

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE I

Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Antique vehicle means any vehicle valued principally because of its early date of manufacture or historic character or design, and which if not operable is substantially intact. A junked vehicle shall not qualify as an antique vehicle.

Brush means bushes and similar vegetation, and shall include all cuttings from trees and bushes and high and rank shrubbery growth which may conceal filthy deposits.

Garbage means wastes resulting from the handling, preparation, cooking and consumption of food, and wastes from the handling, storage and sale of produce and like matters, materials, objects or substances.

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.

Junk means discarded, inoperable or damaged household appliances, furniture or furnishings, waste or scrape material.

Junked vehicle means any vehicle that is in a state of disrepair or disassembly, that is inoperable, that exhibits signs of physical deterioration including rust or the loss of exterior paint or parts, or that is damaged to the extent that it has value only for parts or salvage.

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

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

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

Trash means combustible refuse, including, but not limited to, paper, cartons, boxes, barrels, wood (except stacked firewood and stacked construction material), tree branches, yard trimmings, dead plant material, wood or upholstered furniture, or bedding or any similar substance or material; and noncombustible refuse, including, but not limited to, metals, tin or aluminum cans, metal furniture, dirt, rock, pieces of concrete, glass, crockery, other minerals and mineral wastes, or any similar substance or material; provided, however, that it does not include earth and waste from building construction during the period in which a valid building permit issued by the Town is active.

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. (Ord. 7, 1984 §4; Ord. 11, 2002 §1)

Sec. 7-1-20. 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, 2002 §1)

Sec. 7-1-30. Prohibition of nuisances.

It is unlawful for any 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, to maintain or allow any nuisance to be or remain thereon. Anything commanded or prohibited in this Chapter is hereby declared to be a nuisance. (Ord. 7, 1984 §116; Ord. 11, 2002 §1)

Sec. 7-1-40. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things or land shall, upon investigation, be considered dangerous to the health and safety of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 11, 2002 §1)

Sec. 7-1-50. 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, 2002 §1)

Sec. 7-1-60. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 11, 2002 §1)

Sec. 7-1-70. Abatement of nuisance.

(a) Whenever any nuisance is found on any premises within the Town, the Chief of Police or Building Official shall first investigate or cause to be investigated the condition of the premises. If the investigation confirms that a nuisance does in fact exist upon the premises, notice shall be given in writing to the person in possession, charge, or control of the premises that the nuisance shall be abated on or before a date and time

certain not less than forty-eight (48) hours nor more than thirty (30) days from the receipt of the notice, depending upon the nature of the nuisance, the hazards it poses to the community, and the time reasonably necessary to abate the nuisance. Absent extraordinary factors, five (5) days shall be presumed to be an appropriate time allowed for abatement. The recipient of such notice may apply for an extension of time in which to abate a nuisance by filing a written request therefor with the issuing officer, who may grant all or part of the extension and, if denied, the Mayor or Board of Trustees may grant the extension.

(b) It is unlawful for any person to fail or refuse to comply with a notice issued in accordance with this Section and any such person may be prosecuted for maintaining a nuisance. The Town Attorney is authorized, in his or her discretion and upon a failure of a person to comply with a notice to abate, to take such steps deemed appropriate to cause any nuisance to be summarily abated.

(c) If the Board of Trustees determines that any nuisance constitutes an immediate threat to the public health, safety and welfare, or if any nuisance exists in or upon any street, avenue, alley, sidewalk, highway or public place in the Town, the Chief of Police may abate the nuisance forthwith as if the person in possession, charge or control had failed to abate without any such notice being given.

(d) Any 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.

(e) The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter. (Ord. 7, 1984 §§118, 119; Ord. 11, 2002 §1)

Sec. 7-1-80. Right of entry.

The Town Administrator, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Ord. 11, 2002 §1)

Sec. 7-1-90. Report of costs; assessment against property.

Upon the completion of any nuisance abatement work performed by the Town under this Chapter, the Public Works Superintendent, Town Clerk or Town Administrator shall make a report in writing of the work done and the expense incurred in so doing. Such report shall be forwarded to the Board of Trustees. After considering the report of the work and costs associated with an abatement of a nuisance, the Board of Trustees may, within its discretion, assess the whole or a portion of the cost for the abatement, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land on which the nuisance was abated. (Ord. 11, 2002 §1)

Sec. 7-1-100. Notice of assessment.

The Town Clerk shall promptly, after an assessment is made by the Board of Trustees under this Article, send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner, the amount of the assessment and a demand for payment. (Ord. 11, 2002 §1)

Sec. 7-1-110. Payment of assessment.

(a) It shall be the duty of the owner of the land upon which an assessment has been made under this Article to pay any assessment or object thereto, in writing, within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. The same shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the Town shall have all remedies for collection thereof provided by state statutes for the purpose of having the same placed upon the tax list and collected in the same manner as taxes are collected. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments.

(b) The amount of such assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer.

(c) Nothing contained herein shall be construed to prevent the Town from instituting appropriate civil proceedings to recover such costs and expenses from the creator of the nuisance, together with interest, costs, expenses and a reasonable attorney fee. (Ord. 7, 1984 §120; Ord. 11, 2002 §1)

Sec. 7-1-120. Objection to assessment; hearing.

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon designate the next regular meeting of the Board of Trustees as the date when said objector may appear and have a hearing before the Board of Trustees. (Ord. 11, 2002 §1)

Sec. 7-1-130. Certified assessment.

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Ord. 11, 2002 §1)

Sec. 7-1-140. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 11, 2002 §1)

Sec. 7-1-150. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 11, 2002 §1)

Sec. 7-1-160. Violations and penalties.

Any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of the general penalty provisions of this Code. (Ord. 11, 2002 §1)

ARTICLE II

Nuisances

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

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any abandoned, damaged or destroyed building, merchandise, litter, trash, rubbish, garbage, wrecked or inoperable car or other wrecked vehicle or an accumulation of junk vehicles or junk of any type, upon any private or public property, except in areas specifically zoned under Chapter 16 of this Code for said purposes, 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, 2002 §1)

Sec. 7-2-20. 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, 2002 §1)

Sec. 7-2-30. Streets, streams and water supply.

It is unlawful for any person to throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance, or both, any dead animals, excrement, garbage, litter, solvent, paint, gasoline or other petroleum product or by-product, or any other substance that would tend to have a polluting effect, in or upon the water of any stream, ditch or pond or upon any sewer, street, avenue, alley, sidewalk or public or private grounds. No person shall throw or deposit or cause or permit to be thrown or deposited in the Town anything specified in any foregoing part of this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Ord. 7, 1984 §24; Ord. 11, 2002 §1)

Sec. 7-2-40. 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. It is unlawful for any person, owner or occupant to permit or maintain any such nuisance. (Ord. 7, 1984 §128; Ord. 11, 2002 §1)

Sec. 7-2-50. Sewer inlet.

No person shall deposit in or throw into any sewer (sanitary or storm) or 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 plugged or nauseous to others or injurious to public health. (Ord. 7, 1984 §25; Ord. 11, 2002 §1)

Sec. 7-2-60. Discharge of nauseous liquids.

It is unlawful for any person to 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. 7, 1984 §125; Ord. 11, 2002 §1)

Sec. 7-2-70. Stale matter.

No person shall keep, collect or use, or cause to be kept, collected or used any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation, or to cause or permit the same to be deposited into the sanitary sewer system. (Ord. 11, 2002 §1)

Sec. 7-2-80. Defective drains, ditches and garbage cans.

It is unlawful for any person to permit to remain upon his or her property, or upon any property under his or her control, a pond or pool of unwholesome, impure or offensive water or other material. (Ord. 7, 1984 §127)

Sec. 7-2-90. Noxious substances.

(a) It is unlawful for any person to keep, collect or use, or cause to be kept, collected or used, any stale, putrid, stinking or noxious fat, grease or other matter.

(b) It is unlawful for any person, other than a police officer in the reasonable performance of his or her duties, to deposit on the property or in a building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive smelling substance with intent to interfere with another's use or enjoyment of the land, building or vehicle. (Ord. 7, 1984 §126)

Sec. 7-2-100. Transporting garbage; manure.

It is unlawful for any person to drive or move any truck or other vehicle transporting manure or garbage within the Town, unless such vehicle is loaded and covered so as to prevent any contents or litter from being blown or deposited upon any street, alley or other public or private property. (Ord. 7, 1984 §124; Ord. 11, 2002 §1)

Sec. 7-2-110. Accumulation of trash.

It is unlawful for any person to cause or to permit the unenclosed accumulation or storage of dirt, ashes, trash or other refuse material that can be blown away by the wind, and all such material shall be held in a sealed container. (Ord. 7, 1984 §124; Ord. 11, 2002 §1)

Sec. 7-2-120. Dumping on property.

It is unlawful for any person to use any land, premises or property for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind, except as may be allowed in a designated location under the Town's zoning regulations. (Ord. 7, 1984 §124; Ord. 11, 2002 §1)

Sec. 7-2-130. Burning of trash.

(a) It is unlawful for any person to burn or permit to be burned, either in any incinerator or in any open space on any public street, alley or other public land, any wastepaper, rubbish, garbage, trash, animal carcass, combustible refuse, wood or other flammable material. Nothing herein shall be construed to prohibit:

- (1) Bonfires on public occasions where a police officer or fire department official is present;
- (2) Fires used for instructional or recreational purposes or for noncommercial cooking of food for human beings;
- (3) Flares used to indicate some danger to the public;
- (4) Burning trash, rubbish or waste material other than garbage in a properly constructed and operated heating appliance, including interior fireplaces, intended to be used for burning solid fuels;
- (5) Controlled burns consistent with Fire District regulations and approved in advance by the Fire District; or
- (6) Burning trash, rubbish or waste material other than garbage on any property or on any open space owned or controlled by any person, in a container, the construction of which is approved by the Fire District, in such a manner as to dispose of such material without danger to persons or property. Such burning shall be in accordance with regulations promulgated by the Fire District, including the obtaining of any permits and payment of any fees as may be required by the Fire District.

(b) Nothing in this Section shall be construed to permit the burning of substances which would produce noxious or toxic fumes or compounds. Nothing in this Section shall be construed to prevent the Fire District from suspending all trash burning permits within the Town should lack of moisture or other conditions result in risk of fire damage. (Ord. 7, 1984 §130; Ord. 3, 1991; Ord. 11, 2002 §1)

Sec. 7-2-140. 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, 2002 §1)

Sec. 7-2-150. Open wells, cisterns or excavations.

It is unlawful for any person to permit to remain on his or her property or property under his or her control any temporary or permanent excavation, or any cistern, well or other excavation used for the storage of water, unless the same is adequately covered with a locked lid or other covering weighing at least sixty (60) pounds,

or is securely barricaded or fenced to a height of at least five (5) feet. Temporary excavations shall be protected by portable barricades or similar devices. (Ord. 7, 1984 §129; Ord. 11, 2002 §1)

Sec. 7-2-160. Junkyards and dumping grounds.

All places used or maintained as junkyards or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats, house trailers or machinery of any kind, or of any machinery or equipment used by contractors or builders or by other persons, which places are kept in such a manner as to essentially interfere with the comfortable enjoyment of life or property by others, are hereby declared to be nuisances. (Ord. 7, 1984 §123)

Sec. 7-2-170. Junk.

(a) It is unlawful for any person to place, store, keep or maintain upon his or her property, or property under his or her control, any junk unless such junk is fully enclosed within a building or other storage facility, or unless the placement, storage, keeping or maintenance of such junk is done pursuant to a properly licensed business operation in accordance with all applicable Town zoning regulations.

(b) It is unlawful for any person to allow the unenclosed storage upon his or her property, or property under his or her control, of goods, materials or substances not otherwise or specifically defined as litter, garbage, trash or junk, but which goods, materials or substances are of a type, kind, quantity or description not commonly associated with the zoning classification or permitted use of the property. (Ord. 7, 1984 §124; Ord. 11, 2002 §1)

Sec. 7-2-180. Inoperable and junked vehicles.

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the Town, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable or junked vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to the temporary unenclosed placement of a single inoperable vehicle for a period of less than thirty (30) consecutive days, or to any person who is conducting a licensed business enterprise in compliance with existing zoning regulations. (Ord. 11, 2002 §1)

Sec. 7-2-190. Vacant residential dwellings.

All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Building Official. (Ord. 11, 2002 §1)

ARTICLE III

Garbage and Refuse

Sec. 7-3-10. Accumulation of refuse prohibited.

It is unlawful for any person to store or place upon his or her property, or allow to remain on his or her property, whether improved or unimproved, any accumulation of litter, garbage, trash, junk, refuse or other material. (Ord. 7, 1984 §124; Ord. 11, 2002 §1)

Sec. 7-3-20. Accumulation of decaying material.

It is unlawful for any person to place or to permit to remain anywhere in the Town any garbage or other material subject to decay, other than leaves or grass, except in a metal or plastic container or in a sealed plastic bag. Nothing in this Section shall prohibit the composting of vegetable materials in any properly layered and actively worked compost pile, pit or trench. (Ord. 7, 1984 §124)

Sec. 7-3-30. Responsibility for refuse on premises.

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Ord. 11, 2002 §1)

Sec. 7-3-40. Removal of refuse from business.

Discarded refuse, including automobile parts, stoves and other inoperable appliances, furniture and junkyard refuse, shall be removed periodically by the proprietor of any business so that the premises are clean and orderly at all times. Any accumulation of refuse that is explosive or flammable, or which might endanger life or property, shall be removed immediately to such places as approved by the Chief of Police or the Fire Chief. (Ord. 11, 2002 §1)

ARTICLE IV

Weeds and Brush

Sec. 7-4-10. 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, 2002 §1)

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

Sec. 7-4-20. Declaration of nuisance.

Any weeds or brush found growing in any lot or tract of land in the Town is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place. (Ord. 11, 2002 §1)

Sec. 7-4-30. Duty of property owner to cut.

It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more. (Ord. 11, 2002 §1)

Sec. 7-4-40. Removal from Town.

All weeds and brush cut in accordance with Section 7-4-30 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut. (Ord. 11, 2002 §1)

ARTICLE V

Trees

Sec. 7-5-10. Prohibited trees.

(a) It is unlawful to sell or import into the Town, or to plant or cause to be planted within the corporate limits of the Town, any female box-elder tree (*Acer negundo*).

(b) The owner of any property within the Town, upon which any female box-elder tree has been planted after the effective date of this Article, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the Town.

(c) In case of the failure of any owner of such property to cut and remove such box-elder tree planted after the effective date of this Article, the Town shall cut and remove such box-elder tree.

(d) It is unlawful and deemed a nuisance to plant or cause to be planted any female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the Town, and the planting or setting out of these certain plants is declared to be a public nuisance. (Ord. 11, 2002 §1)

Sec. 7-5-20. Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to a public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a danger to public safety shall include all trees and limbs which hinder visibility or obstruct vehicle or pedestrian travel, and trees and limbs which present a defect which may cause the tree or limb to fall on a person or on property of value. (Ord. 11, 2002 §1)

Sec. 7-5-30. Control of trees and shrubs.

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation, or which constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance, and the Town may order the abatement thereof.

(b) The Town shall give a written abatement notice to the owner or occupant of any property abutting public rights-of-way or other public property of any condition deemed unsafe as a result of trees and other vegetation overhanging or projecting from such abutting property onto or over the right-of-way or other public property. The Town may correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.

(c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the Town, unless authorized or directed by the Town.

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the Town, except any person who notifies the Town of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement. (Ord. 11, 2002 §1)

ARTICLE VI

Animals

Sec. 7-6-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Animal means any living being of the kingdom *Animalia* other than man.

Animal owner means any person who owns, keeps, harbors, possesses or otherwise has custody or control of any animal in the Town, whether such person is a resident or nonresident of the Town.

Animal shelter means any premises designated by the Town for the purpose of boarding and caring for any animal impounded under the provisions of this Article or any other ordinance of the Town or law of the State.

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

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

Guard dog means a dog disciplined, through special training, to protect persons or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

Harboring means the act of keeping an animal or of being an occupant of premises to which the animal customarily returns for food, shelter or care.

Rabies vaccination or inoculation means vaccination of a domestic animal with an anti-rabies vaccine approved and administered by a veterinarian licensed by the State.

Running at large means any animal not under the direct and competent control of the owner or the owner's authorized agent by means of a leash or enclosure or adequate voice command except an animal on or within a motor vehicle; provided, however, when such vehicle is parked the animal shall be within the enclosed portion of the motor vehicle or physically restrained within the confines of the motor vehicle.

Stray animal means any animal, with or without a license or rabies inoculation tag, found running at large anywhere within the Town.

Vicious animal means any animal that unprovokedly attacks or bites humans or other animals on public or private property, or in a threatening manner approaches any person in an apparent attitude of attack upon private property or any public place; provided, however, that an animal shall not be deemed a *vicious animal* solely by reason of having bitten or attacked the following:

- a. Any person engaged in the unlawful entry into or upon the animal owner's property where the animal is kept.
- b. Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, which is parked in or upon the owner's property, or which is parked on the street immediately adjacent to the owner's property.
- c. Any person engaged in attacking or molesting another person.
- d. Any person engaged in attempting to stop an altercation between such animal and another animal.
- e. Any person who willfully provokes such animal to bite or to attack such person, another person or another animal. (Ord. 7, 1984 §4; Ord. 11, 2002 §1)

Sec. 7-6-20. Cruelty to animals.

(a) It is unlawful for any person to knowingly or with criminal negligence, overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or kill needlessly, or carry or transport in any vehicle in a dangerous, cruel and inhumane manner, any animal, or to cause any of these acts to be done.

(b) It is no defense to prosecution under this Section that the defendant was, at the time of the offense, the owner of the animal, nor that the offense was committed upon private property.

(c) In the case of any person who incurs a second or subsequent conviction under this Section for any offense occurring within two (2) years prior to the second offense, a sentence to pay a fine of three hundred dollars (\$300.00) shall be mandatory and shall not be subject to suspension, in addition to such sentence to confinement as the Court may impose. (Ord. 7, 1984 §81; Ord. 11, 2002 §1)

Sec. 7-6-30. Neglect of animals.

It is unlawful for any person having charge or custody of an animal to fail to provide it with proper food, water, protection from the elements, opportunity for exercise or other care normal, usual and proper for the animal's health and well-being. (Ord. 7, 1984 §82)

Sec. 7-6-40. Abandonment of animals.

It is unlawful for any person owning an animal or responsible for its care or custody to abandon or knowingly leave the animal without making effective provisions for its care. (Ord. 7, 1984 §83; Ord. 11, 2002 §1)

Sec. 7-6-50. Supplying food to enclosed animals.

In case any animal is at any time enclosed or confined and continues to be without necessary food or water for more than twelve (12) consecutive hours, it is lawful for any police officer, from time to time and as often as it is necessary, to enter into or upon such enclosure in which such animal is confined, and supply it with necessary food and water so long as it remains so confined. Such police officer shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by the Town from the owner of such animal. (Ord. 7, 1984 §84)

Sec. 7-6-60. Poisoning domesticated animals.

It is unlawful for any person knowingly to poison any dog, cat or other domesticated animal, or to place or distribute poison or toxicants on public or private property in any manner whatsoever with intent to poison any domesticated animal, or in any manner likely to poison a domesticated animal. (Ord. 7, 1984 §85)

Sec. 7-6-70. Fighting animals.

(a) It is unlawful for any person to cause, instigate or encourage any dog or other animal to fight with another animal of its own or a different species.

(b) It is unlawful for any person to train or keep any dog or other animal for the purpose of fighting with other animals.

(c) It is unlawful for any person to maintain a place where any dog or other animal is permitted to fight or to be killed for exhibition, wager or sport. (Ord. 7, 1984 §86; Ord. 11, 2002 §1)

Sec. 7-6-80. Dead animals.

(a) When any animal dies within the Town, it is unlawful for the owner or keeper thereof knowingly to fail to remove and properly dispose of such animal within twenty-four (24) hours after the death. If such dead animal is not so removed and disposed of, the same shall be deemed a nuisance and the owner or keeper thereof shall be deemed to be the cause of the nuisance, subject to abatement and penalties as provided by this Chapter.

(b) Any animal killed in any public street or public place shall be deemed to have been running at large, and may be removed and disposed of by the Town or any police officer. The owner of such animal, if ascertainable, shall be so notified and advised by the Town, and shall be liable to the Town for the cost and expense of removal and disposal of the animal. (Ord. 7, 1984 §87)

Sec. 7-6-90. Injured animals.

Any animal injured in a public place, or on private property other than that of the animal's owner or keeper, shall be deemed to be running at large and may be impounded. The Town may take such injured animal in need of medical attention to a veterinarian for adequate veterinary treatment pending notification of the owner. If the injured animal is treated or impounded, the owner of such animal shall be liable for all expenses of the treatment or impoundment. (Ord. 7, 1984 §88; Ord. 11, 2002 §1)

Sec. 7-6-100. Vicious animals.

(a) It is unlawful for any person to own, keep, harbor or possess any vicious animal anywhere in the Town.

(b) It shall be the responsibility of any police officer to seize and to impound any vicious animal running at large. If the police officer determines that a vicious animal cannot be seized without exposing the police officer or other persons to immediate danger of personal injury from the vicious animal, it shall be lawful for the police officer to destroy the animal with or without notice to the animal owner, keeper or possessor.

(c) The Municipal Court may order any person convicted of a violation of Subsection (a) to destroy or dispose of the vicious animal within twenty-four (24) hours of the court order therefor, and the refusal or failure of the person to comply with the order shall constitute a separate offense of this Section. Further, upon the failure of the person to comply with the court order, the Police Department shall impound the animal and shall cause it to be humanely destroyed, with the person failing to comply with the order liable to pay all fees, costs and expenses on account of the impoundment and destruction of the animal. Upon a showing that reasonable efforts to determine or locate the owner of a vicious animal have failed, the Municipal Court may order the destruction of the animal.

(d) This Section shall not apply to guard dogs acting in the performance of their duties, provided that the dogs, the employment of such dogs, and the premises wherein such dogs are patrolling are in full and complete compliance with the following Subsection and the definition of guard dogs.

(e) It is unlawful for any person to place or maintain any dog in any area for the protection of persons or property unless the dog is physically confined to a specific enclosed area and is under complete and absolute control and the area is posted as required. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high, with the following legend "WARNING — THESE PREMISES PATROLLED BY GUARD DOGS TRAINED TO ATTACK," accompanied by a logo that provides pictorial warning of a guard dog. Both the dog and the premises must receive the prior approval of the Chief of Police to assure the safety of the public and that the dog has received adequate training. (Ord. 7, 1984 §89; Ord. 11, 2002 §1)

Sec. 7-6-110. Disturbance; public nuisance.

(a) It is unlawful for any animal owner or for any person in charge of any animal to permit such animal to disturb the peace and quiet of any person or neighborhood by annoying or harassing any person or animal, or by barking, fighting, howling, crying or by emitting any other similar sound, or by causing damage to the property of another.

(b) In any case where the defendant has been previously convicted of a similar violation of this Section, or one (1) or more of the animals whose behavior caused the defendant's conviction has previously caused the conviction of another of a similar violation of this Section within the past two (2) years, the animal or the condition permitting the violation is hereby declared a public nuisance and may be abated as such by appropriate order of the Municipal Court. (Ord. 7, 1984 §90)

Sec. 7-6-120. Animals at large.

(a) It is unlawful for any person owning or having charge of any animal, except an ordinary domesticated house cat, to permit such animal to run at large anywhere within the Town, except on the premises of the owner or on the premises of the person having charge of the animal.

(b) It is unlawful for any animal owner knowingly to permit the animal to be in the care and custody of a person who is not competent to restrain and control the animal.

(c) It is unlawful for any person owning or having charge of an ordinary domesticated household cat to fail to maintain reasonable control over such cat. For purposes of this Subsection, such a cat shall not be deemed under reasonable control when such cat inflicts damage or injury to the person or property of anyone other than the owner or keeper thereof, or when such cat's behavior causes a violation of Section 7-6-110. (Ord. 7, 1984 §91)

Sec. 7-6-130. Confinement during estrus.

Any unspayed female dog or cat in the state of estrus (in heat) shall be securely confined during such period of time within a house, building or other secure enclosure so constructed as to prevent other dogs or cats, as the case may be, from gaining access to the confined dog or cat. Any owner or person in charge of such dog or cat who fails so to confine adequately the dog or cat during the state of estrus or whose animal during estrus causes a violation of Section 7-6-110 may be ordered by a police officer to remove the dog or cat to a boarding kennel or veterinary hospital at the owner's expense. It is unlawful for any person to fail to comply with such an order. (Ord. 7, 1984 §92)

Sec. 7-6-140. Number of dogs or cats permitted.

Effective December 19, 1984, it shall be unlawful for any person to maintain, harbor or possess in or upon any dwelling unit more than three (3) dogs or three (3) cats, or a combination of more than six (6) thereof, six (6) months of age or older, in or upon any property zoned residential, business or commercial. (Ord. 7, 1984 §93; Ord. 11, 2002 §1)

Sec. 7-6-150. Animals prohibited.

(a) It is unlawful for any person to keep, harbor or possess in the Town any monkey or other nonhuman primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, bear, wolf, coyote, fox, poisonous reptile, undomesticated carnivorous animal; or any animal not approved by the Planning Commission pursuant to Chapter 16 of this Code when such approval is required.

(b) This Section does not apply to:

- (1) A bona fide publicly or privately owned zoo open to the public;
- (2) A bona fide educational, medical or scientific institution; or
- (3) A circus, fair or other temporary or permanent public exhibition duly authorized to conduct business in the Town. (Ord. 7, 1984 §94)

Sec. 7-6-160. Licensing of dogs.

(a) It is unlawful for any person to own, keep, possess or harbor within the Town any dog that has not been inoculated for rabies, or that does not display a dog license, if required by this Section.

(b) Every person owning or harboring a dog six (6) months of age or older, for thirty (30) or more days, shall have such dog vaccinated against rabies with an approved vaccine by a veterinarian licensed by the State.

(c) The owner, possessor or harbinger of any dog shall secure a license for such dog from the Town Clerk on or before the first day of March of each year or within thirty (30) days after the dog reaches the age of six (6) months. Dogs purchased, obtained or otherwise acquired subsequent to the first day of March in any calendar year shall be licensed within thirty (30) days after arriving, or thirty (30) days after the dog meets the criteria requiring a license, whichever is later, to secure a license hereunder.

(d) The annual license fee for dogs within the Town shall be set by resolution of the Board of Trustees.

(e) Upon application for a dog license, the applicant shall exhibit to the Town Clerk a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this Section within twelve (12) months prior to the date of the application. All applications for licenses shall be made on forms provided by the Town Clerk.

(f) It shall be the duty of the Town Clerk to secure dog tags as provided for in this Section of such size, shape, color and material as may be deemed expedient and suitable by the Town Clerk; provided, however, that the color thereof shall be changed each year. Each tag shall contain a number stamped thereon in numerical order, beginning with the number one (1), and the name of the Town shall appear thereon. It shall be the duty of the Town Clerk to deliver or cause to be delivered to each person making application for a dog license and paying the license fee provided for in this Section and presenting the certificates of inoculation required by this Section an appropriate dog tag for each dog licensed and inoculated.

(g) Only those persons who own, possess or keep a dog duly licensed and inoculated in accordance with the provisions of this Section shall be permitted to possess a dog tag as herein provided for.

(h) Every owner, possessor or custodian of a dog within the Town shall place upon such dog a collar, harness or other device made of durable material to which the dog tag herein provided for shall be attached and displayed at all times.

(i) No person shall affix to the collar or harness of any dog or permit to remain so affixed a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the time of issuance of its license and the rabies tag issued to that dog at the time of inoculation.

(j) In the event of loss or destruction of the original tag issued hereunder, the owner of the dog shall obtain a duplicate tag from the Town Clerk. The price of such duplicate tag shall be one dollar (\$1.00). (Ord. 7, 1984 §95; Ord. 12, 1994; Ord. 11, 2002 §1)

Sec. 7-6-170. Reporting animal bites.

(a) Report of bite. Any person having knowledge of an animal bite shall immediately report the incident to the Police Department or to the Public Health Veterinary Section of the Colorado Department of Health.

(b) Quarantine of animals. Any animal which has bitten a person shall be observed for a period of ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer. If the animal is not confined on the owner's premises, confinement shall be in an animal shelter or, if not practicable, then at a place designated by the Town or at any veterinary hospital of the owner's choice. Any and all such confinement shall be at the expense of the owner. Stray animals whose owners cannot be located shall also be confined. The owner of any animal that has been reported as having inflicted a bite on any person shall, on demand, produce such animal for quarantine as prescribed in this Section. Refusal to produce such animal constitutes a violation of this Section.

(c) Removal of animals from quarantine. It is unlawful for any person to remove from any place of isolation or quarantine any animal which has been isolated or quarantined as authorized, without the consent of the impounding agency. (Ord. 7, 1984 §96; Ord. 11, 2002 §1)

Sec. 7-6-180. Impounded animals.

(a) Impoundment. Any animal owned, possessed or harbored in violation of this Article, or any other ordinance of the Town or law of the State, may be taken into custody by a police or code enforcement officer and impounded. Stray animals may be similarly impounded.

(b) Animal shelter. An animal shelter may be provided for the purpose of boarding and caring for any animal impounded under the provisions of this Article, and such shelter shall be constructed in a reasonable manner.

(c) Removal of animals from animal shelter. It is unlawful for any person to remove any impounded animal from an impoundment facility without the consent of the person in charge thereof and the payment of all costs provided for herein.

(d) Disposition of impounded licensed dogs. As soon as practicable after impoundment, notice of impoundment shall be posted in a conspicuous place at the Town Hall and post office for five (5) days. If the owner of the impounded dog is known and can reasonably be located, prompt notice shall be given to him or her. Any impounded dog which is licensed may be redeemed by the owner upon payment of the impound fee as established from time to time by the Board of Trustees or animal impound shelter, care and feeding charges, veterinary charges, if applicable, and, unless contested, the fine as provided in Section 7-6-210 hereof. If such dog is not redeemed within five (5) business days, it shall be deemed abandoned and the impounding authority may humanely euthanize such dog under the supervision of a licensed veterinarian, or otherwise properly dispose of such dog.

(e) Disposition of impounded unlicensed animals. As soon as practicable after impoundment, notice of impoundment shall be posted in a conspicuous place at the Town Hall and post office for five (5) days. If the owner of the impounded animal is known and can reasonably be located, immediate notice shall be given to him or her. Any impounded animal which is not licensed may be redeemed on payment of the license fee, if applicable, the impound fee as established from time to time by the Board of Trustees or animal impound shelter, care and feeding charges, veterinary charges, presentation of proof of rabies vaccination, if applicable,

unless contested, the fine as provided in Section 7-6-210 hereof. If such impounded animal is not redeemed within five (5) business days, it shall be deemed abandoned and the impounding authority may humanely euthanize said animal under the supervision of a licensed veterinarian or otherwise properly dispose of such animal.

(f) Abandonment. Any animal owner who, being served with notice of impoundment as provided in Subsections (d) and (e) above, hereof, fails to redeem such animal within five (5) business days of such service, shall be deemed to have abandoned such animal.

(g) Multiple offenses. Any dog found by the Municipal Court to have unprovokedly bitten a person more than once shall be immediately impounded by the investigating officer and held for a period of five (5) business days and shall thereafter be humanely euthanized unless the owner or possessor of said dog, within said five-day period, shows just cause to the Municipal Judge why such dog should not be destroyed. If the owner desires to show cause hereunder, such owner must provide the Municipal Court at least two (2) days' prior written notice therefor. The owner of such dog shall be responsible for and shall pay all costs of impoundment and euthanization. (Ord. 7, 1984 §97; Ord. 11, 2002 §1)

Sec. 7-6-190. Song birds and insectivorous birds.

It is unlawful for any person knowingly to frighten, shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any song bird or insectivorous bird, to in any manner molest or injure the nest, eggs or young of any such bird, or to have in his or her possession the nest, eggs, young or body of any such bird. (Ord. 7, 1984 §98; Ord. 11, 2002 §1)

Sec. 7-6-200. Strict liability.

Except as otherwise expressly provided, for the purpose of prosecution for alleged violations of any section of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner or person having charge of the animal in question that such owner, keeper or animal was violating any of the provisions of this Article at the time and place charged, it being the purpose and intent of this Section to impose strict liability upon the owner or person having charge of any animal for the action, conduct and condition of such animal. (Ord. 7, 1984 §99)

Sec. 7-6-210. Penalties.

Any person who violates any section of this Article shall be subject to the penalties as provided in the general penalty provisions of this Code, subject to the mandatory minimum fines hereafter set forth which the Municipal Court shall not have discretion to suspend or reduce, to wit:

- (1) Any person found guilty of a violation of a Class I offense shall be fined not less than fifty dollars (\$50.00). Any person found guilty of a Class I offense for a violation that occurred within one (1) year of a previous violation of a Class I offense shall be fined not less than one hundred dollars (\$100.00).

Class I offenses:

Sec. 7-6-20	Cruelty to animals
Sec. 7-6-30	Neglect of animals
Sec. 7-6-40	Abandonment of animals
Sec. 7-6-60	Poisoning domesticated animals
Sec. 7-6-70	Fighting animals
Sec. 7-6-170(c)	Removing dog from quarantine

(2) Any person found guilty of a violation of a Class II offense shall be fined not less than twenty-five dollars (\$25.00). Any person found guilty of a Class II offense for a violation that occurred within one (1) year of a previous violation of a Class I or II offense shall be fined not less than fifty dollars (\$50.00). Any person similarly found guilty of a third or greater number of violations within one (1) year shall be fined not less than one hundred dollars (\$100.00).

Class II offenses:

Sec. 7-6-100	Vicious animals
Sec. 7-6-110	Disturbance; public nuisance
Sec. 7-6-120	Animals at large
Sec. 7-6-150	Animals prohibited
Sec. 7-6-180	Impounded animals
Sec. 7-6-190	Song birds; insectivorous birds

(3) Any person found guilty of a violation of a Class III offense shall be fined not less than fifteen dollars (\$15.00). Any person found guilty of a Class III offense for a violation that occurred within one (1) year of a previous violation of this Article shall be fined not less than thirty dollars (\$30.00). Any person similarly found guilty of a third violation within one (1) year shall be fined not less than sixty dollars (\$60.00), and if found guilty of a fourth or more violations within one (1) year, not less than one hundred dollars (\$100.00) for each such violation.

Class III offenses:

Sec. 7-6-130	Confinement during estrus
Sec. 7-6-140	Number of dogs/cats permitted
Sec. 7-6-160	Licensing of dogs

(Ord. 7, 1984 §100; Ord. 11, 2002 §1)