

CHAPTER 7

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ARTICLE 1

Hazardous Material

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

Hazardous material means any substance or material designated as a hazardous material by the United States Department of Transportation according to 49 CFR Part 172, as in effect on July 1, 1980.

Hazardous material incident means any emergency circumstances involving the sudden discharge of hazardous material which, in the judgment of an emergency response authority, threatens immediate and irreparable harm to the environment or the health and safety of any individual other than individuals exposed to the risks associated with hazardous materials in the normal course of their employment. *Hazardous material incident* does not include any discharge of a hazardous material authorized pursuant to any federal, state or local law or regulations.

Refuse means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish, containers, boxes, glass, cans, bottles, garbage and waste; discarded building and construction materials including but not limited to plaster, broken concrete, bricks, cinderblocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known. For the purposes of this Article, the word *refuse* shall further mean and includes abandoned or discarded motor vehicles, motor vehicle parts, tools, containers of any kind, appliances, furniture and any other discarded or abandoned items of personal property commonly known as junk. (Prior codes 7-1, 10-301; Ord. 15-2008 §1)

Sec. 7-1-20. Emergency response authority designated.

Pursuant to Section 29-22-102(3), C.R.S., the Fire Department is designated as the emergency response authority for hazardous material incidents occurring within the corporate limits of the Town. (Prior code 7-2)

ARTICLE 2

Administration and Abatement of Nuisances

Sec. 7-2-10. Definitions.

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

Hazard to health or safety includes any activity so recognized by the United States, the State or the ordinances of the Town. Such hazards shall also include activities likely to cause foul or offensive odors, promote the growth or propagation of disease-carrying insects, pollute the air or

groundwaters of adjacent property, create loud or offensive sounds or cause drainage and runoff to occur in other than historical patterns.

Inoperable vehicle means any automobile, truck or self-propelled vehicle incapable of moving under its own power or which lacks a valid current license plate, or which does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.

Nuisance means any substance, act, occupation, condition or use of property declared a *nuisance* by this Article, declared a *nuisance* by the State or by any court or agency thereof, known as a *nuisance* at common law or of such nature and duration as to:

- a. Substantially annoy, injure or damage the comfort, health, repose or safety of the public;
- b. In any way render the public insecure in life or in the use of property; or
- c. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.

Offensive or unwholesome business or establishment means any business or establishment involving the provision of goods or services to others in exchange for something of value, which business or establishment may create, foster or maintain any hazard to health or safety.

Person, as used in this Article, means a natural person, corporation, limited liability company, business trust estate, partnership, association, joint stock company, joint venture, two (2) or more persons having a joint or common interest, any other legal or commercial entity, a receiver, executor, trustee, conservator, personal representative or any other representative appointed by order of any court. (Prior code 7-21)

Sec. 7-2-20. Nuisances prohibited.

No person being the owner, agent, renter, lessee, tenant, occupant or having under his or her control any building, lot or premises or unimproved real estate within the Town limits shall maintain or allow any nuisance to be or remain thereon. (Prior code 7-22)

Sec. 7-2-30. Authority of Town to declare nuisances.

Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 7-2-10 above may be so declared by the Town Administrator, and nothing in Section 7-2-40 below shall be construed to limit the power of the Town Administrator to make such declaration. (Ord. 5, 2009 §3)

Sec. 7-2-40. Investigation; notice to abate nuisance.

The Town Administrator, any police officer or any person specifically authorized by the Town Administrator shall investigate into every public nuisance within the Town. It shall further be the duty of any such Town-appointed official to deliver a request for abatement to any person or persons in control of any public nuisance. Any such request for abatement shall be in writing and shall state the nature of the nuisance or nuisances which are to be abated and shall specify a reasonable time when such nuisance or nuisances are to be abated. (Ord. 5, 2009 §4)

Sec. 7-2-50. Separate offense.

Each day any person is in violation of any provision of this Chapter shall constitute a separate offense. (Prior code 7-26)

Sec. 7-2-60. Civil remedy not precluded.

No provision of this Chapter shall be construed as prohibiting the Town or any private person from bringing any action, seeking any remedy or taking any step with respect to any nuisance set forth in this Chapter as that person may be authorized or permitted to bring, seek or take under state or federal law. (Prior code 7-27)

Sec. 7-2-70. Abatement of nuisances.

In addition to, or as an alternate to Municipal Court prosecution or filing a civil action, the Town may, upon five (5) days' prior written notice to the owner, abate the nuisance or cause it to be abated. The Town may charge the cost of such abatement to the owner, to be recovered in the same manner as unpaid water or sewer utility charges as provided under Colorado law or this Code. (Prior code 7-28)

ARTICLE 3

Nuisances

Sec. 7-3-10. Nuisances declared.

Whenever there exists 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 a violation of this Article. (Ord. 15-2008 §1)

Sec. 7-3-20. Unwholesome business.

Offensive or unwholesome businesses or establishments are prohibited. From and after the effective date of the ordinance codified herein, it shall be unlawful for any person to allow or suffer upon his or her premises or any premises which he or she is entitled to possess any offensive or unwholesome business or establishment within the Town, or within one (1) mile beyond the outer limits of this Town as such outer limits are now or may be hereafter constituted. Any slaughterhouse or other place for slaughtering animals within the Town is therefore declared to be a nuisance. (Prior code 7-24)

Sec. 7-3-30. Posting handbills, flyers, posters and placards.

Any handbill, flyer, poster, placard or painted or printed matter which shall be stuck, posted or pasted on any public or private house, vehicle, store or other building, upon any fence, power pole, telephone pole or other structure or thrown or deposited upon any street, alley or public or private

place without the permission of the owner, agent or occupant of the property shall be deemed a nuisance and may be abated as provided in this Chapter. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-40. 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. 15-2008 §1)

Sec. 7-3-50. Stagnant ponds.

The permitting or maintaining of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance. 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. (Ord. 15-2008 §1)

Sec. 7-3-60. Sewer inlet.

No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that has a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become noxious or offensive to others or injurious to public health. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-70. 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 whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the Town is hereby declared a nuisance. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-80. 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. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-90. Transporting garbage, manure.

Every vehicle or trailer used to transport manure, garbage, swill or offal in any street in the Town shall be fitted with a substantially tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Ord. 15-2008 §1)

Sec. 7-3-100. Junkyard and dumping grounds.

All places used or maintained as junkyards or dumping grounds, for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and house trailers or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors, builders or other persons, which places essentially interfere with the comfortable enjoyment of life or property by others, are hereby declared to be nuisances. (Prior code 7-24)

Sec. 7-3-110. Accumulation of garbage, refuse and other matter.

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 garbage, refuse, trash or other waste or discarded material, including discarded building and construction materials, other than those ordinarily attendant upon for the use of which such premises are legally intended. Any such accumulation shall constitute a nuisance. (Prior code 7-24)

Sec. 7-3-120. Garbage containers and junk.

The storing or keeping by any person within the Town of any old articles or materials which may be classified as junk, adjacent to or in close proximity to any public building, public park or grounds, business buildings or residences, without first providing fully enclosed buildings for storage of the same, shall be deemed a public nuisance. It is specifically provided that trash, garbage and refuse and trash, garbage and refuse containers, barrels and cans must be obscured from view and not accessible to scavenging animals. (Prior code 7-24)

Sec. 7-3-130. Discarded or abandoned iceboxes, motor vehicles and similar items.

It is an offense for any person to abandon, discard or place, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, washer, dryer, freezer, icebox, appliance, motor vehicle or any other article having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which when closed cannot be easily opened from the inside or who, being the owner, lessee or manager of such place knowingly permits such abandoned or discarded article to remain in such condition. (Prior code 7-24)

Sec. 7-3-140. Depositing dog waste.

No owner of any dog shall allow or permit the depositing of fecal waste material by such dog within any public park or other landscaped public area within the Town except in areas designated therefor or unless such waste material is promptly removed from the public park or other landscaped public area or deposited in a trash container. (Prior code 7-24)

Sec. 7-3-150. Dead animal removal.

When any animal dies in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal is in any street, highway or public grounds in the Town, it shall be the duty of the Chief of Police to cause such body to be removed forthwith beyond the limits of the Town. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-160. Loudspeakers and sound trucks.

The playing, operation or use by any person within the Town of any loudspeaker, sound amplifier, radio or phonograph with loudspeaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon or within any vehicle or upon or within any building or structure shall be deemed a public nuisance, unless the owner or user thereof first applies to and receives written permission from the Town Administrator to operate such device. (Prior code 7-24)

Sec. 7-3-170. Weeds.

No owner, occupant or manager of any real property shall allow or permit weeds (which for purposes of this Section shall be defined to include vegetation of little or no value not used for an ornamental or agricultural purpose) to grow or accumulate on any property owned, managed or occupied by him or her located in the Town (other than Forest Service lands) to a height in excess of eighteen (18) inches above ground level. (Prior code 7-24)

Sec. 7-3-180. Discharging firearms.

The discharging by any person, except a law enforcement officer in the performance of his or her duties, of any gun, pistol, shotgun, rifle, air gun, gas-operated gun, spring gun, firearm, paintball gun or weapon of any kind within the limits of the Town, except upon the express and specific authorization of the Police Chief, shall be deemed a public nuisance; provided that nothing contained in this Section shall be construed to apply to persons firing or discharging such weapons in defense of person or property; and further provided that firing or discharging such weapons was reasonable in light of attendant circumstances. (Prior code 7-24)

Sec. 7-3-190. Inoperable vehicles.

(a) Any inoperable vehicle parked on any lot or parcel of property in the Town is a nuisance. For purposes of this Section, *inoperable vehicle* shall mean any vehicle, including but not limited to motor vehicles, trailers, motorcycles, snowmobiles and ATVs, which does not have a current license or registration, is incapable of moving or operating on its own power or as originally manufactured or is missing, in the judgment of authorized Town officials, any significant component part. However, not more than two (2) unlicensed inoperable vehicles owned by the owner or occupant of the property may be stored, for repair or restoration purposes only and not for sale, in the side or rear yard of the property if screened from public view by a permanent opaque wall or fence at least six (6) feet in height.

(b) It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the Town, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. (Prior code 7-24; Ord. 15-2008 §1)

Sec. 7-3-200. Vacant buildings.

It is declared a nuisance of the owner of any vacant building to fail to replace any broken window or door or to fail to secure any other means of entry into such building within seventy-two (72) hours after notice is given by the Town. (Prior code 7-24)

Sec. 7-3-210. Abandoned buildings.

No building, structure or property shall be used, kept, maintained or operated in or retained within the Town if the use, keeping, maintaining or operation of the same shall be dangerous or detrimental to public safety or general welfare, including but not limited to buildings or structures which are abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction. (Prior code 7-24)

Sec. 7-3-220. Disorderly house.

The keeping of any dwelling, boardinghouse, rooming house or other residential property in violation of any provision of this Chapter, including any violation of maximum occupancy limitations imposed by this Article or any condition of approval of the use of the property imposed by action of the Town is a nuisance. A disorderly house shall also include keeping any such property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighborhood properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unsightly or unwholesome manner, noxious or offensive to others or injurious to public health. For purposes of enforcement of this Subsection, the person responsible for maintenance of a disorderly house may be the owner of the property, lessee, sublessee, tenant, occupant or renter, jointly or severally. (Prior code 7-24)

Sec. 7-3-230. Fences in disrepair.

Any fence which comes into disrepair or is not maintained is hereby declared a nuisance. (Prior code 7-24)

ARTICLE 4

Refuse

Sec. 7-4-10. Accumulation prohibited; nuisance declared.

Any accumulation of refuse on any premises, improved or unimproved, in the Town is prohibited and is declared to be a nuisance. (Prior code 10-302)

Sec. 7-4-20. Abatement procedure.

(a) Whenever the Town Administrator directs, the Town-appointed official shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the Town Administrator requiring the removal of any accumulated refuse from such property or premises within seven (7) days after service of the notice.

(b) If such property owner, agent or person having charge of such property does not remove such refuse in accordance with the requirement of the order, the Town Administrator may order that such refuse be removed by the Town or other agent of the Town and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that in case of failure to pay such assessment within ten (10) days after the same is made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Town Council will hear any objections as to the adjustment and correctness of the amount so assessed.

(c) If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law. (Ord. 5, 2009 §5)

Sec. 7-4-30. Accumulation and deposit prohibited.

No person shall deposit or place any garbage, rubbish, waste material or ashes in such a manner that the same is or tends to become a nuisance or in such a manner that it endangers or tends to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage, waste material, rubbish or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another. (Prior code 10-304)

Sec. 7-4-40. Throwing or depositing in public place prohibited.

No hay, straw, shavings, excelsior, paper or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones, rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalk, gutter, sewer intake, alley, vacant lot or other property. (Prior code 10-305)

Sec. 7-4-50. Accumulations; responsibility; nuisance declared.

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 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. (Prior code 10-306)

Sec. 7-4-60. Building materials.

All plaster, broken concrete, bricks, cinderblocks, 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 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. (Prior code 10-307)

Sec. 7-4-70. Removal from certain businesses required.

(a) Discarded automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times.

(b) Silt and similar deposits from automobile wash racks shall be removed to the County dump by the establishment creating such deposit.

(c) Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Fire Chief, such removal to be handled by the establishments responsible therefor. (Prior code 10-308)

Sec. 7-4-80. Manure.

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. (Prior code 10-309)

Sec. 7-4-90. Burning; nuisance declared.

No person shall set fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials except wastepaper, in any ash pit or other receptacle or upon the ground. Any such act is a nuisance because of smoke and odor. (Prior code 10-310)

Sec. 7-4-100. Interference with Town disposal site prohibited; exception.

All garbage, rubbish, waste material and ash disposal sites owned or under the control of the Town, together with all matter whatsoever deposited or existing thereon, shall be the property of the Town, and no person shall enter upon such sites or carry off, dispose of, burn or in any manner disturb or molest any matter or thing deposited or existing upon such sites, except under direction or authority of the Town Administrator. (Prior code 10-311)

ARTICLE 5

Garbage Collection Service

Sec. 7-5-10. Contract authority.

The Town Council may enter into a contract or agreement with any business for the collection and disposal of residential ashes, trash and garbage throughout the Town; or it may, at its discretion, provide the residents the opportunity for individual collection and disposal of ashes, trash and garbage. Any waste service provider operating within the Town shall comply with the business license provisions under Section 6-1-20 of this Code. (Ord. 15-2008 §1)

Sec. 7-5-20. Delinquent accounts.

All accounts shall be considered delinquent if not paid by the tenth day of the month following the close of the billing period. All delinquent accounts are subject to stoppage of service without notice. If a delinquent account is not paid within thirty (30) days, the waste provider may cease all refuse collection for that account unless otherwise directed by the Town Administrator. Service shall be resumed thereafter only on payment of the accumulated fees for the period of collection and the period of noncollection plus twenty percent (20%), unless the Town Administrator specifically directs otherwise. (Ord. 15-2008 §1)

Sec. 7-5-30. Delinquent accounts; legal remedy.

(a) In addition to the stoppage of service authorized in Section 7-5-20 above for nonpayment of collection charges, the amount due shall become a lien against said property until the same is paid; provided that, in case of failure to pay such assessment within ten (10) days after the same shall be made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the County for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Town Council will hear any objections as to the adjustment and correctness of the amount so assessed.

(b) If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law. (Ord. 15-2008 §1)

ARTICLE 6

Weeds and Brush

Sec. 7-6-10. Undesirable Plant Management Advisory Commission designated.

The Town Council 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. 15-2008 §1)

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

Sec. 7-6-20. Declaration of nuisance.

Any weeds or brush found growing in any lot or tract of land in the Town is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place. (Ord. 15-2008 §1)

Sec. 7-6-30. Duty of property owner to cut.

It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more. (Ord. 15-2008 §1)

Sec. 7-6-40. Removal from Town.

All weeds and brush cut in accordance with Section 7-6-30 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut. (Ord. 15-2008 §1)

ARTICLE 7

Trees

Sec. 7-7-10. Prohibited trees.

(a) It is unlawful and deemed a nuisance to sell or import into the Town or plant or cause to be planted within the Town limits any female box-elder tree (*Acer negundo*), female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the Town, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance.

(b) The owner of any property within the Town, upon which any tree listed in Subsection (a) above has been planted after the effective date of the ordinance codified herein, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the Town.

(c) In case of the failure of any owner of such property to cut and remove such tree as required in Subsection (b) above, the Town shall cut and remove such tree. (Ord. 15-2008 §1)

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

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a *danger to public safety* shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value. (Ord. 15-2008 §1)

Sec. 7-7-30. Control of trees and shrubs.

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance.

(b) The Town shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The Town shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.

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

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the Town, except any person who notifies the Town of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement. (Ord. 15-2008 §1)

ARTICLE 8

Air Quality Control

Sec. 7-8-10. Purpose and applicability.

(a) These regulations are enacted for the purpose of promoting the health, safety and general welfare of the residents and visitors in the Town. These regulations are intended to achieve the following more specific purposes:

- (1) To protect the air quality in the Town;
- (2) To reverse the trend towards increased air degradation in the Town;
- (3) To provide heat sources which are efficient but have a reduced polluting effect; and
- (4) To generally protect the air for the purpose of the public's health, safety and welfare.

(b) The provisions of this Article shall apply to all areas of the Town. (Prior code 7-111)

Sec. 7-8-20. Definitions.

(a) The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

Air contaminant means fumes, smoke, particulate matter, vapor, gas or any combination thereof, but not including water vapor or steam condensate.

Motor vehicle means any self-propelled vehicle which is designed primarily for travel on the public and private roads, highways and other rights-of-way, which is generally and commonly used to transport persons and property over said roads, highways and rights-of-way.

Pellet-burning stove means a solid fuel heating device designed to solely utilize as a fuel compressed pellets of wood or pellets of other biomass material, but not coal or peat, to heat the interior of a structure. It incorporates a forced draft with an automatic mechanism which feeds fuel to the firebox.

Refuse means all solid wastes, garbage and rubbish, whether combustible or noncombustible, including rubble.

Solid fuel-burning device means any fireplace, stove, firebox or device intended and/or used for the purpose of burning wood, coal, pulp, paper or other nonliquid or nongaseous fuel. This definition specifically excludes noncommercial barbecue devices used to cook food outdoors.

(b) Any word, term or phrase not defined or specified in this Section shall be defined in accordance with Chapter 16 of this Code. (Prior code 7-112; Ord. 15-2008 §1)

Sec. 7-8-30. Solid fuel-burning devices.

No solid fuel-burning device shall be approved for construction or installation of, and no building permit shall be issued for, or include the installation of, any solid fuel-burning device or components thereof in the Town. No mobile or modular home shall be moved into place in the Town and hooked up to utility service which has installed within such mobile or modular home a solid fuel-burning device. The following exceptions apply:

(1) The installation of a pellet burning stove is permitted.

(2) The replacement of an existing and functioning solid fuel-burning device is permitted when the replacement unit meets or exceeds the emissions standards described by current Colorado Air Quality Control Commission Regulation No. 4 as amended or is listed as an Environmental Protection Agency Phase II Appliance. (Prior code 7-113; Ord. 15-2008 §1)

Sec. 7-8-40. Replacement of solid fuel-burning devices by burning devices which use gaseous fuels.

The replacement of an existing and functioning solid fuel-burning device by a burning device which can only utilize gaseous fuels is permitted and encouraged. That portion of the building permit fee involved in the direct cost of such replacement will not be charged to the building permit applicant. (Prior code 7-114)

Sec. 7-8-50. Installation of a burning device which uses gaseous fuel.

If a burning device utilizing gaseous fuel is installed within the Town, such device shall be approved by the American Gas Association or listed by Underwriter's Laboratories. All such devices

with pilot lights will have installed a system which stops flow of gas to the device in the event the pilot light is extinguished. (Prior code 7-115)

Sec. 7-8-60. Inspection of installation of burning device.

The installation or replacement of any device designed to burn any type of fuel within the Town shall be subject to the issuance of a building permit. Such installation shall be inspected and approved by the Building Official and the Fire Chief, and shall meet the current provisions of the Plumbing and Mechanical Codes of the Town. (Prior code 7-116; Ord. 15-2008 §1)

Sec. 7-8-70. Burning of refuse.

The burning of refuse in any burning device is not permitted. (Prior code 7-117)

Sec. 7-8-80. Open burning.

(a) Open burning is not permitted.

(b) Exceptions may be granted with the approval of the Fire Chief under the following conditions:

(1) When conducted for the purpose of Fire Department training.

(2) When conducted for the purpose of removing a fire hazard and then only with the written concurrence of the Fire Chief.

(3) When otherwise lawfully conducted as a small fire, bonfire or barbecue in conjunction with recreational activity. (Prior code 7-118)

Sec. 7-8-90. General penalty.

It is unlawful for any person to violate any provision of this Article or fail to comply with any of the requirements of this Article. Such violations shall constitute a misdemeanor offense. Any person convicted of a violation shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 7-119; Ord. 15-2008 §1)

ARTICLE 9

Animal Control

Sec. 7-9-10. Title.

This Article title shall be known as "Animal Control." (Ord. 23, 2008 §1)

Sec. 7-9-20. Intent.

It is the intent of the Town Council in adopting these pet animal control and licensing regulations to declare that pet animal and working dog owners be responsible for their animals' conduct, that they

exercise control with respect to their animals in a manner which recognizes the rights, health and safety of others in the community and that they be held strictly liable for conduct of their animals which violates these provisions. (Ord. 23, 2008 §1)

Sec. 7-9-30. Definitions.

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

Abandon means:

- a. To fail to provide a pet animal necessary care for a period of twenty-four (24) hours or longer; or
- b. To deposit, leave, drop off or otherwise dispose of any pet animal on public or private property without providing necessary care.

For the purposes of this Chapter, any pet animal is presumed to be abandoned if, after the posting or personal service of written notice describing deficiencies of necessary care for a pet animal, the deficiencies are not corrected within twenty-four (24) hours of such notice by any person other than an animal control officer.

Animal means nonhuman mammals, including but not limited to dogs, cats, birds and reptiles.

Animal control officer means any person empowered by the Town to enforce the provisions of this Chapter pursuant to Section 30-15-105, C.R.S., County Sheriff's Department personnel and peace officers as defined in Section 18-1-901, C.R.S.

Animal Services Department means the Eagle County Department of Animal Services.

Animal shelter means all facilities and premises authorized by the County Board of Commissioners to care for pet animals impounded pursuant to the provisions of this Chapter. Such facilities and premises shall also be considered public animal shelters for the purpose of impounding dangerous dogs pursuant to the provisions of Section 18-9-204.5, C.R.S.

Attack means aggressive behavior such as biting, injuring or chasing a person or animal that may result in bodily injury, serious bodily injury or the death of a person or animal.

Bite means the severe bruising, piercing, laceration or breaking of the skin by the teeth or jaws of any animal.

Bodily injury means any physical injury that results in severe bruising, muscle tears or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

Cat means any animal of the species *Felis domesticus* or any hybrid thereof.

Control means supervision of, and influence over, any pet animal sufficient to prevent the violation of any of the provisions of this Article. Control shall be by physical control or demonstrable control, as defined herein.

Dangerous animal means any pet animal or working dog that has, without provocation, inflicted serious bodily injury to a person, has caused the death of a human being, has, while off the premises of its owner or responsible person, killed a domestic animal without provocation or has been previously classified as potentially dangerous and is found in violation of the provisions of this Article.

Dog means any animal related to the wolf, fox, coyote or jackal.

Demonstrable control means control of an animal by the physical presence of the owner or responsible person and such person can exhibit real and demonstrable control over the pet animal. This type of control can be accomplished by voice, whistle or electronic means. *Demonstrable control* is further defined as the dog responding without delay to verbal, whistle or electronic command of "heel," "come," "sit," "lie down" or a similar command. The dog owner or keeper of a dog shall be able to demonstrate control if requested by an authorized officer.

Habitual offender means any pet animal owner who has pled guilty to, or been found guilty of, violating any provision of this Article three (3) times within any eighteen-month period. For the purposes of this Article, after the effective date of this Article, any disposition of charges involving probation or deferred judgment and sentencing shall be considered to be convictions.

Impound means to place an animal in public or protective custody in the interest of the safety of the animal and/or the safety of the community.

Mistreatment means every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Necessary care for a pet animal includes, but is not limited to, providing food, water, protection from the weather and removal of waste from the animal's enclosure.

Neglect means failure to provide food, water, protection from the weather, opportunity for exercise, socialization or other care consistent with the needs of the species of the animal in question.

Owner means any person, firm, corporation or organization owning, possessing, keeping, having financial or property interest in or having temporary control or custody of any pet animal.

Pet animal means dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians and invertebrates, or any species of wild, domestic or hybrid animal sold, transferred or retained for the purpose of being kept as a household pet, except livestock, and includes any other animals specified in Section 35-80-102(10), C.R.S. As used herein, *livestock* includes cattle, horses, mules, burros, sheep, poultry, swine, llama, goats and any other animal when used for working purposes or raised for food or fiber production on a farm or ranch. *Pet animal* does not include an animal used for working purposes on a farm or ranch or a working dog in the process of being worked.

Pet animal facility means any facility licensed as such pursuant to the provisions of Part 1 of Article 80 of Title 35, C.R.S.

Physical control means control of a pet animal by means of a tether or a leash not longer than ten (10) feet attached to the animal and held by the owner or responsible person or confinement within a vehicle or confinement in a secure animal enclosure.

Potentially dangerous animal means any pet animal or working dog that, without provocation:

- a. Threatens to attack or bites causing bodily injury to a human being or domestic animal;
- b. Approaches a person upon the streets, highways, sidewalks or other areas open to the public in a menacing fashion;
- c. Has a known propensity, tendency or disposition to attack, without provocation, or cause physical injury or otherwise threatens the safety of human beings or domestic animals; or
- d. Is owned or harbored primarily, or in part, for the purpose of fighting or is trained for fighting.

Premises means property owned, leased or expressly permitted to be used by an owner, including any confined area or locality such as a residence, business, room, shop, building or motor vehicle, including the open-space bed of a truck.

Protective custody means:

- a. The taking of an animal into custody by Animal Services to prevent the mistreatment, neglect or abandonment of such animal; or
- b. Impoundment of an animal because of the owner's inability to care for the animal due to incarceration, incapacitation or transport to a medical treatment facility.

Provocation means harassment, teasing, threatening, striking or attacking an animal or its owner in the animal's presence, by either a person or another animal. *Provocation* may also include the intrusion onto the physical property of the pet animal's or working dog's owner without the owner's consent.

Public custody means the impoundment and/or confinement of an animal in the animal shelter, or the physical control of an animal by an animal control officer performing duties pursuant to the provisions of this Chapter.

Quarantine means the confinement of an animal for a specific period of time during which the animal will be observed in order to detect symptoms of disease. At the discretion of the Animal Services Director, the animal may either be quarantined by being:

- a. Taken into public custody; or
- b. Kept in a secure animal enclosure and/or within the physical control of the owner during the entire quarantine period.

Rabies registration means the vaccination of an animal with an anti-rabies vaccine administered under the supervision of a licensed veterinarian and the retention of a certificate of rabies vaccination by the animal owner.

Secure animal enclosure means a structure which is suitable to prevent the escape of the animal, prevents the entry of young children, has a top, bottom and all sides, and is locked.

Serious bodily injury means such injury which involves:

- a. A substantial risk of permanent physical disability, impairment or a disfigurement; or
- b. A substantial risk of protracted loss or impairment of the function of any part of or organ in the body.

Tethering means to securely tie, chain or leash a pet animal to an inanimate object.

Trespass means the entry by a pet animal or working dog upon any private property other than that of the pet animal's owner, or upon public property which is posted as not permitting animals or such animals.

Working dog means a dog which is actually working livestock, guarding livestock from predators, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, assisting in rescue efforts or being trained for any of these purposes. (Ord. 23, 2008 §1)

Sec. 7-9-40. Vaccination of pet animals required.

(a) Owners of pet animals and working dogs which are harbored, kept or maintained in the County, for which animals the United States Department of Agriculture has licensed a rabies vaccine, shall vaccinate, maintain the efficacy of the vaccination and maintain proof of current, efficacious rabies vaccination for their pet animals and working dogs.

(b) Pet animals and working dogs shall be vaccinated when the animal reaches the age of three (3) months or is licensed, if applicable, whichever occurs first, and the vaccination shall be repeated as necessary in accordance with recommendations of the United States Department of Agriculture or vaccine manufacturer to maintain efficacy of the vaccination. (Ord. 23, 2008 §1)

Sec. 7-9-50. Annual dog licensing.

All dogs harbored, kept or maintained in the Town shall be licensed, except dogs kept as part of the operation of a pet animal facility or County-maintained shelter.

(1) All dogs over the age of three (3) months shall have a valid pet animal license after the dog has been kept, maintained or harbored in the Town for any consecutive thirty-day period or immediately upon citation for any violation of this Article.

(2) All dog licenses shall expire on December 31 of the year for which the license is issued.

(3) A valid dog license tag shall be attached to a collar or harness and shall be worn by the dog at all times. It shall be a defense to prosecution that the owner or responsible party can

produce a certification by a veterinarian that the dog cannot wear a collar or harness because of a permanent medical condition or the dog was, at the time of notice, working in a capacity that made the wearing of a collar or harness hazardous to the dog.

(4) The license fees shall be established by resolution of the Town Council. (Ord. 23, 2008 §1)

Sec. 7-9-60. Voluntary cat identification.

Owners of cats harbored, kept or maintained in the Town are entitled to obtain an identification tag suitable to be worn on a collar or harness. Cat identification tags will be available from the County Animal Services Department and/or any agency or person designated by the Board of County Commissioners by resolution upon the receipt of the executed application, payment of the identification tag fee and evidence of a current rabies vaccination with efficacy extending past the date of tag issuance. (Ord. 23, 2008 §1)

Sec. 7-9-70. Failure to control a pet animal.

It shall be unlawful and considered a failure to control a pet animal when:

(1) A pet animal is off the owner's premises without the presence of a person having control as defined in this Article.

(2) A pet animal is allowed to become a danger to any person or property.

(3) A pet animal is tethered upon any public or private property without the permission of the person owning, leasing or otherwise controlling the property in question.

(4) Any pet animal reaches past the perimeter of the owner's premises with its teeth or claws causing or threatening bodily injury or property damage to another.

(5) A pet animal is allowed to defecate on public or private property and the owner or responsible person of the animal does not remove the waste in a timely manner.

(6) A female cat or dog, during estrus, is not under physical control, confined indoors or confined within a secure animal enclosure.

(7) A pet animal is not under physical control in areas posted by any agency of the federal government, the State or any political subdivision of the State as requiring the animal to be on a leash.

(8) Any pet animal is mistreated or is left in circumstances which constitute abandonment.

(9) A pet animal is allowed to enter private property not that of the owner's or on public property which is posted as not permitting such animals. (Ord. 23, 2008 §1)

Sec. 7-9-80. Interference with an owner's control of a pet animal.

It shall be unlawful for any person to perform any act which interferes with, prevents or hinders the efforts of an owner to control any of the owner's pet animals. (Ord. 23, 2008 §1)

Sec. 7-9-90. Interference with an animal control officer.

(a) It shall be unlawful to interfere with, hinder, prevent or obstruct an animal control officer in his or her performance of duty pursuant to this Article.

(b) It shall be unlawful to remove any animal from public custody without the consent of an animal control officer. (Ord. 23, 2008 §1)

Sec. 7-9-100. Procedure when a pet animal or working dog bites a person.

(a) Duty to report pet animal and working dog bites.

(1) Any medical personnel who provides treatment to a person for any animal bite that has pierced the skin shall report to an animal control officer or the County Animal Services Department any information known to him or her regarding the animal bite. The report shall be made within twenty-four (24) hours after such information is received by him or her and shall include with the report the name, address and telephone number of the person making the report. The report may be made by telephone to an animal control officer on voice mail.

(2) The Animal Services Director shall also report the bite to the Police Department if he or she concludes that the bite most likely inflicted a serious bodily injury as defined by these regulations.

(b) Owner's duty to produce biting animal for inspection or quarantine.

(1) Upon the request of an animal control officer, an owner shall make available for inspection and/or quarantine any pet animal or working dog which has bitten, or is suspected of biting, a person and the bite has pierced, lacerated or broken the skin of that person.

(2) If the quarantine of a pet animal or a working dog is deemed necessary, the place and terms of quarantine shall be determined by the County Animal Services Department pursuant to these regulations. During quarantine, the pet animal or working dog shall, for a period of ten (10) days, be:

a. Isolated and confined to a secure enclosure and/or under the physical control of the owner; or

b. Confined at the animal shelter in a manner deemed appropriate by the Animal Services Director.

(3) All costs of quarantine shall be the responsibility of the owner.

(4) If the quarantine of a pet animal is deemed necessary, the disposition of the animal as provided in this Chapter will be at the discretion of the County Animal Services Department.

(c) Impoundment of an animal that has bitten a person.

(1) In addition to the requirements of Section 7-9-110 of this Article, if the Animal Services Director determines that the dog has inflicted either bodily injury or serious bodily injury to a person other than its owner, he or she shall consider whether the dog poses an immediate threat to the safety of the community, and, if so, the dog shall be impounded. The following factors shall be considered in determining whether impoundment is appropriate in order to ensure the safety of the community:

- a. The nature of the behavior giving rise to the Animal Services Director's determination that the animal caused bodily or serious bodily injury.
- b. The extent of the injuries.
- c. Circumstances surrounding the complaint, including but not limited to: the time of day that the injuries occurred; whether the dog was on or off the owner's private property and whether there are any indications that the dog was provoked.
- d. Circumstances surrounding the result and complaint, including but not limited to identification of the dog and credibility of complainants and witnesses.
- e. The size of the lot where the animal resides and the number and proximity of neighbors.
- f. The existing control factors, including but not limited to the number of animals at the owner's residence and existence of fencing, caging, runs and staking locations.
- g. The dog's behavior post-incident as observed by animal control officers and/or the Animal Services Director.
- h. Whether there have been previous incidents or complaints involving the dog.
- i. Mitigating circumstances, including but not limited to an owner's willingness and ability to take adequate measures to prevent future incidents.

(2) Upon impoundment of a pet animal or working dog that has inflicted bodily injury or serious bodily injury to a person other than its owner, the owner of the impounded dog may, within five (5) days of the impoundment, request an immediate custody hearing to determine whether the dog should remain in public custody or whether the dog may safely be released back to the owner. The custody hearing must be held within thirty (30) days of the request for hearing. At the custody hearing, the Court shall consider whether there was an adequate factual basis for the Animal Services Director's decision that the dog must remain in public custody and may affirm or overturn the Animal Service Director's determination or, alternatively, may recommend the release of the dog with conditions to prevent additional incidents or complaints. The right to a hearing shall be deemed waived if not timely requested as set forth in this Section. (Ord. 23, 2008 §1)

Sec. 7-9-110. Designation of dangerous and potentially dangerous animals.

(a) In addition to determining whether immediate impoundment of a dog who has inflicted bodily or serious bodily injury to a person is appropriate, the Animal Services Director or his or her designee shall have the authority to determine, based on a preponderance of the evidence, that a pet animal or working dog is potentially dangerous or dangerous as defined in these regulations.

(b) Written notice of a pet animal or working dog's classification under Subsection (a) above shall be served on the owner or the responsible person of the animal at that owner's or responsible person's last known address. The notice shall describe the animal, state the grounds for its classification and application to such pet animal or working dog by reason of its classification. The notice shall also state that, if a written request for a hearing is filed with the Animal Services Director within fourteen (14) days after receipt of the notice, a hearing will be conducted to review the classification of the pet animal. The right to a hearing shall be deemed waived if not timely requested as set forth in this Article.

(c) The notice referred to in Subsection (b) above shall be given either by personal delivery to the owner or responsible person or by certified mail, return receipt requested, addressed to the owner or responsible person at the person's last known address. Notice by personal delivery shall be complete upon delivery and the receipt or upon return of the notice as undeliverable, refused or unclaimed.

(d) The burden of proof shall be on the owner or responsible person to show cause as to why the animal's behavior does not support the designation as dangerous or potentially dangerous. The hearing shall be informal, and technical rules of evidence shall not apply. The classification shall be determined based upon the preponderance of the evidence. The Court shall not be required to file a full opinion or make formal findings of fact or conclusion of law, but the Court must state the reasons for the determination and indicate the evidence relied upon. Such determination shall be made no later than seventy-two (72) regular business hours after the close of the hearing. The proceedings at the hearing shall be recorded and retained for a reasonable period of time.

(e) Should the Court determine that the pet animal is neither dangerous nor potentially dangerous, no costs shall be charged for impoundment of the pet animal during pendency of the hearing.

(f) When an animal has been classified as dangerous, the Court shall first determine if that classification is proper. If the Court determines that the animal was improperly classified as dangerous, the Court shall then determine if the animal is potentially dangerous. Should the Court determine that the pet animal is potentially dangerous, the owner or person responsible shall comply with the requirements of this Section applicable to potentially dangerous animals. (Ord. 23, 2008 §1)

Sec. 7-9-120. Impoundment of dangerous animals pending hearing.

Notwithstanding the provisions of Subsection 7-9-100(c) above, during the pendency of any hearing and any appeal therefrom on the classification of a pet animal as dangerous, the pet animal shall be impounded at the County animal shelter at the owner's or responsible person's expense. (Ord. 23, 2008 §1)

Sec. 7-9-130. Restrictions on a potentially dangerous animal.

(a) While on the owner's or responsible person's property, a potentially dangerous animal must immediately be securely confined indoors or in a securely enclosed and locked pen or structure suitable for preventing the entry of young children and designed to prevent the pet animal from escaping by climbing, burrowing or otherwise. The potentially dangerous pet animal must be securely confined indoors at all times until such enclosure is eight (8) feet and must have secure sides and a secure top. If the enclosure has no bottom secured to the sides, the sides must be embedded into the ground to a depth of not less than one (1) foot. The enclosure must also provide adequate protection from the elements and be kept in a clean and sanitary condition.

(b) A potentially dangerous animal may be off the owner's or responsible person's premises only if it is restrained by a substantial leash not exceeding four (4) feet in length. The leash and pet animal shall be under the actual physical control of a person suitable for controlling the pet animal at all times. Such pet animal shall not be leashed to inanimate objects such as trees, posts, buildings, etc.

(c) Notification of change in status. The owner or responsible person shall immediately notify the County Animal Services Department if a potentially dangerous pet animal is loose, unconfined, has attacked another animal or a human being, has died, been sold, been given away or is otherwise no longer in the possession of the owner or responsible person. If the pet animal has been sold or given away, the owner or responsible person shall provide the County Animal Services Department with the new owner's or responsible person's name, address and telephone number. If the new owner or responsible person maintains the pet animal within the County, the new owner or responsible person shall comply with the requirements previously applied to such animal and the requirements of this Chapter.

(d) Signs; display required. The owner or responsible person shall display a sign or signs in such form as required by the County on their premises warning that there is a potentially dangerous animal on the premises. Such a sign shall be visible and capable of being read from any public right-of-way abutting the premises. Such a sign shall also be posted on the enclosure for the potentially dangerous animal.

(e) Cost; additional signs. The County shall provide one (1) sign required by this Section at no cost to the owner or responsible person. Additional or duplicate signs shall be purchased from the County for an amount equal to the County's cost for providing the signs.

(f) Special license and ID tag. The owner of or responsible person for any potentially dangerous pet animal shall obtain an annual special license for such animal, which license shall expire on December 31 of the year for which the license is issued. An application for a special license shall be made to the County Animal Services Department, which shall include the information required by Section 7-9-40 of this Article. All potentially dangerous pet animals shall also be issued a special license identification tag which shall be worn by the pet animal at all times.

(g) Spay or neuter requirement for potentially dangerous animals. Within fourteen (14) calendar days after its classification as a potentially dangerous animal, the owner or responsible person shall have the animal spayed or neutered and present proof of that fact to the County Animal Services Department. (Ord. 23, 2008 §1)

Sec. 7-9-140. Destruction of dangerous pet animal.

(a) It shall be unlawful to own a dangerous pet animal.

(b) Any pet animal that is classified as dangerous shall be humanely euthanized after being quarantined for the period provided by law. (Ord. 23, 2008 §1)

Sec. 7-9-150. Failure to comply with certain terms of a sales or adoption contract.

It shall be unlawful to fail to comply with any of the terms of an adoption or fostering contract when the animal is obtained from the County Animal Shelter pursuant to such contract. (Ord. 23, 2008 §1)

Sec. 7-9-160. Impoundment of stray, abandoned animals or those otherwise in violation of provisions of this Article.

(a) An animal control officer may impound any animal that is not under control as required by this Article, or when it and/or its owner is in violation of any of the provisions of this Article.

(b) An animal control officer may impound any potentially dangerous or dangerous animal that is not under proper control as provided in these regulations. An animal control officer may perform such impoundment prior to notifying the owner, if such owner is not immediately present to exercise proper control of such animal.

(c) As soon as practical after the impoundment of any animal, an animal control officer shall make a reasonable effort to notify the owner of the animal's location by telephone, posting of a notice at the owner's residence or by written notice mailed to the owner's last known address, if the identity of the owner is known. If needed to establish the identity of the owner, information contained on any identification, rabies or license tag found attached to the animal shall be used. (Ord. 23, 2008 §1)

Sec. 7-9-170. Owner's duty to redeem animal and pay fees.

(a) The owner of any impounded animal shall be held responsible for all the costs of impoundment, including medical treatment and boarding, and such costs shall be fully paid prior to the release of the animal. In addition, prior to the release, the owner shall pay for rabies inoculation or provide proof of efficacious rabies vaccination.

(b) Prior to the release of any impounded dog, the owner shall pay for a County dog license or provide proof of current licensure in the County or the place the animal is regularly kept.

(c) It shall be unlawful for any owner to fail to make arrangements for the redemption or surrender of any animal impounded pursuant to the provisions of this Article, or to fail to pay any fees associated with the redemption or surrender of such animal. (Ord. 23, 2008 §1)

Sec. 7-9-180. Disposition of impounded animals.

(a) Any animal impounded pursuant to the provisions of this Article shall become the property of the Eagle County Animal Control after five (5) days of impoundment, after which the County Animal Services Department may humanely euthanize the animal. For purposes of this Section, a *day* means

a twenty-four-hour period beginning at the time of the day at, and on the date on, which the animal was taken into public custody.

(b) Eagle County Animal Control may humanely euthanize any animal at any time prior to the expiration of the five-day impoundment period if the animal is seriously injured or ill or if the animal poses a risk to the health of any person.

(c) After the required time period, in lieu of having an animal destroyed, the County Animal Services Department may release an animal which is not diseased to a bona fide humane society or to a person having no previous interest in the animal. Upon release of the animal, the recipient shall pay a fee as established by the County, including but not limited to fees for adoption, rabies inoculations, dog license and sterilization costs.

(d) All animals adopted from the County Animal Shelter are required to be sterilized at the time of adoption unless such surgery would be dangerous to the animal due to its age or physical condition, as determined by the selected veterinarian of record. Transfer of ownership shall not occur until sterilization has been performed, although possession may be given to the adopting person upon his or her promise to have the sterilization performed by a specified date. (Ord. 23, 2008 §1)

Sec. 7-9-190. Threatening of livestock or wildlife.

(a) It shall be unlawful to fail to control any animal so as to prevent such animal from running after, chasing, pursuing, biting, attacking or in any other way threatening livestock or wildlife.

(b) Any animal threatening livestock or wildlife may be immediately destroyed at the discretion of any animal control officer. If not destroyed, the animal shall be immediately impounded.

(c) A violation of this Section shall require a mandatory court appearance by the owner. Upon conviction, if the animal was not destroyed at the time of the incident, the Court may order it destroyed under the supervision of the County Animal Services Department. If the Court does not order the animal destroyed, the Court shall deem the animal a potentially dangerous animal, and possession shall be returned to the owner subject to the regulations applicable to potentially dangerous animals under this Article and other state law. Upon a second conviction of a violation of this Section with respect to a specific animal, the Court shall order the animal to be dangerous and the animal destroyed under the supervision of the County Animal Services Department.

(d) Upon conviction of any violation of this Section, the owner shall be required by the Court to pay restitution for any livestock or wildlife injured or killed by the owner's animal. (Ord. 23, 2008 §1)

Sec. 7-9-200. Nuisance animal noise and feces.

(a) It is unlawful for any owner to fail to prevent his or her pet animal from disturbing the peace of any other person by habitual or persistent barking, howling, yelping or whining or any other unprovoked noise, whether the animal is on or off the owner's property.

(b) It is unlawful for any owner to permit the accumulation of a pet animal's feces on the property on which the animal is kept such that it is detectable visually or odorously by neighbors.

(c) It is unlawful for any owner to fail to confine pet animal feces, and any part thereof, within the perimeters of the property on which the animal is kept, regardless of whether such failure to confine is the result of natural causes, such as surface water flow, or other causes.

(d) No person shall be charged with a violation of this Section unless a written warning for a separate violation has been given at least seventy-two (72) hours prior to the issuance of the citation. The name and address of the complainant shall appear on the written warning. (Prior code 7-163; Ord. 23, 2008 §1)

Sec. 7-9-210. Habitual offender.

It shall be unlawful for any person to become a habitual offender as defined in this Article. Any person may be charged as a habitual offender in addition to any other charges brought pursuant to the provisions of this Article. Upon the conviction of an owner as an habitual offender, the owner's offending animal(s) may be ordered removed from the County or surrendered to the County Animal Services Department, along with any other penalties imposed by the Court. (Ord. 23, 2008 §1)

Sec. 7-9-220. Enforcement.

Animal control officers have the authority to issue a summons and complaint or penalty assessment to any alleged violator of this Article. The fine or other penalty shall be as provided in this Article or as otherwise provided by law. (Ord. 23, 2008 §1)

Sec. 7-9-230. Penalties.

The fines, in the amounts prescribed herein, shall apply to any such violation of these regulations and shall be applied either through the penalty assessment procedure or by the Court after conviction, in which case the Court shall also assess the appropriate court costs and surcharge.

<i>Offense</i>	<i>Fine</i>
For all violations not involving a dangerous or potentially dangerous animal:	
First offense	\$ 40.00
Second offense	100.00
Third offense	250.00
Subsequent offense	Court
For all violations involving a potentially dangerous animal:	
First offense	100.00
Second offense	200.00
Subsequent offense	Court

The above-stated fines are minimum penalties, and all violations are subject to the general fine and imprisonment provisions of Chapter 1, Article 4 of this Code. (Ord. 23, 2008 §1)

Sec. 7-9-240. Power of Court.

In addition to any penalties which may be provided for in this Article, the Court shall have the authority, upon making a finding that an animal constitutes a nuisance or that an animal constitutes a real or present danger to the citizens of the County, to order that the animal be destroyed in a humane fashion. (Ord. 23, 2008 §1)

Sec. 7-9-250. Liability for accident or subsequent disease from impoundment.

The Town Council, its employees, agents and persons authorized herein to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease which may be suffered by an animal as a result of the administration or implementation of this Article. (Ord. 23, 2008 §1)

Sec. 7-9-260. Notice to owner.

An owner shall be deemed to have been issued and received an appropriate notice or warning as herein referred if the warning is personally served upon the owner, posted on the owner's premises or placed in the U.S. mail, postage prepaid and addressed to the owner according to the last address given by the owner to obtain a dog license or cat identification tag, or to such other address as may be on file for the owner with any government agency. (Ord. 23, 2008 §1)

Sec. 7-9-270. Enforcement by Municipal Court.

Animal control officers and peace officers, as defined in this Article, have the authority to issue a summons and complaint or penalty assessment for any alleged violator of this Article to the Municipal Court. The penalty assessment shall be set by the Municipal Judge for the Town. (Ord. 23, 2008 §1)

Sec. 7-9-280. Hot pursuit.

An animal control officer in hot pursuit of an animal that is suspected of inflicting bodily or serious bodily injury to a human being or other animal may enter onto private property for the purposes of enforcing this Article, including for the purpose of effecting an impoundment and/or quarantine and removing the animal from the property, ascertaining the identity of the animal, its owner and/or the currency or existence of dog tags, or issuing a citation. This Section, however, does not grant any animal control officer authority to enter into any dwelling. (Ord. 23, 2008 §1)

Sec. 7-9-290. Poisoning animals.

No person shall poison or distribute poison in any manner with the intent to poison any animal. It is a specific defense to a charge of violating this Section that the person intended to poison mice, rats or rodents other than hamsters, guinea pigs and squirrels by the use of a poisonous substance approved for such use by the United States Environmental Protection Agency or that the person was regularly engaged in the business of fumigation or pest extermination and was so licensed by the State. (Ord. 7, 2009 §1)

Sec. 7-9-300. Trapping.

(a) When deemed necessary by the animal control officer for the health, safety and welfare of the residents of the Town, such officers may place or authorize the placement of a humane trap on any property in the Town when the resident, property owner or property manager requests such a trap for the purpose of capturing any wild or pet animal creating a nuisance in the Town. It shall be unlawful for any person legally responsible for the placement of a trap to fail to monitor any trap set by such person for the presence of an animal at least once every twelve (12) hours.

(b) It shall be unlawful for any person to set or cause to be set within the Town limits any steel jaw leghold trap, lethal snare, full-body grip trap or any trap for the purpose of capturing or killing any animal. This Section does not apply to public officials in the exercise of their duties or to licensed, recognized trapping companies utilizing such traps in cases of disease outbreak. In such cases, the express permission of the owner of the land must be given.

(c) Nothing in this Section shall be deemed to prohibit the use of snap-type traps for mice or rats. (Ord. 7, 2009 §1)

Sec. 7-9-310. Protection of wildlife.

(a) The purpose of this Section is to protect and maintain wildlife in the Town and surrounding areas to minimize the risk of dangerous interaction between humans and wildlife.

(b) Definitions.

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

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

Wildlife-proof refuse container means any refuse container which has been certified to be wildlife-proof by the Colorado Division of Wildlife, the U.S. Park Service or the U.S. Forest Service.

Wildlife-resistant refuse container means a fully enclosed metal or plastic container or Dumpster with a metal or plastic lid. The lid must have a latching mechanism which prevents access to the contents by wildlife.

(c) Residential refuse disposal.

(1) All residential refuse containers that receive garbage and/or refuse edible by wildlife must either be wildlife-resistant or wildlife-proof or be kept within a fully enclosed and secured structure.

(2) Residents with curbside pickup shall place their refuse containers at the curb, alley or public right-of-way at or after 6:00 a.m. of the morning of the pickup, provided that wildlife-proof containers may be placed curbside after 6:00 a.m. of the day before. After pickup, the containers must be resecured in an appropriate manner before the end of the same day.

(d) Outdoor special event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited into appropriate containers or enclosures secured in a manner to prevent access by wildlife or shall be removed to a disposal site.

(e) All construction sites must have a designated container that receives refuse edible by wildlife, or such refuse shall be removed from the site by the end of each day. Such container shall be a wildlife-proof container.

(f) The feeding of wildlife is prohibited.

(1) No person shall intentionally or unintentionally feed or provide food in any manner for wildlife on public or private property within the Town. Persons will be considered to be in violation of this Section if they leave or store any garbage, refuse or food product in a manner that would create an attraction for wildlife.

(2) No person shall leave or store any refuse, food product, pet food, grain or salt in a manner which would constitute a lure, attraction or enticement for wildlife.

(3) Between the dates of April 15 and November 15, all bird feeders must be suspended on a cable or other device so that they are inaccessible to bears, and the area below the feeders must be kept free from the accumulation of seed debris.

(4) This Section shall not apply to:

a. Any individual, company or corporation that is duly licensed by the State or that otherwise entitles him or her under law to possess a wildlife species;

b. Any action that is officially sanctioned by the State that would require feeding, baiting or luring of wildlife. (An example of one [1] such action would be scientific projects dealing with the capturing and tagging of wildlife); or

c. The feeding of wild birds, unless the bird feeder begins to attract other forms of wildlife.

(g) Violation of any provision of this Section by any person, firm or corporation, whether as owner or occupant, shall be handled in the following manner:

(1) The first violation of this Section will result in a notice of violation to an alleged offender. The alleged offender will be warned and informed of the proper precautions necessary to prevent the feeding of wildlife and the necessary actions to meet the provisions of this Section, which may include, but not be limited to, removal of wildlife attractants, time limits of the placement of curbside refuse containers and use of bear-resistant containers. The notice shall include a reasonable time schedule for compliance. An alleged offender who timely complies with the first notice of violation will not be subject to the penalty provision of this Section.

(2) The second violation of this Section will result in another notice of violation, as well as a summons and complaint. Two (2) notices within a twelve-month period will subject the violator to the penalty provision of this Section. Failure to comply with the first notice within the

designated time frame may be deemed a second violation. The second notice of violation shall include a compliance schedule when applicable.

(3) Offenders who have violated this Section more than two (2) times within a twelve-month period or have continued to fail in achieving timely compliance with a previous notice will be subject to a graduated schedule as set forth below.

(h) Penalties:

(1) The graduated fine schedule for the penalty assessment procedure is as follows:

<i>Penalty Amount</i>	<i>Violation</i>
Warning	First violation
\$150.00—250.00 fine	Second violation within twelve (12) month of the first violation or failure to comply with the designated compliance schedule associated with the first violation
\$250.00—1,000.00 fine	Each successive violation within twelve (12) months of the previous violation or failure to comply with the designated compliance schedule associated with the second or subsequent violation

(2) In addition to the criminal enforcement set forth above, the Town may seek an injunction or other appropriate civil relief to enforce the provisions of this Section.

(i) In addition to the penalties outlined hereinabove, upon order of the Police Department, violators will be required to perform all necessary actions to remove or abate attractions of wildlife. This may include, but shall not be limited to, the removal of bird feeders or pet food, cleaning or appropriate storage of barbeque grills and/or the required use of wildlife-resistant containers and/or wildlife-proof containers.

(j) A resident shall be deemed to have been issued an appropriate notice of violation if it is personally served upon the resident, posted on the resident's premises or placed in the U.S. mail, postage prepaid and addressed to the resident according to the last known address given by the resident to any Town or County government department. If the identity of the resident is not known, the person or entity responsible for payment of the garbage removal services for the subject location will be held responsible for complying with this Section and for any penalties assessed pursuant to the same. (Ord. 7, 2009 §1)