

COUNCIL BILL NO. CB20-012
ORDINANCE NO. 4728

AN ORDINANCE REPEALING THE ARVADA LAND DEVELOPMENT CODE (2008) (PART III OF THE CODE OF THE CITY OF ARVADA, COLORADO (“CITY CODE”)), ADOPTING A NEW ARVADA LAND DEVELOPMENT CODE (2020) AS PART III OF THE CITY CODE, ADOPTING THE CITY OF ARVADA ZONING MAP EXCLUDING WEST OF ALKIRE STREET AND NORTH OF WEST 80TH AVENUE, DATED JUNE 1, 2020, ADOPTING A REZONING COMPARATIVE TABLE, ADOPTING PENALTY PROVISIONS FOR VIOLATIONS OF THE 2020 LAND DEVELOPMENT CODE, AND AMENDING CERTAIN SECTIONS OF PART II OF THE CITY CODE AFFECTED BY THE ADOPTION OF THE 2020 LAND DEVELOPMENT CODE

WHEREAS, the City Council is vested with all municipal powers as conferred by general law, including the power to regulate the use of land within its boundaries through planning, zoning, and other land-use measures; and

WHEREAS, the City Council historically has, in part, exercised such powers by the adoption of a Land Development Code to promote the public health, safety, convenience, comfort, prosperity, and general welfare; to conserve and stabilize property values through the most appropriate uses of land in relation to one another; and for such other purposes as set forth in such code; and

WHEREAS, in order to promote such purposes, the City Council from time to time finds it necessary and desirable to amend the Land Development Code or, when more extensive revisions are contemplated, to repeal and re-enact the Land Development Code; and

WHEREAS, the City Council believes that the interests of efficiency and the above-stated public purposes are best served by the repeal of the current Land Development Code (2008) and the adoption of a new Land Development Code (2020), as Part III of the City Code.

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

Section 1. The Arvada Land Development Code (2008) is hereby repealed in its entirety.

Section 2. The City Council hereby approves and adopts by reference the Arvada Land Development Code (LDC) (2020), as published by the City of Arvada and attached hereto as **Exhibit A** and incorporated herein by this reference, and as amended (if at all) at the public hearing held before City Council thereon. The LDC generally regulates the use of land and structures within the City of Arvada. Copies of the LDC are on file with the City Clerk and are open to inspection.

Section 3. The City of Arvada Zoning District Map excluding a section West of Alkire Street and North of West 80th Avenue, dated June 1, 2020, attached hereto as **Exhibit B**, and

incorporated herein by this reference, is adopted as the official zoning district map of the City of Arvada pursuant to Chapter 2 of the LDC.

Section 4. The properties within and throughout the City of Arvada are hereby rezoned as more particularly described and depicted in the Zoning District Conversion Table, attached hereto as **Exhibit C**, and incorporated herein by this reference.

Section 5. The penalty clauses of the Arvada Land Development Code (2020), as set forth in Article 10-1 Enforcement are recited in full as follows:

“Division 10-1-1 Purpose and Application of Article

10-1-1-1 Purpose of Article

- A. Generally.** The City Council finds that the enforcement of this LDC is an important public service, and that code enforcement is vital to the protection of the public health, safety, and quality of life. The purpose of this Article is to encourage and enforce prompt compliance with the LDC.
- B. Procedures and Remedies are Not Exclusive.** Nothing in this Article is intended to limit the remedies that are available to the City to prevent, cure, or abate violations of this LDC. This Article shall not be construed to prevent the City from using other enforcement procedures as are lawful and appropriate, nor shall it be construed to elect remedies.

10-1-1-2 Application of Article

- A. Generally.** This Article provides the general process for enforcing the LDC, and the general remedies that are available to the City. However, as provided in Section 10-1-1-1, Purpose of Article, the City may take any lawful action to remedy violations of this LDC, including seeking any remedy or imposing any penalty that is available under this LDC, State law or administrative rules promulgated thereunder, or Federal law.
- B. Remedies.** Division 10-1-2, Violations, Remedies, and Penalties, provides a non-exclusive list of defenses and potential consequences of enforcement when a person is found to have violated this LDC.
- C. Procedures.**
 - 1.** Division 10-1-3, Enforcement Procedures, sets out the procedures for enforcing this LDC. The provisions of this LDC may be enforced by any or all of the following methods:
 - a.** Requirement of a Building Permit;
 - b.** Requirement of a Certificate of Occupancy;
 - c.** Inspection and ordering removal of violations;
 - d.** Proceedings in any court of competent jurisdiction, including municipal court (to the extent of its jurisdiction), which may involve, but are not limited to:
 - i.** Temporary or permanent injunction (including mandatory injunction);
 - ii.** Abatement;

- iii. Declaratory judgment;
 - iv. Civil or criminal fines; or
 - v. Incarceration.
2. In addition to the enforcement provisions of this Article, specific conditions of development approval may provide additional or alternative enforcement procedures or remedies.

Division 10-1-2 Violations, Remedies, and Penalties

10-1-2-1 Violations

- A. **Generally.** It shall be a violation of this LDC to undertake any of the activities listed in this Subsection.
- 1. *Activities Inconsistent with LDC.* Erect, construct, reconstruct, remodel, alter, maintain, expand, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this LDC, including all required approvals.
 - 2. *Land Disturbing Activities Inconsistent with Code.* Excavate, grade, cut, clear, or undertake any other land disturbance activity contrary to the provisions of this LDC, or without first obtaining all requisite land use approvals required by this LDC or other applicable regulations.
 - 3. *Nonconformities Inconsistent with LDC.* Create, expand, replace, or change a nonconforming use, structure, lot, or sign except in compliance with the applicable provisions of this LDC.
 - 4. *Creation of Undersized Lots or Setbacks.* Reduce or diminish the lot area, setbacks, or open space below the minimum required by this LDC, or increase the lot coverage above the maximum allowed by this LDC.
 - 5. *Increasing Intensity of Use.* Increase the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this LDC.
 - 6. *Activities Inconsistent with Approval or Permit.* Engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any applicable permit, approval, or other form of authorization required to engage in such activity.
 - 7. *Activities Inconsistent with Conditions of Approval.* Fail to comply with any terms, conditions, or limitations placed by the Decision-Making Body upon any development approval, or failure to comply with any terms, conditions, or limitations incorporated into an agreement related to such approval, including but not limited to an annexation agreement, development agreement, subdivider's agreement, or public improvements agreement.
 - 8. *Failing to Remove Signs.* Fail to remove any sign installed, created, erected, or maintained in violation of this Code, or for which the sign permit has lapsed, where removal is ordered by the City.

B. Remedies Specific to Landscaping Requirements.

1. If an Applicant fails to comply with the minimum provisions of this LDC with respect to the preservation of trees, the Applicant shall be required to replace each tree that is damaged beyond remedy or destroyed at the rate set out in Section 4-6-2-2, Tree Removal and Replacement. A landscape plan illustrating the required replacements must be submitted to the City for review and approval.
2. If an Applicant does not choose to replace irreparably damaged or destroyed trees intended for preservation, the Applicant will be assessed an amount equal to the caliper inch replacement cost plus 200 percent for those trees. The Applicant is required to spend the amount of the assessment for trees at the project. At the City's discretion, the Applicant may choose to plant the trees on a nearby public property in a location agreed to by the City rather than on the project site.

- C. Continuing Violations.** Each day that a violation occurs or remains uncorrected after receipt of notice shall constitute a separate violation of this LDC.

10-1-2-2 Remedies

- A. Generally.** This Section sets out the remedies that the City may impose against a violator in the process of code enforcement. These remedies are not exclusive of other remedies that may be available at law or in equity and shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

B. Deny/Withhold Permits.

1. The City may deny and withhold all permits, certificates, licenses, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or Applicant for the permit is responsible for the violation.
2. Where a property owner, agent, or other person has a record of an outstanding serious violation or violations of this Code, the relevant Decision-Making Bodies shall be authorized to deny or withhold all permits, certificates, or other forms of authorization for any use or development activity undertaken by such person until the outstanding violation is corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

- C. Permits Approved with Conditions.** Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that the violation be corrected.

D. Revoke Approvals or Permits.

1. The City may revoke any development approval, permit, or other authorization, after notice and a public hearing by the Decision-Making Body that originally granted the final approval, permit, or other authorization, when it is determined that:
 - a. There is a material departure from the approved plans, specifications, or conditions of approval;

- b. There is a violation of any provision of this Code;
 - c. The development approval permit, or other authorization was obtained by false representation; or
 - d. The development approval, permit, or other authorization issued in error.
2. Written notice of revocation shall be served upon the owner, the owner's agent, the Applicant, or other person to whom the permit was issued, or such notice may be posted in a prominent location at the place of the violation. No work or construction shall proceed after service of the revocation notice.

E. Stop Work Order.

- 1. *Issuance of Stop Work Order.* With or without revoking permits, the Director, Chief Building Official, or designee may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a permit or other form of authorization issued pursuant to this LDC. The stop work order shall specify the LDC provisions allegedly being violated. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
- 2. *Timing/Notice.* The stop work order may be issued at the same time as the notice of the initial violation, or subsequent to such notice, and may require immediate cessation of work. The stop work order shall also indicate that failure to comply with the order may subject the violator to civil and / or criminal liability as penalty for the violation(s).

F. Injunctive Relief. The City may initiate injunction proceedings or other appropriate legal action in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction against any person who fails to comply with any provision of this LDC or any requirement or condition imposed pursuant to this LDC. In any court proceeding in which the City seeks a preliminary injunction, it shall be presumed that a violation of this LDC is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the LDC violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject LDC violation.

G. Abatement. The City may seek a court order in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction, in the nature of abatement, mandatory injunction, or other action to abate or remove a violation or to otherwise restore the premises to the condition which existed before the violation.

H. Revoke Licenses. The City may revoke the license of any City-licensed contractor or City-licensed business operation where there are repeated violations of this LDC. Revocation of licenses shall be processed according to applicable procedures adopted for this purpose by the applicable City Department or entity.

10-1-2-3 Penalties

- A. **Generally.** A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this LDC exists, after notice of violation, including any stop-work order, has been properly served, and such person fails to comply with such notice or stop-work order.
- B. **Penalty.** Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine not to exceed the limits established in Section 1-5, Arvada Municipal Code, or by imprisonment for not more than 180 days, or by both such fine or imprisonment for each such violation.

Division 10-1-3 Enforcement Procedures

10-1-3-1 Complaints Regarding Violations

Any person may file a complaint alleging a violation of this LDC. Such complaint, stating fully the causes and basis thereof, shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall properly record such complaint, immediately investigate, and take enforcement action as is appropriate.

10-1-3-2 Non-Emergency Matters

- A. In the case of violations of this LDC that do not constitute an emergency or require immediate attention, written notice of the nature of the violation shall be given to the property owner, agent, occupant, or to the Applicant for any relevant permit. Notice shall be given in person, by U.S. Mail, or by posting notice on the premises. The notice shall specify the LDC provisions allegedly being violated, and (unless a shorter time frame is allowed by this Article) shall state that the individual has a period of 14 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action is taken. The notice shall also state any appeal and / or variance procedures that may be available pursuant to this LDC.
- B. The Director may grant an extension of the time to cure an alleged violation, if the Director finds that due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within 14 days.

10-1-3-3 Emergency Matters

In the case of violations of this LDC that constitute an emergency, or violations that will create increased problems or costs if not remedied immediately, the Code Enforcement Officer may use the enforcement powers available under this Article without prior notice, but the Officer shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the Applicant for any pending application or request for an approval or permit.

10-1-3-4 Options upon Noncompliance

In the event a person fails to comply with a notice of violation or stop work order, or to remedy the violation to the satisfaction of the Code Enforcement Officer within the required time period, then the Code Enforcement Officer shall determine whether to subject the violator to the civil remedies listed in Section 10-1-2-2, Remedies, to criminal liability pursuant to Section 10-1-2-3, Penalties, or to any other remedy available in law or in equity.

10-1-3-5 Forfeiture of Vested Property Rights

- A. **Generally.** Failure to abide by the terms and conditions of a site specific development plan may result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
- B. **Procedure.**
 - 1. The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the City Council stating the grounds therefor.
 - 2. No vested property right shall be deemed forfeited until after notice and a public hearing before City Council.
 - a. Notice shall be provided at least 30 days prior to the date of the public hearing, by publishing notice in a newspaper of general circulation in the City and by mailing notice to the property owner(s), sent to the address of record according to the County Assessor's records via first class United States mail.
 - b. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner(s).
 - 3. At the hearing, the City Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a site specific development plan. The City Council may continue the public hearing to allow additional evidence to be presented.
 - 4. If City Council finds a failure to abide by the terms and conditions of an approved site specific development plan, the City Council may take action by ordinance to declare the vested property rights forfeited.
 - a. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way, or other lands or easements previously dedicated or conveyed to the City or other public entities pursuant to the terms of a site specific development plan.

Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use, and general regulations in effect at the time of forfeiture (as such may be amended from time to time) as well as all applicable regulations thereafter, adopted.”

Section 6. Section 14-92, Keeping livestock in specified zoning districts, of Chapter 14, Animals, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 14-92. - Keeping livestock in specified zoning districts.

- (a) *Livestock—Generally.* Except as otherwise set forth in this section, livestock may be kept only in the RA and RN-32.5 zoning districts. It shall be unlawful for any person or household to keep a livestock animal in any other zoning district except as otherwise set forth herein. The keeping of livestock must be done in accordance with all other provisions of this chapter.
- (1) *Livestock—Horses.* In addition to being kept in the RA and RN-32.5 zoning districts, horses may be kept in the RN-12.5 zoning district and any PUD zoning districts

where horses are allowed as part of the PUD. It shall be unlawful for any person or household to keep horses in any zoning district other than those set forth in this subsection (1).

- (2) *Livestock—Chickens and turkeys.* In addition to being kept in the RA and RN-32.5 zoning districts, chickens and turkeys may be kept in any other zoning district.
- (3) *Livestock—Miniature goats.* In addition to being kept in the RA and RN-32.5 zoning districts, miniature goats may be kept in any other zoning district.”

Section 7. Section 14-123, Animals, and animal shelters and structures: Distance from dwellings, adequacy, etc., of Chapter 14, Animals, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 14-123. - Animals, and animal shelters and structures: Distance from dwellings, adequacy, etc.

- (a) *Livestock—Generally.* It shall be unlawful for any person or household to keep livestock anywhere within Arvada except within the RA and RN-32.5 zoning districts or except as otherwise set forth herein.

- (1) *Distance from dwelling.* Except as otherwise set forth in this section, it shall be unlawful to build or maintain any barn, corral, livestock pen, fenced corral, or other structure used for keeping livestock closer than 100 feet from an existing dwelling unit.

Exception: This subsection (1) shall not apply to the dwelling unit of the livestock owner or custodian.

- (2) *Time limitation.* Except as otherwise set forth in this section, it shall be unlawful for any person or household to tether, pasture, keep, house, or allow any livestock to be or remain for more than one hour out of each 24-hour period within 100 feet of any building in use or occupied by any person.

Exception: This subsection (2) shall not apply to the dwelling unit of the livestock owner or custodian, or to the dwelling unit of another if the owner of that dwelling unit has given prior written consent allowing the livestock animal to be kept or to remain within 100 feet of his residence.

- (3) *Livestock—Horses.* It shall be unlawful for any person or household to keep or house any horse except in conformance with the following provisions. There must be a minimum gross land area (not including land area occupied by the principal dwelling) of 12,500 square feet per horse, plus an additional 6,000 square feet for each additional horse. In no case may the total number of horses exceed four per one acre of land. Horses must be kept in a fenced area.
- (4) *Livestock—Chickens and turkeys.*
 - a. *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a chicken or turkey within 35 feet of any dwelling unit, except that of the owner or custodian.

Exception: The subsection shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which a chicken or turkey has been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- b. *Yard restriction.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow a chicken or turkey anywhere within the front setback of the property.
- c. *Maximum number allowed.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow more than five female chickens, or to keep, have custody or, or allow more than three female chickens and two female turkeys in combination.
- d. *Gender restriction.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow a male chicken (rooster) or a male turkey (tom).

(5) *Livestock—Miniature goats.*

- a. *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a miniature goat within 35 feet of any dwelling unit, except that of the owner or the custodian.

Exception: This subsection (5)a. shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which miniature goats have been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- b. *Yard restriction.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any miniature goat anywhere within the front setback of any property.
- c. *Maximum number allowed.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow more than two miniature goats, except that the person or household may also keep, have custody of, or allow the adult goats' offspring that are not taller than 16 inches at the withers.
- d. *Minimum number allowed.* For reasons related to the companionship needs of these animals, it shall be unlawful for any person or household to keep, have custody of, or allow fewer than two miniature goats.
- e. *Gender restriction.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any unneutered adult male miniature goat. A male miniature goat kept under this subsection (5) in a zoning district other than the RA and RN-32.5

zoning district must be neutered before the age of six months or before it reaches a height of 16 inches at the withers, whichever occurs first.

- f. *Goat structure to be kept back from property lines.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any miniature goat in a structure within 15 feet of any side or rear property line.

Exception: This subsection (5)f. shall not apply to fences.

- g. *Adequacy of shelter.* It shall be unlawful for any person who keeps, has custody of, or allows miniature goats to fail to provide them with a predator-resistant shelter that is properly ventilated and designed for easy access for cleaning and maintenance. Any structure larger than 120 square feet must be permitted by the city.
- h. These subsections (5)a. through g. shall not apply to goats lawfully grazing under section 14-127 of this chapter.

(b) *Domestic fowl and domesticated rabbits.*

- (1) *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a domestic fowl or a domesticated rabbit within 35 feet of any dwelling unit, except that of the owner or custodian.

Exception: The subsection shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which a domestic fowl or a domesticated rabbit has been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- (2) *Yard restriction.* In zoning districts other than the RA and RN-32.5 zoning districts, it shall be unlawful for any person to keep, have custody of, or allow a domestic fowl or a domesticated rabbit anywhere within the front setback of the property.”

Section 8. Section 18-484, I.P.M.C. Section 202, General definitions, Chapter 18, Buildings and Building Regulations, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 18-484. - I.P.M.C. Section 202, General definitions.

Section 202. General definitions, is hereby amended by adding or amending certain definitions to read as follows:

Dwelling unit. Dwelling unit has the same meaning as that set forth in the Arvada Land Development Code, as may be from time to time amended.

Inoperable motor vehicle. A vehicle which cannot be driven upon the public streets for reasons including, but not limited to, not having a current license plate or tag, being wrecked, in a state of major disassembly, in a state of disrepair, or incapable of being moved under its own power.

Noxious weed. A plant or part thereof that meets one or more of the following criteria:

- a) Aggressively invades or is detrimental to economic crops or native plant communities;
- b) Is poisonous to livestock;
- c) Is a carrier of detrimental insects, diseases, or parasites;
- d) The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

In addition, noxious weeds includes, but is not limited to the following types of plants:

Leafy Spurge (*Euphorbia Esula*), Canadian Thistle (*Cirsium Arvense*), Musk Thistle (*Caduus Nutans*), Russian Knapweed (*Centaurea Repens*), Diffuse Knapweed (*Centurea Diffusa*), Spotted Knapweed (*Centaurea Maculosa*), and Purple Loosestrife (*Lythrium Salicaria*).

Rubbish. Combustible and noncombustible waste materials, except garbage, and including, but not limited to the residue from the burning of wood, coal, coke and other combustible materials, and paper, plastic, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials regardless of whether the item could be put to any reasonable use or has any claimed value. Rubbish shall also include household appliances, furniture, machinery, and car parts that are not stored within an enclosed structure. Items may be deemed to be rubbish regardless of whether the item could be put to any reasonable use or has any claimed value.

Weed. All grasses, annual plants and other vegetation more than 12 inches in height as measured from ground level.

Exceptions:

- 1. Trees;
- 2. Shrubs;
- 3. Cultivated flower or vegetable gardens;
- 4. Vegetation grown in the RA and RN-32.5 zoning districts for the purpose of crop production or as animal fodder; and
- 5. Plants of the Gramineae family (ornamental grasses) commonly used as part of an ornamental landscaping plan.

All other definitions contained in the General definitions section shall remain the same.”

Section 9. Section 18-492, I.P.M.C. Section 302.4, Weeds, of Chapter 18, Buildings and Building Regulations, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 18-492. - I.P.M.C. Section 302.4, Weeds.

Section 302.4. Weeds, is hereby amended in its entirety to read as follows:

302.4. Weeds. All premises and exterior property shall be maintained free from weeds or dead plant growth in excess of twelve (12) inches. All noxious weeds shall be prohibited.

302.4.1. Unlawful acts. It shall be unlawful for any owner, agent, or resident having charge of a property to permit the growth of weeds or noxious weeds upon any property.

302.4.2. Continued. It shall be unlawful for any owner, agent, or resident having charge of a property to permit the growth of ornamental grasses in any area other than the RA and RN-32.5 zoning districts.

Exception: Ornamental grasses may be cultivated in small plots as part of an overall ornamental landscaping plan in other than the RA and RN-32.5 zoning districts, but in no case shall they be used as a ground cover over a substantial portion of a property.

302.4.3. Removal. Removal of noxious weeds shall be done in such a manner that will minimize the reproduction of the noxious weeds."

Section 10. Section 38-62, Same – Specific, of Chapter 38, Environment, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 38-62. - Same—Specific.

The following acts, among others, are declared to be in violation of this chapter and unlawful, but this enumeration shall not be deemed to be exclusive:

- (1) *Alarms and bells.* Sounding, operating, or permitting the sounding or operation for more than five minutes, or between the hours of 9:00 p.m. and 7:00 a.m., of any electronically amplified signal from any bell or chime from any clock, school, church, or governmental building.
- (2) *Construction activities.* Between the hours of 9:00 p.m. and 7:00 a.m., no person shall operate, or cause to be used or operated, any equipment used in construction activities within any residential, commercial or mixed-use zoning district. Construction projects shall be subject to the maximum permissible noise level specified for light industrial districts for the period within which construction is to be completed pursuant to any applicable building permit.
- (3) *Fireworks or explosives.* The using of explosives, fireworks, or other devices which create impulsive noise between the hours of 9:00 p.m. and 7:00 a.m. or in such manner as to cause a noise disturbance.
- (4) *Horns and signaling devices.*
 - a. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place of the city except as a danger warning signal or as provided in "The Model Traffic Code."
 - b. The provisions of this chapter shall not apply to the sounding of horns in the customary practice of celebrating weddings or in celebrating the victory of an Arvada sports event, such as a football game, so long as such sounding of horns is within two hours of the completion of any such event.

- (5) *Loading operations.* Loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage containers, or other objects in such a manner as to create a noise disturbance between the hours of 9:00 p.m. and 7:00 a.m.
- (6) *Loudspeakers, exterior.*
- a. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, place, public or private property without first obtaining a permit.
 - b. The provisions of this subsection shall not apply to emergency vehicles when such emergency vehicles are responding to an emergency call or when in pursuit of an actual suspected violator of the law, or when responding to but not returning from a fire alarm.
 - c. The provisions of this subsection shall not apply to any bell or chime or any device for the production of the sound of bells or chimes from any church, clock, or school so long as such sounds comply with sections 38-62(1) and 38-91.
- (7) *Peddlers and hawkers.* Selling anything by outcry within any area of the city zoned primarily for residential uses. The provisions of this subsection shall not be construed as prohibiting the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
- (8) *Radios, television sets, and similar devices.*
- a. It shall be unlawful for any person to use, operate, or permit to be played, any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device that produces or reproduces sound in such a manner as to be plainly audible at either the property boundary of the source of sound or through a party wall, ceiling, or floor within a building or plainly audible at 25 feet from such device when operated within a moving or parked vehicle.
 - b. Organized practices and performances of senior high school groups shall be exempt from this section 38-62(8).
 - c. Special events for which a special event permit is obtained from the city in accordance with the provisions of section 3-1-4-8 of chapter 3 of the Arvada Zoning Ordinance shall be exempt from this section 38-62(8).
- (9) *Recreational activities, nonvehicular.* The flying of model aircraft powered by internal combustion engines, whether tethered or not; or the firing or operation of model rockets or other similar noise producing devices between the hours of 9:00 p.m. and 7:00 a.m., or in such a manner as to cause a noise disturbance.
- (10) *Vehicles, repairs or testing.* Repairing, rebuilding, modifying or testing any truck, automobile, motorcycle, or other motor vehicle in such a manner as to cause a noise disturbance or violate the provisions of section 38-62(11).
- (11) *Vehicles, standing.* Operating, or permitting the operation of any motor vehicle in excess of 10,000 pounds, manufacturers gross vehicle weight, or any attached auxiliary equipment, for a consecutive period longer than ten minutes while such a vehicle is

standing on a public right-of-way in a residential district or is on private property in a residential zone and is not within a completely enclosed structure.

- (12) *Motorcycles*. No person shall, nor shall the owner allow any person to operate a motorcycle manufactured after December 31, 1982, that is not equipped with an exhaust muffler bearing the federal Environmental Protection Agency required labeling applicable to the motorcycle's model year, as set out in the Code of Federal Regulations, Title 40, Volume 24, Part 205, Subpart D and Subpart E, as may be from time to time amended. Said label shall be affixed to the exhaust muffler in such a manner as to be readily visible.
- a. For purposes of enforcement of subsection (12), police officers may establish or determine reasonable suspicion to stop a motorcycle based on any relevant facts and circumstances concerning the unusually loud or excessive nature of the noise created or emitted by the motorcycle. This determination may be based upon, but need not be limited to, a consideration of the following factors:
 - (i) The time of day;
 - (ii) The proximity of the motorcycle creating or emitting the noise to any residential area, assisted living facility, nursing or care home, hospital, or public or private school;
 - (iii) Any unusual quality associated with the noise such as, but not limited to, a loud grating, grinding, rattling, or whining sound; or
 - (iv) Any other factors tending to show the magnitude or disruptive effect of the noise.
 - b. Notwithstanding the language of subsection (12)a., a peace officer may enforce subsection (12) when an accident involving a motorcycle occurs, following any lawful traffic stop or contact, or during any traffic investigation.
 - c. Testimony of the failure by any owner or operator of a motorcycle to immediately demonstrate the presence of an EPA noise label as required in subsection (12), when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (12), that the owner or operator of the motorcycle violated subsection (12)."

Section 11. Section 38-91, Maximum permissible continuous sound pressure levels—General, of Chapter 38, Environment, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 38-91. - Maximum permissible continuous sound pressure levels—General.

It shall be unlawful for any person to operate or cause or permit to be operated any stationary source of noise which creates a sound pressure level that exceeds the limits set forth in Table I for more than 90 percent of any measurement period. This measurement shall not be less than ten minutes when measured at the property boundary or at any point within the property affected by the noise.

TABLE I. SOUND PRESSURE LEVEL LIMIT dB(A)

	Day	Night

Use District	7:00 a.m.—9:00 p.m.	9:00 p.m.—7:00 a.m.
Residential and Mixed-Use	55	50
Commercial	60	55
Light Industrial	70	65
Heavy General Industrial	75	75

Noise levels for any PUD shall conform with this table, and shall be determined by the predominant land use as set forth in the PUD plan.”

Section 12. Section 39-92, Same – PUD-CC, of Chapter 38, Environment, of the Arvada City Code, is hereby deleted in its entirety.

Section 13. Section 50-76, Site development permit compliance and enforcement, of Chapter 50, Irrigation and Drainage, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“Sec. 50-76. - Site development permit compliance and enforcement.

- (a) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this article or the approved site development permit.
 - (1) Any permittee violating any of the provisions of this article or the approved site development permit shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this article is committed, continued or permitted, shall constitute a separate offense.
 - (2) Upon conviction of any such violation, such permittee shall be punished by a fine not to exceed the limits established in section 1-5 of this Code for each offense. In addition to any other penalty authorized by this section, any permittee, partnership, or corporation convicted of violating any of the provisions of this article shall be required to bear the expense of such restoration.
 - (3) The city may withhold city inspections, building permits, or certificates of occupancy for any site which is not in compliance with the site development permit.
 - (4) The penalties provided in this article shall be cumulative and not in lieu of each other and may be exercised in any order.
- (b) In the event any person holding a site development permit pursuant to this article violates the requirements or terms of this article, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site, so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, or so as to

be materially detrimental to the environment or nearby waterways, the director may stop work on the site, as described in subsection 10-1-2-2E1 of the Arvada Land Development Code, until such time the site returns to a reasonable compliance level as determined by the director.

- (c) In the event any person holding a site development permit pursuant to this article fails to comply with a notice of violation or order to stop work, fails to remedy the violation to the satisfaction of the director within the required period of time, or repeatedly is in violation due to systemic issues within the management of the site, then the director, in consultation with the city attorney, shall determine whether to subject the violator to criminal prosecution pursuant to section 10-1-2-3 of the Arvada Land Development Code, or to any other remedy available.
- (d) In the event any person holding a site development permit pursuant to this article fails to comply with all of the terms of the site development permit or if the erosion and sediment control measures fail to function properly, the city may do the required work or cause it to be done and collect from the person or their security all costs incurred, including a 50 percent administrative and inspection fee. Before construction activity may resume at the site, the deposit or letter of credit shall be restored to full value. If the site development permit is terminated, any remaining portion of a deposit or letter of credit shall be refunded to the person after deduction by the city of 150 percent of the cost of the work.
- (e) Notwithstanding the availability of any other remedy, any violation of this article shall constitute a violation of the city code and shall be subject to the general penalty and continuing violation provisions of section 1-5 of the Code.”

Section 14. Section 53-1, Definitions, of Chapter 53, Medical and Non-Medical Marijuana, of the Arvada City Code, is hereby amended to read as follows:

“Sec. 53-1. - Definitions.

Accessory building or structure shall have that meaning set forth in chapter 11 of part III (Land Development Code) of this Code. Notwithstanding any other provision of this Code, any mini-structure lawfully utilized pursuant to article IV of this chapter for the growing or processing of marijuana, whether medical or non-medical, shall meet all separation and setback requirements of section 53-42(c).

Multi-unit dwelling means any type of dwelling (whether specifically defined in chapter 11 of part III (Land Development Code) of this Code or not) except a single-family detached dwelling including, but not limited to, a multi-family dwelling, a town home dwelling, a two-family dwelling or duplex, or a single-family attached dwelling.

Single-family detached dwelling shall have the meaning set forth in chapter 11 of part III (Land Development Code) of this Code.”

All other definitions contained in the Definitions section shall remain the same.

Section 15. Section 53-23, Other prohibitory provisions not affected, of Chapter 53, Medical and Non-Medical Marijuana, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 53-23. - Other prohibitory provisions not affected.

Nothing in this article II shall be construed as repealing, modifying, or negating any other prohibitory provision of this Code including, but not limited to, section 3-2-1-9 of chapter 3 of part III (Land Development Code).”

Section 16. Section 53-43, Other prohibitory provisions not affected, of Chapter 53, Medical and Non-Medical Marijuana, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 53-43 - Other prohibitory provisions not affected.

Nothing in this article III shall be construed as repealing, modifying, or negating any other prohibitory provision of this Code including, but not limited to, section 3-1-2-9 of chapter 3 of part III (Land Development Code).

Section 17. Subsection (a)(4)a, of Section 53-62, Regulations for growing and processing marijuana plants in a residential structure, of Chapter 53, Medical and Non-Medical Marijuana, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 53-62. - Regulations for growing and processing marijuana plants in a residential structure.

...

- (a)(4)a Such patient or primary caregiver may grow and process medical marijuana plants in excess of the square footage limitations established herein only within the IL and IG zoning districts located south of West 60th Avenue and east of Marshall Street/Lamar Street;

....”

All other provisions of this section shall remain the same.

Section 18. Subsection (c), of Section 53-73, Penalties, of Chapter 53, Medical and Non-Medical Marijuana, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 53-73. - Penalties.

...

- (c) In addition to any other remedies available to the city, the city may exercise any and all remedies available pursuant to the provisions of chapter 10 of part III (Land Development Code) of this Code.”

All other provisions of this section shall remain the same.

Section 19. Section 74-61, Powers and duties generally, of Chapter 74, Planning and Development, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 74-61. - Powers and duties generally.

The planning commission shall have all of the powers and perform each and all of the duties specified by subsection 8-1-2-2 of the city Land Development Code and, to the extent not

inconsistent therewith, C.R.S. title 31, art. 23, pts. 2 and 3, together with any other duties or authority which may hereafter be conferred upon them by the laws of the state. The performance of such duties and the exercise of such authority is to be subject to each and all the limitations expressed in such legislative enactments.”

Section 20. Section 74-93, Development of streets, of Chapter 74, Planning and Development, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 74-93. - Development of streets.

- (a) A developer is required to dedicate and construct all minor, local, collector, and parkway streets as designated on the city transportation plan in accordance with the cross-section shown on the adopted standards and specifications of the city and as required by article III of chapter 94 and as otherwise required by this section.
- (b) All minor, local, and collector roadways that serve a proposed flat or development must be fully dedicated and constructed at time of development, unless waived by the city council. On minor and local streets within an RA and RN-32.5 zoning districts, the requirements for curb, gutter and sidewalk may be waived, provided that suitable alternative design is approved by the city engineer. On collector streets in industrial or commercial areas, the requirements for sidewalks may be waived if an alternate pedestrian circulation plan is approved by the Community and Economic Development Director.
- (c) A developer, property owner, or subdivider is required to dedicate the necessary right-of-way for parkways. This requirement includes the right-of-way necessary for service roads, acceleration/deceleration lanes, and turn lanes as set forth in the parkway cross-section.
- (d) The development of a parkway street will be shared by the developer and the city as follows: Where the parkway street is adjacent to the property, the developer shall dedicate the necessary right-of-way from the subject property to the centerline of the parkway. The developer shall construct and landscape that portion of the parkway from the subject property line up to, but not including, the header curb on the median. Where the parkway is totally within the developer's property, the developer shall dedicate the entire right-of-way for the parkway. The developer shall construct and landscape that portion of the parkway from the subject property line on both sides of the street up to, but not including, the header curbs on the median.
- (e) In those cases where substantial lengths of a street have been previously built to a different standard, the city engineer or the traffic engineer may require an appropriate transition section, a continuation of the standard of the existing street section or other channelization or signal improvements to facilitate existing and anticipated traffic demands.
- (f) The city requires owners of any development, including redevelopment of an existing use, lying adjacent to existing or proposed streets not built to city standards to build or reconstruct these streets to the standards of the city. Except in the case of parkway streets, if this action would cause the development of a half-street, the city may require the owner to develop the entire approved section. If no opportunity exists for reimbursement from adjacent property owners, the city engineer may allow a modified section to be more than

a half-street, but less than a full section, in order to provide for the efficient movement of two-way traffic.

- (g) The requirements imposed by this section are subject to the findings of the Community and Economic Development Director as required in Division 8-4-4 of the city Land Development Code.”

Section 21. Section 74-94, Water and sewer lines, of Chapter 74, Planning and Development, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 74-94. - Water and sewer lines.

A developer is required to design and install at the developer's cost all water and sanitary sewer lines and accessories to serve a development. City standards will be used wherever applicable to the specific development. All such water and sanitary sewer lines will be not less than eight inches nominal diameter, unless smaller diameters are permitted by the design criteria of the city. The requirements imposed by this section are subject to the findings of the Community and Economic Development Director as required in Division 8-4-4 of the city Land Development Code.”

Section 22. Section 74-95, Storm drainage, of Chapter 74, Planning and Development, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 74-95. - Storm drainage.

It shall be the responsibility of the developer to provide for the control of storm drainage as required by chapter 50 and Division 4-1-3 of the city Land Development Code. The requirements imposed by this section are subject to the findings of the Community and Economic Development Director as required by Division 8-4-4 of the city Land Development Code.”

Section 23. Subsection (c)(1), of Section 74-166, Site assessments based on annexation or property acquisition initiated by owner, of Chapter 74, Planning and Development, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 74-166. - Site assessments based on annexation or property acquisition initiated by owner.

...

- (c)(1) The city shall determine the adequacy of the site assessment performed by owner pursuant to this section and shall not be obliged to approve any petition for annexation on account of completion of a site assessment by owner. Nothing in this article shall limit the city's authority to approve or disapprove a proposed annexation as may be otherwise provided for in chapter 74, Division 8-3-3 of the city Land Development Code or other applicable law.

...”

All other provisions of this section shall remain the same.

Section 24. Should any provision of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 25. This ordinance shall be effective June 8, 2020.

INTRODUCED, READ, AND ORDERED PUBLISHED this 4th day of May, 2020.

PASSED, ADOPTED, AND APPROVED this 18th day of May, 2020.

Marc Williams

Marc Williams, Mayor

ATTEST:

Kristen R. Rush, City Clerk

City Clerk



APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: *Lori Graham*

RM

Publication Dates: May 7, 2020
May 21, 2020

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

Sec. 14-92. - Keeping livestock in specified zoning districts.

- (a) *Livestock—Generally.* Except as otherwise set forth in this section, livestock may be kept only in the ~~A-1 and R-CE-RA~~ and RN-32.5 zoning districts. It shall be unlawful for any person or household to keep a livestock animal in any other zoning district except as otherwise set forth herein. The keeping of livestock must be done in accordance with all other provisions of this chapter.
- (1) *Livestock—Horses.* In addition to being kept in the ~~A-1 and R-CE-RA~~ and RN-32.5 zoning districts, horses may be kept in the ~~R-E, EC-RA, NC-RB, NC-RC, and PUD-R~~ RN-12.5 zoning district and any PUD zoning districts where horses are allowed as part of the PUD. It shall be unlawful for any person or household to keep horses in any zoning district other than those set forth in this subsection (1).
- (2) *Livestock—Chickens and turkeys.* In addition to being kept in the ~~A-1 and R-CE-RA~~ and RN-32.5 zoning districts, chickens and turkeys may be kept in any other zoning district.
- (3) *Livestock—Miniature goats.* In addition to being kept in the ~~A-1 or R-CE-RA~~ and RN-32.5 zoning districts, miniature goats may be kept in any other zoning district.

Sec. 14-123. - Animals, and animal shelters and structures: Distance from dwellings, adequacy, etc.

- (a) *Livestock—Generally.* It shall be unlawful for any person or household to keep livestock anywhere within Arvada except within the ~~A-1 or R-CE-RA~~ and RN-32.5 zoning districts or except as otherwise set forth herein.
- (1) *Distance from dwelling.* Except as otherwise set forth in this section, it shall be unlawful to build or maintain any barn, corral, livestock pen, fenced corral, or other structure used for keeping livestock closer than 100 feet from an existing dwelling unit.
- Exception: This subsection (1) shall not apply to the dwelling unit of the livestock owner or custodian.
- (2) *Time limitation.* Except as otherwise set forth in this section, it shall be unlawful for any person or household to tether, pasture, keep, house, or allow any livestock to be or

remain for more than one hour out of each 24-hour period within 100 feet of any building in use or occupied by any person.

Exception: This subsection (2) shall not apply to the dwelling unit of the livestock owner or custodian, or to the dwelling unit of another if the owner of that dwelling unit has given prior written consent allowing the livestock animal to be kept or to remain within 100 feet of his residence.

- (3) *Livestock—Horses.* It shall be unlawful for any person or household to keep or house any horse except in conformance with the following provisions. There must be a minimum gross land area (not including land area occupied by the principal dwelling) of 12,500 square feet per horse, plus an additional 6,000 square feet for each additional horse. In no case may the total number of horses exceed four per one acre of land. Horses must be kept in a fenced area.

- (4) *Livestock—Chickens and turkeys.*

- a. *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a chicken or turkey within 35 feet of any dwelling unit, except that of the owner or custodian.

Exception: The subsection shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which a chicken or turkey has been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- b. *Yard restriction.* In zoning districts other than the ~~A-1 or R-CE~~ **RA and RN-32.5** zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow a chicken or turkey anywhere within the front setback of the property.
- c. *Maximum number allowed.* In zoning districts other than the ~~A-1 or R-CE~~ **RA and RN-32.5** zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow more than five female chickens, or to keep, have custody of, or allow more than three female chickens and two female turkeys in combination.
- d. *Gender restriction.* In zoning districts other than the ~~A-1 or R-CE~~ **RA and RN-32.5** zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow a male chicken (rooster) or a male turkey (tom).

- (5) *Livestock—Miniature goats.*

- a. *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a miniature goat within 35 feet of any dwelling unit, except that of the owner or the custodian.

Exception: This subsection (5)a. shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which miniature goats

have been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- b. *Yard restriction.* In zoning districts other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any miniature goat anywhere within the front setback of any property.
- c. *Maximum number allowed.* In zoning districts other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow more than two miniature goats, except that the person or household may also keep, have custody of, or allow the adult goats' offspring that are not taller than 16 inches at the withers.
- d. *Minimum number allowed.* For reasons related to the companionship needs of these animals, it shall be unlawful for any person or household to keep, have custody of, or allow fewer than two miniature goats.
- e. *Gender restriction.* In zoning districts other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any unneutered adult male miniature goat. A male miniature goat kept under this subsection (5) in a zoning district other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning district must be neutered before the age of six months or before it reaches a height of 16 inches at the withers, whichever occurs first.
- f. *Goat structure to be kept back from property lines.* In zoning districts other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning districts, it shall be unlawful for any person or household to keep, have custody of, or allow any miniature goat in a structure within 15 feet of any side or rear property line.

Exception: This subsection (5)f. shall not apply to fences.

- g. *Adequacy of shelter.* It shall be unlawful for any person who keeps, has custody of, or allows miniature goats to fail to provide them with a predator-resistant shelter that is properly ventilated and designed for easy access for cleaning and maintenance. Any structure larger than 120 square feet must be permitted by the city.
- h. These subsections (5)a. through g. shall not apply to goats lawfully grazing under section 14-127 of this chapter.

(b) *Domestic fowl and domesticated rabbits.*

- (1) *Distance restriction.* It shall be unlawful for any person or household to keep, have custody of, or allow a domestic fowl or a domesticated rabbit within 35 feet of any dwelling unit, except that of the owner or custodian.

Exception: The subsection shall not apply to the construction or occupancy of a new dwelling unit within 35 feet of any location in or upon which a domestic fowl or a

domesticated rabbit has been lawfully and continuously or customarily kept for a period of six months prior to the beginning of construction of the new dwelling unit.

- (2) *Yard restriction.* In zoning districts other than the ~~A-1 or R-CE-RA~~ and ~~RN-32.5~~ zoning districts, it shall be unlawful for any person to keep, have custody of, or allow a domestic fowl or a domesticated rabbit anywhere within the front setback of the property.

Sec. 18-484. - I.P.M.C. Section 202, General definitions.

Section 202. General definitions, is hereby amended by adding or amending certain definitions to read as follows:

" *Dwelling unit.* Dwelling unit has the same meaning as that set forth in the Arvada Land Development Code, as may be from time to time amended.

Inoperable motor vehicle. A vehicle which cannot be driven upon the public streets for reasons including, but not limited to, not having a current license plate or tag, being wrecked, in a state of major disassembly, in a state of disrepair, or incapable of being moved under its own power.

Noxious weed. A plant or part thereof that meets one or more of the following criteria:

- a) Aggressively invades or is detrimental to economic crops or native plant communities;
- b) Is poisonous to livestock;
- c) Is a carrier of detrimental insects, diseases, or parasites;
- d) The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

In addition, noxious weeds includes, but is not limited to the following types of plants:

Leafy Spurge (*Euphorbia Esula*), Canadian Thistle (*Cirsium Arvense*), Musk Thistle (*Caduus Nutans*), Russian Knapweed (*Centaurea Repens*), Diffuse Knapweed (*Centurea Diffusa*), Spotted Knapweed (*Centaurea Maculosa*), and Purple Loosestrife (*Lythrium Salicaria*).

Rubbish. Combustible and noncombustible waste materials, except garbage, and including, but not limited to the residue from the burning of wood, coal, coke and other combustible materials, and paper, plastic, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials regardless of whether the item could be put to any reasonable use or has any claimed value. Rubbish shall also include household appliances, furniture, machinery, and car parts that are not stored within an enclosed structure. Items may be deemed to be

rubbish regardless of whether the item could be put to any reasonable use or has any claimed value.

Weed. All grasses, annual plants and other vegetation more than 12 inches in height as measured from ground level.

Exceptions:

1. Trees;
2. Shrubs;
3. Cultivated flower or vegetable gardens;
4. Vegetation grown in ~~an A-1 or R-CE~~ the RA and RN-32.5 zoning districts for the purpose of crop production or as animal fodder; and
5. Plants of the Gramineae family (ornamental grasses) commonly used as part of an ornamental landscaping plan."

All other definitions contained in the General definitions section shall remain the same.

Sec. 18-492. - I.P.M.C. Section 302.4, Weeds.

Section 302.4. Weeds, is hereby amended in its entirety to read as follows:

" 302.4. *Weeds.* All premises and exterior property shall be maintained free from weeds or dead plant growth in excess of twelve (12) inches. All noxious weeds shall be prohibited.

302.4.1. *Unlawful acts.* It shall be unlawful for any owner, agent, or resident having charge of a property to permit the growth of weeds or noxious weeds upon any property.

302.4.2. *Continued.* It shall be unlawful for any owner, agent, or resident having charge of a property to permit the growth of ornamental grasses in any area other than ~~A-1 or R-CE~~ the RA and RN-32.5 zoning districts.

Exception: Ornamental grasses may be cultivated in small plots as part of an overall ornamental landscaping plan in other than ~~A-1 or R-CE~~ the RA and RN-32.5 zoning districts, but in no case shall they be used as a ground cover over a substantial portion of a property.

302.4.3. *Removal.* Removal of noxious weeds shall be done in such a manner that will minimize the reproduction of the noxious weeds."

Sec. 38-62. - Same—Specific.

The following acts, among others, are declared to be in violation of this chapter and unlawful, but this enumeration shall not be deemed to be exclusive:

- (1) *Alarms and bells.* Sounding, operating, or permitting the sounding or operation for more than five minutes, or between the hours of 9:00 p.m. and 7:00 a.m., of any electronically amplified signal from any bell or chime from any clock, school, church, or governmental building.
- (2) *Construction activities.* Between the hours of 9:00 p.m. and 7:00 a.m., no person shall operate, or cause to be used or operated, any equipment used in construction activities within any residential ~~or business~~, commercial or mixed-use zoning district. Construction projects shall be subject to the maximum permissible noise level specified for light industrial districts for the period within which construction is to be completed pursuant to any applicable building permit.
- (3) *Fireworks or explosives.* The using of explosives, fireworks, or other devices which create impulsive noise between the hours of 9:00 p.m. and 7:00 a.m. or in such manner as to cause a noise disturbance.
- (4) *Horns and signaling devices.*
 - a. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place of the city except as a danger warning signal or as provided in "The Model Traffic Code."
 - b. The provisions of this chapter shall not apply to the sounding of horns in the customary practice of celebrating weddings or in celebrating the victory of an Arvada sports event, such as a football game, so long as such sounding of horns is within two hours of the completion of any such event.
- (5) *Loading operations.* Loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage containers, or other objects in such a manner as to create a noise disturbance between the hours of 9:00 p.m. and 7:00 a.m.
- (6) *Loudspeakers, exterior.*
 - a. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, place, public or private property without first obtaining a permit.
 - b. The provisions of this subsection shall not apply to emergency vehicles when such emergency vehicles are responding to an emergency call or when in pursuit of an actual suspected violator of the law, or when responding to but not returning from a fire alarm.
 - c. The provisions of this subsection shall not apply to any bell or chime or any device for the production of the sound of bells or chimes from any church, clock, or school so long as such sounds comply with sections 38-62(1) and 38-91.
- (7) *Peddlers and hawkers.* Selling anything by outcry within any area of the city zoned primarily for residential uses. The provisions of this subsection shall not be construed as prohibiting the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.

(8) *Radios, television sets, and similar devices.*

- a. It shall be unlawful for any person to use, operate, or permit to be played, any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device that produces or reproduces sound in such a manner as to be plainly audible at either the property boundary of the source of sound or through a party wall, ceiling, or floor within a building or plainly audible at 25 feet from such device when operated within a moving or parked vehicle.
- b. Organized practices and performances of senior high school groups shall be exempt from this section 38-62(8).
- c. Special events for which a special event permit is obtained from the city in accordance with the provisions of section ~~5.17-3-1-4-8~~ of ~~article 5~~-chapter 3 of the Arvada Zoning Ordinance shall be exempt from this section 38-62(8).

(9) *Recreational activities, nonvehicular.* The flying of model aircraft powered by internal combustion engines, whether tethered or not; or the firing or operation of model rockets or other similar noise producing devices between the hours of 9:00 p.m. and 7:00 a.m., or in such a manner as to cause a noise disturbance.

(10) *Vehicles, repairs or testing.* Repairing, rebuilding, modifying or testing any truck, automobile, motorcycle, or other motor vehicle in such a manner as to cause a noise disturbance or violate the provisions of section 38-62(11).

(11) *Vehicles, standing.* Operating, or permitting the operation of any motor vehicle in excess of 10,000 pounds, manufacturers gross vehicle weight, or any attached auxiliary equipment, for a consecutive period longer than ten minutes while such a vehicle is standing on a public right-of-way in a residential district or is on private property in a residential zone and is not within a completely enclosed structure.

(12) *Motorcycles.* No person shall, nor shall the owner allow any person to operate a motorcycle manufactured after December 31, 1982, that is not equipped with an exhaust muffler bearing the federal Environmental Protection Agency required labeling applicable to the motorcycle's model year, as set out in the Code of Federal Regulations, Title 40, Volume 24, Part 205, Subpart D and Subpart E, as may be from time to time amended. Said label shall be affixed to the exhaust muffler in such a manner as to be readily visible.

- a. For purposes of enforcement of subsection (12), police officers may establish or determine reasonable suspicion to stop a motorcycle based on any relevant facts and circumstances concerning the unusually loud or excessive nature of the noise created or emitted by the motorcycle. This determination may be based upon, but need not be limited to, a consideration of the following factors:
 - (i) The time of day;
 - (ii) The proximity of the motorcycle creating or emitting the noise to any residential area, assisted living facility, nursing or care home, hospital, or public or private school;

- (iii) Any unusual quality associated with the noise such as, but not limited to, a loud grating, grinding, rattling, or whining sound; or
 - (iv) Any other factors tending to show the magnitude or disruptive effect of the noise.
- b. Notwithstanding the language of subsection (12)a., a peace officer may enforce subsection (12) when an accident involving a motorcycle occurs, following any lawful traffic stop or contact, or during any traffic investigation.
 - c. Testimony of the failure by any owner or operator of a motorcycle to immediately demonstrate the presence of an EPA noise label as required in subsection (12), when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (12), that the owner or operator of the motorcycle violated subsection (12).

Sec. 38-91. - Maximum permissible continuous sound pressure levels—General.

It shall be unlawful for any person to operate or cause or permit to be operated any stationary source of noise which creates a sound pressure level that exceeds the limits set forth in Table I for more than 90 percent of any measurement period. This measurement shall not be less than ten minutes when measured at the property boundary or at any point within the property affected by the noise.

TABLE I. SOUND PRESSURE LEVEL LIMIT dB(A)

	Day	Night
Use District	7:00 a.m.—9:00 p.m.	9:00 p.m.—7:00 a.m.
Residential and Mixed-Use	55	50
Commercial	60	55
Light Industrial	70	65
Heavy General Industrial	75	75

Noise levels for any PUD shall conform with this table, and shall be determined by the predominant land use as set forth in the PUD plan. ~~This section shall not apply to property zoned PUD-CC.~~

Sec. 50-76. - Site development permit compliance and enforcement.

- (a) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this article or the approved site development permit.
 - (1) Any permittee violating any of the provisions of this article or the approved site development permit shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this article is committed, continued or permitted, shall constitute a separate offense.
 - (2) Upon conviction of any such violation, such permittee shall be punished by a fine not to exceed the limits established in section 1-5 of this Code for each offense. In addition to any other penalty authorized by this section, any permittee, partnership, or corporation convicted of violating any of the provisions of this article shall be required to bear the expense of such restoration.
 - (3) The city may withhold city inspections, building permits, or certificates of occupancy for any site which is not in compliance with the site development permit.
 - (4) The penalties provided in this article shall be cumulative and not in lieu of each other and may be exercised in any order.
- (b) In the event any person holding a site development permit pursuant to this article violates the requirements or terms of this article, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site, so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, or so as to be materially detrimental to the environment or nearby waterways, the director may stop work on the site, as described in ~~section 9.5.1.D.1~~ **subsection 10-1-2-2E1** of the Arvada Land Development Code, until such time the site returns to a reasonable compliance level as determined by the director.
- (c) In the event any person holding a site development permit pursuant to this article fails to comply with a notice of violation or order to stop work, fails to remedy the violation to the satisfaction of the director within the required period of time, or repeatedly is in violation due to systemic issues within the management of the site, then the director, in consultation with the city attorney, shall determine whether to subject the violator to criminal prosecution pursuant to ~~section 9.5.2~~ **10-1-2-3** of the Arvada Land Development Code, or to any other remedy available.
- (d) In the event any person holding a site development permit pursuant to this article fails to comply with all of the terms of the site development permit or if the erosion and sediment control measures fail to function properly, the city may do the required work or cause it to be done and collect from the person or their security all costs incurred, including a 50 percent administrative and inspection fee. Before construction activity may resume at the site, the deposit or letter of credit shall be restored to full value. If the site development permit is terminated, any remaining portion of a deposit or letter of credit shall be refunded to the person after deduction by the city of 150 percent of the cost of the work.

- (e) Notwithstanding the availability of any other remedy, any violation of this article shall constitute a violation of the city code and shall be subject to the general penalty and continuing violation provisions of section 1-5 of the Code.

Sec. 53-1. - Definitions.

For purposes of this chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meanings:

Accessory building or structure shall have that meaning set forth in ~~article 10~~ **chapter 11** of part III (Land Development Code) of this Code. Notwithstanding any other provision of this Code, any mini-structure lawfully utilized pursuant to article IV of this chapter for the growing or processing of marijuana, whether medical or non-medical, shall meet all separation and setback requirements of section 53-42(c).

Authorized person means a person twenty-one years of age or older lawfully permitted to engage in the personal use of marijuana, including growing and processing marijuana plants, pursuant to Article XVIII, § 16 of the Colorado Constitution.

Authorized public inspector shall mean and include the chief of police and any duly-appointed police officer, the chief building official and any duly-appointed building or technical code enforcement officer, and the code enforcement manager and any duly-appointed zoning code enforcement officer of the city.

Colorado Medical Marijuana Code means C.R.S. tit. 12, art. 43.3, as amended from time to time.

Colorado Medical Marijuana Program means C.R.S. § 25-1.5-106, as amended from time to time.

Colorado Retail Marijuana Code means C.R.S. tit. 12, art. 43.4, as amended from time to time.

Growing and cultivating are interchangeable and mean and encompass all steps or stages in the process of producing, developing, tending, and keeping a marijuana plant through harvest (or, in the alternative, to serve as a "mother plant") including, but not limited to, planting, germination, cloning, vegetative growth, flowering, and harvest.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, but does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana cultivation facility shall have the meaning set forth in Article XVIII, § 16 of the Colorado Constitution.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

Marijuana product manufacturing facility shall have the meaning set forth in Article XVIII, § 16 of the Colorado Constitution.

Marijuana products shall have the meaning set forth in Article XVIII, § 16 of the Colorado Constitution.

Marijuana testing facility shall have the meaning set forth in Article XVIII, § 16 of the Colorado Constitution.

Medical marijuana means marijuana that is grown, processed, or otherwise utilized pursuant to the provisions of the Colorado Medical Marijuana Code and for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

Medical marijuana business means any medical marijuana center, medical marijuana-infused products manufacturer, or optional premises cultivation operation, but excludes lawfully authorized deliveries of medical marijuana from outside the city to the extent allowed by state statutes and regulations and consistent with section 53-72 hereof.

Medical marijuana center shall have the meaning set forth in the Colorado Medical Marijuana Code and shall include the business or business operations contemplated, referenced, and described in C.R.S. §§ 12-43.3-104 and 12-43.3-402 thereof, whether licensed or not.

Medical marijuana-infused products manufacturer shall have the meaning set forth in the Colorado Medical Marijuana Code and such term, along with the term medical marijuana-infused products manufacturing facility, shall include the business or business operations contemplated, referenced, and described in C.R.S. §§ 12-43.3-104 and 12-43.3-404 thereof, whether licensed or not.

Multi-unit dwelling means any type of dwelling (whether specifically defined in ~~article 10~~ **chapter 11** of part III (Land Development Code) of this Code or not) except a single-family detached dwelling including, but not limited to, a multi-family dwelling, a town home dwelling, a two-family dwelling or duplex, or a single-family attached dwelling.

Non-medical marijuana means marijuana that is grown, processed, or otherwise utilized pursuant to and for a purpose authorized by Article XVIII, § 16(3) of the Colorado Constitution.

Non-medical marijuana business shall have a meaning synonymous with marijuana establishment.

Optional premises cultivation operation shall have the meaning set forth in the Colorado Medical Marijuana Code and shall include the business or business operations contemplated, referenced, and described in C.R.S. §§ 12-43.3-104 and 12-43.3-403 thereof, whether licensed or not.

Patient shall have the meaning set forth in Article XVIII, § 14 of the Colorado Constitution, as more fully defined in any applicable state statutes, or rules or regulations promulgated thereunder.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Primary caregiver shall have the same meaning as primary care-giver set forth in Article XVIII, § 14 of the Colorado Constitution, as more fully defined in the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, or the rules or regulations promulgated thereunder.

Primary residence means the place that a person, by custom and practice, makes his or her principal domicile and address, and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of a habitable structure on the premises and the use of the residential address for domestic purposes, such as, but not limited to, sleep, preparation and consumption of meals, regular mail delivery, vehicle and voter registration, or credit, water and other utility billing. A person shall have only one primary residence.

Processing means and encompasses all steps or stages in the process of preparing a harvested marijuana plant, whether medical or non-medical, for utilization as a usable form of marijuana including, but not limited to, cutting, manicuring, drying, curing, extracting, packaging, and storing. To the extent authorized by law, the term also includes all processes associated with preparing medical marijuana infused-products or marijuana products; provided, however, that the use of standard baking equipment, as may be typically contained within a residential kitchen, shall be exempted from the square-footage limitations on processing activities as set forth in Article IV hereof, provided the resulting product is kept in the secure, defined area required by section 53-62(c).

Residential accessory dwelling unit shall have that meaning set forth in article 10 of part III (Land Development Code) of this Code.

Residential structure means a structure or that portion of a structure devoted to a single-family detached dwelling or multi-unit dwelling; or, in the alternative, an allowed accessory building or structure or residential accessory dwelling unit associated with and on the same lot as such dwelling. For purposes of the personal home growing or processing of non-medical marijuana plants pursuant to Article XVIII, Section 16 of the Colorado Constitution, or of medical marijuana plants by a patient or primary caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution, such activities shall be carried out in either the dwelling or the associated accessory building or structure, but not both.

Retail marijuana store shall have the meaning set forth in Article XVIII, § 16 of the Colorado Constitution.

Single-family detached dwelling shall have the meaning set forth in ~~article 10~~ chapter 11 of part III (Land Development Code) of this Code.

Secure means an area that is accessible only to the patient, primary caregiver, or other authorized person under the applicable law for growing or processing medical marijuana or non-medical marijuana, and located, partitioned off, and locked so as to prevent access by

children, visitors, passersby, thieves, vandals, or anyone else not authorized to grow or process such marijuana.

Sec. 53-23. - Other prohibitory provisions not affected.

Nothing in this article II shall be construed as repealing, modifying, or negating any other prohibitory provision of this Code including, but not limited to, section ~~5-1-1(C)~~ **3-2-1-9** of ~~article 5~~ **chapter 3** of part III (Land Development Code).

Sec. 53-43. - Other prohibitory provisions not affected.

Nothing in this article III shall be construed as repealing, modifying, or negating any other prohibitory provision of this Code including, but not limited to, ~~§ 5-1-1 C.~~ **section 3-1-2-9** of ~~article 5~~ **chapter 3** of part III (~~IL and d~~ **Land Development e** Code).

Subsection 53-62 (a)(4)a

- a. Such patient or primary caregiver may grow and process medical marijuana plants in excess of the square footage limitations established herein only within the ~~Clear Creek (CC)~~ **IL and IG** zoning districts **located south of West 60th Avenue and east of Marshall Street/Lamar Street;**

Subsection 53-73(c)

- (c) In addition to any other remedies available to the city, the city may exercise any and all remedies available pursuant to the provisions of ~~article 9~~ **chapter 10** of part III (Land Development Code) of this Code.

Sec. 74-61. - Powers and duties generally.

The planning commission shall have all of the powers and perform each and all of the duties specified by ~~article 2, section 2.2~~ **subsection 8-1-2-2** of the city Land Development Code and, to the extent not inconsistent therewith, C.R.S. title 31, art. 23, pts. 2 and 3, together with any other duties or authority which may hereafter be conferred upon them by the laws of the state. The performance of such duties and the exercise of such authority is to be subject to each and all the limitations expressed in such legislative enactments.

Sec. 74-93. - Development of streets.

- (a) A developer is required to dedicate and construct all minor, local, collector, and parkway streets as designated on the city transportation plan in accordance with the cross-section shown on the adopted standards and specifications of the city and as required by article III of chapter 94 and as otherwise required by this section.
- (b) All minor, local, and collector roadways that serve a proposed flat or development must be fully dedicated and constructed at time of development, unless waived by the city council. On minor and local streets within an ~~R-E~~ **RA and RN-32.5** zoning districts, the requirements for curb, gutter and sidewalk may be waived, provided that suitable alternative design is approved by the city engineer. On collector streets in industrial or commercial areas, the requirements for sidewalks may be waived if an alternate pedestrian circulation plan is approved by the ~~city engineer~~ **Community and Economic Development Director**.
- (c) A developer, property owner, or subdivider is required to dedicate the necessary right-of-way for parkways. This requirement includes the right-of-way necessary for service roads, acceleration/deceleration lanes, and turn lanes as set forth in the parkway cross-section.
- (d) The development of a parkway street will be shared by the developer and the city as follows: Where the parkway street is adjacent to the property, the developer shall dedicate the necessary right-of-way from the subject property to the centerline of the parkway. The developer shall construct and landscape that portion of the parkway from the subject property line up to, but not including, the header curb on the median. Where the parkway is totally within the developer's property, the developer shall dedicate the entire right-of-way for the parkway. The developer shall construct and landscape that portion of the parkway from the subject property line on both sides of the street up to, but not including, the header curbs on the median.
- (e) In those cases where substantial lengths of a street have been previously built to a different standard, the city engineer or the traffic engineer may require an appropriate transition section, a continuation of the standard of the existing street section or other channelization or signal improvements to facilitate existing and anticipated traffic demands.
- (f) The city requires owners of any development, including redevelopment of an existing use, lying adjacent to existing or proposed streets not built to city standards to build or reconstruct these streets to the standards of the city. Except in the case of parkway streets, if this action would cause the development of a half-street, the city may require the owner to develop the entire approved section. If no opportunity exists for reimbursement from adjacent property owners, the city engineer may allow a modified section to be more than a half-street, but less than a full section, in order to provide for the efficient movement of two-way traffic.
- ~~(g) The requirements imposed by this section are subject to the findings of the city engineer~~ **Community and Economic Development Director** as required in ~~subsection 3.18.2~~ **Division 8-4-4** of the city Land Development Code. ~~and to administrative review as provided in subsection 3.18.6 of the city Land Development Code.~~

Sec. 74-94. - Water and sewer lines.

A developer is required to design and install at the developer's cost all water and sanitary sewer lines and accessories to serve a development. City standards will be used wherever applicable to the specific development. All such water and sanitary sewer lines will be not less than eight inches nominal diameter, unless smaller diameters are permitted by the design criteria of the city. The requirements imposed by this section are subject to the findings of the ~~city engineer~~ **Community and Economic Development Director** as required in ~~subsection 3.18.6 Division 8-4-4~~ of the city Land Development Code. ~~and to administrative review as provided in subsection 3.18.6 of the city Land Development Code.~~

Sec. 74-95. - Storm drainage.

It shall be the responsibility of the developer to provide for the control of storm drainage as required by chapter 50 and ~~section 6.12~~ **Division 4-1-3** of the city Land Development Code. The requirements imposed by this section are subject to the findings of the ~~city engineer~~ **Community and Economic Development Director** as required by ~~subsection 3.18.2~~ **Division 8-4-4** of the city Land Development Code. ~~and to administrative review as provided in subsection 3.18.6 of the city Land Development Code.~~

Subsection 74-166(c)(1)

- (1) The city shall determine the adequacy of the site assessment performed by owner pursuant to this section and shall not be obliged to approve any petition for annexation on account of completion of a site assessment by owner. Nothing in this article shall limit the city's authority to approve or disapprove a proposed annexation as may be otherwise provided for in chapter 74, ~~section 3.28~~ **Division 8-3-3** of the city Land Development Code or other applicable law.