Chapter 80 - PARKS, OPEN SPACE, AND GOLF [68]

(68) **Editor's note—** Section 19 of Ord. No. 2006-22, adopted June 6, 2006, retitled Ch. 80, Parks, Recreation and Cemeteries, to read as herein set out.

(68) **Charter reference—** Department of parks, recreation and cemeteries authorized, § 4.13.

(68) **Cross reference—** Fire prevention and protection, Ch. 45; nuisances, Ch. 70; solid waste, Ch. 100; traffic, Ch. 115.

(68) **State Law reference—** Municipal parks, § 31-25-201 et seq.; C.R.S. 1973; cemeteries, § 31-25-701 et seq.; wildlife and parks and outdoor recreation, Title 33, C.R.S. 1973.

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ARTICLE I. - IN GENERAL

Sec. 80-1. - Department created—Director.
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Secs. 80-3—80-15. - Reserved.

Sec. 80-1. - Department created—Director.

Pursuant to the authority of section 4.6 of the Charter of the city, there is hereby created and established a department of parks, recreation and cemeteries, which shall be generally managed, controlled and governed by a director to be known as the director of parks, recreation and cemeteries.

(Code 1963, § 24-1)

Sec. 80-2. - Department duties.

The department of parks, open space and golf shall prepare and recommend to the city council and the city administrator general plans for development of parks, open space and golf activities and facilities. The department shall prepare a set, or sets, of rules and regulations governing the care, control, charges, maintenance, use, management and operation pertaining to parks, open space and golf, which rules and regulations shall be approved by the city council. The department shall maintain the municipal cemeteries.

(Code 1963, § 24-4; Ord. No. 2006-22, § 20, 6-6-06)

Secs. 80-3—80-15. - Reserved.

ARTICLE II. - PARKS [69]

(69) **Editor's note—** Section 19 of Ord. No. 2006-22, adopted June 6, 2006, retitled Art. II, Parks and Recreation, to read as herein set out.

(69) **State Law reference—** Parks and recreation, § 31-25-201 et seq., C.R.S. 1973.

Sec. 80-16. - Reserved.
Sec. 80-17. - Reserved.
Secs. 80-18—80-35. - Reserved.

Sec. 80-16. - Reserved.

Editor's note— Section 7 of Ord. No. 2007-38, adopted Sept. 4, 2007, repealed § 80-16 in its entirety. Former § 80-16 pertained to the creation of the acquisition and development fund and derived from Ord. No. 840, adopted June 5, 1979.

Sec. 80-17. - Reserved.

Editor's note— Section 8 of Ord. No. 2007-38, adopted Sept. 4, 2007, repealed § 80-17 in its entirety. Former § 80-17 pertained to expenditures of the acquisition and development fund and derived from Ord. No. 840, adopted June 5, 1979.

Secs. 80-18—80-35. - Reserved.

Editor's note— Ord. No. 1985-15, § 1, adopted June 4, 1985, provided for the repeal of §§ 80-18—80-26, which pertained to parks; their closing hours, beverage rules, permits, and certain rules of conduct therein. Such sections were derived from Ord. No. 725, §§ 1—3, adopted May 17, 1977, and Ord. No. 882, §§ 1—10, 13, adopted July 15, 1980. For current provisions relative to similar subject matter, see § 80-50 et seq.

ARTICLE III. - CEMETERIES [70]

[70] **State Law reference—** Municipal cemeteries, § 31-25-701 et seq., C.R.S. 1973; cemeteries generally, § 12-12-101 et seq., C.R.S. 1973; cemetery districts, §§ 32-5-104, 32-5-105, C.R.S. 1973.

Sec. 80-36. - Price of cemetery lots—Classification of purchasers.
Sec. 80-37. - Same—Established.
Sec. 80-38. - Rules and regulations.
Sec. 80-39. - Penalties.
Sec. 80-40. - Coal Creek Memorial Cemetery perpetual care fund.
Secs. 80-41—80-49. - Reserved.

Sec. 80-36. - Price of cemetery lots—Classification of purchasers.

For purposes of selling cemetery lots a classification of resident and nonresident shall be established. A resident is defined as a person who has resided for a minimum of thirty (30) days within the corporate limits of the city, and a nonresident as a person who has not.

(Ord. No. 833, § 2, 5-15-79)

Sec. 80-37. - Same—Established.

The sales price for cemetery lots and fees for internments and other services shall be set by resolution of city council.

(Ord. No. 833, § 3, 5-15-79; Ord. No. 2005-10, § 39, 3-1-05)

Sec. 80-38. - Rules and regulations.

The city council may, from time to time, adopt by resolution such rules and regulations for the care, control, charges, maintenance, use, management and operation of the cemetery as it may deem appropriate. Any such rules and regulations adopted shall be filed in the office of the city clerk of the City of Lafayette, Colorado and shall be open to public inspection during regular business hours. The city clerk shall provide interested persons with a copy of any rules and regulations adopted upon request and payment of the applicable fee set by the city clerk, if any. Violation of any rule or regulation so adopted is subject to the penalties provided in section 80-39 of this article.

(Ord. No. 1998-38, § 1, 1-5-99)

Sec. 80-39. - Penalties.

The following penalties, herewith set forth in full, shall apply to this article and to any rules and regulations adopted pursuant to this article:

(1) It is unlawful for any person to violate any of the provisions stated or adopted in this article or in any rule or regulation adopted pursuant to this article.

(2) Every person who is eighteen (18) years of age or more on the date of said violation and

convicted of a violation of any provision stated in or adopted pursuant to this article shall be punished by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

(3) Every person who is under eighteen (18) years of age on the date of said violation and convicted of a violation of any provision stated in or adopted pursuant to this article shall be punished by a fine not exceeding one thousand dollars ($1,000.00).

(Ord. No. 1998-39, § 1, 1-5-99)

Sec. 80-40. - Coal Creek Memorial Cemetery perpetual care fund.

There is hereby established a perpetual care fund to provide for the perpetual care and maintenance of those lots within the Coal Creek Memorial Cemetery, which at the time of the city's acquisition were subject to an endowment care obligation. Such fund shall be a separate city fund managed by the city's finance director who may invest such monies in accordance with the city's investment policy. Should the monies within the perpetual care fund exceed the amount required to ensure the perpetual care of the specified lots, the excess monies may be used for the Coal Creek Memorial Cemetery's general operations.

(Ord. No. 2010-10, § 1, 4-20-10)

Secs. 80-41—80-49. - Reserved.

ARTICLE IV. - PARKS AND RECREATION RULES AND REGULATIONS [71]

(71) **Editor's note—** Ord. No. 1985-15, § 2, adopted June 4, 1985, amended the Code by adding provisions pertaining to rules and regulations for use of parks. Such provisions were designated herein as Art. IV, §§ 80-50—80-76.

Sec. 80-50. - Disfiguration and removal of park property.
Sec. 80-51. - Reserved.
Sec. 80-52. - Pollution of waters.
Sec. 80-53. - Refuse and trash.
Sec. 80-54. - Operation of vehicles.
Sec. 80-55. - Parking of motor vehicles.
Sec. 80-56. - Bathing and swimming prohibited.
Sec. 80-57. - Boating prohibited.
Sec. 80-58. - Fishing.
Sec. 80-59. - Firearms and other missiles prohibited.
Sec. 80-60. - Fires prohibited.
Sec. 80-61. - Horses prohibited.
Sec. 80-62. - Alcoholic beverages prohibited.
Sec. 80-63. - Glass containers prohibited.
Sec. 80-64. - Reserved.
Sec. 80-65. - Going onto ice prohibited.

Sec. 80-66. - Vending and peddling prohibited.
Sec. 80-67. - Advertising prohibited.
Sec. 80-68. - Signs prohibited.
Sec. 80-69. - Park closing hours.
Sec. 80-70. - Indecent exposure prohibited.
Sec. 80-71. - Exceptions to park closing hours and use of alcoholic beverages.
Sec. 80-72. - Park reservation.
Sec. 80-73. - Applicability of prohibitions.
Sec. 80-74. - Dog park regulations.
Secs. 80-75—80-80. - Reserved.

Sec. 80-50. - Disfiguration and removal of park property.

It shall be unlawful to wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever. It shall further be unlawful to dig or remove any soil, rock, stones, trees, shrubs or plants, down any timber or other wood, damage, cut, or carve any tree or plant.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-51. - Reserved.

Editor's note— Section 5 of Ord. No. 2006-30, adopted July 18, 2006, repealed § 80-51, which pertained to hunting prohibited, and derived from Ord. No. 1985-15, adopted June 4, 1985.

Sec. 80-52. - Pollution of waters.

It shall be unlawful to throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-53. - Refuse and trash.

It shall be unlawful to dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash, anywhere except in proper receptacles where these are provided. If not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-54. - Operation of vehicles.

It shall be unlawful to operate and/or drive any motorized vehicle including, but not limited to, any self-propelled vehicle, motorbike, motorcycle, whether designed for travel on public highways or designed for off-road travel, moped, trail bike, go-cart, golf cart, motorscooter, or snowmobile, on any area except upon established roadways.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-55. - Parking of motor vehicles.

It shall be unlawful to park any motor vehicle including all vehicles mentioned in section 80-54 in any area except those areas which are posted as designated parking areas.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-56. - Bathing and swimming prohibited.

It shall be unlawful to swim, bathe or wade in any waters in any park including any lake, stream, pond, irrigation ditch, reservoir or other body of water unless such body of water has been designated and posted as an area set aside for swimming and/or wading.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-57. - Boating prohibited.

It shall be unlawful to bring into or operate any private boat, raft, or other watercraft, whether motor-powered or not, upon any waters, except at places designated and posted for private boating.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-58. - Fishing.

Fishing in any and all waters located in public parks shall be governed and regulated by the laws of the State of Colorado.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-59. - Firearms and other missiles prohibited.

It shall be unlawful for any person to use, carry, or possess air rifles, spring guns, bow and arrows, slings, or any other forms of weapons; it shall further be unlawful to possess or use fireworks of any kind or nature; it shall further be unlawful to play golf or hit any golf balls.

(Ord. No. 1985-15, § 2, 6-4-85; Ord. No. 2005-8, § 1, 3-1-05)

Sec. 80-60. - Fires prohibited.

It shall be unlawful to make or allow to burn any fire except in designated concrete or metal fire pits or fireplaces. It shall further be unlawful to fail to completely extinguish any fire made or maintained in a designated fire pit or fireplace prior to leaving a park.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-61. - Horses prohibited.

It shall be unlawful to bring a horse or ride a horse anywhere in a park.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-62. - Alcoholic beverages prohibited.

It shall be unlawful to possess and/or to consume any alcoholic beverage or any fermented malt

beverage in or upon any park. "Alcoholic beverages" and "fermented malt beverages" are as defined by the Colorado Revised Statutes covering alcoholic beverages and fermented malt beverages.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-63. - Glass containers prohibited.

It shall be unlawful for any person to possess any beverage in a glass container or containers in or upon any park at any time.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-64. - Reserved.

> **Editor's note—** Section 6 of Ord. No. 2006-30, adopted July 18, 2006, repealed § 80-64, which pertained to dogs running at large prohibited, and derived from Ord. No. 1985-15, adopted June 4, 1985. The user is directed to § 25-61 for similar provisions.

Sec. 80-65. - Going onto ice prohibited.

It shall be unlawful for any person to go onto the ice of any of the waters located in parks except as such areas are designated and posted for such use.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-66. - Vending and peddling prohibited.

It shall be unlawful to expose or offer for sale any article or thing and it shall further be unlawful to station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. This prohibition shall not apply to any concession operated by or with the approval of the city.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-67. - Advertising prohibited.

It shall be unlawful to announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-68. - Signs prohibited.

It shall be unlawful to paste, glue, tack, or otherwise post any sign, placard, advertisement or inscription whatever.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-69. - Park closing hours.

It shall be unlawful for any person to remain in or upon the premises of any park during the hours of 10:00 p.m. to 6:00 a.m. during which time all parks shall be closed. The director of parks, open space and golf shall cause appropriate signs to be erected giving notice of such closing hours.

(Ord. No. 1985-15, § 2, 6-4-85; Ord. No. 2006-22, § 21, 6-6-06)

Sec. 80-70. - Indecent exposure prohibited.

It shall be unlawful for any person in or upon any park to not wear sufficient articles of clothing to completely cover his or her sex organs from the view of any person or the public, and it shall further be unlawful for any female in or upon any park to not wear clothing sufficient to cover the post-pubertal human female breast below a point immediately above the top of the areola.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-71. - Exceptions to park closing hours and use of alcoholic beverages.

The city council hereby finds that justification for exception to park closing and possession and consumption of alcoholic and fermented malt beverages may exist in the case of activities of groups of persons when valid reasons are established for the extension of said closing hours and possession and consumption of alcoholic and/or fermented malt beverages, and the responsibility for removal of litter, trash and debris can be established. The director of recreation and facility management parks and recreation may issue a permit for the use of Forest Park, Whitetail Park, Lamont Does Park or Waneka Lake Park after the closing time specified in this article and/or the possession and consumption of alcoholic and fermented malt beverages. When any such permit has been issued, the closing time of the park specified in this article shall be extended to the time specified in the permit. Such permit may require performance of conditions, including removal of litter, trash and debris and in such case shall entitle the applicant to be or remain in such park after the extended time until such conditions are performed.

(Ord. No. 1985-15, § 2, 6-4-85; Ord. No. 1988-09, § 1, 5-17-88; Ord. No. 2006-20, § 1, 5-16-06)

Sec. 80-72. - Park reservation.

At the time any person or group of persons shall reserve the use of a park or portion thereof by making a reservation with the director of recreation and facility management and at the time of issuance of a permit pursuant to section 80-71, the director of recreation and facility management shall have the authority to require a cash or surety bond up to the amount of three hundred dollars ($300.00) to guarantee the cleanup of the park or portion thereof as used.

(Ord. No. 1985-15, § 2, 6-4-85; Ord. No. 2006-22, § 22, 6-6-06)

Sec. 80-73. - Applicability of prohibitions.

The prohibitions contained within this article shall be applicable in and on all parks located within the city limits of Lafayette, Colorado, which parks are owned and maintained by the City of Lafayette, Colorado. The provisions contained within this article shall not apply to employees of the city, firemen or any state, county or city officers engaged in the performance of their duties.

(Ord. No. 1985-15, § 2, 6-4-85)

Sec. 80-74. - Dog park regulations.

(1) *Definitions.* As used in this section, the terms "animal owner", "owner", "dog", "leash" and "vicious" shall mean as defined in section 25-2 of the Code.

(2) *[Regulations.]* It shall be unlawful for any animal owner to violate any of the following regulations regarding the use of any city designated dog park:

(a) All dogs who enter the park must be over four (4) months of age, spayed or neutered, have a valid license and current vaccination with an accompanying tag. The tag must be securely affixed to the dog's collar at all times.

(b) All dogs must be leashed when entering or leaving the park's fenced enclosures and owners must retain possession of the leash at all times when within the park's fenced enclosure.

(c) Owners must be at least eighteen (18) years of age and remain within the park's fenced enclosure and in control of all dogs under their care at all times when within the park. Owners are limited to three (3) dogs per visit.

(d) Owners shall immediately pick up their dogs excrement and deposit it in a park trash receptacle.

(e) Aggressive, vicious or contagious dogs are prohibited from use of the park.

(f) Owners shall immediately close and secure the gate upon entering or exiting the confines of the park's fenced enclosure.

(g) Owners shall immediately pick up any litter or trash, including cigarette butts, resulting from their use of the park and deposit same in a park trash receptacle.

(h) Glass containers are prohibited within the park.

(i) Entrance within the park in violation of its posted hours of 6:00 a.m. to 10:00 p.m. or when closed by the city, is prohibited.

(3) *[Responsibility assumed by owners.]* Owners voluntarily assume all risks, loss or injury for themselves or their dog(s) associated with or resulting from use of the park.

(Ord. No. 2006-57, § 1, 11-21-06)

Secs. 80-75—80-80. - Reserved.

ARTICLE V. - GOLF COURSE ENTERPRISE [72]

(72) **Editor's note—** Ordinance No. 1993-55, adopted Jan. 4, 1994, did not specifically amend this Code; hence, codification of §§ 1—4 of said ordinance as §§ 80-81—80-84 herein was at the editor's discretion.

Sec. 80-81. - Created.
Sec. 80-82. - Appointment of board.
Sec. 80-83. - Authority to issue revenue bonds.
Sec. 80-84. - Restrictions on board's authority.
Secs. 80-85—80-89. - Reserved.

Sec. 80-81. - Created.

Pursuant to the authority of section 16.13 of the Charter of the city, there is hereby created and established the golf course enterprise.

(Ord. No. 1993-55, § 1, 1-4-94)

Sec. 80-82. - Appointment of board.

The city council is hereby appointed as the board of the golf course enterprise. There shall not be appointed any persons other than the city council to serve on the board of the golf course enterprise nor shall city council delegate to any other person or entity the powers reserved to the board of the golf course enterprise hereunder.

(Ord. No. 1993-55, § 2, 1-4-94)

Sec. 80-83. - Authority to issue revenue bonds.

The golf course enterprise, acting by and through the city council sitting as the board of the golf course enterprise, may issue its own revenue bonds or other obligations (including refunding securities) on behalf of the city, which revenue bonds or other obligations shall be payable solely from the net revenue (including special assessments) derived from the operation of the golf course enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the city used in the operation of the golf course enterprise. Such revenue bonds or other obligations shall be issued by ordinance of the board of the golf course enterprise, adopted in the same manner and subject to referendum to the same extent as ordinances of the council.

(Ord. No. 1993-55, § 3, 1-4-94)

Sec. 80-84. - Restrictions on board's authority.

The city council shall not authorize the board of the golf course enterprise to acquire, construct or install or hold title to or dispose of any city-owned property used in the operation of the golf course enterprise, to impose or adjust rates, fees, tolls or charges for the use of any such property or for any service or commodity furnished by the golf course enterprise, to levy special assessments or to exercise any power reserved to the council or other city officials by the City Charter or otherwise (other than the power to issue revenue bonds and other obligations).

(Ord. No. 1993-55, § 4, 1-4-94)

Secs. 80-85—80-89. - Reserved.

ARTICLE VI. - OPEN SPACE

Sec. 80-90. - Establishment of committee.

Sec. 80-91. - Purpose.
Sec. 80-92. - Composition.
Sec. 80-93. - Term of service.
Sec. 80-94. - Vacancies.
Sec. 80-94.1. - Open space use regulations.
Secs. 80-94.2—80-94.4. - Reserved.

Sec. 80-90. - Establishment of committee.

There is hereby established, as first promulgated by Resolution 92-33, an open space advisory committee. Appointments to the committee shall be made from citizens representing differing geographic areas and constituencies, in an effort to bring recommendations to the city council which consider the needs of the city as a whole.

(Ord. No. 2006-22, § 23, 6-6-06)

Sec. 80-91. - Purpose.

(1) The committee shall serve the city council in an advisory capacity for the following purposes:

(a) To examine the needs of the city for additional open space which has not already been identified on the city's comprehensive plan, and make recommendations to the planning commission and city council with respect to the location and identification of such additional open space for inclusion in the city's comprehensive plan; and

(b) To assist the city council in establishing priorities for the acquisition of park and open space properties, funds permitting; and

(c) To examine and make recommendations to the city council with respect to possible sources of funding for the purchase of land by the city for use as developed parks, preservation of open space, establishment of trails, and similar purposes; and

(d) To make recommendations to council regarding management policies for open space and the process by which these policies are assigned to city-owned land.

(2) The committee shall also serve as a citizen tree board for the city. The tree board shall establish the standards necessary for the city to receive Tree City USA designation from the National Arbor Day Foundation.

(Ord. No. 2006-22, § 23, 6-6-06)

Sec. 80-92. - Composition.

The committee shall serve without pay and shall consist of five (5) members, each of whom shall have been a resident of the city for at least one (1) year immediately prior to the day of appointment and shall be a qualified and registered elector of the city. The city council shall appoint each of the members, and in addition, shall appoint one member of the city council, one member of the planning commission and the city administrator to serve as nonvoting ex officio members. City council may, upon recommendation of the committee, appoint up to two (2) alternate members, which member(s) shall be called upon to serve and vote in the absence of a regular member(s). The committee may recruit and recommend nominees to city council for appointment. A city employee appointed by the city administrator shall serve as a nonvoting staff liaison to the committee.

(Ord. No. 2006-22, § 23, 6-6-06; Ord. No. 2011-04, § 8, 2-1-11)

Sec. 80-93. - Term of service.

The city council shall appoint each member to a four-year term. Alternate members shall serve a term of four (4) years, unless appointed by city council to fill a vacancy on the committee pursuant to section 80-94.

(Ord. No. 2006-22, § 23, 6-6-06; Ord. No. 2011-04, § 8, 2-1-11)

Sec. 80-94. - Vacancies.

Vacancies on the committee shall be filled for the unexpired term by city council appointment as soon as possible. The committee may recommend any alternate member for appointment by council to a vacant position.

(Ord. No. 2006-22, § 23, 6-6-06; Ord. No. 2011-04, § 8, 2-1-11)

Sec. 80-94.1. - Open space use regulations.

(a) *Prohibitions.* This section shall apply only to open space lands so designated and owned solely by the city. On such lands, it shall be unlawful for any person to:

(1) Engage in any business or commercial activity, including but not limited to, races or events, filming movies or commercials, sale of any goods, services or merchandise or equipment demonstrations without the prior written authorization of the director. It shall be an affirmative defense to this subsection that one is engaging in still camera photography.

(2) Distribute, circulate, give away, throw or deposit any handbills, circulars, pamphlets, papers or advertisements, or post or affix any handbills, circulars, pamphlets, papers or advertisements anywhere within or upon any open space without the prior written authorization of the director.

(3) Utilize any machine or device for the purpose of amplification of human voice, music or any other sound in any open space without the prior written authorization of the director.

(4) Drive, putt, or in any other fashion play or practice golf or use golf balls or golf clubs.

(5) Operate, drive, park, ride, wash, repair or service any motor vehicle, as defined in the Model Traffic Code, Section 102(41) as amended, except as permitted by the director. Vehicles in violation of this subsection shall be subject to being towed at the owner's expense. Motorized wheelchairs used by persons with disabilities shall be permitted for use upon open space on the condition that such use occurs within those areas permitted and upon the conditions established by the director. In accordance with the Model Traffic Code, Section 1208, as amended, only persons with disabilities may park in open space parking spaces designated for persons with disabilities.

(6) Except as permitted by federal law, take off or land any motorized or nonmotorized aircraft, including but not limited to airplanes, helicopters, ultralights, gliders/sailplanes, and hot-air balloons, operate or ride a bicycle, except on officially designated roads and trails. The director may impose additional restrictions on bicycle use of such roads and trails when such restrictions are necessary for resource protection or safety issues.

(7) Fail to comply with all requirements regarding the care, treatment and possession of animals, including wildlife, as set forth in chapter 25 of the Code, as amended. To pasture or graze an animal except as specifically authorized by the director or ride horses except where permitted by posting.

(8) Deposit, scatter, throw or leave any garbage, trash, refuse, waste or junk, of any form or substance, except that waste resulting from the lawful use of open space shall be deposited in the provided receptacles.

(9) Encroach into or upon, or construct or maintain any private improvements, including but not limited to gardens, landscaping, fences, tree houses, swings, swing-sets, bike ramps, paths or compost piles, or store any personal property on open space.

(10) Possess, sell, use, distribute, or consume any alcoholic beverages except as permitted by state law and chapter 10 of the Code.

(11) Dig, remove, destroy, injure, mutilate, apply chemicals, collect, deface, pollute, or cut any natural, historic, geologic, archeological, or cultural resource or any portion thereof, including but not limited to soil, rock, trees, weeds, grass, or any vegetation or plant, seed or scatter any nonindigenous vegetation.

(12) Cut, break, injure, mark, write or print upon or otherwise deface or disturb any rock, building, monument, sign, fence, kiosk, bench, or other manmade or natural feature or property; or attach thereto any sign, card, display, or other similar device, or any other object for the purpose of decorating or for any other purpose, except as authorized by prior written permission of the director.

(13) Light or maintain a fire, grill, or stove.

(14) Bring onto or use any glass or other breakable container.

(15) Discharge, possess, use or carry any weapon except as permitted by chapter 75 of the Code.

(16) Conduct any research project, special event or other similar activity requiring equipment which impacts open space without prior written authorization of the director. Passive nature study which does not cause any disturbance to open space is permitted and encouraged.

(17) Fail to yield to other trail users in the manner defined herein or as otherwise posted. The correct manner for yielding the trail right-of-way is as follows: Bicyclists and pedestrians yield to horses, bicyclists yield to pedestrians, and bicyclists headed downhill yield to bicyclists headed uphill. Yielding the right-of way requires slowing down to a safe speed, being prepared to stop, establishing communication, and passing safely.

(18) Engage in any of the following activities: hangliding, paragliding, parapenting, parachuting, parasailing, mountain skateboarding, mountain ski-biking, off-road roller blading, archery, or any sporting activity, to include but not limited to, baseball, football, soccer, lacrosse or field hockey or the use of remote-controlled land, water, or airborne devices without the prior written authorization of the director.

(19) Violate any posted regulatory sign.

(b) *Geocaching.* For purposes of this subsection:

(1) Definitions for purposes of this subsection:

Geocaching is defined as a recreational activity requiring the participant to search for hidden items or landmarks using a global positioning system and coordinates retrieved from an internet site or other source.

Multi-caching is defined as a variation of geocaching requiring the participant to obtain clues by locating numerous physical sites with a global positioning system, which clues eventually lead the participant to a final physical site.

(2) All caching must adhere to all rules set forth within this section and in addition;

(3) The department encourages virtual caching or "multi-caching."

(4) Caching is prohibited in areas designated as "wildlife preserve."

(5) Caching may occur only within designated trail corridors.

(c) *Hours of use.* Unless otherwise posted, open space shall be open daily from 4:00 a.m. to 10:00 p.m. No person shall be or remain in any open space at any other time, unless prior written permission is obtained from the director. Unless specifically authorized by the director motor vehicles or bicycles may not remain in open space parking lots during closed hours. Motor vehicles and bicycles in violation of this section shall be subject to being towed or removed at the owner's expense.

(d) *Use of lakes and other bodies of water.* All regulations set forth in this section shall also apply to use of lakes, ponds, streams, reservoirs or other bodies of water within any open space.

(1) No fishing is allowed in any body of water owned by the city within open space, unless under the jurisdiction of the state.

(2) No person shall swim, dive, wade, ice skate, or ice fish on any lake, pond, stream, reservoir or other body of water within any open space area. Boating is not allowed on any lake, pond, stream, reservoir or other body of water within any open space.

(e) *Administrative rules and regulations.* The director is authorized to adopt and enforce administrative rules and regulations that implement and supplement the regulations set forth in this section, when such rules or regulations are necessary for maintenance, repairs, or the protection or conservation of any lands, structures, property, wildlife or vegetation or to protect the public. All persons shall comply with such rules and regulations.

(f) *Closures.* City council may, when it deems necessary, close for any time period any open space area. The director may close any open space area as the director deems necessary due to conservation, wildlife, vegetation, management review, contractual or public safety concerns. No person shall enter open space areas that are closed by either city council or the director.

(g) *Exceptions.* City employees, authorized agents of the city and law enforcement personnel are exempt from the regulations set forth in this section while in the performance of their lawful duties.

(Ord. No. 2006-39, § 1, 9-19-06)

Editor's note— Section 1 of Ord. No. 2006-39, adopted Sept. 19, 2006, enacted provisions designated as § 80-94.

Inasmuch as there already exists such a section, at the editor's discretion, said provisions have been redesignated as § 80-94.1

Secs. 80-94.2—80-94.4. - Reserved.

ARTICLE VII. - TREES [73]

(73) **Editor's note—** Section 25 of Ord. No. 2006-22, adopted June 6, 2006, recodified §§ 116-11—116-24 as §§ 80-94—80-107.

(73) **Cross reference—** Landscaping requirements and guidelines, § 26-19-5.

Sec. 80-94.5. - Purpose.
Sec. 80-95. - Applicability.
Sec. 80-96. - Tree board; creation.
Sec. 80-97. - Same—Purposes.
Sec. 80-98. - Same—Organization.
Sec. 80-99. - City forester.
Sec. 80-100. - Voluntary landmark tree program.
Sec. 80-101. - Removal of a landmark tree; replacement.
Sec. 80-102. - Diseased or damaged trees.
Sec. 80-103. - Hearing.
Sec. 80-104. - Appeal.
Sec. 80-105. - Remedial action.
Sec. 80-106. - Collection of costs.
Sec. 80-107. - Payment and assessment of costs.

Sec. 80-94.5. - Purpose.

The city council hereby finds and declares that trees are a vital part of the community because they provide oxygen, control pollution, store water, prevent soil erosion, provide shade and wind breaks, shelter wildlife, add beauty and provide living natural history. The city council intends to promote and protect the welfare of trees within the community by providing regulations for planting, maintaining and removing certain trees within the city limits of Lafayette subject to existing specifications and standards for landscaping, tree planting, maintenance and tree removal set forth elsewhere in the Code. The city council further declares that the policy of the city should be to encourage the planting of trees for the beautification and benefit of the community now and for the future.

(Ord. No. 98-13, § 1, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Editor's note— Section 25 of Ord. No. 2006-22, recodified § 116-11 as § 80-94. Inasmuch as there already exists a § 80-94, said provisions have been redesignated as § 80-94.5, to avoid duplication of numbers.

Sec. 80-95. - Applicability.

Nothing contained herein is intended to nor shall it be interpreted to void, nullify or obviate other

provisions of the code including any provision of the development and zoning code. The provisions of this chapter are to be used either in conjunction with or are subordinate to the standards, specifications and provisions pertaining to landscaping and the planting, maintenance and removal of trees contained therein.

(Ord. No. 98-13, § 2, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-96. - Tree board; creation.

Pursuant to Section 4.13 of the Charter, the "tree board" is hereby created for the purposes stated in this chapter.

(Ord. No. 98-13, § 3, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-97. - Same—Purposes.

The tree board is created to serve solely in an advisory capacity to make recommendations to the city council on matters related to trees and coordinate the following activities:

(a) Examine and review the needs of the city for tree preservation and make recommendations to city council, the planning commission and other departments of the city with respect to rules, regulations and policies governing the care, proliferation and protection of trees.

(b) Develop, implement and coordinate tree preservation activities through outreach, education, training and technical assistance programs.

(c) Work with local nurseries and other tree providers to educate and train citizens on the planting, care and proliferation of trees. Tree education programs should emphasize trees which are recommended for planting within the city and identify those trees which are unlawful to plant pursuant to section 26-19-5

(d) Collect, evaluate and distribute information related to tree education and preservation including the development of a public information document educating citizens about the provisions contained in this chapter and the development and zoning code.

(e) Prepare an annual report for city council describing the various programs related to the tree board. The annual report will include data on the number of participants in the voluntary landmark tree program.

(f) Perform all other duties assigned to them by city council.

(Ord. No. 98-13, § 4, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-98. - Same—Organization.

(a) The tree board shall be composed of eight (8) members to be appointed by city council no later than April 24, 1998. The members shall include the five (5) members of the open space advisory committee whose terms shall be concurrent with their term on the open space advisory committee. Three (3) members shall be ex officio members and shall include one (1) member of city council, one (1) member of the planning commission and the city administrator.

(b) The tree board shall annually elect from its membership a chairman and such other officers as it

may deem necessary during its first meeting of each calendar year and adopt such rules as may be necessary to conduct its business. In the event a vacancy occurs, the city council shall appoint a new member to serve for the remainder of the vacated term in the manner prescribed for appointments to the open space advisory committee.

(c) All members of the tree board shall be at least eighteen (18) years of age, residents of the city for at least one (1) year and qualified registered voters. Members will serve without compensation.

(Ord. No. 98-13, § 5, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-99. - City forester.

The director of parks, open space and golf shall act as the city forester. The city forester is appointed to administer and implement the provisions contained in this chapter. Duties and responsibilities of the city forester will include, but not be limited to:

(a) The review of voluntary requests from property owners to have their tree designated as a landmark tree.

(b) Reserved.

(c) Undergo training sufficient to carry out his/her duties as the city forester.

(d) Meet with the tree board each year prior to Arbor Day.

(Ord. No. 98-13, § 6, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06; Ord. No. 2007-38, § 9, 9-4-07)

Sec. 80-100. - Voluntary landmark tree program.

(a) Any property owner desiring to do so may request in writing that a qualified tree located on such property owner's property be designated by the city forester as a "landmark tree." Any tree which meets one or more of the following criteria may be designated by the city forester as a landmark tree:

(1) The tree is at least thirty (30) years old;

(2) The tree has a circumference of ten (10) feet or more when measured three (3) feet above its base; or

(3) The city forester in his discretion considers the tree rare or the tree is associated with a historical event.

(b) Any property owner whose tree is designated as a landmark tree shall record, at the property owner's expense, the document provided by the city forester evidencing such designation in the office of the clerk and recorder of Boulder County. The designation of a tree as a landmark tree shall constitute a restrictive covenant that shall be appurtenant to and shall run with the property.

(c) The city forester shall designate any tree located on city property as a landmark tree if it meets the criteria of subsection (a).

(Ord. No. 98-13, § 7, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-101. - Removal of a landmark tree; replacement.

(a) Except as provided in subsection (b), no person may remove or alter the location of a landmark tree without first obtaining a permit free of charge from the city forester. The city forester shall give such permit under any one of the following conditions:

(1) The landmark tree is diseased or otherwise poses a threat to other trees, persons or property;

(2) The property owner has shown cause sufficient to demonstrate that removal is necessary to protect the safety and welfare of citizens or their property; or

(3) The property owner agrees to plant one replacement tree either on the owner's property or on city property identified by the city forester. The replacement tree must have a circumference equal to at least one-tenth the circumference of the landmark tree removed provided, however, that such replacement tree meets the minimum plant size requirements of section 26-19-5(e) but not to exceed four (4) inch caliper measured six (6) inches above the ground. In lieu of planting replacement trees, the property owner may make a donation to the tree fund equal to the cost of the replacement trees that would otherwise be required by this section.

(b) Landmark trees located on city property may be removed by the city forester or his designee without a permit.

(c) A property owner who removes a landmark tree without first obtaining a permit shall make a donation to the tree fund in an amount equal to two (2) times the cost of the replacement tree that would otherwise be required under this section. Payment shall be made to the city clerk within thirty (30) days of removing the landmark tree. In the event payment is not made, the city administrator may elect to have such costs become a lien against the subject property at such time as the city discovers the landmark tree is removed and the city administrator or designee certifies the costs to the office of the county treasurer for collection in the same manner as general property taxes are collected. A notice of the lien shall be recorded in the office of the Boulder County clerk and recorder.

(Ord. No. 98-13, § 8, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-102. - Diseased or damaged trees.

The city forester shall serve written notice to the property owner of record for any property upon which the city forester discovers a tree infected with any destructive or communicable disease, insect or other pestilence which, in the sole discretion of the city forester, endangers the growth or health of other trees, or threatens to spread disease or insect infestations. Said notice shall require the property owner to eradicate, remove or otherwise control the complained of condition or request a hearing before the city administrator for the purpose of showing cause why the city forester's decision should be overturned within thirty (30) days from the date of the notice.

(Ord. No. 98-13, § 9, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-103. - Hearing.

(a) If the property owner requests a hearing within the time specified in section 80-102, the city administrator shall set the matter for hearing within ten (10) days and send notice of such hearing to the property owner. The property owner shall appear before the city administrator or a designee thereof for the purposes of presenting evidence as to why the city forester's decision should be overturned.

(b) At the hearing referred to above, the city administrator or designee shall hear such statements and consider such evidence as the city forester, the property owner, or any witness shall offer relative to the complained of condition. The city administrator or designee shall make findings of fact from the statements and evidence offered as to whether the complained of condition exists and if so, what is the appropriate remedy. If the city administrator or designee determines that certain remedial action is warranted, the city administrator or designee shall issue an order based on the findings of fact made pursuant herewith commanding such remedial action be taken by the owner within thirty (30) days from the hearing. If the property owner does not comply with such order, the city may undertake such remedial action at the expense of the property owner.

(Ord. No. 98-13, § 10, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-104. - Appeal.

(a) The property owner shall have the right to request in writing an appeal of the decision of the city administrator or designee to the city council within three (3) days of the date of the written decision. Failure of a property owner to appeal said order constitutes a waiver by such property owner of any right the property owner may otherwise have to contest the city's right to require remedial action on such property and charge the resulting costs against the property owner's property.

(b) The city council shall hold a hearing on the appeal at its next meeting but not later than twenty-one (21) calendar days from the date of the written request for appeal. At the appeal hearing, the city council shall hear such statements and consider such evidence as the city forester, city administer, the property owner, or any witness shall offer relative to the complained of condition. The city council shall make findings of fact from the statements and evidence offered as to whether the provisions of this chapter were violated and if so, what is the appropriate remedy. If the city council determines that certain remedial action is warranted, the city council shall issue an order based on the findings of fact made pursuant herewith commanding the owner to undertake such remedial action.

(Ord. No. 98-13, § 11, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-105. - Remedial action.

(a) If the complained of condition has not been removed within the time stated in the city forester's notice, the order of the city administrator or the order of the city council, the city administrator or designee may remove the tree or take such other remedial action as is stated in the notice or order.

(b) The property owner shall be charged with all administrative costs and expenses incurred in conjunction with the remedial action. Such administrative costs shall include the cost of said remedial action including without limitation, inspection fees, legal expenses and other expenses as ascertained by the city administrator, or designee, which are the result of undertaking remedial action.

(Ord. No. 98-13, § 12, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-106. - Collection of costs.

(a) All costs incurred by the city under this chapter may be assessed against the subject property. If the city administrator or designee thereof determines to assess costs against the subject property, the city administrator or designee shall prepare a statement enumerating all such costs to be assessed. A copy of the city administrator's determination shall be served upon the property owner by first class mail.

(b) In the event payment of the assessment pursuant to subsection (a) is not made to the city clerk within thirty (30) days after a copy of the city administrator's determination is served, the city administrator may elect to have the assessed amount become a lien against the subject property as of the date the city administrator or designee certifies the assessed costs to the office of the county treasurer for collection in the same manner as general property taxes are collected. A notice of the lien shall be recorded in the office of the Boulder County clerk and recorder.

(Ord. No. 98-13, § 13, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-107. - Payment and assessment of costs.

(a) The amount of assessment for the costs provided for under section 80-106 or 80-101 of this chapter may be paid to the city treasurer at any time prior to certification of the same by the city administrator or designee to the office of the county treasurer, but thereafter payments shall be made only to the office of county treasurer.

(b) Upon receipt of the assessment roll under this chapter, the county treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof.

(Ord. No. 98-13, § 14, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)