

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE I

**Administration and
Abatement of Nuisances**

Sec. 7-1. Definitions.

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

(1) *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.

(2) *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.

(3) *Litter* means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

(4) *Rubbish* means any type of debris, trash, waste or rejected matter.

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

(6) *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. 194 §1, 1995)

Sec. 7-2. 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. 194 §1, 1995)

Sec. 7-3. 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. 194 §1, 1995)

Sec. 7-4. Prohibition of nuisances.

It shall be unlawful for any person, being the owner or having in his or her possession, custody or control any structure, lot or premises within the Town, to create, permit, maintain or allow to remain thereon or therein any nuisance. (Prior code VI-6-2)

Sec. 7-5. 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 Police Department dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 194 §1, 1995)

Sec. 7-6. 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 given to abate the same. (Ord. 194 §1, 1995)

Sec. 7-7. 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. 194 §1, 1995)

Sec. 7-8. Abatement of nuisance.

In all cases where a nuisance exists in the Town, the Police Department may give notice to the owner or occupant of the premises whereon the nuisance is located, requiring the removal or abatement of such nuisance as promptly as reasonably may be effected. In case of neglect or refusal to remove or abate the same in accordance with such notice, the Police Department is hereby authorized to cause the removal or

abatement thereof, and in such case such person to whom such notice was directed shall be chargeable with the expenses which may be incurred in any such removal or abatement. This remedy is in addition to all other penalties that may be imposed for violation of the terms of this Chapter. (Prior code VI-6-3; Ord. 194 §1, 1995)

Sec. 7-9. Right of entry.

The Police Department or any 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. 194 §1, 1995)

Sec. 7-10. Notice to abate nuisance; enforcement.

(a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Article 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 Article.

(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 Article within the time and in the manner prescribed herein, the Parks and Recreation Commissioner may order the Public Works Commissioner to abate the nuisance. The Public Works Commissioner shall then proceed at once to have the work done accordingly. (Ord. 194 §1, 1995)

Sec. 7-11. Report of costs.

Upon the completion of any work by the Town contemplated by this Chapter, the Public Works Commissioner shall report, in writing, to the Police Department, which report shall make a clear statement of the work done by the Public Works Commissioner or his or her assistants and the expense incurred in so doing, so that the Police Department may determine the cost of such work. The Public Works Commissioner shall make a separate report for each lot or parcel of land. (Ord. 194 §1, 1995)

Sec. 7-12. Assessment of property for costs.

After considering the report of the Public Works Commissioner, the Police Department shall determine and assess the whole cost for the removal thereof, adding five percent (5%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the weeds, brush or rubbish are removed. (Ord. 194 §1, 1995)

Sec. 7-13. Notice of assessment.

The Town Clerk, as soon as may be after such assessment is made, shall send, by certified mail with 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. 194 §1, 1995)

Sec. 7-14. 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 of the county in which the subject property is situate, but thereafter only to such County Treasurer. (Ord. 194 §1, 1995)

Sec. 7-15. 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 Police Department and Board of Trustees. (Ord. 194 §1, 1995)

Sec. 7-16. 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. 194 §1, 1995)

Sec. 7-17. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction or violation of this Chapter in the Municipal Court of the Town, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 194 §1, 1995)

Sec. 7-18. 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 the municipal ordinances or any other provision of law. (Ord. 194 §1, 1995)

Sec. 7-19. Violations and penalties.

Where no specific penalty is provided therefor, any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of Section 1-72 of this Code. (Ord. 194 §1, 1995)

Secs. 7-20--7-30. Reserved.

ARTICLE II

Nuisances

Sec. 7-31. General definition of nuisance.

A *nuisance* is defined as the following:

(1) Any unclean, unhealthy, dangerous, defective or filthy drain, ditch, garbage or trash receptacle, septic tank, leaching field, tank, gutter, manure box, compost pile or receptacle of like character, whenever and wherever found, shall be deemed a nuisance.

(2) Any building, vehicle, structure, receptacle or thing used, kept, maintained, stored or operated for any purpose whatever, if such use, keeping, maintaining, storage or operation of the same is dangerous or detrimental to the public health or safety, shall be deemed a nuisance.

(3) The creation of dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render the same objectionable to the public or harmful to property shall be deemed a nuisance.

(4) Any animal which is in violation of the provisions of Articles IV and V of this Chapter shall be deemed a nuisance.

(5) Animal excrement that is allowed to accumulate to the point that it generates an odor detectable from any other lot or creates a health hazard or visual pollution shall be deemed a nuisance.

(6) Any abandoned, unattended or discarded ice boxes, refrigerators or other airtight containers, and any abandoned or unguarded wells, tunnels or other excavations which might be hazardous to life or property shall be deemed a nuisance.

(7) Any outdoor lights brighter than sixty (60) watts that shine in the windows of any neighboring or nearby house sufficient to cause a shadow to be cast by an object in such neighboring or nearby house shall be deemed a nuisance. (Prior code VI-6-1)

Sec. 7-32. 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, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in 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. 194 §1, 1995)

Sec. 7-33. Littering.

(a) It shall be unlawful for any person to throw or cause to be thrown or permit anyone in his or her employ to throw onto any public highway, thoroughfare, street, sidewalk or other place any kind of wire or scrap paper; any ashes, cans or glass of any character; old clothes; cloth of any kind; boots; shoes; hats; leather; hair; straw or

hay; animal, vegetable or any other substance whatever; or any type of advertising matter; or to distribute or cause to be distributed or permit anyone in his or her employ to distribute any type of advertising matter in such a manner so as to cause the littering of any public highway, thoroughfare, street, sidewalk or public place.

(b) It shall be unlawful for any person to drive, move or propel a vehicle or to allow a vehicle owned by such person to be driven, moved or propelled in such a manner so as to cause to be spilled, dropped or jostled onto any street, highway, thoroughfare, sidewalk or other public place in the Town any trash or rubbish; or to load or allow a vehicle to be so loaded so that the contents or any portion of the contents of such vehicle shall be spilled, dropped or jostled from such vehicle. Vehicles, including trucks loaded with or transporting any construction material, dirt, earth, clay, stone, macadam, brick, cement, sand, fuel, coal, wood, refuse or garbage, shall be loaded and the vehicle shall be in such condition so that none of the contents shall be loosed or spilled along the route which the vehicle is traveling.

(c) It shall be unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the Town any rubbish or trash, fruit or fruit particles, wrappers, containers, paper, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells, stalks, animals, cloth or any other material of any kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(d) The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the Town, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. (Ord. 194 §1, 1995)

Sec. 7-34. Unauthorized posting of 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. 194 §1, 1995)

Sec. 7-35. 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 substances, or both, any dead animal, excrement, garbage or other offensive matter whatever 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. 194 §1, 1995)

Sec. 7-36. 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 whatever that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Ord. 194 §1, 1995)

Sec. 7-37. 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 nuisance accumulating thereon, and it shall be unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 194 §1, 1995)

Sec. 7-38. Discharge of nauseous liquids.

No person shall, himself or herself or by another in the Town, discharge out of or from or permit to flow from any house or place any foul or nauseous liquid or substance of any kind whatever into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 194 §1, 1995)

Sec. 7-39. Stale matter.

No person whatsoever 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. 194 §1, 1995)

Sec. 7-40. Transporting of 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. 194 §1, 1995)

Sec. 7-41. Use of property for dumping.

It shall be 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. (Ord. 194 §1, 1995)

Sec. 7-42. Dead animal; removal.

When any animal shall die 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 shall not forthwith be 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 shall be in any street, highway or public grounds in the Town, it shall be

the duty of the Police Department to cause such body to be removed forthwith beyond the limits of the Town. (Ord. 194 §1, 1995)

Sec. 7-43. Noisemakers.

The use of bells, whistles, sirens, music horns, loudspeakers or any other noise-making devices upon the streets, rights-of-way or public ways of the Town for the purpose of selling, distributing or giving away, or advertising any product or service or cause whatsoever, is declared to be a public nuisance and hazard and is expressly prohibited by the terms of this Chapter. (Ord. 194 §1, 1995)

Sec. 7-44. Unused appliances.

No person whatsoever shall keep any unused refrigerator, washer, dryer, freezer or other appliance within any accessible yard or lot, carport or residential garage within the Town limits without first removing the door of the same. (Ord. 194 §1, 1995)

Sec. 7-45. Removal of inoperable vehicle.

It shall be unlawful for any person or other 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 vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this subsection shall not apply to any person, or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days. (Ord. 194 §1, 1995)

Sec. 7-46. Vacant residential dwellings.

All broken windows in each vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Police Department. (Ord. 194 §1, 1995)

Secs. 7-47--7-60. Reserved.**ARTICLE III****Garbage and Refuse****Sec. 7-61. General, definitions.**

For the purposes of this Article, the word *refuse* shall mean and include 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. (Ord. 194 §1, 1995)

Sec. 7-62. Accumulation of refuse prohibited and declared nuisance.

Any accumulation of refuse or other material on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance. (Ord. 194 §1, 1995)

Sec. 7-63. Accumulation of refuse; abatement.

Whenever the Board of Trustees shall direct, the Town Clerk shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the Board of Trustees requiring the removal of any accumulated refuse from such property or premises within thirty (30) days after service of notice. If such property owner, agent or person having charge of such property shall not remove such refuse in accordance with the requirement of such order, the Board of Trustees may order that such refuse be removed by the Town Clerk or other agent of the Board of Trustees and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that, in case of failure to pay such assessment within ten (10) days after the same shall be made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Board of Trustees will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection, as provided by state law. (Ord. 194 §1, 1995)

Sec. 7-64. Responsibility of owners and lessees 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 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. 194 §1, 1995)

Secs. 7-65–7-80. Reserved.

ARTICLE IV

Weeds, Brush and Rubbish

Sec. 7-81. Cutting vegetation required.

(a) It shall be the duty of each and every person in possession of property within the Town to cut and maintain within five (5) inches of the ground all grasses, crested wheat, weeds and brush.

(b) It shall be the duty of each and every person in possession of property within the Town to maintain landscaping such that:

(1) Lawns are mowed and trimmed periodically so as to maintain blade heights of no more than five (5) inches.

(2) Bushes, shrubs and trees are trimmed to eliminate overgrowth which may impede traffic safety or neighbors' views, and to eliminate dead trees and branches which may harbor disease or attract insect pests. (Prior code IV-4-1; Ord. 194 §1, 1995)

Sec. 7-82. Lot defined.

For the purposes of this Article, a *lot* shall include not only the lot itself, but also that portion of the street right-of-way between the lot and the road surface and shall include the drainage ditch and road shoulder. (Prior code IV-4-2)

Sec. 7-83. Time and duty for cutting.

It shall be the duty of each such person owning a lot to cut such grasses, crested wheat, weeds and brush within five (5) days after notice is given directing such cutting and removal. Such notice shall be given by the Parks and Recreation Commissioner, and shall be by certified mail with return receipt requested. In the event that the owner of the lot cannot be located with the exercise of reasonable efforts, or in the event that such certified mail is returned undelivered, notice may be given by publication in the *Littleton Independent* or other newspaper of general distribution within the county in which the property is located. The Parks and Recreation Commissioner may give such notice up to four (4) times during any calendar year, requiring such lot to be cut as provided herein each time such notice is given. (Prior code IV-4-3; Ord. 194 §1, 1995)

Sec. 7-84. Content of notice.

The notice called for in Section 7-83 above shall include the deadline by which the owner must cut the grasses, crested wheat, weeds and brush on his or her lot and remove all cut brush and rubbish. The notice shall further recite that if he or she does not do the cutting and clearing as noticed, he or she will be in violation of this Article, and subject to the penalties and remedies provided herein. Further, the notice shall state that the Town may enter upon the lot (including the right-of-way to the road) and do the cutting and removal required by this Article for and on behalf of the owner if he or she has not done so by the required date. The notice shall further set forth the charge to be made by the Town in the event that it performs the cutting and removal required herein, and it shall advise the owner that such charges, together with any cost of publishing or serving the notice required hereunder and any costs associated with the assessment and collection of such charges will be submitted to the taxing authorities and collected in the same manner as other property taxes are collected pertaining to his or her lot. (Prior code IV-4-4)

Sec. 7-85. Disposal.

All such cut grass, crested wheat and weeds may be left upon the property. However, cut brush and rubbish shall promptly be hauled away. It shall be unlawful for any person to dump or dispose of trash, garbage or debris within the corporate limits of the Town. (Prior code IV-4-5)

Sec. 7-86. Definition of rubbish.

As used herein, the term *rubbish* shall be construed to mean any foreign material out of place on such lot, and shall include loose rock, loose pieces of cement or asphalt, bottles, cans, construction debris, piled grass cuttings or leaves and junk material of all kinds. (Prior code IV-4-6)

Sec. 7-87. Failure of owner to cut and remove.

In the case of the failure of any owner of any such lot to cut the grasses, weeds and brush and remove the brush and rubbish as required by this Article within the time and in the manner prescribed in the notice, the Parks and Recreation Commissioner is authorized to proceed at once to have the work done for and on behalf of the owner. However, if a residence on the lot is occupied by a person other than the owner, the Parks and Recreation Commissioner shall provide three (3) days' notice of such work by posting a notice on the residence. (Prior code IV-4-7; Ord. 194 §1, 1995)

Sec. 7-88. Certification of costs.

Upon the completion of any such work provided in Section 7-87, the Parks and Recreation Commissioner shall report in writing to the Board of Trustees concerning such work and the charge to be billed to the owner of the lot for such work. The Board of Trustees shall proceed to determine and assess such amounts properly chargeable against the owner of such lot on account of the work performed in accordance with Section 7-87, including any notification and collection costs. (Prior code IV-4-8)

Sec. 7-89. Assessment of costs.

Following the assessment by the Board of Trustees of the charge to be assessed, a further notice shall be sent to the delinquent owner (in accordance with the provisions of Section 7-83) informing him or her of the amount of the assessment and advising him or her that if he or she fails to pay the Town such amount within ten (10) days after the date of the notice, the amount will constitute a lien upon his or her lot and that it will be certified to the proper officers of the county in which the property is located for the purpose of having the same placed upon the tax rolls and collected in the same manner as other property taxes are collected pertaining to that lot. If payment is not received from the delinquent owner within the time required, the Town shall proceed as provided in this Section. (Prior code IV-4-9)

Sec. 7-90. Undesirable plants.

Russian, spotted and diffuse knapweed and leafy spurge are declared to be undesirable plants to be controlled in accordance with this Article. (Ord. 178(part), 1991)

Sec. 7-91. Declaration of nuisance.

Leafy spurge, Russian knapweed, spotted knapweed and diffuse knapweed, and all other plants designated undesirable plants by the Town are declared to be a public nuisance. Such action may be taken as is available to nuisance abatement under the laws of this state and the Town, and as the Board of Trustees, in its sole discretion, deems necessary. (Ord. 178(part), 1991)

Sec. 7-92. Enforcement.

The Town shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours or upon proper notice for the pur-

pose of inspecting for the existence of undesirable plants, and shall have to right to propose, implement or enforce the management of undesirable plants upon such lands in accordance with the provisions of Section 35-5.5-109, C.R.S. (Ord. 178(part), 1991)

Secs. 7-93--7-110. Reserved.

ARTICLE V

Animals

Sec. 7-111. Prohibitions on kinds of animals harbored.

It shall be unlawful for any person to harbor or keep in the Town any cattle, horses, sheep, livestock, goats, swine, poultry, wild or exotic animals or poisonous or dangerous reptiles. (Prior code VI-4-1)

Sec. 7-112. Prohibitions on number of animals harbored.

It shall be unlawful for any person to harbor or keep on any one (1) lot in the Town more than three (3) dogs or three (3) cats over the age of six (6) months or more than three (3) of any other species of animal. (Prior code VI-4-2)

Secs. 7-113--7-130. Reserved.

ARTICLE VI

Dogs

Sec. 7-131. Definitions.

As used in this Article, unless the context clearly indicates otherwise, the following words shall have the following meanings:

(1) *Animal shelter* means one (1) or more premises selected by the Town Clerk or Police Department for the purpose of boarding and caring for any animal impounded under the provisions of this Article or under any other ordinance or law of the State or any political subdivision thereof. Any such animal shelters may be operated by a public or private agency and may be located outside of the limits of the Town.

(2) *Dog* means any animal of the *Canidae* family, regardless of sex or lack thereof.

(3) *Dog owner* means any person owning, keeping or harboring a dog or dogs.

(4) *Running at large* or *run at large* means off the premises of the owner and not under the effective and immediate control of the owner or under the effective and immediate control of an agent or a member of the family of the owner. *Effective control* shall not necessarily require that the dog be restrained by leash, chain or cord, provided that the dog is under immediate control of the owner or of an agent or member of the family of the owner.

(5) *Vicious dog* means any dog that (a) has bitten or attacked any person, unless the dog has been severely and immediately provoked into such act; (b) has, off the premises of its owner, without provocation, bitten or attacked any other dog or domestic animal; or (c) off the premises of its owner, repeatedly approaches a person in a vicious or ter-

rorizing manner in an apparent attitude of attack. (Prior code VI-3-1; Ord. 194 §1, 1995)

Sec. 7-132. Running at large.

It is unlawful for any dog owner to allow his or her dog to run at large within the Town or to fail to prevent his or her dog from running at large within the Town. (Prior code VI-3-2; Ord. 194 §1, 1995)

Sec. 7-133. Vicious dog.

It is unlawful for any dog owner to harbor, possess or keep any vicious dog within the limits of the Town. As soon as a dog has become a vicious dog, as defined in Section 7-131(5) of this Article, the owner must promptly and permanently remove the dog from the limits of the Town. However, it shall not be unlawful, pending a judicial determination of guilt or innocence of the offense charged, to confine said dog in a house, building or secure enclosure within the Town sufficient to prevent such dog from escaping or from coming into contact with other persons or animals. (Prior code VI-3-3; Ord. 194 §1, 1995)

Sec. 7-134. Barking dog.

It is unlawful for any dog owner to allow his or her dog to disturb, or to fail to prevent his or her dog from disturbing, any person or neighborhood by loud, persistent or habitual barking, howling, yelping or whining; and any dog that does disturb any person or neighborhood by loud, persistent or habitual barking, howling, yelping or whining is hereby declared to be a public nuisance. (Prior code VI-3-4; Ord. 194 §1, 1995)

Sec. 7-135. Confinement of female dog in heat.

It is unlawful for any dog owner to allow his or her female dog while in heat (state of estrus) to be outside of a house, building or other secure enclosure, which enclosure shall be sufficient to prevent any male dog from gaining access to said female dog, or to fail to prevent his or her female dog while in heat from being outside of a house, building or other secure enclosure. However, the dog owner or his or her agent or member of his or her family may take a female dog in heat outside of a house, building or other secure enclosure if such dog is securely restrained on the premises of the owner by a leash, chain or rope and is in the actual and immediate presence of the owner or agent or family member of the owner. Any female dog in heat not so confined as required by this Section is declared to be a public nuisance. (Prior code VI-3-5; Ord. 194 §1, 1995)

Sec. 7-136. Dog on posted property.

It shall be unlawful for a dog owner to allow his or her dog to be on any private property within the Town which is posted to warn that no dog is permitted on such private property or to fail or prevent his or her dog from being on any such posted private property. (Prior code VI-3-6; Ord. 194 §1, 1995)

Sec. 7-137. Impoundment.

(a) The Police Department or the Police Commissioner is hereby empowered and authorized to impound or cause to be impounded in any designated animal shelter any dog located or found within the limits of the Town which is running at large, a vicious dog, a barking dog, an unrestrained

female dog in heat, a female dog in heat which in his or her discretion is attracting other dogs sufficient to create a public nuisance even though properly restrained, and any dog not wearing current and proper identification tags (all as previously described in Section 7-131 through 7-136).

(b) Dogs injured or killed by an automobile on the roads of the Town shall be removed by the Police Department and, at his or her discretion, he or she may cause any such dog needing medical attention to be sent to a veterinarian or to an animal shelter.

(c) The Police Department shall, as soon as practical after impoundment, make a reasonable attempt to give notice of such impoundment to the owner by telephone and shall send by regular mail a notice of such impoundment to the owner at his or her last address of record if his or her identity can be determined. If the owner's identity cannot be determined, or if no such address is available the Police Department shall cause to be posted at the Police Building for a period of four (4) consecutive days and published once in a newspaper of general circulation a notice of impoundment with a description of the animal and its place of impoundment. If the dog has not been claimed by the owner within seven (7) days following the last day of notice provided for by this Section, the dog shall be delivered to the Humane Society or other suitable animal shelter or destroyed in a humane manner by the Police Commissioner.

(d) Impoundment is to be considered as an additional remedy and is not to exclude any other remedies, fines or penalties which may be imposed or instituted under this Article.

(e) The owner of any impounded dog or dog sent for medical attention shall pay all costs of impoundment, publication costs, veterinarian costs and other costs incident to the capture, impoundment or treatment of the impounded dog. (Prior code VI-3-8; Ord. 194 §1, 1995)

Sec. 7-138. Immediate destruction of vicious dog.

The Police Department is hereby empowered and authorized to cause the immediate destruction of any vicious dog when, in the discretion of the Police Department, such immediate destruction is necessary in the interest of public safety. (Prior code VI-3-9; Ord. 194 §1, 1995)

Sec. 7-139. Liability.

It is not necessary in order to obtain a conviction under this Article to prove notice or knowledge on the part of the owner of any dog in question that the dog was running at large, a vicious dog, a barking dog, an unrestrained female dog in heat or a dog without proper and current registration at the time and place charged. It is the purpose and intent of this Article to impose liability and responsibility upon the owner of any dog for allowing or failing to prevent those things prohibited or made unlawful by this Article. (Prior code VI-3-10; Ord. 194 §1, 1995)

Sec. 7-140. Penalties.

Any person violating any section of this Article or responsible for any such violation shall, upon conviction, be punished as set forth in Section 1-72 of this Code. It is

provided, however, that at least a fine of ten dollars (\$10.00) shall be imposed for a person's first conviction of this Article; at least a fine of fifty dollars (\$50.00) shall be imposed for such person's conviction under any section of this Article for a second offense which occurred within one (1) year of the offense for which the first conviction resulted; at least a fine of one hundred dollars (\$100.00) shall be imposed for such person's conviction under any section of this Article for a third offense which occurred within one (1) year of the offenses for which his or her first two (2) convictions resulted; and at least a fine of two hundred dollars (\$200.00) shall be imposed for such person's fourth and each subsequent conviction under any section of this Article for any offense which occurs within one (1) year of three (3) or more prior offenses for which such person is convicted. The minimum penalties for harboring a vicious dog shall be double the fines set forth immediately preceding in this Section, except not to exceed three hundred dollars (\$300.00), and if the owner of a vicious dog has not permanently removed such vicious dog from the limits of the Town within three (3) days following conviction of the first or any subsequent offense for harboring such vicious dog, an additional summons and complaint may be filed and served against said owner, and such continuing harboring of such vicious dog within the Town limits shall be treated as a separate offense each time three (3) days have elapsed following the first or a subsequent conviction of harboring such vicious dog. (Prior code VI-3-11; Ord. 194 §1, 1995)

Secs. 7-141--7-160. Reserved.

ARTICLE VII

Birds

Sec. 7-161. Bird preserve.

All migratory game birds, migratory insectivorous birds, migratory nongame birds, nonmigratory game birds and nonmigratory insectivorous birds are hereby declared to be protected within the incorporated boundaries of the Town and the Town is declared to be a bird preserve. (Prior code VI-13-1)

Sec. 7-162. Molestation.

It shall be unlawful at any time, by any means or in any manner, except by special authority granted under Section 7-163 of this Article, to pursue, hunt, take, capture, kill, attempt to take, molest, capture or kill, willfully injure, possess, offer for sale or sell any of the birds described in Section 7-161 of this Article found in the Town, or any part, nest or egg of any such bird. (Prior code VI-13-2)

Sec. 7-163. Permits.

Permits to kill or capture and remove any of the above named birds, which under certain or extraordinary conditions may become seriously injurious to the agricultural or other interests in the Town, or may be found to be congregating in such numbers as to constitute a health or public safety hazard, may be issued by the Mayor with the approval of the Board of Trustees. (Prior code VI-13-3)

Sec. 7-164. Confiscation.

All birds which have been unlawfully captured, injured or killed, and their nests and/or eggs unlawfully removed, and all implements or other paraphernalia, including guns and boats used or attempted to be

used to contravene the provisions of this Article or any regulations made pursuant thereto, when found by the Police Department, shall be confiscated forthwith and delivered to the Municipal Judge to be held by him or her until a final determination of the alleged offense. Upon a finding of guilt, the Municipal Judge shall order forfeiture of said property and delivery of the same to the Police Department for proper disposition. (Prior code VI-13-4; Ord. 194 §1, 1995)

Sec. 7-165. Game laws.

Nothing in this Article is intended to adversely affect the operation of the game laws of the State or those of the United States applying to the birds as described in Section 7-161 of this Article. (Prior code VI-13-5)

Secs. 7-166--7-180. Reserved.