

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE I

General Provisions, Administration and Abatement of Nuisances

Sec. 7-1-10. Public nuisances; policy.

It is the policy of the Town pursuant to Section 31-15-401(c), C.R.S., that every public nuisance shall be restrained, prevented, abated and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain action, pursuant to the provisions of this Chapter, to restrain, prevent, abate and perpetually enjoin any such public nuisance. Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the other criminal offenses of this Town, or the repeal of any of the criminal laws of the State, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws. (Ord. 239 §1, 1993)

Sec. 7-1-20. Definitions.

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

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

Administrative officer means the Mayor, the Town Clerk or the Chief of Police.

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

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

Enlargement shall be deemed to include the use of any additional land for the purpose of storing discarded motor vehicles thereon or the storage of any component parts or materials of such motor vehicles.

Garbage means any and all rejected or waste household food, offal, swill, kitchen refuse and every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking and dealing in or storing of food, meat, fish, fowl, fruit or vegetables.

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.

Junkyard shall be deemed to include any use of land wherein automobiles or other vehicular machinery is dismantled for the purpose of securing spare parts or other sale of the material or parts thereof and shall further include the practice of storing or allowing to remain upon private property automobiles that are not capable of highway travel except for temporary servicing or repair thereof.

Litter means all waste matter, trash, garbage, refuse, debris or other foreign substances attending or resulting from the occupancy or use of a residence, business or motor vehicle.

Manure means animal excrement.

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

a. *Public nuisance per se* means an act, occupation or structure which always constitutes a nuisance, regardless of location or surroundings.

b. *Public nuisance in fact per accidens* means activities or uses that only become nuisances by reason of their location or manner of operation.

Refuse includes, but is not limited to, trash; litter; garbage; manure; discarded furniture; fixtures; appliances; household goods; tires; inoperable, abandoned, demolished, or dismantled motor vehicle parts; machinery; trailers and other goods in such condition of deterioration or disrepair so as to be unusable in their existing condition. It shall also include scrap, remnant or discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, lumber, roofing material, wire, metal, sacks, sod or loose, discarded or unused material. It shall also mean all rubbish of any kind or nature whatsoever and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

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

Trash means all accumulations of waste, refuse and rejected animal, mineral or vegetable matter, except garbage and manure. The word *trash* shall include, but not be limited to, any grass clippings, weeds, leaves, shrubbery and tree trimmings, hay, straw, manure, shavings, excelsior, sawdust, packing materials, containers, boxes, glass, cans, bottles, wastepaper, broken china and ashes.

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. (Prior code 13-1-1, 13-3-1; Ord. 239 §1, 1993; Ord. 316 §1, 1997)

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

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 316 §1, 1997)

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

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the Town, shall maintain or allow any nuisance to be or remain therein. (Ord. 316 §1, 1997)

Sec. 7-1-50. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Manager dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 316 §1, 1997)

Sec. 7-1-60. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice given to abate the same. (Ord. 316 §1, 1997)

Sec. 7-1-70. Filing complaint.

A person may make a complaint of the existence of a public nuisance to a police officer, a member of the Board of Trustees or the Town Clerk. Such complaint shall include, whenever possible, the nature of the public nuisance, the location, including the address, the name of the owner, occupant or manager of the property, the duration of the nuisance and the name and address of the complainant. (Ord. 239 §1, 1993)

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

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

(b) In all cases where a nuisance shall be found in any building or upon any ground or other premises within the jurisdiction of the Town, twenty-four (24) hours' notice shall be given, in writing, signed by the Town Manager to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises where he or she is known and can be found to remove such nuisance.

(c) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Chief of Police or Superintendent of Streets may abate the same forthwith without such notice being given.

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

(e) The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter. (Ord. 316 §1, 1997)

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

Whenever a police officer has reason to believe that a public nuisance exists, and that such public nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the police officer may immediately enter into any building or upon any premises within the jurisdiction of the Town for purposes of inspection or abatement. (Ord. 239 §1, 1993)

Sec. 7-1-100. Summary abatement.

Whenever a public nuisance *per se* exists which constitutes an emergency presenting imminent danger of serious injury to persons or property, an administrative officer may order without notice or judicial action that the public nuisance be summarily abated by removal, destruction or mitigation. Summary abatement of a public nuisance *per se* shall not prevent an administrative officer from issuing a summons for violation of this Chapter. The cost of summary abatement may be assessed and collected as provided by Section 7-1-130 of this Code. (Ord. 239 §1, 1993)

Sec. 7-1-110. Notice to abate.

Unless a specific provision of this Code states otherwise, when a public nuisance does not require summary abatement, an administrative officer may prepare and serve a notice to abate on the owner, manager, occupant or possessor of any property which constitutes the public nuisance or the person conducting or maintaining the business, occupation, operation or activity which constitutes the public nuisance. Such notice shall:

(1) State that if the nuisance is not abated within seven (7) days, an action may be brought in the Municipal Court to abate the nuisance and that the costs of abatement, plus five percent (5%) of such costs for inspection and other additional administrative costs may be assessed against the person found by the court to have caused, allowed to be caused or allowed to continue the public nuisance and may become a lien upon any property on which the abatement was performed.

(2) Be in writing, signed by the administrative officer issuing the notice, and 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 at his or her last known address. (Ord. 239 §1, 1993)

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

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

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

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

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

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

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

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

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

(8) The remedies specified in this Section shall be in addition to all other remedies provided by law. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

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

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

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

(b) If the cost of abatement has not been otherwise collected, the Town Clerk shall prepare a statement stating the date of performance of the work, the nature of the work and demanding payment of the actual cost of abatement and collection plus five percent (5%) of the abatement costs for inspection and other additional administrative costs. The costs enumerated in this statement shall be a first and prior lien upon the property relating back to the date upon which the abatement was performed. The Town Clerk shall send by certified mail, return receipt requested, a copy of the statement to the owner of the premises at his or her last known address. Any such owner may file objections to such assessment within ten (10) days from the date said notice is sent; said objections shall be filed with the Town Clerk. The Town Clerk shall issue notice to said owner, by certified mail, return receipt requested, of the date the Board of Trustees will hold a public hearing to review the assessment. Failure of said owner to file objections shall result in said assessment becoming a permanent lien on the property. In the event the Board of Trustees determines the assessment to be proper, the Town Clerk on or before thirty (30) days after said assessment hearing shall certify to the County Treasurer said assessment which is to be levied on said lot, parcel and tract. The County Treasurer shall collect the assessment, together with a ten-percent penalty for cost of collection, in the same manner as other taxes are collected. The laws of the State for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-1-140. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 316 §1, 1997)

Sec. 7-1-150. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 316 §1, 1997)

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

(a) Unless specifically provided otherwise, every section of this Chapter shall be designated a noncriminal violation. Any person convicted of violating any such section shall be subject to the fines and penalties set forth in Section 1-4-20 of this Code.

(b) Cumulatively with the above remedy for the violation of this Section, the Town may maintain a suit to enjoin any violation of the provisions hereof.

(c) In addition to any of the foregoing remedies, the Town Attorney, acting on behalf of the Board of Trustees, may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violations.

(d) The following sections of this Chapter are designated as criminal violations, and as such, any person convicted of violating these sections shall be subject to the fines and penalties set forth in Section 1-4-20 of this Code: Section 7-6-180, Vicious animal. (Prior code 13-3-3, 13-6-1; Ord. 316 §1, 1997)

ARTICLE II

Nuisances

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

(a) Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal is a public nuisance.

(b) 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. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-20. Throwing litter from vehicles.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, the operator of the motor vehicle shall be presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom. (Prior code 13-1-6; Ord. 199 §9, 1991; Ord. 316 §1, 1997)

Sec. 7-2-30. 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. 316 §1, 1997)

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

(a) Any unlawful pollution or contamination of any surface or subsurface waters in the Town, of the air, or of any water, substance or material intended for human consumption, is a public nuisance; but no action shall be brought under this Section if the Colorado Department of Public Health and Environment, or any other agency of the State charged by and acting pursuant to statute or duly adopted regulation, has assumed jurisdiction by the institution of proceedings on that pollution or contamination.

(b) Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot, or which as the result of continued discharge will render the place of discharge offensive or likely to become so is a public nuisance.

(c) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage canal or basin, or any public park without first obtaining the written permission of the Town is a public nuisance.

(d) The maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner so that it becomes obstructed and causes the water to back up and overflow therefrom or to become unsanitary is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-50. Unclean drinking vessel.

Keeping any drinking vessel for public use without providing a method of decontamination between uses is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-60. 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. 316 §1, 1997)

Sec. 7-2-70. Sewer facilities.

(a) Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the Town is a public nuisance.

(b) Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults, septic tanks and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from any administrative officer of the Town is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-80. Stagnant water.

Any cellar, vault, sewer, drain, place, property or premises within the Town which is damp, unwholesome, nauseous or filthy, which is covered for any portion of the year with stagnant or impure water, which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health, is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-90. 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. 316 §1, 1997)

Sec. 7-2-100. Stale matter.

Keeping or collecting any stale or putrid grease or other offensive matter is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-110. Accumulation and use of manure.

(a) Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent.

(b) Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or any other building or area in which any animals are kept is a public nuisance. (Prior code 13-1-9; Ord. 199 §12, 1991; Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-120. Slaughterhouses.

Permitting any slaughterhouse, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold, to remain unclean or in a state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed, is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-130. Flies and mosquitoes.

Having or permitting upon any premises any fly-producing or mosquito-producing condition is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-140. 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. 316 §1, 1997)

Sec. 7-2-150. Garbage containers.

Permitting any garbage container to remain on a premises when it has become unclean, offensive or which is injurious to the public health is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-160. Use of property for dumping.

Any use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on or scattering over the premises lumber, junk, trash, debris or abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-170. Junkyards.

It is hereby declared and determined that a public nuisance is created by the establishment, existence or enlargement of junkyards within the Town limits, and that the public health, safety and welfare require that the establishment or enlargement of junkyards within the Town limits beyond those junkyards already existing be prohibited and prevented. It shall be unlawful for any person or landowner to establish a new junkyard within the Town limits or to enlarge or use additional lands for the conduct of any existing junkyard within the Town limits. Junkyards in existence on the effective date of the prior Code, July 1, 1986, shall be removed within five (5) years of said effective date. (Prior code 13-3-2; Ord. 316 §1, 1997)

Sec. 7-2-180. Storage of unsafe machinery or personal property.

Unsheltered storage of old, unused, stripped and junked machinery, implements or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more within the Town is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-200. 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 Chief of Police to cause such body to be removed forthwith beyond the limits of the Town. (Ord. 316 §1, 1997)

Sec. 7-2-210. Abandoned refrigerators and other containers.

It shall be unlawful for any person to store, keep or junk any icebox, refrigerator deep freeze or other container having an airtight compartment, without first removing the door or doors therefrom except any such container when it is in active use or when it is stored or kept for sale by any person engaged in the business of selling the same; and except any such container which is too small in area to permit a child to become locked therein. (Prior code 16-8-2; Ord. 316 §1, 1997)

Sec. 7-2-220. Vacant dwellings.

(a) Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary place of shelter is a public nuisance.

(b) 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 Chief of Police. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-230. Dangerous building, fence, structure or land.

Any building, fence, structure or land within the Town, the condition of which presents a substantial danger or hazard to public health, safety or welfare is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-240. Continuance of unlawful activity.

Any buildings, land, premises, business, occupation, activity, operation or condition which, after being ordered abated, corrected or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of the following is a public nuisance:

(1) Any ordinance of the Town;

(2) Any regulation enacted pursuant to the authority of an ordinance of the Town. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-250. Gambling, drugs and stolen property.

Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to minors, solicitation of prostitution or trafficking in stolen property is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-260. Offensive or unwholesome business.

Any offensive or unwholesome business or establishment, or any business or establishment carried on in a manner dangerous to the public health, safety or welfare within the Town or within one (1) mile beyond the Town limits, is a public nuisance. (Ord. 239 §1, 1993; Ord. 316 §1, 1997)

Sec. 7-2-270. Designated generally; prohibited.

Any state of things prohibited by the provisions of this Code or by state statutes, and not otherwise specified in this Code as a nuisance, is a nuisance. (Ord. 316 §1, 1997)

ARTICLE III

Garbage and Refuse

Sec. 7-3-10. Unlawful accumulations.

It shall be deemed a public nuisance and unlawful to deposit, accumulate, store, keep, abandon or permit the accumulation, storage, keeping or abandonment of refuse, garbage, trash or rubbish on private or public property within the Town, except as hereinafter provided in Section 7-3-80. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. In addition to the penal remedy set forth in Section 7-1-160, the Town Attorney may bring an action before any competent court having jurisdiction to enjoin the continuation of any prohibited condition of nuisance. (Prior code 13-1-2; Ord. 199 §5, 1991; Ord. 316 §1, 1997)

Sec. 7-3-20. Refuse in street, vacant lot, etc.

No refuse of any kind or nature whatsoever shall be placed, scattered, deposited, buried, thrown or swept into any street, sidewalk, gutter, sewer, storm sewer intake, alley, vacant lot or other property. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. (Prior code 13-1-3; Ord. 199 §6, 1995; Ord. 316 §1, 1997)

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

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse, garbage, trash, rubbish or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance and shall be nonconforming in the use of such premises. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. (Prior code 13-1-4; Ord. 199 §7, 1991; Ord. 316 §1, 1997)

Sec. 7-3-40. Building materials at construction sites.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building, or the landscaping of any building, shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. (Prior code 13-1-7; Ord. 199 §10, 1991; Ord. 316 §1, 1997)

Sec. 7-3-50. Removal of refuse from business required.

Refuse as defined by Section 7-1-20 shall be removed periodically from business establishments by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile or other wash racks shall be removed by the establishment creating such deposits. Any accumulation of refuse that is highly explosive, inflammable or toxic which might endanger life or property shall be removed to such places as approved by the County Sheriff's Department, the Longmont Fire Protection District or the Mayor. Removal of such refuse shall be provided by the establishments responsible therefor at their expense. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. (Prior code 13-1-8; Ord. 199 §11, 1991; Ord. 316 §1, 1997)

Sec. 7-3-60. Garbage disposal unit.

(a) Insofar as possible, garbage should be disposed of through the use of a garbage disposal unit.

(b) No residence shall be constructed nor shall the kitchen of any existing residence be remodeled by removal and replacement of a kitchen sink or similar receptacle, without the installation of a garbage disposal unit in the residence.

(c) No mobile home or modular unit shall be moved into the Town or onto any mobile home subdivision lot or mobile home park and occupied as a residence unless said mobile home contains an operating garbage disposal unit.

(d) No mobile home shall be sold in the Town unless said mobile home contains an operating garbage disposal unit. This Section is designated a noncriminal violation, pursuant to Section 7-1-160. (Prior code 13-1-11; Ord. 199 §14, 1991; Ord. 316 §1, 1997)

Sec. 7-3-70. Promulgation of rules and regulations.

The Board of Trustees shall, by resolution, promulgate rules and regulations relating to the manner of preparing and accumulating refuse for collection; the type and kind of containers to be used for such accumulation; the manner of use of and care for such containers; and such other rules and regulations as, in its discretion, are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the refuse collection system and service within the Town; and such resolution, when adopted, shall be of the same force and effect as if incorporated in this Article. (Prior code 13-4-1)

Sec. 7-3-80. Storage and removal of trash and garbage.

All garbage and/or trash within the limits of the Town must be removed from the places where the same shall accumulate, and be disposed of in such manner as hereinafter provided:

(1) Every person owning real property shall cause all garbage and/or trash to be removed from the premises on a regular basis. For the purpose of this Section, the premises shall include the property owned by such person and the area between the traveled or paved portion of the street and the property line and from the center of the alley to the rear property line.

(2) Every person upon whose premises there shall be garbage and/or trash shall accumulate the same in closed containers which are to be stored within the premises.

a. The container used for accumulation of garbage and/or trash shall be a receptacle of a solid and durable grade of metal or plastic provided with a tightly fitting cover or a plastic bag of adequate weight and strength to resist tearing.

b. Said container must be covered or sealed at all times except when depositing or removing garbage and/or trash.

c. The container shall be maintained in a clean and sanitary condition at all times so as to prevent breeding places for flies or other insects and shall be adequately protected from upsetting or tearing by strong winds, animals, vehicles or other causes.

d. Any container within twenty-five (25) feet of streets or public property and visible from streets or public property shall be shielded by an opaque barrier or fencing.

(3) All garbage and/or trash accumulated as provided above must be removed from all real property at least once each week. Removal may be accomplished in the following manner:

- a. Garbage and/or trash may be removed by commercial haulers licensed to operate in the Town.
- b. A person may haul or dispose of his or her own garbage and/or trash, provided that it is done in such a manner so as not to endanger the public health or safety or not to become an annoyance to the inhabitants of the Town. Garbage and trash must be hauled in closed containers or securely bound in such a manner so as not to litter the streets and alleys of the Town.
- c. On the day of or a maximum of twelve (12) hours before garbage and trash pickup by licensed haulers, the closed or sealed containers may be placed on the curb, provided that said containers are returned to the proper storage area as soon as possible on the day of pickup. It shall be the responsibility of each occupant to ensure that any loose debris from said containers is picked up from the immediate area and adjoining streets or property. Shrubbery and tree trimmings which are too bulky for containers may be placed on the curb on the day of pickup, provided that they are securely bound and do not exceed five (5) feet in length. Any person who hauls his or her own trash and garbage must replace containers at the proper storage area upon return from place of disposal.
- d. Garbage or trash shall not be burned in incinerators, stoves, fireplaces, furnaces or by any other means within the Town. (Prior code 13-4-2; Ord. 199 §15, 1991; Ord. 316 §1, 1997)

Sec. 7-3-90. Disturbing garbage container or using container of another.

No person shall molest, remove, handle or otherwise disturb any garbage or refuse containers or contents for servicing by the collectors, nor shall any person place any garbage or refuse in the container of another person without prior written permission; provided that this Section does not apply to the owner, occupant, lessee or tenant of the residence or dwelling so placing the containers and contents. (Prior code 13-4-2 (3.6))

ARTICLE IV

Weeds, Brush and Grasses

Sec. 7-4-10. Designation of Undesirable Plant Management Advisory Commission.

The Board of Trustees is appointed to act as the Undesirable Plant Management Advisory Commission for the Town and shall have the duties and responsibilities as provided by state statute. (Ord. 316 §1, 1997)

Editor's Note: Section 3.5-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.

Sec. 7-4-20. Lawn grasses, weeds, brush, rubbish; responsibility.

(a) It shall be the duty of each and every person, corporation or association owning any lot, parcel and tract of real property within the Town to cut and maintain to a height not to exceed five (5) inches from the ground level to the point where cut, all lawn grasses, weeds and brush, and to remove same, together with all rubbish of any kind, from his, her, its or their said lot, parcel and tract of real

property; and also to the middle of the alley behind and from the sidewalk area in front of said lot, parcel and tract of real property.

(b) No person shall place any rubbish, lawn grasses, weeds or brush in any street, alley or other public place, or upon any private property whether owned by such person or not, within the Town, except if it is in proper containers for collection or under express approval granted by the Town. Refuse containers shall be kept off the street, curb, sidewalk, and all other public ways, and concealed from public view, except on collection day.

(c) *Lawn grasses*, as used in this Section, is construed to be those ornamental grasses that are commonly grown for ground cover as part of a lawn.

(d) The Police Department is authorized and empowered to examine or cause to be examined every premises suspected to contain an unlawful accumulation of lawn grasses, weeds, brush, refuse and/or rubbish, and growing lawn grasses, weeds and brush which exceed the maximum height, and if violations are found, to issue to the owner, occupant or other responsible person, summonses to appear in Municipal Court and answer said charges. Such summonses shall describe the basis of the violation. Compliance with the requirements of this Section prior to court appearance shall be considered in mitigation of the fine imposed, if any.

(e) In event of failure of any owner of said lot, parcel and tract of real property to cut said lawn grasses, weeds, or remove brush, rubbish or refuse as set forth in this Section, the proper officials of the Town shall forthwith cut and/or remove any such lawn grasses, weeds, brush, rubbish or refuse and the entire cost thereof, plus five percent (5%) for inspection and expense will be assessed against said lot, parcel and tract of real property as are in violation of this Section. The proper officials of the Town, after such removal, shall forthwith file with the Town Clerk a statement showing the amount to be assessed against any such lot, parcel and tract of real property in payment of said cutting, removal and related expense.

(f) The Town Clerk shall send by certified mail a notice to the owner of any such lot, parcel and tract of real property that assessment has been made against the lot, parcel or tract for the cost of inspection, removal and related expense for failure to comply with this Section. Any such owner may file objections to such assessments within ten (10) days from the date said notice is received; said objections shall be filed with the Town Clerk. The Town Clerk shall issue notice to said owner, by certified mail, of the date of review hearing before the Board of Trustees. Failure of said owner to file objections shall result in said assessments to become a permanent lien on said lot, parcel and tract of real property. In the event the Board of Trustees determines the assessments to be proper, the Town Clerk, on or before thirty (30) days after said assessment hearing, shall certify to the County Treasurer said assessment which is to be levied on said lot, parcel and tract and shall collect the same as general taxes, and that five percent (5%) will be added to all costs of collection.

(g) The fact that assessments have been made against said real property as provided in this Section for cutting and removing lawn grasses, weeds, brush, rubbish and refuse, shall not prevent the owner of said real property from being punished as provided herein, but such fine may be imposed on those being found guilty, whether an assessment has or has not been made in accordance with the provisions hereof.

(h) Violation of this Section is a noncriminal matter. Upon conviction, the court may assess penalties as provided in Section 10-1-60(a) of this Code. (Ord. 282 §1, 1995; Ord. 300 §1, 1996; Ord. 316 §1, 1997)

ARTICLE V

Trees

Sec. 7-5-10. Sale, import or planting prohibited.

It shall be unlawful to sell or import into the Town, or to plant or cause to be planted within the corporate limits of the Town, any female box-elder tree (*Acer negundo*). (Ord. 316 §1, 1997)

Sec. 7-5-20. Removal of new trees by owner required.

The owner of any property within the Town, upon which any female box-elder tree has been planted after the effective date of this Article, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the Town. (Ord. 316 §1, 1997)

Sec. 7-5-30. Removal by Town upon noncompliance.

In case of the failure of any owner of such property to cut and remove such box-elder tree planted after the effective date of this Article, the Town shall cut and remove such box-elder tree. (Ord. 316 §1, 1997)

ARTICLE VI

Animals

Sec. 7-6-10. Scope.

The provisions of this Article are intended to provide for the health, safety and welfare of the residents and visitors to the Town by providing for animal control. The matters herein are declared to be of local concern. The provisions of this Article are applicable to all premises within the corporate limits of the Town (i.e., all parcels annexed into the Town), except that the provisions of Sections 7-6-40 through 7-6-90, 7-6-130 and 7-6-385 shall not be applicable to annexed or undeveloped parcels still used for agricultural or ranching purposes. The term *undeveloped* means property that is not subdivided into lots for sale or use by other parties and does not contain infrastructure such as streets and utilities. (Ord. 153 §1, 1987; Ord. 451 §1, 2002)

Sec. 7-6-20. Definitions.

As used in this Article, the following words shall be construed to have the meanings defined below:

Animal shall include but not be limited to any cattle, swine, horses, mules, sheep, goats, llamas, livestock or other hard-hoofed animals and shall include dogs, cats, members of the weasel family,

skunks, raccoons, bears and other similar animals.

Animal unit equals one (1) of any of the following domestic hoofed livestock: horse, cow, mule or llama. One (1) *animal unit* equals three (3) of any of the following domestic livestock: sheep or goats.

Best management practices are recommended methods, structures and practices designed to prevent or reduce water pollution while maintaining economic returns.

Cat means any member of the family *Felidae*, including the domestic cat, and any nondomestic cat, including but not limited to the lion, tiger, leopard, jaguar, wildcat, lynx, cheetah and any other member of the feline family of either sex and of any age.

Corral means an enclosure or pen where animals are kept.

Dog means any member of the family *Canidae*, including any dog, whelp, pup, bitch or hound and any nondomestic dog, including but not limited to the coyote, fox, wolf and any other member of the canine family of either sex and of any age.

Domestic hoofed livestock includes but is not limited to horses, mules, sheep, goats, llamas or other hard-hoofed animals, but shall exclude swine.

Forage grasses shall include those grasses approved by the Colorado State University Extension Service as appropriate for grazing domestic hoofed animals or for harvesting as hay.

Forage legumes shall include those legumes approved by the Colorado State University Extension Service as appropriate for grazing domestic hoofed animals or for harvesting as hay.

Fowl includes but is not limited to chickens, roosters, hens, doves, pheasants, ducks, turkeys, geese, guineas, pigeons, birds and other like fowl.

Habitually noisy animal means any animal, domestic hoofed livestock, small livestock, fowl or household pet which by any sound, cry or other offensive noise or other activity shall disturb the peace, comfort or enjoyment of their property by the inhabitants of the neighborhood for a continuous period in excess of fifteen (15) minutes.

Harboring. The occupant of any premises on which an animal, domestic hoofed livestock, small livestock, fowl or household pet is kept or to which it customarily returns daily for food and care is presumed to be *harboring* or keeping the animal, domestic hoofed livestock, small livestock, fowl or household pet within the meaning of this Article.

Household pets means those small animals customarily permitted to be kept in dwellings for company and pleasure, including but not limited to domestic dogs, domestic cats and common house birds.

Irrigated forage means land that is watered or has a water source in close proximity to forage originating on property itself, available in such a manner so as to create pasturage for animal feeding through natural growth of grasses and plants.

Keep means to harbor, confine or be in possession of.

Owner means every person who owns, keeps, harbors or is in possession or control of any animal, domestic hoofed livestock, small livestock, fowl, reptile or household pet or every person who allows such animal, domestic hoofed livestock, small livestock, fowl, reptile or household pet to remain in or about his or her premises.

Reptile shall include but not be limited to snakes, lizards and other similar reptiles.

Running at large means that the animal, domestic hoofed livestock, small livestock, fowl, reptile or household pet is not under the owner's direct physical control.

Small livestock includes but is not limited to rabbits, chinchillas and similar animals.

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

Swine means any member of the pig family, whether domesticated or not, including but not limited to Vietnamese potbellied pigs.

Vicious animal is defined as an animal that bites, attempts to bite, attacks or attempts to attack a human or another animal, or approaches a human in an apparent attitude of attack, whether or not an attack actually occurs.

Wild animal includes but is not limited to weasels, skunks, raccoons, opossums, prairie dogs, rats, bears, deer, antelope, buffalo, exotic animals such as kangaroos and other similar animals. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 365 §1, 1999; Ord. 451 §1, 2002; Ord. 505 §2, 2004)

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

It shall be unlawful for any person to own, harbor, have custody or keep any animal, domestic hoofed livestock, small livestock, fowl, household pet or reptile on his or her premises, whether such premises are owned, rented or otherwise occupied, within the corporate limits of the Town, except as provided by this Article or unless such premises have been granted a special use permit as provided by Section 7-6-40 below. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-35. Prohibited animals.

The keeping of nondomestic cats, nondomestic dogs, pigeons, wild animals and dangerous or poisonous reptiles that are not properly caged or otherwise confined shall be prohibited within the corporate limits of the Town. (Ord. 451 §1, 2002)

Sec. 7-6-40. Special use permits for keeping animals.

The Board of Trustees may issue a special use permit for the keeping of domestic hoofed livestock, small livestock, fowl, reptiles, swine or other animals not otherwise prohibited by Section 7-6-35 above or regulated by this Article. Such special use permits shall be issued only after a public hearing called for that purpose and after placing appropriate conditions upon the permit, including the

term of the permit. Criteria to be considered in the issuance of the permit shall include but not be limited to noise, smell, proximity to adjacent property, the kind and number of animals, the size of animals, the facilities of the applicant, sanitation facilities and requirements and other neighborhood considerations. The special use permit may not be transferred to another owner or to another property. Property owners within three hundred (300) feet of any lot line of the premises of the applicant shall be given written notice by first-class mail, sent postage prepaid as certified mail, return receipt requested, not less than fifteen (15) days prior to the date of the hearing, and a legal notice shall be published containing the text of the notice in a newspaper of general circulation within the Town not less than fifteen (15) days prior to the date of the hearing, and the same legal notice shall be posted in three (3) posting places in the Town as provided for in Section 1-3-60 of this Code. The application fee for a special use permit shall be twenty dollars (\$20.00), which is not refundable and includes the Town's cost to mail the legal notice to adjacent property owners. In addition, the applicant shall pay the cost of publication of the legal notice in the newspaper. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-50. Lot area requirements for domestic hoofed livestock; number permitted.

The minimum lot size for the keeping of domestic hoofed livestock shall be three-quarters ($\frac{3}{4}$) acre. No owner shall keep more than one (1) animal unit of domestic hoofed livestock for each one-third ($\frac{1}{3}$) acre of area of the premises. Young animals under four (4) months of age or until weaned may be kept without counting toward the allowable number of animals. The area in which the livestock is confined shall provide at least one-quarter ($\frac{1}{4}$) acre of irrigated forage for each animal kept therein. The keeping of hoofed livestock on nonirrigated property requires a minimum of one (1) acre of native grass or dryland forage for each animal. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 268 §1, 1995; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-55. Cultivation of irrigated and dryland forage grasses and forage legumes for the feeding of resident domestic hoofed livestock.

Notwithstanding the provisions of Section 7-4-20 to the contrary, the holders of a special use permit for the keeping of domestic hoofed livestock may use a portion of their property for the cultivation of irrigated or dryland forage grasses and/or forage legumes to feed their animals. Cultivation of said forage grasses and forage legumes shall be performed in accordance with a best management practices plan developed in cooperation with and approved by the Colorado State University Extension Service and with the following restrictions:

(1) Cultivation of forage grasses and/or legumes may occur only within areas between the rear building line of the house and the rear lot line. However, upon a written request and a showing that the cultivation of forage grasses and/or legumes in the side yard or yards of a specific property are not injurious or objectionable to the owners of the adjacent property, the Board of Trustees may permit such cultivation in side yards, beginning only at the front plane of the house towards the rear, and provided that a minimum of twenty-five (25) feet surrounding the house is landscaped and/or maintained in ornamental grasses or xeriscape as a fire prevention measure. Cultivation of the land shall conform with a best management practices plan approved by the Extension Service that controls or prevents nuisances caused by wind and water erosion and water pollution.

(2) Forage grasses and/or legumes, if not pastured, shall be harvested in accordance with a

best management practices plan approved by the Extension Service and stored on the property for supplemental feeding of the resident animals.

(3) Forage grasses and/or legumes, when pastured by the resident animals, shall be fenced in accordance with the provisions of this Article.

(4) The growing of forage grasses and/or legumes is intended for only properties that have domestic hoofed livestock special use permits for the feeding of such animals, and not to permit the growing or harvesting of such vegetation as solely an independent business operation in a residential district.

(5) A copy of the approved best management practices plan for the particular property shall be provided to the Town upon demand. (Ord. 505 §1, 2004)

Sec. 7-6-60. Lot area requirements for small livestock; number permitted.

No owner shall keep more than ten (10) small livestock on the premises regardless of the size of the premises. Young animals under six (6) months of age may be kept without counting toward the allowable number of animals. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-70. Lot area requirements for household pets; number permitted.

Household pets may be kept regardless of the size of the premises, provided that the number is limited as provided in Section 7-6-300 and they are housed, penned and controlled in the manner prescribed by this Article. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-80. Animals not to be raised or kept for commercial purposes.

No domestic hoofed livestock, small livestock, fowl, reptile or household pets shall be raised or kept for commercial purposes. The offering for sale of one (1) litter, brood or offspring of any animal domiciled on the premises, under four (4) months of age or until weaned for domestic hoofed livestock and under six (6) months of age for small livestock and household pets, each year, shall be permitted. Kennels, animal boarding facilities, pet shops, veterinary clinics or hospitals and other similar commercial activities are not allowed except as permitted by zoning regulations and as licensed by the Town, and unless such premises have been granted a special use permit as provided by Section 7-6-40 above. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-90. Fences and gates.

Fences and gates shall be constructed in accordance with all municipal ordinances and shall be suitable in design, construction and strength of materials for properly enclosing the animals to be kept. Barbed wire fences are prohibited. *Electrical fences*, defined as fences that transmit an electrical charge in any fashion that will shock an animal or human if the fence is touched, are permitted only if they are constructed as a second fence on the inside perimeter of an outer fence that is not electrically charged, by commercially manufactured, non-conductive "stand-offs," in such a

manner that the electrified fence is not less than six (6) inches inside the perimeter of the primary outer fence. Electrified fences shall have a commercially manufactured AC or DC controller capable of producing a "shock" within the range of 0.32 joules to 8.17 joules. At least one (1) commercially available warning sign, facing outward from the primary fence, and warning that the inner fence is electrified, shall be attached to the electrified fence for each one hundred fifty (150) lineal feet of fencing. Warning signs shall be legible from beyond the primary fence and shall be maintained in good repair. Fences that consist of a buried transmitter wire that operates in conjunction with animal collars designed to transmit a shock to the animal if it attempts to go past the wire boundary, also known as "invisible fences," are not defined herein as electrical fences and are permitted. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002; Ord. 538 §1, 2005)

Sec. 7-6-100. Minimum area of corrals.

Although the entire lot may be fenced, a corral must be provided where domestic hoofed livestock will normally be penned and given supplementary feed. The corral shall be adequate in size for the number of animals involved and shall not exceed twenty-five percent (25%) of the gross lot acreage or one-quarter (¼) acre, whichever size is smaller. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-110. Small livestock enclosures; distance.

Small livestock must have proper shelter available to the animal (i.e., rabbit hutches or within an enclosed building), which shelter shall not be located closer to the adjacent property than the setback requirements of Chapter 16 of this Code. If a containment area for small livestock is provided, it shall be fenced in such a manner as to prevent the escape of the animal and prevent the entrance of other animals or unauthorized persons into the containment area. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-120. Household pets housing; enclosures; distance.

Household pets must have proper shelter available (i.e., within a residence or an enclosed building or structure or other appropriate shelter), which shelter shall not be located closer to the adjacent property than the setback requirements of Chapter 16 of this Code. If an outdoor containment area is provided, it shall be fenced in such a manner as to prevent the escape of the animal. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-130. Sanitation.

The grounds, bases and floors of lots, pens, cages, stables and corrals shall be cleaned not less frequently than weekly by removal of manure and other material soiled by animal wastes. Every place, property or premises in the Town where any domestic hoofed livestock, small livestock, fowl or household pet is kept shall be clean, sanitary and free of obnoxious odors and shall be maintained in such a manner as will effectively prevent reproduction of flies in or about such places or premises. Other than a light spread of manure which may be applied on lawns, gardens or pastures for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-140. Corral drainage.

Drainage facilities or improvements in corral areas must be approved by the Town before construction. Animal or fowl waste shall not be allowed to wash into any drainage facility, such as a lake or ditch, that will pollute water or to accumulate on the property in pooled standing water so as to create a health hazard or nuisance. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-150. Abatement of unclean conditions.

If any of the premises are not kept in a clean and sanitary condition or become dangerous or detrimental to human health, the Code Enforcement Officer or other designated employee, agent or official of the Town shall have the power to declare such premises a nuisance and the same shall be abated as such. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-160. Authority to enter on property.

The Code Enforcement Officer or other designated employee, agent or official of the Town may enter upon or into any lot, house or other building or premises, with proper respect for 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. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-170. Cruelty to animals.

(a) No owner or other person shall fail to provide his or her animal, domestic hoofed livestock, small livestock, fowl or household pet with adequate food and water, proper shelter and protection from the weather, veterinary care when necessary and humane care and treatment. A fenced containment area or run shall be of a sufficient size to provide adequate maneuvering room and be so situated on the premises to provide adequate protection from the elements for the animal.

(b) No person shall beat, cruelly mistreat, torment, needlessly mutilate, needlessly kill, carry in or upon any vehicle in a cruel manner or otherwise neglect, abandon or abuse any animal, domestic hoofed livestock, small livestock, fowl or household pet. Branding of domestic hoofed livestock as a standard practice in animal husbandry for identification purposes shall not be considered as mutilation.

(c) It is unlawful for any person to poison any animal, domestic hoofed livestock, small livestock, fowl or household pet or to distribute poison in any manner whatsoever with the intent of poisoning any animal, domestic hoofed livestock, small livestock, fowl or household pet. This provision shall not apply to the control of wild animals if it is necessary to use poison methods for proper control.

(d) No person shall sell, offer for sale or give away as a pet or prize any rabbit or fowl which has been dyed, colored or otherwise treated to impart an artificial color thereto. No baby chicks, ducklings, goslings, turtles or other animals, except for fish, shall be sold, offered for sale, bartered or given away as pets, novelties, prizes or incentives for the purpose of attracting business.

(e) It shall be unlawful for any person to kill or wound, or attempt to kill or wound, any squirrel or bird, or for any person to take the eggs or young of any bird from their nesting place within the Town limits.

(f) It shall be unlawful for any person who, as operator of a motor vehicle, strikes a domestic animal or household pet to fail to stop and immediately report such injury to the Town or an appropriate police or sheriff's officer.

(g) Commission of any of the acts designated in this Section shall be deemed cruelty to animals. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-180. Vicious animal.

It is unlawful for any person to own, keep, possess or harbor a vicious animal within the Town. Any vicious animal shall be deemed a public nuisance and may be seized by any police officer, animal control officer, Code Enforcement Officer or other designated employee, agent or official of the Town and, upon appropriate complaint and order of the Municipal Court or any other court of competent jurisdiction, may be humanely destroyed or otherwise disposed of, as the Court may determine in the abatement of nuisances and protection of public safety. It shall be an affirmative defense to prosecution under this Section that a dog is under the control of a law enforcement agency. Nothing in this Section shall be construed to prevent the immediate killing of a vicious animal if, under the circumstances, such action is required to protect the public safety. (Ord. 153 §1, 1987; Ord. 199 §2, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-185. Hearing on destruction of vicious animal.

(a) Upon the filing of a motion for destruction of a vicious animal, the Municipal Court shall set a hearing as soon as practical. The Court shall promptly serve the owner, if known or reasonably discoverable, with written notice of the hearing and a copy of the motion at least five (5) days before the hearing. Service shall be pursuant to C.M.C.R. 204(e) and 249(b) and C.R.C.P. 5(b).

(b) The hearing shall be for the purpose of deciding if the animal is a public nuisance. The Town shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner, without good cause, fails to appear at the hearing, at arraignment or at trial, the dog shall be deemed abandoned and, upon proper proof of the public nuisance, may be destroyed or otherwise disposed of consistent with this Article.

(c) A continuance of the hearing on the motion for destruction or a stay of the destruction order may be granted only if the owner posts a bond sufficient to cover the total costs of the impoundment and destruction. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 365 §2, 1999; Ord. 451 §1, 2002)

Sec. 7-6-190. Injured animals.

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of the treatment and/or the impoundment. (Ord. 153 §1, 1987; Ord. 451 §1, 2002)

Sec. 7-6-200. Impoundment of animals found running at large.

It shall be the duty of the Code Enforcement Officer or other designated employee, agent or official of the Town to take up any animal found running at large as defined in this Article, impound the animal and proceed as provided by the law or by Town ordinances with the disposition of the animal. (Ord. 153 §1, 1987; Ord. 451 §1, 2002)

Sec. 7-6-210. License for dogs and domestic cats.

No person shall own, harbor, have custody of or keep any domestic dog or domestic cat of six (6) months of age or older in the Town without first obtaining a license therefor from the Town. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-220. License fee.

There shall be imposed an annual license fee of five dollars (\$5.00) for each neutered or spayed domestic dog and domestic cat and a license fee of ten dollars (\$10.00) for each unneutered or unspayed domestic dog and domestic cat. When any license is issued on or after July 1, for a newly acquired domestic dog or domestic cat, the license fee shall be one-half (½) of the annual license fee. However, there shall be a penalty of one dollar (\$1.00) per month, or portion thereof, for any license purchased on or after January 1 for the licensing year, if the domestic dog or domestic cat was kept and eligible for licensing on January 1. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-230. License term.

Each dog or cat license obtained shall be valid between January 1 and December 31 of the year purchased unless sooner revoked. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-240. Rabies vaccination required.

The owner of each dog or cat within the Town shall have such dog or cat inoculated against rabies by a veterinarian licensed to practice veterinary medicine in the State. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-250. Prerequisite for license.

Upon application for a dog or cat license, the applicant shall exhibit to the Town a certificate of inoculation from a state-licensed veterinarian that the dog or cat has been inoculated against rabies and that the inoculation is currently effective. Any lapse of the effective inoculation shall be unlawful and shall constitute a revocation of any license hereunder. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-260. Tag required.

Upon approval of the license application and payment of the required fee, the Town shall issue a numbered tag which shall be worn at all times by the dog or cat for which the tag is issued. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-270. Duplicate tags.

In the event of loss or destruction of the original license tag, the owner shall obtain a duplicate tag from the Town at a cost of one dollar (\$1.00) for each tag. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-280. False and stolen license documents.

It shall be unlawful for any person to make use of a stolen, counterfeit or forged license receipt, license tag, rabies vaccination certificate, rabies vaccination tag or other form or to provide false or materially misleading information on any license application. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-290. License not transferable.

Licenses are not transferable and it shall be unlawful for any person to use any license or rabies tag for any dog or cat other than the dog or cat for which such tag was originally issued. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-300. Number of dogs and cats.

There shall be kept no more than four (4) dogs or four (4) cats, or any combination thereof equaling four (4) animals, more than six (6) months of age on any one (1) premises at any one (1) time. Young animals under six (6) months of age or until weaned may be kept without being counted toward the allowable number of animals. This Section shall not apply to:

- (1) A zoned and licensed veterinary clinic or hospital operated by a licensed veterinarian which retains animals for veterinary medical care.
- (2) A zoned and licensed pet shop.
- (3) A zoned and licensed kennel or animal boarding facility. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 364 §1, 1999; Ord. 451 §1, 2002)

Sec. 7-6-310. Dog running at large.

(a) It shall be unlawful for any owner, possessor or keeper of any dog in the Town to permit the same to run at large within the Town. A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor, keeper or his or her agent or servant or a member of his or her immediate family, and not restrained, either by leash, cord or chain of not more than six (6) feet in length.

(b) For the purposes of prosecution for violation of this Section, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Section at the time and place charged, it being the purpose and intent of this Section to impose strict liability under the owner, possessor or keeper of any dog for the actions, conduct or condition of such dog. (Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-320. Dogs and cats may be impounded.

It shall be lawful for the Code Enforcement Officer or other employee, agent or official of the Town to impound any dog or cat which is not wearing an appropriate tag as herein provided and any dog or cat which he or she reasonably feels to be in violation of any of the provisions of this Article, whether such dog or cat is wearing a tag or not. It shall be lawful for the Code Enforcement Officer or other employee, agent or official of the Town to go upon private property for the purpose of catching any dog or cat. (Ord. 153 §1, 1987; Ord. 200 §1, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-330. Notice to owner of impoundment.

As soon as practicable after the date of impoundment, the Code Enforcement Officer or other employee, agent or official of the Town shall send by regular mail a written notice of such impounding to the owner of such dog or cat if the address of such person is known; if the owner, custodian or keeper of such dog or cat is not known or if such address cannot be determined, the Code Enforcement Officer or other employee, agent or official of the Town shall cause to be posted a notice of impoundment in a conspicuous place in the Town for seventy-two (72) consecutive hours. Whether the notice herein provided is mailed or posted, it shall describe the dog or cat, state the date of impoundment and set forth the location from which the dog or cat was taken. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-340. Redemption of dogs or cats; impoundment charges.

Any owner of a dog or cat desiring to redeem such dog or cat from impoundment shall pay to the Town a redemption fee as established herein. In addition, if such dog or cat is unlicensed, the owner must license the dog or cat pursuant to the provisions of this Article prior to the animal's release. If such dog or cat is licensed but the license has been lost, the license tag must be replaced prior to the release of the dog or cat. The charges assessed against each dog or cat impounded shall be:

- (1) For the first animal pickup, an impoundment fee of twenty dollars (\$20.00), plus twelve dollars (\$12.00) per day or portion thereof for feeding and maintenance of the animal.
- (2) For the second animal pickup, an impoundment fee of forty dollars (\$40.00), plus twelve dollars (\$12.00) per day or portion thereof for feeding and maintenance of the animal.
- (3) For the third and each subsequent animal pickup, an impoundment fee of one hundred dollars (\$100.00), plus twelve dollars (\$12.00) per day or portion thereof for feeding and maintenance of the animal. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-350. Sale or other disposal of impounded dogs and cats.

Any dog or cat which has not been redeemed within five (5) days of the time of such impoundment may at once be put up for adoption in accordance with the normal procedure of the impounding facility. Any owner or keeper of a dog or cat who does not claim or redeem said dog within the five-day impounding period shall forfeit all right, title and interest to said dog or cat. Any dog or cat which has not been redeemed or adopted as herein provided may be humanely destroyed under the direction of the impounding facility and be removed and buried or cremated, provided that

no dog or cat shall be put up for adoption or destroyed until the owner has received notice, if the whereabouts of such owner is known or can be ascertained from a license tag or other identification found on the dog or cat. Receipt of notice by the owner shall be presumed three (3) days after such notice is mailed. Notice may be either written or oral. If notice is given orally, the designated agent shall make a written record of the time and date of the notice and the name of the individuals giving and receiving such notice. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-360. Liability for accident or subsequent disease from impoundment.

The Town, its designated agent, assistants or employees or any person enforcing the provisions of this Article shall not be held responsible for any accident, loss or harm or any subsequent disease an animal is subjected to in connection with the administration of this Article. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-370. Impoundment services.

The Board of Trustees shall have the right to contract with or otherwise use a public or private person or organization for impoundment services for and on behalf of the Town. (Ord. 153 §1, 1987; Ord. 451 §1, 2002)

Sec. 7-6-380. Confinement of diseased dogs, cats or other animals.

(a) The owner of any dog, cat or animal which has bitten or which is suspected to have bitten any person or which is suspected of having rabies or being otherwise afflicted with a contagious or infectious disease shall immediately notify the Code Enforcement Officer, any police or sheriff's officer or designated Town employee or official of such fact.

(b) Any dog, cat or animal which has bitten or is suspected to have bitten any person, or which is believed to have rabies, to have been exposed to rabies or to be otherwise afflicted with a contagious or infectious disease may be confined, upon order of the Code Enforcement Officer, any police or sheriff's officer or designated Town employee or official for a period of ten (10) days for observation. Such dog, cat or animal shall either be confined at the residence of the owner thereof, if such confinement can be accomplished without exposing such dog, cat or animal to the public or, at the option of the Town, such dog, cat or animal shall be confined at a private veterinary facility or other suitable facility designated by the Board of Trustees, at the expense of the owner of the dog or cat or animal. It shall be unlawful for any owner of such dog, cat or animal to permit such dog, cat or animal during confinement to come into contact with the public or to be at large for any reason.

(c) It shall be unlawful for any person to knowingly bring into or keep a diseased animal in the Town. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-385. Removal of excreta.

The keeper of every dog, cat or other animal shall be responsible for removal and sanitary disposition of any excreta deposited by the animal anywhere in the Town. The excreta deposited on the keeper's premises shall be removed and properly disposed of no less often than weekly. All excreta shall be disposed of sanitarily and in no case shall be removed by redepositing it on other property or in any alley, street or public place. When accompanying a dog, cat or animal outside of

the keeper's premises, the keeper shall carry suitable means for the removal of such excreta, and it shall be unlawful to fail to remove such excreta. It shall be unlawful to allow excreta to accumulate in any such manner on any premises so as to create a public health hazard or a visible, odorous, noxious or offensive nuisance. (Ord. 451 §1, 2002)

Sec. 7-6-386. Wild animal control.

The control and removal of live wild animals and the disposal of dead wild animals shall be the responsibility of the owner of the property. The responsibility of the Town shall be limited to animal control as otherwise provided for in this Article. (Ord. 451 §1, 2002)

Sec. 7-6-390. Nuisance.

It shall be unlawful for any owner to fail to exercise proper care and control of his or her dog or cat to prevent it from becoming a public nuisance. Any habitually noisy animal, as defined in this Article, or any dog or cat which molests passersby, chases vehicles, habitually attacks other domestic animals, trespasses upon school grounds or trespasses upon private property in such a manner as to damage property shall be deemed a nuisance. (Ord. 153 §1, 1987; Ord. 199 §4, 1991; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-400. Animal and fowl fights.

(a) It shall be unlawful for any person to cause, instigate or encourage any animal or fowl fight within the Town.

(b) No person shall cause, sponsor, arrange, hold or encourage a fight between animals or fowl for the purpose of monetary gain or entertainment.

(c) For the purpose of this Section, a person encourages a fight between animals or fowl for the purpose of monetary gain or entertainment if he or she:

(1) Is knowingly present at such a fight;

(2) Owns, trains, transports, possesses or equips an animal or fowl with the intent that such animal or fowl will engage in such a fight; or

(3) Knowingly allows any such fight to occur on any property owned or controlled by him or her.

(d) Nothing in this Section shall prohibit normal hunting practices as approved by the State Department of Wildlife.

(e) Nothing in this Section shall be construed to prohibit the training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-410. Knowledge of violations not necessary.

For the purpose of prosecution for violations of this Article, it shall not be necessary to prove notice or knowledge on the part of the owner, custodian or keeper of the animal in question that such animal was violating any of the provisions of this Article at the time and place charged in order to obtain a conviction. It is the purpose and intent of this Article to impose strict liability upon the owner, custodian or keeper of any animal for the actions, conduct and conditions of such animal. (Ord. 153 §1, 1987; Ord. 451 §1, 2002)

Sec. 7-6-420. Interference with Code Enforcement Officer or other officer, agent or employee performing duties.

It shall be unlawful for any person to interfere with, molest, hinder or obstruct the Code Enforcement Officer, any police or sheriff's officer or any other designated employee, agent or official of the Town in the discharge of their official duties under this Section. This Section is designated a criminal violation and, upon conviction, the defendant is subject to the penalties set forth in Section 1-4-20 of this Code. (Ord. 153 §1, 1987; Ord. 316 §1, 1997; Ord. 451 §1, 2002)

Sec. 7-6-430. Violations and penalties.

(a) Unless specifically provided otherwise, every section of this Article shall be designated a noncriminal violation. Any person convicted of violating any such section shall be subject to the fines and penalties set forth in Section 1-4-20 of this Code.

(b) Cumulative with the above remedy for the violation of this Article, the Town may maintain a suit to enjoin any violation of the provisions hereof.

(c) In addition to any of the foregoing remedies, the Town Attorney, acting on behalf of the Board of Trustees, may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violations.

(d) The following sections of this Article are designated as criminal violations, and as such, any person convicted of violating the section shall be subject to the fines and penalties set forth in Section 1-4-20 of this Code: Section 7-6-170, Cruelty to animals; Section 7-6-180, Vicious animal; and Section 7-6-400, Animal and fowl fights. (Ord. 451 §1, 2002)

ARTICLE VII

Farm and Ranch Policy

Sec. 7-7-10. Definitions.

For the purposes of this Article, certain words and phrases shall be defined as follows, unless the context otherwise requires:

Agricultural land means lands on which an agricultural operation has been maintained for more than one (1) year.

Agricultural operation means and includes, but is not limited to, the cultivation and tillage of the soil; dairying; grazing of livestock; the production, irrigation, frost protection, cultivation, growing, application of fertilizers and pesticides, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; raising of livestock, fur-bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including storage, preparation for market, delivery to storage or market, or delivery to carriers for transportation to market. (Ord. 376 §1, 1999)

Sec. 7-7-20. Purpose.

(a) It is the declared policy of the Town to conserve, protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operators are sometimes forced to cease operations or curtail their operations. Others may be discouraged from making investments in farm improvements to the detriment of the economic viability of the County's agricultural industry as a whole. It is the purpose of this Article to reduce the loss to the State of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

(b) An additional purpose of this Article is to promote a good-neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residency. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that through mandatory disclosures purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas. (Ord. 376 §2, 1999)

Sec. 7-7-30. Nuisance.

(a) No agricultural activity, operation or facility, or appurtenances thereof, conducted or maintained on agricultural lands for commercial purposes and in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, after the same has been in operation for more than one (1) year, if it was not a nuisance at the time it began; except that the provisions of this Section shall not apply in the case of a negligent operation, when a change in operation would result in a private or public nuisance or when a substantial increase in the size of operations occurs.

(b) This Article is not to be construed as modifying or abridging existing or future law relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this Article. (Ord. 376 §3, 1999)

Sec. 7-7-40. Disclosure.

(a) Disclosure by subdivider. The subdivider of any property located within one thousand (1,000) feet of land zoned for agricultural use shall disclose through a notation on the final plat of the subdivision, within the covenants, if prepared, and through the recordation of a separate acknowledgment statement, the presence of agricultural and appurtenant uses in the proximity of the subdivision through the following or similar statement: "The properties within this subdivision are

located within one thousand (1,000) feet of land utilized or zoned for agricultural operations and residents and/or occupants of the property may be subject to inconvenience or discomfort arising from such operations, including but not limited to, the storage and disposal of manure, the application by spraying or otherwise of agricultural chemical fertilizers, soil amendments, herbicides and pesticides, cultivation, plowing, spraying, pruning, harvesting, crop protection, shipping and processing, and the operation of machinery of any kind (including aircraft) during any 24-hour period which may generate dust, smoke, light, noise, odor and traffic. The Town of Mead determined that inconvenience and discomforts associated with such agricultural operations shall not be considered a nuisance if such operations are consistent with accepted customs and standards. Residents and/or occupants of properties within this subdivision should be prepared to accept such inconvenience or discomfort as normal and necessary to agricultural operations."

(b) Disclosure prior to issuance of building permits. Where a new building intended for human occupancy is to be on property that is within one thousand (1,000) feet of land zoned for agricultural use, the owners of the property shall, prior to issuance of a building permit, be required to sign and record a statement in a form similar to that set forth in Subsection (a) above. In lieu of signing the statement required above, the owner may submit evidence that the statement set forth in Subsection (a) above has been made part of subdivision documents creating the parcel on which the building is to be constructed. (Ord. 376 §4, 1999)