

## CHAPTER 7

### Health, Sanitation and Animals

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## **ARTICLE 1**

### **Administration and Abatement of Nuisances**

#### **Sec. 7-1-10. Abatement of nuisance.**

In case of any nuisance in or upon any street, avenue, alley, sidewalk, highway, public right-of-way, public easement or public grounds in the Town, the Chief of Police, the Health Officer, the Board of Health or any designee may abate the same forthwith without such notice being given. (Prior code 7-5-6; Ord. 330 §1, 2007)

#### **Sec. 7-1-20. Abatement with notice.**

In case of any nuisance in or upon any private property, the Health Officer shall cause a written notice describing the nuisance to be given to the person owning the property (as shown on the County Assessor's records) and to any person maintaining the nuisance as owner, occupant or agent in charge of such lot, building, fence, structure, premises or place of location of such nuisance, and the right to appeal. After delivery of said notice, such person shall have five (5) calendar days to remove said nuisance or to appeal to the Health Officer that no nuisance exists. The Health Officer may order the suspension of abatement of the alleged nuisance pending resolution of the appeal. The Board of Health shall hear the appeal, and the decision of the Board of Health of such appeal shall be final. (Prior code 7-5-6; Ord. 330 §1, 2007)

#### **Sec. 7-1-30. Notice.**

Notice shall be given in writing and shall be deemed given when personally handed to such person, a member of his or her immediate family, or his or her business partner or employee if delivered to the premises on which the nuisance exists. Mailed notice shall be deemed given two (2) business days (excluding weekends and holidays) after posted in the United States Mail, certified mail, return receipt requested, prepaid to the last known address of the person as shown on the Town records (and the County Assessor's records for the owner of the premises). (Prior code 7-5-6)

#### **Sec. 7-1-40. Subsequent offense.**

After the initial notices, no additional notices shall be required for the finding of separate offenses for the same nuisance continuing every forty-eight (48) hours, as provided in Section 7-1-70 below. (Prior code 7-5-6)

#### **Sec. 7-1-50. Costs.**

All expenses and costs of the Town incurred to abate or remove any such nuisance shall be paid by the owner of the premises on which the nuisance exists, and by any person maintaining the nuisance as owner, occupant or agent in charge of the premises or place of location of such nuisance, whether or not any conviction has occurred for violation of this Article. If not paid, such costs and expenses shall be certified by the Town Clerk to the County Treasurer and collected as additional real estate taxes. (Prior code 7-5-6; Ord. 330 §1, 2007)

**Sec. 7-1-60. Right of entry for inspection; abatement of nuisances.**

The Health Officer shall have power to enter into any cellar, building, car, yard or enclosure or upon any lot or ground in the Town for the purpose of examining any reported or suspected nuisance or cause of disease, and may order or direct the cleaning of any such place and the removal of all nuisances in and about such premises. Every person being the owner, agent or occupant of any such premises shall, within twenty-four (24) hours after being duly notified, comply with any such order made by the Health Officer and remove such nuisance, or the Health Officer may cause such nuisance to be removed and abated, and any expense incurred by the Town in abating any nuisance may be recovered by it by proper action from the creator thereof. (Prior code 7-5-4)

**Sec. 7-1-70. Violations and penalties.**

Any person convicted of maintaining a nuisance under this Chapter or who, being the owner, occupant or agent in charge of such lot, building, fence, structure, premises or place and fails or refuses to abate the nuisance within twenty-four (24) hours after being ordered to do so by the Board of Health, Chief of Police or other officer of the Town, shall be deemed guilty of a misdemeanor and, upon conviction, in addition to all legal remedies available for the enforcement of this Chapter, such as injunctions and mandatory restraining orders and any other relief, shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) for each separate offense. Every period of forty-eight (48) hours of continuance of the nuisance shall be a separate offense without need for separate notice for the second and subsequent offenses of the same continuing nuisance. (Prior code 7-5-10; Ord. 327, 2007)

**ARTICLE 2**

**Nuisances**

**Sec. 7-2-10. Nuisance defined.**

(a) Every cellar, vault, lot, sewer, drain, place or premises within the Town which is damp, unwholesome, offensive, filthy or covered any portion of the year with stagnant or impure water or is in such condition as to produce unwholesome or offensive exhalations; every source of filth and cause of sickness in the Town; and every building, fence and structure which is or may be ruinous and liable to fall and injure persons or property, are hereby declared to be nuisances and injurious to the public health and safety.

(b) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located is hereby declared to be a nuisance. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of, any of the following:

(1) Lumber (except as part of an on-going construction project), junk, trash or debris;

(2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;

(3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects; provided that the presence of earthworms shall not constitute a nuisance. (Prior code 7-5-1)

**Sec. 7-2-20. Sewer connections; maintenance of privies.**

No person owning or occupying any lot or premises within any regularly established sewer district of the Town shall be permitted to have upon his or her premises any privy or water closet, except that the same shall be properly connected with a sewer; and no person shall hereafter construct within a sewer district any cesspool, but all waste, soil and drain pipes shall be connected with the sewer. All cesspools heretofore constructed, when so kept or maintained as to be unwholesome or dangerous to health, shall, upon order of the Board of Health, be abated, and the waste, soil and drain pipes thereto shall be connected with a sewer. If any owner or occupant of any premises having a privy or water closet thereon fails or refuses to comply with any provisions of this Section, the Board of Health may abate such nuisance and remove the same. (Prior code 7-5-7)

**Sec. 7-2-30. Putrid animal or vegetable matter.**

If any person within this Town keeps any unsound or putrid animal or vegetable matter, hides or skins of any character or kind whatsoever, places or permits to remain in a street, alley, ditch, canal or public ground on any lot any filth, offal, animal or vegetable matter or any offensive matter whatsoever or anything likely to become offensive, or allows any such filth, offal or any other offensive matter to remain in any stable, cellar, outhouse, privy, yard or enclosure owned, used or occupied by him or her in any such manner that the same is offensive or prejudicial to health, the Board of Health shall abate such nuisance, and any expense incurred by the Town in abating such nuisance may be recovered by it by proper action from the creator thereof. (Prior code 7-5-8)

**Sec. 7-2-40. Sale of unwholesome meats, vegetables or milk.**

No person shall keep for sale or sell any putrid, unwholesome or diseased meat, nor sell or keep for sale any unwholesome or decayed fruit or vegetables or adulterated drug or food of any kind or nature whatsoever, or impure or adulterated milk or milk from cows infected with any contagious disease. (Prior code 7-5-9; Ord. 330 §1, 2007)

**Sec. 7-2-50. Unwholesome conditions.**

If any cellar, vault, lot, sewer, drain, canal, place or premises within the Town is damp, unwholesome, offensive or filthy, is covered any portion of the year with stagnant, impure water, is permitted to grow weeds or other rank vegetation, has thereon any decaying vegetable matter, is in such condition as to produce unwholesome or offensive emissions or is a nuisance as defined herein, the Board of Health may cause the same to be drained, filled up, cleaned, mowed, burned, purified or otherwise abated, may require the owner, occupant or person in charge of such lot, premises or place to perform such duty, may require the owner or occupant of any building or structure which may be ruinous or liable to fall and injure persons or property to pull down or remove the same, or may cause the same to be done by the proper officers of the Town. All of the provisions of this Section affecting any premises or lot shall also apply to the sidewalk or place used as a sidewalk adjoining said lot or premises. If any person refuses to comply with any order of the Board of Health concerning the removal or abatement of any of the foregoing nuisances, the Board of Health may remove or abate

said nuisance. In case any lot having thereon any of the foregoing nuisances or any other nuisance is owned by a person not a resident of the Town, the Board of Health may have the same cleaned or nuisance abated without serving personal notice upon the owner thereof. (Prior code 7-5-5)

### **ARTICLE 3**

#### **Garbage and Refuse**

##### **Sec. 7-3-10. Streets and alleys.**

It is unlawful for any person to throw or deposit upon any street or alley of the Town any ashes, tin cans, bottles, garbage, waste paper or other offensive matter, or to permit the same to be so thrown or deposited in any such street and alley adjoining his or her property. (Prior code 8-2-1)

##### **Sec. 7-3-20. Adjoining real property.**

It is unlawful for the owner or user of any real property adjoining any street or alley of the Town to permit any ashes, tin cans, bottles, garbage, waste paper or other offensive matter to remain upon any such street or alley, and all owners or users of real property in the Town are hereby required to forthwith clean up and remove from such streets and alleys adjoining their property all such offensive matter or litter. (Prior code 8-2-2; Ord. 330 §1, 2007)

### **ARTICLE 4**

#### **Weeds and Brush**

##### **Sec. 7-4-10. Undesirable plants.**

Russian, Spotted and Diffuse Knapweed and Leafy Spurge are declared to be undesirable plants to be controlled in accordance with this Chapter. (Prior code 7-7-1)

##### **Sec. 7-4-20. 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 for nuisance abatement under the laws of this State and the Town, and as the Board of Trustees, in its sole discretion, deems necessary. (Prior code 7-7-2)

##### **Sec. 7-4-30. Removal of undesirable plants by property owner.**

Property owners within the Town shall be responsible for the elimination of undesirable plants from their property. Such removal shall be accomplished in an ecologically feasible and environmentally safe manner in accordance with all applicable laws, ordinances, rules and regulations. (Prior code 7-7-3; Ord. 330 §1, 2007)

**Sec. 7-4-40. 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 purpose of inspecting for the existence of undesirable plants, and shall have the 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. (Prior code 7-7-4)

**ARTICLE 5**

**Air Pollution Control**

**Sec. 7-5-10. Purpose.**

The Board of Trustees hereby finds and declares air quality to be an important component of the health, safety and welfare of the citizens and community of the Town; and the Board of Trustees has a duty to protect and improve air quality in and around the Town and to preserve the scenic natural resources of the community. It is further declared that the control, prevention and abatement of air pollution within the Town is a matter of significant local interest and concern. To this end, these regulations are intended to achieve the following specific purposes:

- (1) To protect the air quality in the Town.
- (2) To reverse the trend towards increased air degradation in the Town.
- (3) To provide heat sources that are efficient and have a reduced air polluting effect. (Prior code 7-8-1)

**Sec. 7-5-20. Definitions.**

(a) For purposes of this Article, the following terms and phrases shall have the meanings indicated:

*Building* means any structure built for the shelter or enclosure of any use or occupancy.

*Building Official* means the official or other designated authority charged with the administration and enforcement of the adopted building code and this Code.

*Certified nonsolid fuel-burning device* means a device which burns a nonsolid fuel, such as natural gas, liquefied petroleum or similar fuel in an appliance and/or device which has been approved by Underwriter's Laboratory, American Gas Associates or the Building Official.

*Certified solid fuel-burning device* means a solid fuel-burning device which is certified by the Air Pollution Control Division of the Colorado Department of Public Health and Environment to meet the emission standards set forth in Section IV of Regulation #4 of Volume 1 of the Standards of the State Air Quality Control Commission.

*Dwelling, multifamily* means a building designed for or occupied by two (2) or more families living independently of each other.

*Dwelling, single-family* means a detached building designed exclusively for occupancy by one (1) family.

*Dwelling unit* means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having not more than one (1) kitchen.

*Family* means one (1) or more persons occupying a single dwelling unit and maintaining a common household, but not including boarding or rooming houses, lodges, hotels, motels, tourist courts or similar uses.

*Idle or idling* means the running of the engine of a motorized vehicle of any type whatsoever while the vehicle is not being operated for its intended purpose, on either public or private property within the Town.

*Slash burning* means a method of clearing forested areas by cutting down and burning vegetation.

*Solid fuel-burning device* means any fireplace, stove, firebox or other device intended and/or used for the purpose of burning wood, coal, pulp, paper, pellets or other nonliquid or nongaseous fuel.

(b) Any word, term or phrase not herein defined or specified shall be defined in accordance with the Town zoning and subdivision regulations. (Prior code 7-8-2; Ord. 330 §1, 2007)

#### **Sec. 7-5-30. Solid fuel-burning devices.**

(a) No person shall install or replace a solid fuel-burning device or gas appliance within the Town without first obtaining a building permit in accordance with the building code as adopted by the Town.

(b) No person shall install or replace a solid fuel-burning device unless the solid fuel-burning device is a certified solid fuel-burning device.

(c) Limitation on the number of devices.

(1) A detached single-family dwelling for which a building permit is issued after the effective date of the initial ordinance codified herein may have no more than one (1) approved solid fuel-burning device per dwelling.

(2) Duplex units, or a building with two (2) dwelling units, for which a building permit is issued after the effective date of the initial ordinance codified herein may have no more than one (1) approved solid fuel-burning device per dwelling.

(3) No solid fuel-burning device shall be allowed in apartments, condominiums, townhouses, hotel/motel rooms, accessory buildings, accessory apartments, restaurants, bars and commercial

and industrial buildings other than one (1) approved solid fuel-burning device per lobby or other main common area.

(4) Any noncertified solid fuel-burning device that requires replacement, relocation or significant modification must be removed and/or replaced with a certified solid fuel-burning device or certified nonsolid fuel-burning device.

(d) Any solid fuel-burning devices which are preexisting before the effective date of the initial ordinance codified herein shall be exempt from the provisions set forth in this Article. However, if said solid fuel-burning device is replaced, it must be replaced with a certified solid fuel burning device or a certified nonsolid fuel-burning device. (Prior code 7-8-3)

**Sec. 7-5-40. Open burning.**

(a) Open burning is prohibited in the Town.

(b) For the purposes of this Section, *open burning* shall be defined as any outdoor fire, including but not limited to campfires, slash burning, warming fires, charcoal grill fires on public property, fused explosives, fireworks of all kinds and brands or the prescribed burning of fence rows, fields, wildlands, trash and debris. This prohibition excludes fires contained within buildings, self-contained charcoal grill fires at private residences and permanent fire pits or fire grates located on developed picnic grounds or campgrounds as listed on Exhibit "A" to the ordinance codified herein, a copy of which is available at the office of the Town Clerk. This prohibition excludes public and/or commercial fireworks displays.

(c) This prohibition shall be enforced by the Fraser-Winter Park Police Department and any other peace officer with authority in the County. The penalty assessment procedure provided in Section 16-2-201, C.R.S., shall be followed when enforcing the provisions of this Section.

(d) The restrictions on open burning in the Town shall be in effect whenever the Board of County Commissioners declares and/or implements burning restrictions and shall remain in effect unless or until the County-wide ban is amended or rescinded by the Board of County Commissioners. (Prior code 7-8-4; Ord. 334 §§1—4, 2007)

**Sec. 7-5-50. Engine idling.**

(a) It shall be unlawful for any person to idle or permit the idling of the motor of any stationary motor vehicle for a prolonged or unreasonable period of time, determined herein to be fifteen (15) minutes or more within any one-hour period.

(b) This Section shall not apply when an engine must be operated in the idle mode for safety reasons, including but not limited to the operation of cranes and fork lifts used in the construction industry. (Prior code 7-8-5)

**Sec. 7-5-60. Appeals.**

Appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Article shall be heard by the Board of Trustees. The decision of the Board of Trustees shall be final. (Prior code 7-8-6)

**Sec. 7-5-70. Penalties and enforcement.**

(a) Any person admitting liability for, found to be guilty of or against whom a default judgment has been entered for a violation of this Article shall be subject to a civil penalty of not more than one thousand dollars (\$1,000.00). Each and every day a violation of this Article exists shall be deemed a separate offense, for which a separate civil penalty may be imposed. Proceedings for the determination of such liability and imposition of such civil penalty shall be conducted in the Municipal Court in the same manner as proceedings relating to noncriminal traffic infractions, in accordance with the provisions of Chapter 8, Article 1 of this Code. In no case shall any defendant found guilty of any violation of this Article be punished by imprisonment for such violation.

(b) In addition to other remedies provided by law, the Board of Trustees may take such action as is available for nuisance abatement under the laws of the State and the Town, to prevent, enjoin, abate or remove any such violation or threatened violation of this Article. (Prior code 7-8-7; Ord. 330 §1, 2007)

**ARTICLE 6**

**Animal Control**

**Sec. 7-6-10. Title for citation.**

This Article shall be known and may be cited as the Town of Fraser Animal Control Ordinance of 2009. (Ord. 349, 2009)

**Sec. 7-6-20. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Animal* means any living creature, domestic or wild.

*Animal Control Officer* means any person designated by the Police Department or the Town Manager as an Animal Control Officer, Code Enforcement Officer, Police Officer, Grand County Animal Control Officer or Grand County Sheriff's Deputy, with the duties of investigation, control and enforcement of this Code and state laws pertaining to animals.

*Assistance dog* means a dog that has been specially trained, or is being specially trained, to guide and/or assist a blind, visually impaired, deaf, hearing impaired or physically or mentally disabled or impaired person.

*Bodily injury* means physical pain, illness or any impairment of physical or mental condition.

*Effective and immediate control* means such direct, physical or verbal restraint sufficient to prevent attack or uninvited contact by the animal upon a person other than the owner or another animal, to prevent entry upon public property if the animal is not on a leash controlled by a human or to prevent entry upon private property of another without the consent of the person in possession of such private property.

*Exigent circumstances* means events that justify a departure from usual legal procedures, such as the obtaining of a warrant, typically in order to save a life, preserve evidence or prevent a suspect from fleeing.

*Good cause* means to act out of necessity or take action against an animal to defend a person or property from imminent harm or damage.

*Harbor* means the act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care.

*Kennel* means any person engaged in the business of breeding, buying, selling or boarding dogs and/or cats or engaged in the training of dogs for guard or sentry purposes.

*Mutilate* means to detach or destroy an animal's limb or other essential part or to otherwise cripple or maim an animal.

*Owner* means any person owning, possessing, keeping, leasing or harboring any animal within the Town.

*Person* means any individual, firm, company, partnership, corporation, limited liability company, organization or other entity, and includes the term *owner* as defined in this Section.

*Pet shop* means any person engaged in the business of breeding, buying, selling or boarding animals of any species.

*Premises* means real property, buildings and other improvements.

*Running at large* means an animal that is not restricted to its owner's premises or not under the effective and immediate control of a person or such animal's owner.

*Severe bodily injury* means bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

*To own* means to own, possess, keep, harbor or lease.

*Unprovoked attack* means the infliction of bodily injury on one (1) or more persons or animals by an animal, which injury is not necessary to:

- a. Protect a person from an unlawful assault.
- b. Protect the property of a person against theft, criminal mischief or criminal trespass.

c. Protect the animal from an unjustified and unprovoked attack which could cause serious bodily injury to it.

*Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for the boarding of animals or for the diagnosis and treatment of diseases and injuries of animals. (Ord. 349, 2009)

#### **Sec. 7-6-30. Purpose.**

The purpose of this Article is to establish the regulations and expectations of both owners and domestic pets in order to maintain the health and well-being of animals, prevent damage to people or property and protect the public health, safety and welfare. (Ord. 349, 2009)

#### **Sec. 7-6-40. Licensing; vaccination of dogs.**

(a) License required and rabies inoculation. No dog over the age of six (6) months shall be kept, maintained or harbored within the Town for fifteen (15) or more consecutive days unless the dog owner has had the dog vaccinated against rabies and obtained a county dog license and tag.

(b) Application for license and tag; fees. Applications for dog licenses and tags shall be made to the Grand County Animal Control Division or the Town Clerk on forms provided therefor. A nonrefundable fee as established by the Grand County Commissioners shall be paid for each license issued.

(c) Duration of license. A dog license shall expire at the end of the calendar year in which it was issued.

(d) Information on license. A dog license shall state the following information:

- (1) Name and address of the pet owner;
- (2) Breed, sex, age and description of the dog;
- (3) Whether the dog is neutered or spayed;
- (4) Amount of license fee paid;
- (5) Date of issuance of license; and
- (6) Number of the license.

(e) Issuance procedure for tag. A dog tag shall be issued with the dog license to the dog owner and shall be regarded as a part of the license. The tag will be made of a durable material, shall be suitable to be attached to a dog collar or harness and will state the year of issuance and the number of the dog license.

(f) Tag not transferable. Dog tags shall not be transferable from one (1) dog to another, and no refunds shall be made for any dog license fee because of the death of the dog or due to the licensed dog's permanent removal from the County prior to the expiration of the license year.

(g) License and tag; use restricted. It shall be unlawful to knowingly possess and/or fix a license and respective tag to or for any dog other than that specific animal for which the respective license and tag have been issued.

(h) Fees for license and tag. Licenses and other fees as required to be paid under this Article as established by the Grand County Commissioners, except that no license fees or charges shall be charged for the licensing of an assistance dog.

(i) Receipt for license and tag; duplicate tag. Upon payment of the license fee as provided in Subsection (h) above, the official receiving said license fee shall issue to the applicant a receipt for the payment received for each dog licensed. The receipt shall contain the number of the license as shown on the tag. Said receipt shall be retained by the respective owner for inspection as may be reasonably required by the authorized enforcement authorities of the Town. In the event a dog tag is lost, destroyed or mutilated, a duplicate tag may be issued by the appropriate official, upon presentation of the receipt showing the payment of the license fee for the current year and upon the additional payment of a fee as established by the Grand County Commissioners for such duplicate tag.

(j) Registration required.

(1) Dogs over the age of six (6) months shall be licensed by January 1 of each year or within thirty (30) days after having attained the age of six (6) months.

(2) With respect to a dog brought into the Town subsequent to January 1 of each year, within thirty (30) days after the entry of such dog the dog owner shall obtain a license for the dog, and the regular fee shall apply to the registration.

(k) Vaccination, inoculation by veterinarian.

(1) The vaccination or inoculation against rabies required in order to obtain a dog license must be performed by a licensed veterinarian.

(2) The dog owner shall obtain from the veterinarian a vaccination certificate which states the type of vaccination with which the dog was inoculated, date of the inoculation and recommended year of renewal of inoculation.

(l) Display of license and tag.

(1) A dog owner who obtains a dog license shall retain it during the license year and is required to present it for inspection by the authorized enforcement authorities of the Town in connection with the enforcement of this Article.

(2) A dog owner who obtains a dog tag in conjunction with the dog license shall attach the tag to the collar or harness of the licensed dog, and said collar or harness must be worn by said dog at all times.

(m) Kennel exemption. Dogs kept or maintained by a licensed kennel need not be licensed pursuant to the provisions of this Article while they are within the confines of the kennel premises. (Ord. 349, 2009)

**Sec. 7-6-50. Dogs running at large; unlawful acts.**

It shall be unlawful for any owner of a dog to fail to prevent such dog from running at large within the Town.

(1) An animal shall be deemed to be running at large under circumstances where the animal is not either restrained by means of a leash, rope, chain or other physical restraint of sufficient strength to control the animal or is not under the effective and immediate control of the owner or other responsible person present with the animal and immediately obedient to that person's commands.

a. An animal shall be deemed to be running at large if the animal is left unattended in a motor vehicle or the bed of a pickup truck and is not tethered or confined in compliance with the provisions of this Article, so as to prevent the animal from exiting the vehicle of its own volition or posing a risk to passersby.

b. An animal shall be deemed to be running at large on its owner's premises under circumstances where the animal is unattended and is not confined within a secure enclosure as defined in this Article or is not restrained by a leash, rope, chain or other tethering device sufficient to restrain the animal to the owner's premises.

c. An animal shall be deemed to be running at large if, on public property or property generally accessible to the public, said animal is tethered or chained in such a manner that it poses a risk of an unprovoked attack to passersby by lunging at or attacking other persons or animals.

(2) The following shall constitute exceptions to running at large.

a. An animal is not considered to be running at large, either on or off the premises of its owner, if the animal is being physically held by the owner or other responsible person or is in the immediate presence of the owner or other responsible person and is immediately obedient to that person's command.

b. An animal is not considered to be running at large if it is confined within a motor vehicle or secured within the confines of the bed of a pickup truck, in compliance with the provisions of this Article, in such manner that it cannot exit the vehicle or pose a risk to any person outside the confines of the vehicle by its own volition.

c. The provisions of this Section shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers or actually being trained for any of these pursuits.

(3) Any person who shall violate parts of this Section shall, upon conviction, in addition to the penalties set forth in Subsection 7-6-190(c) be subject to enhanced penalties, as follows:

a. Ordered to have the animal spayed or neutered by a licensed veterinarian or a licensed shelter; and

b. Ordered to have the animal be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information shall be registered with the appropriate company responsible for maintaining such information for the microchip, and a copy of the initial registration and a receipt acknowledging completion of registration from the company shall be provided to the Animal Control Division of the Grand County Sheriff's Office. (Ord. 349, 2009)

**State law references:** Authority to regulate and prohibit the running at large of animals, Section 31-15-401(1)(m)(1), C.R.S.

#### **Sec. 7-6-60. Animal defecation on public or private property; exemptions.**

(a) No person, having possession, custody or control of any animal, shall knowingly or negligently permit any dog or other animal to commit any nuisance, i.e., defecation upon the grounds of any public area or upon any private property other than the property of the owner of such animal.

(b) Any person having possession, custody or control of any dog or other animal which commits a nuisance, i.e., defecation in any area other than the private property of the owner of such dog or other animal, as prohibited in Subsection (a) above, shall be required to immediately remove any feces from such surface and either:

(1) Carry the same away for disposal in a toilet; or

(2) Place the same in a nonleaking container for deposit in a trash or litter receptacle.

(c) The provisions of Subsections (a) and (b) above shall not apply to any assistance dog that is accompanying, guiding, leading or physically in the control of a disabled person. (Ord. 349, 2009)

#### **Sec. 7-6-70 Harassment of assistance dogs prohibited.**

(a) No person shall distract, harass, strike, injure, seize, entice, intimidate, frighten or otherwise interfere with any assistance dog that is accompanying, guiding, leading or physically in the control of a disabled person or that is engaged in training with a handler.

(b) No dog owner or person charged with the custody or control of a dog shall allow their dog, or a dog over which they are to have control, to attack, injure, harass, frighten or otherwise interfere with an assistance dog that is guiding, leading, accompanying or being controlled by a disabled person or an assistance dog-training handler.

(c) For purposes of this Section, *disabled person* shall mean a blind, visually impaired, deaf, hearing impaired or physically or mentally handicapped or impaired person. (Ord. 349, 2009)

#### **Sec. 7-6-80. Impounding.**

(a) It shall be the duty of the Chief of Police or other person authorized by the Board of Trustees to apprehend any stray dog or any dog found running at large contrary to the provisions of Section 7-

6-50 and to impound such dog in the County animal shelter or other suitable place until it can be released to the owner after assessment of any applicable fines and penalties and, upon receiving any dog, to make a complete registry entering the breed, sex and color of such dog and whether licensed and, if licensed, to enter the name and address of the owner and the date and number of the dog tag.

(b) It shall be lawful for any Animal Control Officer to go upon any property, excluding a dwelling, using such force as may be reasonably necessary, for the purpose of pursuing and catching any animal to be impounded.

Absent good cause and exigent circumstances, an Animal Control Officer shall not go within the interior of a dwelling to remove an animal without a court order or the consent of an occupant of the dwelling who is of sufficient age to understand the benefits and/or consequences of granting such consent. (Ord. 349, 2009)

#### **Sec. 7-6-90. Quarantine of animals.**

(a) A dog which is known to have bitten or injured any person so as to cause an abrasion of the skin or a dog which, in the opinion of the Animal Control Officer or a licensed veterinarian, appears to be afflicted with rabies shall be closely confined by the dog owner in accordance with the directions of the Chief of Police for a period of not less than ten (10) days. If said dog dies while confined or impounded as provided in this Section, proper medical tests shall be conducted at the expense of the dog owner upon said dog to determine whether the animal was suffering from rabies at the date of death.

(b) The owner of any animal that has been reported to have bitten any person shall, on demand of any member of the Police Department or an Animal Control Officer, produce the animal for examination and quarantine. If the owner of any such animal refuses to produce the animal, the owner shall be subject to immediate arrest if there shall be probable cause to believe that the animal has bitten any person and that the owner is keeping or harboring the animal upon such a demand, and the owner may be charged with a violation of this Section by failing to produce such an animal. If the owner of any such animal shall willfully or knowingly secrete or refuse to produce such animal, such act shall constitute a separate and individual violation of this Section.

(c) If the owner of a dog referred to in Subsection (a) above cannot be determined or located, the Town shall confine said dog for a period of not less than five (5) days. If the owner of said dog is not determined or located or the dog claimed from confinement within said five (5) days, the Chief of Police or Grand County Sheriff may order such dog destroyed. If said dog is determined by a veterinarian to be suffering from rabies, it shall be destroyed immediately.

(d) It is unlawful for a dog owner, knowing or reasonably suspecting that a dog has rabies, to allow such dog to be taken off his or her property or premises or beyond the limits of the Town without the written permission of the Chief of Police. Every dog owner or other person, upon ascertaining that a dog is rabid, shall immediately notify the Chief of Police who shall either remove the dog to an animal shelter or other suitable place or, if necessary for the protection of the public, immediately destroy the dog.

(e) If the animal is inoculated for rabies during the ten-day quarantine, an additional ten (10) days of quarantine is required. Total quarantine, if so inoculated, shall be twenty (20) days.

(f) Proof of ownership. A valid rabies tag worn by any animal shall be presumptive evidence that the owner of the animal is the person registered as obtaining the rabies vaccination for such animal. The registered owner of an animal may be charged with any violation the animal committed. (Ord. 349, 2009)

**State law references:** Impoundment authority, Section 31-15-401(1)(m), C.R.S.

#### **Sec. 7-6-100. Possession of wild or vicious animals.**

No person shall keep or permit to be kept on such person's premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This Section shall not be construed so as to apply to a zoological garden, theatrical exhibit or circus, except that no theatrical exhibit or act shall be held in which animals are encouraged to perform through the use of chemical, electrical or mechanical devices. (Ord. 349, 2009)

#### **Sec. 7-6-110. Misuse of animals.**

No person shall give away any live vertebrate animal as a prize for, or as an inducement to enter, any contest, game or other competition or as an inducement to enter a place of amusement, or no person shall offer such vertebrate as an incentive to enter into any business agreement whereby the vertebrate is for the purpose of attracting trade. (Ord. 349, 2009)

#### **Sec. 7-6-120. Animals in heat.**

The owner of every female dog or cat in heat shall keep the dog or cat confined in a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal, except for planned breeding, and such that the animal does not create a nuisance by attracting other dogs or cats. (Ord. 349, 2009)

#### **Sec. 7-6-130. Care and control.**

(a) It shall be unlawful for a person to knowingly or recklessly engage in any of the following acts or any combination thereof:

(1) Fail to provide an animal with sufficient food and water, proper shelter and protection from the weather to avoid harm to an animal;

(2) Fail to provide veterinary care when needed to prevent suffering and injury to an animal;

(3) To, without good cause, mutilate an animal;

(4) To, without good cause, beat repeatedly or kill or attempt to kill an animal; except for the licensed harvest of wild game animals during any legal hunting season;

(5) To cruelly treat, torment, overload, overwork or otherwise abuse any animal to the extent that the animal is in imminent danger of injury, sickness or death;

(6) To cause or permit any dogfight, cockfight, bullfight or other combat between animals or between humans and animals;

(7) To abandon such animal or neglect such animal to the extent that the animal is in imminent danger of injury, sickness or death. The term *neglect* shall include leaving an animal unattended in a vehicle without adequate ventilation or to leave an animal unattended in any manner that subjects the animal to extreme temperatures or conditions and thereby creates a risk of imminent injury, sickness or death to the animal;

(8) To crop a dog's ears or neuter an animal (this provision shall not apply to actions of a licensed veterinarian); and

(9) To poison any dog or cat or distribute poison in any matter whatsoever with the intent or for the purpose of poisoning any dog or cat.

Any member of the Police Department or an Animal Control Officer may take necessary and appropriate steps to abate any violation of this Section and, further, may impound the animals affected until a dispositional hearing can be held before the Judge of the Municipal Court in the manner and form provided in this Article.

(b) No owner shall fail to maintain areas where animals are kept in a clean and sanitary fashion. It shall be the duty of every owner to dispose of, in a reasonable manner, any accumulation of animal excretion on premises where animals are kept, in order to prevent the attraction of flies, insects or other pests and in order to prevent the propagation of obnoxious odors.

(c) No person shall harbor or allow there to be more than a total of three (3) dogs, three (3) cats or one (1) Vietnamese potbellied pig or, if dogs, cats and pigs are harbored or allowed, any combination exceeding four (4) such animals per residential dwelling unit that they occupy. This Subsection shall not apply to dogs or cats under three (3) months old from the same litter of a female dog or cat harbored or allowed per residential dwelling unit. This Subsection shall not apply to animals maintained in an Agricultural District.

(d) Any person who shall violate any other provision of this Section shall, upon conviction, be punished as provided in Subsection 7-6-190(c). In addition to any penalty provided above, the Court shall have the authority to include any of the following requirements:

(1) The owner of the animal provides a separate enclosure in the rear yard of the owner's property that securely limits the animal's access to the public as determined by an Animal Control Officer, unless the animal is under the physical control of a responsible person and restrained by a lead not to exceed four (4) feet in length.

(2) The owner and the animal shall complete a socialization or behavior program approved by Animal Control.

(3) The owner of the animal shall notify the Police Department in person or by telephone as soon as practicable but no later than one (1) hour after the owner's knowledge of the occurrence of either of the following events: the animal has escaped or has otherwise ceased to be in the custody of the owner or the animal has attacked a person or domestic animal.

(4) The owner shall post a conspicuous warning sign on the building or front portion of the property notifying others that a dangerous dog is housed in the building or on the property. (Ord. 349, 2009)

**State law references:** Cruelty to animals, Section 18-9-201, et seq., C.R.S.; Authority of City to prohibit cruelty to animals, Section 31-15-401(1)(i), C.R.S.

#### **Sec. 7-6-140. Animal attacks.**

(a) It shall be unlawful to own an animal that:

(1) Causes severe bodily injury to a person in an unprovoked attack, whether on or off the premises of its owner. The owner of an animal that causes severe bodily injury to a person in an unprovoked attack, whether on or off the premises of its owner, shall be responsible for all the medical expenses incurred by such person. Any owner who shall violate the provisions of this Subsection shall, upon conviction, be fined a sum of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and imprisoned for not less than five (5) days nor more than one (1) year. The Court shall also assess against the owner of the animal all costs incurred in apprehending, detaining, treating and disposing of the animal.

(2) Causes bodily injury to a person in an unprovoked attack, whether on or off the premises of its owner. The owner of an animal that causes bodily injury to a person in an unprovoked attack, whether on or off the premises of its owner, shall be responsible for all the medical expenses incurred by such person. Any owner who shall violate the provisions of this Subsection shall, upon conviction, be fined a sum of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both such fine and imprisonment. The Court shall also assess against the owner all costs incurred in apprehending, detaining, treating and disposing of the animal.

(3) Causes bodily injury to another animal in an unprovoked attack while on or off the premises of its owner. Any owner who shall violate the provisions of this Subsection shall, upon conviction, be fined a sum of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both such fine and imprisonment. The Court shall also assess against the owner all costs incurred in apprehending, detaining, treating and disposing of the animal that caused the attack as well as any costs incurred by the owner of the attacked animal in treating it or disposing of its body if it was killed.

(4) Any person who shall violate any provision of this Section shall, upon conviction, be:

a. Ordered to pay for all costs associated with the confinement and destruction of the animal; or

b. Ordered to have the animal spayed or neutered by a licensed veterinarian or a licensed shelter; and

c. Ordered to have the animal be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information shall be registered with the appropriate company responsible for maintaining such information for the microchip, and a copy of the initial

registration and a receipt acknowledging completion of registration from the company shall be provided to the Animal Control Division of the Police Department.

d. The owner shall post a conspicuous warning sign on the building or front portion of the property located within the City notifying others that a dangerous dog is housed in the building or on the property.

(b) In addition to any penalty provided above, the Court shall have the authority to include any of the following requirements:

(1) The owner of the animal provides a separate enclosure in the rear yard of the owner's property that securely limits the animal's access to the public as determined by an Animal Control Officer, unless the animal is under the physical control of a responsible person and restrained by a lead not to exceed four (4) feet in length.

(2) The owner and the animal shall complete a socialization or behavior program approved by Animal Control.

(3) The owner of the animal shall notify the Police Department in person or by telephone as soon as practicable but no later than one (1) hour after the owner's knowledge of the occurrence of either of the following events: the animal has escaped or has otherwise ceased to be in the custody of the owner or the animal has attacked a person or domestic animal. (Ord. 349, 2009)

#### **Sec. 7-6-150. Disposition of animals.**

(a) Following the impoundment of an animal pursuant to this Article, an Animal Control Officer or police officer shall leave a notice with a person over the age of eighteen (18) years at the residence of the owner of the seized animal. The notice shall indicate the date and time on which the animal was seized, the location where the animal is impounded and the date, time and location of the hearing concerning the seizure of the animal. Within two (2) working days of the seizure of the animal, a copy of this notice shall be sent to the owner of the animal by certified or registered mail.

(b) Any animal that causes bodily injury to a person or serious bodily injury to an animal in an unprovoked attack may be impounded by Animal Control Officers or the Police Department without prior notice to the animal's owner. A police officer or Animal Control Officer may remove the animal from the premises of the owner without civil or criminal liability if the animal is not located within the residence of its owner. In the event that an animal is located within the residence of its owner, the Police Department or Animal Control Unit may obtain a court order from the Municipal or County Court authorizing the seizure of the animal prior to removing it from its owner's residence or may remove the animal from its owner's residence upon receiving the owner's consent.

(c) The owner of an animal seized pursuant to this Article shall be entitled to a hearing before the Municipal Court at the next regularly scheduled Municipal Court date. At the hearing, the Court shall determine whether the animal caused bodily injury to a person or severe bodily injury to a person or to a domesticated animal and whether the attack was unprovoked. If the Court determines, based upon a preponderance of the evidence, that the animal, in an unprovoked attack, caused severe bodily injury to a person, the Court shall order the animal destroyed and all the costs associated with the seizure, confinement and destruction of the animal assessed against its owner. If the Court

determines, based upon a preponderance of the evidence, that the animal caused bodily injury to a person in an unprovoked attack or caused severe bodily injury to a domesticated animal in an unprovoked attack, the Court may order the destruction of the animal in order to protect the public health, safety and welfare. Upon a second or subsequent unprovoked attack on a person or domesticated animal, the Court shall order the destruction of the attacking animal and shall assess all costs associated with the seizure, confinement and destruction of the animal to its owner. (Ord. 349, 2009)

**Sec 7-6-160. Noise.**

(a) It shall be unlawful for any person to harbor any dog or other animal which, by barking, howling, baying, yelping, crying, whining or other utterance, disturbs the peace and quiet of the neighborhood.

(b) Any noise emitted by a dog or other animal which is audible from the boundary of the animal harborer's property shall be presumed to disturb the peace and quiet of the neighborhood, if any peace officer or Animal Control Officer for the Town investigates the report thereof and determines that such noise is occurring as defined herein, taking into consideration the proximity of the complainant's residence or place of business with respect to the point of origin of the noise, and determining that such noise would disturb the senses of the average citizen or resident of the neighborhood under the circumstances complained of. Such presumption shall be rebuttable by the defendant.

(c) Prior to issuance of a citation for violation of this Section, the Animal Control Officer or peace officer shall issue a written warning to the harborer of the dog causing the noise and request that the dog be silenced. If the same dog is a repeat offender of the offense defined in this Section, and such repeat offense occurs within sixty (60) days of the issuance of the warning, a citation shall be issued to the harborer of the offending dog.

(d) It is an affirmative defense to a charge under this Section that the dog was barking due to provocation. (Ord. 349, 2009)

**Sec. 7-6-170. Interference prohibited.**

It shall be unlawful for any person to interfere with, molest, hinder or prevent the members of the Police Department, an Animal Control Officer or any licensed veterinarian of the State in the discharge of his or her respective duties as prescribed in this Article or to violate any of the provisions of this Article. (Ord. 349, 2009)

**Sec. 7-6-180. Police Service Dog Unit.**

The Police Service Dog Unit of the Fraser/Winter Park Police Department will be using trained police dogs. The actions of trained police dogs, when operating in connection with and under the control of the Police Service Dog Unit and while such actions are within the scope and in furtherance of the duties associated with the Police Service Dog Unit, shall be exempt from all provisions of this Article. This provision shall not exempt the canines from the requirements to have all the canines used in connection with the Police Service Dog Unit to be vaccinated as with any other canine located within the Town, pursuant to Section 7-6-40 of this Article. (Ord. 349, 2009)

**Sec. 7-6-190. Violations and penalties.**

(a) Any person who shall violate any of the provisions of Sections 7-6-40, 7-6-50, 7-6-60, 7-6-70, 7-6-90, 7-6-100, 7-6-110 or 7-6-120 of this Article shall, upon conviction, be fined a sum of fifty dollars (\$50.00). Any person who shall violate any of the provisions of this Section shall, upon the second conviction within any twelve-month period, be fined a sum of one hundred fifty dollars (\$150.00). Any person who shall violate any of the provisions of this Section shall, upon a third or subsequent conviction, be fined a sum of three hundred dollars (\$300.00). Minimum fines in this Subsection shall not be suspended by order of the Court, except that, if proof of neutering or spaying is provided to the Court at the time of sentencing, the Court shall reduce or suspend the penalty by the amount of the cost of such procedure.

(1) The procedures set forth for Penalty Assessments in Section 16-2-201, C.R.S., shall be followed as set forth below:

a. First and second violations of the above sections shall be issued in the form of a penalty assessment citation, showing the offense, minimum fine and applicable surcharges.

b. A violator may, within twenty (20) days of receiving the citation, pay the minimum fine and surcharge without appearing in court.

c. After twenty (20) days, the citation becomes a summons requiring the appearance of the defendant in court.

(b) Any citation issued for a third or subsequent violation of the above Subsection shall be in the form of a summons requiring the violator to appear in the Municipal Court.

(c) Any person who shall violate any of the other provisions of this Article shall be punished in accordance with Chapter 1, Article 4 of this Code, except as provided for violations in Paragraph 7-6-50(3), Subsection 7-6-130(d) and Section 7-6-140 of this Article. (Ord. 349, 2009)

**ARTICLE 7**

**Wildlife Protection**

**Sec. 7-7-10. Purpose.**

The purpose of this Article is to protect and maintain wildlife in the Town and surrounding areas and to minimize the risk of dangerous interaction between humans and wildlife. (Ord. 344 Part 1, 2008)

**Sec. 7-7-20. Definitions.**

For the purpose of this Article, the following definitions shall apply:

*Attractant* means any substance which could reasonably be expected to attract wildlife or does attract wildlife, including but not limited to food products, pet food, feed, grain or salt.

*Dumpster enclosure* means a fully enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient strength and design to prevent access by wildlife. Dumpster enclosures are subject to all planning and zoning requirements and building codes. An enclosure of less than one hundred twenty (120) square feet shall not require a building permit. An enclosure of one hundred twenty (120) square feet or larger requires a building permit.

*Refuse* means any waste that could reasonably attract wildlife, which includes, but shall not be limited to, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings and grease.

*Refuse container* means any trash can, Dumpster or similar device used for the collection and storage of solid waste.

*Resident* means any person, firm, corporation or organization within the Town or on Town-controlled land.

*Special event* means an outdoor gathering such as a concert, conference or festival, whether occurring on public land or private.

*Wildlife* means any undomesticated animal, including but not limited to elk, deer, sheep, lynx, skunks, magpies, crows, bears, raccoons, coyotes, beavers, porcupines, mountain lions, bobcats and foxes.

*Wildlife-proof refuse container* means a container used for the storage of refuse that has been certified to be wildlife-proof by the Colorado Division of Wildlife, the U.S. Park Service or the U.S. Forest Service. A container not so certified is considered a wildlife-proof refuse container if it is fully enclosed, of sturdy construction and includes a latching mechanism suitable to prevent wildlife from opening the container. Latching mechanisms shall allow a gap between the container lid of no more than one-half (½) inch. Latching mechanisms shall keep the lid closed in the event the container is turned on its side or upside down. Wildlife-proof refuse containers may include drain holes no larger than one (1) inch in any dimension. (Ord. 344 Part 1, 2008)

### **Sec. 7-7-30. Residential refuse disposal.**

(a) All residential containers that receive refuse edible by wildlife must be secured inside the home or garage. Residents unable to keep their refuse containers inside the home or garage shall store their refuse in a wildlife-proof refuse container or enclosure approved by the Town Building Official.

(b) Residents with curbside pickup shall place refuse containers at the curb, alley or public right-of-way at or after 6:00 a.m. on the morning of scheduled pickup. After pickup, all containers must be removed from the curb, alley or public right-of-way by 8:00 p.m. on the same day.

(c) Other household waste that cannot reasonably be considered refuse or an attractant as defined in this Article, including but not limited to nonedible yard maintenance waste, household items and cardboard, shall not require the use of wildlife-proof containers when not commingled with refuse or any other attractant.

(d) Multi-family housing developments and other types of clustered residential housing, utilizing centralized refuse containers, must use either a wildlife-proof refuse container or a Dumpster enclosure for all refuse. The container or enclosure shall be kept closed in a secure manner except when refuse is being deposited. (Ord. 344 Part 1, 2008)

**Sec. 7-7-40. Maintenance and operation of all refuse containers and enclosures.**

(a) All refuse containers defined in this Article shall be kept closed and secured when refuse is not being deposited. Any container which is overfilled so as to prevent a container's designed latching is not a wildlife-resistant or wildlife-proof refuse container within the meaning of this Article.

(b) If a container or enclosure is damaged, allowing free access by wildlife, repairs must be made within forty-eight (48) hours after written notification by Town Police Department personnel. (Ord. 344 Part 1, 2008)

**Sec. 7-7-50. Special event refuse disposal.**

Outdoor special event sites shall be kept free from the accumulation of refuse. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited into appropriate wildlife-resistant, wildlife-proof containers or wildlife-resistant enclosures as provided in this Article, or shall be removed to an appropriate disposal site. (Ord. 344 Part 1, 2008)

**Sec. 7-7-60. Construction site refuse disposal.**

All construction sites must have a designated refuse container which receives refuse or attractants as defined by this Article. This container shall be a wildlife-proof refuse container. (Ord. 344 Part 1, 2008)

**Sec. 7-7-70. Commercial refuse disposal.**

(a) All refuse containers receiving refuse from commercial establishments and restaurants shall be in wildlife-proof containers or shall be secured in a Dumpster enclosure.

(b) Container lids and Dumpster enclosure doors shall be kept closed and latched at all times, except when loading or removing refuse. The area around the container or enclosure must be kept free from refuse at all times.

(c) Notwithstanding the foregoing, this requirement shall not apply to municipal refuse containers which are emptied at the end of each day or multiple times per day. (Ord. 344 Part 1, 2008)

**Sec. 7-7-80. Compactors.**

Trash compactors are compliant with this Article when no refuse is exposed. Compactor doors must be kept closed at all times, except when loading or removing refuse, and the area around the compactor must be kept clean of refuse and debris. (Ord. 344 Part 1, 2008)

**Sec. 7-7-90. Feeding of wildlife prohibited.**

(a) Intentional or unintentional: No person shall intentionally or unintentionally feed or provide food in any manner for wildlife on public or private property within the Town. A person will be considered to be in violation of this Article if they leave or store any garbage, refuse or attractant in a manner which would create or does create a lure or enticement for wildlife.

(b) Bird feeders: Bird feeders are allowed. However, between the dates of April 15 and October 15, all bird feeders must be suspended on a cable or other device so that they are inaccessible to bears, and the area below the feeders must be kept free from accumulation of seed debris.

(c) Gardens: Flower and food gardens are permitted. (Ord. 344 Part 1, 2008)

**Sec. 7-7-100. Exceptions.**

The following entities or actions are exempt from the requirements of this Article:

(1) Any individual, company or corporation that is duly licensed by the State or is entitled under law to possess wildlife of any kind.

(2) Any action that is officially sanctioned by the State, federal agencies or the Town that would require feeding, baiting or luring of wildlife (i.e., capturing and tagging wildlife for relocation or scientific projects and study). (Ord. 344 Part 1, 2008)

**Sec. 7-7-110. Enforcement.**

Compliance with this Article notwithstanding, the Town police and code enforcement officers may issue a "Notice of Violation" and order any resident to purchase and use a wildlife-proof refuse container for all storage of refuse that is attractive to or edible by wildlife if the Town receives more than one (1) documented, substantiated report in any twelve-month period that any animal, whether wild or domestic, has entered into or removed refuse from a refuse container located on the property or placed at the property curbside for pickup. Such order shall:

(1) State that a wildlife-proof container shall be obtained for the property within seven (7) days.

(2) Be served either personally or by means of posting on the premises upon which the nuisance exists. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property given to any Town or county government office. If the identity of the resident is not known, the entity responsible for payment of the garbage removal services for the subject location will be held responsible for complying with this Article and for any penalties assessed pursuant to the same. (Ord. 344 Part 1, 2008)

**Sec. 7-7-120. Violations and penalties; penalty assessment.**

(a) Offenders who continue to violate this Article or continue to fail in achieving timely compliance as set forth in any previous Notice of Violation may be issued a Second Notice of

Violation, which shall be in the form of a citation or summons. Such summons shall be subject to a graduated fine schedule as set forth below.

(b) Penalties: Any person who or entity that is issued a citation or summons shall be punished as follows:

(1) A fine not exceeding one hundred dollars (\$100.00) for a first offense.

(2) A fine not exceeding two hundred dollars (\$200.00) for a second offense.

(3) A third violation shall constitute a misdemeanor and will require a mandatory appearance in Municipal Court. Punishment shall be in accordance with Subsection 1-4-10(b) of this Code.

(c) The penalties outlined above may be reduced or suspended upon the offender showing proof that he or she has purchased or installed a wildlife-proof refuse container or Dumpster enclosure. (Ord. 344 Part 1, 2008)

**Sec. 7-7-130. Violator's responsibility.**

In addition to the penalties outlined in this Article, violators may be require to perform all necessary actions to remove or abate attractants of wildlife. This may include, but shall not be limited to, the removal of bird feeders or pet food, cleaning or appropriate storage of barbecue grills, additional storage requirements for refuse containers and/or the required use of wildlife-proof containers and/or Dumpster enclosures. (Ord. 344 Part 1, 2008)

**Sec. 7-7-140. Compliance required and time period.**

(a) Any container required by this Article shall be brought into conformity with the provisions of this Article by September 1, 2008.

(b) Effective September 1, 2008, any trash hauler licensed by the Town who provides a new refuse container to a Town customer shall only provide wildlife-proof containers.

(c) Effective the date of the signing of this Article, all new Dumpster enclosures built within the Town shall meet the requirements specified in Section 7-7-20 of this Article. Current Dumpster enclosures which do not meet these requirements may remain in existence, unless found in violation of this Article in accordance with Section 7-7-110 above. Any Dumpster enclosure which is replaced shall meet the requirements specified in Section 7-7-20 at the time of replacement.

(d) Upon application to the Town Manager, and showing of hardship by an owner of an enclosure or container required hereunder, the Town Manager may grant an extension, for a reasonable period of time, with which to comply with the provisions of this Article. (Ord. 344 Part 1, 2008)