

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE 1

**Administration and
Abatement of Nuisances**

Sec. 7-1-10. Policy.

It is the policy of the Town, pursuant to Section 31-15-401(c), C.R.S., that every public nuisance shall be restrained, prevented, abated and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain action, pursuant to the provisions of this Chapter, to restrain, prevent, abate and perpetually enjoin any such public nuisance. Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the other criminal offenses of this Town, or the repeal of any of the criminal laws of the State, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws. (Ord. 13-1992 §1)

Sec. 7-1-20. Definitions.

When used in this Chapter, the following words shall be interpreted as follows, unless the context indicates otherwise:

Action to abate a public nuisance means any action brought in Municipal Court to declare and then restrain, terminate, prevent, abate or perpetually enjoin a public nuisance.

Administrative Officer means the Mayor, Town Administrator/Clerk or Enforcement Officer.

Brush means voluntary growth of bushes and such as are growing out of place at the location where growing, and shall include all cuttings from trees and bushes; and also high and rank shrubbery growth which may conceal filthy deposits.

Building means a dwelling, office building, store, warehouse or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semi-trailer, mobile home or any other vehicle designed or used for occupancy by persons for any purpose.

Inoperable vehicle means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- a. Absence of an effective registration plate upon such vehicle.
- b. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.
- c. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

Lawn grasses shall be considered to be those ornamental grasses that are commonly grown for ground cover as part of a lawn.

Litter means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

Native grasses will not be considered as weeds or undesirable plants, and they may be permitted to grow on unimproved property larger than one (1) acre in size. Said grasses shall be buffalo grass, brome grass and other native grasses as approved by the Town Engineer and the Town Administrator/Clerk.

Public nuisance means the doing of, or failure to do, something that injuriously affects the safety, health or morals of the public, or works some substantial annoyance, inconvenience or injury to the public.

Refuse means and includes any grass clippings, leaves, hay, straw or manure; shavings, excelsior, paper or ashes; rubbish containers, boxes, glass, cans or bottles; garbage, waste or discarded materials such as used furniture, appliances and vehicle parts; animal remains such as unused wool, hides or limbs; discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, rocks, wood, roofing material, wire or metal binding; sacks or loose discarded or unused material; all rubbish; and any other materials commonly known as rubbish of any kind or character or by any means known.

Rubbish means any type of debris, trash, waste or rejected matter.

Trash means any worn out, broken up or used refuse, rubbish, toppings, twigs, leaves of trees or worthless matter or material.

Undesirable plants means Russian, spotted and diffuse knapweed, leafy spurge, ragweed, poison ivy and other poisonous plants, which shall be controlled by this Article.

Weed means an unsightly, useless, troublesome or injurious growing herbaceous plant, and shall include all rank vegetable growth which exhales unpleasant and noxious odors and also high and rank vegetable growth that may conceal filthy deposits and which meets one (1) or more of the following criteria:

- a. It aggressively invades or is detrimental to economic crops or native plant communities.

- b. It is poisonous to livestock or humans.

- c. It is a carrier of detrimental insects, diseases or parasites.

- d. Its presence has a direct or indirect effect detrimental to the environmentally sound management of natural or agricultural ecosystems.

For the purposes of this Chapter, *weeds* shall not include those agricultural crops purposely grown for beneficial use. (Prior code 10.01.05; Ord. 13-1992 §1; Ord. 18-1994 §11-401; Ord. 11-2007 §1)

Sec. 7-1-30. Common law nuisances.

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the Town, and any person causing or permitting any such nuisance shall be in violation of this Article. (Ord. 11-2007 §1)

Sec. 7-1-40. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 11-2007 §1)

Sec. 7-1-50. Prohibition of nuisances.

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the Town, shall maintain or allow any nuisance to be or remain therein. (Ord. 11-2007 §1)

Sec. 7-1-60. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Administrator/Clerk dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 11-2007 §1)

Sec. 7-1-70. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same. (Ord. 11-2007 §1)

Sec. 7-1-80. Complaint of nuisance.

In addition to or in lieu of any procedure for abatement, a person may make a complaint of the existence of a public nuisance to a member of the Board of Trustees, the Town Administrator/Clerk, the Town Attorney or the Enforcement Officer. Such complaint shall include, whenever possible, the nature of the public nuisance, the location, including the address, the name of the owner, occupant or manager of the property, the duration of the nuisance and the name and address of the complainant. (Ord. 13-1992 §1; Ord. 11-2007 §1)

Sec. 7-1-90. Abatement of nuisance.

(a) In all cases where a nuisance shall be found in any building or upon any grounds or other premises within the jurisdiction of the Town, twenty-four (24) hours' notice shall be given in writing, signed by the Town Administrator/Clerk, Town Attorney or Enforcement Officer, to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises where

he or she is known and can be found, to remove such nuisance. However, in the case where accumulated refuse has been deemed to be the nuisance, the Town Administrator/Clerk or Enforcement Officer shall require the removal of such accumulated refuse within thirty (30) days of such notice.

(b) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Public Works Director may abate the same forthwith without such notice being given.

(c) Any administrative officer who shall be duly authorized to abate any nuisance specified in this Article shall have the authority to engage the necessary assistance and incur the necessary expense therefor.

(d) The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter. (Ord. 11-2007 §1)

Sec. 7-1-100. Right of entry.

Whenever the Town Administrator/Clerk, any peace officer or the Enforcement Officer has reason to believe that a public nuisance exists, and that such public nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the Town Administrator/Clerk, any peace officer or the Enforcement Officer may immediately enter into any building or upon any premises within the jurisdiction of the Town for purposes of inspection or abatement. (Ord. 13-1992 §1; Ord. 11-2007 §1)

Sec. 7-1-110. Summary abatement.

Whenever a public nuisance exists which constitutes an emergency presenting imminent danger of serious injury to persons or property, an administrative officer may order without notice or judicial action that the public nuisance

be summarily abated by removal, destruction or mitigation. Summary abatement of a public nuisance shall not prevent an administrative officer from issuing a summons for violation of this Chapter. The cost of summary abatement may be assessed and collected as provided by Section 7-1-130 of this Chapter. (Ord. 13-1992 §1; Ord. 11-2007 §1)

Sec. 7-1-120. Action to abate nuisance.

When a public nuisance has not been voluntarily abated within the time specified in the notice to abate, the following procedure shall apply:

(1) The Town may bring an action in Municipal Court to have the nuisance declared as such by the Court and for an order enjoining the public nuisance or authorizing its restraint, removal, termination or abatement by the owner, the person who caused the nuisance, the person who allowed the nuisance to be caused or to continue, an administrative officer or any person under contract with the Town to perform such services.

(2) The action to declare and abate a public nuisance shall be brought by the Town in the name of the People of the Town, by the filing of a complaint, which shall be verified or supported by an affidavit. A summons shall be issued and served as in civil cases, and any employee of the Town, who is over the age of eighteen (18), may serve the summons and verified complaint upon the respondent. Trial shall be to the Court.

(3) A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than twenty-one (21) days from the date of service of the summons and complaint. The trial shall be held upon the appearance date, unless the Court grants a continuance for good cause shown.

(4) The respondent shall file a response on or before the appearance date set forth in the notice of appearance.

(5) In the event the respondent does not answer and appear at the date and time set for appearance and trial, upon a showing by the Town Attorney that the respondent was properly served at least twenty-one (21) days prior to the appearance date, the Court shall enter a default judgment against the respondent. The Court shall order that enforcement by the Town be stayed for ten (10) days and that a copy of the Court's order be mailed to the respondent at his or her last known address. For good cause shown, and prior to enforcement, the Court may set aside an entry of default judgment and set the matter for trial.

(6) The judgment of the Municipal Court may be appealed to the Larimer County District Court.

(7) Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court or by a fine as specified in Section 1-4-20 of this Code. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed.

(8) The remedies specified in this Section shall be in addition to all other remedies provided by law. (Ord. 13-1992 §1)

Sec. 7-1-130. Assessment and collection of costs of abatement.

(a) A person found by the Court to have caused a public nuisance or allowed the nuisance to be caused or to continue shall be liable for the costs specified in this Section. Such costs,

including attorney's fees, may be collected by the Town in a civil action or assessed and filed as a lien against any property on which the abatement was performed as specified in this Section.

(b) If the cost of abatement has not been otherwise collected, the Town Administrator/Clerk shall prepare a statement stating the date of performance of the work, the nature of the work and demanding payment of the actual cost of abatement and collection plus five percent (5%) of the abatement costs for inspection and other incidental or additional administrative costs. The costs enumerated in this statement shall be a first and prior lien upon the property until paid, and shall have priority over all other liens, except general property taxes and prior special assessments, relating back to the date upon which the abatement was performed. The Town Administrator/Clerk shall send by certified mail, return receipt requested, a copy of the statement to the owner of the premises at his or her last known address. Any such owner may file objections to such assessment within ten (10) days from the date said notice is sent; said objections shall be filed with the Town Administrator/Clerk. The Town Administrator/Clerk shall issue a notice to said owner, by certified mail, return receipt requested, of the date the Board of Trustees will hold a public hearing to review the assessment. Failure of the owner to file objections shall result in said assessment becoming a permanent lien on the property. In the event the Board of Trustees determines the assessment to be proper, the Town Administrator/Clerk, on or before thirty (30) days after said assessment hearing, shall certify to the County Treasurer said assessment which is to be levied on said lot, parcel and tract, who shall collect the assessment, together with a ten-percent penalty for cost of collection, in the same manner as other taxes are collected. The laws of the State for assessment and collection of general taxes, including the laws for the sale and redemption of

property for taxes, shall apply to the collection of such assessments. (Ord. 13-1992 §1; Ord. 11-2007 §1)

ARTICLE 2

Nuisances

Sec. 7-2-10. Accumulation to constitute nuisances.

Whenever there shall be in or upon any real property in the Town any inoperable vehicle, wrecked vehicle, refuse or junk of any type upon any private or public property, except in areas specifically allowed in this Code or otherwise designated by the Town for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article. (Ord. 11-2007 §1)

Sec. 7-2-20. Public or private places.

The following places shall be deemed a nuisance:

(1) Any place where people congregate, which encourages the disturbance of the peace or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, the residents in the vicinity or the passers-by on the public streets or highways.

(2) Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to minors, solicitation of prostitution or trafficking in stolen property. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-30. Posting handbills, posters and placards.

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house shall be deemed a nuisance and may be abated as provided in this Chapter. (Ord. 11-2007 §1)

Sec. 7-2-40. Streets, streams and water supply.

(a) No person shall throw, discharge, place or deposit, or cause or permit to be thrown, discharged, placed or deposited, any offensive water, liquid waste, refuse, offal composed of animal or vegetable substance or both, dead animal, excrement, garbage or other offensive matter of any kind upon any street, alley, sidewalk, gutter or public or private grounds.

(b) No person shall throw, discharge, place or deposit, or cause or permit to be thrown, discharged, placed or deposited anything specified in Subsection (a) above or any other substance that would tend to have a polluting effect into the water of any stream, wash, natural watercourse, ditch, canal, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to render the place of discharge offensive or likely to become so, or be liable to pollute the water thereof.

(c) No person shall cause, allow or permit any unlawful pollution or contamination of any surface or subsurface waters in the Town, or of the air or any water, substance or material intended for human consumption; however, no action shall be brought under this Section if the Colorado Department of Public Health and

Environment, or any other agency of the State charged by and acting pursuant to statute or duly adopted regulation, has assumed jurisdiction by the institution of proceedings on said pollution or contamination. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-50. Stagnant ponds.

The permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 11-2007 §1)

Sec. 7-2-60. Sanitary sewer facilities.

(a) No person shall have or maintain any toilet or sanitary sewer facilities not constructed and maintained in accordance with the provisions of this Code.

(b) No person shall maintain in the Town any cellar, vault, sewer, drain, place, property or premises within the Town which is damp, unwholesome, nauseous or filthy, which is covered for any portion of the year with stagnant or impure water, which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health.

(c) No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Ord. 5-1998 §1; Ord. 11-2007 §1)

calendar year, on real property not approved for the conduct of a licensed business involving the sale, lease, rental or storage of said camper coaches, camper trailers or trailer coaches under Chapter 15 or 16 of this Code or on property not approved for the storage of such vehicles as part of a development plan approved under Chapter 15 or 16 is declared to be a nuisance.

(b) The occupancy of a camper coach, camper trailer or trailer coach located on public or private property for more than fourteen (14) days in a calendar year except as provided below is declared to be a nuisance.

(c) Any person against whom strict application of this Section would be unfair and an undue burden because of unusual and extraordinary circumstances may apply to the Town Administrator/Clerk for a special camper occupancy permit. Such application shall be reviewed by the Board of Trustees and, if reasonable cause is found, the Board of Trustees shall authorize issuance of the permit upon such conditions and for such duration as it may determine to be justified. The permit application shall be accompanied by a processing fee of one hundred dollars (\$100.00), which fee shall not be refundable.

(d) Definitions.

Camper coach means an item of mounted equipment, weighing more than five hundred (500) pounds, which, when temporarily or permanently mounted on a motor vehicle, adapts such vehicle for use as temporary living or sleeping accommodations.

Camper trailer means a wheeled vehicle having an overall length of less than twenty-six (26) feet, without motive power, which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

Occupied or occupancy, for the purpose of this Section, means the camper coach, camper trailer or trailer coach is used as a residence or for eating or sleeping accommodations.

Stored or storage, for the purpose of this Section, means the camper coach, camper trailer or trailer coach is parked, placed on jacks or blocks or otherwise has remained on the same lot or parcel or at the same location for a period of twenty-four (24) hours.

Trailer coach means a wheeled vehicle having an overall width not exceeding eight (8) feet and an overall length, excluding towing gear and bumpers, of not less than twenty-six (26) feet and not more than thirty-two (32) feet, without motive power, which is designed and generally and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may occasionally be drawn over the public highways by a motor vehicle. (Ord. 11-1986 §1; Ord. 11-2007 §1)

Sec. 7-2-160. Outside storage.

(a) No person shall permit any use of premises or building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises, lumber, junk, trash, debris or abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.

(b) No person shall permit unsheltered storage of old, unused, stripped and junked machinery, implements or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more within the Town. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-170. Maintenance of property.

No person shall own, lease, occupy, manage or have possession of any premises in the Town in such a manner that any of the following conditions are found to exist thereon:

(1) The premises are a detriment to public health, safety or general welfare.

(2) The premises are so defective, unsightly or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Examples of this condition shall include, but shall not be limited to, the keeping on, disposing of on or scattering over the premises of any of the following:

- a. Junk, trash or debris.
- b. Abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators, freezers or automobiles.
- c. Stagnant water.
- d. An excavation or an open foundation for which a building permit has expired.
- e. Uncovered wells or cisterns.

(3) The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.

(4) The premises are abandoned, boarded up, partially destroyed or left unreasonably in a state of perpetual construction.

(5) Buildings have dry rot, warping or termite infestation.

(6) The premises have a substantial number of broken windows which cause hazardous conditions and invite trespassers and malicious mischief.

(7) The landscaping on the premises has not been maintained as follows:

- a. Trees and shrubs have not been trimmed and are overhanging public rights-of-way.
- b. Weeds have grown over eight (8) inches and have not been removed or cut.
- c. Dead or diseased plantings have not been removed or replaced.

(8) The exterior of commercial establishments or multifamily buildings have not been maintained so as to present a neat and orderly appearance which is compatible with the area as follows:

- a. A substantial number of windows are cracked or broken.
- b. Painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed.
- c. The building has otherwise not been substantially maintained.

(9) Any building is without domestic sewer or water service.

(10) Parking lots have not been repaired or cracks, potholes or other breaks in the parking lot surface have not been filled. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-180. Open burning.

(a) It is unlawful for any person to burn or permit to be burned on any open premises owned or controlled by him or her, or on any

Sec. 7-2-70. Obstruction of public facilities.

(a) No person shall obstruct, tend to obstruct, interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage canal, basin or any public park without first obtaining the written permission of the Town.

(b) No person shall impede the maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner so that it becomes obstructed and causes the water to back up and overflow therefrom, or to become unsanitary. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-80. Nauseous liquids.

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 11-2007 §1)

Sec. 7-2-90. Stale matter.

(a) No person shall permit any garbage container to remain on a premises when it has become unclean or offensive or is injurious to the public health.

(b) No person shall allow vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal.

(c) No person shall keep or collect any stale or putrid grease or other offensive matter. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-100. Foul conditions.

No person shall have or permit upon any premises any fly-producing or mosquito-producing condition. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-110. Drinking containers.

No person shall keep any drinking vessel for public use without providing a method of decontamination between uses. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-120. Garbage and manure.

No person shall permit the accumulation of manure in any stable, stall, corral, feed yard, yard or other building or area in which any animals are kept. (Ord. 5-1998 §1; Ord. 11-2007 §1)

Sec. 7-2-130. Noisemakers.

The use of music, noisemakers or loudspeakers on the streets of the Town for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter. (Ord. 11-2007 §1)

Sec. 7-2-140. Junkyards and dumping grounds.

The storing of junk, trash and refuse on private property within the Town is hereby declared to be a nuisance. (Prior code 8.01.02; Ord. 11-2007 §1)

Sec. 7-2-150. Storage and occupancy of trailers.

(a) The storage of more than two (2) camper coaches, camper trailers or trailer coaches for more than fourteen (14) days in a

public street, alley or other land adjacent to such premises, any rubbish, waste paper, wood or other flammable material, within the Town, unless a permit therefor has first been obtained from the appropriate authority enforcing air pollution control standards.

(b) It is unlawful for any person to operate or cause to be operated any incinerator or other container for the burning of combustible trash, rubbish or waste within the Town unless the container, incinerator or other burning process has previously been approved by the Colorado Air Pollution Control Commission. (Prior code 10.01.03; Ord. 11-2007 §1)

ARTICLE 3

Weeds and Brush

Sec. 7-3-10. Undesirable Plant Management Advisory Commission designated.

The Board of Trustees is appointed to act as the Undesirable Plant Management Advisory Commission for the Town and shall have the duties and responsibilities as provided by state statute. (Ord. 11-2007 §1)

Editor's Note: Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.

Sec. 7-3-20. Nuisance declared.

It is unlawful for any person having control of any lot or parcel of land in the Town to permit or maintain on the lot or parcel of land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley, or for ten (10) feet outside the property line if there is no curb, any growth of undesirable plants, or any growth of weeds or lawn grasses over eight (8) inches in height. Such undesirable plants, weeds or lawn grasses

are declared to be a public nuisance. Such action may be taken as is available for nuisance abatement under the laws of the State and the Town, and as the Board of Trustees, in its sole discretion, deem necessary. (Ord. 18-1994 §11-401; Ord. 11-2007 §1)

Sec. 7-3-30. Responsibility of owner.

Property owners within the Town shall be responsible for the elimination of undesirable plants, and weeds and lawn grasses over eight (8) inches in height from their property. Such elimination shall be accomplished as often as may be necessary to comply with this Article, in an ecologically feasible and environmentally safe manner in accordance with all applicable laws, ordinances, rules and regulations. (Ord. 18-1994 §11-401)

ARTICLE 4

Animals

Division 1

Animal Treatment and Control

Sec. 7-4-10. Definitions.

As used in this Article, the following terms are defined as provided herein:

Animal means every nonhuman species of the animal kingdom, both domestic and wild.

Animal at large means any animal outside of a fence or other enclosure which restrains the animal to a particular premises, whether on public or private property, and not under the control, by leash or lead, of a person capable of controlling the animal. Animals tethered to a stationary object within reach of a street, sidewalk, alley, trail or other public right-of-way are deemed to be *at large*.

Animal Control Officer means any person designated by the Town government as a law enforcement officer, including the Enforcement Officer, for the purpose of enforcing the provisions of this Article.

Animal shelter means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding animals under the authority of this Article or state law for care, confinement, return to owner, adoption or euthanasia.

Bite means to be seized by an animal with the teeth or jaws so that a person or animal has been nipped, gripped, wounded or pierced.

Bodily injury means any physical injury that results in severe bruising, muscle tears, skin lacerations requiring professional medical treatment, or fracture of any bone or injury that requires corrective or cosmetic surgery.

Breeder, hobbyist, means any person who breeds animals as a hobby, producing not more than two (2) litters in any one (1) calendar year.

Breeder, professional means any person who breeds animals for profit or who produces more than two (2) litters of animals in any one (1) calendar year.

Cat means any member of the animal species *Felis catus*.

Commercial animal establishment means any pet shop, grooming shop, guard dog training facility, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, boarding or breeding kennel or other establishment which handles live animals for profit.

Control means an animal must be on a leash or lead not more than six (6) feet in length, physically controlled by a person capable of controlling the animal.

Corral means any uncovered and enclosed lot or parcel of land where animals are kept.

Dangerous dog means any dog that has:

- a. Inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal;
- b. Demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal; or
- c. Engaged in or been trained for animal fighting.

Dog means any member of the animal species *Canis familiaris*.

Dog run means an area of one's property, one hundred forty-four (144) square feet or less, which is used exclusively to keep dogs.

Domestic animal includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds, and animals raised and/or maintained in confinement, including small, harmless pet animals, such as species of aquarium fish, cage birds and certain rodents, such as mice, hamsters and guinea pigs.

Euthanasia means a death brought about by any method which produces rapid loss of consciousness resulting in a painless death.

Hog means a wild or domestic swine weighing more than one hundred twenty (120) pounds.

Kennel or *cattery* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

Licensing Authority means the Board of Trustees or any body designated by the Board of Trustees to have authority to promulgate rules pursuant to this Article and to enforce the provisions of this Article.

Livestock, hooped includes but is not limited to horses mules, sheep, goats, llamas or other similar hard-hooped animals, but does not include swine.

Livestock, small includes but is not limited to rabbits, chinchillas and similar animals, and fowl including but not limited to chickens, ducks, geese and other domesticated fowl.

Owner means any person owning, keeping, harboring, possessing or having custody or control of one (1) or more animals. *Harboring* an animal includes providing food or shelter for three (3) consecutive days or more.

Pet means any animal kept for pleasure rather than utility, especially any animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Pet pig means a swine, typically a Vietnamese potbellied, Yucatan potbellied, African pigmy or miniature.

Pet shop means any establishment, whether operated separately or in connection with another business enterprise, that buys, sells or boards any species of animal.

Pig means a young swine not yet sexually matured and weighing one hundred twenty (120) pounds or less.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death; a substantial risk of serious permanent disfigurement; a substantial risk of protracted loss or impairment of function of any part or organ of the body; breaks or fractures; or burns of the second or third degree.

Stable means any building, structure or shed, whether or not entirely or partially enclosed by walls, in which animals are kept.

Vaccination means an injection of antirabies vaccine, made subcutaneously or otherwise, as approved by the Colorado Department of Public Health and Environment.

Vicious animal means any animal that, without provocation, bites or attacks humans or other animals; approaches any person or other animal in a vicious or terrorizing manner or in apparent attitude of attack, whether or not the attack is consummated; or has acted in a manner that causes or should cause its owner to know that it is potentially vicious.

Wild animal means any animal, including those born or raised in captivity, other than human beings and domestic animals.

Zoological park means any facility operated by a person or government agency, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of animals. (Ord. 20-1998 §9.01.01; Ord. 11-2007 §1)

Sec. 7-4-20. Commercial animal establishments prohibited.

It is unlawful for any person to operate the following commercial animal establishments within the Town: guard dog training facility, animal auction, riding school or stable. It shall only be lawful for a kennel or cattery to operate if first approved by the Board of Trustees in accordance with Chapter 16 of this Code. (Ord. 20-1998 §9.01.02; Ord. 14-2003 §1; Ord. 11-2007 §1)

Sec. 7-4-30. Hogs, pigs, roosters, ganders peacocks and guinea fowl prohibited.

It is unlawful for any person to keep or harbor any hogs, pigs (except pet pigs), ganders, roosters, peacocks or guinea fowl within the Town. (Ord. 20-1998 §9.01.03; Ord. 11-2007 §1; Ord. 10-2010 §1)

Sec. 7-4-40. Removal of dead animals required.

If any animal dies in the possession of any person in the Town, the dead animal shall be deemed a nuisance and it shall be duty of such person to remove the dead animal from the Town within twenty-four (24) hours after its death and cause it to be buried at a sanitary landfill or pet cemetery. It is unlawful to bury or cause to be buried any dead animal or fowl or part thereof within the Town. (Ord. 20-1998 §9.01.04; Ord. 11-2007 §1)

Sec. 7-4-50. Animals injured by motor vehicles.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency. (Ord. 20-1998 §9.01.05)

Sec. 7-4-60. Animal shelter established; operation.

The Town shall have the right to establish an animal shelter for the Town to be operated by Town personnel, or contract with a public or private person or organization for the operation of an animal shelter for and on behalf of the Town. (Ord. 20-1998 §9.01.06)

Sec. 7-4-70. Pet pigs.

It is unlawful for any person to keep, pasture, house, maintain or harbor a pet pig within the Town unless the owner registers said pig with the Town Administrator/Clerk in accordance with this Article within fourteen (14) days of first pasturing, keeping, housing, maintaining or harboring said pig and complies with the following requirements:

(1) Male pet pigs must be castrated prior to the age of four (4) months, and female pet pigs must be spayed prior to the age of four (4) months.

(2) Pet pigs must wear an identification tag at all times or be tattooed prior to the age of four (4) months.

(3) Notice of completion of the requirements of Paragraphs (1) and (2) above must be on file with the Animal Control Officer as a requirement of registration.

(4) All pet pigs must wear a harness except when inside the owner's home, dwelling or fenced yard.

(5) All regulations pertaining to hoofed animals shall also pertain to pet pigs.

(6) Violation of any of these provisions constitutes a nuisance as otherwise defined and controlled by this Chapter.

(7) No more than one (1) pet pig per lot shall be allowed. (Ord. 20-1998 §9.01.07; Ord. 11-2007 §1)

Sec. 7-4-80. Cruelty to animals.

No person shall knowingly, intentionally or maliciously kill, injure or inflict pain or suffering on any animal. No person shall permit, by neglect or inaction, the death of, injury to or infliction of pain or suffering on any animal. No person shall beat, cruelly treat, torment, overload, overwork or otherwise abuse or kill an animal or cause, instigate or permit any fight between animals or between animals and humans, or attend such fights. (Ord. 20-1998 §9.05.01)

Sec. 7-4-90. Proper food and shelter.

(a) No owner or person with custody of an animal for more than twelve (12) consecutive hours shall fail to provide the animal with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shade or shelter space, protection from the weather, veterinary care as needed to maintain health and prevent suffering, and other humane care and treatment.

(b) For the purpose of this Section, the following words shall have the meanings set forth below:

Shade means protection from the direct rays of the sun during the months of June through September.

Shelter means a moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat, made of durable material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

(c) All pens, yards, runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and shall be maintained in good repair. Fences which are intended as enclosures for any animal shall be securely constructed, adequate for the purpose and kept in good repair, in compliance with all ordinances of the Town. (Ord. 20-1998 §9.05.01; Ord. 11-2007 §1)

Sec. 7-4-100. Abandonment.

No person shall abandon any animal which he or she owns or is in his or her custody. In this context, *abandon* means to leave the animal unattended for more than forty-eight (48) consecutive hours, or without food, water or shelter for more than twelve (12) hours. (Ord. 20-1998 §9.05.01)

Sec. 7-4-110. Poisoning.

No person shall expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would know or should know that such substance would probably cause animals to be attracted thereto, eat thereof and be poisoned thereby; provided, however, that this Section does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances. (Ord. 20-1998 §9.05.01)

Sec. 7-4-120. Animals as prizes.

No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or other competition, as an inducement to enter any place of amusement or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade. (Ord. 20-1998 §9.05.01)

Sec. 7-4-130. Confinement in vehicles.

No person shall confine an animal within a parked, closed vehicle, without allowing cross-ventilation. No person shall confine any animal within a parked, enclosed vehicle if the ambient temperature is eighty (80) degrees Fahrenheit or greater. The Enforcement Officer or any peace officer observing an animal kept in violation of this Section may enter the vehicle and impound the animal. In addition to all other defenses and immunities provided by law, any such officer making entry for the purpose of this Section is immune from suit or liability, criminal or civil, for, caused by or arising out of such entry. (Ord. 20-1998 §9.05.01)

Sec. 7-4-140. Protective custody.

(a) Any animal found receiving inhumane treatment, as described in this Division, may be removed and impounded at the expense of the owner.

(b) Any animal whose life reasonably appears to be endangered may be so removed and impounded, whether or not in the presence of its owner. (Ord. 20-1998 §9.05.01)

Sec. 7-4-150. Exceptions.

No provisions contained in Sections 7-4-70 through 7-4-130 of this Division shall be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine. Nothing in said Sections 7-4-70 through 7-4-110 above shall be interpreted as prohibiting any act done in self-defense or to defend another person. (Ord. 20-1998 §9.05.01)

Sec. 7-4-160. Running at large.

(a) General. It is unlawful for the owner or keeper of any animal to permit such animal to be at large within the Town. Any such animal shall be deemed to be running at large when it is off

the premises of such person and not under the physical control of a person capable of controlling the animal, or on the premises of the owner or keeper but not enclosed in a building or a securely fenced area or under the physical control of a person capable of controlling the animal. Any such animal may be impounded by the Town.

(b) Public places. No domestic animal shall be permitted in any public place, unless under the physical control of a person capable of controlling the animal. Public places include, but are not limited to: public common areas of private property, parking lots, churches, cemeteries, parks, schools and swimming areas.

(c) Escaped animals. Within one (1) hour after an animal escapes from either the owner or the person having custody of the animal, the owner or custodian of the animal shall report the escape of said animal to the Police Department or the Animal Control Officer. (Ord. 20-1998 §9.07.01; Ord. 11-2007 §1)

Sec. 7-4-170. Wild animals prohibited.

(a) No person shall keep or permit to be kept any wild animal or vicious animal for display or exhibition purposes, whether done gratuitously or for a fee; provided, however, that this Section does not apply to zoological parks, performing animal exhibitions or circuses elsewhere regulated by the provisions of this Code and by state law.

(b) The Animal Control Officer has the authority to order any person or owner to release appropriately any wild animal kept or permitted to be kept in violation of this Section or to order the appropriate release of any infant wild animal under temporary care and deemed by such officer as capable of survival in the wild. Any person or owner refusing or neglecting to obey such order immediately is in violation of this Section. (Ord. 20-1998 §9.06.01)

Division 2
Livestock and Pet Housing

Sec. 7-4-210. Minimum area of enclosures or number of animals.

(a) Hoofed livestock. It is unlawful for any person to keep any hoofed livestock in the Town unless there is a sufficient area to keep such livestock which shall require both (i) a minimum of one (1) acre of ground and (ii) one half an acre of ground for each hoofed animal. Although the entire lot may be fenced, a corral must be provided where hoofed livestock will normally be penned and given supplemental feed. The corral shall be adequate in size for the number of animals involved and shall not exceed twenty-five percent (25%) of the gross lot acreage or one-quarter ($\frac{1}{4}$) acre, whichever is less. All colts, calves, kids, lambs or young rabbits shall be removed from the premises within sixty (60) days after birth unless the space required for the same is available as provided for in this Section. All fences and corrals shall be sufficient to contain livestock. (Ord. 5-2008 §1)

(b) Small livestock, fowl. It is unlawful for any person to keep any small livestock or fowl in the Town unless the area enclosing the animal provides not less than nine (9) square feet of area (exclusive of shed, shelter or coop) for each animal, and the shed, shelter or coop provides an area of not less than two (2) square feet for each animal. Under no circumstances may more than twelve (12) small livestock or fowl be kept on any property.

(c) Exceptions. A greater number of livestock and/or fowl may be allowed as a nonconforming use for a 4-H youth livestock-raising

project, provided that an application is made and approved by the Town Administrator/Clerk allowing temporary use of a property for a 4-H youth livestock-raising project. No such permit shall be allowed if the proposed use shall unreasonably interfere with any neighboring property owner or otherwise cause any unreasonable impact on the community.

(d) Maximum dogs, cats. It is unlawful to keep, house or maintain in or upon any lot, parcel of property or premises more than three (3) dogs or three (3) cats, or an aggregate of four (4) dogs and cats, over the age of four (4) months. These restrictions shall apply to each dwelling unit within a multiple-family dwelling unit. (Ord. 20-1998 §9.02.01; Ord. 14-2002 §1; Ord. 11-2007 §1)

(e) Exceptions. In the event of a hardship, including a property owner's family emergency, a property owner may maintain up to four (4) dogs on the owner's property upon application of the owner to the Town Administrator/Clerk and granting of a permit by the Town Administrator/Clerk allowing up to four (4) dogs on the approved property. No owner shall be granted a permit for more than thirty (30) days; however, any such permit shall be renewable for up to five (5) additional thirty-day periods. Any permit issued shall be terminated (i) on an immediate basis if the owner is cited by the Town for subsequent animal related violations or (ii) on an immediate basis if the owner is cited by the Town for complaints from neighbors related to the permitted animals, three business days after the permittee receives notice. Notice of any termination may be posted on the permitted property if the permittee can not be served by the Town at the property. If a permit is terminated the permittee may appeal the termination to the Board. If appealed, the Mayor may in his sole discretion stay termination pending the Town Board hearing. Any owner applying for a permit, including any permit extension, shall prior to issuance of the permit pay a permit fee in an amount established by resolution of the Board. (Ord. 8-2010, §1)

Sec. 7-4-220. Distance of enclosure or run from residence, public places.

It is unlawful to maintain any dog house, dog run, hoofed or small livestock or fowl within or about any building, structure, pen or enclosure of any type within twenty-five (25) feet of any building used for residential purposes by anyone other than the person maintaining such dog house, livestock or fowl enclosure; within twenty-five (25) feet of any public way other than an alley; or within twenty-five (25) feet of any church, school, hospital, public building or municipal park. (Ord. 20-1998 §9.02.02; Ord. 11-2007 §1)

Sec. 7-4-230. Distance of corrals and stables.

It is unlawful for any person to keep any hoofed livestock in any corral or stable within the Town, any part of which is within fifty (50) feet of any building used for residential purposes by anyone other than the person maintaining such corral or stable; within twenty-five (25) feet of any public way other than an alley; or within fifty (50) feet of any church, school, hospital, public building or municipal park. (Ord. 20-1998 §9.02.03; Ord. 11-2007 §1)

Sec. 7-4-240. Sanitation of premises.

(a) The bases and floors of lots, pens, cages, stables and corrals shall be cleaned daily by removal of manure and other material soiled by animal wastes. Every place, property or premises in the Town where dogs, hooped and small livestock or fowls are kept shall be clean, sanitary, free of obnoxious odors and maintained in such a manner as will effectively prevent reproduction of flies in or about such places or premises.

(b) It is unlawful to permit any decaying food or any refuse of any kind to remain in such yard. Refuse from such yard shall, when swept up or collected, be kept in airtight containers until disposed.

(c) Every dog house or fowl or small livestock enclosure shall be adequately enclosed so as to be impenetrable to rats or other rodents. The presence of any rats in any small livestock and fowl enclosures, dog houses and runs, corrals, stables or animal premises shall be prima facie evidence that such place is maintained in violation of the provisions of this Section. (Ord. 20-1998 §9.02.04; Ord. 11-2007 §1)

*Division 3
Animal Licensing and Permits*

Sec. 7-4-310. License requirement.

Any person owning, keeping, harboring or having custody of any dog or cat over six (6) months of age within the Town must obtain a license as herein provided. The Town will recognize a current County dog license as fulfilling this requirement for dogs and cats. (Ord. 20-1998 §9.03.01)

Sec. 7-4-320. Application.

Written application for licenses, which shall include name and address of the applicant,

description of the animal, the appropriate fee and a rabies certificate issued by a licensed veterinarian or antirabies clinic, shall be made to the Town. (Ord. 20-1998 §9.03.01)

Sec. 7-4-330. License period.

If not revoked, licenses for the keeping of dogs and cats shall be valid for a period of one (1) year from the month of licensing. Such a license shall be renewed annually. (Ord. 20-1998 §9.03.01)

Sec. 7-4-340. Application circumstances.

Applications for licenses must be made within thirty (30) days after obtaining a dog or cat six (6) months of age or older, or when a cat or dog in a person's possession becomes six (6) months of age. This requirement does not apply to a nonresident keeping a dog or cat within the Town for sixty (60) days or less. (Ord. 20-1998 §9.03.01)

Sec. 7-4-350. Exceptions.

License fees shall not be required for certified governmental police dogs, seeing eye dogs, hearing dogs or other certified dogs that are trained to assist the physically handicapped. (Ord. 20-1998 §9.03.01)

Sec. 7-4-360. Tags.

Upon acceptance of the license application, fee and agreement by the applicant to follow all applicable regulations, the Licensing Authority shall issue a durable tag, stamped with an identifying number and the year of issuance. Dogs and cats must wear the identification tags issued for them, and not that of any other at all times when off their owners' premises. The Town shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public during normal business hours. (Ord. 20-1998 §9.03.01; Ord. 11-2007 §1)

Sec. 7-4-370. Duplicate licenses.

A duplicate license may be obtained upon payment of a replacement fee established by resolution by the Board of Trustees to offset the Town's costs. (Ord. 20-1998 §9.03.01; Ord. 11-2007 §1)

Sec. 7-4-380. License limitation.

No person may use any license for any animal other than the animal for which it was issued. (Ord. 20-1998 §9.03.01)

Sec. 7-4-390. Additional regulations.

The Licensing Authority may establish other regulations governing the issuance of licenses. Such regulations may include requirements for humane care of animals and other requirements consistent with this Article and other applicable law. The Licensing Authority may amend such regulations from time to time as is deemed desirable for the preservation of the public health and welfare and to prevent animal cruelty. (Ord. 20-1998 §9.03.01)

*Division 4
Disease Control*

Sec. 7-4-410. Diseased animals.

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large or to be exposed in any public place whereby the health of man or animal may be affected. It is the duty of the Animal Control Officer to secure disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the Colorado Director of Public Health and Environment is empowered to act. (Ord. 20-1998 §9.04.01; Ord. 11-2007 §1)

Sec. 7-4-420. Vaccination.

It is the duty of every owner of a dog or cat over three (3) months of age harbored in the Town to have such dog or cat vaccinated for the diseases required under state statutes by a licensed veterinarian or animal health clinic. The owner of such dog or cat shall present a copy of the vaccination certificate with the dog or cat license application required by Division 3 above verifying a current vaccination administered as authorized by the Department of Public Health and Environment. (Ord. 20-1998 §9.04.02)

Sec. 7-4-430. Vaccination exemption.

If a veterinarian licensed by the State issues a certificate that inoculation would be harmful to a specific dog or cat, and that failure to inoculate such animal shall not create a danger to humans or other animals, that dog or cat shall be exempt from the inoculation prescribed by this Division. (Ord. 20-1998 §9.04.03)

Sec. 7-4-440. Report of animal bites.

(a) Any owner whose animal bites a person shall immediately notify the Animal Control Officer or Police Department.

(b) It is the duty of every physician and medical practitioner to report to the Animal Control Officer or the Police Department the name and address of any person treated for bites or wounds inflicted by an animal, together with all available information necessary for rabies control.

(c) It is the duty of every veterinarian to report to the Animal Control Officer or the Police Department the name and address of the owner of any animal treated for bites or wound inflicted by any other animal, together with all available information necessary for rabies control. (Ord. 20-1998 §9.04.04; Ord. 11-2007 §1)

Sec. 7-4-450. Quarantine of suspected animals.

Animals suspected of having rabies or having bitten any person or animal and having an uncertain vaccination status shall be impounded in solitary confinement and kept under observation for a period of ten (10) days. An attempt shall be made by the Animal Control Officer to discover whether the animal has been vaccinated against rabies. If it is found that the animal has not been effectively vaccinated or there is any doubt whether the animal has in fact been vaccinated, then such animal shall be vaccinated on the last day of the observation period. The Town may cause any animal which has rabies to be destroyed humanely and an autopsy performed. All expenses in connection with the provisions of this Section shall be borne by the owner of the animal. (Ord. 20-1998 §9.04.05)

Sec. 7-4-460. Destruction of certain animals.

If any vicious or dangerous animal suspected of or having rabies, found at large, cannot be safely taken up and impounded, the animal may be destroyed by any Animal Control Officer or police officer. (Ord. 20-1998 §9.04.06)

*Division 5
Dangerous Animals*

Sec. 7-4-510. Vicious animals.

(a) It is unlawful for any person to keep or harbor any vicious animal within the Town. It shall be an affirmative defense to charges under this Section that the actual or intended victim of any attack has made an unlawful entry into the dwelling of the animal's owner or is threatening or attacking the owner, or immediate family or guest of the owner of the animal.

(b) The Animal Control Officer or any police officer may impound any animal which is

reasonably believed to be vicious. Within ten (10) days of such impounding, the Animal Control Officer must conduct a full investigation, including an opportunity for the animal's owner to present evidence of the animal's character, or release the animal to the custody of its owner. If the animal is determined to be vicious, it must be either removed from the Town or destroyed. If the animal is found not to be vicious, it must be released to the custody of its owner. (Ord. 20-1998 §9.08.01)

Sec. 7-4-520. Unlawful ownership of dangerous dog.

(a) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has financial or property interest in, or has custody or control over a dangerous dog.

(b) An affirmative defense to the violation of this Section shall be:

(1) That, at the time of the attack by the dangerous dog which causes injury or death of a domestic animal, the domestic animal was at large, was a stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(2) That, at the time of the attack by the dangerous dog which causes injury to or death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(3) That, at the time of the attack by the dangerous dog which causes injury to or death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dogs owner, and the attack did not occur on the owner's property;

(4) That, at the time of the attack by the dangerous dog which causes injury to or death of a person, the victim of the attack was committing a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

(5) That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

(c) The affirmative defenses set forth in this Subsection (b) above shall not apply to any dog that has engaged in or been trained for animal fighting.

(d) Upon taking an owner into custody for an alleged violation of this Section or the issuing of a summons and complaint to the owner, the owner's dangerous dog shall be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition in the event the court sets bail for an owner's release from custody pending final disposition, the court shall require, as a condition of bond, that the owner's dangerous dog be placed at the at the owner's expense in a public animal shelter, licensed boarding facility or veterinarian's clinic of the owner's choosing, pending final disposition of the alleged violation of this Section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this Subsection.

(e) The provisions of this Section shall not apply to the following:

(1) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(2) To any dog that inflicts bodily or serious injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, trainer or dog show judge, each acting in the performance of his or her respective duties; or

(3) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog. (Ord. 20-1998 §9.08.02)

Sec. 7-4-530. Wild and dangerous animals.

(a) Unlawful to own or possess. It is unlawful for any person to own, possess, harbor, sell or in any other manner traffic in any wild and various animals, including but not limited to the following:

(1) All poisonous snakes and other poisonous reptiles, and all nonpoisonous snakes with a length greater than six (6) feet;

(2) All species of primates; and

(3) All species of canine, feline, bear and other carnivorous animals other than dogs and cats, as defined in this Article.

(b) Exceptions. The provisions of this Section shall not be applicable to any bona fide zoological park, wildlife sanctuary or circus licensed by the Town.

(c) At large. The Animal Control Officer shall have the authority to apprehend any wild animal that may be at large. Such wild animal may be impounded, released in wild areas outside the Town which are representative of the animal's natural habitat, or humanely destroyed

as the Animal Control Officer in his or her sole discretion shall determine in accordance with state law. The Animal Control Officer is authorized to use any tranquilizer gun or other firearm to subdue or destroy any wild or dangerous animal.

(d) Costs paid by responsible persons. Any reasonable costs incurred by the Town in seizing, impounding and confining any dangerous or wild animal shall be charged against the owner of such animal. Such charge shall be in addition to any other fine or penalty provided for violating this Article. (Ord. 20-1998 §9.08.03; Ord. 11-2007 §1)

Sec. 7-4-540. Destruction of animal too dangerous to capture.

Any dangerous animal subject to impoundment under the provisions of this Division, or any other animal which because of its disposition or diseased condition is subject to impoundment and is deemed too dangerous to apprehend, may be destroyed by the Animal Control Officer or a police officer. (Ord. 20-1998 §9.08.05; Ord. 11-2007 §1)

*Division 6
Abatement of Animal Nuisances*

Sec. 7-4-610. Nuisances generally.

No animal owner shall fail to exercise proper care and control of his or her animal to prevent such animal from becoming a public nuisance. A public nuisance includes any of the occurrences listed in this Division, as well as any other occurrence determined by the Board of Trustees or a court of competent jurisdiction or law. (Ord. 20-1998 §9.09.01; Ord. 11-2007 §1)

Sec. 7-4-620. Sanitation.

If any of the premises described in Section 7-4-240 above are not kept in a clean and sanitary condition or become dangerous or detrimental to human health, it shall be declared a nuisance and abated as such. (Ord. 20-1998 §9.09.01)

Sec. 7-4-630. Noise.

Between the hours of 7:00 a.m. and 11:00 p.m., no animal owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than ten (10) minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property. Between the hours of 11:00 p.m. and 7:00 a.m., no animal owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than five (5) minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property. (Ord. 4-2007 §1)

Sec. 7-4-640. Habitually barking dogs.

(a) Definitions

Habitually barking dog means any dog which barks, howls or makes any other offensive noise which disturbs the peace and enjoyment of adjacent property for a period in excess of the time frames set forth in Section 7-4-630 above.

Harboring or keeping means occupying the premises on which a dog is kept or to which it customarily returns daily for food and care.

Owner, for the purpose of this Section, means any person who owns, keeps, harbors, possesses or otherwise has custody or control of a dog.

(b) The owning, keeping, harboring or possessing of a habitually barking dog is hereby declared a nuisance.

(c) Any owner of a habitually barking dog in violation of this Section shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 8.01.05; Ord. 11-2007 §1)

Sec. 7-4-650. Property damage.

It is unlawful for an owner to allow an animal to injure or destroy any real or personal property of any description belonging to another. A judge may, in addition to any other penalty, order the defendant to make restitution to the party injured. (Ord. 20-1998 §9.09.01; Ord. 11-2007 §1)

Sec. 7-4-660. Excrement removal.

No person shall appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement, nor shall any person fail to remove any excrement deposited by such animal. This Section shall not apply to a blind person while walking a guide dog. (Ord. 20-1998 §9.09.01)

Sec. 7-4-670. Female animals in heat.

All female animals in heat shall be confined in a building or secure enclosure or upon leash in such manner that the animal cannot come into contact with a male animal except for planned breeding. (Ord. 20-1998 §9.09.01)

Sec. 7-4-680. Beekeeping.

It is unlawful to keep or harbor any bees in the Town. Any beehive used or occupied by bees is hereby declared to be a public nuisance subject to abatement. (Ord. 20-1998 §9.09.01)

Sec. 7-4-690. Abatement procedures.

(a) Hearing and impoundment. Any person owning or having in his or her possession or under his or her control any animal or premises constituting a nuisance in violation of this Article may be summoned before the Municipal Court to show cause why such animal should not be confined, disposed of or removed, or the nuisance otherwise abated. Upon hearing and a finding that the animal or premises constitutes a public nuisance in violation of this Article, the Municipal Court shall order the animal in question either to be confined, to be disposed of or to be removed, or such other relief as the court deems appropriate.

(b) Cost of impoundment. Any person who owns any animal that has been adjudged a nuisance or has been taken into custody pursuant to this Article shall be responsible for the costs of disposal, removal or impoundment. (Ord. 20-1998 §9.09.02; Ord. 11-2007 §1)

*Division 7
Rodents*

Sec. 7-4-700 Rodents; nuisance defined.

(a) The following rodents are declared to be detrimental and injurious to the public health, safety and welfare of the inhabitants and property, both public and private, of the Town, and they are determined and declared a public nuisance:

Prairie Dogs.

(b) Nothing contained in Subsection (a) above shall be construed or intended to include within the definition of a public nuisance any animal

designated by a state or federal agency as an endangered animal under state or federal law.

- (c) Nothing contained in Subsection (a) above shall be construed or intended to authorize the destruction or removal of an animal declared a public nuisance in violation of any state or federal law, rule or regulation related to any threatened or endangered animal.

7-4-710 Control of infestation; defined.

(a) No owner of property within the Town, nor any tenant or agent in charge thereof, shall allow or permit said property to become or remain infested with prairie dogs or prairie dog nests or burrows; provided, however, that where such nests or burrows are necessary for the maintenance of wildlife listed as threatened or endangered by any state or federal law, rule or regulation, such nests or burrows may be maintained in accordance with such state or federal law, rule or regulation.

(b) For the purpose of this Section, *infestation* shall mean the presence of more than one (1) prairie dog burrow or nest per nine hundred (900) square feet of ground.

7-4-720 Nuisance; abatement; notice.

(a) If an owner of any property within the Town, or any tenant or agent in possession or in charge thereof, fails or refuses to remove or eliminate rodent infestations or rodent nests or burrows as required in Section 7-4-710 above within thirty (30) days after being served notice to do so by an agent or employee of the Town, the Town may have the rodents, nests or

burrows removed and abated by an employee of the Town or by a private firm or individual as provided in this Section and charge the costs thereof to such owner, tenant or agent, together with an additional five percent (5%) for inspection, administration, and other costs. In the event that the Health Department or other public health official identifies the presence of a communicable disease, abatement shall occur within such shorter time as specified by the Health Department or official.

(b) notices as required by this Section shall:

- (1) Be in writing;
- (2) Specify the time and date by which the owner, tenant or agent must abate the nuisance;
- (3) Specify that, unless abated, the Town may undertake to abate the nuisance and charge the cost thereof, plus five percent (5%), to the owner, tenant or agent;
- (4) Specify that unless promptly made, payment of abatement costs may be compelled through legal court action;
- (5) Specify that failure to make payment for abatement costs will cause a lien to be placed against the property upon which the abatement occurred; and
- (6) Specify that all procedures and acts undertaken to abate said nuisance shall conform to all municipal, state and federal law and regulations governing the taking, trapping, killing and disposal of wildlife and wildlife nests and burrows.

(c) If it is determined that employees of the Town are not available to abate the nuisance pursuant to the provisions of this Section, the Town may solicit bids from property licensed individuals or firms to undertake the necessary abatement, retaining the lowest qualified bidder to accomplish the abatement.

(d) If a private person or firm accomplishes the abatement as provided in this Section, the Town shall provide a copy of the lowest bid with the notice for payment served on any owner, tenant or agent as provided in Section 7-4-730 below.

(e) In order to encourage the provision of services to protect the public health and safety and to allow the Town to allocate its limited fiscal resources, nothing contained in this Section shall be intended or construed to impose any duty of care, liability or obligation on the Town or any of its employees or agents where none otherwise existed.

(f) Nothing contained herein shall be construed or intended to authorize the destruction or removal of an animal declared a public nuisance in violation of any state or federal law, rule or regulation related to any threatened or endangered animal.

7-4-730 Payment of abatement costs; notice.

If the Town undertakes the abatement as provided in Section 7-4-720, a written notice for payment shall be provided the owner, tenant or agent in charge of the lot, block or parcel upon which the nuisance was abated. This notice shall be sent by certified mail and contain the amount owed and a statement that it shall be paid to the Town Treasurer within thirty (30) days after the mailing of the same by the Director of Finance. A copy of the lowest bid as

provided in Section 7-4-720 (d) shall be attached. Such notice shall be a condition precedent to the maintenance of any action at law to recover the Town’s abatement costs.

7-4-740 Failure to pay assessment.

Failure to pay an assessment as provided for Section 7-4-720, through 730 within thirty (30) days shall cause such assessment to become a lien against the lot, block or parcel of land upon which abatement occurred and shall have priority over all liens, except general taxes and prior special assessment, and the same may be certified at any time after such failure to so pay by the Town Treasurer to the County Treasurer, to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by the laws of the state.

7-4-750 Nuisance abatement to conform to law.

Any person, firm business or contractor undertaking to remove, eliminate or abate any nuisance as provided under Sections 7-5-700 through 730 of this Chapter shall comply with all municipal, state and federal regulations and laws governing the taking, trapping, killing and disposal of wildlife and wildlife nests or dens.

7-4-760 Permit required

Any relocation, removal, or extermination of prairie dogs from private land requires a permit issued by the Town. For relocation or removal to a wildlife recovery program, a permit issued by the Colorado Department of Wildlife may be required. (Ord. 2009-7 §1)

Division 8

Enforcement

Sec. 7-4-810. General procedures.

Whenever there is any violation of any provision of this Article, the administrative officer, the Town Attorney or an authorized licensing authority agent of the Licensing Authority finding such violation may, except as otherwise provided herein, issue a summons and complaint or citation to the owner of or person responsible for the animal to appear in Municipal Court. Any hearing on the summons and complaint or citation shall be held no sooner than five (5) days after the notice. (Ord. 20-1998 §9.10.01; Ord. 11-2007 §1)

Sec. 7-4-820. Impoundment of animals.

Whenever there is any violation of any provision of this Article, the Animal Control Officer, any police officer or any authorized agent of the Licensing Authority may impound any animal when such officer reasonably considers such impoundment to be in the best interest of the animal or of the public. It is lawful for an administrative officer or other authorized person to go upon private property for the purpose of catching any animal for impoundment and to use any means reasonably available to effect such impoundment. Impoundment shall be in the animal shelter designated from time to time by the Town.

(1) Notice to owner of impoundment. As soon as practicable after the date of impoundment, the Animal Control Officer or the authorized agent of the Licensing Authority shall cause to be posted in a conspicuous place in the Town for seventy-two (72) consecutive hours a notice of impoundment. The notice herein provided shall describe the animal, state the date of impoundment and set forth the location from which the animal was taken.

(2) Redemption of animal; impoundment charges. Any owner of an animal desiring to redeem such animal from the animal shelter shall pay a redemption fee as established by the animal shelter, unless an amount is established by resolution by the Board of Trustees to offset the Town's costs. In addition, if such dog or cat is unlicensed, the owner must license the dog or cat pursuant to the provisions of this Article prior to the animal's release. If such dog or cat is licensed but the license has been lost, the license tag must be replaced prior to the release of the dog or cat.

(3) Sale or other disposal of impounded animals. Any animal not reclaimed by the owner shall be held by the animal shelter for a minimum of five (5) days after acquisition by the animal shelter before it may become available for adoption or otherwise disposed of at the discretion of the animal shelter; except that an animal shelter supervisor may determine that an animal without identification, including but not limited to a microchip or collar, may be disposed of in three (3) days if the animal shelter supervisor determines that the animal shelter has no additional resources for such animal or determines that such animal is dangerous. For purposes of this Subsection, *days* means the days during which the animal shelter is open to the public. Animals which, in the opinion of a veterinarian or the animal shelter supervisor if a veterinarian is not available, are experiencing extreme pain or suffering, may be disposed of immediately by the animal shelter through euthanasia after the animal shelter has exhausted reasonable efforts to contact the owner; however, for animals with identification, the animal shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four (24) hours.

(4) Liability for accident or subsequent disease from impoundment. The Town, its officers and employees, the animal shelter and its employees, the designated agent, any police officer or any other person enforcing the provisions of this Article shall not be held responsible for any accident or any subsequent disease in connection with the impoundment of an animal.

(5) Optional animal-at-large procedure. In lieu of impounding an animal found at large, any police officer or Animal Control Officer may issue to the owner of such animal a notice of Code violation. Such

notice shall impose upon the owner a civil fine of twenty-five dollars (\$25.00) and order that such fine be paid to the Licensing Authority within seventy-two (72) hours in full satisfaction of the assessed penalty. In the event that such fine is not paid within the time period prescribed, a summons shall be issued in accordance with Section 7-4-810 of this Article. This optional procedure is available only for the first offense by an owner; second and subsequent offenses require a summons and court appearance. (Ord. 20-1998 §9.10.01; Ord. 3-2002 §1; Ord. 11-2007 §1)

Sec. 7-4-830. Nuisance and animal-at-large violations.

Any person found guilty of permitting an animal to be at large, as defined in Section 7-4-160 above or a nuisance as defined in this Article shall be guilty of a petty offense and fined:

(1) Not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for the first offense. Any person may enter a guilty plea and pay the minimum fine prior to arraignment in Municipal Court.

(2) Not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000.00) for the second offense within a twelve-consecutive-month period. The Animal Control Officer may afford any person the opportunity to enter a guilty plea and pay the minimum fine.

(3) Not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00) for all offenses subsequent to the second offense within a twelve-consecutive-month period. (Ord. 20-1998 §9.10.02; Ord. 18-2004 §1; Ord. 11-2007 §1)

Sec. 7-4-840. Vicious animal and dangerous dog violations.

Any person found guilty of keeping or maintaining a wild animal, dangerous animal or vicious animal, as defined in Section 7-4-10 above, shall be guilty of a misdemeanor and:

(1) Shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00); and

(2) Shall be ordered to remove such animal from the Town within twenty-four (24) hours of such order, or within twenty-four (24) hours after the end of any required rabies observation period. Refusal to comply with this order may result in impoundment and disposal of the animal; and

(3) In addition to or in lieu of the foregoing, may be sentenced to up to ninety (90) days in jail. (Ord. 20-1998 §9.10.02; Ord. 18-2004 §1; Ord. 11-2007 §1)

Sec. 7-4-850. Other violations.

Any person violating any other provision of this Article shall be guilty of a petty offense and shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 20-1998 §9.10.02)

