

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE I

Administration and Abatement of Nuisances

Sec. 7-1. Definitions.

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

Abandoned vehicle means any automobile, truck, tractor, motorcycle or self-propelled vehicle or trailer that has been left with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving. It is prima facie evidence of the necessary intent that notice has been posted upon the vehicle, or the owner thereof has otherwise been notified by a law enforcement agency to remove the motor vehicle, and it has not been removed within three (3) days after such notice has been posted or received; and:

- a. The motor vehicle has been left for more than seven (7) consecutive days unattended and unmoved;
- b. The motor vehicle meets the definition of *inoperable vehicle* as defined in this Section;
- c. License plates or other identifying marks have been removed from the motor vehicle.

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

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

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

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

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

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, and shall include all rank vegetable growth which exhales unpleasant and noxious odors and also high

and rank vegetable growth that may conceal filthy deposits. (Prior code 45-1; 45-19; Ord. 01 §1, 2007)

Sec. 7-2. 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, corporation or association causing or permitting any such nuisance shall be in violation of this Article. (Prior code 45-2)

Sec. 7-3. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Prior code 45-3)

Sec. 7-4. Prohibition of nuisances.

No person being the owner, agent or occupant, 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. (Prior code 45-5)

Sec. 7-5. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Manager, or his or her appointed deputies, dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Prior code 45-6; Ord. 33 §B1, 2003)

Sec. 7-6. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice given to abate the same. (Prior code 45-7)

Sec. 7-7. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Article. (Prior code 45-12)

Sec. 7-8. Abatement of nuisance.

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

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

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

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

(e) The expense incurred by the Town in abating any nuisance may be recovered by proper action from the author thereof. (Prior code 45-13; Ord. 33 §B1, 2003)

Sec. 7-9. Right of entry.

The Town Manager, Chief of Police or any other person deputed as aforesaid may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Prior code 45-15; Ord. 33 §B1, 2003)

Sec. 7-10. Interference with officials prohibited.

It shall be unlawful for any person to hinder, delay or obstruct any Town officer or Town employee in the discharge of any duty to regulate activities as set forth in this Chapter. The penalty for violation of this Section shall be as specified in Section 1-82. (Prior code 45-16; Ord. 22 §1, 1991)

Sec. 7-11. Notice to cut weeds, brush and remove rubbish; enforcement.

(a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Article and shall give notice that said owner and/or occupant has two (2) days to cut or remove the weeds, brush and rubbish, and comply with the requirements of this Article.

(b) In case of the failure of any owner of such lots, tracts or parcels of land to cut or remove the weeds, brush or rubbish as set forth in this Article within the time and in the manner prescribed herein, the Town Manager may order the Public Works Director to cut and remove from such lots, alleys and sidewalk areas all of such weeds, brush and rubbish. The Public Works Director shall then proceed at once to have the work done accordingly. (Prior code 45-20; Ord. 33 §B1, 2003)

Sec. 7-12. Report of costs.

Upon the completion of the work contemplated by the last preceding section, the Public Works Director shall report, in writing, to the Town Manager, which report shall make a clear statement of the work done by the Public Works Director or his or her assistants and the expense incurred in so

doing, so that the Town Manager may determine the cost of such work. The Public Works Director shall make a separate report for each lot or parcel of land. (Prior code 45-21; Ord. 33 §B1, 2003)

Sec. 7-13. Assessment of property for costs.

After considering the report of the Public Works Director, the Town Manager shall determine and assess the whole cost for the removal thereof, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the weeds, brush or rubbish are removed. (Prior code 45-22; Ord. 33 §B1, 2003)

Sec. 7-14. Notice of assessment.

The Town Clerk, as soon as may be after such assessment is made, shall send, by certified mail with return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner or owners and the amount of the assessment. (Prior code 45-23)

Sec. 7-15. Payment of assessment.

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

(b) The amount of such assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Prior code 45-24)

Sec. 7-16. Objection to assessment; hearing.

In the event any owner or owners desire to object to said assessment, they shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon designate the next regular meeting of the Town Council as the date when said objector or objectors may appear and have a hearing before the Town Manager and Town Council. (Prior code 45-25; Ord. 33 §B1, 2003)

Sec. 7-17. Certified assessment.

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Prior code 45-26)

Sec. 7-18. Violations and penalties.

Any person who shall violate any of the provisions of this Article shall be subject to the provisions of Section 1-82 of this Code. (Prior code 45-27)

Secs. 7-19—7-30. Reserved.

ARTICLE II

Nuisances

Sec. 7-31. Accumulation to constitute nuisances.

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned by the Zoning Ordinance of the Town for said purposes or otherwise designated by the Town for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article. (Prior code 45-4)

Sec. 7-32. Discharge of nauseous liquids.

No person shall, himself or herself or by another in the Town, discharge out of or from or permit to flow from any house or place any foul or nauseous liquid or substance of any kind whatever into or upon any adjacent ground or lot or into any street, alley or public place. (Prior code 45-8)

Sec. 7-33. Littering.

(a) It shall be unlawful for any person to throw or cause to be thrown or permit anyone in his or her employ to throw onto any public highway, thoroughfare, street, sidewalk, recycle container or other place any kind of wire or scrap paper; any ashes, cans or glass of any character; old clothes; cloth of any kind; boots; shoes; hats; leather; hair; straw or hay; animal, vegetable or any other substance whatever; or any type of advertising matter; or to distribute or cause to be distributed or permit anyone in his or her employ to distribute any type of advertising matter in such a manner so as to cause the littering of any public highway, thoroughfare, street, sidewalk or public place. It shall further be unlawful for any person to sweep or cause to be swept, or cause anyone in his or her employ to sweep, from any store, office, warehouse, factory, hotel or any other building, occupied in whole or in part for commercial purposes, any refuse or dirt from such building onto any public highway, thoroughfare, street, sidewalk or other public place in the Town.

(b) It shall be unlawful for any person, firm, association or corporation to drive, move or propel a vehicle or to allow a vehicle owned by such person, firm, association or corporation 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, sidewalk or other public place in the Town any trash or rubbish; or to load or allow a vehicle to be so loaded so 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 shall be 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, 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, 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 rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. (Prior code 45-9)

Sec. 7-34. Use of property for dumping unlawful.

It shall be unlawful for any person, firm, association or corporation to use any land, premises or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the Town Manager or the Town Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the Town Manager or Town Clerk shall issue a permit upon approval of the Town Council after the payment of the fee in an amount approved by the Town Council pursuant to Section 2-381, et seq. (Prior code 45-10; Ord. 12 §B22, 2003)

Sec. 7-35. Nuisances enumerated.

(a) Stale matter. No person whatsoever 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.

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

(c) Transporting of garbage; manure. Every cart or vehicle used to transport manure, garbage, swill or offal in any street in the Town shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street.

(d) 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 substances, or both, any dead animal, excrement, garbage or other offensive matter whatever upon any street, avenue, alley, sidewalk or public or private grounds. No person shall, in the Town, throw or deposit or cause or permit to be thrown or deposited 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.

(e) Dead animal; removal. When any animal shall die in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the Town. If such body shall not forthwith be removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal shall be in any street, highway or public grounds in the Town, it shall be the duty of the Town Manager to cause such body to be removed forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the Town.

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

(g) Unused appliances. No person whatsoever shall keep any unused refrigerator, washer, dryer, freezer or other appliance within any accessible yard or lot, carport or residential garage within the Town limits without first removing the door of the same.

(h) Removal of inoperable vehicle. It shall be unlawful for any person, partnership, corporation or other 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 Subsection shall not apply to any person, partnership or corporation or their agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person, firm, corporation or their agent who is conducting a business enterprise in compliance with existing zoning regulations.

(i) Vacant residential dwellings. All broken windows in each vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Town Manager or his or her appointed deputies.

(j) Barking, yelping, howling or mewing by canine or feline. The keeping or harboring of any canine or feline which by loud, frequent or habitual barking, yelping, howling or mewing shall cause a serious annoyance to the neighborhood or to persons passing to and fro upon the streets or sidewalks is hereby declared a nuisance and is prohibited.

(k) Incinerators. Only dry, easily combustible materials may be burned in non-gas-fired incinerators from 8:00 a.m. to 4:00 p.m. Any material having burned in an incinerator which smolders shall be deemed a nuisance. Smoldering shall be defined as when the flame has subdivided to the point where smoke is being emitted and such smoldering shall be a nuisance when this condition prevails in excess of thirty (30) minutes.

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

(m) Unauthorized posting of handbills, posters and placards. Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house, 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 shall be deemed a nuisance and may be abated as provided in this Chapter.

(n) Unlawful to abandon vehicle. It shall be unlawful for any person, partnership, corporation or other agent to leave an abandoned vehicle upon a street, highway, right-of-way or any other public property without the express consent of the owner or person in lawful charge of that private property. (Prior code 45-11; Ord. 33 §B1, 2003; Ord. 1 §2, 2007)

Secs. 7-36—7-50. Reserved.

ARTICLE III

Brush and Weeds

Sec. 7-51. Height regulated.

It shall be the duty of each and every person, corporation or association owning 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, and to remove the same together with all rubbish of all kinds from the area to the middle of the alleys abutting behind and from the sidewalk areas abutting in front of all said lots, tracts and parcels of land within the Town. (Prior code 45-17)

Sec. 7-52. Removal.

All such weeds, brush and rubbish shall, immediately upon being cut by the owners of said lots, be removed from the Town, burned or otherwise entirely destroyed. (Prior code 45-18)

Secs. 7-53—7-70. Reserved.

ARTICLE IV

Intersection Triangle

Sec. 7-71. Intersection triangle.

Any affixed object which is not a primary structure on a lot, which has a height of thirty (30) inches above the elevation of a minor road at the apex of the sight triangle at the intersection of a thru

street and minor road (stop or yield) shall be removed by the property owner within thirty (30) days of the effective date of the ordinance codified in this Section. Any obstruction of any nature whatsoever over thirty (30) inches in height shall not be allowed to be constructed, planted or grown within the sight triangle described herein at any time after the effective date of the ordinance codified in this Section; except for trees with a height of seven (7) feet above the ground and open wire fencing that does not obscure sight more than ten percent (10%). The sight triangle described herein is found in Appendix A. (Ord. 22 §1, 1991)

Secs. 7-72—7-90. Reserved.

ARTICLE V

Trees

Sec. 7-91. Sale, import or planting prohibited.

It shall be unlawful to sell or import into the Town, or to plant or cause to be planted within the corporate limits of the Town, any female box elder tree (*Acer negundo*). (Prior code 63-1)

Sec. 7-92. Removal of new trees by owner required.

The owner of any property within the Town, upon which any female box elder tree has been planted after the effective date of this Article, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the Town. (Prior code 63-2)

Sec. 7-93. Removal by Town upon noncompliance.

In case of the failure of any owner of such property to cut and remove such box elder tree planted after the effective date of this Article, the Town shall cut and remove such box elder tree. (Prior code 63-3)

Secs. 7-94—7-110. Reserved.

ARTICLE VI

Animals and Livestock

Sec. 7-111. Livestock.

No livestock shall be housed, penned, stabled, corralled, pastured or otherwise kept within the Town limits except with written authorization of the Animal Control Officer after inspection as to the adequacy of the structure in which that livestock is kept and after evaluation of the effect of such livestock on neighboring properties as to sight, smell and sound. (Prior code 26-5.1)

Sec. 7-112. Certain animal traps and poisonous baits prohibited.

(a) It shall be unlawful for any person to set, use or allow to be set or used, "leg-hold" animal traps or snares upon any property, public or private, within the Town. For purposes of this Section, "leg-hold" traps and snares shall be defined as spring-operated or other types of metal-jawed animal traps which capture animals by closing on any part of an animal's body, and known by the names, among others, of "leg-hold," "steel-jawed," "conibear" and "spring-line" traps.

(b) It shall be unlawful for any person to place, maintain or permit the use of poisonous baits upon any property, public or private, within the Town. For the purposes of this Section, poisonous baits are defined as substances attractive to animals as food, to which lethal poisons are added for the purpose of killing those animals which ingest them.

(c) Nothing in this Section shall prohibit the otherwise lawful trapping of any animal by use of animal traps which by their normal operation are intended to capture animals alive and unharmed, and which are known variously by the names, among others, of "cage trap," "cage-door trap" or "live trap."

(d) Nothing herein contained shall prohibit the otherwise lawful possession or use of standard mouse and/or rat traps for the purpose of controlling common mice and rats.

(e) Nothing herein contained shall prohibit the otherwise lawful possession or use of standard mouse or rat poison baits for the purpose of controlling common mice and rats.

(f) Nothing herein contained shall prohibit the Town Manager in a time of danger to the public health, welfare and safety caused by an animal disease, overpopulation or any other public safety problem from authorizing, by written permit, the use of any animal trap or poison bait on an emergency basis by Town police, animal control officers, officers of the Division of Wildlife, the Department of Agriculture or other persons authorized by such permit.

(g) The penalty for violation of this Section shall be as set forth in Section 7-149. (Prior code 26-21; Ord. 25 §1, 1990; Ord. 33 §B1, 2003)

Secs. 7-113—7-130. Reserved.

ARTICLE VII

Animals

Sec. 7-131. Definitions.

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

Abandon(ed) means to deposit, leave, drop off or otherwise dispose of any living domestic animal without providing immediate humane care on any public or private property.

Animal means any living vertebrate creature, domestic or wild, including dogs but excluding estrayed animals as defined in Section 35-44-101(1), C.R.S.

Bite means to be seized with the teeth or jaws so that a person or animal has been nipped, gripped, wounded or the skin pierced.

Board means the Board of County Commissioners of Eagle County.

Control means physical restraint or influence over a dog by means of a leash, cord or chain no longer than ten (10) feet in length except when the dog is actually working livestock, locating or retrieving wild game in season for a licensed hunter, or assisting law enforcement officers, or while actually being trained for any of these specifically enumerated purposes. For purposes of this Article, *control* shall be construed to include authorization for the Animal Control Officer to secure the enforcement of the laws for the prevention of cruelty to animals in accordance with Section 7-159 herein.

Conviction means a finding of guilt by a court or acknowledgement of guilt by payment of fine pursuant to the penalty assessment procedure.

County means the County of Eagle, State of Colorado.

Cruelty occurs when a person knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink, socialization or protection from the weather, or abandons it.

Damage means loss or harm resulting from injury to person or property.

Dangerous dog means any dog that, according to the records of the appropriate authority:

- a. Has inflicted severe injury upon a human being without provocation on public or private property;
- b. Has killed a domestic animal without provocation while off the owner's property;
- c. Whose owner has been convicted of a violation of Section 7-147, or the equivalent in another jurisdiction;
- d. Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again bites, attacks or endangers the safety of humans or domestic animals; provided, however, that dogs shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, was abusing or assaulting the dog, or was committing or attempting to commit a crime; or

e. Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

Dog refers to any animal of the canine species, regardless of sex, including dogs of wild extraction, and a dog that is of any hereditary part related to wild canines, such as but not limited to the wolf family (*canis lupus*) and the coyote family (*canis latrans*).

Dog, female means a dog of the female gender on which no alternative surgery (e.g., ovariectomy or ovariohysterectomy) has been performed.

Dog, male means a dog of the male gender which has not been castrated (intact).

Dog, neutered male means a male dog which has been castrated.

Dog owner is a person, or any parent, guardian or legal custodian of any unemancipated child under eighteen (18) years of age, who owns, co-owns, possesses, controls, maintains, keeps or harbors a dog or knowingly permits or intends to permit a dog to remain for seven (7) consecutive days on or about property or premises owned, controlled, or occupied by him or her; a kennel is not a dog owner within the purview of this definition.

Dog, spayed female is a female dog on which an ovariectomy or ovariohysterectomy has been performed by a licensed veterinarian.

Dog, stray means any licensed or unlicensed dog found loose or unattended anywhere within the County.

Dog tag means a metal tag stating vaccination against rabies which is serial numbered, bearing the year of issuance, the name of the County and the telephone number of the Animal Control Center. Dog tags are issued by a County Animal Control Officer or other authorized agent upon presentation of a current vaccination certificate issued by a licensed veterinarian.

Harbor or keep means to feed and care for any dog upon the premises or to permit any dog to be fed and cared for on the premises. The occupant of any premises on which a dog is kept or to which a dog customarily returns daily for food, shelter and/or care is presumed to be harboring a dog within the meaning of this Article, and said person shall be subject to the applicable provisions of this Article. No person is deemed to *harbor* or *keep* any animal that has been reported to Animal Control and is actively assisting in efforts to impound or confine said animal.

Keeper means any person who keeps or harbors a dog or cat for less than seven (7) days.

Kennel means a person, entity or operation which is required to be licensed or permitted by the State and/or County pursuant to applicable laws and regulations and which keeps and maintains dogs for sale, resale, boarding, breeding, show, hunting or other commercial or recreational purposes.

License year means January 1 through December 31 of the referenced year.

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

Neglect includes failure to provide food, water, protection from the elements, opportunity for exercise, socialization or other care normal, usual and proper for an animal's health and well-being.

Potentially dangerous dog means any dog that when unprovoked:

- a. Inflicts a bite on a human or a domestic animal, either on public or private property;
- b. Chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or
- c. Chases or approaches a person upon private property other than the owner's in a menacing fashion or apparent attitude of attack.

Premises means property owned, leased or expressly permitted to be used by an owner; or any confined area or locality like a residence, business, room, shop, building or motor vehicle in which the animal's presence is authorized by the owner of the premises. The term *premises* includes the open space bed of a truck.

Proper enclosure of a dangerous dog means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, a locked gate and shall also provide protection from the elements. There shall be posted signs, which are legible to passers-by, warning of the dangerous dog's presence.

Proper restraint of a potentially dangerous dog means:

- a. While on the owner's property, a potentially dangerous dog shall be restrained by chain, leash or other confinement suitable to prevent the animal from leaving the owner's property; or
- b. While off the owner's property, a potentially dangerous dog shall be under physical restraint of the owner or other responsible person.

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.

Public nuisance means an animal infected with rabies or stray cat(s) or a barking dog which disturbs the peace of humans, or a dangerous or potentially dangerous dog, an unconfined dog in estrus, or a dog or a cat that deposits excrement on public or private property that is not subsequently and promptly removed by the responsible party.

Rabies means a communicable disease of both wild and domestic animals, especially dogs, transmittable to humans as defined by the United States Department of Agriculture.

Running at large means when a dog enters the property of another person without authorization of that person, or when it enters public property and is not under the control of the dog owner or a responsible person or an employee or agent of the owner either by leash, cable or chain not more than ten (10) feet in length.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Vaccination, inoculation or vaccination for rabies means the inoculation of a dog with an anti-rabies vaccine approved by the State Department of Health and administered by a licensed veterinarian for use in the prevention of rabies which is deemed current by reference to the expiration date noted on the vaccination certificate or published duration as indicated by the manufacturer. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-132. Annual licensing and vaccination required.

(a) It shall be unlawful for a dog owner to fail to annually obtain a license in accordance with the provisions of this Article for each dog which he or she maintains, keeps or harbors within the Town for seven (7) consecutive days and to have annually vaccinated or inoculated against rabies each dog for which said license is required. In order to be licensed, a dog must have been first vaccinated or inoculated as can be demonstrated by a vaccination certificate issued by a graduate veterinarian licensed to practice veterinary medicine.

(b) A license is not required for cats; however, every cat so maintained, kept or harbored within the Town for seven (7) consecutive days must be currently vaccinated against rabies and a certificate as to the date administered and expiration, identifying the type of vaccine, administering veterinarian and business address must be presented for inspection upon the request of any authorized officer. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-133. Issuance of dog license and dog tag.

The County Animal Control Department and/or Deputy County Clerk and Recorder, or any agency or person designated by the Board of County Commissioners in writing, shall issue a dog license and dog tag upon the receipt of the executed application thereof and inspection of the vaccination certificate. The vaccination certificate will certify that the dog has been vaccinated against rabies. (Ord. 1 §3, 1992; Ord. 27, 1992)

Sec. 7-134. Duration, fees and requirements of dog license and dog tag.

(a) A tag and license shall be available for a fee as set forth in Section 7-150. A dog license shall be valid from January 1 through December 31 of the referenced year. Upon the expiration of a dog license, a new license must be obtained from the County for the succeeding year.

(b) A dog license will provide a place to state the following information:

- (1) Name and address of dog owner;
- (2) Breed, sex, age and description of the dog to be licensed;

- (3) Date of vaccination or inoculation against rabies according to the vaccination certificate;
- (4) Date of issuance of license; and
- (5) Number of the dog tag.

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

(d) In the event a dog tag is lost, destroyed or mutilated, a replacement tag may be issued by the appropriate official upon presentation of the current dog license and payment of a fee in an amount approved by the Town Council pursuant to Section 2-381 et seq.

(e) It shall be unlawful to possess and/or affix a tag to any other dog than that specific animal for which the respective license and tag have been issued. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 12 §B23, 2003)

Sec. 7-135. Registration to license dog moved into Town; exception for dogs under age of twelve (12) weeks.

(a) With respect to a dog that is moved into the Town, the owner shall obtain a license for said dog within seven (7) days after entry into the Town.

(b) A dog under the age of twelve (12) weeks is not required to be licensed or vaccinated; provided, however, that within thirty (30) days after a dog has become twelve (12) weeks of age, the dog owner shall obtain a license for said dog. If said dog is impounded, vaccination shall be mandatory at the time of release from impoundment. Such vaccination shall be at the owner's expense. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-136. Vaccination or inoculation against rabies.

(a) Vaccination or inoculation against rabies in order to obtain a dog license must be by a licensed graduate veterinarian using a vaccine recommended by a current compendium of animal rabies vaccines.

(b) The dog owner will obtain from the veterinarian a vaccination certificate which states the type of vaccine with which the dog was inoculated, the date of inoculation, the expiration date of inoculation, the business address and the administering veterinarian. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-137. Retention of dog license; attachment of dog tag to collar or harness.

(a) A dog owner who obtains a dog license will retain it during the license year and is required to present it for examination by the County Sheriff, Deputy Sheriff, Town Police and the County Animal Control Officer or any other peace officer in the connection with the enforcement of this Article.

(b) No dog owner shall fail to place upon his or her dog the collar or harness to which the tag is attached. Said collar or harness must be worn by the dog at all times, except when the dog is securely

confined within any enclosure on the property of the owner, possessor or keeper of such an animal. Failure to adhere to this regulation shall result in penalties listed in Section 7-149.

(c) If for some reason a dog cannot wear a collar or harness, the owner of said dog must have the dog tattooed with a tattoo approved by the Animal Control Department. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-138. Kennel regulations.

Dogs kept or maintained by a licensed kennel need not be licensed pursuant to the provisions of this Article while they are within the confines of the kennel premises; however, current rabies vaccinations and applicable certificates for each dog over four (4) months of age so kept or kenneled is required and shall be presented for inspection upon request of an authorized officer. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-139. Control.

(a) It shall be the duty of any owner or keeper of a dog to keep such dog under control, as herein defined, so as to prevent the dog from:

- (1) Running at large;
- (2) Becoming a danger to persons or property;
- (3) Trespassing on the property of another; or
- (4) Being a public nuisance as defined in Section 7-131.

The purpose of this Subsection (a) shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers or being trained for any of these specifically enumerated pursuits.

(b) The County Animal Control has the authority to and shall deem any animal that displays any of the characteristics set forth in Section 7-131 as dangerous or potentially dangerous, and shall notify the owner through posted notice.

(c) It shall be unlawful for a dog to not be under control in instances which shall include, but not be limited to:

(1) When said dog bites or damages a person or property of anyone other than the owner. The County Animal Control shall deem any dog that bites a human or domestic animal as potentially dangerous and shall notify the owner through posted notice.

(2) When said dog inflicts severe bodily injury or damage to the person or property of anyone other than the owner. The County Animal Control shall deem any dog that inflicts severe bodily injury to a human or domestic animal as a dangerous dog and shall notify the owner through posted notice.

(d) No dog owner shall fail to confine any unspayed female dog in the state of estrus (heat). The dog shall be confined during estrus in a house, building or secured enclosure constructed so that no other dog may gain access to the confined animal. Owners who do not comply with this Subsection may be ordered to remove the dog to a boarding kennel, veterinary hospital or the Animal Control Center. All expenses incurred as a result of such confinement shall be paid by the owner. Failure to comply with the removal order of an Animal Control Officer shall be a violation of this Article, and any unspayed female dog in estrus may be summarily impounded in the event of noncompliance with such a removal order.

(e) It shall be unlawful for a dog owner to leave within the open portion of a vehicle parked on public property a dog which is creating a danger to persons and/or property in the immediate vicinity thereto.

(f) It shall be unlawful for a person to leave any domestic companion animal confined within a vehicle so as to place said animal in undue stress of danger of extremes in temperatures. Any authorized officer finding such to be existent may take whatever reasonable means necessary to remove said animal from the vehicle and place said animal into "protective custody."

(g) It shall be unlawful for a person to abandon or leave unattended an animal owned by him or her or which has been under his or her control or in his or her possession. An animal which has been left unattended for more than twenty-four (24) hours after posted notice of abandonment by a County Animal Control Officer shall be considered abandoned and may be impounded by the County Animal Control exercising whatever reasonable means necessary to accomplish such impoundment.

(h) Dogs in Common and Public Areas: No dog owner shall fail to prevent his or her dog from running at large in the yard of any multiple occupancy building which is occupied by other persons; or in the common areas of mobile home complexes, apartments or condominium developments; or in open space areas of subdivisions; or in public or county parks or fairgrounds, unless permission is posted by county or public authorities allowing dogs at large on said property.

(i) Any animal obtained by the County Animal Control through a request from a government agency shall be deemed not under control and may be impounded and subject to disposition as provided by Section 7-140. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-140. Impounding of dogs.

(a) It shall be the duty of the County Animal Control Officer to apprehend any stray dog or any dog running at large or not under control as defined in the provisions of Section 7-139 hereof or not duly licensed or vaccinated as provided by the County Animal Control Officer; and upon receiving any dog shall make a complete registry entering breed, sex and color of such dog, and whether licensed; if licensed, he or she shall enter the name and address of the owner and the date and number of the dog tag.

(b) When any dog has been impounded, Animal Control Personnel shall as soon as feasible give notice in person, by letter sent to the owner's last known address, by telephone or by service of a summons upon the owner of the dog's impoundment and dispositional alternatives. If the dog owner's identity or whereabouts are unknown at the time of impoundment, the Animal Control Personnel shall take all reasonable steps to identify the owner and provide such notification. If the dog owner's

identity or whereabouts still cannot be established, the Animal Control Officer may proceed with any disposition authorized by this Article. The Animal Control Personnel shall maintain records of the time, dates and manner of any such notification, and such records shall constitute prima facie evidence of notification or attempted notification. The owner of said impounded dog may reclaim said dog upon payment of all costs and charges incurred by the County for impounding and maintenance of said dog. The charges and fines as listed in Section 7-150 shall be paid to the County Animal Control Department for impounding any dog or cat.

(c) All impoundments will be kept on record for a period of twenty-four (24) months from the date of the first impoundment. After such time, the record will start anew. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-141. Dangerous and potentially dangerous dogs.

(a) Dangerous dogs.

(1) Any dangerous dog (as described in Section 7-131 that has been found running at large may be impounded, and the owner shall be subject to a mandatory court appearance. If the dangerous dog injures a human or other domestic animal more than once, Animal Control has the authority to impound the dog at the owner's expense, until the owner appears on a mandatory court appearance (protective custody). The court may order the dog to be destroyed.

(2) It shall be unlawful for any dog owner who keeps a dangerous dog as defined in Section 7-131 to keep the same unless confined in a locked enclosure, as indicated in Section 7-131, so as not to interfere with the public thoroughfares, including sidewalks, bike paths or public easements. The enclosure must be sufficiently constructed to contain said dog and must be posted at each entrance and/or exit of the enclosure "Beware of Dog" or similar advisement.

(b) Potentially dangerous dogs.

(1) Any potentially dangerous dog, as described in Section 7-131 that has caused no human injury or domestic animal injury and has been found running at large may be impounded, and the owner shall be fined an amount approved by the Town Council pursuant to Section 2-381 et seq., for the first offense, second offense and third offense. The third offense shall result in a mandatory Court appearance for the dog's owner.

(2) It shall be unlawful to allow any potentially dangerous dog to run at large, and it is the responsibility of the dog owner, family members and/or any agent of the family to keep such a dog confined as stipulated in Section 7-131 at all times.

(c) It shall be the duty of the County Sheriff, any Deputy Sheriff, Town Police, any County Animal Control Officer or Deputy Animal Control Officer to impound any such animal that is in violation of this Section, and violation of this Section shall constitute a separate offense in addition to a violation of Section 7-139. A violation of Subsections (a) and (b) above shall require a mandatory court appearance.

(d) Any dog that has been previously deemed dangerous by appropriate notification and while in violation of this Section is found to have caused bodily injury to a person or animal, or threatened or

endangered wildlife and/or livestock, and repeats such incident or commits another violation of this Article, shall automatically constitute a directive for impoundment and protective custody, and a petition for a court order for the destruction of said dog under the supervision of the Animal Control Officer shall be filed immediately.

(e) It shall be the duty of any County Animal Control Officer, Deputy Animal Control Officer, Sheriff or Sheriff's Deputy to seize and impound any dangerous or potentially dangerous dog. After making every reasonable attempt to seize and impound said such animal, including the solicitation of assistance from the owner if said owner is known and available, if the officer determines that said animal cannot be seized without exposing the officer(s) or other persons to danger or personal injury, it shall be lawful for the officer to destroy said animal without notice to the animal's owner, keeper or possessor. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 12 §B24, 2003)

Sec. 7-142. Quarantine of dogs and cats.

(a) A dog that does not have a current rabies vaccination and is known to have bitten or injured any person so as to cause a puncture or abrasion of the skin shall be quarantined for no less than ten (10) days at the expense of the dog owner. The place of confinement of said dog shall be the County Animal Shelter or a licensed veterinarian hospital at the expense of the owner.

(b) A dog or cat that is currently vaccinated and is known to have bitten or injured any person so as to cause a puncture or abrasion of the skin shall be quarantined for no less than ten (10) days at the expense of the owner. The place of confinement shall be the County Animal Shelter or a licensed veterinary hospital or, if the owner has an enclosure on the owner's property that would adequately contain the dog at all times of the required quarantine period, the Animal Control Officer, at his or her discretion, may place said animal under quarantine on the owner's property, provided that the owner keeps said animal confined without exposure to any other animals. The Animal Control Officer shall from time to time check the animal's health and behavior; and, if at any time the owner of said animal does not comply with the provisions of the confinement of said animal, the Animal Control Officer shall move the animal to the County Animal Shelter for the remainder of the quarantine period at the owner's expense.

(c) If at any time during the quarantine of a vaccinated or an unvaccinated animal, said animal becomes ill or displays symptoms of rabies, said animal shall immediately be examined by a licensed veterinarian and may be destroyed and a medical test conducted to determine if the animal was rabid, having thus exposed the bite victim to rabies. If said animal dies while under quarantine, a medical test shall be conducted to determine whether the animal was suffering from rabies at the time of death. All tests are conducted at the expense of the animal owner.

(d) If the owner of an animal referred to in the preceding Subsection cannot be determined or located, then the County Animal Control Officer shall confine said animal at the County Animal Control Shelter for a quarantine period of not less than ten (10) days. If the owner of said animal is not determined or located, or if the animal is unclaimed by the end of the quarantine period, the County Animal Control Supervisor may order said animal destroyed. If said animal is diagnosed by a licensed veterinarian to be suffering from rabies, said animal shall immediately be destroyed. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-143. Disposition of unclaimed or diseased animals.

(a) With respect to an animal which has been impounded or quarantined pursuant to the provisions of Section 7-140 or 7-142 hereof and has not been claimed, released or disposed of in accordance with said Sections, the County Animal Control Officer shall keep dogs in the County Animal Shelter or other suitable place for not less than five (5) days and cats for not less than seventy-two (72) hours, after which said custodian may have said animal destroyed, except as hereinafter provided.

(b) After the required time period, in lieu of having said animals destroyed, the County Animal Control Department may release any such animal, if unclaimed and not diseased, to a bona fide humane society, or with respect to a stray animal, to a person having no previous interest in said animal in accordance with the provisions of this Article. Upon release of said animal, the recipient shall pay an amount approved by the Town Council pursuant to Section 2-381 et seq. All animals adopted from the County Animal Shelter are required to be sterilized at the time of adoption. Transfer of ownership of the dog or cat shall not be effected until sterilization has occurred unless such surgery would be dangerous to the animal due to its age or physical condition, as determined by the selected veterinarian of record, in said circumstance the terms of the adoption contract shall specify a date by which sterilization shall be performed. Nothing hereinabove would place responsibility or liability for subject animal's action upon the County for any incident arising during that period of delay in transfer of absolute ownership. Failure of the person adopting a dog or cat to sterilize it shall be a violation of this Article.

(c) An impounded animal which is sick or injured and in pain or contagious to other animals, and which is not identifiable to an owner, is not subject to a minimal impoundment period and may immediately be euthanized. If a sick or injured animal which is in pain or contagious to other animals is identifiable to an owner, the Animal Control Officer shall diligently attempt to contact the owner within twenty-four (24) hours after impoundment, after which time the animal may be euthanized if still unclaimed.

(d) No animals that become property of the County as a result of these rules and the intergovernmental agreement concerning animal control between the Town and the County shall be released for animal research and/or experimentation.

(e) When recovering or disposing of dead animals, the County Animal Control shall take whatever reasonable and appropriate action is required to protect the health, safety and welfare of the community, including, but not limited to disposal of the dead animal without unnecessary delay. If the dead animal has a current license tag intact, the Animal Control Officer recovering the dead animal shall make reasonable efforts to notify the owner before disposing of the animal. Reasonable fees for time and expenses may be charged to an owner of such deceased animal.

(f) Nothing in this Section shall be construed to prevent an Animal Control Officer from taking whatever action is reasonably necessary to protect his or her person or members of the public from injury by any animal. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 12 §B25, 2003)

Sec. 7-144. Quarantine and destruction of rabid dogs.

Animals known to have been bitten by or exposed to a rabid animal shall be:

(1) Where, in the reasonable discretion of the County Animal Control Officer, the County Sheriff, a Deputy Sheriff or the Town Police, said animal is suspected of rabies in endangering the life or person of another, or inflicting death or injury to livestock or wildlife, said animal may be immediately destroyed.

(2) When bitten by a rabid animal or exposed to a rabid animal, an unvaccinated dog or cat shall be destroyed immediately, unless the owner objects, in which case the animal shall be placed in strict isolation for a period of six (6) months and vaccinated for rabies one (1) month before being released from isolation. The isolation shall be supervised by a veterinarian licensed in the State. All expenses of said quarantine are to be borne by the animal's owner only. It shall be unlawful for any dog or cat owner to fail to have any unvaccinated dog or cat, bitten by a rabid animal, so destroyed or quarantined. Each day said owner fails to comply with the provisions of this Section shall constitute a separate offense.

(3) In any case where a rabid animal bites a dog or cat with a current rabies vaccination, the owner of the dog or cat shall obtain the immediate revaccination of the dog or cat by a licensed veterinarian and shall see that said animal is confined for a period of ninety (90) days. It shall be unlawful to fail to have a dog or cat, bitten by a rabid animal, revaccinated or to fail to confine said dog or cat for ninety (90) days. Each day said owner fails to comply with the provisions of this Section shall constitute a separate offense. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-145. Affirmative defense.

An affirmative defense to the violation of a dangerous dog or potentially dangerous dog attacking shall be:

(1) That, at the time of said attack by subject dog which causes injury or death of a domestic animal, such domestic animal was at large, was an estray, and entered upon the property of the owner of subject dog where referenced attack began, but did not necessarily end, upon the subject dog owner's property;

(2) That, at the time of said attack by subject dog which causes injury or death of a domestic animal, said domestic animal was biting or otherwise attacking subject dog or its owner or responsible companion and subject dog was otherwise conforming to the requirements of law as pertains to control;

(3) If a dog is provoked into biting or inflicting bodily injury or damage to the person or property of anyone other than the owner, such provocation shall constitute an affirmative defense that may be pled by an owner who is in violation of this Article on account of said biting.

(4) Any other conditions or defenses as outlined in Section 18-9-204.5(3)(h), C.R.S., known as "The Dangerous Dog Law." (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-146. Interference with Animal Control Officer.

It shall be unlawful for any person to interfere with, molest, hinder, prevent or obstruct an Animal Control Officer, knowing that he or she is an Animal Control Officer, discharging his or her duties under this Article. Anyone so interfering, molesting or hindering shall be subject to arrest for

obstruction of a peace officer in the performance of official duties pursuant to Section 18-3-201, C.R.S. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-147. Threatening of wildlife and livestock.

(a) It shall be unlawful to permit and/or allow a dog to run after, chase, pursue, bite, snap at, worry, attack or otherwise threaten wildlife and/or livestock. In the event any dog is found to be threatening wildlife and/or livestock as described, said dog may immediately be destroyed at the discretion of the County Sheriff, any County Deputy Sheriff, the Town Police, any County Animal Control Officer or any Deputy Animal Control Officer. In the event said dog cannot be immediately destroyed, it shall be the duty of the County Sheriff, any County Deputy Sheriff, the Town Police, any County Animal Control Officer or any Deputy Animal Control Officer to impound such dog. A violation of this Section, whether or not said dog has been destroyed or claimed from impound, shall require a mandatory court appearance by the owner and, if convicted of a violation of this Section, the owner will be required to pay restitution for any animal or animals harmed by said dog in addition to court fines and court costs. If the dog was not destroyed at the time of the incident, the court may order the dog destroyed under the supervision of the Animal Control Officer. If the dog is not ordered destroyed, the court will deem said dog dangerous, and the owner may be permitted to keep the dog as provided in Section 7-141.

(b) Upon a second conviction of a violation of this Section, the court shall automatically enter a court order commanding the destruction of said dog under the supervision of the Animal Control Officer. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-148. Dog bite.

In the event any dog is found to have caused bodily injury to any human, said dog will be impounded as described in Section 7-140, and the owner will be in violation of this Article. Said dog can be destroyed under the direction of the County Animal Control Supervisor, and an appropriate rabies examination shall be performed at the dog owner's expense. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-149. Penalties.

(a) Any person convicted of violating any provision of this Article which does not result in bodily injury to any person shall, on conviction thereof, be punished for such offense by payment of customary court costs and by imprisonment or payment of a fine, or both imprisonment and payment of a fine, in the discretion of the Court. The maximum period for imprisonment and the maximum fine shall be approved by the Town Council pursuant to Section 2-381 et seq.

(b) Except those penalties and fines set forth in Section 7-150, fines and penalties shall be assessed through Section 16-2-201, C.R.S., or by the Court after conviction, in which case the Court shall also assess appropriate court costs. The amount of such fines shall be approved by the Town Council pursuant to Section 2-381 et seq.

(c) The penalty assessment shall not be used for violations of Sections 7-141, 7-143, 7-147 and 7-157 of this Article, and a mandatory court appearance shall be required.

(d) For purposes of determining the proper fine (penalty assessment) for violations of this Article which do not result in bodily injury to any person, only those convictions or admissions of guilt occurring within twelve (12) months of the date of the offense for which the fine (penalty assessment) is now being imposed shall be considered. This twelve-month limitation shall not apply as to what evidence may be introduced in aggravation of any sentencing for any violation of this Article which does result in bodily injury to any person, nor shall any time limitation apply to provisions of Sections 7-147 or 7-151 of this Article.

(e) When a person is charged for a violation of this Article which does not result in bodily injury, except violations of Sections 7-141 and 7-147, and that person has three (3) or less previous convictions of violations of this Article, the arresting officer may either give the person a penalty assessment notice as provided for by Section 16-2-201, C.R.S., and release him or her upon its terms, or take him or her before a judge. The choice of procedures shall be based upon circumstances which reasonably persuade the officer that the alleged offender is likely or unlikely to comply with the terms of the penalty assessment notice. Such circumstances may include the officer accompanying the offender to a post office or mailbox and witnessing the deposit in the mail of the notice with payment of the fine attached.

(f) The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge at a specified time and place, and other matters reasonably adapted to effectuating the purposes of this Section. A duplicate copy shall be delivered to the Clerk of the Court if a payment of the penalty assessment notice has not been made within ten (10) days of the issuance of said notice.

(g) If the person given a penalty assessment notice chooses to acknowledge guilt, he or she may pay the specified fine in person or by mail and within ten (10) days of issuance of the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he or she was found guilty, but customary court costs may be assessed in addition to the fine.

(h) Any violation of any provisions of this Article which results in bodily injury to any person or animal caused by a dog shall be punished as provided in Section 1-82 of this Code, upon conviction, for each separate offense.

(i) Upon conviction, the court may order restitution paid to the injured party or owner of the animal or animals harmed by a dog.

(j) Nothing herein shall be construed to prevent impoundment of any dog under Section 7-140.

(k) On any conviction under Section 7-159, all court costs and a penalty, imprisonment or both, in the discretion of the Court, will be assessed. The maximum penalty and period for imprisonment shall be in an amount and for a duration approved by the Town Council pursuant to Section 2-381 et seq. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 12 §B26, 2003)

Sec. 7-150. Animal Control Center charges and fines.

(a) Charges and fees of seizure, impoundment, boarding, licensing, veterinarian care and adoption of an animal shall be cumulatively assessed to any animal owner according to the fee schedules listed below. Payment of all applicable fees shall be a condition of release, redemption or adoption of any animal. These fees are for administrative expenses incurred in impounding, boarding, adoption, licensing and disposal of animals as well as certain fines for violations.

(b) The fees, fines and penalties for seizure, impoundment, boarding, licensing, veterinarian care and adoption shall be in amounts approved by the Town Council pursuant to Section 2-381 et seq. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 12 §B27, 2003)

Sec. 7-151. Destruction of dangerous dogs.

(a) In addition to any other penalty, if it is found by the court or a jury that any dog complained of is a dangerous dog as defined in Section 7-131, the court may, if it finds it is in the best interest of the public, order the dog destroyed. Such destruction shall not occur prior to the completion of observation of the dog for rabies when necessary.

(b) In the event the dog owner is twice convicted of a violation of Section 7-141, the Court shall order the dog destroyed and enjoin said owner from owning or harboring any dog at any premises for a period of three (3) years.

(c) Destruction is further permitted as authorized by Section 7-147 of this Article. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-152. Failure to appear.

If a person upon whom a summons and complaint (penalty assessment notice) fails to appear in person or by counsel at the time and place specified therein and has not paid the specified fine in person or by mail at the place and within the time specified in the penalty assessment notice, the court may issue a bench warrant for his or her arrest. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-153. Failure to redeem, comply or pay fines or fees.

(a) If a person "duly notified" fails to make arrangements for the redemption or surrender of any animal under his or her care, custody or control, regardless of "ownership," said person shall be charged with a violation of this Section and brought before the court which shall at such time assess the fine provided and recover all costs accumulated.

(b) Any violation under this Article that involves failure to comply, pay fines, meet stipulations of contract, payment schedules, or as otherwise outlined will constitute a violation under this Section. (Ord. 27, 1992)

Sec. 7-154. Muzzling and confinement.

Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Board of County Commissioners and/or the Town Council, if it deems necessary, shall issue a proclamation

ordering every person owning or keeping a dog to confine it securely on his or her property or premises, and such dog shall have a muzzle of sufficient strength to prevent it from biting any person. Any muzzled dog running at large during the time of proclamation shall be seized and impounded and, if noticeably infected with rabies and displaying dangerous propensities, shall be destroyed by the Animal Control Officer. Any dog impounded during such proclamation shall be considered to have been exposed to a rabid animal, and said impoundment and release shall fall under the provisions of Section 7-144 above. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 33 §B1, 2003)

Sec. 7-155. Liability for accident or subsequent disease from impoundment.

The Board of County Commissioners, the Town Council, or their employees or agents, or 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 a dog as a result of the administration or implementation of this Article. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 33 §B1, 2003)

Sec. 7-156. Public nuisance.

(a) It shall be unlawful and declared to be a public nuisance for any dog or cat owner or other responsible person to allow his dog or cat to excrete body waste upon public or private property and when the responsible person does not promptly remove same.

(b) It shall be unlawful and declared to be a public nuisance for any dog owner to fail to prevent his or her dog from disturbing the peace of any other person or neighborhood by loud, habitual and persistent barking, howling, yelping or whining, whether the dog is on or off the dog owner's premises. It shall be the duty of the County Animal Control Officer and his or her deputies to impound said dog if the officer is unable to contact the owner and determines that the barking is disturbing the peace of the neighbors and has a signed complaint.

(1) Provocation defense: Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of this Section.

(2) Warning required: No person shall be charged with a violation of this Section unless written warning as provided in Subsection (3) below has been given at least seven (7) days but not more than thirty-seven (37) days preceding the charge.

(3) Warning process: The warning process to be employed shall be substantially as follows:

a. The warning must relate to a barking incident separate from the charged violation.

b. The Animal Control Officer may issue a warning after receiving a complaint and investigating the complaint in the field and determining a nuisance does exist (consensus survey).

c. All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state, if known, the name of the dog's owner, the owner's address and telephone number, a description of the dog, description of the offense, and the date, time, place and duration of the offense.

d. A record or incident report shall be kept of any such complaint and investigation.

e. A warning to a dog owner shall cite this Section and advise the owner of the penalty for violation of this Section. The warning shall also state that a complaint has been received, recite the date of the alleged offense and conclude that the owner's dog may have disturbed the peace of another individual. The warning must be identified as being issued by an Animal Control Officer.

(4) Complainant rights and responsibilities:

a. If a violation of this Section is charged, the complainant shall verify in writing the allegations of the complaint prior to its service upon the owner.

b. No person or owner shall be convicted at trial for violation of this Section unless testimony is presented by at least two (2) complaining witnesses or by one (1) complaining witness and the Animal Control Officer if evidence so merits. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-157. Notice and evidence of warnings.

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 of the dog according to the last address given by the owner to obtain a certificate of license or license tag or to such other address as may be on file for the owner with a government agency. (Ord. 27, 1992)

Sec. 7-158. Unlawful taking or release.

(a) It shall be unlawful for any person to take any dog from an enclosed lot, vehicle, premises or other building and deliver the dog to the impoundment facility unless authorized to do so by the owner or the keeper of the dog or as authorized by this Article.

(b) It shall be unlawful for any person to open or cause to be opened any closed lot, vehicle, premises or building or release from a chain any dog for the purpose of allowing said dog to run at large.

(c) It shall be unlawful for any person to remove any dog from the County Animal Control Shelter or any County or Town vehicle, or from the custody of the Animal Control Officer or his or her deputies without the consent of the Animal Control Officer. Such action will be considered as an obstruction and charged accordingly. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-159. Abandonment, cruelty to dogs or neglected dogs.

No person shall physically or cruelly mistreat or neglect to provide proper amounts of food and water or neglect to provide proper shelter to any dog. Any violation of this Section will result in a mandatory court appearance of the owner. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-160. Enforcement.

The provisions of the Article shall be enforced by the County Sheriff, Town Police and/or the County Animal Control Officer or their respective deputies. The provisions of this Article may be enforced by any peace officer. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-161. Hot pursuit.

(a) The County Animal Control Officer or his or her deputies or any peace officer in hot pursuit of any dog in apparent violation of this Article may enter onto private property for the purposes of enforcing this Article, including the impoundment of the dog, removal of the dog, ascertaining the identity of the dog, the currency or existence of County dog tags, or issuing a citation.

(b) This Section does not grant any Animal Control Officer or any peace officer any additional authority to enter into any dwelling or other building designed for human occupancy other than that authority which may now exist under state law. Any warrant requirements for entry into any dwelling or other building designed for human occupancy shall be observed. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-162. Animal Control Officers.

(a) There is hereby recognized the position of the County Animal Control Officer who shall be employed by the County and appointed as such by the Board of County Commissioners acting directly or through the County's Chief Administrative Officer, at such compensation and such qualifications as from time to time shall be fixed by order of the Board.

(b) There is hereby recognized the position of the Town Animal Control Officer who shall be employed by the Town. Said officer shall be appointed by the Town Council, acting directly or through the Town Manager or Chief of Police. The officer shall have such qualifications, and be paid such compensation, as shall be directed from time to time by the Town Council. Pursuant to Section 3 of the intergovernmental agreement entered into between the Town and the County dated December 23, 1992, the Town Animal Control Officer shall "secure the scene and administer control of the situation until the Eagle County Animal Control Officer arrives to resolve said incident" if a County Animal Control Officer is unavailable.

(c) Pursuant to Section 30-15-105, C.R.S., personnel engaged in dog control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing this Article. Personnel so engaged shall be included in the definition of "peace officer or fireman" in Section 18-3-201(2) C.R.S., and, to the extent such personnel are empowered to do so by the laws governing the state bureau of animal protection, are hereby authorized to carry out the enforcement of the laws for the prevention of cruelty to animals pursuant to Section 35-42-101 *et seq.*, C.R.S.

(d) Nothing in this provision is intended to vest authority in any person so engaged to enforce any resolution or statute other than the ordinance codified in this Article. (Ord. 1 §3, 1991; Ord. 27, 1992; Ord. 33 §B1, 2003)

Sec. 7-163. Disposition of fines and forfeitures.

All fines and forfeitures for violation of any provisions of this Article and all monies collected by the County or the Town for licenses shall be paid over to the County Treasurer immediately upon their receipt. (Ord. 1 §3, 1991; Ord. 27, 1992)

Sec. 7-164. Existing dog license in effect until expiration date.

Adoption of this Article, regardless of its repeal of the prior Article VII, Chapter 7 of the Code, shall not in any way affect the validity of any unexpired dog license heretofore issued by the County, and any such license then in effect will continue to have validity until the regular expiration date thereof. (Ord. 1 §3, 1991; Ord. 27, 1992)

ARTICLE VIII

Wildlife Protection

Sec. 7-165. Definitions.

For the purposes of this Article the following definitions shall apply, unless the context indicates otherwise:

Enforcement Officer means any Basalt Police Officer, the Town Building Official or any other individual deputized by the Police Department.

Guidelines means the Town of Basalt's Wildlife Protection Guidelines which shall be approved by the Town Council and may be amended from time to time by the Town. The Guidelines shall be available for review and purchase at Town Hall and are incorporated herein by this reference.

Refuse container means any trashcan, dumpster or similar device used for the collection and storage of solid waste.

Special event means a large outdoor gathering such as a concert, conference, festival or rodeo.

Wildlife means any medium to large size nondomestic mammal indigenous to the Town, including but not limited to: black bear, mule deer, elk, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine and fox.

Wildlife-resistant dumpster enclosure means a fully enclosed structure inaccessible to wildlife usually consisting of four (4) sides and a roof or cover. Wildlife resistant dumpster enclosures must be consistent with the "Town of Basalt's Wildlife Protection Guidelines."

Wildlife-resistant refuse container means a fully enclosed container including a lid which is inaccessible to wildlife. Wildlife resistant refuse containers must be consistent with the "Town of Basalt's Wildlife Protection Guidelines." (Ord. 8 §B, 2001; Ord. 33 §B1, 2003)

Sec. 7-166. Acceptable wildlife containers and enclosures.

(a) Any refuse container regardless of size, including containers for residential properties, that receives refuse which is edible by bears or other wildlife shall be either:

- (1) An approved wildlife-resistant refuse container;
- (2) A wildlife-resistant dumpster enclosure;
- (3) A refuse container which does not contain any refuse edible by bears or other wildlife at any time except on the day of pick-up before the refuse is picked up by a trash hauler;
- (4) A container that is removed each day and brought inside a building, house, garage, enclosure meeting the definitions in this Article;
- (5) A container that is emptied each day and brought to an acceptable disposal location; or
- (6) Other container described in the Guidelines.

(b) The minimum standards required for wildlife-proofing garbage are set forth in the Guidelines.

(c) Any trash hauler who provides a refuse container to a Town customer shall only provide wildlife-resistant refuse containers, wildlife-resistant dumpsters or a wildlife resistant poly-cart. If the trash hauler provides instructions to individuals or businesses regarding the construction of enclosures, the directions shall be consistent with this Article and the Guidelines. Further, any trash hauler that provides refuse removal within the Town and fails to comply with Section 7-167 below shall be in violation of this Article and subject to the penalties set forth herein.

(d) Overfilling of any refuse container, including trashcans set out on the day of collection, is prohibited. (Ord. 8 §B, 2001)

Sec. 7- 167. Maintenance and operation of refuse containers and dumpster enclosures.

(a) Wildlife-resistant refuse containers which are kept outside and wildlife-resistant dumpster enclosures must be kept closed and secure when refuse is not being deposited.

(b) If a container or enclosure provided by a trash hauler is damaged, allowing access by bears or other wildlife, the owner or tenant shall report the damage to the trash hauler and to the Town as soon as reasonably possible. The trash hauler shall have twenty-four (24) hours to repair the damage (on a permanent or temporary basis) or replace the container or enclosure.

(c) If a container or enclosure provided by a Town owner or tenant is damaged, allowing access by bears or other wildlife, the owner or tenant shall have twenty-four (24) hours to repair the damage (on a permanent or temporary basis), replace the container or enclosure or take other acceptable action to ensure that refuse is not left in a manner accessible to wildlife.

(d) Owners or tenants who are storing refuse inside a building or structure with pickup by a licensed hauler on scheduled dates shall place the refuse container at the collection area, such as at the curb, only on the morning of pickup in accordance with the Guidelines. (Ord. 8 §B, 2001)

Sec. 7-168. Special event refuse disposal.

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 in wildlife-resistant refuse containers or wildlife-resistant dumpster enclosures or be removed to an appropriate disposal site. (Ord. 8 §B, 2001)

Sec. 7-169. Feeding of birds and wildlife.

No person shall knowingly leave or store any refuse, food product, pet food, grain or salt in a manner which would constitute a lure, attraction or enticement of birds and wildlife. Additional recommendations or requirements regarding the feeding of birds and wildlife may be included in the Guidelines. (Ord. 8 §B, 2001)

Sec. 7-170. Construction site refuse disposal.

All construction sites must have a designated container that receives refuse edible by wildlife in accordance with the Guidelines. (Ord. 8 §B, 2001)

Sec. 7-171. Enforcement.

No person shall interfere with, molest, hinder or impede the Enforcement Officers in the discharge of their duties as herein prescribed. Enforcement Officers may issue warnings, notices, penalty assessments and summons and complaints to any person in violation of this Chapter. An Enforcement Officer shall have the right to inspect property concerning any wildlife concern or potential wildlife attractant. (Ord. 8 §B, 2001)

Sec. 7-172. Compliance required.

Any dumpster enclosure or refuse container shall be brought into conformity with the wildlife protection provisions of this Article by May 1, 2001. Upon determination by the Town Manager that it appears that general compliance is not feasible by the May 1, 2001 date and that an overall hardship to the community would result, the Town Manager may select a later date to begin enforcement. Subsequent to that time, upon application to the Enforcement Officer and showing a hardship by any owner of a dumpster enclosure or refuse container required to comply with this Article, the Enforcement Officer may grant an extension, for a reasonable period of time, within which to comply with the provisions of this Article. (Ord. 8 §B, 2001; Ord. 33 §B1, 2003)

Sec. 7-173. Penalties.

Violations of any provision of this Section by any person, entity, firm or corporation shall be unlawful and subject to the penalty provisions of Section 1-82, provided that each day of continuing violation after notice or warning from the Enforcement Officer may be considered a separate offense subject to penalties as specified therein. Either the owner or the occupant or both may be held responsible for a violation of any provision of this Chapter. (Ord. 8 §B, 2001)

Secs. 7-174—7-180. Reserved.

