

THE CODE OF THE CITY OF CORTEZ, COLORADO

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1171, adopted September 25, 2012.

See the Code Comparative Table and Disposition List for further information.

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THE CODE OF THE CITY OF CORTEZ, COLORADO

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1158, adopted November 22, 2011.

See the Code Comparative Table for further information.

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THE CODE OF THE CITY OF CORTEZ, COLORADO

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1137, adopted January 12, 2010.

See the Code Comparative Table and Disposition List for further information.

Included in the Charter is:

Ordinance No. 1136, adopted January 12, 2010.

See the Code Comparative Table and Disposition List for further information.

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THE CODE OF THE CITY OF CORTEZ, COLORADO

**A Codification of the Charter
and the General Ordinances of
Cortez, Colorado**

**Beginning with Supp. No. 7,
Supplemented by Municipal Code Corporation**

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PREFACE

The Code of the City of Cortez, Colorado, originally published by Michie City Publications Company in 1974, has been kept current by regular supplementation by Matthew Bender & Company, Inc., its successor in interest.

Beginning with Supplement 7, Municipal Code Corporation will be keeping this code current by regular supplementation.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Michie City Publications Company under the supervision of Christopher C. Hudson.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been appropriately catchlined to facilitate usage. Attention is also directed to the analysis preceding each chapter which, in many instances, will serve as an index within itself.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. Beginning with Supplement No. 7, this legislative history will be complemented by a "Code Comparative Table and Disposition List," following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification; and beginning with Supplement No. 7, legislation can be tracked using the "Code Comparative Table and Disposition List."

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the Code up to date through Ordinance 1171, passed September 25, 2012.

Municipal Code Corporation
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HOW TO USE YOUR CODE

This code is organized to make the laws of the city as accessible as possible to city officials, city employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System.

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 2 is numbered 2-1 and the ninth section of Chapter 4 is 4-9. Under this system, each section is identified with its chapter, and, at the same time, new sections or even whole chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 9-5 and 9-6 is desired to be added, such new sections would be numbered 9-5.1, 9-5.2 and 9-5.3, respectively. New chapters may be included in the same manner. If the new material is to be included between Chapters 6 and 7, it will be designated as Chapter 6.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Tables of Contents.

There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

Ordinance History Note.

At the end of each code section, you will find an "ordinance history note," which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).)

Beginning with Supplement No. 7, a secondary ordinance history note will be appended to affected sections. Ordinance history notes will be amended with the most recent ordinance added to the end. These history notes can be cross referenced to the code comparative table and disposition list appearing at the back of the volume preceding the index.

Code Comparative Table and Disposition List.

Beginning with Supplement No. 7, a Code Comparative Table and Disposition List has been added for use in tracking legislative history. Located in the back of this volume, this table is a chronological listing of each ordinance considered for codification. The Code Comparative Table and Disposition List specifies the ordinance number, adoption date, description of the

ordinance and the disposition within the code of each ordinance. By use of the Code Comparative Table and Disposition List, the reader can locate any section of the code as supplemented, and any subsequent ordinance included herein.

Index.

If you are not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

BUSINESS LICENSE

See also **BUSINESS TAX**

Fee 5.04.030

Required when 5.04.010

The index will be updated as necessary when the code text is amended.

Instruction Sheet.

Each supplement to the new code will be accompanied by an Instruction Sheet. The Instruction Sheet will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current. Removed pages should be kept for future reference.

Page Numbers.

When originally published, the pages of this code were consecutively numbered. As of Supplement No. 7, when new pages are inserted with amendments, the pages will follow a "Point Numbering System". (Example: 32, 32.1, 32.2, 32.2.1, 32.2.2., 33). Backs of pages that are blank (in codes that are printed double-sided) will be left unnumbered but the number will be "reserved" for later use.

Electronic Submission.

In the interests of accuracy and speed, we encourage you to submit your ordinances electronically if at all possible. We can accept most any file format, including Word, WordPerfect or text files. If you have a choice, we prefer Word, any version. You can send files to us as an e-mail attachment, by FTP, on a diskette or CD-ROM. Electronic files enable us not only to get you your code more quickly but also ensure that it is error-free. Our e-mail address is: **ords@municode.com**.

For hard copy, send two copies of all ordinances passed to:

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In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

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PART I.

THE CHARTER.

Editor's note: The Charter herein set out was adopted by the voters of the city on October 22, 1957. Amendments to the Charter are cited following the affected section. Unless so cited the section derives unchanged from the original enactment.

A uniform system of capitalization has been utilized and a frontal analysis added for the convenience of the user.

Prefatory Statement.

Preamble.

Article I. Name, Boundaries, Powers, Rights, Liabilities and Form of Government.

- § 1. Name; boundaries.
- § 2. Rights; liabilities; powers.
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Article II. Municipal Officials.

- § 1. Designation of officials.
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Prefatory Statement.

The charter convention, elected on the 25th day of June, 1957, respectfully presents to the voters of the City of Cortez a Charter for their approval.

Uppermost in the minds of the members of the charter convention have been two main purposes:

First — That the Charter must reserve to the people of the city absolute right and power of self government under the home rule provision of the Constitution of the State of Colorado; that it must provide for the well being of all inhabitants and look forward to the future growth and development of the community.

Second — That the Charter must ensure the orderly and economical management of the city government by a single responsible administrative officer chosen, guided and controlled by the people through their elected representatives.

To accomplish these objectives the Charter provides for the council-manager form of city government.

The policy making, legislative and budget making powers are vested in a council composed of seven tax paying electors, elected by popular vote from the city at large. Provisions are made for the recall of elected officers, for control of

legislation by the people through initiative and referendum and for amendment of the Charter by popular vote. The strict financial controls required by the Charter will prevent wasteful and extravagant use of public funds and ensure the continued conduct of city business on a cash basis. Indebtedness in the form of general obligation bonds cannot be incurred except upon the favorable vote of a majority of voters who are taxpayers.

Control of city owned utilities and the regulation of rates to be charged consumers is vested in the council, the intent being that such utilities shall be self supporting and operated for the benefit of the city. The rights of the people with respect to franchises are carefully safeguarded.

Provision is made for the necessary departments of the city government. Recreation, the public library, parks and a cemetery are given due consideration. The Charter provides for a citizens planning commission whose duties shall be to recommend to the council plans for the orderly improvement, growth and beautification of the city.

The administrative officer of the city will be a city manager, appointed by the council on the basis of his executive and administrative abilities, and subject to removal by a majority vote of the council. The manager will attend the meetings of the council but will not have the right to vote; he will prepare the budget, but

final approval and adoption of such budget and of all appropriations and expenditures of city funds will remain in the hands of the council. His acts as city manager will be subject at all times to review, criticism and supervision of the city council. It is the belief of the charter convention that this Charter will provide the basic law upon which the citizens of Cortez may build a sound and progressive city government.

Preamble.

We, the people of Cortez, under the authority of the Constitution of the State of Colorado, do ordain and establish, for our municipal government this Charter.

Editor's note: The provision of the State Constitution herein referred to is section 6 of Article XX. For the Municipal Home Rule Act of 1971, see CRS § 31-2-201 et seq.

Article I. Name, Boundaries, Powers, Rights, Liabilities and Form of Government.

Sec. 1. Name; boundaries.

The municipal corporation heretofore and now existing and known as the City of Cortez, shall remain and continue a body politic and corporate under this Charter, with the same name and boundaries, until changed in the manner authorized by law.

Sec. 2. Rights; liabilities; powers.

By the name of Cortez, the city shall have perpetual succession; shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by said city, and shall assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and

liabilities and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Cortez; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure.

Sec. 3. Form of government.

The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the city shall be vested in an elective council, hereafter referred to as the "council." All powers of the council shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article II. Municipal Officials.

Sec. 1. Designation of officials.

The legally qualified incumbents of the following positions in the municipal service are hereby declared to be officials:

Mayor.

Members of the city council.

Members of boards and commissions.

Appointed officials who shall be: the city manager, the city attorney, and the municipal judge.

(Ord. No. 873, Part 9 (part).)

Sec. 2. Municipal employees.

The incumbents of all other positions in the municipal service are hereby declared to be employees.

Sec. 3. Qualifications for city council members.*

No person shall be eligible to office as a council member unless at the time of election he or she be a citizen of the United States, at least twenty-one years of age and shall have been for one year immediately preceding such election a resident of the city. The city clerk shall promulgate rules to have candidates establish proof of residency, if challenged, with candidates having the burden of proof.

No member of the council shall hold any other public office or employment for which compensation is paid from municipal funds. No person shall be elected or appointed to any city office position or employment for which the compensation was increased or fixed by the council while he or she was a member thereof until after the expiration of one year from the date when he or she ceased to be a member of the council. (As amended November 4, 1975; Ord. No. 783, Part 6 (part).)

* Editor's Note: Ordinance 873, Part 6, contained a scrivener's error, indicating Art. II, Section 4 was amended, when in fact Art. II, Section 3 was amended, as set out above.

Sec. 4. Appointment to boards and commissions.

The city council shall by resolution establish qualifications for appointment to city boards and commissions, except where such qualifications are elsewhere established by the city charter or the code of ordinances. (Ord. No. 873, Part 7 (part).)

Sec. 5. Oath of office.

Before entering upon the duties of his office, each council member, the mayor, the city manager, the city attorney, the city

clerk, the judge of the municipal court and each director of a department shall take, subscribe and file with the city clerk an oath or affirmation that he will faithfully perform the duties of the office or position. The city clerk shall take and subscribe his oath before some person qualified to administer oath. (Ord. No. 906 § 3 (part).)

Sec. 6. Bonding of employees.

The council shall require a bond of the city manager and the finance director, and may require a bond of any other employee in its discretion. These bonds shall be placed with each surety and in such amounts as the council may determine. Premiums on these bonds shall be paid by the city. (Ord. No. 743, § 1.)

Article III. The Council.

Sec. 1. Composition.

The electors of the city shall elect a city council of seven members, one of whom shall be chosen by the council to serve as mayor. The council shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this Charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

The mayor shall preside over the meetings of the council. He shall be recognized as the head of the city government for ceremonial purposes, and by the governor of the State of Colorado for purposes of military law, and for service of civil processes. He shall execute and authenticate legal instru-

ments requiring his signature as such official.

The council shall choose one of its members as mayor pro tempore who shall preside over the council in the absence or disability of the mayor and serve as acting mayor with the same duties as the mayor.

Sec. 2. Compensation of mayor and council members.

The mayor shall receive as compensation five hundred dollars per month. Each of the council members shall receive as compensation four hundred dollars per month.

Such compensation shall be paid every two weeks. No council person shall receive a payment for a meeting which he or she did not attend. The mayor and council members may, upon order of the council, be paid necessary bona fide expenses incurred in service on behalf of the city as authorized and itemized. (As amended November 4, 1975; Ord. No. 906 § 3 (part); Ord. No. 1068 § 3.)

Sec. 3. Powers of council.

All powers of the city and the determination of all matters of policy shall be vested in the council except as otherwise provided by this Charter. Without limitation of the foregoing, the council shall have power to:

- (a) Appoint and remove the city manager.
- (b) By ordinance create, change, and abolish offices, departments, or agencies, and assign additional functions to offices, departments or agencies established by this Charter, but not to discontinue any office, department, or agency established by this Charter.
- (c) Adopt the budget of the city.
- (d) Authorize the issuance of bonds by ordinance as provided by this Charter.
- (e) Inquire into and investigate any office, department, or agency of the city and the official acts of any officer or employee thereof,

and to compel by subpoena attendance and testimony of witnesses and production of books and documents.

(f) Adopt plats.

(g) Adopt and modify the official map of the city.

(h) Provide for independent audits of all funds and accounts of the city.

Sec. 4. Meetings; quorum.

Council shall meet regularly twice each month on such days as the council by written resolution shall prescribe, at city hall at an hour to be fixed from time to time by the rules and procedures of each council; and the council shall have power by ordinance to prescribe the manner of calling meetings thereof. Special meetings may be held at any time the council may direct. A majority of the membership of the entire council shall constitute a quorum to do business. Council shall sit with open door at all legislative sessions, and shall keep a journal of its proceedings which shall be a public record. (As amended November 3, 1987.)

Sec. 5. Ordinances, resolutions and motions generally.

In all legislative matters coming before it, the council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the journal of the council proceedings. Should any council members being present refuse to vote on any measure, his vote shall be recorded in the affirmative. A council member shall be excused from voting on matters involving the consideration of his own official conduct, or where his financial interests are involved. (Ord. No. 906 § 3 (part).)

Sec. 6. Ordinances—When required.

In addition to such acts of the council as are required by this Charter to be by ordinance, every act fixing compensation, making an appropriation, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.

Sec. 7. Same—Form.

All ordinances shall be introduced in written form and no ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Cortez."

Sec. 8. Same—Procedure for passage.

An ordinance may be introduced at any regular or special meeting and be read a first time, and a day and an hour set at which time the council or a committee shall hold a public hearing thereon. Such hearing may be at a regular meeting of the council, or at such time and place as the council may order and may be adjourned from time to time. An ordinance may be read and finally passed at any regular or special meeting of the council following the meeting at which it is introduced. Such final reading and passage of an ordinance may be made at the same meeting at which such public hearing thereon is held. The reading upon introduction or upon final passage or both shall be in full unless the proposed ordinance shall be in writing or printed and a copy furnished to each council member at least five

days prior to such reading. (Ord. No. 906 § 3 (part).)

Sec. 9. Same—Emergencies.

No ordinance shall be passed finally on the date it is introduced, except in cases of emergency for the preservation of the public peace, health or property, and then only by two-thirds vote of the council members present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure. (Ord. No. 906 § 3 (part).)

Sec. 10. Same—Publication and effective date.

Except as otherwise provided herein, every proposed ordinance shall be published once in full in a newspaper of the city, before its final passage. After such final passage, it shall be again published once in a newspaper, and shall not take effect until after publication following final passage, unless another date is specified therein; except that an emergency ordinance and any ordinance not subject to the referendum shall take effect upon publication following passage. (As amended November 2, 1993.)

Sec. 11. Same—Publication by reference.

When the council deems it appropriate, publication of the title of the ordinance, or the title of an amendment thereto, together with a brief summary of such ordinance or amendment as determined to be sufficient

by the council, together with a statement that the text thereof is available for public inspection and acquisition in the office of the city clerk, shall be sufficient publication.

Sec. 12. Same—Codification.

The city council shall within five years after the date of the adoption of this Charter and within each ten year period thereafter complete a codification of all existing ordinances.

Sec. 13. Same—Disposition.

A true copy of every ordinance, when adopted, shall be numbered and recorded in a book marked "Ordinance Record," and adoption and publication shall be authenticated by the signatures of the mayor and the city clerk, and by the certificate of the publisher, respectively. The ordinances as adopted by the vote of the qualified electors of the city shall be separately numbered and recorded.

Article IV. Elections.

Sec. 1. When held and terms of office.

A general municipal election shall be held on the first Tuesday after the first Monday in April in the year 1996 and on the first Tuesday after the first Monday in April in each even numbered year thereafter. Elections held at other times shall be special elections. The three candidates receiving the highest number of votes in the November 1993 election shall serve until the fourth Tuesday in April of the year 1998. The candidate receiving the fourth highest number of votes shall serve until the fourth Tuesday in April of the year 1996.

The three candidates who received the highest number of votes in the November 1991 election shall have their terms extended to the fourth Tuesday in April of the year 1996.

At all subsequent general municipal elections there shall be elected four council members. The three candidates receiving the highest number of votes shall be declared to be elected for a term of four years and the candidate receiving the next highest number of votes shall be declared to be elected for a term of two years. (Ord. No. 782, § 2 (B).)

Sec. 2. Primary election.

There shall be no primary election for any municipal office.

Sec. 3. Precincts.

The city shall constitute one voting precinct, provided that the council may for the convenience of voters, establish two or more precincts 30 days or more, prior to any election, by ordinance. The precincts so established by ordinance shall remain for all subsequent elections until otherwise provided by ordinance. (As amended May 6, 1980.)

Sec. 4. Commencement and continuation of terms.

The term of each council member shall commence on the fourth Tuesday in April of even numbered years immediately following the general municipal elections held under the provisions of this article and shall continue until he/she has served the term of years for which he/she was elected unless he/she sooner die, resign, be removed from office or become otherwise disqualified to act as council member. (Ord. No. 782, § 2 (C).)

Sec. 5. Mayor and mayor pro tempore.

The members of the city council chosen to serve as mayor and mayor pro tempore shall be elected on the fourth Tuesday in April, as provided in Section 4, Article IV. The mayor and mayor pro tempore shall serve for a term which shall commence on the fourth Tuesday of April in even numbered years following the general municipal election and shall continue for two (2) years thereafter or until their successors have been chosen and qualified for office as hereinabove provided, unless they sooner die, resign or be removed from office. In the event of a vacancy occurring in either or both offices, the council shall have the power to fill such vacancy in the manner provided in Article IV, Section 21, until the first meeting in April after the next general municipal election thereafter. (Ord. No. 782, § 2 (D).)

Sec. 6. Repealed May 6, 1980.

Sec. 7. Repealed May 6, 1980.

Sec. 8. Repealed May 6, 1980.

Sec. 9. Repealed May 6, 1980.

Sec. 10. Calling of special elections.

Special election shall be called by the city council whenever a measure is required to be submitted to the voters pursuant to the Constitution and laws of the State of Colorado, this Charter, or the ordinances of the city.

The city council may by ordinance also call a special election for a vote of the electorate upon any measure upon petition

of the electorate or by referendum, or upon its own initiative, consistent with this Charter; but no special election shall be called to fill a vacancy in an elective office.

No special election shall be called or held within 3 months prior to a general municipal election, except where otherwise required by the Constitution of the state.

Where a petition for a special election is filed pursuant to the provisions of any ordinance, making the calling of a special election mandatory, the repeal of such ordinance or any part thereof, shall not affect the mandate of the petition.

Sec. 11. Measures submitted to electorate.

Every petition to have a vote of the electorate on a measure and every ordinance requiring a vote of the electorate on any measure, shall contain a short and concise ballot title for the measure to be voted upon, and the ballot title shall appear on the ballot, as follows:

YES	FOR
BALLOT TITLE	or
NO	AGAINST

Every petition to have a vote of the electorate upon a measure shall name a conference committee of three, who are signers of the petition, and shall contain authority in such committee to make any necessary changes in such ballot title. The council may refuse to submit the measure when any ballot title is unreasonably long, misleading, or ambiguous, unless such committee shall

revise the same to conform to such requirements.

If there be more than one measure on a ballot by petition, they shall be numbered in the order of filing, and they shall follow the measures placed on the ballot by initiation of the council.

The list of candidates shall precede the ballot titles on the ballot.

Sec. 12. Repealed May 6, 1980.

Sec. 13. Repealed May 6, 1980.

Sec. 14. What constitutes election.

The candidates for council members equal in number to the positions on the council to be filled by any election, receiving the highest number of votes cast, shall be declared elected council members; and any measure submitted to a vote of the electorate shall be declared adopted or approved, as the case may be, when a majority of those voting upon any such measure shall vote "yes" or "for" on any such measure. In case of a tie, the election shall be decided by casting lots. (Ord. No. 906 § 3 (part).)

Sec. 15. Repealed May 6, 1980.

Sec. 16. Repealed November 3, 1987.

Sec. 17. Repealed May 6, 1980.

Sec. 18. State law applicable.

All provisions of law of the State of Colorado insofar as the same shall be applicable to municipal elections, both general and special, in cities of the second [first]

class in the State of Colorado, shall apply to all elections in the city except as otherwise provided in this article. When there shall be a conflict between the provisions of law and the provisions of this Charter with respect to any matter pertaining to elections, the provisions of this Charter shall be deemed to supersede any and all statutory provisions.

Editor's note: For state law as to municipal elections, see "Colorado Municipal Election Code of 1965," as contained in CRS § 31-10-101 et seq.

Sec. 19. Repealed May 6, 1980.

Sec. 20. Definition of "party."

The term "party" as used herein, shall mean and include any group of citizens of the city who shall associate themselves together for the purpose of nominating candidates for office at municipal elections, but shall not be any political party which nominates candidates for election of county, state and national offices.

Sec. 21. Vacancies.

All elected officers shall hold office until their successors are elected and qualified. Any vacancy in an elective office shall be filled within sixty days by appointment of the council until the next regular election, when the vacancy shall be filled by the electors for the remainder of the term, if any. Any person appointed to fill a vacancy for an unexpired term in an elective office shall have the qualifications required of persons to be regularly elected. A vacancy shall exist when a member of the council fails to qualify within thirty days after the commencement of his/her term, or if he/she dies, resigns, removes from the city, or absents him/herself from meetings of the

council for sixty days unless excused by resolution thereof, or if he/she is convicted of a felony or is judicially declared a mental incompetent.

The council at its discretion may decline to appoint a new member to fill a vacancy if the vacancy occurs within 120 days of a duly scheduled municipal election. (Ord. No. 906 § 3 (part).)

Sec. 22. Repealed November 2, 1993.

Sec. 23. Repealed November 2, 1993.

Sec. 24. Repealed November 2, 1993.

Article V. Appointed Officials.

Sec. 1. Appointed officials.

The appointed officials of the city shall be as follows: city manager; city attorney, and judge of the municipal court. (Ord. No. 873, Part 9 (part).)

Sec. 2. Terms of office.

All such appointed officials shall be appointed by the council and each shall hold office at the pleasure of the council or until the next general municipal election succeeding the appointment. (Ord. No. 873, Part 9 (part).)

Sec. 3. City manager.

Appointment and qualifications. The council shall appoint and fix the salary of the city manager, who shall be the chief executive officer and head of the administrative branch of the municipal government. He or she shall be chosen on

the basis of his or her executive and administrative qualifications, with special reference to his or her actual experience in and his or her knowledge of accepted practice with respect to the duties of the position.

At the time of his or her appointment the city manager need not be a resident of the city but he or she shall reside in the city during his or her tenure of office.

All city department heads shall report directly to the city manager as the chief administrative officer. The city manager shall be directly responsible to the council for the administrative operation of the city.

No council member shall be appointed city manager during the term for which he or she shall have been elected nor within one year after the expiration of his or her term. (Ord. No. 873, Part 9 (part); Ord. No. 906 § 3 (part).)

Sec. 4. Acting city manager.

The council may appoint or designate an acting city manager to serve during the period of a vacancy in the office or during the absence of the city manager from the city.

Sec. 5. Removal of city manager.*

The city manager shall be appointed for an indefinite term but shall be removable at the pleasure of the council. Before the manager may be removed, he shall, if he so demands, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the council prior to the final vote on the question of his removal, but pending and during such hearing the council may suspend him from office. The action of the council in suspending or removing the manager shall be final, it being the intention

of this section to vest all authority fix all responsibility for such suspension or removal in the council. The city council shall be fully responsible for the review and approval by contract of all terms and conditions, including termination provisions, regarding the employment of the city manager. (Ord. No. 873, Part 9 (part).)

* **Editor's Note:** Ordinance 873, Part 9, contained a scrivener's error, indicating Art. V, Section 5, catchline be removed; the catchline has been retained.

Sec. 6. Departmental divisions.

The work of each department of the administrative branch may be distributed among such divisions within the department as may be established by the Charter, or by ordinance, after recommendation of the city manager, or by regulations issued by the city manager pending passage of such an ordinance.

There is hereby created a Department of Planning and Building for the City of Cortez. The Department of Planning and Building shall be responsible for implementation of planning, planning review and zoning functions as well as building inspection and assurance of compliance with all applicable codes and ordinances.

Appointment of Director: The City Manager shall appoint a director to carry out the responsibilities and direct the activities of the Department of Planning and Building. The Director may within the framework of an annual budget approved by the City Council and with the authorization and approval of the City Manager hire such employees as are necessary to perform the prescribed functions of the Department and such other duties as may be assigned by the City Manager.
(Ord. No. 1136)

Article VI. Municipal Court and City Attorney.

Sec. 1. Municipal court—Created; powers generally.

There shall be a municipal court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the city, subject to appeal to the district court in the manner provided by law for appeals from municipal court to district court. The court may punish contempt of court by fine or by imprisonment, or both, in like manner as a court of record may do; may enforce its orders and judgments in like manner as a court of record may do, and as provided by general law; and may render final judgment on any forfeited bond or recognizance returnable to such court subject to appeal as in other cases. Cash bonds may be provided for or taken in lieu of property, individual or corporate surety bonds. (Ord. No. 747, § 1.)

Sec. 2. Same—Judge; council to provide place, supplies, etc.; forms for complaints, etc.

The municipal court shall be presided over, and its functions exercised by a judge, who shall be a licensed member of the bar of this state in good standing, appointed by the city council, for a term to be at the pleasure of the council. If no qualified member of the bar satisfactory to the council is available and willing to serve, any other person may be appointed until a qualified member of the bar is willing to accept. He shall receive a fixed salary or compensation not dependent upon the outcome of the matters to be decided by him, and to be fixed by ordinance from time to time. If absent, disqualified, or unable to act in any matter or case, the municipal judge may call any eligible person to act and serve temporarily; and, if he fails to or cannot call in a

substitute, the council shall appoint a substitute. The council by ordinance shall provide for trial by jury, but there shall be no change of venue from said court.

The council shall provide a suitable place and all supplies and things necessary for the proper functioning of the court.

The forms of complaints and all other rules, procedure, proceedings, costs and fees in the municipal court, shall be prescribed by ordinance, upon the recommendation of the municipal judge. (As amended April 4, 1961.)

Sec. 3. Same—Penalties.

The council shall provide for the enforcement of its ordinances by fine or imprisonment or both, as established by ordinance. (Ord. No. 748, § 1.)

Sec. 4. City attorney.*

Appointment and qualifications. The council shall appoint a city attorney who shall serve at the pleasure of the council. He/she shall have been a duly licensed attorney in the State of Colorado for at least three years immediately prior to his/her appointment. The council shall fix the compensation of the city attorney.

Functions. The city attorney shall be the legal advisor of the council and all employees of the city in matters relating to their official powers and duties. He shall represent the city in all legal proceedings, draw all ordinances, and prepare all other legal documents. He shall attend all council meetings and perform all services incident to his position as may be required by this Charter, ordinances, or the council. In all legal proceedings concerning the city, he nor any member of his firm shall represent the opposition. (Ord. No. 906 § 3 (part).)

* **Annotator's Note:** For further clarification, please refer to Ordinance No. 864, Series 1998.

Sec. 5. Special counsel.

The council may, in special cases, employ special counsel to assist the city attorney if deemed necessary and advisable under the circumstances.

Article VII. Finance Administration.

Sec. 1. Department created; qualifications of director.

A department of finance is hereby created, the executive officer of which shall be the director of finance who shall have special knowledge of municipal accounting, taxation, budget making, and finance. The city clerk shall be director of finance unless otherwise provided by ordinance.

Sec. 2. Powers and duties of director.

The director of finance shall have charge of the financial records and general and special funds of the city and shall collect, receive, and disburse all money belonging to the city, and shall have all other duties required to administer properly the financial affairs of the city; to that end he shall have authority and shall be required to:

(a) Maintain a general accounting system for the city government of each of its offices, departments, and agencies, exercise budgetary control over the same in accordance with the budget and annual appropriation ordinance; prescribe the form of receipts, requisitions, warrants, and other evidence of income and disbursements; audit before payment all bills, invoices, payrolls, and other claims and charges against the city government; determine the regularity, legality, and correctness of such claims, demands or charges.

(b) Advise the city manager of the budget requirements of the department of finance and furnish estimates and information concerning other departments, agencies and boards as requested by the city manager.

(c) Advise departments of remaining allotments.

(d) Disburse funds in a manner which will assure that budget appropriations are not exceeded and that payments are not illegally made.

(e) Collect and hold all city funds; invest funds as directed by the council by resolution; be responsible for all trust funds.

(f) Serve as custodian of all bonds, documents, and other evidence of indebted-

ness owned by the city or under its control.

(g) Issue all licenses and collect the fees therefor, except as otherwise provided ordinance; collect or receive funds of every description belonging to, due to or accruing to the city, including fines, forfeitures, penalties, taxes, water rentals and sewer fees.

(h) Submit to the council through the city manager a monthly statement of all accounts and funds, including trust and custodial funds, such report to show receipts and disbursements and remaining budget allotments sufficiently itemized in detail to show the exact financial condition of the city.

(i) Examine and approve all purchase contracts, orders, and other documents by which the city incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations become due and payable.

(j) Advise the city manager of any financial irregularity in any department. (Ord. No. 744, § 1.)

Sec. 3. Separate utilities accounts.

The accounts of each utility owned and operated by the city shall be kept separate and distinct from all other accounts of the city. Such accounts shall show also reasonable allowance for depreciation and obsolescence and estimate of the amount of taxes that would be chargeable, against such utility property if owned privately.

Sec. 4. Responsibility for funds.

All money belonging to the city and in the custody of city employees shall be paid daily to the department of finance.

Sec. 5. General fund expenditures.

A general fund is hereby created which shall consist of all revenues of the city not specifically belonging to any special fund. The governmental functions of the city shall be paid for out of appropriations from the general fund.

Sec. 6. Special fund expenditures.

Special funds may be created for any purpose by ordinance, any ordinance creating a special fund shall also specify the source of revenue and the purpose and manner of expenditure.

Sec. 7. Fiscal, budget and accounting year.

The budget, fiscal and accounting year shall be the same as the calendar year. The term "budget year" means the fiscal year for which any budget is adopted and in which it is to be administered.

Sec. 8. Annual budget estimates.

On or before the first Monday in November of each year, the city manager shall submit to the council a proposed budget for the next ensuing budget year with an explanatory message. The proposed budget shall provide a complete financial plan for the city and shall include the following:

(a) Proposed expenditures for each office, department and agency for the ensuing fiscal year.

(b) Debt service requirements for the ensuing fiscal year.

(c) An estimate of the amount of anticipated income from all sources other than taxes on property during the ensuing fiscal year, including estimated cash surplus at the end of the current year.

(d) The probable amount required to be levied and raised by property taxes during the ensuing fiscal year.

(e) A general budget summary.

The budget shall be in sufficient detail to show for each fund estimated revenues by source and estimated expenditures. The budget shall be so arranged as to show comparative figures for receipts and expenditures for the last completed fiscal year, for the current year, and the city manager's recommendations for the ensuing year. (As amended November 2, 1993.)

Sec. 9. Capital budget.

As a part of the budget message or as separate report attached thereto, the city manager shall also present a program of proposed capital projects for the ensuing year and the five fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same.

In such proposed program, the city manager shall include those projects previously considered by the planning commission, but he may recommend the omission or deferment of projects proposed by the planning commission, giving his reasons therefor.

The council shall consider the program of projects submitted by the city manager and adopt a capital budget plan for such period of years, including estimated costs and methods of financing; provided, however, that projects shall be budgeted and appropriations made therefor only by including them in the budget for the ensuing year as provided in this article.

In order to facilitate the carrying out of the capital budget plan the council may create a capital budget fund. Moneys may be appropriated to this fund directly or by

transfer from the general fund, and may be accumulated and invested; and may be expended only for capital projects, including the purchase of land, buildings, or equipment and the construction or improvement of public works.

Sec. 10. Public record; hearing.

The budget estimates aforesaid shall thereupon be a public record and open to the public for inspection and copy. The council shall, within ten days after the filing of said budget estimates, set a time certain for public hearing thereon and cause notice of such public hearing to be given by publication. At the hearing all persons may appear and object to any or all items and estimates in the proposed budget. Upon completion of the public hearing the council may revise the budget estimates.

Sec. 11. Adoption of budget.

After said public hearing and before the last day of December in each year, the council shall pass the "Annual Appropriation Ordinance" in which shall be appropriated such sums of money as the council deems necessary to defray all expenses and liabilities of the city during the ensuing budget year. The annual appropriation ordinance shall be based upon the budget as adopted but need not be itemized further than by departments and the major divisions thereof, and by each independent office and agency. (As amended November 2, 1993.)

Sec. 12. Tax levy generally.

The "Annual Appropriation Ordinance" shall include the proper levy in mills upon each dollar of the assessed valuation of all

taxable property within the city, such levy representing the amount of taxes for city purposes necessary to provide for payment during the ensuing budget year of all properly authorized demands against the city; including interest and principal of general obligation bonds. The council shall thereupon cause the total levy to be certified by the director of finance to the county assessor, who shall extend the same upon the tax list of the current year in a separate column entitled "City of Cortez Taxes," and shall include said city taxes in his general warrant to the county treasurer for collection. If the council fails in any year to make said tax levy as above provided, then the rate last fixed shall be the levy fixed for the ensuing budget year and the director of finance shall so certify.

Sec. 13. Tax levy limitation.

All tax levies of the city when applied to the total assessed valuation of the city shall be so fixed as to prohibit the levying of a greater mill levy than was levied in the preceding year plus 5 percent on the previous years mill levy except to provide for the payment of bonds and interest thereon; provided, however, that if all members of the council shall be of the unanimous opinion that the amount of tax so limited will be insufficient for the city's needs for such year, they may by resolution unanimously adopted, authorize an increased levy above such limit, provided that such increased levy shall not exceed an additional 5 percent unless authorized by a special election.

Sec. 14. No unbudgeted liability.

The city expenditures in any one year shall not be increased above the amount

provided in the annual budget. No contract involving expenditures, and no expenditures, for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed, in any one year, the amount provided in the annual budget to be paid out of the said general and special funds so budgeted, but the said several funds shall be maintained and used for the particular purposes specified in the budget. It shall be unlawful for any department, officer, or agent of the city to incur or contract any expense or liability for or on behalf of the city unless an appropriation therefor shall have been made in the budget. Such contracts shall be null and void ab initio as to the city for any liabilities; provided, however, that nothing herein contained shall prevent the council from providing by ordinances for payment of any expense, the actual necessity of which is caused by any casualty, accident, or unforeseen contingency arising after the passage of the annual appropriation ordinance; and that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor to monies to be collected by special assessments for local improvements. The provisions herein shall be subject to section 22 of this article.

Sec. 15. Effect of appropriation and levy.

After the commencement of the budget and fiscal year the annual appropriation ordinance and levy shall be irrevocable and the several amounts stated in the adopted budget and annual appropriation ordinance as proposed expenditures shall be deemed

appropriated for the items, objects and purposes therein specified.

Sec. 16. Lapsed appropriations.

All appropriations unexpended or unencumbered at the end of the budget year shall lapse to the applicable general or special funds.

Sec. 17. Deposit of public funds.

The cash balances of the city shall be deposited in such banks in the city as the council by resolution shall determine and with such security as the council shall by resolution require; but nothing herein contained shall make the council, or any member thereof, or the director of finance, personally liable to the city for loss of any funds so deposited.

Sec. 18. Investments.

Monies remaining in any fund may in the discretion of the council be invested in one or more of the securities permitted by the statutes of Colorado governing investments of public funds, or in bonds payable out of the revenues of any service or facility furnished by the city; or in general obligation bonds of the city. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined, otherwise to the general fund of the city. The council, or any member thereof, or the director of finance shall not be personally liable to the city for any loss incurred through the investment of any funds as herein provided. (As amended May 6, 1980.)

Sec. 19. Collection of taxes.

Until the council shall otherwise provide by ordinance, the county treasurer shall collect taxes in the same manner and at the same time as state taxes are collected. In like manner the council may provide for collection of special improvement assessments by said treasurer. All laws of this state for the assessment of property and the levy and collection of general taxes, sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect to taxes, except as modified by this Charter. On or before the tenth day of each month, the county treasurer shall report and pay to the director of finance the amount of tax collections of the city for the preceding month. The estimated costs of tax collections and losses shall be included in the budget.

Sec. 20. Audit and payments.

No demand for money against the city shall be approved, allowed, audited, or paid unless it is in writing, dated and sufficiently itemized to identify the expenditure, and payment thereof approved in writing by the director of finance and the person or department creating the obligation.

Sec. 21. Apportionment of expenses.

The salaries of the city manager, directors, and others rendering services to two or more departments, and expenses of departments rendering services to other departments or to improvement districts, shall be equitably apportioned and charged against the proper department or other agency.

Sec. 22. Repealed April 4, 2000.

Sec. 23. City not to pledge credit.

The city shall not lend or pledge its credit or faith, directly or indirectly, in any manner to or in aid of any person, corporation, or any other organization, public or private, for any amount or any purpose whatever, or become responsible for any debt, contract, or liability thereof except for municipal purposes. (As amended November 4, 1975.)

Sec. 24. Reports and publication.

The council shall provide for an independent audit at least annually by an independent certified public accountant or a registered accountant of all books and accounts of the city and shall publish a summary thereof once in the manner provided for publication of legal notices within three months after the end of each fiscal year. Copies of such audit shall be available at the office of the city clerk for public inspection.

Sec. 25. Availability of receipts and disbursements.

The finance officer shall make available at the office of the finance director for public inspection a list of the warrants or checks issued for the previous month, stating the name of the person, firm or corporation to whom issued, amount thereof, and showing separately the warrants or checks payable out of each fund. (As amended May 6, 1980.)

Sec. 26. Capital improvement fund created: how funded.

Any amounts of revenue deriving from legally authorized sources in excess of the amounts otherwise allowed under Article X, Section 20 of the Constitution shall be retained and expended annually by the City of Cortez, for the purpose of creating a capital improvement fund to develop sidewalks, recreational facilities, public parking, and other capital improvements. (Ord. No. 782, § 3; Ord. No. 859, § 3, as approved by voters on April 7, 1998.)

Article VIII. Municipal Borrowing.

Sec. 1. Forms of borrowing.

The city may borrow money and issue the following securities to evidence such borrowing:

Short term notes;

General obligation bonds and other like securities;

Revenue bonds and other like securities; and

Local improvement bonds and other like securities.

Sec. 2. Short term notes.

The municipal government, with the written approval of the director of finance and the mayor and upon the affirmative vote of four members of the city council, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short term notes to evidence the amount so borrowed. Such short term notes shall be payable from the fund for which the money was borrowed; shall mature before the close of the fiscal year in which the money is so borrowed; and shall not be extended or

funded except in compliance with section 3, "General obligation bonds," of this article.

Sec. 3. General obligation bonds.

No bonds or other evidences of indebtedness payable in whole or in part from the proceeds of general (ad valorem) property taxes or to which the full faith and credit of the city are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall at a special or general election be submitted to a vote of the qualified electors and provided that such securities issued for acquiring, improving or extending a municipal water system or any combination of such purposes, may be so issued without an election. (As amended May 6, 1980.)

Sec. 4. Limitation on indebtedness.

The aggregate amount of bonds or other evidences of indebtedness will not exceed ten percent of the assessed valuation of the taxable property within the city as shown by the last preceding assessment for city purposes; provided, however, that in determining the amount of indebtedness, there shall not be included within the computation, bonds or other evidences of indebtedness outstanding or authorized to be issued for the acquisition, extension or improvement of the municipal waterworks system or the municipal storm sewer, sanitary sewer, combined storm and sanitary sewer, or sewage disposal systems, short term notes, local improvement securities, or securities payable solely from the net revenues of an income producing system, utility or other project, of from excise taxes, or from any part or combination of such revenue sources. (As amended May 6, 1980.)

Sec. 5. Revenue bonds.

The city may, by ordinance of the city council, without an election and without adherence to the limitation of article VIII, section 3, borrow money, extend its credit, or issue bonds for any lawful purpose, and made payable solely from revenues other than the proceeds of ad valorem taxes, including, without limiting the generality of the foregoing, the issuance of securities payable from revenues derived from the operation of water, electric, gas, sewer or other revenue producing public utilities or income producing projects or improvements, from the available proceeds of any sales tax, use tax or other excise tax, or from any part or combination of such sources. Short term notes, anticipation warrants, and other interim securities, are among the securities which may be issued and made so payable or made payable from the proceeds of bonds. No revenue bonds or other like securities shall be issued for the acquisition of such a system, utility or income producing project unless the acquisition thereof has been authorized as provided in article X of this Charter. (As amended May 6, 1980.)

Sec. 6. Refunding bonds.

The city pursuant to ordinance, may issue its bonds or other securities without an election for the purpose of refunding outstanding general obligation or revenue bonds, or other securities, and it shall be the duty of the council to refund such securities whenever it determines it is advantageous and favorable to the city so to do. Any such refunding revenue bonds or other revenue securities shall be payable solely from the net revenues of the system, utility or other income producing project acquired, extended, or improved, with proceeds from issu-

ance of the securities so refunded. Refunding bonds shall not extend beyond the period of usefulness estimated at the time of financing, and in no case for a longer term than thirty years from the date thereof.

Sec. 7. Bonds limited to life of the project.

The ordinance authorizing the issuance of general obligation or revenue bonds or other such securities shall state the estimated period of usefulness of the property or improvement for which issued and the term of any such bonds shall not exceed such estimated period. No bonds shall be issued for a term longer than thirty years from the date thereof.

Sec. 8. Bonds; interest, sale.

The terms and interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold at public or private sale for cash and in all cases to the best advantage of the city, but any funding bond or other funding security or any refunding bond may be exchanged respectively dollar for dollar for a shortterm note, anticipation warrant, or other interim funded security for a bond refunded. All bonds or other securities may contain provisions for calling the same for prior redemption at a designated time or times prior to the fixed maturity date or dates. (As amended May 6, 1980.)

Sec. 9. Local improvements.

The power to create local improvement districts, to assess the cost of the construction of public improvements of a local and municipal character or any part

thereof against benefitted property therein, and to issue local improvement bonds, is vested in the city council, in accordance with Article XIII of this Charter. (As amended May 13, 1958.)

Article IX. Department of General Services.

Sec. 1. Division created.

A division of purchases may be created by the council and the head thereof shall be the purchasing agent for all departments and other agencies of the city. The powers and duties of the purchasing agent shall be as provided by the council.

Sec. 2. Competitive bidding.

All purchases of or contracts for supplies, material or equipment shall be made by the purchasing agent under such rules and regulations with respect to competitive bidding as the council may prescribe.

Sec. 3. Emergency purchases.

In case of emergency affecting the public peace, health, or safety, the council may waive all provisions for competitive bidding and direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices.

Sec. 4. Participation of officers and employees interested in contracts.

No elected official, appointed officer, or employee of the city shall be financially interested, directly or indirectly, in the sale of any land, material, supplies, or services to the city in excess of \$500.00 except it be by competitive bidding. In cases of emergency necessary to protect public health,

safety, and welfare, competitive bidding may be waived.

Sec. 5. Contracts to be approved by council.

Any city improvement in excess of such amount as determined by council resolution from time to time shall be executed by contract, except such improvements as the council authorizes a department to make, and shall be submitted for competitive bidding and awarded on the basis of what in the judgment of the council is the lowest and best bid. The successful bidder may be required to provide a performance bond. If all bids are rejected, then the council may authorize the appropriate department to proceed with the construction as in other cases in accordance with the plans and specifications, and the services of the department shall be charged as a part of the costs of the improvements. (Ord. No. 745, § 1; Ord. No. 782, § 6.)

Sec. 6. Contracts for service.

No contract for service shall be made by the city for a longer period than two years, unless authorized by ordinance which ordinance shall not be passed as an emergency ordinance.

Sec. 7. Contracts effective only when bond funds available.

No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall be effective until the proceeds of the bonds or obligations are actually in the hands of the director of finance.

Improvements to be paid for by special

assessments shall be excepted from the provisions of this section.

Article X.
Franchises and Public Utilities.

Sec. 1. Franchise elections.

No franchise election shall be held unless by referendum as set out in Article 20, Paragraph 4, of the Colorado State Constitution.

No election shall be held until the grantee of the franchise has deposited the cost thereof, with the franchise, in an amount determined by said director. No exclusive franchise shall ever be granted.

If no referendum is called, each franchise shall be enacted by ordinance. (Ord. No. 997, § 2, as approved by voters on November 4, 2003)

Sec. 2. Franchise to specify streets.

All franchises or privileges hereafter granted shall plainly specify the particular streets, alleys, avenues, and other public property, or parts thereof, to which they shall apply. All other franchises maybe in general terms and may apply to the city generally.

Sec. 3. Regulation of public utilities.

The right to regulate the rates, fares, and rentals of public utilities and carriers serving the residents of the city shall always be reserved to the city to be exercised by ordinance. Every person or corporation operating under a franchise or grant from the city shall annually submit to the council a report verified by the oath of the president, the treasurer, or the general manager thereof. Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the council. The council shall have the power, either

through its members or by authorized experts or employees, to examine the books and affairs of any such person, persons, or corporations, and to compel the production of books and other records pertaining to such reports or other matters.

Sec. 4. Books of record.

The council shall provide and cause to be kept in the office of the city clerk an indexed franchise record in which shall be transcribed copies of all franchises granted by the city. Said record shall be a complete history of all franchises granted by the city and shall include a comprehensive and convenient reference to actions, contests, or proceedings at law affecting the same, and copies of all annual and inspection reports and such other information as the council may require.

Sec. 5. Terms; compensation.

No franchise, lease, or right to use the streets or the public places or property of the city shall be granted for longer than twenty years. Every grant of a franchise shall fix the amount and manner of payment of the compensation to be paid by the grantee for the use of the same, and no other compensation of any kind shall be exacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any license charges, or other impositions levied by the council, not levied on account of the use granted by the franchise.

Sec. 6. City may acquire utilities.

The council upon vote of the taxpaying electors shall have the power within or without the territorial limits of the city to construct, condemn, and purchase, acquire, and lease waterworks, gas works, light plants, power plants, transportation systems, telephone systems,

heating plants, and other public utilities local in use and extent, in whole or in part, and everything required therefor, for the use of the city and its inhabitants, and any such systems, plants, works, or ways, or any contracts in relation or in connection therewith which may exist and which the city may, desire to acquire or purchase, In whole or in part, the same or any part thereof may be purchased by the city. Such public utilities acquired by the city, except waterworks, and transportation systems, shall not be paid for out of general taxes or general obligation bonds, but shall be paid for from revenue derived from the public utility. Equipment necessary for transportation system may be acquired from the funds of the equipment fund of the city.

Sec. 7. Right of regulation.

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

Sec. 8. Revocable permits.

The council may grant a permit at anytime for the temporary use or occupation of any street, alley, or public place provided such permit shall be revocable by the council at its pleasure, whether such right to revoke be expressly reserved in such permit or not.

Sec. 9. Franchise renewal.

No franchise shall be renewed before one year prior to its expiration which renewal shall be subject to all provisions relating to the original grant of a franchise.

Sec. 10. Leasing of franchises.

No franchise granted by the city shall ever be leased, assigned, or otherwise alienated without the express consent of the city and no dealing with the lessee or assignee on the part of the city to require the performance of any act or the payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. Any assignment or sale of such franchise without the consent of the city shall, at the option of the council operate as a forfeiture to the city of such franchise.

Sec. 11. Issuance of stock.

Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

Sec. 12. Amendment, renewal, extension, or enlargement of franchise.

No amendment, renewal, extension, or enlargement of any franchise, or grant of rights or powers heretofore granted to any corporation, person or association of persons shall be made except in manner and subject to all the conditions provided in this article for the making of original grants and franchises.

Sec. 13. Common use of facilities.

The city may by ordinance require any person or corporation holding a franchise from the city for any public utility to allow the use of any of its poles, tracks, wires, conduits and other related facilities by any other person or corporation to which the city shall grant a franchise upon the payment of a reasonable rental to the owner therefor. If the person or corporation desiring to use the same cannot agree with the owner regarding said rental and the terms and conditions for such use, within sixty days from offering in writing to do so, the council, after a fair hearing, shall by resolution fix the terms and conditions of such use and compensation to be paid therefor, which award of the council shall be final and binding on the parties concerned.

Sec. 14. Franchise public utility commission to regulate until city acts.

Unless and until the council shall make provision, by ordinance for regulating the rates, fares, rentals and charges charged by any public utility, or

by a carrier serving the residents of the city, the public utility commission of Colorado shall continue to exercise supervision thereof under applicable statutes of the State of Colorado but the right to so regulate public utilities and carriers serving the residents of the city shall always be reserved to the city.

Article XI. Department of Municipal Public Utilities.

Sec. 1. Department created.

A department of municipal public utilities is hereby created, which shall include a division of water, including the sanitary sewer system, and other divisions for any public utility acquired by the city.

Sec. 2. Functions of department.

The functions, powers and duties of the department of municipal utilities shall be as provided by ordinance or resolution of the council.

Sec. 3. Restriction on sale of water and other utility property.

The city shall not sell, lease, or in any manner dispose of the water or other utility plants or systems, nor any part thereof, unless and except the proposition for such purpose shall first have been approved by a majority vote of the qualified electors of the city who shall have paid a property tax therein during the preceding calendar year. The provisions of this section shall not apply to the sale or exchange of any equipment which may be worn out or use less, or which could with advantage to the service be

replaced by new or improved machinery or equipment.

Sec. 4. Control of water.

If at any time the water supply is greater than the immediate needs of the city and its inhabitants, the council may authorize the city manager to permit the use of such surplus water by consumers outside the city at such rates as the council may prescribe; provided that no vested right shall accrue under such permits.

Sec. 5. Municipal utility rates and finances.

The council shall by ordinance from time to time fix, establish, maintain, and provide for the collection of rates, fees or charges for water, sewer, and other utility services furnished by the city for the operation of such utilities. The council may provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and a fund for the extensions, improvement, enlargement and betterment of said utilities. The provisions hereof shall be subject at all times to the performance by the city of all covenants and agreements made by it in connection with the issuance, sale or delivery of any bonds of the city payable out of the revenues derived from the operation of its water, and other utilities, whether such revenue bonds be heretofore or hereafter issued.

Payments from the revenues derived from such utilities shall be made into a depreciation and obsolescence fund and a fund for making extensions, improvements, enlargements and betterments of such works in such manner as the council

may provide. Such funds shall be expended only for purposes for which they were created and shall be invested as directed by the council. Any surplus revenue produced from the operation of any utilities after meeting all of the requirements set forth above shall be paid into the general fund of the city.

Article XII. Initiative, Referendum and Recall.

Sec. 1. Initiative and referendum procedure generally.

Any proposed ordinance may be submitted to the council by petition therefor of qualified electors equal in number to at least ten percent of the total number of legal ballots cast within the City of Cortez at the last general municipal election by filing the same with the city clerk or other election officer, and such proposed ordinance shall be adopted, without alteration by the council, within twenty days after such petition is filed; or the council shall refer such proposed ordinance in the form petitioned for, to the qualified electors at the next municipal election held not less than sixty days after such petition is filed. If such petition contains a request for a special election and is signed by qualified electors equal in number to at least twenty-five percent of the total number of legal ballots cast at the last preceding general municipal election, the ordinance thereby proposed shall be passed by the council, without amendment or change, within twenty days after such petition shall be filed or the council shall refer each proposed ordinance in the form petitioned for, to

the qualified electors at a special election, which shall be called within said thirty days and held not less than sixty nor more than ninety days after petition is filed, unless a special election for some other purpose or a general election is held within said period of time, in which case such proposed ordinance may be submitted at the same election, and if two or more conflicting measures be approved by the people, then that one which received the greatest number of affirmative votes shall be adopted in all particulars as to which there is a conflict.

The law known as "Initiative and Referendum," Chapter 70, Title 31, Article 2, Revised Statutes of Colorado 1973, and all laws amendatory thereto, as far as applicable shall govern the procedure and form of direct legislation by the people of the City of Cortez, with power in the city council to make and publish such ordinances as may be needful to carry out the object and intent of this article, but not inconsistent herewith.

The City Council of the City of Cortez shall have the power to submit to the qualified electors of the City of Cortez any ordinance or other measure as may be needful to carry out the object and intent of this charter. Electorate approval shall be by a majority of those voting in such election. (As amended November 3, 1987.)

Sec. 2. Recall from office.

Every elective city officer of the City of Cortez may be recalled from office at any time after he has held office for six months, by the electors of the City of Cortez, by recall petition filed with the city clerk, with signatures of qualified electors equal in number to twenty-five (25) percentum of the entire vote cast at the last preceding general municipal elec-

tion for all candidates for the position which the incumbent sought to be recalled occupies. The procedure hereunder to effect the recall of an elective officer, shall be as far as applicable by the method pointed out in article XXI of the Constitution of the State of Colorado, known as "Recall from Office," with power in the city council to provide by ordinance such other and further procedure as it may deem expedient, not inconsistent herewith.

Article XIII. Public Works and Public Improvements.

Sec. 1. Department created.

A department of public works is hereby created, the head of which shall be the director of public works.

Sec. 2. Functions.

The department shall provide all engineering, architectural, maintenance, construction, and work equipment services required by the city except those performed by private persons, firms or corporations under contract, or those assigned to other departments by this Charter.

Sec. 3. Improvement districts.

A public work or improvement, the cost of which in whole or in part are to be assessed by the city; may be initiated by the council on recommendation of the director of public works; or on petition of property owners in such number and in such form as may be prescribed by ordinance. The council shall by ordinance prescribe the method of making such improvements and the assessments for their cost.

Sec. 4. Surplus and deficiency fund.

Where all outstanding bonds have been paid in a public improvement district, and any money remains to the credit of said district, it shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, it shall be paid out of said fund. Whenever a public improvement district has paid and cancelled four-fifths of its bonds outstanding, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district, and there is not sufficient money in said special surplus and deficiency fund, then the city shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district.

Sec. 5. Authority to acquire property.

In addition to all other power which it has to acquire property, the City of Cortez is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes and/or special assessments. The city may also dispose of any property acquired under this authority.

Sec. 6. Additionally securing payment of bonds.

In addition to the provisions of section 4 of this article and not in limitation thereof, the city prior to the issuance hereafter of any bonds of any public improvement district therein may contract by ordinance with the holder or holders thereof that the payment of the bonds of such district, both as to principal and interest, is additionally secured by a pledge of monies in a special fund

created therefor into which the city covenants to deposit the proceeds of general (ad valorem) property taxes to be levied not earlier than the date of the bonds of any such series nor later than one year after the maturity date thereof, not exceeding three mills in any one year. After the issuance of any such bonds, the city shall levy such general taxes pursuant to such contract; provided, however, that any such levy may be diminished to the extent other funds of the city available therefor are deposited in such fund. Prior to the redemption of all such bonds, both principal and interest, the proceeds of such taxes or equivalent transfer or both, shall be disbursed from such fund only for the payment of the principal of and interest on such bonds. After such bonds have been redeemed in full, any monies remaining in such fund shall be deposited in said special surplus and deficiency fund.

Whenever there are no outstanding bonds of any public improvement district of the city, all or any part of any monies in the special surplus and deficiency fund may be transferred to the city's general fund or any designated special fund pursuant to ordinance of the city council.

Bonds of any public improvement district payable from special assessments, which payment may be additionally secured as provided in this article, shall not exhaust the city's debt incurring power, nor shall such bonds be required to be authorized at an election. (Adopted May 13, 1958.)

Article XIV. Department of Parks and Recreation.

Sec. 1. Department created.

A department of parks and recreation

may be created by ordinance. The department of parks and recreation shall exercise administrative functions as to:

(a) Operation of municipal parks, park areas, museums, playgrounds, playfields, lake facilities, swimming pools, fountains, recreation and community buildings, sports arenas, stadiums, golf courses, city cemeteries, and related facilities, both within and without the corporate limits;

(b) Planning, conducting, and supervising organized physical and cultural recreation programs for the public;

(c) Cooperation with public and private agencies in public recreational programs, concerts, and other entertainment, and specifically with any privately sponsored recreation commissions, or other private bodies;

(d) Maintenance and preservation of public monuments and collections;

(e) Maintenance of restrooms, facilities for entertainment, and other related facilities on properties under the supervision of the department.

Sec. 2. Construction of facilities.

The construction and reconstruction of all parks, playgrounds, recreation facilities shall be vested in the department of parks and recreation. (Ord. No. 746, §1.)

Sec. 3. Rules and regulations.

The council shall have power by ordinance to adopt all needful rules and regulations relating to properties and related facilities under supervision of the department of parks and recreation, whether within or without the city, and for the preservation of order, safety, and decency therein. For the purpose of enforcing such rules and regulations, all such properties shall be under the police jurisdiction of the city.

Any member of the police force of the city, or park employee appointed as a special policeman, shall have power to arrest without warrant on all such properties any person who has violated any such rule or regulation or committed an offense therein.

Article XV. Police Department.

Sec. 1. Department created; qualification of chief.

A police department is hereby created, the head of which shall be the chief of police, who shall have special knowledge and experience in law enforcement. Under the direction and supervision of the city manager, the chief of police shall appoint such subordinate officers and other employees of such rank and grade as the city manager shall deem necessary. (As amended April 4, 1961.)

Sec. 2. Functions.

The department shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and the enforcement of this Charter and the ordinances of the city, and such other duties as the city manager may prescribe for the public peace and safety and the protection of property, including the property of the city within and without the corporate limits.

Sec. 3. Duties of chief.

The chief of police shall command the department and shall assign its members to their respective posts, shifts, details and duties. He shall make rules and regulations with the approval of the city manager in conformity with the ordinances and resolutions of the council concerning the opera-

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tion of the department and the conduct of its employees. The chief of police shall be responsible for the efficiency, discipline, and good conduct of the employees and for the care and custody of all property used by the department and its employees.

Sec. 4. Repealed by Ordinance No. 454, Article 1.

Article XVI. Department of Fire.

Repealed November 3, 1987.

Article XVII. Department of Health.

Sec. 1. Department created.

A department of health is hereby created.

Sec. 2. Council to constitute board.

The council shall constitute the board of health for the city, unless it shall otherwise provide by ordinance, and such board shall have all such powers and duties as may be provided by statute or ordinance.

Sec. 3. Powers and duties generally to be provided.

The ordinances or resolutions adopted by the council under this article may provide, among other things for sanitary inspections, quarantines and condemnations of land, buildings and personal property for health purposes and other matters as may be deemed necessary to promote the public health and safety of persons and property.

Article XVIII. Aviation.

Sec. 1. Adoption of general law provisions; authority to create department of aviation.

The city shall have and may exercise all powers relating to airports and aviation granted by this Charter and general law, including all powers to act jointly with other governmental authorities in relation thereto. The council may by ordinance provide for a department of aviation with such duties, functions and powers as may be provided thereby.

Article XIX. General Provisions.

Sec. 1. Amending the Charter.

This Charter may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado.

Sec. 2. Continuance of duties.

All persons holding administrative office by appointment and members of administrative boards at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance with this Charter for the performance of such duties or the discontinuance of such office.

Sec. 3. Outgoing officers.

All officers of the city whose terms of office terminate shall deliver to their successors all papers, records, property and equipment whatsoever in their possession or custody by virtue of their office, and shall account to them or to any authority designated by the council for all funds, credits or property of any kind with which they are properly chargeable as such officials.

Sec. 4. Eminent domain.

All proceedings for the condemnation of property or in the exercise of the right of eminent domain shall be in accordance with the laws of the State of Colorado now or hereafter applicable.

Sec. 5. Construction of Charter.

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstances

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shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or applications of the Charter provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable.

Sec. 6. Construction of words.

Whenever such construction is applicable, words used in this Charter importing singular or plural number may be construed so that one number includes both; words importing masculine gender may be construed to apply to the feminine gender as well; and the word person may extend to and include firm and corporation; provided, that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is repugnant thereto.

PART II.

THE CODE.

CHAPTER 1.

GENERAL PROVISIONS.

- § 1-1. How Code designated and cited.
- § 1-2. Definitions and rules of construction.
- § 1-3. Provisions considered as continuations of existing ordinances.
- § 1-4. Catchlines, headings, etc.
- § 1-5. Severability.
- § 1-6. General penalty.
- § 1-7. Issuance of summons or complaint to violators; continuing violations.
- § 1-8. Description and adoption of city seal.
- § 1-9. Code to supersede state law in case of conflict.
- § 1-10. Code adopted.
- § 1-11. Adoption by reference.
- § 1-12. Repeal.
- § 1-13. Definitions and interpretations.
- § 1-14. Violation.
- § 1-15. Penalties.
- § 1-16. Separability.
- § 1-17. Catchlines, headings and titles.
- § 1-18. Annual changes and supplements.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the City of Cortez, Colorado," and

may be so cited. Such ordinances may also be cited as "Cortez City Code."

For charter provision requiring codification, see Char., art. III, § 12.

For state law as to authority of city to adopt Code by reference, see C.R.S. 1973, § 31-12-401 et seq.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances and regulations of the city, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section, ordinance or regulation, or unless inconsistent with the manifest intent of the city council, or unless the context clearly requires otherwise:

City. The words "the city" or "this city" shall mean the City of Cortez, Colorado.

City council. The words "city council" or "the council" shall mean the city council of Cortez, Colorado.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

County. The words "the county" shall mean the County of Montezuma, Colorado.

Day. A day is the period of time between any midnight and the midnight following.

Daytime, nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. Any word importing the masculine gender only shall also include and mean the feminine and neuter.

In the city. The words "in the city"

shall mean and include all territory over which the city now has, or shall hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. All words giving a joint authority to three or more persons shall be construed as giving such authority to a majority of such persons.

May, shall. The word "may" is permissive. The word "shall" is mandatory.

Month. The word "month" shall mean a calendar month.

Number. Any word importing the singular number only shall also include and mean the plural.

Oath. The word "oath" shall be construed to include an affirmation 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."

Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this Code shall mean officers, departments, boards, commissions and employees of the City of Cortez, unless the context clearly indicates otherwise.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall mean and include firm, association, club or other organized group, partnership, corporation and governmental agency, as well as a natural person.

Preceding; following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall

include real, tangible and intangible personal property.

Real property. The terms "real property," "premises," "real estate" or "lands" shall be deemed to be coextensive with lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean the portion of the street between the curbline and the adjacent property line, intended for the use of pedestrians.

Signature. Where the written signature of any person is required, the proper handwriting of such person or his mark shall be intended.

State. The words "the state" or "this state" shall mean the State of Colorado.

Street. The word "street" shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant. The word "tenant" or "occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Writing. The words "writing" and "written" shall include printing, lithographing or any other mode of representing words and letters. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Year. The word "year" shall mean a calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord." (Ord. No. 311, § 3.)

For state law definitions and rules of construction, see C.R.S. 1973, § 2-4-102.

Sec. 1-3. Provisions considered as continuations of existing ordinances.

The provisions appearing in this and

the following chapters, so far as they are in substance the same as those of ordinances existing at the time of the adoption of "The Code of the City of Cortez, Colorado," shall be considered as continuations thereof and not as new enactments.

Sec. 1-4. Catchlines, headings, etc.

Catchlines, headings and titles of sections, divisions, subdivisions, articles and chapters of this Code or in changes made in the Code are inserted for the convenience of users of the Code and shall have no legal effect. (Ord. No. 411, § 8.)

Sec. 1-5. Severability.

The city council hereby declares that it would have passed each sentence, section, part or chapter of this Code independently of each and every other sentence, section, part or chapter, and the fact that any section, sentence, part or chapter, or any part thereof may be found to be invalid shall not affect the validity of any other portion of this Code. (Ord. No. 411, § 6.)

Sec. 1-6. General penalty.

Whenever in this code or any other ordinance of the city or any section or an order, rule or regulation promulgated under the provisions of this code or other ordinance of the city any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefore, any person who shall be convicted of the violation of any such provision of this code or other ordinance of the city or of such orders, rules and regulations shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 411, § 5.) (Ord. No. 1170, § 2, 9-25-12)

Sec. 1-7. Issuance of summons or complaint to violators; continuing violations.

Any person who is alleged to have violated any provision of this Code or other

ordinances of the city enacted, or orders, rules or regulations promulgated under authority of this Code or other ordinances of the city, shall be issued a summons and complaint charging the nature of the violation and shall be ordered to appear before the police magistrate.

Each day a violation of this Code or any other ordinance of the city or any order, rule or regulation promulgated under the provisions of this Code or other ordinances of the city shall continue shall constitute a separate offense. (Ord. No. 411, § 4.)

Sec. 1-8. Description and adoption of city seal.

(a) The design of the seal shall be a circle within a circle; the inner circle being one and one-quarter inches in diameter with the word "Seal" in the center and the word "Centennial" within the upper arc of the circle and the dates "1886—1986" within the lower arc of the circle; the outer circle being two inches in diameter with the words "The City of Cortez" within the upper arc of the circle and the word "Colorado" within the lower arc of the circle.

(b) The forms of the seal shall be two, an embossing seal and a rubber stamp seal. The embossing seal shall be used on all documents as feasible. At the discretion of the city clerk, or authorized representative, the rubber stamp may be used on mylars or other documents on which it is not feasible to affix the embossing seal.

(c) The design of the seal as described in subsection (a) of this section, and the forms of the seal as described in subsection (b) of this section shall be and hereby are adopted as the official seal of the city.

(d) Use of the official seal shall be reserved to the city clerk or authorized representatives. Unauthorized use of the seal shall be deemed to be a violation of this Code and shall carry penalties as set forth in sec-

tion 1-6 of this Code. (Ord. No. 657, § 2.)

For state law as to city seal, see C.R.S. 1973, § 31-5-107.

Sec. 1-9. Code to supersede state law in case of conflict.

All laws of the state in conflict with the provisions of this Code are hereby superseded where state law does not prohibit such result. (Ord. No. 411, § 7.)

Sec. 1-10. Code adopted.

There is hereby adopted that certain Code entitled "The Code of the City of Cortez, Colorado, 1974, as revised, supplemented and updated through January 23, 1979," containing ordinances of a general and permanent nature as implied, consolidated, codified and indexed in chapters 1 through 29 as prepared by The Michie Company, City Publications Division, Charlottesville, Virginia, dated 1974 as revised and supplemented through January 23, 1979. Not included in said Code are certain ordinances of a special nature, such as those creating special assessment districts, ordering specific improvements, authorizing contracts, platting, naming or vacating streets or alleys, establishing mill levies, making appropriations or appropriation transfers, annexation ordinances, ordinances ordering elections, bond elections and authorizing bond issues, creating franchises to public utilities and other ordinances not of a general or permanent nature. (Ord. No. 529, § 1.)

Sec. 1-11. Adoption by reference.

Not less than three copies of this Code are on file in the office of the city clerk of the city. This Code is hereby adopted by reference and incorporated into the ordinance codified in this section as if set out in full herein, all as provided by section 11 of article III of the city Charter. (Ord. No. 529, § 2.)

Sec. 1-12. Repeal.

All ordinances of a general and permanent nature not included within the codification except ordinances adopted after January 23, 1979, beginning with Ordinance No. 521 are hereby specifically repealed and also except for those ordinances of a special nature as hereinabove described in section 1-11, and there is also repealed the 1968 Code of the City of Cortez, Colorado, heretofore prepared by the Carl S. Becker Co., of Denver, Colorado. (Ord. No. 529, § 3.)

Sec. 1-13. Definitions and interpretations.

When the word "person" is used in this Code of Ordinances or in other ordinances of the city, it shall mean and include also, firm, association, club or other organized group, partnership, corporation and governmental agencies, as well as the natural person, unless the context clearly indicates otherwise. In this Code and in other ordinances of the city, a word importing the masculine gender only shall also include and mean the feminine and neuter, unless the context clearly indicates otherwise.

In this Code and in other ordinances of the city, a word importing the singular number only shall also include and mean the plural, unless the context indicates otherwise. (Ord. No. 529, § 4.)

Sec. 1-14. Violation.

A person who is alleged to have violated any provision of this Code, or other ordinances hereafter enacted, or orders, rules or regulations promulgated under authority of this Code, or ordinances enacted hereafter, shall be issued a summons and complaint charging the nature of the violation and shall be ordered to appear before the municipal judge. Every day any violation of this Code or any other ordinance of the city hereafter enacted or any order, rule or reg-

ulation promulgated under the provisions of this Code or ordinances shall continue, shall constitute a separate offense. (Ord. No. 529, § 5.)

Sec. 1-15. Penalties.

Whenever in this Code or any other ordinance of the city hereafter enacted or any section or an order, rule or regulation promulgated under the provisions of this Code or other ordinance of the city hereafter enacted, any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any such provision of this Code or other ordinance of the city hereafter enacted or of such orders, rules or regulations shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 529, § 6; amended by memo 3519.) (Ord. No. 1170, § 3, 9-25-12)

Sec. 1-16. Separability.

The city council hereby declares that it would have passed each sentence, section, part or chapter of this ordinance and of the Code independently of each and every other sentence, section, part or chapter, and the fact that any section, sentence, part or chapter, or any part thereof, may be found to be invalid shall not affect the validity of any other portion of the ordinance codified in this section or of the Code. (Ord. No. 529, § 7.)

Sec. 1-17. Catchlines, headings and titles.

Catchlines, headings and titles of sections and other subdivisions in this Code adopted by the ordinance codified in this section or in annual changes made in the Code, are inserted for the convenience of

users of the Code; the same shall have no legal effect. (Ord. No. 529, § 8.)

Sec. 1-18. Annual changes and supplements.

By contract, or by city personnel, a change to the Code of Ordinances adopted by this ordinance shall be prepared and printed at least two times each year hereafter or as soon thereafter as practicable. The annual updates and supplements to this Code shall include all substantive, permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the year preceding and all changes made thereby in the Code, and shall also include all Charter amendments which have been made during the year. Supplement pages shall be so numbered that they will fit properly into the Code and, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be up to date. (Ord. No. 529, § 9.)

CHAPTER 2.

ADMINISTRATION.

For charter provisions as to the form of government, see Char., art. I, § 3. As to municipal officers generally, see Char., art. II. As to the city council, see Char., art. III. As to municipal elections, see Char., art. IV. As to appointive officers and employees, see Char., art. V. As to municipal court and city attorney, see Char., art. VI. As to financial administration, see Char., art. VII. As to municipal borrowing, see Char., art. VIII. As to division of purchase, see Char., art. IX. As to department of municipal utilities, see Char., art. XI. As to recall of elective officers, see Char., art. XII, § 2. As to department of public works, see Char., art. XIII, §§ 1, 2. As to police department, see Char., art. XV. As to health department, see Char., art. XVII.

For state law as to the organization of cities generally, see CRSA Art. 31-1 et seq. As to the manager form for cities, see CRSA § 31-4-210 et seq. As to officers in cities generally, see CRSA Art. 31-4. As to the powers of cities generally, see CRSA Arts. 31-15 et seq.

As to the airport commission, see §§ 3-6 to 3-12 of this Code. As to the humane officer, see § 5-17. As to civil defense and emergencies generally, see ch. 7. As to finance and taxation generally, see ch. 9. As to fire marshal, see § 10-3. As to the gas inspector, see §§ 13-2, 13-3. As to powers of county health department in city, see § 14-5. As to municipal courts generally, see ch. 17. As to impersonating, resisting, etc., officers, see § 18-30. As to parks and recreation generally, see ch. 19. As to establishment and duties of park and recreation department, see § 19-1. As to the park commission, see §§ 19-2 to 19-8. As to personnel generally, see ch. 20. As to the enforcement of Plumbing Code, see § 21-2. As to administration of the water system by city council, see § 27-2. As to duties of city manager as to the water system, see § 27-3.

Article I. In General.

- § 2-1. Voting precincts—Created; designated.
- § 2-2. Same—Designation of polling places.

- § 2-3. Council rules of procedure generally.

Article II. Planning and Zoning Commission.

- § 2-4. Created; appointment, qualifications and terms of members.
- § 2-5. Clerk; frequency of meetings.
- § 2-6. Absence from meetings.
- § 2-7. Election and term of chairman; creation and filling of other offices.
- § 2-8. Regular meetings; calling of special meetings.
- § 2-9. Adoption of procedural rules; records.
- § 2-10. Three-fifths vote required for adoption, extension or amendment of plans.
- § 2-11. Appointment of employees; contracts with consultants; expenditures.
- § 2-12. Preparation of annual budget by city manager.
- § 2-13. Powers and duties generally.
- § 2-14. Preliminary and final reports; public hearings.
- § 2-15. To be ex officio zoning commission.

Article III. City Clerk.

- § 2-16. Duties.
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- § 2-18. Provision for deputy city clerk.

Article IV. Tree Commission.

- § 2-19. Commission created—
Appointment, qualifications
and terms of members.
- § 2-20. Absence from meetings.
- § 2-21. Election and term of
chairman—Creation and
filling of other offices.
- § 2-22. Regular meetings—Calling
of special meetings.
- § 2-23. Adoption of procedural
rules—Records.
- § 2-24. Majority vote required for
adoption, extension or
amendment of plans.
- § 2-25. Powers and duties
generally.
- § 2-26. Preliminary and final
reports—Public hearings.

Article V. Public Library.

- § 2-27. Public library.

Article I. In General.

**Sec. 2-1. Voting precincts—
Created; designated.**

There are hereby created in the city two voting precincts to be designated as follows:

(a) **Precinct No. 1.** All that part of the city lying north of the center of Main Street, or any extension thereof, in the city.

(b) **Precinct No. 2.** All that part of the city lying south of the center of Main Street, or any extension thereof, in the city. (Code 1968, § 3-1-1.)

For charter provision authorizing city to create two voting precincts, see Char., art. IV, § 3. As to elections generally, see Char., art. IV.

**Sec. 2-2. Same—Designation of
polling places.**

The city council is hereby authorized and empowered to designate polling places within the voting precincts by public announcement thereof in any call for election as provided by law. (Code 1968, § 3-1-2.)

**Sec. 2-3. Council rules of procedure
generally.**

The following shall be the rules of procedure of the city council:

(a) **Suspension of rules.** The rules of procedure and order of business shall be strictly adhered to by the council, unless temporarily suspended by a two-thirds vote of the members present.

(b) **Dates of regular meetings.** The council shall meet regularly on the second and fourth Tuesday of every month at the city hall.

(c) **Calling of special meetings—Generally.** The mayor or any four members of the council may call special meetings of the council, but no such call shall be made unless at least twenty-four hours notice of the time of such meeting have been given to each and every member of the council as provided by this section, that special meetings may be called and held upon shorter notice if five members of the council personally accept such call.

(d) **Same—Notice.** Notice of special meetings shall be in writing, shall be served by the chief of police, other policemen or by any other person of lawful age and shall be served on each councilman personally or by leaving a copy of such notice at his usual place of business or residence.

(e) **Presiding officer.** The mayor, or in his absence the mayor pro tempore, shall call the meetings of the council to order and

preside at all meetings. In case of the absence of the mayor and the mayor pro tempore, the city clerk shall call the meeting to order, and if a quorum is present one of the councilmen may be elected to preside at the meeting.

(f) **Quorum.** At all meetings of the council, four councilmen shall constitute a quorum for the transaction of business, but a minority may adjourn from day to day until a quorum is in attendance.

(g) **Call to order; roll call; order of business.** At the hour appointed for the meeting, the members of the council shall be called to order by the presiding officer. The city clerk shall then call the roll and note those present and those absent, after which the presiding officer shall announce whether a quorum is present. If a quorum is present the council shall proceed to do business. The council by motion or resolution may adopt an order of business from time to time.

(h) **Questions of priority of business.** All questions relating to the priority of business shall be decided without debate.

(i) **Conduct of members.** Previous to speaking, every member shall address the presiding officer and shall not proceed with his remarks until recognized by him. No member shall leave the council chamber while the council is in session, except by the permission of the presiding officer. Any member called to order shall immediately suspend his remarks and resume his seat, unless permitted to continue. Any member failing or refusing to vote on any question shall be deemed to have voted in the affirmative, unless excused from voting by the council on matters involving the consideration of his own official conduct or where his financial interests are involved.

(j) **Reduction of motions or resolutions to writing; consideration of motions.** All motions and resolutions shall be reduced to

writing if required by any member of the council, and when seconded and stated by the presiding officer, or read by the clerk, shall be open for consideration.

(k) **Taking and recording of vote.** The vote on all ordinances, resolutions and motions shall be taken by ayes and nays and shall be entered in the journal.

(l) **Motions to adjourn.** A motion to adjourn shall always be in order, shall have precedence over all other motions and shall be decided without debate.

(m) **Appointment of committees.** All committees shall be appointed by the presiding officer, unless otherwise ordered by the council.

(n) **Preservation of order.** The presiding officer shall preserve order and decorum and shall decide all questions of order, subject to the right of appeal to the council.

(o) **Appeal of decisions of presiding officer.** Appeals shall be allowed from all decisions of the presiding officer to the council and a majority vote of all the members present shall be required to sustain such an appeal.

(p) **Standing committees generally.** The standing committees, if any, shall be appointed annually at the first regular meeting after the election of officers and the person first named to the committee shall be the chairman thereof. In the absence of such chairman, or other inability to act, the second person named to the committee shall act as chairman thereof. Standing and special committees may be created by motion or resolution of the council.

(q) **Conduct of executive sessions.** When the council is in executive session, the room shall be cleared of all persons except the councilmen, the city manager, the city attorney and the city clerk; provided, that the council may authorize other designated persons to remain. All matters discussed in executive session shall be kept secret unless the council provides otherwise.

(r) **Records of proceedings.** The council shall cause a record of the proceedings to be kept, which shall be open at all reasonable hours for the inspection of the electors of the city.

(s) **Applicability of Robert's Rules.** Except as provided by the Charter or these rules, Robert's Rules of Order, Revised, shall govern the proceedings of the council insofar as it is applicable.

(t) **Enforcement; penalty.** The council shall make and enforce the rules of procedure and may compel their observance by a fine not exceeding five dollars.

(u) **Amendment.** These rules may be amended at any time by ordinance.

(v) **Cancellation of a municipal election.** It is ordained by the city council of the city of Cortez, Colorado, that:

(1) No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the city clerk by the person whose name is written in prior to twenty days before the day of the election. Such affidavit shall contain:

(A) That the person desires the office; and

(B) Is qualified to assume the duties of the office if elected.

(2) Election may be cancelled when:

(A) A municipal election may be cancelled if the only matter before the voters is election of persons to office and if at the close of business on the nineteenth day before the election there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent.

(3) The clerk, if instructed by resolution of the governing body either before or after such date shall cancel the election and by resolution declare the candidates elected. Upon such declaration by resolution, the candidates shall be deemed elected.

(4) Notice of such cancellation shall be published, if possible, in order to inform electors of the municipality and notice of such cancellation shall be posted at each polling place and not less than one other public place.

(5) If one of the terms for which the candidates are declared elected is a two-year term as opposed to a four-year term, then the one two-year term shall be decided amongst the candidates. If the candidates cannot decide who shall have the two-year term, it shall be decided by lot. (Code 1968, § 1-2-1; Ord. No. 1007.)

For charter provision as to council generally, see Char., art. III.

For state law as to council generally, see C.R.S. 1973, §§ 31-5-105, 31-5-106, 31-5-108.

Article II. Planning and Zoning Commission.

For state law as to planning commissions, see C.R.S. 1973, §§ 31-23-101 to 31-23-125. As to zoning commission, see C.R.S. 1973, § 31-23-206. As to zoning generally, see C.R.S. 1973, §§ 31-23-201 to 31-23-213.

Sec. 2-4. Created; appointment, qualifications and terms of members.

There is hereby created a planning and zoning commission for the city consisting of nine members, five members of whom shall be registered electors of the city and shall be appointed by the city council in the following manner and for the following terms:

The original five members shall be appointed by the council to serve terms as follows: One member for one year; one member for two years; one member for three years; one member for four years; and one member for five years. As the term of each member expires, the vacancy thus created shall be filled by a majority vote of the council for a term of three years. If a va-

cancy occurs other than by expiration of term, the council by a majority vote shall appoint a new member to fill the unexpired term.

The four remaining members shall be ex officio members without vote and shall consist of the city manager, the zoning administrator, the city engineer and the mayor of the city council. (Ord. No. 668; Ord. No. 963 (part).)

(Ord. No. 1163, 2-28-12)

For state law as to membership of commission, see C.R.S. 1973, § 31-23-103. See also C.R.S. 1973, § 31-23-206.

Sec. 2-5. Clerk; frequency of meetings.

The city clerk shall be ex officio clerk of the planning and zoning commission and keep its records and notify it of the filing of applications for permits and such other matters that come before such commission. Such commission shall, when there is business to transact, hold a meeting at least once each month or more often, as the business of the commission requires. (Ord. No. 440, § 3.)

Sec. 2-6. Absence from meetings.

Should a member of the planning and zoning commission be absent for three consecutive regular meetings of such commission without cause, the office of such member shall be deemed to be vacant and the term of such member terminated and the secretary of the commission shall immediately inform the city council of such termination. An absence

due to illness or an unavoidable absence from the city and written notice thereof to the secretary of the commission on or before the day of any regular meeting by such commission shall be deemed absence for cause. A regular meeting as provided for by law or by rule of the commission or any regularly advertised public hearing shall be deemed a regular meeting. (Ord. No. 440, § 4.)

Sec. 2-7. Election and term of chairman; creation and filling of other offices.

The planning and zoning commission shall elect its chairman from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the chairman shall be one year with the eligibility for reelection. The position of chairman shall be filled at the first regular meeting of January of each year. (Ord. No. 440, § 5.)

For similar state law, see C.R.S. 1973, § 31-23-104.

Sec. 2-8. Regular meetings; calling of special meetings.

The planning and zoning commission shall hold at least one regular meeting in each month and such special meetings as are necessary in the opinion of the chairman; provided, that a special meeting may be called by any three appointed members of the commission or the city manager upon due notice to the chairman and the other members of the commission. (Ord. No. 440, § 6.)

For similar state law, see C.R.S. 1973, § 31-23-104.

Sec. 2-9. Adoption of procedural rules; records.

The planning and zoning commission shall adopt rules for transaction of business and shall keep a record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record. (Ord. No. 440, § 7.)

For similar state law, see C.R.S. 1973, § 31-23-104.

Sec. 2-10. Three-fifths vote required for adoption, extension or amendment of plans.

In voting upon the adoption of any plan or any part thereof or any amendment, extension or addition by resolution of the planning and zoning commission, the same must be carried by the affirmative vote of not less than three-fifths of the entire voting membership of the commission (Ord. No. 440, § 13.)

For state law as to vote required for adoption, etc., of plan, see C.R.S. 1973, § 31-23-108.

Sec. 2-11. Appointment of employees; contracts with consultants; expenditures.

The city council, upon the advice and request of the planning and zoning commission, may appoint such employees as it may deem necessary and with such consent may also contract with city planners, engineers, architects and other consultants for such services as it may require. The expenditures of the planning and zoning commission shall be within the amounts appropriated for the purpose by the city council, which shall

provide the funds, equipment and accommodations necessary for the work of such commission and shall approve all expenditures of funds. (Ord. No. 440, § 8.)

For state law as to employees, expenditures, etc., of planning commission, see C.R.S. 1973, § 31-23-105.

Sec. 2-12. Preparation of annual budget by city manager.

The city manager or his delegated representative shall be charged with preparing the planning and zoning commission's budget each year for the next calendar year. (Ord. No. 440, § 9.)

For state law as to appropriations for planning commission, see C.R.S. 1973, § 31-23-105.

Sec. 2-13. Powers and duties generally.

The planning and zoning commission shall perform the duties and shall have all the rights, powers and privileges specified and provided for by sections 31-23-105 to 31-23-124 and section 31-23-206 of the 1973 Colorado Revised Statutes. (Code 1968, § 2-1-5; Ord. No. 440, § 10.)

Sec. 2-14. Preliminary and final reports; public hearings.

Such commission shall make preliminary reports and hold public hearings thereon before submitting final reports to the city council. The city council shall not hold its public hearings or take action until it has received the final report of such commission. (Ord. No. 440, § 11.)

For state law as to public hearings to be held by commission, see C.R.S. 1973, § 31-23-108.

Sec. 2-15. To be ex officio zoning commission.

The commission shall be vested with the power of a zoning commission and shall perform such duties as may be required of the zoning commission. (Ord. No. 440, § 12.)

For state law requiring the transfer of all powers and records of the zoning commission to the planning commission, see C.R.S. 1973, § 31-23-111.

Article III. City Clerk.

Sec. 2-16. Duties.

(a) The city clerk shall be custodian of the city seal and shall affix it to all documents and instruments requiring the seal and shall attest the same.

(b) The city clerk shall administer oaths of office as specified in article II, section 5 of the city Charter.

(c) The city clerk shall be clerk of the council, and shall prepare agendas, attend the regular and special meetings of the council and shall record and maintain the minutes, ordinances and resolutions of the council.

(d) The city clerk shall be the alcoholic beverage license officer for the city council of the city.

(e) The city clerk shall issue all other licenses as specified by this Code, as amended.

(f) The city clerk shall be the elections officer for all city elections.

(g) The city clerk shall maintain custody of all city records not otherwise provided for by other departments.

(h) The city clerk shall be the ex officio clerk of the planning and zoning

commission pursuant to chapter 2, article II, section 5 of the city Charter.

(i) The city clerk shall maintain the codified ordinances of the city by regular supplementation and by periodic recodification pursuant to article III, section 12 of the city Charter.

(j) As long as the city is the administrative entity of the Cortez sanitation district, the city clerk shall be clerk for the district and shall attend their board meetings, keep their records, maintain custody of the district seal, affixing it to all documents and instruments requiring the seal and attesting the same, and shall be the elections officer for all sanitation district elections.

(k) The city clerk shall prescribe the necessary procedures, forms and manuals required for the execution of the duties of the department of city clerk.

(l) The city clerk shall perform all other duties as assigned by the city manager and as prescribed in the Charter of the codified ordinances of the city, as amended.

(m) The city clerk, acting on behalf of the local liquor licensing authority, may establish reporting requirements and information necessary for licensing requests and activities coming before the local licensing authority. All such reporting and information requirements established by the city clerk shall not be inconsistent with state or local licensing requirements. Failure by any applicant to provide the information requested by the clerk shall result in the license being withheld until such requirements are met. (Ord. No. 623, § 1; Ord. No. 807, §§ 1—3.)

Sec. 2-17. Requirements.

(a) Reserved.

(b) The city clerk shall take and subscribe an oath of office pursuant to article II, section 5 of the city Charter.

(c) The city clerk shall be subject to any other requirements as may be prescribed by the city manager. (Ord. No. 623, § 2.) (Ord. No. 1157, 11-22-11)

Sec. 2-18. Provision for deputy city clerk.

Until, and including such time as a regular deputy city clerk may be employed by the city, one or more members of the city hall staff may be designated by the city clerk as deputy city clerk, subject to the approval of the city manager, in the event that the city clerk requires assistance or in the absence of the city clerk. The regular or designated deputy city clerk shall have full authority and responsibility as herein prescribed for the city clerk, in the event such authority or responsibility is delegated to the regular or designated city clerk, or in the absence of the city clerk. The regular or designated deputy city clerk shall be under the supervision of the city manager in the absence of the city clerk. The regular or designated deputy city clerk shall be deputized by oath, and shall be a bonded employee. The designated deputy city clerk shall serve in addition to his/her regular duties and shall receive no additional compensation. (Ord. No. 623, § 3.)

Article IV. Tree Commission.

Sec. 2-19. Commission created—Appointment, qualifications and terms of members.

There is hereby created a tree commission for the city consisting of five members, all of whom shall be city residents and shall be appointed by the city council in the following manner and for the following terms:

The original five members shall be appointed by the city council to serve terms as follows: two members for one year; two members for two years; and one member

for three years. As the term of each member expires, the vacancy thus created shall be filled by a majority vote of the city council for a term of three years. If a vacancy occurs other than by expiration of term, the city council by a majority vote shall appoint a new member to fill the expired terms.

The three remaining members of the commission shall be ex officio members without vote and shall consist of one city councilmember, the parks and recreation director, a representative from the Colorado State Forest Service, and one of the members of the commission shall be trained or experienced as a landscape horticulturist, if available. (Ord. No. 656, § 1.)

Sec. 2-20. Absence from meetings.

Should a member be absent for three consecutive regular meetings of such tree commission without cause, the office of such member shall be deemed to be vacant and the term of such member terminated and the secretary of the tree commission shall immediately inform the city council of such termination. An absence due to illness or an unavoidable absence from the city and notice thereof the secretary of the tree commission on or before the day of any regular meeting by such tree commission shall be deemed absence for cause. A regular meeting as provided for by law or by rule of the tree commission or any regularly advertised public hearing shall be deemed a regular meeting. (Ord. No. 656, § 2.)

Sec. 2-21. Election and term of chairman—Creation and filling of other offices.

The tree commission shall elect its chairman from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the chairman shall be one year with the eligibility for reelection. The position of chairman

shall be filled at the first regular meeting of each year. (Ord. No. 656, § 3.)

Sec. 2-22. Regular meetings—Calling of special meetings.

The tree commission shall hold at least one regular meeting in each month during the months of January through May and September through December of each year, and such special meetings as are necessary in the opinion of the chairman; provided, that a special meeting may be called by any three members of the tree commission or the parks and recreation director upon due notice to the chairman and the other members of the tree commission. (Ord. No. 656, § 4.)

Sec. 2-23. Adoption of procedural rules—Records.

The tree commission shall adopt rules for transaction of business and shall keep a record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record. (Ord. No. 656, § 5.)

Sec. 2-24. Majority vote required for adoption, extension or amendment of plans.

In voting upon the adoption of any plan or any part thereof or any amendment, extension or addition by resolution of the tree commission, the same must be carried by the affirmative vote of a simple majority of the entire voting membership of the tree commission. (Ord. No. 656, § 6.)

Sec. 2-25. Powers and duties generally.

The tree commission shall perform the following duties:

- (a) To study, investigate, plan, advise, report and recommend to city council any

action, program, plan or legislation which the commission shall find or determine to be necessary or advisable for the care, preservation, trimming, planting, removal or disposition of trees and shrubs in public ways, streets and alleys;

(b) To assist the city council and the citizens of the city in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property, and to make such recommendations from time to time to the city council as to desirable legislation concerning the tree program and activities for the municipality;

(c) To provide regular and special meetings at which the subject of trees insofar as it relates to the municipality may be discussed by the members of the commission, officers and personnel of the municipality, and all others interested in the tree program;

(d) To study and to recommend to city council a master street tree and shrub plan for the city;

(e) Chairman should stay in regular communication with the parks and recreation director. (Ord. No. 656, § 7.)

Sec. 2-26. Preliminary and final reports—Public hearings.

Such tree commission shall make preliminary reports and hold public hearings thereon before submitting final reports to the city council. The city council shall not hold its public hearings or take action until it has received the final report of such tree commission. (Ord. No. 656, § 8.)

Article V. Public Library.

Sec. 2-27. Public library.

The Cortez Library is an official department of the city of Cortez.

The library director may institute and implement rules, regulations and policies with review and approval by the city manager regarding all matters concerning the conduct of persons in the library;

The director may prescribe such rules, regulations and policies as needed for the orderly and efficient operation of the library; and

The director and designated staff may exclude for such terms as the director deems appropriate those people who violate the policies, rules and regulations set by the director. (Ord. No. 868, § 1.)

(Ord. No. 1131)

CHAPTER 3.

AIRPORTS.

For charter provision as to aviation generally, see Char., art. XVIII.

For state law as to aeronautics, aircraft and airports, see C.R.S. 1973, § 41-1-101 et seq.

As to authority of cities to establish airports, regulate their use, etc., see C.R.S. 1973, §§ 41-4-201 to 41-4-205.

As to authority for joint city-county operation of airport, see C.R.S. 1973, §§ 41-4-103 to 41-4-106.

As to motor vehicles and traffic generally, see ch. 16 of this Code.

Sec. 3-7. Repealed October 10, 2006.

Sec. 3-8. Repealed October 10, 2006.

Sec. 3-9. Repealed October 10, 2006.

Sec. 3-10. Repealed October 10, 2006.

Sec. 3-11. Repealed October 10, 2006.

Sec. 3-12. Repealed October 10, 2006.

Article I. In General.

§§ 3-1 to 3-4. Reserved.

§ 3-5. Revenue bond authority.

Article II. Airport Committee.

§ 3-6. Repealed.

§ 3-7. Repealed.

§ 3-8. Repealed.

§ 3-9. Repealed.

§ 3-10. Repealed.

§ 3-11. Repealed.

§ 3-12. Repealed.

Article I. In General.

Secs. 3-1 to 3-4. Reserved for future legislation.

Sec. 3-5. Revenue bond authority.

The city may issue revenue bonds or other debt instruments in the name of the city and on behalf of the airport. (Ord. No. 1081 § 1.)

Article II. Airport Committee.

Sec. 3-6. Repealed October 10, 2006.

CHAPTER 4.

ALCOHOLIC BEVERAGES.*

§ 4-1. Local option premises license.

§ 4-2. Licensing for the golf course.

* Editor's Note: Ordinance 907 repealed Chapter 4 in its entirety. For state law regarding alcoholic beverages, see C.R.S. §§ 12-46-101 and 12-47-101.

Sec. 4-1. Local option premises license.

(a) Optional premises licenses may be allowed within the city of Cortez.

(b) Licenses may be issued to motel premises that have licenses for the sale of alcoholic beverages.

(c) Such licenses may be issued to allow said motel/hotels to allow the establishment to let patrons have or consume alcoholic beverages in their rooms or at the swimming pool area, if it has a swimming pool.

(d) The establishment shall ensure that only their employees take the beverages from the bar area to the room.

(e) The establishment shall not allow beverages to be taken out on any parking lot or any areas of the premises not specifically set forth herein.

(f) Application requirements:

(1) A map or other drawing illustrating the pool area and hours access will be provided to individual rooms;

(2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use and how the licensee will ensure alcoholic beverages are not removed from such premises;

(3) A description of the provisions which will be made to control the dispensing of alcoholic beverages to minor or visibly intoxicated individuals.

(g) A violation of this chapter shall be punishable as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 1100.) (Ord. No. 1170, § 4, 9-25-12)

Sec. 4-2. Licensing for the golf course.

(a) **Definitions.** For the purposes of this section, the following words or phrases shall have the meanings set forth.

(1) Optional premises means the same as that defined in the Colorado Liquor Code under section 12-47-103(22) and section 12-47-130, C.R.S. the types of licenses authorized in this section are optional premises or hotel "restaurant with optional premises," which may be referred to as "optional premises" unless otherwise stated.

(b) **Standards.** The following standards are for the issuance of an optional premises license. The standards are adopted pursuant to the provisions of section 12-47-310, C.R.S. The standards adopted shall be considered in addition to all other standards applicable to the consideration of and/or issuance of licenses under the Colorado Liquor Code and any and all applicable local laws, rules and regulations.

(c) **Form of application.** Application for the optional premises license shall be made to the city clerk on forms, which shall contain the following information in addition to information, required by the state. The application shall be heard publicly by the local hearing officer.

(A) A map or other drawing illustrating the optional premises boundaries and the location of the proposed optional premises license requested;

(B) Proposed location(s) for permanent, temporary or moveable structure(s) which are proposed to be used for the sale or service of alcohol beverages and a statement as to whether mobile carts will be used for the sale or service of alcohol beverages;

(C) A description of the method which shall be used to identify the boundaries of the optional premises license when it is in use and how the licensee will ensure alcohol beverages are not removed from such premises;

(D) Proof of the applicant's right to possession of the optional premises including a legal description and supporting documentation to the satisfaction of the local licensing authority;

(E) A description of the provisions, including a description of facilities, which have been made for storing the alcohol beverages in a secured area on or off the optional premises and for future use on the optional premises if or when alcohol beverages are not served; and

(F) A description of the provisions which will be implemented to control over service and prevent under age service of alcohol beverages.

(d) **Eligibility.** The licensee is either a holder of a hotel-restaurant license which is located on or adjacent to an eighteen-hole golf course or is the operator/owner of a golf course within the city limits.

(e) **Size of premises.** There is no minimum size, other than being a regulation eighteen-hole course, of the optional premises license or number of optional premises licenses for the licensee.

(f) **Additional conditions.** Nothing contained in this section shall preclude the licensing authority in its discretion, from imposing conditions, restrictions or limitations on any optional premises license in order to serve the public health, safety and welfare. Any such conditions may be imposed when the license is initially issued, issued for any specific event, or renewed. The authority shall have the right to deny any request for an optional premises license or it may sus-

pend or revoke the optional premises license in accordance with the procedures specified by law.

(Ord. No. 1154, 7-26-11)

CHAPTER 4A.

ADULT ENTERTAINMENT ESTABLISHMENT.

Article I. Definitions.

§ 4A-1. Definitions.

Article II. License Provisions.

- § 4A-2. License required.
- § 4A-3. License for adult entertainment establishments.
- § 4A-4. Annual license renewal.
- § 4A-5. Application and conditions of license.
- § 4A-6. Duty to supplement application.
- § 4A-7. Investigation and application.
- § 4A-8. Issuance of license.
- § 4A-9. Grant of application for license.
- § 4A-10. Denial of application for license.
- § 4A-11. Expiration of license.
- § 4A-12. Suspension of license.
- § 4A-13. Revocation of license.
- § 4A-14. Transfer of license.
- § 4A-15. Judicial review of license denial, suspension of revocation.

Article III. Employee Requirements.

- § 4A-16. Sexually oriented business employees general requirements.
- § 4A-17. Sexually oriented business employee license required.
- § 4A-18. Application for employee's license.

Article IV. Requirements for Licensed Establishments.

- § 4A-19. Inspection.
- § 4A-20. Records and reports—Authority to promulgate.
- § 4A-21. General requirements.
- § 4A-22. Adult bookstore, adult novelty store and adult video store requirements.
- § 4A-23. Adult motion picture theater requirements.
- § 4A-24. Adult cabaret, adult theater and adult motel requirements.
- § 4A-25. Requirements pertaining to the exhibition of sexually exhibit films or videos in peep booths.
- § 4A-26. Admission of minors unlawful.
- § 4A-27. Sale to minors unlawful.
- § 4A-28. Cleaning of licensed premises requirements.
- § 4A-29. Self-inspection of premises by licensee.
- § 4A-30. Sealing of unsanitary or unsafe conditions.
- § 4A-31. Abatement as sanitary nuisance.
- § 4A-32. Interference with inspectors.
- § 4A-33. Tampering with notices, etc.
- § 4A-34. False statements prohibited.
- § 4A-35. Alterations prohibited.
- § 4A-36. Immunity from prosecution.

Article V. Violations and Penalties.

- § 4A-37. Violations.
- § 4A-38. Civil penalties.
- § 4A-39. Assessment and recovery of civil penalty.
- § 4A-40. Criminal penalties.

§ 4A-1

§ 4A-41. Prohibition of the display of specified anatomical areas or non-live entertainment or performances exhibiting specified sexual activities in commercial establishments servicing and/or selling liquor.

Article I. Definitions.

Sec. 4A-1. Definitions.

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the image is so displayed and distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store or adult novelty store. A business having as a substantial and significant portion, as defined as fifteen percent or more, of its stock and trade, revenues, space, or advertising budget, resulting from the sale, rental, or viewing one or more of the following: books, magazines, periodicals or other printed matter; or photographs, films, motion picture, video cassettes or video reproductions, digitally or computer generated entertainment media, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

Adult cabaret. A nightclub, bar, restaurant, or similar business, whether alcoholic

beverages are served or not, which regularly features:

(1) Live performances which are characterized by the exposure of specified anatomical areas; or

(2) Films, motion pictures, video-cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult entertainment establishment or sexually oriented business. An adult arcade, adult bookstore, adult video store, adult novelty store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, or other similar business and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business; or

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(3) The additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or other similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Adult motel. A hotel, motel, or similar business which offers accommodations to the public for any form of consideration and provides patrons live performances characterized by the exposure of specified anatomical areas.

ical areas, or with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic or electronic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television, or which offers a sleeping room for rent for a period of time less than ten hours.

Adult motion picture theater. A business where films, motion pictures, video cassettes, slides, or similar photographic or electronic reproductions are regularly shown in a room or area designed to accommodate a minimum of twenty viewers and which films, motion pictures, video cassettes, slides, or other photographic or electronic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater. A theater, concert hall, auditorium, or similar business that regularly features live performances that are characterized by the exposure of specified anatomical areas.

Church. A place of religious worship and institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clothing optional clubs. A business where alcoholic beverages are or are not

served and where the customers are allowed to be fully or partially nude.

Employee. A person who works or performs in and/or for a business, regardless of whether or not the person is paid a salary, wage, or other compensation by the operator of said business.

Good moral character. As used within the adult entertainment establishment licensing provisions of this Code, "good moral character" is defined as one who has not engaged in a specified criminal act within the times set forth in this chapter.

Licensing officer. A "licensing officer," when used in conjunction with licensee of adult entertainment establishments, means the city manager or his/her designated representative whose function is to review adult entertainment establishment license applications and either issue a license or deny the license based upon the licensing provisions set forth in article IV of chapter 6 of this Code. For these purposes, a licensing officer shall also include his or her designee.

Manager. An operator, other than a licensee, who is employed by a business to act as a manager or supervisor of employees or is otherwise responsible for the operation of a business.

Massage parlor. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar

establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Material. Any physical object, facsimile, recording transcription, pictorial representation, motion picture, or reproduction, whether mechanical, electrical, or chemical, which is used as a means of communicating sensation or emotion to human beings to or through the visual, aural, or tactile senses.

Nudity or state of nudity. The appearance of more than two-thirds of the human bare buttocks, or the anus, male genitals, female genitals, or the female breasts below the top of the nipple; or a state of dress which fails to opaquely cover more than two-thirds of the human buttocks, or the anus, male genitals, female genitals, pubic region or aureole or the female breast below the top of the nipple.

Obscene material. That material which:

- (1) Taken as a whole, appeals to the prurient interest of the average person, applying a contemporary state-wide standard; and
- (2) Depicts or describes hard-core sexual conduct;
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Obscene performance. That performance which:

- (1) Taken as a whole, appeals to the prurient interest of the average person, applying a contemporary state-wide standard; and
- (2) Presents or shows hard-core sexual conduct;
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Operator. The owner, permit or license holder, custodian, manager, operator, or

person in charge of any permitted or licensed premises.

Peep booth. A viewing room of less than one hundred fifty square feet of floor space.

Performance. A presentation or exhibition, whether live or recorded, in a public place or place open to the public or to a segment thereof.

Permittee and/or licensee. A person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as the applicant on the application for a permit and/or license.

Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

Principal owner. Any person owning, directly or beneficially, twenty percent or more of the ownership interest in any legal entity.

Private room. A room in an adult motel that is not a peep booth, has a bed and bath in the room or adjacent room, and is used primarily for lodging.

Promote. To produce, direct, manufacture, sell, provide, distribute, present, or exhibit for consideration or to offer or agree to do any of these things for consideration, or to have a financial interest in any of these things.

Sadomasochistic material; sadomasochistic performance. That material or performance which:

- (1) Taken as a whole, appeals to the prurient interest of the average person, applying a contemporary state-wide standard; and

- (2) Depicts, presents, shows, or describes flagellation, mutilation, or torture, actual or simulated, in a sexual context; and

(3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Sexual encounter establishment. A business or commercial establishment which, as one of its primary business purposes, offers a place where two or more persons may congregate, associate, or consort for the purpose of the exposure of specified anatomical areas, or when one or more of the persons exposes any specified anatomical area.

Specified anatomical areas. "Specified anatomical areas" are defined as including:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point above the top of the nipple;

(2) Human male genitals in a discernable turgid state even if completely and/or opaquely covered;

(3) Areas included within the definition of nudity.

Specified criminal acts. Acts which include sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity, sale, distribution, or display of harmful material to a minor, prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, sexual performance by a child, possession of child pornography, public lewdness, indecent exposure, indecency with a child, engaging in organized criminal activity as defined by the Colorado Revised Statutes, sexual assault or aggravated sexual assault as defined by Colorado Revised Statutes, incest solicitation of a child or harboring a runaway child as defined by the Colorado Revised Statutes, kidnapping or aggravated kidnapping as defined in the Colorado Revised statutes, robbery or aggravated robbery as defined in the

Colorado Revised Statutes, bribery or retaliation as described in the Colorado Revised Statutes in violation of the Colorado Controlled Substances Act or Dangerous Drugs Act punishable as a felony, Class A misdemeanor or Class B misdemeanor, criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses, pandering, or tax violations associated with sexually oriented businesses, or crimes involving the use of or trafficking narcotic drugs, or violent acts against persons or property.

Specified sexual activities. Acts, simulated acts, exhibitions, representations, depictions, or descriptions of:

(1) Human male genitals in a discernable and evident state of sexual stimulation or arousal;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast;

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

(4) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated, buggery, coprophagy, coprophilia, necrophilia, pederasty, pedophilia, piquerism, sapphism, and zoerasty;

(5) Flagellation, mutilation, or torture, actual or simulated, including sadomasochism, in a sexual context.

Transfer of ownership or control of a sexually oriented business. Any business arrangement, gift, or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Zoning administrator. The city manager or his or her designee. (Ord. No. 919, § 3 (part).)

Article II. License Provisions.

Sec. 4A-2. License required.

No adult entertainment establishment, as defined in section 4A-1 of this chapter, shall be permitted to operate within the city except as herein provided, and any said operation without a license is unlawful. It shall further be unlawful and a person commits a misdemeanor offense if he or she operates or causes to be operated a sexually oriented business and/or adult entertainment establishment and the person knows or reasonably should know that (a) the business does not have a sexually oriented business and/or adult entertainment establishment license; (b) the business has a license which is under suspension; (c) the business has a license which has been revoked; or (d) the business has a license which has expired. Further, any applicant must first obtain zoning approval prior to the issuance of a license, which zoning approval is subject to relevant zoning regulations contained in this chapter and Section 3.05 of the Land Use Code, and said decision of the applicant's zoning request shall be processed in the same manner and course as any other zoning request. (Ord. No. 919, § 3 (part).)

Sec. 4A-3. License for adult entertainment establishments.

(a) The licensing officer is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business licenses for proposed or existing sexually oriented businesses.

(b) The zoning administrator is responsible for ascertaining whether a proposed sexually oriented business for which a license application has been submitted complies with all location requirements of Land Use Code section 3.05(b)(21) and for processing the zoning application request through special review pursuant to Section 6.10, conditional use permits; provided, however, the zoning administrator, planning and zoning commission, and/or city council may not rely solely on the special review criteria outlined in section 6.10(f) 1-6 in rendering a decision to approve or deny the zoning request.

(c) The Cortez police department is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in section 4A-5(e).

(d) The building inspection department is responsible for inspecting a proposed sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

(e) **Time requirement for licensing.** No later than thirty days after the effective date of the ordinance codified in this chapter, all adult entertainment establishments lawfully operating within the city on or before the effective date of the ordinance codified in this chapter shall apply for an adult entertainment establishment license. If an application is not received within thirty days of

the passage of the ordinance codified in this chapter, then such existing adult entertainment establishment must cease operations. Subject to Ordinance No. 919, Series 2000, amending the City Land Use Code section 3.05(b)(21)(4), the applicant is permitted a six-month amortization period from the effective date of the ordinance codified in this chapter. After the expiration of the amortization period, the licensing officer shall approve or deny the license subject to the provisions contained in sections 4A-8 through 4A-10 of this article. (Ord. No. 919, § 3 (part).)

Sec. 4A-4. Annual license renewal.

The annual license fee for new adult entertainment establishments shall be one thousand dollars, and for transfer of location or ownership, one thousand dollars, and for the renewal of a license, one thousand dollars.

A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each. (Ord. No. 919, § 3 (part).)

Sec. 4A-5. Application and conditions of license.

The completed application shall contain the following information and shall be accompanied by the following documents:

- (a) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is at least eighteen years of age;
- (b) If the applicant is a legal entity, the application shall state its complete name, the date and place of its organization, evi-

dence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the laws of a state other than Colorado, that it is registered to do business in Colorado, the names and capacity of all officers, directors, managers and principal owners, and the name of the registered agent and the address of the registered office for service of process;

(c) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he must state the sexually oriented business's fictitious name;

(d) The applicant's driver's license number, social security number, and his or her state or federally issued tax identification number;

(e) Whether the applicant or any of the other individuals listed has been convicted of a specified criminal activity for which:

(1) Less than four years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is a misdemeanor offense;

(2) Less than ten years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is a felony offense; or

(3) Less than ten years have elapsed since the date of the last conviction and the date of release from confinement for the last conviction, whichever is the latter date, if the conviction is of one or more misdemeanor offenses;

(4) Sexual offenders cannot own, operate or be employed in adult business establishments;

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant;

(f) Whether the applicant or any of the other individuals listed has had a previous license under this or other similar sexually oriented business ordinances from another town, city or county denied, suspended or revoked, and if so, the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of denial, suspension or revocation;

(g) Whether the applicant or any of the other individuals listed has been a principal owner of a legal entity whose license has previously been denied, suspended or revoked, and, if so, the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of denial, suspension, or revocation;

(h) Whether the applicant or any of the other individuals listed holds any other permits and/or licenses under this chapter or similar sexually oriented business ordinance from another town or county and, if so, the names and locations of such other permitted businesses;

(i) The location of the proposed sexually oriented business, including a legal description of the property, the name of the property owner, (including the information required by section 4A-5(b) if the property owner is a legal entity), street address, and telephone number(s), if any and a copy of any lease agreement or document evidencing the right to use the property for its intended purpose for the term of the license requested;

(j) The single adult entertainment establishment classification of license for which the applicant is filing;

(k) The mailing address and residential address of the applicant or other individual listed pursuant to section 4A-5;

(l) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The licensing officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths subject to the provisions of section 4A-25, the sketch shall show the locations of each manager's station and designate any portion of the premises in which patrons will not be permitted;

(m) A current certificate and straight-line drawing, prepared within thirty days prior to an initial application, by a Colorado registered land surveyor depicting: (1) the property lines and the structures of the property to be certified; and (2) the property lines of any residential zone district, church, public or private school, child care center, public community center, park, fairground, recreation center, any alcoholic beverage establishment located in the city at which alcoholic beverages are offered for sale for consumption on the premises, any area designated as an urban renewal project area

pursuant to Colorado Revised Statutes Section 31-25-107 within five hundred feet of the property to be certified; and (3) the property lines of any arterial or major or collector roadway within two hundred feet of the property to be certified; and (4) the property lines and structures of any other sexually oriented business within one thousand feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(n) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than the individual, each principal owner of the applicant must sign the application for a license as applicant.

In the event that the licensing officer determines or learns at any time that the applicant has improperly or inaccurately completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten days to properly or accurately complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application. The failure to correct the application in a timely manner shall be grounds for denial.

The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business license. (Ord. No. 919, § 3 (part).)

Sec. 4A-6. Duty to supplement application.

Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information required by this chapter in the event that the information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty days from the date of such change shall be grounds for suspension of a license. (Ord. No. 919, § 3 (part).)

Sec. 4A-7. Investigation and application.

(a) Upon receipt of an application for a sexually oriented business license properly filed with the licensing officer and upon payment of the nonrefundable application fee, the licensing officer shall immediately stamp the application as received and send photocopies of the application to the zoning department, the Cortez police department, the building inspection department, and any other agency responsible under law for investigating compliance, such as health inspection services or the fire department. Each department or agency shall promptly conduct an investigation of the applicant, application, and the proposed sexually oriented business in accordance with its responsibilities under law. Said investigations shall be completed by the zoning department, Cortez police department, the building inspection department, and any other agency within forty-five days of receipt of the application by the licensing officer. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disap-

proves, state the reasons therefore. The Cortez police department shall only be required to provide the information specified herein and in section 4A-5, application and conditions of license, and shall not be required to approve or disapprove applications.

(b) The building inspector, zoning department, or other agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation, or other law in effect in the city. After its indication of approval or disapproval, said departments or agency(s) shall immediately return the photocopy of the application to the licensing officer. (Ord. No. 919, § 3 (part).)

Sec. 4A-8. Issuance of license.

The licensing officer shall grant or deny any complete application for a license within sixty days from the date of its proper filing. Upon the expiration of the sixtieth day, the application shall be deemed granted, unless the licensing officer notifies the applicant of a denial of the application in writing and states the reason(s) for that denial. (Ord. No. 919, § 3 (part).)

Sec. 4A-9. Grant of application for license.

(a) The licensing officer shall grant the application unless one or more of the criteria set forth in Section 4A-10 of this article, is present.

(b) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall also indicate that sexually oriented businesses are subject to

prohibitions against public indecency pursuant to Colorado Revised Statutes Sections 18-7-208 and 18-7-301. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time. (Ord. No. 919, § 3 (part).)

Sec. 4A-10. Denial of application for license.

(a) The licensing officer shall deny the application for any of the following reasons:

(1) An applicant is under eighteen years of age;

(2) An applicant is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business;

(3) An applicant has failed to provide information required by this section for the issuance of the license or has falsely answered a question or request for information on the application form;

(4) The premises to be used for the sexually oriented business have been disapproved by an inspecting agency pursuant to the provisions of this article;

(5) The application or license fees have not been paid;

(6) An applicant or the proposed business is in violation of, or is not in compliance with, any of the provisions of this chapter or any pertinent provisions of this code, including but not limited to, the zoning location requirements for a sexually oriented business set forth in the Cortez Land Use Code, section 3.05(b);

(7) The granting of the application would violate a statute, ordinance, or court order;

(8) The applicant has a license under this chapter, which has been suspended or revoked within the previous twelve months;

(9) An applicant has been convicted of a specified criminal act within the times set forth in section 4A-5(e);

(10) An applicant knowingly has in his or her employ an employee who does not have a valid license as required in this article;

(11) An applicant is not of good moral character, as "good moral character" is defined in section 4A-1 of this chapter;

(12) The applicant has not demonstrated a legal right to use the premises for the term of the proposed license.

(b) If the licensing officer denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial pursuant to the time periods set forth in sections 6-57 and 6-58 of this Code.

(c) Whenever an application is denied, the city clerk shall advise the applicant in writing of the reasons for such action. The applicant must appeal any adverse decision by a licensing officer by requesting a hearing before the city council within ten days of receipt of notification of the denial if the applicant disagrees with the denial. A public hearing on the denial shall be held by the city council within fourteen days thereafter or at the next city council meeting, whichever first occurs, unless the applicant agrees in writing to an extension of the time on the public hearing.

(d) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding the application, or his or her refusal to submit to or cooperate with any

investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the licensing officer. (Ord. No. 919, § 3 (part).)

Sec. 4A-11. Expiration of license.

(a) Each license shall expire one year from the date of issuance, unless suspended or revoked, and may be reviewed only by making application as provided in this article (for renewals, filing of original survey may be sufficient). Application for renewal of a license shall be made at least thirty days before the expiration date of the license. If a renewal application is made fewer than thirty days before the expiration date of a license, the expiration of the license will not be affected.

(b) If, subsequent to denial of renewal, the licensing officer finds that the basis for denial of the renewal of the license has been corrected, the applicant shall be granted a license if at least ninety days have elapsed since the date denial became final. (Ord. No. 919, § 3 (part).)

Sec. 4A-12. Suspension of license.

(a) The licensing officer shall suspend a license for a period not to exceed thirty days if he/she determines that a licensee, or an employee of a licensee, has:

(1) Violated or is not in compliance with any section of this chapter; or

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or

(3) Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation

by the division, department or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall allow the licensee a seven day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the licensing officer shall forthwith suspend the license and shall notify the licensee of the suspension; or

(4) Engaged in a license transfer contrary to section 4A-14 of this article. In the event that the licensing officer suspends a license on the ground that a licensee engaged in a license transfer contrary to section 4A-14, the licensing officer shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied; or

(5) Operated the sexually oriented business in violation of the hours of operation provisions of the Land Use Code section 3.05(b)(21)(11); or

(6) Where the licensing officer has reason to believe that a violation of this chapter has occurred in a deliberate or wilful manner, or that the public health, safety, and welfare require immediate action on the part of the licensing officer, the licensing officer may summarily suspend the license of an adult use establishment or an adult use employee, and the notice of suspension shall contain notice that the adult use establishment or adult use employee may request a hearing to contest the suspension. Should the adult use establishment or the adult use employee within ten days after service of the suspension notice, request in writing, a hearing on the suspension, the licensing

officer shall set a hearing date within fourteen days, or at the next city board meeting, whichever first occurs. No suspension shall exceed thirty days unless prior to expiration of the thirty-day suspension a revocation proceeding is commenced; or

(7) The licensing officer may impose a civil penalty against the licensee, for any violations meriting a suspension or revocation, as provided in section 4A-37. If the licensee fails to pay the civil penalty, the licensing officer may provide that at the end of the period of suspension, if the civil penalty remaining at the time is still unpaid, the license shall be revoked.

(b) The suspension shall remain in effect until the violation of the statute, Code, ordinance, or regulation in question has been corrected. (Ord. No. 919, § 3 (part).)

Sec. 4A-13. Revocation of license.

(a) The licensing officer shall revoke a sexually oriented business license upon determining that:

(1) A cause of suspension in section 4A-12 of this article occurs and the license has been suspended within the preceding twelve months;

(2) A licensee gave false or misleading information in the material submitted during the application process that enhanced the applicant's opportunity to obtain a license; or

(3) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, Colorado Revised Statutes) on the premises; or

(4) A licensee or an employee has knowingly allowed prostitution on the premises; or

(5) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or

(6) A licensee has been convicted of a specified criminal act for which the time period set forth in section 4A-5(e) has not elapsed; or

(7) On two or more occasions within a twelve-month period, a person or persons committed an offense, occurring in or on the licensed premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license; or

(8) A licensee is delinquent in payment to the city or state for any taxes or fees; or

(9) A licensee or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises or personally engaged in the same; or

(10) The licensee has operated more than one sexually oriented business within the same building, structure, or portion thereof.

(b) When the licensing officer revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. (Ord. No. 919, § 3 (part).)

Sec. 4A-14. Transfer of license.

(a) A licensee shall not operate a sexually oriented business under the authority of a license at any place or other than the address designated in the application for the license.

(b) A licensee shall not transfer his/her license to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the license from the licensing officer which provides that he/she is now the licensee, which amendment may be obtained only if he/she has completed and properly filed an application with the licensing officer, setting forth the information called for under section 4A-5 in the application; and

(2) Pays a transfer fee of twenty percent of the annual license fee.

(c) No license may be transferred when the licensing officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

(d) A licensee shall not transfer his license to another location.

(e) Any attempt to transfer a license either directly or indirectly in violation of this section is hereby declared void, and the license shall be deemed revoked. (Ord. No. 919, § 3 (part).)

Sec. 4A-15. Judicial review of license denial, suspension of revocation.

After denial of an application, or denial of a renewal of an application, or suspension, or revocation of a license and a hearing before the city council as set forth in sections 4A-4, 4A-10, 4A-12, and 4A-13, the applicant may seek prompt judicial review of such administrative action in any court of competent jurisdiction. (Ord. No. 919, § 3 (part).)

Article III. Employee Requirements.

Sec. 4A-16. Sexually oriented business employees general requirements.

(a) **Qualifications.** Employees of an adult use establishment shall be not less than eighteen years of age. Every employee shall be of good moral character as defined in section 4A-1 of this chapter.

(b) **Approval for employment.** Before any person may work on licensed premises, he or she shall first obtain a sexually oriented business employee license as set forth in section 4A-18 of this title.

(c) **Prohibitions.** Notwithstanding any other applicable prohibitions as set forth in section 4A-37 of this chapter, employees shall not be permitted to mingle with patrons in a nude state and are prohibited from kissing or touching patrons. Further, it is unlawful for any employee of a sexually oriented business to receive tips from patrons other than through the receipt of such tips from one or more tip boxes or other containers designed to receive the tips. All tips for such employee shall be placed by the patron of the sexually oriented business into the tip box.

(d) Violation of the provisions of this Code or the rules and regulations of the licensing officer shall subject an employee to suspension or revocation of license. (Ord. No. 919, § 3 (part).)

Sec. 4A-17. Sexually oriented business employee license required.

It is unlawful, and a person commits a misdemeanor, if he or she works as an employee of a sexually oriented business without first obtaining an employee's license. (Ord. No. 919, § 3 (part).)

Sec. 4A-18. Application for employee's license.

(a) An employee shall submit an application for an employee's license on a form to be provided by the licensing officer. The application shall contain the applicant's name, address, date of birth, phone number, and the information required in section 4A-16 of this article.

(b) The licensing officer shall refer the employee license application to the Cortez police department for investigation to be made of such information as is contained on the application. The application process shall be completed within ten days from the date the completed application is filed. After the investigation, the licensing officer shall issue a license unless:

(1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the police department or other department of the city.

(2) The applicant is under age eighteen.

(3) The applicant has failed to provide the information required by this section.

(4) The license fee has not been paid.

(5) The applicant has been convicted of a specified criminal act within the times set forth in section 4A-5(e) of this chapter.

(6) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this chapter.

(7) The applicant has had a sexually oriented business employee license revoked by the city within two years of the date of the current application.

(c) A license granted pursuant to this section shall be subject to annual renewal

by the licensing officer upon the written application of the applicant and finding by the licensing officer and the Cortez police department that the applicant has not been convicted of any specified criminal act or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

(d) The employee license shall be subject to a fifty dollar fee, and a renewal shall be subject to a twenty-five dollar fee. (Ord. No. 919, § 3 (part).)

Article IV. Requirements for Licensed Establishments.

Sec. 4A-19. Inspection.

(a) An applicant or licensee shall permit representatives of the police department, licensing officer, building inspection department, the health department, and the fire department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business or at other times by mutual agreement.

(b) A person who operates a sexually oriented business or his agent commits a misdemeanor if he/she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. No. 919, § 3 (part).)

Sec. 4A-20. Records and reports— Authority to promulgate.

(a) Each licensee shall keep such records and make such reports as may be required by the licensing officer and the chief of the fire department to implement this chapter and carry out its purpose. By applying for a license under this chapter, an individual,

partnership, or corporation shall be deemed to have consented to the provisions of this chapter and to the exercise by the licensing officer of the powers given herein in the manner herein specified.

(b) The licensing officer is authorized to promulgate rules and regulations not inconsistent with this chapter or the Cortez City Code as are necessary to carry out the provisions of this chapter. (Ord. No. 919, § 3 (part).)

Sec. 4A-21. General requirements.

In addition to the special requirements contained in sections 4A-22 through 4A-25 of this article, each licensed premises shall:

(a) Conform to the requirements of the currently adopted city construction codes, unless a requirement in the currently adopted codes conflicts with a special requirement contained within this chapter.

(b) Conform to the requirements of the Uniform Fire Code, except to the extent that a requirement in the Uniform Fire Code conflicts with a special requirement contained in this chapter.

(c) In all cases wherein the occupant capacity, as determined by the fire chief, is at least fifty persons, exclusive of attendants and assistants, such structure shall have electric, battery-operated, emergency lights using reliable type storage batteries provided with suitable maintenance in properly charged condition, provided that dry batteries shall not be used, and further provided that electric storage batteries shall be approved by the fire chief for their intended use and shall comply with the National Electrical Code as adopted by the city.

(d) Conform to the requirements of the comprehensive zoning ordinance of the city.

(e) Conform to all other ordinances of the city.

For purposes of this section, the city of Cortez staff, including any health, building or fire officials shall render a decision regarding conformance to the general and special requirements noted in sections 4A-22 through 4A-25 of this article, below, within forty-five days of an application for a license. (Ord. No. 919, § 3 (part); Ord. No. 962 (part).)

Sec. 4A-22. Adult bookstore, adult novelty store and adult video store requirements.

In addition to the general requirements noted in section 4A-21 of this article, an adult bookstore, adult novelty store and adult video store shall observe the following special requirements:

(a) All materials and novelties shall be so displayed that they cannot be seen by anyone other than customers who have entered the licensed premises.

(b) If recordings are offered for sale or viewing on the premises and customers may listen to them while on the licensed premises, soundproof booths or rooms (peep booths) shall be available for use by customers who desire to listen or view such recordings, and each such booth or room on the premises are also subject to all requirements set forth in section 4A-25 of this article.

(c) It is unlawful for anyone to distribute for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others. Such devices include but are not limited to phallic-shaped vibrators, dildos, muzzles, whips, chains, bather restraints,

racks, nonmedical enema kits, body piercing implements (excluding earrings or other decorative jewelry), or other tools of sado-masochistic abuse. (Ord. No. 919, § 3 (part).)

Sec. 4A-23. Adult motion picture theater requirements.

In addition to the general requirements contained in section 4A-21 of this article, an adult motion picture theater shall observe the following special requirements and any peep booths located on or in the premises of any adult motion picture theater are also subject to the requirements set forth in section 4A-25 of this article:

(a) An adult motion picture theater having only a hall or auditorium for the showing of film material shall be considered a “place of assembly” within the meaning of the currently adopted city construction codes and shall conform to the requirements therefore.

(b) An adult motion picture theater having both adult motion picture booths and a hall or auditorium shall conform to the special requirements for both facilities provided for in this section and section 4A-25 of this article, provided that where the special requirements allow for common elements to be utilized or constructed, this may be done with the approval of the building inspector.

(c) There shall be provided within or adjacent to the common corridor, passageway or area in adult motion picture theaters having adult motion picture booths, adequate lavatories equipped with running water, hand-cleansing soap or detergent, and sanitary towels or hand-drying devices; common towels are prohibited. (Ord. No. 919, § 3 (part); Ord. No. 962 (part).)

Sec. 4A-24. Adult cabaret, adult theater and adult motel requirements.

In addition to the general requirements contained in Section 4A-21 of this article, an adult cabaret, adult theater and adult motel establishment shall observe the following special requirements:

(a) Any person employed or working in the licensed premises as a dancer shall, while dancing, perform upon a stage or similar structure specially designed for such dancing. Stages shall conform to the requirements of the currently adopted city construction codes and shall be a minimum of fifty square feet in size, including the requirements for appurtenant rooms if such appurtenant rooms are used by the establishment, provided that the dancers shall be provided with a dressing room or rooms that are not part of or used by the public as restrooms.

(b) Where a dancer performs upon a platform or other small structure designed to hold a small number of persons, which is not a stage nor equipped to be a stage for theatrical presentations, the platform shall be level and of sturdy construction and shall be securely fastened to the floor or wall during performances and shall be a minimum of seven feet from patrons to be seated. Steps and handrails shall be provided so that the dancer may ascend to the top of the platform safely under normal operating conditions of the establishment in all cases wherein the top of the platform is more than eight inches from the surface upon which the platform rests.

(c) It is unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth herein. A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other

containers to receive tips. All tips for such employees shall be placed by the patrons of the sexually oriented business into the tip box. A sexually oriented business that provides tip boxes for its patrons as provided for in this section shall post one or more signs to be conspicuously visible to the patrons of the premises in letters at least one inch high to read as follows: "All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited." (Ord. No. 919, § 3 (part); Ord. No. 962 (part).)

Sec. 4A-25. Requirements pertaining to the exhibition of sexually exhibit films or videos in peep booths.

In addition to the general and special requirements noted in sections 4A-21 through 4A-24 of this article, a person who operates or causes to be operated a sexually oriented business which exhibits on the premises in a peep booth a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas shall comply with the requirements of this article as follows:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures, and designating any portion of the premises at which patrons will not be permitted. A manager's station may not exceed thirty-two square feet of floor area with no dimension greater than eight feet. The diagram shall also designate the place at which this license will be conspicuously posted. A professionally prepared diagram in

the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of the interior of the premises to an accuracy of plus or minus six inches. The licensing officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. The application shall be sworn to be true and correct by applicant.

(b) At least one employee must be on duty and situated at each manager's station at all times that any patron is present inside the premises.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city or its designee.

(d) It is the duty of the owners and operators of the premises to ensure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any

patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to sections 4A-5 of this chapter.

(f) No door, screen or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent peep booths. The door or doors opening into the booth or room shall be incapable of being locked or otherwise fastened so that it or they will freely open from either side. Partitions between peep booths shall be considered nonbearing partitions, but they shall be so constructed as to have a fire-resistance rating of not less than one hour, or shall have approved sprinklers.

(g) It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed by any doors, walls, merchandise, display racks, or other materials or persons at all times and to ensure that no patron is permitted access to any area of the premises which has not been designated as an area which patrons will not be permitted in the application filed pursuant to this section.

(h) One clear window, facing the major portion of the licensed premises, covering

not less than one-fourth of the wall area into which the window is set or a minimum size of two feet by two feet, whichever is greater, which window shall not be covered or obstructed in any manner while the booth or room is in use.

(i) No peep booth may be occupied by more than one person at one time. No holes, shall be allowed in the walls or partitions that separate each viewing room from adjoining viewing room or restroom.

(j) A person having a duty under this section commits a misdemeanor if he/she knowingly fails to fulfill the duties imposed by this section.

(k) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two footcandles as measured at the floor level. It shall be the duty of the owners and operators, and it shall also be the duty of any agents 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. (Ord. No. 919, § 3 (part).)

Sec. 4A-26. Admission of minors unlawful.

It is unlawful for a licensee to admit or to permit the admission of minors under the age of eighteen years within a licensed premises. (Ord. No. 919, § 3 (part).)

Sec. 4A-27. Sale to minors unlawful.

It is unlawful for any person to sell, barter, or give, or to offer to sell, barter, or give, to any minor any service, material or thing sold or offered for sale by an adult bookstore, adult motion picture theater,

adult massage parlor, adult dancing establishment or other adult entertainment facility. (Ord. No. 919, § 3 (part).)

Sec. 4A-28. Cleaning of licensed premises requirements.

Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment, and supplies on the licensed premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises, but shall be disposed of daily or as often as necessary. (Ord. No. 919, § 3 (part).)

Sec. 4A-29. Self-inspection of premises by licensee.

The licensee of licensed premises, or his designated representative shall make sanitary inspections of the licensed premises at least once a month, and shall record his findings on a form supplied by the licensing officer. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises. (Ord. No. 919, § 3 (part).)

Sec. 4A-30. Sealing of unsanitary or unsafe conditions.

A licensed premises, or any part thereof, may be sealed by order of the licensing officer on his findings of a violation of this chapter resulting in an unsanitary or unsafe

condition. Prior to sealing, the licensing officer shall serve on the licensee, by personal service on him or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within twenty-four hours after service. If the violation is not so corrected, the licensing officer may physically seal that portion of the licensed premises causing the violation and order the discontinuance of use thereof until the violation has been corrected and the seal removed by the licensing officer. The licensing officer shall affix to the sealed premises a conspicuous sign labeled "Unclean" or "Unsafe," as the case may be. (Ord. No. 919, § 3 (part).)

Sec. 4A-31. Abatement as sanitary nuisance.

A licensed premises, or any part thereof, may be abated as a sanitary nuisance. (Ord. No. 919, § 3 (part).)

Sec. 4A-32. Interference with inspectors.

No person shall interfere with or obstruct inspectors in the performance of their official duties. (Ord. No. 919, § 3 (part).)

Sec. 4A-33. Tampering with notices, etc.

No person shall mutilate, obstruct, tear down, remove, or otherwise tamper with any official notice, seal or poster unless authorized to do so by the licensing officer by this chapter. (Ord. No. 919, § 3 (part).)

Sec. 4A-34. False statements prohibited.

No person shall knowingly make, induce, or cause to be made by another a false, untrue, or misleading statement or a signa-

ture of another on a certificate, application, registration, report or other document required to be prepared pursuant to this chapter. No person shall knowingly make a false, untrue, or misleading oral statement to the licensing officer as to any matter investigated by the licensing officer. (Ord. No. 919, § 3 (part).)

Sec. 4A-35. Alterations prohibited.

No person shall reproduce or alter or cause to be reproduced or altered a license, report, certificate or other document issued by the licensing officer if the purpose of the reproduction or alteration is the evasion or violation of a provision of this chapter or any other law. (Ord. No. 919, § 3 (part).)

Sec. 4A-36. Immunity from prosecution.

All officers and employees of the city who are acting within the scope of their authority and duties under this chapter shall be immune from prosecution, civil and criminal, for trespass upon real property. (Ord. No. 919, § 3 (part).)

Article V. Violations and Penalties.

Sec. 4A-37. Violations.

Any person who knowingly and wilfully:

(a) Operates, or procures or acquiesces in the operation of, an unlicensed premises contrary to the relevant requirements of this Code; or

(b) Admits, or procures or acquiesces in the admission of, a minor within a licensed premises; or

(c) Sells, barter, or gives or offers to sell, barter or give, or in an offer to sell, barter, or give to any minor any service, device, or thing sold or offered for sale by

an adult bookstore, adult cabaret, adult motel, adult arcade, adult motion picture theater, passage parlor, adult theater or peep booth; or

(d) Maintains, or procures or acquiesces in the maintaining of, a licensed premises in an unsanitary or unsafe condition contrary to the provisions of this chapter; or

(e) Having a duty to conduct the self-inspection required herein, fails or refuses, or procures or acquiesces in a failure or refusal to conduct the self-inspection; or

(f) Interferes with, or procures or acquiesces in an interference with, an inspector contrary to relevant provisions of this Code; or

(g) Maintains, or procures or acquiesces in the maintenance of, a nuisance on a licensed premises shall be guilty of a violation of this Code, as amended. For violations that are of a continuing nature, each day that the violation continues shall be a separate offense. (Ord. No. 919, § 3 (part).)

Sec. 4A-38. Civil penalties.

In addition to or in lieu of the penalties that may be otherwise imposed, the licensing officer may assess the following civil penalties:

(a) A person who operates or attempts to operate an adult bookstore, adult cabaret, adult motel, adult arcade, massage parlor, adult motion picture theater, adult theater or peep booth without having first obtained a license under this chapter may be assessed a civil penalty of up to three hundred dollars.

(b) An applicant for a license under this chapter, and any officer, director, partner, agent, or attorney of such an applicant, who knowingly makes a false statement or provides false information on any document or paper accompanying and forming a part of such application, shall be assessed

a civil penalty of up to two hundred dollars for each such false statement or false item of information.

(c) A licensee or employee who fails or refuses to renew his license within the period granted herein may be assessed a civil penalty of up to fifty dollars for each day beyond said period that said refusal or failure continues, but not to exceed three hundred dollars for each refusal or failure.

(d) A licensee, and any agent, officer, servant, or employee of a licensee, who maintains a nuisance on the licensed premises or permits the licensed premises to be unsanitary or unsafe may be assessed a civil penalty of up to one hundred dollars for each day that the nuisance or unsafe or unsanitary condition continues.

(e) A licensee who moves his licensed premises without approval by the licensing officer or who changes the name of his business without notifying the licensing officer may be assessed a civil penalty up to three hundred dollars.

(f) A licensee or employee who does not keep the records and make the reports required by any of the agencies herein may be assessed a civil penalty of up to fifty dollars for each violation.

(g) A licensee, any agent, officer, servant, or employee of a licensee who fails to correct violations of the general and applicable special requirements for the licensed premises may be assessed a civil penalty of up to two hundred dollars for each violation observed and not corrected within the period prescribed by the licensing officer, the building official or the fire chief, as the case may be.

(h) Any person who aids or participates in a violation for which a civil penalty may be assessed under this chapter shall be considered a principal in the violation and may be assessed a civil penalty of up to the maximum amount prescribed for that violation.

(i) Nothing herein contained shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include but not be limited to an equitable action for injunctive relief or an action at law for damages. All remedies and penalties provided for herein shall be cumulative and independently available to the city, and the city shall be authorized to pursue any and all remedies set forth in this section to the full extent of the law. (Ord. No. 919, § 3 (part).)

Sec. 4A-39. Assessment and recovery of civil penalty.

Civil penalties shall be assessed by the licensing officer, based upon findings certified by the building official, the police department, health inspection services, or the chief of the fire department. (Ord. No. 919, § 3 (part).)

Sec. 4A-40. Criminal penalties.

If any person fails or refuses to obey or comply with or violates any of the criminal provisions contained in this chapter, such person upon conviction of such offense shall be guilty of a misdemeanor and shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 919, § 3 (part); amended by memo 3519.) (Ord. No. 1170, § 5, 9-25-12)

Sec. 4A-41. Prohibition of the display of specified anatomical areas or non-live entertainment or performances exhibiting specified sexual activities in commercial establishments servicing and/or selling liquor.

(a) No retail license for or on a premises that allows consumption of alcoholic bev-

erages shall suffer or permit any person to appear on said license premises displaying specified anatomical areas or non-live performance or entertainment exhibiting specified sexual activities as defined in section 4A-1 of this chapter.

(b) Any person who shall violate any provision of this section shall be guilty of an offense against the city of Cortez, punishable as provided in sections 4A-38 and 4A-40 of this article.

(c) If the owner, operator, licensee, lessor, lessee, manager, employee, or any other person participating in the operation of a commercial establishment located within the city at which alcoholic beverages are offered for sale for consumption on the premises shall be convicted of any of the offenses herein, then the city clerk shall revoke the occupational license for said establishment after giving a reasonable notice thereof to the holder of said license and affording the holder an opportunity to be heard at the next city board meeting on as to why the revocation should not be issued.

(d) If any part, section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter, and the city council of the city hereby declares that it would have passed the ordinance codified in this chapter and each part, section, subsection, sentence, clause, or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

(e) The city council of the city hereby finds, determines and declares that this chapter is necessary and proper for the health, safety and welfare of the city and the inhabitants thereof.

(f) In view of the extraordinary potential risk for the proliferation of adverse secondary effects associated with sexually oriented businesses as located within the city absent the requirements of the regulations contained in this chapter, and the potential adverse consequences on the city and its inhabitants in the event the ordinance codified in this chapter does not become effective immediately, the city council of the city finds and declares that an emergency exists and the ordinance codified in this chapter is declared to be necessary for the immediate preservation of the public peace, health, safety and welfare.

Therefore, pursuant to Colorado Revised Statutes Section 31-16-105, as amended, this chapter shall be in full force and effect immediately upon adoption of the ordinance codified in this chapter. (Reference Liquor and Beer Code Regulations 47-900.) (Ord. No. 919, § 3 (part).)

CHAPTER 5.

ANIMALS AND FOWL.

For state law as to authority of city to regulate, etc., certain animals, see C.R.S. 1973, § 13-12-010(59). As to estrays, see C.R.S. 1973, §§ 13-12-701 to 13-12-707.

As to health and sanitation generally, see Ch. 14 of this Code.

- § 5-1. Definitions.
- § 5-2. License required.
- § 5-3. Issuance of tag and receipt.
- § 5-4. Persons required to pay the fee.
- § 5-5. Fees generally.
- § 5-6. Expiration of fees.
- § 5-7. Tags to be worn by dogs.
- § 5-8. Rabies control—Vaccination required.
- § 5-9. Chief of police to supply certificates and tags.
- § 5-10. Information required on tags.
- § 5-11. Duties of persons performing vaccinations.
- § 5-12. Tags to be worn by dogs—Certificates retained by owner.
- § 5-13. Certificate required as proof.
- § 5-14. Chief of police to keep official registry.
- § 5-15. Free vaccinations at the discretion of the chief of police.
- § 5-16. Possession of certificates and tags.
- § 5-17. Authority of humane officer.
- § 5-18. Interference with humane officer.
- § 5-19. Duty of humane officer.
- § 5-20. Keeping of fowl or poultry.

- § 5-21. Temporary keeping of horses, etcetera, for fairs, rodeos, etcetera.
- § 5-22. Riding, leading or driving horses, mules, cattle or goats on certain public areas.
- § 5-23. Releasing penned animals.
- § 5-24. Maintenance of certain animal yards.
- § 5-25. Maintenance of swine or dangerous reptiles.
- § 5-26. Maintenance of horses, goats, etcetera.
- § 5-27. Burial of dead animals and fowl.
- § 5-28. Maintenance of animals that disturb the peace.
- § 5-29. Poisoning of animals.
- § 5-30. Keeping of vicious animals.
- § 5-31. Running at large.
- § 5-32. Cruelty to animals.
- § 5-33. Allowing felines to disturb others.
- § 5-34. City animal pound created.
- § 5-35. Impounding of animals running at large.
- § 5-36. Notice of impoundment.
- § 5-37. Disposition of unclaimed animals.
- § 5-38. Quarantine and disposition of animals which bite or attack persons.
- § 5-39. Penalty.

Sec. 5-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Dog. A domestic canine of either sex, including one neutered or sterilized.

Cat. A domestic feline of either sex, including one neutered or sterilized.

Owner. Any adult person, keeping or harboring a dog or cat for a period of seven days or more or any household having a dog or cat in its possession shall be presumed to be the owner of such dog or cat.

Running at large. A dog shall be deemed to be running at large when it is off or away from the premises of its owner or keeper, or is not under direct control of such owner or keeper either by leash, cord or chain.

Harboring. The act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of seven days or more.

Fierce, dangerous or vicious propensities. A dog that bites, attacks or charges human beings or other animals unless such dog is provoked into making such an attack by acts designed to, and having the effect of provoking such an animal to bite, or attack or charge a person or animal making provocative attacks. A dog that in a vicious and terrorizing manner attacks or approaches or charges in apparent attitude of attack upon a person or other animal without provocation upon a street, sidewalk or other public ground, or other places to include the curtilage of private property normally open to the public; provided however, that if such biting or attacks occurs upon the premises of the owner of the animal, and the person or animal so bitten or attacked is not an invited guest, business or other authorized visitor, this definition shall not apply to such dog.

Inoculation, vaccination or vaccination for rabies. The inoculation of an animal shall be with a vaccine listed in the "Compendium of Animal Rabies Control." (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-2. License required.

It shall be unlawful for any person or persons to keep, harbor or allow to remain on the premises any male or female dog or male or female cat over the age of four months within the corporate limits of the city unless such person shall first obtain a license for such dog or cat. In order for a dog or cat license to be issued, a current rabies vaccination is required. The vaccination requirement shall be in accordance with the "Compendium of Animal Rabies Control." If there is no proof of a current rabies vaccination, a dog or cat license deposit must be left at the city animal shelter at the time of reclaiming an impounded animal. The license will then be issued upon verification of a current rabies vaccination to be provided by the dog or cat owner or by the veterinarian who has done the vaccination. The license shall be obtained by paying to the chief of police or an authorized representative a license fee as set by the city council by resolution.

It shall be unlawful for a person or persons to maintain on any premises more than four dogs over ten weeks of age without first applying for and receiving a conditional use permit to operate the premises as a kennel. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-3. Issuance of tag and receipt.

Upon the payment of such license fee the chief of police or an authorized representative shall issue a license tag and receipt to the owner or person obtaining a license for such dog or cat. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-4. Persons required to pay the fee.

Such fees, as required, shall be paid by the owner or person in charge of each and every dog remaining or residing within the city or at any time thereafter brought into the city for residence or keeping. (Ord. No. 654, § 2.)

Sec. 5-5. Fees generally.

Such fees shall be paid pro rata for the remainder of the year within which such dog is in or is brought into the city for residence or keeping. (Ord. No. 654, § 2.)

Sec. 5-6. Expiration of fees.

License fees shall be due and payable on the date of the rabies vaccination. The license shall expire on the date the rabies vaccination expires. Rabies vaccination periods may be one or three years. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-7. Tags to be worn by dogs.

All dogs shall wear or otherwise carry a license tag upon the collar or harness to be worn at all times within the city limits.

The owner of any cat shall provide proof of rabies vaccination upon request.

In the event of any loss or destruction of the original tag, the owner of the dog shall obtain a replacement tag from the chief of police or an authorized representative at a cost to be set by the city council by resolution. (Ord. No. 654, § 2; Ord. No. 889; Ord. No. 908.)

**Sec. 5-8. Rabies control—
Vaccination required.**

It shall be the duty of every person who owns or harbors any dog or cat in the city to have such dog or cat inoculated by a

person legally authorized to do so. Vaccinations shall be performed as set forth in the "Compendium of Animal Rabies Control" as promulgated by the National Association of State Public Health Veterinarians. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-9. Chief of police to supply certificates and tags.

The chief of police shall prepare certificates in triplicate together for distribution to persons legally authorized to vaccinate animals for rabies. Spaces for the following information and for any other such information as the chief of police may require to be filled in by persons legally authorized to vaccinate animals shall be provided. Minimum information requirements shall be as follows:

- (a) The name and address of the owner or harbinger of the inoculated animal;
- (b) Date of rabies inoculation;
- (c) Expiration date of rabies inoculation;
- (d) The year and rabies tag number of the animal tag;
- (e) Breed, age, color and sex of the inoculated animal. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-10. Information required on tags.

Rabies tags issued by persons qualified to vaccinate animals shall be made of a durable material suitable to be attached to the collar or harness of an inoculated animal. Such tags shall state the following:

- (a) The year of issue.
- (b) Rabies vaccination.
- (c) The name of the clinic.
- (d) City and state.
- (e) Clinic's telephone number.
- (f) Rabies tag number.

The cost of the inoculation shall be paid by the owner of the animal. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-11. Duties of persons performing vaccinations.

It shall be the duty of each person legally authorized to perform vaccinations on animals when inoculating any dog or cat to fill out one triplicate certificate obtained from the chief of police with the information required and immediately present one triplicate copy to the owner or harbinger of the inoculated animal. One triplicate copy will then be mailed to the chief of police or an authorized agent on a monthly basis. The remaining triplicate copy shall be retained by the person performing the vaccination.

At the time of a rabies inoculation of any dog or cat the person performing the rabies vaccination shall also provide to the owner or harbinger of such animal a rabies tag as evidence of such rabies inoculation. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-12. Tags to be worn by dogs—Certificates retained by owner.

Every owner or harbinger of a dog shall attach the tag evidencing inoculation of antirabies vaccine to the collar or harness of the inoculated dog and such collar or harness shall be worn by the animal at all times. The copy of the certificate shall be retained by the owner or harbinger of the inoculated dog for inspection by the chief of police or his authorized representative. (Ord. No. 654, § 2.)

Sec. 5-13. Certificate required as proof.

It shall be unlawful for any person who

owns or harbors a vaccinated animal to fail or refuse to exhibit his copy of the certificate of vaccination to any person charged with enforcement of this chapter. (Ord. No. 654, § 2.)

Sec. 5-14. Chief of police to keep official registry.

The chief of police or an authorized representative shall file and register copies of such triplicate certificates received as provided in this chapter and retain and file such as the official registry of all dogs and cats inoculated with antirabies vaccine for the city. Such vaccination registration shall be valid for a period from the date the vaccination was given until the date of its expiration in accordance with the type of vaccine and its expiration date. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-15. Free vaccinations at the discretion of the chief of police.

The chief of police may at his discretion provide for vaccination of any dog without cost or at a reduced rate to the owner or harbinger thereof in hardship cases and in such instances that vaccination services are not available elsewhere for a reasonable fee. (Ord. No. 654, § 2.)

Sec. 5-16. Possession of certificates and tags.

Only those persons who legally own or harbor a dog legally vaccinated in accordance with the provisions of this chapter shall be permitted to possess the certificate and tag as evidence of a rabies vaccination. No person or persons may affix a rabies tag evidencing a rabies vaccination to the collar or harness of any dog or cat except the tag

issued for the animal at the time of vaccination. (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-17. Authority of humane officer.

Any police officer, humane officer or other officer as designated by the chief of police is authorized to enforce any and all sections of this chapter. (Ord. No. 654, § 2.)

Sec. 5-18. Interference with humane officer.

It shall be unlawful for any person to interfere with, threaten, obstruct, delay or resist any such officer or agent, in the performance and discharge of his duty.

A person commits interference if he knowingly prevents, or attempts to prevent or delays a humane officer, acting under color of his official authority from

discharging his duties by:

(a) Using or threatening to use physical force or violence against the humane officer or another;

(b) Using any other means which creates a substantial risk of causing physical injury to the humane officer or another. (Ord. No. 654, § 2.)

Sec. 5-19. Duty of humane officer.

It shall be the duty of the humane officer or other designated representative of the chief of police to apprehend animals found running at large or otherwise in violation of this chapter and to impound such animals in the city pound or other place designated by the city. (Ord. No. 654, § 2.)

Sec. 5-20. Keeping of fowl or poultry.

It shall be unlawful for any person to keep fowl or poultry unless such fowl or poultry are at all times kept on the owner's premises and are maintained at least one hundred fifty feet from any building occupied as a residence or place of human habitation, lodging, restaurant, church, public building or public park, other than the owner's residence or place of business. "Poultry" and "fowl" as used in this section shall include all chickens, ducks, geese, pigeons, guineas, bantams and pinioned wild fowl. (Ord. No. 654, § 2.)

Sec. 5-21. Temporary keeping of horses, etcetera, for fairs, rodeos, etcetera.

The provisions of this chapter shall not be applicable to the temporary keeping of horses, cattle or other livestock upon any property within the city, used for the exclusive purpose of conducting rodeos, fairs, horse shows and similar functions, provided that such animals shall not be kept upon such premises more

than one week prior to, or one week subsequent to the rodeo, fair, horse show or similar function. (Ord. No. 654, § 2.)

Sec. 5-22. Riding, leading or driving horses, mules, cattle or goats on certain public areas.

It shall be unlawful for any person to ride, lead or drive horses, mules, cattle or goats on a public park, or public sidewalk in the city, or upon any of the parkway located in the center of the street within the city. (Ord. No. 654, § 2.)

Sec. 5-23. Releasing penned animals.

It shall be unlawful to break open or in any manner directly or indirectly aid or assist in breaking open any pen, enclosure or cage, with the intent of releasing any animal contained therein.

It shall be unlawful for any person to remove any impounded animal from the animal shelter, pound or kennel without the consent of the humane officer or designated officer or agency. (Ord. No. 654, § 2.)

Sec. 5-24. Maintenance of certain animal yards.

It shall be unlawful for any person who lawfully keeps any horse, mule, cow, sheep, goat, poultry or any other animal within the city to permit the yard or place therein which such animals are kept to become foul, noisome, putrid, malodorous, unwholesome or offensive, or in any way dangerous or detrimental to human health, comfort or welfare. Any place so maintained is hereby declared to be a nuisance and shall be subject to abatement. (Ord. No. 654, § 2.)

Sec. 5-25. Maintenance of swine or dangerous reptiles.

It shall be unlawful for any person to maintain or keep any swine or poisonous or dangerous reptile within the city. (Ord. No. 654, § 2.)

Sec. 5-26. Maintenance of horses, goats, etcetera.

It shall be unlawful for any person to maintain or keep any horse, mule, cattle, sheep or goats within the city within one hundred fifty feet of any building occupied as a residence, or place of human habitation, restaurant, church, public building or public park other than the keeper's own residence or place of business. Animals so kept or maintained shall not be permitted to run at large within the city. (Ord. No. 654, § 2.)

Sec. 5-27. Burial of dead animals and fowl.

No person shall bury or cause to be buried any dead animals or fowl or part thereof within the city. Any person having any dead animal or fowl unfit for food, an animal or fowl sick or injured and past recovery, or any animal or fowl in an offensive condition on his premises within the city, shall at once remove or cause such animal or fowl to be removed to the sanitary landfill at his own expense. (Ord. No. 654, § 2.)

Sec. 5-28. Maintenance of animals that disturb the peace.

It shall be unlawful for any person to keep or maintain any animal within the city which habitually or with regularity disturbs the peace and quiet of the neighborhood. To include, but not limited to: excessive barking, whining or howling, molesting passersby, chasing vehicles, bicycles or people, attacking other do-

mestic animals, depositing excretory matter on property other than that of the owner, damaging property or repeatedly running at large. The keeping of any such animal is hereby declared to be a nuisance. (Ord. No. 654, § 2.)

Sec. 5-29. Poisoning of animals.

It shall be unlawful for any person to poison a domestic animal or to distribute poison or toxicants on public or private property in any manner whatsoever with the intent of poisoning any domestic animal. (Ord. No. 654, § 2.)

Sec. 5-30. Keeping of vicious animals.

It shall be unlawful for any person to keep, harbor or have about any dog, animal or reptile which has bitten, attacked or molested any person or persons, or keep, harbor or have about any dog or animal with known tendencies toward being vicious, ill-tempered or harmful.

No dog of fierce, dangerous or vicious propensities, nor female dog in heat, or other animal, shall be allowed to run at large or upon the premises of another, other than the premises of the owner or keeper of such animal. If any dog is found to be running at large it shall be taken up and impounded.

If any dangerous, fierce or vicious animal so found at large cannot be safely taken up and impounded, such animal may be slain by the chief of police, or his designated representative without notice to owner or harbinger. (Ord. No. 654, § 2.)

Sec. 5-31. Running at large.

A dog shall be deemed to be running at large and permitted by the owner to run at large under any of the following circumstances:

(a) When the dog is off or away from the premises of the owner or keeper thereof and not under the direct control of such owner or keeper either by leash, cord or chain.

(b) When the dog is left unattended on any public property, whether or not the dog is secured by a leash, cord, chain or other means. (Ord. No. 654, § 2.)

Sec. 5-32. Cruelty to animals.

Abandoning animals. It is hereby prohibited and shall be unlawful for any person to willfully abandon any animal or to withhold food or water or adequate shelter from any animal such that its health is endangered or it is caused to suffer unduly. It is also prohibited to leave animals unattended in hot vehicles.

It shall also be unlawful for any person to torture, torment, beat, kick, strike, mutilate, injure, disable, tease, provoke, or needlessly kill any animal within the bounds of the city of Cortez. A violation of this section shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 654, § 2; Ord. No. 1020.) (Ord. No. 1170, § 6, 9-25-12)

Sec. 5-33. Allowing felines to disturb others.

It shall be unlawful for any person who harbors a feline animal (cat) to allow that animal to disturb other persons. Feline animals (cats) determined to be in fact disturbing others, on property other than the property of the owner or harbinger of the feline animal, shall be taken up and impounded by the chief of police or his designated representatives by any means not designed to harm the animal. Impounded feline animals are subject to impound fees as set by resolution of the city council. (Ord. No. 654, § 2.)

Sec. 5-34. City animal pound created.

There is hereby created a city animal pound which may be operated by local vendors on an annual contract basis which shall be operated under the direction and control of the chief of police.

All animals impounded shall be housed and cared for at the city animal pound; provided, however, that during an emergency period when pound facilities are inadequate, the chief of police is authorized to make provisions for additional care and housing elsewhere.

All animals impounded shall be properly housed, fed, watered and cared for under the guidelines of the state of Colorado department of health. (Ord. No. 654, § 2.)

Sec. 5-35. Impounding of animals running at large.

If any animal described in this chapter is found to be running at large in the city, it shall be the duty of the chief of police or his authorized representative to take up and confine such animal in a secure place designated for that purpose.

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses incurred in the treatment and/or impoundment of the animal.

Animals injured on public property or property other than the owners, and the owner is unknown or unable to be promptly notified, and the animal is obviously seriously injured and suffering, the animal, at the discretion of the chief of police or his authorized representative, may be destroyed on sight without liability to the city or officers involved. (Ord. No. 654, § 2.)

Sec. 5-36. Notice of impoundment.

During the first working day of the impounding of any animal found running at

large in violation of any provisions of this chapter, a written notice shall be posted at the designated place of impoundment describing such animal, the license tag number (if any) of such animal, the name of such owner or reputed owner, if known, and the hour and date of impounding. The owner of any animal so impounded may reclaim such animal upon presenting to the city animal shelter a receipt showing that such animal is properly licensed and vaccinated for rabies, if required, and upon payment to the city of all costs and charges incurred by the city for pickup and impounding of such animal. If such dog or cat owner or harbinger is unable to produce a valid rabies certificate, a rabies deposit must be left at the city animal shelter, which will be refunded once a rabies certification is presented and if presented within ten working days to the chief of police or an authorized agent. Charges for pickup and impounding any animal and for keeping any animal on a per diem basis shall be determined by the city council by resolution and hereinafter referred to as "impoundment fee." (Ord. No. 654, § 2; Ord. No. 889.)

Sec. 5-37. Disposition of unclaimed animals.

All animals impounded for running at large or otherwise impounded shall be kept for a minimum period of five days before disposal either by adoption or euthanasia, the five days herein meaning days that the shelter is open to the public for redemption of animals, with the following exceptions:

(a) The chief of police or his designated representative may determine that an animal without identification may be disposed of within three days if it is determined that the shelter has no additional resources for the animal or determines it to be dangerous.

(b) If the shelter receives the animal from the owner or representative of the owner, it

becomes the property of the shelter and may be disposed of by the shelter and in the manner that shelter policy dictates.

(c) If the animal is abandoned it becomes the property of the shelter and the chief of police or his designated representative may dispose of the animal in the manner and time that the chief of police or his designated representative determines.

(d) If an animal, in the opinion of the chief of police or his designated representative, is in great pain and suffering, it may be euthanized after exhausting reasonable efforts to contact the owner, if the owner is known. The shelter will use reasonable efforts to contact the owner for up to twenty-four hours.

(e) An animal may be euthanized at any time when in the judgment of the chief of police or his designated representative it is dangerous and represents a threat to employees of the shelter or other animals.

At the expiration of five working days from the date of impoundment, the animal may be adopted or disposed of by euthanasia, unless claimed by owner.

Uncontrollable or vicious animals may be destroyed at the owner's expense upon written authorization from the owner of the animal requesting prompt euthanasia for valid and lawful reasons or as authorized by the chief of police or a designated representative.

If an injured or ill animal at the city animal shelter appears to be suffering, the animal at the discretion of the chief of police or an authorized agent may be immediately euthanized. If the animal has only minor injuries or sickness it will be made comfortable for the five-day period as set forth in section 5-37 for unclaimed animals. Veterinarian treatment for sick animals within the shelter will be at the discretion of

the chief of police or an authorized representative. (Ord. No. 654, § 2; Ord. No. 889; Ord. No. 1073.)

Sec. 5-38. Quarantine and disposition of animals which bite or attack persons.

Any dog or other animal which has bitten a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer, the chief of police or his authorized representative. If the dog, cat or other animal is not confined on the owner's premises, confinement shall be impoundment in the city animal pound or at any veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. Stray dogs, cats or other animals whose owners cannot be located shall be confined in the city animal pound. Refusal to produce the dog, cat or other animal upon request of the chief of police or his authorized representative constitutes a violation of this section and each day of such refusal constitutes a separate and individual violation. (Ord. No. 654, § 2.)

Sec. 5-39. Penalty.

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall upon conviction thereof shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 654, § 2; amended by memo 3519.)
(Ord. No. 1170, § 7, 9-25-12)

CHAPTER 6

BUILDINGS.

As to plumbing generally, see Ch. 21 of this Code.

Article I. In General.

- § 6-1. International Building Codes—Adopted.
- § 6-1.1. Repealed.
- § 6-2. Currently adopted city construction codes—Copies on file.
- § 6-2.1. Approved and inspected modular homes.
- § 6-3. Repealed.
- § 6-4. Repealed.
- § 6-4.1. Electrical inspections required.
- § 6-5. Fire limits—Permit required for rebuilding, altering or enlarging.
- § 6-6. Same—Described.
- § 6-6.1. Unsafe buildings.
- § 6-6.2. Erection of buildings within potential flood areas; duties of building inspector and zoning and planning commission.
- § 6-6.3. Repealed.
- § 6-6.4. Repealed.
- § 6-6.5. Repealed.
- § 6-6.6. NFPA-211 Standard adopted.

Article II. Numbering of Buildings.

- § 6-7. "House" defined.
- § 6-8. System established; street designations and operation of system generally.

- § 6-9. Display and regulation of number plates.
- § 6-10. Building official to furnish information.
- § 6-11. Compliance with article required.
- § 6-11.1. Street numbering in certain annexed areas and subdivisions.
- § 6-11.2. Official status of such numbers.
- § 6-11.3. Conflicts.
- § 6-11.4. Street renumbering in the city.

Article III. Building Department, Building Official and Board of Appeals.

- § 6-12. Building department created.
- § 6-13. Building official—Powers and duties generally.
- § 6-14. Same—Right of entry for inspection—Buildings under construction.
- § 6-15. Same—Same—Occupied buildings.
- § 6-16. Same—Same—Unsafe buildings.
- § 6-17. Same—Same—Emergencies.
- § 6-18. Same—Stop-work orders.
- § 6-19. Same—Occupancy violations.
- § 6-20. Same—Liability.
- § 6-21. Same—Cooperation of other officials.
- § 6-22. Board of appeals created.
- § 6-23. Repealed.
- § 6-24. Repealed.
- § 6-25. Repealed.
- § 6-26. Repealed.

Article I. In General.

For state law as to authority of city to regulate building construction generally, see CRSA § 31-15-601.

Sec. 6-1. International Building Codes—Adopted.

There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Fire Code (IFC), 2009 Edition, Copyright 2009, 1st Printing, prepared by the International Code Council (ICC), 5360 Workman Mill Road, Whittier, California, and containing a total of five hundred and three pages.

There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Building Code (IBC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, containing one volume with a total of seven hundred and six pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Residential Code (IRC), 2009 Edition, Copyright 2009, 1st Printing, except for Section 105.2 #1, Section 105.2 #10, and Section 313, prepared by said International Code Council, and containing a total of eight hundred ninety-one pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Existing Building Code, (IEBC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of two hundred ninety-four pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Mechanical Code (IMC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred forty-five pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Plumbing Code (IPC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred seventy pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Energy Conservation Code (IECC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of ninety pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Property Maintenance Code (IPMC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of fifty pages.

There is likewise adopted by reference, as though the same were fully printed and set forth herein, the International Fuel Gas Code (IFGC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred seventy-seven pages.

There is likewise adopted as set forth herein, the following local minimum construction standards:

THE CITY OF CORTEZ SUPPLEMENT TO THE INTERNATIONAL BUILDING AND RESIDENTIAL CODES

(a) Due to the unique soils and weather conditions that each structure must perform under, the City of Cortez has adopted the following specific construction standards. The items listed are more stringent

than the standards delineated within the currently-adopted construction codes enforced by the City of Cortez.

(1) Minimum eight inches by sixteen inches concrete spread footing with two #4 rebar suspended horizontally to allow for three inches of concrete coverage.

Exception: Minimum concrete spread footing may be less than eight inches by sixteen inches, if the foundation is designed and stamped by a Colorado Licensed Engineer and foundation design is site specific.

(2) Minimum eight-inch wide stem wall with two #4 rebar installed horizontally and verticals spaced at forty-eight inches on center minimum for dwellings. When insulated concrete forms are utilized, the width shall be measured from interior to interior of said forms.

Exception: Minimum stem wall width may be less than eight inches if the foundation stem wall is designed and stamped by a Colorado Licensed Engineer and stem wall design is site specific.

(3) Gypsum wall board installed on a ceiling shall be a minimum of five-eighths-inch in thickness.

(4) Sheathing for roofs shall be a minimum of five-eighths-inch in thickness installed with the required one-eighth-inch air gap.

(5) Roofing material installed must be rated to withstand a ninety-mph three-second wind gust/forty mph sustained.

There are likewise previously-adopted appendix chapters in ordinance form that council has determined are desirable to retain, as though the same were fully printed and set forth herein, as part of the construction codes for the City of Cortez, Colorado, as follows:

(a) Ordinance No. 851, Series 1997—Construction Standards for the Construction of Straw Bale Homes with Load Bearing and Non-Load Bearing Walls;

(b) Ordinance No. 862, Series 1998—Construction and Maintenance Standards for Commercial Wireless Antennas and Supporting Towers;

(c) Ordinance No. 953, Series 2001—Manufactured Housing Installations in Accordance with State Resolution #37; and

(d) NFPA-211 Standards for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2000 Edition, Copyright 2000, 1st Printing, prepared by the National Fire Protection Association, 11 Tracy Drive, Avon, MA, and containing a total of forty-seven pages. (Ord. No. 855, § 2; Ord. No. 962 (part); Ord. No. 1087, § 2 (part).) (Ord. No. 1137, § II)

For state law as to authority of city to adopt by reference, see CRSA § 31-16-201 et seq.

As to the Fire Prevention Code, see §§ 10-1, 10-2 of this Code. As to the Plumbing Code, see §§ 21-1, 21-2.

Sec. 6-1.1. Repealed by Ord. No. 634.

Sec. 6-2. Currently adopted city construction codes—Copies on file.

Three true and exact official copies of the above-described 2009 Editions of the IBC, IRC, IEBC, IMC, IPC, IECC, IPMC, IFGC, and IFC are on file in the municipal offices of the city of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any interested person during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 855, § 3; Ord. No. 962 (part); Ord. No. 1087, § 3 (part).) (Ord. No. 1137, § III)

Sec. 6-2.1. Approved and inspected modular homes.

Notwithstanding anything in this chapter to the contrary, and any modular home

erected upon a foundation within the city which bears an inspection tag of "Factory Built" issued by the state of Colorado, shall be deemed to satisfy the minimum requirements of the currently adopted city construction codes of this city and such modular home shall be approved by the city building inspector upon satisfactory evidence that such modular home has been so inspected, the state inspection tag being attached to the same certified as meeting state requirements. Except as herein amended, the currently adopted city construction codes shall remain unchanged. (Ord. No. 457, § 1; Ord. No. 962 (part).)

Sec. 6-3. Repealed by Ord. No. 539.

Sec. 6-4. Repealed by Ord. No. 539.

Sec. 6-4.1. Electrical inspections required.

All structures which have been issued a city building permit must have a final electrical inspection done by the state electrical inspector prior to the issuance of a final certificate of occupancy by the city's building department.

Sec. 6-5. Fire limits—Permit required for rebuilding, altering or enlarging.

Where a building is partially destroyed by fire within the fire limits and the owner desires to rebuild such building, or to alter or enlarge a building already constructed, he shall make application for a permit as in the case of a new building, and the building official shall decide whether or not he may rebuild, alter or enlarge such building with the same material. (Code 1968, § 13-2-1.)

For state law as to authority of city to regulate building construction within fire limits, see C.R.S. 1973, § 31-12-101(43).

As to fire protection generally, see Ch. 10 of this Code.

Sec. 6-6. Same—Described.

The fire limits of the city shall be as are set out on a map which shall be kept in the office of the city clerk. The fire limits shall be as are set by the city council and described on such map. Such map shall be available for public inspection during the normal office hours of the city clerk.

For state law as to authority of city to prescribe fire limits, see C.R.S. 1973, § 31-15-601(d), (k).

Sec. 6-6.1. Unsafe buildings.

All structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in appropriate chapters of the currently adopted city construction codes. (Ord. No. 488, § 12; Ord. No. 962 (part).)

Sec. 6-6.2. Erection of buildings within potential flood areas; duties of building inspector and zoning and planning commission.

(a) The city building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

(1) Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;

(2) Use construction materials and utility equipment that are resistant to flood damage; and

(3) Use construction methods and practices that will minimize flood damage.

(b) The city zoning and planning commission shall review subdivision proposals and other proposed new developments to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(c) The city zoning and planning commission shall require new or replacement water supply systems or sanitary sewage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Ord. No. 473, §§ 1—3.)

tional Fire Protection Association, NG-Fire Safety, 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101, with a total of forty-seven printed pages.

(b) **Copies on file.** Three true and exact official copies of the above NFPA-211 Standard are on file in the municipal offices of the city, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any person interested during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 879, §§ 1, 2; Ord. No. 962 (part).)

Sec. 6-6.3. Repealed November 27, 2001.

For state law as to authority of city to adopt by reference, see C.R.S. 1973, §§ 31-16-202 to 31-16-204.

Sec. 6-6.4. Repealed November 27, 2001.

Sec. 6-6.5. Repealed November 27, 2001.

Sec. 6-6.6. NFPA-211 Standard adopted.

(a) **Adoption by reference.** There is hereby adopted by reference, as though the same were fully printed and set forth herein, the NFPA-211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2000 Edition, prepared by the Na-

Article II. Numbering of Buildings.

For state law as to authority of city to compel the numbering of buildings, see C.R.S. 1973, § 31 15-601(i).

Sec. 6-7. "House" defined.

For the purposes of this article, the word "house" shall mean any building used for dwelling or business purposes. (Code 1968, § 13-6-1.)

Sec. 6-8. System established; street designations and operation of system generally.

(a) The intersection of Main and Market Streets shall be the base points for such numbering system. Main Street shall be the base for the numbering of houses on streets running north or south or at a relative curve or angle from Main Street. Market Street shall be the base for the numbering of houses on streets running east or west or at a relative curve or angle from Market Street.

(b) All streets running north, south, east, or west or at a relative curve or angle from the base street shall contain the appropriate prefix, North, South, East or West as a part of the official name of such street.

(c) The north and east sides of streets shall be even numbers and the numbers on the south or west sides of street shall be odd numbers.

(d) There is hereby established a number for each twelve and one-half feet, which number shall be in consecutive odd or even order depending upon the side of the street, beginning with 1 and 2 at the property adjacent to the base street; numbers in the first block from the base street shall be from 1 to 99, in the second block from 100 to 199 and in such manner each block removed from the base street shall begin a new hundred

serial. In new subdivisions, the 12.5 foot distance for numbering shall be followed as closely as is reasonably possible, but with modifications that may seem necessary. (Code 1968, § 13-6-2; Ord. No. 592, § 1.)

Sec. 6-9. Display and regulation of number plates.

Each house within the limits of the city shall display in a prominent place upon the front side of such house, a number plate and number, which shall be of uniform size, style and type as follows:

(a) All numbers shall be upon a reflector type plate.

(b) All plates shall be nine inches by three and one-fourth inches in size.

(c) All numbers shall be three inches by three inches in size.

(d) All plates shall be made of metal with glass face, with black background and white reflector numbers. (Code 1968, § 13-6-3.)

Sec. 6-10. Building official to furnish information.

The building official shall upon request furnish information as to the correct number or numbers applicable to any house upon being furnished with the proper lot and block number. (Code 1968, § 13-6-4.)

Sec. 6-11. Compliance with article required.

It shall be unlawful for any person owning or having control of any house within the city limits to fail or refuse to comply with the provisions of this article. (Code 1968, § 13-6-5.)

Sec. 6-11.1. Street numbering in certain annexed areas and subdivisions.

(a) Notwithstanding any language in this article to the contrary, from and after the effective date of the ordinance codified in sections 6-11.1 through 6-11.3, it shall be the duty of the city manager and his staff, and he is likewise empowered and directed, to cause to be examined all official plats of annexed areas and subdivisions now on file or to be hereafter filed with the city of Cortez.

(b) Upon such examination it shall be his duty, aided by his staff, to assign numbers to each lot platted on such plat and to cause such number to be engraved on the official plat of the city, whether any such lot is vacant or occupied by a building.

(c) Such numbering of said lots shall be in an orderly sequential manner so that each lot bears a logical numbering sequence with all other lots in said subdivision or addition to the end that confusion and duplication of numbers within said subdivision or addition will be avoided.

(d) Such plats, after the numbers have been engraved thereon, shall be indexed and preserved in an orderly filing system in the city administration building and it shall be the duty of all persons owning a structure erected upon such lot to display a number plate upon such building as required by section 6-7 of this article.

(e) After all numbers have been engraved on said official plats it shall be the duty of the city manager to notify the owner or occupant of the official number assigned to said premises with a demand that such number be attached to any building thereon.

(f) If any such lot is vacant and unoccupied, it shall be the duty of the city building inspector to notify the owner of any building to

be thereafter erected thereon of such official number and the same shall be printed on any building permit thereafter issued. (Ord. No. 592, § 1.)

Sec. 6-11.2. Official status of such numbers.

(a) The numbers engraved on such lots or parcels of land within said annexed areas and/or subdivisions shall be deemed to be the official house or building number for all purposes including, but not limited to, mail service United States Postal System or any other authorized delivery service serving the inhabitants of such annexed area and/or subdivision. (Ord. No. 592, § 1.)

Sec. 6-11.3. Conflicts.

(a) In the numbering of such lots should it appear that any structure has affixed a house or business number thereon which conflicts with the orderly sequential numbers engraved thereon, it shall be the duty of the owner of such house or business building to remove such conflicting number and to install the proper number upon being notified of such conflict by the city manager. (Ord. No. 592, § 1.)

Sec. 6-11.4. Street renumbering in the city.

(a) Notwithstanding any language in this article to the contrary, from and after the effective date of the ordinance codified in this section, it shall be the duty of the city manager and his staff, and he is likewise empowered and directed to cause to be examined the entire numbering system and street naming system in the city of Cortez and upon such examination it shall be his duty, aided by his staff, to assign or reassign numbers to each business, lot or individual tract. Such numbering shall be in an orderly sequential manner so that each

identified area bears a logical numbering sequence with all the others in that area to the end that confusion and duplication and improper spacing of numbers shall be avoided or corrected.

(b) Such numbers shall be indexed and preserved in an orderly filing system in the City Administration Building on official plats, and it shall be the duty of all persons owning a structure erected upon such lot to display a number plate on such building as required by Section 6-7 of this article.

(c) After all such numbers have been assigned and placed on such official plats, it shall be the duty of the city manager and his staff, to notify the owner/occupant of the official number assigned to such premises with a demand that such number be attached to any building thereon.

(d) If any such lot is vacant and unoccupied, it shall be the duty of the city building inspector to notify the owner of any building to be thereafter erected thereon of the official number and the same shall be printed on any building permit thereafter issued.

(e) Conflicts. If, in the numbering of such lots, tracts or premises as hereinbefore provided, should it appear that any structure has been affixed to a house or business the number therein which conflicts with the orderly sequential numbers engraved thereon, it shall be the duty of the owner of such lot, tract or premises to remove such conflicting numbers and to install a proper number on the improvements upon being notified of such conflict by the city manager. (Ord. No. 663.)

Article III. Building Department, Building Official and Board of Appeals.

Sec. 6-12. Building department created.

There is hereby established in the city the building department which shall be under the jurisdiction of the building official designated by the appointing authority. (Ord. No. 483, § 5.)

Sec. 6-13. Building official—Powers and duties generally.

(a) **Generally.** The building official is hereby authorized and directed to enforce all the provisions of the currently adopted city construction codes.

(b) **Appointment of deputies.** In accordance with the procedure and with the approval of the chief appointing authority of the municipality, the building official may appoint such number of officers, inspectors, assistants and other employees as shall be authorized from time to time. He may deputize such employees as may be necessary to carry out the functions of the building department.

(c) **Reports and records.** The building official shall submit a report to the proper city official not less than once a year, covering the work of the department during the preceding period. He shall incorporate in such report a summary of his recommendations as to desirable amendments to the currently adopted city construction codes.

(d) **Account of fees and monies.** The building official shall keep a permanent, accurate account of all fees and other monies collected and received under the currently adopted city construction codes, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which

they relate. (Ord. No. 483, § 6; Ord. No. 962 (part).)

Sec. 6-14. Same—Right of entry for inspection—Buildings under construction.

Whenever in the judgment of the building official or any of his deputies it becomes necessary to make an inspection of a building under construction, the building official or his authorized representative shall have at all times right to enter upon the premises where such building is being constructed and upon presenting his credentials to the owner thereof or such person as is in charge of construction and stating his reasons therefor, he shall then have the right to make such reasonable inspection of such premises to determine whether compliance with the provisions of the currently adopted city construction codes is met. (Ord. No. 483, § 7; Ord. No. 962 (part).)

Sec. 6-15. Same—Same—Occupied building.

(a) **Inspection.** The building inspector or his authorized representative shall have the right during daylight hours to make an inspection of such occupied building whenever he has reasons to believe that such inspection is reasonably necessary to enforce any of the provisions of the currently adopted city construction codes; provided, however, that in case of an occupied building, the building inspector must first present himself to the owner or occupant as the case may be, and after presenting his credentials shall make a request for an inspection of the premises stating his reasons therefor. If the owner or occupant should refuse entry to the building inspector after he has presented his credentials and stated his reasons for making such inspection and should the building inspector

or his representative then believe that such refusal was arbitrary, capricious or unreasonable, the building inspector shall then have a right to file a complaint in the municipal court of the city, charging the owner or occupant or both with unreasonable refusal to permit his inspection. The court shall then set the matter for hearing and the defendant shall have the right to be represented at such hearing by counsel of his choice. If the court should determine that the request for admittance by the building official or his representative was unreasonable, capricious and without any basis and that the request for inspection was an unreasonable request, then the court shall dismiss the matter. On the other hand, if the court should find that the reasons for inspection given by the building official or his authorized representative were not arbitrary, unreasonable or capricious and that the refusal of the defendant to permit such inspection was in fact unreasonable, arbitrary or capricious, then the court may find the defendant guilty and he may be fined in the manner and to the extent as provided in this article.

(b) **Final inspection to ensure compliance with standards.** After the building inspector has completed his inspection he shall then deliver to the owner or occupant a written list of requirements necessary to comply with applicable portions of this Code and the owner or occupant shall have a reasonable time to comply with such requirements. Upon so complying the owner or occupant shall notify the building inspector by certified mail of that fact and the inspector shall then have a right to make a final inspection to determine if such requirements have been met. (Ord. No. 483, § 6; Ord. No. 484, § 2; Ord. No. 962 (part).)

Sec. 6-16. Same—Same—Unsafe buildings.

Whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe as defined in section 6-7 of this Code, the building official or his authorized representative shall first present himself to the owner thereof or the occupant and deliver to such owner or occupant, written reasons why the building official believes that such premises are unsafe as defined herein. If the owner or occupant believes that such reasons appear to be reasonable and that a dangerous condition does in fact exist, then he may admit the building official or his representative to the premises to make such inspection to the end that such dangerous condition may be removed. If on the other hand, the owner or occupant believes that such request is arbitrary, capricious or unreasonable and he should refuse such request, then the building official shall have the right to file a complaint in the municipal court of the city charging such owner or occupant or both with such unreasonable refusal and the matter shall be heard by the court as provided in section 6-15, subsection (a) of this Code. (Ord. No. 483, § 6.)

Sec. 6-17. Same—Same—Emergencies.

Whenever in the judgment of the building official or his authorized representative, it appears that there exists in a building a condition which poses an immediate threat to life or property and there is not sufficient time because of such emergency and the threat to human life or property in which to provide notice as in sections 6-14 to 6-16 of this Code, the building official shall make every bona

fide effort to locate the owner or occupant thereof and to notify him orally of the dangerous condition. If the owner or occupant then refuses admission to the premises of the building official or his representative, the building official with the aid of the city attorney's office may then apply for and obtain a mandatory injunction from the district court of the county, such injunction to be ex parte and without notice as provided by law, and with such injunctive order the building official or his representative may then enter the premises and take such steps as are necessary to remove the threat of harm to life, limb or property as the case may be; provided, however, that if the threat is so pressing and the time within which to remedy the same is so short as to make it impossible to apply to the district court for such mandatory injunction and should the threat of harm to life, limb or property be so grave and immediate that action must be taken at once, the building official shall have the right in the company of the chief of police of the city and the chief of the fire department to enter such premises with or without consent of the occupant or owner in order to remove such dangerous condition or instrumentality.

"Authorized representative" shall include the officers named in section 6-11.2, subsection (b).

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the building official or his authorized representative for the purpose of inspection and examination pursuant to this article. Any person violating this section may be found guilty of a misdemeanor and upon conviction shall be subject to the

finest set forth in section 6-26. (Ord. No. 483, § 6.)

Sec. 6-18. Same—Stop-work orders.

Whenever any building work is being done contrary to the provisions of the currently adopted city construction codes, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work. (Ord. No. 483, § 8; Ord. No. 962 (part).)

Sec. 6-19. Same—Occupancy violations.

Whenever any structure is being used contrary to the provisions of the currently adopted city construction codes, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of the currently adopted city construction codes; provided, however, that in the event of an unsafe building; section 6-7 of this Code shall apply. (Ord. No. 483, § 9; Ord. No. 962 (part).)

Sec. 6-20. Same—Liability.

The building official or any employee charged with the enforcement of the currently adopted city construction codes, acting in good faith and without malice for the city in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by

reason of any act or omission in the discharge of his duties. Any suit brought against the building official or employee, because of such act or omission performed by him in the enforcement of any provisions of the currently adopted city construction codes, shall be defended by the legal department of the city until final termination of the proceedings. (Ord. No. 483, § 10; Ord. No. 962 (part).)

Sec. 6-21. Same—Cooperation of other officials.

The building official may request, and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the city. (Ord. No. 483, § 11.)

Sec. 6-22. Board of appeals created.

There is hereby created a board of appeals which shall be created in accordance with paragraph 6-15, board of adjustment of the Cortez Land Use Code, and all provisions of paragraph 6-15 shall be adhered to.

All appeals to the board shall be in accordance with paragraph 6-15 of the Cortez Land Use Code. (Ord. No. 488, § 13; Ord. No. 963 (part); Ord. No. 1006 (part).)

Sec. 6-23. Repealed February 10, 2004.

Sec. 6-24. Repealed February 10, 2004.

Sec. 6-25. Repealed February 10, 2004.

Sec. 6-26. Repealed February 10, 2004.

CHAPTER 7.

CIVIL DEFENSE AND EMERGENCIES.

For state law as to authority of city to establish civil defense organization, see C.R.S. 1973, §§ 28-1-2, 28-2-108. As to civil defense generally, see C.R.S. 1973, § 28-2-101 et seq.

- § 7-1. Mayor to establish program; scope of program.
- § 7-2. Mayor may delegate authority.
- § 7-3. Enforcement of chapter.
- § 7-4. Disclaimer of liability of city, etc.
- § 7-5. Effect of section 7-4 on workman's compensation, etc.; chapter and rules promulgated thereunder deemed governmental function.

Sec. 7-1. Mayor to establish program; scope of program.

The mayor of the city is hereby empowered and authorized to promulgate in writing such rules and regulations as may be reasonably necessary for the protection of life and property within the city from dangers or hazards created or increased by the existing state of war or for the coordinating of an efficient program of civilian defense, including, but not by way of limitation:

(a) Defense of the city and its inhabitants against air raids or attack, warnings

to be given, black-outs and care of persons and property during such emergency.

(b) Prevention of sabotage of property within the city and designation of insignia and symbols to be used by authorized civil defense workers or organizations.

(c) Control of traffic movements, evacuation of residents, systems of warning and alarm and conduct of persons during practice black-outs. (Code 1968, § 1-5-1.)

Sec. 7-2. Mayor may delegate authority.

The mayor is authorized to delegate in writing to such agencies or persons as he may designate or appoint for such purpose the authority granted by this chapter. (Code 1968, § 1-5-2.)

Sec. 7-3. Enforcement of chapter.

The law enforcement authorities of the city are authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter. (Code 1968, § 1-5-3.)

Sec. 7-4. Disclaimer of liability of city, etc.

Neither the city, nor its agents or representatives who, in good faith, carry out, comply with or attempt to carry out or comply with any order, rule, regulation or command promulgated pursuant to this chapter shall be liable for any injury or death to any person or damage to any property as the result of such activity. (Code 1968, § 1-5-4.)

**Sec. 7-5. Effect of section 7-4 on
workman's
compensation, etc.;
chapter and rules
promulgated thereunder
deemed governmental
function.**

(a) Section 7-4 shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under the Workman's Compensation Act or other pension law.

(b) This chapter and any rules, regulation or order promulgated hereunder shall constitute the exercise by the city of its governmental functions. (Code 1968, § 1-5-5.)

CHAPTER 7A.

DISPOSAL OF PROPERTY.

Article I. Property Received as Evidence.

- § 7A-1. Safekeeping by officer pending disposition—Records required.
- § 7A-1.1. Property turnover.
- § 7A-2. Return of property not needed as evidence—Procedure.
- § 7A-3. Receipt from owner of returned property.
- § 7A-4. Sale of unclaimed property—Disposition of proceeds.
- § 7A-5. Property seized from person—Duplicate receipts.

Article II. Found Property.

- § 7A-6. Storage period.
- § 7A-7. Return to finder.
- § 7A-8. Unclaimed property.
- § 7A-9. Retention of receipts.

Article III. Disposal of Unclaimed Property.

- § 7A-10. Purpose of provisions.
- § 7A-11. Definitions.
- § 7A-12. Procedure for disposition of property.
- § 7A-13. Exceptions.

Article I. Property Received as Evidence.

Sec. 7A-1. Safekeeping by officer pending disposition—Records required.

When personal property comes into the possession of a police officer of the city either in execution of a search warrant, or pursuant

to an arrest of a person with or without warrant, or is received or taken by him as evidence in connection with any public offense, he shall hold it in safe custody until it is received into evidence or, if it is not used as evidence, until it can be disposed of as provided in this chapter. While in the custody of such officer, a proper record shall be maintained reflecting the ownership of the property, if known, and the case or cases for which it was taken or received and is being held. (Ord. No. 577, Art. I.)

Sec. 7A-1.1. Property turnover.

Any property turned over to the Cortez police department by any other law enforcement agency shall be subject to all provisions of this Chapter 7, including being subject to destruction or return in accordance with the guidelines set forth in this chapter. (Ord. No. 1090 (part).)

Sec. 7A-2. Return of property not needed as evidence—Procedure.

Property so obtained which is not needed as evidence shall be returned to the owner if he may lawfully possess it. When the police officer or the agency by which he is employed becomes aware that the property is not needed, the district attorney and/or the city attorney shall be so advised, giving a description and details of ownership. When the police chief or his designated agent, by such notice or otherwise, becomes aware that the property is not needed, he shall give written notice to the owner. Upon proof of ownership and of lawfulness of possession satisfactory to the police chief, the police chief shall give the owner written authorization which shall entitle the owner to receive the property from the person having custody of it. When property so ob-

tained is received in evidence, it shall be retained by the clerk of the court last receiving it or shall be returned by him to the custody of the police officer until all direct appeals and retrials are final, at which time the property shall be returned in accordance with this section.

In the event that the district attorney or city attorney considers it necessary to retain control over the evidence, in anticipation of possible collateral attacks upon the judgment or of use in some potential prosecution, he may decline to authorize return. (Ord. No. 577, Art. II; Ord. No. 812, § 1.)

Sec. 7A-3. Receipt from owner of returned property.

Whenever property is returned to the owner, a receipt shall be taken from him listing in detail the property returned. The receipt shall be retained on record (shall be held in accordance with Colorado Revised Statutes, 1973, Sections 24-80-101 through 24-80-112) in the files of the city police department or the court where the case is finally resolved. (Ord. No. 577, Art. III.)

Sec. 7A-4. Sale of unclaimed property—Disposition of proceeds.

If the property is not claimed by the owner before the expiration of thirty days from the receipt of notice, or if the owner is unknown and no claim of ownership has been made, the city police department having possession of the property shall sell it at public auction, as provided by law for the sale of personal property on execution, and with the proceeds pay:

(a) The necessary expenses incurred in the preservation of such property and its sale; and

(b) Any balance to the director of finance under the provisions of Article VIII of the Charter.

The said property may also be destroyed at the discretion of the police chief or his designated representative. (Ord. No. 577, Art. IV; Ord. No. 1090 (part); Ord. No. 1098 (part).)

Sec. 7A-5. Property seized from person—Duplicate receipts.

When money or other property is seized with or without a warrant, the police officer seizing it shall at the time deliver a receipt to the person from whom it is taken and file a duplicate in the office of the city police department. If the custody of the property is transferred to another police agency or the property is placed in evidence, a copy of the receipt shall accompany it until disposition of the property is made in accordance with the provisions of this chapter. (Ord. No. 577, Art. V.)

Article II. Found Property.

Sec. 7A-6. Storage period.

When personal property is turned over to the police department by citizens who found the same, the property shall be stored by the city for a period of not less than thirty days or until someone who can establish themselves as the rightful owner claims and removes the property. (Ord. No. 674, 1; Ord. No. 1098 (part).)

Sec. 7A-7. Return to finder.

If the property is maintained for a period of thirty days and is unclaimed by any person, then the property may be returned to the finder of the same, who shall acknowledge receipt of the property. The receipt shall contain the warning:

The City of Cortez or the Police Department make no determination as to the legal ownership of the property, but is returning same to the finder who first brought the property to the City of Cortez. If, in the future, there is any question concerning the true ownership of the property then the City of Cortez has expressed no opinion as to the ownership and the question shall be resolved between the person who claims to be the legal owner and the party who returned the property to the City of Cortez.

The receipt shall adequately describe the property. (Ord. No. 674, § 2; Ord. No. 1098 (part).)

Sec. 7A-8. Unclaimed property.

The property will be disposed of in accordance with Section 7A-4 of this Code in the event that the party turning the property into the city as lost property does not make a claim thereon within thirty days after the date of turning said property in to the city. (Ord. No. 674, § 3; Ord. No. 1098 (part).)

Sec. 7A-9. Retention of receipts.

All receipts, both from the city and from the finder who removes the property from the city's possession, according to this article, shall be retained for a period of at least three years. (Ord. No. 674, § 4.)

**Article III. Disposal of
Unclaimed Property.**

Sec. 7A-10. Purpose of provisions.

The purpose of this article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the city. (Ord. No. 760, § 1.)

Sec. 7A-11. Definitions.

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

(a) "Director" shall mean the director of finance, or designee thereof.

(b) "Municipality" means the city of Cortez, Colorado.

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

(d) "Unclaimed property" means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the city and which has not been claimed by its owner for a period of more than five years after it became payable or distributable. (Ord. No. 760, § 2.)

Sec. 7A-12. Procedure for disposition of property.

(a) Prior to disposition of any unclaimed property having an estimated value of twenty-five dollars or more, the director shall send a written notice by certified mail, return receipt requested, to the last known address of the owner as shown by the records of the municipal department holding the property. The notice shall include a description of the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the director with a written claim for the return of the property within thirty days of the date of the notice, the property shall become the sole property of the mu-

municipality and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than twenty-five dollars or having no last known address of the owner, the director shall cause a notice to be published in a newspaper of general circulation in the city. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the director with a written claim for the return of the property within sixty days of the date of the publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

(c) If the director receives no written claim within the thirty-day claim period, the property shall become the sole property of the city and any claim of the owner to such property shall be deemed forfeited.

(d) If the director receives a written claim within the thirty-day claim period, the director shall evaluate the claim and give written notice to the claimant within ninety days thereof that the claim has been accepted or denied in whole or in part. The director may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event that there is more than one claimant for the same property, the director may, in the director's sole discretion, resolve such claims, or may resolve such claims by depositing the disputed property with the reg-

istry of the district court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the city and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the director shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the director pursuant to the order of the court having jurisdiction over such claim.

(h) The director is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property. (Ord. No. 760, § 3; Ord. No. 1098 (part).)

Sec. 7A-13. Exceptions.

(a) Any property which is held by the police department pursuant to the provision of Municipal Ordinance No. 577 or Ordinance No. 674, said ordinances being codified as chapter 7A, sections 7A-1 to 7A-9, shall be exempt from the provisions of this article and shall be disposed of in accordance with Chapter 7A sections 7A-1 to 7A-9.

(b) Any property which is held by the city pursuant to the provisions of Municipal Ordinance No. 555, codified as chapter 18A, sections 18A-1 through 18A-7, shall be exempted from the provisions of this article and shall be disposed of in accordance with chapter 18, section 18A-8. (Ord. No. 760, § 4.)

CHAPTER 8.

ELECTRICITY.

(Reserved for future legislation.)

CHAPTER 9.

FINANCE AND TAXATION.

For charter provision as to city finances generally, see Char., art. VII. As to taxation generally, see Char., art. VII, §§ 12, 13, 15, 19.

For state law authorizing city to control finances of city, see C.R.S. 1973, §§ 31-15-301 to 31-15-302. As to city finances generally, see C.R.S. 1973, §§ 31-20-201 to 31-20-202. As to power to tax, see C.R.S. 1973, §§ 31-15-302, 31-20-101 to 31-20-107.

As to the occupation tax for alcoholic beverages, see §§ 4-3 to 4-10 of this Code. As to licenses and business regulations generally, see Ch. 15. As to public improvements generally, see Ch. 22. As to the rates, charges and bills for the use of the water system, see §§ 27-21 to 27-29.

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- § 9-1. Purchase orders—
Requisite to validity of accounts.
- § 9-2. Same—When required.
- § 9-3. Reserved.
- § 9-4. Same—Approval of bills
in excess of two thousand dollars.
- § 9-5. Sales and use tax—
Collection—Limitation of actions.
- § 9-6. Same—Standard
reporting form and map/location guide.
- § 9-6A. Collection of delinquent
charges, assessments and taxes by the county treasurer.

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- § 9-22. Same—Exemption of certain sales and purchases deemed wholesale.
- § 9-23. Same—Procedure to be followed in cases of dispute.
- § 9-24. Taxation of grant of continuous use of tangible personal property by lease or contract.
- § 9-25. Confidentiality of returns.

Subdivision II. Computation.

- § 9-26. Tax levied; schedule of amounts.
- § 9-27. Addition of amount to sale prices.
- § 9-28. Liability of retailer for payment; returns generally; penalty for late payments.
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- § 9-30. Single returns for business with multiple locations, and flea markets, bazaars and fairs.
- § 9-31. Statements, etc., of assumption by retailer.
- § 9-32. Credit sales.
- § 9-33. Remittance of excess collections.
- § 9-34. Refunds and credits—When allowed; conditions prerequisite to grant; assignment; false statements generally.
- § 9-35. Same—Burden of proof; review of decisions; duties of city clerk.
- § 9-36. Same—Penalties.

- § 9-37. Examination of returns generally; refund of excess; payment of deficiency and interest.
- § 9-38. Penalties for deficiencies generally.
- § 9-39. Investigations and hearings—Powers of director of finance generally.
- § 9-39A. Coordinated audit procedure.
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- § 9-43. Records of sales.
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- § 9-45A. Standardization of certain protest or appeal periods.
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- § 9-49. "Storage" or "storing" defined.
- § 9-50. Levy; schedule.
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- § 9-57. Use tax—Credit for sales and use tax previously paid to another municipality.
- § 9-57A. Intercity claims for recovery.
- § 9-58. Payment of tax on motor vehicles or trailers.
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Article IV. Utilities.

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- § 9-60. Use tax—
Nonapplicability to use or consumption occurring more than three years after most recent sale.
- § 9-61. Use tax—Proration as applied to certain construction equipment.
- §§ 9-62 to 9-67. Reserved.

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- § 9-68. Tax—Levied; amount.
- § 9-69. Same—Monthly payment.
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- § 9-71. Same—Procedure upon failure to pay.
- § 9-72. Same—In lieu of other occupation taxes.
- § 9-73. Access to records.
- § 9-74. Offenses and liabilities under previous ordinances.

Article I. In General.

Sec. 9-1. Purchase orders—Requisite to validity of accounts.

No account rendered by any person to or on behalf of the city shall be valid unless a purchase order has been issued upon such form as designated by the director of finance and signed by the city manager or by a purchasing agent designated by such manager. (Ord. No. 417, § 1.)

For charter provision as to a division of purchase generally, see Char., art. IX.

Sec. 9-2. Same—When required.

The provisions of section 9-1 shall apply to all bills or accounts rendered to or on behalf of the city for materials, equipment, supplies, labor or services. (Ord. No. 417, § 2.)

Sec. 9-3. Reserved for future legislation.

Sec. 9-4. Same—Approval of bills in excess of two thousand dollars.

All bills or accounts to be incurred by the city in excess of two thousand dollars shall first be approved at a regular meeting of the city council and by the city council of the city of Cortez. All bills or accounts below two thousand dollars must be approved by a department head and the city manager prior to payment. In the event an account or bill must be paid which exceeds the two thousand dollar limit prior to a city council

meeting, a city council person must be notified and approve the expenditure prior to payment being made. (Ord. No. 1040.)

**Sec. 9-5. Sales and use tax—
Collection—Limitation of
Actions.**

(a) No sales or use tax, or interest thereon or penalties with respect thereto, shall be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any other action to collect the same be commenced, more than three 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 year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. Before the expiration of such period of limitation, the taxpayer and the director of finance may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(b) In the case of failure to file a return, the sales tax, use tax, or both may be assessed and collected at any time.

(c) **Other Remedies.** Nothing in sections 9-5 and 9-6 shall preclude the city from utilizing any other applicable penalties or remedies for the collection or enforcement of sales or use taxes. (Ord. No. 645, Art. 1 § 1.)

**Sec. 9-6. Same—Standard reporting
form and map/location guide.**

(a) The city shall use the standard municipal sales and use tax reporting form and

any subsequent revisions thereto adopted by the executive director of the department of revenue by the first full month commencing one hundred twenty days after the effective date of the regulation adopting or revising such standard form.

(b) **Map/Location Guide of Municipal Boundaries.** The city shall make available to any requesting vendor, a map showing the boundaries of the city. For transactions consummated on or after January 1, 1986, the requesting vendor may rely on such map/location guide and any update thereof available to such vendor in determining whether to collect a sales or use tax or both. No penalty shall be imposed or action for deficiency maintained against such a vendor who in good faith complies with the most recent map/location guide available to it. (Ord. No. 645, Art. 1 § 2.)

**Sec. 9-6A. Collection of delinquent
charges, assessments and
taxes by the county treasurer.**

(a) Until paid all fees, rates, penalties, charges or assessments together with interest on delinquencies, and reasonable attorney's fees incurred in the collection of same by the city shall constitute a perpetual lien on and against the property served real or personal and any such lien may be foreclosed in the same manner as provided for by state law for the foreclosure of mechanic's liens or may be collected in any other manner legally permissible including certification to the Montezuma County Treasurer for collection as provided in CRS 31-20-105 Municipalities May Certify Delinquent Charges.

(b) There shall be included in any amount certified to the county treasurer any cost of collection charged to the city of Cortez by the county treasurer. (Ord. No. 1171, 9-25-12)

Article II. Retail Sales.

For charter provision as to taxation, see Char., art. VII, §§ 12, 13, 15, 19.

For state law authorizing city to levy taxes, see C.R.S. 1973, §§ 31-12-101(5), 31-20-101 to 31-20-107.

Division 1. Generally.

Sec. 9-7. Words and phrases defined.

The following words and phrases as used in this chapter shall have the following meaning:

Access services. The services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Auction. 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. 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, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Base sales tax. The sales tax imposed by the city pursuant to subsection (a) of section 9-26.

Business. All activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

Charitable organization. Any entity which:

- (1) Has been certified as a not-for-profit organization under section 501(c)(3) of the Internal Revenue Code, and
- (2) Is a religious or charitable organization. As used in this definition, a "charita-

ble organization" is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

City, town. The municipality of city of Cortez.

Computer software. A set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

Construction materials. Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed 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. Consumer means:

- (1) Any individual person or
- (2) Person engaged in business in the city who uses, stores, distributes or other-

wise consumes in the city tangible personal property or taxable services purchased from sources inside or outside the city.

Current sales tax rate. The aggregate rate of the sales tax imposed by the city pursuant to section 9-26 on the date on which an action, event or calculation is to occur.

Drugs dispensed in accordance with a prescription. Drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Electronic software delivery. Software transferred by remote telecommunications to the purchaser's computer, where the purchaser does not obtain possession of any tangible medium in the transaction.

Engaged in business in the city is performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the city. Engaged in business in the city includes, but is not limited to, any one 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 taxing jurisdiction;

(2) Sends one 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 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 delivery into the taxing jurisdiction within a twelve month period.

Exempt commercial packaging materials. Containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions: (i) is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product; (ii) is transferred by said person along with and as a part of the finished product to the purchaser; and (iii) is not returnable to said person for reuse.

Family recreation center. Certain city recreation facility including, but not limited to, a gymnasium, a family pool and a lap pool, financed pursuant to a ballot issue approved by the electors of the city on November 6, 2001.

Farm closeout sale. 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.

Farmers market. Any seasonal sales of locally grown produce, to include fruits and vegetables, sold by the growers within the city limits must be transacted by the grower and cannot be transacted through a local retail outlet.

Finance director. The finance director of city of Cortez or such other person designated by the municipality; "finance director" shall also include such person's designee.

Food. Food for domestic home consumption as defined in 7 U.S.C. section 2012(g) as amended, for purposes of the federal

food stamp program as defined in 7 U.S.C. section 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 coin-collecting food and snack devices on behalf of a vendor.

Gross sales. 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.

License. A city of Cortez sales and use tax license.

Linen services. Services involving provision and cleaning of linens, including but not limited to rags, uniforms, coveralls and diapers.

"Load and leave" software delivery. Delivery of software to the purchaser by use of tangible medium where the title to or possession of the tangible medium is not transferred to the purchaser, and where the software is manually loaded by the vendor, or the vendor's representative, at the purchaser's location.

Lodging services. 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 similar establishment, for a period of less than thirty days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

Medical supplies. Drugs, prosthetic medical and dental appliances, and special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry, or podiatry; corrective eyeglass lenses (including eyeglass frames), and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry, or podiatry; corrective eyeglass lenses (including eyeglass frames), and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry; wheelchairs, and crutches, when sold for the direct, personal use of a specific individual oxygen and hemodialysis products for use by a medical patient, hearing aids, hearing aid batteries, insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions, and human whole blood, plasma, blood products and derivatives. This exemption excludes items purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

Mobile home. A wheeled vehicle, exceeding either eight feet in width or thirty-two feet in length, excluding towing gear and bumpers, without motive power, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may be drawn over the public highways by a motor vehicle.

Mobile machinery and self-propelled construction equipment. Those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

Newspaper. 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. Includes, but is not limited to, cable, microwave or other television service for which a charge is imposed.

Person. 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.

Pre-packaged for repeated sale or license. Software that is pre-packaged for repeated

sale or license in the same form to multiple users without modification, and is typically sold in a shrink-wrapped box.

Preprinted newspaper supplements. Inserts, attachments or supplements circulated in newspapers that:

- (1) Are primarily devoted to advertising; and
- (2) The distribution, insertion, or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals. Drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Price, purchase price. The price to the consumer, 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, such as trading stamps or coupons 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. 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 is not part of the purchase price.

(5) Installation, 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.

(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-in's 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. 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.

Private communications services. Telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communications channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

Prosthetic devices. 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 devices include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

Purchase, sale. The acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed, but excludes a bona fide gift of property or services. 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;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services. "The utilization of coin operated devices, except coin-operated telephones, which do not vend ar-

tibles of tangible personal property shall be considered short term rentals of tangible personal property;"

(3) Performance of taxable services; or

(4) Barter or exchange for other property or services including coupons.

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 formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;

(3) The transfer of assets of shareholders in the formation or dissolution of professional corporations;

(4) The dissolution and the pro rata distribution of the corporation's assets to its stockholders;

(5) A transfer of a partnership interest;

(6) The transfer in a reorganization qualifying under section 368(a)(1) of the "Internal Revenue Code of 1954," as amended;

(7) The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;

(8) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder.

Recreation bonds. The revenue bonds issued pursuant to a ballot issue approved by the electors of the city on November 6, 2001, or revenue bonds issued for the purpose of refunding said obligation.

Recreation sales tax. The sales tax imposed by the city pursuant to subparagraph (b) of section 9-26.

Recreation services. All services relating to athletic or entertainment participation events including but not limited to pool,

golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games and video club memberships.

Retail sales. All sales except wholesale sales.

Retailer. Any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include 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.

Return. The sales and use tax reporting form used to report sales and use tax.

Sales price. The gross value of all materials, labor, service and the profit thereon included in the price charged to the user or consumer.

Sales tax. The tax to be collected and remitted by a retailer on sales taxed under this code.

Schools. Educational institution having a curriculum comparable to grade, grammar, junior high, high school, or college, or any combination thereof, requiring daily attendance, having an enrollment of at least forty students, and charging a tuition fee.

Security system services. Electronic security system services. Such term does not include nonelectronic security services such as consulting or human or guard dog patrol services.

Sound system services. Sound system services involving provision of broadcast or pre-recorded audio programming to a build-

ing 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.

Tangible medium. Tapes, disks, CDs, cards, and comparable physical medium.

Tangible personal property. Corporeal personal property.

Tax. 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. Any amount of tax that is not reported or not paid on or before the due date.

Taxable sales. Gross sales less any exemptions and deductions specified in this code.

Taxable services. Services subject to tax pursuant to this code.

Taxpayer. Any person obligated to collect and/or pay tax under the terms of this code.

Telecommunications service. The transmission of any two-way interactive 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 or any combinations of such media. "Telecommunications service" includes but is not limited to basic local exchange telephone service, toll telephone service and teletypewriter service, including but not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunications service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. "Telecommunications service" does not include separately stated nontransmis-

sion services which constitute computer processing applications used to act on the information to be transmitted.

Therapeutic device. Devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance or related accessory has a retail value of more than one hundred dollars, it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a "therapeutic device" for purposes of this code.

Total tax liability. The total of all tax, penalties or interest owned by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Use tax. 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.

WATS/800 service. Any outbound or inbound interstate wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

Wholesale sales. Sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to non-licensed retailers are not wholesale sales.

Wholesaler. Any person selling to retailers, jobbers, dealers, or other wholesalers, for resale, and not for storage, use, consumption, or distribution. (Code 1968, § 4-1-1; Ord. No. 572, § 1; Ord. No. 645, Art. 2 § 1; Ord. No. 741, § 1; Ord. No. 752, § 1 (part); Ord. No. 954, § 1.) (Ord. No. 1169, 8-14-12)

Sec. 9-8. Promulgation of rules to effectuate article.

To provide uniform methods of adding the tax, or the average equivalent thereof, to the selling price, it shall be the duty of the director of finance, with the approval of the city manager, to formulate and promulgate, after a hearing, appropriate rules and regulations to effectuate the purposes of this article. (Code 1968, § 4-1-6.)

Sec. 9-9. Service of notices.

All notices required to be given to the retailer or vendor under the provisions of this article shall be in writing and if mailed, shall be postpaid and sent by registered or certified mail, return receipt requested, to such retailer or vendor at his last known address. The giving of such notice shall be sufficient for the purposes of this article. (Code 1968, § 4-1-26.)

Sec. 9-9A. Notice of sales and use tax ordinance amendment.

(a) In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director of the city shall file with the Colorado Municipal League prior to the effective date of this section a copy of the city sales and use tax ordinance reflecting all provisions in effect on the effective date of this section.

(b) In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director of the city shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the city.

(c) Failure of the city to file such ordinance or ordinance amendment pursuant to the section shall not invalidate any pro-

vision of the sales and use tax ordinance or any amendment thereto. (Ord. No. 752, § 1 (part).)

Sec. 9-10. License and tax to be in addition to other taxes, etc.

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 by this article. (Code 1968, § 4-1-27.)

Sec. 9-11. Administration of article.

The administration of this article is hereby vested in the director of finance, who shall prescribe forms and reasonable rules and regulations in conformity with this article for the making of returns, for the ascertainment, assessment and collection of the taxes imposed hereunder and for a proper administration and enforcement hereof. (Code 1968, § 4-1-29.)

Sec. 9-11A Participation in simplification meetings.

The finance director shall cooperate with and participate on an as needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of state and municipal sales and use tax officials and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise. (Ord. No. 752, § 1 (part).)

Sec. 9-12. Enforcement of article; offenses prohibited generally.

It shall be unlawful for any retailer or vendor to refuse to make any return provided to be made under this article, to make any false or fraudulent return or false statement on any return, to fail and refuse to make payment to the director of finance of any taxes collected or due the city, to in any

manner evade the collection and payment of the tax, or any part thereof or to aid or abet another in any attempt to evade the payment of the tax. Any person violating any of the provisions of this section shall be guilty of a violation of this article. Any court of competent jurisdiction shall have jurisdiction to enforce this section. In addition to the foregoing offenses, it shall be unlawful for any person to knowingly and willfully swear to or verify any false statement. (Code 1968, § 4-1-28.)

Sec. 9-13. Purpose of tax; distribution of tax into general, capital improvements and equipment funds.

(a) The city council hereby declares that except as otherwise provided in subsection (c) of this section, the purpose of the levy of the taxes imposed by Articles II and III of this chapter is for the raising of funds for the payment of the expenses of operating the city, for improvements, and for equipment acquisition and replacements. In accordance with these purposes, except as otherwise provided in subsection (c) of this section, 78.6 percent of the revenue collected under Article II and III of this chapter shall be deposited in the general fund of the city; 14.3 percent of the revenue collected under Articles II and III of this chapter shall be deposited in a capital streets improvements fund of the city for streets, sidewalks, public parking, curb and gutter, and storm drainage; and 7.1 percent of the revenue collected under Articles II and III of this chapter shall be deposited in the equipment fund of the city.

(b) All revenue received by the city from the recreation sales tax shall be deposited into the family recreation center fund, hereby established pursuant to Article VII, section 6 of the Cortez City Charter. Revenues deposited into the family recreation center

fund shall be expended solely for the purpose of constructing, equipping, operating and maintaining the family recreation center, or for the payment of recreation bonds. In any calendar year, prior to the use of any revenues on deposit in the family recreation center fund for construction, equipment, operation or maintenance purposes, a sufficient amount of revenues deposited in the family recreation center fund must first be allocated or applied to the payment of the principal of an interest due on recreation bonds during such calendar year. In the event that any base sales tax revenues are deposited into the family recreation center fund pursuant to subsection (c) of this section, the city council may, in its sole discretion, treat such deposit as an interfund loan to be repaid from recreation sales tax revenues at a later date.

(c) Notwithstanding the allocation of revenues from the base sales tax revenues pursuant to subsection (a) of this section, in the event that the city has recreation bonds outstanding and there is not or will not be sufficient revenues on deposit in the family recreation center fund for payment of the recreation bonds, when due, revenues from the base sales tax shall be deposited into the family recreation center fund solely for the purpose of paying the principal of and interest due on the recreation bonds. (Ord. No. 641, § 2; Ord. No. 876, § 1; Ord. No. 954, § 2.)

For charter provision as to general fund, see Char., art. VII, § 5.

Division 2. Licenses.

Sec. 9-14. Required; application; fees.

It shall be unlawful for any person to engage in the business of selling at retail without first having obtained a license therefor, which license shall be granted and is-

sued by the director of finance and shall be in force and effect as long as they meet the provisions that follow:

Such license will be invalidated and must be reissued and repurchased if there is a:

- (1) Change in business name, or
- (2) Change in business address, or
- (3) Change in business ownership.

Such license shall be granted only upon application stating the name and address of the person desiring such a license, the name of such business and its location, including the street number of such business and such other facts as the director of finance may require. For each license issued a fee of ten dollars shall be paid. (Code 1968, § 4-1-2.)

Sec. 9-15. Required for each separate place of business.

In case business is transacted at two or more separate places by one person, a separate license for each place of business shall be required. (Code 1968, § 4-1-2.)

Sec. 9-16. Numbering; contents; display; transfer.

Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (Code 1968, § 4-1-2.)

Sec. 9-17. Revocation by city manager.

The city manager on reasonable notice and after a full hearing may revoke the license of any person found by the city manager to have violated any provision of this article. (Code 1968, § 4-1-2.)

Sec. 9-18. Review of revocation by city manager.

Any finding and order of the city manager revoking the license of any person shall be subject to review by the district court of

the district where the business of the licensee is conducted, upon application by the aggrieved party. The procedure for review shall be, as nearly as possible, the same as now provided for by Rule 106 (a) (4) of the Colorado Rules of Civil Procedure. (Code 1968, § 4-1-2.)

Sec. 9-19. Exemption of persons selling certain commodities.

No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this article. (Code 1968, § 4-1-2.)

Division 3. Taxation.

Subdivision I. In General.

Sec. 9-20. Property and services subject to tax—Generally.

There is hereby levied and there shall be collected and paid a tax set forth in section 9-26 as follows:

(a) On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail.

(b) In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding however from the consideration or purchase price, the fair market value of the exchanged property; provided, that such exchanged property is to be sold thereafter in the usual course of the retailer's business.

(c) Upon telephone services for all local calls originating in the city on telephone instruments located in the city.

(d) For gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and elec-

tricity furnished and sold for domestic and commercial consumption and not for resale.

(e) Upon the amount paid for food or drink served or furnished in or by cafes, restaurants, lunch counters, cafeterias, hotels, drugstores, social clubs, night clubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities.

Cover charges shall be included as part of the amount paid for such food or drink. However, meals provided to employees of the places mentioned in this subsection at no charge or at a reduced charge and which are considered as part of their salary, wages, or income shall be exempt from taxation.

(f) On the entire amount charged to any person or persons for rooms or accommodations.

(g) Upon the amount paid for all food furnished in any convenience or grocery store or any other such place at which food is sold to the public for off-premises consumption.

(h) Every vendor of individual items of a tangible personal property through a coin-operated vending machine is exempt from the requirement that the sales tax be added to the price of each sale. Instead, the sales tax is levied on the gross receipts from the machine if the individual sale is more than thirty cents. There is no tax imposed if the individual sale is thirty cents or less. When the selling price of the item is more than thirty cents, tax applies to the selling price, not just to the amount in excess of thirty cents.

(i) All new and used mobile homes, not previously taxed by the city, shall be taxed on fifty-two percent of the sales prices.

(j) Computer software will be subject to sales or use tax if it meets all of the following criteria: (1) The software is pre-packaged for repeated sale or license; (2) The use of the software is governed by a tear-open non-negotiable license agreement; (3) The software is delivered to the customer in a tangible medium. Software is not delivered to the customer in a tangible medium if it is provided through an application by electronic software delivery, or transferred by load and leave software delivery. (Code 1968, § 4-1-3; Ord. No. 536, § 1; Ord. No. 572, §§ 2, 3; Ord. No. 660, §§ 1, 2; Ord. No. 778, § 1.)

(Ord. No. 1169, 8-14-12)

Sec. 9-21. Same—Exemption of certain items.

The following shall be exempt from taxation under the provisions of this article:

(a) All sales to the United States government, to the state, its departments and institutions and political subdivisions thereof, including the city in their governmental capacities only.

(b) To determine whether a corporation qualifies for the exemption, the following information must be submitted to the department by the corporation:

(1) The organization certificate of incorporation;

(2) A copy of the corporation's federal exemption letter;

(3) The corporation's bylaws; and

(4) The organization's financial statements showing the source of funds and its expenditures.

A religious, charitable or eleemosynary corporation which makes repeated sales of tangible personal property to the public and otherwise meets the definition of a retailer must have a sales tax license and collect and remit tax in the same manner as any other retailer. The fact that the merchandise sold

may have been acquired as a gift or donation or that the proceeds are to be used for charitable purposes, does not make the sales exempt from tax. Purchases by a nonprofit organization or association are subject to the tax if they are not religious, charitable or eleemosynary corporations.

(c) All sales which the city is prohibited from taxing under the Constitution or laws of the United States, the state or the Charter or ordinances of the city.

(d) All sales of cigarettes; provided, that this exemption in no way or manner affects the present city tax on cigarettes or any future tax on cigarettes.

(e) All sales and purchases of commodities and services under the provisions of this section to any occupant who is a permanent resident of an apartment, hotel, lodge house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park and who enters into or has entered into a written agreement for occupancy of a room or accommodation for a period of at least thirty consecutive days during the calendar year or preceding year.

(f) All sales of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by state law.

For state law as to motor fuel taxes, see C.R.S. 1973, § 39-27-101 to 39-27-121.

(g) Sales of tangible personal property shall be exempted from the operation of this chapter if both the following conditions exist:

(1) The sales are to those who are residents of or doing business outside the city.

(2) The articles purchased are to be delivered to the purchaser outside the city by common carrier, by the conveyance of the seller or by mail.

(h) All sales of drugs dispensed in accordance with a prescription; all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician; all

sales of glucose usable for treatment of insulin reactions; all sales of urine and blood testing kits and materials; all sales of insulin measuring and injecting devices, including hypodermic syringes and needles; all sales of prosthetic devices; all sales of wheelchairs and hospital beds; all sales of drugs or materials when furnished by a doctor as part of professional services provided to a patient; and all sales of corrective eyeglasses, contact lenses, or hearing aids; when sold in accordance with a written recommendation from a licensed doctor, all sales of therapeutic devices,

appliances, or related accessories, with a retail value of more than one hundred dollars, which are sold to correct or treat a human physical disability or surgically created abnormality; all sales of therapeutic devices, appliances or related accessories, with a retail value of one hundred dollars or less, which are sold to correct or treat a human physical disability or surgically created abnormality.

(i) All sales and purchases of meat cattle, sheep, lambs, swine, goats, mares and stallions for breeding purposes and all farm auction close-out sales.

(j) All sales and purchases of feed for livestock or poultry, seeds and orchard trees. The storage, use or consumption of such property shall be exempt from taxation.

(k) All sales made to schools, other than schools held or conducted for private or corporate profit.

(l) All sales and purchases of straw and other bedding for use in the care of livestock shall be exempt from taxation and the storage use, or consumption of straw and other bedding for use in the care of livestock shall be exempt from taxation.

(m) Any subsequent sale of a mobile home after such mobile home has been once subject to the payment of sales tax shall be exempt from taxation.

(n) All sales of construction and building materials to contractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets and other public works owned and used by:

(1) The United States Government, the state, the city in their governmental capacities only;

(2) Charitable organizations in the conduct of their regular charitable functions and activities; or

(3) Schools, other than schools held or conducted for private or corporate profit.

(o) All sales made by farmer's markets as defined in section 9-7.

(p) **Sales Tax — Nonapplicability.** For transactions consummated on or after January 1, 1986, the sales tax shall not apply to the sale of construction and building materials, as the term is used in section 29-2-109, C.R.S., if such materials are picked up by the purchaser, and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the city evidencing that a local use tax has been paid or is required to be paid.

(q) Any food, as specified in 7 U.S.C. section 2012(g), as such section exists on October 1, 1987, or is thereafter amended, which is purchased with food stamps pursuant to the federal food stamp program, is exempt.

(r) Any food, as specified in 42 U.S.C. section 1786, as such section exists on October 1, 1987, or is thereafter amended, which is purchased with WIC vouchers or checks pursuant to the federal special supplementation program for women, infants and children, is exempt. (Code 1968, §§ 4-1-12, 4-1-13; Ord. No. 572, §§ 4, 5; Ord. No. 580, § 1; Ord. No. 645, Art. 2 § 3; Ord. No. 690, § 2.)

Sec. 9-22. Same—Exemption of certain sales and purchases deemed wholesale.

(a) Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use any article, substance or commodity where 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 the furnished shipping case thereof shall be deemed to be wholesale sales and shall be exempt from taxation under this article.

(b) Sales and purchases of electricity, coal, fuel oil or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation services, all industrial uses and newsprint and printers ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this article. (Code 1968, § 4-1-1.)

Sec. 9-23. Same—Procedure to be followed in cases of dispute.

Should a dispute arise between the purchaser and seller as to whether or not any such sale is exempt from taxation under this article, nevertheless the seller shall collect and the purchaser shall pay such tax and the seller shall thereupon issue to the purchaser a receipt or certificate on forms prescribed by the director of finance showing the names of the seller

and purchaser, the items purchased, the date, price, amount of tax paid and a brief statement of the claim or exemption. The purchaser thereafter may apply to the director of finance for a refund of such taxes and it shall then be the duty of the director of finance to determine the question of exemption, subject to review by the courts. It shall be a violation of this article for any seller to fail to collect or any purchaser to fail to pay the tax levied by this article on sales on which the exemption is disputed. (Code 1968, § 4-1-1.)

Sec. 9-24. Taxation of grant of continuous use of tangible personal property by lease or contract.

(a) The sales tax on lease payments shall be paid by the lessee and shall be remitted by the lessor to the city when delivery of the property to the lessee occurs within the boundary of the city. The burden of proof to show the location of such delivery shall be upon the lessor.

(b) Payment and remittance of sales tax to the city shall be made on each payment made under the lease, including each payment under any option to purchase contained in the lease, each payment for termination of the lease, and each payment for purchase of the leased property if same is sold to the lessee after termination of the lease, regardless of the subsequent location of the property. (Ord. No. 645, Art. 2 § 2.)

**Sec. 9-25. Confidentiality of
returns.**

(a) **Divulging of information generally.** Except in accordance with judicial order or as otherwise provided by this article, the director of finance, his agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this article.

(b) **Use in court.** The officials charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the director of finance in an action under the provisions of this article to which he is a party, on behalf of any party to an action or proceeding under the provisions of this article or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding. However, in either 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.

(c) **Areas not covered.** Nothing contained in this article shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy

of any return or report filed in connection with his tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the city attorney or any other legal representative of the city, of the report or return of any person who brings 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) **Preservation period.** Reports and returns shall be preserved for three years and thereafter until the director of finance, with approval of the city manager, orders them destroyed.

(e) **Penalties.** It shall be unlawful for any city officer or employee or any member, officer or employee of the office of the director of finance to divulge any information classified by this section as confidential, in any manner, except in accordance with proper judicial order or otherwise as provided by law. (Code 1968, § 4-1-14.)

Subdivision II. Computation.

Sec. 9-26. Tax levied; schedule of amounts.

There is hereby imposed a tax upon all sales of commodities and services specified in section 9-20, in accordance with the following schedule:

(a) On all sales three and one-half percent shall be added to the selling price; and

(b) In addition to the base sales tax imposed pursuant to subsection (a) of this section, on all sales fifty-five one-hundredths of one percent shall be added to the selling price commencing on January 1, 2002, and terminating on the earliest permitted date following

the payment in full of all recreation bonds. (Ord. No. 954, § 3.)

Sec. 9-27. Addition of amount to sales prices.

Retailers shall add the tax imposed by section 9-26, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts. The retailer shall be entitled, as collecting agent of the city, to apply and credit the amount of his collections against the current sales tax rate to be paid by him under the provisions of section 9-28, remitting any excess of collections over such current sales tax rate less the three and one-third percent collection expense allowance, to the director of finance of the city in the retailer's next monthly sales tax return. (Ord. No. 641, § 4; Ord. No. 954, § 4.)

Sec. 9-28. Liability of retailer for payment; returns generally; penalty for late payments.

(a) Every retailer shall, irrespective of the provisions of section 9-26, be liable and responsible for the payment of an amount equivalent to the current sales tax rate on all sales made by him of commodities or services as specified in section 9-20 and shall before the twentieth day of each month make a return to the director of finance for the preceding calendar month and remit an amount equivalent to the current sales tax rate on such sales to the director of finance, less one and one-third percent of such tax to cover the vendor's expense in the collection and remittance of such tax.

(b) Before the twentieth day of each month every retailer shall make a return to the director of finance for the preceding calendar month and remit an amount equivalent to the current sales tax rate on such sales to the director of finance, less one and one-third percent of such tax to cover the vendor's expense in the collection and remittance of such tax. Such returns of the taxpayer, or his duly authorized agent, shall contain such information and shall be made in such manner and upon such forms as the director of finance may prescribe. The director of finance may extend the time for making returns and paying the taxes due under such reasonable rules and regulations as he may prescribe, but no such extension shall be for a greater period than is provided in section 9-29. The burden of proving that any retailer is exempt from collecting the tax or from making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as the director of finance may prescribe.

(c) Sales tax returns not received or postmarked by the twentieth of the month in which they are due and payable shall be declared delinquent and shall be subject to a penalty and an interest charges as per section 9-37 and section 9-38.

(d) If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under section 9-37(c) 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 shall be deemed to be the date the liability for the tax arises, and

in no event shall it be later than the date notice and demand for the tax is made by the director of finance.

(e) Interest prescribed under section 9-28 shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.

(f) 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.

(g) Interest prescribed under section 9-28 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.

(h) Two percent of the tax collected in accordance with section 9-28(a) above shall be transferred by the city to the Chamber of Commerce or other non-profit organization for purposes reasonably related to the enhancement of retail sales within the city, as may be authorized by the city council pursuant to subsequent ordinance, resolution or contract.

The city may contract with the Chamber of Commerce or other non-profit organization for the administration of this fund in a manner that will best promote the purposes for which this fund is intended. (Ord. No. 641 § 5; Ord. No. 645, Art. 2 § 4; Ord. No. 939; Ord. No. 954, § 5; Ord. No. 1029.)

Sec. 9-29. Acceptance of reports on other than monthly basis.

(a) If the accounting methods regularly employed by a vendor in the transaction of such business or other conditions are such that

reports of sale made on a calendar month basis impose unnecessary hardship, the director of finance, upon written request of the vendor, may accept reports at such intervals as will in his opinion better suit the convenience of the taxpayer and will not jeopardize the collection of the tax; provided, that the director of finance may by rule permit taxpayers whose monthly tax collected is less than ten dollars to make returns and pay taxes at intervals not greater than every three months.

(b) If any vendor has been granted permission to file reports and pay tax on other than a monthly basis and shall become delinquent, the permission may be revoked by the director of finance at any time. Immediately following notice of such revocation, the vendor will be required to file reports and pay tax, interest and penalties on a monthly basis.

(c) Applications for permission to file reports and pay tax on a quarterly basis, if approved, shall take effect on the first day of the next calendar quarter which begins at least fifteen days after the date of approval. Until such effective date, reports must be made on the monthly basis. (Code 1968, § 4-1-8; Ord. No. 572, § 7.)

Sec. 9-30. Single returns for business with multiple locations, and flea markets, bazaars and fairs.

A retailer doing business in two or more locations or places, taxable under this article, may file one return covering all such business activities engaged in within the city.

The operator of a flea market, bazaar or fair shall obtain a sales tax license, and shall report and remit to the city the city sales taxes collected by flea market sellers, and vendors at bazaars and fairs, on such form as shall be provided by the director of finance; however, flea market sellers, or vendors at bazaars and fairs, who have a current city sales tax license shall be allowed to remit their taxes under their current license provided the same is reported to the operator of the flea market, bazaar or fair. (Ord. No. 741, § 2, 1991.)

Sec. 9-31. Statements, etc., of assumption by retailer.

It shall be unlawful for any retailer to advertise, hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this article

will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added, that any part thereof will be refunded.

A vendor who sells malt, vinous or spirituous liquors by the drink shall, at the time of making his first retail sale of such beverage, elect either of the following methods to impose the tax:

(a) The tax may be included in the price of the drink; or

(b) The tax may be separately stated and added to the price of the drink.

The vendor may elect to operate under method (a) for drinks sold at the bar and method (b) for drinks sold at tables, or he may elect to operate under the same method for drinks sold at the bar and tables. Once having made the election he must continue to collect the tax in the manner elected, unless permission to change the election is first obtained from the director of finance. If the vendor elects to use different methods on bar and tables sales, he must keep adequate records.

If the vendor elects to include the tax on the price of the drink, the following method must be used to determine taxable sales: exempt sales are deducted from gross sales and the difference is divided by the total of one hundred percent plus the applicable sales tax percentage.

Vendors dispensing liquor, wine or beer by the drink, who purchase ingredients which they use in mixing the drink are not required to pay sales tax on the purchase of such ingredients. (Code 1968, § 4-1-7; Ord. No. 572, § 8.)

Sec. 9-32. Credit sales.

Whenever an article is sold under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on the article to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. This tax shall be charged and collected by the seller. No refund or credit shall be allowed to either party to the transaction in case of repossession. (Code 1968, § 4-1-10.)

Sec. 9-33. Remittance of excess collections.

If any vendor, during the reporting period, collects as a tax an amount in excess of the current sales tax rate on his total taxable sales, he shall remit to the director of finance the full net amount of such tax and show such excess. The retention by the retailer or vendor of any excess tax collections over the current sales tax rate on the total taxable sales of the retailer or vendor, or the intentional failure to remit punctually to the director of finance the full amount required to be remitted by the provisions of this article, is hereby declared to be a violation of this article. (Ord. No. 641, § 6; Ord. No. 954, § 6.)

Sec. 9-34. Refunds and credits—When allowed; conditions prerequisite to grant; assignment; false statements generally.

(a) A refund shall be made or a credit allowed, for the tax paid under dispute by any purchaser who has an exemption provided by this article. Such refund shall be made by the director of finance after compliance with the following conditions:

(1) Applications for refund must be made within sixty days after the purchase of the goods on which an exemption is claimed.

(2) Applications must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller.

(3) Application must be made upon such forms as shall be prescribed and shall contain such information as the director of finance shall prescribe.

Upon receipt of such application, the director of finance shall examine it with all due speed and shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants, within ten days after such decision is mailed to them, may petition the director of finance for a hearing on the claim in the manner provided in Sections 9-46 and 9-48. The right of any

person to a refund under this section shall not be assignable and such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof. It shall be unlawful for any applicant for refund under the provisions of this section or any other person to make a false statement in connection with such application.

(b) A refund shall be made or a credit allowed, for the tax paid in error or by mistake. Such refund shall be made by the director of finance after compliance with the following conditions:

(1) Applications for refund must be

made within three years after the date of purchase of the goods for which the refund is claimed.

(2) Applications must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller.

(3) Application must be made upon such forms as shall be prescribed and shall contain such information as the director of finance shall prescribe.

Upon receipt of such application, the director of finance shall examine it with all due speed and shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants, within ten days after such decision is mailed to them, may petition the director of finance for a hearing on the claim in the manner provided in sections 9-46 and 9-48. The right of any person to a refund under this section shall not be assignable and such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof. It shall be unlawful for any applicant for refund under the provisions of this section or any other person to make a false statement in connection with such application.

(c) Sales Tax — Credit for Sales or Use Taxes Previously Paid to Another Municipality. For transactions consummated on or after January 1, 1986, the city's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of 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 municipality located within the state equal to or in excess of the current sales tax rate. A credit shall be granted against the city's 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 municipality. The amount of the credit shall not exceed the current Cortez city sales tax rate.

(d) Claims for Recovery. The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the city.

(1) As used herein, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(2) When it is determined by the director of finance of the city that sales and use tax owed to the city has been reported and paid to another municipality, the city shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(3) The city may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the city, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the city. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety days of its receipt. The

municipality to which the city submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the city shall not be unreasonably withheld.

(4) Within ninety days after receipt of a claim for recovery, the city shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reason for the decision. If the claim is approved in whole or in part, the city shall remit the undisputed amount to the municipality submitting the claim within thirty days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(5) The city may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(6) The period subject to a claim for recovery shall be limited to the thirty-six month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. No. 645, Art. 2 § 5; Ord. No. 752, § 3 (part).)

Sec. 9-35. Same—Burden of proof; review of decisions; duties of the city clerk.

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 one making such claim under such

reasonable requirements of proof as the director of finance may prescribe.

Should the applicant for refund be aggrieved at the final decision of the director of finance, he may proceed to have such decision reviewed by the courts in the manner provided for review of other decisions of the director of finance as provided in section 9-48; except, that such review shall be in the district court of the county.

Duties of the city clerk may be performed by a duly qualified deputy. (Code 1968, § 4-1-13.)

Sec. 9-36. Same—Penalties.

If any person is convicted under the provisions of section 9-34, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully and the director of finance is hereby empowered and directed to bring appropriate action for recovery of such refunds.

A brief statement of the above mentioned penalties shall be printed on each application form for refund. (Code 1968, § 4-1-13.)

Sec. 9-37. Examination of returns generally; refund of excess; payment of deficiency and interest.

(a) As soon as practicable after the return is filed, the director of finance shall examine it. If it appears that the correct amount of tax to be remitted is greater or less than that shown in the return to be due, the tax shall be recomputed.

(b) If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from such persons.

(c) If the amount paid is less than the amount due, the difference, together with interest thereon at a rate established by the state commissioner of banking pursuant to section 39-21-110.5, C.R.S., from the time the return was due, shall be paid by the vendor ten days after written notice and demand to him from the director of finance. (Ord. No. 645, Art. 2 § 6.)

Sec. 9-38. Penalties for deficiencies generally.

(a) **When due to negligence or intentional disregard.** If any part of the deficiency referred to in section 9-37 is due to negligence or intentional disregard of authorized rules and regulations with knowledge thereof, but without intent to defraud, there shall be added a penalty equal to the sum of fifteen dollars for such failure or ten percent thereof and interest on such delinquent taxes at the rate imposed under subsection (c) of this section plus one-half percent per month from the date when due, not exceeding eighteen percent in the aggregate. Such interest and addition shall become due and payable ten days after written notice and demand to him by the director of finance.

(b) If any part of the deficiency is due to fraud with the intent to evade the tax, there shall be added one hundred percent of the total amount of the deficiency and in such case, *the whole amount of the tax unpaid*, including the additions, shall become due and payable ten days after written notice and demand by the director of finance and an additional three percent per month on the amount shall be added from the date the return was due until paid.

(c) The annual rate of interest on delinquent taxes under subsections (a) and (b) of this section shall be that established by

the state commissioner of banking pursuant to section 39-21-110.5, C.R.S. (Ord. No. 645, Art. 2 § 7.)

Sec. 9-39. Investigations and hearings—Powers of director of finance generally.

For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax due from any person the director of finance, or his duly authorized deputies, may hold investigations and hearings concerning any matters covered by this article, may examine any relevant books, papers, records or memoranda of any such person, may require the attendance of such person, of any officer or employee of such person or of any person having knowledge of such sales and may take testimony and require proof for his information. The director of finance and his duly authorized deputies shall have power to administer oaths to such persons. (Code 1968, § 4-1-17.)

Sec. 9-39A. Coordinated audit procedure.

(a) Any taxpayer licensed in this city pursuant to section 9-14, and holding a similar sales tax license in at least four other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

(b) Within fourteen days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the finance director of this city, by certified mail, return receipt requested, a written request for a coordinated audit indicating

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the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time based limitation upon this city's right to recover tax owed by the vendor for the audit period.

(c) Except as provided in subsection (g), any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of section 9-45, ten-day period may be audited by this city during the twelve months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If this city desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to subsection (c), the finance director shall so notify the finance director of the municipality whose notice of audit prompted the taxpayer's request within ten days after receipt of the taxpayer's request for a coordinated audit. The finance director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this city, this city's finance

director shall facilitate arrangements between this city and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The finance director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this city, this city's finance director shall, once arrangements for the coordinated audit between the city and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The finance director shall also propose a schedule for the coordinated audit.

(g) The coordinated audit procedure set forth in this section shall not apply:

(i) When the proposed audit is a jeopardy audit,

(ii) To audits for which a notice of audit was given prior to the effective date of this section,

(iii) When a taxpayer refuses to promptly sign a waiver of section 9-45, or,

(iv) When a taxpayer fails to provide a timely and complete request for a coordi-

nated audit as provided in subsection (b).
(Ord. No. 752, § 3 (part).)

Sec. 9-40. Same—Service of subpoenas; witness fees.

All subpoenas issued under the terms of this article may be served by any authorized person.

The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the director of finance, such fees shall be paid in the same manner as other expenses of the director of finance under the terms of this article. When a witness is subpoenaed at the instance of any party to such proceeding, the director of finance may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the director of finance, in his discretion, may require a deposit to cover the cost of such service and witness fees. Such subpoena shall be served in the same manner as a subpoena issued out of a court of record. (Code 1968, § 4-1-18.)

Sec. 9-41. Same—Compelling attendance of witnesses, production of records, etc.

The district court of the twenty-second judicial district of the state or any judge thereof, either in term time or vacation, upon the application of the director of finance, may compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the director of finance or any member or his duly authorized deputies, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before such court. (Code 1968, § 4-1-19.)

Sec. 9-42. Same—Taking of depositions.

The director of finance or any party in an investigation or hearing before the director of finance may insist that the deposition of witnesses residing within or without the state be taken in the manner prescribed by law for like depositions in civil actions in courts of this state and to that end may compel the attendance of witnesses and the production of books, papers, records or memoranda. (Code 1968, § 4-1-20.)

Sec. 9-43. Records of sales.

It shall be the duty of every person engaged or continuing in business in this city, for the transaction of which a license is required under this article, to keep and preserve suitable records of all sales made by him and such other books or accounts as may be necessary to determine the amount of tax for the collection of which he is liable. It shall be the duty of every person to keep and preserve for a period of three years all invoices of goods and merchandise purchased for resale and all such books, invoices and other records shall be open for examination at any time by the director of finance or his duly authorized agent. (Code 1968, § 4-1-21.)

Sec. 9-44. Tax liens generally.

(a) **Priority generally.** The tax imposed by this article shall be a first and prior lien upon the goods 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.

(b) **Withholding of purchase money.** Any retailer who sells out his business or stock of

goods or quits business shall be required to make out the return as provided in this article, within ten days after the date he sold his business or stock of goods or quit business, and his successor in business shall be required to withhold a sufficient sum of the purchase money to cover the amount of such taxes due and unpaid until such time as the former owner produces a receipt from the director of finance showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold the purchase money as above provided and the taxes are due and unpaid after the ten-day period allowed, he, 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 such subject to the lien for any delinquent sales tax owed by such merchant 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 so acquired.

(c) **Priority in case of receivership, etc.** Whenever the business or property of any taxpayer subject to this article is 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 such retailer is in any way liable under the terms of this article shall be a prior and preferred claim against all the properties of such taxpayer, except as to pre-existing 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 section 9-45 of this chapter on

the property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer.

An individual who is a corporate stockholder, or a member of a partnership or of an LLC shall not avoid liability hereunder by filing an individual bankruptcy or other legal action, the city adopting all the protection as provided by sections 39-21-116 and 39-21-116.5, C.R.S., as amended.

(d) **Sales by sheriff, etc.** No sheriff, lessor, 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 director of finance the amount of any taxes due and payable under this article. If there are any such taxes due, owing or unpaid, it shall be the duty of such officer to pay the amount of such taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claims of whatsoever kind or nature, except the costs of the proceedings and other pre-existing claims or liens as above provided. For the purpose of this section, the term "taxpayer" shall include "retailer." (Code 1968, § 4-1-22; Ord. No. 1041.)

Sec. 9-45. Recovery of taxes, penalties and interest.

(a) **Amounts paid to retailer to be held in trust for city.** 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 director of finance, in the hands of such retailer and he shall hold such money in trust for the sole use and benefit of the city until paid to the director of finance as provided by this article. It shall be unlawful for a retailer to fail to pay such tax to the director of finance.

(b) **Estimation and assessment where**

returns not made. If any person neglects or refuses to make a return in payment of the tax required by this article, the director of finance shall make an estimate, based on such information as may be available as to the amount of taxes due for the period or periods for which the taxpayer is delinquent and upon the basis of such estimated amount, compute and assess in addition thereto, a penalty equal to the sum of fifteen dollars for such failure or ten percent thereof and interest on such delinquent taxes at the rate imposed under subsection (i) of this section plus one-half percent per month from the date when due, not exceeding eighteen percent in the aggregate. Promptly thereafter, the director of finance shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice must be served personally, or by registered or certified mail. Such estimate shall thereupon become an assessment which shall become final and due and payable from such taxpayer to the director of finance ten days from the date of service of the notice or the date of mailing by registered or certified mail; provided, that within such ten-day period such delinquent taxpayer may petition the director of finance for a revision or modification of such assessment, and shall, within such ten-day period, furnish the director of finance with the facts and correct figures showing the correct amount of such taxes. Such petition shall be in writing. The facts and figures shall be submitted either in writing or orally and shall be given under oath of such taxpayer. Thereupon the director of finance shall modify such assessment in accordance with the facts submitted, which facts he deems correct. Such assessment shall be considered the final order of the director of finance and may be reviewed under Rule 106(a)(4) of the Colorado Rules of Civil Pro-

cedure as provided in this article; provided, that the taxpayer gives written notice to the director of finance of such intention within five days after receipt of the final order of assessment.

(c) **Notice and imposition of tax lien.** 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 by this article are not paid within five days after such are due, the director of finance shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof and that the city claims a first and prior lien therefor on the real and tangible personal property of a taxpayer other than the goods, stock in trade and business fixtures of such taxpayer. Such notice shall be on forms prepared by the director of finance and shall be verified by him or his duly qualified deputy or any duly qualified agent of the director of finance, whose duties are the collection of such tax, and may be filed in the office of the clerk and recorder of any county in this state in which the tax payer owns real or tangible personal property. The filing of such notice shall create such lien on such property in that county and constitute a notice thereof. After such notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the director of finance may issue a warrant directed to any duly authorized revenue collector or to the sheriff of any county in this state commanding him to levy upon, seize and sell a sufficient amount of the real and personal property of the tax debtor found within his county for the payment of the amount due, together with interest, penalties and costs, as now or hereafter provided by Code or ordi-

nance, subject to valid pre-existing claims or liens as above provided.

(d) **Levy and sale of property by sheriff, etc.** Such revenue collector or sheriff shall levy upon a sufficient amount of the property of the taxpayer, or any property used by such taxpayer in conducting his retail business, and such property so levied upon shall be sold in all respects, with like effect and in such manner as is prescribed by law in 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 fees in executing such warrant as are allowed by law for similar services.

(e) **Release of liens.** Any lien for taxes as shown on the records of county clerk and recorders as provided by this article shall, upon payment of all taxes, penalties and interest covered thereby, be released by the director of finance in the same manner as mortgages or judgments are released.

(f) **Treatment as debt due and collection by law.** The director of finance may also treat any such taxes, penalties or interest due and unpaid as a debt due the city from the vendor. In case of failure to pay the tax or any portion thereof, or any penalty or interest thereon when due, the director of finance may recover at law the amount of such taxes, penalties and interest in any county or district court of the county wherein the taxpayer resides or has his principal place of business having jurisdiction of the amounts sought to be collected. The return of the taxpayer or the assessment made by the director of finance as provided by this article, shall be prima facie proof of the amount due. Such action may be actions in attachment and writs of attachment may be issued to the sheriff and in any such proceeding no bond shall be required of the director of finance, nor shall any sheriff require of the

director of finance an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The director of finance may prosecute appeals or writs of error in such cases without the necessity of providing bond therefor. It shall be the duty of the city attorney when requested by the director of finance to commence action for the recovery of taxes due under this article. Such remedy shall be in addition to all other existing remedies or other remedies provided in this article.

(g) **City as party defendant in actions affecting ownership of property.** 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 a judgment or determination of its lien upon the property involved therein.

(h) **Waiver of assessed penalties; interest in excess of six percent deemed penalty.** The director of finance is hereby authorized to waive, for good cause shown, any penalty assessed in this article. Any interest imposed in excess of six percent per annum shall be deemed a penalty.

(i) The annual rate of interest on delinquent taxes under subsection (b) of this section shall be that established by the state commissioner of banking pursuant to section 39-21-100.5, C.R.S. (Code 1968, § 4-1-23; Ord. No. 645, Art. 2 § 8; Ord. No. 1089.)

Sec. 9-45A. Standardization of certain protest or appeal periods.

(a) **Notices of Assessment.** An appeal of a notice of assessment issued to a vendor or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the finance director within twenty calendar days from the

date of the notice of assessment. Any such appeal shall identify the amount of tax disputed and the basis for the appeal. The time period set forth in this section may, in the absolute discretion of the finance director, be waived for good cause on written application of a vendor or taxpayer.

(b) **Denial of Refunds.** An appeal of a denial of a refund shall be submitted in writing to the finance director within twenty calendar days from the date of the denial of the refund and shall identify the amount of the refund requested and the basis for the appeal. The time period set forth in this section may, in the absolute discretion of the finance director, be waived for good cause on written application of a vendor or taxpayer.

(c) **Appeal from administrative hearing decision of the finance director.**

Appeal of Hearing Decision. An appeal of a final decision of the finance director in a hearing held pursuant to section 9-46 shall be commenced within thirty days of such decision. (Ord. No. 752 § 3 (part).)

Sec. 9-46. Hearings for review of assessments generally.

If any person, having made a return and paid the tax provided for in this article, feels aggrieved by the assessment made upon him by the director of finance, he may apply to the director of finance by petition in writing within ten days after the notice is mailed to him for a hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The director of finance shall notify the petitioner in writing of the time and place fixed by him for such hearing. After such hearing, the director of finance shall make such order in the matter

as is just and lawful and shall furnish a copy of such order to the petitioner. (Code 1968, § 4-1-24.)

Sec. 9-47. Hearings to be held in city.

Every hearing before the director of finance shall be held in the city. (Code 1968, § 4-1-26.)

Sec. 9-48. Decisions of director of finance.

(a) **To be written; notice; date of finality.** Every decision of the director of finance shall be in writing and notice thereof shall be mailed to the vendor within ten days. All such decisions shall become final upon the expiration of thirty days after notice of such decision has been mailed to the vendor, unless proceedings are taken within such time for review thereof as provided in this article.

(b) **Review by state courts—Generally.** Should the applicant for refund be aggrieved at the final decision of the director of finance, he may proceed to have such decision reviewed by the courts in the manner provided for review of other decisions of the director of finance under this article, such review to be in the district court of the twenty-second judicial district of the state.

(c) **Same—Bond required.** Within fifteen days after filing a notice of appeal as provided in section 9-46, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the director of finance as per subsection (a) of this section which are contested on appeal. The taxpayer may, at his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or by a state or federal savings and loan association, in accordance

with the provisions of section 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest, and other charges stated in the final decision by the director of finance.

(d) **Same — Option to posting bond.** The taxpayer may, at his option, deposit the disputed amount with the director of finance in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the courts of appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the court, either retained by director of finance and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed by subsection (c) of this section. No claim for refund of amounts deposited with the director of finance need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the court.

(e) **Same — Court of original jurisdiction.** The district court of the twenty-second judicial district of the state shall have original jurisdiction in proceedings to review all questions of law and fact determined by the director of finance in administering the provisions of this article by writ under Rule 106 (a)(4), C.R.S.

(f) **Same — Issuance of writs.** Such writs shall be issued by the clerk of the court upon a verified petition of the taxpayer, filed within twenty days after notice of the decision of the director of finance in any such matter.

(g) **Same — Service of writs.** The writ shall be served within five days after its issuance and shall be returnable at such time as the court may determine, not less than ten days nor more than twenty days after the date when writ was issued. The director of finance

shall certify the record of his proceedings to such court.

(h) **Same — Procedures.** The procedure in the district court shall be in conformity with the rules of civil procedure of the state.

(i) **Same — Review by supreme court.** The decision of the district court may be reviewed in the supreme court upon writ of error by any party.

(j) **Alternative dispute resolution procedure — Deficiency notice or claim for refund.** For transactions consummated on or after January 1, 1986, in lieu of the procedure provided for in section 9-46, the taxpayer may elect a hearing on the director of finance's final decision on a deficiency notice or claim for refund pursuant to procedure set forth in this section.

(1) As used in this section, "state hearing" means a hearing before the executive director of the department of revenue or

delegate thereof as provided in section 29-2-106.1, C.R.S.

(2) When the city asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the city shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional sales and use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the city's denial of such taxpayer's claim for a refund of sales or use tax paid.

(3) The taxpayer shall request the state hearing within thirty days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local remedies or if he fails to request such hearing within the time period provided for in this subdivision. For purposes of this subdivision, "exhaustion of local remedies" means:

(A) The taxpayer has timely requested in writing a hearing before the city and such city has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the city may submit a brief. The city shall hold such hearing and issue the final decision thereon within ninety days after the city's receipt of the taxpayer's written request therefor, except the city may extend such period if the delay in holding the hearing or issuing the decision

thereon was occasioned by the taxpayer, but, in any such event, the city shall hold such hearing and issue the decision thereon within one hundred eighty days of the taxpayer's request in writing therefor; or

(B) The taxpayer has timely requested in writing a hearing before the city and the city has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in paragraph (A) of this subdivision.

(4) If a taxpayer has exhausted his local remedies as provided in subdivision (3) of this subsection, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in section 29-2-106.1 (3) through (7), C.R.S.

(5) If the deficiency notice or claim for refund involves only the city in lieu of requesting a state hearing, the taxpayer may appeal such deficiency or denial of a claim for refund to the district court of the county as provided in section 29-2-106.1 (8), C.R.S., provided the taxpayer complies with the procedures set forth in subdivision (3) of this subsection.

(6) Nothing in this section shall prohibit the taxpayer from pursuing judicial review of a final decision of the city as otherwise provided in this section. (Code 1968, § 4-1-25; Ord. No. 645, Art. 2 § 9.)

Article III. Use Tax.

For charter provision as to taxation, see Char., art. VII, §§ 12, 13, 15, 19.

For state law authorizing city to levy taxes, see C.R.S. 1973, §§ 31-12-101(5), 31-20-101 to 31-20-107.

Sec. 9-49. "Storage" or "storing" defined.

For the purposes of this article, the term "storage" or "storing" shall mean any keeping or retention of, or exercise of dominion or control over, tangible personal property in this city. (Code 1968, § 4-2-7.)

Sec. 9-50. Levy schedule.

There is hereby levied and there shall be collected from every person in this city a tax or excise for the privilege of storing, using or consuming in this city any articles of tangible personal property purchased at retail. Such tax shall be payable to and shall be collected by the director of finance in accordance with the following schedule:

(a) On storage or acquisition charges or costs from twenty cents to and including fifty-nine cents, a tax of two cents.

(b) On storage or acquisition charges or costs from sixty cents to and including ninety-nine cents, a tax of three cents.

(c) On storage or acquisition charges or costs from one dollar to and including one dollar and thirty-nine cents, a tax of four cents.

(d) On storage or acquisition charges or costs from one dollar and forty cents to and including one dollar and seventy-nine cents, a tax of six cents.

(e) On storage or acquisition charges or costs from one dollar and eighty cents to and including two dollars and nineteen cents, a tax of seven cents.

(f) On storage or acquisition charges or costs from two dollars and twenty cents to and including two dollars and fifty-nine cents, a tax of nine cents.

(g) On storage or acquisition charges or costs from two dollars and sixty cents to and including two dollars and ninety-nine cents, a tax of ten cents.

(h) On all higher storage or acquisition charges or costs three and one-half cents shall be added in each bracket of one dollar of additional storage or acquisition charge or cost. (Ord. No. 641, § 7.)

Sec. 9-51. Schedule of exemptions.

The use tax imposed by this article shall not apply:

(a) To the storage, use or consumption of any tangible personal property the sale of which is subject to the retail sales tax imposed under the terms of article II of this chapter.

(b) To the storage, use or consumption of any tangible personal property purchased for resale in this city, either in its original form or as an ingredient of a manufactured or compounded product in the regular course of a business.

(c) To the storage, use or consumption of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed under the laws of the state.

(d) To the storage, use or consumption of tangible personal property brought into this city by a nonresident thereof for his own storage, use or consumption while temporarily within this city.

(e) To the storage, use or consumption of such property by the United States, by the state, its institutions or its political subdivisions or by religious or charitable corporations in the conduct of their regular religious or charitable functions.

(f) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which enters into the processing of or becomes an ingredient or component part of the production or service which is

manufactured, compounded or furnished and the container label, or the furnished shipping case thereof.

(g) To the storage, use or consumption of electricity, coal, coke, fuel oil or gas for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation service and all industrial use.

(h) To the storage, use or consumption of printers ink and newsprint.

(i) To the storage, use or consumption of cigarettes, fermented malt beverages, and malt, vinous or spirituous liquors.

(j) To the storage and use of meat cattle, sheep, lambs, swine and goats within this city; or to the storage and use within this city of mares and stallions kept, held, and used for breeding purposes only.

(k) To the storage, use, or consumption of tangible personal property and household effects acquired outside the city and brought into it by a nonresident acquiring residency.

(l) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident and he purchased the vehicle outside of the city and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside of the city.

(m) To the storage, use or consumption of tangible personal property purchased by a resident of the city while outside the city in amounts of one thousand dollars or less.

(n) To the storage, use or consumption of a mobile home after such mobile home has been once subject to the payment of use tax.

(o) To the storage, use or consumption of food or meals which are provided to employees of a restaurant, eating house, hotel, drugstore, club, resort or other such place at which food or meals are regularly sold to the public if such are provided to such employees at no charge or at a reduced charge and are considered as part of their salary, wages or income.

(p) To the storage, use, or consumption by a contractor or subcontractor of construction and building materials for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned and used by:

(1) The United States government, the state, its departments and institutions, and the city in their governmental capacities only;

(2) Charitable organizations in the conduct of their regular charitable functions and activities;

(3) Schools, other than school held or conducted for private or corporate profit.

(q) To the storage of construction and building materials. (Code 1968, § 4-2-2; Ord. No. 572, § 10; Ord. No. 645, Art. 3 § 1.)

Sec. 9-52. Monthly returns; remittance of tax due.

Every person subject to the provisions of this article who has not paid the tax imposed hereby to a retailer, on or before the fifteenth day of each month, shall make, to the director of finance on forms prescribed by him, a return showing in detail the tangible personal property stored, used or consumed by him within the city in the preceding calendar month which is subject to the tax imposed by this article and on which the tax has not been paid to a retailer. Such return shall

be verified by oath or affirmation of the taxpayer or his agent and shall be accompanied by a remittance of the tax shown thereon to be due. (Code 1968, § 4-2-3.)

Sec. 9-53. Retail merchants—To collect tax and issue receipts.

Every retailer maintaining an office or place of business in this city and every agent within this city of any retailer not maintaining an office or place of business in this city and making sales of tangible personal property for storage, use or consumption in the city, not exempted by section 9-51, at the time of making such sale or taking the orders therefor, or, if the storage, use or consumption of such tangible personal property is not then taxable under this article, then at the time such storage, use or consumption becomes taxable under this article, shall collect the tax imposed by section 9-50 from the purchaser and give to the purchaser a receipt therefor. Such receipt shall identify the property, the date sold or the date ordered and the tax collected by such retailer or agent from such purchaser. Such tax 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. (Code 1968, § 4-2-3.)

Sec. 9-54. Same—Procedure for remittance to city.

It shall be unlawful for any retailer or agent enumerated in section 9-53, to advertise, hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by such retailer or agent, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof will be

refunded. The tax required to be collected by such retailer or agent shall be remitted to the city in such manner as otherwise provided in this chapter for the remittance of sales tax collected by retailers. All such retailers or agents collecting the tax imposed by section 9-50, shall make returns on forms provided by the director of finance at such times and in such manner as is provided for the making of returns in the payment of sales taxes. The procedure for assessing and collecting such 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 chapter for the collection of sales tax, including collection by distraint warrant. Any such taxes which are due and owing from any retailer or agent for the storage, use or consumption of tangible personal property shall bear interest and be subject to the same penalties as for nonpayment or delinquencies of sales taxes. (Code 1968, § 4-2-3.)

Sec. 9-55. Tax to constitute lien on property; collection by writ of attachment on levy.

The use tax imposed by this article shall be a first and prior lien on the tangible personal property stored, used or consumed, subject only to valid mortgage or other liens of record on and prior to the recording of notice as required in subsection (c) of section 9-45 and shall be a first and prior lien, the same as is provided for sales taxes in section 9-44 (a). Upon default of payment thereof the director of finance, after demand upon the person owing such tax, may bring an action in his name as director of finance in attachment and seize any property to secure the payment of such tax, interest and penalties. In any such proceeding, no bond

shall be required of the director of finance, nor shall any constable or sheriff require from the director of finance an indemnifying bond for executing the writ of attachment or writ of levy and no constable or sheriff shall be liable in damages when acting in accordance with such writs. The remedies provided in this section shall be in addition to all other remedies. (Code 1968, § 4-2-4.)

Sec. 9-56. Failure to make return; false return; failure to pay tax.

It shall be unlawful for any person to willfully fail or refuse to make the return required by section 9-52, to make a false or fraudulent return or to willfully fail to pay any tax owed by him. It shall also be unlawful for any person to aid or abet another in an attempt to evade such tax.

Any person who violates this section shall be guilty of a violation of this article and subject to a fine not exceeding three hundred dollars for each such offense. (Code 1968, § 4-2-5.)

Sec. 9-57. Use tax—Credit for sales or use tax previously paid to another municipality.

For transactions consummated on or after January 1, 1986, 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 within the state legally imposed on the purchaser or user equal to or in excess of the current use tax. 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 by reason of the imposition of a sale or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of the credit shall not exceed the current use tax rate. (Ord. No. 645, Art. 3 § 2.)

Sec. 9-57A. Intercity claims for recovery.

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the city.

(a) As used herein, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(b) When it is determined by the director of finance of the city that sales and use tax owed to the city has been reported and paid to another municipality, the city shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(c) The city may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the city, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for a recovery lies in the sole discretion of the city. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within

ninety days of its receipt. The municipality to which the city submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the city shall not be unreasonably withheld.

(d) Within ninety days after receipt of a claim for recovery, the city shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reason for the decision. If the claim is approved in whole or in part, the city shall remit the undisputed amount to the municipality submitting the claim within thirty days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(e) The city may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(f) The period subject to a claim for recovery shall be limited to the thirty-six month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. No. 752, § 3 (part).)

Sec. 9-58. Payment of tax on motor vehicles or trailers.

Any resident who purchases any motor vehicle, trailer or semitrailer, whether new or used, outside the corporate limits of the city for use within this city, shall immediately and prior to registering and obtaining a license therefor make a return showing such transaction to the director of finance and thereupon pay to him the use tax applicable thereto as

provided in this article. Failure to do so shall constitute a violation of this article. All such motor vehicles, trailers or semitrailers purchased outside the corporate limits of the city for use in this city shall be registered with the county clerk and recorder of the county. Any person who registers any such motor vehicle, trailer or semitrailer in any other country, in this state or elsewhere shall be deemed in violation of this article and any such registration shall constitute prima facie evidence of an attempt to evade payment of such tax. (Code 1968, § 4-2-8.)

Sec. 9-58A. Building materials and supplies.

Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement to real property within the city shall, in conjunction with the acquisition of a building permit, pay an amount to the city equal to 4.05 percent of fifty percent of the building permit value. The payment of the tax herein required and the acquisition of a building permit will entitle the applicant to a certificate of exemption from payment of any further sales or use tax for the materials to be used, stored or consumed pursuant to such building permit. The certificate of exemption shall contain the number of the building permit to which it applies. The applicant shall be required to retain all statements and invoices for building materials and supplies used, stored or consumed in conjunction with the construction for which the permit has been issued for a period of three years and such statements and invoices shall be subject to audit for adjustment or verification of remittance. The full amount of any tax due and not paid for lumber, fixtures or any other building materials or supplies, together with penalties

and interest thereon as herein provided, shall be and constitute a lien upon the real property benefitted by such work and the city finance director is hereby authorized to file a notice of such lien with the county clerk and recorder of Montezuma County. No final inspection shall be made by the building inspector and no certificate of occupancy shall be issued unless all taxes due as provided in this section on all lumber, fixtures and any other building materials or supplies used in or connected with the construction, reconstruction, alteration, expansion, modification or improvement of any building, dwelling or other structure or improvement to real property within the city have been paid or arrangements therefor made with the city finance department.

The ordinance codified in this section shall not apply to any building permit issued in an amount less than ten thousand dollars.

The department of finance shall issue the certificate of exemption and resolve any issues with such exemption. (Ord. No. 1054.)

Sec. 9-59. Administration and enforcement of article.

The administration of this article is vested in the director of finance and he shall prescribe forms, rules and regulations for the administration and enforcement of this article. (Code 1968, § 4-2-9.)

Article IV. Utilities.

For charter provision as to franchises and public utilities, see Char., art. X.

For state law as to authority of city to regulate gas and electric utilities generally, see C.R.S. 1973, §§ 31-15-702, 31-15-707, 31-32-101 et seq.

Division 1. Generally.

Sec. 9-60. Use tax—Nonapplicability to use or consumption occurring more than three years after most recent sale.

For transactions consummated on or after January 1, 1986, 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 years after the most recent sale of the property if, within the three years following such sale, the property has been significantly used within the state for the principal purpose for which it was purchased. (Ord. No. 645, Art. 3 § 3.)

Sec. 9-61. Use tax—Proration as applied to certain construction equipment.

(a) Construction equipment which is located within the boundaries of the city for a period of more than thirty consecutive days shall be subject to the full applicable use tax of the city.

(b) With respect to transactions consummated on or after January 1, 1986, construction equipment which is located within the boundaries of the city for a period of thirty consecutive days or less shall be subjected to the city's use tax in an amount which 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 and the denominator of which is twelve, and the result shall be multiplied by the current use tax rate.

(c) Where the provisions of subsection (b) of this section are utilized, the credit provisions of section 9-57 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 current use tax rate.

(d) In order to avail himself of the provisions of subsection (b) of this section, the taxpayer shall comply with the following procedure:

(1) Prior to or on the date the equipment is located within the boundaries of the city, the taxpayer shall file with the city finance director an equipment declaration on a form provided by the city. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the city, shall include a description of each such anticipated piece of equipment, and shall include such other information as is reasonably deemed necessary by the city.

(2) The taxpayer shall file with the city an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety days after the equipment is brought into the boundaries of the city or, for equipment which is brought into the boundaries of the city for a project of less than ninety days duration, no later than ten days after substantial completion of the project.

(3) The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars.

(e) If the equipment declaration is given as provided in subsection (d) of this section, then as to any item of construction equip-

ment for which the customary purchase price is under two thousand five hundred dollars which was brought into the boundaries of the city temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the current use tax rate 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 such local sales or use tax was not paid.

(f) If the taxpayer fails to comply with the provisions of subsection (d) of this section, the taxpayer may not avail himself of the provisions of subsection (b) of this section and shall be subject to the provisions of subsection (a) of this section. However, substantial compliance with the provisions of subsection (d) of this section shall allow the taxpayer to avail himself of the provisions of subsection (b) of this section.

(g) If the city reasonably finds that the collection of sales or use tax will be jeopardized by delay, the city may utilize the procedure set forth in section 39-21-111, C.R.S. (Ord. No. 645, Art. 3 § 3.)

Secs. 9-62 to

9-67. Repealed by Ordinance No. 488, § 8.

Editor's note: §§ 9-62 to 9-67 were repealed by Ordinance No. 488, § 8, subject to the provisions of § 9-74 of this Code.

Division 2. Telephone Utilities.

§ 9-68

Sec. 9-68. Tax—Levied; amount.

There is hereby levied against every

telephone utility which is engaged in the business of furnishing local exchange telephone service within the city a tax on the privilege of engaging in such business. The amount of such tax shall be four thousand dollars for the portion of 1976 subsequent to July 27, 1976, and twelve thousand dollars annually for each subsequent year. (Ord. No. 488, § 1.)

Sec. 9-69. Same—Monthly payment.

The tax levied by this article shall be due on the fifteenth of each month hereafter beginning September 15, 1976, and monthly thereafter on the fifteenth of each succeeding month at the rate of one thousand dollars each month; if the fifteenth of any month falls on Saturday, Sunday or a legal holiday, the tax shall be due upon the next succeeding business day. (Ord. No. 488, § 2.)

Sec. 9-70. Same—Purpose.

The tax provided herein is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce. (Ord. No. 488, § 4.)

Sec. 9-71. Same—Procedure upon failure to pay.

If any telephone utility subject to the provisions of this article fails to pay the taxes as provided herein, the full amount thereof shall be due and collectible from such company, and the same, together with an addition of ten percent of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such utility to the city. (Ord. No. 488, § 5.)

Sec. 9-72. Same—In lieu of other occupation taxes.

The tax herein provided shall be in lieu of all other occupation taxes, or taxes on the privilege of doing business within the city, on any telephone utility subject to the provisions of this article. (Ord. No. 488, § 7.)

Sec. 9-73. Access to records.

The city, its officers, agents or representatives shall have the right at any reasonable time, to examine the books and records of any telephone utility which is subject to the tax imposed by this article, and to make copies of the entries or contents thereof. (Ord. No. 488, § 3.)

Sec. 9-74. Offenses and liabilities under previous ordinances.

All offenses committed and all liabilities incurred prior to July 27, 1976 shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities. All taxes, the liability for which has been accrued under the terms of article IV, sections 9-60 to 9-67, on or before July 27, 1976, shall be and remain unconditionally due and payable, and shall constitute a debt to the city, payable in conformity with the terms and provisions of article IV, sections 9-60 to 9-67, prior to the adoption of this article; and all of such terms and provisions of article IV of this chapter shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this article. (Ord. No. 488, § 6.)

CHAPTER 10.

§ 10-18. Repealed.

FIRE PROTECTION.

As to description of fire limits of the city, see § 6-6 of this Code. As to civil defense and emergencies generally, see Ch. 7. As to false alarms generally, see § 18-13. As to plumbing generally, see Ch. 21. As to the use of water during fire generally, see § 27-14.

Article I. In General.

- § 10-1. Fire Code—Adopted.
- § 10-1.1. Same—Official copies.
- § 10-1.2. Same—Section 10.513(e) amended.
- § 10-2. Same—Fireworks.
- § 10-2.1. Repealed.
- § 10-3. Department of fire marshal established.
- § 10-4. Duties generally.
- § 10-5. Access to buildings; inspections, compliance with orders.
- § 10-6. Interference with performance of duties prohibited.
- § 10-7. Penalties.

Article II. Fire Zones.

- § 10-8. Reserved.

Article III. Fire Department.

- § 10-9. Repealed.
- § 10-10. Repealed.
- § 10-11. Repealed.
- § 10-12. Repealed.
- § 10-13. Repealed.
- § 10-14. Repealed.
- § 10-15. Repealed.
- § 10-16. Repealed.
- § 10-17. Repealed.

Article I. In General.

For state law as to authority of city relating to fire protection generally, see CRSA § 31-15-601.

Sec. 10-1. Fire Code—Adopted.

There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Fire Code (IFC), 2009 Edition, Copyright 2009, 1st Printing, prepared by the International Code Council (ICC), 5360 Workman Mill Road, Whittier, California, and containing a total of five hundred and three pages. (Ord. No. 853, § 2; Ord. No. 1087, § 2 (part).) (Ord. No. 1137, § II (part))

Sec. 10-1.1. Same—Official copies.

Three true and exact official copies of the above-described 2009 Edition of the International Fire Code (IFC) are on file in the municipal offices of the City of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any interested person during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 853, § 3; Ord. No. 1087, § 3 (part).) (Ord. No. 1137, § III (part))

Sec. 10-1.2. Same—Section 10.513(e) amended.

Section 10.513(e) of the Uniform Fire Code, 1991 Edition, is amended to read:

(e) **Operation and Maintenance.** The ventilation system in connection with hoods shall be operated at the required level and grease filters shall be in place when equipment under a kitchen grease hood is used. If grease extractors are installed, they shall be operated when the food heat-processing equipment is used.

Extinguishing systems shall be serviced at least annually or after activation of the system. Inspection shall be by qualified individuals, and a certificate of inspection shall be forwarded to the chief upon completion.

Fusible links and automatic sprinkler heads shall be replaced at least annually, and other protection devices shall be serviced or placed in accordance with the manufacturer's instructions.

EXCEPTION: Frangible bulbs need not be replaced annually.

Hoods, grease-removal devices, fans, ducts, and other appurtenances shall be cleaned at frequent intervals.
(Ord. No. 722, § 2; Ord. No. 739, § 2.)

Sec. 10-2. Same—Fireworks.

The provisions of chapter 11 of this Code shall take precedence over any provisions of the Fire Code adopted by section 10-1.

Sec. 10-2.1. Repealed by Ord. No. 586.

Sec. 10-3. Department of fire marshal established.

A department of city fire marshal is hereby established and shall be operated under the supervision of the city manager.
(Ord. No. 686, § 2 (part).)

Sec. 10-4. Duties generally.

It shall be the duty of the fire marshal or his duly appointed deputy to educate the public in fire prevention; to enforce a Uniform Fire Code as adopted by the city; to make inspection of buildings and other premises within the corporate limits of the city in respect to fire safety and to perform such other duties as may be assigned. The fire marshal or duly appointed deputy is authorized to charge violators of a Uni-

form Fire Code as adopted by the city with uniform summons and complaint into the Cortez municipal court for violations of a Uniform Fire Code as adopted by the city when enforcement of a Uniform Fire Code as adopted by the city is deemed necessary.
(Ord. No. 686, § 2 (part); Ord. No. 1106.)

Sec. 10-5. Access to buildings; inspections, compliance with orders.

The city fire marshal or his duly appointed deputy is hereby designated as fire inspector within the corporate limits of the city and as such shall have the right at any time to enter and inspect any buildings or any other premises within the corporate limits of the city in the performance of his duties. The fire inspector may order any condition which violates any of the regulations of the city as listed in section 10-4 which he considers to be dangerous to lives or property to be removed or remedied within twenty-four hours, or within other specified time periods. (Ord. No. 686, § 2 (part).)

Sec. 10-6. Interference with performance of duties prohibited.

No person shall interfere with the fire inspector or his deputy in the performance of any duty authorized under this chapter.
(Ord. No. 686, § 2 (part).)

Sec. 10-7. Penalties.

Any person who is convicted of the violations of the provisions of Section 10-5 or 10-6 of this code is guilty of a misdemeanor and shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 686, § 2 (part); amended by memo 3519.)
(Ord. No. 1170, § 9, 9-25-12)

Article II. Fire Zones.

Sec. 10-8. Reserved.

Article III. Fire Department.

Sec. 10-9. Repealed by Ord. No. 686.

Sec. 10-10. Repealed by Ord. No. 686.

Sec. 10-11. Repealed by Ord. No. 686.

Sec. 10-12. Repealed by Ord. No. 686.

Sec. 10-13. Repealed by Ord. No. 686.

Sec. 10-14. Repealed by Ord. No. 686.

Sec. 10-15. Repealed by Ord. No. 686.

Sec. 10-16. Repealed by Ord. No. 686.

Sec. 10-17. Repealed by Ord. No. 686.

Sec. 10-18. Repealed by Ord. No. 686.

CHAPTER 11.

FIREWORKS.

For state law as to authority of city to regulate the use of fireworks, see C.R.S. 1973, § 12-28-107. As to fireworks generally, see C.R.S. 1973, §§ 12-28-101 to 12-28-109.

As to fire protection generally, see ch. 10 of this Code. As to applicability of the Fire Prevention Code to fireworks, see § 10-2.

- § 11-1. Definitions.
- § 11-2. Lawful display of fireworks.
- § 11-3. Selling of fireworks.
- § 11-4. Public display—Permit required.
- § 11-5. Same—Disposal of unfired fireworks.
- § 11-6. Same—Insurance requirements.
- § 11-7. Repealed by Ord. No. 717.
- § 11-8. Exemptions.
- § 11-9. Seizure by police.
- § 11-10. Penalty for violation.

Sec. 11-1. Definitions.

Fireworks. Any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, which meets the description of fireworks as set forth in the United States Department of Transportation Hazardous Materials Regulations at title 49, Code of Federal Regulations, parts 173.88 and 173.100.

Fireworks do not include:

- (a) Toy caps which do not include more than 0.25 of a grain of explosive compound per cap;
- (b) Highway flares, railroad fuses, ship distress signals, smoke candles and other emergency signaling devices;

(c) Education rockets and toy propellant device-type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;

(d) Explosive auto alarms as described in title 49, Code of Federal Regulations, part 173.100;

(e) Matches, consisting of book matches, strike-anywhere matches, or strike-on box matches as described in title 49, Code of Federal Regulations, part 173.100. (Ord. No. 1057 (part).)

Sec. 11-2. Lawful display of fireworks.

The city manager, or his designated representative, may grant nontransferable and non-assignable permits to allow displays of fireworks for general public display. The discharge of such public fireworks displays shall be performed in accordance with the requirements of the National Fire Protection Association as stated in FPA-1123, Code for Outdoor Display of Fireworks.

No other display of fireworks is legal within the city of Cortez. (Ord. No. 1057 (part).)

Sec. 11-3. Selling of fireworks.

The sale of fireworks within the municipality of the city of Cortez shall be strictly prohibited. There shall be no exception to this prohibition of selling fireworks within the Cortez city limits.

Anyone who violates any portion of the ordinance codified in this chapter shall be subject to a fine in the amount of up to five hundred dollars and a jail sentence of up to six

months, or both such fine and jail sentence. (Ord. No. 1057 (part).)

Sec. 11-4. Public display—Permit required.

The chief of the fire department or his authorized agent shall have the power to grant permits within the city for supervised public displays of fireworks by the city, fair associations and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least fifteen days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved after investigation by the chief of the fire department of Cortez, or his authorized agent. No permit shall be transferable or assignable.

Sec. 11-5. Same—Disposal of unfired fireworks.

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the fire department in a method which is safe for the discharge of that or those particular type of fireworks.

Sec. 11-6. Same—Insurance requirements.

Prior to the issuance of any permit for the displaying of fireworks, the applicant shall file with the city a liability insurance policy which shall provide insurance coverage against any and all property damages in an amount established by city council resolution, and further shall provide insurance coverage for bodily

injury including death in an amount established by city council by resolution. This policy as so required shall designate the city as a named insured.

Sec. 11-7. Repealed by Ord. No. 717.

Sec. 11-8. Exemptions.

This chapter shall not be construed to prohibit:

(a) Any person from offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale or sell fireworks to any municipality, fair association, amusement park or other organization or group holding a permit issued as provided in this chapter or to the governing body of any county or district fair organized under the laws of the state;

(b) Any person from using or exploding fireworks in accordance with the provisions of any permit issued as provided in this chapter or as a part of a supervised public display at any county or district fair organized under the laws of the state;

(c) Any person from offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale or sell any fireworks which are to be shipped directly out of the state;

(d) Any person from using, possessing, selling, displaying or launching model rockets. (Ord. No. 717, § 2.)

Sec. 11-9. Seizure by police.

The police department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this chapter.

Sec. 11-10. Penalty for violation.

Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time or by revocation of the license or permit, if a license or permit has been issued to such person, in addition to penalties prescribed in section 17-16A of this Code. Each day of sale prohibited under this article shall be deemed a separate offense. Penalties under this section may be imposed consecutively. The local authorities in behalf of the secretary of state shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this article. (Amended by memo 3519; amended at city request, 3-07.) (Ord. No. 1170, § 10, 9-25-12)

CHAPTER 12.

GARBAGE, REFUSE AND WEEDS.

As to health and sanitation generally, see ch. 14 of this Code. As to plumbing generally, see ch. 21. As to sewers generally, see ch. 23.

Article I. In General.

- § 12-1. Definitions.
- § 12-2. Nuisance declared.
- § 12-3. Accumulation of weeds, trash, etc., prohibited.
- § 12-4. Exceptions.

Article II. Removal of Garbage, Refuse and Weeds.

- § 12-5. Abatement—Issuance of notice—Municipal complaint.
- § 12-6. Same—By city upon failure of owner.
- § 12-7. Same—Assessment of costs by city.
- § 12-8. Same—Payment of assessment.
- § 12-9. City not obligated to remove weeds, etc.
- § 12-9A. Undesirable plants.
- § 12-10. Penalties for violation.

Article I. In General.

Sec. 12-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Garbage. All offal, waste matter or vegetable matter from a kitchen, market or store and other worthless, offensive or filthy material and every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise,

that attends to the preparation, use, cooking, dealing in or storing meat, fish, fowl, fruit or vegetables.

Junk is defined to be any old, used or secondhand materials of any kind including without limitation cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper, or other metal furniture, refrigerators, freezers, all other appliances, parts of used motor vehicles, machines, apparatuses, contrivances and parts thereof, any used building materials, boards or other lumber, cement blocks, bricks or brick bats or other secondhand building materials or any discarded, abandoned or inoperable machinery, tractors, trucks or automobiles or any other article or thing commonly known and classified as junk.

Rubbish. House dirt, ashes, rags, abandoned articles of clothing or similar substances.

Trash. All bottles, tin cans, refuse, paper, fallen tree limbs and all other forms of discarded refuse.

Weed. Any unsightly, useless, troublesome or injurious herbaceous plant, including any rank vegetable growth. (Ord. No. 493; Ord. No. 838.)

Sec. 12-2. Nuisance declared.

The city council finds and determines that all weeds, trash, junk, refuse, rubbish or garbage on private property and on the alleys in the rear and the sidewalk and parking areas to the curblin in front thereof within the city, are hereby declared to be a nuisance and a menace to the public health, safety and welfare of the inhabitants of the city. (Ord. No. 493.)

Sec. 12-3. Accumulation of weeds, trash, etc., prohibited.

It shall be unlawful for any owner, tenant or person in possession or their agents of any lot, block or parcel of ground within the city to allow or permit weeds to grow or remain when grown, on such lot, block or parcel of ground or along any street adjoining the same and to the middle of the alley behind the same, or to allow or permit any trash, junk, rubbish or garbage upon such private property, to the middle of the alley abutting such property or along or upon any street adjoining the same. (Ord. No. 493.)

Sec. 12-4. Exceptions.

This chapter shall not apply to garbage or waste material properly deposited in containers for removal as provided by the regulations of the city sanitation district. Nor shall it apply to any junk, as that term is herein defined, which is properly stored by the property owner in a shed or garage or other building suitable for that purpose and not exposed to public view. (Ord. No. 493.)

Article II. Removal of Garbage, Refuse and Weeds.

Sec. 12-5. Abatement—Issuance of notice—Municipal complaint.

Whenever an informal complaint is made to the police or to any other appropriate city official or member of the city council regarding an alleged violation of this chapter or whenever any police officer or city employee observes an apparent violation of this chapter, written notice shall be served upon the person in possession or the owner of the real property upon which such violation is located. Such notice shall inform such person of the viola-

tion and direct that he take action within ten days after receipt of such notice to comply with this section or prosecution will be commenced for the violation in the municipal court. Subsequent filing in the municipal court shall not require ten days notice if the person in possession or owner has received prior notice during the calendar year. Filing in the municipal court does not preclude the city from taking such action as set forth in section 12-6 and subsequent sections of this code to collect any and all costs that it may have for abating the violation.

The city manager or his designated city employee is authorized to give notice to any property owner, or if the same cannot be found, to any tenant in possession or any agent of the tenant or owner, if known, whose property is being kept or maintained contrary to this chapter, and such notice may be deposited by mail in the city post office, addressed to the record owner or owners, or tenant or agent, as the case may be, and if such owner cannot be found, the notice may be given by posting the property and the notice shall state that if the weeds, rubbish, trash, junk or garbage are not removed from such premises on or before ten days from the date of such notice, the same may be done by the city, and the cost thereof, including the cost of inspection and other incidental costs in connection therewith, will be assessed against such real property. The notice shall also state that the owner's failure to comply will result in misdemeanor charges being filed against the owner in the municipal court and the possible penalties therefor. (Ord. No. 493; Ord. No. 788; Ord. No. 1088.)

Sec. 12-6. Same—By city upon failure of owner.

If the weeds, junk, trash, refuse, rubbish

or garbage shall not be removed by the property owner, or the tenant, or agent in charge within ten days following notice by the city manager, such removal may be performed by the city and the cost thereof, including inspection and other incidental costs in connection therewith shall be assessed against the lot or lots or tracts of land from or abutting upon which such weeds, rubbish, trash, junk, garbage or refuse are removed, and upon the owners thereof. (Ord. No. 493.)

Sec. 12-7. Same—Assessment of costs by city.

The cost of the removal of such weeds, trash, rubbish, refuse, junk or garbage from any lot or lots, tracts of land, or from the alley from behind or from the street and parking area adjoining any such lot or tracts of land within the corporate limits of the city shall be assessed upon the lot or lots or tracts of land from which such weeds as well as rubbish, trash, refuse or junk are removed, as well as upon the owners thereof, and such assessment shall be a lien in the several amounts assessed against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In case any such assessment is not paid within thirty days after the same has been certified to the director of finance by the city manager, the director of finance shall then be and is hereby authorized to certify to the county treasurer the list of all delinquent assessments, giving the name of the owner as appears of record, the number of the lot and block and the amount of assessment, the same to be properly certified by the director of finance. The county treasurer, upon the receipt of such certified list, is hereby authorized to place the same upon the tax list for the current year and collect a special assessment in the same manner as other taxes are

collected, with ten percent penalty thereon; and all the laws of the state for the assessment and collection of the general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full force and effect for the collection of all such assessments. (Ord. No. 630, § 2.)

Sec. 12-8. Same—Payment of assessment.

The amount of such assessment may be paid to the director of finance at any time before the tax list is placed in the hands of the county treasurer, but thereafter, only to the county treasurer or his deputy.

In the event any owner or owners desire to object to such assessment either before or after the same is certified to the county treasurer, he may, within thirty days after the receipt of such assessment notice, file a written objection thereto with the city clerk, who shall thereupon designate the next regular meeting of the city council as the date when such objection may be heard. The objector may appear in person and with counsel, if he so desires, and such hearing shall be duly recorded. The city council shall have the power to either modify, affirm or reverse such assessment after such hearing. Any owner of real estate dissatisfied with the decision of the city council shall have the right to have the decision reviewed by the county district court under Rule 106, subsection (a)(4) of the Colorado Rules of Civil Procedure; provided, that such petition to review is filed within the time and in the manner provided by law. (Ord. No. 630, § 2.)

Sec. 12-9. City not obligated to remove weeds, etc.

Nothing herein contained shall be construed as placing any duty upon the city to remove weeds, trash, junk, rubbish or gar-

bage from private property and the city, acting through its city manager or police department, may, at its option, charge an offender in the municipal court with violation of this chapter under the penalties set out in section 12-10. (Ord. No. 493.)

Sec. 12-9A. Undesirable plants.

(a) **Undesirable plants.** Russian, spotted and diffuse knapweed and leafy spurge are declared to be undesirable plants to be controlled in accordance with this section.

(b) **Declaration of nuisance.** Leafy spurge, Russian knapweed, and diffuse knapweed, spotted knapweed and diffuse knapweed, and all other plants designated "undesirable plants" by the city are declared to be a public nuisance. Such action may be taken as is available for nuisance abatement under the laws of this state and the city, and as the city council, in their sole discretion deem necessary.

(c) **Removal of undesirable plants required by property owner.** Property owners within the city shall be responsible for the elimination of undesirable plants from their property within thirty days of the effective date of the ordinance codified in this chapter. Such removal shall be accomplished in an ecologically feasible and environmentally safe manner in accordance with all applicable laws, ordinances, rules and regulations.

(d) **Enforcement.** The city shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours or upon proper notice, for the purpose of inspecting for the existence of undesirable plants, and shall have the right to propose, implement or enforce the management of undesirable plants upon such lands in accordance with the provisions of Colorado Revised Statutes section 35-5.5-109.

(e) **Penalty.** Violation of this section shall be subject to a penalty of up to ninety days in jail or a fine up to three hundred dollars, or both such fine and imprisonment in addition to any other remedies, provided herein or allowed by ordinance, law, rule or regulation. (Ord. No. 754, §§ 1—5)

Sec. 12-10. Penalties for violation.

Any person, whether as owner, tenant or agent in charge of private premises within the city who suffers or permits the growth of weeds, as the term is defined in section 12-1, upon the premises described in section 12-3 or along the streets adjoining such premises and to the middle of the alley in the rear thereof, or who fails to remove any trash, junk, rubbish or garbage from the same, after being notified to remove the same, as herein provided, and who fails, after such notice, to remove the same may be deemed guilty of a misdemeanor, and shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. Each day that failure to remove the same continues, shall be deemed to be a separate and distinct offense and punishable as such. (Ord. No. 493; amended by memo 3519.) (Ord. No. 1170, § 11, 9-25-12)

CHAPTER 13.

GAS.

As to plumbing generally, see ch. 21 of this Code.

- § 13-1. Gas Code adopted.
- § 13-2. Gas inspector—Appointment.
- § 13-3. Same—Powers and duties enumerated.
- § 13-4. Installation, construction, etc., license—Required; application; fee; insurance; issuance and renewal.
- § 13-5. Same—Revocation.
- § 13-6. Plans and specifications required—Submission; information to be specified.
- § 13-7. Same—Approval; issuance of permit; modification; rectification of errors.
- § 13-8. Permits—Issuance only to licensed plumber.
- § 13-9. Same—Property owner's responsibility.
- § 13-10. Certificate of inspection—Issuance upon test.
- § 13-11. Same—Form.
- § 13-12. Same—Additional installations.

Sec. 13-1. Gas Code adopted.

(a) There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Fuel Gas Code (IFGC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred seventy-seven pages.

(b) Three true and exact official copies of the above-described 2009 Edition of the International Fuel Gas Code (IFGC) are on file in the municipal offices of the City of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any interested person during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 638, § 2; Ord. No. 738, § 2; Ord. No. 962 (part).)
(Ord. No. 1137, §§ II, III (part))

Prior history: Code 1968, § 13-3-5.

For state law as to authority of city to adopt by reference, see C.R.S. 1973, §§ 31-16-202 to 31-16-204.

Sec. 13-2. Gas inspector—Appointment.

The city manager shall appoint a competent person as the gas inspector. (Code 1968, § 13-3-1.)

Sec. 13-3. Same—Powers and duties enumerated.

The gas inspector and his assistants are hereby authorized, empowered and directed to:

(a) Inspect and supervise the installation, construction, reconstruction and repair of all house gas piping, gas appliances, fixtures and apparatus now or hereafter to be placed in or in any manner directly attached to any building or structure within the city. The gas inspector and his assistants shall be subject to the orders and directions of the city council and they are hereby vested with full authority to enter any building or premises at any reasonable time in the discharge of their duties herein imposed.

(b) Receive all applications for connection, to pass on and approve or reject plans submitted, to issue permits for all plumbing work, extensions or change in location of fixtures, to sign and issue all notices, to keep

a daily record of all applications received, plans approved and all other matters which may pertain thereto and to make a monthly report of such operations to the city council.

(c) Inspect as often as necessary all houses in the course of erection, alteration or repair and to inspect any plumbing of any character already in use which he may have reason to believe is out of repair or is imperfect.

(d) Give the owner or agent in charge of any building written notice of any defects in his plumbing or fixtures or of changes or repairs necessary and such owner or agent shall immediately, after such notice, make the necessary changes or repairs. If the owner or agent fails to comply with this notice, the gas inspector may order the gas franchise holder to turn off the gas and it shall not thereafter turn the gas on again until the gas inspector has certified that such defects have been repaired or removed.

(e) Furnish the gas franchise holder with a copy of each certificate of inspection. Such department shall not turn gas into any new, altered or repaired system of gas until such certificate has been received.

(f) Investigate all alleged violations of the provisions of this chapter and to file complaints when necessary. No one except an authorized representative of the gas franchise holder shall at any time turn on any valve or cock or in any way tamper or make any connection with any gas main, meter, meter connection or gas service pipe between the main and the meter. Any user, however, may turn off service in case of an emergency.

(g) A gas inspection charge will be established by the city council by resolution. This fee will be collected and retained by the city as compensation for services rendered by such inspector.

(h) Decide all controversies which may arise under this chapter, and in so doing, shall be subject to the control and direction of the city council. (Code 1968, §§ 13-3-1, 13-3-7.)

Sec. 13-4. Installation, construction, etc., license—Required; application; fee; insurance; issuance and renewal.

Every person, before entering upon the installation, construction, reconstruction or repair of any house piping within the service area of the city natural gas system, shall be required to take out a gas plumbing license, the cost of which shall be determined by the city council by resolution. Before such license is issued, the party applying for such license shall meet the requirements set by the city council as to his knowledge of gas fittings and shall deposit with the city clerk a policy of public liability and property damage insurance, in a sum to be determined by the city council by resolution, executed by a reliable insurance company to protect the franchise holder's householders and building owners against loss of life, injury or damage to property occasioned by the negligence of such contractor and all persons interested, against all costs, expenses, damages and injuries sustained by the negligence of such contractor, his agents, servants and employees, or his failure to

comply ethically with the terms of this chapter in doing work made the subject matter hereof and otherwise to be in the form and executed as required by the city council. Upon approval of such insurance by the city council, the clerk shall issue to such contractor a license, which shall remain in force only so long as such contractor's insurance is in force and effect. Such insurance shall be renewed annually on the first day of January of each year as a prerequisite to the issuance of a license for such year. Such license shall be conspicuously displayed at the place of business. Applicants for a gasfitter's license who are duly licensed plumbers under the requirements of section 21-3 of this Code, are not required to pay an additional license fee for a gasfitter's license. However, proof of public liability and property damage insurance, as set forth in this section, shall be required in addition to the \$1,000 bond required for plumbers' licenses as set forth in section 21-4 of this Code. (Code 1968, § 13-3-2; Ord. No. 596, § 2.)

Sec. 13-5. Same—Revocation.

The license pursuant to section 13-4 may at any time be suspended or revoked by the city council upon the recommendation of the city manager for any violation of the terms of this chapter. (Code 1968, § 13-3-2.)

Sec. 13-6. Plans and specifications required—Submission; information to be specified.

Before the construction, reconstruction, installation or repair of any gas

house piping, suitable plans and specifications of all the work proposed to be done, showing clearly the sizes of pipe, kind of fittings, locations and measurements shall be made out on blanks furnished by the inspector and properly signed by the owner, his agent or other authorized representative and filed at the office of the inspector. All connections and fixtures shall be neatly drawn in the following manner. In case of new work or extension of old work, black ink shall be used. In case of old work, red ink shall be used. (Code 1968, § 13-3-4.)

Sec. 13-7. Same—Approval; issuance of permit; modification; rectification of errors.

If the plans as required by section 13-6 are approved by the inspector, he shall issue a written permit within two days after the application is filed. No change or modification of approved plans shall be permitted unless such change or modification is authorized by the owner or agent, submitted to and approved by the inspector and placed on file as in the case of original work. No infraction of rules, not specially authorized in writing by the inspector, although it may be shown on plans and has passed inspection, shall be permitted. The inspector always reserves the right to compel the gas fitter to rectify any infraction of the rules, although the work has passed inspection and a final inspection certificate issued, and the plumbers' insurance will be held for such rectification. (Code 1968, § 13-3-4.)

Sec. 13-8. Permits—Issuance only to licensed plumber.

No permit to install, construct, reconstruct or repair any gas house piping shall be issued, except to a licensed plumber or a person licensed to do such work in accordance with the provisions of this chapter. (Code 1968, § 13-3-4.)

Sec. 13-9. Same—Property owner's responsibility.

No property owner shall cause or permit any installation, construction, reconstruction or repair of any gas house piping in the city and its gas service territory before the person doing the work has first obtained a permit from the inspector to do so. The mere fact that such work has been done will be considered sufficient to hold and render such property owner amenable to this rule. (Code 1968, § 13-3-3.)

Sec. 13-10. Certificate of inspection—Issuance upon test.

When the system of piping and all extensions thereto has been completed and all openings firmly closed, the person installing the piping shall make the test provided above and if the piping is found tight, shall make an application for a test to the gas inspector. Upon such application the inspector or one of his assistants will inspect the piping and shall witness the test. If the piping is found tight and the work done in accordance with the provisions of this chapter, such inspector or assistant shall issue and deliver a certificate of inspection. (Code 1968, § 13-3-6.)

Sec. 13-11. Same—Form.

The certificate of inspection, as required by the preceding section, shall be substantially in a form to be prescribed by the city council. (Code 1968, § 13-3-6.)

Sec. 13-12. Same—Additional installations.

Any additional gas piping or outlets installed, after the required certificate has been issued, must be reported for inspection and tested in the same manner as pipe originally installed. (Code 1968, § 13-3-6.)

CHAPTER 14.

HEALTH AND SANITATION.

For state law as to authority of city to make regulations and do acts necessary for the promotion of health and suppression of disease, see C.R.S. 1973, § 31-15-401(b).

As to animals and fowl generally, see ch. 5 of this Code. As to rabies control among dogs, see §§ 5-35 to 5-44. As to the Uniform Housing Code, see §§ 6-3, 6-4. As to civil defense and emergencies generally, see ch. 7. As to garbage, refuse and weeds generally, see ch. 12. As to plumbing generally, see ch. 21. As to public improvements generally, see ch. 22. As to water generally, see ch. 27.

Article I. Administration.

§§ 14-1 to 14-3. Reserved.

§ 14-4. Repealed.

§ 14-5. Duties of health officers generally.

Article II. Nuisances.

§ 14-6. Public nuisance—Defined.

§ 14-7. Definitions.

§ 14-8. Nuisance prohibited.

§ 14-9. Authority to enter on property.

§ 14-10. Interpretation; effect on other ordinances.

§ 14-11. Complaints generally.

§ 14-12. No election of remedies.

§ 14-13. Penalties.

§ 14-14. Authority of the city to correct and abate, assess costs and notify owner.

§ 14-15. Collection/lien.

Article I. Administration.

Secs. 14-1 to 14-3. Reserved.

Sec. 14-4. Repealed September 14, 2004.

For charter provision as to creation of a department of health generally, see Char., art. XVIII.

Sec. 14-5. Duties of health officers generally.

It shall be the duty of the health officer or officers to carry out and enforce all existing laws, codes and ordinances having for their object the preservation of life, the prevention of disease and the abatement and removal of nuisances, except as otherwise provided by ordinance or code. He shall attend to complaints of nuisances and orders relating thereto and shall perform such other services as the council may impose by ordinance, or the board of health lawfully requires of him. (Code 1968, § 2-4-4.)

Article II. Nuisances.

Sec. 14-6. Public nuisance—Defined.

In addition to those things which are elsewhere by ordinance of the city declared to be and constitute public nuisances, it is hereby declared to be a public nuisance, or an act in the nature of a public nuisance, for any person, including, but not limited to, landlords and their agents and employees, who knowingly permits or encourages or knowingly and unreasonably fails to prevent tenants from committing the acts proscribed below within the limits of the city or to knowingly participate in, permit, abet or otherwise allow the following to occur on or within any property or structure. For purposes of this section, where an illegal activity references a section contained within the Colorado Revised Statutes (C.R.S.), the illegal activities shall have

the same definition as contained within the C.R.S. (Ord. No. 775, (part), 1993.)

Sec. 14-7. Definitions.

As used in this chapter:

Abatement. The removal, prostration, or destruction of that which causes a nuisance, whether by breaking or pulling it down, or otherwise removing, disintegrating, or effacing it.

Board of health. Consists of a committee of three council members, with four alternates who shall also be council members, and whose duties are set out in section 14-11(c).

Health officer. A physician who is retained by the city of Cortez on an “as needed” basis to deal with sanitation and health problems.

Public health nuisance shall be defined as:

1. A situation creating infectious, contagious and pestilent disease, unsanitary toilet facilities, matters relating to sewage, drainage and surface water flow, stagnant water, existence of privy vaults, sinks, cesspools and septic tanks that may not be operating properly by reason of location, defective construction, inadequate maintenance, wear and want of repair, and improper or inadequate installation of private sewage lines from houses, buildings and other structures at the point where the same is connected to the lines of the Cortez sanitation district;

2. To deposit any animal or human fecal material, dead animal, or other filthy or offensive, substance upon any public street, alley, highway, park or other public place;

3. To corrupt or render unwholesome or impure the water of any drinking fountain, spring, stream, pond or lake, to the injury or prejudice of others, or any part of the city water supply system;

4. To permit or suffer any slops, swill, garbage, stable droppings, feces, offal, filth,

refuse, animal or vegetable matter, which are liable to become putrid or offensive or injurious to health, to remain on any premises. (Ord. No. 775, (part), 1993; Ord. No. 1027, §§ 2, 3.)

Sec. 14-8. Nuisance prohibited.

From and after the date of the ordinance codified in this section, the owners of all lots or tracts or any addition thereto shall be, and are required to correct and abate and keep corrected and abated all those matters declared a nuisance, or a threat to public health and safety as defined in this chapter. A public nuisance as defined, or any other violation of this chapter which adversely affects the health, safety or welfare of the residents of the city is strictly prohibited within the city. (Ord. No. 775, (part), 1993.)

Sec. 14-9. Authority to enter on property.

The health officials, city manager, his designated representative or any police officer may, where reasonable cause exists with or without a warrant issued by any court or competent jurisdiction, including the municipal court of the city, enter upon any land for examination of the same to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. (Ord. No. 775, (part), 1993.)

Sec. 14-10. Interpretation; effect on other ordinances.

Notwithstanding the provisions of any zoning ordinance or other ordinances now or hereafter enacted authorizing certain uses or location of property, it is the intention of the city council, and it is hereby so declared that

any use, location or activity otherwise authorized by zoning ordinances or any other ordinance shall be subject to this chapter. (Ord. No. 775, (part), 1993.)

Sec. 14-11. Complaints generally.

(a) In the event that it is determined by any individual that a nuisance within the city as described in this chapter may exist, it shall be the duty of such individual to register a complaint with the city manager of the city and the Cortez sanitation district. Upon the registering of such complaint, it shall be the duty of the city manager or his designee to investigate the subject of the complaint and determine whether it shall be necessary to issue a cease and desist order to prevent disease and cause the abatement of the nuisance described in this chapter. The city manager may direct the health officer or officers to determine if such a serious health hazard exists that a twenty-four hour notice to cease and desist order to abate or remove the determined public health nuisance should be issued. If the hazard is not considered to be of such magnitude that the abatement doesn't require a twenty-four hour cease and desist then the city manager, with the advise of the health officer, shall establish in the notice the date which the nuisance must be abated. A notice shall be addressed to the landowners of the property and shall be personally served upon them if possible and if not possible, shall be mailed to them certified mail, return receipt requested and posted upon the premises. In the event that it is determined there are tenants residing on the premises, the city shall post the premises and make reasonable efforts to personally notify the tenants. The cease and desist or abatement order shall clearly state the problem complained of, the reason why the problem must be immediately corrected, the name and address and telephone number of the per-

son issuing the order and a notice that the order constitutes a summons to appear and give testimony before the city manager and city health officer in the event that the condition is not rectified within the time required. The notice shall also state that if the situation is not corrected in the time required the city will undertake the correction at the landowner's expense. The notice shall also advise the landowner that city water service may be terminated if deemed necessary by the city to abate the situation. Normal and customary water charges for termination and reconnection shall apply in such an event.

(b) If the condition is not rectified within twenty-four hours, it is the duty of the city manager with the recommendation of the health officer to make a determination whether the nuisance shall be immediately abated. If the city manager and city health officer determine that while there is a health problem that does not require twenty-four hour abatement, they will issue an order with a date certain in which the problem will be abated before the cease and desist order is issued.

(c) Once there has been a cease and desist order issued by the city manager, the landowner shall be given the right to appeal the same through the public health board which shall consist of three permanently appointed city council members and with the other four city council members being alternates. The affected landowner shall have twenty days from the cease and desist order to file an appeal to the board of health. The twenty-day time to appeal has no effect on the city manager and the health officer's ability to rectify the offending condition so that the health and safety of the citizens of Cortez is protected. The appeal to the board of health shall review whether the determination of the city manager and the health officer that a health hazard existed was cor-

rect and that the actions of the city manager and the health officer were reasonable and necessary. Upon the completion of the appeal the board shall make such finding of fact and law as are necessary to support their decision and the same shall become an immediate order of the board. Any person aggrieved by the action of the board may appeal to the district court under the terms and within the same time limitations of Rule 106(a)(4), Colorado Rules of Civil Procedure. Any such appeal or other civil action shall not stay any proceedings being conducted by the city to mitigate the health problem being acted on.

(d) The inquiry of the board shall relate directly to the determination of whether or not a health hazard exists, and the action which shall be taken to ratify the decision of the city manager or health officer, directed to whether such action was reasonable and necessary. Upon the completion of the hearing, the board shall make such findings of fact and law as are necessary to support their decision and the same shall become an immediate order of the board. Any person aggrieved by the action of the board may appeal to the district court under the terms and within the time limitations of Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Any such appeal or other civil action shall not stay the proceedings or orders of the board unless a bond in an amount to be determined adequate by the court shall be posted and such other stipulations as the court deems reasonable to protect the health, safety and welfare of the population of the city are put in place. (Ord. No. 775, (part), 1993; Ord. No. 1027, §§ 4—6.)

Sec. 14-12. No election of remedies.

Notwithstanding any provision of this chapter to the contrary, the city may take such other action, including the filing of a civil complaint to protect the health, safety

and welfare of the citizens of the city and the surrounding area as it deems necessary. The remedies set forth in this chapter are cumulative. (Ord. No. 775, (part), 1993.)

Sec. 14-13. Penalties.

(a) Any person or persons guilty of violating any of the provisions contained in this chapter shall be deemed guilty of a misdemeanor for each day that a violation continues.

(b) Whenever in this chapter or any other ordinance of the city or any section or an order, rule or regulation promulgated under the provisions of this chapter or other ordinance of the city any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any such provision of this chapter or other ordinance of the city or of such orders, rules or regulations shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. For purposes of this chapter, each day of violation constitutes a separate offense. (Ord. No. 775, (part), 1993; amended by memo 3519.) (Ord. No. 1170, § 12, 9-25-12)

Sec. 14-14. Authority of the city to correct and abate, assess costs and notify owner.

The city shall have the power and authority to correct, abate and/or remove any public health nuisance herein described and to assess the whole cost thereof against the lot or lots or tracts of land or personal property upon which said nuisance is located upon the failure or refusal of any landowners to fully comply with the provisions of this chapter. (Ord. No. 775, (part), 1993.)

Sec. 14-15. Collection/lien.

All costs assessed under this section shall constitute a lien in the several amounts

against each offending lot or tract of land or personal property until paid. In the event that such assessment shall not be paid within thirty days after assessment notice to the landowner at his last known address, certified mail, return receipt requested, the city may certify said assessment to the county treasurer or to the officer of the county and in which the custody of the tax list remains at the time of said certification, to be by him, placed upon the tax rolls for the current year as provided by state law, and to be collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray the cost of collection and with all other remedies available to him by law for the assessment and collection of general taxes. (Ord. No. 775, (part), 1993.)

CHAPTER 14A.

LODGERS' TAX.

- § 14A-1. Citation.
- § 14A-2. Purpose.
- § 14A-3. Definitions.
- § 14A-4. Imposition of tax.
- § 14A-5. Exemptions.
- § 14A-6. Taxable transactions.
- § 14A-7. Licensing.
- § 14A-8. Collection of tax—Reporting.
- § 14A-9. Duty of vendor—Books and records.
- § 14A-10. Failure to pay tax; failure to make return; computation; penalty; notice.
- § 14A-11. Administration.
- § 14A-13. Budget and expenditures.

Sec. 14A-1. Citation.

The ordinance codified in this chapter shall be known as and may be cited as "The Lodgers' Tax Ordinance." (Ord. No. 537, § 1.)

Sec. 14A-2. Purpose.

The purpose of this Chapter is to impose a tax which will be borne by transient persons using commercial lodging accommodations in the city including users of commercial campground facilities, which tax will provide revenues for advertising the community, improving its services, financing new facilities, attracting conferences, conventions and meetings of a commercial, cultural, educational, and social nature to the city, to provide for the beautification of the city,

and to allocate a part thereof for administrative and clerical expenses. (Ord. No. 537, § 2; Ord. No. 601, § 1.)

Sec. 14A-3. Definitions.

As used in this chapter:

City manager. The city manager of Cortez, or his designated representative.

Gross taxable rent. The total amount of rent paid for lodging.

Lodgers' tax. The tax on lodging, authorized by this chapter.

Lodging. The transaction of furnishing rooms or other accommodations including commercial campground units by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodation including trailer space units in or at a taxable premises, provided that the tax shall not be imposed on food, service, beverage, telephone, laundry or like services incidental to the furnishing of lodging or shelter and for which a separate charge is customarily made.

Person. A corporation, firm or other body corporate, partnership, association or individual, including an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, and as herein limited includes the United States of America, the state of Colorado, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

Taxable premises. A hotel, motel or commercial campground.

Vendee. A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

Vendor. A person furnishing lodgings in the exercise of the taxable service of lodging. (Ord. No. 537, § 3; Ord. No. 601, § 2.)

Sec. 14A-4. Imposition of tax.

There is imposed an occupancy tax of revenues of two percent of gross taxable rent for lodging paid vendors beginning November 1, 1981. (Ord. No. 537, § 4; Ord. No. 563, § 1.)

Sec. 14A-5. Exemptions.

The tax imposed in section 14A-4 shall not apply:

(a) As to vendees:

(1) Is a resident of the taxable premises for a period of at least thirty consecutive days; or

(2) Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty consecutive days.

(b) Political subdivisions, others:

(1) The federal government, state of Colorado and its subdivisions, departments and institutions and the political subdivisions thereof, but only in their governmental functions and activities;

(2) Religious, charitable and quasi-governmental organizations only in the conduct of their regular religious, charitable and quasi-governmental capacities; provided such organization, corporation or governmental entity furnishes to the person who performs or causes to be performed the taxable service or labor sufficient evidence to demonstrate that they are entitled to said exemption.

(c) As to vendor:

(1) To clinics, hospitals or other medical facilities;

(2) To privately owned and operated convalescent homes of the aged, infirm, indigent or chronically ill; or

(3) If the taxable premises does not have at least three rooms or three other units of accommodations for lodging. (Ord. No. 537, § 5.)

Sec. 14A-6. Taxable transactions.

It shall be a violation of this chapter for any lessee of a hotel room or motel room located in the city as defined in section 14A-3 to fail to pay, or for any lessor of such accommodation to fail to collect the tax levied by this chapter. (Ord. No. 537, § 6.)

Sec. 14A-7. Licensing.

(a) No vendor shall engage in the business of providing lodging in the city after the effective date of the ordinance codified in this chapter who has not first obtained a license as provided in this section.

(b) Applicants for a vendor's license shall submit an application to the city manager upon forms to be furnished by him prior to January 1, 1980, which forms shall at least show the name and address of the vendor together with a correct mailing address of the vendor.

(c) The city manager shall issue upon a form to be prescribed by him a license bearing an identifying number together with the name and address of the vendor and the manager, owner or proprietor. For each license issued a fee of ten dollars shall be paid. Such license will be invalidated and must be reissued and

repurchased if there is (1) change in business name; or (2) change in business address; or (3) change in business ownership. All forms thereafter filed by the vendor with the city upon reporting and paying the tax shall bear the number of the vendor's license. (Ord. No. 537, § 7.)

**Sec. 14A-8. Collection of tax—
Reporting.**

Every vendor providing lodgings as provided in this chapter shall collect the tax thereon on behalf of the city and shall act as a trustee therefor. The tax shall be collected from vendees in accordance with this chapter and shall be remitted to the city on or before the twentieth day of the month succeeding the month in which the tax has been paid and collected. Each vendor shall make a report upon payment of the tax upon such form as shall be provided by the city manager. (Ord. No. 537, § 8.)

Sec. 14A-9. Duty of vendor—Books and records.

The vendor shall maintain adequate records to be maintained at vendor's offices in the city and shall be opened to the inspection of the city during reasonable hours, the same to be retained for no less than three years. (Ord. No. 537, § 9.)

Sec. 14A-10. Failure to pay tax; failure to make return; computation; penalty; notice.

(a) If any vendor makes a return as required by this chapter without paying the tax then due, he shall be liable for the tax and a penalty equal to ten percent thereof but not less than ten dollars penalty in addition to the tax, without notice from the city with regard thereto. Promptly thereafter, the city shall give

the delinquent vendor written notice of such estimated tax penalty and interest, which notice shall be served personally or by certified mail.

(b) If any vendor neglects or refuses to make a return and pay the tax as required by this chapter, the city manager shall make an estimate based upon an examination of the vendor's books and records, or upon any information in its possession, of the amount of the gross taxable rents of the delinquent vendor for the period in respect to which he has failed to make return, and upon the basis of the estimated amount shall compute and assess the tax payable by the delinquent vendor, adding to the sum thus arrived at a penalty equal to ten percent thereof, but not less than ten dollars. Promptly thereafter the city shall give the delinquent vendor written notice of such estimated tax, penalty and interest, which notice shall be served personally or by certified mail.

(c) If payments are not made by the vendor within fifteen days of such notice, the city manager shall bring an action in law or equity in court for the collection of any amounts due, including without limitation penalties thereon, interest on the unpaid principal at a rate of not exceeding one percent per month, the cost of collection and reasonable attorney's fees incurred in connection there with. (Ord. No. 537, § 10.)

Sec. 14A-11. Administration.

Administrative duties are assigned to the city manager. (Ord. No. 537, § 11.)

Sec. 14A-13. Budget and expenditures.

(a) There is created an advisory board of trustees whose duty it shall be to advise with the city manager and the city council concerning the preparation of a budget for the fund so

collected and whose duties it shall be to recommend to the city manager and the city council allocation of moneys from the funds for the stated purposes hereinabove set forth.

(b) The advisory board of trustees shall be appointed by the city council to serve at the will of the council and shall consist of at least the following:

(1) One member of the city's lodgers association, one member of the county's lodgers association, and three members of the city council.

(c) There shall be budgeted from the moneys received from the imposition of the tax fifteen percent thereof for beautification projects within the city and five percent shall be allocated to reimburse the city for administrative and clerical expenses in administering the fund. (Ord. No. 537, § 13; Ord. No. 563, §§ 2—4; Ord. No. 1083.)

CHAPTER 15.

LICENSES AND BUSINESS REGULATIONS GENERALLY.

For state law as to authority of city to license, regulate and tax businesses and occupations generally, see C.R.S. 1973, §§ 31-15-301, 31-15-501.

As to alcoholic beverages generally, see ch. 4 of this Code. As to the licensing of dogs, see §§ 5-31 to 5-34. As to finance and taxation generally, see ch. 9. As to licenses required for sale of fireworks, see § 11-7. As to gas insulation, construction, etc., license, see §§ 13-4, 13-5. As to licensing of bicycles, see §§ 16-9 to 16-12. As to licensing of plumbers, see §§ 21-3 to 21-5.

Article I. In General.

§§ 15-1 to 15-5. Reserved.

Article II. Licenses Generally.

- § 15-6. Required.
- § 15-7. Issuance; fee; terms and conditions.
- § 15-8. Signing and attestation.
- § 15-9. Revocation.
- § 15-10. Register to be kept by city clerk.
- § 15-11. One year to be maximum term.
- § 15-12. Applications generally.
- § 15-13. Partial payment prohibited.
- § 15-14. Display.
- § 15-15. Assignability.

Article III. Coin-Operated Amusement Devices.

- § 15-16. Repealed.
- § 15-17. Repealed.
- § 15-18. Repealed.

Article IV. Billiard and Pool Tables.

- § 15-19. Repealed.
- § 15-20. Repealed.

- § 15-21. Repealed.
- §§ 15-22 to 15-30. Reserved.

Article V. Reserved.

§§ 15-31 to 15-37. Reserved.

Article VI. Shows, Exhibitions, Etc.

- § 15-38. License—Required.
- § 15-39. Same—Schedule of fees.
- § 15-40. Same—To indicate period of validity and place of exhibition, etc.
- § 15-41. Reserved.

Article VII. Junk and Secondhand Dealers.

- § 15-42. License—Required.
- § 15-43. Same—Application; fee; term.
- § 15-44. Same—Change of address to be noted.
- § 15-45. Record of purchases required; access to records.
- § 15-46. Examination of articles and premises by police.
- § 15-47. Purchased goods to be kept seventy-two hours.
- § 15-48. Prohibited purchases; hours of business.
- § 15-49. Purchases from minors.
- § 15-50. Daily reports.

Article VIII. Pawnbrokers.

- § 15-51. Requirements generally.
- § 15-52. License—Required.
- § 15-53. Same—Application; fee.
- § 15-54. Same—Fee; display.
- § 15-55. Same—Bond required.
- § 15-56. Same—Requirements generally; issuance or denial; transferability.

§ 15-57. Same—Forfeiture,
revocation.
§§ 15-58 to 15-65. Repealed.

**Article IX. Peddlers, Vendors and
Transient Merchants.**

§ 15-66. Repealed.
§ 15-67. Repealed.
§ 15-68. Repealed.

Article X. Merchant Police Force.

§ 15-69. Definitions.
§ 15-70. License—Required.
§ 15-71. Same—Application.
§ 15-72. Same—Affidavits
required.
§ 15-73. Same—Issuance.
§ 15-74. Same—Fees; renewal.
§ 15-75. Same—Insurance
requirements.
§ 15-76. Same—Indemnification of
city.
§ 15-77. Permit—Required.
§ 15-78. Same—Application.
§ 15-79. Same—Affidavit required.
§ 15-80. Same—Issuance.
§ 15-81. Same—Fees; renewal.
§ 15-82. License and permit—
Assignment or transfer.
§ 15-83. Same—Suspension or
revocation.
§ 15-84. Compliance with Code.
§ 15-85. Badges, uniforms and
equipment.
§ 15-86. Suspicious circumstances.

Article XI. Mobile Home Parks.

§ 15-87. License—Required; fee.
§ 15-88. Same—Transfer.
§ 15-89. Same—Term; renewal.

§ 15-90. Same—Revocation or
suspension; penalty for
violation.

Article XII. Transient Merchant.

§ 15-91. Definitions.
§ 15-92. License required.
§ 15-93. Exemptions from chapter
provisions.
§ 15-94. Application for license;
investigation fee, license
fee.
§ 15-95. Investigation and issuance
of license.
§ 15-96. Agent license.
§ 15-97. Bond.
§ 15-98. Expiration of license.
§ 15-99. Religious, charitable and
special events permits.
§ 15-100. Loud noises and speaking
devices.
§ 15-101. Use of streets.
§ 15-102. Exhibition of license.
§ 15-103. Duty of police to enforce.
§ 15-104. Police records.
§ 15-105. Revocation and suspension
of license.
§ 15-106. Appeals to city manager.
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Article XIII. Flea Market.

§ 15-109. Definitions.
§ 15-110. License required.
§ 15-111. Application for license;
license fee.
§ 15-112. Investigation and issuance
of license.
§ 15-113. Bond.
§ 15-114. Expiration of license.
§ 15-115. Religious, charitable and
special events permits.

- § 15-116. Records to be kept by licensee.
- § 15-117. Secondhand stores excepted.
- § 15-118. More than one market.
- § 15-119. Unlawful transactions.
- § 15-120. Purchases from children.
- § 15-121. Sales tax license required.
- § 15-122. Exhibition of license.
- § 15-123. Duty of police to enforce.
- § 15-124. Police records.
- § 15-125. Revocation and suspension of license.
- § 15-126. Appeals to city manager.
- § 15-127. Reapplication for a license.
- § 15-128. Violation—Penalty
- §§ 15-129 to 15-299. Reserved.

Article XV. Medical Marijuana Businesses

Division 1. License

- § 15-300. License required.
- § 15-301. Application; term fee.
- § 15-302. Renewal fee.
- § 15-303. Investigation of applicant.
- § 15-304. Public hearings; notice; publication.
- § 15-305. Persons prohibited as licensees.
- § 15-306. Issuance or denial of license.
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Division 2. General Requirements

- § 15-311. Operational requirements.

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Article I. In General.

Secs. 15-1 to 15-5. Reserved.

Article II. Licenses Generally.

Sec. 15-6. Required.

The various objects, subjects, persons,

corporations, trades, vocations, professions and occupations mentioned in this chapter, within the city, shall be licensed generally in accordance with this chapter and any and all persons are hereby prohibited from engaging in or carrying on any of the occupations, professions or trades in this chapter, within the city, without first having been granted therefor a license from the city as provided in this chapter. (Code 1968, § 12-1-1.)

Sec. 15-7. Issuance; fee; terms and conditions.

Licenses shall be granted to persons to engage in or carry on the occupations, professions, trades or business callings set forth by this chapter upon payment to the director of finance for the use of the city the sums set forth and established by this chapter. Any and all persons receiving any license from the city shall be subject to the Code, ordinances and regulations of the city which may be in force at the time of the issuance thereof, or which may be subsequently made and ordained by the city manager, and if any person so licensed violates any of the provisions thereof, he shall be liable to be proceeded against for any fine, forfeiture or penalty imposed thereby. In addition, such license may be revoked by the city manager and any and all license fees paid by him shall in such case be forfeited to the city. (Code 1968, § 12-1-2.)

Sec. 15-8. Signing and attestation.

All licenses named under this chapter shall be signed by the city clerk or the duly appointed deputy city clerk. (Ord. No. 632, § 2.)

Sec. 15-9. Revocation.

Any license may be revoked by the city manager when it appears that the licensee

has not complied with the Code or ordinances regulating his business, trade, profession or calling, when he has practiced fraud, misrepresentation or deceit in obtaining such license or whenever it appears that such business, trade, profession or calling so licensed is against good morals or contrary to the general welfare of the inhabitants of the city. Any and all license fees paid by such licensee shall in such case be forfeited to the city. (Code 1968, § 12-1-3.)

Sec. 15-10. Register to be kept by city clerk.

The city clerk shall keep a register in which shall be entered the name of each and every person licensed under this chapter, the date of the license, the purpose and place for which the license is granted, the amount paid therefor and the time such will expire or continue in force. (Ord. No. 632, § 2.)

Sec. 15-11. One year to be maximum term.

No license shall be issued at any time for a longer period than one year and in all cases the period or term covered by the license shall be expressed therein. (Code 1968, § 12-1-5.)

Sec. 15-12. Applications generally.

All applicants for licenses under this chapter shall file an application as required by this chapter, and shall pay an application fee, if any shall be required. Application fees shall be set by resolution of the council.

All continuously annually licensed individuals, partnerships or corporations under this chapter shall file an updated application with the city clerk every third year of renewal of license. If an annual license is not renewed within thirty days

of the expiration date of the license, a new application plus all applicable fees shall be required. Licenses for terms of less than one year shall require a new application for each license. (Ord. No. 632, § 2.)

Sec. 15-13. Partial payment prohibited.

The director of finance is hereby prohibited from receiving any less sum at any one time than the amount required by the Code, ordinances and resolutions of the city to take out a license for the period fixed thereby. No partial payments shall be received upon any license fee or license. (Ord. No. 632, § 2.)

Sec. 15-14. Display.

It shall be the duty of each and every person to whom a license has been issued to show such at any time during the business hours of any day to the chief of police or to any officer of the city upon request. It shall be unlawful for any person to fail or refuse to show such license when requested by such authority. (Code 1968, § 12-1-8.)

Sec. 15-15. Assignability.

No license granted under the provisions of this chapter shall be assignable without the written permission of the city manager or city council. (Code 1968, § 12-1-9.)

Article III. Coin-Operated Amusement Devices.

Secs. 15-16 to

15-18. Repealed by Ord. No. 561.

Article IV. Billiard and Pool Tables.

Secs. 15-19 to

15-21. Repealed by Ord. No. 561.

Secs. 15-22 to

15-30. Reserved.

Article V. Reserved.

Secs. 15-31 to

15-37. Reserved.

Article VI. Shows, Exhibitions, Etc.

For state law as to authority of city to license and regulate shows, exhibitions, etc., see C.R.S. 1973, § 31-15-501(g).

Sec. 15-38. License—Required.

No person shall exhibit, conduct or manage for gain within the city any performance, entertainment, amusement or transient business as set forth in this article or any other amusement or transient business for gain without first having obtained a license therefor. (Code 1968, § 12-5-4.)

Sec. 15-39. Same—Schedule of fees.

The license fee or charge shall be as follows:

Circus, menagerie or carnival, one hundred and fifty dollars per day. (Code 1968, §§ 12-5-1 to 12-5-3.)

Sec. 15-40. Same—To indicate period of validity and place of exhibition, etc.

The city clerk in issuing any license granted under the provisions of this article shall specify therein the objects and length of time for which such is granted and the place where the circus, menagerie or carnival is to be rendered or located. (Ord. No. 632, § 2.)

Sec. 15-41. Reserved.

Article VII. Junk and Secondhand Dealers.

For state law as to authority of city to license and regulate junk and secondhand dealers, see C.R.S. 1973, §§ 31-12-101(74), 31-15-301(b).

Sec. 15-42. License—Required.

No person in the city shall engage in the business of keeping a secondhand store or a place for buying and selling secondhand goods or engage in the business of a junk dealer or collector without first obtaining a license therefor. (Code 1968, § 12-9-1.)

Sec. 15-43. Same—Application; fee; term.

Any person desiring a license under this article shall apply to the city clerk or his agent therefor. The application shall be in writing, shall set forth the full name of the applicant and the location at which such business is to be carried on and shall be accompanied by a fee set by resolution of the city council. Such license shall, unless sooner suspended or revoked, continue in force for one year from the issuance thereof. (Ord. No. 632, § 2.)

Sec. 15-44. Same—Change of address to be noted.

In the event that any person licensed under this article removes his place of business from the location designated in such license, such person shall immediately give notice to the city clerk and have the change noted upon such license. (Ord. No. 632, § 2.)

Sec. 15-45. Record of purchases required; access to records.

Every person licensed under this article shall keep a book in which shall be written in ink the time of each purchase, an accurate description in English of the goods, article or thing purchased, the time of the receipt of same, the name, residence and description of the person selling the same and such book, as well as the article or articles purchased, shall, at all reasonable times, be open to the inspection of any member of the police department. (Code 1968, § 12-9-3.)

Sec. 15-46. Examination of articles and premises by police.

The chief of police or any police officer of the city shall have the right to examine any article purchased by the licensee and may demand that any article so purchased be exhibited. Such officer shall have the right to inspect the place of business of the licensee and all articles being kept therein whenever he deems it necessary so to do. (Code 1968, § 12-9-8.)

Sec. 15-47. Purchased goods to be kept seventy-two hours.

No person licensed under this article shall sell or remove from his place of business any goods or articles purchased by him for at least seventy-two hours. (Code 1968, § 12-9-4.)

Sec. 15-48. Prohibited purchases; hours of business.

No person licensed under this article shall purchase any secondhand goods, articles or thing from any person who at the time is intoxicated, from any person known by him to be a thief or a receiver of stolen property or from any person

whom he has reason to suspect of being such.

No purchases shall be made between the hours of 6 o'clock P.M. and 6 o'clock A.M. (Code 1968, § 12-9-5.)

Sec. 15-49. Purchases from minors.

It shall be unlawful for any person licensed as a secondhand dealer, junkshop keeper or house-to-house secondhand buyer to purchase from, sell to or in any manner deal with any minor under the age of eighteen years; except, that such licensees may purchase old rags and waste paper from minors under the age of eighteen years. This section shall apply to employees, agents, or servants of such licensees. (Code 1968, § 11-1-4.)

Sec. 15-50. Daily reports.

Every person licensed under this article shall make out and deliver to the chief of police of the city, every day, before the hour of 12:00 Noon, a report on forms provided by the chief of police giving an accurate account and description of each and all of the articles purchased during the preceding day, the price paid therefor, the time of purchase and the names and residences of the persons from whom such purchases were made. (Code 1968, § 12-9-6.)

Article VIII. Pawnbrokers.

For state law as to authority of city to license and regulate pawnbrokers, see C.R.S. 1973, §§ 31-12-101(63), 31-15-301(b), 12-56-102. As to pawnbrokers generally, see C.R.S. 1973, §§ 12-56-102 to 12-56-119.

Sec. 15-51. Requirements generally.

Pursuant to C.R.S. 12-56-102, any corporation, partnership or individual wishing to operate a pawnbroking

establishment within the city shall be licensed and bonded according to the regulations set forth in this article.

The pawnbroking establishment shall comply with the rules and regulations as established by C.R.S. 12-56-101 et seq., as amended, in the conduct and operation of the establishment. (Ord. No. 629, § 2.)

Sec. 15-52. License—Required.

It shall be unlawful for any person to engage in the business of pawnbroking, whether as an individual, business or in connection with any other lawful business, except as provided in and authorized by this article and without first obtaining a license from the city clerk. (Code 1968, § 12-7-2.)

Sec. 15-53. Same—Application; fee.

All applicants for a license under this article shall apply to the city clerk and such application shall contain such pertinent information as may be required by the city clerk and upon such forms as the city clerk may prescribe.

An application fee shall be assessed each applicant for license in an amount that shall be set by resolution of the city council. In the event that a license is denied the applicant, the applicant shall not be entitled to a refund of all or any part of the application fee. (Ord. No. 629, § 2.)

Sec. 15-54. Same—Fee; display.

The annual license fee for carrying on the business of pawnbroking shall be established by the city council by resolution.

The license shall be prominently displayed at the location in which such pawnbroking activities are being conducted. (Ord. No. 629, § 2.)

Sec. 15-55. Same—Bond required.

The licensee or applicant shall furnish good and sufficient bond, with sureties to be approved by the city clerk, in the sum of one thousand dollars conditioned upon the faithful observance of this article and upon the safekeeping, or return, of all articles held in pledge by such pawnbroker. (Code 1968, § 12-7-5.)

Sec. 15-56. Same—Requirements generally; issuance or denial; transferability.

All applicants for a license under this article shall satisfy the city clerk of his financial responsibility, experience, character and general fitness and if the applicant is a firm or corporation, of the officers and directors thereof. If the city clerk should find that any applicant is not of proper character, has been convicted of a felony or does not have a reputation for truth or fair dealing, then the city clerk shall have the right, upon the approval of the mayor and city council, to refuse to issue such license to such applicant. Such license shall not be transferable. (Code 1968, § 12-7-6.)

Sec. 15-57. Same—Forfeiture, revocation, suspension.

Any person who does not comply with the rules and regulations as established by C.R.S. 12-56-101 et seq., as amended, shall forfeit the license. All penalty and penal regulations of the state as found in C.R.S. 12-56-104 shall be applicable and are in no way affected by the ordinance codified in this section.

The city shall revoke or suspend any license issued for any violation of the requirements of application, bonding or licensing as provided by this article. Such revocation or suspension shall be for a

period of time and upon such terms as the city council may determine.

Forfeiture, revocation or suspension of any license under this article shall not entitle a pawnbroker to a refund of all or any part of the license fee. (Ord. No. 629, § 2.)

Secs. 15-58 to

15-65. Repealed by Ord. No. 629.

Article IX. Peddlers, Vendors and Transient Merchants.

Secs. 15-66 to

15-68. Repealed by Ord. No. 610.

Article X. Merchant Police Force.

Sec. 15-69. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(a) **Merchant patrol.** Any person who conducts or is engaged in the business of keeping surveillance upon any premises for the purposes of ascertaining that such premises are safe and secure, such surveillance being generally for the determination of suspicious circumstances which would indicate unlawful trespass or other illegal interference with such premises, including but not limited to lights being turned out, doors locked and windows intact.

The term "merchant patrol" shall not include an individual or a firm duly licensed by the state as a detective agency;

provided, that such individual or firm is carrying on detective business and not surveillance for security and notifies the chief of police of such detective business in advance thereof. The term shall not apply to individuals employed as watchmen or security guards for the purpose of maintaining surveillance upon any premises; provided, that such surveillance activity does not involve the use of public ways.

(b) **Individual merchant patrolman.** Any employee of a merchant patrol business who is engaged in surveillance and patrol work for his employer.

(c) **Owner.** Any individual owner or general partner. If a limited partner, owner shall mean any limited partner having a financial interest of twenty percent or greater. If a corporation, owner shall mean any stockholder holding twenty percent or more of the total outstanding stock of the corporation. (Ord. No. 476, § 1.)

Sec. 15-70. License—Required.

It shall be unlawful for any person to operate and engage in the merchant patrol business as provided herein without first having obtained a license from the city. (Ord. No. 476, § 2.)

Sec. 15-71. Same—Application.

Application for a business license to operate and engage in the business of merchant patrol within the city shall be submitted in writing to the city clerk upon such forms as may be provided by the city clerk for such purposes. The application shall set forth the following information:

(a) The name and address of the applicant and the owner or owners of the merchant patrol business.

(b) The present occupation and

occupations for the preceding five years of the applicant and each owner.

(c) The trade or other name, if any, under which the applicant and owner conduct business or propose to conduct business.

(d) The training and experience of the applicant in the merchant patrol business.

(e) A list of names and addresses of all other businesses in which any of the persons listed in subsections (a) and (b) above have an interest.

(f) Any other pertinent information requested by the city clerk for the purpose of administering the provisions of this article. Applications for licenses under the provisions of this section shall require an application fee as set by the council by resolution. (Ord. No. 632, § 2.)

Sec. 15-72. Same—Affidavits required.

There shall be submitted with the application for a merchant patrol license, individual affidavits setting out sufficient facts to prove the good character, competency and integrity of the applicant and of each owner with financial interest greater than twenty percent. Such affidavits shall list any previous police record. Each affidavit shall be supported by statements in writing from not less than five reputable citizens, each of whom shall certify that he has personally known the applicant or owner for a period of at least five years prior to the filing of the aforesaid affidavit and that he believes the applicant or owner is competent, honest and of good character and that he would recommend to the city manager that the applicant or owner be licensed to engage in the merchant patrol business. (Ord. No. 476, § 4.)

Sec. 15-73. Same—Issuance.

The application for a merchant patrol business license as herein provided shall be forwarded to the city manager, who, if he shall find after investigation that the requirements set forth in this division have been met and that the character, competence and integrity of all those whose names which appear on the application for the license are such as to command the confidence of the public and to warrant belief that the business will operate lawfully, honestly, fairly and efficiently, shall thereupon direct the city clerk to issue and deliver to the applicant a merchant patrol business license. (Ord. No. 476, § 4.)

Sec. 15-74. Same—Fees; renewal.

(a) The annual license fees for persons engaged in the merchant patrol business as herein defined shall be as follows:

- (1) Individuals . . \$10.00 per year
- (2) Partnerships and corporations employing fewer than six agents or employees 25.00 per year
- (3) Partnerships and corporations employing six to nine agents or employees 50.00 per year
- (4) Partnerships or corporations employing ten or more agents or employees 75.00 per year

(b) Renewal date of all licenses shall be the first day of July of each year. (Ord. No. 476, § 7.)

Sec. 15-75. Same—Insurance requirements.

No license shall be issued until a merchant patrol business has secured such insurance as will protect itself and the city from claims of bodily injury, death

or property damage which may arise from carrying on a merchant patrol business. The following insurance coverage shall be required in the name of the licensee with the city as a named insured:

Public liability and property damage:

Bodily injury:

Each person \$100,000.00

Each accident . . . 300,000.00

Property damage:

Each accident . . . \$ 50,000.00

Aggregate 100,000.00

Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the city clerk at least thirty days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be the cause for automatic suspension of the license until the coverage shall be reinstated. All policies shall be kept in force for the period of the license. (Ord. No. 476, § 9.)

Sec. 15-76. Same—Indemnification of city.

The licensee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the license and the licensee shall indemnify and save harmless the city and all of its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or persons or property on account of the exercise of the license or of any act or omission of the licensee thereunder, his agents or employees, or on account of the failure of the licensee to observe this division and further to faithfully perform and honestly conduct all surveillance undertaken by the merchant patrol business and each individual merchant patrolman

employed thereunder. (Ord. No. 476, § 9.)

Sec. 15-77. Permit—Required.

It shall be unlawful for any person who shall be an employee of a merchant patrol business to engage in surveillance and patrol work without first having obtained a permit from the city. No permit shall be issued to any person who has not reached the age of eighteen years. (Ord. No. 476, § 3.)

Sec. 15-78. Same—Application.

Applications for individual merchant patrolmen permits shall be made to the city clerk upon such forms as may be provided by him for such purpose. The application shall set forth the following information:

(a) The name and address of the applicant, and the places of residence two years previous to moving to his present address, and the length of time he has resided in the city.

(b) The age of the applicant.

(c) Whether the applicant has ever

been convicted of a felony or misdemeanor, and if so, the pertinent facts relating thereto.

(d) The applicant's training and experience in surveillance and patrol work.

(e) Whether the applicant is licensed to operate motor vehicles and whether this license has ever been revoked or suspended in any jurisdiction and if so, for what cause.

(f) Two character references.

(g) Any other pertinent information requested by the city clerk for the purpose of administering the provisions of this section concerning individual merchant patrolmen permits.

Applications for permits under the provisions of this section shall require an application fee as set by the council by resolution. (Ord. No. 632, § 2.)

Sec. 15-79. Same—Affidavit required.

There shall be submitted with the application an affidavit from the holder of the merchant patrol license by whom the applicant will be employed stating that he believes the applicant is competent, honest and of good character, and that the applicant is qualified to do basic surveillance work and the reasons upon

which such statements are based. (Ord. No. 476, § 5.)

Sec. 15-80. Same—Issuance.

The application for an individual merchant patrolman permit shall be forwarded to the chief of police, who, if he shall find after investigation that the requirements in this division have been met and that the character, competency and integrity of the applicant is such as to command the confidence of the public, shall thereupon issue and deliver to the applicant an individual merchant patrolman permit in the form as the city police department shall direct. (Ord. No. 476, § 5.)

Sec. 15-81. Same—Fees; renewal.

(a) The annual permit fee to be paid individually by or for each individual merchant patrolman shall be five dollars.

(b) Renewal date of each permit shall be the first day of July of each year. (Ord. No. 476, § 8.)

Sec. 15-82. License and permit—Assignment or transfer.

No license or permit shall be assigned or transferred except upon approval by the city council. A sale or exchange of stock in excess of fifty percent of the total outstanding stock shall be deemed a transfer of the business license for the purposes of this article. Any change of ownership or any exchange of stock of ten percent or more shall be reported in writing to the city clerk. (Ord. No. 476, § 6.)

Sec. 15-83. Same—Suspension or revocation.

The city council shall have the authority to revoke any license or permit issued under this division for any of the following reasons:

(a) The applicant or owner of the merchant patrol business or any individual merchant patrolman permittee employee thereunder has been convicted of a crime under the laws of the United States or under the laws of any territory of the United States.

(b) The applicant or owner of any merchant patrol business or individual merchant patrolman permittee employee thereunder has failed to report a crime to the police department or has failed to report circumstances to the police department which should have put him on notice that a crime has been committed.

(c) The applicant or owner of any merchant patrol business or individual merchant patrolman permittee employee thereunder has failed to comply with the requirements set forth in this section.

(d) The council finds and determines that the public interest requires a suspension or revocation of any license or permit. (Ord. No. 476, § 10.)

Sec. 15-84. Compliance with Code.

Nothing herein shall be construed as permitting or allowing the applicant or owner of any merchant patrol business hereunder or any individual merchant patrolman employed by any merchant patrol business to violate or disobey any section of this Code or any duly enacted ordinance of the city. (Ord. No. 476, § 11.)

ordinance of the city. (Ord. No. 476, § 11.)

Sec. 15-85. Badges, uniforms and equipment.

All badges and uniforms and equipment used by individuals, partnerships or corporations engaged in the merchant patrol business shall be sufficiently distinctive to avoid confusion in the mind of the public with badges, uniforms and equipment of local law enforcement agencies. (Ord. No. 476, § 12.)

Sec. 15-86. Suspicious circumstances.

It shall be the duty of every person engaged in merchant patrol work to report break-ins and suspicious circumstances to the police department as soon as possible and to cooperate with the police department in the investigation of the same whenever requested to do so, but such person shall not attempt to investigate suspicious circumstances himself. (Ord. No. 476, § 13.)

Article XI. Mobile Home Parks.

As to mobile homes and mobile home parks generally, see ch. 12A of this Code.

Sec. 15-87. License—Required; fee.

(a) It shall be unlawful for any person to operate or maintain a mobile home park within the city without first securing a license therefor.

(b) For each mobile home park license issued there shall be paid to the city an annual fee of five dollars. (Ord. No. 482, § 1.)

Sec. 15-88. Same—Transfer.

A license issued pursuant to the above sections may be transferred upon application therefor being made to the city and approved by the city manager. (Ord. No. 482, § 1.)

Sec. 15-89. Same—Term; renewal.

A license for a mobile home park shall be valid for the calendar year in which it is issued. Such license shall be renewable upon written request on forms provided by the city prior to December 31 of any year upon payment of the fee prescribed in section 15-87. (Ord. No. 482, § 1.)

Sec. 15-90. Same—Revocation or suspension; penalty for violation.

When it appears to the building inspector, the chief of the police department, the chief of the fire department or the health department that any person holding a license under this article has knowingly violated any of the provisions of this article or any of the health and safety regulations of the city, a written notice shall be served upon such licensee in person or by registered mail specifying wherein it is believed that he knowingly violated or may have violated this article or health or safety regulation and requiring him to appear before the city manager at a time specified therein not less than ten days after such service and show cause why such license should not be suspended or revoked. At such time the licensee and the health, fire, police and building inspection departments of the city may produce such evidence as may be relevant to determine whether the violation contained in the charge has been

knowingly committed. If the city manager finds that such violation has not been committed knowingly or unknowingly, he shall so advise the licensee and the licensee shall be permitted to continue operation, but if the city manager finds from the evidence that such violation has been knowingly committed, he shall so advise the licensee and the city council who may suspend or revoke the license.

It shall be unlawful for any person or persons to operate, continue to operate or offer to operate or occupy any mobile home or mobile home stand that has violated any of the provisions of this article until such violation has been corrected, or to operate, continue to operate or offer to operate a mobile home park if the license for such park has been revoked. In addition, any person violating any of the provisions of this article or suffering or permitting the same to be violated shall be deemed guilty of a misdemeanor and upon conviction may be punished by a fine not to exceed five hundred dollars or imprisonment not to exceed one hundred eighty days or both such fine and imprisonment. The imposition of one penalty for any one violation shall not excuse the violation or permit it to continue, and each day thereafter that prohibitive conditions are maintained shall constitute a separate and chargeable offense. (Ord. No. 482, §§ 1, 13; amended by memo 3519.)

Article XII. Transient Merchant.

Sec. 15-91. Definitions.

As used in this chapter "transient merchant" which includes any person, firm or corporation, whether as owner, agent, consignee or employee(s), is defined as follows:

A vendor is to be considered transient if all the following conditions are met:

(a) Vendor does not have a city business street address, and

(b) Vendor does not have their services or products available to the public for a minimum of three consecutive months, and

(c) Vendor attempts to sell their service or product within the corporate limits of the city on a temporary basis (less than three consecutive months) and who engages in a temporary business of selling and delivering goods, wares, property, and merchandise within said city, and who, in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops, or any lot, public right-of-way or other place within the city for the exhibition and sale of such goods, wares and merchandise provided that such definition does not include any person, firm or corporation who, while occupying such temporary location does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged is not relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(d) The definitions herein stated for "transient merchants" shall not apply towards any resident of the city who wishes to dispose of personal property and thereby holds a sale at his residence for the disposal of the personal property, such sale being commonly known as a garage and/or yard sale. (Ord. No. 610, § 2; Ord. No. 620, § 1.)

Sec. 15-92. License required.

It is unlawful for any transient merchant to engage in any such business within the city without first obtaining a license therefor in compliance with the provisions of this chapter. (Ord. No. 610, § 2.)

Sec. 15-93. Exemptions from chapter provisions.

The terms of this chapter do not apply to:

- (a) Persons selling personal property at wholesale to dealers in such articles;
- (b) Acts of merchants or their employees in delivering goods in the regular course of business;
- (c) Newspaper carriers;
- (d) Colorado State licensed real estate brokers, salesmen and insurance agents;
- (e) Employees of any public utility;
- (f) Automobile salesmen;
- (g) Milk and milk producers and salesmen;
- (h) Dissemination of information without solicitation of money or other consideration;
- (i) Any sale required by statute or court order;
- (j) Any bona fide auction sale;
- (k) Any person selling food or food products grown or raised in the state of Colorado;
- (l) Notwithstanding any other provision of the City Code, any recognized local nonprofit organization or unincorporated association may, with the prior approval of the city council, sponsor temporary activities upon the public streets, alleys and other public grounds of the city, which encompass food goods grown, processed or created solely by the vendor, arts and crafts manufactured solely by the vendor, and other like activities. (Ord. No. 610, § 2; Ord. No. 858, § 1.)

Sec. 15-94. Application for license; investigation fee, license fee.

Applicants for a license under this chapter shall file with the city clerk a sworn application in writing on a form to be furnished by the city clerk at least thirty days in advance of the first sale for which a license is required hereunder, which shall give the following information:

- (a) Name and physical description of applicant.
- (b) Complete permanent home and local address of the applicant, and the local address from which proposed sales will be made.
- (c) A brief description of the nature of the business and the goods to be sold.
- (d) If employed, the name and address of the employer, together with the credentials therefrom establishing the exact relationship.
- (e) The length of time for which the right to do business is desired.
- (f) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time the application is filed, and the proposed method of delivery.
- (g) A recent photograph of the applicant which picture shall be approximately two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (h) The names of at least two residents of the city, who will certify as to the applicant's character and business responsi-

bility, or in lieu of the names and references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed

therefor, and a statement that the applicant has no objections to the release of any criminal history discovered upon investigation to the license issuing authority.

(j) The last cities or towns, not to exceed three, where applicant carried on business immediately preceding the date of application and the addresses from which such business was conducted in those municipalities. Proof that the merchant has permission of any property owner to conduct business upon private property.

(k) The applicant shows proof sufficient to the licensing authority that the applicant has a valid Colorado State Sales Tax License.

At the time of filing the application, a fee of seventy-five dollars shall be paid to the city to cover the cost of investigation of the facts stated therein. The license shall be issued by the city clerk upon payment of a fee of one hundred dollars per year, or ten dollars per day. An annual license shall be valid for one year from the date of issue. There shall be no application for renewals in the succeeding license period. (Ord. No. 620, § 3.)

Sec. 15-95. Investigation and issuance of license.

Upon receipt of such application, it shall be referred to the chief of police who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this section within thirty days after it has been filed by the applicant with the city clerk.

If, as a result of such investigation, the applicant's character or business responsibility are found to be satisfactory, the

chief of police shall endorse on the application his approval and return the application to the city clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, and the kinds of goods to be sold thereunder, and shall contain the wording, "The City of Cortez does not endorse the products of the Licensee," the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each transient merchant must secure a personal license. Except as herein provided for agent licenses, no license shall be used at any time by any person other than the one to whom it is issued. The city clerk shall keep a permanent record of all licenses issued. (Ord. No. 620, § 4.)

Sec. 15-96. Agent license.

Any person or corporation which obtains a license in its own name under the provisions of this chapter may thereafter obtain numbered agent licenses authorizing another person to act in its behalf. A person may engage in the business of a transient merchant pursuant to an agent license, upon the filing of an application with the city clerk, which application shall conform to the requirements of section 15-93. Such application shall be deemed to be approved unless the licensee is notified of its denial within seven days and shall remain in effect until the license expires, is revoked, or suspended, or a new application is submitted for transfer to another person.

Any licensee who obtains agent licenses pursuant thereto shall be strictly

responsible for his agent's full compliance with the laws of the city and any violation of ordinance by an agent shall be grounds for suspension or revocation of the primary license as well as the agent license. For purposes of such suspension or revocation, it shall not be necessary to establish intent or knowledge on the part of the primary licensee.

Any primary licensee may obtain agent licenses upon the payment of the license fee. Such agent licenses shall become effective only upon the submission of an application to operate thereunder and shall be transferable to another individual upon the filing of a new application signed by the primary licensee, the payment of a transfer fee of five dollars, and the surrender of the previous license. (Ord. No. 610, § 2.)

Sec. 15-97. Bond.

Every applicant for license hereunder shall file with the city clerk cash or an adequate surety bond by a surety licensed to do business in the state, running to the city in the amount of one thousand dollars, if the license is issued for less than six months, and two thousand dollars if the license is issued for six months or longer, guaranteeing that the applicant shall comply fully with all the provisions and ordinances of the city and statutes of the state. If a bond is used, such bond shall provide that any person or persons aggrieved, including the city, shall be entitled to recover reasonable attorneys' fees and expenses on subject bond and the final judgment is obtained of such person or persons or the city. Action on such bond or the cash deposit may be brought by the person or persons aggrieved and for whose benefit among others the bond is given, but the surety may, by paying, pursuant to order of the

court, the face amount of the bond to the clerk of the court in which suit is commenced be relieved without costs of all further liability. A separate bond in the above amount shall be posted for each agent license. (Ord. No. 620, § 5.)

Sec. 15-98. Expiration of license.

All annual licenses under the provisions of this chapter shall expire at midnight, one year after the date of issue. Other than annual licenses shall expire at midnight on the date specified on the license. (Ord. No. 620, § 6.)

Sec. 15-99. Religious, charitable and special events permits.

Any person or organization desiring to solicit donations of money or property or desiring to sell literature or merchandise from door to door or in any public place, for charitable purposes, shall be exempt from the provisions of sections 15-93 through 15-97; provided there is filed a sworn application in writing on a form to be furnished by the city clerk which shall give the following information:

(a) Name and purpose of the cause for which permit is sought.

(b) Names and addresses of the officers and directors of the organization.

(c) Period during which solicitation is to be carried on.

(d) Whether or not any commission, fees, wages, or emoluments are to be expended in connection with such solicitation and the amount thereof.

Upon determining that such solicitation is in furtherance of charitable purposes, the city clerk shall issue a permit without charge to such person or organization to solicit in the city.

The term "charitable purposes" shall mean any organization, campaign or project which:

(a) Has as its primary purpose the furtherance of science, education, philanthropy, religion, the arts, or any political campaign; and

(b) Which is not conducted for personal gain; and

(c) No portion of the net proceeds of solicitation for which, inures to the benefit of any individual or shareholder.

Any organization to which contributions are deductible for federal income tax purposes, shall conclusively be deemed to be within this definition.

Upon a resolution by the city council, the city may waive the requirements of sections 15-93 through 15-97 for persons, corporations or organizations selling or displaying their goods, wares, property, or merchandise at special events sponsored or endorsed by the city including, but not limited to, fairs and craft shows. (Ord. No. 610, § 2.)

Sec. 15-100. Loud noises and speaking devices.

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the public rights-of-way, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public rights-of-way, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. No. 610, § 2.)

Sec. 15-101. Use of streets.

No licensee shall have any exclusive right to any location in the public rights-of-way, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such

operation might impede or inconvenience the public use of such public rights-of-way. (Ord. No. 610, § 2.)

Sec. 15-102. Exhibition of license.

Licensees are required to exhibit their certificate of license at the time of initial introduction to any person in the city for the purpose of consummating any transaction covered by this chapter. (Ord. No. 620, § 7.)

Sec. 15-103. Duty of police to enforce.

It shall be the duty of the police of the city to require any person peddling, soliciting, or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this chapter against any person found to be violating the same. (Ord. No. 610, § 2.)

Sec. 15-104. Police records.

The chief of police shall report to the city clerk all convictions for violation of this chapter and the city clerk shall maintain a record for each license issued and record the reports of violation therein. (Ord. No. 610, § 2.)

Sec. 15-105. Revocation and suspension of license.

Licenses and permits issued under the provisions of this chapter may be revoked or suspended by the city manager of the city after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for the license;

(b) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as transient merchant;

(c) Any violation of this chapter;

(d) Conviction of any crime or misdemeanor;

(e) Conducting the business of transient merchant in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;

(f) Fraud, misrepresentation, or incorrect statement in the application for a charitable solicitation permit;

(g) Fraud, misrepresentation, or incorrect statement to any person from whom charitable contributions are solicited;

(h) Failure to remove the display framework, signage, tables, and all other merchandising apparatus from the site when the merchant or merchant's representative is absent for a period in excess of twenty-four hours.

Notice of hearing for the revocation of a license shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three days prior to the date set for hearing. (Ord. No. 610, § 2; Ord. No. 988, § 1.)

Sec. 15-106. Appeals to city manager.

Any person aggrieved by the action of the chief of police or the city clerk in the denial of a permit or license of this chapter may appeal to the city manager. Such appeal shall be taken by filing with the city manager within fourteen days after notice of the action complained of, a written statement setting forth fully the grounds for an appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the

appellant. (Ord. No. 610, § 2.)

Sec. 15-107. Reapplication for license.

No licensee whose license has been revoked shall make further application until at least one year has elapsed since the last previous revocation. (Ord. No. 610, § 2.)

Sec. 15-108. Violation—Penalty.

Any person, firm, association, or corporation who violates any of the provisions of this chapter, whether he does so wilfully or otherwise, shall be guilty of a misdemeanor. Any person, firm, association or corporation convicted of violating any of said provisions shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. Every day that a violation of this chapter continues shall be deemed a separate violation. (Ord. No. 610, § 2; amended by memo 3519.)

(Ord. No. 1170, § 13, 9-25-12)

Article XIII. Flea Market.

Sec. 15-109. Definitions.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Flea market. Any market, indoors or out-of-doors (where permitted), where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books, and used magazines.

Flea market operator. A person, firm, or corporation in the business of renting space or allocating space to flea market sellers.

Flea market seller. Any person, firm, or corporation selling items or offering items for sale at a flea market. (Ord. No. 741, § 3 (part).)

Sec. 15-110. License required.

No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor. (Ord. No. 741, § 3 (part).)

Sec. 15-111. Application for license; license fee.

Applicants for a license under this chapter shall file with the city clerk a sworn application in writing on a form to be furnished by the city clerk at least fourteen days in advance of the first day of operation of the flea market for which a license is required hereunder, which shall give the following information:

- (a) Name and physical description of applicant.
- (b) Complete permanent home and local address of the applicant, and the local address from which the proposed flea market will be operated.
- (c) A brief description of the nature of the business and the types of goods to be sold at the flea market.
- (d) The length of time for which the right to do business is desired.
- (e) The names of at least two residents of the city who will certify as to the applicant's character and business responsibility, or in lieu of the names and references, such other available evidence as to the

good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(f) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor, and a statement that the applicant has no objections to the release of any criminal history discovered upon investigation to the license issuing authority.

(g) If applicable, the last cities or towns, not to exceed three, where applicant carried on business immediately preceding the date of application and the addresses from which such business was conducted in those municipalities. Proof that the merchant has permission of any property owner to conduct business upon private property.

Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this section.

At the time of filing the application, a fee of seventy-five dollars shall be paid to the city to cover the cost of investigation of the facts stated therein. The license shall be issued by the city clerk upon payment of a fee of one hundred dollars per year, or ten dollars per day. An annual license shall be valid for one year from the date of issue. There shall be no application required for renewals in the succeeding license period. (Ord. No. 741, § 3 (part).)

Sec. 15-112. Investigation and issuance of license.

Upon receipt of such application, it shall be referred to the chief of police who shall

immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this section within fourteen days after it has been filed by the applicant with the city clerk.

If, as a result of the such investigation, the applicant's character or business responsibility are found to be satisfactory, the chief of police shall endorse on the application his approval and return the application to the city clerk, who shall, upon payment of the prescribed license fee and bond, as provided for in Section 15-113, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number, and shall contain the wording, "The City of Cortez does not endorse the products of the Licensee." No license shall be used at any time by any person other than the one to whom it is issued. The city clerk shall keep a permanent record of all licenses issued. (Ord. No. 741, § 3 (part).)

Sec. 15-113. Bond.

Every applicant for license hereunder shall file with the city clerk cash or an adequate surety bond by a surety licensed to do business in the state, running to the city in the amount of five thousand dollars guaranteeing that the applicant shall comply fully with all provisions and ordinances of the city and statutes of the state. If a bond is used, such bond shall provide that any person or persons aggrieved, including the city, shall be entitled to recover reasonable

attorneys' fees and expenses on subject bond and the final judgment is obtained of such person or persons or the city. Action on such bond or the cash deposit may be brought by the person or persons aggrieved and for whose benefit among others the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond for the clerk of the court in which suit is commenced, be relieved without costs of all further liability. (Ord. No. 741, § 3(part).)

Sec. 15-114. Expiration of license.

Annual licenses under the provisions of this chapter shall expire at midnight, one year after the date of issue. Other than annual licenses shall expire at midnight on the date specified on the license. (Ord. No. 741, § 3 (part).)

Sec. 15-115. Religious, charitable and special events permits.

Any person or organization desiring to establish a flea market for charitable purposes shall be exempt from the provisions of Sections 15-109 through 15-113; provided there is filed a sworn application in writing on a form to be furnished by the city clerk which shall give the following information:

- (a) Name and purpose of the cause for which permit is sought;
- (b) Names and addresses of the officers and directors of the organization;
- (c) Period during which flea market is to be carried on; and
- (d) Whether or not any commissions, fees, wages, or emoluments are to be expended in connection with such flea market and the amount thereof.

Upon determining that such solicitation

is in furtherance of charitable purposes, the city clerk shall issue a permit without charge to such person or organization to operate a flea market.

The term "charitable purposes" shall mean any organization, campaign, or project which:

(a) Has as its primary purpose the furtherance of science, education, philanthropy, religion, the arts, or any political campaign; and

(b) Which is not conducted for personal gain; and

(c) No portion of the net proceeds of solicitation for which inures to the benefit of any individual or shareholder.

Any organization to which contributions are deductible for federal income tax purposes shall conclusively be deemed to be within this definition. (Ord. No. 741, § 3 (part).)

Sec. 15-116. Records to be kept by licensee.

Each person required by this chapter to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller. These records shall be made available to the chief of police upon his request. (Ord. No. 741, § 3 (part).)

Sec. 15-117. Secondhand stores excepted.

No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this chapter for the same business location. (Ord. No. 741, § 3 (part).)

Sec. 15-118. More than one market.

Any person, firm or corporation renting or allocating space to flea market sellers in more than one place of business shall be

required to obtain a license for each place of business, provided that one license shall be adequate for locations that are on the same lot, adjacent lots, or lots separated only by an alley. (Ord. No. 741, § 3 (part).)

Sec. 15-119. Unlawful transactions.

No person shall sell or offer for sale at any flea market any goods known to such person to be stolen. (Ord. No. 741, § 3 (part).)

Sec. 15-120. Purchases from children.

No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen years, unless such person is accompanied by the person's parent or guardian. (Ord. No. 741, § 3 (part).)

Sec. 15-121. Sales tax license required.

Each flea market operator shall obtain a sales tax license for each flea market operated and shall be responsible for collecting and reporting applicable city sales taxes as provided for in chapter 9, article II of the Cortez City Code. (Ord. No. 741, § 3 (part).)

Sec. 15-122. Exhibition of license.

Licensees are required to exhibit their certificate of license at all times. (Ord. No. 741, § 3 (part).)

Sec. 15-123. Duty of police to enforce.

It shall be the duty of the police of the city to require any flea market operator who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this chapter against any person found to be violating the same. (Ord. No. 741, § 3 (part).)

Sec. 15-124. Police records.

The chief of police shall report to the city clerk all convictions for violation of

this chapter and the city clerk shall maintain a record for each license issued and record the reports of violation therein. (Ord. No. 741, § 3 (part).)

Sec. 15-125. Revocation and suspension of license.

Licenses issued under the provisions of this chapter may be revoked or suspended by the city manager of the city after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for the license;
- (b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on the flea market;
- (c) Any violation of this chapter;
- (d) Conviction of any crime or misdemeanor;
- (e) Conducting the flea market in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;
- (f) Fraud, misrepresentation, or incorrect statement in the application for a charitable permit.

Notice of hearing for the revocation of a license shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Said notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three days prior to the date set for hearing. (Ord. No. 741, § 3 (part).)

Sec. 15-126. Appeals to city manager.

Any person aggrieved by the action of the chief of police or the city clerk in the denial of a permit or license of this chapter may appeal to the city manager within four-

teen days after notice of the action complained of, a written statement setting forth fully the grounds for an appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant. (Ord. No. 741, § 3 (part).)

Sec. 15-127. Reapplication for a license.

No licensee whose license has been revoked shall make further application until at least one year has elapsed since the last previous revocation. (Ord. No. 741, § 3 (part).)

Sec. 15-128. Violation—Penalty.

Any person, firm, association, or corporation who violates any of the provisions of this chapter, whether he does so wilfully or otherwise, shall be guilty of a misdemeanor. Any person, firm, association or corporation convicted of violating any of the provisions of this chapter shall be punished as set forth in Cortez City Code Section 17-16A as now in effect or as may be amended from time to time. Every day that a violation of this chapter continues shall be deemed a separate violation. (Ord. No. 741, § 3 (part); amended by memo 3519.) (Ord. No. 1170, § 14, 9-25-12)

§§ 15-129 to 15-299. Reserved.

**Article XV. Medical Marijuana
Businesses**

Division 1. License

Sec. 15-300. License required.

It is unlawful for any person to own or operate a medical marijuana business, as that term is defined in the Cortez Land Use Code, or Cortez City Code without first obtaining a license as provided in this article. The following two types of business

operations as defined in the Colorado Medical Marijuana Code C.R.S. 12-43.3-101 et seq. may be licensed hereunder: Medical marijuana centers and medical marijuana-infused products manufacturing.
(Ord. No. 1164, 3-13-12)

Sec. 15-301. Application; term fee.

Any person operating or proposing to operate a medical marijuana business shall first procure from the city clerk a medical marijuana business license, which the clerk shall issue in accordance with the following procedures:

(a) A person seeking to obtain a license pursuant to this article shall submit an application to the city clerk. The form of the application shall be provided by the city clerk.

(b) A license issued pursuant to this section does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the medical marijuana business, including, without limitation, any development approval required by the land use code; a sales tax license; and a building, mechanical, plumbing, or electrical permit.

(c) An application for a license under this article shall contain the following information:

(1) A completed state and local licensing authority application forms;

(2) A completed set of individual history form, including a set of the fingerprints for the applicant and for any person owning ten percent or more of the medical marijuana business.

(3) The street address of the proposed medical marijuana business;

(4) If the applicant is not the owner of the proposed location of the medical marijuana business, a notarized statement from the owner of such property authorizing the submission of the application;

(5) An acknowledgement by the applicant that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, that the city of Cortez accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana business; and that the application and documents submitted for other approvals relating to the medical marijuana business operation are subject to disclosure in accordance with the Colorado Open Records Act.

(6) A complete and accurate list of all owners, officers, managers, and employees of the medical marijuana business and of all persons having a direct or indirect financial interest, and the nature of such interest in the medical marijuana business, including names and addresses for such persons.

(7) Plans and specifications for the interior of the building in which the medical marijuana business is located. If the building is not in existence, the applications shall file a plot plan and detailed sketch for the interior and submit an architect's drawing of the building to be constructed.

(8) Evidence that the applicant is, or will be, entitled to possession of the premise for which the application is made under a lease, rental agreement, or other arranged for possession of the premises, or by virtue of ownership of the premises.

(d) The applicant shall pay to the city a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative and other costs of processing the application. A separate license fee shall be paid prior to the issuance of the local license. These fees shall be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process.

The city shall not accept or act upon an application for a medical marijuana business license if the business application concerns a particular location that is the same as or within one thousand five hundred feet of a location for which, within the two years immediately preceding date of the application, the city or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.

(Ord. No. 1164, 3-13-12)

Sec. 15-302. Renewal fee.

Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance, and may be renewed as provided in this section.

(a) An application for renewal shall be made to the city clerk not less than forty-five days prior to the date of expiration and shall be accompanied by an application fee in an amount to be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process. A licensing renewal fee shall also be collected in an amount to be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process. The city clerk will accept late applications not more than ninety days after the date of expiration upon a payment of a five hundred dollars late application fee which shall be in addition to the renewal fee. The city clerk shall not in any circumstances accept renewal applications more than ninety days after the date of expiration.

(b) The license shall be renewed by the city clerk unless it appears to the city clerk that grounds exist to deny the renewal application, in which case the city clerk shall refer the application to the city council for

review at a public hearing. The city clerk shall rely on section 15-306 in determining whether to renew a license. The city clerk shall refer the renewal application for public hearings only if the licensee has had complaints filed against it, the licensee has a history of violations, or there are allegations against the licensee that would constitute good cause for denial of a license as defined in the Colorado Medical Marijuana Code. The city council shall rely on section 15-306 in determining whether to renew a license.

(c) A criminal history record of the applicant and all employees of applicant shall be provided to the city clerk as part of the renewal application.

(Ord. No. 1164, 3-13-12)

Sec. 15-303. Investigation of applicant.

Upon receipt of an application for a license under this article, the city clerk shall transmit copies of the application to the police department, the city manager, the planning and building department, and any other person or agency who the city clerk determines should participate in the review of the application. The city or any of its departments or officials may visit and inspect the plant or property in which the applicant proposes to conduct business and investigate the fitness to conduct such business of any person, or the officers and directors of any corporation, or the partners of any partnership applying for a license.

In investigating the fitness of the applicant, the city may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the city takes into consideration information concerning the applicant's criminal history record, the city shall also consider any information provided by the applicant regarding such criminal history record, including,

but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

Not less than five days prior to the date of the public hearing on a license application or, in the event of an application for which no public hearing is scheduled, not less than five days prior to the decision to approve or deny an application, the city clerk shall make known the findings of the investigation in writing to the applicant and other parties of interest.
(Ord. No. 1164, 3-13-12)

Sec. 15-304. Public hearings; notice; publication.

(a) Public hearings before the city council or a hearings officer appointed by the city council shall be required for the following types of applications and determinations:

(1) Applications for a medical marijuana center license or for the relocation of such license, shall be reviewed by the city council;

(2) Renewal applications when the city clerk determines grounds exist for denial per section 15-302(b) of this article shall be reviewed by the city council;

(3) Suspensions or revocations of any license, shall be heard by the city council.

(b) The following types of licenses may be approved by the city clerk:

(1) All renewal applications, unless the city clerk determines grounds exist for denial per section 15-302(b) of this article;

(c) In the event an application is scheduled for a public hearing the city clerk shall post and publish public notice thereof not less than ten days prior to the hearing.

(1) Public notice given by posting shall include a sign of suitable material, not less

than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the nature of the hearing, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. In the case of a new license application, the sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed. The sign shall be placed on the subject premises in a location that is conspicuous and plainly visible to the general public.

(2) Public notice given by publication shall contain the same information as that required for signs.

(Ord. No. 1164, 3-13-12)

Sec. 15-305. Persons prohibited as licensees.

(a) No license provided by this article shall be issued to or held by:

(1) Any person whose criminal history indicates the person is not of good moral character;

(2) Any corporation, any of whose officers, directors, or stockholders whose criminal histories indicate such person is not of good moral character;

(3) Any partnership, association, or company, any of whose officers, or any of whose members whose criminal histories indicate such person is not of good moral character;

(4) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates such person is not of good moral character, or who is not a resident of Colorado.

(5) Any cooperative association, any of whose officers, directors, or stockholders or

members whose criminal histories indicate that such person is not of good moral character.

(6) A licensed physician making patient recommendations;

(7) A person under twenty-one years of age;

(8) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:

(A) Provide surety bond or file any tax return with a taxing agency,

(B) Pay any taxes interest, or penalties due,

(C) Pay any judgments due to a government agency,

(D) Stay out of default on a government issued student loan,

(E) Pay child support, or

(F) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency; or an outstanding delinquency for child support;

(9) A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance;

(10) A person who employs another person at a medical marijuana facility who has not passed a criminal history record check;

(11) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(12) A person whose authority to be a primary caregiver as defined in C.R.S. § 25-1.5-106(2) has been revoked by the state health agency;

(13) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food establishment; or

(14) A person who has not been a resident of Colorado for at least two years prior to the date of the person's application.

(b) In making a determination as to good moral character or when considering the conviction of a crime, the city council shall be governed by the provisions of C.R.S. § 24-5-101.

(Ord. No. 1164, 3-13-12)

Sec. 15-306. Issuance or denial of license.

(a) In determining whether to issue a license under this section the city council may consider the following:

(1) Whether the application is complete and signed by the applicant;

(2) Whether the applicant has paid the application fee;

(3) Whether the application complies with all the requirements of this article;

(4) Whether the application contains any material misrepresentations;

(5) Whether the proposed medical marijuana business complies with applicable zoning regulations. The city council shall make specific findings of fact with respect to whether the building in which the proposed medical marijuana business will be located conforms to the distance requirements set forth in the Cortez City and Land Use Codes;

(6) The facts and evidence adduced as a result of its investigation;

(7) Any other facts pertinent to the type of license for which application has been made, including the number, type and availability of medical marijuana outlets located in or near the premises under consideration; and

(8) In the case of an application for a second license, after considering the effect

on competition of granting or denying the additional license, that the issuance of a second license will not have the effect of restraining competition.

(b) The city council shall deny the license application if the application fails for good cause as defined in C.R.S. § 12-43.3-104(1).

(c) The city council may impose reasonable conditions upon any license issued pursuant to this article.

(d) The number of licenses issued by the city shall be limited to no more than three. In the case of multiple applications for an available license, the city clerk shall publish the availability of the license and assign priority by lot to each completed application received within forty-five days of the date of publication.

(e) Within thirty days after the public hearing or completion of the application investigation, the city shall issue its decision approving or denying the application. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.

(f) The city shall not issue a license until the building in which the business to be conducted is ready for occupancy and has been inspected for compliance with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(g) After approval, the city shall notify the state licensing authority of such approval.

(Ord. No. 1164, 3-13-12)

Sec. 15-307. Contents and display of license.

The licensee shall post the license in a conspicuous location at the medical mari-

juana business. A medical marijuana center license shall contain the following information:

(a) The name of the licensee;

(b) The date of issuance of the license;

(c) The street address at which the licensee is authorized to operate the medical marijuana business;

(d) Any conditions of approval imposed upon the license by the city council;

(e) The date of expiration of the license; and

(f) The license shall be signed by the applicant and the city clerk.

(Ord. No. 1164, 3-13-12)

Sec. 15-308. Transfer/termination.

A license holder wishing to transfer ownership of the medical marijuana business shall apply for such a transfer on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the city shall consider only the provisions of this article, of the Colorado Medical Marijuana Code, and any rules promulgated by the state licensing authority.

(Ord. No. 1164, 3-13-12)

Sec. 15-309. Suspension or revocation.

(a) A license issued pursuant to this article may be suspended or revoked by the city council, or the hearings officer appointed by the city council for the purpose, after a hearing for the following reasons:

(1) Fraud, misrepresentation, or a false statement of material fact contained in the permit application;

(2) Any violation of city ordinance or state law pertaining to the operation of a medical marijuana business including regulations adopted by the state licensing authority or the possession or distribution of marijuana;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any of the provisions of this section.

(b) In deciding whether a license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the city council, or the hearings officer appointed by the city council, shall consider:

(1) The nature and severity of the violation;

(2) Corrective action, if any, taken by the licensee;

(3) Prior violation(s), if any, by the licensee;

(4) The likelihood of recurrence of the violation;

(5) The circumstances of the violation;

(6) Whether the violation was willful; and

(7) Previous sanctions, if any, imposed on the licensee.

(c) The provisions of the Colorado Medical Marijuana Code shall govern proceedings for the suspension or revocation of a license issued.

City council may adopt its own codes or ordinances governing the proceedings for the suspension or revocation of license issued under this article.

(d) City council or the hearings officer appointed by city council may impose a fine in lieu of a suspension in accordance with the provisions of C.R.S. § 12-43.3-601(3). (Ord. No. 1164, 3-13-12)

Sec. 15-310. Change of location.

(a) A licensee may move his or her permanent location to another location in the city, but it shall be unlawful to cultivate, manufacture, distribute, or sell medical marijuana at any such place until permission to do so is granted by the city and the state licensing authority.

(b) In permitting a change of location, the city shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this article, the Colorado Medical Marijuana Code, and rules promulgated by the state licensing authority.

(c) The City shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought.

(Ord. No. 1164, 3-13-12)

Division 2. General Requirements

Sec. 15-311. Operational requirements.

Medical marijuana centers shall comply with the following operational requirements:

(a) Medical marijuana centers shall provide clients contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.

(b) Medical marijuana centers shall operate only during the hours of 8:00 a.m. to 7:00 p.m.

(c) Medical marijuana businesses shall provide adequate security on the business premises, which shall include the following:

(1) Twenty-four-hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lot along with the interior and exterior of the premises.

Copies of all security audio or video should be retained as set forth in the Colorado Medical Marijuana Enforcement Division Rules, Section 10, Security Requirements effective 7-1-11 and as may be amended from time to time.

The business owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the business or its patients. The business owner shall not be required to produce surveillance footage disclosing the identity of business patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.

(2) A burglar alarm system that is professionally monitored and maintained in good working order.

(3) A locking safe permanently affixed to the premises suitable for storage of the centers' inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.

(4) Exterior lighting that illuminates the exterior walls of the business and that complies with the lighting code set forth in the Cortez Land Use Code.

(d) No firearms, knives, or other weapons shall be permitted in a marijuana center except those carried by sworn peace officers.

(e) Marijuana shall not be consumed or used on the premises of a medical marijuana center and it shall be unlawful for a medical marijuana licensee to allow medical marijuana to be consumed on its premises. In the case of a medical marijuana business located in a structure with a legal secondary unit or other legal dwelling unit, the dwelling unit shall not be considered part of the medical marijuana business premises if access to the dwelling unit is prohibited to the medical marijuana business customers.

(f) Medical marijuana centers shall comply with the provisions of Article XVIII, Section 14 of the Colorado Constitution and with any other relevant Colorado statute or administrative regulation. The operator of a medical marijuana business shall provide evidence of said compliance and shall permit the inspection of the premises upon request of any sworn peace officer in the employ of the city of Cortez Police Department. Inspection of the premises shall be limited to determining the quantity of marijuana and marijuana plants present on the premises and obtaining written evidence of the licensee's authority to possess such quantity of medical marijuana. Registry identification cards with patient names and other identifying information redacted shall be deemed satisfactory written evidence if the registry identification cards' serial number(s) are not redacted. In the event the medical marijuana center serves patients who have applied for a registry identification card thirty-five days or more prior to the inspection and who have not received such card, the operator may produce the patient's application form with the patient's name and identifying information redacted along with proof of mailing the form to the medical marijuana registry. In the event a patient has changed the caregiver designation on the registry identification card, the operator may produce the patient's change of caregiver form with the patient's name and identifying information redacted along with proof of mailing the form to the medical marijuana registry. The operator of a medical marijuana business shall not be required to disclose patient name(s) or other identifying information except as required by a duly issued court order or warrant.

(g) Medical marijuana centers shall sell or distribute only marijuana lawfully grown in compliance with Article XVIII, Section

14 of the Colorado Constitution, the Colorado Medical Marijuana Code, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation.

(Ord. No. 1164, 3-13-12)

Sec. 15-312. Distance requirements.

All medical marijuana businesses shall be at least one thousand five hundred feet from any school, the principal campus of any college, university, or seminary, residential child care facility or other medical marijuana business. Distance shall be computed using a route of direct pedestrian access from the nearest property line of the land used for the protected activity to the nearest portion of the building in which medical marijuana or medical marijuana infused products are sold.

(Ord. No. 1164, 3-13-12; Ord. No. 1165, 4-24-12)

Sec. 15-313. Zoning.

All marijuana businesses shall be located only in those zoning districts designated for medical marijuana businesses in the Cortez Land Use Code.

(Ord. No. 1164, 3-13-12)

Sec. 15-314. Penalty.

Any person who violates any of the provisions of this Section 15 Article XV is guilty of a misdemeanor and punishable by a fine of up to five hundred dollars and a jail sentence of up to one year or both a fine and jail sentence as set forth in Cortez City Code section 17-16-A now in effect or as may be amended from time to time.

Every day that a violation of this section and article continues shall be deemed a separate violation.

(Ord. No. 1164, 3-13-12)

CHAPTER 15A.

MOBILE HOMES.

As to licensing of mobile home parks,
see §§ 15-87 to 15-90.

As to Fire Code and fire prevention
generally, see ch. 10.

As to Building Code and standards
and buildings generally, see ch. 6.

Article I. In General.

§§ 15A-1 to 15A-5. Reserved.

Article II. Regulations and Minimum Standards for Location of Mobile Homes.

- § 15A-6. On single sites.
- § 15A-7. Blocking diagram required.
- § 15A-8. Building permit for construction required.
- § 15A-9. Conformance to Uniform Building Code; other requirements.
- § 15A-10. Exemptions from Uniform Building Code.
- § 15A-11. Minimum size.
- § 15A-12. Skirting required.
- § 15A-13. Utility connections.
- § 15A-14. Certificate of occupancy required.

Article III. Standards for Mobile Home Parks.

- § 15A-15. Inspection.
- § 15A-16. Community facilities to conform to construction regulations.
- § 15A-17. Lot standards.
- § 15A-18. Plumbing standards.
- § 15A-19. Sewage disposal standards.
- § 15A-20. Electrical standards.

- § 15A-21. Natural or liquefied petroleum gas system standards.
- § 15A-22. Fire safety standards.
- § 15A-23. Removal of wheels from mobile homes in parks.
- § 15A-24. Maintenance.
- § 15A-25. Penalties.

Article I. In General.

Secs. 15A-1 to 15A-5. Reserved.

Article II. Regulations and Minimum Standards for Location of Mobile Homes.

Sec. 15A-6. On single sites.

It shall be unlawful for any person to locate a mobile home on any single lot for the purpose of occupancy without first applying for and securing a building permit from the city. (Ord. No. 470, § 1.)

Sec. 15A-7. Blocking diagram required.

The request for a building permit shall be accompanied by a blocking diagram supplied by the manufacturer of the mobile home for the model proposed for location. The city may accept, in lieu of such blocking diagram, a complete stabilizing and tie-down system designed by a registered engineer or architect. (Ord. No. 470, § 2.)

Sec. 15A-8. Building permit for construction required.

The city shall issue a building permit for the construction of foundations or stabilizing system in accordance with all of the city requirements regarding the

issuance of building permits. (Ord. No. 470, § 3.)

Sec. 15A-9. Conformance to Uniform Building Code; other requirements.

(a) In the event a permanent foundation is to be constructed, the foundation shall meet all the requirements of the Uniform Building Code as well as providing additional supports for the carrying frame as recommended by the unit's manufacturer.

(b) Stabilizing devices or piers shall be installed and inspected in accordance with the support system recommended by the manufacturer or designed by the engineer or architect.

(c) Ground anchors shall be installed and inspected following the application for and securing of a permit therefor. Unless the entire tie-down system, including ground anchors, is designed by a professional engineer or architect, ground anchors shall be not more than twenty-four feet on centers beginning from the front line of the mobile home, and not more than six feet open-end spacing at the rear line of the mobile home unless additional tie-downs are installed. Ground anchors for diagonal ties shall be provided in conjunction with each vertical tie-down. (Ord. No. 470, § 4.)

Sec. 15A-10. Exemptions from Uniform Building Code.

Notwithstanding anything in this article to the contrary, from and after April 8, 1975 any mobile home being hereafter erected upon a foundation within the designated R-4 zones of the city and

which mobile home bears a certification insignia issued by the state, shall be deemed to be exempt from the minimum requirements of the Uniform Building Code of this city and such mobile home shall be approved by the city building inspector. (Ord. No. 470, § 5.)

Sec. 15A-11. Minimum size.

No mobile home installed in accordance with this section shall have a width of less than ten feet nor a length of less than fifty feet. (Ord. No. 470, § 6.)

Sec. 15A-12. Skirting required.

Mobile home units not placed on permanent foundations such that all of the undercarriage and running gear are unexposed shall be skirted in a manner to so conceal said undercarriage and running gear. A permit shall be applied for and issued by the city for such skirting. Installation shall be inspected and approved by the city. (Ord. No. 470, § 7.)

Sec. 15A-13. Utility connections.

Utility connections for water, sanitary sewer, electricity and natural gas shall be provided by no lesser standards than those stated in the preceding sections and shall be inspected and approved by the city or other appropriate agency having jurisdiction thereof. (Ord. No. 470, § 8.)

Sec. 15A-14. Certificate of occupancy required.

Prior to the occupancy of any mobile home on a single lot the city shall issue a certificate of occupancy which indicates that all of the requirements of the city have been met. All of the procedural

requirements of the city regarding certificate of occupancy shall be complied with. (Ord. No. 470, § 9.)

Article III. Standards for Mobile Home Parks.

Sec. 15A-15. Inspection.

(a) It shall be the duty of the city manager to cause to be made with the assistance of the building inspector, police, fire and health department and the owner or his authorized agent, an inspection of each park, including all mobile homes.

(b) It shall be the direct responsibility of the city manager or his agent to enforce this ordinance and to issue a summons directly to the offending party. (Ord. No. 482, § 2.)

Sec. 15A-16. Community facilities to conform to construction regulations.

Every building or structure within a mobile home park shall be constructed in accordance with the applicable provisions of all city building and construction regulations and codes as set out in this Code or any other ordinance of the city. (Ord. No. 482, § 3.)

Sec. 15A-17. Lot standards.

(a) Utility connections serving the mobile home shall be located to properly service the mobile home erected on the stand.

(b) Mobile home utility service shall be connected to the mobile home park system by means of approved materials. No rigid utility connections shall be made.

(c) No mobile home shall be permanently attached to a foundation. Stabilizing devices or piers may be used. Where specified by the manufacturer, they shall be installed in accordance with his instructions.

(d) No combustible material shall be stored under any mobile home. (Ord. No. 482, § 4.)

Sec. 15A-18. Plumbing standards.

(a) Connections shall be made to the city public water supply and be made available to every lot within the park.

(b) All new water piping, fixtures and other equipment shall be constructed and all existing piping fixtures and other equipment shall be maintained in accordance with local regulations and requirements and shall be of a type, size and in location approved by the city.

(c) A shutoff valve located below frost line shall be provided on the water riser pipe of each mobile home lot. (Ord. No. 482, § 5.)

Sec. 15A-19. Sewage disposal standards.

(a) Connections shall be made to the city sewage collection system and be available to every lot within the park.

(b) All new sewage collection lines shall be installed in accordance with all applicable city standards and requirements as set out in this Code or any other ordinance of the city.

(c) The sewage collection inlet for each lot shall have a nominal inside diameter of at least three inches.

(d) The lateral line from the mobile home discharge to the sewage collection line shall have a slope of at least one-

fourth inch per foot. All joints shall be secure and watertight, and the pipe shall be firmly supported to prevent deflection and movement.

(e) All materials used for sewer connections between a mobile home and the inlet shall be semi-rigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.

(f) Provisions shall be made for plugging the sewage collection inlet with a tamperproof fitting when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the inlet. The rim of the inlet shall extend not more than four inches above ground elevation. (Ord. No. 482, § 6.)

Sec. 15A-20. Electrical standards.

(a) All new electrical installations in mobile home parks shall be designed and constructed in accordance with state law, this Code or any other ordinance of the city.

(b) All existing electrical systems shall be maintained in a safe condition. (Ord. No. 482, § 7.)

Sec. 15A-21. Natural or liquefied petroleum gas system standards.

(a) Gas equipment and installations within a mobile home park shall be designed in accordance with this Code or any other ordinance of the city.

(b) All new gas piping installed below ground shall have a minimum cover of eighteen inches.

(c) Each mobile home lot shall have an approved gas shutoff valve installed upstream of the mobile home lot gas outlet. Such valve shall be readily accessible

and the location clearly labeled. Whenever the mobile home lot outlet is not in use the outlet shall be equipped with an approved cap or plug to prevent accidental discharge of gas.

(d) Each new installation of a mobile home utilizing gas shall be connected to the mobile home lot outlet by an approved three-fourths inch mobile home connection not more than six feet in length. Approved pipe and fittings may be used between the flexible connector and the mobile home lot gas outlet when the distance between the mobile home gas service connection exceeds that required to make a safe installation with only a mobile home connector.

(e) All gas outlets, risers, regulators, meters, valves or other exposed equipment shall be protected from mechanical damage by vehicles or other causes.

(f) The storage, handling, and use of liquefied petroleum gas shall be in conformity with N.F.P.A. Manual # 58. (Ord. No. 482, § 8.)

Sec. 15A-22. Fire safety standards.

(a) The arrangements of lots and streets and roads of each mobile home park shall meet the approval of the chief of the fire department.

(b) Fire hydrants shall be provided, installed and connected to the public water system within approximately five hundred feet of all mobile home lots.

(c) There shall be no burning of rubbish or trash within the boundaries of any mobile home park.

(d) Care shall be taken to maintain the park free of dry brush, leaves, and weeds which might communicate fires between

mobile homes and other buildings in the park.

(e) Permanent public buildings shall be provided with portable fire extinguishers in accordance with all city regulations.

(f) The connecting and disconnecting of all public utility services to mobile homes shall be made by qualified or authorized persons as determined by the city.

(g) Owners shall not place empty liquefied petroleum gas containers under their mobile homes. Empty containers shall be left in place if there is more than one container. If the mobile home's liquefied petroleum gas supply is limited to one container and a replacement has been secured, any empty container shall be stored in the area designated for such storage.

(h) Operators of vehicular equipment shall observe all posted signs and shall keep all designated fire lanes and access to fire hydrants open at all times.

(i) Heat tapes shall be of a type approved by a recognized testing laboratory. (Ord. No. 482, § 10.)

Sec. 15A-23. Removal of wheels from mobile homes in parks.

The removal of permanent running gear, including hubs and axles, from any mobile home located in a mobile home park is hereby prohibited except temporarily for the purpose of repairs. The removal of rubber tires and wheels for the protection against decay shall be permitted. (Ord. No. 482, § 11.)

Sec. 15A-24. Maintenance.

(a) All mobile home lots, mobile home stands and utilities existing and new shall be maintained in a safe and sanitary condition. All buildings, utilities or structures which were required to have been erected or installed pursuant to any previous building code or ordinance relating to this use shall

be maintained in good working order. The owner shall be responsible for the maintenance of all buildings, structures and utilities.

(b) No mobile home or travel trailer shall be parked or permitted to stand upon any public street, highway, road, alley or other such right-of-way for more than twenty-four hours. (Ord. No. 482, § 12.)

Sec. 15A-25. Penalties.

In addition to all other penalties herein provided, any person violating any of the provisions of this chapter or suffering or permitting the same to be violated shall be deemed guilty of a misdemeanor and upon conviction shall be punished as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. The imposition of one penalty for any one violation shall not excuse the violation or permit it to continue, and each day thereafter that prohibitive conditions are maintained shall constitute a separate and chargeable offense. (Ord. No. 482, § 13; amended by memo 3519.)

(Ord. No. 1170, § 15, 9-25-12)

CHAPTER 15B.

MECHANICAL CODE.

§ 15B-1. Mechanical Code—
Adopted.

§ 15B-2. Same—Copies on file.

Sec. 15B-1. Mechanical Code—Adopted.

There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Mechanical Code (IMC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred forty-five pages. (Ord. No. 585, § 2; Ord. No. 636, § 2; Ord. No. 701, § 2; Ord. No. 854, § 2.)
(Ord. No. 1137, § II (part))

Sec. 15B-2. Same—Copies on file.

Three true and exact official copies of the above-described 2009 Edition of the International Mechanical Code (IMC) are on file in the municipal offices of the City of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any interested person during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 585, § 3; Ord. No. 636, § 3; Ord. No. 701, § 3; Ord. No. 854, § 3.)
(Ord. No. 1137, § III (part))

CHAPTER 16.

MOTOR VEHICLES AND TRAFFIC.

For state law as to authority of city to regulate traffic, see CRSA §§ 42-4-110, 42-4-111. As to motor vehicles generally, see CRSA § 42-1-101 et seq.

As to airports generally, see Ch. 3 of this Code. As to the depositing of refuse from vehicles, see § 12-3. As to streets and sidewalks generally, see Ch. 24.

Article I. In General.

- § 16-1. Model Traffic Code—Adoption.
- § 16-2. Model Traffic Code—Deletions.
- § 16-3. Model Traffic Code—Additions or modifications.
- § 16-4. Model Traffic Code—Penalties.
- § 16-5. Model Traffic Code—Application.

Article II. Parking.

- § 16-6. Repealed.
- § 16-7. Limitation on parking.
- § 16-8. Reserved.

Article III. Bicycles.

- § 16-9. License—Required.
- § 16-10. Same—Application.
- § 16-11. Same—Issuance.
- § 16-12. Same—Records to be kept.
- § 16-13. License plates or decals—Issuance.
- § 16-14. Same—Attachment.
- § 16-15. Same—Removal prohibited; exceptions.
- § 16-16. Transfer of ownership generally.

- § 16-17. Rental agencies to comply with article.
- § 16-18. Equipment—Lights.
- § 16-19. Same—Sirens or whistles prohibited.
- § 16-20. Same—Brakes.
- § 16-21. Riding, etc., on sidewalk prohibited.
- § 16-22. Penalties.

Article IV. Vehicles.

- § 16-23. Neighborhood electric vehicles (NEV).
- § 16-24. Regulation of NEV's.

Article I. In General.

Sec. 16-1. Model Traffic Code—Adoption.

Pursuant to parts 1 and 2 of article 16 of title 31, C.R.S., as amended and part 4 of article 15 of title 30, C.R.S., and article III, section 6, of the Cortez City Charter, there is hereby adopted by reference articles I and II, inclusive, of the 2003 Edition of the "Model Traffic Code for Colorado Municipalities," promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, EP 700, Denver, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the city. The purposes of this article and the Code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three copies of the Model Traffic Code adopted herein are now filed in the office of the clerk of the city of Cortez, Colorado, and may be inspected during regular business hours. The summary of

§ 16-2—§ 16-3

this article is deemed sufficient by the city council in accordance with article III, section 6 of the Charter. (Ord. No. 817, § 1: Ord. No. 990, § 1.)

For state law as to authority of city to adopt Model Traffic Code by reference, see CRSA § 42-4-110.

**Sec. 16-2. Model Traffic Code—
Deletions.**

The 2003 Edition of the Model Traffic Code is adopted as if set out at length. No articles and/or sections are declared to be inapplicable to the city of Cortez. (Ord. No. 817, § 2: Ord. No. 990, § 2.)

**Sec. 16-3. Model Traffic Code—
Additions or modifications.**

The adopted Code is not subject to any additions or modifications.

**Section 1212 Sales to the Public on
City Streets, Alleys—Prohibited:**

No person may, except as otherwise provided in the Cortez Municipal Code, sell any personal property or goods or services on the streets, alleys, sidewalks or other City property located in or owned by the City of Cortez, unless approved by the City Council or City Manager.

Penalty: a violation of this section shall be punishable by a fine of up to \$500.00 or a jail sentence of up to 180 days or both a fine and a jail sentence.

Section 102 Definitions, shall be amended to add the following provisions:

(90) — “Toy Vehicles” whether or not home built by the user that has wheels

with an outside diameter of not more than 14 inches and is not designed, approved, or intended for use on public roadways or highways. Toy vehicles includes but is not limited to gas powered or electric powered vehicles commonly known as minibikes, pocket bikes, kamikazie boards, mopeds, and stand up scooters.

(91) — “Off highway vehicles” means any self-propelled vehicle, which is designed to travel on wheels or tracks in contact with the ground which is designed primarily for use off of the public highways and which is generally and commonly used to transport persons for recreational purposes. Off highway vehicle does not include the following:

- a. vehicles designed and used primarily for travel on, over, or in the water;
- b. snowmobiles;
- c. military vehicles;
- d. golf carts;
- e. vehicles designed and used to carry disabled persons;
- f. vehicles designed and used specifically for agricultural, logging or mineral purposes; or
- g. vehicles registered pursuant to Colorado State Statute, Article 3, Title 42.

Section 220 Motorized bicycles, Motor Driven Cycles, Riding Equipment, Department Control, Use and Operation of the

Model Traffic Code shall be amended to add the following:

(3.) All motorized bicycles shall be registered pursuant to Colorado State Statute and insured as required by this code and Colorado State Statute.

Section 109 Motorized bicycles, animals, skis, skates, toy vehicles, and all terrain recreational vehicles on highways of the Model Traffic Code shall be amended to add the following:

(13.) It shall be unlawful for any person to operate any vehicle, which is not registered or insured on the streets, alleys, sidewalks and public ways of the City of Cortez.

Penalty Clause

Any violation of this section shall result in the imposition of fines, jail time or other sentence as set forth in section 17-16a Cortez Municipal Code.

(Ord. No. 817, § 3; Ord. No. 990, § 3; Ord. No. 1095; Ord. No. 1121.)

Sec. 16-4. Model Traffic Code— Penalties.

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

(a) It is unlawful for any person to violate any of the provisions adopted in this article.

(b) Every person convicted of a violation of any provision adopted in this article shall be punished by a fine not exceeding three hundred dollars, or by imprisonment not exceeding ninety days, or by both such fine and imprisonment. (Ord. No. 817, § 4; Ord. No. 990, § 4.)

Sec. 16-5. Model Traffic Code— Application.

This article shall apply to every street, alley, sidewalk area, driveway, park, and to

every other public way or public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this city has jurisdiction and authority to regulate. The provisions of sections 1401 through 1407.5 and 1409 through 1415, respectively concerning reckless driving — penalty, careless driving — penalty, following fire apparatus prohibited, crossing fire hose, riding in trailers, foreign matter on highway prohibited, spilling loads on highways prohibited, splash guards, when required, compulsory insurance — penalty, use of earphones while driving, operation of bicycles and other human-powered vehicles, eluding or attempting to elude a police officer, moving construction-related equipment, and use of dyed fuel on highways prohibited, shall apply not only to the public places and ways but also throughout this municipality. (Ord. No. 817, § 5; Ord. No. 990, § 5.)

Article II. Parking.

Sec. 16-6. Repealed by Ord. No. 860.

Sec. 16-7. Limitation on parking.

(a) The city of Cortez shall from time to time establish parking areas within the city in which the time and/or place in which one may park is limited or restricted. The city council shall establish such time periods for parking as they deem fit and reasonable.

(b) Such limitation as to time or place shall be established by resolution of the city council.

(c) All such areas which are regulated in accordance with this section as to length of time and/or place shall be clearly marked with signs advising the restriction on parking.

(d) The fine for violation of this article shall be eight dollars for each and every violation. If the fine is not paid within five

days from the date of the notice of parking violation the fine shall be fifteen dollars. The registered owner and/or owners of a vehicle improperly parked shall be responsible for any fine assessed for improper parking of the vehicle.

(e) The City of Cortez fire marshal as well as the Cortez police department and designees of the Cortez police chief are hereby authorized to issue parking tickets for parking in fire lanes properly marked and signed. (Ord. No. 849, § 1.) (Ord. No. 1128)

Sec. 16-8. Reserved.

Article III. Bicycles.

For state law provision relating to bicycles, see CRSA §§ 42-4-109, 42-4-220, 42-4-224(3).

Sec. 16-9. License—Required.

No person, who resides within the city, shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles, unless such bicycle has been licensed and a license plate attached thereto. (Code 1968, § 14-3-1.)

Sec. 16-10. Same—Application.

Application for every bicycle license and license plate shall be made to the city police department. There shall be no charge for the license. (Code 1968, § 14-3-2.)

Sec. 16-11. Same—Issuance.

The chief of police upon receipt of a proper application is authorized to issue a bicycle license which shall be effective upon issuance. (Code 1968, § 14-3-3.)

Sec. 16-12. Same—Records to be kept.

The chief of police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued and the number of the frame of the

bicycle for which issued. (Code 1968, § 14-3-3.)

Sec. 16-13. License plates or decals—Issuance.

The chief of police upon issuing a bicycle license shall also issue a license plate or decal bearing the license number assigned to the bicycle and the name of this city. (Code 1968, § 14-3-4.)

Sec. 16-14. Same—Attachment.

The chief of police shall require such license plate or decal to be firmly attached to the rear mudguard or frame of the bicycle for which such license was issued in such position as to be plainly visible from the rear. (Code 1968, § 14-3-4.)

Sec. 16-15. Same—Removal prohibited; exceptions.

No person shall remove a license plate or decal from a bicycle except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street in this city. (Code 1968, § 14-3-4.)

Sec. 16-16. Transfer of ownership generally.

Upon the sale or other transfer of a licensed bicycle, the licensee shall remove the license plate or decal and shall either surrender such plate or decal to the chief of police or may, upon proper application, but without payment of additional fee, have such plate or decal assigned to another bicycle owned by the applicant. (Code 1968, § 14-3-5.)

Sec. 16-17. Rental agencies to comply with article.

A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed

and a license plate or decal is attached thereto as provided by this article, and unless such bicycle is equipped with the lamps, brakes and other equipment required in this article. (Code 1968, § 14-3-6.)

Sec. 16-18. Equipment—Lights.

Every bicycle shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least five hundred feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of five hundred feet to the rear; except, that a red reflector meeting the requirements of this article may be used in lieu of the red light. All such lamps and reflectors shall be in place and in operation whenever such bicycle is operated after sundown. (Code 1968, § 14-3-7.)

For state law as to equipment required on a bicycle generally, see C.R.S. 1973, § 42-4-218.

Sec. 16-19. Same—Sirens or whistles prohibited.

No bicycle shall be equipped with, nor shall any person use upon a bicycle, any siren or whistle. (Code 1968, § 14-3-7.)

For state law prohibiting the use or existence of a siren or whistle upon any bicycle, see C.R.S. 1973, § 42-4-221(3).

Sec. 16-20. Same—Brakes.

Every bicycle shall be equipped with a brake which will enable the operator to make a braked wheel-skid on dry, level and clean pavement. (Code 1968, § 14-3-7.)

Sec. 16-21. Riding, etc., on sidewalk prohibited.

It shall be unlawful for any person to ride or propel any bicycle upon any sidewalk within the city, or to ride any skateboard, roller skates, inline skates or scooters on all city streets and sidewalks in the area bounded to North Street on the North, to

First Street on the South, to Maple Street on the West, and to Washington Street on the East. (Ord. No. 711, § 1: Ord. No. 941 (part).)

Sec. 16-22. Penalties.

Upon conviction of a violation of this article, every person not a juvenile as defined by state law shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time upon first conviction of the violation of the ordinance codified in this section; if a juvenile as set forth in Section 18-B9 Juvenile Sentencing now in effect or as may be amended from time to time. Upon a second conviction of any offender the judge of the municipal court shall impound the bicycle, roller skates, roller blades, skateboards or scooters of the offending party and the same shall be turned over to the Cortez police department for disposal in accordance with departmental regulations and city ordinances. Said impoundment shall not be in lieu of any punishment applicable as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time that the municipal judge wishes to levy upon an adult or any fine as set forth in section 18B-9 juvenile sentencing that the judge may wish to levy upon a juvenile. (Code 1968, § 14-3-9: Ord. No. 941 (part); amended by memo 3519.) (Ord. No. 1170, § 16, 9-25-12)

Article IV. Vehicles.

Sec. 16-23. Neighborhood electric vehicles (NEV).

Neighborhood electric vehicles (NEV) are described as follows:

(a) Vehicles meet the equipment standards set forth in Article 1, Part 2, of the Model Traffic Code;

- (b) Are designed to carry four or fewer persons;
 - (c) Are designed to be operated at speeds of twenty-five miles per hour or less;
 - (d) Has at least four wheels in contact with the ground;
 - (e) Has an empty weight of less than one thousand eight hundred pounds; and
 - (f) Must be electric motor powered.
- (Ord. No. 1120 § 1.)

and all traffic laws and regulations of the United States of America. (Ord. No. 1120 § 2.)

Sec. 16-24. Regulation of NEV's.

Regulation of NEV's includes the following:

- (a) No person shall operate a neighborhood electric vehicle on a limited access highway.
- (b) No person shall operate a neighborhood electric vehicle on any street or highway with a posted speed limit of more than thirty miles per hour, provided, however, that neighborhood electric vehicles shall be allowed to cross, at intersections, streets and highways that have a posted speed limit in excess of thirty miles per hour.
- (c) Neighborhood electric vehicles shall not be operated at a speed in excess of twenty-five miles per hour.
- (d) Neighborhood electric vehicles shall not carry a greater number of persons or carry a greater load than that specified by the manufacturer. The driver and all passengers must be seated in seats substantially similar to those placed in the vehicle by the manufacturer.
- (e) No person shall operate a neighborhood electric vehicle on a city-owned or maintained trail.
- (f) Neighborhood electric vehicles shall only be operated by persons holding a valid driver's license.
- (g) Operators of neighborhood electric vehicles shall obey all traffic laws of the state of Colorado, including but not limited to, laws concerning financial responsibility,

CHAPTER 17.

MUNICIPAL COURTS.

For state law as to municipal courts generally, see C.R.S. 1973, §§ 13-10-101 to 13-10-125.

- § 17-1. Procedure for handling violations established.
- § 17-2. Initiation of prosecution.
- § 17-3. Summons and complaint—Issuance; where filed; service.
- § 17-4. Same—Content.
- § 17-5. Same—Methods of service.
- § 17-6. Same—Issuance by clerk of summons upon complaint.
- § 17-7. Warrants—Issuance upon request.
- § 17-8. Same—Issuance upon failure to appear in court.
- § 17-9. Posting of bond.
- § 17-10. Right to jury trial; prerequisites; selection.
- § 17-11. Officer to give testimony.
- § 17-12. Adoption of state and county rules of procedure; promulgation of additional rules by judge.
- § 17-13. Entry of judgment generally.
- § 17-14. Municipal court costs and fees.
- § 17-15. Juror fees.
- § 17-16. Repealed.
- § 17-16A. Sentencing/municipal court.
- § 17-17. Repealed.
- § 17-18. Appeal to district court.
- § 17-19. Court of record.

§ 17-20. Municipal court clerk/administrator.

Sec. 17-1. Procedure for handling violations established.

In order to provide a simple and expedient method for the handling of violations of the Code or ordinances of the city, but one which will also guarantee to all defendants a method of exercising their constitutional rights, the city council does hereby establish the following procedure for the handling of violations of the Code or ordinances as set forth in this chapter. (Code 1968, § 1-3-1.)

Sec. 17-2. Initiation of prosecution.

Prosecution of a violation of the Code or ordinance of the city shall be made in the name of the city and shall be commenced by the issuance of a summons and complaint, by the issuance of a summons following a complaint filed with the police court of the city or by the filing of a complaint following arrest. (Code 1968, § 1-3-2.)

For state law as to commencement of actions in municipal courts by service of process, etc., see C.R.S. 1973, § 13-10-111.

Sec. 17-3. Summons and complaint—Issuance; where filed; service.

A summons and complaint may be issued by an officer of the city for a violation of this Code or other ordinance of the city committed in his presence, or if not committed in his presence, concerning matter which he has reasonable grounds for believing was committed by the person charged. A copy of the summons and complaint so issued shall be immediately filed with the municipal court. A copy shall also be served by immediate delivery to the person charged. (Code 1968, § 1-3-3.)

For state law as to service of summonses, see C.R.S. 1973, § 16-5-205.

Sec. 17-4. Same—Content.

The summons and complaint issued by a police officer of the city shall contain the name of the defendant, shall identify the offense charged by the Code or ordinance alleged to have been violated, shall contain a brief statement or description of the offense charged, including the date and approximate location thereof and shall direct the defendant to appear before the municipal court at a stated date, time and place. (Code 1968, § 1-3-5.)

For state law as to content of summons, see C.R.S. 1973, § 16-5-206.

Sec. 17-5. Same—Methods of service.

A summons or summons and complaint shall be served personally upon the defendant and a copy given to him. In lieu of personal service, service may be made by leaving a copy of the summons and complaint at the usual place of abode with any person over the age of eighteen years residing therein or by mailing a copy to the defendant's last known address by certified mail, return receipt requested, not less than five days prior to the time that the defendant is required to appear; provided, that such place of abode or last known address of the defendant is within the corporate limits of the city. (Code 1968, § 1-3-7.)

For state law as to service of summons, see C.R.S. 1973, § 16-5-206.

Sec. 17-6. Same—Issuance by clerk of summons upon complaint.

A summons may be issued by the clerk of the municipal court if a sworn complaint has been filed by any person requesting the issuance of a summons and it appears from the complaint that there is probable cause to believe that a violation of the City Code or ordinance has been committed and that the defendant committed it. (Code 1968, § 1-3-4.)

Sec. 17-7. Warrants—Issuance upon request.

Warrants shall be issued upon specific request from the officer in charge, in place of a summons, but only when specifically requested. (Code 1968, § 1-3-6.)

For state law as to issuance of warrants, see C.R.S. 1973, § 16-5-206.

Sec. 17-8. Same—Issuance upon failure to appear in court.

If a person upon whom a summons has been served pursuant to this article fails to appear in person or by counsel before the municipal court as specified therein, a bench warrant shall be issued for his arrest. (Code 1968, § 1-3-8.)

For state law as to issuance of warrant upon failure to respond to summons, see C.R.S. 1973, § 16-5-207.

Sec. 17-9. Posting of bond.

When the court is not immediately available, provision for bail of persons arrested and brought to the city jail on charges of violations of the Code or ordinances of the city shall be made. Such persons may post bail pursuant to rules of the municipal court, by the court clerk or by any other responsible or appropriate officer designated by the court. The court shall provide, by rule, for the conditions and circumstances under which such bail will be granted pending appearance before the court. Bail so required may be, at the election of the accused, in the form of cash security, real property, tangible or intangible personal property, acceptable corporate surety bond or adequate and acceptable private sureties. In cases when so permitted by court rules promulgated pursuant to this section, bail may be upon personal recognizance without security or surety. (Code 1968, § 1-3-9.)

For state law authorizing city to accept bail bond, see C.R.S. 1973, § 31-12-101(61).

Sec. 17-10. Right to jury trial; prerequisites; selection.

(a) Any defendant charged with a Code or ordinance offense, other than a noncriminal traffic infraction or offense, shall have the right to a trial by jury if, within twenty days after arraignment or entry of a plea, such defendant files with the court a written jury demand and at the same time tenders to the court a jury fee of twenty-five dollars for a three-person jury or forty-three dollars for a jury of six persons. The fee may be waived by the court because of the indigence of a defendant.

(b) No defendant shall have a right to a trial by jury for any noncriminal traffic infraction or offense. Except as hereinafter provided in subsection (c), all offenses that violate any provision of article I of chapter 16 of this Code or of any provision of the Model Traffic Code for Colorado Municipalities, as adopted or amended by the city, are hereby declared to be noncriminal traffic infractions or offenses.

(c) Any defendant charged with violation of any of the following provisions of the Model Traffic Code for Colorado Municipalities, as adopted and amended by the city, shall have the right to a trial by jury:

- (1) Section 3-6. (a) Stopping for school buses;
- (2) Section 4-1. (a) Basic (speed) rule, only where the speed alleged is greater than twenty-five miles per hour over the lawful speed limit;
- (3) Section 4-6. Speed contest;
- (4) Section 5-1. Reckless driving;
- (5) Section 5-2. Careless driving; and
- (6) Section 21-13. Eluding or attempting to elude a police officer.

(d) In the event that a defendant is charged with more than one traffic offense arising out of the same incident and at least one of the charged offenses is listed in subsection (c) of this section, the defendant

shall have the right to demand a trial by jury as to all such offenses, which shall be consolidated for purposes of trial.

(e) No defendant convicted of any offense declared to be a noncriminal traffic infraction or offense shall be punished by imprisonment for any such conviction.

(f) Where applicable, failure to make a demand in writing for a jury trial shall constitute a waiver of such right. The defendant shall be tried by a jury of three in number unless at the time of making a demand for a jury trial, request is made for a greater number, not to exceed six jurors. Failure to designate the number of jurors to try the case shall constitute waiver of a jury in excess of three jurors. Upon request for a jury trial, the court shall set a time and place for such trial and shall bring before the court a sufficient number of jurors for the trial of the case. (Ord. No. 693, § 1; Ord. No. 1101.)

For state law as to trial by jury in municipal courts, see C.R.S. 1973, §§ 13-10-101, 13-10-114.

Sec. 17-11. Officer to give testimony.

(a) At any hearing on a traffic violation which carries only a fine and no jail time, as set out in section 17-10 of this chapter, the officer who issued the citation may offer evidence of the facts concerning the alleged infraction.

(b) The officer may give the court a statement of the facts, at which time the party receiving the citation shall be allowed to cross-examine the officer.

(c) The officer may not be allowed to conduct any cross-examination, although he may make a statement in rebuttal after the person receiving the citation or any witness called has testified.

(d) The officer may be questioned by the court.

(e) Nothing provided herein shall prevent the officer from being represented by

the city attorney's office if the defendant shall have counsel present. (Ord. No. 777.)

Sec. 17-12. Adoption of state and county rules of procedure; promulgation of additional rules by judge.

Rules concerning the selection of jurors, challenges for cause and other matters concerning court procedure and trials shall, as far as practical, be governed by the statutes of the state and the Municipal Law Rules of Procedure promulgated by the Colorado Supreme Court. The municipal judge is hereby authorized to make such rules of court as he may deem advisable for the conduct of the business of the court, subject to the approval of the city attorney. (Code 1968, § 1-3-12.)

For state law as to powers and procedures of municipal court, see C.R.S. 1973, § 13-10-112.

Sec. 17-13. Entry of judgment generally.

In all cases either tried by a jury or to the court when the defendant is found guilty, the court, in its discretion, shall fix and determine the sentence, penalty and punishment together with costs, or the court may suspend all or any part thereof or may exercise the powers of probation as deemed advisable under the circumstances, within the discretion of the court, and judgment shall be entered and execution issued thereon without delay. The court may, however, in its discretion, stay the execution of any penalty for a period not to exceed ten days; provided, that the defendant or his counsel have an opportunity to offer testimony or statements in mitigation before judgment is entered. (Code 1968, § 1-3-13.)

For state law as to power of municipal judge to impose fines and penalties, see C.R.S. 1973, § 13-10-113.

Sec. 17-14. Municipal court costs and fees.

(a) Court costs before the municipal court of the city of Cortez shall be set as follows:

(1) Court costs shall be reviewed annually and set in the annual budget process by resolution.

(2) Court costs shall be imposed upon the entry of a guilty plea or after a conviction at trial. Five dollars of court costs assessed for each case where defendants appear in court shall be paid into the police department budget for the use of the drug awareness resistance and education (DARE) program. The balance of any court costs so assessed shall be paid into the general fund.

(3) Court costs shall be assessed on all other offenses which are paid prior to the date of court appearance. All court costs collected in this manner shall be paid into the general fund.

(4) Jury demand fees in cases tried to a jury of three shall be set annually by resolution and the cost of each additional juror over three shall also be set by annual resolution.

(5) All other court costs for copies, transcripts, CDs, etc. shall be in accordance with the city's open records/criminal justice records, fees and costs annually set by resolution. In the event that the cost of a particular item, copy, etc. is not set in said resolution the city shall be paid for its actual time, costs and material etc. for providing said copy or information, etc. (Ord. No. 1158, 11-22-11)

Editor's note—Ord. No. 1158, adopted November 22, 2011, repealed the former § 17-14, and enacted a new § 17-14 as set out herein. The former § 17-14 pertained to court costs schedule and derived from Ord. No. 669; Ord. No. 832 and Ord. No. 1011.

For state law as to power of municipal judge to assess costs, see C.R.S. 1973, § 13-10-113.

Sec. 17-15. Juror fees.

Juror fees shall be as follows: For serving as a juror, for one day or part thereof, six

dollars; for each juror summoned and required to appear in attendance of court, three dollars. (Ord. No. 669, § 2 (part).)

Sec. 17-16. Repealed September 13, 2005.

Sec. 17-16A. Sentencing/municipal court.

(a) A violation of the provisions of the Cortez City Code/City Ordinances is punishable by a fine in the amount of up to five hundred dollars, a jail sentence of up to one hundred eighty days, or by both a fine and jail sentence.

(b) In addition to fines or a jail sentence, the court may approve deferred judgment and sentencing for a period of time of up to one year, unsupervised probation of up to one year, a deferred prosecution for up to one year, or suspend jail or fines, contingent upon such terms and conditions as the court finds appropriate.

(c) Juveniles shall be sentenced as set forth in Cortez City Code section 18B-9 Juvenile Sentencing now in effect or as may be amended from time to time.

Editor's note—Ord. No. 1170, § 1, adopted September 25, 2012, repealed the former § 17-16A, and enacted a new § 17-16A as set out herein. The former 17-16A pertained to fines; jail time; deferred judgment and derived from Ord. No. 1052.)

Sec. 17-17. Repealed September 13, 2005.

Sec. 17-18. Appeal to district court.

Appeals from the municipal court of the city to the district court shall be as provided by state statutes. (Code 1968, § 1-3-18.)

For state law as to procedure for appeal from municipal court determinations, see C.R.S. 1973, §§ 13-10-116 to 13-10-125.

Sec. 17-19. Court of record.

(a) The municipal court of the city shall be a court of record.

(b) A verbatim record of all proceedings and evidence at trials shall be kept by electric devices or stenographic means.

(c) The judge of the municipal court shall be admitted to, and currently licensed in, the practice of law in the state. (Ord. No. 503, §§ 1—3.)

Sec. 17-20. Municipal court clerk/administrator.

(a) **Duties.** The municipal court clerk/administrator shall:

(1) Be responsible for administering all functions of the municipal court by providing the necessary support services, including the processing of court documents and correspondence;

(2) Prepare the court's annual budget and monitor the same;

(3) Provide court information to the public, defendants, attorneys and law enforcement officers regarding court times and fines;

(4) Collect fines and bonds and deposit the same in the appropriate fund. The municipal court clerk/administrator shall maintain records of all funds and prepare necessary accounting statements for the director of finance;

(5) Record court proceedings and acts as clerk of the court, and prepare post-court paperwork;

(6) Perform all other duties as assigned by the city manager and as prescribed in the Charter of the codified ordinances of the city, as amended.

(b) **Requirements.** The municipal court clerk/administrator shall:

(1) Reserved;

(2) Take and subscribe an oath of office pursuant to article II, section 5 of the Charter;

(3) Be appointed by, and report to, the city manager, and shall be subject to any other requirements as may be prescribed by

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the city manager. (Ord. No. 691, § 1.)
(Ord. No. 1157, 11-22-11; Ord. No. 1158,
11-22-11)

CHAPTER 18.

OFFENSES—MISCELLANEOUS.

For state law as to authority of city to pass police ordinances, see C.R.S. 1973, § 31-15-401(a). As to authority of city to pass ordinances generally, see C.R.S. 1973, § 31-15-103. As to the state criminal code generally, see C.R.S. 1973, § 18-1-101 et seq.

- § 18-1. Alcoholic beverages—
Drinking in public
generally.
- § 18-2. Possession of open
containers of liquor, wine,
or fermented malt
beverages.
- § 18-3. Liquor licenses—Special
events.
- § 18-4. Prohibition of underage
consumption of alcohol.
- § 18-5. Violation of bail bond
conditions.
- § 18-6. Reserved.
- § 18-7. Repealed.
- §§ 18-8, 18-9. Reserved.
- § 18-10. Repealed.
- § 18-11. Disturbing the peace.
- § 18-12. Reserved.
- § 18-13. False alarms.
- § 18-14. False reports to police.
- § 18-15. Fences—Barbed wire,
pointed posts, etc.
- § 18-16. Reserved.
- § 18-17. Repealed.
- §§ 18-18 to 18-20. Reserved.
- § 18-21. Repealed.
- §§ 18-22, 18-23. Reserved.
- § 18-24. Repealed.
- §§ 18-25, 18-26. Reserved.
- § 18-27. Repealed.
- § 18-28. Loitering prohibited upon
public ways.
- § 18-29. Reserved.
- § 18-30. Officers—Impersonating,
resisting, etc.
- § 18-31. Canine corps—
Mistreatment,
interference, etc.
- § 18-32. Repealed.
- § 18-33. Violation—Penalty.
- § 18-34. Posters, handbills, etc.—
Defacing, removing, etc.;
deemed nuisance when
posted without authority.
- § 18-35. Prisoners—Escaping.
- § 18-36. Same—Assisting escape;
introduction of
contraband.
- § 18-37. Private property—
Injuring or destroying.
- § 18-38. Repealed.
- § 18-39. Graffiti.
- § 18-40. Public property—Injuring
or destroying.
- § 18-41. Riots, affrays, etc.
- § 18-42. Repealed.
- § 18-43. Reserved.
- § 18-44. Repealed.
- § 18-45. Reserved.
- § 18-46. Theft.
- § 18-47. Stones, snowballs, etc.—
Throwing.
- § 18-48. Repealed.
- § 18-49. Vendors—Obstructing
sidewalk or other public
place.
- § 18-50. Unlawful to deposit refuse
within city limits.
- § 18-51. Theft of rental property.
- § 18-52. Trespass.
- § 18-52A. Unlawful public trespass.
- § 18-53. Passing bad checks.

§ 18-54. Conduct on public property.

§ 18-55. Unlawful possession or sale of marijuana.

**Sec. 18-1. Alcoholic beverages—
Drinking in public generally.**

From and after the effective date of the ordinance codified in this section, it shall be unlawful for any person to drink any spirituous, intoxicating malt, vinous, mixed or fermented liquor at any place described in paragraph III of the ordinance codified in this section between the hours of 12:01 A.M. and 12 midnight, except as authorized by section 18-3 Liquor licenses—Special events, Cortez City Code, Ordinance No. 1112, Series 2008. A violation of this section shall be punishable as set forth in section 17-16A, Cortez City Code, as may be amended from time to time. (Ord. No. 591, § 1; Ord. No. 1112 (part).)

Sec. 18-2. Possession of open containers of liquor, wine, or fermented malt beverages.

(a) It shall be illegal to have possession of an alcohol beverage whether open or unopened on any city-owned property as the same shall be described on the city zoning map. It shall be unlawful for any person in the city to carry or have any open container of malt, vinous or spirituous liquors or fermented malt beverages on a street, sidewalk, alley, parking lot, park or other place in the city, as enumerated by the city zoning map.

(b) It shall be unlawful for any person to drink malt, vinous or spirituous liquors or fermented malt beverages in any of the above enumerated places in the city provided, however, it shall be an absolute defense if an open bottle of vinous liquor was obtained at an establishment which is the holder of a hotel and restaurant license, manufactur-

er's license, limited winery license, beer and wine license, tavern license, vintner's license, or brew pub license, and the said establishment had allowed the removal of one container of partially consumed vinous liquor purchased on the premises, so long as the original container did not contain more than seven hundred fifty mls of vinous liquor and has been re-corked before its removal. The establishment must have means available for the consumption in accordance with C.R.S. section 12-47-120.

(c) The following areas shall be exempted from the terms of the ordinance codified in this chapter. The Conquistador Golf Course, which shall be allowed to stock and sell 3.2 beer only, which may be consumed on the golf course, and according to section 18-3 Liquor licenses—Special events, Cortez City Code, Ordinance No. 1112, Series 2008.

The organization seeking sponsorship of the special event shall obtain proper application as agreed upon by parks and recreation and the police department.

The city of Cortez may require the permittee to provide security at any event at which alcohol is permitted. Nothing in this chapter shall be interpreted as a waiver of any penal ordinance of the city of Cortez.

A violation of this section shall be punishable as set forth in section 17-16A, Cortez City Code, as may be amended from time to time. (Ord. No. 1079; Ord. No. 1112 (part).)

Sec. 18-3. Liquor licenses—Special events.

The city council of the city of Cortez reserves to itself the right to allow the sale and consumption of alcoholic beverages on all city property, including the recreation center, in accordance with its right to issue special events permits as set forth in the Colorado Revised Statutes at Section 12-48-101 et seq., as amended from time to time.

Applicants applying for a special events permit on city property shall be a nonprofit and meet all qualifications as set forth in

Section 12-48-102, C.R.S., as amended from time to time, all conditions imposed by the Colorado Department of Revenue Liquor Enforcement regulations and all applicable state, county and city laws.

Special events permit applicants shall meet all conditions of use for city property as set forth in the City Code, as amended from time to time, as city council may impose by resolution, or through regulations promulgated by the city manager.

The applicant shall carry premises and liquor liability insurance in an amount to be determined by resolution of the council or the city manager, if authorized by council.

All applications for any type of special events permit shall be made on forms provided by the state licensing authority, Department of Revenue, Liquor Enforcement Division.

The applications for a special event permit shall be verified by oath or affirmation of an officer of the applicant organization. The properly verified application shall be submitted to the city of Cortez city council, or other designated agency as set forth by statute or ordinance, not less than thirty days prior to date of the special event.

Each special event permit application shall be accompanied by a check to be made payable to the Colorado Department of Revenue and a separate check for city fees made out to the city of Cortez covering the appropriate permit fees involved.

All applicants shall have a state sales tax license.

Applicants shall provide such support services as are necessary for the event in the opinion of the city manager or his designee. Support services to include clean-up, security, bathroom facilities, fencing, etc. As a condition of granting the permit, the city may make, as a condition of the permit, the provision of said support services.

Applicant shall comply with all rules, regulations of the city and its departments.

The city may deny an application for any grounds, for violation of the provisions of Article 48, Colorado Revised Statutes, for violation of the provisions of Title 12 Articles 46, 47, 48 C.R.S. as amended. The city may deny any application which it determines is incomplete, inaccurate, false or inappropriate.

No applicant shall allow attendees of the event to bring onto the licensed premises or the event's complete premises, whichever is larger, their own alcoholic or fermented beverages or to violate any federal, state or city ordinances at the permitted event.

Applicant shall be both criminally and civilly liable for any violations of the state liquor code or regulations as may be amended from time to time, and all other applicable state laws, county or city ordinances.

A violation of this section shall be punishable as set forth in section 17-16A, Cortez City Code as may be amended from time to time. (Ord. No. 1112 (part).)

Sec. 18-4. Prohibition of underage consumption of alcohol.

(a) As used in this section, unless the context otherwise requires:

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group, or residence, and any real property, including buildings and improvements, connected therewith, and shall also include any members, employees, and occupants associated therewith.

Ethyl alcohol means any substance, which is or contains ethyl alcohol.

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that a

person owns or has custody of ethyl alcohol, or has ethyl alcohol within his immediate presence and control.

Private property means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately owned real property which is not open to the public. "Private property" shall not include:

(1) Any establishment which has or is required to have a license pursuant to article 46, 47, or 48 of title 12, C.R.S.; or

(2) Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or

(3) Any establishment, which leases, rents, or provides accommodations to members of the public generally.

(b) (1) Any person age eighteen to twenty years of age who possesses or consumes ethyl alcohol anywhere in the city of Cortez commits illegal possession or consumption of ethyl alcohol by an underage person.

Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(2) Illegal possession or consumption of ethyl alcohol by an underage person shall be punished by a fine of not more than five hundred dollars or jail up to one hundred eighty days or both a fine and jail sentence. The court, upon sentencing a defendant pursuant to this subsection, may, in addition to any fine, suspend jail time on condition that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own expense.

(c) It shall be an affirmative defense to the offense described in subsection (b) of this section that the ethyl alcohol was pos-

sessed or consumed by a person under twenty-one 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 ethyl alcohol was possessed or consumed with the consent of his parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by section 25-5-410 (1) (i) (II), C.R.S.; or the ingestion of any substance which was manufactured, designed, or intended primarily for a purpose other than oral human ingestion; or the ingestion of any substance which was manufactured, designed, or intended solely for medicinal or hygienic purposes; or solely from the ingestion of a beverage which contained less than one-half of one percent of ethyl alcohol by weight.

(3) The person is a student who:

(A) Tastes but does not imbibe an alcohol beverage only while under the direct supervision of an instructor who is at least twenty-one years of age and employed by a post-secondary school;

(B) Is enrolled in a university or a post-secondary school accredited or certified by an agency recognized by the United States department of education, a nationally recognized accrediting agency or association, or the "Private Occupational Education Act of 1981," article 59 of title 12, C.R.S.;

(C) Is participating in a culinary arts, food service, or restaurant management degree program; and

(D) Tastes but does not imbibe the alcohol beverage for instructional purposes as a part of a required course in which the alco-

hol beverage, except the portion the student tastes, remains under the control of the instructor.

(d) The possession or consumption of ethyl alcohol 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.

An underage person and one or two other persons shall be immune from criminal prosecution under this section if they establish the following:

(1) One of the underage persons called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) The underage person who called 911 and, if applicable, one or two other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;

(3) The underage person was the first person to make the 911 report; and

(4) The underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

(e) Prima facie evidence of a violation of subsection (b) of this section shall consist of:

(1) Evidence that the defendant age eighteen to twenty years of age and possessed or consumed ethyl alcohol anywhere in the city of Cortez; or

(2) Evidence that the defendant was age eighteen to twenty years of age and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere in the city of Cortez.

(f) During any trial for a violation of subsection (b) of this section, any bottle, can, or any 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 be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can, or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can, or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol," or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of ethyl alcohol.

(g) A parent or legal guardian of a person eighteen to twenty 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 ethyl alcohol to or by a person under the age eighteen to twenty years of age under the conditions described in subsection (c)(1) of this section. 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 ethyl alcohol to a person under twenty-one years of age.

(h) The qualitative result of an alcohol test or tests shall be admissible at the trial of any person charged with a violation of subsection (b) of this section upon a showing

that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the executive director of the department of public health and environment.

(i) Official records of the department of public health and environment relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the state. Copies of such records, attested by the executive director of the department of public health and environment or his deputy and accompanied by a certificate bearing the official seal for said department, which state that the executive director of the department has custody of such records, shall be admissible in all courts of record and shall constitute prima facie evidence of the information contained in such records. The official seal of the department described in this subsection may consist of a rubber stamp producing a facsimile of the seal stamped upon the document.

(j) In any judicial proceeding in any court of this state concerning a charge under subsection (b) of this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol and of the design and operation of devices certified by the department of public health and environment for testing a person's blood, breath, saliva, or urine for the presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

(k) No law enforcement officer shall enter upon any private property to investigate

any violation of this section without probable cause. (Ord. No. 1122.)

Sec. 18-5. Violation of bail bond conditions.

(a) A person who is released on bail bond of whatever kind, and either before, during, or after release is accused by complaint, information, indictment, or the filing of any other charges arising from the conduct for which he was arrested commits a violation of this ordinance if he knowingly fails to appear for trial or other court appearances in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.

(b) Bail Bond conditions may be set in general for all offenses by the municipal court judge and in addition may be set specific to the defendant and/or charge filed against said defendant at the judge's discretion.

(c) A violation of this section shall be punishable as set forth in section 17-16A, Cortez City code as currently in effect and as maybe amended from time to time. (Ord. No. 1158, 11-22-11)

Secs. 18-6. Reserved.

Sec. 18-7. Repealed April 13, 1982.

Secs. 18-8, 18-9. Reserved.

Sec. 18-10. Repealed April 13, 1982.

Sec. 18-11. Disturbing the peace.

(a) A person disturbs the peace if he or she intentionally, knowingly, or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace; or

(2) Makes unreasonable noise in a public place or near a private residence that he has no right to occupy; or

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

(4) Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting; or

(5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.

(b) Schools, hospitals, and libraries.

(1) It is unlawful for any person by himself or in the operation of any instrument, machine or vehicle to make any unnecessary noise within one hundred fifty feet of any hospital or any institution reserved for the sick or any school during school hours or any library during normal library hours.

(2) For purposes of this section, a member of the police department is empowered to make a prima facie determination as to whether such noise constitutes a public nuisance.

(c) **Acts of another.** It is unlawful to permit another to commit an act of disturbing the peace in or upon any premises owned, possessed, or under his management or control when it is in his power to prevent such an act.

(d) Indecent exposure.

(1) It is unlawful for any person to commit indecent exposure. A person commits indecent exposure if he/she knowingly exposes his/her genitals to the view of any person under circumstances in which such conduct is likely to cause affront, disturb, or cause alarm to the other person.

(2) For purposes of this section, a member of the police department is empowered to make a prima facie determination as to whether such indecent exposure constitutes a public nuisance.

(e) It shall be an affirmative defense:

(1) To subsection (a)(3) of this section that the actor had significant provocation for his abusive or threatening conduct;

(2) To subsections (a)(4), (a)(5) and (a)(6) of this section that the actor acted necessarily to prevent serious bodily injury to himself or another. (Code 1968, § 11-4-6; Ord. No. 581, § 7; Ord. No. 757; Ord. No. 837; Ord. No. 1111 (part).)

As to disorderly conduct generally, see C.R.S. 1973, § 18-9-106.

Sec. 18-12. Reserved.

Sec. 18-13. False alarms.

It shall be unlawful for any person to intentionally and knowingly make, turn in or knowingly give a false alarm of fire or need of police or ambulance assistance or to knowingly aid or abet in the committing of such an act. (Ord. No. 418, § 1; Ord. No. 420, § 1; Ord. No. 581, § 8.)

For state law as to false alarms, see C.R.S. 1973, § 18-8-111.

Sec. 18-14. False reports to police.

It shall be unlawful for any person to intentionally and knowingly make or file with the police department of the city any false statement or report concerning the commission or alleged commission of any offense occurring within the city. (Ord. No. 418, § 1; Ord. No. 581, § 9.)

For state law as to false reports to authorities, see C.R.S. 1973, § 18-8-111.

Sec. 18-15. Fences—Barbed wire, pointed posts, etc.

It shall be unlawful for any person or persons to put upon, keep or maintain any

barb, barbed wire, sharpened nails or any other pointed or sharpened thing of metallic substance upon any fence, cellar guard or window guard that fronts upon or that is erected or constructed upon any street, avenue, lane, alley, building or sidewalk so that such projects or extends beyond the surface of the wood or other material of which such fence, cellar guard or window guard may be constructed. (Code 1968, § 11-4-18.)

Sec. 18-16. Reserved.

Sec. 18-17. Repealed April 13, 1982.

Secs. 18-18 to 18-20. Reserved.

Sec. 18-21. Repealed April 13, 1982.

Secs. 18-22, 18-23. Reserved.

Sec. 18-24. Repealed April 13, 1982.

Secs. 18-25, 18-26. Reserved.

Sec. 18-27. Repealed April 13, 1982.

Sec. 18-28. Loitering prohibited upon public ways.

(a) The word "loiter" means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry in a public place.

(b) No person shall:

(1) Loiter for the purpose of begging; or
(2) Loiter for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia; or

(3) Loiter for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse; or

(4) Loiter in or about a school building or grounds, not having any reason or relationship involving custody of, or responsi-

bility for, a pupil or any other specific, legitimate reason for being there, and not having written permission from a school administrator; or

(5) Loiter with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in section 12-22-303(7) Colorado Revised Statutes 1973.

(c) It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Code 1968, § 18-9-113; Ord. No. 581, § 14.)

Sec. 18-29. Reserved.

Sec. 18-30. Officers—Impersonating, resisting, etc.

(a) No person shall knowingly or willfully:

(1) Falsely pretend to be a police officer, firefighter, or other officer of the city and perform an act in that falsely pretended capacity.

(2) (A) Exercise or attempt to exercise, without being duly authorized, any duty, power or function of any police officer, firefighter or any city officer.

(B) It shall be a defense that such person acted necessarily in an emergency in the interest of protecting public health, safety, or welfare, in the absence of the immediate presence of a police officer, firefighter, or city officer.

(3) Obstruct a police officer or firefighter, or any city officer by using or threatening to use violence, force, or physical interference, or obstacle, or knowingly obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a police officer acting under color of his official authority, or knowingly ob-

struct, impair, or hinder the prevention, control, or abatement of fire by a firefighter, acting under color of his official authority. An officer acts "under color of his official authority" when, in the regular course of assigned duties, he is called upon to make, and does make, a judgment in good faith based upon facts and circumstances that an authorized action should be taken by him in his official capacity. The term "officer" as used in this section means an officer in uniform or, if out of uniform, one who has identified himself by exhibiting his credentials as such officer.

(4) (A) A person commits resisting arrest if he knowingly prevents or attempts to prevent a police officer acting under color of his official authority from effecting an arrest of the actor or another by:

(i) Using or threatening to use physical force or violence against the police officer or another.

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

(B) It shall not be a defense that the arrest was unlawful if the police officer was acting under color of his official authority. (Code 1968, § 11-4-29; Ord. No. 578, § 1; amended by memo 3519; Ord. No. 1111 (part).)

For state law as to obstruction of justice generally, see C.R.S. 1973, §§ 18-8-101 to 18-8-114. As to criminal impersonation, see C.R.S. 1973, § 18-5-113.

**Sec. 18-31. Canine corps—
Mistreatment, interference,
etc.**

It shall be unlawful for any person to knowingly torture, torment, beat, kick, strike, mutilate, injure, disable, tease, provoke or kill any dog used by the police department when such dog is being used in the performance of the functions or duties of the police department.

Further, it shall be unlawful to knowingly torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog owned by the police department when the dog is at the residence of its handler or the dog is in its designated place of kennel or place boarded. (Ord. No. 649, § 1.)

Sec. 18-32. Repealed May 23, 2006.

Sec. 18-33. Violation—Penalty.

Any violation of this chapter shall be punishable as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Amended by memo 3519.)

(Ord. No. 1170, § 17, 9-25-12)

**Sec. 18-34. Posters, handbills, etc.—
Defacing, removing, etc.;
deemed nuisance when posted
without authority.**

It shall be unlawful for any person to either wilfully, maliciously, wantonly, negligently or in any other manner tear down, deface or cover up any posted advertisement or bill of any person when such is posted or put in harmony with the provisions of this Code or other ordinances of the city.

Any handbill, poster, placard or painted or printed matter which is stuck, posted or pasted upon any public or private house, store or other buildings, or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house, shall be deemed a nuisance. (Code 1968, § 11-4-22.)

Sec. 18-35. Prisoners—Escaping.

It shall be unlawful for any person, while a prisoner in the city jail, or in any other place where prisoners are confined, or otherwise in custody of and confined by the city, to escape, attempt to escape or to in-

tentionally and knowingly assist others to escape or attempt to escape from such custody or confinement. (Code 1968, § 11-5-2; Ord. No. 581, § 17.)

For state law as to escape generally, see C.R.S. 1973, § 18-8-208.

Sec. 18-36. Same—Assisting escape; introduction of contraband.

It shall be unlawful for any person to intentionally or knowingly assist or aid, or attempt to assist or aid any person in the custody of or confined under the authority of the city to escape from jail, place of confinement or custody.

It shall be unlawful for any person to intentionally or knowingly make available to, present to or place within the reach of, or to cause to be made available to, presented to or placed within the reach of any person confined under authority of the city, vinous, spirituous or malt liquors, or any tool, implement or other thing calculated to aid in the escape of such person so confined or any other person so confined under authority of the city. (Code 1968, § 11-5-1; Ord. No. 581, § 18.)

For state law as to aiding prisoners to escape, see C.R.S. 1973, § 18-8-201. As to introducing contraband into penal institutions, see C.R.S. 1973, §§ 18-8-203, 18-8-204.

Sec. 18-37. Private property—Injuring or destroying.

It shall be unlawful for any person to either wilfully, maliciously, or wantonly injure or destroy real property, or improvements thereto, or movable or personal property, belonging to any person. (Code 1968, § 11-4-20.)

For state law as to trespass, tampering and criminal mischief, see C.R.S. 1973, §§ 18-4-501 to 18-4-513.

Sec. 18-38. Repealed April 13, 1982.

Sec. 18-39. Graffiti.

(a) Graffiti prohibited; removal required.

(1) As used herein, the term "graffiti" or "graffiti and related vandalism" means any unauthorized inscription, symbol, design or configuration of letters, numbers or symbols, or any combination thereof written, drawn, scribed, etched, marked, painted, stained, stuck on or adhered to any surface (public or private), including, but not limited to, trees, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, fences, streets, underpasses, overpasses, bridges, trestles, buildings, and any other surface or surfaces, regardless of the material of the component.

(2) It is unlawful for any person or group of persons to commit or attempt to commit any overt act resulting in the application of graffiti or engaging in or attempting to engage in any act of related vandalism. Such prohibited conduct shall include, but not be limited to, conspiring to commit or assist in the application of graffiti or engaging in or assisting in any act of related vandalism, including, but not limited to, acting as a "look out," regardless of whether the act of applying graffiti or engaging in related vandalism was actually committed or witnessed.

(3) Graffiti or graffiti-related vandalism which appears on property or structures (public or private) is deemed to be a public nuisance and shall be subject to abatement as herein proved. Should an owner or responsible party fail to remove or otherwise abate the graffiti as required in any notice of violation served upon him, the city may proceed to abate the graffiti or cause its removal and bill the owner or responsible party for the cost thereof. In the event of nonpayment, the city attorney shall be and is hereby authorized to take appropriate measures to create a lien against the subject property for purposes of recovering such costs, together with interest as provided by applicable law. If it is determined by the city that graffiti exists on property in violation

of this section, the city manager or his designated agent may notify the owner of the subject property or responsible party in writing, through the issuance of a notice of violation providing a maximum of ten days within which the graffiti is to be abated or otherwise removed. Such notice may be served by certified mail, personal service or by posting the subject property and publishing a notice thereof in a newspaper of general circulation within the city of Cortez. Such notice shall identify the property in violation, shall generally describe the location of the graffiti, and shall direct that such graffiti shall be removed or otherwise abated within ten days of the receipt of the notice. It is unlawful for any property owner to fail to remove or otherwise abate graffiti or related vandalism within the time frame set forth in the above notice once the same has been served.

(4) As part of any sentence imposed by the municipal court with respect to persons who either admit or are convicted of a violation of this section, the court may, as part of its sentencing, order that restitution be paid to the owner or party responsible for the removal or abatement of the graffiti pursuant to subsection (a)(3) of this section. If the person found to be in violation of this section is a minor under the age of eighteen years living with his or her parents or lawful guardian or custodian, the court may order restitution to be paid by the minor's parents or lawfully designated guardian or custodian. With respect to any minor under the age of eighteen years who admits or is convicted of the application of graffiti or any act of related vandalism on property owned by the city of Cortez, the city attorney shall be and is hereby authorized to seek restitution on behalf of the city against any parent, parents, lawful guardian or custodian with whom the minor resides pursuant to C.R.S., section 13-21-107, as amended.

(b) **Possession of graffiti implements or paraphernalia by minors prohibited.** It is unlawful for any person under the age of eighteen years to possess any graffiti implement or paraphernalia in a public place.

(1) For purposes of this section, the terms hereinafter set forth shall have the definitions as herein indicated:

Aerosol paint container. Any canister, can, bottle, container or other receptacle which contains any substance commonly known as paint, stain, dye or any other pigmented substance which is or can be modified to contain pressure (or be pressurized) in order to impel or propel any such substance.

Etcher. Any tool, device or other mechanism including, but not limited to, any tool, device, drill, bit or other mechanism commonly known as "glass etchers," "metal etchers," "cutting instruments" or any other instrument that can be applied by pressure or any other contact with any surface, including, but not limited to, glass, mirrors, windows, steel, aluminum, brass, tin, fiberglass, wood, plastic, concrete or any other surface which can cause any markings or scratches thereon.

Grffiti implements or paraphernalia. Any substance or material such as, but not limited to, aerosol paint containers, markers, paint sticks, paint bombs, etchers or gum labels. The term shall also include, but shall not be limited to, tips or nozzles which can be applied to aerosol paint containers; any records of graffiti or related vandalism, including, but not limited to, pictures, photographs, drawings, scrap books, or other records depicting or illustrating any forms of graffiti or related vandalism.

Gum label. Any substance consisting of a material such as, but not limited to, paper, fabric, cloth, plastic, vinyl or any other similar material, where the material also contains one or more surfaces containing a substance such as, but not limited to, adhe-

sive or glue which cannot be removed from the surface in an intact condition with minimal effort. The term shall include decals, stickers, patches, stamps or labels.

Markers. Any indelible or permanent ink marker or marking pen or any similar implement which contains any pigmented substances including, but not limited to, ink or any other substance which cannot be easily and completely removed with water after said substance has dried, where the width of the marking is one-sixteenth of one inch or greater.

Paint bomb. Any latex, rubber, plastic or synthetic enclosure which contains any substance commonly known as paint, stain, ink or any other pigmented substance which is either designed to or is capable of rupture upon impact with any solid surface resulting in the application of the contents of said container to said surface.

Paint stick. Any device which contains any substance, solid or liquid, including, but not limited to, any form of paint, stain, ink, chalk, wax, epoxy or any other similar substance which can be applied to any surface by such means as applying pressure to or contacting any surface in such a way as to leave any visible mark measuring at least one-sixteenth of one inch at any point.

(2) Possession of what would otherwise constitute graffiti implements or paraphernalia shall not be a violation of this section in the following circumstances:

(A) Possession of graffiti implements or paraphernalia by any minor enrolled in any educational class which requires otherwise legal possession of such implement or paraphernalia, provided the minor is carrying written verification of any such requirements, including color(s), size(s) and quantity, and written consent from his or her parent or lawfully designated guardian which is dated and signed;

(B) Possession of graffiti implements or paraphernalia by any minor whose employment requires possession of such implement or paraphernalia provided such minor is carrying written verification of any such job requirements including color(s), size(s) and quantity, job information and purpose, and written consent from the employer which is dated and signed. (Ord. No. 802.)

Sec. 18-40. Public property—Injuring or destroying.

It is unlawful for any person to either wilfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property or improvements thereto, or movable or personal property, belonging to the city. (Code 1968, § 11-4-19.)

For state law as to interference, trespass, etc., relative to public buildings, see C.R.S. 1973, § 18-9-110.

Sec. 18-41. Riots, affrays, etc.

It is unlawful for any person within the city to intentionally and knowingly engage in or encourage any riot, rout, affray or fight. (Code 1968, § 11-4-8; Ord. No. 581, § 20.)

As to riots generally, see C.R.S. 1973, §§ 18-9-101 to 18-9-105.

Sec. 18-42. Repealed April 13, 1982.

Sec. 18-43. Reserved.

Sec. 18-44. Repealed April 13, 1982.

Sec. 18-45. Reserved.

Sec. 18-46. Theft.

(a) A person commits theft when he knowingly obtains or exercises control over anything of value of 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; or

(2) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person of its use or benefit; or

(3) Uses, conceals, or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he is not legally entitled as a consideration of restoring a thing of value to the other person with a value of the thing involved is less than one thousand dollars.

(b) "Thing of value" as described in this section shall mean a thing with a value of less than one thousand dollars. (Ord. No. 707, § 2; Ord. No. 916 (part); amended by memo 3519; Ord. No. 1097 (part).)

For state law as to burglary, theft and robbery, see C.R.S. 1973, §§ 18-4-201 to 18-4-208.)

**Sec. 18-47. Stones, snowballs, etc.—
Throwing.**

It is unlawful for any person to knowingly or willingly throw any stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property, or upon or at any person in any public way or place, or enclosed or unenclosed ground. (Code 1968, § 11-4-17; Ord. No. 581, § 23.)

For state law as to throwing of missiles at vehicles, see C.R.S. 1973, § 18-9-117.

Sec. 18-48. Repealed April 13, 1982.

**Sec. 18-49. Vendors—Obstructing
sidewalk or other public
place.**

It is unlawful for any person engaged in the sale of merchandise to obstruct any sidewalk or other public place unless granted written permission from the Cortez city

council, or to disturb or impede others. (Code 1968, § 11-4-26; Ord. No. 581, § 25.)

**Sec. 18-50. Unlawful to deposit refuse
within city limits.**

It is unlawful for any person, firm, or corporation to throw, deposit or place upon any sidewalk, alley, street or other public place, or upon private property without the consent of the owner, within the city, any empty bottles, cans, waste material, waste-paper, fruit, or vegetable skins or pulps and any and all forms of refuse, garbage, trash or waste material. (Ord. No. 560, § 1.)

Sec. 18-51. Theft of rental property.

(a) A person commits theft of rental property if he:

(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 the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his representative, or to the person from whom he has received it within seventy-two hours after the time at which he agreed to return it.

(b) "Rental property" as described in this section shall mean rental property with a value of less than one thousand dollars. (Ord. No. 706, § 1; Ord. No. 916 (part); amended by memo 3519; Ord. No. 1097 (part).)

Sec. 18-52. Trespass.

(a) "Premises" as described herein means real property, buildings, and other improvements thereon.

(b) A person commits the crime of trespass if he unlawfully enters or remains in or upon the premises.

(c) Unlawful entry or remaining in or upon the premises shall include, but not be limited to, the following:

(1) Coming uninvited onto the private property of another; or

(2) Remaining thereon after being asked or ordered to leave by the owner, his agent or employee.

(d) A violation of this section shall be punishable as set forth in Cortez City Code Section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 705, § 1; amended at city request, 3-07.) (Ord. No. 1170, § 18, 9-25-12)

Sec. 18-52A. Unlawful public trespass.

(a) Conduct denying lawful use of public building unlawful.

(1) It is unlawful for any person to so conduct himself at or in any public building owned or operated or controlled by the city, the state or any of its political subdivisions, including the school district, as to wilfully deny to any public official, public employee or any invitee on such premises the lawful right of such official, employee or invitee to enter, use the facilities of or to leave any such public building.

(2) It is unlawful for any person at or in any such public building to wilfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, coercion or intimidation or by force and violence or threat thereof.

(b) Refusing or failing to leave public building unlawful when.

(1) It is unlawful for any person to wilfully refuse or fail to leave any such public building upon being requested to do so by the chief administrative officer or designee charged with maintaining order in such pub-

lic building if such person has committed, is committing, threatens to commit or incites to commit any act which did or would, if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in such public building.

(c) Impeding or disrupting certain meetings in public buildings unlawful.

(1) It is unlawful for any person at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building to wilfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act or intrusion into the chambers or other areas designated for the use of the body or official conducting such meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties of such meeting or mission.

(d) Interfering with use of public way or place unlawful.

(1) It is unlawful for any person or persons to be upon any public way or any other place of public nature in such a manner as to wilfully interfere with the free and unobstructed use of such public way or place of public nature by any other person or persons.

(e) Definitions.

(1) This section shall be interpreted in such a manner as to be consistent with section 18-9-110, C.R.S., as amended, known as Public Buildings-Trespass, Interference Statute. The definitions provided in said statute shall be applied to this section.

(f) Penalty.

(1) A violation of this chapter shall be punishable as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time.

(g) Severability.

(1) Should any one or more sections of this section be judicially determined to be invalid or unenforceable, this section shall be interpreted, if possible, so that all other sections of said section remain valid and enforceable, it being the intent that the various provisions provided for herein are severable. (Ord. No. 792.)

(Ord. No. 1170, § 19, 9-25-12)

Sec. 18-53. Passing bad checks.

(a) It is unlawful for any person to issue or pass a check as payment for any goods, services or other thing of value, or in exchange for cash when that person knew that, at the time of the issuance of the check, there were insufficient funds existing within the account being drawn upon to cover the check. For purposes of this section, the term "insufficient funds" means that a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account with the drawee or has funds in a checking account with a 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.

(b) It is unlawful for any person to issue or pass a check as payment for any goods, services or other things of value, or an exchange for cash, and to thereafter fail to tender sufficient funds to make the check good within fourteen days of notification from either the drawee upon which the check was drawn or from the person or firm to which the check was originally issued that the check has been twice refused for insufficient funds. It shall constitute a prima

facie violation of this subsection that the firm or person to which the check was originally issued:

(1) Obtained photo identification from the drawer at the time of acceptance of the check;

(2) Obtained an address of the drawer of the check at the time of the acceptance of the check;

(3) Presented the check to the drawee for acceptance or refusal for the first time within thirty days of the date of issuance of the check; and

(4) Upon presenting the check to the drawee for collection and having twice received the check back for insufficient funds, the person or firm to whom the check was originally issued shall turn the insufficient fund check over to the Cortez police department for criminal prosecution.

(c) It is unlawful for any person to stop payment or cause payment to be stopped on any check issued or passed as payment for any goods, services or other thing of value, or in exchange for cash, when that person does so with the intent to defraud.

(d) It is unlawful for any person to open a checking account, negotiable order or withdrawal account or share draft account using false identification or an assumed name, for the purpose of and with the intent of committing theft by check.

(e) Nothing in this section shall apply where the value of the check exceeds one thousand dollars or where the offender is under accusation of formal criminal charges involving the issuance of two or more checks within any sixty-day period within the state with an aggregate value of one thousand dollars.

(f) 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 any police authority or officer of

the court provided the release of such information is for purposes of investigating or prosecuting a potential or alleged violation of this section.

(g) In imposing a penalty for violation of this section, the municipal court is specifically authorized and empowered to require restitution in full to the person or entity to whom any such check described in this section was issued as a portion of, or in addition to, any penalty deemed appropriate by the court. (Ord. No. 726; Ord. No. 900; amended by memo 3519; Ord. No. 1097 (part).)

Sec. 18-54. 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 in or on the same in violation of any order, rule, or regulation concerning any matters described in this subsection. In addition to any authority granted by any other law, each resolution may adopt such rules, orders or regulations as are reasonably necessary for the administration, protection and maintenance of such buildings and property, specifically rules, orders and regulations upon the following matters:

(1) Preservation of property, vegetation, wildlife, signs, markers, statutes, buildings, grounds and other structures, and any object of scientific, historic, or scenic interest;

(2) Restrictions or limitations 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 may constitute a general nuisance;

(4) Camping, picnicking, public meetings and assemblage, and other individual

or group usage, including the time, place and manner in which such activities may be permitted;

(5) Use of all vehicles as the time, place and manner of use;

(6) Control and limitation of fires and the designation of fires where fires are permitted.

(b) No conviction may be obtained under this section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such buildings or property, or unless such notice is actually first given the person by the appropriate city official, or by any law enforcement officer, having jurisdiction or authority to enforce this section. (Ord. No. 950; amended by memo 3519.)

Sec. 18-55 Unlawful possession or sale of marijuana.

It shall be unlawful for any person, persons, business, or entity unless authorized by the Colorado Constitution, Statutes, or Cortez ordinance to possess, sell, cultivate or use marijuana in the city of Cortez.

A violation of this section is punishable as set forth in chapter 17, section 17-16A, sentencing/municipal court, now in effect, or as may be amended from time to time. (Ord. No. 1166, 5-22-12)

Editor's note—Ord. No. 1166, adopted May 22, 2012, set out provisions intended for use as § 18-54. For purposes of classification, and at the editor's discretion, these provisions have been included as § 18-55.

CHAPTER 18A.

PARKING, STANDING, KEEPING AND STORING INOPERABLE VEHICLES

- § 18A-1. Definitions.
- § 18A-2. Prohibited acts.
- § 18A-3. Exclusions and permits.
- § 18A-4. Notice—Form and contents.
- § 18A-5. Posting of notice.
- § 18A-6. Right of removal.
- § 18A-7. Right to reclaim.
- § 18A-8. Disposition of unclaimed vehicle.
- § 18A-9. Violation—Penalty.

Sec. 18A-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Antique vehicles. Any vehicle which is currently licensed as an antique by the state, or for which an application for registration as such is pending. This definition shall include cars which can be licensed with collector's license plates and/or street rod license plates.

Inoperable vehicle. A vehicle in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions for which it was originally constructed.

Permanent fence. A fence of durable nature conforming to city ordinances and construction in such a manner so as to shield or conceal the area contained within the fence from public view.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Property. Any real property within the City which is not a street or highway.

Storage. The use of property for the purpose of keeping a vehicle thereon which is not in use by the owner thereof, or any other person. It shall be prima facie evidence that a vehicle is being stored if it has not been moved from its position on the property in the sixty days previous to the date of notice of noncompliance.

Street or highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Vehicle. A machine propelled by power other than human power designed to travel on the road by using wheels, treads, runners or slides to transport persons or property or pull machinery and includes without limitation automobiles, airplanes, trucks, trailers, motorcycles, motorscooters, tractors, buggies and wagons. The term "vehicle" does not include antique vehicles as defined in this section. (Ord. No. 555, § 1; Ord. No. 789, §§ 1, 2.)

Sec. 18A-2. Prohibited acts.

(a) From and after the effective date of the ordinance codified in this chapter it is unlawful for any person, firm or corporation to park or leave standing upon any public street, alley or thoroughfare within the city, an inoperable vehicle as the same is herein defined for a period of longer than twenty-four hours.

(b) From and after the effective date of the ordinance codified in this chapter, it is unlawful for any person being the owner of, lessee of, renter or in custody of any inoperable vehicle to permit the same to remain upon private property within the city, for a

period of more than thirty days after such owner, lessee, renter or custodian of the private property has been notified to remove the same. Such act is prohibited whether the inoperable vehicle is stored or parked upon private property belonging to the owner, lessee, renter or custodian of such inoperable vehicle or upon private premises belonging to another person, firm or corporation.

(c) From and after the effective date of the ordinance codified in this chapter it is unlawful for the owner, lessee, renter or person in charge of any private property within the city, to suffer or permit the storing, keeping or standing of any inoperable vehicle upon such private property for a period of more than thirty days after the notice is given in the form and manner as set forth in this chapter, whether the inoperable vehicle is the property of such owner or not.

(d) It shall be prohibited to store any car on any private residential property even though said vehicle is operable. It shall be prima facie evidence that a car is being stored on private property if the vehicle does not have a current Colorado license plate.

(e) It shall be prohibited to store any car on any street within this city, even though said vehicle is operable. It shall be prima facie evidence that a vehicle is being stored on the street if the vehicle does not have a current Colorado license plate.

Upon forty-eight hours' notification in writing that the vehicle is in violation of this section, the car will be towed and stored at the owner's expense. (Ord. No. 555, § 2; Ord. No. 789 §§ 3—5; Ord. No. 833 (part).)

Sec. 18A-3. Exclusions and permits.

(a) This chapter shall not apply to a vehicle in an enclosed building; to vehicles being stored by a business enterprise, as long as the storage of the vehicle is on the same premises where the business is being conducted; or a vehicle being stored by any law enforcement agency in a storage place kept for that purpose.

(b) This chapter shall not apply to the storage of a vehicle or parts thereof on private property, provided such vehicle and parts of cars and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard, a safety hazard or a fire hazard and are effectively screened from ordinary public view by means of a permanent fence. Such storage area shall be kept free of weeds, trash and other objectionable items.

(c) Permits. If a notice of noncompliance has been given as set forth herein the vehicle owner may apply to the chief of police or his designee for a one time, nonrenewable permit to extend the period to achieve compliance for an additional sixty days if:

(1) There is an ongoing dispute over insurance coverage as to a wrecked or damaged vehicle which has not been totally destroyed by the wreck or accident;

(2) The owner is doing vehicle repairs which can reasonably be completed within the sixty-day period.

Such permit shall clearly state that it is nonrenewable, set forth the penalties for noncompliance and the other remedies available to the city. If compliance is not achieved by the owner by the fiftieth day, the city shall provide written notice that if such compliance is not achieved by the date that ends the compliance period, the city will commence legal proceedings, including

but not limited to, filing a misdemeanor complaint in the municipal court.

There shall be no charge for the permit. The issuance of the permit herein shall not be unreasonably withheld. (Ord. No. 555, § 3; Ord. No. 789 §§ 6—8.)

Sec. 18A-4. Notice—Form and contents.

(a) The notice to be given to the owner of such vehicle and the owner of the private premises upon which the same is stored or kept, shall be in such form as shall be prescribed by the city manager, but such notice shall provide, at least, the name of the reputed owner, a description of the inoperable vehicle, the description of the premises upon which the same is stored or kept, and a demand that the same is removed no later than thirty days following the date of such notice.

(b) In the event the owner of the private property upon which vehicle is stored or kept is also the owner of the inoperable vehicle, only one notice shall be sent.

(c) All notices shall be sent by first class mail, and shall be mailed to the address of such person, if such address is known, or to the address of such person as reflected by the records of the county clerk and recorder of the county or the county assessor of the county. (Ord. No. 555, § 4; Ord. No. 833 (part).)

Sec. 18A-5. Posting of notice.

In the event the letter is returned by the post office unclaimed or for any reason undeliverable, then a copy of the notice shall be posted in the city clerk's office on a bulletin board to be kept by the city clerk for that purpose and upon the inoperable vehicle in question. The notice is to be posted for a period of thirty consecutive days. (Ord. No. 555, § 5; Ord. No. 789 § 9.)

Sec. 18A-6. Right of removal.

(a) In the event the owner of the motor vehicle or the owner, lessee, tenant or person in charge of the personal property upon which the same is stored does not remove the offending vehicle within thirty days after date of mailing of the notice or within thirty days from date of posting of the notice as provided in this chapter, the city manager or his representative shall have the right to go upon the private premises and to remove the offending vehicle and to impound the same for a period of thirty days from and after the date of such removal.

(b) Any police officer of the city shall have the right to remove or cause to be removed any inoperable vehicle left on a public street, alley or thoroughfare after the same has been left thereon for more than twenty-four hours. (Ord. No. 555, § 6; Ord. No. 789 § 10.)

Sec. 18A-7. Right to reclaim.

For a period of thirty days following the impounding of the vehicle, the owner thereof may reclaim the vehicle by paying to the city all costs involved in the removal and storage of the motor vehicle; provided, that the vehicle so reclaimed may not thereafter be stored at any place within the city in violation of this chapter. In the event a summons and complaint has been issued by the municipal court of the city and the owner thereof or the owner of private property upon which the same was stored shall be convicted for violation of this chapter then prior to the reclamation of said vehicle by the owner, such fine imposed by the court shall be first paid. (Ord. No. 558, § 7.)

Sec. 18A-8. Disposition of unclaimed vehicle.

After the passage of thirty days from date of impoundment, and if the vehicle is not reclaimed by the owner as provided in

this chapter, the owner of the vehicle, if known, shall be notified by registered mail (return receipt requested) that the vehicle shall be disposed of by either public or private sale on a date certain. The internal administration and procedures of the entire private or public sale process shall conform with the applicable subsections of Colorado Revised Statutes § 42-4-1103. (Ord. No. 555, § 9.)

Sec. 18A-9. Violation—Penalty.

In addition to the right of the city to remove any offending vehicle as provided in this chapter, any person violating the provisions of this chapter shall upon conviction thereof be punished as set forth in Cortez City Code section 17-16A, penalty as now in effect or as may be amended from time to time. (Ord. No. 555, § 8; amended by memo 3519.)

(Ord. No. 1170, § 20, 9-25-12)

Chapter 18B.

OFFENSES—JUVENILE

- § 18B-1. Juvenile offenders—
Definitions.
- § 18B-2. Duty of parent—
Appearance in court.
- § 18B-3. Responsibility of parents
for payment of fine.
- § 18B-4. Appointment of counsel.
- § 18B-5. Hearing procedures.
- § 18B-6. Issue of summons,
complaint and custody.
- § 18B-7. Juvenile warrant.
- § 18B-8. Incarceration of child.
- § 18B-9. Juvenile sentencing.

**Sec. 18B-1. Juvenile offenders—
Definitions.**

As used in this chapter unless a context otherwise requires;

Child. A person who has reached the age of ten years and is under eighteen years of age at the time of the alleged offense.

Parent. Either a natural parent of a child as may be established pursuant to article VI of title 19 of the Colorado Revised Statutes, 1973, as amended, or a parent by adoption. (Ord. No. 776, (part).)

**Sec. 18B-2. Duty of parent—Appearance
in court.**

(a) Whenever a summons and complaint under this Code is filed against a child, the court shall send a parent or guardian, by first class mail, a notice that includes the alleged violation, date of violation, location at which the alleged violation occurred and the date, time and place of the scheduled court appearance and an order that the parent or guardian appear with the minor at each and every court appearance.

(b) It shall be the duty of a parent or guardian to appear with the child at each and every court appearance. It shall be unlawful for a parent to fail to appear at each and every required court appearance or fail to comply with the written promise to appear with the child, and a violation of the same may be punished by a fine not to exceed three hundred dollars and/or not more than ninety days in jail. It shall be an affirmative defense to this violation if the parent demonstrates to the court that at the time of the offense either (1) the parent(s) did not have lawful custody of the minor; (2) the minor was not residing with the parent(s); (3) the minor was emancipated or (4) if the parent(s) can demonstrate that the juvenile was uncontrollable. (Ord. No. 776, (part).)

**Sec. 18B-3. Responsibility of parents for
payment of fine.**

(a) Whenever a minor under the age of eighteen years of age, residing or living with his/her parent(s), is convicted of an offense under this Code for which the court imposes a fine, restitution or court fees or costs, the parent of the minor child shall be jointly responsible of payment for such fine, restitution or court fees or costs. It shall be an affirmative defense to the obligation created by this section if the parents demonstrate to the court that at the time of the offense either (1) the parent(s) did not have lawful custody of the minor; (2) the minor was not residing with the parent(s); (3) the minor was emancipated or (4) if the parent(s) can demonstrate that the juvenile was uncontrollable.

(b) For the purposes of this section only, an "emancipated minor" means a minor over fifteen years of age and under eighteen years of age who has, with real or apparent assent of his/her parent(s), demonstrated his/her independence from his/her parent(s)

in the matter of care, custody and earnings. The term may include, but shall not be limited to, any such minor who has the sole responsibility for his/her own support, who is married or who is in the military. Failure to pay any court-ordered fine, restitution, or court fees or costs shall be subject to the contempt powers of the city municipal court. (Ord. No. 776, (part).)

Sec. 18B-4. Appointment of counsel.

If a child has been brought before the court for an offense of the Municipal Code that for an adult is punishable by a jail sentence; (a) the child or his/her parent(s) may request an attorney and if the child or parent(s) fail to have sufficient financial means, counsel shall be appointed by the court; or (b) the court may appoint counsel without such request if it deems representation by counsel is necessary to protect the interest of the child or other parties. (Ord. No. 776, (part).)

Sec. 18B-5. Hearing procedures.

The general public shall not be excluded unless the court makes a specific finding that it is in the best interest of the child to exclude the general public, and in such event the court shall admit only such persons who have an interest in the case or the work of the court, including persons who the parent(s) wish to have present. Hearings may be continued from time to time as ordered by the court. (Ord. No. 776, (part); Ord. No. 1033.)

Sec. 18B-6. Issue of summons, complaint and custody.

A member of the Cortez police department shall be empowered to issue a summons and complaint to a child for any violation of this Code. If, in the opinion of the officer, the issuance of the summons and complaint is not adequate to ensure that a

child will answer charges under this Code, and the officer finds it necessary to take the child into custody, the child's custody shall conform to applicable state statutes. (Ord. No. 776, (part).)

Sec. 18B-7. Juvenile warrant.

(a) Any arrest warrant issued by the municipal court for a child shall bear a conspicuous notation that the arrestee is a child and the provisions of the applicable state statutes must be observed in the execution of the warrant.

(b) Whenever a child is arrested, the arresting officer shall notify the parent(s) without unnecessary delay. Such notification may be made to a person with whom the child is residing if the parent, guardian or legal custodian cannot be located. (Ord. No. 776, (part).)

Sec. 18B-8. Incarceration of child.

(a) No jail sentence shall be imposed upon persons under the age of eighteen years who have been convicted of a violation under this Code.

(b) Incarceration not to exceed forty-eight hours may be imposed on a child for failure to comply with a lawful order of the court, including an order to pay a fine. Any incarceration of a child shall be in compliance with section 19-2-204(4) C.R.S. (Ord. No. 776, (part), 1993.)

Sec. 18B-9. Juvenile sentencing.

Upon the conviction of a violation of the Cortez City Code a juvenile as defined herein shall be subject to the penalties as set forth in Cortez City Code section 17-16A and may also be ordered at sentencing to perform community service as a condition of any suspended sentence. Any costs imposed to perform community service shall be the

responsibility of the juvenile and/or his parents and included in the fines and costs assessed by the court at sentencing.

(Ord. No. 1170, § 21, 9-25-12)

Editor's note—Ord. No. 1170, § 21, adopted September 25, 2012, repealed the former § 18B-9, and enacted a new § 18B-9 as set out herein. The former 18B-9 pertained to fine, court fees and costs and derived from Ord. No. 776, 1993 and amended by memo 3519.

CHAPTER 18C.

PROHIBITION OF NIGHTTIME JUVENILE LOITERING.

- § 18C-1. Unlawful presence.
- § 18C-2. Definitions.
- § 18C-3. Parental failure to supervise.

Sec. 18C-1. Unlawful presence.

(a) It shall be unlawful for any minor seventeen years of age or younger to loiter in a public place, unsupervised by an adult having a lawful authority to be in such public place where the minor is loitering between the hours of 11:00 P.M. on any day and 6:00 A.M. of the following day; provided, however, that on Saturday and Sunday the effective hours of this prohibition are between 12:00 midnight and 6:00 A.M. The following activities shall not constitute loitering under this section:

- (1) When a minor is accompanied by his or her parent, guardian or other adult person who is twenty-one years of age or older and who has the lawful care and custody of minor;
- (2) When the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of said minor;
- (3) When the minor is going to, or returning directly home from, a school activity, entertainment, recreational activity or dance;
- (4) When the minor is returning directly home from lawful employment that makes it necessary to be in the above referenced public places during a prescribed period of time;
- (5) When the minor is attending or traveling directly to or from an activity involv-

ing the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion.

(b) A violation of this section shall be punishable as set forth in Cortez City Code section 18B-9, juvenile sentencing as now in effect or as may be amended from time to time.

(c) Parent/guardians shall be jointly liable under the provisions of chapter 18B, section 18B-3 of this Code. (Ord. No. 784, (part); amended by memo 3519.) (Ord. No. 1170, § 22, 9-25-12)

Sec. 18C-2. Definitions.

Adult. Persons twenty-one years of age or older.

Loitering. Idle in essentially one location, to be dilatory, to tarry, to dawdle, and shall include, but not be limited to standing around, hanging out, sitting, kneeling, sauntering, or prowling whether or not in or out of a vehicle.

Normal travel. Operating or riding as a passenger in a motor vehicle or on any public street or highway.

Permit or allow. To consent, to tolerate, to give permission, to authorize, or to give opportunity.

Public place. In or upon public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public buildings, private property open to the public, places of amusement, eating places, parking lots, vacant lots, private or public school parking lots and grounds or any similar place. (Ord. No. 784, (part).)

Sec. 18C-3. Parental failure to supervise.

(a) It shall be unlawful for the parent, guardian or other adult person having the care, custody or control of the minor to knowingly permit or allow, including by insufficient control, such minor to loiter in violation of this article. Knowingly in-

cludes knowledge which a parent should be reasonably expected to have concerning the whereabouts of the minor in that adult's custody or indifference to activities of the minor. The provisions of this section do not apply if the responsible adult has made a missing person notification to the appropriate police department prior to the minor's violation.

(b) Those affirmative defenses set forth in section 18B-3 are available to a parent or guardian charged under this section.

(c) A violation of this section shall be punishable as set forth in Cortez City Code section 17-16A now in effect or as may be amended from time to time. (Ord. No. 784, (part); amended by memo 3519.)
(Ord. No. 1170, § 23, 9-25-12)

CHAPTER 18D.

YARD/GARAGE SALES.

- § 18D-1. Definitions.
- § 18D-2. No permit required.
- § 18D-3. Signs.
- § 18D-4. Unlawful acts.
- § 18D-5. Violation penalty.

Sec. 18D-1. Definitions.

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

Yard/garage sale. A retail sale of personal property conducted by the occupant of a single-family residence or the owner/manager of a multi-family residence. There shall be no limitations on the number of individuals who can participate in the yard sales, as sellers. The term shall include all sales entitled "yard sale," "garage sale," "lawn sale," "attic sale," "patio sale," "rummage sale," or other similar sales of tangible personal property which are advertised by a sign or other means for the public to attend. Such sales are subject to the following limitations:

- (a) Yard/garage sales shall be limited to the residential zone districts, including the R-1, R-2, NB and MH.
- (b) Yard/garage sales shall be limited to the principal or accessory structure and the driveway of the dwelling.
- (c) Each yard/garage sale shall be limited to no more than three consecutive days. (Ord. No. 1005 (part).)

Sec. 18D-2. No permit required.

No sales tax license will be required provided the following conditions are met:

- (a) The person conducting the yard sale has not participated in more than two yard

sales in any calendar year at that specific location subsequent to the passage of the ordinance codified in this chapter.

- (b) The conduct of yard sales as a fundraiser for civil or charitable purposes shall not be limited by this Code as to location, so long as the location does not constitute a hazard to safety and is not in violation of any existing municipal code. (Ord. No. 1005 (part).)

Sec. 18D-3. Signs.

All persons are permitted to direct signs advertising a yard sale in public rights-of-way, provided the signs meet the following requirements:

- (a) Do not exceed eighteen inches by eighteen inches;
- (b) Bear the name and address of the person holding the yard sale and date of sale;
- (c) Are not placed on a traffic regulatory device or municipal utility structure;
- (d) Do not obstruct traffic view or hinder municipal operations; and
- (e) It shall be prima facie evidence that the party identified on the signs has placed the signs in the public right-of-way. (Ord. No. 1005 (part).)

Sec. 18D-4. Unlawful acts.

It shall be unlawful for any yard sale sign to be posted more than three days prior to the date of the yard sale. The sign shall be removed not later than the date after the last day of the yard sale. (Ord. No. 1005 (part).)

Sec. 18D-5. Violation penalty.

A violation of this chapter shall be punishable as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 1005 (part); amended by memo 3519.) (Ord. No. 1170, § 24, 9-25-12)

CHAPTER 19.

PARKS AND RECREATION.

- § 19-1. Establishment and duties of parks and recreation department.
- § 19-2. Generally—Parks and recreation areas.
- § 19-3. Rules and regulations generally—Tennis courts.
- § 19-3a. Rules and regulations generally—Skateboard park.
- § 19-4. Rules and regulations generally—Swimming pool.
- § 19-5. Rules and regulations generally—Athletic fields.
- § 19-6. Rules and regulations generally—Cortez Municipal Golf Course.
- § 19-7. Park and facility use permit.
- § 19-8. Cancellation.
- § 19-9. Refunds.
- § 19-10. Fees established.
- § 19-11. Penalty.

Sec. 19-1. Establishment and duties of parks and recreation department.

There is hereby established the parks and recreation department of the city. The parks and recreation department shall have the management, control and supervision of all facilities, public parks, fields, tracts and areas of the city used for recreation purposes both within and without its corporate limits, as well as the center parkings in the streets and avenues and such other areas as

may be designated from time to time by the council, and shall administer all recreation programs sponsored by the city.

A parks and recreation director shall be appointed by the city manager and shall have the duty to administer the parks and recreation department as established. The parks and recreation director may appoint one or more authorized representatives to administer any part of the duties of this chapter. Both the director of parks and recreation and his authorized representatives shall be hereinafter referred to as "director" for the purposes of this chapter. The parks and recreation department shall hereinafter be referred to as "department."

"Park" or "parks," as used in this chapter, means all athletic fields, parks, playgrounds, tracts, recreational facilities and areas of the city administered or regulated by the city and used for recreational purposes. These areas include the city pool, the golf course, all picnic areas, tennis courts, athletic fields used for softball, baseball, soccer or other sports, now owned or hereafter acquired. (Ord. No. 692, § 2 (part))

Sec. 19-2. Generally—Parks and recreation areas.

(a) **Presence in parks.** Parks will be open daily from 6:00 A.M. to 11:00 P.M. The director may extend the closing time to 12:00 midnight for such parks, playgrounds and athletic areas equipped with general athletic lighting. The director may also specify exceptions for specific parks from the above-scheduled open and closing times. If open and closing times for a specific park, athletic field, playground etc. are different than the times above specified, the applicable open and closed times for that particular park, athletic field or playground shall be prominently posted at that particular park, athletic field or playground location.

Law enforcement personnel, emergency service personnel, authorized municipal employees, and security personnel employed for special functions are exempt from the provisions of this section.

Loitering in the park between the hours of 11:00 P.M. and 6:00 A.M. for the purpose of consuming alcohol, purchasing or selling narcotics, the use of narcotics or disturbing the peace is prohibited.

(b) **Riding vehicles on grounds of municipal parks, etc.** No person shall at any time drive or ride any automobile, truck, motorcycle, motor scooter or other motor vehicle upon the grounds of any municipal park, playground or golf course, except in public streets running through such premises or within designated parking areas or sidewalks located upon such premises, without the express written permission of the director.

(c) **Swimming, wading and boating in parks.** No person shall swim, wade or operate a boat upon any lake, lagoon or other water facilities located in any city park or other areas under the supervision of the department without the express written permission of the director.

(d) **Damaging, tampering with, etc., facilities.** No person shall damage or wastefully or improperly use toilet, water and sewer facilities in any municipal park, or cause the lighting facilities or electrical appliances to be turned on or used without appropriate fees and/or reservation or the express written permission of the director. The city may charge fees for athletic lighting, to be determined on an annual basis.

(e) **Golfing in parks and on city-owned property.** No person shall use any portions of any city park or city-owned property for golfing purposes, or make use of any golf club or golf ball in any city park or on city-owned property, except at places designated for golfing by the director.

(f) **Public meetings in parks.** It is unlawful to hold any public meetings, addressed by one or more speakers and attended by twenty-five or more persons, within the parks of the city unless and until a permit therefore, pursuant to section 19-7 of this chapter, has been issued by the director. Such meetings shall be conducted in an orderly and law-abiding manner.

(g) **Intoxicating beverages.** No person shall have in their possession, nor will any person consume any form of alcoholic beverage within the parks of the city, except as provided in this chapter for the golf course and authorized special events.

(h) **Loud noises, disturbances prohibited.** No person or persons shall play any radio, tape players, band or musical instrument, television, phonograph, tape recorder or other device capable of reproducing sound at such a high volume in any municipal park or recreation area as to disturb the peace and quiet of another. There shall be no loud, or band music, or excessive noise beyond 9:00 P.M. or before 9:00 A.M., without the express written consent of the director.

(i) **Animals in parks.** Dogs and cats must be on a leash at all times except when participating in obedience classes or other activities authorized by the director. Horses shall use only bridle paths designated by posted notices. No other animals shall be allowed on the grounds of parks, playground or golf courses without the express written consent of the director.

(j) **Overnight camping.** No person or group of persons shall be allowed to camp overnight on any park grounds or parking areas without the express written consent of the director.

(k) **Garbage and trash.** No person shall dump, spill, deposit, place, throw or leave refuse, rubbish, filthy or odor-causing ob-

jects, substances or other trash upon any municipal park grounds except in identified trash receptacles.

(l) Sales advertising in parks and recreation areas.

(1) Sales, displays prohibited. It is unlawful for any person in a park or recreation area to expose or offer for sale any article, substance or thing, legal or illegal, or to station or place any stand, cart or vehicle for the transportation, sale or display of any such article, substance or thing, except any regularly licensed concessionaire acting by and under the written authority of the director or a concession agreement executed by the city; and any nonprofit or charitable organization acting under the written authority of the director.

(2) Advertising prohibited. It is unlawful for any person in a park or recreation area to announce, advertise or call the public's attention in any way to an article or service for sale or hire, except any regularly licensed concessionaire acting by and under the written authority of the director or a concession agreement executed by the city; and any nonprofit or charitable organization acting under the written authority of the director.

(3) Sale or offering of personal services is prohibited. It is unlawful for any person in a park or recreation facility to offer for sale or trade any personal service to be conducted on park or recreation facilities, except any regularly licensed concessionaire acting by and under the written authority of the director or a concession agreement executed by the city; and any nonprofit or charitable organization acting under the written authority of the director. (Ord. No. 692, § 2 (part); Ord. No. 869, § 1; Ord. No. 1112 (part).) (Ord. No. 1147, 11-23-10)

Sec. 19-3. Rules and regulations generally—Tennis courts.

(a) No person shall operate skateboards, roller skates, bicycles, motorized cycles or any other form of wheeled vehicle on tennis courts. Tennis courts shall be used exclusively for the purpose of playing tennis. Lights shall be turned off at 11:00 P.M. on all municipal tennis courts.

(b) Special reserved playing times for city-sponsored tennis tournaments, tennis lessons and school district tennis practice are provided at the express written consent of the director. Fees for this special reserved playing time shall be set annually, or before such special event, by resolution of the city council.

(c) Intoxicating beverages. No person shall have in their possession, nor shall any person consume, any form of alcoholic beverage at the municipal tennis courts. (Ord. No. 692, § 2 (part).)

Sec. 19-3a. Rules and regulations generally—Skateboard park.

(a) The exclusive use of the skateboard park shall be for the use of in-line skates, skateboards, scooters, bicycles and any other form of non-motorized, wheeled vehicle approved by the director. No person shall operate motorized cycles, any non approved form of wheeled vehicle or any other form of motorized wheeled vehicle in the skateboard park. Lights shall be turned off at 11:00 P.M. at the skateboard park.

(b) **Intoxicating beverages.** No person shall have in their possession, nor shall any person consume any form of alcoholic beverage at the skateboard park. (Ord. No. 924.) (Ord. No. 1147, 11-23-10)

Sec. 19-4. Rules and regulations generally—Swimming pool.

(a) No person shall swim in, or enter any fenced area around, any swimming pool

owned or operated by the city at any time the pool is not staffed and open to the public without written permission of the director.

(b) Reserved times for pool rental and swim meets are established by the director and fees for these reserved times shall be set annually.

(c) Intoxicating beverages. No person shall have in their possession, nor shall any person consume, any form of alcoholic beverage within the municipal swimming pool complex. (Ord. No. 692, § 2 (part).) (Ord. No. 1147, 11-23-10)

Sec. 19-5. Rules and regulations generally—Athletic fields.

(a) Non-fenced athletic fields will be open for public use between the hours of 6:00 A.M. and 11:00 P.M. Fenced athletic fields must be reserved and a permit issued for the reservation.

(b) Athletic fields may be reserved for tournaments, games and practices. Tournaments, games and practices held on a continuing basis are given preference over new tournaments, games and practices.

(c) Fees for athletic field use shall be set annually by resolution of the council.

(d) Intoxicating beverages. No person shall have in their possession, nor shall any person consume, any form of alcoholic beverage within the athletic fields located within the city limits unless proper permits are obtained.

(e) Rules and regulations regarding the softball leagues and play shall be promulgated by the director. Individuals or teams who violate these regulations may be evicted from any city-owned softball facility or field and may be denied use of or access to city softball facilities or to other city athletic facilities. (Ord. No. 692, § 2 (part).) (Ord. No. 1147, 11-23-10)

Sec. 19-6. Rules and regulations generally—Cortez Municipal Golf Course.

(a) **Golf season.** The "golf season" is hereby to open on March 1st and close on November 15th, weather permitting, and:

(1) The golf course shall be open from 7:00 A.M. to sundown. The pro shop will be open from 7:00 A.M. to 7:00 P.M. (May to September) and primarily 8:30 A.M. to 5:00 P.M., weather dependent, during other open times;

(2) The interior of the golf course is closed from approximately November 15th to March 1st to all use, depending upon weather. However, the perimeter cart pathway may be used for walking and/or cross country skiing during the closed months of the golf course;

(3) Nine holes may be closed for maintenance purposes for a short period of time at the discretion of the golf course superintendent;

(4) The opening and closing of the golf course will be decided by the golf course professional and the golf course superintendent. The director will make the final decision if the golf course professional and the superintendent are in disagreement.

(b) **Golf professional.** The golf professional (pro) is the authority for the general management, operation and improvement of the golf pro shop during the term of their contract. The city shall employ a golf course superintendent, course personnel, and shall provide the operating budget for the maintenance and upkeep of the course. The pro is responsible for providing all the services at the golf course including, but not limited to, the following:

- (1) Golf lessons;
- (2) Driving range;
- (3) Golf club rental;
- (4) Pull cart rental;
- (5) Self-propelled cart rental;

- (6) Food services;
- (7) Liaison with men's and women's golf associations;
- (8) Supervision of golf tournaments;
- (9) Supervision of junior golf programs.
- (c) **Fees.** Fees will be set yearly by resolution of the city council.

(d) **Golf advisory board.**

(1) **Board created, appointment, qualifications and terms of members.** There is created a golf advisory board for the city consisting of five voting members, two members of which shall be city council persons, three members of which shall be Cortez residents and shall be appointed by the city council in the following manner and for the following terms:

(A) The members of the board shall be appointed by the council to serve terms as follows: One member at large from the community shall serve a three-year term; one member to be nominated by the men's golf association board who shall be a member of that association and will serve for one year; and one member to be nominated by the women's golf association board who shall be a member of that association and will serve for one year. As the term of each member expires, the vacancy thus created shall be filled by a majority vote of the council for a term equal to the position being vacated. If a vacancy occurs other than by expiration of term, the council, by a majority vote, shall appoint a new member to fill the unexpired term.

(B) The four remaining members of the advisory board shall be ex officio members without vote and shall consist of the mayor of the city, the director, who shall serve as secretary of the board, the golf pro, and the golf course superintendent.

(2) **Absence from meetings.** Should a member be absent for three consecutive regular meetings of such advisory board without cause, the office of such member shall

be deemed to be vacant and the term of such member terminated, and the secretary of the advisory board shall immediately inform the city council of such termination. An absence due to illness or an unavoidable absence from the city, and notice thereof to the secretary of the advisory board on or before the day of any regular meeting by such advisory board, shall be deemed absence for cause. A regular meeting as provided for by law or rule of the advisory board or any regularly advertised public hearing shall be deemed a regular meeting.

(3) **Election and term of chairperson; creation and filling of other offices.** The advisory board shall elect its chairperson from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the chairperson shall be one year with the eligibility for reelection. The position of chairperson shall be filled at the first regular meeting of each year.

(4) **Regular meetings; calling of special meetings.** The advisory board shall hold at least one regular meeting in each month during the months of March through October of each year, and such special meetings as are necessary in the opinion of the chairperson; provided, that a special meeting may be called by any three members of the advisory board or the city manager and/or the director upon due notice to the chairperson and the other members of the advisory board.

(5) **Adoption of procedural rules; records.** The advisory board shall adopt rules for transaction of business and shall keep a record of its meetings, resolutions, transactions, findings and determinations, which record shall be a public record.

(6) **Majority vote required for recommendation, extension or amendment of plans.** In voting upon the recommendation of any plan or any part thereof or any amend-

ment, extension or addition by resolution of the advisory board, the same must be carried by the affirmative vote of a simple majority of the entire voting membership of the advisory board.

(7) **Powers and duties generally.** The advisory board shall perform the following duties:

(A) Make regular visits to the golf course, i.e., touring course in carts and playing the course;

(B) Bring comments, complaints and suggestions to the advisory board and act as a liaison to the city council;

(C) The chairperson should stay in regular communication with the director;

(D) Help to promote and advertise the golf course;

(E) Review all tournaments and tournament dates;

(F) Review and recommend to the council golf course rules and regulations for incorporation into applicable ordinances and resolutions;

(G) Advise and make recommendations concerning agreements with and hiring of a golf pro;

(H) Review and recommend to the council a master plan for the continued development and improvement of the golf course;

(I) Upon referral by the director the advisory board shall review cases of habitual offenders continually violating course rules and/or etiquette and help determine a course of action for the director to implement.

(e) **Open play.** Open play rules and regulations shall be as follows:

(1) Register in the pro shop before starting play.

(2) Replace divots and repair ball marks on the greens.

(3) Appropriate attire is required.

(4) Each player must have set of clubs.

(5) Groups of more than a foursome must have permission from the pro shop.

(6) Groups finishing on Number 9 have the right-of-way on Number 10. Other groups must check with the pro shop before starting Number 10.

(7) Tuesday morning is ladies' day.

(8) No range ball is allowed on the golf course. Violators may be evicted from the course.

(9) Tee times are available and are encouraged on any day of the week.

(10) Inappropriate conduct and/or golf etiquette will be handled on a case-by-case basis.

(11) Persons or groups in violation of the above rules and regulations may be evicted from the course by the pro and/or denied access to the golf course.

(f) **League play.** League play rules and regulations shall be as follows:

(1) League administrator must coordinate with the golf pro no later than 6 weeks prior to start.

(2) Excluding ladies' and men's association events there shall be a maximum of three league nights per week during May 15th to September 1st, and leagues will start no earlier than 5:30 P.M. on the front 9 (Monday—Thursday).

(3) If a league has 32 or more players, the golf pro or their designated staff member will close the front 9 holes and run a shotgun start. If this requirement is not met, then the golf pro or their designated staff member reserves the right to allow outside play on the front 9 and use a modified shotgun start.

(4) All rules and regulations at the golf course apply to any league.

(g) **Tournament rules.** Tournaments shall be governed by the following:

(1) All open play rules shall apply.

(2) Greens fees for tournaments will be set annually by resolution of the council.

(3) Tournament sponsors are required to sign an initial tournament use contract

with the city and to complete a tournament request form and can be renewed or have first right of refusal.

(4) Tournaments shall be scheduled and regulated through the golf professional.

(5) The high school team is allowed to play free during the C.H.S.A.A. established high school golf season.

(h) **Golf carts.** Rental carts are available through the golf professional shop. Private carts (with exception of narrow wheel carts) are allowed at the course with a cap of eighty carts. Private golf carts must be built by a golf cart manufacturer and must be approved by the golf professional. Private carts will be charged a usage fee which is set annually by resolution of the council. Owners of private carts are completely responsible for all operating and maintenance expenses of the carts (including any towing charges). Private carts may be removed from the course if they are determined to be doing damage to the course (i.e., leaking gas, oil, etc.). No storage for private carts will be provided at the golf course through the city. Cart operators shall follow the rules and regulations set forth below:

- (1) Stay thirty feet from the greens.
- (2) Do not drive over tees.
- (3) Drive around the outside of all golf trail signs.
- (4) Do not drive rental carts at slow speed constantly, as it will drain battery dead after nine holes.
- (5) Apply brakes evenly and smoothly so turf will not be torn.
- (6) Stay out of bunkers and traps. Keep all carts out of the tall, bumpy and rough areas. Do not drive over ditches except at crossings. Reckless and careless use of carts is not permitted.
- (7) Cart operators must possess a valid drivers' license. Children under sixteen years of age are not allowed to drive carts.

(8) No more than two riders are allowed on carts, except as approved by the golf pro.

(9) All private carts to be used on the golf course must be registered with the city prior to play and may only have two principal owners listed. If ownership of a private cart changes during any golf season, the cart must be re-registered and the registration fee paid. Each private cart owner will be given a list of rules and regulations pertaining to the usage of their private cart.

(10) One of the two registered owners must be in the private cart for each round of golf played. Occupancy is limited to that person and one other.

(11) Private cart owners must sign in at the pro shop prior to the playing of any hole at the golf course.

(12) Fees for private cart registration will be set annually by resolution of the council. All fees must be paid prior to use of the private cart on the golf course.

(13) Persons or groups in violation of the above rules and regulations may be evicted from the course.

By the city or the city's duly authorized agent (golf pro) and/or denied access to the golf course. A refund of the private cart registration fee will not be given to cart owners evicted for cause.

(i) **Intoxicating beverages.** Only alcoholic beverages (3.2 percent beer, 3.2 percent coolers, or as defined in 12-47-103(2) C.R.S.) purchased from the golf pro are allowed on the Conquistador Golf Course. Consumption of alcohol in the golf course parking lot is prohibited.

(j) **Driving range.** Driving range hours are posted in the pro shop. Driving range rules and regulations are as follows:

(1) Carts are not allowed on the driving range or driving range tee box except as approved by the golf pro or golf course superintendent.

(2) All range users shall stay within the boundaries as posted by the golf course superintendent.

(3) Golfers/spectators shall not loiter or be in attendance on the golf course driving range ball landing area, which is marked by out-of-bounds markers.

(4) Intentionally hitting balls to land outside the driving range is cause for eviction from the driving range.

(5) Range balls are the property of the golf professional. Using range balls in areas not authorized by the pro is strictly forbidden.

(6) The golf course superintendent may close the range for maintenance purposes.

(7) Violators of the above rules regarding the driving range may be evicted from the driving range or denied access to the driving range by the pro. (Ord. No. 692, § 2 (part); Ord. No. 723, § 1; Ord. No. 731, § 1; Ord. 762 § 1.)

(Ord. No. 1154, 7-26-11; Ord. No. 1156, 10-25-11)

Sec. 19-7. Park and facility use permit.

(a) A permit shall be obtained from the office of the director whenever any person or group desires to reserve any portion of the public parks or recreational facilities for any activity. The director of parks and recreation shall interpret this chapter and may act in any case not specifically covered by this chapter. Any request for a use prohibited in this chapter may be forwarded to the city manager who will take the matter before the city council for its consideration.

(b) Department-organized recreation activities shall be given first preference for use of facilities.

(c) An application for permission to reserve a park or portion thereof or parks and recreation facilities by persons or groups not officially a part of the department shall be initiated at least two weeks prior to the

requested date, and shall have written approval of the director or his authorized representative; provided, however, that in extraordinary cases, the director or his authorized representative may waive or shorten the two-week time period as set forth above.

(d) All activities shall be under competent, adult supervision, and the organization using the facility shall assume full responsibility for any damage to the facility or the equipment. The department employee on duty shall exercise authority over the organization or its activities. Cleanup of the contracted area shall be the responsibility of the user. The user shall be charged on an hourly basis to pay for cleanup if it is necessary for the city to provide additional cleanup services. The fees or charges shall be established by the city council and administered by the director; provided, however, the city council may, in appropriate cases, waive the user fee or charge.

(e) All permits shall be revocable for cause by the director or upon finding of a violation of any rule, this Code or other city ordinance or state statute. If notice of cancellation of a request is not received at the office of the director at least forty-eight hours prior to the date of the event, the permit holder may be held responsible for all charges at the discretion of the director.

(f) No apparatus (scenery, etc.) or furniture and equipment shall be moved into a park facility unless special permission is granted in advance and so stated in the permit. Such apparatus, furniture or equipment (provided by the holder of the permit) shall be removed from the park area promptly after use and before 8:30 A.M. the following morning so that there shall not be any interference with normal park and recreation programs. Failure to comply may prohibit such groups from using facilities at a later date.

(g) Any person or group using facilities shall indemnify the city by signing a disclaimer for any and all damage to the facilities by any person or persons attending the event, and all liability and damages to any person for injuries, including death. Adequate insurance may be required for activities as determined by the director. If insurance is required it shall be provided by the person or groups using park facilities to cover such liability, listing the city as an "additional insured." Responsibility for loss, breakage or need for repair of any piece of furniture, equipment or portion of the facility or area shall rest solely with the person in charge, and/or the individual signing the agreement, who shall report same to the director.

(h) Building facilities and areas shall be vacated by 11:00 P.M. unless permission is otherwise granted specifically in the permit. It is the responsibility of the permit holder to ensure that this policy is administered. Programs shall be concluded in time to provide for cleanup and clearance of the facility as stated in the permit.

(i) The following specific rules shall be observed while using any facility. The permit holder shall be held responsible for any loss or damage growing out of such violation:

(1) The use of tobacco in any facility in any form shall be carefully controlled. No smoking shall be allowed unless proper and adequate containers are provided.

(2) Functions shall be confined to the specific part of the facility assigned to the permit holder.

(j) Prohibitions.

(1) The following activities shall be prohibited unless approved by the director:

(A) Continuous use of park and recreation facilities.

(k) The total number of people admitted for any usage shall not exceed the capacity of the facility involved, as determined by the director.

(l) All federal, state, county and city statutes and ordinances shall be complied with by the permit holder.

(m) The use of special equipment shall be permitted only when operated by department employees or other persons specifically authorized in the permit. When used by other than department employees, and so stated in the permit, the special equipment shall be returned in the condition in which it was found (with the exception of normal wear) or the user shall be responsible for repair or replacement charges.

(n) No material of any kind shall be attached to any part of the facility or area without express written approval from the director.

(o) If control personnel, parking attendant, etc., are necessary, such personnel shall be supplied by the applicant. The director shall specify when control personnel are necessary.

(p) Concession rights shall be reserved to the city unless specifically stated otherwise in the permit.

(q) Sidewalks, roadways and parking facilities shall be those specifically surfaced areas within the park property constructed for that purpose.

(r) Continuous use of facilities by clubs or enterprises shall be permitted through signed agreements which shall be reissued as necessary at the direction of the director. No permit shall exceed a period of time of one year. Permits may be reissued each year with the approval of the director.

(s) When an application for use of the facilities has been approved by the director, notification shall contain the date, hours of

use, type of activity and number of participants. (Ord. No. 692, § 2 (part); Ord. No. 723, § 2.)
(Ord. No. 1147, 11-23-10)

Sec. 19-8. Cancellation.

The director reserves the right to cancel the use of any parks, recreation or golf course facility if he deems that damage may occur to the facility during inclement weather. (Ord. No. 692, § 2 (part).)

Sec. 19-9. Refunds.

The director shall approve the issuance of refunds by the finance department for the use of facilities (when charged) and recreation programs on the following basis:

(a) Athletic leagues.

(1) If the league is canceled by the department, a full refund shall be issued.

(2) If a participant, team or sponsor wants a refund before schedules are completed, the original fee charged less a five-dollar handling fee shall be refunded.

(3) After schedules are completed, seventy-five percent of the original fee charged shall be refunded.

(4) After leagues have started playing and before fifty percent of the league schedule has been completed, fifty percent of the original fee charged shall be refunded.

(5) No refund shall be issued once fifty percent of the league schedule has been completed.

(b) Recreation programs.

(1) If the program is canceled by the department a full refund shall be issued.

(2) If a refund is requested prior to the first class meeting, the original fee charged less a five-dollar handling fee shall be refunded.

(3) After the first class has met, no refunds shall be issued.

(c) Refunds.

(1) All refunds authorized by this section shall be issued during the regular business hours of the city, 8:00 A.M. through 5:00 P.M., Monday through Friday, with the exception of holidays. (Ord. No. 723, § 3.)

Sec. 19-10. Fees established.

Fees for all city recreation facilities and programs shall be established annually by the city council. (Ord. No. 692, § 2 (part).)

Sec. 19-11. Penalty.

Any person or persons guilty of violating any of the provisions contained in Sections 19-2, 19-3, 19-4, 19-5, 19-6 (e), (f), (g), (h), and (i) and 19-7 of this chapter shall be deemed guilty of a misdemeanor and punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 692, § 2 (part); amended by memo 3519.)
(Ord. No. 1170, § 25, 9-25-12)

CHAPTER 19A.

CITY PARKS TO BE USED BY "FOR
PROFIT" ENTERPRISES.

§ 19A-1 Establishment of
procedures for the
allowance of city parks to
be used by "for profit"
enterprises.

**Sec. 19A-1. Establishment of procedures
for the allowance of city
parks to be used by "for
profit" enterprises.**

(a) All "for profit" activities which are allowed in any city park or facility shall be approved by the parks and recreation director.

(b) The city shall receive to a percentage of the gross revenues raised by any such activity based on city involvement at a minimum to cover city costs. This percentage of the gross may be negotiated between the person or entity that wishes to have the activity and the director of parks and recreation, or percentages may be set by council in their annual fee setting resolution.

Section 19-2(a) of the codification determines the times that city parks shall be open. If an event is approved under this new chapter, section 19-2(a) will not be applicable but event times will be negotiated.

(c) Section 19-2(l), sales, advertising in parks and recreation areas, shall not be applicable to the events approved by the city in this chapter.

(d) Alcohol will only be permitted in an event with a "for profit" entity if it is co-sponsored by an approved non-profit eligible to host events which includes the sale of alcohol.

(e) A liquor license for any event serving alcohol must be obtained by the non profit entity sponsor pursuant to city licensing requirements.

(Ord. No. 1147, 11-23-10)

Editor's note—Ord. No. 1147, adopted November 23, 2010, repealed the former § 19A-1, and enacted a new § 19A-1 as set out herein. The former 19A-1 pertained to similar subject matter and derived from Ord. No. 1010.

CHAPTER 20.

PERSONNEL.

§§ 20-1 to 20-5. Reserved.

§ 20-6. Police pension fund—
Adopted by reference.

§ 20-7. Same—Disability
insurance.

directed to consider the amount of any such funds received by the member as a portion of any award made from the police pension fund and to credit the fund with such payment in the same manner as if made directly from the police pension fund. (Ord. No. 504, §§ 3—4.)

Secs. 20-1 to 20-5. Reserved.

**Sec. 20-6. Police pension fund—
Adopted by reference.**

The statutes of the State of Colorado, Title 31, Article 30, Sections 301—324, Part 3, as amended, insofar as the same pertains and applies to the city, are hereby adopted by reference as fully and to the same extent as though the same were printed in full herein. The police pension fund of the city shall be operated in accordance with such statutes, as amended, except as otherwise provided by city charter or by ordinance. (Ord. No. 504, §§ 1—2.)

**Sec. 20-7. Same—Disability
insurance.**

(a) Any member of the police pension fund who receives funds from a disability insurance plan funded by the city shall as a condition to acceptance of such funds be deemed to have assigned such funds to the police pension fund of the city.

(b) The board of trustees of the police pension fund is hereby authorized and

CHAPTER 21.

PLUMBING.

As to buildings generally, see Ch. 6 of this Code. As to gas generally, see Ch. 13.

- § 21-1. Plumbing Code—Adopted.
- § 21-1.1. Plumbing Code—Copies on file.
- § 21-1.2. Deleted.
- § 21-2. Plumbing Code—Enforcement; inspections by building official.
- § 21-3. Plumbers' licenses—Required; issuance; fee generally; qualifications; exception.
- § 21-4. Same—Bond required; proration of fee.
- § 21-5. Same—Transfer; cancellation.
- § 21-6. Plumbing permits.
- § 21-7. Inspection required.
- § 21-8. Installation of grease traps.
- § 21-9. Penalties for violation.

Sec. 21-1. Plumbing Code—Adopted.

There is hereby adopted by reference, as though the same were fully printed and set forth herein, the International Plumbing Code (IPC), 2009 Edition, Copyright 2009, 1st Printing, prepared by said International Code Council, and containing a total of one hundred seventy pages. (Ord. No. 702, § 2; Ord. No. 703, § 2; Ord. No. 738, § 2; Ord. No. 798, § 2.) (Ord. No. 1137, § II (part))

Prior ordinance history: Ord. Nos. 541, 584 and 637.

For state law as to authority of city to adopt by reference, see C.R.S. 1973, §§ 31-16-202 to 31-16-204.

As to the Uniform Building Code, see §§ 6-1, 6-2 and 6-23 of this Code.

Sec. 21-1.1. Plumbing Code—Copies on file.

Three true and exact official copies of the above-described 2009 Edition of the International Plumbing Code (IPC) are on file in the municipal offices of the City of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated, or copied by any interested person during the regular business hours of said offices, all such reproduction or copying to be at the expense of the person requesting the same. (Ord. No. 702, § 3; Ord. No. 703, § 3; Ord. No. 738, § 3; Ord. No. 798, § 3.) (Ord. No. 1137, § III (part))

Prior ordinance history: Ord. Nos. 541, 584 and 637.

Sec. 21-1.2. Deleted.

Editor's note: § 21-1.2 was deleted at the city's request after adoption of the 1985 Uniform Plumbing Code by Ord. No. 637.

Sec. 21-2. Plumbing Code—Enforcement; inspections by building official.

The building official shall enforce the Plumbing Code and any other plumbing regulations of the city, and make all inspections of plumbing installations; provided, that his duly authorized representative may act for him. (Code 1968, § 13-4-2.)

Sec. 21-3. Plumbers' licenses—Required; issuance; fee generally; qualifications; exception.

No person shall carry on the business, trade or calling of plumbing, install or contract to do any plumbing within the city without first obtaining a license to do so. The building official, upon the payment of

an annual license fee, as set forth by the city council by resolution, in advance, and upon being satisfied that the applicant has the qualifications herein specified, may issue to any applicant a plumber's license for the fiscal year or balance thereof. Every person applying for a license shall give satisfactory evidence to the building official that he is a regular practicing plumber, and has a license from the state board of health as required by law. Nothing in this section shall be construed so as to require a property owner to have a plumber's license to repair leaks on his own property. All plumbing work within the city must be performed under the direct supervision of a master plumber. (Code 1968, § 13-4-3.)

For state law as to plumbers generally, see C.R.S. 1973, § 12-58-101 et seq.

Sec. 21-4. Same—Bond required; proration of fee.

No license shall be issued under this chapter until the applicant has executed and furnished a bond to the city with good and sufficient sureties to be approved by the building official, in the amount of one thousand dollars conditioned upon compliance with the regulations and instructions of city officials in charge of the sewers and water system and their authorized agents, and with all the requirements of the ordinances of the city and the state Plumbing Code, in relation to sewers, waterworks and plumbing.

The city council by resolution may, from time to time, change the amount of the bond referenced above.

No reduction of license fee shall be made because a license may be granted for only the balance of the fiscal year. (Code 1968, § 13-4-4; Ord. No. 909 (part).)

Sec. 21-5. Same—Transfer; cancellation.

Plumbing licenses are not transferable either directly or indirectly.

The building official shall, for unskillfulness, carelessness or willful violation of the state Plumbing Code or any instructions of the water and sewer superintendents or their authorized agents, cancel any such license after giving the licensee a hearing with due notice of the charges. (Code 1968, § 13-4-5.)

Sec. 21-6. Plumbing permits.

A permit must be obtained for each and every installation of plumbing in the city.

A plumbing permit fee will be established by the city council by resolution. (Code 1968, § 13-4-7.)

Sec. 21-7. Inspection required.

All plumbing and sanitary sewer lines must be inspected by the building official or his authorized representative. (Code 1968, § 13-4-8.)

Sec. 21-8. Installation of grease traps.

Grease traps shall be installed in accordance with the latest regulations approved by the state department of public health. (Code 1968, § 13-4-6.)

Sec. 21-9. Penalties for violation.

In addition to all other penalties herein provided, any person violating any of the provisions of this chapter or suffering or permitting the same to be violated shall be deemed guilty of a misdemeanor and a violation upon conviction shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. Each day that the violation continues shall be considered a separate offense. A separate and additional complaint may be filed by the building inspector for such continuing violations. (Ord. No. 909 (part); amended by memo 3519.)

(Ord. No. 1170, § 26, 9-25-12)

CHAPTER 21A.

CROSS-CONNECTION CONTROL GENERAL POLICY

- § 21A-1. Responsibility.
- § 21A-2. Right of entry.
- § 21A-3. Violation.
- § 21A-4. General requirements.
- § 21A-5. Reference manuals.
- § 21A-6. Copies on file.

Sec. 21A-1. Responsibility.

(a) The public works director or his designee shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection.

(b) If a backflow prevention device is required for the in-plant, industrial piping of the owner's premises for the protection of the potable water system, the public works director shall give written notice to the owner to install an approved backflow prevention device or devices. The customer shall install the approved device or devices at his or her own expense within ninety days of the receipt of the notice or the customer's water service will be discontinued until the proper device or devices are installed. (Ord. No. 1048, § 1 (part).)

Sec. 21A-2. Right of entry.

(a) A representative of the city of Cortez will carry proper credentials of his or her office. By previously arranged appointment and upon presentation of proper credentials, the representative shall have the right of entry to inspect any and all buildings and premises for cross-connections relative to possible hazards. This right of entry shall be a condition of wa-

ter service in order to protect the health, safety and welfare of the customers throughout the city's distribution system. Where building security is required, the backflow assembly should be located in an area not subject to security. Questions regarding proper credentials should be directed to the department of public works.

(b) The department of public works may request an administrative search warrant for the purposes of inspecting buildings and premises for cross-connections relative to possible hazards. Application shall be made to the Cortez municipal court, which upon proper showing, may grant a search warrant to the department of public works for the purposes of inspection. (Ord. No. 1048, § 1 (part).)

Sec. 21A-3. Violation.

(a) Failure of the customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention assemblies required by these standards shall be grounds for the discontinuance of water service to the premises or the requirement of installation of an air gap separation from the public water system.

(b) Service of water to any premises may be discontinued by the public works director if unprotected cross-connections exist on the premises. When any defect is found in an installed backflow prevention assembly, or if a backflow prevention assembly has been removed or bypassed, the service may be discontinued. Service shall not be restored until such conditions or defects are corrected.

(c) Discontinuance of service may be summary, immediate and without written notice whenever, in the judgment of the public works director, such action is necessary to protect the purity of the public potable water

supply or the safety of the water system. (Ord. No. 1048, § 1 (part).)

Sec. 21A-4. General requirements.

(a) All building plans must be submitted to the city of Cortez cross-connections technician for approval prior to the issuance of water service. Building plans must show the:

- (1) Water service type, size and location;
- (2) Meter size and location;
- (3) Backflow prevention device size, type, and location; and
- (4) Fire sprinkling system(s) service line, size and type of backflow prevention device.

(b) Backflow prevention assemblies are to be installed in an accessible location to facilitate maintenance, testing and repair. Drawings must show various installations.

(c) All backflow prevention assemblies shall be installed immediately downstream of the water meter.

(d) Before installing a backflow prevention assembly, pipelines should be thoroughly flushed to remove foreign material.

(e) In no case will it be permissible to have connections or tees between the meter and service line backflow prevention assembly.

(f) Backflow prevention valves are not to be used as the inlet or outlet valve of the water meter. Test cocks are not to be used as supply connections. (Not applied to residential dual check installations.)

(g) In order to ensure that backflow prevention assemblies continue to operate satisfactorily, it will be necessary that they be tested at the time of installation and on an annual schedule thereafter. Such test will be conducted in accordance with A.S.S.E. and/or U.S.C.-C.C.C. and H.R. performance standards and field test procedures as directed by

the Colorado department of public health and environment. (Not applied to residential dual check installations. Dual checks will be tested at intervals set by the city of Cortez).

(h) The city of Cortez will require inspection of all containment installations.

(i) All cost for design, installation, maintenance, repair and testing are to be borne by the customer.

(j) No grandfather clause exists. All laws and regulations apply regardless of the age of the facility.

(k) All fire sprinkling lines shall have a minimum protection of an approved double check valve for containment of the system.

(1) All glycol (ethylene or propylene) or antifreeze systems shall have an approved reduced pressure zone assembly for containment.

(2) Dry fire systems shall have an approved double check valve installed upstream of the air pressure valve.

(3) Single-family residences with a fire sprinkler system and domestic water combined shall have a double check valve when no chemicals are used.

(I) All fire sprinkler systems shall conform to the following section of the National Fire Protection Association Code, Title 13:

Section 15.1.8 - Connection from Waterworks System

15.1.8.1. Where connections are made from public waterworks systems, it might be necessary to guard against possible contamination of the public supply.

15.1.8.2. The requirements of the public health authority having jurisdiction shall be determined and followed.

15.1.8.3. Where equipment is installed to guard against possible contamination of the public water system, such equipment and devices shall be listed for fire protection service.

(m) All commercial water haulers shall have a reduced pressure zone assembly installed and tested prior to receiving water from the city of Cortez.

(1) Exception: trucks configured with top fill with an appropriate air-gap;

(2) Exception: trucks that have approved potable water tanks and only transport potable water with no additives. (Ord. No. 1048, § 1 (part).)

pense of the person requesting the same. (Ord. No. 1048, § 1 (part).)

Sec. 21A-5. Reference manuals.

(a) Reference manuals adopted for guidelines on cross-connection control include:

(1) Cross-Connection Control Manual, Colorado Department of Public Health and Environment, Water Quality Control Division, 4330 Cherry Creek Drive South, Denver, Colorado, 80246-1530;

(2) Definitions of terms used in this regulation are those contained in Cross-Connection Control Manual, Colorado Department of Public Health and Environment, latest edition;

(3) American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control Manual M14, Third Edition, 6666 West Quincy Avenue, Denver, Colorado, 80235-3098. (Ord. No. 1048, § 1 (part).)

Sec. 21A-6. Copies on file.

(a) Three true and exact official copies of the above-described CCCM, ASSE Series 5000 and AWWA M14, are on file in the municipal offices of the city of Cortez, Colorado, duly certified by the mayor and attested by the city clerk, and may be examined, duplicated or copied by any interested person during the regular business hours of the said offices, all such reproduction or copying to be at the ex-

CHAPTER 22.

PUBLIC IMPROVEMENTS.

For charter provisions as to public improvements, see Char., art. VIII, §§ 5, 9, art. IX, §§ 5, 7, art. XIII.

For state law as to authority of city to make public improvements, see C.R.S. 1973, § 31-35-303. As to sidewalk improvements, see C.R.S. 1973, § 31-35-305.

As to sewers generally, see ch. 23 of this Code. As to streets and sidewalks generally, see ch. 24. As to the location of curb lines, see §§ 24-3 to 24-6. As to curb cuts, see §§ 24-7, 24-8. As to street grades, see §§ 24-9 to 24-15. As to sidewalk, curb and gutter construction generally, see §§ 24-16 to 24-19. As to subdivision of land generally, see ch. 25. As to water generally, see ch. 27.

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- § 22-72. Fees to be received by director of finance.
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- § 22-74. Sale of property acquired by city under article—Generally.
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Article I. In General.

Sec. 22-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Paving. Includes repaving, macadamizing and remacadamizing.

Real estate. All lands whether platted or unplatted, regardless of lot or land lines. Lots, plots, blocks and other subdivisions may be designated in accordance with any recorded plat thereof and unplatted lands by any definite description.

Street. Avenues, boulevards, alleys and other highways. (Code 1968, §§ 8-5-1, 8-5-4.)

Sec. 22-2. Council to award contracts and assess costs; director of public works to make recommendations as to contracts and supervise work.

(a) The city council shall have the power to contract for or have made local improvements and to assess the cost thereof, wholly or

in part, upon the property especially benefited.

(b) All contracts for public improvements shall be awarded by the council upon recommendation of the director of public works, except as provided by this chapter, and the improvements shall be constructed by and under the direction of the director of public works in accordance with the specifications prescribed or approved by the council. (Code 1968, § 8-5-2.)

Sec. 22-3. Improvements to be authorized by ordinance.

Whenever the council by resolution orders any of the local improvements mentioned under this chapter, such improvement shall be authorized by ordinance. (Code 1968, § 8-5-3.)

Sec. 22-4. Adoption of existing improvements.

If at the time of the passage of an ordinance authorizing any improvements for any district, any piece of real estate or any railway company to be assessed in the district has the whole or any part of the proposed improvements, conforming to the general plan, the same may be adopted in whole or in part, or may be changed to conform to the general plan, if deemed practical, and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adapting or adopting such existing improvements. (Code 1968, § 8-7-1.)

Sec. 22-5. Assessment of costs generally—Against benefitted land generally.

Whenever any improvement authorized to be made by the city pursuant to this chapter is so ordered, the city council shall determine that all or any part of the total cost thereof,

including, but not limited to, the cost of improving the intersections of streets and alleys, but excepting the share to be assessed against any street or other railway company, shall be assessed against the tracts or parcels of land specifically benefitted thereby and included within the district or within the assessment unit, if the district is divided into such units, with the following exceptions: Any tract or parcel owned by the United States of America or any agency, instrumentality or corporation thereof and any street or other public right-of-way. Such special assessments shall be in proportion to the special benefits derived to such property and on a front foot, area, zone or other equitable basis, as may be determined by the city council, sufficient to cover the portion of the total cost of the improvement to be defrayed by special assessments. Regardless of the basis so determined, in cases of wedge, V or irregularly shaped lots or tracts, the amount apportioned thereto shall be in proportion to the special benefits thereby derived. (Code 1968, § 8-7-3.)

Sec. 22-6. Same—Allocation for street and alley intersections.

The cost of improvements in street intersections may be segregated and such cost, except the share assessable to street or other railway companies, may be

assessed upon all frontage of the street improved and on intersecting streets within a distance of one-half block in each direction from such intersections, in proportion to the frontage of each lot or tract on the street improved or on an intersecting street, or on both within such distance. The cost of the improvement of an alley intersection may be assessed upon the real estate in the same block extending to the nearest street intersection and half the length of the block along its sides; provided, that where the sides of blocks are of unequal length, the council may determine the limit of assessment. The cost of improving street and alley intersections may be treated as one of the costs of any improvement without separately segregating such intersection cost. In such case, the total cost of any improvement shall be assessed as provided by this section upon the basis determined without any separate assessment for intersection costs. (Code 1968, § 8-7-5.)

Sec. 22-7. Same—Allocation for sidewalks.

The whole cost of construction and reconstruction of sidewalks, including intersections and necessary grading and removal of obstructions, shall be assessed upon the lots or lands in front of which such improvements are made, as follows: The grading, removal of obstructions, intersections and all other general expenses, including cost of collection and interest, pro rata per front foot; new walks, pro rata per front foot where constructed; and reconstructed walks upon

each lot or piece of land where reconstructed according to the cost of reconstruction. (Code 1968, § 8-7-7.)

Sec. 22-8. Same—Against public corporation land.

When the state, any agency, instrumentality or corporation thereof, or any city, county, school district or any other public or quasi-public corporation, except the United States of America or any agency, instrumentality or corporation thereof, owns any land or hold the title to any land not used as a street or other public right-of-way, which if owned by a private person would be liable to assessment for benefits to pay for any public improvement mentioned in this chapter, an assessment shall be made against such land as though such land were the property of a private person, and the state, its agency, instrumentality or corporation, or the city, county, school district or other public or quasi-public corporation shall pay the amount of that assessment. If such assessment is not paid within thirty days after the final publication of the assessing ordinance, suit may be brought in the district court to enforce the collection of such assessment and the judgment rendered against such city, county, school district or other public or quasi-public corporation shall be enforced as other judgments against such entities, but no such land owned thereby shall be sold under any such judgment. (Code 1968, § 8-7-8.)

Sec. 22-9. Grading or paving of area belonging to street or railway company.

Whenever any grading or paving district is created under this chapter, the

council shall include in the area to be paved or graded the entire width of the street from curb to curb, or in the absence of curbs to street lines determined by the city council including the portion of such street occupied by, or required by franchise obligation to be paved, chargeable or assessable to any street or other railway company whose tracks run through or across any street in such district. The council shall charge to, assess and collect the proper proportion of the cost of such improvement from such street or railway company in the same manner as is provided in this chapter for other property specially benefitted thereon, and shall issue bonds for the same, which bonds shall be issued and made payable in like manner as bonds issued for the improvement to be assessed against the real estate especially benefitted. A street or railway company shall be held to occupy and shall be liable for the grading and paving of that part of the street lying between the rails of each track and two feet outside of each rail, and every railway company, whether street railway, shall be assessed for the cost of the paving and grading of any part of any street or alley occupied by or required by franchise obligation to be paid by them. The assessment levied for the cost of such improvement chargeable to a railway company shall be a first and prior lien against the entire franchise and property of the company within and without such district, but within the limits of the city, excepting any lien thereon to secure the payment of general taxes. All the terms, conditions and provisions in this chapter relative to the collection of the amounts chargeable against tracts or

parcels of land assessed shall be applicable in the enforcement and collection of such assessment against such railway company, and the property of such railway shall be sold by the city as in cases of default in payment of general taxes levied thereon; but railway trackage shall not be considered or computed as assessable frontage, in determining the sufficiency of petitions or remonstrance as provided by this chapter. (Code 1968, § 8-7-4.)

Sec. 22-10. Construction of walks by owner.

In districts for the construction and reconstruction of sidewalks alone, or in combination with other improvements, the work may include the necessary grading from the curb line to the lot line, and the owner of any lot or tract to be assessed shall have the right to construct or reconstruct his own walks in conformity with the plans and specifications for the district, within thirty days from the publication of the ordinance authorizing such improvement. (Code 1968, § 8-7-6.)

**Sec. 22-11. Notices generally—
Effect of failure to receive.**

Whenever any notice is mailed as required in this article, the fact that the person to whom it was addressed does not receive it shall not in any manner invalidate or affect the proceedings provided for under this chapter. (Code 1968, § 8-7-9.)

Sec. 22-12. Same—Use of figures, general descriptions, etc.

In all proceedings and notices authorized by this chapter, figures may be used

instead of words and it shall not be necessary in an improvement district to designate each piece of real estate in the district separately. General description and quantities may be used, except in the assessment rolls, and except in assessments, any cost stated may be stated as being a probable amount per front foot, per square foot or per lot, of a given size and proportionate amounts for other lots, or when a different method of assessment is provided, then as being subject to such method. (Code 1968, § 8-7-10.)

**Sec. 22-13. Legal actions—
Generally.**

The finding of the council by ordinance that any improvement provided for in this chapter was duly ordered after notice duly given, or that a petition or remonstrance was or was not filed, or was or was not duly subscribed by the required number of owners, shall be conclusive in every court or other tribunal. Within fifteen days immediately succeeding the publication of such ordinance upon its final passage, any person who has filed a written remonstrance, as provided by this chapter, shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside the determination of the council. Any person concerned who objects to the regularity, validity and correctness of proceedings and instruments taken, adopted or made at or subsequent to such hearing and prior to the final passage of such ordinance shall also have the right to commence such an action or suit to cure or set aside such purported irregularity, invalidity or incorrectness. Nothing in this section shall be construed

as not requiring any person to make any objection by written remonstrance at such hearing in order not to waive such objection, if the purported irregularity, invalidity or incorrectness of any matter first occurred prior to the first publication of the notice of the hearing. After the expiration of such fifteen days all actions or suits not so commenced attacking the regularity, validity and correctness of that ordinance and of all proceedings, determinations and instruments taken, adopted or made prior to such ordinance's final passage, shall be perpetually barred. (Code 1968, § 8-7-2.)

**Sec. 22-14. Same—Statute of
limitations.**

Except as otherwise provided in sections 22-13, 22-23 and 22-52 of this Code, all actions legal or equitable for relief against any proceedings had under this chapter whether based upon irregularities or jurisdictional defects, shall be commenced within thirty days after the wrongful act complained of, or else be thereafter perpetually barred. (Code 1968, § 8-7-11; Ord. No. 497, § 1.)

**Sec. 22-15. Connection with utilities
may be compelled by
city manager;
assessment of costs of
connections.**

Whenever any paving district or local improvement providing for paving is ordered under the provisions of this chapter, the city manager, if he deems it advisable, may order the owners of the abutting real estate to connect their several premises with the water and gas mains or with any other utility in the

street in front of their several premises and upon default of the owners for twenty days after such order to make such connections the city may contract for and make such connections or do the work by day labor in the manner and in accordance with the specifications prescribed for such work. The whole cost of each connection shall be assessed against the property with which the connections are made in accordance with the provisions of this chapter for the acquisition of improvements, creating local improvement districts and defraying the cost thereof, for such paving or local improvement district. (Code 1968, § 8-7-12.)

Sec. 22-16. Power and duty of city officers to enforce chapter.

The officers of the city are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this chapter. (Code 1968, § 8-7-13.)

Sec. 22-17. Applicability of chapter to prior improvement districts.

The provisions of this chapter insofar as applicable shall apply to all local improvement districts heretofore created and to the collection of any assessment or installment of assessments therein not delinquent and certified to the county tax collector for collection. (Code 1968, § 8-10-17.)

Article II. Initiation.

Sec. 22-18. By resolution of council.

(a) **Required.** Proceedings to improve

streets, alleys and public highways and parts thereof by paving, grading, curbing, guttering and surfacing with suitable material, the construction and reconstruction of sidewalks upon and otherwise improving, of the whole or any part or parts of any street, alley or streets and alleys, which need not be connected or contiguous, in the city, or any combination of such improvements, including necessary grading, crosswalks, curbs, drains, readjusting manholes, catchbasin and such other incidentals, including the incidental storm sewers in case of paving, as the council may prescribe, shall be initiated upon recommendation of the director of public works by the adoption of a resolution by the city council.

(b) **Contents.** The resolution by the city council initiating proceedings on proposed improvements, except as otherwise provided by this chapter shall state the nature and location of the improvement to be made, without mentioning minor details and incidentals, describe the local improvement district to be assessed, by boundaries or other brief description, and instruct the director of public works, or an engineer specially retained by the city in connection with such district, who, in such event, may perform all or any portion of the duties prescribed by this chapter to be performed by the director of public works as directed by the council, to prepare and present to the council:

(1) Preliminary plans and specifications for such improvement.

(2) An estimate of the probable total cost thereof, including, without limiting the generality of the foregoing, the

cost of constructing or otherwise acquiring such improvement, engineering and clerical service and supplies, cost of inspection, cost of collecting assessments, advertising, printing, interest on bonds until interest on assessments is available to defray such, fiscal services, legal services for preparing proceedings and advising in regard thereto and other incidental costs.

(3) A map of the local improvement district to be assessed.

(c) **Preliminary plans.** The preliminary plans shall show a typical section of the contemplated improvement, the type of material and the approximate thickness and width. Such resolution may provide for one or more types of construction.

(d) **Combination of improvements.** More than one improvement may be combined in one local improvement district when the city council determines such improvements may be combined together in an efficient and economical district. If in the combination of improvements they shall be separate and distinct by reason of substantial difference in their character or location, or otherwise, each such improvement shall be considered as a unit or district for the purpose of petition, remonstrance and assessment, such unit or district being sometimes designated as an assessment unit. In case of such combination the city council shall designate the improvement and area constituting each such assessment unit, and in the absence of an arbitrary and unreasonable abuse of discretion, its determination that there is or is not such a combination and its determination of the improvement and

area constituting each such unit shall be final and conclusive. The costs of constructing and otherwise acquiring each such improvement shall be segregated for the levy of assessments and an equitable share of the incidental costs shall be allocated to each such assessment unit.

(e) **Cost estimates not limitation on council.** Any estimate of cost required or authorized in this article shall not constitute a limitation upon such cost nor a limitation upon the rights and powers of the city council or of any officers, agents or employees of the city, except as otherwise specifically stated in this chapter. (Code 1968, § 8-5-4.)

Sec. 22-19. By petition.

(a) **Generally.** A public work or improvement, the costs of which, in whole or in part, are to be assessed by the city, may be initiated on petition of property owners.

(b) **Standing to petition: conditions.** The owners of land to be assessed for not less than fifty-one percent of the entire cost of any public work or improvement, including all incidental expenses, constituting at least a majority in frontage, in area or in whatever other property constituting the basis for the computation of assessments of the real estates so to be assessed, may by written petition initiate the acquisition of any improvement which the council is authorized to initiate, subject to the following limitations:

(1) The council may incorporate such improvement in any assessment unit and in any improvement district pursuant to subsection (d) of section 22-18 and all other provisions of this chapter.

(2) The council need not proceed with the acquisition of any such improvement or any part thereof after holding a hearing thereon, if the council determines that it is not in the public interest that the proposed project, or a part thereof, be constructed.

(3) Any particular kind of improvement, material therefor or part thereof need not be acquired or located, as provided in the petition, if the council determines that such is not in the public interest.

(4) The council need not take any proceedings or action upon receiving any such petition if the council determines by resolution that the acquisition of the designated improvement probably is not feasible for the reason stated in such resolution. If the resolution requires a cash deposit or a pledge of property in at least an amount or value therein designated and found by the council to be probably sufficient to defray the expenses and cost incurred by the city taken preliminary to, and in the attempted acquisition of, the improvement designated in the petition, and if such deposit or pledge is not made with the director of finance within twenty days after one publication in a newspaper of general circulation in the city of a notice of the resolution's adoption and of its contents in summary form. An additional deposit or pledge may from time to time be similarly so required as a condition precedent to the continuation of action by the city. Whenever such deposit or pledge is made and the council determines that such acquisition is not feasible within a reasonable period of time, the council may require that all or any portion of the costs incurred in connection

with investigation of such proposal by the city shall be defrayed from such deposit or proceeds of such pledged property, in lieu of such defrayment of costs by petitioners or other interested persons, within twenty days after the determination by resolution of such amount and upon publication of a notice thereof. (Code 1968, § 8-5-5; Ord. No. 602, § 1.)

Sec. 22-20. Proceedings of council after initiation by petition.

Upon the filing of a petition as permitted by section 22-19, the council shall proceed in the same manner as is provided for by this article where proceedings are initiated by the city council, except as otherwise provided. (Code 1968, § 8-5-6.)

Article III. Plans.

Sec. 22-21. Resolution adopting preliminary plans, specifications and map.

(a) **Generally.** The council shall by resolution adopt the preliminary plans and specifications and the map of the director of public works for the proposed improvement when the council is satisfied with such proposals.

(b) **Additional contents.** The council shall by that resolution or a resolution subsequently adopted prescribe:

(1) The extent of the local improvement district to be assessed and of each assessment unit, if the district is so divided, by boundaries or other brief description.

(2) The kind of improvement proposed, without mentioning minor details.

(3) The number of installments and the time in which the cost of the improvement will be payable.

(4) The probable cost as shown by the total estimate of the director of public works, which estimate shall not constitute a limitation upon the cost of the project nor for any other purpose.

(5) The amount or proportion of the total cost to be paid by other than special assessments, if any.

(6) The method of levying assessments.

(7) The approximate amount or share of the portion of the total estimate to be assessed against property specially benefitted by the acquisition of the proposed improvement.

(c) **Order to construct; setting of hearing date.** The council in that resolution shall order that the project be made when the same has been authorized by ordinance, and shall fix a day upon which a hearing in respect to such project shall be had within thirty days after the adoption of the resolution prescribing the extent of the local improvement district. (Code 1968, § 8-5-7.)

Sec. 22-22. Notice to owners, etc.

After the adoption of the resolution required by section 22-21 the city clerk shall give notice of such proposal by publication as required for other notices to the owners of real estate in the local improvement district and to all persons interested, generally, and without naming such owner or persons, of:

(a) The kind of improvements proposed, without mentioning minor details or incidentals.

(b) The number of installments and time in which the cost of improvements will be payable.

(c) The maximum rate of interest on unpaid installments.

(d) The extent of the district to be assessed, by boundaries or other brief description.

(e) The time when the council will consider the ordering of the proposed improvements and hear all complaints, remonstrances and objections that may be made in writing concerning the same by the owner of any real estate to be assessed or any person interested.

(f) The fact that all proceedings in the premises are on file and can be seen and examined at the office of the city clerk during business hours, at any time, by any person so interested. (Code 1968, § 8-5-8.)

Sec. 22-23. Public hearing.

(a) **Right of owners to present views, etc.** On the date fixed for the hearing on the proposed improvements any and all property owners interested in such improvement may, by written petition, remonstrance or otherwise, present their views in respect to the proposed improvements to the council.

(b) **Adjournment.** The council may adjourn the hearing from time to time.

(c) **Consideration of arguments.** After the hearing has been concluded, after all written complaints, remonstrances and objections have been read and duly considered and after all persons desiring to be heard in person have been heard, the

council shall consider the arguments, if any, and any other relevant material put forth.

(d) **Determination against proposal.** If the council determines that it is not in the public interest that the proposed project, or a part thereof, be made, the council shall make an order by resolution to that effect and any proceedings for the project, or any part thereof determined against by such order, shall stop and shall not be begun again until the adoption of a new resolution.

(e) **Waiver of claims not presented.** Any objection to the regularity, validity and correctness of the proceedings and instruments taken, adopted or made prior to the date of the hearing on the proposed improvements shall be deemed waived unless presented by written remonstrance at the time and in the manner specified by this chapter. (Code 1968, § 8-5-9.)

Sec. 22-24. Construction after protest.

If within the time specified in such notice a written protest or remonstrance against the making of all the improvements proposed by initiation of the city council is filed with the city clerk and signed by the owners of property constituting a majority in frontage, in area or in whatever other property constituting the basis for the computation of assessments, as the case may be, of the real estate to be assessed in the district or in the assessment unit, if the district is divided into assessment units, the proposed improvements shall not be made, unless the city pays one-half or more of the total cost of the improvements with

funds derived from other than the levy of special assessments. (Code 1968, § 8-5-9.)

Sec. 22-25. Modification, rescission, etc., generally.

All proceedings may be modified or rescinded wholly or in part by resolution adopted by the council at any time prior to the passage of the ordinance adopted pursuant to sections 22-27 and 22-28 and authorizing the improvements to be made. No substantial change in the district, details, preliminary plans or specifications or estimates shall be made after the first publication or mailing of notice to property owners, whichever occurs first, except for the deletion of a portion of a project and property from the proposed program and district or assessment unit. The director of public works, however, shall have the right to make minor changes in time, plans and materials entering into the work at any time before its completion. (Code 1968, § 8-5-9.)

Sec. 22-26. Revision of preliminary plans.

(a) **Duty of director of public works.** After the hearing on the proposed improvement plans after the city council has disposed of all remonstrances, so filed, and after the council has determined to proceed with the local improvement district, as modified, if modified, the council, if there be modification, by resolution shall direct the director of public works to prepare and present to the council:

(1) A revised and detailed estimate of the total cost, including, without limiting the generality of the foregoing, the cost of constructing and otherwise

acquiring each proposed improvement and of each of the incidental costs, which revised estimate shall not constitute a limitation for any purpose except as provided in this section.

(2) Full and detailed plans and specifications for each proposed improvement designed to permit and encourage competition among the bidders, if the work is to be acquired or improved by contract.

(3) A revised map showing the location of each improvement and the real property to be assessed therefor.

(b) **Combination or division of construction units.** The resolution modifying the proposed plan for improvements may combine or divide the proposed improvement or improvements into suitable construction units for the purpose of letting separate and independent contracts, regardless of the extent of any improvement constituting an assessment unit and regardless of whether a portion of the cost of any improvement is to be defrayed other than by the levy of special assessments. Nothing, however, contained in this section shall be construed as not requiring the segregation of costs for assessment purposes. (Code 1968, § 8-5-10.)

Sec. 22-27. Ordinance adopting final plans, etc.—Generally.

When an accurate estimate of cost, full and detailed plans and specifications and map are prepared and presented and are satisfactory to the council, it shall adopt an ordinance prescribing:

(a) The extent of the local improvement district to be assessed and of each assessment unit, if any, by boundaries or other brief description.

(b) The kind and location of each improvement proposed, without mentioning minor details.

(c) The amount or proportion of the total cost to be defrayed by special assessments, the method of levying assessments, the number of installments and the times in which the costs assessed will be payable.

(d) The character and extent of any construction units. (Code 1968, § 8-5-10.)

Sec. 22-28. Same—Revision and amendment; letting of contract exceeding revised estimates.

(a) The director of public works may further revise such cost, plans and specifications and map from time to time for all or any part of any project and the ordinance may be appropriately amended prior to letting any construction contract therefor and prior to any work being done other than by independent contract let by the city. The ordinance, if amended, shall order the work to be done as provided for by this chapter.

(b) No contract shall be let for any improvement nor an improvement ordered acquired under the direction of the director or otherwise for any amount exceeding the revised estimated cost of the project excluding incidental costs. (Code 1968, § 8-5-10.)

Article IV. Construction Contracts.

Sec. 22-29. Letting of contract generally.

(a) **Competitive bidding—Lowest responsible bidder required where contract exceeds five thousand dollars.** In accordance with section 5, article IX of the city Charter, any improvement of any nature made in any district where the entire cost, value or amount of such work including labor and materials shall exceed five thousand dollars, except such work done by employees of the city with supplies and materials purchased by it or supplied under agreement with the United States of America, the state or any federal or state agency, instrumentality or corporation, shall be done only under independent contract to be entered into by the city with the lowest responsible bidder submitting the lowest and best bid upon proper terms after due public notice has been given asking for competitive bids.

(b) **Same—Notice of desire for.** The notice asking for competitive bids shall state that bids will be received at a time and place designated therein and shall be published at least twice a week for two consecutive weeks in a newspaper of general circulation in the city, the first publication to be not less than fifteen nor more than thirty days prior to the time specified in the notice for opening bids.

(c) **Same—Right of city to reject bids and waive irregularities.** The city shall have the right to reject any and all bids and to waive any irregularity in any bid.

(d) **Contract may be on lump sum or unit basis.** Any contract may be let on a lump sum or unit basis.

(e) **Bond required.** No contract shall be entered into for such work unless the contractor shall give an undertaking with a sufficient surety approved by the city council and in an amount fixed by the council for the faithful performance of the contract, substantially as required by state law, except as otherwise provided by this chapter.

(f) **Reletting and recovery upon default of contracts.** Upon default in the performance of any contract, the proper official may advertise and relet the remainder of the work without further ordinance and deduct the cost from the original contract price and recover any excess cost by suit on the original bond, or otherwise.

(g) **Contract to require payment of materials, etc.** All contracts shall provide among other things that the person entering into the contract with the city will pay for all materials furnished and services rendered for the performance of the contract, and that any person furnishing the materials or rendering the services may maintain an action to recover for the same against the obligor in the undertaking as though the person was named therein; provided, that the action is brought within one year after the time of the cause of action accrued. Final settlement shall be effected substantially as required by state law.

(h) **Construction of improvement by city.** The city shall have the power to make any improvement, or portion thereof, in any district, directly by the officers, agents and employees of the city, with supplies and materials purchased or otherwise acquired therefor. (Code 1968, § 8-6-1.)

For state law as to bonds for faithful performance by contractors, see C.R.S. 1973, § 38-26-106.

Sec. 22-30. Purchase of supplies and material by city.

Pursuant to section 2, article IX of the city Charter, all supplies and materials purchased by the city for any district, but not by a contractor, costing five hundred dollars or more shall be purchased only after due advertisement as provided in the preceding section. The city shall accept the lowest bid if the kind, quality and material are equal, but the city shall have the right to reject any and all bids, to waive any irregularity in any bid and to select a single item from any bid. The provision as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a non-competitive market or solely by a manufacturer's authorized dealer. (Code 1968, § 8-6-1.)

Sec. 22-31. Interest of officers and employees of city in contracts.

Pursuant to section 4, article IX of the city Charter, no councilman, other elected official or appointed officer, agent or employee of the city, except in such official capacity, shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the city for any matter, cause or thing whatsoever where any liability, indebtedness or obligation shall in any way be created against the city for any district, except by competitive bidding. If any contract or agreement is made in violation of the provisions of this section it shall be voidable, and no action

shall be maintained thereon by any party thereto against the city. To the extent that the city makes any payment thereunder, such contract or agreement shall be valid, and any such payment may be included in any cost defrayed by the levy of special assessments, unless theretofore the city elects to void the contract or agreement in its entirety and to recover any such payment from the party to whom made. (Code 1968, § 8-6-1.)

Sec. 22-32. Federal or state assistance generally.

The city may enter into and carry out any contract or establish or comply with the rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the city may deem desirable or as may be requested by the United States of America, the state or any federal or state agency, instrumentality or corporation that may assist in the financing of any project or any part thereof. Any improvement, of which any portion of the cost may be defrayed by the city by the levy of special assessments, may be acquired with the cooperation and assistance of, under a contract let by or with labor, supplies and materials furnished by, the United States of America, the state or any federal or state agency, instrumentality or corporation. Advantage may be taken of any offer from any source to complete any improvement on a division of expense or responsibility. The department of public works under the direction of its director on behalf of and in the name of the city is authorized to make any such improvement in such a

manner, when so authorized by an ordinance adopted pursuant to sections 22-26 to 22-28. (Code 1968, § 8-6-1.)

Sec. 22-33. Applicability of division to assigned or transferred contracts.

The provisions of sections 22-29 to 22-32 shall not apply to any case in which the city has taken over by transfer or assignment any contract authorized to be assigned to it under the provisions of this chapter nor to any contract in connection with the construction or improvement of any project which the city may have had transferred to it by any person. (Code 1968, § 8-6-1.)

Sec. 22-34. Paving guarantees.

In all cases of paving, any specifications and contracts may provide that bidders shall guarantee that the paving shall remain in good order and repair for a period of five years from and after the date of its acceptance by the council, or for such lesser period as may be determined by the council, and make all necessary repairs during such period without further compensation; provided, that in case of macadamizing, after two years the guarantee, if any, shall extend only to the maintaining of a perfect grade, surface and foundation and not to any diminution of the thickness of the original pavement by wear and tear; in case of concrete curb, gutter or sidewalk, the specifications and contracts may provide for a guarantee not in excess of two years; and the council may provide for a guarantee for a reasonable time, not to exceed two years of all other work. (Code 1968, § 8-6-2.)

Sec. 22-35. Reservation by city of power to impose conditions.

The council, except as specifically limited by this chapter, may, in the letting of contracts, impose such conditions upon bidders with regard to bonds and securities, guarantees of good and faithful performance and completion of the work and keeping the same in repair and any further matter or thing in connection therewith as may be considered by the council advantageous to the city and to all interested. (Code 1968, § 8-6-3.)

Article V. Bonds Generally.

Sec. 22-36. Use permitted; manner of sale, etc.

(a) All local improvements may be paid for by public improvement bonds of the city.

(b) Any bonds issued pursuant to the provisions of this chapter may be sold in such manner as may be approved by the city council for the payment of the contractor for defraying the reasonable costs for labor, supplies and materials incurred by the city or supplied under agreement with the United States of America, the state or any federal or state agency, instrumentality or corporation and for all proper incidental expenses. Such bonds may be also delivered to the contractor in payment for the amounts due such contractor. (Code 1968, § 8-8-1.)

Sec. 22-37. Interest—Generally.

(a) Repealed.

(b) **Delivery to contractors.** If delivered to the contractor, the bonds shall be

accepted at par plus interest due thereon to the date of their delivery in payment of the amounts due under the contract and the contractor shall be required to accept delivery of the remainder of the authorized issue of bonds and to pay the principal amount of such bonds and accrued interest to the date of delivery, so that money will be available to the council to be expended in the payment of the incidental expenses for the payment of which the bonds were in part authorized. Delivery of such bonds to contractors shall always be on such terms that the consideration for the bonds, represented by amounts due contractors and money, shall be such as to result in a net interest cost on the bonds of not more than eight percent per annum computed to maturity according to standard tables of bond values.

(c) **Rates relative to assessment interest rates.** No bond interest rate shall at any time exceed the interest rate, the lower or lowest rate, if more than one, borne by the assessments, but any bond interest rate may be the same as or less than any assessment interest rate, subject to the limitation of this section, as the council may determine.

(d) **Acceptance of bonds as condition in bidding.** In advertising for construction bids as provided in section 22-29 the council may stipulate that the contractor must accept bonds in payment of the contract price as provided in this section. (Code 1968, § 8-8-1; Ord. No. 547, § 1.)

Sec. 22-38. Same—Coupons.

(a) **Attachment; signature required.** Except for such bonds which are registerable for payment of interest, interest

coupons shall be payable to the bearer and they shall be attached to the bonds and shall bear the original or facsimile signature of the officers signing the bonds.

(b) **Validity of signature.** The bond and coupons, bearing the signatures of the officers in office at the time of the signing thereof, shall be the valid and binding obligations of the city, notwithstanding that before the delivery and payment, any or all of the persons whose signatures appear on such shall have ceased to fill their respective offices. (Code 1968, § 8-8-6.)

Sec. 22-39. Issuance and payment generally.

(a) **Form; date; to be issued in name of city; to be payable to bearer at certain time; amounts.** All local improvement bonds shall be of such form and of such date as may be prescribed by the council, shall be issued in the name of the city and bear the name of the district to be improved and shall be payable to bearer at a designated time in a sufficient period of years to cover the period of construction and payments provided for, but subject to call as provided by this article, in convenient denominations of not more than one thousand dollars each. All such bonds shall be issued by the director of finance upon estimates of the director of public works and order of the city manager, approved by the council.

(b) **Records.** The director of finance shall preserve a record of such bonds in a suitable book kept for the purpose.

(c) **Signing and attesting.** The bonds shall be subscribed by the city manager, attested by the city clerk with the seal of

the city affixed thereto and countersigned by the director of finance.

(d) **To be payable out of assessments only.** The bonds, both principal and interest, shall be payable only out of monies collected on account of the assessments for the improvements in any district, except as provided by this article. Such assessments shall be applied to the payment of the bonds issued for the same district only, until all of such bonds have been paid.

(e) **Pledge of special surplus and deficiency fund as security.** The payment of such bonds shall be additionally secured by a pledge of and made from the special surplus and deficiency fund, and whenever four-fifths of the bonds of any public improvement district have been paid and cancelled, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district and there is not sufficient money in such special surplus and deficiency fund, the city shall pay such bonds when due and reimburse itself by collecting the unpaid assessments due such district, all as authorized by section 4, article XIII of the city Charter.

(f) **Additional security.** The payment of any bonds, both as to principal and interest, may also be additionally secured as otherwise provided in and authorized by article XIII of the city Charter.

(g) **Payment of incidentals with bonds.** A sufficient number of such bonds or the proceeds therefrom may be used to pay for engineering and clerical service and supplies, inspection, collecting assessments, advertising, printing, accrued

interest on outstanding bonds, fiscal services, legal services and other incidentals. (Code 1968, § 8-8-2.)

Sec. 22-40. Liability of city; to be paid out of assessments only.

Bonds issued pursuant to this article shall not be a debt of the city and the city shall not be liable thereon, nor shall it thereby pledge its full faith and credit for their payment, nor shall the bonds be payable out of any funds other than the special assessments and other monies pledged to the payment thereof. Each bond issued under this chapter shall recite in substance that such bond and the interest thereon are payable solely from the special assessments and other monies pledged to the payment thereof. The payment of bonds shall not be secured by an encumbrance, mortgage or other pledge of property of the city, except for such special assessments and other monies pledged for the payment of bonds. No property of the city, subject to such exceptions, shall be liable to be forfeited or taken in payment of the bonds. (Code 1968, § 8-8-3.)

Sec. 22-41. Effect of irregularity in issuance, delivery or sale; status in hands of bona fide purchaser or holder for value.

Bonds issued under this chapter shall not be invalid for any irregularity or defect in the proceedings for their issuance, sale or delivery and shall be incontestable in the hands of bona fide purchasers or holders for value. (Code 1968, § 8-8-4.)

Sec. 22-42. Terms; conditions generally.

Except as otherwise provided, any special assessment bonds authorized to be issued shall bear such date, shall mature in such denomination at such time or term, or serially at such time, not exceeding the estimated life of the improvements acquired with the bond proceeds and in any event not more than twenty years from the date of issuance, shall bear interest payable annually, or at such lesser interval or as may be prescribed by ordinance, at such rate not greater than eight percent per annum, shall be payable in such medium of payment at such place within or without the state, and at the option of the council may be in one or more series, may be made subject to prior redemption in advance of maturity at such time with or without the payment of such premium not exceeding five percent of the principal amount of each bond so redeemed, except as provided by this division, may provide for the payment of interest thereon from the proceeds thereof for a period not to exceed three years from the date thereof, may be issued with privileges for registration for payment as to principal or interest, or both, and generally shall be issued in such manner, in such form, with such recitals, terms, covenants and conditions and with such other details as may be provided by the council in the ordinance authorizing the bonds, except as otherwise provided. Except for payment provisions specifically provided in this chapter, such bonds and any interest coupons attached thereto shall be fully negotiable within the meaning of and for all

the purposes of the negotiable instruments law. (Code 1968, § 8-8-5.)

Sec. 22-43. Use of proceeds; validity not dependent on acquisition proceedings, etc.

All monies received from the issuance of any bonds authorized by this article shall be used solely for the purpose for which issued, including, without limiting the generality of the foregoing, the payment of preliminary expenses incurred in connection with such purpose, the payment of interest on such bonds for a period not to exceed three years from the date thereof and all other incidental expenses; provided, that any unexpended balance of such bond proceeds remaining after the completion of the acquisition or improvement of the project or service for which such bonds were issued shall be paid immediately into the fund created for the payment of the principal of such bonds and shall be used therefor. The validity of such bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project or service for which the bonds are issued. The purchaser of the bonds shall in no manner be responsible for the application of the proceeds of the bonds by the city or any of its officers, agents and employees. (Code 1968, § 8-8-7.)

Sec. 22-44. Calling in by director of finance.

Whenever considered advisable by the director of finance he may, and whenever funds may be in his hands to the credit of

any local improvement district exceeding the amount of interest on the unpaid principal accruing on the next principal payment date and, if maturing serially, the principal accruing on the next principal payment date, he shall by publication at least once not less than fifteen days prior to the redemption date, in some newspaper of general circulation in the city, call in a suitable number of bonds of such district for payment of the principal amount thereof and accrued interest to the redemption date. After the redemption date so designated interest on the bonds so called shall cease. Nothing contained in this section shall be construed as preventing the city from providing that such bonds shall be redeemed only on interest payment dates. The notice shall specify the bonds so called by number and all such bonds shall be paid in the order designated in the authorizing ordinance. The holder of any bonds may at any time furnish his post office address to the director of finance and in such case a copy of such advertisement shall be mailed by the director of finance to the holder of the bonds called, at such address, within three days of the date of such publication. (Code 1968, § 8-8-8.)

Sec. 22-45. Surplus and deficiency fund generally.

(a) **Excess to be paid into fund.** When all outstanding bonds have been paid in a public improvement district and any money remains to the credit of such district, it shall be transferred to the special surplus and deficiency fund.

(b) **Deficiencies to be paid out of fund.** Whenever there is a deficiency in any

improvement district to meet the payment of outstanding bonds, money to cover such deficiency shall be paid out of such fund, pursuant to section 4, article XIII of the city Charter. (Code 1968, § 8-8-9.)

Sec. 22-46. Rights of holders generally.

(a) **Enumerated.** Subject to any contractual limitations binding upon the holders of any issue or series of bonds or trustee therefor including but not limited to the restriction of the exercise of any remedy to a specified proportion, percentage or number of such holders, any holder of bonds or trustee therefor shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(1) By mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the city and its council and any of its officers, agents and employees and to require and compel the city or its council or any such offices, agents or employees to perform and carry out its and their duties, obligations or other commitments under this article and its and their covenants and agreements with the bondholders.

(2) By action or suit in equity to require the city and its council to account as if they were the trustees of an express trust.

(3) By action or suit in equity to have appointed a receiver, which receiver may take possession of any accounts and may collect, receive and apply all revenues or other monies pledged for the payment of the bonds in the same manner as the city itself might do.

(4) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

(5) To bring suit upon the bonds.

(b) Remedies not exclusive; failure to prosecute remedy not to relieve city, etc.

No right or remedy conferred by this article upon any holder of bonds or any trustee therefor is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by the city Charter or by any other law. The failure of any bondholder to proceed as provided by this section shall not relieve the city, its council or any of its officers, agents and employees of any liability for failure to perform or carry out any duty, obligation or other commitment. (Code 1968, § 8-8-10.)

Sec. 22-47. Preliminary expenses.

The city may provide for the payment of all necessary preliminary expenses actually incurred in the making of surveys, estimates of costs and revenues, the employment of engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the making of notices, taking of options and all other expenses necessary or desirable to be made and paid prior to the authorization for or the issuance of such bonds; provided, that no such expenditures shall be made or paid unless an appropriation has been budgeted and made therefor in the same manner as is required by law, or unless other monies are available to

defray such expenses. Any funds so expended by the city for preliminary expenses incurred in connection with the same purpose as that for which bonds are issued may be fully reimbursed and repaid to the city out of the proceeds derived from the issuance of such bonds, in which case such expenses shall be included as an incidental cost for assessment purposes. The amount so advanced by the city to pay such preliminary expenses may, by an ordinance authorizing the issuance of such bonds, be made a first charge against such bond proceeds until the same has been repaid, and, in such event, such amount shall be paid therewith before any other disbursements are made therefrom. (Code 1968, § 8-8-11.)

Sec. 22-48. Refunding.

(a) **Permitted.** Any bonds issued under this article may be refunded pursuant to an ordinance to be adopted by the council in the manner provided for the issuance of other bonds.

(b) **Security.** Refunding bonds so issued may be secured in such manner and may be made payable from such sources as was provided in the ordinance authorizing their issuance; provided, that the security for the payment of the refunding bonds shall not be greater than the security for the payment of the bonds refunded, nor shall there be pledged for the payment of the refunding bonds revenues which are not pledged for the payment of the bonds refunded.

(c) **Sale or exchange.** Refunding bonds so issued may be sold at public or private sale or may be exchanged dollar for dollar for the bonds to be refunded.

(d) **Escrow for proceeds of sales.** If sold, the proceeds of sale may be escrowed for the payment of the bonds to be refunded in such manner as may be provided in the ordinance authorizing the refunding bonds.

(e) **When bonds are refundable.** No bonds may be refunded under this article unless they either mature or are callable for redemption under their terms within twelve months from the date of issuance of the refunding bonds, or unless the holders thereof voluntarily surrender them for exchange or payment. (Code 1968, § 8-8-12.)

Article VI. Levy and Collection of Assessments Generally.

Sec. 22-49. Preparation of statement of costs and assessment rolls.

(a) **Statement of costs.** Upon the completion of any local improvement in any district, or in case of assessment units of sewers, upon completion from time to time of a project in any assessment unit or any part of sewers affording complete drainage for any part of the district, upon the acceptance thereof by the city council or whenever the total cost of such improvement, or any of such part of sewers can be definitely ascertained and upon the council's determination to assess all or a part of the cost thereof, the director of public works shall prepare a statement showing the total cost of the improvement, or of any part thereof, including, without limiting the generality of the foregoing, the cost of constructing or otherwise acquiring such improvement, engineering and clerical service

and supplies, cost of inspection, cost of collecting assessments, advertising, printing, interest on bonds until interest on assessments is available to defray such, fiscal services, legal services for preparing proceedings and advising in regard thereto and other incidental costs.

(b) **Assessment roll.** The director of public works also shall prepare an assessment roll which shall contain among other things:

(1) The names of the last known owners of the property to be assessed, or if not known that the name is unknown.

(2) A description of each tract or parcel of land to be assessed, and in the case of street or other railway company a general description of the franchise and property thereof assessed.

(3) The amount of the assessment thereon.

The council shall order the director to certify, and he shall certify, the assessment roll to the city council by filing the same in the office of the city clerk when the roll is to be prepared. (Code 1968, § 8-9-1.)

Sec. 22-50. Hearing upon assessment roll.

(a) **Council to fix time and place.** When the assessment roll is certified and filed, the city council shall fix a time and place when objections or remonstrances thereto by the owners of such real estate to be assessed, street or other railway companies and all interested persons will be heard.

(b) **Notice.** The city clerk shall, after the fixing of the time and place for such hearing, give notice of such hearing by

publication once a week for two consecutive weeks by two weekly insertions, the first publication to be not more than thirty nor less than fifteen days prior to the hearing, in a newspaper of general circulation in the city, and by mailing notice, postage prepaid, as first class mail, at least fifteen days prior to such hearing, to the last known address of each last known owner of land within the district whose property will be assessed for the cost of the improvements, such addresses and owners being those appearing on the real property assessment rolls for general, ad valorem, taxes of the county where such property is located. The notice shall state:

(1) That such assessment roll is on file in the city clerk's office.

(2) The date of filing such assessment roll.

(3) The time and place, when and where the city council will hear and consider objections and remonstrances to the assessment roll and to the proposed assessments by the parties thereby aggrieved.

(c) Filing of objections by owners, etc. The owner of any property which is assessed in such assessment roll, such street or other railway company or other interested persons, whether named in such roll, may, within twelve days from the first publication of such notice, file with the city clerk any specific objections in writing. Any objection to the regularity, validity and correctness of the proceedings of such assessment roll, of each assessment contained therein and of the amount levied on each tract and parcel of land shall be deemed waived unless

presented in writing at the time and in the manner specified by this chapter.

(d) Hearing of objections; consideration of objections, etc., by council; decision of council. At the time and place designated for hearing such objections, the city council shall hear and determine all written objections or remonstrances which have been filed by any party interested to the regularity of the proceedings in making such assessment, the correctness of such assessment or of the amount levied on any particular tract or parcel of land to be assessed. The council shall have the power to consider any other matter concerning the validity of any assessment and the power to adjourn such hearing from time to time. After the hearing has been concluded, after all written complaints, remonstrances and objections have been read and duly considered and after all persons desiring to be heard in person have been heard the council shall consider the arguments, if any, and any other relevant material put forth. Thereafter, the council by resolution shall have power, in its discretion, to revise, correct, confirm or set aside any assessment and to order that such assessment be made de novo. (Code 1968, § 8-9-2.)

Sec. 22-51. Ordinance levying assessment.

(a) Required. The council by ordinance shall, by reference to the assessment roll, if modified and as confirmed by such resolution, levy the assessments in such roll.

(b) To be final determination. Such decision, resolution and ordinance shall be a final determination of the regularity,

validity and correctness of the proceedings of such assessment roll, of each assessment contained therein and of the amount levied on each tract and parcel of land. That determination by the council shall be conclusive upon the owners of the property assessed.

(c) **Statement of provisions of section 22-52.** The ordinance also shall state substantially the provisions in section 22-52. (Code 1968, § 8-9-2.)

Sec. 22-52. Statute of limitations on actions to correct or set aside assessment.

Within the fifteen days immediately succeeding the publication after its final passage of any ordinance levying any special assessments, any person who has filed a written objection or remonstrance shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of the proceedings of such assessment roll, of each assessment contained therein and of the amount levied on each tract and parcel of land shall be perpetually barred. (Code 1968, § 8-9-2.)

Sec. 22-53. Liens.

(a) **Effective date.** All assessments made pursuant to this chapter shall be a lien from the date of its publication after final passage in the several amounts assessed against each tract or parcel of land and the property of any street or railway company assessed from the date of the publication after final passage of the assessing ordinance.

(b) **Persons, etc., exempted.** A lien

shall not, however, attach to any tract or parcel of land so assessed which is owned by the state or any agency, instrumentality or corporation thereof, any county, municipality, school district, special or quasi-municipal district, other political subdivision or private corporation operating a public utility.

(c) **Attachment in subdivisions.** As to any subdivision of any real estate assessed pursuant to this chapter, the assessments shall in each case be a lien upon all the subdivisions in proportion to their respective shares, except for real estate owned by such a public corporation or privately owned public utility.

(d) **Priority.** The lien for each such assessment shall be prior and superior to all other liens, claims, encumbrances and titles, whether prior in time or not, and shall constitute such a lien until paid except as follows:

(1) Any assessment lien shall be subordinate and junior to any lien for general, ad valorem, taxes and shall be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(2) Any assessment lien on any tract or parcel of land shall be prior and superior to any assessment lien thereon subsequently levied. (Code 1968, § 8-9-3.)

Sec. 22-54. Effect of delays, errors, etc.

No delays, mistakes, errors, defects or irregularities in any act or proceeding authorized by this chapter shall prejudice or invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings as

the case may require, and when so remedied the same shall take effect as of the date of the original act or proceedings. (Code 1968, § 8-9-3.)

Sec. 22-55. Reassessments on finding assessment invalid.

If in any court of competent jurisdiction, any final assessment made pursuant to this chapter is set aside for irregularity in proceedings, the council may, upon notice as required in the making of an original assessment, make a new assessment in accordance with the provisions of this chapter. (Code 1968, § 8-9-3.)

Sec. 22-56. Completion and extension of assessment roll from assessment ordinance.

The director of finance shall from the assessing ordinance complete and extend the assessment roll by showing, in suitable columns after each piece of real estate and railway company assessed and after the total amount of the assessment for each piece of real estate and railway company, the amounts of each installment of principal and interest, if pursuant to this article the same is payable in installments, and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount or of any installment or penalty. (Code 1968, § 8-9-4.)

Sec. 22-57. Payments—When due; installment payments generally.

All assessments made pursuant to this article shall be due and payable without

demand within thirty days after its publication upon its final passage.

All such assessments may at the election of the owner be paid in installments with interest.

Failure to pay the whole assessment within such period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons electing to pay in installments shall be conclusively considered and held as consenting to such improvements, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power or jurisdiction of the city to construct or otherwise acquire the improvements, the quality of the work, the regularity or sufficiency of the proceedings of the validity or correctness of the assessment.

The owner of any piece of real estate may at any time pay the whole unpaid principal with the interest accrued to the next interest payment date, together with penalties if any, and either without or with the payment of any prepayment premium not exceeding five per centum of the unpaid principal so prepaid, as the council may provide according to sections 22-50 and 22-51 of this Code. Subject to the foregoing provisions all installments both of principal and interest, shall be payable at such times as may be determined in and by section 22-50. (Code 1968, § 8-9-5; Ord. No. 497, § 3.)

Sec. 22-58. Same—Effect of failure to pay.

Failure to pay any installment, whether principal or interest, when due

shall, ipso facto, cause the whole amount of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent per month or fraction of a month until the day of sale, not exceeding, however, at any time a total interest amount due of thirty percent of the principal amount of the assessment, i.e., the time of the issuance of a delinquency certificate, plus two percent additional on unpaid principal and accrued interest as penalties, plus costs of collection. At any time prior to the day of sale, the owner may pay the amount of delinquent installments with accrued interest at one percent per month, or fraction of a month, and all penalties and costs of collection accrued and shall thereupon be restored to the right to pay in installments in the same manner as if default had not been made. (Code 1968, § 8-9-6.)

Sec. 22-59. Same—Payment by installment.

(a) **Number and frequency.** In case of such election to pay in installments, the assessment of the principal shall be payable in not less than two or more than fifteen substantially equal annual installments, or not less than four nor more than thirty substantially equal semi-annual installments.

(b) **Payment of interest.** The interest in all such cases on the unpaid principal shall be payable annually or semi-annually at a rate not exceeding eight percent per annum, but not less than the highest interest rate borne by the bonds of the local improvement district. The

number of installments, assessments, period of payment and rate of interest may be determined by the council.

(c) **Power of council to set first payment.** Nothing contained in this section shall be construed as limiting the discretion of the city council in determining the time the first installment of principal or interest, or both, shall become due. (Code 1968, § 8-9-7.)

Sec. 22-60. Same—Payment within thirty days without penalty or interest; notice of payment dates and places.

(a) Payments may be made to the director of finance at any time within thirty days after the final publication of the assessing ordinance without penalty or the payment of interest.

(b) The director of finance shall give notice by publication in at least one newspaper of general circulation in the city, at least once a week for two consecutive weeks by two weekly insertions, the first publication to be at least twenty days before the end of such thirty-day period, of the place of payment and the time for it to close. Before any installment payment date such a notice shall also be so published. The failure of the director to publish such notice or to do any other act or thing required by this section shall not affect such assessment or any installment thereof, nor extend the time for payment thereof, but shall subject the director to liability to the property owner for any damage he may sustain by reason of such failure. Such other notice may be given as deemed

desirable by the city council, city manager or director of finance. (Code 1968, § 8-9-8)

**Article VII. Collection of
Delinquent Assessments.**

**Sec. 22-61. Notation of delinquency
and interest thereon by
director of finance.**

As soon as any assessment or installment thereof of any local improvement district becomes delinquent, the director of finance shall mark the same as delinquent on the assessment roll and, in addition to the amount of unpaid principal shown on such assessment roll and accrued interest thereon to the date of delinquency, shall note on the roll the accrual of interest at the penalty rate provided by this chapter plus the two percent penalty and costs of collection. (Code 1968, § 8-10-1.)

**Sec. 22-62. Delinquency
certificates—
Preparation and
issuance; effect; contents;
records.**

Within ten days after a delinquency has been noted by the director of finance as provided in section 22-61, the director of finance shall prepare and issue to the city a delinquency certificate to the property included in each such delinquent assessment, which certificate shall have the force and effect of a sale of such property to the city for the amount thereof.

Such certificate shall be dated as of the time such assessment or installment became delinquent and shall be for the amount of the unpaid principal and the

accrued interest to the date of delinquency, plus any accrued interest after such date on such principal, and accrued interest at the penalty rate, as well as the penalty charged thereon, and collection costs. Such certificate shall contain besides the description of the property sold, the name of the person assessed, if known, or if unknown, that fact, the amount of the unpaid principal of the assessment and the accrued interest to the date of delinquency, plus the rate of penalty interest and the penalty thereon, the number of the assessment, the name of the improvement district in which assessed and the date when such certificate will go to deed.

Such certificate shall be made in duplicate, bound together in books in numerical order and filed in the office of the director of finance. (Code 1968, § 8-10-1.)

**Sec. 22-63. Same—Local
improvement district
delinquency certificate
register.**

(a) **Entry of delinquency certificates.** Within twenty days after preparing and issuing any delinquency certificate for any tract or parcel of land the director of finance shall enter the same in a book to be kept by the director known as "Local Improvement District Delinquency Certificate Register."

(b) **Contents.** Such register shall contain, in proper columns, the number of the assessment, the name of the district in which assessed, the name of the person to whom assessed, if known, the description of the property sold, corresponding with the description in the certificate and the

assessment roll, the amount of assessment and interest and the rate of penalty interest and penalty. The director must regularly number each entry in such register on the margin of such book and put a corresponding number on each original and duplicate delinquency certificate. Such register must contain blank spaces following each entry of a delinquency certificate therein, in which may be entered the name of an assignee thereof, the date of such assignment and the amount paid the assignee, the name of a redemptioner thereof, the date of such redemption and the amount paid by such redemptioner.

(c) **To be part of records of director of finance.** Such book or register shall be retained by the director of finance and become a part of the records of his office.

(d) **Period in which purchase of certificate may occur.** From and after entry in such register and until two years from its date, any such certificate, unless redeemed, may be purchased from the director in the manner provided by this chapter. (Code 1968, § 8-10-2.)

Sec. 22-64. Same—Purchase and assignment generally.

Whenever any person tenders to the director of finance in cash the amount of any delinquency certificate, i.e., the unpaid principal and accrued interest to the date of delinquency, and interest thereon at the rate of one percent per month from date of such certificate to the end of the month in which such purchase is made, not exceeding, however, at any

time a total interest amount due of thirty percent of the principal amount of the assessment, together with penalties and costs of collection, the director shall assign such delinquency certificate to the purchaser by making and executing for and on behalf of the city the blank assignment on both the original and duplicate thereof and shall deliver the original certificate so assigned to the purchaser. Thereafter the director shall immediately make the proper entries showing such assignment in the local improvement district delinquency register. (Code 1968, § 8-10-3.)

Sec. 22-65. Same—Form of assignment.

The assignment of delinquency certificates as provided by section 22-64 must be substantially in the following form and endorsed on the certificate:

**ASSIGNMENT BY
DIRECTOR OF
FINANCE**

State of Colorado) ss.
City of Cortez)

For and in consideration of the sum of \$____ paid to said City, the receipt whereof is hereby acknowledged, I do hereby assign to _____ whose post office address is _____ all the right, title and interest of the said City in and to the within and foregoing delinquency certificate.

In witness whereof, I have hereunto
set my hand at Cortez, Colorado,
this ____ day of _____, 19__.

Director of Finance
City of Cortez, Colorado
(Code 1968, § 8-10-4.)

Sec. 22-66. Same—Assignment by purchaser.

(a) A delinquency certificate purchased pursuant to the provisions of this article may be assigned by the purchaser; provided, that such assignment must be attached to the original delinquency certificate and a duplicate of such assignment must be delivered to the director of finance who must attach the same to the duplicate delinquency certificate in his office.

(b) The assignment of any delinquency certificate by the purchaser thereof or any assignee of such purchaser must be executed in duplicate and acknowledged as provided by law in the conveyance of real property. Such assignment must be substantially in the following form:

For value received, I hereby assign to _____ whose post office address is _____, all my right, title and interest in and to delinquency certificate No. _____, issued by the Director of Finance of Cortez, Colorado, on account of delinquent local improvement district assessments for the year 19____, on the property described in said certificate.

In witness whereof, I have hereunto

set my hand this ____ day
of _____, 19____.

(acknowledgment)
(Code 1968, § 8-10-4.)

Sec. 22-67. Redemption of property generally.

(a) **Payment required.** At any time within two years from the date of any delinquency certificate, the owner of the property described therein, or anyone on his behalf, may redeem such property by paying to the director of finance the amount stated in such certificate, i.e., the unpaid principal and accrued interest to the date of delinquency, together with interest thereon or thereafter at the rate of one percent per month or fraction thereof from date thereof to the last day of the month in which such redemption is made, not exceeding, however, at any time a total interest amount due of thirty percent of the principal amount of the assessment, plus the two percent penalty and any costs of collection.

(b) **Issuance of redemption certificate.** Thereupon the director of finance shall issue to the redemptioner a certificate of redemption which shall state the name of the redemptioner, the date of redemption, the number of the certificate so redeemed, the description of the property contained therein and the name of the district for which such certificate was issued.

(c) **Notations to be made by director of finance.** In case such certificate has not been assigned, the director shall note upon the original and duplicate delinquency certificate and, if assigned, upon

the duplicate certificate the fact that the same has been redeemed and the date of redemption. The director shall also note the redemption upon the local improvement delinquency certificate register.

(d) Disposition of monies received. The money received from the redemption of any property described in a certificate which has been assigned shall be deposited by the director of finance to the credit of the person named in the last assignment of such certificate.

(e) Notice to assignees; reimbursement of assignees. The director shall thereupon give notice to such person, at the address shown by the record, of such deposit. Such person shall thereafter be paid the same by the director upon surrender of such certificate to the director who shall mark the same "paid" and hold it as a voucher. (Code 1968, § 8-10-5.)

Sec. 22-68. Issuance of deed on unredeemed property.

If the property described in any delinquency certificate is not redeemed within two years from the date thereof, the director of finance, after having given the notice required by this article, shall issue a deed thereto to the city or, if the same has been assigned, to the person holding the original delinquency certificate under assignment upon request therefor and upon the delivery to the director of such original certificate and filing proof of having given the notice as required by the director before making a deed to the city. Such deed shall recite substantially the matter contained in the certificate and that no person redeemed the property within the time allowed by law for its redemption. It shall be signed and

acknowledged by the director of finance in the manner required by law to entitle the same to be recorded under the laws of this state. (Code 1968, § 8-10-6.)

**Sec. 22-69. Notice before expiration of redemption period—
Required; contents.**

(a) The director of finance shall, at least one month and not more than three months before the expiration of the time of redemption of any property, serve or cause to be served, a written, printed or partly written and partly printed notice on the person in the actual possession or occupancy of such land or lots, and shall also, within the same time, serve upon or mail postage prepaid by first class, to the person in whose name the same stands upon the real property assessment rolls for general, ad valorem, taxes of the county where such property is located, at the address stated therein, a copy of such notice.

(b) Such notice shall state when the delinquency certificate was made, in whose name the property was assessed, the description of the land or lots, the name of the local improvement district for which assessed and the amount of the unpaid principal and accrued interest to the date of delinquency, plus the rate of interest thereafter, the maximum amount of unpaid interest, the two percent penalty and any costs of collection. Such notice shall also state when the time of redemption will expire.

(c) The director of finance shall at the same time send a similar notice by mail to each mortgagee or other holder of a recorded lien against such land in each case where such mortgagee or lien holder

has previously filed in the office of the director of finance a written request for such notice and paid the fee therefor. Such request shall include the name and address of the mortgagee, the name of the reputed owner of the land, a description of the land and the date of the expiration of the mortgage or lien. No notice need be sent after the date of expiration, unless a further request therefor is duly filed. If the mortgagee or lien holder furnishes a duplicate request form for that purpose the director shall certify thereon to the filing of the request and deliver the same to the party filing it.

(d) If there is no person in the actual possession or occupancy of such land or lot and if the person in whose name it stands, upon diligent inquiry, cannot be found in the state, the director shall, within the same time, post or have posted, in a conspicuous place upon such land or lots and in a substantial manner, a copy of such notice. (Code 1968, § 8-10-7.)

Sec. 22-70. Same—Affidavits of compliance required.

The director of finance shall, before issuing any deed to the city, make and file his affidavit showing full compliance with the requirements of the preceding section as to giving notice of the expiration of the period of redemption.

Before issuing a deed to the holder of any delinquency certificate, the director shall require that affidavits be filed showing a complete compliance with the provisions of the previous section as to giving such notice. Such proof shall be filed in the office of the director of finance and remain a permanent record

in such office. Any person making a false affidavit as to any fact required by this section shall be guilty of perjury. (Code 1968, § 8-10-8.)

Sec. 22-71. Recitation of delinquency certificate matters in deed; evidentiary status of acknowledged or proved deed.

The matters recited in the delinquency certificate must be recited in the deed and such deed duly acknowledged or proved and shall be prima facie evidence that:

(a) The improvement district was created, the assessment made and the work and improvement done in the manner provided by law.

(b) All notices were given, all hearings were had, orders were made and ordinances were passed and adopted as required by law and that all proceedings up to the execution and delivery of such deed were done in the manner required by law.

(c) The assessments were not paid, that the delinquency entries were properly made and delinquency certificate properly issued, as prescribed by law, and by the proper officer.

(d) The property was not redeemed, the notice required to be given before deed was taken was properly given as required by law and the person who executed the deed was the proper officer. (Code 1968, § 8-10-9.)

Sec. 22-72. Fees to be received by director of finance.

(a) The director of finance shall receive the following fees which, when

paid, shall be credited to the general fund of the city:

(1) For issuing any delinquency certificate, twenty-five cents, to be included in the amount of the certificate.

(2) For making any deed, one dollar, to be paid by the person to whom made.

(3) For giving notice to a mortgagee or lien holder, fifty cents, to be paid by such person.

(4) For giving notice of expiration of period of redemption, one dollar.

(b) In all cases where the property is deeded to the city the fees shall be charged to the amount for which the deed is taken and upon the sale of the property, or the sale of the delinquency certificate, shall be paid. (Code 1968, § 8-10-10.)

Sec. 22-73. Quiet title actions.

Whenever the necessary costs and attorney's fees have been advanced by the holders of the bonds of the district or any prospective purchaser or other person, it shall be the duty of the council to cause the city attorney to commence suit to quiet title to the property described in such deed in the name of the city and to secure the possession of the property; provide property described in any number of tax deeds made to the city and against any number of owners of property may be included in the same suit. (Code 1968, § 8-10-11.)

Sec. 22-74. Sale of property acquired by city under article—Generally.

(a) **Authority of city.** At any time after acquiring title and possession of any property as provided by this division, the

city may sell such property to any purchaser upon receiving therefor a sum not less than the amount for which the property was sold to the city.

(b) **Purchaser to take subject to taxes and assessments.** The purchaser shall take such property subject to any unpaid general taxes and assessments.

(c) **Execution and issuance of deed.** When such purchase is made and the money paid therefor, the city shall issue a deed to the purchaser signed by the mayor, attested by the city clerk and countersigned by the director of finance. Such deed shall be executed and acknowledged in the manner required by law to entitle the same to be recorded under the laws of this state. (Code 1968, § 8-10-12.)

Sec. 22-75. Same—Procedures.

(a) **Time for appraisal and sale; notice required.** Within thirty days after the maturity of the last installment of any issue of bonds of a local improvement district, if any such bonds or interest coupons remain unpaid, any property remaining unsold, to which the city has taken title by reason of assessments of such improvement district, shall be appraised and immediately after such appraisal such property shall be offered for sale by giving notice of the time and place of sale by publication of such notice in a newspaper of general circulation in the city, at least once a week for three consecutive weeks by at least three weekly insertions therein, the date of sale to be not less than twenty-five days from the date of the first publication of such notice.

(b) **Offer for sale; minimum price**

required for sale. At the time and place designated in the notice the director of finance shall offer such property for sale to the highest bidder, but no sale shall be made for less than the appraised value.

(c) **Readvertisement on receipt of inadequate bids.** If no bid is received for a sum equal to or greater than the appraised value, the sale may be postponed for not to exceed thirty days. Such property shall be readvertised and, at the time to which such sale was postponed, shall again be offered for sale and sold to the highest bidder.

(d) **Issuance of deed.** Upon the sale of any property and the payment therefor a deed shall be executed to the purchaser in the same manner as provided for the execution of deeds in section 22-74. (Code 1968, § 8-10-13.)

Sec. 22-76. Same—Disposition of money received generally.

All money received by the director of finance on account of the payment of assessments or installments thereof, the assignment or redemption of delinquency certificates, for rents, issues and profits, from the sale of any property, title to which is held by the city for the benefit of any local improvement district, less any expenses of securing possession of such property or for the care, operation and sale of the same shall be deposited to the credit of the interest and bond fund of the local improvement district in the same proportion as the assessment or installments for which the property was taken. Any money left in a local improvement district bond fund or any money derived from the rental or sale of any real property acquired by the city through sale for delinquent assessments or installments shall, after all warrants, bonds and coupons of such district have been paid in full, be credited to the special surplus and defi-

ciency fund of the city. (Code 1968, § 8-10-14.)

Sec. 22-77. Same—Payment of liens.

The city may use any available funds for the satisfaction of any lien prior in right to any special assessment lien created by the city. In the resale of any property to which the city has acquired title, the city shall use its best efforts to sell the property for an amount at least equal to the funds so used plus the amount necessary to satisfy the special assessment lien created by the city, principal, interest penalties and collection costs. The monies received from such a resale in payment for the property shall be used first to satisfy such special assessment lien and thereafter to restore to the fund from which any such prior lien was satisfied. Pursuant to section 5, article XIII of the City Charter, and in accordance with the provisions of this chapter, the city is authorized to acquire and dispose of property on which there are delinquent taxes, special assessments or both. (Code 1968, § 8-10-15.)

Sec. 22-78. Same—Prohibited while court suit pending.

No certificate of delinquency as provided for by this article shall be assigned nor any property to which the city has a deed sold, on account of any assessment or installment thereof, during the pendency of any proceedings in court affecting the validity of such assessment. (Code 1968, § 8-10-16.)

Article VIII. Construction and Design Standards.

Sec. 22-79. Adoption by reference.

There is adopted by reference, pursuant to article III, section 11 of the Charter of the city, a certain construction design stan-

dards ordinance prepared by the Cortez planning and zoning commission. (Ord. No. 546, § 1.)

Sec. 22-80. Summary.

Said ordinance provides in part for definitions, abbreviations, symbols, plans and specifications, plan revisions, as-built plans, general construction criteria, permits, excavation, backfilling and restoration, underground warning tape, protection of existing improvements, inspection and testing, and design materials, and methods for streets, water systems and sewer systems. (Ord. 546, § 2.)

Sec. 22-81. Copies on file.

Three true, official, complete and full copies of this ordinance are on file in the office of the city clerk of the city, and may be examined, copied or reproduced by any interested person during regular business hours of the city clerk's office. (Ord. No. 546, § 3.)

Sec. 22-82. Penalty.

It shall be unlawful to erect, construct, reconstruct, alter or repair any item listed in the construction design standards ordinance in violation of any provision of this ordinance or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this ordinance, shall be guilty of a misdemeanor, and shall be punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 546, § 4; amended by memo 3519.)
(Ord. No. 1170, § 27, 9-25-12)

Article IX. Alternate Method of Constructing Public Improvements.

Sec. 22-82.1. Alternate method.

Notwithstanding any provision of this Code to the contrary, the council may es-

tablish public improvement districts, construct improvements, issue special assessment bonds, and levy and collect special assessments in accordance with this article. The provisions of this article shall apply without regard to the provisions of articles I through VIII of this chapter 22; provided, however, that this article shall be an alternate method of accomplishing its objects, and shall not be deemed to impair or affect any other power or authority of the city, including without limitation articles I through VIII of this chapter 22. (Ord. No. 604, § 1.)

Sec. 22-82.2. Reimbursement agreements.

The creation of a reimbursement agreement for the construction, installation, and acquisition of a public work or improvement therein, the costs of which, in whole or part, may be recovered by the initial developer of said improvement via a reimbursement agreement shall be as specified in the city of Cortez Land Use Code, chapter 6, section 27. (Ord. No. 1116.)

Sec. 22-83. Application of state law.

The provisions of title 31, article 25, part 5, Colorado Revised Statutes, and all future amendments thereto, pertaining to special improvement districts in municipalities, and the provisions of title 11, article 57, part 1, Colorado

Revised Statutes, and all future amendments thereto, pertaining to the issuance of public securities, shall apply to public improvement districts within the city and to the issuance of special assessment bonds, and the city shall be vested with all the rights, powers, and authority conferred thereby; provided, however, that the provisions of said Title 31, Article 25, Part 5, Colorado Revised Statutes, and all future amendments thereto, shall be modified and supplemented by the provisions of this Article. (Ord. No. 604, § 1.)

Sec. 22-84. Initiation of public improvement district upon recommendation of director of public works.

The creation of a public improvement district, and the construction, installation, and acquisition of a public work or improvement therein, the costs of which, in whole or in part, are to be assessed against property owners by the city, may be initiated by the council on recommendation of the director of public works. (Ord. No. 604, § 1.)

Section 22-85. Initiation of public improvement district by property owner petition.

(a) The creation of a public improvement district, and the construction, installation, and acquisition of a public work or improvement therein, the costs of which, in whole or in part, are to be assessed against property owners by the city, may be initiated by the council on petition of the property owners to be assessed for not less than a majority of the entire costs estimated to be assessed. A

petition shall not be held invalid solely because actual costs to be assessed differ from estimated costs in the petition so that the petition was signed by less than the property owners to be assessed for a majority of the actual costs. If the property is owned by a corporate, governmental, or other such entity, the person or persons with the authority to contractually bind such entity shall be considered the property owner for the purpose of signing a petition.

(b) If a proposed public improvement district initiated by property owner petition includes two or more noncontiguous parcels, the petition must be subscribed by the property owners in each such parcel in accordance with subsection (a) hereof.

(c) A property owner petition for a proposed public improvement district should contain the signature of the property owner, the percentage of the cost to be borne by the property owner, the requested method of assessment, a description of the improvement petitioned for, a description of the property to be included within the district, and any other matters which may be necessary or appropriate; provided, however, that the council may accept a petition not in conformance with this subsection (c) where it is determined that the petition complies with subsections (a) and (b) hereof.

(d) Upon receipt of a property owner petition, the council may elect to proceed, at its sole discretion, either under this Article or under Article II of this Chapter 22, regardless of any provision in the petition to the contrary.

(e) The council need not proceed with

the creation of a public improvement district initiated by property owner petition or the acquisition of any improvement or any part thereof after holding a hearing thereon, if the council determines that it is not in the public interest that the proposed improvement or part thereof, be constructed. Any particular kind of improvement, material therefor, or part thereof need not be acquired or located, as provided in the petition, if the council determines that such is not in the public interest. The council need not take any proceedings or action upon receiving any such petition if the council determines by resolution that the acquisition of the designated improvement probably is not feasible for the reason stated in such resolution.

(f) Upon receipt of a property owner petition, the council may, in its sole discretion, require the petitioners to make a cash deposit or pledge other security to defray the costs incurred by the city in connection with the improvement set forth in the petition. Failure to provide such security shall be grounds for rejection of the petition. Additional security may from time to time be similarly required as a condition precedent to continuation of action by the city. The cash so deposited or security so pledged may be nonrefundable at the council's option. (Ord. No. 604, § 1.)

Sec. 22-86. Limitation of actions.

Any person filing with the council prior to or at the time of the hearing on the creation of the district, a written complaint, protest, or objection, shall have

the right, within thirty days after final passage of the ordinance creating the district, to commence an action or suit based on such complaint, protest, or objection, in any court of competent jurisdiction, to correct or set aside any determination of the council, or to question or challenge the authority or proceedings taken by the council relating to the creation of the district, the issuance of bonds, the method of assessment, the estimated amount of any particular assessment, or the construction of improvements. Thereafter, all actions, suits, or proceedings challenging or questioning the validity of the creation of the district, the issuance of bonds, the method of assessment, the estimated amount of any particular assessment, or the construction of improvements, shall be perpetually barred. (Ord. No. 604, § 1.)

CHAPTER 22A.

RECREATIONAL VEHICLES.

- § 22A-1. Definitions.
- § 22A-2. Operation of motorcycles and other recreational vehicular devices.
- § 22A-3. Written permission—Specifically.
- § 22A-4. Parent responsibility.
- § 22A-5. Creating disturbance prohibited.

Sec. 22A-1. Definitions.

(a) **Motor vehicle.** Any self-propelled vehicle which is designated primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways.

(b) **Racing of motor.** Sudden acceleration or deceleration of recreational vehicle.

(c) **Recreational vehicle.** A self-propelled wheeled or tracked vehicle primarily designed to be operated for recreational purposes on land, or on land and water, other than roads or highways. This definition shall include, but is not limited to, motorcycles, motor bikes, motor scooters, motor bicycles, trail bikes, minibikes, tote-goats, dune buggies, go-carts, snowmobiles and all-terrain vehicles.

(d) **Stunting.** Operating a vehicle in a manner causing it to weave or suddenly change course or the loss of body contact with the seat by a driver or passenger and which is not for the purpose of safe operation of such vehicle.

(e) **Touring.** Any repetitious driving in

the same area which causes a disturbance or is done with the intent of calling attention to an operator or recreational vehicle.

(f) **Written permission.** A letter on official stationery of the jurisdiction involved, which sets out the authorization to use specific property for the operation of certain recreational vehicles within the city or a written letter of authorization signed by the owner of private property for the operation of such vehicles on said private property. (Ord. No. 538, § 1.)

Sec. 22A-2. Operation of motorcycles and other recreational vehicular devices.

It shall be unlawful for any person to operate a recreational vehicle in any of the following places without first obtaining written permission or authorization hereinafter required:

(a) On any property owned by the city, other than public streets and parks, except where such operation is specially permitted by written order of the city manager or his designated representative;

(b) Upon or within any city park property or other publicly held or controlled park or recreational property within the city except where such operation is specifically permitted by written order of the director of parks and recreation or his designated representative;

(c) On any Montezuma Valley Irrigation Ditch, right-of-way or easements unless such operation is specifically permitted by written order of the Montezuma Valley Irrigation Company

manager or his designated representative;

(d) On any private property within the city except by the property owner only unless specific written permission has been given by the owner or designated representative of the owner of such property to the individual operating said vehicle. In this case, said property must be conspicuously posted at least every two hundred fifty feet designating said property as recreational vehicle area;

(e) Nothing in this section is intended to prevent the lawful operation of any motor vehicle or recreational vehicle on any public street, highway or alley in accordance with other applicable ordinances of the city or statutes of the state. (Ord. No. 538, § 2.)

**Sec. 22A-3. Written permission—
Specifically.**

When written permission is given for a recreational vehicle area as outlined in subsections (a) to (e) of section 22A-2, said written permission shall set forth the effective date of the use, hours of the use, the name of the property owner or his agent, and any specific conditions attached to the written permission. A copy of the order is to be delivered to the Cortez police department prior to the effective date of the authorization, together with a telephone number where the property owner or his agent may be reached on a twenty-four-hour basis. (Ord. No. 538, § 3.)

Sec. 22A-4. Parent responsibility.

(a) It shall be unlawful for the parent or legal guardian of any person under the age of eighteen to permit such minor to act in violation of the provisions of this chapter.

(b) The parent or guardian shall be deemed equally liable for any violations of any person under the age of eighteen under this chapter. (Ord. No. 538, § 4.)

**Sec. 22A-5. Creating disturbance
prohibited.**

No motorcycle or recreational vehicle shall be operated in any manner so as to cause a disturbance in any area of the city. Touring, stunting or the racing of motors is prohibited in any hospital or nursing home area and in residential areas. (Ord. No. 538, § 5.)

CHAPTER 22B.

REFUSE COLLECTION.

Article I. In General.

§ 22B-1. Definitions.

Article II. Collection.

Division 1. Generally.

- § 22B-2. Responsibility of city.
- § 22B-3. Regulations.
- § 22B-4. Junk and appliances.
- § 22B-5. Hazardous goods.
- § 22B-6. Hazardous wastes.
- § 22B-7. Refuse disposed by actual producers.
- § 22B-8. Responsibility of owner of premises.
- § 22B-9. Fees.
- § 22B-10. Transportation.
- § 22B-11. Dead animals.
- § 22B-12. Construction sites and transportation of materials.
- § 22B-13. Yard waste.

Division 2. Containers.

- § 22B-14. Preparation for collection.
- § 22B-15. Accumulation of refuse.
- § 22B-16. Mobile homes.
- § 22B-17. Certain businesses to provide receptacles.
- § 22B-18. Trash receptacles furnished by city—Determination of necessity.
- § 22B-19. Specifications of use of receptacles.
- § 22B-20. Location; time of placement.
- § 22B-21. Violation—Penalty.

Article I. In General.

Sec. 22B-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings hereinafter set forth.

Ashes means the residue from the burning of wood, coal, coke, or other combustible material.

Bag means a closed container of moisture-resistant plastic, paper or other pliable material which is waterproof and capable of holding solid wastes during normal handling conditions and which is of sufficient strength to contain the contents put into it without breaking or rupturing.

Biodegradable means the natural breakdown of materials within one year or less when placed in a biologically active compost project by the action of living organisms which may be bacteria, fungi and actinomycetes.

Biologically active means an environment of a managed compost project containing the elements of heat, moisture and oxygen.

Brush means a voluntary growth of bushes or similar matter growing out of place in the location where such material is growing, and shall include all cuttings from trees and bushes, as well as high vegetable growth which may conceal filthy deposits.

Combustible trash means paper, cardboard, leaves, straw, grass clippings, sawdust, shavings, small tree and shrub clippings and all similar flammable or combustible material which has been discarded.

Commercial user means any person, firm, or corporation performing any business, occupation or profession. It shall also include buildings or structures used for residential occupancy for three or more

families or groups of individuals living independently of each other in separate apartments.

Garbage means decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food of any kind or character.

Hazardous waste means any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, including, but not limited to, solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis and waste paints and inks.

Hazardous waste shall also be interpreted to include those chemicals, compounds, substances or mixtures defined as such under the subtitle D regulations issued by the U. S. Environmental Protection Agency in 1988 and amendments thereto if effective, and those defined as such under the environmental Response, Compensation and Liability Act (ERCLA).

Litter means scattered refuse or rubbish.

Recyclable material includes, but is not limited to, metals, glass, plastic, and paper products, which are intended for reuse, remanufacture or reconstitution. Recyclable material may include used motor oil collected and transported in accordance with applicable state health and safety regulations.

Refuse means, but shall not be limited to, all decomposed and nondecomposed solid wastes, except sewage and body waste, such as garbage, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, waste cement, waste paper, trash, rubbish, waste or unwholesome material of any kind, street cleanings, litter, dead animals, and industrial wastes except those substances defined as hazardous waste.

Residential user means a dwelling or structure used for residential purposes and containing not more than two families or groups of individuals living independently of each other in separate apartments.

Rubbish means, but shall not be limited to, all nondecomposed solid wastes, excluding ashes, such as vehicle bodies, and solid wastes, combustible and noncombustible wastes such as paper, cardboard, cans, wood, yard clippings, leaves, dirt, grass, bedding material, weeds, litter, crockery, glassware, glass and similar materials.

Ruins means the remains of something collapsed, dilapidated or destroyed.

Sanitation supervisor means any person appointed by the public works director or city manager to perform the duties imposed upon such person by the city code.

Solid waste means solid or semisolid discarded material including, but not necessarily limited to, ashes, combustible trash, garbage, refuse and rubbish.

Weed means an unsightly, useless, troublesome or injurious herbaceous plant when such plant is out of place at the location at which it is growing, and includes all rank vegetable growth which emits unpleasant or noxious odors, as well as high and rank vegetable growth that may conceal filthy deposit.

Wreckage means the broken, disrupted and disordered parts or material from a disabled, collapsed, destroyed or dilapidated structure, vehicle, or other object.

Yard waste means grass clippings, lawn rakings, leaves, garden vegetation, brush and other woods, free of other debris or refuse. (Ord. No. 742 (part).)

Article II. Collection.

Division 1. Generally.

Sec. 22B-2. Responsibility of city.

The city shall make refuse collection and disposal service available to all residents of the city.

Nothing within this article shall preclude such services from being offered to city residents by private businesses involved in the hauling of trash or refuse; provided, however, such private businesses shall comply with the provisions of Section 22B-3, 22B-6, and 22B-9 and such other rules and regulations that the city council may adopt from time to time upon recommendation of the public works director or city manager. Any user charges authorized by the city council pursuant to resolutions enacted under the authority of Section 22B-8 shall not compel industrial or commercial establishments or multifamily residences of eight or more units to use or pay user charges for waste services provided by the city in preference to those services provided by private businesses involved in the hauling of trash or refuse.

The city may make collection of specified recyclable goods available to all residences of the city. At such time as this service is made available by the city, it shall be unlawful for anyone to remove from any container labeled as a "recycling" container, any material of any value, except that city employees may collect that material on behalf of the city. (Ord. No. 742 (part).)

Sec. 22B-3. Regulations.

(a) All refuse accumulated in the city shall be collected and disposed of by the city or by private trash haulers.

(b) No person shall collect, convey over any of the streets or alleys of the city, or dispose of any refuse accumulation within the city except as provided in this article.

(c) The public works director or city manager shall have the authority to make regulations with respect to collection and disposal of refuse by the city, which regulations may pertain to the days of collection, type and location of pickup, and conveyance and disposal of refuse. The public works director or city manager shall have the authority to modify and revoke such regulations, from time to time, subject to review and approval of the city council. When the public works director determines that it is appropriate to do so, he may require the placement of recyclable materials in containers of a specific design and placed at appropriate locations for collection. The public works director shall have the authority to make regulations with respect to the purchase of containers, type of recyclable materials to be collected, frequency of collection or other items related to the collection of recyclable materials.

(d) Nothing within this article shall prohibit the actual producers of refuse or the owners of premises upon which refuse has accumulated from personally collecting, conveying and disposing of such refuse; provided, however, such producers or owners shall comply with the provisions of this article and with any other governing laws, ordinances or regulations, and provided further that such actual producers or owners shall not be exempt from the payment of refuse collection fees unless otherwise specifically provided herein.

(e) Nothing within this section or this article shall prohibit refuse collection outside the city from being transported over

city streets to designated landfills for refuse disposal; provided, however, such collectors and transporters shall comply with the provisions of this chapter regarding the transportation of refuse as well as applicable state and federal law, including requirements relating to the "transportation of hazardous wastes." (Ord. No. 742 (part).)

Sec. 22B-4. Junk and appliances.

It shall be unlawful for any person to place or leave outside any building or dwelling in the city any dilapidated furniture, appliance, machinery, equipment, building material, vehicle or portions thereof, or other items which are either wrecked, junked, dismantled or in inoperative condition, and which are not completely enclosed within a building or dwelling. All such substances shall be prohibited and abated in conformance with Chapter 12 of this Code. This section shall not apply to authorized junk dealers or establishment engaged in the repair, rebuilding, reconditioning or salvage of equipment. (Ord. No. 742 (part).)

Sec. 22B-5. Hazardous goods.

It shall be unlawful for any person to leave outside any building in a place accessible to children any appliance having an airtight snap lock or similar device without first removing the lock or door from such appliance or container. This section shall not apply to any appliance or container which has been placed adjacent to a building and is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. Any such appliance or container shall be kept from public view. (Ord. No. 742 (part).)

Sec. 22B-6. Hazardous wastes.

No person shall place hazardous waste in refuse containers for collection or bury or otherwise dispose of hazardous waste in or on private or public property within the city. Residents may contact the County Health Department for recommendations on disposal of hazardous waste. Highly flammable or explosive materials shall be stored and disposed of in accordance with Cortez Fire Protection District regulations at the expense of the owner or possessor of such materials. In no event shall toxic or flammable liquid or any waste liquid containing crude petroleum or its products be disposed of by discharge into or upon any gutter, street, alley, highway, storm drain, canal, ditch flood control channel, or detention pond, lake or other watercourse or upon the ground. (Ord No. 742 (part).)

Sec. 22B-7. Refuse disposed by actual producers.

(a) The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire to personally collect and dispose of such refuse shall do so in compliance with regulations of the city.

(b) The public works director shall promulgate rules and regulations subject to the approval of the city council concerning individual collection and disposal.

(c) Nothing in this section shall be construed to exempt actual producers of refuse or the owners of premises upon which refuse is accumulated from the fees for refuse collection which are provided for in this article unless otherwise specifically exempted from payment of such fees. (Ord. No. 742 (part).)

Sec. 22B-8. Responsibility of owner of premises.

The owner of the premises, as well as the occupant thereof, shall be responsible for compliance with the terms of this article and liable for any violation thereof. (Ord. No. 742 (part).)

Sec. 22B-9. Fees.

(a) The fees to be charged and collected by the city for refuse collection, the frequency of pickup service to be offered by the city, and the fees to be charged by the city for special services concerning the collection and transportation of refuse shall be determined by the city council. The schedule of fees and frequency of pickups shall be determined and enacted by resolution adopted by the city council, which resolution shall also specify an effective date for the fees and charges specified in the resolution. Such resolution may also specify a minimum residential user charge which charge may be imposed and collected whether the residential property owner actually uses city sanitation services or not. Such charges are hereby determined to be necessary in order to allow the city to provide basic sanitation and trash collection service to the residents of the city, which service promotes the public health, safety and welfare. Said fees shall be subject to any limitation imposed by C.R.S. 30-15-401(7), as amended.

(b) The fees determined by council action in the form of a resolution are hereby assessed against the properties within the city receiving and benefitting from basic refuse collection service. If such fees are not paid within thirty days after normal city billing such services, the amount so assessed shall become a lien upon the proper-

ty receiving or benefitting from such service or upon the property which is subject to a user charge as determined by resolution of the council. Collection of such assessment shall be in the manner provided by law.

(c) Any interruption of sanitation service due to the request of the customer lasting less than twenty-one days shall be deemed to be a continuation of service for the entire month for billing purposes and shall not be subject to a credit against the customer's billing. Interruptions of service requested by the customer in excess of twenty-one days may be adjusted on a customer's billing on a pro rata basis; provided, however, a request for discontinuation of service shall not exempt the owner or occupant of residential premises from any user charges imposed by the city pursuant to the fee resolution duly adopted by the city council.

(d) Fees determined by council action in the form of a resolution may be set so as to encourage the reduction, reuse and/or recycling of materials through a structure which allows for the charging of higher rates or charging of penalties for the collection of more than two container per residential dwelling unit per week. Fees or penalties may be set and collected in a manner established by resolution of the city council.

(e) In the event that any assessment for refuse collection shall be unpaid within five days after the scheduled due date of such assessment, a penalty of ten percent of the total amount of delinquent assessment shall automatically be added to the account and shall become an additional charge against the person to whom such assessments are made. In the event there is more than one delinquent amount due, no more than twenty percent of each delinquent amount may be assessed regardless of the period of time

during which the amount due remains in default. (Ord. No. 742 (part); Ord. No. 895, § 3.)

Sec. 22B-10. Transportation.

(a) Any vehicle used to transport refuse, trash, tree or shrubbery trimmings must have suitable covers to prevent the loss of contents on property or roadways.

(b) It shall be unlawful for any person to drive or move any vehicle upon any public way unless such vehicle is so constructed or loaded as to prevent its contents from dropping, shifting, leaking or otherwise escaping therefrom; provided, however, sand or other abrasives may be dropped for purposes of securing vehicle traction and provided, further, that water, salt or other substances may be sprinkled upon roadways in the course of cleaning, clearing or maintaining such roadways by appropriate city departments. (Ord. No. 742 (part).)

Sec. 22B-11. Dead animals.

(a) No person shall deposit or otherwise place for collection any carcass or portion of any animal, bird, or reptile.

(b) Any person in the city having knowledge of the existence or location of a dead animal, bird, or reptile, shall immediately notify the animal control officer of the location of such dead animal, bird, or reptile and shall provide such additional information as the animal control officer or his designated agent may require.

(c) These provisions shall be interpreted so as to be harmonious with the provision of Chapter 5 of this Code. (Ord. No. 742 (part).)

Sec. 22B-12. Construction sites and transportation of materials.

(a) All persons having secured a building permit from the city shall, prior to the commencement of any construction activity, furnish or place on the premises upon which construction is to occur, a container or fenced-in area of suitable size and design to contain all refuse which might be removed or disturbed from the premises by wind or other elements.

(b) If such container or fenced area is filled, the person securing the building permit shall cause such container or fenced area to be emptied and its contents removed to an appropriate sanitary landfill.

(c) No person shall allow refuse, rubbish or other waste to blow or be carried from the premises for which the building permit is secured.

(d) Persons obtaining proper building permits in accordance with the provisions of subsection (a) of this section and complying with the provisions of this chapter shall be exempt from the payment of a refuse collection fee during the period of construction.

(e) The city shall not be responsible for the collecting or hauling of building materials originating from private property preliminary to, during or subsequent to the construction of new buildings or from the demolition of existing structures. Such materials shall be removed by the owner of the property or by the contractor. Neither a new certificate of occupancy nor a signed final inspection shall be issued or granted by the department of public works until scrap building materials and other refuse have been removed from the premises by the owner or contractor.

(f) Persons engaged in demolition who have obtained a permit from the city must

remove the debris and structural parts resulting from such demolition and contain such materials from scattering in the same manner as set forth above with regard to construction site. The conveyance or transporting of such materials from the site shall be in accordance with existing city ordinances. The removal of demolition debris shall be exempt from refuse collection fees.

(g) Persons mixing concrete or transporting concrete on city streets shall not drop or leave waste concrete upon such streets or upon any property within the city, unless permission of the property owner has first been obtained. No persons shall transport concrete upon the public streets of the city

except in a proper truck or vehicle which prevents spillage or leakage of concrete upon the public streets. (Ord. No. 742 (part).)

Sec. 22B-13. Yard waste.

(a) The city may make collection of yard waste for recycling purposes available to city residences, between April 1st and November 15th of each year. Collection of properly sorted and stored yard waste shall not require the payment of additional fees or penalties. When not properly sorted or stored, the yard waste shall be treated as refuse and fees or penalties as set forth by resolution of the city council shall apply.

(b) Yard waste for collection as recycled goods shall be placed adjacent to the recycling containers in owner-furnished receptacles which are watertight, and are of either a durable grade of plastic, galvanized metal, or other suitable material approved by the director of public works, having a five-gallon to thirty-three-gallon capacity, with lifting handles on opposite sides of adequate size and strength, a tightly fitting cover, and shall be clearly designated with identification indicating "compost," "grass or leaves" or other easily identifiable insignia.

Alternatively, yard waste for collection as recycled goods may also be placed in rigid paper bags or biodegradable/photodegradable polyethylene bags. The paper bags must be a thirty-gallon size and made of recyclable and biodegradable two-ply high strength kraft paper, or equal, having approximate dimensions of sixteen inches by twelve inches by thirty-five inches and printed with the terms or words "compost," "grass and leaves," or other easily identifiable insignia. The biodegradable/photodegradable polyethylene bags must break

down in a period of one year or less when placed in a biologically active compost project, and shall be perforated with approximately three-sixteenths inch punched holes in the top three-fourths of the bag to provide oxygen and moisture to enter the bag. Such bags shall have approximate dimensions of thirty-three inches by forty inches by one-and-five-tenths mil and shall be printed with either the terms or words "compost," "grass and leaves," or other easily identifiable insignia.

(c) Tree trimmings, hedge clippings and similar material, if not in biodegradable bags, shall be cut to length not to exceed four feet and securely tied in bundles not more than two feet thick before being deposited for collection. (Ord. No. 742 (part).)

Division 2. Containers.

Sec. 22B-14. Preparation for collection.

(a) All owners, occupants or other persons in charge of any premises within the city from which refuse is collected, whether by the city or by private collection firms, shall place all garbage, trash, waste or refuse in tied disposable bags or in watertight cans which shall:

(1) Be of sufficient size to hold not less than five gallons (nineteen liters) nor more than thirty-three gallons (one hundred twenty-five liters);

(2) Contain not in excess of fifty pounds (twenty-three kilograms) of garbage, trash, waste or refuse in any one bag, can, or container;

(3) Have close-fitting covers and be rodent-proof;

(4) Have handles on the sides of adequate size and strength for the container;

(5) Have no ragged or sharp edges or other defects likely to hamper or injure the person collecting the contents; and

(6) Be containers/dumpsters provided by the city of Cortez.

(b) All bags, cans and containers which are used for holding combustible or non-combustible garbage, waste, rubbish or refuse shall be furnished and maintained by the owner, occupant or other person in charge of the premises, in good condition.

(c) All cans or containers which do not conform to the requirements of this section or which have ragged or sharp edges or other similar defects which hamper or which may injure the person collecting the contents thereof must be replaced by a proper can, container or receptacle within ten days subsequent to notice to that effect from the sanitation supervisor of the public works department. Any such can or container which is not so replaced by the owner or occupant of the premises within ten days after such written notification may be collected and disposed of as rubbish by the sanitation department.

(d) All waste material deposited in any refuse bag or container shall comply with the following:

(1) Garbage shall be strained of all liquids.

(2) Dangerous trash items and all waste material of an injurious nature such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes shall be securely wrapped to prevent injury to the collection crews.

(3) Such waste materials shall not be of a flammable or explosive nature.

(4) Incinerated items shall be completely free of combustion.

(e) No building materials, sod, rocks,

large pieces of hard metal, concrete blocks or concrete shall be placed for city collection.

(f) The removal and disposal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and according to the rules and regulations of the state health department. Such refuse shall not be placed in bags, cans, or containers for regular city sanitation collection.

(g) No hazardous waste or refuse such as poison, acids, caustics, chemicals, infected materials or explosives shall be placed in any receptacle for collection by the city, nor shall the same be collected by the city. Hazardous waste must be disposed of in accordance with the provisions of this chapter.

(h) All trash, such as boxes, cartons, and crates shall be collapsed and secured at the collection site.

(i) Tree trimmings, hedge clippings and similar material shall be cut to length not to exceed four feet and securely tied in bundles not more than two feet thick before being deposited for collection. All such refuse may be placed beside normal refuse containers. Tree and shrubbery branches and limbs and trimmings cut by landscape service, tree service contractors, commercial workmen or resulting from the clearing of land, shall not be the responsibility of the city. (Ord. No. 742 (part).)

Sec. 22B-15. Accumulation of refuse.

It shall be unlawful, and no person shall permit or allow the accumulation of refuse upon any property within the city except in bags, cans, or containers provided for the disposal of such refuse. (Ord. No. 742 (part).)

Sec. 22B-16. Mobile homes.

(a) Each mobile home lot shall have suitable garbage cans as defined in this chapter.

(b) Mobile home parks. Handled in accordance with Section 22B-19(4). (Ord. No. 742 (part).)

Sec. 22B-17. Certain businesses to provide receptacles.

Each fast-food or drive-in restaurant, convenience store or other business generating refuse disposed of by customers shall provide at least one appropriate trash receptacle at or near each door from which a customer may exit the business establishment. Such trash receptacles shall be kept free of grease and other matter that may attract insects or create offensive odors. (Ord. No. 742 (part).)

Sec. 22B-18. Trash receptacles furnished by city—Determination of necessity.

(a) When the public works director determines that it is more feasible to furnish service to a residence or business through the use of a bin or container provided by the city, the occupants or owners of such residential or business property shall use the container provided by the city.

(b) When it is determined by the public works director that service is more feasible through the use of individual receptacles and a container is not provided by the city, the occupants or owners of the premises shall furnish receptacles meeting requirements of Section 22B-14. (Ord. No. 742 (part).)

Sec. 22B-19. Specifications of use of receptacles.

The provisions of this section shall apply to bins and containers which are provided

by the city for either residential or commercial refuse collection furnished by the city or which are provided pursuant to agreement for the use thereof by the owner, occupant or other person in charge of premises within the city which utilizes city sanitation services.

(a) The public works director may require owners, occupants or other persons in charge of premises within the city who conduct commercial operations, shopping centers, mobile home parks or apartment complexes which generate quantities of refuse greater than that of the average resident or household within the city to utilize bins or containers furnished by the city for refuse collection and to pay the fees therefor established by resolution duly adopted by the city council.

(b) The public works director may furnish refuse collection service through bins or containers provided by the city to persons other than commercial users under appropriate agreements with the city, provided the director finds that such service is economically feasible and city bins and containers are available for such service.

(c) The public works director may require individual residents or businesses utilizing city sanitation services to utilize a city-provided bin or container in lieu of individual receptacles if such bin or container is not located an unreasonable distance from the individual residence or business and collection from such bin or container is reasonably required by conditions encountered in the operation of the city refuse collection and disposal system.

(d) The public works director may require the owner of any apartment building, shopping center, mobile home park or similar property having separate units which

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generate refuse to:

(1) Provide and maintain suitable refuse facilities;

(2) Utilize city bins or containers;

(3) Deposit or cause to be deposited all refuse in such receptacles or containers;

(4) Place all receptacles in a place convenient and safe for removal; and

(5) Make payment directly to the city of all such city services rendered to such apartment.

(e) All persons receiving refuse collection service through bins or containers provided by the city shall comply with rules and regulations established by the public works director for the use, care, and location of such containers and shall keep the lids and covers furnished for such containers on such containers in a tight or closed position at all times except when they are being filled or emptied.

(f) All persons receiving refuse collection service through bins or containers provided by the city shall, if required by the public works director, as a condition to receive collection service, provide suitable level ground, cement or an asphalt pad constructed to specifications of the city engineer, upon which to locate city bins and containers and shall further provide any appropriate safety devices for use in connection with such bins and containers which may be reasonably required by the public works director.

(g) It is unlawful for any person or entity other than such persons as are required and authorized by this section to receive refuse collection service through bins and containers provided by the city, to deposit refuse or any other material in such bins and containers provided by the city. The public works director or his designated agent is authorized to place on all bins or containers

provided by the city for refuse collection, a notice that unauthorized dumping is prohibited by this section. The prohibitions of this section shall also apply to unauthorized dumping within bins or containers provided by the city at public parks or upon other public property. (Ord. No. 742 (part).)

Sec. 22B-20. Location; time of placement.

(a) The provisions of this section shall apply to all owners, occupants and other persons in charge of premises in the city, excluding those whose bins or containers are provided by the city.

(b) Refuse bags, cans and containers, including cans or bags, shall be placed out for collection on the designated pickup day at ground level at the edge of the right-of-way of a street or alley. Such placement shall not be within any fenced or enclosed area. Containers may be placed for collection at other than ground level in case of hardship when approved by the sanitation supervisor, and in such case shall be subject to payment of a special charge. If the public works director finds that service from a right-of-way is hazardous or otherwise not feasible because of weather conditions, he may notify the owner or occupant of the premises in question of the hazardous condition and shall specify within such notification the location to be utilized for the placement of a receptacle for collection purposes.

(c) Refuse bags, cans and containers shall at all times be kept in such manner as to preclude the scattering of garbage, trash, and refuse. If such spilling or scattering does occur, it shall be the responsibility of the owner or occupant to remove and properly dispose of such spillage. No refuse shall be stored in the city right-of-way. (Ord. No. 742 (part).)

Sec. 22B-21. Violation penalty.

Any person firm, association or corporation, who violates any of the provisions of this chapter, whether he does so willfully or otherwise, shall be guilty of a misdemeanor. Any person, firm, association or corporation convicted of violating any of said provisions of this chapter shall be punished as set forth in Cortez City Code Section 17-16A as now in effect or as may be amended from time to time. Every day that a violation of this chapter continues shall be deemed a separate violation. (Ord. No. 742 (part); amended by memo 3519.) (Ord. No. 1170, § 28, 9-25-12)

CHAPTER 23.

SEWERS.

(Reserved for future legislation.)

CHAPTER 23A.

SHOPLIFTING.

- § 23A-1. Taking merchandise.
- § 23A-2. Concealing merchandise.
- § 23A-3. Questioning offender.
- § 23A-4. Chapter application.

Sec. 23A-1. Taking merchandise.

Any person who knowingly takes possession of any goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, with the intention of unlawfully converting such goods, wares, or merchandise to his own use, without paying the purchase price therefor, is guilty of the crime of shoplifting. (Ord. No. 523, § 1.)

Sec. 23A-2. Concealing merchandise.

If any person knowingly conceals unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether such concealment is on his person or otherwise, and whether on or off the premises of the store or mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to convert same to his own use without paying the purchase price therefor within the meaning of section 23A-1. (Ord. No. 523, § 2.)

Sec. 23A-3. Questioning offender.

If any person commits the offense of shoplifting, as defined in section 23A-1, or if any person knowingly conceals upon his person or otherwise any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace or police offi-

cer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may question such person in a reasonable manner for the purpose of ascertaining whether or not such person is guilty of shoplifting as defined in section 23A-1. Such questioning of a person by a merchant, merchant's employee or peace or police officer shall not render such merchant, merchant's employee or peace or police officer civilly liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Ord. No. 523, § 3.)

Sec. 23A-4. Chapter application.

The provisions in this chapter pertaining to the crime of shoplifting within the city are subject to the following:

(a) That the summons and complaint issued pursuant to this chapter shall specify whether the alleged offense occurred within the city of Cortez, county of Montezuma, state of Colorado;

(b) That the summons and complaint shall specify the name of the person, store or other mercantile establishment whose property was allegedly taken or concealed;

(c) That the summons and complaint shall specify, describe or name the goods, wares or merchandise allegedly taken or concealed as well as the value thereof;

(d) That the provisions of this chapter regarding shoplifting are limited to products, items or merchandise having a value not exceeding one thousand dollars. (Ord. No. 523, § 4; Ord. No. 915; Ord. No. 1097 (part).)

CHAPTER 24.

STREETS AND SIDEWALKS.

For state law as to authority of city relative to streets and public grounds generally, see C.R.S. 1973, §§ 31-15-701 to 31-15-713.

As to the numbering of buildings, see §§ 6-7 to 6-11 of this Code. As to motor vehicles and traffic generally, see ch. 16. As to loitering generally, see § 18-28. As to obstructing sidewalks or other public places by vendors, see § 18-49. As to public improvements generally, see ch. 22.

Article I. In General.

- § 24-1. Permission required for excavations, storage of material, etc.; excavations to be guarded and lighted.
- § 24-2. Unguarded openings prohibited.
- § 24-3. Permission required for the staging of construction materials and/or equipment on city rights-of-way.
- §§ 24-4 to 24-6. Reserved.
- § 24-7. Permission required for curb cuts.
- § 24-8. Reserved.

Article II. Street Lighting System.

Article III. Street Grades.

- § 24-9. Calculation generally.
- § 24-10. Base.
- § 24-11. Primary bench mark.
- §§ 24-12 to 24-14. Reserved.
- § 24-15. Conformity of sidewalks to adopted grades.

Article IV. Sidewalk, Curb and Gutter Construction.

- § 24-16. Permit required.

§§ 24-17 to 24-19. Reserved.

§ 24-20. Removal of snow and ice.

Article I. In General.

Sec. 24-1. Permission required for excavations, storage of material, etc.; excavations to be guarded and lighted.

No person shall without the written permission of the city engineer make an excavation of any kind in any street, alley or public place; remove from or deposit upon any street or alley any dirt, earth or rock; or store or pile in any such place any hay, straw, manure, boxes, barrels, building material or other matter, within the corporate limits of the city.

All excavations herein specified shall be safely guarded, and if left open at night shall be provided with red lights. (Code 1968, § 8-1-1.)

Sec. 24-2. Unguarded openings prohibited.

No person shall keep or permit to be left open or unguarded any cellar door, grating or other covering of any coal hole, cellar or vault in any street or sidewalk, or shall permit any such covering or door of any premises owned, used or occupied by him to be left open, out of repair or in any manner to be insecure. (Code 1968, § 8-1-2.)

Sec. 24-3. Permission required for the staging of construction materials and/or equipment on city rights-of-way.

(a) **Statement required.** A written statement indicating the applicant's intentions for staging of construction material and/or equipment within the public rights-of-way shall be submitted and approved prior to use

of public rights-of-way use for these purposes for any required building permit (i.e., location of porta-johns, location of office trailer if in right-of-way, storage of materials, etc.).

(b) **Approval.** Approved shall be given by the city building official.

(c) **Penalty.** A violation of this section shall be punishable as set forth in the Cortez City Code at Section 17-16A. Fines; jail time; deferred judgment as amended from time to time. (Ord. No. 1110.)

Secs. 24-4 to 24-6. Reserved.

Sec. 24-7. Permission required for curb cuts.

No person shall make or cause to be made any curb cut at any point within the city without first having obtained permission therefor from the city describing the location and purpose of such curb cut. (Code 1968, § 14-2-7.)

Sec. 24-8. Reserved.

Article II. Street Lighting System.

Editor's note: Ordinance number 247 setting up the agreement between the city and the Empire Electric Association governing the street lighting system of the city is not set out herein but may be found on file in the office of the city clerk.

Article III. Street Grades.

Sec. 24-9. Calculation generally.

For the purpose of fixing and establishing the grades of the streets and avenues of the city all elevations therefor shall be calculated and derived from the following bench marks and monuments. (Code 1968, § 8-3-1.)

Sec. 24-10. Base.

The official base or plan of reference is mean sea level as established by the United States Coast and Geodetic Survey. (Code 1968, § 8-3-2.)

Sec. 24-11. Primary bench mark.

The official primary bench mark is the aluminum tablet set on the third course of masonry in the corner of the building at the North East corner of Main and Market Streets by the U.S. Geological Survey and stamped 6198. The elevation of the center of this tablet is that given as the adjusted and compensated elevation by the U.S. Geological Survey or 6199.35 feet above base. (Code 1968, § 8-3-3.)

Secs. 24-12 to 24-14. Reserved.

Sec. 24-15. Conformity of sidewalks to adopted grades.

Sidewalks in the city shall be made in accordance with and in conformity to all grades adopted by the city, unless otherwise provided by the city council. (Code 1968, § 8-3-7.)

Article IV. Sidewalk, Curb and Gutter Construction.

For state law as to authority of city relative to sidewalk construction, see C.R.S. 1973, § 31-15-301(g).

Sec. 24-16. Permit required.

No curbs, gutters or sidewalks shall be installed or work commenced thereon until a permit has been secured from the city engineer. The permit shall set forth the construction requirements and shall be issued without charge. (Code 1968, § 8-4-2.)

Secs. 24-17 to 24-19. Reserved.

Sec. 24-20. Removal of snow and ice.

(a) It shall be the duty of the owner, tenant and occupant of any commercial premise abutting or adjoining any public sidewalk to remove all snow and ice from such sidewalk by 12:00 noon of the second day following the last measureable snowfall on Main Street from Maple to Highway 145, North and South Broadway and businesses on the side streets in the area from Maple to Harrison between North Street to First Street in order to give safe passage to pedestrians. For snow/ice deposited on sidewalks by snow removal operations of the city or the state of Colorado an additional twenty-four hours will be granted for removal. Other streets/routes may be made subject to these ordinance provisions by resolution of the city council.

(b) If the city determines that a certain person is in violation of this section, and a hazardous condition exists, the city may remove any snow and ice where necessary. For any work completed by the city then the property involved shall be assessed the actual cost thereof plus an additional amount of up to twenty-five dollars to cover administrative costs; provided, that before so proceeding the city shall inform any person responsible for and present at the property or premises of the violation and request that the violation be immediately corrected.

(c) Whenever the city accomplishes any snow removal under this section, within thirty days thereafter a notice shall be sent to the owner of the property at his last known address stating that snow removal work under this section has been performed and an assessment for the same shall be made. When a lien is created by a nonpayment of snow/ice removal, the city shall certify the unpaid snow/ice removal bill to the county treasurer for collection with property taxes. It may be

foreclosed on in the manner of a mechanic's lien and shall be a perpetual lien until such time as such snow/ice removal bill has been paid in full.

(d) No person shall deposit or cause to be deposited in any public street, alley or roadway in the city, snow taken or removed from property privately owned or occupied, excluding snow taken or removed from public sidewalks.

(e) Any person or persons guilty of violating any of the provision contained in this chapter shall be deemed guilty of a misdemeanor for each day that a violation continues and punished by a fine not to exceed five hundred dollars or imprisonment not to exceed one hundred eighty days on both such fine and imprisonment. (Ord. No. 1109.)

CHAPTER 25.

SUBDIVISION OF LAND.*

(RESERVED)

- * Editor's Note: Ordinance No. 814 repealed Chapter 25, and adopted the Land Use Code by reference. See Chapter 29, Zoning, for provisions regarding subdivisions.

CHAPTER 26.

TAXICABS.

(Reserved for future legislation.)

CHAPTER 26D.

TREES AND SHRUBS.

- § 26D-1. Trees and shrubs—
Generally.
- § 26D-2. Cortez tree commission.
- § 26D-3. Tree protection and
disease control.
- § 26D-4. Tree and shrub planting
and spacing.
- § 26D-5. Trees and shrubs—
Trimming responsibility—
City to perform work
when.
- § 26D-6. Approved tree species.
- § 26D-7. Utilities.
- § 26D-8. Commercial/industrial
landscaping developments.
- § 26D-9. Parking areas in
commercial or industrial
developments.
- § 26D-10. Enforcement.
- § 26D-11. Penalties.

Sec. 26D-1. Trees and shrubs— Generally.

(a) **Trees and shrubs on public grounds.** The intent of this chapter is to provide the city with a long-term, well planned program of tree care and beautification for its citizens and visitors and the intent is to establish an attractive and healthy environmental setting within the community through a closely supervised treatment of tree care. This chapter shall pertain specifically to public grounds and to public rights-of-way within the city limits as well as commercial, industrial and parking areas. It shall be applicable to thoughtful planning, placement, and maintenance of trees and shrubs.

(b) **Authority.** The city parks and recreation department shall have the power to promulgate rules, standards and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk or other public place in the city as well as commercial and parking areas as provided herein. Rules, regulations and specifications promulgated by the parks and recreation department are subject to review and approval by the city council.

(c) Definitions.

(1) **City forester** is defined as the city staff member in the city parks and recreation department designated to enforce this chapter.

(2) **Commercial and/or industrial uses** are as defined in the Cortez Zoning Code now adopted or hereinafter amended.

(3) **Cut area** is defined as any area where the existing grade is lowered.

(4) **Public grounds** are defined as grounds owned by the city of Cortez.

(5) **Public right-of-ways** are defined as streets or alleys owned by the city of Cortez.

(6) **Street trees** are herein defined as trees, shrubs, bushes and all other woody vegetation on land located within the right-of-way of any street or alley within the city. (Ord. No. 763 (part).)

Sec. 26D-2. Cortez tree commission.

(a) A commission to be known as the Cortez tree commission is hereby created as an advisory board to the city council. The commission shall consist of five members. In addition to the tree commission, an ex officio board of advisors consisting of the following: a member of the city council, a

member of the city staff, and a representative from the Colorado State Forest Service shall be appointed. The mayor, with the approval of the council, shall appoint the commission. No compensation shall be paid to members of the commission.

(b) The duties of the commission shall be to study, investigate, plan, advise, report and recommend to the city council any action, program, plan or legislation which the commission shall find or determine to be necessary or advisable for the care, preservation, trimming, planting, removal or disposition of trees and shrubs in public ways, streets and alleys. To assist the city council and the citizens of Cortez in the dissemination of news, educational material and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same are on private or public property, and to make such recommendations from time to time to the city council as to desirable legislation concerning the tree program and activities for the municipality, such as an annual Arbor Day program. (Ord. No. 763 (part).)

Sec. 26D-3. Tree protection and disease control.

(a) **Tree protection.** It is unlawful for any person, not the owner thereof, or without lawful authority to do so, to injure, wilfully deface, disfigure, or destroy any tree or shrub, or to injure, destroy, cut or pick any vegetation located on any public place.

(b) **Disease control.** Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the city, or which is capable of causing an epidemic spread of communica-

ble disease or insect infestation such as Dutch elm disease, the city forester shall at once cause written notice to be served upon the owner of the property upon which such diseased tree is situated, which notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time, which time period shall be not more than thirty days. If the owner, agent, or occupant of the property fails to comply within the time period specified, the city shall correct such condition and assess the cost of such correction to the owner or agent, and such costs shall constitute a lien against the property until paid. (Ord. No. 763 (part).)

Sec. 26D-4. Tree and shrub planting and spacing.

(a) **Spacing.** The spacing of street trees shall be thirty feet to fifty feet apart. The city forester shall approve the planting distance for all street trees. The distance trees may be planted from curbs, curblines, sidewalks, sidewalk lines and property lines will be in accordance with the species size at maturity. Trees shall be centered in the space between the sidewalk and street. Approval for planting street trees must be obtained by permit from the city forester. No street tree shall be planted closer than twenty feet from any street corner, measured from the point of nearest intersection curbs or curblines. No street tree shall be planted closer than ten feet from any fire hydrant. (Ord. No. 763 (part).)

**Sec. 26D-5. Trees and shrubs—
Trimming
responsibility—City to
perform work when.**

(a) **In general.** Any tree growing over a public alley, street or highway, or so located as to extend its branches over a public alley, street or highway, shall be trimmed by the owner, agent or occupant of the property on which the tree stands so that there shall be a clear height of fourteen feet above the surface of the street, alley or highway, and eight feet above the surface of the sidewalks unobstructed by the branches. Such owner or agent or occupant shall remove all dead branches and stubs on such tree, or trees, which are or may become a menace to travelers on public highways, streets or alleys of the city. If a tree or its parts in any way cause a hindrance to the general public, or in any way endanger the security or usefulness of any public street, right-of-way, highway, alley, sewer or sidewalk as determined by the city forester, it is declared to be a public nuisance. If the owner of such property does not correct or remove such nuisance within thirty days after written notification by the city forester, the city forester shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner or agent of the property in question and shall be a lien on the property if not paid.

(b) **Owner to maintain or city to correct deficiencies at owner's expense.** Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of such hedges or shrubbery shall extend over any part of a public sidewalk of the city. If a hedge, shrub, or its parts in any way causes a hindrance to the general public, or in any

way endangers the security or usefulness of any public street, right-of-way, highway, alley, sewer or sidewalk, as determined by the city forester, it is declared to be a public nuisance. If the owner of such property does not correct or remove such nuisance within thirty days after written notification by the city forester, the city forester shall cause the nuisance to be corrected or removed, and the cost thereof shall be assessed to the owner or agent of the property in question, and the costs shall constitute a lien on the property until paid. (Ord. No. 763 (part).)

Sec. 26D-6. Approved tree species.

A list of recommended tree species for a variety of settings and uses shall be obtainable from the city forester. The city forester will also supply a list of trees not suitable for planting as street trees. No conifer trees shall be permitted to be planted between the sidewalk and the street as specified by the city forester. (Ord. No. 763 (part).)

Sec. 26D-7. Utilities.

No street trees other than those species of small trees approved by the city forester may be planted in any city right-of-way under or within ten feet of any underground water line, sewer line, transmission line, or other utility. In addition, it is encouraged that the same guidelines be followed for the planting of trees on private property. (Ord. No. 763 (part).)

**Sec. 26D-8. Commercial/industrial
landscaping
developments.**

(a) **Intent—Exemptions.** The intent of requiring landscape treatment for open space is to improve the appearance and

layout of commercial development in the community. These requirements shall apply to commercial development of vacant lands, as well as new development on land where existing structures are removed to provide commercial development property. The central business district is exempted from these regulations except for zones overlapping the central business district which shall meet the following regulations:

(1) Landscaping plans pertaining to city rights-of-way shall be submitted as part of the site development plans submitted with the building plans. In all cases where a project is subject to review by the planning and zoning commission, the city forester shall provide a statement as to the conformance of the submitted plan.

(2) Landscaping plans pertaining to commercial private property shall be submitted together with the site development plan in building permit process. They shall be processed concurrently.

(b) Submission of landscaping plans. All landscaping plans shall contain the following information:

(1) Location of existing improvements (curbs, gutter, sidewalk, building, etc.) and existing vegetation including all trees with a diameter of one and one-half inches or greater;

(2) Location of proposed structures, parking areas, circulation ways, pedestrian way, signs, and landscaping areas;

(3) A minimum of ten percent of the commercial area to be developed must be landscaped. A statement pertaining to percentages of lot coverage of building, parking areas and landscaping area;

(4) A statement pertaining to preservation and disposition of existing vegetation;

(5) Proposed landscaping showing the location, size, species and spacing of trees and shrubs, and the identification of the type of ground cover or ground treatment in all areas not covered by building or pavement;

(6) Size, species and spacing shall be by direct labelling or by a clearly understandable legend;

(7) When phasing of the project is proposed, a phasing program for the landscaping may also be proposed;

(8) Flower and shrub bed definition must be clearly indicated;

(9) A schematic drawing of any proposed irrigation system;

(10) Identification of the method of reclamation for repair of cut-and-fill areas and other land form disruptions caused by construction;

(c) Landscape plan design criteria.

(1) Plants must be sized according to the following table:

Type	Minimum Size
Standard deciduous trees	1-1/2" caliper
Small ornamental and flowering trees	1-1/2" caliper
Evergreen trees	4 feet
Shrubs/ground covers	Adequate size to be consistent with design intent

(2) All plant material must meet specifications of the American Association of Nurserymen (AAN) for No. 1 grade;

(3) Trees, as identified in guidelines promulgated by the city representative, shall be placed in the city rights-of-way at intervals no greater than fifty feet on center and be at least of one and one-half inch caliper (minimum size);

(4) In areas where commercial and/or industrial uses are proposed, landscaping shall be required within the city right-of-way (exclusive of area necessary for sidewalks) which shall serve as a visual buffer to screen parking areas. In areas where such a landscaping area is not available, cuts shall be made in the sidewalk for the placement of street trees. This will be considered part of the total ten percent landscape retirement. In cases where city rights-of-way border state-controlled roads, then landscaping requirements shall meet any state requirements in addition to these requirements;

(5) The owner, agent or developer of the commercial property shall provide a written statement of the provisions being made for the maintenance and replacement of landscaping, to include mandatory replacement of any vegetation which dies within a one-year period from the time of planting. The city forester shall approve the plan;

(6) Ground cover shall be planted on exposed cut areas. The proposed ground covers shall be approved by the city forester and shall include various species which are selected for their ability to stabilize the slope and prevent erosion.

(d) Arborist License and Bond.

(1) Definitions

Award of permit is awarded to a person who takes the arborist test and passes, but who is not licensed or does not require a license. A permit is only valid when used under the auspices of a valid license.

License means a document that is provided by the city to any person, firm or corporation that meets all the requirements of obtaining an arborist's license. Any per-

son issued a license does not need to obtain an award of permit for themselves.

It shall be unlawful for any person or firm to engage in the business or occupation of cutting, trimming, pruning, treating, or removing trees for compensation within the city without first applying for and procuring an arborist's license. Such a license shall be issued in the name of an individual person, a firm or a corporation and, when so issued, shall permit such person, firm or corporation or any person employed by the person, firm or corporation to engage in the business of cutting, trimming, pruning, treating or removing trees within the city.

Licensee means a person, firm or corporation that procures an arborist's license to engage in the business or occupation of cutting, trimming, pruning, treating, or removing trees for compensation.

(2) Application—License. The application for every license shall contain the name of the person making such application, the business address of the applicant, as well as the mailing address of such application, if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning, or removing of trees, as well as a summary, number, and identification of persons employed by the applicant, as well as at least three (3) references from former places of employment for the applicant, if any. All applicants shall be given a practical test prior to licensing by the director of parks and recreation or his authorized agent. Each crew working within the city on behalf of such firm or corporation must have a person who is licensed or has an award of permit, on site,

exercising supervisory control over crew members.

(3) **Application—Award of Permit.** The application for every permit shall contain the name of the person making such application, the business address of the applicant's licensed employer, as well as the mailing address of such employer if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning, or removing of trees, and at least three references from former places of employment for the applicant, if any. All applicants shall be given a practical test prior to the awarding of a permit by the director of parks and recreation or his authorized agent.

(4) **Examination.** Before any license or permit may be issued under this section, the application therefore shall be submitted to the director of parks and recreation for processing pursuant to the provisions of this section. Within ten days after receipt of an application for the license or permit, the director of parks and recreation or his authorized agent, shall examine the applicant for purpose of licensing or award of permit. Such examination shall be in writing and shall consist of a written examination. The examination, for purposes of licensing or award of permit, shall, in the director's discretion, require an actual demonstration of the applicant's ability. Corporate applicants may submit multiple applications for licenses or award of permit for more than one employee.

(5) **Fee; transfer; employees; insurance coverage.**

(a) The city clerk, prior to granting a license, shall first collect from the applicant

an annual license fee. The license, when issued, shall show upon its face the name of the applicant, the applicant's business address, the date of issuance, the fact that the license fee has been paid, and the fact that the licensee is entitled to engage in the business of cutting, trimming, pruning or removing trees within the city. The license issued shall be nontransferable.

The applicant may, if more stringently licensed in another community, obtain an arborist license upon receipt of a nominal fee as approved by the director of parks and recreation.

(b) If multiple applications have been made by a corporate applicant, the license shall also reflect the names of the employees of the applicant who will be licensed. The licensee shall pay an annual license fee on a calendar year basis and there shall be no prorated fees for licenses issued for only a portion of the calendar year.

(c) Prior to granting any license, the city clerk shall require the filing with the clerk an insurance policy or certificate of insurance with coverage for personal injury and property damage, including coverage for damage to trees, in amounts of not less than twenty-five thousand dollars for each person, fifty thousand dollars property damage and aggregate limits of one hundred thousand dollars for each incident or occurrence. The city shall be named as an additional insured on any such policies of insurance and the licensee shall agree, as part of the license application to indemnify the city against any loss, liability or damage resulting from the operations of the licensee.

(d) There shall be no fee assessed for the issuance of an award of permit. Awards of permit shall require the same testing requirements as for licensing.

(e) It shall be unlawful for any licensed firm or corporation to fail to have at least one license or award of permit employee within each crew when operating within the city limits. The head of the firm or corporation shall be responsible for any crew working as part of his employment staff.

(f) Fees shall be set by council.

(6) **Rules and regulations.** The director of parks and recreation shall, subject to review by the Cortez tree commission and subsequent approval by the city council, promulgate such rules and regulations, including safety regulations, as may be necessary for the protection of the public in connection with the manner in which licensed tree trimmers shall operate within the city. The violation of any such regulation shall constitute grounds for revocation or suspension of a license or award of permit issued pursuant to this section in addition to any other penalties provided for in this chapter. Such rules and regulations shall become effective upon their adoption by the city council after recommendation from the parks and recreation department and the Cortez tree commission.

(7) **Identification of equipment.** Any firm, corporation, or individual licensee under this section shall cause his name and address to be prominently displayed upon all vehicles and equipment utilized in connection with the activities authorized by the license to be issued pursuant to the terms of this section. All automobiles, trucks, trailers, and other vehicles operated by any licensee for the transportation of equipment used by any licensee in such business shall have the name and address of such licensee displayed upon both sides thereof in plain and legible figures and letters not less than three inches in height, which lettering shall be kept in sufficient condition to permit the same to be readily distinguished and read at a distance of at least sixty feet. It shall be

unlawful for a licensee to operate any such vehicles or equipment upon streets, alleys or other public ways or places within the city without such identification being legibly displayed thereon and such conduct upon any part of any licensee may be grounds for revocation or suspension of the license granted pursuant to the terms of this chapter. (Ord. No. 763 (part); Ord. No. 811, § 1.)

Sec. 26D-9. Parking areas in commercial or industrial developments.

(a) The developer of every new commercial or industrial parking area, whether on or off-site, shall be required to obtain a parking area development permit from the building official.

(b) Existing parking areas are exempt, until they are improved with the construction of an impermeable surface. Maintenance of existing surfaces is not considered improvement. When parking areas are improved, they will be reviewed as to whether they meet existing regulations pertaining to the required number of parking spaces. If, after the required parking space is subtracted from the total parking area, and additional space is available, the parking area shall be developed according to the ten percent landscape requirement, or if less than ten percent is available, then the remaining space will be landscaped.

(c) Every commercial or industrial parking area shall be adequately screened from contiguous residential uses by a fence, wall, earth berm, or trees and shrubs in combination. These screening materials in landscaped areas shall be not less than three and one-half feet above grade level or placed in a strip less than four feet wide. They shall be maintained in good condition at all times.

(d) At least ten percent of the total parking area, including access, shall be devoted exclusively to landscaping with trees, shrubs, and ground cover designed to reduce the

visual impact and assist in defining on-site traffic movement. This will be considered part of the total ten percent landscaping requirement.

(e) A landscaping lighting plan shall be submitted with the site/development plan or with the application for a parking area permit when landscape lighting is part of the improvement. Landscape lighting shall not be directed towards any adjacent residential uses or public streets. (Ord. No. 770, § 1.)

Sec. 26D-10. Enforcement.

The city forester shall have the power to enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the city. (Ord. No. 763 (part).)

Sec. 26D-11. Penalties.

Any person or persons guilty of violating any of the provisions contained in this chapter shall be deemed guilty of a misdemeanor for each day that a violation continues and punished as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. No. 763 (part); amended by memo 3519.)

(Ord. No. 1170, § 30, 9-25-12)

CHAPTER 27.

WATER.

For charter provision as to authority of city to acquire and regulate waterworks, see Char., art. X, § 6. As to control, sale and regulation of rates of water from city utility generally, see Char., art. XI, §§ 3, 4, 5.

For state law as to construction, repair, etc., of water mains, see C.R.S. §§ 31-15-709, 31-35-301 to 31-35-303. As to authority of city relative to watercourses, see C.R.S. § 31-35-101. As to authority of city relative to water pollution control, see C.R.S. § 31-15-710. As to authority of city to acquire and maintain waterworks and supply water, see C.R.S. §§ 31-15-708, 31-35-101, 31-35-103. As to water rights and waterworks of city generally, see C.R.S. § 31-35-101 to 31-35-111. As to city water systems generally, see C.R.S. §§ 31-35-401 to 31-35-417. As to authority of city to regulate city water supply, see C.R.S. § 31-15-708.

As to health and sanitation generally, see ch. 14 of this Code. As to plumbing generally, see ch. 21. As to public improvements generally, see ch. 22.

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Article I. In General.

Sec. 27-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Mobile home space. An area designated for use by a wheel mounted dwelling unit, which space is provided with a connection to the water system of the city for use by the dwelling unit. The space may, or may not, be physically occupied by a dwelling unit.

Nonresidential unit. All other types and classes of units.

Residential customer. The occupant and/or owner of a single-family dwelling unit (detached or attached such as a condominium or townhouse) or mobile

home space, wherein title to land or the right to occupy in the case of a condominium, is conveyed. In the case of two or more multiple family dwelling units, such as duplexes, triplexes, apartments, or mobile home spaces rented or leased, each shall be a residential customer.

Water tap. Any connection to existing water lines, municipal or private, for the purpose of receiving water. Each separate dwelling or business shall have and shall be considered to have separate taps. (Ord. No. 427, art. 1, § 4.)

Sec. 27-2. Administration of water system by council.

The city council shall administer the use, distribution and sale of water to the users thereof; be entrusted with the responsibility of operating the city water system, promulgating such rules and regulations in such connection as may be recommended by the chief water engineer; and provide for the collection of charges from consumers and the delegation of administrative powers and functions of and to the chief water engineer. (Ord. No. 427, art. 2, § 1.)

Sec. 27-3. City manager to be chief water engineer; powers and duties of city manager generally.

The city manager shall be the chief administrative officer of the city council and is hereby designated chief water engineer.

He shall be responsible to the city council for such administration, with the power to regulate and operate the city water system and to employ for that purpose such deputies or other assistants and employees as may be necessary or required in the administration of this chapter, and to recommend to the council such reasonable rules and regulations pertaining to

the use of water and the operation of such system as may be necessary or in his opinion required for a fair and efficient administration of such water system. (Ord. No. 427, art. 2, § 2.)

Sec. 27-4. Council—Adjustment of rates.

Nothing in this chapter concerning rates, tap fees or meter deposits shall be construed, nor is it intended as preventing the city council from adjusting rates prescribed by this chapter by resolution of the council at any regular or special meeting whenever, in the judgment of the city council, such water rates are insufficient to defray the costs of furnishing water to the inhabitants of the city and the costs of providing debt service, reserve for depreciation, obsolescence and all other costs. Such authority is hereby expressly conferred upon the city council. (Ord. No. 427, art. 2, § 3.)

Sec. 27-5. Same—Establishment of rates for new water use.

When any use for water shall arise in the city for which no rate is established by the Code or ordinances of the city, council may by resolution fix rates for such uses so arising. (Ord. No. 427, art. 2, § 4.)

Sec. 27-6. Imposition of emergency or conservation restrictions.

(a) Daytime watering restrictions.

(1) Watering of yards will not be allowed between the hours of 10.00 A.M. and 5:00 P.M.

(2) These watering restrictions will be enforced between May fifteenth and September fifteenth of each year.

(3) Anyone violating the ordinance codified in this chapter, will be given a warning notice upon observation of the first offense.

(4) Upon a second observed offense, the person who is violating the ordinance codified in this chapter shall have his/her water shut off.

(5) After water service has been shut off, there shall be a re-connect fee set by the current fee resolution, to restore service to the offending home or business.

(b) Lawn watering permits.

(1) Any person installing a new lawn that needs to be watered every day and during the restricted time of 10:00 A.M. to 5:00 P.M. needs to obtain a “new lawn permit” from the public works department.

(2) The permit will be valid for twenty-one days of watering for newly-seeded lawns and fifteen days of watering for sod.

(3) The city strongly recommends using alternative grass types such as fescues, wheatgrasses, and Blue Grama in-lieu of Kentucky Bluegrass.

(4) The “new lawn permit” fee will be set according to the current fee resolution. The permit shall be displayed in a prominent, visible area in the front lawn. Watering violations will be enforced for new lawns that do not have a permit. (Ord. No. 427, art. 2, § 5; Ord. No. 1013.)

Sec. 27-7. Reservation of right to shut off water.

The city reserves the right to cause the water to be shut off from the mains when necessary for repairs, making connections or extensions or doing any other necessary work. No claim shall be made against the city on account of shutting off the water from the mains or for the breaking of any service pipe or fixtures connected thereto. (Ord. No. 427, art. 2, § 6.)

Sec. 27-8. Disclaimer of liability upon failure of water supply.

The city shall not be responsible to any person entitled to use water from the city waterworks under any license for use by reason of the failure of water supply from any cause. No claim for damage shall be maintainable against the city by any person by reason of such failure of supply or by reason of any damage of service pipe or connection with mains and a stipulation to that effect shall be deemed to be contained in every application for a water tap. (Ord. No. 427, art. 2, § 7.)

Sec. 27-9. Disposition of revenue.

All monies received from any water rents or other source of revenue in connection with the waterworks system, except in connection with the bonds or interest thereon, and including all fines and penalties for the violation of any of the provisions of this chapter, shall be placed and kept by the city council in a separate fund to be known as the water fund. (Ord. No. 427, art. 8.)

Sec. 27-10. Extension of water lines.

No additions, extensions or improvements to the city’s water system, or any part thereof, shall be made or caused to be made by any private person, firm or corporation, excepting contractors employed by the city for that purpose, except upon the following conditions:

(a) The person requesting any addition, extension or improvement of the city’s water system shall first submit a written application upon forms to be furnished by the city to the city engineer. If the application is approved by the city, the applicant then may at his expense add, extend or otherwise improve such system as specified in the application according to city’s specifications.

(b) Upon final acceptance by the city engineer of the improvement, extension or addition, title to such improvement shall then pass and devolve to the city and the applicant shall by proper instrument of conveyance convey title thereof to the city, together with rights-of-way or easements over any private land that such extension or addition might cross. (Ord. No. 512, § 1.)

Sec. 27-11. Water service installations—Generally.

After a contract for the new water service installation has been entered into and the necessary extension of city mains or lines are made, the city will make all street excavations and bring the water service line from the main to the property line. The city will furnish and install the corporation valve, the curb valve, meter and meter box and all necessary apparatus. All connections and water taps shall be made under the immediate direction and supervision of the chief water engineer or his delegated representative. For the purpose of this section, the water main shall be considered as being in the middle of the street and the city will extend water service pipe from the main to the property line for a distance of not to exceed one hundred feet without any reference to any provision requiring an extension of water mains. (Ord. No. 427, art. 3, § 1.)

Sec. 27-12. Reserved.

Sec. 27-13. Prohibited uses enumerated.

The following uses of water shall be considered as unlawful and punishable:

- (a) Hoses with overflow or nozzle greater than $\frac{5}{8}$ of an inch in diameter.
- (b) Open hoses.
- (c) Watering after hours or during water use restrictions.
- (d) The use of booster pumps upon the user's premises.
- (e) Unattended hoses. It shall be deemed unlawful for any householder or user of water to permit water to run through hoses when such householder is

away from such premises, and it shall be the duty of each user to turn all water hoses off at the time such user leaves the premises; provided, that no other responsible person is left in charge.

(f) The use of any type of any inflow and outflow air conditioner. Such type is defined as that type which does not have a recirculating pump or device mounted on such cooler and which permits the water to run from such cooler onto the ground or back into the city sewage system.

(g) Cooling water for refrigeration units. (Code 1968, § 7-8-1.)

Sec. 27-14. Use of water during fire.

In case of fire in the city or upon the sounding of the fire bell or alarm it shall be unlawful for any person to open or permit to remain open on his premises any hydrant or connection with the water main for the purpose of irrigating or sprinkling from the time the fire alarm is sounded until the signal has been given that the fire is out. (Code 1968, § 7-8-2.)

Sec. 27-15. Tag permit required.

No person shall take water from any source supplied from the city water works without having first obtained and paid for a tap permit therefor. (Code 1968, § 7-8-3.)

Sec. 27-16. Deposit of debris, filth, etc., into water supply intake prohibited; swimming, etc., in reservoir prohibited.

No person shall put or throw or cause to be thrown any filth, debris, offal or unwholesome or deleterious matter

whatsoever into the stream or source from which the water for the waterworks is taken for five miles above the intake thereof on such stream or ditch, or into any reservoir, well or ditch so that such substance of the wash or drainage therefrom might be liable to fall or be carried by natural causes into such stream, well, reservoir or ditch. No person shall bathe or swim in any such ditch or reservoir or cause any animal to bathe or swim therein or water any animal therein. (Code 1968, § 7-8-4.)

Sec. 27-17. Use and placement of hydrants generally.

There shall not be any hydrant, hose bib or attachment located outside of the premises for which such license is issued, nor in any place easily accessible from the adjoining premises; provided, that hydrants upon public streets may be placed subject to the order of the city council, but all such hydrants shall have detachable keys and be kept locked and such keys shall not be left with the hydrant or where the same may be used by the public or by those not entitled to the use thereof. (Code 1968, § 7-8-5.)

Sec. 27-18. Tampering with fire hydrant prohibited.

No person other than members of the fire department of the city for the purpose of such department, and those especially authorized by the chief water engineer, shall open or attempt to open any fire hydrant to draw water from such hydrant; in any manner tamper or interfere with such hydrant; have in his possession any wrench for any such hydrant; or open, close, tamper, interfere with or

damage any fire plug, stop cock, valves or other fixtures, main conduit, pipe or apparatus connected with such works. No person having the charge or custody of any such wrench, other tool, implement or property of the city in connection with such works shall allow the same to be taken from the place where they belong by any person not authorized to have the same. (Code 1968, § 7-8-6.)

Sec. 27-19. Wasting water prohibited.

No person shall:

(a) Waste the water at any hydrant or faucet or permit the water to be wasted through such source.

(b) Leave or permit the water to be left running through such to prevent freezing or for any other purpose except under the direction of the superintendent.

(c) Make use of any form of water closet which necessitates the constant running of water.

(d) In any manner waste or permit the waste of water from any pipe, fixtures or appliances under his control. (Code 1968, § 7-8-7.)

Sec. 27-20. Metered service required.

Service to all consumers of water from the municipal water system shall be by meter only at the applicable meter rates set forth herein or as the same may be altered from time to time by resolution of the city council. (Ord. No. 452, art. 2.)

Article II. Rates, Charges and Bills.

Sec. 27-21. Minimum charges and rate computation generally.

The minimum monthly charges for each billing month of approximately thirty days are hereby fixed and shall be determined by the number of “service units” services through a single meter or the size of the meter installed, whichever is the greater, subject to the provisions of this section.

No vacancy credit will be allowed unless water is turned off by the city and credit for less than one month will be allowed on the first one thousand gallons of water usage.

A fee for reconnecting or turning a service back on or both shall be established by the city council by resolution.

All new taps shall be metered at the applicable rates. (Ord. No. 765, § 2 (part).)

Sec. 27-22. Reserved.

Sec. 27-23. Same—Special and miscellaneous uses.

The following users of water within the city shall be charged the following rates for water:

Swimming pools. All residences with swimming pools shall be metered at residential rates.

Active members of the city volunteer fire department. Active and retired members of the volunteer fire department as of November 1, 1986, who reside within the limits of the city, shall receive their water through a meter to be installed upon their residential premises; except, that they shall not be required to pay the minimum fee for residential use and shall only pay for such gallonage used at the applicable rates. Individuals who become members of the volunteer fire department of the Cortez Fire Protection District after November 1, 1986, shall not be eligible to receive the benefit described above, and shall be required to

pay the applicable rates and charges, including the minimum fee, for water usage.

Miscellaneous service. For miscellaneous and tank water sales not delivered to a service connection attached to the municipal waterworks distribution system, all water so delivered at rate of fifty cents per one thousand gallons or fraction thereof; provided, that delivery of any such sales shall be made only at such stations within the corporate limits of the city and under such rules and regulations as may be established by the city manager; provided, however, that the minimum charge for any such sale shall be fifty cents. (Ord. No. 427, art. 6, §§ 1, 2; Ord. No. 687, § 1.)

Sec. 27-24. Water deposits.

Persons establishing water service after August 24, 1993 will not be required to make a water deposit. Persons who have established water service prior to August 24, 1993 and have been required to make a water deposit will have their water deposit refunded to them. This refund will be made either by crediting the person’s water utility account or directly by check with the method of refund to be determined by the city finance director. (Ord. No. 427, art. 4, § 1; Ord. No. 683, § 1; Ord. No. 724, § 2; Ord. No. 781, § 2.)

Sec. 27-25. Water bills—When due.

All water bills ordered by estimated rate or metered use shall be due and payable on or before the thirtieth day after billing date. (Ord. No. 765, § 2 (part).)

Sec. 27-26. Same—Assessment of penalty.

In the event that any assessment for water rents shall be unpaid within five days after the scheduled due date of such assessment, a penalty of ten percent of the total amount of de-

linquent assessment shall automatically be added to the account and shall become an additional charge against the person to whom such assessments are made. In the event there is more than one delinquent amount due, no more than twenty percent of each delinquent amount may be assessed regardless of the period of time during which the amount due remains in default. (Ord. No. 895, § 2.)

Sec. 27-27. Same—Owner to be primarily liable; charges to constitute lien on property.

(a) The owner of any premises served by water after December 8, 1970 shall be primarily responsible for the payment of all water bills arising out of the use of such water at such premises, or by any lessee or tenant occupying and using the same. Such charges shall constitute a perpetual and continuing lien on such property until such water bill shall have been paid in full. No water will be furnished to any property or premises against which any charge remains unpaid.

(b) The city may refuse new service to any person who owes the city a delinquent water bill, and wishes water service at a new location, if the person applying does not pay the water bill owed at the old location.

Nothing in this section will prevent the city from having a valid lien against the property owner in accordance with this section.

(c) When a lien is created by the non-payment of a water bill, the city shall certify the unpaid water bill to the county treasurer for collection with property taxes. It may be foreclosed on in the manner of a mechanic's lien and shall be a perpetual lien until such time as such water bill has been paid in full. (Ord. No. 427, art. 13, § 1; Ord. No. 959; Ord. No. 1107.)

Sec. 27-28. Same—Disconnection for failure to pay; restoration of service.

In the event that any water user in the city or any user outside the corporate limits of the city should fail to pay the water bill at such premises when the same is due, such user shall be subject to immediate cut-off by the city manager or one of his representatives. In the event water is cut off for nonpayment of a water bill or for violation of any of the rules and regulations of the water department or of the terms and provisions of this chapter, such water service shall not be restored until such delinquent water user or violator has applied to the director of finance to have such water service restored and has paid such delinquent water bill in full and an additional charge as established by the city council by resolution for restoring service to the premises. (Ord. No. 631, § 2.)

Sec. 27-29. Same—Failure to receive not to affect liability to pay.

The obligation to pay water bills when the same are due shall not be affected by the failure of the owner or occupant of the premises to receive a bill for such service. (Ord. No. 427, art. 13, § 3.)

Article III. Meters.

Sec. 27-30. Installation—Generally.

The metering devices of zero inches through two inches shall be supplied and installed by the city and shall remain the property of the city. The city reserves the right to repair such meters in accordance with rules of the department.

Metering devices for measuring service in excess of two inches shall be installed at the expense of the owner, but the city reserves the right to furnish or approve any such meter. (Ord. No. 427, art. 10, § 1.)

Sec. 27-31. Same—Residential meters generally.

Nothing in this chapter shall be construed or taken as preventing any unmetered residential consumer in the city from applying to the city for the installation of a meter upon such residential premises; provided, however, that persons desiring a water meter for residential premises shall apply to the director of finance for such meter upon such form as shall be provided by the director of finance. Such residential user shall in addition pay a deposit prior to the installation of such meter and all rules and regulations affecting water users shall apply with equal force to such water meter use. (Ord. No. 631, § 2.)

Sec. 27-32. Same—Location generally.

Water meters shall be installed by the department in a vertical position in a location protected from freezing and

easily accessible for reading. The department reserves the right to designate the location of all meters and when installed outside a building, they shall be placed in a suitable meter box of materials furnished by or approved by the department. All meter boxes or vaults shall be installed by the city or in accordance with specifications approved by the department. (Ord. No. 427, art. 10, § 4.)

Sec. 27-33. Same—Accessibility.

All meters installed must be put in an accessible place for reading and servicing. The building inspector, water superintendent or city manager shall have authority to cause to be moved to an accessible place within thirty days any meters that are in an inaccessible location. Any of such persons shall also designate the location of any meter to be installed. (Ord. No. 427, art. 10, § 2.)

Sec. 27-34. Same—Right of city to install upon violation of chapter.

The city council reserves the right to have a meter attached to any service pipe of any unmetered user at any time upon violation of such unmetered user of the provisions of this chapter and to charge for water used at meter rates. (Ord. No. 427, art. 10, § 3.)

Sec. 27-35. Same—For commercial and institutional service.

All commercial and institutional properties in the city, desiring water service, shall have installed on their service line a water meter which shall record the gallons of water used or passing through such service line. (Ord. No. 427, art. 10, § 7.)

Sec. 27-36. Election of metered service to preclude switch to flat rate.

Once a user has elected to obtain water through a meter as provided by this article, such user may not thereafter obtain water service on a flat-rate basis by requesting that such meter be removed. (Ord. No. 427, art. 10, § 9.)

Sec. 27-37. Repair and replacement generally.

Water shall be supplied by the city and two inch and lesser meters shall be furnished by the department and shall remain the property of the city. The department shall keep the meter in good repair, unless damaged or injured by some cause other than natural wear and usage. If the meter is damaged by hot water, steam, rough use or any cause other than from natural wear or use, the property owner or customer shall be charged the amount of the repair. The amount shall be placed upon the water bill of the customer for the succeeding month and shall be due and payable within the time provided for the payment of bills. If the cost of repairs is not paid within the time provided for the payment of such bill, the water service may be disconnected as in other cases. (Ord. No. 427, art. 10, § 5.)

Sec. 27-38. Accuracy testing generally; replacement of inaccurate meters.

The chief water engineer or his representatives shall from time to time have the right to test any meter to determine its accuracy in accordance with the manufacturer's specifications and to replace any meter which, through ordinary wear and tear or mechanical failure, proves to be inaccurate, all at the city's expense;

provided, that any meter found to be inaccurate by reason of any of the causes set forth in this chapter shall be replaced at the expense of the user. (Ord. No. 427, art. 10, § 8.)

Sec. 27-39. Tampering prohibited.

It shall be unlawful for any person, except the chief water engineer or someone authorized by him, to unlock, interfere with or molest any meter belonging to the city. (Ord. No. 427, art. 10, § 3.)

Article IV. Service Pipes and Fixtures.

Sec. 27-40. Compliance with chapter generally.

Any person who shall lay any water pipes or introduce into or about any building or on any grounds any water or drain pipes or do any plumbing work in any building or on any grounds for the purpose of connecting such pipe or plumbing work with the city water mains or of preparing them for connection or who shall make any addition to or alterations of any water pipes, fixtures or apparatus for the supplying of any premises with water contrary to the provisions of this chapter shall be deemed guilty of violation of this chapter. (Ord. No. 427, art. 9, § 9.)

Sec. 27-41. Separate service line required for each premise.

All premises in the city shall be served from a separate service line connected to the city main. It shall be unlawful for more than one structure, business or premises to be served by the same service line and in cases where such situation exists, it shall be the financial responsibility of persons owning property not directly connected to the city water main

to make such connection upon notice to them by the chief water engineer. (Ord. No. 427, art. 9, § 1.)

Sec. 27-42. Additional service required when parcel subdivided.

In the event of the subdivision of any parcel or piece of ground and the placing or construction of other dwellings or commercial buildings on such land, the service installed for the use of the original building and its appurtenances shall be deemed to have been installed only to supply water to such buildings or appurtenances immediately adjacent to the service connection. New water service shall be installed as in the case of any other original installation. (Ord. No. 427, art. 9, § 2.)

Sec. 27-43. Specification and installation of pipes, cocks, etc.

The department shall specify the kind of pipe to be used between the main and meter, service or curb cocks, curb boxes and all fittings and equipment therefor. The curb boxes shall in all cases, when practical, be placed upon public property and shall control the supply of water through only one meter. All such pipes, cocks and boxes shall be installed in accordance with the rules of the department. (Ord. No. 427, art. 9, § 3.)

Sec. 27-44. Maintenance generally.

(a) The owner of any premises to which water shall be conducted shall keep all fixtures and pipes from the property line to the point of use inside the premises in good repair. Unless the owner shall promptly repair any fixtures or pipes inside the premises when notified by the Superintendent, the water

shall be turned off and shall not be turned on again until such repairs are made.

(b) Within the city limits the city shall have the responsibility to repair or replace the service line from the property line of the user to the city main, not exceeding, however, one hundred feet of such service line, and such repair or replacement shall be at the city's expense. (Ord. No. 427, art. 9, § 4; Ord. No. 486, § 2.)

Sec. 27-45. Access to premises for inspection.

The chief water engineer and his authorized representative shall have the right to enter all private premises and buildings in which water is used to examine the pipes and fixtures, to ascertain whether there is any unnecessary waste of water and to see that houses and other buildings are properly classified as to rates and as to use made of water. (Ord. No. 427, art. 9, § 5.)

Sec. 27-46. Laying of service pipes.

All service pipes shall be laid not less than three feet six inches below the established grade of any avenue, street, alley or sidewalk. (Ord. No. 427, art. 9, § 6.)

Sec. 27-47. Repair or replacement of faucets; extension of irrigation pipes.

Nothing contained in this chapter shall be construed to prohibit any owner or occupant from repairing or replacing any faucet, either in or outside any building, or from extending any irrigation pipes on any property. (Ord. No. 427, art. 9, § 7.)

Sec. 27-48. Closure of abandoned service pipes.

All service pipes that may become useless because of the laying of larger or new services or because water will no longer be used through them must be permanently closed off at the water main at the expense of the owner of the premises by a licensed plumber or authorized city employee and shall be reported to the waterworks superintendent and the office of the director of finance. (Ord. No. 631, § 2.)

Article V. Service Outside City Limits.

Sec. 27-49. Application and contract—Execution.

Before any water may be furnished to any user outside the corporate limits of the city such user and owner of premises for which service is sought shall, before delivery of any water by the city, execute an application and contract upon such form as shall be provided by the city manager.

Upon the execution of such application and contract by the user, the user shall be deemed to have consented to have all delinquent water rents or charges become a lien upon all real property owned or held by such user. (Ord. No. 427, art. 11, § 1.)

Sec. 27-50. Same—Approval and authorization.

Water may be furnished through city-owned or privately owned lines from the city water system to users outside the corporate limits as shall be approved and authorized upon written application to the city council upon the execution of a contract for each use as set forth by this article for domestic and related purposes and upon the conditions of use set forth by this arti-

cle. The approval and authorization by the city of Cortez shall be executed by the city manager. (Ord. No. 427, art. 11, § 2.)

Sec. 27-51. Same—Refusal.

Any application for water extensions and sale of water from the city system to be outside the corporate limits of the city may be refused if, in the opinion of the city council, the area to be served does not have adequate provision for streets or alleys for public convenience, or if for any other reason in the opinion of the city council it should not be to the best interest of the city to furnish such user or area. (Ord. No. 427, art. 11, § 3.)

Sec. 27-52. Denial of service to areas eligible for annexation.

Areas deemed eligible for annexation to the city from time to time determined by the city council, shall be denied further water service and further extension until such area shall be annexed to the city. (Ord. No. 427, art. 11, § 4.)

Sec. 27-53. Metered service required.

Water will be served to out of city limits users only through a meter to be installed by the city and under no circumstances on a flat-rate basis. (Ord. No. 427, art. 11, § 5.)

Sec. 27-54. Service to business selling products within city.

No further extension of the water system or sale of water shall be made to any retail or service establishment outside the corporate limits of the city if such business shall deal in or sell any product or service upon which a tax is being exacted by the city unless such establishment first executes a

pre-annexation agreement with the city. (Ord. No. 427, art. 11, § 6; Ord. No. 683, § 2.)

Sec. 27-55. Rates.

Rates and development fees for water service outside the corporate limits of the city shall be set by resolution of the city council. (Ord. No. 427, art. 11, § 7; Ord. No. 683, § 3.)

Article VI. Water Conservation Program.

Sec. 27-56. Adoption by reference.

(a) Intent.

It is the intent of the city to promote water conservation in such way as to have efficient consumption of all water usage by residents, businesses, and local governments, and to provide beneficial uses of our water resources.

The following items are the basis for providing a Water Conservation Program:

(1) Conservation of water and the promotion of efficient usage is important to the city;

(2) Implementation of a water conservation plan will help extend existing water supplies to serve more uses;

(3) Reduction of summer water usage with lower demands can result in deferring future capital expenditures;

(4) The state of Colorado has determined that each water supplier that treats two thousand acre feet or more of water must have a water conservation plan adopted in 1996.

(b) Adoption of a Water Conservation Plan.

(1) There is adopted by reference as though the same were fully printed herein,

the city of Cortez Water Conservation Plan. Updated copies of the plan are on file in the public works department and copies are available to the public for the cost of reproduction.

(2) The city of Cortez Water Conservation Plan is designed to be a dynamic document intended to be modified and added on to on a regular basis. Modifications to the plan may be done by resolution. (Ord. No. 819, §§ 1, 11.)

Sec. 27-99. Penalty.

Any violation of this chapter as codified shall upon conviction be punishable as set forth in Cortez City Code section 17-16A as now in effect or as may be amended from time to time. (Ord. 972, § 1; amended by memo 3519.)
(Ord. No. 1170, § 31, 9-25-12)

CHAPTER 28.

Repealed by Ord. No. 995.

CHAPTER 29.

ZONING.

Ord. No. 1125, Arts. II-VIII, adopted June 9, 2009, amended Ch. 29, §§ 29-1—29-12, in its entirety to read as herein set out §§ 29-1—29-6. Prior to inclusion of said ordinance, Ch. 29, pertained to similar subject matter. See also the Code Comparative Table and Disposition List.

- § 29-1. Adoption by reference.
- § 29-2. Summary.
- § 29-3. Copies on file.
- § 29-4. Administration.
- § 29-5. Appeals.
- § 29-6. Penalty.

Sec. 29-1. Adoption by reference.

The City of Cortez 2009 Construction Design Standards and Specifications are hereby adopted by reference in accordance with the provisions of Article III, Section 11, of the Cortez City Charter and shall have the same force and effect as if the City of Cortez 2009 Construction Design Standards and Specifications were recited in their entirety. The text of the City of Cortez 2009 Construction Design Standards and Specifications in its entirety is available for public inspection and acquisition in the office of the city clerk and the office of the of public works department.

(Ord. No. 1125, Art. II)

Sec. 29-2. Summary.

In summary, the construction design standards and specifications provides in part for definitions, abbreviations, symbols, plans and specifications, plan revisions, "as-built plans," general construction criteria, permits, excavation, backfilling and restoration, underground warning tape, protection of existing improvements, inspection and testing, and design materials, and methods for streets, water systems, storm sewer sys-

tems, and storm water management, together with their administration and method of appeal.

(Ord. No. 1125, Art. III)

Sec. 29-3. Copies on file.

Three true, official, complete, and full copies of the City of Cortez 2009 Construction Design Standards and Specifications are on file in the office of the city clerk of the City of Cortez, 210 East Main Street, Cortez, Colorado 81321, and may be examined, copied or reproduced by any interested person during regular business hours of the city clerk's office.

(Ord. No. 1125, Art. IV)

Sec. 29-4. Administration.

All decisions implementing the construction design standards and specifications shall be made by the city engineer, the public works director or their designees as provided for in the City of Cortez 2009 Construction Design Standards and Specifications.

(Ord. No. 1125, Art. V)

Sec. 29-5. Appeals.

Final decisions of the Cortez city engineer and/or the director of public works and/or their designees in administering or applying the City of Cortez 2009 Construction Design Standards and Specifications may be appealed through the board of adjustments and appeals as set forth in the Cortez Land Use Code Sections 6.15, 6.16, and 6.17 as now in effect or as maybe amended from time to time.

(Ord. No. 1125, Art. VI)

Sec. 29-6. Penalty.

A violation of the City of Cortez 2009 Construction Design Standards and Specifications Ordinance shall be punishable by a fine not more than five hundred dollars or

imprisonment not to exceed one hundred eighty days or both such fine and imprisonment. Each day during which such violation shall continue shall be deemed to be a new and separate offense.

(Ord. No. 1125, Art. VII)

CHAPTER 30.

VESTED PROPERTY RIGHTS.

- § 30-1. Purpose.
- § 30-2. Definitions.
- § 30-3. Notice and hearing.
- § 30-4. Approval—Effective date—Amendments.
- § 30-5. Notice of approval.
- § 30-6. Payment of costs.
- § 30-7. Other provisions unaffected.
- § 30-8. Limitations.

Sec. 30-1. Purpose.

The purpose of this chapter is to provide the procedures necessary to implement the provisions of article 68 of title 24, C.R.S., as amended. (Ord. No. 688, § 1 (part))

Sec. 30-2. Definitions.

As used in this chapter, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) **Site specific development plan.** For all developments, the final approval step, irrespective of its title, which occurs prior to building permit application; provided, however, that if the landowner wishes such approval to have the effect of creating vested rights pursuant to article 68 of title 24, C.R.S., as amended, the landowner must so request at least thirty days prior to the date such approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created.

(b) **Vested property right.** The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. No. 688, § 1 (part))

Sec. 30-3. Notice and hearing.

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the city's option, be combined with the notice required by section 31-23-304, C.R.S., as amended, for zoning regulations, or with any other required notice. At such hearing interested persons shall have an opportunity to be heard. (Ord. No. 688, § 1 (part))

Sec. 30-4. Approval—Effective date—Amendments.

A site specific development plan shall be deemed approved upon the effective date of the city council approval action relating thereto, as set forth at section 30-2 of this chapter. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the city council specifically finds to the contrary and incorporates such finding in its approval of the amendment. (Ord. No. 688, § 1 (part))

Sec. 30-5. Notice of approval.

Each map, plat or site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan

§ 30-6—§ 30-8

may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen days after approval of the site specific development plan, in a newspaper of general circulation within the city. (Ord. No. 688, § 1 (part))

event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this chapter shall be deemed to be repealed, and the provisions hereof no longer effective. (Ord. No. 688, § 1 (part))

Sec. 30-6. Payment of costs.

In addition to any and all other fees and charges imposed by this code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the city as a result of the site specific development plan review, including publication of notices, public hearing and review costs. The fee for approval of a site specific development plan with vested property rights shall be fifty dollars. (Ord. No. 688, § 1 (part))

Sec. 30-7. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this code pertaining to the development and use of property. (Ord. No. 688, § 1 (part))

Sec. 30-8. Limitations.

Nothing in this chapter is intended to create any vested property right, but only to implement the provisions of article 68 of title 24, C.R.S., as amended. In the

CODE COMPARATIVE TABLE AND DISPOSITION LIST

This is a numerical listing of the ordinances of Cortez, Colorado beginning with Supplement No. 7, included in this Code.

Ordinance Number	Date	Description	Section	Section this Code
1125	6-9-09	Re-adopting by reference the 2009 Construction Design Standards and Specifications for the city providing for fines and/or imprisonment for violations, and providing for administrative procedures and appeals	Arts. II—VII Rpld	29-1—29-12
			Added	29-1—29-6
1128	6-9-09	Limitation on parking		16-7(d)
			Added	16-7(e)
1131	8-25-09	Library use		2-27
1132	8-11-09	Establishing the "City of Cortez Hydroelectric Power Enterprise" under the provisions of Title 37, Article 45.1, Colorado Revised Statutes; repealing all ordinances or other acts in conflict herewith and declaring an emergency		Omit
1133	8-11-09	Authorizing the issuance of the city's governmental agency bond in the aggregate principal amount of \$1,456,891; providing for the use of the bond proceeds to pay the costs of the project, providing for the payment of the bond from the revenue derived from the operation of the city's hydroelectric power system; making certain covenants in connection therewith;		Omit

Ordinance Number	Date	Description	Section	Section this Code
		approving Resolution No. HE-2009-1 of the City of Cortez Hydroelectric Power Enterprise, providing for the form, payment, and other details in connection with the bond; authorizing the execution of certain agreements and documents in connection with the bond and declaring an emergency		
1134	12-8-09	Appropriating supplemental funds, rectifying budgeted excesses, and making budget revisions for the 2009 fiscal budget		Omit
1136	1-12-10	Creating a separate planning and building department		Charter, Art. V, § 6
1137	1-12-10	Adopting by reference the International Fire Code, the International Building Code, and related codes, 2009 Editions	II	6-1
				6-2
				10-1
				13-1
				15B-1
				21-1
			III	6-1, 10-1.1, 15B-2, 21-1.1
1147	11-23-10	Parks and recreation		19-2, 19-3a—19-5, 19-7
			Rpld	19A-1
			Added	19A-1
1154	8-9-11	Provide optional premises licensing for the golf course located within the city	Added	4-2
				19-6(h)

Ordinance Number	Date	Description	Section	Section this Code
1156	10-25-11	Municipal golf course		19-6
1157	11-22-11	Regarding bonds for the city clerk and other city officials set by ordinance and recovery of fees, costs and assessments, and other monies owed to the city by certification of said amounts as real property taxes	Rpld	2-17(a)
				17-20(b)
1158	11-22-11	Regards municipal court: bond for court clerk, setting of court costs by resolution in the annual budget, and violation of bail bond conditions	Rpld	17-14
			Added	17-14
				17-20(h)
			Added	18-5
1163	2-28-12	Planning and zoning commissions		2-4
1164	3-13-12	Medical marijuana businesses	Added	15-300— 15-314
1165	4-24-12	Medical marijuana businesses		15-312
1166	5-22-12	Medical marijuana businesses	Added	18-55
1169	8-14-12	Taxation of computer software		9-7
			Added	9-20(j)
1170	9-25-12	Discrepancies in the penalty clauses	1 Rpld	17-16A
			Added	17-16A
			2	1-6
			3	1-15
			4	4-1(g)
			5	4A-40
			6	5-32
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			15	15A-25
			16	16-22
			17	18-33
			18	18-52(d)
			19	18-52A(f)(1)
			20	18A-9
			21 Rpld	18B-9
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			23	18C-3
			24	18D-5
			25	19-11
			26	21-9
			27	22-82
			28	22B-21
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			31	27-99
1171	9-25-12	Collection of delinquent charges, assessments and taxes by the county treasurer	Added	9-6(a)

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