

Title 9

PUBLIC WAYS AND PROPERTY

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Chapter 9.10**EXCAVATIONS**

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- 9.10.010 Excavations – Permit required.
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9.10.010 Excavations – Permit required.

It shall be unlawful for any person to dig any hole, drain, or ditch in any street or alley in the city without having first obtained a written permission from the manager. (Code 1997 § 9-1-1).

9.10.020 Injury to pavement.

It shall be unlawful for any person to injure or tear up any pavement or sidewalk without due authority. (Code 1997 § 9-1-2).

9.10.030 Interference with street repairs.

It shall be unlawful for any person to hinder or obstruct the making or repairing of any pavement or walk which may be in the course of construction pursuant to any order of the council, or to hinder or obstruct any person employed by him in making or repairing any public improvement or work ordered by the council. (Code 1997 § 9-1-3).

9.10.040 Excavations to be guarded.

It shall be unlawful for any person to make any excavation in any thoroughfare without providing during the night either sufficient lights or a temporary fence or suitable obstruction around or in front of the same in order to prevent persons, animals, or vehicles from falling therein.

Any person who shall keep any open cellar door, pit, vault, or other subterranean opening on any street or sidewalk, or on any unfenced lot in such unsafe condition so as to endanger life or limb, and shall fail or refuse after three days' notice by the chief of police to fence the same with a good and substantial board fence at least four feet high, shall be deemed guilty of a misdemeanor. (Code 1997 § 9-1-4).

Chapter 9.20**NUMBERING BUILDINGS**

Sections:

- 9.20.010 Building numbers required.
- 9.20.020 New buildings – Owner to secure number.
- 9.20.030 Application for number – Certificate.
- 9.20.040 Street map to be prepared.
- 9.20.050 Numbers – Size and type.
- 9.20.060 Street signs.
- 9.20.070 Numbers designated.
- 9.20.080 Unlawful acts.

9.20.010 Building numbers required.

All persons owning any building fronting upon the streets of the city are hereby required to number their buildings in the manner and as required by this chapter. (Code 1997 § 9-2-1).

9.20.020 New buildings – Owner to secure number.

The owner of any building hereafter constructed and required to be numbered shall, within 30 days after such building is ready for occupancy, apply to the treasurer for a certificate, showing the number of his building, and upon securing the certificate, shall immediately provide and place upon his building at his own expense the number, using such material and observing such rules and regulations as are prescribed herein. (Code 1997 § 9-2-2).

9.20.030 Application for number – Certificate.

It shall be the duty of the treasurer to receive all applications for the assignment of house numbers and to issue a certificate showing such assignment to any applicant. (Code 1997 § 9-2-3).

9.20.040 Street map to be prepared.

It shall be the duty of the engineer to prepare or cause to be prepared, according to the provisions of this chapter, a map or plat of the streets and avenues of the city showing the numbers of all houses which may now or hereafter front upon the several streets of the city. The engineer shall also prepare, from time to time, additional plats showing any change or addition in the number of houses as may be required by law. Upon the completion of any such plats the same shall be delivered by the engineer to the treasurer for his use in making the assignment of numbers. (Code 1997 § 9-2-4).

9.20.050 Numbers – Size and type.

Buildings shall be numbered in a plain manner, and all numbers shall be of some metallic substance, or porcelain, or may consist of gilt lettering on the glass transom or door, and shall be at least three inches in height. All numbers shall be placed in a conspicuous place where they may be read from the street and where they are illuminated by the porch light. (Code 1997 § 9-2-5).

9.20.060 Street signs.

There shall be placed at each street intersection at the expense of the city two street signs on corners diagonally across from each other, which signs shall give the names of the intersecting street and avenue. Each street sign shall have a prefix “N” or “S” to designate the portion of the street north or south of Tomichi Avenue. Each avenue sign shall have a prefix “E” or “W” to designate the portion of the avenue east or west of Main Street. (Code 1997 § 9-2-6).

9.20.070 Numbers designated.

All streets shall be numbered northerly and southerly from Tomichi Avenue and the first number, either north or south from Tomichi Avenue, shall be 100, the next number 101 and such numbering shall increase in consecutive order to the end of the block. The first number in each block shall commence with

the number 100 more than the beginning number in the block immediately preceding. The even numbers shall be on the east side and the odd numbers on the west side of all streets running north and south from Tomichi Avenue and such numbering shall continue, as herein directed, to the city limits on the north and south. All avenues shall be numbered easterly and westerly from Main Street and the first number, either east or west from Main Street, shall be 100, the next 101 and such numbering shall increase in consecutive order to the end of the block. The first number in each block shall commence with the number 100 more than the beginning number in the block immediately preceding. The even numbers shall be on the north side and the odd numbers on the south side of all avenues running east and west from Main Street, and such numbering shall continue, as herein directed, to the city limits on the east and west. One number shall be assigned to every 25 feet in each block on the streets and avenues; except that on that portion of Main Street between New York Avenue and Georgia Avenue one number shall be assigned to every 12.5 feet, excepting also that on that portion of Tomichi Avenue between Pine Street and Taylor Street one number shall be assigned to every 12.5 feet. (Code 1997 § 9-2-7).

9.20.080 Unlawful acts.

No person shall tear down, change, or in any way mutilate any house number or street sign, nor place, use, retain, or permit to remain any number other than the one assigned by the proper officers of the city as provided herein. (Code 1997 § 9-2-8).

Chapter 9.30**SIDEWALKS, CURBS AND GUTTERS**

Sections:

- 9.30.010 Notice to construct or repair.
- 9.30.020 Failure to comply.
- 9.30.030 Assessment of cost.
- 9.30.040 Hearing – Notice.
- 9.30.050 Payment of assessment – Failure constitutes lien.
- 9.30.060 Certification of assessment to county.
- 9.30.070 Sidewalks – Specifications.
- 9.30.080 Bond required.
- 9.30.090 Curbs and gutters – Construction requirements.
- 9.30.100 Curbs and gutters – Grade established.
- 9.30.110 Cleaning sidewalks – Removal of snow and ice.
- 9.30.120 Cooperative repairs.

9.30.010 Notice to construct or repair.

Whenever the council may deem it necessary that a sidewalk, curb or gutter, or any portion thereof, be constructed or repaired, it may, by resolution passed and adopted by a majority vote of the members, declare the necessity and order the construction or repair of the sidewalk, curb or gutter within 30 days after notice is served upon the owner of the premises in the manner as herein specified. The notice shall be in writing, signed by the director of finance, and shall contain a description of the premises, lots or parcels of ground affected, and the name of the owner. The notice shall be served by the chief of police upon the owner or his agent in the same manner as summons are personally served under the Code of Civil Procedure of the state. In case personal service cannot be obtained within the city, as herein directed, service may be obtained by publication for at least once a week for three consecutive weeks in a public newspaper printed and published in the city. Service shall be complete five days after the date of the last publication. It is hereby made the duty of the director of finance to publish the notice and in case of such publication, he shall also deposit a copy of the notice in the post office addressed to the last known address of the owner named in the notice. (Code 1997 § 9-3-1).

9.30.020 Failure to comply.

In case of failure of any owner to construct or repair any such sidewalk, curb, or gutter within the time herein provided, and in the manner prescribed by the city, the city may construct or repair the same, the work to be done in accordance with the specifications set forth by the city for such work. (Code 1997 § 9-3-2).

9.30.030 Assessment of cost.

Upon the completion of the work contemplated by GMC 9.30.020, the council shall proceed to determine and assess the amount properly chargeable against the delinquent owner and against his lot or parcel of land on account of the construction, rebuilding or repair of the sidewalk, curb, or gutter. (Code 1997 § 9-3-3).

9.30.040 Hearing – Notice.

The council, as soon as may be after such assessment, shall cause to be published for a period of 10 days in some newspaper published in the city, a notice of the assessment, which notice shall contain a description of the abutting lot or parcel of land, the name of the owner thereof, the amount of the assessment and shall designate a time and place at which the owner may be heard by the council as to the justness and correctness of the amount so assessed. The notice shall also be served by the chief of police in the same manner as summons are served under the Code of Civil Procedure of the state, upon any owner that may be found within the city, and if not found within the city, a copy thereof shall be mailed to the last known post office address of the person. The publication for a period of 10 days shall be taken to mean and

include at least once a week for three consecutive weeks, and service shall be complete and the hearing may be set at any time after five days have elapsed after the date of the last publication. At the time and place designated in the notice the council shall meet, and if expedient, may adjourn from time to time, and shall hear the owner with reference to the matter. Upon any such hearing the council shall take such final action as shall seem just and proper. (Code 1997 § 9-3-4).

9.30.050 Payment of assessment – Failure constitutes lien.

It shall be the duty of the owner to pay the assessment, or to pay the assessment as modified, as the case may be, within 30 days after such final action, and in case of his failure to do so, he shall be liable personally for the amount of the assessment, and the same shall be a lien upon the respective lots or parcels of land from the time of the assessment, and the city shall have all the remedies for the collection thereof provided by the statutes of this state, including the right to certify the assessment to the proper officers of the county for the purpose of having same placed upon the tax list and collected in the same manner as other taxes are collected, and including the right of sale of property for taxes and the redemption of the same.

The amount of any assessment may be paid to the treasurer at any time before the tax list is placed in the hands of the county treasurer, but thereafter only to the county treasurer. (Code 1997 § 9-3-5).

9.30.060 Certification of assessment to county.

In case the owner shall fail to pay the assessment within 30 days after the final action provided for in GMC 9.30.040, then it shall be the duty of the director of finance to certify the amount of the assessment to the proper county officers as provided by law. (Code 1997 § 9-3-6).

9.30.070 Sidewalks – Specifications.

The material and method of constructing sidewalks shall conform in all respects to the specifications adopted by the council. These specifications shall be on file in the engineer's office at all times. (Code 1997 § 9-3-7).

9.30.080 Bond required.

Every person engaged in constructing sidewalks, crossings, curbs or gutters shall, before entering or engaging in work, enter into and give a bond to the city in the penal sum of \$1,000, with good and sufficient sureties to be approved by the council, which bond shall be filed with the director of finance and be conditioned that all cement work constructed by the person shall be done in accordance with the provisions of this chapter and regulations established by the council and the bond shall be in effect for one year after completion of the work. (Code 1997 § 9-3-8).

9.30.090 Curbs and gutters – Construction requirements.

All curbs and gutters constructed in the city shall be constructed in accordance with the following specifications:

- A. Curb and Gutter Combined. Curbs and gutters, unless otherwise ordered or permitted, shall be constructed as one unit of construction.
- B. Dimensions. The type of curb and gutter and dimensions of the same shall be in accordance with detailed plans and specifications adopted by the council for any particular street, avenue or portion of the city and kept on file with the engineer who shall at all times exhibit the same for inspection of persons interested therein. (Code 1997 § 9-3-9).

9.30.100 Curbs and gutters – Grade established.

All curbs and gutters, or either, as specified by this section, as the case may be, shall be placed along a line and on a grade as marked and established on the ground by the engineer and no curb or gutter shall be placed until it is located and the grade marked and established by the engineer. (Code 1997 § 9-3-10).

9.30.110 Cleaning sidewalks – Removal of snow and ice.

- A. Generally. The owner, occupant, or agent of the owner of any building, property, or vacant lot in the city is required to maintain the sidewalks, parking area, and curbs (the area from the property line to the gutter) adjoining the building, property, or vacant lot in a clean condition and to remove snow and ice from adjoining sidewalks within a reasonable time after every snowfall in order to give safe passage to pedestrians.

The obligation to remove snow and ice from the adjoining sidewalk imposed by this section shall not extend to the removal of snow and ice deposited upon a sidewalk lying parallel to the curb of the adjacent roadway, as a result of snow removal from the adjacent roadways by the city of Gunnison. The owner, occupant, or agent of the owner of any building or property, or vacant lot, is required to remove snow deposited upon a sidewalk or driveway or parking area by snow removal operations of the city of Gunnison that are perpendicular to the curb of the adjacent roadway.

- B. Nuisance Declared. Any violation of this section, which continues after the giving of 24 hours' written notice, is declared to be a public nuisance which may be the subject of an emergency abatement pursuant to GMC 5.30.040(F). For purposes of this section, written notice will be deemed sufficient when personally delivered to the owner, occupant or agent of the owner. If the owner, occupant, or agent of the owner is not physically present upon the property when delivery is made, it shall be sufficient to post such written notice in a conspicuous place upon the property. (Ord. 13-2000 § 1; Code 1997 § 9-3-11).

9.30.120 Cooperative repairs.

Notwithstanding the provisions of GMC 9.30.010 through 9.30.090, should the city council determine during or through the budgetary process that it has sufficient funds available to effect needed repairs or replacement of existing curbs, gutters, and sidewalks, the city council may order such repairs by appropriating funds in the annual municipal budget. Such determination shall be made according to the availability of funds and the condition and priorities of the defects, which shall be set by the city council.

Any such expenditures shall only be made on a cooperative basis with the abutting land owner contributing a proportionate share in either cash or material. (Code 1997 § 9-3-13).

Chapter 9.40**USE OF PUBLIC RIGHTS-OF-WAY FOR PRIVATE PURPOSES**

Sections:

- 9.40.010 Definitions.
- 9.40.020 Landscaping.
- 9.40.030 Structures.
- 9.40.040 Irrigation pumps and pump shelters.
- 9.40.050 Compliance with other ordinances.
- 9.40.060 No creation of vested right.
- 9.40.070 Penalty.

9.40.010 Definitions.

For the purposes of this chapter the following terms shall have the following meanings when used in this chapter:

- A. "Landscaping" means the planting and maintenance of living plants, such as trees, shrubs, flowers, vegetative ground cover, and turf grasses, and shall include nonliving elements such as rock, stone, and bark.
- B. "Public right-of-way" means a right-of-way dedicated for street, road, utility or pedestrian access purposes within the city of Gunnison, and includes the airspace above said right-of-way.
- C. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which extends above the grade of the street.
- D. "Trees and shrubs" means woody perennial plants with one or more stems or trunks.
- E. "Vested right" means a right that may not be revoked, canceled, changed, or altered.
- F. "Written permission" means a license agreement with an individual or entity approved by the city of Gunnison. (Ord. 1-2002 § 1; Code 1997 § 9-4-1).

9.40.020 Landscaping.

Landscaping may be installed within the public right-of-way not being used for street, utility, or sidewalk purposes; provided, that the landscaping does not impede or obstruct normal vehicular or pedestrian traffic; obstruct access to utilities; create a sight barrier to or from motor vehicles, bicycles or pedestrians; restrict snow plowing activities; or create any other safety hazards.

- A. Landscaping shall be located so as not to obstruct fire hydrants or utility boxes and so as to avoid growth into any overhead or underground utility lines. Landscaping may not be installed within six feet of the centerline of any utility pole or within six feet of the centerline of any underground utility line.
- B. No plant material greater than two feet in height shall be located within 15 feet of a curb cut or intersection.
- C. Any tree planted along the street shall be located at least five feet from the curb or the edge of the street, to provide room for utilities, snow plowing, street maintenance, and opening of car doors. No tree or shrub shall obstruct public safety signs. (Ord. 1-2002 § 1; Code 1997 § 9-4-2).

9.40.030 Structures.

No structure shall be erected, installed, or maintained within the public right-of-way without the written permission of the city, except for mailboxes which comply with the U.S. Postal Service regulations, fences three feet or less in height, and irrigation pump shelters. (Ord. 1-2002 § 1; Code 1997 § 9-4-3).

9.40.040 Irrigation pumps and pump shelters.

Irrigation pumps and pump shelters may be placed within the public right-of-way without written permission of the city at the owner's risk. Owners who do not remove their irrigation pumps during the non-irrigation season leave them in at their own risk. (Ord. 1-2002 § 1; Code 1997 § 9-4-4).

9.40.050 Compliance with other ordinances.

Any use of the public right-of-way for private purposes shall comply with the terms of this chapter and all other applicable portions of the city code; for example, see Chapter 8.20 GMC, Sidewalk Vendors. (Ord. 1-2002 § 1; Code 1997 § 9-4-5).

9.40.060 No creation of vested right.

Neither the terms of this chapter nor the granting of written permission for use of a public right-of-way for private purposes shall create any vested right or interest in any part of such public property by virtue of any such use for the installation and maintenance of landscaping or other improvements within the public right-of-way. The city specifically reserves unto itself, upon its sole determination, to require removal of any improvements or landscaping from the public right-of-way. (Ord. 1-2002 § 1; Code 1997 § 9-4-6).

9.40.070 Penalty.

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$1,000. (Ord. 1-2002 § 1; Code 1997 § 9-4-7).

Chapter 9.50**SNOW REMOVAL**

Sections:

9.50.010 Snow removal from private property.

9.50.020 Application.

9.50.030 Agreement.

9.50.040 Entering upon private property.

9.50.050 Snow removal from public sidewalks.

9.50.010 Snow removal from private property.

No person shall deposit, or cause to be deposited, in any city street, alley or roadway, snow taken or removed from private property unless an agreement be first entered into with the city as hereinafter provided. (Code 1997 § 9-5-1).

9.50.020 Application.

Upon written application being made, the city manager may, on behalf of the city, enter into an agreement with such applicant for the removal of snow from private property. The terms of the agreement shall be prescribed by the council and the charge for removal shall be based upon the area of the property to be serviced. (Code 1997 § 9-5-2).

9.50.030 Agreement.

No agreement shall be entered into for less than a full season covering the period from October 1st through March 31st, except that any person acquiring or occupying property after October 1st may apply within 20 days after acquiring title or occupancy, and the charges shall be prorated accordingly. (Code 1997 § 9-5-3).

9.50.040 Entering upon private property.

No provisions of this chapter, and no agreement executed pursuant hereto, shall impose upon the city any obligation to collect, load, haul, or dispose of any materials or substance other than snow or ice, or to enter upon private property and remove snow therefrom except when snow shall have been deposited upon such private property at the direction of the city manager. (Code 1997 § 9-5-4).

9.50.050 Snow removal from public sidewalks.

The requirements for snow removal from public sidewalks are as set forth in GMC 9.30.110. (Ord. 13-2000 § 3; Code 1997 § 9-5-5).

Chapter 9.60**TREE ORDINANCE 1989**

Sections:

- 9.60.010 Short title.
- 9.60.020 Definitions.
- 9.60.030 Creation and establishment of a city tree board.
- 9.60.040 Duties and responsibilities.
- 9.60.050 Street tree species to be planted.
- 9.60.060 Distance from curb and sidewalk.
- 9.60.070 Distance from street corners and fireplugs.
- 9.60.080 Utilities.
- 9.60.090 Public tree care.
- 9.60.100 Tree topping.
- 9.60.110 Pruning, corner clearance.
- 9.60.120 Dead or diseased tree removal on private property.
- 9.60.130 Removal of stumps.
- 9.60.140 Interference with city tree board.
- 9.60.150 Penalty.

9.60.010 Short title.

This chapter shall be known and may be cited as the “tree ordinance 1989.” (Code 1997 § 9-6-1).

9.60.020 Definitions.

- A. “Park trees” means trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.
- B. “Private trees” means trees, shrubs, bushes, and all other woody vegetation located on private property.
- C. “Public trees” means street and park trees.
- D. “Street trees” means trees, shrubs, bushes, and all other woody vegetation on land lying between public rights-of-way on either side of all streets, avenues, or ways within the city. (Code 1997 § 9-6-2).

9.60.030 Creation and establishment of a city tree board.

There is hereby created and established a city tree board which shall consist of the city council. The city council shall rely on city staff members, the Colorado State Forest Service, and other qualified and interested citizens for recommendations, work program preparation, and implementation. The city council may delegate their responsibilities as city tree board as they deem necessary for the health, safety, and welfare of the citizens of the city. (Code 1997 § 9-6-3).

9.60.040 Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the public and upon approval shall constitute the official comprehensive city tree plan for the city. The board may request investigations, findings, reports, and recommendations upon any special matter of question coming within the scope of its work. (Code 1997 § 9-6-4).

9.60.050 Street tree species to be planted.

The city community development department shall maintain a list of recommended species for the Gunnison area. In an effort to provide a variety of landscape species within the city, the public is encouraged to plant any of the trees listed. (Code 1997 § 9-6-5).

9.60.060 Distance from curb and sidewalk.

Trees may not be planted any closer than three feet from curbs or curb lines and sidewalks. (Code 1997 § 9-6-6).

9.60.070 Distance from street corners and fireplugs.

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curb or curb lines. No street tree shall be planted closer than 10 feet of any fireplug. (Code 1997 § 9-6-7).

9.60.080 Utilities.

No trees shall be planted within a power line easement. No street trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. (Code 1997 § 9-6-8).

9.60.090 Public tree care.

It is the responsibility of the adjacent private property owner to maintain street trees.

The city shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city tree board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners. (Code 1997 § 9-6-9).

9.60.100 Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the city tree board. (Code 1997 § 9-6-10).

9.60.110 Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. (Code 1997 § 9-6-11).

9.60.120 Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date

of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. (Code 1997 § 9-6-12).

9.60.130 Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Code 1997 § 9-6-13).

9.60.140 Interference with city tree board.

It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter. (Code 1997 § 9-6-14).

9.60.150 Penalty.

Any person violating any provision of this chapter shall be, upon conviction therefor, subject to a fine not to exceed \$1,000. (Ord. 19-1997 § 8; Code 1997 § 9-6-15).

Chapter 9.70**IRRIGATION SYSTEM**

Sections:

- 9.70.010 Terms defined.
- 9.70.020 Diversion of water permitted.
- 9.70.030 Limitations for diversion – Permit.
- 9.70.040 Hours when diversion prohibited.
- 9.70.050 Use of wastewater exception.
- 9.70.060 Manner of diverting water.
- 9.70.070 Water flowing on streets prohibited.
- 9.70.080 Removal of gates or dams.
- 9.70.090 Ditches to be kept clear.
- 9.70.100 Council may fix regulations.
- 9.70.110 Violation – Denial of water.

9.70.010 Terms defined.

For the purpose of this chapter the term “water user” shall be taken to include any person owning or having title to lots or other parcels of land within the corporate limits, or having the possession or use thereof under lease or otherwise, and diverting water from the city ditches for domestic or irrigation purposes. The term “city ditches” shall be taken to include the main ditch and all other ditches and laterals owned and operated by the city as the surface water and irrigation system of the city and the water herein referred to shall include all the water delivered to the ditches under the decreed water rights of the city. (Code 1997 § 9-7-1).

9.70.020 Diversion of water permitted.

Any water user may divert water from the city ditches for domestic and irrigation purposes, subject to the limitations, regulations, and restrictions herein contained. (Code 1997 § 9-7-2).

9.70.030 Limitations for diversion – Permit.

No water user shall divert water from the city ditches for irrigating more than five lots of ground, a lot being taken as 25 feet by 125 feet in area, or a tract of land equivalent thereto in area, without first having obtained permission from the council as hereinafter provided, and if any water user shall apply water diverted from the city ditches to more than five lots of ground without such permission, it shall be conclusively presumed that he is diverting and using more water from the ditches than he is entitled to receive. Any water user desiring to divert water from the city ditches to irrigate more than five lots of ground herein specified shall, on or before the first day of May of each year, file a written application with the director of finance asking permission to irrigate from the city ditches any additional land. The application shall give a description of the land which applicant wishes to irrigate, the nature of the crop he expects to raise, and the amount of water he wishes to divert from the city ditches for use thereon. The council shall consider all applications filed with the director of finance at the regular meeting of the council in May of each year, and the council may grant or refuse any application or approve the application as to the part of the land described therein and reject it as to the remaining parcels of land. If any such application be granted, the applicant shall receive a written permit which shall contain a description of the land which may be irrigated under the permit; and thereupon, and before the applicant is permitted to divert any water under the permit, he shall pay to the treasurer \$2.00 for each lot or tract of land equivalent to 25 feet by 125 feet in area or fraction thereof, described in the permit. Any permit granted pursuant to this section shall lapse on the first day of May following its date of issue. The permit shall be accepted by the water user subject to all the rules and regulations contained in this chapter, and shall not entitle the water user to whom it is issued to any rights or privileges not enjoyed by any other water user, save and except the right to apply water diverted from the city ditches to more than five lots of ground as described herein. (Code 1997 § 9-7-3).

9.70.040 Hours when diversion prohibited.

No water user shall divert water from the city ditches between the hours of 9:00 p.m. and 5:00 a.m. of each 24 hours, and no water user during said time shall leave a floodgate, dam or other obstruction in the ditches; provided, however, any water user may obtain permission from the council to divert water during said time. (Code 1997 § 9-7-4).

9.70.050 Use of wastewater exception.

GMC 9.70.030 and 9.70.040 shall not apply to water users who take water from the city ditches at the point or places where the city water is discharged as wastewater; provided, however, the diversion of the wastewater shall be subject to the control of the council and the rules and regulations contained in the other sections of this chapter; and provided further, that the point or places where water is discharged as wastewater shall be designated from time to time by the council. (Code 1997 § 9-7-5).

9.70.060 Manner of diverting water.

The water user in diverting water from the city ditches shall divert the water from the nearest ditch to the lot to be irrigated unless it is impossible to irrigate the lot from the nearest ditch; and the water user shall conduct the water directly to the lots or parcels of land to be irrigated and shall not construct ditches or other water conduits for conducting the water along the streets or alleys of the city without permission obtained from the council. Any water user making a ditch across the sidewalk shall bridge or pipe the ditch for the full width of the sidewalk. (Code 1997 § 9-7-6).

9.70.070 Water flowing on streets prohibited.

No water user or any other person shall cause water to flow upon the streets, sidewalks or alleys of the city, and no water user shall divert and use the water from the ditches, nor place any floodgate, dam or other obstruction in the ditches, nor irrigate his land in such manner as to cause water to flow upon the streets, sidewalks, or alleys of said city. Water flowing upon the streets, sidewalks or alleys from a city ditch where water is being used or diverted by a water user, or from the private ditches of the water user, or from the land which he is irrigating shall be prima facie evidence of a violation of this section by the water user diverting the water. (Code 1997 § 9-7-7).

9.70.080 Removal of gates or dams.

No water user nor any other person shall move, alter or in any manner displace any floodgate, dam or any obstruction which is placed in a city ditch under the supervision and direction of the city. (Code 1997 § 9-7-8).

9.70.090 Ditches to be kept clear.

All water users and other persons living within the limits of the city shall keep the ditches in front and rear of their respective premises clear and free from filth and dirt and shall not pour nor dash into the ditches any slop, or filthy or offensive matter of any description whatsoever. (Code 1997 § 9-7-9).

9.70.100 Council may fix regulations.

The council in the management and control of the city ditches, in making an equitable distribution therefrom, and in combating the mosquito pest, may cause the water in the ditches to be turned off, and may order to be removed or cause to be removed, any floodgate, dam or obstruction by which water is being diverted from the ditches by the water user, or may establish ditch districts within the city and allow the residents of one district to use the water for a specific number of hours to the exclusion of the residents of the other districts, or may shut off any water from any water user who diverts water for an unreasonable length of time. The chairman of the ditch and water committee is hereby empowered to make suitable orders carrying out any of the powers of the council reserved and mentioned in this section save and except any order fixing the time during which water shall be turned off in combating the mosquito pest and any order establishing ditch districts as specified herein. All water users and their rights to divert water from the city ditches are subject to any and all orders that may be made pursuant to this section. (Code 1997 § 9-7-10).

9.70.110 Violation – Denial of water.

Any water user and any other person who shall violate any of the provisions of this chapter or who shall disobey any lawful notice of the mayor or council or any duly authorized officer of the city concerning the city ditches or the water therein shall be deemed guilty of a misdemeanor, and subject to the general penalty provided by this code, or may be deprived of the use of and right to divert water from the city ditches for a period of time not exceeding three months of the irrigation season, or both such fine and denial of right to divert water from the city ditches, in the discretion of the police magistrate. (Code 1997 § 9-7-11).

