

## CHAPTER 7

### Health, Sanitation and Animals

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## ARTICLE I

### Administration and Abatement of Nuisances

#### Sec. 7-1-10. Definitions.

For the purpose of this Chapter, the following words shall have the following meanings, unless the context indicates otherwise:

*Brush* means voluntary growth of bushes which are growing out of place at the location where growing, all cuttings from trees and bushes, and high and rank shrubbery growth which may conceal filthy deposits.

*Bulky materials* means limbs, boards, pipe and similar objects in excess of three (3) feet in length as well as any other item or material of unusual size, including but not limited to automobiles or parts thereof, refrigerators, washers, dryers, television sets, bicycle frames and building materials.

*Hazardous materials* includes but shall not be limited to hot ashes, hot coals, radioactive material, explosive substances, chemical waste, flammable material and other similar substances.

*Inoperable vehicle* means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- a. Absence of an effective registration plate upon such vehicle.
- b. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.
- c. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

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

*Prairie dog* means a burrowing rodent common to the plains that typically lives in colonies, but it does not include within the definition any animal designated by a state or federal agency as an endangered animal or species under the state or federal law.

*Receptacles* means cans or containers of a capacity no greater than thirty-three (33) gallons and weighing not more than fifty (50) pounds when filled.

*Refuse*, as used in this Chapter, means all trash and waste matter customarily produced by normal household living which is ordinarily generated by and discarded from, in and about dwellings and associated landscaping, and includes kitchen waste, leaves, grass clippings, weeds, trimming from small shrubs, bottles, cans, food containers, paper, rags, pet waste and other matter discarded in and about dwelling houses. *Refuse* shall not include large trees, stumps, logs, tree limbs in excess of four-foot lengths or which are not bundled, sod, concrete, dirt, appliances, furniture, refuse produced by remodeling by an occupant of a dwelling or produced by home occupation businesses, paints, lubricating oils, solvents, caustic or acid substances hot ashes, explosives or radioactive materials and similar types of hazardous materials, pet or animal carcasses, truck and automobile bodies and/or chassis parts, including batteries, tires, wheels and drive train components, or other similar materials.

*Rubbish* means any bottles or cans, dilapidated, unsightly or inoperable motor vehicle or mobile home bodies or parts, dilapidated or broken fencing or any other dilapidated or broken improvement to property or portion of such improvement, building materials, cut weeds or brush, or any other junk, garbage, trash, refuse or other form of debris.

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

*Waste materials* includes ashes, trash, waste, rubbish, garbage or other discarded material and is deemed to include but not be limited to leaves, grass, limbs, weeds, trimmings, cans, bottles, rags, paper, boxes and any other matter ordinarily discarded in or about dwelling houses, commercial establishments or industrial sites, but shall not include dead animals.

*Weed* means an unsightly, useless, troublesome or injurious herbaceous plant and such plant is out of place at the location where growing, and includes all rank vegetable growth which exhales unpleasant or noxious odors and also high and rank vegetable growth that may conceal filthy deposits. This includes, but is not limited to, any plant species designated in the categories described in Section 35-5.5-108(2)(a), C.R.S. (Ord. 201 §1, 1985; Ord. 223 §1, 1987; Ord. 280 §1, 1991; Ord. 481 §1, 2003; Ord. 565 §1, 2007; Ord. 647 §1, 2011)

**Sec. 7-1-20. Common law nuisances.**

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the Town, and any person causing or permitting any such nuisance shall be in violation of this Article. (Ord. 481 §1, 2003)

**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. 481 §1, 2003)

**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. 481 §1, 2003)

**Sec. 7-1-50. Ascertaining nuisances.**

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Administrator dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 481 §1, 2003)

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

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same. (Ord. 481 §1, 2003)

**Sec. 7-1-70. Filing complaint.**

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 481 §1, 2003)

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

(a) In all cases where a nuisance shall be found in any building or upon any grounds or other premises within the jurisdiction of the Town, ten (10) days' notice shall be delivered, in writing, signed by the Chief of Police to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises, to remove said nuisance. In the case of a nuisance which poses an immediate or imminent threat to life or health, the ten-day notice requirement is waived.

(b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated forthwith after the notice herein provided shall be given, the Chief of Police may declare the same to be a nuisance and abate the same, and the Chief of Police shall have the authority to call for the necessary assistance therefor.

(c) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Chief of Police or Public Works Director 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.

(f) Any property deemed to be a nuisance and removed from the premises shall be handled in accordance with Chapter 4, Article 5 of this Code. (Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 560 §1, 2007)

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

The Town Administrator, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Ord. 481 §1, 2003)

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

(a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Chapter and shall give notice that said owner and/or occupant has ten (10) days to abate the nuisance and comply with the requirements of this Chapter.

(b) In case of the failure of any owner of such lots, tracts or parcels of land to abate the nuisance as set forth in this Chapter within the time and in the manner prescribed herein, the Town Administrator may order the Public Works Director to abate the nuisance. The Public Works Director shall then proceed at once to have the work done accordingly. (Ord. 481 §1, 2003)

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

Upon the completion of any work by the Town contemplated by this Chapter, the Public Works Director shall report, in writing, to the Town Administrator, which report shall make a clear statement of the work done by the Town and the expense incurred in so doing, so that the Town Administrator may determine the cost of such work. The Public Works Director shall make a separate report for each lot or parcel of land. (Ord. 481 §1, 2003)

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

After considering the report of the Public Works Director, the Town Administrator shall determine and assess the whole cost for the abatement thereof, including ten percent (10%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the nuisance was abated. (Ord. 481 §1, 2003)

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

The Town Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Ord. 481 §1, 2003)

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

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

(b) The amount of such assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Ord. 481 §1, 2003)

**Sec. 7-1-150. Objection to assessment; hearing.**

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon designate the next regular meeting of the Board of Trustees as the date when said objector may appear and have a hearing before the Town Administrator and Board of Trustees. (Ord. 481 §1, 2003)

**Sec. 7-1-160. Certified assessment.**

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Ord. 481 §1, 2003)

**Sec. 7-1-170. Cumulative remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 481 §1, 2003)

**Sec. 7-1-180. Concurrent remedies.**

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 481 §1, 2003)

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

Any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Ord. 481 §1, 2003)

**ARTICLE II**

**Nuisances**

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

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any 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. 481 §1, 2003)

**Sec. 7-2-20. Posting handbills, posters and placards.**

Any handbill, poster, placard, sign or similar painted or printed matter which shall be stuck, posted or pasted upon any public or private house or other building, upon any fence, power pole, telephone pole or other structure, or within any public area, park, street or right-of-way, without the permission of the owner, agent or occupant of the house, or upon any commercial or industrial structure or public property, shall be deemed a nuisance and may be abated as provided in this Chapter, unless the Town has issued an appropriate sign permit. Nothing in this Article precludes the issuance of a criminal complaint. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

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

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, any dead animal, excrement, garbage or other offensive matter upon any street, avenue, alley, sidewalk or public or private grounds. No person shall throw or deposit or cause or permit to be thrown or deposited in the Town anything specified in any foregoing part of this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Ord. 481 §1, 2003)

**Sec. 7-2-40. Stagnant ponds.**

The permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 481 §1, 2003)

**Sec. 7-2-50. Sewer inlet.**

No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Ord. 481 §1, 2003)

**Sec. 7-2-60. Nauseous liquids.**

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 481 §1, 2003)

**Sec. 7-2-70. Stale matter.**

No person shall keep, collect or use, or cause to be kept, collected or used, in the Town any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation. (Ord. 481 §1, 2003)

**Sec. 7-2-80. Accumulation of refuse.**

Any accumulation of refuse or other material on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance. (Ord. 481 §1, 2003)

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

It is unlawful for any person to use any land, premises or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the Town Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the Chief of Police or Town Clerk shall issue such a permit upon the payment of a fee as set forth in the Fee Schedule, with the approval of the Board of Trustees. (Ord. 481 §1, 2003; Ord. 571 §2, 2007)

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

When any animal dies in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith and dispose of it properly and legally. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal whose ownership cannot be determined is 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 disposed of properly and legally. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

**Sec. 7-2-110. Noisemakers.**

The use of music, noisemakers or loudspeakers on the streets of the Town for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter. (Ord. 481 §1, 2003)

**Sec. 7-2-120. Inoperable vehicles.**

(a) *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 purposes for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- (1) Absence of an effective registration upon such vehicle.
- (2) Placement of the vehicle or parts thereof upon jacks, blocks, chains or supports.
- (3) Absence of one (1) or more parts from the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.
- (4) Flat tires on the vehicle.

(b) Except in cases of an emergency or during the time when a disabled vehicle is being repaired, which shall be within twenty-four (24) hours after it became disabled, it shall be unlawful to repair or park any inoperable vehicle on any public easement, public street, public alley or public parking area.

(c) Any vehicle in violation of this Section may be towed within twenty-four (24) hours of being tagged. (Ord. 177 §8-13, 1984; Ord. 481 §1, 2003; Ord. 495 §1, 2004)

**Sec. 7-2-130. Vacant residential dwellings.**

All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Chief of Police. (Ord. 481 §1, 2003)

**Sec. 7-2-140. Graffiti reporting and removal required.**

The owner, occupant or lessee of any residential or commercial property within the Town has a duty to promptly report to the Police Department the existence of graffiti, "tagging" or other types of unauthorized writing on a publicly visible surface on the premises, such that the police have an opportunity to conduct an investigation if appropriate. Subsequently, following police authorization, the owner, occupant or lessee has a duty to remove any graffiti written or painted onto fences, walls or other structures. (Ord. 541 §1, 2006)

**Sec. 7-2-150. Dangerous conditions.**

(a) No owner of property adjacent to any Town right-of-way or public property shall fail to enclose with fences or walls all holes, depressions, excavations or other dangerous places that are below the natural or artificial grade of the adjacent right-of-way or public property, or to fill such holes in order to prevent injury to passersby or damage to passing vehicles or property.

(b) No owner of property may allow any hole, uncovered well, depression, excavation or other dangerous condition or place to exist on private property in the Town, unless the owner makes reasonable efforts to prevent access and to provide warning of the dangerous condition. (Ord. 541 §1, 2006)

**Sec. 7-2-160. Prairie dogs.**

(a) This Article shall apply to any lot, block or parcel of ground within an R-1, R-2, R-3 or residentially designated PUD, excluding parcels zoned R-1E, of the Town. The applicable property must be platted; infrastructure, to include streets and all utilities, has been installed; and one (1) or more residences are occupied. No owner, nor any tenant or agent in charge thereof, shall allow or permit said lot, block or parcel of ground to become or remain infested with prairie dogs or prairie dog nests, burrows or colonies. Where such nests or burrows are necessary for the maintenance of wildlife listed as threatened or endangered by any state or federal law, rule or regulation, such nests or burrows may be maintained in accordance with such state or federal law, rule or regulation.

(b) If an owner of any lot, block or parcel of ground within the applicable zones of the Town, as described above in Subsection (a), or any tenant or agent in possession or in charge thereof, fails or refuses to remove or eliminate prairie dogs or their burrows as required in Subsection (a) above within thirty (30) days after being served notice to do so by an agent or employee of the Town, the Town may have the prairie dogs or their burrows removed and abated by an employee of the Town or by a private firm or individual as provided in this Chapter and assess the cost thereof, according to Section 31-20-105,

et seq., C.R.S., and as provided in this Chapter, to such owner, tenant or agent, to include inspection and administration costs. In the event that the Health Department or other public health official identifies the presence of a communicable disease, abatement shall occur within such shorter time as specified by the Health Department or official. (Ord. 647 §1, 2011)

### **ARTICLE III**

#### **Weeds and Brush**

##### **Sec. 7-3-10. Undesirable Plant Management Advisory Commission designated.**

(a) The Board of Trustees is appointed to act as the Local Weed Advisory Board for the Town, to enact the Undesirable Plant Management Plan.

(b) The Local Weed Advisory Board shall have the duties and responsibilities as provided by state statute.

(c) In addition to the above, the Local Weed Advisory Board is specifically charged with the following tasks:

(1) Develop a local noxious weed list;

(2) Develop a plan for integrated management of these noxious weeds;

(3) Recommend management criteria including effective and appropriate physical, cultural, chemical and biological control methods; and

(4) Where prudent, recommend that identified landowners be required to submit an individual integrated weed management plan. (Ord. 360, 1997; Ord. 481 §1, 2003)

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

##### **Sec. 7-3-20. Declaration of nuisance.**

(a) It is unlawful and a nuisance for any person who owns or is in possession of any lot, tract, acreage or parcel to permit any grass, weeds or brush to grow or remain in excess of six (6) inches in length.

(b) Any accumulation of rubbish on any lot, tract or parcel of land in the Town is hereby declared to be a nuisance, and it is unlawful to permit any such rubbish to remain in any such place. (Ord. 223 §2, 1987; Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 565 §1, 2007)

##### **Sec. 7-3-30. Duties of property owner and lessee; unlawful accumulations; inspections.**

It shall be the duty of any owner and any lessee of any lot, tract, acreage or parcel of real property in the Town, including such owners or lessees of agricultural lands (as defined in Section 39-1-102(1.6)(a), C.R.S.) to keep the property free of junk and rubbish, to cut to within three (3) inches of the ground and remove from the property, unless cut small enough to be used for mulch, all grasses, weeds and brush exceeding six (6) inches in length, and eradicate the weed commonly known as goat heads or puncture vines regardless of height, and to consistently maintain said real property up to any street or avenue

adjoining such lot or tract between the property line and the curblineline thereof, and on or along any alley adjoining such lot or tract. (Ord. 223 §3, 1987; Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 565 §2, 2007)

**Sec. 7-3-40. Notice to abate; cutting, removal by Town.**

(a) In addition to the remedies provided in the Colorado Noxious Weed Act, in case of the failure of any owner or lessee of any lot, tract or parcel of land to cut and remove weeds, brush, junk or rubbish, as provided in this Article, and upon the election of the Town to remove such weeds, brush, junk or rubbish, the Town Administrator is authorized to give notice by certified mail addressed to the last known post office address of the owner of such land as that address appears in the records of the County Clerk and Recorder. Such notice shall require:

- (1) Compliance with the terms of the notification;
- (2) Acknowledgment by the addressee of the notification and submission to the Town Administrator of an acceptable plan and schedule for the completion of a management plan; and
- (3) A request from the addressee for an administrative hearing which the Town must receive on or before the close of business of seven (7) calendar days from the date of the notice.

If such election is not made within seven (7) calendar days from the date of the notice or the land owner or occupant otherwise fails to comply with the notice, the Town may then proceed to enforce a management plan which may include, but not be limited to, cutting of such weeds and brush or removal of junk and/or rubbish.

(b) The Town, through its agents or employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this Article. If an order of the Town Administrator has not been complied with within thirty (30) days after its issuance, the Town, at the discretion of the Town Administrator, may cause the elimination or removal of the infestation of weeds or brush and/or the removal or elimination of accumulated junk and/or rubbish. Any owner, lessee or other party in interest who fails to comply with an order issued by the Town Administrator is hereby obligated to pay administrative costs and expenses incurred in the elimination or removal of the conditions complained of. Such administrative costs shall include the cost of removal or elimination, legal costs and fees and administrative fees which are occasioned by enforcement of this Article. All costs are independent of any other penalties or powers of enforcement of the Town.

(c) No agent or employee of the Town shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this Section, except when such damages were willfully or deliberately caused by the landowner or occupant. (Ord. 223 §4, 1987; Ord. 232 §1, 1987; Ord. 481 §1, 2003; Ord. 565 §3, 2007)

**Sec. 7-3-50. Burning of wastes, garbage and trash.**

(a) It is unlawful for any person to burn or set fire to any rubbish, trash, debris, litter, junk, weeds, brush, grass or other flammable material within the Town limits.

(b) This Section shall not apply to:

(1) Any fire specifically authorized by the Town or the Fire Protection District; such as agricultural burning.

(2) Fires for cooking, heating or aesthetic purposes. Examples would include fires contained in fire pits, chimneas, barbeques and pig roast pits. The size of the fire containment facility may not exceed twenty-five (25) square feet in width or eight (8) feet in height. (Ord. 177 §8-15, 1984; Ord. 486 §1, 2004; Ord. 494 §1, 2004)

**Sec. 7-3-70. Notice of violation.**

(a) In addition to any other available remedy, the Town Clerk or the Chief of Police may give written notice of a violation of Section 7-3-20 above to any person owning, occupying or possessing a lot, tract or parcel of land in violation of Section 7-3-20 above. Said notice shall direct such person to comply with the provisions of Sections 7-3-30 and 7-3-40 above within seven (7) days after the date on said notice.

(b) If such person fails to comply with Sections 7-3-30 and 7-3-40 above within the time and in the manner prescribed in such notice, the Town Clerk may order a Town employee or agent to cut and remove all weeds or brush, to remove any accumulation of rubbish, or both, as applicable. Upon completion of such work, the Town Clerk shall make a full report to the Town Administrator of the expenses incurred by the Town in performing such work. (Ord. 223 §5, 1987; Ord. 232 §2, 1987; Ord. 412, 2000; Ord. 481 §1, 2003)

**Sec. 7-3-80. Assessing costs.**

(a) Upon completion of the cutting work done by Town forces and/or the Town's designee under this Article, charges shall be made against the owner of the property on which weeds were cut. The charges shall be the Town's actual costs for labor, equipment and materials, plus an administrative penalty of fifty dollars (\$50.00) for the first cutting, one hundred dollars (\$100.00) for the second cutting and one hundred fifty dollars (\$150.00) for the third and subsequent cuttings within five (5) years, plus a twenty-five-percent surcharge for supervision and inspection. The Town Administrator may set a minimum labor, equipment and material charge for cutting operations of less than one (1) hour.

(b) The Town shall have all remedies for collection of such assessment provided by state statute or by any ordinance of the Town, including the right to certify the assessment to the County Treasurer for the purpose of having such assessment, together with a ten-percent penalty for cost of collection, placed upon the tax list and collected in the same manner as taxes are collected. Such assessment and penalty shall be a lien against each lot, tract or parcel of land assessed until paid and shall have priority over all other liens except general taxes and prior special assessments. (Ord. 223 §6, 1987; Ord. 481 §1, 2003; Ord. 565 §4, 2007)

**Sec. 7-3-90. Objection to assessment.**

(a) In the event that any person desires to object to any assessment made in accordance with Section 7-3-80(a) above, written objection shall be delivered to the Town Clerk within thirty (30) days after the date of mailing of the notice of assessment. Such written objection shall set forth the grounds for the objection, and the name, address and telephone number of the objector.

(b) Upon receipt of such written objection, the Town Clerk shall designate a regular meeting of the Board of Trustees as the date when such objector may appear and have the objection heard before the

Board of Trustees. The Town Clerk shall send notice of the date and time of such meeting to the objector at the address set forth on the written objection.

(c) At the hearing on the objection, the Board of Trustees shall hear evidence from the Town Administrator or any Town employee or agent designated by the Town Administrator, and from the objector. The Board of Trustees shall issue a decision upholding or denying the assessment. Should the Board of Trustees fail to uphold any assessment, the objector shall be discharged from any liability therefor.

(d) Failure to timely object as provided in Subsection (a) above constitutes a waiver of any right to object to any assessment made in accordance with Section 7-3-80(a) above. (Ord. 223 §7, 1987; Ord. 481 §1, 2003)

**Sec. 7-3-100. Right of entry.**

The Town Clerk, Town Administrator, Chief of Police or any Town employee or agent may enter upon or into any lot, tract or parcel of land for the purpose of inspecting the same to ascertain whether the terms and provisions of this Article should be enforced, and any person making such entry shall be free from any action for any liability on account thereof. (Ord. 223 §8, 1987)

## **ARTICLE IV**

### **Trees**

**Sec. 7-4-10. Definitions.**

For the purpose of this Article, the following words shall have the following meanings, unless the context indicates otherwise:

*Park trees* means trees, shrubs, bushes and all other woody vegetation in designated public parks and all areas owned by the Town, or to which the public has free access.

*Private trees* means trees, shrubs, bushes and all other woody vegetation located on private property, which may or may not protrude or project over or outside a property line.

*Street trees* means trees, shrubs, bushes and all other woody vegetation found on the Town's streets and rights-of-way, and existing between private property and the adjacent street.

*Public right-of-way* means streets, sidewalks, easements, alleys, curbs, gutters and all other publicly accessed areas. (Ord. 477, 2003; Ord. 481 §1, 2003)

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

(a) It shall be the duty of any owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purpose of this Section, a danger to public safety shall include all trees and limbs which hinder visibility, obstruct the view of

traffic, obscure any traffic control device or may otherwise affect public health, safety and welfare, and trees and limbs which may fall on a person or on property.

(b) Limbs above sidewalks will be cut to allow a clearance of eight (8) feet, and limbs above streets will be cut to allow a clearance of fourteen (14) feet.

(c) Town authorities may, by written notice, require the owner of any property adjacent to the public right-of-way to remove, at the expense of said property owner, any trees, limbs or other plants which project beyond the property line of such owner onto or over the public rights-of-way, or otherwise constitute a nuisance.

(d) In the event that any property owner fails or neglects to trim or remove any such tree or limb within thirty (30) days after receipt of written notice from the Town authority to do so, the Town authority may do or cause to be done the necessary work incident thereto, and said property owner shall reimburse the Town for the cost of the work performed plus ten percent (10%) administrative fees. In the event that the condition of such tree or limb is determined to be an imminent danger to property or persons, said property owner must respond immediately to the written notice. (Ord. 477 §2, 2003; Ord. 481 §1, 2003)

**Sec. 7-4-30. Control of trees.**

(a) Control of trees and shrubs.

(1) The Town shall have the right to plant, prune, maintain and remove trees within the public rights-of-way of all streets, alleys, public parks, greenbelts and other public grounds, as may be necessary for public safety or to preserve or enhance the symmetry and/or beauty of such public grounds. The Town may remove or cause to be removed any park tree, private tree or street tree or part thereof which is in an unsafe condition or position, or is infected with any injurious fungus, insect or other pest that reasonably endangers vegetation and/or trees on public grounds.

(2) The Town shall have the right to maintain and/or remove private trees or parts thereof on private property as may be necessary for public safety because the trees reasonably pose a danger to adjoining fencing, improvements or any private property or persons. The Town may also remove or cause to be removed any private tree that is infected with any injurious fungus, insect or other pest that reasonably endangers vegetation and/or trees on adjacent private ground.

(3) The Town may, with written notice according to Section 7-3-70 of this Chapter, Notice of violation, require the owner, lessee or occupant of any private property covered by the provisions of Paragraphs (1) and (2) above to remove or cause to be removed, at his or her expense, the offending trees or vegetation. In the event that such property owner, lessee or occupant fails to comply with the above requirement within seven (7) calendar days of receipt of notice, the Town may remove or cause to be removed any trees or vegetation or parts thereof that are deemed to be a hazard or unsafe. The Town shall require the property owner, lessee or occupant to pay the cost of removal or remediation, according to the process defined in Section 7-3-80 of this Chapter.

(b) The property owner and/or occupant of each property in the Town shall perform the care, maintenance and trimming of trees located in or near the boundary lines of such property, usually on the street side of the property, according to the usual standards of care as established by the American National Standards Institute, A300 standard, published by the A.N.S.I. 11 West 42nd Street, New York,

NY, 10036. Property owners are responsible for keeping lots and adjacent public rights-of-way clear of leaves, fruits, branches and any other debris from trees.

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

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree in or upon public rights-of-way, public parks or other public property within the Town.

(e) It is unlawful, as a normal practice, for any person, or firm to top any street tree or park tree. *Topping* is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the natural canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where regular pruning practices are impractical, may be exempted on a case-by-case basis by the Tree Committee.

(f) This Section does not prohibit the planting of street trees by adjacent property owners in accordance with Sections 7-4-40 and 7-4-50 below. (Ord. 477 §3, 2003; Ord. 481 §1, 2003; Ord. 601 §1, 2009)

#### **Sec. 7-4-40. Landscape design.**

(a) Standards for the planting and placement of new trees are found in Chapter 16, Article II, Division 5 of this Code. All land development applications in the Town shall be accompanied by an appropriate landscape plan. Building permit applications for individual single-family residences will not require landscape plans. However, all landscaping within the Town shall comply with the intent of these regulations and comply with the minimum standards for new tree planting and landscape design.

(b) Sections are provided for site landscape design, environmental considerations, new buildings and paved areas, plant materials, irrigation, guarantee of installation, maintenance, landscaping within the right-of-way, required open space, small-lot single-family residential development landscaping standards, multi-family and mixed use residential landscaping standards, large-lot single-family landscaping standards, business/ commercial and industrial development landscaping standards, downtown landscaping standards, parking lot landscaping standards, storm drainage facilities, submittal standards for landscape plans and prohibited plant list. (Ord. 477 §4, 2003; Ord. 481 §1, 2003)

#### **Sec. 7-4-50. Tree species.**

(a) The following trees are specifically prohibited from Town-regulated areas and discouraged from use elsewhere: Russian olive, Lombardy poplar, Siberian elm, Boxelder maple, cotton-bearing cottonwood and Tree of Heaven (source, Milliken Construction Standards, 2001, with input from Colorado State Forestry Service).

(b) The following are thornless and nontoxic trees and shrubs that are recommended for selection as parks trees. (The source for this list is the Johnstown-Milliken Parks Trails Recreation Open Space Master Plan, page 48, with input from Colorado State Forestry Service.) Additional plantings may be considered if they do not pose a hazard to park users: Trees include all maple varieties, yellow buckeye, eastern redbud, ash varieties, honey locust varieties, golden rain tree, pine varieties, Gambel oak, burr

oak, swamp white oak, English oak, red oak, Japanese lilac tree, Linden varieties and Rocky Mountain juniper. Shrubs include all leadplant varieties, sagebrush varieties, butterfly bush varieties, peashrub varieties, bluemist varieties, mahogany varieties, dogwood varieties, Lena Broom, burning bush varieties, euonymus varieties, Manhattan varieties, Apache plume, New Mexico privet. (Ord. 477 §5, 2003; Ord. 481 §1, 2003)

**Sec. 7-4-60. Penalties.**

(a) Any person who fails to comply with any notice issued pursuant to any provision of this Article, upon being found guilty of violation, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(b) If, as a result of the violation of any provision of this Article, the injury, mutilation or death of a street tree, park tree or any other plant on Town property is caused, the party in violation shall make restitution to the Town for the cost of repair, removal or replacement of such tree or plant. Such requirement shall be in addition to any other penalty. (Ord. 477 61, 2003; Ord. 481 §1, 2003)

**ARTICLE V**

**Animal Control**

**Sec. 7-5-10. Definitions.**

For the purpose of this Article, the following words shall have the following meanings, unless the context indicates otherwise.

*Animal* means any animal or fowl.

*Bee* means a honey-producing insect of the genus *Apis*, including all life stages of such insect.

*Cat* means any member of the feline species.

*Dog* means any member of the canine species.

*Dog under control* means a dog that is physically controlled by a person by means of a leash, cord or chain held by the person, or a dog that is at all times accompanied by a person and that at all times immediately responds to the sound or sight command of such person.

*Fowl* means a chicken, duck, goose, turkey, pigeon or bird except any canary, parakeet or similar bird kept solely as a pet.

*Own* means to own, co-own, control, feed, herd, maintain, board, train, breed, keep or harbor an animal, or to knowingly permit an animal to remain for seven (7) consecutive days on or about property or premises owned, controlled or occupied by an owner.

*Owner* means a person who owns an animal.

*Pet* means an animal that is tamed or domesticated and kept as a favorite and treated with affection, except any animal that is customarily larger than thirty (30) pounds or is classified as a carnivore. *Pet* shall not include any dog, cat or fowl.

*Stray animal* means an animal that is not accompanied by a person.

*Vicious animal* means an animal that bites or attacks without provocation, or that has bitten or attacked without provocation. (Ord. 224 §1, 1987; Ord. 481 §1, 2003)

**Sec. 7-5-20. Rabies vaccination.**

Every owner of a dog or cat six (6) months of age or older shall have such dog or cat vaccinated every three (3) years against rabies with a Colorado Department of Health-approved vaccine by a licensed veterinarian. No person shall own any such dog or cat that has not been vaccinated as required by this Section. Upon vaccination, the veterinarian shall provide the owner with a rabies tag showing the year and the series number of the tag, and with a certificate of vaccination, on a form satisfactory to the Town, containing the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;
- (2) The date of vaccination;
- (3) The type of vaccination used;
- (4) The date the next vaccination is required;
- (5) The year and series number of the rabies tag; and
- (6) The breed, age, color and sex of the vaccinated dog or cat. (Ord. 224 §2, 1987; Ord. 481 §1, 2003)

**Sec. 7-5-30. Dog license required.**

(a) No person shall own any dog six (6) months of age or older without obtaining and keeping in force a valid license therefor in the manner provided in this Section.

(b) Each application for a dog license shall be made to the Town Clerk upon a form provided for that purpose. At the time the completed application is submitted to the Town Clerk, the applicant shall submit the certificate of vaccination required by Section 7-5-20 above, and shall pay the required license fee. The Town Clerk shall then issue a numbered dog license and a metal tag bearing the same number as the dog license. The Town Clerk shall keep a record of the date of issuance of each license issued, the number of such license and the name and address of the applicant for such license. Such tag shall be securely attached to a collar, which collar shall be worn by the dog at all times. If a tag is lost or destroyed, a duplicate tag shall be issued upon payment of the required fee.

(c) Such license shall be in effect for a period of one (1) year from the date of issuance. Within ten (10) days before the date of expiration of such license, the owner shall submit a current certificate of vaccination and shall pay the required license renewal fee. The Town Clerk shall then issue a renewal of such license. (Ord. 224 §3, 1987)

**Sec. 7-5-40. Animal bites and quarantine.**

(a) A person having knowledge that an animal has bitten a person shall immediately report the incident to the Police Department or to the Town Clerk.

(b) Any animal that has been reported to have bitten a person shall be quarantined and shall be observed for a period of ten (10) days from the date of the report. On demand by the Chief of Police, the owner of any animal that has been reported to have bitten any person shall produce the animal for quarantine and observation as prescribed in this Section. The procedure for and place of such quarantine and observation shall be designated by the Chief of Police. The owner shall quarantine the animal on the owner's premises, or in an animal shelter if so required by the Chief of Police. If the animal is required to be quarantined in any Town-designated animal shelter, the costs of such quarantine and any associated impound and boarding fees, together with any other applicable costs pursuant to this Article, shall be paid by the owner in advance to the Police Department. A stray animal whose owner cannot be located shall be quarantined in an animal shelter by the Town; if such owner is subsequently located, such owner shall pay the costs of such quarantine, together with any other applicable costs pursuant to this Article.

(c) No person shall remove, without the consent of the Chief of Police, any animal which has been quarantined pursuant to this Section.

(d) Any police officer, Town employee or health officer is authorized to enter upon any premises in the Town for the purpose of impounding any animal as authorized in this Section or for any other purpose as authorized by this Article. (Ord. 224 §4, 1987; Ord. 541 §1, 2006)

**Sec. 7-5-50. Violations; enforcement.**

(a) No person shall fail to keep a dog under control at all times. It shall be prima facie evidence that a dog is not under control if such dog is off the leash of such person and is out of the range of either the sight or sound command of such person, if such dog trespasses upon the property or premises of another person without such other person's consent, or if such dog inflicts any damage without the consent of such person.

(b) No person shall own a vicious animal within the Town.

(c) No person shall permit a dog to habitually disturb the neighborhood; or permit a dog to bark or howl for an excess period of time in the Town any time of the day or night.

(d) Subject to the provisions of Subsection (e) of this Section, no person shall maintain more than three (3) dogs which are four (4) or more months old per residence within the Town, and the owning of more than three (3) such dogs per residence is hereby declared to be a nuisance. This shall not apply to those portions of the Town where the zoning of the property would permit a greater number of animals to be kept.

(e) A person may apply to the Town for a variance from Subsection (d) pursuant to Section 7-5-60 below.

(f) Any vicious animal or any stray animal may be taken up and impounded by a Town police officer or other Town employee. (Ord. 224 §5, 1987; Ord. 368 §1, 1998; Ord. 481 §1, 2003; Ord. 575 §1, 2008)

**Sec. 7-5-60. Variances.**

(a) A person may apply for a variance from the provisions of Subsection 7-5-50(d), 7-5-90(a) or 7-5-90(b) of this Article. Such application shall be on a form supplied by the Town Clerk. The completed application shall be returned to the Town Clerk and shall be accompanied by the required application fee.

(b) The application shall contain the following information:

(1) The name, address and telephone number of the applicant;

(2) The number and species, and such other identifying characteristics as applicable, including but not limited to breed, age, color and sex, of all animals or bees owned by the applicant in the case of a variance from Subsection 7-5-50(d) or 7-5-90(a) of this Article, or the number and species of animals customarily being boarded, trained or groomed by the applicant in the case of a variance pursuant to Subsection 7-5-90(b) of this Article;

(3) A description of the property where such animals or bees will be kept, the length of time they will be customarily on the premises and the facilities for their care;

(4) The reasons for requesting the variance; and

(5) Such other information as the Town may require.

(c) The application shall be reviewed by the Board of Trustees at a public hearing held not sooner than ten (10) days after all property owners within three hundred (300) feet of the application have received a notice of the hearing and a copy of the application. The applicant shall be responsible for providing such notice and such copy to such property owners.

(d) The Board of Trustees may grant a variance if it determines that the granting of such variance would not disturb the neighborhood or create a nuisance.

(e) The variance, if granted, shall be reviewed at least annually and may be reviewed at any time by the Board of Trustees to ensure that the excepted activities are not disturbing the neighborhood or creating a nuisance. (Ord. 224 §6, 1987; Ord. 481 §1, 2003)

**Sec. 7-5-70. Impoundment of vicious animals.**

(a) When a vicious animal has been taken up and impounded, the Police Department shall give notice of such impoundment and of the date, time and location of the hearing provided in Subsection (b) below. If the owner is known, the Police Department shall give such notice personally, by telephone or by mail. If the owner is not known, the Police Department shall post such notice in the offices of the Police Department, and such notice shall contain, in addition to the other information provided for in this Section, a description of the animal by species, if known to the Police Department, color, size and such other descriptive information as the Police Department deems appropriate.

(b) The owner of an animal impounded pursuant to this Section shall be entitled to a hearing before the Municipal Court. Such hearing shall be held as soon as practicable following the impoundment. At the hearing, the Municipal Court shall determine by a preponderance of the evidence whether the animal bit or attacked a person or an animal without provocation. If the Court so determines, the Court may

order the animal to be destroyed in order to protect the public health, safety and welfare, and shall order the owner to pay the impoundment fee, any costs of boarding the animal, any costs of destroying the animal if the animal has been ordered to be destroyed, and any other applicable costs pursuant to this Article. Upon a determination by the Court that the animal has bitten or attacked a person or an animal without provocation on a second or subsequent occasion, the Court shall order the animal to be destroyed in order to protect the public health, safety and welfare, and shall order the owner to pay the impoundment fee, any costs of boarding the animal, any costs of destroying the animal and any other applicable costs pursuant to this Article. (Ord. 255 §1, 1988; Ord. 481 §1, 2003)

**Sec. 7-5-80. Impoundment of stray animals.**

When any stray animal has been taken up and impounded, the Police Department shall record the species of animal and description, including color and size; any tag or registration information; date, time and location of impound; date on which disposition will occur if not claimed prior to said date; and costs required to be paid by the owner pursuant to this Article to obtain the release of the animal. If the owner is known, the Police Department shall give notice to the owner by telephone, electronic mail or mail. If the owner is not known, the Police Department shall make the information available to potential owners who call or visit the Police Department to inquire about the identity of lost or stray animals in the Police Department's custody. The owner shall appear at the Police Department to claim such animal and to pay the impoundment fee, any costs of boarding the animal and any other applicable costs pursuant to this Article, within three (3) days of the date on which notice was given in person, by telephone or by electronic mail, or within three (3) days of the date of mailing, whichever is applicable. If no owner appears to claim such animal and pay such costs within such three-day period, the animal shall be disposed of by selling, adopting out or being destroyed, as the Chief of Police may from time to time determine. (Ord. 224 §7, 1987; Ord. 255 §2, 1988; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

**Sec. 7-5-90. Regulation of animals and bees.**

(a) Keeping of animals and bees prohibited. Subject to the provisions of Subsection (c) below, no person shall own any animal or bees within the Town, except for dogs, cats, pets or fowl, as otherwise provided for in this Article.

(b) Training, boarding or breeding of animals prohibited. Subject to the provisions of Subsection (c) below, no person shall keep, maintain or operate within the Town any kennel, building or other place or establishment for the purpose of training, boarding or breeding of animals, and the keeping, maintaining or operating of such an establishment is hereby declared to be a nuisance.

(c) Variance. A person may apply for a variance from the provisions of Subsections (a) and (b) above pursuant to Section 7-5-60 above.

(d) Pets. No person who owns any pet within the Town shall fail to keep such pet securely enclosed in a pen or building, and no such person shall permit such pet to run or fly at will except on the premises of such person, or to go upon the premises of another person.

(e) Removal of fecal matter. Any owner taking an animal to any public way or other public property in the Town shall immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal. Any owner, taking any animal upon any private property other than his or her own, shall immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal.

(f) Places for animals or bees kept clean; running or flying at will prohibited. No person who keeps any animal or bees within the Town shall permit the place within which the same are kept to become foul, noisome, putrid, malodorous, unwholesome, offensive or in any way dangerous or detrimental to human health, comfort or welfare. Any such place kept in violation of this Subsection is hereby declared to be a nuisance. No person who owns any animal shall permit the same to run or fly at will except on the premises of such person, or to go upon the premises of another person.

(g) Exceptions.

(1) This Section, except for Subsection (f) above, shall not be applicable to the display of any pet or fowl by an entrant in any show, fair or 4-H project. No person shall display any animal, except a pet or fowl, at any such show, fair or 4-H project.

(2) This Section, except for Subsection (f) above, shall not be applicable to the temporary keeping by a licensed veterinarian of an animal during the time necessary for treatment.

(3) This Section shall not be applicable to any person engaged in operating a packinghouse or slaughterhouse governed by Colorado Health Department regulations, nor keeping of animals for a temporary period of time not to exceed seventy-two (72) hours in connection with the operation of such business.

(4) This Section, except for Subsection (f) above shall not be applicable to the owning of no more than two (2) pets. Such pets shall be kept entirely within an interior cage, an exterior pen or a fenced area. The owner of such pets shall obtain a license from the Town Clerk, identifying the pets by breed, color and sex.

(5) This Section, except for Subsection (f) above, shall not apply to the owning of no more than twelve (12) fowl. Such fowl shall be kept entirely within an interior cage, an exterior pen or a fenced area.

(6) This Section, except for Subsection (f) above, shall not be applicable to any animal kept in an area zoned for agricultural-recreational use.

(h) Tethering that endangers well-being of domesticated animal unlawful; lawful tethering of domesticated animal defined.

(1) It is unlawful to tether any animal in such a manner as to create an immediate physical danger to the well-being of the animal.

(2) Tethering to a pole, stake or any similar stationary object shall be deemed to create an immediate physical danger to the well-being of a domesticated animal if the domesticated animal is not within the immediate vicinity of its owner, caretaker or other responsible adult, except as provided in Paragraph (3)(g) below.

(3) Domesticated animals not in the immediate vicinity of their owner, caretaker or other responsible adult may be tethered by means of a trolley system or attached to a pulley on a cable run, if the conditions set forth below are met:

a. The tether must be attached to a properly fitting collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering.

b. There must be a swivel attached to both ends of the tether to minimize tangling.

c. The tether may not weigh more than one-eighth ( $\frac{1}{8}$ ) of the animal's body weight.

d. The trolley system or cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level.

e. The tethered domesticated animal shall be provided with sufficient area to exercise, and shall have access to adequate shelter and adequate water.

f. The trolley system or cable run must be located on the domesticated animal owner's property and must prevent the tether from extending over an object or edge that could result in injury or strangulation of the domesticated animal and prevent the tether from becoming entangled with other objects or animals.

g. A stake, if flush with the ground and containing a slip ring or other low profile, freely rotating ring device, shall be allowed under the same conditions as a trolley system except for the trolley height requirements.

(4) In no case shall a domesticated animal be tethered in excess of ten (10) hours in a twenty-four-hour period. Tethering in excess of ten (10) hours in a twenty-four-hour period shall be unlawful and shall be deemed to constitute inhumane treatment of the domesticated animal. (Ord. 224 §8, 1987; Ord. 398, 1999; Ord. 481 §1, 2003; Ord. 560 §1, 2007)

**Sec. 7-5-100. Fees.**

The fees which apply to this Article are set forth in the Fee Schedule. (Ord. 224 §9, 1987; Ord. 481 §1, 2003; Ord. 571 §2, 2007)

**Sec. 7-5-110. Reserved.**

**Sec. 7-5-120. Animal at large.**

(a) No animal shall be at large or beyond the control of its keeper.

(b) It shall be prima facie evidence that an animal is at large if the animal is not under restraint or the keeper is not aware of its location.

(c) All cats and dogs are required to have current rabies vaccinations. Owners of all cats and dogs are to retain proof of the rabies vaccinations that have been made until a subsequent vaccination is given to the dog or cat. (Ord. 606 §1, 2009)

## ARTICLE VI

### Water

#### **Sec. 7-6-10. Well water sign displayed.**

Any owner, lessee or occupant of any residence or commercial or industrial facility, who uses a state-permitted well for irrigation or other outdoor uses, must display a sign with the words "Well Water" that is clearly and conspicuously visible from the street in front of the premises. The sign must also include the permit number. (Ord. 541 §1, 2006)

## ARTICLE VII

### Hunting

#### **Sec. 7-7-10. Revocable permits for hunting.**

The Town Administrator may grant a revocable permit to a landowner, containing such conditions as may be appropriate, to allow hunting on specific parcels or areas within parcels within the Town. Such permit shall be granted for a time period to be determined by the Town Administrator, but not to exceed one (1) year. Any such permit so granted shall be subject to all statutes and regulations of the State pertaining to the discharge of firearms, BB guns, pellet guns, bow and arrow, crossbows or other weapons. Any such permit so granted shall specifically designate what animals, fowl or wildlife may be hunted in such designated parcel or area and shall state that such animals, fowl or wildlife may only be hunted in conformance with state regulations governing hunting seasons. The hunting permit application shall be accompanied by a payment of one hundred dollars (\$100.00), which is required for each new application and for each subsequent renewal application. The permit applicant is required to sign an agreement, to include the landowner's responsibility to provide a copy of the permit to all lessees and/or users of the property, and also acknowledge that the revocable permit can be revoked without cause at any time at Town discretion. Any such permit so granted shall specifically designate the individual hunters who will use the property. Additionally, individual hunters must possess a valid permit from the Division of Wildlife, and each must apply individually with the Town for inclusion on the list applicable to a specific parcel or area and submit a twenty-five-dollar fee. Individual hunters must sign an agreement acknowledging his or her obligations and responsibilities. (Ord. 563 §1, 2007)

#### **Sec. 7-7-20. Appeal.**

Administrative denial of a revocable permit may be appealed to the Board of Trustees. Within thirty (30) calendar days of an administrative denial of a revocable permit the applicant shall submit to the Town Clerk a written request for Board of Trustees appeal. Town staff will then schedule review of the appeal at a regularly scheduled Board of Trustees meeting. (Ord. 563 §3, 2007)

#### **Sec. 7-7-30. Violation.**

Any violation of the foregoing provisions may be punishable by a fine of up to three hundred dollars (\$300.00) and up to one (1) year in jail. (Ord. 563 §2, 2007)