

## CHAPTER 7

### Health, Sanitation and Animals

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## ARTICLE I

### Nuisances

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

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

*Authorized inspector* means a police officer, building inspector, code enforcement officer or other officer of the Town authorized by the Town Manager to inspect and examine public or private property in the Town to ascertain the nature and existence of any nuisance. Nothing in this definition shall imply that an authorized inspector has the authority to enter private property except as provided by law.

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

*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: placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports; or the 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.

*Public nuisance* means a thing, act, failure to act, occupation or use of property which: unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, a lake, pond, stream, creek, ditch, public park, street, alley, pedestrian trail, bikepath or highway, or the common areas of any private property which is open for public use; has been declared a nuisance by ordinance, federal or state law, or by any court; or interferes with or prevents, or attempts to interfere with or prevent, the lawful abatement of any nuisance.

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

*Weed* means an unsightly, useless, troublesome or injurious growing herbaceous plant, including noxious weeds as defined by state law. (Ord. 96-O-4 §1, 1996; Ord. O-3 §2, 2008; Ord. O-9 §1, 2009)

#### 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. 96-O-4 §1, 1996; Ord. O-9 §1, 2009)

**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 or allow such nuisance to exist shall be deemed to be the author thereof and may be cited therefor. (Ord. 96-O-4 §1, 1996; Ord. O-9 §1, 2009)

**Sec. 7-1-40. Prohibition.**

No person being the owner, agent or occupant of, or having under his or her control, any building, lot or premises or unimproved real estate within the limits of the Town, shall maintain or allow any nuisance to be or remain therein. (Ord. 96-O-4 §1, 1996; Ord. O-9 §1, 2009)

**Sec. 7-1-50. Abatement.**

(a) Notice. The authorized inspector, upon the discovery of any nuisance on public or private property in the Town, shall notify the owner or occupant of such property, requiring the owner or occupant of the property to abate the nuisance within the time specified in the notice.

(1) Service. The written notice to abate shall be served by an authorized inspector of the Town by:

a. Personally delivering a copy of the notice to the owner of the property described in the notice if the owner also resides at the property;

b. Personally delivering a copy of the notice to the nonowner occupant or resident of the property described in the notice and mailing a copy of the notice by certified mail, return receipt requested, to the last known address of the owner as reflected in the Boulder County real estate records;

c. Mailing a copy of the notice by certified mail, return receipt requested, to the last known address of the owner of the property described in the notice as reflected in the Boulder County real estate records if the property is unoccupied, and posting a copy of the notice in a conspicuous place at the unoccupied premises.

(2) Contents. The notice shall describe the nuisance and the time in which the nuisance must be abated; and contain a statement that, if the nuisance is not abated within the time period for abatement set forth in the notice, an action may be brought in the Municipal Court to abate the nuisance and that the costs of abatement, plus fifteen percent (15%) of such cost for inspection, and other additional administrative costs may be assessed against the person found by the Court to have caused, allowed to be caused or allowed to continue the public nuisance and may become a lien upon any property on which the abatement was performed.

(b) Upon the discovery of any nuisance on public or private property within the Town that poses an imminent danger of damage or injury to or loss of life, limb, property or health, the authorized inspector shall give notice, in writing, signed by the authorized inspector that it shall be abated by the Town, unless properly abated by the owner or occupant within twenty-four (24) hours or such less time as the authorized inspector believes is reasonable.

(c) Abatement by the Town.

(1) Should any such nuisance not be abated forthwith after the notice given, the Town may abate the same.

(2) The expense incurred by the Town in abating any nuisance may be recovered pursuant to Section 7-1-60 below. (Ord. 96-O-4 §1, 1996; Ord. O-19 §2, 2001; Ord. O-9 §1, 2009)

**Sec. 7-1-60. Recovery of abatement costs.**

(a) The Town shall assess the whole cost of abatement, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the property on which the nuisance was abated.

(b) The Town shall send, by certified mail with return receipt requested, addressed to the property owner, a notice of assessment, containing a description of the property and the amount of the assessment.

(c) Unless the property owner objects pursuant to Subsection (d) below, the property owner shall pay such assessment within thirty (30) days after the date of the notice. The assessment shall be a lien upon the property from the date of the notice, to be collected in the same manner as taxes are collected, with priority over all other liens except general taxes and prior special assessments.

(d) If the property owner objects to said assessment, he or she shall, within thirty (30) days after the date of the notice, file a written objection with the Town Manager, who shall hold a hearing on the matter. The Town Manager's decision on the objection shall be final, subject only to judicial review as provided by law. (Ord. O-9 §1, 2009)

**Sec. 7-1-70. Remedies not exclusive.**

(a) No remedy provided in this Article shall be exclusive, but the same shall be cumulative, and the taking of any action under this Article shall not preclude or prevent the taking of any other action available at law or in equity.

(b) The abatement provisions of this Article shall serve as and constitute a concurrent remedy over and above any charge or conviction or any other provision of law.

(c) Any application of this Article 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. 96-O-4 §1, 1996; Ord. O-9 §1, 2009)

**Sec. 7-1-80. Violation and penalties.**

Any person convicted of a violation of this Article shall be subject to the penalties set forth in Chapter 1 of this Code. (Ord. 96-O-4 §1, 1996; Ord. O-9 §1, 2009)

**Sec. 7-1-90. Specified nuisances.**

In addition to common law nuisances, the following shall constitute nuisances:

(1) Accumulation. It is unlawful to accumulate or permit the accumulation of any damaged merchandise, litter, trash, rubbish, garbage, inoperable vehicles or junk on any property not zoned for such purposes.

(2) Discharge of noxious liquids. No person shall discharge out of or from or permit to flow from any house or place any foul or noxious liquid into or upon any adjacent ground or lot or into any street, alley or public place.

(3) Littering.

a. It is unlawful to throw or cause or permit to be thrown onto any public highway, thoroughfare, street, sidewalk or other place any trash; or to distribute or cause or permit to be distributed any type of advertising matter in such a manner so as to cause the littering of any public place.

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

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

d. The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the Town, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of trash in such a manner that trash will not be deposited onto any public or private property.

(4) Dumping. It is unlawful to use any land, premises or property within the Town for the dumping or disposal of trash, litter, excrement, discarded building materials or combustible materials of any kind.

(5) 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.

(6) Sewer inlet. No person shall deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault with a sewer connection any article whatever that might cause such sewer, sewer inlet or privy vault to become injurious to public health.

(7) Transporting of trash. Every vehicle used to transport trash on any street in the Town shall be fitted with a substantial tight box thereon so that the trash does not escape.

(8) Dead animals. When an animal dies in the Town, the owner or keeper of the animal shall properly bury or dispose of the animal forthwith.

(9) Noise. The use of music, noisemakers or loudspeakers on public streets for the sale or vending of products, advertising or other commercial purposes is a nuisance.

(10) Inoperable vehicles.

a. It is unlawful to park or store or permit to be parked or stored an inoperable vehicle on any property unless such vehicle is located within a completely enclosed structure, such as a garage, or in a side or rear yard, outside of the applicable setback and concealed from view from a public street or adjacent property by either:

1. A fence of sufficient height to screen the vehicle, but in compliance with applicable height limitations; or

2. A mature hedge or similar dense vegetation of sufficient height to screen the vehicle.

b. This Subsection shall not apply to a person with one (1) vehicle which is inoperable for a period of less than thirty (30) consecutive days or to any person conducting a business enterprise in compliance with Chapter 16 of this Code.

(11) Vacant dwellings. A broken window in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after discovery thereof.

(12) Stagnant ponds. The permitting of stagnant water on any lot or piece of ground within the Town limits is a nuisance.

(13) Posting of handbills, posters and placards. Any handbill, poster or placard which is stuck, posted or pasted upon any public or private house, store or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house is a nuisance.

(14) Accumulation of mud. Causing, or allowing the migration, tracking or dragging of mud, dirt or soil by the tires of machinery from any parcel of property to any public rights-of-way or public property is a nuisance. For purposes of this Subsection, *public rights-of-way* shall include areas that are not yet dedicated to the Town, but are open to the public.

(15) Placement of construction or landscaping material on public rights-of-way or public property. Causing or allowing the placement or storage of construction or landscaping materials, including but not limited to debris, trash, trash bins, Dumpsters, roll-offs, san-o-lets, spoils,

chunks of concrete, lumber, rebar, nails, rocks, dirt, plantings or equipment, on public-rights-of-way or public property, except as expressly permitted by the Town, is a nuisance.

(16) Failure to comply with erosion control plan. Causing or allowing a development to be maintained in a condition that is contrary to the erosion control plan described in Chapter 16 of this Code is a nuisance.

(17) Landscaping. Failure to maintain landscaping in a thriving condition, or failure to replace dead trees, bushes, grasses or other plantings listed in the approved landscaping plan is a nuisance.

(18) Exterior improvements. Failure to install or maintain exterior improvements contained in approved plans, including but not limited to curbs, gutters, sidewalks, traffic control devices, fences or screening devices is a nuisance.

(19) Weeds. The accumulation of weeds or brush on any real property is a nuisance, provided that the Town shall give the property owner written notice at least two (2) days prior to issuing any notice of abatement or summons and complaint for such nuisance. (Ord. O-9 §1, 2009)

## ARTICLE II

### Animals

#### Sec. 7-2-10. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

*Abandon* means the leaving of an animal without adequate provisions for the animal's proper care by its owner or a person having custody or possession of such animal.

*Bodily injury* means physical pain, illness or any impairment of physical condition, a physical injury that requires professional medical treatment, including severe bruising, muscle tears, skin lacerations or fracture of any bone, or injury that requires corrective or cosmetic surgery.

*Code enforcement officer* means an individual appointed by the Town Manager pursuant to Article XI of Chapter 2 provided that such individual shall have no authority to detain individuals, make arrests or impound animals, but such individual shall have the authority to issue Municipal Court summonses and citations.

*Current*, as used in connection with a rabies inoculation, means in compliance with applicable Boulder County regulations.

*Injure* means to do harm to, hurt, damage, impair or wound.

*Leash control* means firmly attached to a secured tether or leash which is being held and controlled by a person.

*Minimum care* includes food of sufficient quality and quantity to allow for normal growth and body weight, access to water, access to an enclosed structure with adequate bedding for animals, consistent with the species, breed and type of animal, and veterinary care necessary to relieve distress from injury, neglect or disease.

*Mistreat* means every act or omission that causes or unreasonably permits the continuation of abuse or pain or suffering.

*Neglect* means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

*Owner* means the owner, possessor or keeper of a dog or the agent or servant of such person.

*Park ranger* means an individual appointed by the Town to enforce the provisions of this Article, provided that such individual shall have no authority to issue Municipal Court summonses and citations, detain individuals, make arrests or impound animals.

*Peace officer* means a person acting as a peace officer as defined in Sections 18-3-201(2) and 30-15-105, C.R.S., who is empowered by the Town to enforce this Article. Peace officers have sole authority to impound animals, detain and arrest individuals and issue municipal summonses and citations.

*Premises* means the area of land surrounding the residence of the owner of the animal which is owned, occupied or under the control of the owner, or any other confined area or locality like a room, shop, vehicle or building, but excluding the unenclosed property of a condominium or townhouse or the common passageway, parking facility or unenclosed common yard of an apartment building or shopping center, or public right-of-way.

*Running at large* means a dog which is off of or away from the premises of its owner and not under leash control, provided that a dog not under leash control but on private property with the permission of the property owner shall not be considered at large.

*Vicious animal* means an animal which at any place within the Town injures or causes bodily injury to a person or animal, or which repeatedly charges against a fence in an attempt to attack or charges to the end of its lead or leash in an attempt to attack, or otherwise demonstrates vicious propensities; provided, however, that no animal shall be deemed vicious solely by reason of having attacked or bitten:

- a. A person who attacked such animal or who engaged in conduct reasonably calculated to provoke such animal to attack or bite such person or another person;
- b. A person engaged in attacking or molesting another person;
- c. A person engaged in the unlawful entry into or upon the fenced or enclosed portion of a premises upon which such animal is kept, or into or upon any automobile or other vehicle parked or stored in, upon such premises;

d. An animal engaged in the unauthorized entry into or upon the fenced or enclosed portion of the premises upon which the accused animal is kept; or

e. A person engaged in the unlawful or unauthorized entry into any automobile or other vehicle in which such animal is kept or confined. (Ord. O-12 §1, 2007; Ord. O-3 §2, 2008; Ord. O-9 §1, 2009)

**Sec. 7-2-20. Rabies inoculation and tag required.**

(a) The owner of a dog or cat in the Town shall have such animal inoculated against rabies as required by Boulder County.

(b) The owner of a dog or cat in the Town shall at all times have proof of a current rabies inoculation as required by Boulder County, including but not limited to a tag firmly affixed to the animal's collar. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-30. Public disturbance by animals.**

(a) It is unlawful for a person owning or keeping an animal to fail to prevent such animal from disturbing the peace of any other person by loud, persistent and habitual barking, howling, yelping, mewing or making any other loud, persistent and habitual noise, whether the animal is on or off the owner's premises.

(b) Provocation of the animal whose noise is complained of is a defense to any complaint brought hereunder. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-40. Dogs running at large.**

(a) It is unlawful for the owner of any dog to fail to prevent the dog from running at large in the Town. A dog off the owner's premises or not on private property with the permission of the property owner shall be under leash control, within a vehicle or similarly physically confined so said dog is without access to passersby.

(b) It is unlawful for a dog owner to fail to prevent such dog from attacking any domestic animal or fowl or any species of wildlife.

(c) Penalty assessments issued for dogs running at large that are not spayed or neutered shall be double the penalty assessment for a spayed or neutered dog running at large. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-50. Vicious animal.**

(a) A vicious animal may be deemed a public nuisance. Upon appropriate complaint and court order, a vicious animal may be humanely destroyed or otherwise disposed of, as the court determines, to abate the nuisance and protect the public safety. It is an affirmative defense to prosecution under this Section:

(1) If the animal is a dog, the dog is under the control of a law enforcement agency or is a trained guard dog, which is kept for the protection of property and restrained by adequate means

from contact with the public or with any person who enters the premises with the actual or implied permission of the owner or occupant, provided that the premises are posted in a manner sufficient to give reasonable notice to the public and visitors of the presence of the guard dog. Nothing in this Section shall be construed to prevent the immediate killing of a vicious animal if, under the circumstances, such action is required to protect the public safety.

(2) The animal is provoked by a person or attacked (actual or threatened) by a domestic or wild animal if the actions of any person or animal provoke the animal to such an extent that an animal of normal temperament would react viciously.

(b) It is unlawful to harbor a vicious animal within the Town.

(c) It is unlawful for the owner of a vicious animal to fail to prevent such animal from attacking any domestic animal, fowl or wildlife. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-60. Confinement during estrus.**

It is unlawful for the owner of a female dog in the pre-estrus or estrus state to fail to confine such dog either in a building, secure enclosure or kennel so as to prevent it from attracting by scent or coming into contact with male dogs and creating a nuisance, except for planned breeding. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-70. Animal feces.**

(a) It is unlawful for a property owner to allow excessive animal feces to accumulate on property. The accumulation of animal feces shall be deemed to be excessive if there is sufficient quantity to generate odors off the property.

(b) It is unlawful for an animal owner to fail to remove from any public or private property feces deposited by such animal. (Ord. O-11 §4, 2000; Ord. O-5 §2, 2001; Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-80. Limit on household pets.**

(a) It is unlawful to have more than the following number of each type of household pet in a residence unless the residence is licensed as a kennel as provided in this Code, or unless the maximum number is exceeded by household pets of less than three (3) months of age.

- (1) Dogs: three (3).
- (2) Cats: three (3).
- (3) Rabbits: six (6).
- (4) Pot-bellied pigs: three (3).
- (5) Ferrets: three (3).
- (6) Reptiles (not exotic animals): three (3).

(b) It is unlawful to keep, own or harbor any exotic animal within the Town. For purposes of this Section, household pets and exotic animals shall have the same definition as in Chapter 16 of this Code. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-90. Chicken hens and goats.**

(a) Chicken hens. Up to six (6) chicken hens may be kept on each parcel of residential property, subject to the following requirements and other applicable law:

(1) If the parcel contains more than one (1) dwelling unit, all adult residents and property owners shall consent in writing to allowing the chicken hens on the property;

(2) The chicken hens shall be provided with a covered, predator-resistant shelter that is properly ventilated, designed to be easily accessed, cleaned and maintained and provides at least two (2) square feet of floor space per chicken hen;

(3) During daylight hours, the chicken hens shall have access to the shelter and to an outdoor enclosure that is adequately fenced to protect them from predators;

(4) The chicken hens shall be closed in the shelter from dusk to dawn;

(5) The chicken hens shall be protected from coming into contact with wild ducks or geese or their excrement;

(6) The chicken hens may not be killed by or at the direction of the owner or keeper thereof except pursuant to the lawful order of a health official, or for euthanasia when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law; and

(7) Roosters are prohibited.

(b) Goats. Not more than one (1) goat may be kept on each parcel of residential property, subject to the following requirements and other applicable law:

(1) If the parcel has more than one (1) dwelling unit, all adult residents and property owners shall consent in writing to allowing the goat on the property;

(2) The goat shall be provided with a covered shelter that is properly ventilated, designed to be easily accessed, cleaned and maintained, and provides at least twenty (20) square feet of floor space;

(3) During daylight hours, the goat shall have access to the shelter and to an outdoor enclosure; and

(4) The goat may not be killed by or at the direction of the owner or keeper thereof except pursuant to the lawful order of a health official, or for euthanasia when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law. (Ord. O-9 §1, 2009)

**Sec. 7-2-100. Treatment of animals.**

(a) Extreme temperature exposure. It is unlawful for any person who owns or has control of any animal to confine the animal in a vehicle such that it is exposed to extreme temperatures, or fail to provide adequate shelter so as to cause signs of distress to the animal.

(b) Improper care and treatment. It is unlawful for a person to fail to provide any livestock or domestic animal with minimum care or to neglect, mistreat or abandon such animal.

(c) Unsafe tethering. It is unlawful for the owner or keeper of any animal to tether any animal in such manner that it may become entangled and unable to reach shelter, water or food or in such manner that the animal may be injured, strangled or otherwise caused to suffer.

(d) Unsafe transporting. It is unlawful for any person who owns or has control of any animal to allow it to ride in or upon any motor vehicle in such a manner as to permit injury or endanger the life of such animal. This Subsection shall not apply if the animal is confined to a cage or enclosure.

(e) If it is determined by an animal control officer that an animal is in need of medical/ veterinary care, the officer may require that the owner provide the care within twenty-four (24) hours; if care is not provided in that time, the animal may be impounded so as to receive the necessary care and released only upon payment by the owner of these and all impoundment costs. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-110. Reasonable control required.**

It is unlawful for the owner of any animal to not maintain reasonable control over such animal. For purposes of this Section, it shall be prima facie evidence that an animal is not under reasonable control when such animal inflicts damage or injury to other animals, the person or property of anyone other than the owner or when such animal is in violation of Section 7-2-30 of this Article. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-120. Seizure and impoundment.**

(a) A peace officer, whenever possible, shall apprehend any dog found running at large, any dog required to be inoculated against rabies which is not inoculated or is not wearing a current rabies tag, any vicious animal not properly confined or any animal being kept or maintained contrary to this Article.

(b) Upon apprehension, the peace officer may return the animal to its owner or impound the animal and issue an administrative citation, penalty assessment notice or summons and complaint.

(c) Impounded animals shall be held and released pursuant to applicable Boulder County regulations. (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-2-130. Enforcement.**

(a) Park rangers may issue warnings and administrative citations for violations of this Article, provided that park rangers shall have no authority to issue criminal summonses, detain persons, make arrests or impound animals.

(b) Peace officers may issue warnings, impound animals and issue administrative citations or criminal summonses for violations of this Article and shall have all other enforcement authority authorized by law, including but not limited to detaining and arresting violators.

(c) Code enforcement officers may issue warnings and administrative citations and criminal summonses for violations of this Article, provided that code enforcement officers shall have no authority to detain persons, make arrests or impound animals. (Ord. O-12 §1, 2007; Ord. O-3 §2, 2008; Ord. O-9 §1, 2009)

**Sec. 7-2-140. Penalties.**

(a) Violations of this Article shall be subject to the penalties set forth in Chapter 1 of this Code. In addition to such penalties, a Court may order the humane destruction of a vicious animal pursuant to this Article.

(b) In lieu of a summons and complaint, an administrative citation or penalty assessment may be issued for first and second violations of the following sections not involving bodily injury, pursuant to the following schedule:

(1) Failure to inoculate or wear tag: any offense: thirty-five dollars (\$35.00).

(2) Public disturbance:

a. First offense: forty-five dollars (\$45.00).

b. Second offense: eighty dollars (\$80.00).

(3) Dog at large:

a. First offense:

1. Spayed or neutered: forty-five dollars (\$45.00).

2. Not spayed or neutered: ninety dollars (\$90.00).

b. Second offense:

1. Spayed or neutered: eighty dollars (\$80.00).

2. Not spayed or neutered: one hundred sixty dollars (\$160.00).

(4) Failure to confine:

a. First offense: twenty-five dollars (\$25.00).

b. Second offense: fifty dollars (\$50.00).

(5) Animal feces:

- a. First offense: twenty-five dollars (\$25.00).
- b. Second offense: fifty dollars (\$50.00). (Ord. O-12 §1, 2007; Ord. O-9 §1, 2009)

### **ARTICLE III**

#### **Smoking in Public Places**

##### **Sec. 7-3-10. Definitions.**

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

*Auditorium* means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways or lobbies adjacent thereto.

*Bar* means an indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

*Cigar-tobacco bar* means a bar that generates at least five percent (5%) or more of its total annual gross income or fifty thousand dollars (\$50,000.00) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines.

*Employee* means a person who: performs any type of work for the benefit of another in consideration of direct or indirect wages or profit; or provides uncompensated work or services to a business or nonprofit entity; and includes every person described in this definition, regardless of whether such person is referred to as an "employee," "contractor," "independent contractor" or "volunteer" or by any other designation or title.

*Employer* means a person, partnership, association, corporation or nonprofit entity that employs one (1) or more persons and includes, without limitation, the legislative, executive and judicial branches of state government; any county, city and county, city or town or instrumentality thereof, or any other political subdivision of the State, special district, authority, commission or agency and any other separate corporate instrumentality or unit of state or local government.

*Entryway* means the outside of the front or main doorway leading into a building or facility that is not exempted under Section 7-3-30 below, and includes the area of public or private property within a fifteen-foot radius outside of the doorway.

*Environmental tobacco smoke* or *secondhand smoke* means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as *sidestream smoke*, and smoke exhaled by the smoker.

*Food service establishment* means any building or portion thereof in which the principal business is the sale of food for on-premises consumption, including, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops and short-order cafes.

*Indoor area* means an enclosed area or portion thereof, provided that the opening of windows or doors or the temporary removal of wall panels does not convert an indoor area into an outdoor area.

*Place of employment* means an indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

*Proprietor* means the owner, operator or person in charge of any place regulated by this Chapter.

*Public building* means a building owned or operated by: the State, including the legislative, executive and judicial branches of state government; the Town or an instrumentality thereof; or any other separate corporate instrumentality or unit of state or local government.

*Public meeting* means a meeting open to the public pursuant to state law.

*Smoke-free work area* means an indoor area in a place of employment where smoking is prohibited.

*Smoking* means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

*Tobacco* means cigarettes, cigars, cheroots, stogies and periques; granulated, plug-cut, crimp-cut, ready-rubbed and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe or otherwise, or both for chewing and smoking; and cloves and any other plant matter or product that is packaged for smoking.

*Tobacco business* means a sole proprietorship, corporation, partnership or other enterprise engaged primarily in the sale, manufacture or promotion of tobacco, tobacco products or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is not merely incidental.

*Work area* means an area in a place of employment where one (1) or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

### **Sec. 7-3-20. General smoking restrictions.**

(a) Except as provided in Section 7-3-30 below, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including but not limited to:

- (1) Public meeting places.
- (2) Elevators.

(3) Government-owned or -operated means of mass transportation, including but not limited to buses, vans and trains.

(4) Taxicabs and limousines.

(5) Grocery stores.

(6) Gymnasiums.

(7) Jury waiting and deliberation rooms.

(8) Courtrooms.

(9) Child day care facilities.

(10) Health care facilities, including hospitals, health care clinics, doctors' offices and other health care-related facilities.

(11) Any place of employment that is not exempted, provided that, in the case of employers who own facilities otherwise exempted, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke, so that every employee shall have a right to work in an area free of environmental tobacco smoke.

(12) Food service establishments.

(13) Bars.

(14) Indoor sports arenas.

(15) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities.

(16) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests.

(17) Bowling alleys.

(18) Billiard or pool halls.

(19) Facilities in which games of chance are conducted.

(20) The common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters.

(21) Public buildings.

(22) Auditoria.

- (23) Theaters.
- (24) Museums.
- (25) Libraries.
- (26) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and nonpublic schools.
- (27) Other educational and vocational institutions.
- (28) The entryways of all buildings and facilities listed in Paragraphs (1) to (27) hereof.

(b) A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed at the time this Article was enacted. A cigar-tobacco bar shall display signage in at least one (1) conspicuous place and at least four (4) inches by six (6) inches in size, stating:

"SMOKING ALLOWED,  
CHILDREN UNDER EIGHTEEN (18) YEARS OF AGE MUST BE ACCOMPANIED  
BY A PARENT OR GUARDIAN."

(c) Smoking shall not be permitted and no person shall smoke in the outdoor eating area of any food service establishment. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

**Sec. 7-3-30. Exceptions.**

The following are exempt from the smoking prohibitions in Section 7-3-20 above:

- (1) Private homes, private residences and private automobiles; except that this exception shall not apply if any such home, residence or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
- (2) Limousines under private hire.
- (3) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%).
- (4) Any retail tobacco business.
- (5) A cigar-tobacco bar.
- (6) The outdoor area of any business; however, pursuant to Subsection 7-3-20(c) above, smoking shall not be permitted in the outdoor eating area of a food service establishment.
- (7) A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees.

(8) A private, nonresidential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., with annual gross income of less than five hundred thousand dollars (\$500,000.00). (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

**Sec. 7-3-40. Additional prohibitions.**

(a) The owner or manager of any place not specifically listed in Section 7-3-20 above, including a place otherwise exempted under Section 7-3-30 above, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to Section 7-3-20.

(b) If the owner or manager of a place not specifically listed in Section 7-3-20, including a place otherwise exempted under Section 7-3-30, is an employer and receives a request from an employee to create a smoke-free work area as provided by Paragraph 7-3-20(a)(11), the owner or manager shall post a sign or signs in the smoke-free work area as provided in Subsection (a) above. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

**Sec. 7-3-50. Signs.**

(a) To advise persons of the existence of "no smoking" or "smoking permitted" areas, the proprietor or person in charge of any place specifically listed in Section 7-3-20 above shall post a sign with letters not less than one (1) inch high or symbols not less than three (3) inches high, using the words "No Smoking" or the international "No-smoking" symbol, conspicuously at eye level, either at all public entrances or in a position clearly visible on entry into the public place.

(b) Other signs may be used upon approval by the Town Manager. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

**Sec. 7-3-60. Restrictions on the sale of tobacco.**

(a) No person shall furnish to any person who is under eighteen (18) years of age, by gift, sale or any other means, any cigarette or tobacco product.

(b) No person shall sell or offer to sell any cigarette or tobacco product by use of a vending machine.

(c) It is an affirmative defense to a charge of violating Subsection (a) hereof that the person furnishing the cigarette or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the prohibited items as being eighteen (18) years of age.

(d) It is a specific defense to a charge of violating Subsection (b) hereof that the vending machine was located in a place of work not open to the public where persons under eighteen (18) years of age are not permitted. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

**Sec. 7-3-70. Unlawful acts; penalty.**

(a) It is unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to this Article to violate any of its provisions.

(b) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Article.

(c) Any person who is convicted of violating any provision of this Article shall, upon conviction, be punished by a fine of not more than four hundred ninety-nine dollars (\$499.00) for each separate offense and may be enjoined from any further or continued violation thereof. Each day of violation shall constitute a separate offense. (Ord. O-6 §1, 2006; Ord. O-9 §1, 2009)

## ARTICLE IV

### Fireworks

#### Sec. 7-4-10. Definitions.

(a) Except as otherwise provided in Subsection (b) hereof, *fireworks* means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonations, including, without limitation, the following:

- (1) Display fireworks;
- (2) Articles pyrotechnic;
- (3) Blank cartridges;
- (4) Aerial devices or audible ground devices, such as firecrackers;
- (5) Illuminating torches and colored fire in any form with a total pyrotechnic composition exceeding two hundred (200) grams each.

(b) For purposes of this Article, *fireworks* does not include any of the following:

- (1) Cylindrical fountains with a total pyrotechnic composition not exceeding seventy-five (75) grams each for a single tube or, when more than one (1) tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred (200) grams.
- (2) Cone fountains with a total pyrotechnic composition not exceeding fifty (50) grams each for a single cone or, when more than one (1) cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred (200) grams.
- (3) Wheels with a total pyrotechnic composition not exceeding sixty (60) grams for each driver unit or two hundred (200) grams for each complete wheel.
- (4) Ground spinners containing not more than twenty (20) grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground.
- (5) Illuminating torches and colored fire in any form with a total pyrotechnic composition not exceeding two hundred (200) grams each.

(6) Dipped sticks and sparklers with a total pyrotechnic composition not exceeding one hundred (100) grams, of which the composition of any chlorate or perchlorate shall not exceed five (5) grams.

(7) Any of the following that do not contain more than fifty (50) milligrams of explosive composition:

- a. Explosive auto alarms;
- b. Toy propellant devices;
- c. Cigarette loads;
- d. Strike-on-box matches; or
- e. Other trick noise makers.

(8) Snake or glow worm pressed pellets of not more than two (2) grams of pyrotechnic composition and packaged in retail packages of not more than twenty-five (25) units;

(9) Multiple tube devices with:

- a. Each tube individually attached to a wood or plastic base;
- b. The tubes separated from each other on the base by a distance of at least one-half (0.5) of one (1) inch;
- c. The effect limited to a shower of sparks to a height of no more than fifteen (15) feet above the ground;
- d. Only one (1) external fuse that causes all of the tubes to function in sequence; and
- e. A total pyrotechnic composition not exceeding five hundred (500) grams.

(10) Toy caps, party poppers and items similar to toy caps and party poppers that do not contain more than sixteen (16) milligrams of pyrotechnic composition per item.

(11) Snappers that do not contain more than one (1) milligram of explosive composition per item.

(12) Highway flares, railroad fuses, ship distress signals, smoke candles and other emergency signal devices.

(13) Educational rockets and toy propellant device-type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

(14) Fireworks used in testing or research by a licensed explosives laboratory. (Ord. O-18 §1, 2001; Ord. O-7 §1, 2007; Ord. O-9 §1, 2009)

**Sec. 7-4-20. Prohibited acts.**

It is unlawful for any person within the Town to sell, offer for sale or possess with intent to offer for sale, or to use or explode any fireworks or pyrotechnic special effects material, except as provided in Section 7-4-30 below. (Ord. O-18 §1, 2001; Ord. O-9 §1, 2009)

**Sec. 7-4-30. Public display.**

(a) Permits are required to conduct a fireworks display. The Town may grant a permit for the supervised public display of fireworks within the Town conducted by the Town, fair associations, amusement parks, individual businesses and other organizations and groups. The Town may adopt reasonable rules and regulations in association with the granting of any such permit. Application for a permit shall be made in writing and submitted to the Town Manager at least thirty (30) days in advance of the date of such display.

(b) All displays shall comply with all applicable provisions of this Code and NFPA Standard 1123. The Town Manager may revoke a permit at any time for cause. Any related use of public property or right-of-way will require a separate application and permit to/from the affected agencies.

(c) Every display shall be handled by competent operators and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. (Ord. O-18 §1, 2001; Ord. O-9 §1, 2009)

**Sec. 7-4-40. Permit.**

Any person desiring to conduct a supervised public display of fireworks shall submit to the Town Manager a written application for a permit to conduct such fireworks display. The application shall be submitted to the Town Manager not less than thirty (30) days in advance of the date of the fireworks display and shall be accompanied by a nonrefundable application fee of fifty dollars (\$50.00). The application shall contain the following information:

- (1) The name and address of the person or organization sponsoring the display, together with the names and addresses of the persons who will actually be in charge of the display;
- (2) The date and time of day at which the display is to be held;
- (3) The address and description of the exact location planned for the display;
- (4) A diagram of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged; the location of buildings and highways within the vicinity and the location of all nearby trees, telephone and utility lines or any other overhead obstructions;
- (5) The names and addresses of the competent fireworks operators who are to supervise the discharge of the fireworks, and written evidence regarding their competency as fireworks operators. At least two (2) competent fireworks operators are to be provided;

(6) The type and class of fireworks to be discharged and the number of set pieces, shells (specifying single- or multiple-break), and other items, including experimental or model rockets or missiles;

(7) The manner and place of storage of such fireworks prior to and during the display;

(8) Proof that satisfactory compensation insurance is carried by the applicant for all of the applicant's employees who will be working at the display;

(9) A statement that the applicant has notified the Boulder County Sheriff's Department and the Rocky Mountain Fire District of the permit application; and

(10) Proof that the applicant has public liability insurance with the limits and coverage as set forth in the Colorado Governmental Immunity Act, protecting the Town, fire district, applicant, manufacturer, wholesaler, seller, supplier, property owner and operators of the display from any liability or claims of damages arising out of or as a result of or related to the fireworks display. (Ord. O-18 §1, 2001; Ord. O-9 §1, 2009)