No credit shall accrue toward the new classification fee for the unused term of the original license.

(Prior code 11-203; Ord. 13-05 §1, 2005; Ord. 09-12 §19, 2012)

#### Sec. 6-4-50. Issuance and validity of license, and responsibilities of licensees.

- (a) If, in the opinion of the **Building Official**, the applicant is qualified by training or experience to fulfill the obligations of a contractor, the Building Official shall issue to the applicant a license upon payment of the annual license fee. The license shall remain in force for one (1) year unless suspended or revoked.
- (b) Each person issued a license under this Article shall report any change of name, business designation or address to the **City Building Official** within ten (10) days after making such change, and the failure to report any such change shall cause the license to automatically expire and become invalid at the expiration of such ten-day period.
- (c) A license issued under this Article is not transferrable, and any incorporation or establishment of a partnership, or change in corporate status or partnership status, of a licensee shall require a new license for the new entity, regardless of the fact that one (1) or more officers, stockholders, directors, partners or

**Commented [GU74]:** This is what is required for water and sewer line work, but those items are not mentioned.

**Commented [GU75R74]:** Also, not sure if this needs to be in the code - arborists and tree care companies doing work in the City - what kind of licenses should these be and do we need to include as another category if it's a contractor license?

**Commented [GU76]:** or designee

**Commented [GU77]:** or designee

managers hold a current license under this Article. The dissolution of a corporation or partnership that has been licensed under this Article shall cause the license issued to automatically expire upon such dissolution, and no individual or firm shall operate under such license.

(d) All licensees shall be responsible for work requiring a permit under the provisions of Chapter 18 of this Code, without limitation, and for the items listed in this Section:

- (1) To report in writing to the Building Official any accident occurring in any construction or undertaking which has resulted in lost time, injury or death to any person or damage to any building or structure, within seventy-two (72) hours after such accident;
- (2) To observe City ordinances prescribing measures for the safety of the public;
- (3) To present ~~their~~ license card when requested by the Building Official or ~~their~~ authorized representative;
- (4) To obtain a permit when the same is required;
- (5) Provide honest and factual information on all applications for permits;
- (6) To construct, without substantial departure from or disregard of drawings and specifications, when such drawings and specifications have been filed and approved by the Building Official and a permit issued for same, unless such changes are approved by the Building Official;
- (7) To obtain inspection services when the same are required by the applicable building code;
- (8) To conform to the requirements of the special inspection program as prescribed by Article 17 of the International Building Code, when required;
- (9) To pay any fee assessed under authority of this Article or the applicable building code;
- (10) To obey any order issued under authority of this Article or the applicable building code;
- (11) To provide toilet facilities prior to and during construction or demolition when required by the applicable building code;
- (12) To obtain a certificate of occupancy, when required by the applicable building code upon completion of the work authorized by the licensee's permit;
- (13) To keep streets and sidewalks that are adjacent to construction sites and open to the public traffic free of obstructions, construction materials, equipment, debris, mud, dirt or any other material that may be a hindrance or hazard to vehicular or pedestrian traffic except during the construction or repair of a street or sidewalk; and
- (14) To observe and conform to all of the rules and regulations governing construction and land use in the City.

Commented [GU78]: or designee

Commented [GU79]: could add to maintain Best Management Practices (BMP) to prevent mud and sediment runoff from the construction site

(Prior code 11-204; Ord. 13-05 §1, 2005; Ord. 09-12 §20, 2012)

#### Sec. 6-4-60. Insurance.

- (a) Every licensed contractor shall maintain at all times liability insurance with minimum limits of not less than five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per occurrence, and property damage insurance with minimum limits of not less than five hundred thousand dollars (\$500,000.00) per occurrence.
- (b) At the time application is made, and before a license or registration can be issued, the contractor shall file with the Building Official a certificate signed by a qualified agent of an insurance company stating: that the policies required by Subsection (a) above have been issued to the licensee; the minimum limits of each; the

Commented [GU80]: Several communities around Edgewater have stopped requiring this paperwork. Is it worth discussing?

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policy numbers; the name of the company; the effective dates of the policies; and the expiration dates of the policies, together with a copy of an endorsement placed on each policy requiring ten (10) days' written notice to the City of cancellation.

- (c) In the event of a cancellation, the licensee shall furnish a new certificate in full compliance with this Article within ten (10) days; otherwise, the license shall be automatically revoked until the licensee has furnished a certificate of insurance in compliance with this Article.

(Prior code 11-205; Ord. 13-05 §1, 2005; Ord. 09-12 §21, 2012)

#### **Sec. 6-4-70. Prohibited acts.**

- (a) It is unlawful for any person to violate any provision of this Article, or to violate or refuse to obey any lawful order issued or neglect to pay any fee assessed under authority of this Article.
- (b) It is unlawful for any person to fraudulently use a license issued to a contractor under this Article to obtain permits for another person.
- (c) It is unlawful for a licensed contractor to fail to obtain inspection services when the inspection services are required, or to fail to obtain a permit when it is required.
- (d) It is unlawful for a licensed contractor to be careless or negligent in observing minimum safety measures, including appliances, apparatus and equipment to protect workers and the public.

(Prior code 11-206; Ord. 13-05 §1, 2005)

#### **Sec. 6-4-80. Expired license.**

In addition to any other fee, any person required to be licensed under this Article and found to be performing work with an expired license will be subject to the initial license fee plus an investigative fee equal to twenty-five percent (25%) of the initial license fee.

#### **Sec. 6-4-90. Revocation, suspension and denial.**

- (a) The Building Official may suspend, revoke or deny a license when the licensee is responsible for one (1) or more of the following acts or omissions:
  - (1) Failure to comply with any of the licensee responsibilities, as set forth in Section 6-4-50 of this Article, if such failure is not corrected within ten (10) days of written notification of such failure by the Building Official;
  - (2) Knowingly combining or conspiring with any other person to permit or allow the licensee's license to be used by such other person;
  - (3) By acting as principal, agent, partner, associate or in any other capacity with persons, to evade any provisions of this Article;
  - (4) Violation of any provision of this Article, or of the applicable building code, or any violation of the laws of the United States, the State or the ordinances of the City having any bearing upon or relation to the work or services performed under the license, or ability to perform the work or services under the license, if such violation is not corrected within ten (10) days of being notified of such failure by the Building Official;
  - (5) Any conduct constituting fraud or misrepresentation in or connected with any activity or activities relating to construction, or which are licensed or governed by this Article; or

Commented [GU81]: or designee

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- (6) Failure to keep and maintain any necessary state license.
- (b) With regard to the acts or omissions listed in Subsection 6-4-90(a):
- (1) The first act or omission during a term of a license issued under this Article shall cause the license to be suspended for a period of twenty (20) days;
  - (2) The second act or omission during a term of a license issued under this Article shall cause the license to be suspended for a period of forty (40) days;
  - (3) The third act or omission during the term of a license issued under this Article shall cause the license to be revoked; and
  - (4) Three (3) or more acts or omissions during the preceding year shall be cause for the denial of a license.
- (c) When any of the acts or omissions as enumerated in Subsection (a) above are committed by a licensee and the Building Official deems that such license should be suspended, revoked or denied, the procedure shall be as follows:
- (1) The licensee shall be notified, in writing, by certified mail, mailed to the licensee's address of record with the Building Official, at least ten (10) days prior to suspension, revocation or denial.
  - (2) Upon receipt of the notice, the licensee may request a hearing. Such request shall be in writing to the Building Official within ten (10) days of mailing of the notice.
  - (3) If a hearing is requested by the licensee, in writing, within the time limit designated above, the Building Official shall set a time, date and place for the hearing within ten (10) days of receipt of the request for a hearing, and so notify the licensee.
  - (4) When a hearing is conducted, the licensee and other interested parties may be in attendance. Upon completion of the hearing, the Building Official may take all the evidence admitted under advisement and shall, within ten (10) days, notify the licensee of ~~their~~~~his or her~~ findings and ruling, in writing, by certified mail. No suspension or revocation shall be effective while the matter is under advisement, except for emergency suspensions under Subsection (d) below.
- (d) If the Building Official finds that emergency cause exists for suspension or revocation of a license, ~~he or she~~~~they~~ may enter an order for immediate suspension of such license, pending further investigation and proceedings for suspension or revocation, as provided in this Article. The licensee may, upon notice of such suspension, request an immediate hearing before the Building Official. The procedure shall thereafter be as provided in this Article.

(Prior code 11-208; Ord. 13-05 §1, 2005; Ord. 09-12 §23, 2012)

#### **Sec. 6-4-100. Appeal.**

The licensee may appeal any decision of the Building Official under this Article to the City Council following the procedures outlined in Section 6-1-130.

### ***ARTICLE 5 Home Occupations***

#### **Sec. 6-5-10. Definitions.**

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

*Home occupation* means any occupation conducted for any business or commercial purpose located, except as otherwise permitted pursuant to Paragraph 16-26-20(a)(1) of this Code, entirely within a residential building, and/or an accessory building associated with the residential use, and is accessory, incidental and secondary to the use of the building for dwelling purposes and does not affect the residential character or appearance of the dwelling.

*Major home occupation* means a home occupation which does not meet one (1) or more of the requirements of the definition of a *minor home occupation*.

*Minor home occupation* means a home occupation which: has no exterior signs; has no employees who do not reside within the dwelling; has no more than one (1) vehicle stopping at the place of business for purposes of the home occupation at any one (1) time and no more than eight (8) vehicles stopping at the place of business for purposes of the home occupation in any twenty-four-hour period; and has only isolated and occasional deliveries to or from the place of business with any vehicle longer than sixteen (16) feet or rated over eight thousand (8,000) pounds gross vehicle weight. ~~Nowhere in the Code does it state license requirements for Minor Home Occupations. It was decided years ago, that Minor Home Occupations did not require a business license. If this is true, I think it should state that in our Code.~~

**Commented [CB82]:** Code does address this by requiring only major home occs to obtain a license - see 16-26-10(e), as well as the section below.

Will add some references to the license being a 'major' home occ license, however, to make this more clear.

#### **Sec. 6-5-20. License required for major home occupations; zoning compliance.**

No person shall conduct a major home occupation within the City without a major home occupation license issued pursuant to this Article. All home occupations must comply with the zoning requirements set forth in Chapter 16, Article 26 of this Code.

#### **Sec. 6-5-30. Initial application.**

An initial application for a major home occupation license shall be made on forms provided by the City Clerk and shall include, at a minimum:

- (1) A detailed description of the home occupation;
- (2) A site plan indicating property boundaries and area location of all structures in which the home occupation would be operated; the portion or portions of such structures to be used for purposes of the home occupation; any portion of the property, other than the principal building or accessory building associated with the residential use, such as the yard, which is proposed to be used for the home occupation; the nature of such use; and the duration, frequency and time of day of such use;
- (3) Proof of compliance with and approvals from each local, state and federal agency with jurisdiction over the occupation proposed to be carried on as a home occupation; and
- (4) Additional information reasonably required by the City Clerk.

#### **Sec. 6-5-40. Referral.**

Before approving an initial application for any major-home occupation license, the City Clerk shall refer the application to the Building Official, the Police Department, the Fire Department and other affected departments and agencies for review and comment. If the home occupation is to be located within the area of the Edgewater Redevelopment Authority, as delineated in the plan of said Authority, it shall be deemed an affected agency.



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**Sec. 6-5-50. Review; decision.**

- (a) The City Clerk, after receiving comments from affected departments and agencies, shall refer an application for a major home occupation, together with the comments received, to the Planning and Zoning Commission.
- (b) The Planning and Zoning Commission shall, at its next regular meeting following its receipt of the application, set the date and time for a public hearing thereon. The Planning and Zoning Commission shall notify the applicant in writing of the location, date and time of the public hearing, which shall not be held sooner than thirty (30) days after the setting. Notice of the public hearing shall be published at least once not less than fifteen (15) days before the hearing date.
- (c) Within seven (7) days after the date of the notice, the applicant shall post the property with two (2) signs, in the form prescribed by the City Clerk, stating that the property is the subject of a [major](#) home occupation license application. One (1) sign shall be posted at the front of the property, and the other sign shall be posted at the rear of the property, both in locations visible from a public right-of-way. The property shall remain posted until the day after the public hearing.
- (d) At the public hearing, the Planning and Zoning Commission shall consider the application, the testimony given by the applicant and the public and the comments of any affected department or agency, and shall determine whether the home occupation complies with this Code, whether it is compatible with the character of the surrounding neighborhood and whether it would produce any adverse impacts.
- (e) Following the public hearing, the Planning and Zoning Commission shall forward to the City Clerk its recommendation to approve, approve with conditions or deny the application. Any recommended conditions of approval shall be specified by the Planning and Zoning Commission.
- (f) The City Clerk shall consider the recommendation of the Planning and Zoning Commission, together with any pertinent portions of the record, in determining whether to approve, approve with conditions or deny the application. The City Clerk shall issue the final decision on a [major](#) home occupation license, subject to the appeal process set forth in Section 6-5-90 below, in writing, within fifteen (15) days of the City Clerk's receipt of the recommendation of the Planning and Zoning Commission.

(Prior code 11-304; Ord. 13-05 §1, 2005; Ord. 09-12 §24, 2012; Ord. 13-14 §1, 2014)

**Sec. 6-5-60. General requirements.**

- (a) A [major](#) home occupation license shall apply only to the applicant, occupation and premises stated in the initial application and shall not be transferable or assignable. The license shall remain in force for one (1) year unless suspended or revoked. Following revocation, any subsequent application to operate the same [or substantially the same](#) home occupation shall be ~~deemed an initial application, neither be accepted nor acted upon by the City for a period of one (1) year after revocation.~~
- (b) The City Clerk may, with the consent of a [major](#) home occupation licensee, post to the City's website and update regularly a list of [major](#) home occupation licenses issued by the City for which such consent has been given. The list shall contain, at a minimum: each licensee's name, trade or business name; the address for which the license is issued; and the expiration date of the license.

(Prior code 11-305; Ord. 13-05 §1, 2005; Ord. 09-12 §25, 2012; Ord. 14-13 §1, 2013; Ord. 13-14 §1, 2014)

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**Sec. 6-5-70. Renewal.**

- (a) An application for renewal shall be considered in the same manner as an initial application, except that the hearing and referral procedures shall not apply.
- (b) Despite the foregoing, if either of the following circumstances exist, the hearing and referral procedures shall apply:
  - (1) The home occupation was the subject of verified complaints from three (3) or more citizens, each of whom resided in a different residence located within a radius of two hundred (200) feet from the perimeter of the property; or
  - (2) The City Clerk has received a statement from an affected department or agency that the home occupation failed to meet any requirement of this [CodeArticle](#).

(Prior code 11-306; Ord. 13-05 §1, 2005; Ord. 13-14 §1, 2014)

**Sec. 6-5-80. Revocation and suspension.**

The City Clerk may revoke or suspend any license issued under this Article for cause, as defined in Section 6-1-20 of this Chapter, after providing the licensee notice and an opportunity to be heard. Any revocation or suspension shall be issued in writing, listing the reasons therefor.

**Sec. 6-5-90. Appeal.**

Any decision of the City Clerk under this Article may be appealed to the City Council following the procedures outlined in Section 6-1-130 of this Chapter.

**ARTICLE 6 Pawnbrokers**

**Sec. 6-6-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Contract for purchase* means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time not to exceed ninety (90) days, has the option to cancel such contract.

*Fixed price* means the amount agreed upon to cancel a contract for purchase during the option period, which shall not exceed one-fifth ( $\frac{1}{5}$ ) of the original purchase price for each month.

*Fixed time* means that period of time, not to exceed ninety (90) days, as set forth in a contract for purchase for an option to cancel such contract.

*Option* means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be but does not have to be rescinded by the customer.

*Pawnbroker* means a person regularly engaged in the business of making contracts for purchase or purchase transactions.

*Pawnbrokering* means the business of a pawnbroker.

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*Purchase transaction* means the purchase by a pawnbroker, in the course of pawnbrokering, of tangible personal property for resale, other than newly manufactured tangible personal property which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

*Specified crime* means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: violation of required acts of pawnbrokers; violation of prohibited acts of pawnbrokers; theft by receiving; money laundering; illegal investments; and tax evasion.

*Tangible personal property* means all personal property other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of ~~their~~*his or her* business in connection with a contract for purchase or purchase transaction.

#### **Sec. 6-6-20. License required.**

No pawnbroker shall operate in the City without a valid pawnbroker's license.

#### **Sec. 6-6-30. Application.**

- (a) Application for a pawnbroker's license shall be made to the City Clerk on forms provided by the City Clerk.
- (b) The application shall be accompanied by:
  - (1) A bond, subject to approval by the City Attorney, in the amount of five thousand dollars (\$5,000.00), conditioned on the pawnbroker's faithful observance of all of City ordinances and state statutes and the safekeeping and return of all articles held in pledge by the applicant.
  - (2) Copies of insurance policies providing coverage for fire and property damage, loss and destruction, subject to review and approval by the City Attorney, which shall apply to the building in which the business is located and to the full replacement cost of all contents therein, including all property the applicant holds in contract.
  - (3) An application fee in the amount set forth in the fee schedule adopted by the City Council from time to time.

(Prior code 11-102; Ord. 13-05 §1, 2005; Ord. 21-05 §1, 2005; Ord. 09-12 §27, 2012)

#### **Sec. 6-6-40. Investigation of application and issuance of license.**

- (a) Upon receipt of a properly completed application, as determined by the City Clerk, together with all information required in connection therewith and payment of the application fee, the Police Department shall, within forty-five (45) days after the City's receipt of the completed application, conduct and complete an investigation of the criminal history of each individual applicant, the partners of a partnership, officers, directors and holders of ten percent (10%) or more of the corporate stock of a corporate applicant and the information contained in the application, and provide the results of the same to the City Clerk.
- (b) Upon verification that the business meets all requirements of this Code, and that neither an individual applicant, the partners of a partnership, nor the officers, directors and holders of ten percent (10%) or more of the corporate stock of a corporate applicant has been convicted of a specified crime within the two (2) years preceding the date of the application, the City Clerk shall issue a pawnbroker license. The license shall remain in force for one (1) year unless suspended or revoked. No license shall be transferable.

(Prior code 11-103; Ord. 13-05 §1, 2005; Ord. 09-12 §28, 2012)

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**Sec. 6-6-50. Revocation and suspension.**

The City Clerk may revoke or suspend any license for cause, as defined in Section 6-1-20, after providing the licensee notice and an opportunity to be heard. Any revocation or suspension shall be issued in writing, listing the reasons therefor.

**Sec. 6-6-60. Appeal.**

The licensee may appeal any decision of the City Clerk under this Article to the City Council following the procedures outlined in Section 6-1-130.

**Sec. 6-6-70. Records.**

- (a) Each pawnbroker shall, at ~~their~~~~his or her~~ sole cost and expense, keep a numerical register, in a format as required by the Police Department, in which shall be recorded the time and date of each purchase and contract for purchase transaction; an accurate description of the article, including all serial and identification numbers; the time and date of receiving such article; the name, address, date of birth and physical description of each customer and the customer's driver's license number or other identification number from such sources permitted under this Article; and a declaration of ownership signed by the customer. Where there exists a contract for purchase, the register shall also contain the number of the contract, the date it is due, the length of the loan, the date the article is sold, the amount of the sale and the name and address of the purchaser.
- (b) Each pawnbroker shall make available the records required by this Section and the articles obtained by the pawnbroker for inspection at all reasonable times to any police officer.
- (c) The records required by this Section shall be maintained for a minimum of three (3) years.

(Prior code 11-106; Ord. 13-05 §1, 2005; Ord. 09-12 §29, 2012)

**Sec. 6-6-80. Acceptable identification.**

No pawnbroker shall engage in a purchase transaction or enter into a contract for purchase with any customer without securing one (1) of the following types of current and valid identification, and it is unlawful for any customer to knowingly give false personal identification information to a pawnbroker:

- (1) Colorado driver's license;
- (2) Identification card issued by the State;
- (3) A driver's license, with a picture, issued by another state;
- (4) An identification card, with a picture, issued by another state;
- (5) A military identification card;
- (6) A passport;
- (7) An alien registration card; or
- (8) A non-picture identification document issued by a state or federal governmental entity, if the purchaser also obtains a clear imprint of the seller's right index finger or photograph of the seller at the time of the transaction.

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**Sec. 6-6-90. Information on receipt.**

At the time of receiving tangible personal property and upon the subsequent renewal of any contract of purchase, a pawnbroker shall deliver to the customer a receipt which is correspondingly serially numbered to the numerical register. The receipt shall contain the substance of the information required to be kept in the records prescribed by this Article.

**Sec. 6-6-100. Maximum charges; commissions void.**

- (a) No pawnbroker shall request or receive any greater amount of interest, commission or compensation other than the total rate or amount allowed by law. No pawnbroker may impose or collect any other charge upon the renewal of any contract for purchase or at any other time.
- (b) All contracts for the payment of a commission by the borrower for procuring a contract for purchase on tangible personal property are void. A borrower who has paid such a commission may recover in a civil action two (2) times the amount paid, plus costs and reasonable attorney fees.

(Prior code 11-109; Ord. 13-05 §1, 2005)

**Sec. 6-6-110. Intermediate payments; receipts.**

The pawnbroker shall accept intermediate payments, without penalty, upon contracts for purchase which have not matured when presented with the ~~receipt, and receipt and~~ shall treat the amount tendered as a payment upon the existing contract. A receipt indicating the date of the payment and the amount thereof shall be provided for all moneys received on account of or in payment of the contract for purchase. The amount of money presented shall be applied in total against the amount of indebtedness. In no event shall any late charges, collection fees or other such service charges be deducted from the amount of the payment tendered to the pawnbroker.

**Sec. 6-6-120. Holding period.**

The pawnbroker shall retain the unredeemed articles in the pawnbroker's possession on the licensed premises for not less than forty-five (45) days from the date of the initial possession and control of the articles by the pawnbroker pursuant to a purchase transaction or a contract for purchase.

**Sec. 6-6-130. No offsets or deficiency.**

The pawnbroker shall have a claim to the article only for payment of the debt, and in no event shall the pawnbroker have claim to the personal credit of the customer. No setoff (a deduction or counterclaim) shall be allowed the pawnbroker against a surplus of deficiency arising out of another contract for purchase between the pawnbroker and the customer. In no event shall any deficiency balance (money due the pawnbroker by the customer) be collected by the pawnbroker; and in the event that such an attempt is made, the entire transaction shall be void.

**Sec. 6-6-140. Investigation.**

For purposes of discovering violations of any law, the Chief of Police or ~~their~~ ~~his or her~~ designee may at any time investigate the business and examine the books, accounts, papers, documents and records used therein of:

- (1) Any pawnbroker in respect to such books, accounts, papers, documents and records required to be kept hereunder;

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- (2) Any other person who engages in the business of a pawnbroker or who participates in such business as principal, agent, broker or otherwise; and
  - (3) Any person whom the Chief of Police or ~~their~~ ~~his or her~~ designee has reasonable cause to believe is violating or is about to violate any provision of this Article, whether or not such person shall claim to be within the authority or beyond the scope of this Article.
  - (4) For the purposes of this Section, the Chief of Police or ~~their~~ ~~his or her~~ designee shall have and be given full access to the offices and places of business, books, accounts, papers, documents, records, files, safes and vaults of all such persons and shall require the attendance of and examine any person relative to such purchase or contract for purchase transactions or such business or to the subject matter of any investigation, examination or hearing.

**Sec. 6-6-150. Hold order.**

A police officer may order a pawnbroker to hold any article deposited with the pawnbroker for a reasonable period of time if the police officer has a reasonable belief that the article is stolen. A pawnbroker who receives such a hold order shall not sell or dispose of the article or allow it to be redeemed as long as the hold order remains in effect.

**Sec. 6-6-160. Unlawful transactions.**

- (a) No pawnbroker shall purchase tangible personal property or enter into contracts of purchase with the following persons:
  - (1) Any person under eighteen (18) years of age;
  - (2) Any person who the pawnbroker knows or has reason to believe has been convicted of burglary, robbery, felony theft or theft by receiving; or
  - (3) Any person who appears to be under the influence of alcohol or any controlled substance, as defined by state law.
- (b) No pawnbroker, employee or agent of the pawnbroker shall enter into a contract for purchase or purchase transaction for any tangible personal property wherein the identification number, serial number, model number, brand name, owner's identification number or other identifying marks on such property have been totally or partially obscured.

(Prior code 11-115; Ord. 13-05 §1, 2005; Ord. 09-12 §32, 2012)

**Sec. 6-6-170. Hours.**

It is unlawful for any pawnbroker to be open for business after 9:00 p.m. each day or before 7:00 a.m. the following day.

**Sec. 6-6-180. Lost or stolen articles.**

- (a) A pawnbroker who accepts any article in a purchase or contract of purchase transaction from a customer who is not the owner thereof obtains no title in the article either by reason of the expiration of the contract or by transfer of the receipt to the pawnbroker by the customer or holder thereof. Ignorance of the fact that the article was lost or stolen shall not be construed to affect the question of title. If the pawnbroker sells such article to a third person, the pawnbroker shall remain liable to the original owner in an action to recover the article. Upon proof of ownership of the article lost or stolen, the lawful owner may claim the same.

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- (b) If any person attempts to establish a contract for purchase or sell to a pawnbroker any item which the pawnbroker has reason to believe has been stolen, the pawnbroker shall notify the Police Department within twenty-four (24) hours after such attempt is made, and provide a description of the person making such attempt and the article that such person attempted to contract or sell. If a pawnbroker could reasonably have had knowledge that the items contracted for or sold were stolen or obtained in any other unlawful manner, then it is unlawful to fail to notify the Police Department as required herein.
- (c) A pawnbroker shall report the loss or theft of any weapon from the licensed premises to the Police Department within eight (8) hours of discovery of such loss or theft. For purposes of this Section, *weapon* means any handgun, long gun, assault rifle, air rifle, shotgun, spring-operated gun, crossbow, recurve bow or hunting knife.

(Prior code 11-117; Ord. 13-05 §1, 2005)

#### **Sec. 6-6-190. Purchase transaction fee.**

- (a) In addition to the annual license fee set forth in the fee schedule adopted by the City Council from time to time, each pawnbroker shall remit to the City a purchase transaction fee of one dollar (\$1.00) per purchase transaction.
- (b) The purchase transaction fee shall be due and payable to the Finance Director on a monthly basis.

(Prior code 11-118; Ord. 13-05 §1, 2005; Ord. 21-05 §2, 2005; Ord. 09-12 §33, 2012)

### ***ARTICLE 7 Peddlers and Solicitors***

#### **Sec. 6-7-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Canvasser* means any person who engages in activity with the primary purpose of advocating a particular religious, political or philosophical viewpoint or the communication and dissemination of religious, political or philosophical information.

*Peddler* means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering anything of value within the City and who, in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, outdoor location, hotel, apartment or other place within the City for the exhibition and sale of such items, whether or not such person is a canvasser.

*Solicitor* means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise, distributing goods or information, or soliciting funds or other forms of assistance, whether or not such person is a canvasser.

#### **Sec. 6-7-20. Permit/~~License and badge~~ required.**

Every peddler and solicitor shall obtain a peddler's and solicitor's permit from the City prior to peddling or soliciting in the City. Each such permit shall include a ~~badge-license~~ issued by the City Clerk for each individual who will be engaged in peddling or soliciting, which ~~badge-license~~ shall include the name of the peddler or solicitor and the date of issuance of the peddler's or solicitor's license. It shall be unlawful for any person to engage in peddling

or soliciting within the City without prominently displaying ~~theirhis or her badge license~~ on or about ~~theirhis or her~~ body.

**Sec. 6-7-30. Application.**

Each application for a peddler's and solicitor's permit shall include the following information:

- (1) Name and date of birth of the applicant and its employees and, in the case of a corporate or other entity applicant, name of the agent for service of process, along with a description of the applicant and each employee that includes the height, weight, eye color and hair color of each such individual;
- (2) The applicant's business address and telephone number;
- (3) The applicant's and applicant's employees' residential addresses (permanent and temporary, if applicable) and telephone numbers, or, if the applicant is an employee, the names, business addresses, business telephone numbers, residential addresses and residential telephone numbers of each individual employing and/or supervising the applicant;
- (4) A brief description of the business or solicitation;
- (5) The dates or length of time for which the permit is desired;
- (6) If a vehicle is to be used, a description of the same and the vehicle license number, along with the driver's license number and state of issuance, of each individual who will operate the vehicle in connection with peddling or soliciting within the City;
- (7) The location in which the applicant will be conducting business and, if on private property, written evidence of permission from the property owner or, if the applicant is the owner or lessee, evidence of ownership or a lease, and if the applicant is not the property owner, the name, address and telephone number of the owner; and
- (8) An application fee in the amount set forth in the fee schedule adopted by the City Council from time to time.

**Sec. 6-7-40. Issuance.**

Upon verification that the application meets all ~~requirements~~the requirements of this Code, the City Clerk shall issue a peddlers and solicitors permit. The permit shall be valid for the time stated on the permit. No permit shall be transferable.

**Sec. 6-7-50. Permit to be displayed.**

Every permittee shall display the permit upon request of any person at any time while peddling or soliciting within the City.

**Sec. 6-7-60. Hours of operation.**

Permittees shall engage in peddling or soliciting activities only between the hours of 8:00 a.m. and 8:00 p.m. or sunset, whichever is later.

**Sec. 6-7-70. Posting of no solicitation or no peddlers notice.**

Any person may post a notice on ~~theirhis or her~~ property stating that no peddlers or solicitors shall enter such property, and every peddler and solicitor shall comply with such notice.

**Commented [TN83]:** Do you want these to be plural, possessive, or what? Is the permit one permit or is there a selection?  
Do you want it to say "and" or "or" ?

Peddler and solicitor permit  
Peddler's and solicitor's permits  
Peddler and solicitor's permit

Peddler's or solicitor's permit (s)  
Peddler or solicitor permit



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**Sec. 6-7-80. Exemptions.**

This Article shall not apply to merchants who deliver goods in the regular course of business or to canvassers who are not peddlers or solicitors.

**ARTICLE 8 Refuse Haulers**

**Sec. 6-8-10. Definitions.**

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

*Refuse* means and includes ashes, trash, waste, rubbish, garbage or other discarded material, and shall be deemed to include but not be limited to leaves, grass, limbs, weeds, trimmings, cans, bottles, rags, paper, boxes and any other matter ordinarily discarded in or about dwelling houses, commercial establishments or industrial sites.

*Refuse hauler* means any person who, for consideration, collects or hauls, or causes to be collected or hauled, any refuse over any street, alley or other public place in the City.

**Sec. 6-8-20. License required; exceptions.**

- (a) No refuse hauler shall operate in the City without a license issued pursuant to this Article.
- (b) This Article shall not apply to:
  - (1) Any political subdivision, including the City, which engages in refuse hauling operations in the City;
  - (2) Any person removing refuse from ~~their~~his or her own property with ~~their~~his or her own vehicle; or
  - (3) Any person in the business of demolition, construction or landscaping, who produces and transports refuse in the course of such business, where the refuse so produced is incidental to such business.

(Prior code 11-401; Ord. 13-05 §1, 2005)

**Sec. 6-8-30. Application.**

- (a) Application for a refuse hauler's license shall be made annually on forms furnished by the City.
- (b) The completed application shall be accompanied by:
  - (1) The annual license fee, to cover the City's cost in processing the application and maintaining and repairing streets and alleyways affected by trash hauling vehicles, in the amount set forth in the fee schedule adopted by the City Council from time to time;
  - (2) A certificate of insurance in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and in the aggregate, and providing comprehensive general liability and automobile liability coverage protecting the licensee from claims for property damage or bodily injury, including death, which may arise from or in connection with its refuse hauling operations. A certificate of insurance shall be issued by the licensee's insurance agent evidencing compliance with the requirements of this Subsection; and
  - (3) A faithful performance, surety or license bond in a minimum amount of twenty-five thousand dollars (\$25,000.00) conditioned on the performance by the licensee and its officers, employees and agents of

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all activities associated with refuse hauling in compliance with all applicable laws, in a form approved by the City Attorney.

(Prior code 11-402; Ord. 13-05 §1, 2005; Ord. 09-12 §37, 2012)

**Sec. 6-8-40. Issuance.**

Upon verification that the application meets all requirements of this Code, the City Clerk shall issue a refuse hauler's license. The license shall remain in force for one (1) year unless suspended or revoked.

Commented [GU84]: Do companies do this?

**Sec. 6-8-50. Refuse hauling standards.**

- (a) No refuse hauler shall collect or haul refuse or recyclables within the City except between the hours of 7:00 a.m. and the later of sunset or 7:00 p.m.
- (b) No refuse hauler shall litter any public or private property while collecting or hauling refuse or recyclables, and each refuse hauler shall ensure that all refuse and recyclables collected are contained, tied or otherwise enclosed so as to minimize the leakage, spillage or blowing of any such materials. In the event of any such leakage, spillage or blowing by the licensee, the licensee shall immediately clean up the leaked, spilled or blown items or materials.

(Prior code 11-404; Ord. 13-05 §1, 2005; Ord. 09-12 §38, 2012)

**Sec. 6-8-60. Suspension and revocation.**

- (a) The City Clerk may suspend or revoke a license under this Article for cause, as defined in Section 6-1-20.
- (b) In addition to other applicable grounds, the City Clerk may suspend or revoke a license under this Article if the City Clerk determines that:
  - (1) Any vehicle or other equipment of the licensee fails to comply with applicable law or is unsafe or unsanitary; or otherwise constitutes a hazard to the public health, safety or welfare;
  - (2) The licensee has failed to transport refuse to or deposit refuse at approved sites for the disposal of refuse; or
  - (3) The licensee has permitted any person to operate a vehicle for refuse hauling purposes if such person does not hold a valid driver's license for such vehicle.

(Prior code 11-405; Ord. 13-05 §1, 2005)

**Sec. 6-8-70. Damage prohibited.**

No person shall operate any refuse hauling vehicle in a manner that causes damage, other than ordinary wear and tear, to any City street, alley or curb, or in a manner that causes damage to any public or private property, or for any purpose other than the collection and hauling of refuse. Any person causing any such damage shall make prompt restitution for the same.

**Sec. 6-8-80. Vehicle requirements.**

All refuse hauling vehicles used in the City shall be [kept in good repair and appearance at all times](#) always [kept in good repair and appearance](#) and shall comply with all applicable provisions of law, including but not limited

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to the laws of the City. Each such vehicle shall be appropriately sized for alley collections in the City and shall be equipped with:

- (1) A permanent cover of canvas or equally suitable or superior material designed to cover the entire open area of the body of the vehicle;
- (2) A body constructed as to be permanently leak-proof as to all refuse being hauled;
- (3) Extensions of sideboards and its tailgate, if any, constructed of permanent materials; and
- (4) A display, on both sides of the vehicle, of the licensee's name, address and telephone number in permanent, plain and legible figures and numbers not less than three (3) inches in height and in a color contrasting to that of the body of the vehicle; and such figures and letters are kept in such condition as to permit them to be read at a distance of at least sixty (60) feet.

**Sec. 6-8-90. Appeal.**

Any decision of the City Clerk under this Article may be appealed to the City Council following the procedures outlined in Section 6-1-130.

**ARTICLE 9 Sexually Oriented Businesses**

**Sec. 6-9-10. Purpose.**

The purpose of this Article is to promote and protect the public health, safety and welfare by regulating sexually oriented businesses through the establishment of reasonable and uniform regulations to reduce the adverse secondary effects of sexually oriented businesses within the City. This Article is not intended to limit or restrict the content of any communicative materials, including sexually oriented materials. This Article is not intended to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or Article II, §10 of the Colorado Constitution, or to deny access of distributors or exhibitors of sexually oriented entertainment to their intended market. Finally, this Article is not intended to condone or legitimize the distribution of obscene material.

**Sec. 6-9-20. Definitions.**

For purposes of this Article, the following terms shall have the following meanings, unless the context indicates otherwise:

*Adult arcade* means any commercial establishment in which the public is permitted or invited where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by five (5) or fewer persons per machine at any one (1) time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

*Adult cabaret* means a nightclub, bar, restaurant or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

*Adult store* means any commercial establishment which, as one of its principal business purposes, offers for sale or rent for any form of consideration one or more of the following:

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- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations, which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or
  - b. Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

*Adult motion picture theater* means a commercial establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult theater* means a theater, auditorium or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

*Convicted* means having been found guilty by a judge or a jury or entering a guilty plea or a plea of nolo contendere, and includes deferred judgments, deferred sentences, deferred adjudications and plea bargains, whether or not an appeal of such conviction is pending; excluding any conviction overturned or vacated by appeal or other force of law.

*Employee* means a person who works or performs work or service in or for a sexually oriented business on a full-time, part-time or contract basis, with or without compensation, regardless of whether such person is designated as an employee, independent contractor, agent, volunteer or any other status; excluding any person on the premises for repair or maintenance of the premises or for delivering or removing tangible personal property to or from the premises.

*Licensed premises* means the building or structure in which a licensed sexually oriented business is operating.

*Sexually oriented business* means an adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in approved and recognized sexual therapy.

*Specified anatomical areas* means any of the following:

- a. Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified crime* means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: sex crimes against children; sexual abuse; sexual assault; possession or distribution of child pornography; distribution of an illegal controlled substance; prostitution, promotion of prostitution or pandering; and organized crime if such organized crime is committed within the premises of a sexually oriented business in the City or elsewhere.

*Specified sexual activities* means any of the following:

- a. Fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy;
- c. Masturbation, actual or simulated;
- d. Human genitals in a state of sexual stimulation or arousal; or

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- e. Human excretory functions as part of or in connection with any of the activities set forth in Subparagraphs a. through e. hereof.

**Sec. 6-9-30. License required.**

All sexually oriented businesses in the City shall be licensed as set forth in this Article, and It is unlawful for any person to operate a sexually oriented business in the City without a valid license issued pursuant to this Article.

**Sec. 6-9-40. License application.**

- (a) An applicant for a sexually oriented business license shall submit a written application to the City Clerk which includes the following:
  - (1) The name, address, telephone number and date of birth of the applicant and applicant's employees and, if applicable, each of its officers, partners, directors and registered agents.
  - (2) The trade name of the applicant and copies of all documents recording the trade name, including the trade name affidavit.
  - (3) The name of any other sexually oriented business in which any officer, director or partner has a financial interest.
  - (4) The address of the premises to be licensed.
  - (5) If the applicant is a corporation, copies of the articles of incorporation, bylaws and last annual report.
  - (6) Copies of documents demonstrating that the applicant has a legal right to possession of the premises to be licensed.
  - (7) A sketch, drawing or diagram drawn to scale and showing the configuration of the premises, including total floor area to be occupied by each sexually oriented business.
  - (8) The type or types of sexually oriented business proposed, such as an adult store, adult cabaret, adult theater and/or adult motion picture theater.
- (b) Each application shall be verified and acknowledged to be true by the applicant or the managing partner, president or other officer having the authority to sign for the applicant.

(Prior code 11-903; Ord. 11-05 §1, 2005; Ord. 09-12 §40, 2012)

**Sec. 6-9-50. Background investigation.**

- (a) Upon receipt of a completed application, the City Clerk shall perform a background investigation of the applicant, its employees and its officers, directors and partners, and the information contained in the application.
- (b) The City Clerk is authorized to investigate any fact related to any of the criterion set forth in this Article that may be relevant to determine the eligibility of the applicant for a sexually oriented business license.
- (c) The City Clerk may seek and obtain the assistance of law enforcement agencies in conducting the background investigation.
- (d) The background investigation shall be completed within forty-five (45) days of receipt of the completed application.

(Prior code 11-904; Ord. 11-05 §1, 2005; Ord. 09-12 §41, 2012)

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**Sec. 6-9-60. Issuance or denial.**

- (a) Within ten (10) days of the completion of the background investigation, the City Clerk shall either issue the sexually oriented business license or issue a written statement of denial. The license or statement of denial shall be sent via U.S. mail, postage prepaid, to the applicant at the address provided on the application. The City Clerk shall issue the license unless one (1) or more of the following is true:
  - (1) The applicant has not paid all required fees under this Article.
  - (2) The applicant or any of its officers, directors or partners or is under eighteen (18) years of age.
  - (3) The applicant is not qualified to conduct business under applicable state or federal law or City ordinances.
  - (4) The applicant has knowingly provided false information to the City on an application for a sexually oriented business license.
  - (5) The location of the proposed sexually oriented business does not comply with the location requirements set forth in the City's zoning ordinance.
  - (6) The premises in which the sexually oriented business is proposed to be located does not comply with applicable City ordinances, such as the building code, electrical code or fire code.
  - (7) The applicant is delinquent in the payment of any taxes owed to the City.
  - (8) The applicant or any of its employees, directors, officers or partners has been convicted of a specified crime in the two (2) years preceding the date of the application.
- (b) Within ten (10) days of the date of a written statement of denial, the applicant may submit a written request that the City Clerk schedule a public hearing before the City Council on the application. The hearing shall be held at the next regularly scheduled City Council meeting occurring at least ten (10) days after receipt of the written request.
- (c) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the applicant's eligibility for a sexually oriented business license.
- (d) At the conclusion of the hearing or within ten (10) days thereafter, the City Council shall either order that the City Clerk issue the sexually oriented business license, or issue a written order denying the application for the sexually oriented business license.
- (e) If the City Council denies the application for a sexually oriented business license, the City Council's decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Prior code 11-905; Ord. 11-05 §1, 2005; Ord. 09-12 §42, 2012)

**Sec. 6-9-70. Term of license; renewal.**

- (a) All sexually oriented business licenses issued under this Article shall be valid for one (1) year from the date of issuance, unless revoked or suspended as provided in this Article.
- (b) Written application for renewal of a sexually oriented business license shall be filed with the City Clerk at least sixty (60) days prior to the expiration of the current license, together with the applicable annual license fee. If no application for renewal is timely filed, the licensee has waived ~~their~~~~his or her~~ option to renew the license and must re-apply for a new license.
- (c) Applications for renewal shall include the same information as an original application, except as the City Clerk deems redundant.

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- (d) The procedures for renewal license applications shall be the same as the procedures for new license applications.

(Prior code 11-906; Ord. 11-05 §1, 2005)

**Sec. 6-9-80. License nontransferable.**

A sexually oriented business license issued under this Article is nontransferable. By way of example but not limitation, a new sexually oriented business license shall be required upon: the sale, lease or sublease of the sexually oriented business or the licensed premises; the transfer by sale, exchange or similar means of a controlling interest in the sexually oriented business; or the establishment of a trust, gift or similar legal device which transfers ownership or control of the sexually oriented business or the licensed premises, other than transfer by bequest or other operation of law upon the death of the person possessing ownership or control.

**Sec. 6-9-90. Suspension and revocation.**

- (a) The City Clerk may suspend or revoke any sexually oriented business license issued under this Article if the City Clerk receives reliable information to establish that:
- (1) A nuisance is being maintained on the licensed premises;
  - (2) The licensed premises are unsanitary as certified by the Jefferson County Department of Health;
  - (3) The licensed premises are unsafe as certified by the Building Official, the Fire Marshal or the Fire Chief;
  - (4) The licensee has knowingly permitted on the licensed premises the possession, sale or use of illegal controlled substances; any specified sexual activity; or prostitution;
  - (5) The licensee or any of its officers, directors, partners or employees has been convicted of a specified crime during the term of the license; or
  - (6) The licensee knowingly provided false information on an application for a sexually oriented business license or renewal of such a license.
- (b) At least twenty (20) days before the City Clerk suspends or revokes any sexually oriented business license, the City Clerk shall provide written notice to the licensee, via United States mail, postage prepaid, to the address provided on the most recent application, of the allegations supporting the suspension or revocation.
- (c) During the twenty-day period, the licensee may file a written request for a stay of the suspension or revocation pending a public hearing before the City Council on the allegations to support the suspension or revocation.
- (d) The public hearing shall be held at the next regularly scheduled City Council meeting at least ten (10) days after receipt of the request.
- (e) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the suspension or revocation.
- (f) At the conclusion of the hearing or within ten (10) days thereafter, the City Council shall order that the sexually oriented business license be suspended for a period of time not to exceed one hundred eighty (180) days, that the license be revoked or that no action be taken with respect to the license.
- (g) If the City Council orders suspension or revocation, the City Council's decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Prior code 11-908; Ord. 11-05 §1, 2005)

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**Sec. 6-9-100. General regulations.**

- (a) All licensed premises shall comply with all applicable City regulations and ordinances, including but not limited to the building code, fire code, electrical code and zoning regulations.
- (b) Every sexually oriented business license issued under this Article shall be displayed in a conspicuous place on the licensed premises in a clear cover or frame, and shall be available for inspection at all times by the public.
- (c) All licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary.
- (d) Trash and garbage shall not be permitted to accumulate in any licensed premises or on the property outside any licensed premises.
- (e) All materials, devices and novelties offered by a sexually oriented business which depict specified sexual activities or specified anatomical areas shall be displayed so that they cannot be seen by anyone other than customers who have entered the licensed premises.

(Prior code 11-909; Ord. 11-05 §1, 2005)

**Sec. 6-9-110. Dance and entertainment requirements.**

- (a) An adult cabaret or adult theater at which employees dance shall have one (1) or more stages or similar structures specially designed for dancing, which shall be constructed in accordance with applicable building code regulations and located inside the licensed premises. Employees shall dance only upon such stage or structure.
- (b) When an employee dances on a structure which is designed to hold not more than two (2) persons, the structure shall be level, of sturdy construction and securely fastened to the floor or wall during dance performances. Steps and handrails shall be required on all such stages and structures where the platform on which the employee dances is more than eight (8) inches above the surface upon which the structure rests.
- (c) Any adult cabaret or adult theater shall have one (1) or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage, and the stage shall be fixed and immovable.
- (d) No seating for the audience shall be permitted within three (3) feet of the edge of any stage, and no members of the audience shall be permitted upon any stage or within three (3) feet of the edge of any stage.

(Prior code 11-910; Ord. 11-05 §1, 2005)

**Sec. 6-9-120. Lighting requirements.**

- (a) When the occupant capacity of any licensed premises, as determined by the Fire Department, is at least fifty (50) persons, such licensed premises shall have electric, battery-operated emergency lights using reliable storage batteries properly maintained and charged.
- (b) The interior portion of a licensed premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2) foot-candles as measured at the floor level. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

(Prior code 11-911; Ord. 11-05 §1, 2005)



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**Sec. 6-9-130. Hours of operation.**

It is unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises on any Monday through Saturday between 2:00 a.m. and 7:00 a.m.; and on any Sunday between 2:00 a.m. and 8:00 a.m.

**Sec. 6-9-140. Age restrictions.**

- (a) It is unlawful for a licensee to admit or permit the admission of any person under eighteen (18) years of age into any sexually oriented business.
- (b) It is unlawful for any person to sell, barter, give or offer for sale, barter or gift, to any person under eighteen (18) years of age any service, material, device or thing sold or offered for sale by any adult store or adult motion picture theater.
- (c) Employees of any sexually oriented business shall be at least eighteen (18) years of age.

(Prior code 11-913; Ord. 11-05 §1, 2005)

**Sec. 6-9-150. Conduct in sexually oriented business.**

- (a) No licensee or employee shall encourage or knowingly permit any person on or within the licensed premises to touch, caress or fondle the genitals, pubic region, buttocks, anus or breasts of any person.
- (b) No licensee or employee shall knowingly fail to immediately report to the Police Department any criminal conduct or violation of any City ordinance or state or federal law, rule or regulation that occurs on or within the licensed premises.
- (c) No person shall engage in specified sexual activities on or within a licensed premises.
- (d) No licensee or employee mingling with patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical area.
- (e) No employee shall receive tips from patrons except as provided herein. A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for employees shall be placed by patrons into the tip box. The licensee shall post one (1) or more signs to be conspicuously visible to patrons in letters at least one (1) inch high to read as follows:

ALL TIPS ARE TO BE PLACED IN TIP BOX AND NOT  
HANDED DIRECTLY TO THE ENTERTAINER. ANY  
PHYSICAL CONTACT BETWEEN THE PATRON AND  
THE ENTERTAINER IS STRICTLY PROHIBITED.

(Prior code 11-914; Ord. 11-05 §1, 2005)

**Sec. 6-9-160. Inspection.**

Every licensee shall permit law enforcement officers, and any other federal, state, county or City agency in the performance of any function connected with the enforcement of this Article and normally and regularly conducted by such agency, to inspect the licensed premises for the purpose of ensuring compliance with this Article, at any time the licensed premises are occupied or open for business.

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**Sec. 6-9-170. Employee identification.**

Each licensee shall provide to the City Clerk, in writing, the full name, any aliases, date of birth and current address and telephone number of every employee of the licensee within five (5) days of employment.

**Sec. 6-9-180. Exemptions.**

Notwithstanding anything to the contrary in this Article, the following businesses and activities shall be exempt from the requirements of this Article:

- (1) Any adult store which derives less than ten percent (10%) of its gross income from the sale of materials depicting specified sexual activities or specified anatomical areas, if such materials ~~are located in~~ are in a separate room or booth containing those materials only.
- (2) Any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas.

**Sec. 6-9-190. Regulations not exclusive.**

Nothing contained in this Article shall limit the effectiveness or applicability of any other provisions of this Code to any sexually oriented business.

**Sec. 6-9-200. Penalties.**

- (a) It is unlawful for any person, corporation or other entity to violate any provision of this Article, and any such violation shall be subject to Section 1-4-20.
- (b) In the event of violation of any of the terms and regulations set forth herein, the City may obtain equitable relief, including injunctive relief, to require compliance with the provisions hereof. In the event the City is successful in obtaining injunctive or other equitable relief, the costs and attorney fees incurred by the City in such action shall be awarded to the City in addition to any other relief.
- (c) Nothing contained herein shall preclude the City from enforcing the suspension and revocation provisions of this Article in addition to simultaneously or subsequently prosecuting alleged violations of this Article under this Section.

(Prior code 11-919; Ord. 11-05 §1, 2005)

***ARTICLE 10 Special Events***

**Sec. 6-10-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Applicant* means any person who seeks a special event permit from the City to conduct or sponsor an event governed by this Article, provided that an applicant who is an individual shall be eighteen (18) years of age or older.

*Athletic event* means an occasion in which a group of persons collectively engage in a sport or form of physical exercise on a street or highway, including sidewalks, which obstructs, delays or interferes with the

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normal flow of pedestrian or vehicular traffic or does not comply with traffic laws and controls, such as bicycle and foot races.

*Block party* means a festive gathering on a residential street requiring the closure of a street or a portion thereof to vehicular traffic and use of the street for the festivity, including barbecues, picnics, music or games.

*Carnival* means any traveling commercial entertainment in which any rides, games, sideshows or contests, or any combination of the foregoing, are made available to the public.

*Circus* means any traveling commercial entertainment in which any acrobats, trained animals or clowns, or any combination of the foregoing, perform for the public.

*Parade* means a march or procession consisting of persons, animals or vehicles, or combination thereof, on any street or sidewalks which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic or does not comply with traffic laws or controls.

*Special event* means a parade, athletic event, street fair, art and craft show, carnival, circus, block party, soap box derby, rally, demonstration or other outdoor event that occurs in whole or in part on any public street, sidewalk, or other property owned or leased by the City.

#### **Sec. 6-10-20. Permit required; exceptions.**

- (a) Any person desiring to conduct a special event in the City shall first obtain a special event permit from the City Clerk.
- (b) A special event permit shall not be required for the following:
  - (1) A parade involving a total of forty (40) or fewer pedestrians marching along a route that is restricted to sidewalks and crosses streets only at pedestrian crosswalks in accordance with traffic regulations and controls; pedestrians participating in such parades shall cross streets in groups of fifteen (15) people or less and shall allow vehicles to pass between each group.
  - (2) A funeral procession.
  - (3) Any special event organized or sponsored by the City.

(Prior code 11-601; Ord. 13-05 §1, 2005)

#### **Sec. 6-10-30. Application and licensee responsibilities.**

- (a) Application for a special event permit shall be made to the City Clerk on forms supplied by the City Clerk and shall provide such information as may be reasonably required by the City Clerk.
  - (1) Except as set forth in subsection (3), the application shall be submitted not less than sixty (60) days nor more than one (1) year before the event date.
  - (2) An applicant desiring to obtain a special event permit for a block party may request from the City Clerk an exemption from the time limitations set forth in Paragraph (1) above. The City Clerk shall base the determination of whether to grant the requested exemption on a good-faith estimate of the amount of time required to process the special event permit application.
  - (3) Any application for a special event permit for a large event shall be made between January 1 and February 28 of each year for events to occur during the subsequent twelve-month period. For purposes of this subsection, a "large" event shall consist of any event that will occur for more than one (1)

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calendar day, whether or not those days are consecutive. Any application for a large event shall be made not less than sixty (60) days prior to the date proposed for the event.

- (4) Notwithstanding the provisions of this section, the City Council may waive the time limitations set forth herein for special event applications for extraordinary events that could not have reasonably been anticipated during the application period otherwise required.
- (b) The application shall be accompanied by a nonrefundable application fee as set forth in a fee schedule adopted by the City Council from time to time. Nonprofit organizations and applicants for a special event permit for a block party shall be exempt from the application fee.
- (c) Applications must be accompanied by a written plan describing, at a minimum, the manner in which the special event shall be conducted, including, without limitation: (i) a description of all proposed activities and any booths or other structures to be constructed or utilized; (ii) a list of all transient merchants and other businesses participating in the special event; and (iii) whether a street closure will be necessary. If a street closure is necessary, the application must be accompanied by a written traffic control plan that is approved by the Chief of Police or ~~their~~<sup>his or her</sup> designee.
- (d) The application shall be accompanied by an indemnification agreement in a form approved by the City Attorney, in which the applicant agrees to reimburse the City for any costs incurred by the City in repairing damage to City property occurring in connection with the special event caused by the applicant, its officers, employees or agents, and agrees to defend the City against, and indemnify and hold the City and its officers and employees harmless from, any liability to any persons resulting from any damage or injury occurring in connection with the event proximately caused by the actions of the permittee, its officers, employees or agents, or any person under its control.
- (e) The City Clerk may also require the applicant to possess or obtain general liability insurance or special events liability insurance naming the City, its officers and employees as additional insureds. The City Clerk's determination shall be based upon:
- (1) The anticipated number of participants and spectators and the nature of the event;
  - (2) The risks of bodily injury and property damage; and
  - (3) The physical characteristics of the proposed site.
- (f) If insurance coverage is required, a copy of the policy or a certificate of insurance, along with all necessary endorsements, shall be filed with the City Clerk no less than ten (10) days before the date of the event unless the City Clerk for good cause changes the filing deadline.
- (g) The insurance requirement shall be waived by the City Clerk for nonathletic events if the applicant or an officer of the sponsoring organization signs a verified statement that the event's purpose is First Amendment expression, and that the cost of obtaining insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression or that it has been impossible to obtain insurance coverage, and the statement includes the name and address of one (1) insurance agent or other source for insurance coverage contacted to determine rates for insurance coverage.
- (h) All licensees shall inform each person or organization intending to make, or making, any retail sale at the special event of their duty to secure a City sales tax license and to collect and remit the appropriate sales taxes, unless the licensee elects to collect and remit such taxes under its own sales tax license. Where the licensee elects to collect sales taxes under its own sales tax license, said licensee shall submit to the Finance Director, within thirty (30) days after the conclusion of the special event, a written financial report reflecting, at a minimum, total sales of goods and/or services generated at the special event and the total sales tax revenues collected and remitted to the City. Compliance with the reporting requirements in this Subsection shall be in addition to any required sales tax reporting due to the Colorado Department of Revenue. Any

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transient merchant or business authorized by the event sponsor to participate in a licensed special event shall be exempt from having to obtain an individual business license to conduct business at such event.

(Prior code 11-602; Ord. 13-05 §1, 2005; Ord. 01-08 §1, 2008; Ord. 09-12 §43, 2012; Ord. 2023-03 §1, 2023)

**Sec. 6-10-40. Issuance.**

- (a) The City Clerk may approve, approve with conditions or deny an application. The denial or conditional approval of an application shall be based on one (1) or more of the following grounds:
- (1) Information contained in the application or supplemental information is found to be false in any material detail;
  - (2) Another special event permit application has been received prior in time, or has already been approved, to hold another event at the same time and place requested by the applicant or so close in time and place as to cause undue traffic congestion, or the Police Department is unable to meet the needs for police services for both events;
  - (3) The time, route or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a street or highway at a time when it is usually subject to traffic congestion;
  - (4) The size, nature or location of the event will present a substantial risk to the health or safety of the public or event participants;
  - (5) The size of the event will require diversion of so great a number of peace officers to ensure that participants stay within the boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the City the number of peace officers available to police the event;
  - (6) The location of the event will substantially interfere with construction or maintenance work scheduled to take place on any public right-of-way;
  - (7) The event is scheduled to occur before the hour of 9:00 a.m. or after the hour of 9:00 p.m.;
  - (8) The event is scheduled to occur at a time when a school is in session at a location adjacent to the school, and the noise created by the event would substantially disrupt the educational activities of the school;
  - (9) The event involves the use of hazardous, combustible or flammable materials which could create a fire hazard, or other materials that could create a public hazard; or
  - (10) The applicant has previously held a special event in the City that was the subject of a citation for violations of this Code.
- (b) The City Clerk may impose reasonable conditions on the issuance of a special event permit, including but not limited to:
- (1) Alteration of the date, time, route or location of the event.
  - (2) Conditions concerning the area of assembly and disbanding of parades or other events occurring along a route.
  - (3) Conditions concerning accommodation of pedestrian and vehicular traffic, including but not limited to: restricting parking to areas specified by the City; restricting the event to only a portion of a public street, sidewalk or other public property; and the use of traffic cones, barricades or other traffic-control devices to be provided, placed and removed by the permittee at its expense.

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- (4) Requirements for provision of first aid or sanitary facilities.
  - (5) Requirements for arrangement of supplemental police or fire protection personnel to be present at the event at the permittee's expense.
  - (6) Requirements for use of event monitors and providing notice of permit conditions to event participants.
  - (7) Restrictions on the number and type of vehicles, animals or structures at the event and inspection and approval of floats, structures and decorated vehicles for fire safety by the Fire Department.
  - (8) Requirements for use of garbage containers, cleanup and restoration of City property.
  - (9) Restrictions on the use of amplified sound.
  - (10) Notice to the owners and occupants of properties along the affected street.
  - (11) Compliance with any other applicable laws or ordinances, and obtaining any legally required permit or license.

(Prior code 11-603; Ord. 13-05 §1, 2005; Ord. 09-12 §44, 2012)

#### **Sec. 6-10-50. Appeal.**

Any decision of the City Clerk under this Article may be appealed to the City Council following the procedures outlined in Section 6-1-130.

#### **Sec. 6-10-60. Traffic control.**

- (a) Upon issuance of a special event permit, the City Clerk shall provide the permittee with an estimated cost of traffic control. The permittee shall remit the estimated amount to the City Clerk no later than five (5) days prior to the event. Traffic-control fees shall be computed based on an overtime rate as determined by the Chief of Police
- (b) Traffic control includes clearing the event route or site of unauthorized vehicles, diversion of traffic around the event, and directing pedestrian and vehicular traffic along the route of an event.
- (c) If the actual cost for traffic control on the date of the event is less than the estimate, the difference will be promptly refunded to the permittee. If the actual cost for traffic control is more than the estimate, the City shall bill the difference to the permittee, and payment shall be due within ten (10) days of the date of the bill.
- (d) The City Clerk shall pre-establish several event routes within the City which may be, but are not required to be, used by permittees. The routes shall specify the number of officers and traffic-control devices or marshals needed for traffic control on the routes, if any. Such pre-established routes and the fee schedule for traffic-control services shall be made available to the public.
- (e) Traffic-control fees shall be waived for nonathletic events if the applicant signs a verified statement that the event's purpose is First Amendment expression and that the cost of traffic-control fees is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression, and the applicant selects one (1) of the pre-established event routes.

(Prior code 11-605; Ord. 13-05 §1, 2005)

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**Sec. 6-10-70. Cleanup deposit.**

- (a) For an event involving food or beverage sales, erection of structures, presence of large animals or erection of water aid stations, the applicant shall provide a cleanup deposit prior to the issuance of a permit, in the amount established by the City Clerk.
- (b) The cleanup deposit shall be returned after the event if the event area has been restored to the same condition as it existed prior to the event.
- (c) If the property used for the event has not been properly cleaned or restored, the applicant shall be billed for the actual cost to the City for cleanup and restoration, and the cleanup deposit shall be applied toward payment of the bill. Any unexpended balance shall be refunded to the permittee. Should the costs exceed the deposit, the City shall bill the difference to the permittee, and payment shall be due within ten (10) days of the date of the bill.

(Prior code 11-606; Ord. 13-05 §1, 2005)

**Sec. 6-10-80. Duties of permittee.**

- (a) The permittee shall comply with all terms and conditions of the special event permit.
- (b) The permittee shall ensure that the person leading a parade or other event along a route, or the person in charge of any other event, carries the special event permit on ~~their~~~~his~~~~or~~~~her~~ person for the duration of the event.
- (c) The permittee shall ensure that the area used for the event is cleaned and restored to the same condition as existed prior to the event, immediately following the completion of the event. (Prior code 11-607; Ord. 13-05 §1, 2005)

**Sec. 6-10-90. Violations.**

- (a) It is unlawful for any person to sponsor or conduct a special event requiring a special event permit without a valid special event permit. It is unlawful for any person to participate in such an event with the knowledge that the sponsor of the event has not been issued a permit.
- (b) It is unlawful for any person to interfere with or disrupt a lawful parade, athletic event or other special event.
- (c) It is unlawful for a permittee to violate the terms and conditions of a special event permit, or for any event participant with knowledge thereof to willfully violate the terms and conditions of the special event permit.

(Prior code 11-608; Ord. 13-05 §1, 2005)

***ARTICLE 11 Garage Sales***

**Sec. 6-11-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Garage sale* includes all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "estate sale" or the like, and any similar sale of tangible personal property, which is advertised to the public at large.

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Person shall only include an individual who owns the real property, rents or maintains a lease of the real property or holds the position of property manager of the real property where the garage sale is occurring.

**Sec. 6-11-20. Garage sale signs.**

- (a) Signs ~~posted by the person conducting a garage sale, or their designee, for the purpose of advertising the existence of a garage sale~~ shall not exceed six (6) square feet and shall display the address where the garage sale is being conducted. ~~Garage sale~~ Signs may be posted no earlier than twenty-four (24) hours prior to the sale and shall be removed no later than twenty-four (24) hours after the sale.
- (b) Signs posted in violation of this Section may be removed without prior notification. It shall be unlawful for the person conducting a garage sale to permit a ~~garage sale~~ sign to remain posted during times other than those permitted in Subsection (a) above. Placement of signs in medians, parks, open space areas, on any traffic control device, in any state-owned rights-of-way or in a manner impairing traffic or pedestrian visibility is prohibited, regardless of the time of posting, such signs being subject to immediate removal.

(Ord. 09-12 §45, 2012)

**Commented [CB85]:** Reference to content of sign deleted - Reed v. Gilbert.

**Sec. 6-11-30. Limitations on garage sales.**

- (a) Only the person, as defined herein, having control of the entire property may conduct a garage sale.
- (b) No person shall conduct more than four (4) garage sales in any calendar year at the same location.
- (c) Each garage sale shall begin and end within seventy-two (72) consecutive hours.
- (d) No prepackaged manufactured food, tobacco products, alcoholic beverages, items requiring permits for sale, illegal weapons, controlled substances or other illegal items, as defined in Title 18, C.R.S., shall be sold or offered for sale at a garage sale.
- (e) All personal property offered for sale shall be arranged so that fire, police, health and other officials may have access for inspection at all times during the sale. Personal property offered for sale shall not be displayed or stored on adjoining public sidewalks, streets or other public rights-of way.

(Ord. 09-12 §45, 2012)

**Sec. 6-11-40. Traffic control at a garage sale.**

It shall be the duty of the person conducting a garage sale to ensure the free flow of traffic and pedestrians in the immediate vicinity of the garage sale so that hazardous conditions do not exist. A member of the Police Department shall be empowered to make a determination as to whether hazardous conditions do exist so as to pose a danger to pedestrians or vehicular traffic. If such condition is determined to exist, such member of the Police Department shall have authority to order the immediate cessation of the garage sale.

***ARTICLE 12 Purchasers of Valuable Articles***

**Sec. 6-12-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Police Department* means the City of Edgewater Police Department.



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*Precious or semiprecious metals or stones* means such metals as, but not limited to, gold, silver, platinum and pewter and such stones as, but not limited to, alexandrite, diamonds, emeralds, garnets, opals, rubies, sapphires and topaz. For the purposes of this Article, ivory, coral, pearls, jade and such other minerals, stones or gems as are customarily regarded as precious or semiprecious are deemed to be precious or semiprecious stones.

*Purchase* means giving money to acquire any valuable article, taking valuable articles in full or part satisfaction of a debt, taking valuable articles for resale for the purpose of full or part satisfaction of a debt or taking valuable articles for sale on consignment.

*Purchase transaction* means the purchase by a purchaser of a valuable article.

*Purchaser* means any person holding ~~themselves~~himself or herself out to the public as being engaged in the business of buying valuable articles or any person who purchases five (5) or more valuable articles during any thirty-day period. *Purchaser* does not include a person purchasing valuable articles from an estate or from a retail or wholesale merchant.

*Seller* means any person offering a valuable article for money to any purchaser, offering a valuable article in full or part satisfaction of a debt or offering a valuable article for resale for the purpose of full or part satisfaction of a debt.

*Specified crime* means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: violation of required acts of purchasers of valuable articles; violation of prohibited acts of purchasers of valuable articles; theft by receiving; money laundering; illegal investments; and tax evasion.

*Valuable article* means any tangible personal property consisting, in whole or in part, of precious or semiprecious metals or stones, whether solid, plated or overlaid, including but not limited to household goods, jewelry, United States commemorative medals or tokens and gold and silver bullion. *Valuable article* shall also include foreign currency when purchased for more than its face value or foreign currency exchange value.

#### **Sec. 6-12-20. License required.**

No purchaser of valuable articles shall operate in the City without a valid purchaser of valuable articles license.

#### **Sec. 6-12-30. Application.**

- (a) Application for a purchaser of valuable articles license shall be made to the City Clerk on forms provided by the City Clerk.
- (b) The application shall be accompanied by:
  - (1) A bond, subject to approval by the City Attorney, in the amount of five thousand dollars (\$5,000.00), conditioned on the purchaser's faithful observance of all City ordinances and state statutes.
  - (2) An application fee in the amount set forth in the fee schedule adopted by the City Council from time to time.

(Ord. 15-13 §2, 2013)

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**Sec. 6-12-40. Investigation of application and issuance of license.**

- (a) Upon receipt of a properly completed application, as determined by the City Clerk, together with all information required in connection therewith and payment of the application fee, the Police Department shall, within forty-five (45) days after the City's receipt of the completed application, conduct and complete an investigation of the criminal history of each individual applicant, the partners of a partnership, officers, directors and holders of ten percent (10%) or more of the corporate stock of a corporate applicant and the information contained in the application, and provide the results of the same to the City Clerk.
- (b) Upon verification that the business meets all requirements of this Code, and that neither an individual applicant, the partners of a partnership, nor the officers, directors and holders of ten percent (10%) or more of the corporate stock of a corporate applicant has been convicted of a specified crime within the five (5) years preceding the date of the application, excepting any conviction of a specified crime for an offense occurring prior to the effective date of this Section of any of the above-named holders of interest in a City business license to conduct a purchaser of valuable articles business issued prior to the effective date of this Section, the City Clerk shall issue a purchaser of valuable article license. The license shall remain in force for one (1) year unless suspended or revoked. No license shall be transferable.

(Ord. 15-13 §2, 2013)

**Sec. 6-12-50. Revocation and suspension.**

The City Clerk may revoke or suspend any license for cause, as defined in Section 6-1-20 of this Chapter, after providing the licensee notice and an opportunity to be heard. Any revocation or suspension shall be issued in writing, listing the reasons therefor. (Ord. 15-13 §2, 2013)

**Sec. 6-12-60. Appeal.**

The licensee may appeal any decision of the City Clerk under this Article to the City Council following the procedures outlined in Section 6-1-130 of this Chapter.

**Sec. 6-12-70. Records; report to law enforcement agencies required.**

- (a) Every purchaser of valuable articles shall, at ~~their~~~~his~~~~or~~~~her~~ sole cost and expense, keep a numerical register, in a format as required by the Police Department, in which shall be recorded the time, date and dollar amount of each purchase; an accurate description of the purchased valuable article, including all serial and identification numbers; the name, address, date of birth and physical description of each seller and the seller's driver's license number or other identification number from such sources permitted under this Article; and a declaration of ownership signed by the seller.
- (b) Every purchaser of valuable articles shall make available the records required by this Section and the valuable articles obtained by the purchaser for inspection at all reasonable times to any police officer.
- (c) Every purchaser of valuable articles shall provide the Police Department, on a weekly basis, with two (2) records, on a form to be provided by the Police Department, of all valuable articles purchased during the preceding week and one (1) copy of the seller's declaration of ownership. The form for recording such purchases shall contain the information required to be recorded in the purchaser's register pursuant to this Section. Said form shall be signed, at the time of the purchase, by the seller and by the individual purchaser or ~~their~~~~his~~~~or~~~~her~~ agent who participated in the purchase. The Police Department shall designate the day of the week on which the records and declarations shall be submitted. A copy of such record and the seller's declaration of ownership shall also be forwarded to the local law enforcement agency having jurisdiction in

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the area where the seller resides. The Police Department shall forward copies of such records and declarations of sellers' ownership, upon request, to any other law enforcement agency.

- (d) The records required by this Section shall be maintained for a minimum of three (3) years.  
(Ord. 15-13 §2, 2013)

#### **Sec. 6-12-80. Acceptable identification.**

No purchaser of valuable articles shall purchase a valuable article from a seller without securing one (1) of the following types of current and valid identification, and it is unlawful for any seller to knowingly give false personal identification information to a purchaser of valuable articles:

- (1) Colorado driver's license;
- (2) Identification card issued by the State;
- (3) A driver's license, with a picture, issued by another state;
- (4) An identification card, with a picture, issued by another state;
- (5) A military identification card;
- (6) A passport;
- (7) An alien registration card; or
- (8) A nonpicture identification document issued by a state or federal governmental entity if the purchaser also obtains a clear imprint of the seller's right index finger or photograph of the seller at the time of the transaction.

#### **Sec. 6-12-90. Holding period.**

Every purchaser of valuable articles shall retain on the licensed premises each valuable article purchased for not less than thirty (30) days from the date of purchase. (Ord. 15-13 §2, 2013)

#### **Sec. 6-12-100. Investigation.**

- (a) For purposes of discovering violations of any law, the Chief of Police or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee may at any time investigate the business and examine the books, accounts, papers, documents and records used therein of:
- (1) Any purchaser of valuable articles in respect to such books, accounts, papers, documents and records required to be kept hereunder;
  - (2) Any other person who engages in the business of a purchaser of valuable articles or who participates in such business as principal, agent, broker or otherwise; and
  - (3) Any person whom the Chief of Police or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee has reasonable cause to believe is violating or is about to violate any provision of this Article, whether or not such person shall claim to be within the authority or beyond the scope of this Article.
- (b) For the purposes of this Section, the Chief of Police or ~~their~~ ~~his~~ ~~or~~ ~~her~~ designee shall have and be given full access to the offices and places of business, books, accounts, papers, documents, records, files, safes and vaults of all such persons and shall require the attendance of and examine any person relative to such purchase or such business or to the subject matter of any investigation, examination or hearing.

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(Ord. 15-13 §2, 2013)

**Sec. 6-12-110. Hold order.**

A police officer may order a purchaser of valuable articles to hold any valuable article purchased for a reasonable period of time if the police officer has a reasonable belief that the valuable article is stolen. A purchaser of valuable articles who receives such a hold order shall not sell or dispose of the specified valuable article as long as the hold order remains in effect.

**Sec. 6-12-120. Unlawful transactions.**

- (a) No purchaser of valuable articles, employee or agent of the purchaser of valuable articles shall purchase any valuable article from the following persons:
  - (1) Any person under eighteen (18) years of age;
  - (2) Any person who the purchaser of valuable articles knows or has reason to believe has been convicted of burglary, robbery, felony theft or theft by receiving; or
  - (3) Any person who appears to be under the influence of alcohol or any controlled substance, as defined by state law.
- (b) No purchaser of valuable articles, employee or agent of the purchaser of valuable articles shall purchase any valuable article when the identification number, serial number, model number, brand name, owner's identification number or other identifying marks on such valuable article have been totally or partially obscured.

(Ord. 15-13 §2, 2013)

**Sec. 6-12-130. Hours.**

It is unlawful for any purchaser of valuable articles to be open for business after 9:00 p.m. each day or before 7:00 a.m. the following day.

**Sec. 6-12-140. Lost or stolen articles.**

- (a) A purchaser of valuable articles who purchases a valuable article from a seller who is not the owner thereof obtains no title in the valuable article. Ignorance of the fact that the valuable article was lost or stolen shall not be construed to affect the question of title. If the purchaser of valuable articles sells such valuable article to a third person, the purchaser of valuable articles shall remain liable to the original owner in an action to recover the valuable article. Upon proof of ownership of the valuable article lost or stolen, the lawful owner may claim the same.
- (b) If any person attempts to sell to a purchaser of valuable articles any item which the purchaser of valuable articles has reason to believe has been stolen, the purchaser of valuable articles shall notify the Police Department within twenty-four (24) hours after such attempt is made, and provide a description of the person making such attempt and the valuable article that such person attempted to sell. If a purchaser of valuable articles could reasonably have had knowledge that the items attempted to be sold were stolen or obtained in any other unlawful manner, then it is unlawful to fail to notify the Police Department as required herein.

(Ord. 15-13 §2, 2013)

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**Sec. 6-12-150. Purchase transaction fee.**

(a) In addition to the annual license fee set forth in the fee schedule adopted by the City Council from time to time, each purchaser of valuable articles shall remit to the City a purchase transaction fee, as set forth in the fee schedule adopted by the City Council from time to time.

(b) The purchase transaction fee shall be due and payable to the Finance Director on a monthly basis.

(Ord. 15-13 §2, 2013)

**Sec. 6-12-160. Use of scales.**

Every purchaser of valuable articles that uses a weight scale to aid in the determination of value of a valuable article offered for sale by a seller shall ensure that the display of such scale, or other visible measure of its reading, is clearly visible to the seller at the time the valuable article is weighed.

### **ARTICLE 13 Rental Property Registration Code<sup>3</sup>**

#### **Sec. 6-13-10. Title, purpose and intent.**

- (a) Title. These regulations shall be known as the Rental Property Registration Code of the City of Edgewater, herein referred to as the "Registration Code."
- (b) Purpose and intent. The purpose and intent of this Article is to provide certain information to the City in order to ensure compliance with, and facilitate enforcement by the City of, the City's Rental Property Maintenance Code ("Rental Code") set forth as [in] Chapter 7, Article 7, which Rental Code establishes minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use, occupancy, and maintenance of all residential structures available for rent within the City of Edgewater.

( Ord. 2015-08 §2, 7-16-2015 )

#### **Sec. 6-13-20. Application of this article.**

Effective January 1, 2016, it shall be unlawful for any owner to lease for occupancy any rental dwelling or portion thereof without first registering the rental dwelling pursuant to this Article.

#### **Sec. 6-13-30. Definitions.**

When not inconsistent with the content, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and the masculine includes the feminine. For purposes of this Article, the following words, terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

*Agent* shall mean a manager or operator, or any person, agent, firm or corporation who is designated in writing by the owner to act as the representative of the owner on issues related to a rental dwelling and for receipt of notices and legal service of process related to a rental dwelling.

*Building* shall mean any structure used or intended for supporting or sheltering any use or occupancy.

*Income restricted property* shall mean a unit of rental property over which the owner, whether a non-profit or a for-profit entity, lacks the sole discretion to increase rent due to state or federal law. By way of example, and not limitation, units within a Section 8 housing project, as defined by 42 U.S.C. § 1437(f), as amended, as well as properties for which the owner takes an income tax credit pursuant to Sections 38 and 42 of the Internal Revenue Code (Title 26, U.S.C.), as amended, qualify as income restricted properties. However, units not within a Section 8 housing project that are rented with tenant-based Section 8 vouchers, pursuant to 42 U.S.C. § 1437(f), as amended, do not qualify as income restricted properties.

*Lease* shall mean:

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<sup>3</sup>Ord. 2015-08, § 2, adopted July 16, 2015 , set out provisions for use herein as art. 12, §§ 6-12-10—6-12-70. For the purposes of classification and clarity, these provisions have been included as art. 13, §§ 6-13-10—6-13-70.

Commented [GU86]: Change?

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- (1) An agreement by which an owner gives up to a tenant, for valuable consideration, possession and use of ~~their~~ property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property; or
  - (2) The act of an owner giving to a tenant, for valuable consideration, possession and use of ~~their~~ property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

*Occupancy* shall mean the purpose for which a building or portion thereof is utilized or occupied.

*Owner* shall mean any person, agent, firm or corporation, or a designated representative of the same, having a legal or equitable interest in a rental dwelling; or otherwise having control of such property, including the guardian of an estate and an executor or administrator of an estate when ordered to take possession of real property by a court.

*Person* shall mean any individual, partnership, corporation, association, or other type of entity capable of owning or managing property, or an agent, servant, or employee of any individual, partnership, corporation, association, or other entity capable of owning or managing property.

*Property* shall mean one (1) lot or parcel of real property or adjacent lots or parcels of real property under common ownership upon which one (1) or more rental dwellings is located.

*Rental dwelling* shall mean any property, building or buildings, or portion thereof, that provide shelter for human habitation or residential purpose, any portion of which is leased by the owner for occupation by a tenant. "Rental dwelling" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes, or income restricted property, nor shall it mean a property in which both the owner and tenant reside in a single structure, provided that such structure does not contain more than four (4) rental units.

*Structure* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

#### **Sec. 6-13-40. Registration required; rental dwellings.**

On or before January 1, 2016, every owner of a rental dwelling(s) shall register the rental dwelling(s) with the City Manager or ~~their~~ designee, according to the application process set forth in Section 6-13-50.

#### **Sec. 6-13-50. Registration application; term of registration; renewal of registration.**

- (a) Application for registration. Applications for rental dwelling registration shall be submitted to the City Clerk on a form provided by the City, and the City Clerk shall accept no incomplete applications. Applications shall provide the following information:
  - (1) The full name, mailing address, residential address (if different than mailing address) and telephone number for the property owner, if the property owner is an individual.
  - (2) The full names, mailing addresses, residential addresses (if different than mailing address) and telephone numbers for the property owner(s), if the property is owned by more than one (1) individual.
  - (3) The full name, mailing address, business address (if different than mailing address) and telephone number of at least one (1) officer, manager or director, if the property owner is a business entity.
  - (4) If no owner of the property has a residential address within fifty (50) miles of the City of Edgewater, or if no officer, manager or director of the business entity that owns the property has a business address within fifty (50) miles of the City of Edgewater, then there shall be provided to the City the full name,

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mailing address, residential or business address (if different than mailing address) and telephone number of the agent for the property who shall have either a residential or business address within fifty (50) miles of the City of Edgewater, along with a copy of the writing designating the agent to act as the representative of the owner on issues related to a rental dwelling and for receipt of notices and legal service of process related to a rental dwelling.

- (5) An affirmation that the application is complete and contains no false, misleading or fraudulent statements.
  - (6) The address of each rental dwelling within the City of Edgewater, including individual unit numbers, along with disclosure of the number and location of the rental dwellings, if any, that constitute income restricted property and proof, satisfactory to the City, of such status.
- (b) It is the duty of each owner to ensure that all of the information provided in a rental dwelling registration is kept up to date at all times, and it shall be unlawful for an owner to fail to provide updated information to the City within ten (10) days after the date upon which any information provided is no longer accurate.
- ( Ord. 2015-08 §2, 7-16-2015 )

**Sec. 6-13-60. Application fee.**

Applicants for a new or renewed registration of a rental dwelling shall pay no fee to the City for purposes of the application for registration.

**Sec. 6-13-70. Owner's option for inspection of rental dwelling.**

If an owner requests an inspection of ~~their~~ rental dwelling(s) for compliance with the limitations and requirements of the City's Rental Property Maintenance Code that is set forth as Chapter 7, Article 7, then the City shall conduct an inspection of the rental dwelling(s), pursuant to Section 7-7-120. Prior to any such inspection(s), the owner shall pay a fee or fees as established in the fee schedule adopted by the City Council from time to time. If the result of any such inspection is a finding by the City Manager or ~~their~~ designee of full compliance of the rental dwelling with the Rental Property Maintenance Code, then the City shall issue a letter to the owner stating the date of inspection and the finding of full compliance. At the owner's request, a copy of the letter shall be placed on the City's website for a period of one (1) year from the date of its issuance; provided, however, that any such letter shall be removed from the City's website in the event that the City later discovers a violation of the City's Rental Property Maintenance Code that is set forth as Chapter 7, Article 7. Any other provision of this Article notwithstanding, for purposes of this Section, a rental dwelling shall be deemed to include income restricted property.

***ARTICLE 14 Tobacco Product Retailer License and Regulations***

**Sec. 6-14-10. Legislative intent.**

It is the intent of the City Council of Edgewater in enacting this Article to prohibit sales of tobacco products to youth, to encourage responsible tobacco product retailing and to reduce the impact of tobacco product use by young people in Edgewater.

**Sec. 6-14-20. Application of licensure provisions of this article.**

Effective February 1, 2017, it shall be unlawful for any person to be a tobacco product retailer without a valid license issued pursuant to this Article.



**Sec. 6-14-30. Definitions.**

When not inconsistent with the content, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and the masculine includes the feminine. For purposes of this Article, the following words, terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

*Characterizing Flavor* means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include without limitation tastes or aromas relating to food or drink of any sort of fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herbs, or spices.

*Cigarette* means any product that contains tobacco or nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (2) Tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by consumers as a cigarette; or
- (3) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subparagraph (1) above.

The term includes all "roll-your-own," i.e., any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered ~~to, or to~~ or purchased by consumers as tobacco for making cigarettes.

*Department* means the City of Edgewater Police Department, and any agency or person designated by the department to enforce the provisions of this Article.

*Distribute* or *Distribution* means to furnish, give, provide, or attempt to furnish, give or provide, whether gratuitously or for any type of compensation.

*Electronic Smoking Device* means an electronic device that, when activated, emits a vapor, aerosol, fume or smoke that may be inhaled or absorbed by the user, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance, with or without nicotine, intended to be aerosolized, vaporized or produces a fume or smoke during the use of the device intended for human consumption.

*Flavored Tobacco Product* means any tobacco product that imparts a characterizing flavor.

*License* means the tobacco product retailer license.

*License Administrator* means the Edgewater City Clerk.

*Licensee* means the owner or holder of a tobacco product retailer license and shall include the employees, agents and officers thereof as appropriate.

*Licensed Premises* means any area of the premises where tobacco products are authorized to be sold or distributed to a consumer including, but not limited to, the grounds occupied by a retailer and any store, outlet, location, vending machine or structure where tobacco products are sold, as designated in the approved license application.

*Recipient* means any person who obtains or attempts to obtain a tobacco product.

**Commented [TN87]:** Should e-cigarettes be mentioned? They qualify to some but not all of these descriptions.

**Commented [CB88R87]:** Below

**Commented [TN89]:** This section is not clear and contradicts the first part of the Cigarette definition.

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*Retail Tobacco Business* means a person engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, electronic smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is less than twenty-five percent (25%) of gross sales receipts. For purposes of enforcement of this Article, a retail tobacco business shall also include a person engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including but not limited to, any plant, or other organic matter packaged for smoking or held out as a smoking product, or any person engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, lounge or café.

*Self-Service Display* means the open display or storage of tobacco products, electronic smoking devices, or tobacco paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct, person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

*Tobacco Paraphernalia* means any item designed for the consumption, use or preparation of a tobacco product or for the use of an electronic smoking device.

*Tobacco Product* means and includes cigarettes, electronic smoking devices and:

- (1) Any other product that contains tobacco, nicotine, or synthetic nicotine products, or that is made or derived from tobacco, and that is intended or expected to be ingested, smoked, inhaled, placed in oral or nasal cavities, or applied to the skin of an individual, including but not limited to chewing tobacco and snuff; the term also includes any component, accessory, part or paraphernalia, whether or not sold separately, used in the consumption of a tobacco product, such as filters, rolling papers, pipes or liquid used in an electronic smoking device;
- (2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe.

The term "Tobacco Product" does not include any product specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence, or for other medical purposes, when such product is being marketed solely for such an approved purpose.

*Tobacco Product Retailer* means any person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, a tobacco product, electronic smoking device or tobacco paraphernalia.

*Tobacco Product Retailing* means the selling, offering for sale, exchanging or offering for exchange for any form of consideration, a tobacco product or electronic smoking device.

#### **Sec. 6-14-40. License required.**

(a) *Tobacco product retailer license required.*

- (1) It shall be unlawful for any person to engage in tobacco product retailing in the City of Edgewater without a valid license issued pursuant to this Article for each location where tobacco product retailing occurs.
- (2) No license may be issued to authorize tobacco product retailing anywhere other than at a fixed location that is designated in the license application and approved license. Tobacco product retailing from vehicles is prohibited.
- (3) A licensed premise may only have one (1) active license at one (1) time.

(b) *Display of License.* Each license shall be prominently displayed in a publicly visible location at the licensed premises.

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- (c) *Period of revocation.* A person may not apply for a new license for a one (1) year period after a license held by such person has been revoked.
  - (d) *Minimum age of licensee.* No License shall be issued to any natural person under twenty-one (21) years of age.

( Ord. 2016-20 §1, 2016 ; Ord. 2019-04 §2, 2019)

#### **Sec. 6-14-50. Minimum legal sales age and other limitations on tobacco product retailing.**

- (a) *Minimum legal sales age and requirements of positive identification.* It is unlawful to sell or distribute a tobacco product to a person under the age of twenty-one (21) years. No licensee shall sell or transfer a tobacco product without first examining the government-issued photographic identification of the recipient to confirm that the recipient is at least twenty-one (21) years of age.
- (b) *Minimum age for persons selling tobacco products.* Licensees shall not allow, permit or require any person who is younger than the age of eighteen (18) years to sell a tobacco product ~~during the course of~~during operation of the business.
- (c) *No unaccompanied minors permitted in retail tobacco businesses.* Except as may be permitted under Subsection (b) of this Section, a licensee shall not allow or permit a person who is younger than twenty-one (21) years of age to be admitted or remain upon the licensed premises of a retail tobacco business, unless such person is accompanied by ~~their~~his or her parent or guardian. The licensee of a retail tobacco business shall post and keep at all times visible to the public in a conspicuous place on the licensed premises, a sign to be provided by the City Clerk's office which shall read as follows:  
  
WARNING: It is a violation of the Edgewater Municipal Code for any person under twenty-one (21) years of age to be on the premises of this business unless accompanied by their parent or guardian.
- (d) *Self-service display prohibited.* Except at a location where persons under twenty-one (21) years of age are prohibited from entry, it is unlawful for a licensee to engage in tobacco product retailing by means of a self-service display.
- (e) *Signage required.* No person shall distribute a tobacco product in the City unless a clearly visible notice is posted at the location where the tobacco product is distributed, which notice shall state, legibly printed in letters at least one-half (½)inch in height, "No tobacco or nicotine sales to any person under the age of twenty-one (21)."
- (f) *Distribution of flavored tobacco products prohibited.* On and after November 1, 2021, it is unlawful to sell, offer for sale, or distribute a flavored tobacco product within the City.

( Ord. 2016-20 §1, 2016 ; Ord. 2019-04 §3, 2019; Ord. No. 2021-13 §2, 2021)

#### **Sec. 6-14-60. Application procedure.**

- (a) An application for a license shall be submitted and signed by an individual authorized by the person making application for the license.
- (b) An application for a license for an operation for which there is a reasonable expectation that it will meet the definition of a retail tobacco business shall so indicate in the application. For any license that is granted pursuant to an application indicating that a retail tobacco business is anticipated on the licensed premises, there shall be a rebuttal presumption that in fact the business is a retail tobacco business.
- (c) All license applications shall be submitted on a form supplied by the License Administrator.

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- (d) All license applications shall be accompanied by the payment in full of an application fee in the amount set forth in the fee schedule adopted by the City Council from time to time.
  - (e) Applicants and licensees shall inform the Licensing Administrator in writing of any change to the information submitted on an application for a license within thirty (30) calendar days of a change, including, without limitation, a change that indicates that the licensee is operating as a retail tobacco business.

( Ord. 2016-20 §1, 2016 )

#### **Sec. 6-14-70. Issuance of license.**

- (a) Upon the receipt of a completed application for a license and all required fees, the License Administrator shall issue a license within thirty (30) days, which period may be extended by the License Administrator for good cause, unless credible evidence indicates that one (1) or more of the following bases for denial exists:
  - (1) The information presented in the application is incomplete, inaccurate or false;
  - (2) The applicant seeks a license for a location where this Article prohibits the issuance of a license;
  - (3) The applicant seeks a license for a location that is not appropriately zoned for the use;
  - (4) The proposed location for the requested license is not otherwise in compliance with applicable City law;
  - (5) The applicant is not qualified to hold the requested license under the provisions of this Article.
- (b) If the License Administrator denies the application for issuance of the license, the License Administrator shall notify the applicant in writing by regular mail, postage prepaid, to the address shown in the application. The notice shall include the grounds for denial. Notice is deemed to have been properly given upon mailing.

( Ord. 2016-20 §1, 2016 )

#### **Sec. 6-14-80. Appeal of license administrator's decision.**

- (a) An applicant has the right to appeal the Licensing Administrator's denial of an application to the City Council. Such appeal shall be initiated by filing a written request with the Licensing Administrator within twenty (20) days of the date of the notice of denial of the issuance of a license.
- (b) The applicant's failure to timely appeal the decision of the Licensing Administrator is a waiver the applicant's right to contest the denial of the issuance of the license.
- (c) The appeal to the City Council shall be conducted as a de novo hearing by the City Council.

( Ord. 2016-20 §1, 2016 )

#### **Sec. 6-14-90. License term, renewal and transfer.**

- (a) *Term.* A license shall be valid for a term of one (1) year from the date of its issuance.
- (b) *Renewal of License.* A licensee shall apply for the renewal of the license and submit the renewal license fee, as set forth in the fee schedule adopted by the City Council from time to time, no later than thirty (30) days prior to expiration of the existing license term. The License Administrator shall renew the license prior to the end of the term, provided that the renewal application and fee were ~~timely~~ submitted on time and the License Administrator is not aware of facts that would have prevented issuance of the original license.

**Commented [TN90]:** Timely is not an adverb

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- (c) *Expiration of License.* A license that is not timely renewed shall expire at the end of its term. The failure to timely obtain a renewal of a license requires submission of a new application.
  - (e) A license shall not be transferred from one (1) person to another or from one (1) location to another.
  - (f) When a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license for the remainder of the term of that license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the term of the license.

(-Ord. 2016-20 §1, 2016)

**Sec. 6-14-100. Compliance monitoring.**

- (a) Subject to the requirements of Subsection (b) below, compliance monitoring of this Article shall be by the Department, as the Department deems appropriate, to allow the Department to determine if a tobacco product retailer is conducting business in a manner that complies with this Article.
- (b) The Department shall, at least twice annually, conduct a compliance check of each tobacco product retailer that is licensed by the City to determine if the retailer is conducting business in a manner that complies with this Article. Each compliance check shall, at a minimum, include investigation concerning whether the retailer is complying with the requirements and limitations of this Article that concern the minimum purchase age for tobacco products, and the prohibition of the sale of flavored tobacco products.
- (c) Nothing in this section shall create a right of action in any licensee or other person against the City, the Department or their agents and officers.
- (d) The Department shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "minor operative") if the potential violation occurs when:
  - (1) The minor operative is participating in a compliance check supervised by a peace officer or a code enforcement official of the Department; or
  - (2) The minor operative is acting as an agent of a person designated by the City to monitor compliance with this Article; or
  - (3) The minor operative is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the State of Colorado or Jefferson County Department of Health and Environment or the Colorado Department of Health and Environment.
- (e) The results of Department compliance monitoring activities shall be provided by the Department to the City Clerk and the City Clerk shall maintain a database of such activities on a license-by-license basis.

( Ord. 2016-20 §1, 2016; Ord. No. 2021-13 §3, 2021)

**Sec. 6-14-110. Suspension or revocation of license.**

- (a) The following shall be grounds for suspension or revocation of the licensee's license:
  - (1) A violation by a licensee or a licensee's officers, agents, or employees of any of the provisions of this Article or any laws of the State of Colorado or ordinances of the City of Edgewater relating to the sale or furnishing of tobacco or cigarettes or tobacco products to minors, or the storage or display of cigarettes or tobacco products, including, without limitation, C.R.S. 18-13-121, C.R.S. 24-35-503, and Section 10-7-60;

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- (2) Violations of any conditions imposed by the License Administrator or City Council in connection with the issuance or renewal of the license;
  - (3) Failure to pay state or local taxes that are related to the operation of the business associated with the license;
  - (4) Loss of the right to possession of the licensed premises; or
  - (5) Fraud, misrepresentation or a false statement of material fact contained in the original or renewal license application.
- (b) The City Council shall hear and determine all actions relating to the suspension or revocation of licenses pursuant to this Article. The City Council shall have the authority to impose remedial sanctions for violations.
  - (c) The Department shall commence suspension or revocation proceedings by petitioning the City Council to issue an order to the licensee to show cause why the licensee's license should not be suspended or revoked. The City Council shall issue such an order to show cause if the petition demonstrates that probable cause exists to determine that one (1) or more grounds exist pursuant to subsection (a) to suspend or revoke the licensee's license. The order to show cause shall set the matter for a public hearing before the City Council.
  - (d) The City Clerk shall give notice of the public hearing no later than thirty (30) days prior to the hearing by mailing the same in writing to the licensee at the address contained in the licensee's license. At the hearing, the licensee shall have the opportunity to be heard, to present evidence and witnesses, and to cross-examine witnesses presented by the Department. The City Council 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 that the City Council is authorized to conduct. The standard of proof at such hearings shall be a preponderance of the evidence. The burden of proof shall be upon the Department.
  - (e) In determining whether a license should be suspended or revoked, and in determining whether to impose conditions in the event of a suspension, the City Council shall consider the following factors:
    - (1) The nature and circumstances of the violation;
    - (2) Corrective action, if any, taken by the licensee;
    - (3) Prior violations, if any, by the licensee;
    - (4) The likelihood of recurrence of the violation;
    - (5) Whether the violation was willful;
    - (6) Previous sanctions, if any, imposed on the licensee.
  - (f) The City Council shall consider the following non-binding guidelines in determining whether to suspend or revoke a license and, in the case of a suspension, the length of the suspension. The purpose of these guidelines is to provide generally consistent treatment of violators of this Article. The actual sanction imposed upon a licensee for any violation may vary from the guidelines when warranted by the specific facts and circumstances of the case. The decision of the City Council with respect to the suspension or revocation of a license shall constitute a final administrative action by the City of Edgewater, subject to judicial review.
    - (1) For a first offense within a one-year period, suspension for seven (7) days.
    - (2) For a second offense within a one-year period, suspension for thirty (30) days.
    - (3) For a third or subsequent offense within a one-year period, revocation of the license.
  - (g) Upon request of a licensee, the City Council may allow for the payment of a fine in lieu of the suspension of a license for all or part of the suspension period. Upon the receipt of such a request, the City Council may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it deems desirable and may, in its sole discretion, grant the request if it is satisfied that:

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- (1) The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and
  - (2) The books and records of the licensee are kept in such a manner that the loss of sales of tobacco products that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.
  - (3) The fine amount shall be the equivalent of twenty percent (20%) of the licensee's estimated gross revenues from sales of tobacco products during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).
  - (h) Payment of any fine pursuant to the provisions of subsection (g) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the City of Edgewater.
  - (i) Upon payment of the fine pursuant to subsection (h), the City Council shall enter its further order permanently staying the imposition of the suspension and shall cause such moneys to be paid into the general fund of the City.

( Ord. 2016-20 §1, 11-17-2016 )

**Sec. 6-14-120. Enforcement.**

- (a) The remedies provided by this Article are cumulative and in addition to any other remedies available at law or in equity.
- (b) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Article is unlawful and shall cause the offender to be subject to the general penalty provisions of the Edgewater Municipal Code.
- (c) Violations of this Article are hereby declared to be public nuisances.
- (d) In addition to other remedies provided by this Chapter or by other law, any violation of this Article may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

( Ord. 2016-20 §1, 11-17-2016 )

***ARTICLE 15 Short Term Rentals***

**Sec. 6-15-10. Purpose and intent.**

The purpose and intent of this Article is to ensure that residential properties in the City used for short term rental purposes meet minimum standards of safety and habitability and are operated in a manner compatible and consistent with surrounding residential uses and in compliance with the sales tax collection requirements of Article 2 of Chapter 4.

**Sec. 6-15-20. Application of this article, other portions of this Code.**

Effective January 1, 2018, it shall be unlawful to operate any short term rental in the City without a license for the same issued pursuant to this Article. Except as otherwise provided herein, a property occupied solely for purposes of primary residence and short term rentals shall not be required to comply with the rental property

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maintenance code and registration requirements of Article 13 of Chapter 6 and Article 7 of Chapter 7, respectively. A short term rental shall not constitute a "bed and breakfast," as defined and regulated by Chapter 16, and shall be subject to licensure under this Article in lieu of the home occupation licensing provisions of Article 5, as applicable.

**Sec. 6-15-30. Definitions.**

*Advertise* means any act, method or means of drawing attention to a short term rental for purposes of promoting the same for rent or occupancy.

*Imminent danger* shall mean a condition that could cause serious or life-threatening injury or death at any time.

*Licensed premises* means the premises specified in an approved application for a license under this Article which are owned or in the possession of the licensee and within which such licensee is authorized to provide short term rental accommodations in accordance with this Article.

*Primary residence* means a residence which is the usual place of return for housing as documented by the occupant's: (1) driver's license OR Colorado state identification card; AND (2) voter registration; motor vehicle registration; OR designated residence for tax purposes. An applicant for a license under this Article may have only one (1) primary residence for purposes of this Article.

*Short term rental* means a primary residence or portion thereof used for lodging accommodations for transients for a period of less than thirty (30) consecutive days.

**Sec. 6-15-40. License application; term; renewal; non-transferable.**

- (a) License application. Applications for a short term rental license shall be submitted to the City Clerk on a form provided by the City, and the City Clerk shall accept no incomplete applications. Applications shall provide the following information:
- (1) The full name, residential address and telephone number for the applicant.
  - (2) The full name, address and telephone number of an authorized agent with either a residential or business address within fifty (50) miles of the City, along with a copy of the writing designating the agent to act, in the applicant's absence, as the representative of the applicant on issues related to the short term rental.
  - (3) A sworn affidavit that the applicant has followed all license requirements, that there are no private rules or covenants that prohibit the use of the licensed premises as a short term rental, and that the application is complete and contains no false, misleading or fraudulent statements.
  - (4) The address of the proposed licensed premises and a description or illustration of the area(s) that will be used for short term rental purposes.
  - (5) Proof of the lawful possession of the licensed premises by the applicant, either by deed or lease. If the applicant is not the owner, the application shall include written authorization, signed and notarized, from the owner of the licensed premises for the use of the same for short term rentals.
  - (6) Proof of applicant's principal residence at the licensed premises, by providing: (1) the applicant's driver's license OR Colorado state identification card; AND (2) the applicant's voter registration; motor vehicle registration; OR document(s) designating a residence for tax purposes.
  - (7) An application fee in an amount set forth in the City Fee Schedule.
  - (8) A current list of the addresses of all property located within one hundred (100) feet of the property upon which the licensed premises is situated.

**Commented [GU91]:** Comm Dev is willing to take this on for the City - not sure it matters or if we want to change the code / so a question if we want to change the responsible dept to submit these to?



- (9) Such other information determined necessary by the City Clerk to evaluate the compliance of the applicant, licensed premises or proposed short term rental activity with the requirements of this Code.
  - (b) It is the duty of each short term rental licensee to ensure that all of the information provided in a license application is kept up to date at all times, and it shall be unlawful for a licensee to fail to provide updated information to the City within ten (10) days after the date upon which any information provided is no longer accurate.
  - (c) Each license issued under this Article shall be valid for a period of twelve (12) months from the date of issuance.
  - (d) The renewal of a license under this Article shall follow the renewal process and requirements set forth under Section 6-1-70.
  - (e) No license issued under this Article shall be transferable and no license is valid as to any person or entity other than the person or entity named thereon, excepting spouses and partners in a civil union.
  - (f) Upon the issuance of a license, the City Clerk shall send written notice of such issuance to each distinct mailing address within one hundred (100) feet of the licensed premises.
  - (g) The City Clerk shall maintain a list of currently-licensed short term rental properties in the City subject to public view on the City's web site at all times and in the Clerk's office during regular business hours.
- ( Ord. 2017-19 § 1, 11-2-2017 )

**Sec. 6-15-50. Minimum health and safety standards; inspections.**

- (a) Each licensed premises licensed under this Article shall comply with all building, housing and health codes which, if violated, would constitute an imminent danger.
  - (b) Each licensed premises shall contain a working smoke detector, carbon monoxide detector and fire extinguisher.
  - (c) No license under this Article shall be issued or renewed until the licensed premises are inspected by the City Manager, or ~~their~~his or her designee, for compliance with this Section and issued a written notice of inspection approval. If, after inspection, the City Manager, or ~~their~~his or her designee, issues a written notice of inspection failure, such notice shall be accompanied by an order to correct and shall be subject to the same procedures as set forth in Section 7-7-130, concerning notice of non-compliance of rental properties required to register with the City.
- ( Ord. 2017-19 § 1, 11-2-2017 )

**Sec. 6-15-60. Limitations; requirements.**

- (a) A licensee shall not provide short term rental accommodations for more than ten (10) days per month, or more than sixty (60) days per calendar year.
- (b) Each licensee shall submit to the City, on a yearly basis, an affidavit, signed by the licensee and notarized, attesting to the duration and frequency of the prior year's short term rental history, as well as confirmation of payment of all applicable sales and lodging taxes.
- (c) Each licensee shall post a notice inside the premises with the following information:
  - (1) Licensee's contact information;
  - (2) Emergency contact information if the licensee cannot be reached;

**Commented [GU92]:** Do we provide this info? I'm sure we have 100% compliance on this though.

- (3) City's noise restrictions;
  - (4) Local trash and recycling schedule;
  - (5) Parking restrictions;
  - (6) Water restrictions;
  - (7) Evacuation directions in the event of fire or emergency;
  - (8) Location of the fire extinguisher; and
  - (9) City contact information for purposes of complaints concerning the licensed premises.
- (d) Each licensed premises must provide the number and type of off-street parking spaces required by Section 16-3-160 as if the licensed premises were new development.
- ( Ord. 2017-19 § 1, 11-2-2017 )

**Sec. 6-15-70. Suspension and revocation; appeal.**

Each license issued under this Article is subject to suspension and revocation proceedings, including the availability to appeal the outcome thereof, as set forth under Sections 6-1-120 and 6-1-130.

**Sec. 6-15-80. Unlawful acts.**

It is unlawful for any person to:

- (a) Operate a ~~short term~~short-term rental without a smoke detector, carbon monoxide detector and fire extinguisher on the licensed premises during each ~~short term~~short-term rental occupancy period.
- (b) Operate a ~~short term~~short-term rental in any location other than the person's primary residence.
- (c) Operate a ~~short term~~short-term rental that does not comply with all applicable State and City laws.
- (d) Advertise any short term rental without including in such advertisement the short term rental license number issued by the City under this Article.
- (e) Fail to collect or remit City sales tax due on the sale of short term rentals as required by Article 2 of Chapter 4.
- (f) Operate a short term rental or permit the use or occupancy of the same in violation of any the requirements of Chapter 16, concerning zoning, including but not limited to occupancy limitations.
- (g) Construct or modify a licensed premises for short term rental purposes in violation of Chapter 18, concerning building regulations, including any code adopted by reference therein.

**ARTICLE 16 Entertainment Districts and Common Consumption Areas**

**Sec. 6-16-10. Definitions.**

As used in this Article, the following words shall have the following meanings:

*Common Consumption Area* means an area designed as a common area in an entertainment district approved by the local licensing authority that uses physical barriers to close the area to motor vehicle traffic and limit pedestrian access.

**Commented [GU93]:** Wonder if we should clarify renewals too... even tho referenced to the 6-1-120 & 130 - maybe add some of that verbiage or at least include renewals to 6-15-70 text? It appears people are not renewing their STR license on their own without outreach from city staff.

**Current Code from other section in bus licenses: Sec. 6-1-70. - Renewal.**

- (a) An application for renewal of a general business license shall be considered in the same manner as an original application.
- (b) Unless otherwise provided in this Chapter, all renewal applications and fees shall be due at least thirty (30) days prior to expiration of the existing license. Any applicant who fails to submit the renewal application and fee within the required time shall be subject to the following additional fees: an additional twenty-five percent (25%) of the license fee for the first fifteen (15) days, and thereafter, an additional fifty percent (50%) of such fee.
- (c) The City Clerk may refuse to renew a license if any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, would have warranted the City Clerk in refusing originally to issue such license.
- (d) The City Clerk may, upon his or her motion or upon complaint, hold a hearing concerning any application for license renewal.

**Commented [CB94R93]:** Renewals are addressed by 6-15-40(d) above

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*Common Consumption Area Law* means C.R.S. §§ 12-47-301(11), 12-47-908, 12-47-909, as amended.

*Entertainment District* means an area designated by the City of Edgewater City Council within the City of Edgewater, with a size of no more than one hundred (100) acres and containing at least twenty thousand (20,000) square feet of premises licensed as a tavern, lodging and entertainment facility, hotel and restaurant, brew pub, distillery pub, retail gaming tavern, vintner's restaurant, beer and wine licensee, manufacturer or beer wholesaler that operates a sales room, or limited winery at the time said Entertainment District is created.

*Licensee* means a person to whom a license is granted by the Local Licensing Authority to manufacture, sell, dispense, or serve alcoholic beverages as provided under the Colorado Liquor Code.

*Local Licensing Authority* means the City Council of the City of Edgewater.

*Promotional Association* means an association that is incorporated within Colorado that organizes and promotes entertainment activities within a Common Consumption Area, is organized or authorized by two (2) or more persons who own or lease property within an Entertainment District.

In addition to the definitions provided above, the other defined terms in C.R.S. § 12-47-103 are incorporated into this Article by reference.

#### **Sec. 6-16-20. Creation of entertainment district and general requirements.**

- a. Properties may be included or excluded from an Entertainment District by resolutions of the City Council. By establishing an Entertainment District, the City of Edgewater authorizes the licensing of designated Common Consumption Areas in which alcoholic beverages may be sold and consumed subject to the requirements of this Article, the Code and the Common Consumption Area Law.
- b. The Local Licensing Authority has the following powers with respect to Common Consumption Areas and Promotional Associations:
  1. Designate one (1) or more Common Consumption Areas;
  2. Certify or decertify a Promotional Association;
  3. Authorize, de-authorize or refuse to authorize or reauthorize a Licensee's attachment of a licensed premises to a Common Consumption Area;
  4. Impose reasonable conditions of approval on the licensing of Common Consumption Areas, certification of Promotional Associations or the attachment of licensed premises to a Common Consumption Area; and
  5. Exercise all powers necessary to effectuate the purposes of the Common Consumption Area Law.
- d. The standards for Common Consumption Area licenses issued to a Promotional Association shall be in addition to all other standards applicable under this Article, the Code, Common Consumption Area Law, and the Colorado Liquor Code.
- e. Decisions on applications for Common Consumption Areas, Promotional Associations and inclusions and exclusions from the Common Consumption Area shall be made by the Local Licensing Authority within ninety (90) days of receipt of a complete application therefor. A decision to deny any such application by the Local Licensing Authority shall be in writing and shall be provided to the applicant within ten (10) business days of the decision having been rendered.

( Ord. 2018-05 § 2, 3-15-2018 )

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**Sec. 6-16-30. Common consumption areas.**

- a. Within an Entertainment District, Common Consumption Areas may be licensed by the Local Licensing Authority upon application by a Promotional Association in conformance with the requirements of this Article, Common Consumption Area Law, and the Colorado Liquor Code.
- b. A Promotional Association may submit an application for the designation of a Common Consumption area on forms provided by the City Clerk and approved by the City Attorney in accordance with the following minimum information:
  - 1. Application and license fees;
  - 2. Name, address and list of all directors of Promotional Association;
  - 3. Documentation of how the application addresses the reasonable requirements of the neighborhood or desires of the adult inhabitants;
  - 4. Size in terms of acreage or square footage of the Common Consumption Area;
  - 5. Proposed hours, dates and days of operation of the Common Consumption Area;
  - 6. A site plan detailing the proposed Common Consumption Area including, without limitation, the following information: boundaries of the area, location and description of physical barriers, location of all entrances and exits, location of all attached licensed premises and location of signs to be posted notifying customers of the hours of operation and restrictions associated with the Common Consumption Area;
  - 7. A security plan detailing security arrangements for the Common Consumption Area including but not limited to the following information: evidence that all serving personnel completed the required liquor training and number and location of security personnel during the days and hours of operation of the Common Consumption Area;
  - 8. Signed statement that the Common Consumption Area and all licensed premises therein can be operated in compliance with this Article, all applicable provisions of this Code, Common Consumption Area Law, and the Colorado Liquor Code;
  - 9. Lease, license or other right evidencing legal authorization for use of the Common Consumption Area; and
  - 10. Proof of insurance of general liability and liquor liability naming the City of Edgewater, its elected officials, officers, employees, agents, attorneys and insurers as additional insureds in a minimum amount of one million dollars (\$1,000,000.00).
- c. An application for establishment of a Common Consumption Area shall be considered at a duly noticed public hearing of the Liquor Licensing Authority based on the following criteria of approval:
  - 1. There must be at least two (2) licensed establishments attached to a Common Consumption Area;
  - 2. Use of the Common Consumption Area is compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants; and
  - 3. Evidence that the Common Consumption Area is clearly delineated using physical barriers to prohibit motor vehicle traffic (except emergency vehicles) and to limit pedestrian access.
  - 4. A finding that the Common Consumption Area and all licensed premises therein can be operated in compliance with this Article, all applicable provisions of this Code, Common Consumption Area Law, and the Colorado Liquor Code.

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- d. Taverns, lodging and entertainment facilities, hotel and restaurants, brew pubs, distillery pubs, retail gaming taverns, vintner's restaurants, beer and wine licensees, manufacturer or beer wholesalers that operates a sales room, or limited wineries may request attachment to the licensed Common Consumption Area by submitting an application to the Local Licensing Authority with the following information:
    - 1. Written request and approval from the Promotional Association to allow the licensed premises to be attached to a Common Consumption Area.
    - 2. Confirmation that the licensed premises is located within or on the perimeter of the Entertainment District and attached to a Common Consumption area.
  - e. The Local Licensing Authority may reject a Licensee's attachment to a Common Consumption Area if the licensed premises is not within or on the perimeter of the Common Consumption Area and if the Licensee:
    - 1. Fails to obtain consent from the Promotional Association to be attached to a Common Consumption Area;
    - 2. Fails to establish that the licensed premises and Common Consumption Area can be operated without violating this Article, all applicable provisions of this Code, Common Consumption Area Law, and the Colorado Liquor Code;
    - 3. Creates a public safety risk to the neighborhood in terms of law enforcement call-outs, breaches in securing the perimeter of the Common Consumption Area, unauthorized liquor consumption outside of the Common Consumption Area, noise or nuisance complaints generated from activities within the Common Consumption Area, or similar, documented public safety risks; or
    - 4. Has more than two (2) Colorado Liquor Code violations or associated with more than two (2) violations of this Code.
  - f. All renewal applications for Common Consumption Areas shall be submitted to the City Clerk no later than thirty (30) days prior to the date on which the license expires. If there is evidence that the license should not be renewed, the City Clerk shall set the application for hearing with the Local Licensing Authority.

( Ord. 2018-05 § 2, 3-15-2018 )

#### **Sec. 6-16-40. Promotional associations.**

- a. For certification and recertification as a Promotional Association, the following information is required to be submitted to the City Clerk in conjunction with or prior to application for establishment of a Common Consumption Area:
  - 1. Application Fee;
  - 2. Copy of articles of incorporation and bylaws;
  - 3. List of licensed establishments attached to a Common Consumption Area;
  - 4. List of names of all directors of the Promotional Association, including at least one director from each licensed premises attached to the Common Consumption Area;
  - 5. Certificates of general liability and liquor liability insurance are provided in the amounts required under this Article.
- b. A Promotional Association shall apply for annual recertification by January 31 of each year on forms prepared and approved by the City Clerk.
- c. The Local Licensing Authority may decertify a Promotional Association subject to the process as provided in the Colorado Liquor Code § 12-47-601.

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d. Operational requirements of Promotional Associations.

1. The size of the licensed Common Consumption Area shall not exceed the area approved by the Local Licensing Authority, except that a Promotional Association may make use of a portion of a licensed Common Consumption Area.
2. The Promotional Association shall provide adequate security in terms of personnel, physical barriers, training and similar means, to ensure compliance with the Colorado Liquor Code and to prevent a public safety risk to the neighborhood.
3. The Promotional Association shall post signs at the entrances and exits of the common consumption notifying customers of the hours of operation and restrictions associated with the Common Consumption Area.
4. No one shall leave the Common Consumption Area with an unconsumed alcoholic beverage.
5. All serving personnel must complete a liquor training program approved by the City Clerk prior to staffing the Common Consumption Area.
6. Comply with Common Consumption Law and Colorado Liquor Code.

( Ord. 2018-05 § 2, 3-15-2018 )

**Sec. 6-16-50. Violations.**

Noncompliance with any provision of this Article or the Common Consumption Law shall be deemed a violation of this Municipal Code. Violations of this Article shall be cause for suspension or revocation of the licensed premises' liquor license, the Common Consumption Area license or decertification of the Promotional Association, as applicable and may be subject to other enforcement provisions set forth in the Municipal Code and Colorado Liquor Code.

**Sec. 6-16-60. Fees.**

Application, renewal and licensing fees shall be as set forth in the fee schedule adopted by the City Council from time to time.

***ARTICLE 17 Licensing of Businesses Providing Dockless Shared Mobility Devices***

**Sec. 6-17-10. Legislative intent.**

The intent and purpose of this Article is to protect the public health, safety, and welfare by preventing or mitigating against the adverse impacts that dockless shared mobility devices may have to people or to public or private property and by licensing all persons who make available dockless shared mobility devices in the City.

**Sec. 6-17-20. Definitions.**

As used in this Article the following words have the following meanings:

*Applicant* means a person who has submitted an application for license pursuant to this Article.

*Application* means an application for license submitted pursuant to this Article.

*City Manager* means the City Manager of the City of Edgewater, or the City Manager's designee.

*Day* means a calendar day, unless otherwise indicated.

*Dockless* means not having a docking station in a fixed location from which users must lock and unlock their rented shared mobility device.

*Dockless share* means a transportation system providing users the ability to access a mobility device via mobile technology and that does not need to be attended by the licensee, allowing the user to pick up a mobility device from one location and leave it at another within a system's service area.

*Dockless shared bicycle* means a bicycle or electric assisted bicycle offered or operating in a dockless share system.

*Dockless shared mobility device* means a mobility device offered or operating in a system through which members of the public are offered for consideration the use of the mobility device without the use of fixed docking facilities.

*Electrical assisted bicycle* shall mean and be limited to a "Class 1" electrical assisted bicycle which shall mean and be limited to a bicycle with an electric motor that provides propulsion only as an assistance to pedaling, and that has a governor that prevents propulsion from being provided at speeds greater than twenty (20) miles per hour.

*Good cause* means:

- A. The licensee has violated, does not meet, or has failed to comply with: 1) any of the terms, conditions, or provisions of this Article; or 2) any rule and regulation promulgated by the City Manager pursuant to this Article; or
- B. The licensee has failed to comply with: 1) any of the terms and conditions of its license including, but not limited to, any special terms or conditions that were placed on its license at the time the license was issued, or 2) any special conditions that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings.

*Licensee* means the person to whom a license has been issued pursuant to this Article.

*Mobile application* means the software installed on a user's mobile device that allows the user to access a dockless shared mobility device.

*Mobility device* means every and any device, whether or not motorized and other than a motor vehicle as defined in the Model Traffic Code adopted in Chapter 8 of this Code, that is designed or intended for the transportation of a person or persons from one location to another. Such devices include, but are not limited to bicycles, electrical assisted bicycles, stand-up scooters, skateboards, Segways, and similar devices.

*Person* means an individual or any legal entity of any kind, corporate or otherwise.

*Police Chief* means the Police Chief of the City of Edgewater, or the Police Chief's designee.

*Rebalancing* means redistributing dockless shared mobility devices throughout the City to ensure all areas are served by dockless share.

*User* means the operator of a shared bicycle rented from a licensee.

### Sec. 6-17-30. License required.

No person shall conduct or carry on the business of offering or allowing the operation of dockless shared mobility devices within the City without first obtaining a license from the City Manager under this Article.

Commented [GU95]: or designee

Commented [CB96R95]: By the definition of City Manager above, this means designee too.

**Sec. 6-17-40. Application for license.**

- (a) A person seeking to obtain a license pursuant to this Article shall file an application with the City Manager on a form that shall be provided by the City Manager.
- (b) The applicant shall provide, with its license application, a financial guaranty upon which the City may draw, in the amount set forth in the fee schedule adopted by the City Council from time to time, or in the absence of any such amount in the fee schedule, in the amount of eighty dollars (\$80.00) per mobility device authorized by a license, to secure performance of the terms of the applicant's license following issuance. The financial guaranty shall be cash, or a letter of credit from a surety or financial institution located in the State of Colorado and in a form acceptable to the City Attorney, payable to the City as beneficiary. The financial guaranty will be used to pay City expenses related to the enforcement of this Article including, without limitation, the following:
  - (1) Public property repair and maintenance costs caused by the licensee's equipment;
  - (2) Any cost for removing or storing a licensee's mobility device that is improperly parked; and
  - (3) Any cost to the City to remove a licensee's mobility device if its license expires or is otherwise terminated.

If the financial guaranty or any part thereof is used by the City prior to the end of the term of the license, the licensee shall, upon written notice from the City, restore the financial guaranty to its original amount. A licensee's failure to restore the financial guarantee shall be a violation of the terms and conditions of the license. If an applicant's license is not granted, the financial guaranty shall be returned to the applicant without interest. Upon the expiration or termination of a license the remaining balance of the financial guarantee shall be refunded to the licensee without interest.

- (c) An applicant for a license shall submit, along with the application, a management plan that addresses the number of dockless shared mobility devices that will be authorized by the license, the accessibility of the applicant's proposed dockless share mobility devices with respect to the initial distribution and periodic rebalancing of the devices, and how the applicant will prevent or mitigate adverse impacts that its dockless shared bicycles may have to public or private property. The City Manager shall not approve a management plan unless it adequately addresses such impacts. The management plan shall include the following components:
  - (1) A proposed service plan to achieve equitable distribution of dockless shared mobility devices, including deployment at transit facilities, and other high demand areas of the City;
  - (2) A description of how the applicant will respond to complaints of improperly parked or abandoned mobility devices;
  - (3) A description of how the applicant will respond when notified of safety or operational concerns of a mobility device in the system;
  - (4) A maintenance plan for the mobility devices; and
  - (5) A proposed user education and outreach plan for proper mobility device parking and riding.
- (d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses related to the operation of the licensee's business, including, without limitation:
  - (1) A City sales tax license; and
  - (2) A City business license.

(Ord. 2019-21 §1, 2019)

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Commented [GU98]: delete "Manager."

Commented [GU99]: or designee



**Sec. 6-17-50. Application fee.**

~~Until such time as an application fee shall be set forth in the fee schedule adopted by the City Council from time to time, an applicant shall pay to the City a non-refundable application fee in the amount of five hundred dollars (\$500.00) at the time the application is filed. Thereafter, a~~ An applicant shall pay an application fee in the amount set forth in the fee schedule. The purpose of the fee is to cover the City's administrative costs of processing the application, and of monitoring and enforcing licenses issued pursuant to this Article.

**Commented [GU100]:** Consider rewriting these sentences ... possible to delete some of this and reference the Fee schedule for how fees are set?

**Commented [CB101R100]:** Yes, did so.

**Sec. 6-17-60. Review of application.**

- (a) Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee and provision of the financial guaranty as required by this Article, the City Manager shall transmit copies of the application to:
  - (1) The Police Department;
  - (2) The Public Works Department; and
  - (3) Any other person or agency that the City Manager determines should properly investigate and comment upon the application.
- (b) Within twenty (20) days of receipt of a completed application those City departments and other referral agencies described in Subsection (a) of this Section shall provide the City Manager with comments concerning the application.
- (c) If the City Manager requests the applicant to provide additional information that the City Manager reasonably determines to be necessary in connection with the investigation and review of the application, the applicant shall provide such information within five (5) days of the City Manager's request, unless the City Manager agrees in writing to a longer time period.

**Commented [GU102]:** or designee

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**Commented [GU107]:** or designee's

**Commented [GU108]:** or designee

(Ord. 2019-21 §1, 2019)

**Sec. 6-17-70. Decision by City Manager.**

- (a) The City Manager shall approve, conditionally approve or deny an application. The City Manager shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this Article and applicable law.
- (b) The City Manager shall issue a license under this Article when, from a consideration of the application, and such other information as may otherwise be obtained, the City Manager determines that:
  - (1) The application (including any required attachments and submissions) is complete and signed by the applicant, and the applicant has provided any additional information concerning the application requested by the City Manager pursuant to Subsection 6-17-60(c) of this Article;
  - (2) The applicant has paid the application fee and made the deposit of the financial guaranty required by this Article;
  - (3) The application does not contain a material falsehood or misrepresentation; and
  - (4) The granting of the application will not endanger public health or safety.
- (c) The City Manager shall deny an application for a license under this Article if the City Manager determines that:

**Commented [GU109]:** or designee

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**Commented [GU111]:** or designee

**Commented [GU112]:** or designee

**Commented [GU113]:** or designee

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**Commented [GU115]:** or designee

- 
- (1) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect;
  - (2) The applicant has had a license issued under this Article revoked within the two (2) years immediately preceding the filing of the application, or the applicant owned a fifty percent (50%) or greater interest in any business entity that has had a license issued under this Article revoked within the two (2) years immediately preceding the filing of the application;
  - (3) The applicant is currently indebted to the City for any lawfully assessed tax or fee; or
  - (4) The granting of the application will endanger public health or safety.
- (d) If the application is denied, the City Manager shall clearly set forth in writing the grounds for denial.
- (e) If the application is conditionally approved, the City Manager shall clearly set forth in writing the conditions of approval.
- (f) If an application is denied the application fee shall not be refunded.

Commented [GU116]: or designee

Commented [GU117]: or designee

(Ord. 2019-21 §1, 2019)

#### Sec. 6-17-80. Contents of license.

A license issued pursuant to this Article shall contain the following information:

- (a) The name of the licensee;
- (b) The date of the issuance of the license;
- (c) The address and telephone number at which the licensee may be contacted; and
- (d) The date of the expiration of the license; and
- (e) Any conditions of approval of the license.

A license must be signed by both the licensee and the City Manager to be valid.

#### Sec. 6-17-90. License not transferrable.

A license issued pursuant to this Article is non-transferable and non-assignable. Any attempt to transfer or assign a license shall void the license.

#### Sec. 6-17-100. Duration of license.

Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance.

#### Sec. 6-17-110. Renewal of license.

- (a) A licensee does not have a vested right or a property right in the renewal of a license issued pursuant to this Article.
- (b) Each license issued pursuant to this Article may be renewed as provided in this Section.
- (c) An application for the renewal of an existing license shall be made to the City Manager, on forms provided by the City Manager, not less than forty-five (45) days prior to the date of expiration of the license. No application for renewal shall be accepted by the City Manager after such date, and any application for

renewal received after such date shall be treated as a new application and shall pay the application fee applicable to new applications.

- (d) ~~Until such time as a fee for a renewal application shall be set forth in the fee schedule adopted by the City Council from time to time, an applicant shall pay to the City a non-refundable renewal application fee in the amount of three hundred dollars (\$300.00) at the time the application for renewal is filed. Thereafter, a~~ An applicant shall pay a renewal application fee in the amount set forth in the fee schedule. The purpose of the fee is to cover the City's administrative costs of processing the application, and of monitoring and enforcing licenses issued pursuant to this Article.
- (e) The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application by the City Manager.
- (f) A license renewal application may be approved, conditionally approved, or denied by the City Manager pursuant to the criteria set forth in Section 6-17-70 of this Article.

(Ord. 2019-21 §1, 2019)

### Sec. 6-17-120. Insurance and indemnification.

Each license issued under this Chapter shall contain the following requirements:

- (a) The licensee shall procure and continuously maintain throughout the term of the license a policy of comprehensive commercial general liability insurance with limits of liability not less than two million dollars (\$2,000,000.00) per claim, two million dollars (\$2,000,000.00) aggregate, and fifty thousand dollars (\$50,000.00) for property damage. The City shall be named as an additional insured under such insurance policy. An ACORD Form 27, or other certificate of insurance acceptable to the City Attorney, shall be completed by the licensee's insurance agent and provided to the City Manager as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect and shall be reviewed and approved by City prior to commencement of the operations of the business pursuant to the license, and on each renewal of the license or replacement of the policy during the term of the license.
- (b) The licensee shall indemnify and defend the City, its officers, employees, insurers, and self-insurance pool (with counsel acceptable to the City in its reasonable discretion), from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, arising out of in any manner connected with the operation of the business for which the license was issued. The licensee shall investigate, handle, respond to, and provide defense for and defend against, any such liability, claims, or demands at the sole expense of the licensee, and bear all other costs and expenses related thereto, including court costs and attorney fees. The indemnity obligation of this Subsection shall survive the expiration or revocation of the license.

### Sec. 6-17-130. Licensee's specific duties and obligations.

In addition to all other requirements of this Article, it is the duty and obligation of each licensee to:

- (a) Comply with:
  - (1) All of the terms and conditions of the license, including, without limitation, any special condition imposed by the City Manager;
  - (2) The licensee's approved management plan; and
  - (3) All other City ordinances that are applicable to the licensee's business.

Commented [GU118]: Consider rewriting section to reference Fee Schedule and some of this can now be deleted.

Commented [CB119R118]: yes

Commented [GU120]: or designee

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- (b) Provide, on its mobile application, a link for customers to notify the licensee if there is a safety or maintenance issue with a mobility device.
  - (c) Include, in its mobile application, prominently displayed notification to users that:
    - (1) Helmet use is highly recommended while riding a mobility device;
    - (2) Operators of mobility devices must obey traffic laws, as drivers would in a motor vehicle;
    - (3) Within the City of Edgewater, a motorized mobility device may only be operated on public streets designated for vehicular travel at speeds of thirty (30) miles per hour or less, and that it is unlawful to operate a motorized mobility device on public sidewalks and pathways within the City of Edgewater, except when the sidewalk or pathway is adjacent to a street designated for vehicular travel at speeds greater than thirty (30) miles per hour; and
    - (4) Dockless shared mobility devices may only be parked in bicycle racks or designated bicycle parking areas, on private property with the consent of the property owner, or in designated areas on City property that have been approved by the City and designated by appropriate signs.
  - (d) Provide users with a twenty-four-hour customer service telephone number to report safety concerns, complaints, or ask questions.
  - (e) Understand and educate users regarding the laws applicable to operating a dockless shared mobility device in the City.
  - (f) Provide the City Manager with current contact information for the licensee or the licensee's staff who are capable of rebalancing dockless shared mobility devices or picking up abandoned or damaged devices as required by Subsection (h) of this Section.
  - (g) Rebalance dockless shared mobility devices within two (2) hours of receiving a request from the City.
  - (h) Remove or repair any dockless shared mobility device that is inoperable or not safe to operate, within twenty-four (24) hours of notice by any means to the licensee by any individual or entity.
  - (i) Have affixed, in a prominent location on each dockless shared mobility device, identifying information that includes:
    - (1) The name, address, electronic mail address, and twenty-four-hour customer service telephone number of the licensee; and
    - (2) A unique identifier number or series of numbers for each dockless shared mobility device.
  - (j) Place no sign or other form of advertising on the dockless shared mobility device; provided, however, that the licensee's name, contact information, and other technical information concerning the shared bicycle itself may be placed on the bicycle or on a placard not larger than four inches by six inches (4" x 6").

**Sec. 6-17-140. Dockless shared bicycle standards.**

- (a) No person shall offer a dockless shared bicycle for use that does not meet each of the standards set forth in this Section.
- (b) The dockless shared bicycle shall meet the standards outlined in the Code of Federal Regulations (CFR) under title 16, chapter II, subchapter C, part 1512 - Requirements for Bicycles. Additionally, the dockless shared bicycle shall meet the safety standards outlined in International Organization for Standardization (ISO) 43.150 - Cycles, subsection 4210.

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- (c) Each dockless shared bicycle that is an electrical assisted bicycle shall meet the definition of a "Class 1" electric assisted bicycle in that it shall provide propulsion only as an assistance to pedaling and shall have a governor that prevents propulsion at speeds greater than twenty (20) miles per hour.

(Ord. 2019-21 §1, 2019)

**Sec. 6-17-150. Parking and operation of dockless shared mobility devices.**

- (a) No user of a dockless shared mobility device shall park the device in any location except where authorized by this Article, or other applicable law. Both the licensee and user are jointly and severally liable for any parking in violation of this Article or other applicable law.
- (b) The Police Chief is authorized to impound any dockless shared mobility device left in a location that is not authorized for the parking of the device under this Article or other applicable law, and to collect the cost of such impoundment from the licensee either through the financial guaranty required by this Article or directly from the licensee if the financial guaranty is insufficient to cover the cost incurred.
- (c) It is unlawful to operate any motorized mobility device within the City of Edgewater:
- (1) On public streets designated for vehicular travel at speeds greater than thirty (30) miles per hour; or
  - (2) On any public sidewalk or pathway within the City of Edgewater, except when the sidewalk or pathway is adjacent to a street designated for vehicular travel at speeds greater than thirty (30) miles per hour.

(Ord. 2019-21 §1, 2019)

**Sec. 6-17-160. Suspension or revocation.**

- (a) A license issued pursuant to this chapter may be suspended or revoked by the City Manager after a hearing for any of the following reasons:
- (1) Fraud, misrepresentation, or a false statement of material fact contained in the license application.
  - (2) A violation of any city or state law or regulation pertaining to the operation of the business for which the license was issued.
  - (3) A violation of this Article.
  - (4) A violation of any of the terms and conditions of the license, including, without limitation, any special condition imposed upon the license by the City Manager pursuant to this Article.
  - (5) Licensees' operations have ceased for more than six (6) months for any reason.
  - (6) Ownership of the licensee business has been transferred without the new owner obtaining a license pursuant to this Article.
- (b) In connection with the suspension of a license, the City Manager may impose reasonable conditions.
- (c) For the purpose of disciplinary action imposed pursuant to this Article, a licensee is responsible and accountable for the conduct of the licensee's employees, agents, and contractors occurring in connection with the operation of the business for which the license has been issued.
- (d) In deciding whether a license should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the City Manager shall consider all of the following:
- (1) The nature and seriousness of the violation.
  - (2) Corrective action, if any, taken by the licensee.

**Commented [GU124]:** Chief, let's start doing this. PW regularly moves these off city sidewalks and out of ROW. I'd like to get them to adjust their geo-fence. We need to determine costs. Could store them at PW.

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- (3) Prior violation(s), if any, by the licensee.
  - (4) The likelihood of recurrence.
  - (5) All circumstances surrounding the violation.
  - (6) Whether the violation was willful.
  - (7) The number of previous violations by the licensee.
  - (8) Previous sanctions, if any, imposed against the licensee.
- (e) No fee previously paid by a licensee in connection with the application shall be refunded if such license is suspended or revoked.
- (Ord. 2019-21 §1, 2019)

**Sec. 6-17-170. City Manager's decision is final.**

Any decision made by the City Manager pursuant to this Article shall be a final decision of the City and may be appealed to a court in accordance with applicable law. The applicant's or licensee's (as applicable) failure to timely appeal the decision is a waiver of the applicant's or licensee's right to contest the denial or conditional approval of the application.

Commented [GU125]: or designee

**Sec. 6-17-180. Penalties: injunctive relief.**

- (a) It is unlawful for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Chapter 1, Article 4, of this Code.
  - (b) If a person is required to have a license issued pursuant to this Article, the operation of such person's business without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in the district court. In any case in which the City prevails in a civil action initiated pursuant to this Section, the City may recover its reasonable attorney fees plus costs of the proceeding.
  - (c) The remedies provided in this Section are in addition to any other remedy provided by applicable law.
- (Ord. 2019-21 §1, 2019)

**Sec. 6-17-190. No City liability.**

The adoption of this Article and the issuance of licenses pursuant to this Article shall not create any duty to any person. No person shall have any civil liability remedy against the City, or its officers, employees or agents, for any damage or loss of any kind arising out of or in any way connected with the issuance of any license pursuant to this Article. Nothing in this Article shall be construed to create any liability or to waive any of the immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity Act, section 24-10-101, et seq., Colorado Revised Statutes, or to waive any immunities or limitations on liability otherwise available to the City, or its officers, employees or agents.

***ARTICLE 18 Local Minimum Wage***

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**Sec. 6-18-10. Purpose.**

The purpose of this Article is to proactively address the issues of wage inequity and cost of living affordability in the City by ensuring that all workers within Edgewater are paid a wage which enables them to earn a livable wage and establish self-sufficiency; to do so in a manner that is mindful of the larger market in which the City is situated; and to administer a local minimum wage requirement in a manner that respects, serves and protects the interests of both employers and employees within the City.

**Sec. 6-18-20. Scope.**

This Article applies to all employers who employ individuals performing work within the geographic boundaries of the City of Edgewater.

**Sec. 6-18-30. Definitions.**

*City* means the City of Edgewater, Colorado.

*Code* means the Edgewater Municipal Code.

*Employee* means an individual performing, or expected to perform, four (4) or more hours of work for an employer in any given week within the geographic boundaries of the City.

*Employer* means an individual, partnership, firm, corporation or any other person, group, collective or entity that employs one (1) or more employees, as defined by this Article.

**Sec. 6-18-40. Minimum wage required; calculation.**

- (a) Required. Subject to the terms of this Article, every employer shall ensure its employees are paid not less than the Edgewater Minimum Wage calculated pursuant to subsection (b) hereof.
- (b) Calculation.
  - (1) The Edgewater Minimum Wage, exclusive of fringe benefits and any other deductions or credits, except as described in this Article, shall be calculated as follows:
    - a. Beginning January 1, 2024: Fifteen dollars and two cents (\$15.02) per hour;
    - b. Beginning January 1, 2025: Sixteen dollars and fifty-two cents (\$16.52) per hour;
    - c. Beginning January 1, 2026: Eighteen dollars and seventeen cents (\$18.17) per hour;
    - d. Beginning January 1, 2027: Nineteen dollars and ninety-nine cents (\$19.99) per hour;
    - e. Beginning January 1, 2028: Twenty-one dollars and ninety-nine cents (\$21.99) per hour; and
    - f. In each subsequent calendar year, at such amended wage rate, adopted by ordinance of the City Council, necessary to keep pace with the year-over-year increase in the Consumer Price Index, for all items, published annually each August for the Denver-Aurora-Lakewood Area, or to match the then-current Denver Minimum Wage rate, whichever wage rate is greater.
  - (2) Tips regularly and actually received by a food and beverage worker may be applied to an employer's obligation to pay such food and beverage worker the Edgewater Minimum Wage. However, no more than three dollars and two cents (\$3.02) per hour in tip income ("tip credit") may be used to partially offset payment of this wage.

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- (c) Nothing in this Article shall be deemed to lessen any other obligation applicable to a particular employer to pay a minimum wage pursuant to any other law, rule or regulation, including, but not limited to, federal and state minimum wage laws, the City living wage requirement, and any other prevailing or living wage requirement imposed by any other jurisdiction with authority. In the event of a conflict between the Edgewater Minimum Wage and any such other applicable wage requirement, the greater wage rate shall be paid.

(Ord. No. 2023-07 , §1, 2023)

#### **Sec. 6-18-50. Employer responsibilities.**

- (a) Each employer shall post notice of the currently effective Edgewater Minimum Wage in a place which is prominent and easily accessible to all employees. Employers shall display the posting in English and Spanish. If display of a physical notice is not feasible, including situations when an employee does not have a regular workplace or job site, employers may provide the required information on an individual basis, in an employee's primary language, in physical or electronic form that is reasonably conspicuous and accessible.
- (b) The posted notice required by subsection (a) above must include the following: "IT IS AGAINST THE LAW TO PAY WAGES BELOW THE EDGEWATER MINIMUM WAGE. COMPLAINTS THAT A VIOLATION OF THIS LAW HAVE OCCURRED MAY BE FILED WITH THE CITY OF EDGEWATER BY CALLING (720) 763-3002; EMAILING CITYCLERK@EDGEWATERCO.COM; OR COMING TO THE EDGEWATER CIVIC CENTER AT 1800 HARLAN STREET TO REQUEST AN APPOINTMENT.
- (c) Employers shall make, retain and make available to the City, upon request, pay roll records adequate to determine compliance with this Article for a minimum of three (3) years for each such record.

(Ord. No. 2023-07 , §1, 2023)

#### **Sec. 6-18-60. Violations; enforcement; penalties.**

- (a) It shall be unlawful and a violation of this Code to commit, allow, cause, authorize, aid, abet or conceal a violation of this Article, subject to prosecution in the Edgewater Municipal Court and the general penalty provisions of Code Section 1-4-20.
- (b) A violation of this Article shall constitute "cause" to suspend or revoke the City business license(s) related to or under which such violation occurred, in accordance with the procedures set forth in Article 1 of Chapter 6 of the Code.
- (c) Within three (3) years of an alleged violation of this Article, any aggrieved party may bring a civil action in a court of competent jurisdiction against an employer alleged to have violated this Article, and, upon prevailing, shall be entitled to such legal and equitable relief as may be appropriate to fully remedy the violation including, without limitation: the payment of unpaid wages; interest thereon at the rate of twelve percent (12%) per annum from the date such wages were first due; the payment of an additional sum as a penalty in the amount of five hundred dollars (\$500.00) to each worker whose rights under this article were violated for each day that the violation occurred or continued; liquidated damages in an amount equal to three (3) times the amount of unpaid wages; reasonable attorney fees and costs; and such other relief deemed just and appropriate by the court.
- (d) Nothing herein shall preclude an individual from filing or pursuing a complaint with the Colorado Department of Labor and Employment in addition to filing, pursuing or participating in any other enforcement action authorized by this Article, it being the express intent and purpose that each such remedy is cumulative in nature.

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(Supp. No. 20)

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(Ord. No. 2023-07 , §1, 2023)

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(Supp. No. 20)

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## CHAPTER 10 General Offenses

### ARTICLE 1 General Provisions

#### Sec. 10-1-10. Definitions and rules of construction.

For purposes of this Chapter, the following terms shall have the following meanings:

*Alcoholic beverages* includes fermented malt beverages (three and two-tenths percent [3.2%] alcohol by weight or less), and malt, vinous or spirituous liquors (more than three and two-tenths percent [3.2%] alcohol by weight).

*Bodily injury* means physical pain, illness or any impairment of physical or mental condition.

*Conceal* means to place or attempt to place out of view in such manner and circumstances as to indicate an intent to prevent others from seeing or discovering the presence of the thing concealed.

*Controlled substance* means any substance the manufacture, possession or use of which violates the laws of the State, including but not limited to marijuana, marijuana concentrate, cocaine, methamphetamine and opium derivatives as those terms are defined in Section 18-18-102, C.R.S.

*Criminal negligence*. A person acts with *criminal negligence* when, through a gross deviation from the standard of care that a reasonable person would exercise, the person fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

*Deadly weapon* means any of the following which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury:

- a. A firearm, whether loaded or unloaded;
- b. A knife;
- c. A bludgeon; or
- d. Any other weapon, device, instrument, material or substance, whether animate or inanimate.

*Fermented malt beverage* means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof, in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

*Fight* means to voluntarily assault or batter or attempt to assault or batter another under circumstances where the actor reasonably could avoid the opportunity or necessity to assault or batter the other person.

*Firefighter* means a member in good standing of the City's Volunteer Fire Department or member of any other firefighting entity within the City and engaged in firefighting or emergency activities.

*Gain* means the direct realization of winnings.

*Gambling* means risking any money, credit, deposit or other thing of value for a gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event over which the person taking a risk has no control, but does not include:

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- a. Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries;
  - b. Bona fide business transactions which are valid under the law of contracts;
  - c. Other acts or transactions now or hereafter expressly authorized by law; or
  - d. Any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only and in which no person is participating, directly or indirectly, in professional gambling.

*Gambling device* means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

*Gambling premises* means any building, house, room, enclosure, vehicle, vessel or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found shall be presumed to be intended to be used for professional gambling.

*Gambling proceeds* means all money or other things of value at stake or displayed in or in connection with professional gambling.

*Government* includes any branch, subdivision, institution or agency of the government of this City.

*Governmental function* includes any activity which a public servant is legally authorized to undertake on behalf of a government.

*Illegal weapon* means a blackjack, gas gun, metallic knuckles, gravity knife, switchblade knife or any other weapon unlawful to possess pursuant to the Colorado Revised Statutes.

*Intentionally or with intent.* All offenses defined in this Code in which the mental culpability requirement is expressed as *intentionally* or *with intent* are declared to be specific intent offenses. A person acts *intentionally* or *with intent* when the person's conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

*Knowingly or willfully.* All offenses defined in this Chapter in which the mental culpability requirement is expressed as *knowingly* or *willfully* are declared to be general intent crimes. A person acts *knowingly* or *willfully* with respect to conduct or to a circumstance described by an ordinance defining an offense when the person is aware that such person's conduct is of such nature or that such circumstance exists. A person acts *knowingly* or *willfully*, with respect to a result of such person's conduct when the person is aware that the person's conduct is practically certain to cause the result.

*Lewd* means inclined to, characterized by or inciting to lust or lechery.

*Lewd and indecent display* means performing an act which simulates:

- a. Sexual intercourse, flagellation or any sexual acts which are prohibited by law;
- b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- c. The displaying of the pubic hair, anus, vulva or genitals, including drawings, sketchings or photographs of the same;
- d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and areola only are covered, except for the purpose of breast feeding children; or

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- e. The open display of urination or excretory functions in any public or private place other than in or upon a toilet facility provided for such purpose.

*Licensee* means any person, duly licensed by the State and/or Local Licensing Authority to sell malt, vinous or spirituous liquors or fermented malt beverages or to operate a place of amusement or recreation within the City, or any agent, servant or employee of such licensee.

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

*Loiter* means to be dilatory, to stand idly around, to linger, delay, wander about, to remain, abide or tarry in public places.

*Malt liquors* includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

*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 its resin, including marijuana concentrate. It does not include industrial hemp, fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product, if these items exist apart from any other item defined as *marijuana*.

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

*Nudity* means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered; provided, however, that the exposure of the female breast for the purpose of breastfeeding children shall not be included in this definition.

*Police officer* means:

- a. Any member of the Police Department or Police Reserve Force as provided for by the Charter and ordinances of the City;
- b. Any peace officer of another jurisdiction who is in the City for the purpose of enforcing state law; and
- c. Any other City officer, person, employee or agent designated by ordinance, City Council or the Chief of Police to exercise police powers, including the power of arrest.

*Premises* means all or any part of the physical boundaries of any establishment duly licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages or any place of amusement or recreation in the City. The term *premises* includes not only the building wherein the business is conducted, but also the outdoor areas within the property boundaries of the real property upon which the building sits.

*Professional gambling* means:

- a. Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or
- b. Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants.

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*Profit* means any realized or unrealized benefit, direct or indirect, including benefits from proprietorship, management or unequal advantage in a series of transactions.

*Public or private property* includes the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, open space, playground or building, any refuges, conservations or recreation area, and any residential, farm or ranch properties or timberland.

*Public place* means any place commonly or usually open to the general public or to which members of the general public may resort or have access. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, automobiles or other vehicles in or upon any such place or places, highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

*Public servant* means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses.

*Public view* means a place which can be seen by ordinary unaided human vision from a public place, regardless of whether actual vision occurs.

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

*Salvia divinorum* means *salvia divinorum*, *salvinorin A*, and any part of the plant classified as *Salvia divinorum*, whether growing or not, including the seeds thereof, any extract from any part of the plant, and any compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or its extracts.

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

*Sexual intercourse* means contact between the genitalia, anus or female breast of one (1) person and any part of another person for purposes of immediate sexual gratification of any person; and contact between the genitalia, anus or female breast of one (1) person and any part of any animal for purposes of sexual gratification of any person.

*Special officer* means any person carrying on the business or occupation of security patrol service, night watchman, night watch service, private policeman, burglar alarm service operators or any other occupation the purpose of which is to afford additional police protection or public safety for hire or reward.

*Spirituous liquors* means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes, among other things, brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes.

*Synthetic cannabinoid* means any chemical compound that is chemically synthesized and either: (1) has been demonstrated to have binding activity at one (1) or more cannabinoid receptors; or (2) is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one (1) or more cannabinoid receptors, excluding: (a) any tetrahydrocannabinols, as defined by Article 18, Title 18, C.R.S., and (b) *Nabilone*.

*Tamper* means to change the condition of anything so that its operation or tendency to perform its intended function will be altered.

*Vehicle* means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or the like to transport persons or property or pull machinery, and

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shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motorscooter, tractor, buggy and wagon.

*Vinous liquors* means wine and fortified wines not exceeding twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverages obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

#### **Sec. 10-1-20. Intent.**

It is the intent and purpose of this Chapter not to define as unlawful any conduct which is designated as felonious under state law, and this Chapter shall be so construed, notwithstanding any language contained herein which might otherwise be construed to the contrary.

#### **Sec. 10-1-30. Charging inchoate offenses.**

It shall be sufficient notice of the charging of an inchoate offense where the complaint states the name and section number of the underlying offense. A defendant shall not be acquitted or a complaint dismissed solely on the ground that the prosecution's theory of the defendant's guilt relies upon an inchoate offense which has not been expressly charged. A defendant's remedy for ascertaining the prosecution's theory shall be limited to the procedures outlined in the Colorado Municipal Court Rules.

#### **Sec. 10-1-40. Attempts.**

- (a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, the person engages in conduct constituting a substantial step toward the commission of the offense. A ~~substantial step~~ *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.
- (b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish the person's complicity under Section 10-1-60 below were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.
- (c) It is an affirmative defense to a charge under this Section that the defendant abandoned the effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of criminal intent. The renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.
- (d) Criminal attempt to commit a misdemeanor is a misdemeanor.
- (e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself.

(Prior code 15-27; Ord. 12-08 §1, 2008)

#### **Sec. 10-1-50. Conspiracy.**

- (a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, ~~he or she~~ *they* agrees with another person that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or ~~he or she~~ *they* agrees to aid the other person in the planning or commission of a crime or of an attempt to commit such crime.

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- (b) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by ~~him or her~~them or by a person with whom ~~he or she~~they conspired.
  - (c) If a person knows that one with whom ~~they~~he or she conspires to commit a crime has conspired with another person to commit the same crime, ~~he or she is~~they are guilty of conspiring to commit a crime with the other person, whether or not ~~he or she~~they knows the other person's identity.
  - (d) If a person conspires to commit a number of crimes, ~~he or she is~~they are guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode.
  - (e) Conspiracy to commit a misdemeanor is a misdemeanor.
  - (f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself.
- (Ord. 12-08 §1, 2008)

**Sec. 10-1-60. Complicity.**

- (a) A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, the person aids, abets or advises the other person in planning or committing the offense.
  - (b) It is no defense to a charge under this Section that the other person whose behavior constitutes a criminal offense was not or could not be prosecuted for the offense.
  - (c) It is an affirmative defense to a charge under this Section that the defendant prevented or attempted to prevent the commission of the underlying offense, under circumstances manifesting the complete and voluntary renunciation of ~~his or her~~their criminal intent. The renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.
- (Prior code 15-28; Ord. 12-08 §1, 2008)

**Sec. 10-1-70. Accessory.**

- (a) A person is an accessory to a crime if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a crime, ~~they~~he or she renders assistance to such person.
- (b) *Render assistance* means to:
  - (1) Harbor or conceal the other;
  - (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
  - (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
  - (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or
  - (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.
- (c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a

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crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class.

(Ord. 12-08 §1, 2008)

### **Sec. 10-1-80. Aiding and abetting.**

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the City, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the City is likewise guilty of such offense.

## ***ARTICLE 2 Government and Public Officers***

### **Sec. 10-2-10. Obstructing government operations.**

- (a) It is unlawful to obstruct government operations.
- (b) A person commits obstructing government operations if ~~they~~he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force or physical interference or obstacle.
- (c) It is an affirmative defense that:
  - (1) The obstruction, impairment or hindrance was of unlawful action by a public servant;
  - (2) The obstruction, impairment or hindrance was of the making of an arrest; or
  - (3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government.

(Ord. 12-08 §1, 2008)

### **Sec. 10-2-20. Obstructing a police officer or firefighter.**

- (a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.
- (b) No person shall, by using or threatening to use violence, force, or physical interference or obstacle, knowingly obstruct, impair, or hinder the enforcement of the law or the preservation of the peace by a police officer acting under color of official authority, or knowingly obstruct, impair, or hinder the prevention, control, or abatement of fire or other emergency action by a firefighter acting under color of ~~his or her~~their official authority.
- (c) It is unlawful to obstruct a peace officer or firefighter.
- (d) It is no defense to a charge under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of ~~his or her~~their official authority as defined in Section 10-2-120(b).
- (e) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest.

(Prior code 15-123; Ord. 12-08 §1, 2008)



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**Sec. 10-2-30. Interference with police officer or firefighter.**

- (a) It is unlawful for any person to interfere with or hinder any police officer, member of the Police Department, a person duly empowered with police authority, or a firefighter, while in the discharge or apparent discharge of ~~his or her~~their duty.
- (b) It is unlawful for any person to rescue or attempt to rescue any other person who, because of a misdemeanor or civil matter, is in the custody of a police officer, member of the Police Department or a person duly empowered with police authority.

(Prior code 15-122)

**Sec. 10-2-40. Disobeying order of police officer or firefighter.**

It is unlawful for any person to willfully disobey the lawful or reasonable order or direction of any police officer, firefighter, emergency personnel or military personnel given incident to the discharge of the official duties of such police officer or firefighter, or incident to the duties of emergency personnel or military personnel when engaged in activities related to an emergency, explosion or other disaster within their official concern.

**Sec. 10-2-50. Willful violations of Charter; penalty.**

- (a) For the purposes of Section 19.8 of the Edgewater Charter, a person acts "willfully" or is "willful" with respect to a violation of the Charter when the person is aware that ~~his or her~~their conduct is practically certain to result in a violation of the Charter.
- (b) It shall be unlawful for any person to willfully violate any provision of the City of Edgewater Home Rule Charter. A conviction for a willful violation of the Charter shall be punishable only by a fine. Upon a person's first conviction for a willful violation of the Charter, the fine imposed shall not exceed five hundred dollars (\$500.00). Upon a person's second conviction for a willful violation of the Charter, the fine imposed shall not exceed seven hundred and fifty dollars (\$750.00). Upon a person's third or greater conviction for a willful violation of the Charter, the court may impose a fine equal to the maximum fine that the court is authorized to impose.

( Ord. 20-14, § 2, 2015 )

**Sec. 10-2-60. Duty to aid.**

- (a) Refusal. It is unlawful for any person eighteen (18) years of age or older, upon command by an individual known to ~~him or her~~them to be a police officer, to unreasonably refuse to aid the police officer in effecting an arrest, securing the custody of an arrestee or preventing the commission by another of any offense.
- (b) Duty to aid fire officials. It shall be the duty of every person who is present at the scene to obey all lawful orders of the incident commander or firefighter; however, no person is bound to obey such firefighter unless the firefighter's official character is known or made known to such person.

(Prior codes 7-20, 15-126; Ord. 02-05 §4, 2005; Ord. 12-08 §1, 2008)

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**Sec. 10-2-70. Cruelty to police dogs.**

It is unlawful for any person to knowingly torture, torment, beat, kick, strike, mutilate, injure, disable, kill, interfere with the control or handling of or distract from its handler or controller any dog used by the Police Department when such dog is being used in the performance of any functions or duties of the Police Department.

**Sec. 10-2-80. False reporting to authorities.**

- (a) It is unlawful for any person to report the existence of a fire or other emergency to the police, fire department or any other agency empowered to deal with an emergency involving risk or injury to persons or property, when such person knows the report to be false. For purposes of this Subsection, *fire department* means any fire protection district or firefighting agency of the State, County or City, whether the employees or officers of such agency are volunteers, or receive compensation for their services as firefighters, or both.
- (b) It is unlawful for a person to falsely report to authorities. A person commits false reporting to authorities if ~~he or she~~they:
- (1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
  - (2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when ~~they~~he or she knows that it did not occur;
  - (3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when ~~he or she know~~they knows that ~~he or she has~~they have no such information or knows that the information is false;
  - (4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or
  - (5) Provides false identifying information to law enforcement authorities.
- (c) For purposes of this Section, *false identifying information* means a person's name, address, birth date, social security number, driver's license or state identification number.

(Prior code 15-127; Ord. 12-08 §1, 2008)

**Sec. 10-2-90. Impersonating City officials and employees.**

- (a) It is unlawful for any person other than a City official or City employee to willfully or fraudulently represent himself to be a City official or an employee of the City.
- (b) A person commits impersonating a public servant if ~~he or she~~they falsely pretends to be a public servant other than a peace officer and performs any act in that pretended capacity.
- (c) It is unlawful for any person to purport to perform the duties of any City official or employee when the person is not an authorized officer or employee of the City.
- (d) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist.

(Prior code 15-132; Ord. 12-08 §1, 2008)

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**Sec. 10-2-100. Interference with public officials.**

- (a) No person shall knowingly and unlawfully resist, interfere with, impede or obstruct any City employee or other public official who is in the course of discharging an official duty.
- (b) No person shall unlawfully threaten violence, reprisal or any other injurious act to any City employee or other public official who is engaged in the performance or attempted performance of official duties.

(Prior code 15-134)

**Sec. 10-2-110. Limitations on the use of emergency equipment.**

It is unlawful for any person to drive, install, cause the installation to be made or use upon any motor vehicle any siren, exhaust whistle, or bell or any red lights visible from the front of a motor vehicle, or any red spot light; except nothing in this Section shall prevent the possession, use or installation of such equipment on any government-owned vehicle, or any vehicle authorized or permitted to have or use any such equipment by the laws of this State or the City, if there shall be compliance with all requirements of any such state and City laws, including obtaining necessary permits or licenses or approval, as required by any such state laws or by any applicable municipal ordinance, rule or regulation.

**Sec. 10-2-120. Resisting arrest.**

- (a) It is unlawful for any person to knowingly prevent or attempt to prevent any police officer acting under color of ~~his or her~~their official authority from effecting an arrest of the actor or another by:
  - (1) Using or attempting or threatening to use physical force or violence against the police officer or another; or
  - (2) Using or attempting to use any other means which creates a substantial risk of causing physical injury to the police officer or another; or
  - (3) Running from, eluding or concealing oneself or another from, or attempting to run from, elude or conceal oneself or another from, a police officer or officers attempting to effect an arrest.
- (b) It is no defense to a charge under this Section that the police officer was attempting to make an arrest which in fact was unlawful, if the police officer was acting under color of ~~his or her~~their official authority, and, was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts *under color of ~~his or her~~their official authority* when, in the regular course of assigned duties, the police officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made.
- (c) The term *police officer*, as used in this Section, means a police officer in uniform or, if out of uniform, one who has identified ~~himself or herself~~themselves by exhibiting ~~his or her~~their credentials as such police officer to the person whose arrest is attempted.

(Prior code 15-121; Ord. 12-08 §1, 2008)

**Sec. 10-2-130. Escape.**

It is unlawful for a person in detention, custody or confinement who is held for or charged with, or who has been convicted of a misdemeanor or petty offense, to knowingly escape from detention custody or confinement.

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**Sec. 10-2-140. Aiding escape.**

- (a) It is unlawful for any person to knowingly aid, abet, or assist another person to escape or attempt to escape from detention, custody or confinement when the person aided is charged with, held for, or convicted of a misdemeanor or petty offense.
- (b) A person who knowingly aids, abets or assists any other person to escape or attempt to escape from detention, custody or confinement if such other person, because of a misdemeanor or civil matter, is in the custody of a police officer, member of the Police Department or a person duly empowered with police authority, commits the offense of aiding escape.

(Prior code 15-122, 15-128; Ord. 12-08 §1, 2008)

***ARTICLE 3 Public Peace, Order and Safety***

**Sec. 10-3-10. Assault.**

It is unlawful for any person to knowingly or recklessly cause bodily injury to another person or with criminal negligence cause bodily injury to another.

**Sec. 10-3-20. Reckless endangerment.**

It is unlawful for any person to recklessly engage in conduct which creates substantial risk of serious bodily injury to another person.

**Sec. 10-3-30. Menacing without deadly weapon.**

It is unlawful for any person to knowingly place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that if such is with the use of a deadly weapon, then this Section shall not apply.

**Sec. 10-3-40. Disorderly conduct.**

- (a) It is unlawful for any person to commit disorderly conduct.
- (b) A person commits disorderly conduct if the person intentionally, knowingly or recklessly:
  - (1) Abuses or threatens physical harm to any person in a public place;
  - (2) Fights with another in a public place, except as a participant in a lawful sporting event;
  - (3) Urinates or defecates upon any public or private place other than in a toilet facility provided for such purpose;
  - (4) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to invite an immediate breach of peace;
  - (5) Makes unreasonable noise in a public place or near a private residence that ~~he or she has~~ they have no right to occupy;
  - (6) Not being a peace officer, discharges a deadly weapon in a public place except when engaged in lawful target practice or hunting; or

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(7) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that ~~he or she is~~ they are armed with a deadly weapon in a public place in a manner calculated to alarm.

(c) It is an affirmative defense under Subsection (b)(l) hereof that the actor had significant provocation for the threatening conduct.

(Prior code 15-91; Ord. 12-08 §1, 2008)

### **Sec. 10-3-50. Disrupting lawful assembly.**

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, ~~they he or she~~ significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

### **Sec. 10-3-60. Harassment.**

(a) It is unlawful to commit harassment. A person commits harassment if, with intent to harass, annoy or alarm any other person, the person:

- (1) Strikes, shoves, kicks or otherwise touches a person or subjects ~~him or her~~ them to physical contact;
- (2) In a public place directs obscene language or communications or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Initiates communication with a person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network or computer system or any other digital or electronic medium, in a manner intended to threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system or any other digital or electronic medium which is obscene and unwanted.
- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or
- (7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

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

(c) Any act prohibited by Paragraph (a)(4) or (a)(5) hereof may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic or digital communication was either made or received.

(Prior code 15-46; Ord. 12-08 §1, 2008; Ord. 15-12 §3, 2012; Ord. 2022-07 §1, 2022)

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**Sec. 10-3-70. Aggressive begging or solicitation.**

- (a) No person shall engage in aggressive begging on any public street, sidewalk, way, mall, park, building or other public property, or on any private property open to the public.
- (b) *Aggressive begging* means begging or soliciting of the individual addressed for employment, business, contributions, gifts or sales of any kind, while in close proximity to such individual, accompanied by or followed immediately by one (1) or more of the following actions by the actor:
  - (1) A repeated request after a refusal by the individual addressed.
  - (2) A blocking of the passage of the individual addressed.
  - (3) The use of fighting words directed at the individual addressed.
  - (4) Touching of the individual addressed.

(Prior code 15-42)

**Sec. 10-3-80. Hindering transportation.**

It is unlawful for any person to knowingly and without lawful authority forcibly stop and hinder the operation of any vehicle used in providing transportation services of any kind to the public or to any person.

**Sec. 10-3-90. Loitering.**

- (a) It is unlawful for any person to:
  - (1) Loiter with the intent to violate any provision of this Chapter or any criminal provisions of state or federal law.
  - (2) Loiter for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia.
  - (3) Loiter for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse.
  - (4) Loiter with intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren in a school building, on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, for one not having any reason or relationship involving custody for, or responsibility for, a pupil or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator, the administrator's representative or a peace officer.
  - (5) Loiter with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance.
- (b) Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person:
  - (1) Takes flight upon appearance of peace officer.
  - (2) Refuses to identify ~~himself or herself~~themselves.
  - (3) Manifestly endeavors to conceal ~~himself, herself~~themselves or any object.
  - (4) Not being a duly licensed special officer or peace officer, systematically checks the means to access to buildings or vehicles.

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- (5) Maintains a continuous presence in close proximity to a place where a reasonable peace or police officer would conclude that ~~his or her~~their activity manifests a high probability of activity or intention to engage in activity in violation of this Chapter, or any criminal provision of state or federal law.
- (c) Unless flight by the person or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting the person to:
- (1) Identify ~~themselves~~himself or herself; and
  - (2) Explain ~~his or her~~their presence and conduct.
- (d) No person shall be convicted of an offense under this Section if the peace officer did not comply with Subsection (c) hereof or, if at trial, the Municipal Court finds that the explanation of presence and conduct given by the defendant was true and, if believed by the peace officer at the time, would have dispelled the reasonableness of the officer's belief that the defendant was engaging in unlawful activity or would have disclosed a lawful purpose.
- (e) It is an affirmative defense that the defendant's acts were lawful and ~~he or she wa~~they weres exercising their ~~his or her~~ rights of lawful assembly.

(Prior code 15-92; Ord. 12-08 §1, 2008; Ord. 15-12 §4, 2012; Ord. No. 2015-13, § 1, 10-1-2015 )

### **Sec. 10-3-100. Throwing dangerous missiles.**

It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing or other dangerous missile at or against, or in a manner which could endanger, a person, animal, public or private property, building, tree, shrub, structure, personal property, fixture or vehicle or equipment designed for the transportation of persons or property. The provisions of this Section shall not apply to throwing, projecting or shooting any such dangerous missile at any animal in order to protect persons or property from physical injury, or for recreational purposes in such a manner that no unreasonable risk of harm is presented to any person, or to the real or personal property of any person.

### **Sec. 10-3-110. Fraud by check.**

- (a) The following definitions apply to this Section:

*Check* means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand, and signed by the drawer. *Check* also includes a negotiable order of withdrawal and a share draft.

*Drawee* means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

*Drawer* means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of ~~themselves~~himself or herself or of a person authorized to draw the check on ~~himself or herself~~themselves.

*Insufficient funds* means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance. A check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

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*Issue* means making drawing, delivering or passing a check or causing it to be made, drawn, delivered, or passed.

*Negotiable order of withdrawal or share draft* means negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

*Negotiable order of withdrawal account* means an account in a bank, savings and loan association or industrial bank.

*Share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association or industrial bank or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, although in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

- (b) Any person, knowing the person has insufficient funds with the drawee, who, with intent to defraud, issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check. This Subsection shall only apply where the fraudulent check was for the sum of less than one thousand dollars (\$1,000.00).
- (c) Any person having acquired rights with respect to a check which is not paid because the drawer has insufficient funds shall have standing to file a complaint under this Section, whether or not the person is the payee, holder or bearer of the check.
- (d) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a police officer, city attorney or authorized investigator for a city attorney investigating or prosecuting a charge under this Section.
- (e) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a post-dated check or order, if:
  - (1) The issuer has no account upon which the check or order is drawn with the bank or other drawee at the time ~~they~~~~he or she~~ issues the check or order; or
  - (2) The issuer has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue.

(Prior code 15-62; Ord. 20-07 §2, 2007; Ord. 12-08 §1, 2008)

### **Sec. 10-3-120. Abandoned containers and appliances.**

- (a) It is unlawful for any person to store, maintain, abandon, discard or place any icebox, refrigerator or freezer which is not being used for refrigeration purposes in any public or private place foreseeably accessible to children without first doing one (1) or more of the following to any such icebox, refrigerator or freezer:
  - (1) Removing the doors.
  - (2) Removing the latches and affixing a block or wedge or other device to the inner door surface in a manner such that the doors cannot shut to form a tight seal.
  - (3) Padlocking the doors shut.
  - (4) Securing the doors shut with permanent metal strapping.
- (b) It is unlawful for any person to abandon or discard in any public or private place foreseeably accessible to children, or for the owner, lessee or manager of any property to knowingly permit to remain abandoned or



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discarded in any place under the person's control which is foreseeably accessible to children, any chest, closet, piece of furniture or other article having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside by a means that is reasonably obvious and can be performed by reasonable effort; or who, being the owner, lessee or manager of such place, to knowingly permit such abandoned or discharged article to remain in such condition.

(Prior code 15-102; Ord. 12-08 §1, 2008)

**Sec. 10-3-130. Leaving openings uncovered or unsafe.**

It is unlawful for any person to leave open, uncovered, unguarded or in unsafe condition any cellar door, mobile home skirting, hatchway, pit, vault or excavation upon any sidewalk, street, alley or public place or so near thereto as to constitute a hazard to any passerby or person.

**ARTICLE 4 Streets and Public Places**

**Sec. 10-4-10. Disturbing lawful assemblies or activities.**

- (a) It is unlawful for any person, by conduct in, on or near the premises, property or facilities of the City or any public place, institution, office or buildings, any school, congregation or assembly meeting for religious worship or any other lawful meeting or assembly intentionally, knowingly or recklessly:
- (1) Without reasonable necessity, to obstruct a street, highway, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial segment of the public has access; or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from such person's acts alone or from such person's acts and the acts of others;
  - (2) To disobey a reasonable request or order to move issued by a person ~~they~~ or ~~she~~ knows or should reasonably know to be a police officer, firefighter or person with authority to control the use of the premises, to prevent obstruction of a highway, passageway or the premises or facilities, or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard;
  - (3) To disrupt, obstruct or interfere substantially with any lawful meeting, procession or gathering in or on such premises by intentional physical action, verbal utterance or any other means;
  - (4) To deny any public servant, official, employee, invitee or student:
    - a. Lawful freedom of movement on the premises;
    - b. Lawful use of the property, premises or facilities;
    - c. The right of lawful ingress and egress to such property;
  - (5) To impede any public servant, official, employee, invitee or student in the lawful performance of such person's duties or activities through the use of restraint, coercion or intimidation or when force and violence are present or threatened; or
  - (6) To refuse or fail to leave such premises, property or facilities upon being reasonably requested to do so by a police officer, chief administrative officer, or such person's designee, dean or principal of an educational institution, or other individual or public servant with authority to control the use of the premises if such person is committing, threatens to commit or incites others to commit any act which would obstruct, disrupt, restrict or impede the lawful missions, processes, procedures or functions in or on such premises, property or facilities.

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- (b) Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances.

(Prior code 15-107)

#### **Sec. 10-4-20. Disturbing the peace.**

It is unlawful for any person to disturb or tend to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct, by loud or unusual noises, or by unseemly, profane, obscene or offensive language calculated to provoke a breach of the peace; or for any person to permit any such conduct in any house or upon any premises owned or possessed by ~~him or her~~them or under ~~his or her~~their management or control, when within ~~his or her~~their power to prevent, so that others in the vicinity are or may be disturbed thereby.

#### **Sec. 10-4-30. Unlawful conduct on public property.**

- (a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct ~~himself or herself~~themselves in or on them in violation of any order, rule or regulation concerning any matter prescribed in this Section, limiting or prohibiting the use, activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of such public buildings and property, specifically, orders, rules and regulations upon the following matters:
- (1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds and other structures, and any object of scientific, historical or scenic interest;
  - (2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;
  - (3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;
  - (4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;
  - (5) Use of all vehicles as to place, time and manner of use; and
  - (6) Control and limitation of fires and designation of places where fires are permitted.
- (b) No conviction may be obtained under this Section unless notice of such limitation or prohibition is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the office or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section.
- (c) Any person who violates this Section is guilty of unlawful conduct on public property.

(Ord. 12-08 §1, 2008)

#### **Sec. 10-4-40. Interfering with use of streets or sidewalks.**

It is unlawful for any person to obstruct, interfere with or prevent the free, unobstructed and reasonable use of a public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or

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passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any peace officer.

**Sec. 10-4-50. Damage or removal of street signs.**

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street.

***ARTICLE 5 Public, Private and Personal Property***

**Sec. 10-5-10. Criminal mischief.**

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

**Sec. 10-5-20. Destruction of property.**

It is unlawful for any person to either maliciously, wantonly, intentionally or through criminal negligence, injure, damage or destroy the real or personal property of another or of the City; provided, however, that this Section shall not apply to any person showing a legal right or authority to injure, damage or destroy such property. This Section shall apply only where the aggregate damage to such real or personal property is less than one thousand dollars (\$1,000.00), or where the damage is effected by means of fire or explosives with the intent to defraud.

**Sec. 10-5-30. Trespassing.**

It is unlawful for any person without permission or legal privilege to enter, occupy, use or remain upon or in any privately owned property, real or personal, of another, or fail or refuse to remove ~~himself or herself~~ themselves from such property when requested to leave by the owner, occupant or person having lawful control thereof.

**Sec. 10-5-40. Littering.**

- (a) Any person who deposits, throws, or leaves any litter on any public or private property or in any waters commits littering.
- (b) It shall be an affirmative defense that:
  - (1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;
  - (2) The litter is placed in a receptacle or container installed on such property for that purpose; or
  - (3) Such person is the owner or tenant in lawful possession of such property, or ~~they have~~ he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.
- (c) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City or upon private property. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

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(Ord. 12-08 §1, 2008; Ord. 15-12 §5, 2012)

**Sec. 10-5-50. Theft.**

- (a) It is unlawful for any person to commit theft.
- (b) A person commits theft when the person knowingly obtains or exercises control over anything of value of or provided by another, including services rendered by another, without authorization or by threat or deception, and:
  - (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
  - (2) Knowingly uses, conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefits;
  - (3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefits;
  - (4) Demands any consideration to which the person is not legally entitled as a condition of restoring the thing of value to the other person; or
  - (5) Fails to pay any consideration legally due to the other person for the thing or service; and
  - (6) The value of the thing or service, or combination thereof, involved is less than two thousand dollars (\$2,000.00).

(Prior code 15-61; Ord. 20-07 §1, 2007; Ord. 12-08 §1, 2008; Ord. 15-12 §6, 2012; Ord. 2015-02, § 1, 2015 )

**Sec. 10-5-60. Shoplifting.**

- (a) It is unlawful for a person to commit the crime of shoplifting.
- (b) A person commits the crime of shoplifting when the person knowingly takes possession of unpurchased goods, wares or merchandise of a value of less than one thousand dollars (\$1,000.00), owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares or merchandise to the person's own use, without paying the purchase price thereof.
- (c) If any person willfully conceals unpurchased goods, wares or merchandise of a value of less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, such concealment constitutes prima facie evidence that the person intended to convert the same to ~~his or her~~their own use without paying the purchase price therefor within the meaning of this Section.
- (d) If any person is suspected of concealing upon ~~his or her~~their person or otherwise carrying away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any police officer, acting in good faith, may detain and question such suspected person upon probable cause based upon reasonable grounds for the purpose of ascertaining whether the person has committed the crime of shoplifting. Such questioning of a person by a merchant, merchant's agent or employee or police officer does not render the merchant, merchant's agent or employee or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention.
- (e) In any prosecution for a violation of this Section, evidence of the price for which the item was being offered for sale at the time of the commission of the alleged offense, offered by any person having any knowledge of

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the same, including the price as marked on the goods or determined by any other normal procedure of the owner, shall be prima facie evidence of the value of the item.

(Prior code 15-63; Ord. 20-07 §3, 2007)

#### **Sec. 10-5-70. Price switching.**

It is unlawful for any person to knowingly alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with the intent to deprive the owner, seller or mercantile establishment of a portion of the indicated price of such goods, wares or merchandise; provided, however, that this Section shall only apply to goods, wares or merchandise valuing less than one thousand dollars (\$1,000.00). The value may be established by the method set forth in Subsection 10-5-60(e).

#### **Sec. 10-5-80. Theft of rental property.**

- (a) A person commits theft of rental property if ~~he or she~~they:
- (1) Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or
  - (2) Having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or ~~his or her~~their representative or to the person from whom ~~they have~~he or she has received it within seventy-two (72) hours after the time at which ~~he or she~~they agreed to return it.
- (b) This section shall apply where the value of the property involved is less than one thousand dollars (\$1,000.00). Proof of value may be established as provided in Section 10-5-60(e).

(Prior code 15-74; Ord. 20-07 §7, 2007 Ord. 12-08 §1, 2008)

#### **Sec. 10-5-90. Theft by receiving.**

It is unlawful to commit theft by receiving. A person commits theft by receiving when ~~they~~he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when ~~he or she~~they intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than one thousand dollars (\$1,000.00).

#### **Sec. 10-5-100. False pretenses.**

It is unlawful for any person to obtain any food, drink, goods, wares or merchandise under false pretenses, or to enter any public place and call for refreshments or other articles and receive and refuse to pay for the same or depart without paying for or satisfying the person from whom the person received the food, goods, wares and merchandise. This Section shall only apply if the value of such food, goods, wares or merchandise is less than one thousand dollars (\$1,000.00). The value may be established by the method set forth in Subsection 10-5-60(e) of this Article.

#### **Sec. 10-5-110. Fraudulently avoiding payment of admission fees.**

It is unlawful for any person fraudulently or without lawful authorization to enter, without payment of the proper admission fee, any place where admission fees are charged; provided, however, that nothing herein

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contained shall be deemed to prohibit or restrict the admission of police officers or any public officials engaged in the performance of official duties to any place of public entertainment or amusement.

**Sec. 10-5-120. Joyriding.**

- (a) It is unlawful for any person to drive or take any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily make use thereof of such motor vehicle.
- (b) If the person who in the course of so driving or taking the motor vehicle does one (1) or more of the following, joyriding has not occurred:
  - (1) Retains possession or control of the motor vehicle for more than twenty-four (24) hours.
  - (2) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle.
  - (3) Attempts to alter or remove or alters or removes the vehicle identification number.
  - (4) Uses the motor vehicle in the commission of a crime other than a traffic offense.
  - (5) Causes five hundred dollars (\$500.00) or more property damage in the exercise of control of the motor vehicle.
  - (6) Causes bodily injury to another person while ~~they are he or she is~~ in the exercise of control of the motor vehicle.
  - (7) Removes the motor vehicle from the State for a period of time in excess of twelve (12) hours.
  - (8) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

(Prior code 15-68)

**Sec. 10-5-130. Unlawful use of property of another.**

It is unlawful for any person intentionally to use or cause to be used, in any manner, the real or personal property of another, or in lawful possession of another, for any purpose, including advertising, storage, grazing or recreation, without the permission of the owner or person in possession thereof.

**Sec. 10-5-140. Altering distinguishing mark.**

- (a) It is unlawful for any person other than the manufacturer, or a person acting pursuant to authority from the manufacturer, to remove, alter, deface or substitute a manufacturer's serial number, distinguishing number or distinguishing mark on or attached to any machine, apparatus, equipment, device or other thing, other than a motor vehicle, or to any part thereof.
- (b) It is unlawful for any person to sell or offer for sale any such item other than a motor vehicle from which the manufacturer's serial number, distinguishing number or distinguishing mark has been removed, altered, defaced or substituted, unless, before selling or offering the same for sale, the person files with the Police Department a verified statement showing the source of the person's title, the proper manufacturer's serial number, distinguishing number or distinguishing mark if known, the manner of and reason for such mutilation, change, alteration, concealment or defacement, if known, and the date of acquisition, person from whom acquired and the price paid therefor.
- (c) In all actions for the violation of this Section, the fact that a manufacturer's serial number, distinguishing number or distinguishing mark on or attached to any machine, apparatus, equipment, device or thing, or any

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part thereof, has been removed, altered, defaced or substituted shall be prima facie evidence that the same was removed, altered, defaced or substituted intentionally and by a person other than the manufacturer and other than a person acting pursuant to authority from the manufacturer.

- (d) This Section shall not be applicable to any person offering for sale or selling any device, machine, apparatus, equipment, thing or any part therein mentioned pursuant to statute or ordinance or pursuant to any judgment, order, decree, writ or other direction or process of court.

(Prior code 15-71)

**Sec. 10-5-150. Reserved.**

**Sec. 10-5-160. Unauthorized connection or tampering.**

- (a) It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, in any other manner, with any part of the cable television system under any permit within this City for the purpose of enabling any person to receive any television signal, radio signal, picture, program or sound without payment to the operator of the system.
- (b) It is unlawful for any person, without consent of the owner, to willfully tamper with, remove or damage any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.
- (c) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building, without the knowledge and consent of the person supplying such gas, water or electricity, commits tampering and unauthorized connection, which is unlawful.
- (d) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water or electricity passing through said meter, without the knowledge and consent of the person owning said meter, commits tampering and unauthorized connection, which is unlawful.
- (e) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if ~~he or she~~they knowingly makes unauthorized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.
- (f) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards.

(Prior code 15-73; Ord. 12-08 §1, 2008)

***ARTICLE 6 Public Decency***

***Division 1 General Provisions***

**Sec. 10-6-10. Public indecency.**

It is unlawful to commit public indecency. Any person who knowingly performs any of the following acts in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

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- (1) An act of sexual intercourse ~~or deviate sexual intercourse;~~
  - (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
  - (3) A lewd fondling or caress of the body of another person.

**Commented [CB1]:** Neither defined nor included in the parallel state law.

#### **Sec. 10-6-20. Indecent exposure.**

It is unlawful for a person to knowingly expose ~~his or her~~their genitals or buttocks when such exposure may reasonably be expected to be viewed by members of the public or to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

#### **Sec. 10-6-30. Invasion of privacy.**

It is unlawful for any person to look into the windows, doors, skylights or other openings of any person's domicile, ~~whether in person or by remote device,~~ in an attempt to defeat the privacy-preserving purpose of any device or structure, without the permission of the person being observed, the owner or possessor of the domicile or ~~his or her~~their agent.

#### **Sec. 10-6-40. Gambling.**

- (a) It is unlawful for any person to engage in gambling or professional gambling.
- (b) All gambling devices, instruments and things used for the purpose of gambling, as well as gambling proceeds, are contraband and shall be subject to seizure by any peace or police officer, and may be confiscated and destroyed by order of the Municipal Court. All gambling proceeds shall be forfeited to the City and transferred by court order to the General Fund of the City.
- (c) It is unlawful for any person to own, manufacture, sell, transport, possess or engage in any transaction designed to affect the ownership, custody or use of a gambling device, knowing that it is to be used in professional gambling.
- (d) It is unlawful for the person as owner, lessee, agent, employee, operator or occupant knowingly to maintain or aid or permit the maintaining of a gambling premises.

(Prior code 15-178)

### *Division 2 Prostitution*

#### **Sec. 10-6-110. Definition.**

In this Division, *prostitute* means any person who engages in prostitution.

#### **Sec. 10-6-120. Prostitution prohibited.**

It is unlawful for any person to engage in prostitution. A person engages in prostitution when the person performs, offers or agrees to perform with any person not the person's spouse, in exchange for money or other thing of value, any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse, as those terms are defined in Section 10-6-160(b).



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**Sec. 10-6-130. Soliciting for prostitution.**

It is unlawful for any person to solicit for prostitution. A person solicits for prostitution if the person:

- (1) Solicits another for the purpose of prostitution;
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Directs another to a place, knowing that such direction is for the purpose of prostitution.

**Sec. 10-6-140. Pandering.**

It is unlawful for any person to pander. A person panders when, for money or other thing of value, the person knowingly arranges or knowingly offers to aid, abet or advise another so that any person may engage in prostitution.

**Sec. 10-6-150. Keeping a place of prostitution.**

It is unlawful for any person to keep a place of prostitution. Any person who has or exercises control over the use of any premises which offers seclusion or shelter for the practice of prostitution keeps a place for prostitution if the person:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (2) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which the person should reasonably know that the place is being used for purposes of prostitution.

**Sec. 10-6-160. Patronizing a prostitute.**

(a) It is unlawful for any person to patronize a prostitute. Any person who performs any of the following patronizes a prostitute:

- (1) Knowingly performs or offers or agrees to perform any act of sexual intercourse with a prostitute.
- (2) Knowingly performs or offers or agrees to perform any act of fellatio with a prostitute.
- (3) Knowingly performs or offers or agrees to perform any act of cunnilingus with a prostitute.
- (4) Knowingly performs or offers or agrees to perform any act of masturbation with a prostitute.
- (5) Knowingly performs or offers or agrees to perform any act of anal intercourse with a prostitute.
- (6) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse with a prostitute.

(b) Definitions. For purposes of this Section, the following terms shall have the following meanings:

*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 or oral stimulation of the penis.

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

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(Prior code 15-196; Ord. 04-06 §2, 2006)

## **ARTICLE 7 Minors**

### **Sec. 10-7-10. Curfew for minors.**

- (a) It is unlawful for any parent, guardian or other person having legal care or custody of any minor to allow or permit any such minor to be or remain upon any streets or alleys, or to be or remain in any establishment open to the public generally, after 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or any time from 12:00 a.m. to 6:00 a.m. on any day except:
- (1) When accompanied by a parent, guardian or other person having legal care or custody of such minor;
  - (2) For lawful employment; or
  - (3) When such minor is in the custody of and accompanied by a person who has reached ~~his or her~~their eighteenth birthday and who has in ~~his or her~~their possession the written consent of such parent, guardian or other person having legal care or custody of such minor.
- (b) It is unlawful for any minor to be or remain upon any street or alley, or to be or remain in any establishment open to the public generally, after 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or any time from 12:00 a.m. to 6:00 a.m. on any day, except as provided in Paragraphs (a)(1), (a)(2) or (a)(3) above.

(Prior code 15-93; Ord. 15-12 §9, 2012)

### **Sec. 10-7-20. Parent or guardian aiding, abetting.**

It is unlawful for any person to knowingly permit any minor child to violate, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of, any provision of this Article or any ordinances of the City.

### **Sec. 10-7-30. Encouraging delinquency.**

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended.

### **Sec. 10-7-40. False statement; false credentials.**

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter.

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**Sec. 10-7-50. Harboring minors.**

- (a) It is unlawful for any person knowingly to harbor, keep secreted, cohabit with or provide shelter for any unmarried minor under the age of eighteen (18) years without the consent of the parent, legal guardian or other person having legal custody of such minor.
- (b) It is unlawful for any person to harbor, keep secreted, cohabit with or provide shelter for any unmarried minor under the age of eighteen (18) years when such person knows such minor to be a parole violator or a fugitive from legal process.
- (c) The provisions of this Section shall not apply to persons working in their official capacities as employees or members of the staffs of agencies licensed by the State and financed by the United States of America to harbor minors, nor shall such provisions apply to such agencies; provided that such agencies shall at all times provide specific information concerning minors so harbored and shall release such minors to their parents, legal guardians or other persons having legal custody of such minors, or to any law enforcement agency, upon request; and provided further that such agencies harboring minors shall, within twenty-four (24) hours after the arrival of a minor, notify the Police Department and, within seventy-two (72) hours, if possible, shall notify the parents, legal guardians or other persons having legal custody of such minors.

(Prior code 15-94)

**Sec. 10-7-60. Selling tobacco to persons under twenty-one (21) years of age.**

- (a) For purposes of this section, the term *tobacco products* has the meaning set forth in Section 6-14-30 of this Code.
- (b) It is unlawful for any person to furnish to any person who is under twenty-one (21) years of age 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 valid state driver's license or other government-issued form of photographic identification which identified the person receiving the cigarettes or tobacco products as being twenty-one (21) years of age or older.
- (c) No retailer shall sell or permit the sale of any tobacco product by use of a vending machine or other coin-operated machine except at a location where persons under twenty-one (21) years of age are prohibited from entry.

(Prior code 15-95; Ord. 12-08 §1, 2008; Ord. 15-12 §10, 2012; Ord. 2019-04 §4, 2019; Ord. No. 2021-13 §4, 2021)

***ARTICLE 8 Street Gangs***

**Sec. 10-8-10. Legislative declaration.**

- (a) This Article shall be known and may be cited as the "Edgewater Street Gang Enforcement and Prevention Ordinance."
- (b) The City Council finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age or handicap, to be secure and protected from intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Article to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The City Council hereby recognizes the constitutional right of every citizen to harbor and express beliefs, to lawfully

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associate with others, to petition lawfully constituted authority for a redress of perceived grievances and to participate in the electoral process.

- (c) The City Council, however, further finds that the citizens of the City are concerned as a result of violent street gangs whose members threaten, terrorize and commit a multitude of crimes against the peaceful citizens of their neighborhoods. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected. The City Council finds that there are several criminal street gangs operating in the City and that the number of gang-related crimes is increasing. It is the intent of the City Council in enacting this Article to seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity and upon the organized nature of street gangs which, together, are the chief source of terror created by street gangs.

(Prior code 15-251)

#### **Sec. 10-8-20. Gang activity.**

- (a) It is unlawful for any person to actively participate in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, or to willfully promote, further or assist in any criminal conduct by members of that gang as defined by either this Code or state law.
- (b) Any person who engages in an illegal act which is committed for the benefit of, at the direction of or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, shall be subject to an additional and separate charge of violating this provision and shall be punished in accordance with Section 1-4-20.
- (c) As used in this Article, *pattern of criminal gang activity* means the commission, attempted commission or solicitation by a particular street gang of two (2) or more of the offenses listed in any provision found in this Chapter or in Title 18, C.R.S., provided that at least one (1) of those offenses occurred after May 20, 1993, the last of those offenses occurred within three (3) years after a prior offense, and the offenses are committed on separate occasions.
- (d) As used in this Article, *criminal street gang* means any ongoing organization, association or group of three (3) or more persons, whether formal or informal, which is involved in the commission of one (1) or more of the criminal acts enumerated in this Chapter or in Title 18, C.R.S., which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.
- (e) Any person who is convicted of or pleads guilty or no contest to a violation of this Section shall, for each offense, be punished in accordance with Section 1-4-20.

(Prior code 15-252)

#### **Sec. 10-8-30. Gang-related nuisances.**

It is unlawful for any building or place to be used by members of a criminal street gang for the purpose of the commission of any of the offenses listed in this Chapter or Title 18, C.R.S., and every building or place, wherein or upon which criminal conduct by gang members takes place is declared a nuisance and shall be enjoined, abated and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

#### **Sec. 10-8-40. Unlawful encouragement of gang activity.**

It is unlawful for any person to:

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- (1) Commit any act or omit the performance of any duty, which act or omission causes, or tends to cause or encourage, any person under the age of eighteen (18) years to violate any provision of this Article, or which act or omission contributes to such a violation; or
  - (2) By any act, omission, threat, command or persuasion, induce or endeavor to induce any person under the age of eighteen (18) years to fail or refuse to conform to a lawful order of the Municipal Court.

**Sec. 10-8-50. Parental responsibility.**

- (a) For purposes of this Section, a parent or legal guardian of any person under the age of eighteen (18) years who is residing with the parent or legal guardian, shall have the duty to exercise care, supervision, protection, and control over ~~his or her~~their minor child in the context of criminal street gang activity.
- (b) For purposes of this Section, a parent or legal guardian will be deemed to have violated this Section if ~~his or her~~their conduct is determined to reflect a reckless disregard to the conduct of a minor child in the context of gang activity as defined by this Article. A person acts *with reckless disregard* when ~~he or she~~they consciously disregards a substantial and unjustified risk that a result will occur or that a circumstance exists. Furthermore, a prosecution of this Section shall be predicated upon proof beyond a reasonable doubt that the parent or legal guardian knew or should have known that ~~his or her~~their conduct was likely to result in the minor child coming within the purview of this Article. The parent or legal guardian shall have the affirmative defense of an inability to control the minor child despite reasonable efforts to do so.
- (c) In determining whether prosecution of a parent or legal guardian under the provisions of this Section is appropriate, the prosecutor may consider the following criteria:
  - (1) Review of a detailed description and/or relevant police reports which state the acts or circumstances which have brought a minor child within the purview of this Article.
  - (2) The number and type of warnings given to the parent or legal guardian and by whom.
  - (3) Whether any parenting programs have been offered to the parent or legal guardian.
  - (4) The statements and attitude of the parent or legal guardian and the minor child during the investigation.
  - (5) The parent's or legal guardian's present actual ability or inability to supervise and control the offending minor child.
  - (6) The experience and training of officers involved in the investigation.
  - (7) Neighborhood complaints or other corroboration of the problem with the minor child and/or parent or legal guardian.
- (d) The prosecutor shall be empowered to utilize, during the plea bargain process in the Municipal Court or during any sentencing for a violation of this Section, the mandatory attendance of a parent or legal guardian at a parental responsibility training program administered through the County Department of Social Services. If mandatory attendance of a parent or legal guardian is provided as a component of either a plea bargain or a sentence upon conviction of this Section and the parent or legal guardian fails to successfully complete such training, the Municipal Court may subject the parent or legal guardian to the contempt sanctions of the Court.

(Prior code 15-255; Ord. 12-08 §1, 2008)

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**Sec. 10-8-60. Gang-related threats.**

It is unlawful for any member of a criminal street gang to willfully threaten to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is not intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate and specific as to convey of the person threatened a gravity of purpose and an immediate prospect of execution.

***ARTICLE 9 Graffiti***

**Sec. 10-9-10. Graffiti; defacing property.**

- (a) It is unlawful to deface or to cause, aid in or permit the defacing of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any other similar method.
- (b) In addition to any other penalty, the Municipal Court may order any person convicted under this Section to repair personally any property within the City that was defaced, with the permission of the property owner.
- (c) In addition to any other penalty, the Municipal Court shall order any person convicted of violating this Section or pleading guilty or no contest to a violation of this Section to pay a minimum fine of:
  - (1) Two hundred dollars (\$200.00) for the first offense within any consecutive twelve-month period;
  - (2) Four hundred dollars (\$400.00) for the second offense within any consecutive twelve-month period;
  - (3) Six hundred fifty dollars (\$650.00) for the third and subsequent offenses within any consecutive twelve-month period.

The Municipal Court shall have the authority to suspend these fines, in whole or in part, only when it orders such defendant to perform, and the defendant does perform, useful community service within the City. The Municipal Court shall establish a dollar amount for each hour of community service to be performed and shall credit the amount earned toward payment of the fine imposed when the community service is completed.

**Sec. 10-9-20. Reserved.**

**Sec. 10-9-30. Possession of graffiti materials by minors.**

- (a) It is unlawful for any person under the age of eighteen (18) years, except while under the direct supervision of the person's parent, legal guardian, school teacher or a law enforcement officer in the performance of duty, to purchase, procure, possess or attempt to purchase, procure or possess any prohibited graffiti material.
- (b) Definitions. Words and phrases used in this Section shall have the following meaning respectively ascribed to them:

*Broad-tipped marker pen* means a felt-tip marker, or similar implement containing a fluid which is not water soluble, with a tip that exceeds three-eighths ( $\frac{3}{8}$ ) inch in width.

*Paint pen* means a tube, marker or other pen-like instrument with a tip of three-eighths ( $\frac{3}{8}$ ) inch or less that contains paint or a similar fluid and an internal paint agitator.

*Prohibited graffiti material* means any can of spray paint, spray paint nozzle, broad-tipped marker pen, paint pen, glass-cutting tool or glass-etching tool or instrument.

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*Spray paint* means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

*Spray paint nozzle* means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.

- (c) It shall be an affirmative defense to charges under this Section that the person under the age of eighteen (18) years possessing the material was:
- (1) Within the person's home;
  - (2) At the person's place of employment; or
  - (3) Upon real property with permission from the owner, occupant or person having lawful control of such property, to possess such materials.

(Prior code 15-78; Ord. 15-12 §13, 2012)

#### **Sec. 10-9-40. Sale and display of prohibited graffiti materials.**

- (a) Definitions. *Prohibited graffiti material* means those objects which a person under the age of eighteen (18) years is forbidden to purchase, procure, or possess pursuant to Section 10-9-30.
- (b) Sale. It is unlawful for any person, other than a parent, legal guardian, school teacher or law enforcement officer in the performance of duty, to sell, exchange, give, deliver, loan or otherwise furnish, or cause or permit to be sold, exchanged, given, delivered, loaned or otherwise furnished any prohibited graffiti material to any person under the age of eighteen (18) years unless such person under the age of eighteen (18) years is accompanied by such person's parent or legal guardian. It shall be an affirmative defense to prosecution under this Subsection that the employer has adopted and enforces a written policy against selling prohibited graffiti materials to persons under the age of eighteen (18) years, has informed its employees of the applicable laws regarding sales of prohibited graffiti materials, requires employees to verify the age of prohibited graffiti materials customers by way of a photo identification document, and has established and imposes sanctions for noncompliance.
- (c) Signs required. It is unlawful for any person who sells or offers to sell any prohibited graffiti material to fail to display a warning sign. Such warning sign shall be displayed in a prominent place in the building at all times, shall have 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 and shall read as follows:

WARNING:  
IT IS ILLEGAL FOR ANY PERSON  
UNDER EIGHTEEN YEARS OF AGE  
TO PURCHASE OR POSSESS SPRAY PAINT,  
SPRAY PAINT NOZZLE, BROAD-TIPPED  
MARKER PEN, PAINT PEN, GLASS-CUTTING  
TOOL, OR GLASS-ETCHING TOOL OR  
INSTRUMENT UNLESS ACCOMPANIED  
BY THEIR PARENT OR LEGAL GUARDIAN  
AND, UPON CONVICTION, A \$2,650,999.00 FINE  
MAY BE IMPOSED.

- (d) Display and storage. It is unlawful for any person who owns, conducts, operates or manages a business where prohibited graffiti materials are sold or who sells or offers for sale any prohibited graffiti material to store or display, or cause to be stored or displayed prohibited graffiti material in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. This Subsection shall not be construed to preclude or prohibit the storage or display of

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prohibited graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

- (e) Contributing to unlawful possession. It is unlawful for any person, except a law enforcement officer in the performance of duty, to knowingly allow a person under the age of eighteen (18) years to possess prohibited graffiti materials upon any public or private real property. It shall be an affirmative defense to charges under this Subsection that the person under the age of eighteen (18) years possessing the material was:
- (1) Within the person's home;
  - (2) At the person's place of employment; or
  - (3) Upon real property with permission from the owner, occupant or person having lawful control of such property, to possess such materials.

Persons convicted of violating this Subsection shall, in addition to any penalty imposed by the Municipal Court, pay restitution for abatement or repair of any defacement or damage caused by the use of prohibited graffiti material by the person under the age of eighteen (18) years.

**Sec. 10-9-50. Possession of graffiti materials.**

- (a) It is unlawful for any person to possess graffiti materials.
- (b) A person possesses graffiti materials when the person possesses any paint, marking pen, materials, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of the offense specified in Section 10-9-10, and the person intends to use any such materials in the commission of such offense or knows that some other person intends to use any such materials in the commission of such an offense.

(Prior code 15-79)

***ARTICLE 10 Alcoholic Beverages and Drugs***

***Division 1 Alcoholic Beverages***

**Sec. 10-10-10. Illegal possession or consumption of alcoholic beverages by an underaged person.**

- (a) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the City commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.
- (b) It is an affirmative defense to the offense described in Subsection (a) hereof that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:
- (1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of ~~his or her~~their parent or legal guardian who was present during such possession or consumption; or
  - (2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-



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410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

- (c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.
- (d) It is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any malt, vinous or spirituous liquor or fermented malt beverage to or for any person under the age of twenty-one (21) years.
- (e) It is unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain malt, vinous or spirituous liquor or fermented malt beverage by misrepresentation of age or by any other method in any place where malt, vinous or spirituous liquor or fermented malt beverages are sold.
- (f) It is unlawful for any person under twenty-one (21) years of age to possess malt, vinous or spirituous liquor or fermented malt beverage in any store or in any public place, or inside of vehicles in any public place.
- (g) It is unlawful for any parent or guardian knowingly or under conditions a reasonable parent or guardian should have knowledge of to suffer or permit any minor of whom the person is a parent or guardian to violate provisions of this Section.
- (h) It is unlawful for any person under twenty-one (21) years of age to make false statements; to furnish, present or exhibit any fictitious or false statements; to furnish, present or exhibit any fictitious or false registration card, identification card or note or other document; or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including malt, vinous, spirituous liquor or fermented malt beverage.
- (i) It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which such person under the age of twenty-one (21) is forbidden by law to purchase.
- (j) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article which such person is forbidden by law to purchase.
- (k) Prima facie evidence of a violation of Subsection (a) hereof shall consist of:
  - (1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in this State; or
  - (2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this State.
- (l) During any trial for a violation of Subsection (a) hereof, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima

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facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

- (m) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) hereof. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age.

(Prior code 15-229; Ord. 12-08 §1, 2008)

### **Sec. 10-10-20. Duties of business licensees; generally.**

- (a) It is unlawful for any licensee to permit any assault, battery, menacing, harassment or disorderly conduct as those offenses are defined in this Chapter, to be committed by any person or group of persons upon any premises licensed for the sale of malt, vinous, spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation.
- (b) It is unlawful for a licensee, in any manner, to encourage or participate in any assault, battery, menacing, harassment or disorderly conduct as those offenses are defined in this title upon premises selling malt, vinous or spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation; provided, however, that such licensee may use such reasonably necessary and lawful means as may be proper to protect ~~his or her~~their person, the person of another or property from damage or injury.
- (c) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine or apparatus which is kept or used for the purpose of gambling either directly or indirectly. This Section shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person.
- (d) Each licensee shall conduct ~~his or her~~their establishment in a manner such that no provision of this Chapter is violated. No such licensee shall knowingly permit within or upon the licensed premises any of the following:
- (1) The loitering of habitual drunkards or obviously intoxicated persons;
  - (2) Lewd and indecent displays; or
  - (3) Any disturbance or activity constituting conduct in violation of this Chapter or any criminal provisions of state law.
- (e) No licensee shall knowingly permit the consumption of malt, vinous or spirituous liquors or fermented malt beverages on the licensed premises at any time when the sale of such beverages is prohibited by municipal, state or federal law.
- (f) No licensee, manager or agent shall permit the removal of any malt, vinous or spirituous liquors or fermented malt beverages from the licensed premises, except in accordance with Section 12-47-421, C.R.S. It is unlawful for any person to remove any malt, vinous or spirituous liquors or fermented malt beverages from a licensed premises except in accordance with Section 12-47-421, C.R.S. This Subsection shall not apply to a duly licensed retail liquor store.

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- (g) No licensee, manager or agent shall employ or permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises, any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure or solicit the purchase or sale of drinks or beverages for the use or consumption by the person begging, procuring or soliciting or for the use or consumption by any other employee, waiter, waitress, entertainer, host or hostess.
  - (h) No licensee, manager or agent shall permit, upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises, anyone to loiter in or about the premises for the purpose of begging or soliciting any patron, customer or visitor in such premises to purchase any drinks or beverages of any nature whatsoever for the person soliciting or begging.
  - (i) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall knowingly permit any person to appear in the state of nudity within or upon the premises.
  - (j) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall permit the showing of film still pictures, electronic reproductions or other visual reproductions depicting any lewd or indecent display or persons in any state of nudity.

(Prior code 15-226; Ord. 15-12 §§14, 15, 2012)

**Sec. 10-10-30. Reports; warning signs.**

- (a) Any licensee shall immediately report to the Police Department any unlawful act, conduct or disturbance committed on the premises. Any failure to comply with the requirements of this Section may be considered by the Local Licensing Authority in any action relating to revocation, suspension or removal of a license. Proof of repeated failure on at least three (3) occasions to comply with the requirements of this Section shall constitute prima facie grounds for the suspension, revocation or denial of renewal of a license.
- (b) Each licensee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be provided by the City Clerk's office, which shall be in the following form:

WARNING:

CITY OF EDGEWATER POLICE MUST BE  
NOTIFIED OF ALL DISTURBANCES IN THIS  
ESTABLISHMENT AND ON GROUNDS AND  
PARKING LOTS WHICH ARE A PART OF  
THIS ESTABLISHMENT.

(Prior code 15-227)

**Sec. 10-10-40. Absence of licensee not a defense.**

It is not a defense to a prosecution under Section 10-10-20 or 10-10-30 that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

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**Sec. 10-10-50. Alcoholic beverages in certain places.**

- (a) No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college or university except where authorized by the governing authority of such institution.
- (b) No person shall drink any alcoholic beverages in or on any of the above-enumerated places.
- (c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages, [including a duly-licensed special event](#).

(Ord. 12-08 §1, 2008)

**Sec. 10-10-60. ~~Sales near schools~~ Reserved.**

~~It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any public or parochial school or the principal campus of any college, university or seminary, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal or reissuance, upon the expiration thereof, of any license in effect, or affect any such business as set forth in Section 12-47-302, C.R.S.~~

**Commented [CB2]:** Distance limitation eliminated in 2018 - Code Sec. 6-2-80.

**Sec. 10-10-70. Soliciting drinks in taverns.**

It is unlawful for any person to frequent or loiter in any tavern, cabaret, nightclub or other establishment where malt, vinous or spirituous liquors or fermented malt beverages are sold for the purpose of engaging in the practice of or with the purpose of soliciting another person to purchase drinks.

**Sec. 10-10-80. Open containers of alcoholic beverages.**

- (a) It is unlawful for any person to possess, consume or have under ~~his or her~~**their** control any alcoholic beverage in an open container or in a container, the seal of which is broken, whether such possession is actual or constructive, in any public place within the City, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the City; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license.
- (b) Nothing in this Section shall prohibit having open containers:
  - (1) Of alcoholic beverages:
    - a. In any premises of a duly licensed vendor of alcoholic beverages whose license allows consumption on the premises.
    - b. In public areas where authorized by a special events permit properly issued pursuant to state [or local](#) law.
    - c. By owners or agents of owners of real property or their invitees within the confines of the property.
  - (2) Of malt liquors or fermented malt beverages in City parks under the following conditions:

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- a. Only those persons twenty-one (21) years of age or older may consume fermented malt beverages or malt liquors.
  - b. Malt liquors or fermented malt beverages shall not be consumed in any recreational or play areas as designated by signs posted in the parks.
  - c. Malt liquors or fermented malt beverages shall not be consumed from any glass containers.
  - d. Malt liquors or fermented malt beverages shall not be consumed between the hours of 8:30 p.m. and 9:00 a.m. from September 1 through May 31, or between 10:00 p.m. and 9:00 a.m. from June 1 through August 31, with the exceptions of holidays or special occasions designated by the City Council and proclaimed by the Mayor.
- (c) Notwithstanding the foregoing provisions, drinking alcoholic beverages in any vehicle on public streets or property is prohibited. (Prior code 15-230; Ord. 12-08 §1, 2008)

Commented [GU3]: Anyone know if these dates/times are still correct?

Commented [CB4R3]: Up to Council

### *Division 2 Drugs*

#### **Sec. 10-10-210. Drug paraphernalia generally.**

- (a) *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 this Code. Notwithstanding the foregoing, *drug paraphernalia* does not include any marijuana accessories, as defined by Section 16(2)(g) of Article XVIII of the Colorado Constitution, possessed or used by a person age twenty-one (21) or older or any paraphernalia possessed or used by any person to administer medical marijuana in accordance with Section 14 of Article XVIII of the Colorado Constitution. *Drug paraphernalia* includes, but is not limited to:
- (1) Objects used, intended for use or designed for use in ingesting, injecting, inhaling or otherwise introducing a controlled substance into the human body, such as:
- a. Water pipes;
  - b. Carburetion tubes and devices;
  - c. Smoking and carburetion masks;
  - d. 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;
  - e. Miniature cocaine spoons and cocaine vials;
  - f. Chamber pipes;
  - g. Carburetor pipes;
  - h. Electric pipes;
  - i. Air-driven pipes;
  - j. Chillums;
  - k. Bongs;
  - l. Ice pipes or chillers; or

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- m. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
- (2) 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 this Article;
  - (3) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
  - (4) Separation gins and other sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (5) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
  - (6) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
  - (7) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- (b) In determining whether an object is drug paraphernalia, the Municipal Court, in its discretion, may consider, in addition to all other relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) The proximity of the object to controlled substances.
  - (3) The existence of any residue of controlled substances on the object.
  - (4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who ~~they~~~~he~~ ~~or she~~ knows or reasonably should know, could use the object to facilitate a violation of this Section.
  - (5) Instructions, oral or written, provided with the object concerning its use.
  - (6) Descriptive materials accompanying the object which explain or depict its use.
  - (7) National or local advertising concerning its use.
  - (8) The manner in which the object is displayed for sale.
  - (9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.
  - (10) The existence and scope of legal uses for the object in the community.
  - (11) Expert testimony concerning its use.
- (c) In the event a case brought pursuant to this Section is tried before a jury, the Municipal Court shall hold an evidentiary hearing on issues raised pursuant to Subsection (b) hereof. Such hearing shall be conducted in camera.
- (Prior code 15-236; Ord. 05-05 §3, 2005; Ord. 15-12 §16, 2012; Ord. 25-13 §3, 2014)

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**Sec. 10-10-220. Possession of drug paraphernalia; penalty.**

A person commits possession of drug paraphernalia if ~~he or she~~they possess~~s~~es drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of this Code. A violation of this Section shall be subject to the penalty provided in Section 1-4-20.

**Sec. 10-10-230. Manufacture, sale or delivery of drug paraphernalia by or to underage persons; penalty.**

- (a) It is unlawful for any person under the age of twenty-one (21) years to sell or deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver equipment, products or materials knowing, or under circumstances where one reasonably should know, that such equipment, products, or materials could be used as drug paraphernalia.
- (b) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver equipment, products or materials to any person under the age of twenty-one (21) years knowing, or under circumstances where one reasonably should know that such equipment, products or materials could be used as drug paraphernalia.
- (c) The provisions of Subsection (a) above shall not apply to any person who sells, delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products or materials in the course of conducting a business duly licensed by the State pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., as existing or hereafter amended, and by the City pursuant to Article 30 of Chapter 16 of this Code, as existing or hereafter amended, or in the course of conducting a business duly licensed by the State pursuant to the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S., as existing or hereafter amended, and by the City pursuant to Article 32 of Chapter 16 of this Code, as existing or hereafter amended.

(Prior code 15-236; Ord. 25-13 §4, 2014)

**Sec. 10-10-240. Advertisement of drug paraphernalia; penalty.**

- (a) It is unlawful for any person to place an advertisement in any newspaper, magazine, handbill or other publication and who intends thereby to promote the sale in the City of equipment, products or materials designed and intended for use as drug paraphernalia. A violation of this Subsection shall be subject to the penalty provided in Section 1-4-20.
- (b) The common law defense known as the "procuring agent defense" is not a defense to any crime in this Section.

(Prior code 15-236)

**Sec. 10-10-250. Possession of injection devices.**

It is unlawful for any person to possess any hypodermic needle, syringe or similar device which may be adapted or used for injecting drugs or other substances by subcutaneous or intracutaneous injection into the body, unless such possession has been authorized for medical or physical treatment by a licensed medical doctor or osteopathic physician; provided, however, that the prohibitions contained in this Section shall not apply to manufacturers, jobbers, licensed medical technicians, hospitals, nursing homes, technologists, nurses, laboratories, research teaching institutes, medical doctors, osteopathic physicians, dentists, veterinarians, pharmacists and embalmers selling or using such devices in the legal course of their respective businesses or professions [or to any](#)

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[person participating as an employee, volunteer, or participant in an approved syringe exchange program created pursuant to C.R.S. § 25-1-520](#). A violation of this Section shall be subject to the penalty provided in Section 1-4-20.

**Sec. 10-10-260. Possession of marijuana.**

- (a) Any person under the age of twenty-one (21) who knowingly possesses, displays, consumes, uses, transfers or dispenses marijuana to another person without consideration commits a criminal offense, excepting any such activity that is lawfully conducted pursuant to Article 43.3 of Title 12, C.R.S.
- (b) It is unlawful for any person to openly and publicly consume marijuana or to permit the same to occur on property owned or controlled by such person. For purposes of this Subsection:
  - (1) *Openly* means occurring or existing in a manner that is capable of visual observation; and
  - (2) *Publicly* means occurring or existing in a place owned or controlled by a public entity or to which the public or a substantial number of the public has access, including but not limited to public buildings and facilities; the common areas of private buildings and facilities to which the public has access, such as lobbies, entryways, hallways, shared yards and courtyards; parks; playgrounds; streets; highways; sidewalks; transportation facilities; places of amusement; stores; restaurants; bars; service establishments; and clubs to which any adult member of the public can gain access, whether through membership or otherwise.
- (c) The provisions of Subsection (a) above shall not apply to any person who possesses, displays, transfers or dispenses marijuana in the course of conducting a business duly licensed by the State pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., as existing or hereafter amended, and by the City pursuant to Article 30 of Chapter 16 of this Code, as existing or hereafter amended.

(Prior code 15-232; Ord. 12-08 §1, 2008; Ord. 15-12 §17, 2012; Ord. 25-13 §5, 2014)

**Sec. 10-10-270. Toxic vapors.**

- (a) Generally.
  - (1) **Definition.** As used in this Section, the term *toxic vapors* shall mean those substances and products defined by state law as "toxic vapors" pursuant to Section 18-18-412, C.R.S., as existing or hereafter amended.
  - (2) **Common examples.** The following serve as examples of common products containing *toxic vapor* compounds, but is not meant to limit the prohibitions contained herein: spray paint, model airplane glue, nonwater soluble household glue, nail polish remover and paint thinner.
- (b) **Use or possession.** It is unlawful for any person intentionally to 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, or to possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.
- (c) **Under the influence.** It is unlawful for any person to be intentionally under the influence of any toxic vapors.
- (d) **Sale.**
  - (1) It is unlawful for any person to sell, give, deliver or furnish to any minor, without the written consent of a parent, guardian, or other person having legal care or custody of such minor, any substance which is known or reasonably should be known to release or to be capable of releasing toxic vapors, and which could be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system, or for other unlawful purposes; except that the



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sale of one (1) tube of glue shall not be unlawful if made simultaneously with the sale, purchase and delivery of a hobby or model kit.

- (2) It is unlawful for any person, except a person who is at the time of such sale actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, to sell to any other person any substance which is known or reasonably should be known to release or to be capable of releasing toxic vapors, and all sales of such substance not made in or from such an establishment shall be unlawful.
- (3) It is unlawful for any person knowingly to sell or offer for sale, deliver or give away to any other person any substance which is known or reasonably should be known to release or to be capable of releasing toxic vapors, where the seller, offerer, deliverer or donor knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system, or for other unlawful purposes.
- (e) Prima facie evidence. In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) hereof 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.
- (f) Exception. This Section shall not apply to the inhalation of anesthesia for medical or dental purposes under the appropriate supervision of a physician or dentist.

(Prior code 15-96; Ord. 12-08 §1, 2008; Ord. 15-12 §18, 2012)

**Sec. 10-10-280. Possession or use of synthetic cannabinoid or *salvia divinorum*.**

It is unlawful for any person to use or possess any amount of any synthetic cannabinoid or *Salvia divinorum*.

***ARTICLE 11 Reserved***

***ARTICLE 12 Weapons***

**Sec. 10-12-10. Definitions.**

As used in this Article, unless the context otherwise requires, the following definitions shall apply:

*Blackjack* means any billy, sand club, sandbags or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

*Bomb* means any explosive or incendiary device or Molotov cocktail as defined in Section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

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

*Gas gun* means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device, and includes projectiles designed for use in such device.

*Gravity knife* means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force that, when released, is locked in place by means of a button, spring, lever or other device.

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*Handgun* means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed twelve (12) inches.

*Knife* means 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; but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

*Nunchaku* means an instrument consisting of two (2) sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain which is in the design of a weapon used in connection with the practice of a system of self-defense.

*Stun gun* means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

*Switchblade knife* means any knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

*Throwing star* means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

#### **Sec. 10-12-20. Law enforcement officers.**

Nothing in Sections 10-12-50 through 10-12-70 or 10-12-90 shall be construed to forbid any enforcement agencies of the United States government or the State, any sheriff or the sheriff's deputies, or any regular, special or ex officio peace or police officer from carrying, wearing or using such weapon as shall be necessary in the proper discharge of such person's duties.

#### **Sec. 10-12-30. Forfeiture of weapons.**

- (a) Any weapon used or possessed in violation of this Article is contraband and shall be forfeited to the City upon a conviction or any negotiated disposition resulting from such use or possession.
- (b) Every person who pleads guilty or no contest to or is convicted of any violation of this Article may be required, by order of the Municipal Court, to forfeit any knife, firearm or illegal or deadly weapon and/or ammunition when the same was used, possessed or displayed during the course of the episode which gave rise to the conviction, no contest plea or guilty plea, or when such weapon and/or ammunition formed the basis of the complaint. Such forfeiture may be an element of sentencing or of any other disposition of the offense.

(Prior code 15-153, 15-163)

#### **Sec. 10-12-40. Disposition of confiscated weapons.**

It is the duty of every police officer upon making an arrest and taking such a weapon from the person of the offender to deliver or cause to be delivered the weapon to the Chief of Police to be held in custody until the final determination of the prosecution of such offense. The Chief of Police, shall dispose of such weapons in accordance with the procedures set forth in Subsection 4-7-40(b).

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**Sec. 10-12-50. Unlawful use.**

- (a) It is unlawful for any person to:
- (1) Knowingly aim a firearm at another person.
  - (2) Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow.
  - (3) Knowingly set a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leave it unattended by a competent person immediately present.
  - (4) Possess a firearm while under the influence of intoxicating liquor or of a controlled substance as defined by state law.
  - (5) Knowingly aim, swing or throw a throwing star or nunchaku or knowingly possess a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.
- (b) Nothing in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument 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 the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. In addition, nothing contained herein shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.
- (c) Nothing in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of ~~his or her~~their duties.

(Prior code 15-155; Ord. 12-08 §1, 2008)

**Sec. 10-12-60. Unlawful possession.**

It is unlawful for any person to knowingly possess an illegal weapon.

**Sec. 10-12-65. Unlawful open carry of firearms - penalties.**

- (a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to openly wear, carry or transport any firearm on or about their person or vehicle.
- (b) It shall not be an offense under subsection (a) of this section if, at the time of carrying, the person is abiding by all other federal, state and local laws and is:
- (1) A law enforcement officer;
  - (2) Acting under authorization of the federal, state or local government or in aid of lawful authorities when thereto legally summoned;
  - (3) In their own dwelling, place of business, or on property owned or under their control;
  - (4) Transporting the firearm while travelling within a private automobile or other private means of conveyance for hunting or for the lawful protection of a person's or another's person or property, or to or from a place of sale or repair, or from a previous residence to a new residence;

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- (5) A collector or dealer licensed pursuant to state or federal law and the person is handling or transporting the firearm for lawful exhibition or sale; or
  - (6) Carrying the firearm for use in lawfully conducted hunting or sporting activity, including, but not limited to, shooting matches, target shooting, or trap or skeet shooting.
- (c) Upon finding that a person is guilty of a violation under subsection (a) of this section, the Court shall:
- (1) For a first offense, impose only a fine of up to fifty dollars (\$50.00), and/or other penalty, such as mandatory community service or firearms education, that does not include imprisonment; and
  - (2) For each and any subsequent violation, shall impose only a fine of up to ~~nine hundred ninety nine dollars (\$2,650,999.00)~~ **nine hundred ninety nine dollars**, and/or other penalty, such as mandatory community service or firearms education, that does not include imprisonment.

(Ord. 2022-06 § 1, 2022)

#### **Sec. 10-12-70. Concealment of deadly weapons.**

- (a) It is unlawful for any person to wear under ~~his or her~~**their** clothes, conceal about ~~his or her~~**their** person or conceal in a motor vehicle within ~~his or her~~**their** immediate reach, any knife, firearm or deadly weapon.
- (b) For purposes of this Section, *conceal* shall mean placement of the knife, firearm, or deadly weapon in question about the person, or within ~~his or her~~**their** immediate reach, in such a manner as to be either completely hidden from view or partially hidden to such an extent that another person making ordinary contact with that person cannot ascertain the true nature of the weapon.
- (c) It shall be an affirmative defense that the defendant was:
  - (1) A person in ~~his or her~~**their** own dwelling or place of business or on property owned or under ~~his or her~~**their** control at the time of the act of carrying;
  - (2) A person in a private motor vehicle or other private means of conveyance for the lawful protection of ~~his or her~~**their** person or property while traveling.
  - (3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit to carry the weapon by the sheriff of a county or other permit; and the written permit states that it shall be effective in all areas of the State; or
  - (4) A peace officer, as issued under the provisions of Title 18, Article 12, Part 2, C.R.S.; or
  - (5) Carrying a folding-type knife with a blade not exceeding three and one-half (3½) inches in length.

(Prior code 15-157; Ord. 12-08 §1, 2008)

#### **Sec. 10-12-80. Concealment, use and sale of injurious substances.**

- (a) It is unlawful for any person to wear under ~~his or her~~**their** clothes or conceal about ~~his or her~~**their** person, with intent to use as a weapon, or to use or to attempt to use as a weapon, any substance or article containing any substance whatsoever which is capable of inflicting bodily harm to any person or animal, or which may be the cause of illness to any person or animal; provided, however, that, where such a substance is used by a person as a deadly weapon and causes bodily injury to another person, this Section does not apply.
- (b) It is unlawful for any person to possess, sell, offer for sale, give away, lend, furnish, use or threaten to use any device for dispensing mace, paralyzing gas, pepper spray or any similar chemicals or combination of

chemicals, or other ingredients, designed to injure, maim, paralyze, immobilize or cause the illness of a person or animal, whether or not such substance is packaged in a container under pressure; provided, however, that any such device designed to be carried in a handbag or pocket and which does not contain more than three (3) ounces of chemical may be possessed and sold and may be used by such persons in self-defense only. Nothing in this Section shall be construed to prohibit the use of such devices by police officers and mail personnel in the discharge of their duties, or by City employees who have obtained the approval of the Chief of Police to use such devices in the discharge of their duties.

(Prior code 15-160; Ord. 15-12 §21, 2012)

#### ~~Sec. 10-12-90. Weapons within licensed premises.~~

- ~~(a) It is unlawful for any person as a patron of an establishment where fermented malt beverages or malt, vinous or spirituous liquors are sold for consumption on the premises to possess or carry or display any knife, firearm or illegal or deadly weapon, whether concealed or not, while on the premises of such establishment.~~
- ~~(b) It is an affirmative defense to a charge of possession or carrying a knife under this Section that such weapon was a folding type knife with a blade not exceeding three and one half (3½) inches. This defense does not apply to a charge of displaying such a weapon.~~
- ~~(c) It is an affirmative defense to a charge of possessing or carrying a concealed firearm under this Section that the defendant held a valid written permit to carry the concealed firearm issued pursuant to state law.~~

~~(Prior code 15-158; Ord. 15-12 §22, 2012)~~

**Commented [CB5]:** Section now superfluous - open carry is prohibited by 10-12-65; valid concealed carry with a permit is allowed. (subsection c)

#### **Sec. 10-12-100. Unlawful sale of a firearm.**

- (a) No person, including any licensed dealer, licensed importer or licensed manufacturer who is licensed pursuant to 18 U.S.C. § 923, shall sell any firearm, other than a shotgun or rifle, to any person under the age of twenty-one (21) years. No person, including any licensed dealer, licensed importer or licensed manufacturer who is licensed pursuant to 18 U.S.C. § 923, shall sell any shotgun or rifle to any person under the age of eighteen (18) years.
- (b) Any person who sells any type of firearm in violation of Subsection (a) hereof commits the offense of unlawful sale of a firearm.

(Prior code 15-162)

#### **Sec. 10-12-110. Selling weapons to intoxicated persons or minors.**

It is unlawful for any person to purchase, sell, loan, or furnish any knife, firearm, or illegal or deadly weapon to any person intoxicated or under the influence of alcohol or any narcotic or dangerous drug, glue or toxic vapors or to any minor under the age of eighteen (18) years.

#### **Sec. 10-12-120. Possession of handguns by juveniles; prohibited; exceptions; penalty.**

- (a) Except as provided in this Section, it is unlawful for any person who has not attained the age of eighteen (18) years knowingly to have any handgun in such person's possession.
- (b) Any person possessing any handgun in violation of Subsection (a) hereof commits the offense of illegal possession of a handgun by a juvenile.

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(c) Any person under the age of eighteen (18) years who is taken into custody by a law enforcement officer for a second or subsequent offense of illegal possession of a handgun by a juvenile shall not be charged under this Section, but shall be charged under the appropriate state felony law.

(d) This Section shall not apply to:

- (1) Any person under the age of eighteen (18) years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun for the purpose of exercising rights contained in Section 18-1-704 or Section 18-1-704.5, C.R.S.
- (2) Any person under the age of eighteen (18) years who is hunting or trapping pursuant to a valid license issued to such person pursuant to Article 4 of Title 33, C.R.S.
- (3) Any person under the age of eighteen (18) years who is in attendance at a hunter's safety course, engaging in practice in the use of a firearm or target shooting at an established range authorized by the City Council or any other area where the discharge of a firearm is not prohibited, engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group under 501(c)(3) as determined by the Federal Internal Revenue Service which uses firearms as a part of such performance or traveling with any handgun in such person's possession being unloaded to or returning from any such activity.
- (4) Any person under the age of eighteen (18) years who is on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such person's parent, legal guardian or grandparent to possess a handgun.
- (5) For the purposes of this Section, a handgun is "loaded" if:
  - a. There is a cartridge in the chamber of the handgun;
  - b. There is a cartridge in the cylinder of the handgun, if the handgun is a revolver; or
  - c. The handgun and the ammunition for such handgun are carried on the person of a person under the age of eighteen (18) years or are in such close proximity to such person that such person could readily gain access to the handgun and the ammunition and load the handgun.

Commented [CB6]: Defense of person and property

(e) Any person who intentionally, knowingly or recklessly provides a handgun with or without remuneration to any person under the age of eighteen (18) years in violation of this Section, or any parent or legal guardian of a person under eighteen (18) years of age who knows of such juvenile's conduct which violates this Section and fails to make reasonable efforts to prevent such violation, commits the crime of unlawfully providing or permitting a juvenile to possess a handgun and shall be charged under the appropriate felony law.

(Prior code 15-161)

## **ARTICLE 13 Alarm Devices**

### **Sec. 10-13-10. Definitions.**

As used in this Article, the following terms shall have the following meanings, except where the context indicates otherwise:

*Alarm device* means a device designed to cause emergency police or fire response at the location of an event reported by a signal transmitted, telephoned, radioed or otherwise relayed to the City's emergency communications center by an alarm device or by any person acting in response to a signal activated by such a device.

*Alarm device user* means the owner of premises on which an alarm device is installed.

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*False alarm* means a signal from an alarm device which causes the Police Department or Fire Department to respond and which results from:

- a. False activation of an alarm, where there is no evidence to substantiate a reasonable belief that criminal activity was occurring or was to occur;
- b. An alarm malfunction, including mechanical failure or electrical failure, except when activated by telephone short circuits or by natural conditions, such as blizzards, tornados, earthquakes and similar conditions, where activation could not have been prevented by reasonable precautions.
- c. An alarm triggered by a failure to install or maintain an alarm device properly, including but not limited to overly sensitive settings or other negligence.

**Sec. 10-13-20. Intentional false alarms unlawful.**

It is unlawful for any person to cause the transmission of a false alarm.

**Sec. 10-13-30. Warnings and user fees to be imposed for false alarms.**

- (a) A warning or a user fee shall be imposed against an alarm device user, in an amount as established or amended from time to time by the City Council as part of the City of Edgewater Fee and Surcharge Schedule, for each false alarm originating from the owner's premises in any calendar year.
- (b) No warning shall be issued or user fee assessed for a false alarm unless a police or fire unit actually responds to the alarm.

(Prior code 15-402; Ord. 15-12 §23, 2012)

**Sec. 10-13-40. Collection of user fees for false alarms.**

- (a) Following a police or fire response to a false alarm for which a user fee is due under this Article, the Chief of Police shall provide documentation to the City Clerk that such a fee is due.
- (b) Upon receipt of such documentation, the City Clerk shall mail a user fee assessment notice to the alarm user stating the amount of the assessment, the reason therefor and the date payment is due, and notifying the alarm user of the right to a hearing with the City Clerk if a written request for such a hearing is received by the City Clerk before the due date. The City Clerk may establish, by regulation, procedures for the conduct of such a hearing.
- (c) A user fee assessment is due and payable to the City Clerk within fifteen (15) days of the mailing of the user fee assessment notice except that, if a hearing is timely requested, the assessment is due within ten (10) days after the issuance of an adverse decision at or following such hearing.
- (d) If the alarm user fails to pay the assessment within thirty (30) days after the same becomes due, the City Clerk may certify such assessment to the County Treasurer, to be levied on the premises and collected in the same manner as general taxes. Twenty-five percent (25%) of the amount shall be added to the assessment to pay the cost of collection.
- (e) Failure of an alarm user to pay a user fee assessment within thirty (30) days after the same becomes due shall be deemed a violation of this Chapter. In a prosecution for such a violation, introduction of a true and correct copy of the assessment notice shall be prima facie evidence that a valid assessment was made and is due.

(Prior code 15-403)

## ARTICLE 14 Noise

### Sec. 10-14-10. Unreasonable noise.

- (a) It is unlawful for any person to make, continue or cause to be made or continued any unreasonable noise which either annoys, injures or endangers the comfort, repose, health or safety of others, unless the making and continuing of the same is necessary for the protection or preservation of property or the health, safety, life or limb of a person.
- (b) No person shall knowingly permit unreasonable noise upon any premises owned or possessed by such person or under such person's control. For purposes of subsection (a), members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable.
- (c) The following noises are declared to be per se unreasonable, without limiting the applicability of subsection (a) to any other unreasonable noise:
- (1) Any noise or sound that is audible from within a detached single-family residence, with its windows and doors closed, which sound is created from a location outside of the property on which the residence is located; provided, however, that such noise or sound shall not include that created by any domestic power equipment operated between 7:00 a.m. and 10:00 p.m. of the same day. Such domestic power equipment shall include, but not be limited to, lawn mowers, garden tools, snow removal equipment, electric or gas chain saws, riding tractors and hand-held power tools.
  - (2) Bells and chimes, or any reproduction of the sounds of bells or chimes, from any church, clock or school, between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day.
  - (3) Noise created by the discharge of the exhaust of any steam engine, stationary internal combustion engine, air compressor equipment, motorboat, motor vehicle or other power device, which is not equipped with an adequate muffler in constant operation and properly maintained or which muffler or exhaust system is modified or used with a cutoff, bypass or similar device.
  - (4) Noise created by the loading or unloading of any garbage, trash or compactor truck, or any other vehicle, within a residential district or within three hundred (300) feet of any hotel, motel, or residential district between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day.
  - (5) Sound from the operation of any domestic power equipment between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day. Such domestic power equipment shall include, but not be limited to, lawn mowers, garden tools, snow removal equipment, electric or chain saws, riding tractors and hand-held power tools.
  - (6) Sound from the operation of any commercial power equipment between the hours of 9:00 p.m. of one (1) day and 7:00 a.m. of the following day.
- (d) **Decibel limits.**
- (1) It is unlawful for any person to emit or cause to be emitted any noise that leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels permitted during the time periods specified in Table A. It is further unlawful for any person to emit or cause to be emitted any noise within public property in excess of the limits established in Table A.

**Commented [GU7]:** Can we consider adding info for construction related noise? Below is an idea:

*Construction Noise* means any noise created by or in connection with any activity for which a building, excavation or grading permit is required, or by or in connection with any other activity which requires the use of hand or power tools or other machinery used for building.

*Construction Noise.* Because *construction noise* is often loud and of prolonged duration, the provisions of subsection (D) of this section shall not apply to *construction noise*, and instead *construction noise* shall be regulated by the provisions of this subsection.

1. There shall be no limit on *construction noise* between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Saturday, except as provided in subsection (G)(2), below, with respect to Sundays.

2. It shall be unlawful for any person to cause or make *construction noise* between the hours of 7:00 p.m. one day and 7:00 a.m. of the next day, or at any time on a Sunday; provided, however, that it shall not be a violation of this section if *construction noise* is made or caused under any one of the following circumstances:  
a. In connection with emergency work; or  
b. In connection with a residential home improvement project conducted by the owner-occupant thereof between the hours of 9:00 a.m. and 7:00 p.m. on a Sunday.

**Commented [GU8R7]:** We do periodically get inquiries from residents about construction noise and having more detailed ordinance may be helpful for those instances.

**Commented [GU9]:** Maybe consider not using decibel limits since we don't carry meters - use: For purposes of this section, a member of the police department is empowered to make a prima facie determination as to whether such noises constitute a public nuisance.

**Commented [GU10R9]:** I concur-Chief Sonstegard



- (2) The noise source shall be measured at any point along the property line of the receptor premises or within the property line of the receptor premises to determine compliance with this chapter.
- (3) When it is determined that the background sound pressure level at the receptor premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the background sound pressure level is the standard that cannot be exceeded by the noise source.

**Table A: Allowable Sound Pressure Levels (in dB(A)) with Time of Day Allowance**

Source Premises	Residential Receptor Premises		Commercial Receptor Premises	
	7:00 a.m.—10:00 p.m.	10:00 p.m.—7:00 a.m.	7:00 a.m.—10:00 p.m.	10:00 p.m.-7:00 a.m.
Residential	55	50	65	60
Commercial	55	50	65	60

- (e) Exemptions. The prohibition of unreasonable noise set forth in subsections (a) and (b), and the maximum permissible sound pressure levels as specified in Table A under subsection (d), shall not apply to sounds emitted from:
  - (1) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger.
  - (2) Any motor vehicles designed for and operated on public streets, alleys, highways or freeways that are regulated by Table B.
  - (3) Any domestic or commercial power equipment operated at times other than the time periods prohibited by subsections (c)(5) and (c)(6). This exemption does not apply if the equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license.
  - (4) Snow removal equipment operated between the hours of 5:00 a.m. and 11:00 p.m. during any snowfall or during a declared snow emergency and snow removal equipment operated by or on behalf of the City.
  - (5) Any emergency power generator providing emergency electrical power at any location during a power outage at the location, or at any premises at any time when such equipment is required by the Edgewater Police Department or Wheat Ridge Fire Authority. Additionally, the sound pressure level emitted during the routine testing of emergency electrical power generators, so long as the sound pressure level does not exceed eighty-eight (88) dB(A) at a distance of twenty-five (25) feet or a receptor premises' property line, whichever is greater. Routine testing shall not exceed one (1) hour in any one (1) week period, or two (2) hours in any six (6) week period and shall be confined to the hours of 10:00 a.m. to 4:00 p.m.
  - (6) Any commercial premises causing the standards of Table A to be exceeded at a residential receptor premises when the zoning of the residential receptor premises does not allow residential use (residential use is nonconforming), provided, however, that such sound pressure level may not exceed the standards afforded a commercial receptor premises.
  - (7) Any emergency-related work and all associated equipment, training, and activities, such as emergency preparedness training, exercises, and drills.
  - (8) Any special event of the City, or any special event sponsored by the City, or any special event sponsored by others pursuant to the terms of a contract, lease or permit granted by the City.
- (f) Motor vehicle noise. No person shall operate nor shall the owner permit the operation of any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds the sound pressure

levels for the corresponding category of motor vehicle as specified in Table B. Except as provided in this subsection, the standards in Table B apply to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and regardless of whether in motion. In lieu of Table B, the provisions of subsection (d) Table A apply when a motor vehicle is parked and vehicle auxiliary equipment is in use.

**Table B: Maximum Allowable Noise Sound Pressure Levels for Motor Vehicles**

Type of Vehicle	Maximum Allowable Sound Pressure Level	Measurement Distance from Motor Vehicle
Motor vehicles weighing less than 10,000 pounds, manufacturers gross vehicle weight	82 dB(A)	25 feet
Motor vehicles weighing 10,000 pounds or more, manufacturers gross vehicle weight	90 dB(A)	50 feet

Ord. No. 2015-05, § 1, adopted May 28, 2015 , amended the title of § 10-14-10, to read as set out herein. Previously § 10-14-10 was titled noise generally.

**Sec. 10-14-20. Amplified sound.**

- (a) No person shall use or operate any loudspeaker, public address system or other sound-amplifying equipment, between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day, in such a manner as to be plainly audible at the property line or other legal boundary of the premise from which said equipment is being used or operated.
- (b) No person shall use or operate any loudspeaker, public address system or other sound-amplifying equipment in a motor vehicle in such a manner as to be plainly audible at twenty-five (25) feet from the motor vehicle.
- (c) The provisions of this Section shall not apply to any bell or chime or any device for the production or reproduction of the sound of bells or chimes from any church, clock or school, nor to any alarm, siren or other device operated for emergency or public safety purposes.
- (d) The provisions of this Section shall not apply to sound made on property owned by, controlled by or leased to the City, the federal government or any branch, subdivision, institution or agency of the government of this State or any political subdivision within it, and when such sound is made by an activity of the governmental body or sponsored by it or by others pursuant to the terms of a contract, lease or permit granted by such governmental body.
- (e) For purposes of this Section:

*Plainly audible* means that the information content of sound is unambiguously transmitted to the auditor, including but not limited to the understanding of spoken speech, comprehension of voices or comprehension of musical rhythms.

*Sound-amplifying equipment* means any machine or device for the amplification of a human voice, music or any other sound, or by which the human voice, music or any other sound is amplified.

(Prior code 15-104; Ord. 15-12 §24, 2012)

**Commented [GU11]:** Do we want to include a definition of amplified / loudspeaker?

*Exterior Loudspeaker or Amplifier* means a device for the amplification of sound which:

1. Is located on an exterior deck, patio or balcony of any structure;
2. Is affixed to the exterior wall of any structure;
3. Is located in or on any lawn or landscaped area outside of any structure; or
4. Is otherwise placed, affixed or located outside the exterior walls of any structure.

**Commented [CB12R11]:** Not sure it's necessary, given def. of sound-amplifying equipment

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**Sec. 10-14-30. Animals.**

It is unlawful for any person to use, keep, have in ~~his or her~~their possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to the neighborhood or to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals. For purposes of this Section, an authorized City officer may make a prima facie determination as to whether such an animal causes a disturbance to the neighborhood.

**ARTICLE 15 Miscellaneous Offenses**

**Sec. 10-15-10. Fireworks.**

- (a) In this Section, *fireworks* means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation the following articles and devices: toy cannons or toy canes in which explosives are used, blank cartridges, firecrackers, torpedoes, skyrockets, rockets, Roman candles, Day-Glo bombs, aerial shells, sparklers, trick matches, torches, fountains or other fireworks of like construction, and any fireworks containing any explosive or flammable compound or any tablets or other device containing any explosive substance.
- (b) No person shall sell, offer for sale or possess with intent to offer for sale any fireworks in the City; no person shall place any fireworks into any fire; and no person shall possess any fireworks while in any park, parkway, street, recreation area or open space, or use or explode any fireworks on any public or private property, unless such person has obtained a permit for the supervised public display of fireworks in accordance with Subsection (c) below. The Chief of Police or the Fire Chief may seize, take, remove and destroy, at the expense of the violator, any and all fireworks offered or exposed for sale, stored, held or possessed in violation of this Subsection.
- (c) The City Manager, or ~~his or her~~their designee, shall have the power to grant permits for supervised public display of fireworks by City associations, organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least fourteen (14) days in advance of the date of display. Every display shall be supervised and controlled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. The City Manager, or ~~their~~his or her designee, shall require each person obtaining such permit to give a satisfactory bond in a sum not less than five hundred dollars (\$500.00), conditioned on the payment of all damages which may be caused either to persons or property by reason of the licensed display and arising from any acts of the permittee or the permittee's agents, employees or subcontractors.
- (d) The provisions of this Section do not apply to the use of blank cartridges at bona fide sporting events.  
(Prior code 15-99; Ord. 15-12 §26, 2012)

**Sec. 10-15-20. Idling of motor vehicles.**

- (a) The unreasonable and prolonged idling of motors of any diesel fuel-burning bus or motor vehicle or the prolonged and unreasonable idling of the motor of any motor vehicle of any kind whatsoever is hereby declared to be a public safety and health hazard. For purposes of this Section, *idle* or *idling* means the

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running of a motor fuel-powered engine without engaging the engine to move the vehicle of which the engine is a part.

- (b) It is unlawful for any person to idle or permit the idling of the motor of any diesel-burning bus or motor vehicle or to idle or permit the idling of the motor of any motor vehicle of any kind whatsoever for a prolonged and unreasonable period of time within the limits of the City at any time of the day or night.
- (c) Proof that the motor of a motor vehicle was left idling for a period of time of ten (10) minutes or longer shall be prima facie proof that the vehicle was idling for a prolonged and unreasonable period of time.
- (d) This Section shall not apply to the idling of a City vehicle actively engaged in the performance of a City duty or function or to any public safety or emergency services vehicle.

(Prior code 15-100; Ord. 15-12 §27, 2012)

### **Sec. 10-15-30. Fireplaces and outdoor cooking appliances.**

- (a) No person shall burn any rubbish, paper or other combustible waste matter in any outdoor location in the City or in any fireplace or other indoor location in the City.
- (b) No person shall burn any combustible material in any indoor fireplace, other than:
  - (1) Firewood; or
  - (2) Commercially produced wood products manufactured for the express purpose of burning in an indoor fireplace.
- (c) Nothing in Subsection (a) or (b) hereof shall prohibit the use of a wood stove, a fireplace insert or an electric or gas fireplace appliance in accordance with the manufacturer's specifications and instructions.
- (d) No person shall operate any barbecue, hibachi or other outdoor cooking appliance fueled by coal, gas or other combustible materials, on any balcony of any building more than one (1) story in height.

(Prior code 7-1)

### **Sec. 10-15-40. Camping restrictions.**

- (a) It is unlawful for any person to camp in any park, public right-of-way or open space, upon any public street or thoroughfare or upon any public property; or to set up a tent, shack or any other temporary shelter upon such public property which could be used for residing, camping or sleeping within the City.
- (b) It is unlawful for any person to camp in any floodway.
- (c) It is unlawful for any person to allow any movable structure, recreational vehicle or motor vehicle to remain in a City park after closing.
- (d) It is unlawful for any person to trespass or enter upon the land of another or in possession of another for the purpose of camping, sleeping or setting up a tent, shack or any other temporary shelter which could be used for residing, camping or sleeping, or to allow any movable structure, recreational vehicle or motor vehicle to remain on such property without permission of the owner or the person in possession thereof.
- (e) For purposes of this Section the term "camp" means to reside or dwell temporarily in a place, with shelter. The term "shelter" includes, without limitation, any tent, tarpaulin, lean-to, or any other form of protection from the elements other than a sleeping bag, bedroll, or blankets.

**Commented [CB13]:** This section still o.k. after recent *Grants Pass* decision (scotus ruling on local camping laws)

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- (f) For purposes of this Section, the term "floodway" means an area that is subject to the sudden inundation of water, including rivers and creeks and their banks, gulches, drainageways, channels, swales, detention ponds and areas, culverts and storm drains.
- (g) No law enforcement officer shall issue a citation, make an arrest or otherwise enforce this section against any person unless:
- (1) The officer orally requests or orders the person to refrain from the alleged violation of this section and, if the person fails to comply after receiving the oral request or order, the officer tenders a written request or order to the person warning that if the person fails to comply the person may be cited or arrested for a violation of this section; and
  - (2) The officer attempts to ascertain whether the person is in need of medical or human services assistance, including, but not limited to, mental health treatment, drug or alcohol rehabilitation, or homeless services assistance. If the officer determines that the person may be in need of medical or human services assistance, the officer shall make reasonable efforts to contact and obtain the assistance of a designated human service outreach worker, who in turn shall assess the needs of the person and, if warranted, direct the person to an appropriate provider of medical or human services assistance in lieu of the person being cited or arrested for a violation of this section. If the officer is unable to obtain the assistance of a human services outreach worker, if the human services outreach worker determines that the person is not in need of medical or human services assistance, or if the person refuses to cooperate with the direction of the human services outreach worker, the officer may proceed to cite or arrest the person for a violation of this section so long as the warnings required by paragraph (1) of this subsection have been previously given.

For purposes of this section, "designated human service outreach worker" shall mean any person designated by the City Manager to assist law enforcement officers as provided in subsection (c), regardless of whether the person is an employee of the City.

## ***ARTICLE 16 Smoking Prohibited***

### **Sec. 10-16-10. Legislative intent.**

The City Council finds, determines and declares that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental smoke in most areas open to the public, public meetings, food service establishments and places of employment. The City Council further finds, determines and declares that a balance should be struck between the health concerns of nonconsumers of tobacco and marijuana products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco and marijuana products in certain designated public areas and in private places. Therefore, the City Council hereby declares that the purpose of this Article is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco and marijuana smoke.

### **Sec. 10-16-20. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

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

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

*Customer service area* means, with respect to any building or facility that is not exempted from this Article under Section 10-16-40, all of the outdoor or semi-enclosed areas, except for designated parking areas, of the building, facility, business or establishment that is used, has ever been used or is reasonably capable of being used to serve customers of, or visitors to, the building facility, business or establishment. Without limiting the generality of the foregoing sentence, a *customer service area* shall mean and include all outdoor or semi-enclosed seating or service areas, all outdoor or semi enclosed waiting areas and any other outdoor areas of any food service establishment or bar other than designated parking areas for the food service establishment or bar.

*Employee* means any person who:

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

*Employee* includes every person described in this Paragraph of this Section, regardless of whether such person is referred to as an employee, contractor, independent contractor or volunteer, or by any other designation or title.

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

*Entryway* means the outside of any doorway leading into the indoor area of any building or facility that is not exempted from this Article under Section 10-16-40. *Entryway* also includes the area of public or private property within twenty (20) feet of the doorway.

*Environmental smoke or secondhand smoke* means gases, particles and vapors released into the air as a result of the combustion, electrical ignition, vaporization or heating of any substance, including but not limited to tobacco, nicotine or a marijuana product, also known as "sidestream smoke," and such gases, particles and vapors that are exhaled by the smoker.

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

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

*Marijuana* has the same meaning set forth in Section 10-1-10 of this Code.

*Marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended to be consumed by smoking or inhalation.

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

*Public building* means any building owned or operated by:

- a. The State, including the legislative, executive and judicial branches of state government;

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- b. Any county, city and county, city or town, or instrumentality thereof, or any other political subdivision of the State, a special district, an authority, a commission or an agency of any of the same; or
  - c. Any other separate corporate instrumentality or unit of state or local government.

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

*Public transportation waiting area* means an area that is designated by a sign, either alone or in conjunction with a structure, shelter, bench or other similar improvement, as a waiting area for transportation pick-up, or drop-off, and that is available to the general public, whether the means of transportation is publicly or privately owned or operated.

*Smoke-free workarea* means an indoor area in a place of employment where smoking is prohibited under this Chapter.

*Smoking* means the burning, heating, electrical ignition or vaporization of a cigarette, cigar, pipe or any other similar product, matter or substance that contains tobacco, nicotine, marijuana any other substance or any combination thereof, and the inhaling and exhaling of environmental smoke created thereby.

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

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

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

#### **Sec. 10-16-30. General smoking restrictions.**

- (a) Except as provided in Section 10-16-40, and in order to reduce the levels of exposure to environmental smoke, smoking shall not be permitted, and no person shall smoke, in any indoor area, or in any outdoor area described in Paragraph (31) below, or within the entryway to any indoor area, all including, but not limited to:
  - (1) Public meeting places;
  - (2) Elevators;
  - (3) Government-owned or -operated means of mass transportation, including but not limited to buses, vans and trains;
  - (4) Taxicabs and limousines;
  - (5) Grocery stores;
  - (6) Gymnasiums;
  - (7) Jury waiting and deliberation rooms;
  - (8) Courtrooms;

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- (9) Child day care facilities;
  - (10) Health care facilities, including hospitals, health care clinics, doctor's offices and other health care related facilities;
  - (11) a. Any place of employment that is not exempted;
    - b. In the case of employers who own facilities otherwise exempted from this Article, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental smoke. Every employee shall have a right to work in an area free from environmental smoke;
  - (12) Food service establishments;
  - (13) Bars;
  - (14) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
  - (15) Indoor sports arenas;
  - (16) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities;
  - (17) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests;
  - (18) Bowling alleys;
  - (19) Billiard or pool halls;
  - (20) Facilities in which games of chance are conducted;
  - (21) The common areas of retirement facilities, publicly owned housing facilities and, except as specified in Paragraph 10-16-40(6), nursing homes, not including any resident's private residential quarters or areas of assisted living facilities specified in Paragraph 10-16-40(6);
  - (22) Public buildings;
  - (23) Auditoria;
  - (24) Theatres;
  - (25) Museums;
  - (26) Libraries;
  - (27) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and nonpublic schools;
  - (28) Other educational and vocational institutions;
  - (29) Tobacco businesses;
  - (30) The entryways of all buildings and facilities listed in Paragraphs (a)(1) through (a)(29) of this Section; and
  - (31) Customer service areas.
- (b) In order to reduce the levels of exposure to environmental smoke, smoking shall not be permitted, and no person shall smoke, in any public park or recreation area within the City, nor within twenty (20) feet of any public transportation waiting area within the City.

(Ord. 11-10 §1, 2010; Ord. 25-13 §10, 2014; Ord. 2019-04 §5, 2019)



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**Sec. 10-16-40. Exceptions to smoking restrictions.**

This Article shall not apply to:

- (1) Private homes, private residences and private automobiles, except that Section 10-16-30 of this Article shall apply if any such home, residence or vehicle is being used for child care or day care, or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
- (2) Limousines under private hire;
- (3) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%);
- (4) The outdoor area of any business, except to the extent that the outdoor area of any business is within twenty (20) feet of an entryway and except to the extent that the outdoor area is a customer service area;
- (5) A private nonresidential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has an annual gross income of less than five hundred thousand dollars (\$500,000); or
- (6) The areas of assisted living facilities:
  - a. That are designated for smoking for residents;
  - b. That are fully enclosed and ventilated; and
  - c. To which access is restricted to the residents or their guests.

As used in this Paragraph, *assisted living facility* means a nursing facility, as that term is defined in Section 25.5-4-103, C.R.S., and an assisted living residence, as that term is defined in Section 25-27-102, C.R.S.

**Sec. 10-16-50. Optional prohibitions.**

- (a) The owner or manager of any place not specifically listed in Section 10-16-30 above, including a place otherwise exempted under Section 10-16-40 above, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Article.
- (b) If the owner or manager of a place not specifically listed in Section 10-16-30 above, including a place otherwise exempted under Section 10-16-40 above, is an employer and receives a request from an employee to create a smoke-free work area, the owner or manager shall post a sign, or signs, in the smoke-free work area as provided in Subsection (a) of this Section.

(Ord. 11-10 §1, 2010)

**Sec. 10-16-60. Other applicable regulations of smoking.**

This Article shall not be construed to permit smoking where it is otherwise restricted by any other applicable law.

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**Sec. 10-16-70. "No Smoking" signs required.**

The owner of any entryway that is subject to the prohibitions of Subsection 10-16-30(a) of this Article shall post a clearly legible sign within five (5) feet of each such entryway stating, by way of the international "no smoking" symbol, that smoking is prohibited within twenty (20) feet of the entryway.

**Sec. 10-16-80. Unlawful acts - penalty - disposition of fines and surcharges.**

- (a) It is unlawful for a person who owns, manages, operates or otherwise controls the use of property subject to the provisions of this Article to violate any provision of this Article.
- (b) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Article.
- (c) A person who violates any provision of this Article is guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200.00) for a first violation within a calendar year; a fine not to exceed three hundred dollars (\$300.00) for a second violation within a calendar year; and a fine not to exceed five hundred dollars (\$500.00) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.

(Ord. 11-10 §1, 2010)