

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:

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.

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. *Refuse* shall not include any properly kept compost pit located entirely upon private property.

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.

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. 2-2005 §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. 2-2005 §1)

Sec. 7-1-30. 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. 2-2005 §1)

Sec. 7-1-40. 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. 2-2005 §1)

Sec. 7-1-50. 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 dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 2-2005 §1)

Sec. 7-1-60. 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. 2-2005 §1)

Sec. 7-1-70. 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. 2-2005 §1)

Sec. 7-1-80. 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, 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 shall require the removal of such accumulated refuse within thirty (30) days of such notice.

(b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated forthwith after the notice herein provided shall be given, the Town Administrator may declare the same to be a nuisance and order the Town Marshal to abate the same, which order shall be executed without delay, and the Town Marshal shall have the authority to call for the necessary assistance therefor.

(c) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Town Marshal or Street Superintendent may abate the same forthwith without 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. 2-2005 §1)

Sec. 7-1-90. Right of entry.

The Town Administrator, Town Marshal 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. 2-2005 §1)

Sec. 7-1-100. Notice to abate nuisance.

(a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Chapter and shall give notice that said owner and/or occupant has two (2) days to abate the nuisance and comply with the requirements of this Chapter.

(b) In case of the failure of any owner of such lots, tracts or parcels of land to abate the nuisance as set forth in this Chapter within the time and in the manner prescribed herein, the Town Administrator may order the Public Works Superintendent to abate the nuisance. The Public Works Superintendent shall then proceed at once to have the work done accordingly. (Ord. 2-2005 §1)

Sec. 7-1-110. Report of costs.

Upon the completion of any work by the Town contemplated by this Chapter, the Public Works Superintendent shall report, in writing, to the Town Administrator, which report shall make a clear statement of the work done by the Town and the expense incurred in so doing, so that the Town Administrator may determine the cost of such work. The Public Works Superintendent shall make a separate report for each lot or parcel of land. (Ord. 2-2005 §1)

Sec. 7-1-120. Assessment of property.

After considering the report of the Public Works Superintendent, the Town Administrator shall determine and assess the whole cost for the abatement thereof, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the nuisance was abated. (Ord. 2-2005 §1)

Sec. 7-1-130. Notice of assessment.

The Town Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Ord. 2-2005 §1)

Sec. 7-1-140. Payment of assessment.

(a) It shall be the duty of the owner to pay such 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 now 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. (Ord. 2-2005 §1)

Sec. 7-1-150. 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 Town Administrator and Board of Trustees. (Ord. 2-2005 §1)

Sec. 7-1-160. 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. 2-2005 §1)

Sec. 7-1-170. 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 Police Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 2-2005 §1)

Sec. 7-1-180. 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. 2-2005 §1)

Sec. 7-1-190. Violations and penalties.

Any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Ord. 2-2005 §1)

ARTICLE II**Nuisances****Sec. 7-2-10. Accumulation to constitute nuisances.**

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any damaged merchandise, litter, trash, rubbish or garbage upon any private or public property, except in areas specifically used for the collection and disposal of such material, it shall constitute a nuisance and shall be a violation of this Article. (Ord. 2-2005 §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. 2-2005 §1)

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

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, any dead animal, excrement, garbage or other offensive matter upon any 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. 2-2005 §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, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 2-2005 §1)

Sec. 7-2-50. Sewer inlet.

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. 2-2005 §1)

Sec. 7-2-60. 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. 2-2005 §1)

Sec. 7-2-70. Stale matter.

No person shall keep, collect or use, or cause to be kept, collected or used, in the Town any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation. (Ord. 2-2005 §1)

Sec. 7-2-80. Transporting garbage, manure.

Every cart or vehicle used to transport manure, garbage, swill or offal in any street in the Town shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Ord. 2-2005 §1)

Sec. 7-2-90. Dumping on property.

It is unlawful for any person to use any land, premises or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the Town Marshal or the Town Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the Town Marshal or Town Clerk shall issue such a permit upon the payment of a

fee in the amount of four dollars (\$4.00), with the approval of the Board of Trustees. (Ord. 2-2005 §1)

Sec. 7-2-100. Dead animal removal.

When any animal dies in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal is in any street, highway or public grounds in the Town, it shall be the duty of the Town Marshal to cause such body to be removed forthwith beyond the limits of the Town. (Ord. 2-2005 §1)

Sec. 7-2-110. 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. 2-2005 §1)

Sec. 7-2-120. Vacant residential dwellings.

All broken windows in a vacant dwelling shall be replaced or sealed by the owner or agent within seventy-two (72) hours after notice is given by the Town. (Ord. 2-2005 §1)

ARTICLE III**Undesirable Plants****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. 2-2005 §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. Declaration of nuisance.

Any undesirable plants found growing in any lot or tract of land in the Town are hereby declared to be a nuisance, and it is unlawful to permit any such undesirable plants to grow or remain in any such place. (Ord. 2-2005 §1)

Sec. 7-3-30. 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 undesirable plants when said plants grow to a height of twelve (12) inches or more. (Ord. 2-2005 §1)

Sec. 7-3-40. Removal from Town.

All undesirable plants cut in accordance with Section 7-3-30 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the undesirable plants have been cut. (Ord. 2-2005 §1)

ARTICLE IV

Trees

Sec. 7-4-10. Prohibited trees.

(a) It is unlawful and deemed a nuisance to sell or import into the Town or plant or cause to be planted any female box-elder trees (*Acer negundo*), female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*), tamarisk trees (*Tamarix gallica* or *Tamarix pentandra*) 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 menace to public health, safety and welfare and a public nuisance.

(b) The owner of any property within the Town, upon which any tree listed in Subsection (a) above has been planted after the effective date of the ordinance codified herein, 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 the owner of such property to cut and remove any such tree planted after the effective date of the ordinance codified herein, the Town shall cut and remove such tree. (Ord. 2-2005 §1)

Sec. 7-4-20. Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to the 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 which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value. (Ord. 2-2005 §1)

Sec. 7-4-30. 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 constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance.

(b) The Town shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The Town shall 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. 2-2005 §1)

ARTICLE V

Animals

Sec. 7-5-10. Definitions.

For the purposes of this Article, the terms listed below shall have the following meanings:

Animal means any living vertebrate creature, domestic or wild, including dogs, but excluding strayed animals as defined in Section 35-44-101(1), C.R.S.

Animal Control Officer means one (1) or more Town or County employees designated by the Town Administrator to be in charge of enforcing the provisions of this Article.

Control means physical restraint or influence over a dog by means of a leash, cord or chain no longer than ten (10) feet in length except when the dog is actually working livestock, locating or retrieving wild game in season for a licensed hunter, or assisting law enforcement officers, or while actually being trained for any of these specifically enumerated purposes. For purposes of this Article, *control* shall be construed to include authorization for the Animal Control Officer to secure the enforcement of the laws for the prevention of cruelty to animals.

Cruelty occurs when a person knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge and custody of an animal, fails to provide it with proper food, drink, socialization or protection from the weather, or abandons it.

Kennel means a person, entity or operation which is required to be licensed or permitted by the State and/or County pursuant to applicable laws and regulations and which keeps and maintains dogs for sale, resale, boarding, breeding, show, hunting or other commercial or recreational purposes.

Mistreatment includes any act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water, protection from the elements, opportunity for exercise, socialization or other care normal, usual and proper for an animal's health and well-being.

Owner is a person, or any parent, guardian or legal custodian of any unemancipated child under eighteen (18) years of age, who owns, co-owns, possesses, controls, maintains, keeps or harbors an animal or knowingly permits or intends to permit an animal to remain for seven (7) consecutive days on or about property or premises owned, controlled, or occupied by him or her. A kennel is not a *owner* within the purview of this definition.

Public nuisance means an animal infected with rabies, a barking dog which disturbs the peace of humans, a dangerous or potentially dangerous dog, an unconfined dog in estrus, or a dog that deposits excrement on public or private property that is not subsequently and promptly removed by the responsible party.

Running at large means when an animal enters the property of another person without authorization of that person, or when it enters public property and is not under the control of the animal's owner or a responsible person or an employee or agent of the owner either by leash, cable or chain not more than ten (10) feet in length. (Ord. 1911 §16-9; Ord. 2-2005 §1)

Sec. 7-5-20. Livestock running at large.

No horses, asses, mules, cattle, sheep, swine, goats, geese or ducks shall be permitted to run at large within the corporate limits of the Town. (Ord. 1911 §15-1)

Sec. 7-5-30. Impoundment of stray animals.

The Animal Control Officer shall take up and impound in the Town Pound any animal found running at large contrary to the provisions of Section 7-5-20. (Ord. 1911 §15-2; Ord. 2-2005 §1)

Sec. 7-5-40. Unsanitary keeping of animals prohibited.

It is unlawful for any person to keep any animals, including livestock, in any unsanitary condition which may create a hazard to the health of the inhabitants of the Town, and any such keeping of any animal, in such unsanitary condition shall constitute a nuisance subject to abatement as provided in Article I of this Chapter. (Ord. 2-2005 §1)

Sec. 7-5-50. Notice to owner.

(a) Upon the taking up and impounding of any animal mentioned in this Article, the Animal Control Officer shall notify, in writing, the owner or person in charge of said animal, which notice shall give the color, sex and brand, if any, of such animal, and that said animal shall be sold after a seven-day period unless claimed by the owner as provided in Section 7-5-60 below. Notice shall be deemed given upon delivery to an occupant over the age of eighteen (18) years at the last known address of the owner; or if there is no person upon whom such notice may be served, upon posting at the last known address of such owner.

(b) Unless said animal is claimed and the cost of feeding and advertising is paid to the Animal Control Officer at the going rate, the Animal Control Officer shall sell said animal. (Ord. 2-2005 §1)

Sec. 7-5-60. Claim procedure.

If the owner of the animal claims said animal from the Animal Control Officer within the time specified within said notice and pays all the costs then accrued because of the feeding and advertising, the Animal Control Officer shall release said animal to such owner. (Ord. 2-2005 §1)

Sec. 7-5-70. Unclaimed animals to be sold.

If the animal is not claimed as provided above, the Animal Control Officer, on the eighth day after service of said notice as above provided, shall sell said animal at public auction to the highest bidder, said sale to begin at 10:00 a.m. of said eighth day (provided that, if said eighth day falls on a Sunday, the sale shall be made on the following day, commencing at 10:00 a.m.), and in case of sale by the Animal Control Officer as hereby authorized, the purchaser shall be given a bill of sale to the purchaser of said animal. (Ord. 2-2005 §1)

Sec. 7-5-80. Application of sale proceeds.

The proceeds of such sale shall first be applied to the payment of all accrued costs, and all surplus shall be paid over to the Town Treasurer. (Ord. 2-2005 §1)

Sec. 7-5-90. Disposition of sales proceeds.

All sums of money arising from such sale or penalties for violation of any provisions of this Article, and all sums of money collected by the Town for licenses shall, after deducting the expenses and costs provided for in this Article, be paid by the Animal Control Officer to the Town Treasury. (Ord. 1911 §15-6; Ord. 2-2005 §1)

Sec. 7-5-100. Owner claim of sales proceeds.

At any time within one (1) year after such sale, the owner of any stock or animals sold in pursuance of the provisions of this Article may provide evidence to the Mayor of his or her ownership. When the Mayor is clearly satisfied that such claimant was the actual owner of any stock so sold, he or she shall report the same to the Board of Trustees. The Board of Trustees shall direct a warrant to be drawn on the Town Treasurer for the amount of money paid to the

Town Treasurer by the Animal Control Officer from the sale of such stock or animals. If proof of ownership is not made within one (1) year from the date of such sale, the proceeds shall be forfeited to the Town. (Ord. 1911 §15-7; Ord. 2-2005 §1)

Sec. 7-5-110. Citizen to assist Animal Control Officer.

It shall be lawful for any citizen of the Town to take up any animal found running at large contrary to the provisions of this Article and immediately deliver the same to the Animal Control Officer, who, upon being satisfied as to the animal being at large contrary to the provisions hereof, shall take such animal and proceed in like manner as if the animal had been taken up by the Animal Control Officer. (Ord. 1911 §15-4; Ord. 2-2005 §1)

Sec. 7-5-120. Penalty.

Any person who is found guilty of or pleads nolo contendere to the violation of any provision of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 1911 §13-1; Ord. 2-2005 §1)