

## CHAPTER 7

### Rural Residential Property Standards

#### **Article 1 Administration and Abatement of Nuisances**

- Sec. 7-1-10 Definitions
- Sec. 7-1-20 Nuisance defined
- Sec. 7-1-30 Common law nuisances
- Sec. 7-1-40 Author of nuisances
- Sec. 7-1-50 Prohibition of nuisances
- Sec. 7-1-60 Ascertaining nuisances
- Sec. 7-1-70 Inspection of properties
- Sec. 7-1-80 Enforcement and abatement of nuisances
- Sec. 7-1-90 Notice of abatement
- Sec. 7-1-100 Judicial enforcement
- Sec. 7-1-110 Other remedies
- Sec. 7-1-120 Notice of assessment
- Sec. 7-1-130 Payment of assessment
- Sec. 7-1-140 Objection to assessment: hearing
- Sec. 7-1-150 Certified assessment
- Sec. 7-1-160 Cumulative remedies
- Sec. 7-1-170 Concurrent remedies
- Sec. 7-1-180 Violations and penalties

#### **Article 2 Animals**

- Sec. 7-2-10 Definitions
- Sec. 7-2-20 Licensing of dogs required
- Sec. 7-2-30 Dog licensing procedure
- Sec. 7-2-40 Dogs not to run at large
- Sec. 7-2-50 Noisy dogs
- Sec. 7-2-60 Aggressive dogs
- Sec. 7-2-70 Vicious dogs
- Sec. 7-2-80 Number of animals allowed
- Sec. 7-2-90 Seizure and impoundment of dogs
- Sec. 7-2-100 Enforcement and liability
- Sec. 7-2-110 Fees
- Sec. 7-2-120 Enforcement: peace officer designation
- Sec. 7-2-130 Violations: strict liability
- Sec. 7-2-140 Penalties
- Sec. 7-2-150 Incorporation of state statutes
- Sec. 7-2-160 Applicability

#### **Article 3 Discharge of Firearms**

- Sec. 7-3-10 General provisions
- Sec. 7-3-20 Defenses
- Sec. 7-3-30 Exemptions

## ARTICLE 1

### Administration and Abatement of Nuisances

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

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

*Abate* means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation by such means, in such a manner, and to such an extent as the applicable authorized inspector or Municipal Judge determines is necessary in the interest of the general health, safety and welfare of the community.

*Agent* means and includes any person acting on behalf of or in place of the owner.

*Authorized inspector* means any police officer, Building Inspector, Tri-County Health Officer, Code Enforcement Officer, the Town Administrator or any other officer of the Town appointed by the Town to examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any nuisance.

*Blight and property degradation* means the condition of a property or group of properties that is so defective, unsightly or in such condition of disrepair that it substantially diminishes the value of surrounding property or is otherwise substantially detrimental to surrounding properties; and the condition of the property would be offensive in the eyes of the public.

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

*Collector's item* means a motor vehicle or implement of husbandry that is at least twenty-five (25) years old and is of historic or special interest. In order to be considered a collector's item, a motor vehicle must meet all criteria of a "collector's item" as defined in Section 42-12-101, et seq., C.R.S., in addition to all other applicable statutes and ordinances.

*Fully enclosed structure* shall conform to all Town zoning and building regulations contained in Chapters 16 and 18 of this Code regarding principal or accessory structures on a residential lot. Tarps, portable, movable or temporary storage or trash or recycling containers are not allowed as a means of enclosing outdoor storage in any residential zoning district.

*Garbage* means and includes any vegetable or animal refuse, food or food product, matter from a kitchen, offal or carcass of a dead animal which, if deposited within the Town other than in a garbage receptacle, tends to create a danger to public health, safety and welfare or to impair the local environment. The use in this Section is not meant to prohibit properly maintained, odorless compost or manure piles.

*Hazard to public health, safety and welfare* shall include any activity so recognized by the laws and regulations of the United States, the State or the ordinances of the Town. Such hazards shall also include, but not be limited to, activities likely to cause foul or offensive

odors, promote the growth or propagation of disease-carrying insects, pollute the air or ground waters of adjacent property, create loud or offensive sounds, cause drainage and runoff to occur in other than historical patterns or dead trees or vegetation that constitute such a hazard.

*Implement of husbandry* means every vehicle, farm tractor or machine that is designed, adapted or used for agricultural purposes.

*Inoperable vehicle* includes any vehicle that:

- a. Would be required to be licensed if operated on a public highway, but does not display current, valid license plates;
- b. Does not work, move or run;
- c. Is not functioning;
- d. Is not operable for the function for which it was designed; or
- e. Does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.

*Junk* shall include any old, used or secondhand materials of any kind including, without limitation, cloth, rags, clothing, paper, rubbish, bottles; rubber, iron, tires, brass, copper or other metal; furniture; refrigerators, freezers, all other appliances; the parts of vehicles, apparatuses and contrivances and parts thereof which are no longer in use; any used building materials, boards or other lumber, cement blocks, bricks or other second hand building materials; or any discarded machinery, vehicles or any other article or thing commonly known and classified as *junk*.

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

*Noxious weed* means an alien plant or parts thereof which is classified as a List A, List B or List C Noxious Weed pursuant to the Colorado Noxious Weed Act, Sections 35-5.5-101 through 119, C.R.S. "List A" includes rare noxious weed species that by law are subject to eradication wherever detected statewide in order to protect neighboring lands and the State as a whole. "List B" includes noxious weed species with discrete statewide distributions that by law are subject to eradication, containment or suppression in portions of the State designated by the Commissioner in order to stop the continued spread of these species. "List C" includes widespread and well-established noxious weed species for which control is recommended but not required by the State, although local governing bodies may require management.

*Nuisance*: See Section 7-1-20 below.

*Refuse* means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or

loose discarded or unused material; all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

*Rural residential property* means any property located within a Rural Residential (RR) zoning district of the Town, including any building or structure located on such property.

*Town Administrator* shall mean the duly appointed Town Administrator of the Town, or his authorized designee.

*Trash* means that which is worthless or useless and includes but is not limited to any and every refuse, rubbish, garbage, debris, waste material, paper, cartons, bottles, boxes, crates, barrels, plastic object, wooden object: wood (except stacked firewood and stacked construction materials), tree branches, yard trimmings, dead plant material; wood or upholstered furniture or bedding; rubber, metals, tin or aluminum cans, metal furniture; chemical compound, petroleum product or compound, paint; automobile part or accessory, tire, wheel; food or food product; solvent, dye, beverage; offal composed of animal matter or vegetable matter or both; dirt, rock, pieces of concrete, bricks, glass, crockery or other minerals or mineral wastes; junk; or any noxious or offensive matter whatsoever. However, such does not include earth and waste from building construction during the period in which a valid building permit issued by the Town is applicable.

*Vehicle* means a machine propelled by power other than human power designed to travel along the ground, in the air or through water by use of wheels, treads, runners, slides, wings or hulls and to transport persons or property, to pull non-self-propelled vehicles or machinery, and includes, but is not limited to: automobile, airplane, boat, bus, truck, trailer, motorcycle, motor home, recreational vehicle, camper, truck tractor, implements of husbandry, mobile machinery and self-propelled construction equipment. For the purposes of this Section, the term *vehicle* includes *implements of husbandry*.

*Weed* means any plant or vegetation which is not intentionally cultivated or is unsightly and economically useless. (Ord. 4 §1, 2010; Ord. 1 §1, 2012)

**Sec. 7-1-20. Nuisance defined.**

*Nuisance* includes:

(1) The conducting or maintaining of any activity in violation of federal law, state statute or Town ordinance;

(2) Any unlawful pollution or contamination of any air, water or other substance or material;

(3) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the Town, the Tri-County Health Department, the County or the State, continues to exist or be conducted in violation of a statute, ordinance or regulation of the Town, the County or the State;

(4) Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the public health, safety and welfare of the citizens of the Town which contributes to blight or property degradation; or which is indecent or offensive to the senses of an ordinary person, so as to interfere with the comfortable enjoyment of life or property;

(5) For the purposes of this Section, an accumulation of activities, operations, conditions or things that might individually not arise to the level of a nuisance may be deemed a nuisance if, taken together, would be indecent or offensive to the senses of the ordinary person;

(6) Any nuisance defined or declared as such by applicable statute or ordinance;

(7) The existence, without limitation, of any of the following conditions:

a. Outdoor storage.

1. No person shall be permitted to store items or materials in a public right-of-way.

2. The accumulation of junk, trash, garbage, stale or odorous matter, including improperly maintained compost or manure piles that emit odor or similar materials that constitute a threat to the health or safety of any person, or that contribute to blight and property degradation, is prohibited.

3. The outdoor storage or accumulation of the following items on private property, other than in a fully enclosed structure, is prohibited:

a) Attractive nuisances generally considered dangerous to children, including abandoned, broken or neglected vehicles, equipment, machinery, refrigerators and freezers, hazardous pools or excavations related to construction sites.

b) Tools, equipment, inventory and other supplies utilized in the operation of a business or more than one (1) vehicle used in operation of a business, whether such business is a home occupation being conducted in accordance with the zoning regulations contained in Chapter 16 of this Code, or is conducted off-site.

c) Tools, equipment and other supplies utilized in construction or landscaping. However, homeowners who have a current, valid building permit are allowed to neatly store small quantities of required supplies during construction or remodeling.

d) The parking or storage of any unlicensed or inoperable vehicle. This Subparagraph is not meant to prohibit outside storage of bona fide collector's items when stored in compliance with Section 42-12-101, et seq., C.R.S., and other applicable ordinances.

e) The parking or storage of any vehicle, recreational vehicle, trailer, boat or other articles of personal property, not owned by the occupant of the property upon which it is parked, stored or used, for longer than a period of ten (10) days.

f) The parking or storage of more than five (5) vehicles.

g) The parking or storage of commercial or industrial vehicles, except that one (1) vehicle used in the operation of a business by an owner and occupant of the property is permitted: (a) in accordance with Chapter 16 of this Code applicable to home occupations; or (b) to allow for an occupant of a residence who is provided a business vehicle for personal use.

h) The parking or storage of any vehicle with a gross weight greater than thirty-six thousand (36,000) pounds, recreational vehicles excluded.

b. Buildings, structures and premises.

1. Buildings or structures that are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or boarded up windows or are left in a state of partial construction, demolition or disrepair.

2. Buildings, structures or premises that are illuminated in such a manner that is offensive or interferes with the comfortable enjoyment of life or property of others or which is otherwise a detriment to the health, safety or welfare of the inhabitants of the Town.

c. Landscaping and vegetation.

1. Noxious weeds. The presence of or continued spread of any noxious weed as defined in Section 7-1-10 of this Article on any such lot or tract of land, including any public or private easement adjoining such lot or tract of land.

2. Weeds, brush and other vegetation grown in a rank or unsightly fashion. In addition to an owner's property, adjoining rights-of-way along road sides, including ditches and berms, are to be maintained by each property owner. No person, firm or corporation owning or occupying any property within the Town shall permit any grass or any vegetation whatsoever to grow or remain in the rights-of-way adjoining their property so as to exceed a height of twelve (12) inches.

3. Trees, shrubs and other vegetation which:

a) Are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to public health, safety and welfare; or

b) Contribute to blight and property degradation.

4. Vegetation likely to:

- a) Harbor animals or insects dangerous to public health;
  - b) Cause a detriment to neighboring property;
  - c) Contribute to conditions that cause blight and property degradation;
- or
- d) Grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways or blocks the free use of a public trail, sidewalk, street or other public easement.

d. Fences and gates. Fences, gates and similar structures that are sagging, leaning, missing boards, fallen or otherwise in an unsafe condition, constitute an unsightly appearance or are left in a state of partial construction or disrepair are prohibited.

e. Rodents. It is deemed a nuisance to allow any moles, voles, mice, rats, squirrels, skunks, rabbits, prairie dogs, gophers or groundhogs to infest any real property within the Town so as to encroach upon or cause damage to the property of another.

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

g. Stagnant ponds. The permitting or maintaining of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance. Every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon.

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

i. Noxious liquids. No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or noxious liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place.

j. Miscellaneous. Any other condition or use of a property that gives rise to a reasonable determination by any police officer, Building Inspector, Health Inspector, Code Enforcement Officer, the Town Administrator or any other officer of the Town that such condition or use represents a hazard to public health safety and welfare by virtue of

its unsafe, dangerous or hazardous nature, is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment and use of property; or contributes to blight or property degradation, shall be deemed a nuisance. (Ord. 6 §1, 2009; Ord. 4 §1, 2010; Ord. 1 §1, 2011; Ord. 1 §1, 2012; Ord. 01 §1, 2013)

**Sec. 7-1-30. 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 Chapter. (Ord. 1 §1, 2012)

**Sec. 7-1-40. Author of nuisances.**

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 1 §1, 2012)

**Sec. 7-1-50. Prohibition of nuisances.**

(a) It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any property within the Town to maintain the property or to allow the property to be maintained in a manner that any of the previous conditions are found to exist thereon for an unreasonable period of time as determined by any police officer, the Building Inspector, a Tri-County Health Department officer, the Code Enforcement Officer, the Town Administrator or any other officer of the Town, except as may be allowed by any other provision of law. Each prohibited condition shall be deemed a nuisance and unlawful.

(b) No person, being the owner, agent or occupant of or having under his control, any building, lot, premises or unimproved real estate within the limits of the Town, shall maintain or allow any nuisance to be or remain therein. (Ord. 1 §1, 2012)

**Sec. 7-1-60. Ascertaining nuisances.**

Whenever the pursuit of any trade, business or the manufacturing or maintenance of any substance or condition of things is, upon investigation, considered by the Town Administrator dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated. (Ord. 1 §1, 2012)

**Sec. 7-1-70. Inspection of properties.**

(a) Authorized inspector. The Town shall have the power and authority to appoint and authorize any police officer, the Building Inspector, the Code Enforcement Officer, the Town Administrator or any other officer of the Town to inspect and examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any nuisance.

(b) Right of entry, generally. Whenever necessary to make an inspection to enforce any of the provisions of this Section, such inspector may enter such building or premises at all reasonable times with the permission of the owner, occupant or other person having control of the building or

premises to inspect the same or to perform any duty imposed on him; provided, however, that if such building or premises are occupied, such inspector shall first present proper credentials and request entry; and if such premises are unoccupied, he shall first make a reasonable effort to locate the owner, occupant or other person having charge or control of the building or premises, and, upon locating the owner, occupant or other person, shall present proper credentials and request entry. If entry is refused, the authorized inspector shall give the owner or occupant or, if the owner or occupant cannot be located after a reasonable effort, he shall leave at the building or premises a written notice of intention to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice given to the owner or occupant or left on the premises shall state that the property owner or occupant has the right to refuse entry and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a Municipal Judge or by a judge of any other court having jurisdiction. The requirements of this Section shall not apply to public places or privately owned vacant land, which may be inspected by an authorized inspector at any time without notice.

(c) Search warrants:

(1) After the expiration of the twenty-four-hour period from the giving or leaving of such notice, the authorized inspector may appear before the Municipal Court and, upon a showing of probable cause by written affidavit, shall obtain a search warrant entitling him to enter the building or the premises.

(2) Jurisdiction of Municipal Court. Any Municipal Judge of the Town shall have power to issue search warrants upon a showing of probable cause and in accordance with the Colorado Rules of Municipal Court Procedure.

(d) Probable cause for issuance of search warrant. For purposes of this Article, a determination of probable cause will be based upon reasonableness and in accordance with the Colorado Rules of Municipal Court Procedure, and, if a valid public interest and reasonable suspicion of violation justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinarily prudent person to act.

(e) Right of entry; emergencies. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Section, an authorized inspector, upon a presentation of proper credentials or identification, in the case of an occupied building or premises, or possession of the credentials in the case of an unoccupied building or premises, may enter into any building or upon any premises within the jurisdiction of the Town.

(1) In the emergency situation, such person or his authorized representative may use such reasonable force as may be necessary to gain entry into the building or upon the premises.

(2) For purposes of this Subsection, an emergency situation includes any situation where there is imminent danger of loss of or injury or damage to life, limb or property. It is unlawful for any owner or occupant of the building or premises to deny entry to any authorized inspector or to resist reasonable force used by the authorized official acting pursuant to this Section. (Ord. 6 §1, 2009; Ord. 1 §1, 2012)

**Sec. 7-1-80. Enforcement and abatement of nuisances.**

(a) Enforcement. No citizen complaint shall be necessary to enforce the provisions of this Article. Complaints of nuisances shall be made verbally or in writing to any Town official or to the Town Clerk. Whenever possible, any complaint shall state the nature of such nuisance, the location, including street address, name of owner, agent or occupant of the building or lot, if known, and the name and address of the complainant. However, the Town may in its discretion investigate an anonymous complaint if the Town determines that the circumstances warrant such a complaint.

(b) Abatement. The Town may elect to abate any nuisance described in this Article in any one (1) or more of the following methods:

(1) Abatement pursuant to Section 7-1-90 of this Article; or

(2) Initiate an action for judicial enforcement in the Municipal Court or a County Court pursuant to section 7-1-100 of this Article.

(c) No remedy provided in this Article shall be exclusive. All remedies shall be cumulative and available concurrently. The taking of any action authorized by this Article or any other provision of this Code, including charge or conviction of violation of this Article, shall not preclude or prevent the taking of other action to abate any nuisance. 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 the municipal ordinances or any other provision of law. (Ord. 1 §1, 2012)

**Sec. 7-1-90. Notice of abatement.**

(a) Notice of abatement. An authorized inspector of the Town, upon the discovery of any nuisance on private property in the Town, may notify the owner or occupant of the property to remove and abate from the property the thing or things herein described as a nuisance within the time specified in the notice. However, the abatement process shall not be required for nuisances found on public property.

(1) The time for abatement of a nuisance posing an imminent danger of damage or injury to or loss of life, limb, property or health may be immediate as determined necessary by the Town.

(2) As to other nuisances, the reasonable time for abatement shall not exceed seven (7) days unless it appears from the facts and circumstances that compliance could not reasonably be made within seven (7) days or that a good faith attempt at compliance is being made.

(3) If the owner or occupant shall fail to comply with the requirements for a period longer than that named in the notice, either:

a. The authorized inspector may proceed to have the nuisance described in the notice removed or abated from the property described in the notice without delay. The authorized inspector shall have the authority to call for any necessary assistance; or

b. If the Town elects not to summarily abate the nuisance, it may bring an action in Municipal Court to have the nuisance declared as such by the court and for an order enjoining the nuisance and authorizing its restraint, removal, termination or abatement.

(4) In no event shall the notice described by this Section be required prior to issuance of a summons and complaint.

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

(1) 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;

(2) Personally delivering a copy of the notice to the non-owner 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 county real estate records; or

(3) 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 county real estate records if the property is unoccupied, and by posting a copy of the notice in a conspicuous place at the occupied premises.

Service of the notice shall be deemed complete upon the date of personal delivery or three (3) business days after the date of mailing as required herein.

(c) Contents of notice. The notice to abate issued pursuant to the provisions of this Article to the owner or occupant of property upon which a nuisance was discovered shall contain the following:

(1) The address and other description of the property upon which the nuisance was discovered;

(2) The name and address of the owner of the property upon which the nuisance was discovered;

(3) The name and address of the occupant of the property upon which the nuisance was discovered, if known and if different from the owner;

(4) A description of the violation or condition deemed to be a nuisance;

(5) The time in which the violation or condition is to be removed or abated from the property;

(6) A statement advising the owner or occupant that he may protest the determination of the authorized inspector with respect to any matters stated in the notice, by filing a written protest pursuant to this Section with the Town Administrator within the time allowed for the removal or abatement of the nuisance described; and

(7) A statement that, if the owner or occupant fails to comply with directions contained in the written notice or file a written protest thereto in the time allowed, the Town may:

a. Enter the property, abate the nuisance described therein and assess the costs thereof to the owner of the property; or

b. Bring an action in Municipal Court to have the nuisance declared as such by the court and for an order enjoining the nuisance and authorizing its restraint, removal, termination or abatement.

(8) The notice should state that, if the cost of abatement is not paid, a lien may be placed on any property on which the abatement was performed.

(9) If the notice does not substantially comply with this Article, it shall not be grounds for invalidating the notice given.

(d) Protest of notice of abatement.

(1) The owner, his agent or the occupant of the property subject to a notice of abatement, within the time stated in such notice for removal of the violation or abatement of the condition described therein, may protest the findings of the authorized inspector with respect to any matter stated in the notice, by filing a written notice of protest with the Municipal Court. The Municipal Court shall deliver a copy of the protest to the authorized inspector who issued the notice. Upon receipt of a notice of protest, the authorized inspector shall file with the Municipal Court the notice to abate and the written notice of protest.

(2) Within twenty-one (21) days after receipt of the protest by the Town, the Municipal Court shall schedule and conduct a hearing on the protest. At the hearing, the protesting party and representatives of the Town shall appear in person. Both parties may be represented by legal counsel. The parties shall have the right to present evidence and arguments, to confront and cross-examine any witness and to oppose any testimony or statement relied upon by an adverse party. The Municipal Court may receive and consider any evidence that has probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(3) Once the Municipal Court has scheduled a hearing on the protest, written notice of such hearing shall be mailed to the protesting party and given to the authorized inspector who signed the notice of abatement. Such notice of hearing shall be mailed to the protesting party and given to the authorized inspector not less than seven (7) days prior to the scheduled hearing.

(4) Upon the filing of a written protest as provided herein, the period of time for removal of the thing or abatement of the condition described in the original notice of abatement shall be extended until final disposition of the protest by the Municipal Court, plus the amount of time granted in the original notice or as otherwise ordered by the Municipal Court.

(e) Assessment and collection of costs of abatement. The author of the nuisance, the property owner or occupant shall be liable for the actual cost of abatement, plus fifteen percent (15%) of the abatement cost for inspection, and any other additional administrative costs. If the cost of the

abatement is not paid, the Town may also assess any unpaid costs and expenses for abatement as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments.

(f) Penalty.

(1) Violations of this Chapter shall be punishable by a fine not to exceed four hundred ninety-nine dollars (\$499.00). Each day such violation continues shall be considered a separate offense. In addition, the Town may seek restitution of all costs associated with any search warrant and enforcement actions in the event a violation is found, abatement and/or prosecution of a nuisance, including but not limited to the actual costs of said search warrant and enforcement actions and any other actual costs incurred by the Town.

(2) The Town may elect to file a summons and complaint without first seeking to abate an alleged nuisance condition for any violations of this Chapter. (Ord. 6 §1, 2009; Ord. 1 §1, 2012)

**Sec. 7-1-100. Judicial enforcement.**

(a) The Town may initiate a civil action or criminal prosecution for the judicial enforcement of this Article against any nuisance at any time. Judicial enforcement shall also be available to abate a nuisance following efforts to abate the nuisance through the delivery of a notice and demand as provided in Section 7-1-120.

(b) If the Town elects to initiate judicial enforcement in a court of competent jurisdiction, which includes the Municipal Court or the Arapahoe County District or County Court depending on the nature of the nuisance, no prior notice regarding the nuisance or abatement need be provided to the defendant other than service of a summons and/or complaint in accordance with the applicable court rules.

(c) Upon a finding of a nuisance and violation of any provision of this Article by any defendant, if the proceeding is brought in the Municipal Court, the Court shall impose the following minimum penalty unless the Town, through the Town Attorney, requests or consents to a lesser or different penalty:

(1) Enjoin or otherwise order the defendant to fully abate and remedy the nuisance within a specified and reasonable period of time not to exceed seven (7) days following the entry of the court's order;

(2) Fine the defendant for each violation an amount not to exceed four hundred ninety-nine dollars (\$499.00). Each day such violation continues shall be considered a separate offense.

(3) Order the defendant to forthwith pay restitution to the Town for the actual costs or loss caused to the Town by the violation, including but not limited to administrative expenses, costs to protect the public from the nuisance, court costs and attorney fees; and

(4) Authorize the Town to assess any unpaid costs and expenses for abatement imposed by the Court in Paragraph (3) above as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments.

(d) In addition to the minimum penalty required by this Section, the Court shall be authorized to:

(1) Imprison the defendant for a term not more one (1) year for each violation;

(2) Permanently enjoin the defendant from further engaging in the use of the property in a manner that would constitute a nuisance;

(3) Find the defendant in contempt of court and assess a penalty as specified by the Court, including a fine and/or imprisonment for failure to abide by, comply with or conform to any court order or injunction; and/or

(4) Impose any other penalty authorized by law. (Ord. 1 §1, 2012)

**Sec. 7-1-110. Other remedies.**

No provision of this Article shall be construed to impair any common law or statutory cause of action or legal or equitable remedy therefrom, including injunctive relief, of any person for injury or damage arising from any violation of this Article or from other law. (Ord. 6 §1, 2009; Ord. 1 §1, 2012)

**Sec. 7-1-120. Notice of assessment.**

The Town Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Ord. 1 §1, 2012)

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

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

(b) The amount of such assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Ord. 1 §1, 2012)

**Sec. 7-1-140. Objection to assessment; hearing.**

In the event any owner desires to object to said assessment, he shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon designate the next regular meeting of the Board of Trustees as the date when said objector may appear and have a hearing before the Town Administrator and Board of Trustees. (Ord. 1 §1, 2012)

**Sec. 7-1-150. Certified assessment.**

In case the owner fails 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 County Assessor, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Ord. 1 §1, 2012)

**Sec. 7-1-160. Cumulative remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative. The taking of any action hereunder, including charge or conviction of a violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 1 §1, 2012)

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

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable, the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 1 §1, 2012)

**Sec. 7-1-180. Violations and penalties.**

Any person who violates any of the provisions of this Chapter shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 1 §1, 2012)

**ARTICLE 2**

**Animals**

**Sec. 7-2-10. Definitions.**

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

*Aggressive dog* means a dog which, without intentional provocation, engages in any of the following behaviors:

- a. Threatens a person by encroaching onto public property or property of another from a vehicle or from the owner's or custodian's yard through, under or over a fence;
- b. Injures another domestic animal while off the owner's or custodian's property;
- c. Approaches any person in an apparent attitude of attack or in a terrorizing or menacing manner; or
- d. Causes bodily injury to any person.

*Animal Control Officer* means the Arapahoe County Director of the Department of Public Works and Development or any person authorized by said Director, including the Arapahoe County Sheriff or a Sheriff's Deputy, to issue summonses and complaints enforcing this Article.

*Attack* means an assault against a person or domestic animal, whereby physical contact is made in an apparently hostile or terrorizing manner.

*Bite* means to seize with teeth or jaws so as to enter, grip, wound or cause a puncture to the skin.

*Bodily injury* means an injury to a person or domestic animal caused by a dog whereby, at a minimum, the skin is broken, exterior bleeding occurs or medical treatment by a licensed physician is reasonable necessary.

*Control* means:

- a. Having a dog on a leash, rope or other means of restraint so that freedom of the dog's movement is restricted within a ten-foot radius;
- b. Having a dog exclusively within the private property of the owner, keeper or possessor of a dog.
- c. Accompanying a dog on public property when said dog is at all times within twenty (20) feet of and immediately responsive to the voice commands of the dog's owner, keeper or possessor.
- d. Accompanying a dog on private property with permission of the owner of such private property, when said dog is at all times within forty (40) feet of and immediately responsive to the voice commands of said dog's owner, keeper or possessor.

*C.R.S.* means the Colorado Revised Statutes, as amended.

*Custody* means providing food, shelter, water, other sustenance or care for a dog.

*Department* means the Arapahoe County Department of Public Works and Development, Animal Control Division.

*Director* means the Director of the Department of Public Works and Development appointed by the Arapahoe County Board of County Commissioners or his designee.

*Keeper* means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has temporary custody of a dog through bailment, loan, entrustment or other arrangement between the keeper and owner.

*Owner* means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has permanent custody of a dog through purchase, gift, adoption or otherwise.

*Person* means any natural person or individual, corporation, business trust, estate, trust, partnership, association, business or any other legal entity, but shall exclude all governments, governmental subdivisions or governmental agencies.

*Pet animal* means any dog, cat or other animal owned or kept by a person for companionship or protection or for sale to others for such purposes.

*Possessor* means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has voluntarily assumed custody of a dog or the responsibility for the control of a dog, through means other than as an owner or keeper. A person is not a possessor if he, or his unemancipated child under the age of eighteen (18) years who resides with said person, assumes temporary custody of a dog for the sole purpose of summoning animal control authorities or for the sole purpose of seeking emergency aid or medical treatment for a dog.

*Running at large or runs at large* means a dog that is upon public property or upon the private property of a person other than the dog's owner, keeper or possessor, when said dog is not under the control of the dog's owner, keeper or possessor; or a dog that is upon the private property of a person other than the dog's owner, keeper or possessor, without permission from an owner of the private property or his agent, even if said dog is under the control of the dog's owner, keeper or possessor.

*Serious bodily injury* means an injury to a person or domestic animal caused by a dog which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body or breaks, fractures or injuries that require corrective surgery.

*Vicious dog* means:

- a. A dog whose freedom of movement is not restricted by confinement or by attachment to a leash, rope or other means of restraint; and which dog, in a dangerous or terrorizing manner, has physical contact with a person or domestic animal, with or without causing bodily injury. Said restriction shall prevent the escape of such dog from its owner, keeper or possessor or from such owner's keeper's or possessor's property; and shall prevent such dog from attacking or injuring a human being or domestic animal.

b. Any dog which has caused bodily injury to a human being or domestic animal during two (2) or more separate episodes.

c. The control provisions of Subparagraphs a. and b. above shall not apply to any dog while actually working livestock or assisting law enforcement officers or while being trained for any of these pursuits. A dog owned, kept or possessed primarily as a domestic pet on residential property shall not be excluded from Subparagraphs a. and b. above and shall not be considered a guard or police dog;

d. Episodes wherein a dog attacked, bit, caused bodily injury, caused serious bodily injury or caused death to a human being or domestic animal, when said human being or domestic animal intentionally provoked such dog's action without justifiable reason, shall be excluded from Subparagraphs a. and b. above.

e. The exclusions provided for in Subparagraphs c. and d. above shall be affirmative defenses. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-20. Licensing of dogs required.**

(a) Any owner, keeper or possessor of a dog commits a class 2 petty offense if such dog is more than one hundred eighty (180) days old and a current license issued by the Director has not been acquired for such dog.

(b) It is the responsibility of any owner, keeper or possessor of a dog to cause such dog to wear at all times a metal tag bearing the legible number of a current dog license issued to such dog, as provided for in Section 7-2-30 of this Article. At a trial concerning a violation charged under this Section, the absence of such tag upon a dog shall be prima facie evidence that such dog was not properly licensed.

(c) No person charged with violating this Section shall be convicted if he produces to the Court or produces to the Director or an Animal Control Officer, where such person has been issued a penalty assessment summons and complaint, a license for the dog which was current and in effect on the date of the alleged violation concerning such dog. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-30. Dog licensing procedure.**

(a) Dog licenses shall be issued by the Director subject to the following requirements:

(1) A dog license shall not be issued until the owner, keeper or possessor of the dog to be licensed provides satisfactory evidence, acceptable to the Director, that a valid rabies vaccination certificate has been issued for such dog by a licensed veterinarian;

(2) A dog licensing fee, as provided for in this Section, shall be paid to the Department.

(b) Upon completion of the requirements provided for in this Subsection, the Department shall give to the person paying the dog licensing fee: a dog license containing the dog owner's name and address; a description of the dog; the dog's rabies tag number, the date of the dog's rabies

vaccination and the license number issued to the dog; and a metal tag bearing the same number of the license issued to the dog.

(c) The Department shall keep a record of the names and addresses of all owners, keepers or possessors who license a dog and of all dog licenses which are issued, including the information required and contained on such licenses.

(d) All dog licenses shall expire on December 31 of the year of issue. Renewals shall be obtained by March 1 of the following year.

(e) Dog license fees shall not be prorated, regardless of the month or day within the year upon which a dog license is issued or renewed. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-40. Dogs not to run at large.**

(a) Any owner, keeper or possessor of a dog commits a class 2 petty offense if such dog runs at large.

(b) Any owner, keeper or possessor of a dog commits a class 2 misdemeanor if such dog causes bodily injury to any person or domestic animal on two (2) or more separate episodes while running at large.

(c) Each and every day during which a violation of this Section occurs shall be deemed a separate violation.

(d) A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-50. Noisy dogs.**

(a) Any owner, keeper or possessor of a dog commits a class 2 petty offense if such dog individually makes, or in combination with another dog or dogs together, makes any noises which are audible from an adjacent or nearby property for a continuous twenty-minute period, such noises being separated by pauses, however slight, during said continuous twenty-minute period.

(b) A summons and complaint for a first violation of this Section shall not be issued. First-time violators will be issued a warning, which shall be signed by an Animal Control Officer and at least one (1) complaining person. Such warning shall contain the dates and times when the violation occurred, brief explanation of the nature of the notice complaint and a copy of this Section. No summons and complaint shall be issued for subsequent violations unless and until seven (7) days have elapsed between the first violation and any subsequent violations. Said initial warning shall be made by personal service of said warning to the owner, keeper or possessor of the dog.

(c) A summons and complaint for a violation of this Section shall be signed by at least two (2) complaining persons who are from separate households and are willing to testify at trial, which signatures shall be in addition to the required signature of an Animal Control Officer or an Arapahoe County Deputy Sheriff. In the event there is only one (1) occupied residence in the immediate area of

the location of the barking dog, only one (1) complaining witness shall be required to sign the complaint.

(d) A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-60. Aggressive dogs.**

Any person who is the owner, keeper or possessor of an aggressive dog, as defined in this Article, commits a class 2 petty offense. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-70. Vicious dogs.**

(a) Any person who is the owner, keeper or possessor of a vicious dog, as defined in this Article, commits a class 2 petty offense.

(b) Any person who is the owner, keeper or possessor of a vicious dog, which dog has caused bodily injury to another person other than said owner, keeper or possessor or to a domestic animal during two (2) or more separate episodes, commits a class 2 misdemeanor.

(c) Any Arapahoe County Animal Control Officer or Deputy Sheriff may seize any vicious dog which is running at large, either upon public property or upon private property, when an owner of such private property or his agent is not present and the dog is unrestricted on such property. The impoundment of such dog shall be at the dog owner's expense.

(d) After a request in writing by the Director, an Arapahoe County Deputy Sheriff may request a County or District Court to issue a search and seizure warrant in accordance with Colorado laws, for the purpose of entering upon private property to search for or to seize any vicious dog, when any person is refusing to consent to such entry or seizure.

(e) Animal Control Officers shall immediately impound all dogs seized under this Section. Any dogs impounded under this Section shall be under the authority of the Department until a court of proper jurisdiction reaches a final determination and issues an order that a seized dog is to be released to its owner, keeper or possessor; or is a vicious dog, as defined by this Article, and should be destroyed by the Department. When a dog seized under this Article is returned to its owner, keeper or possessor, all costs for the care of such dog while in the custody and under the authority of the Department shall be borne by Arapahoe County.

(f) Each and every day during which a violation of this Section occurs shall be deemed a separate violation. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-80. Number of animals allowed.**

(a) Any person who is the owner, keeper or possessor of more than four (4) pet animals, including but not limited to dogs, cats or small animals older than one hundred eighty (180) days upon residential property within the Town, commits a class 2 petty offense.

(b) Legally permitted and licensed kennels and/or veterinarian offices shall be exempt from the provisions of this Section.

(c) For the purposes of this Section, each lot or parcel which is zoned residential and contains a residential structure shall constitute one (1) residential property, and a lot or parcel that is zoned residential with no residential structure located thereon shall not be considered a residential property with a right to keep or maintain any pet animals as an accessory use.

(d) Each and every day during which a violation this Section occurs shall be deemed a separate violation.

(e) A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer.

(f) Any summons or complaint issued for a violation of this Section shall be signed by at least one (1) complaining person, which signature shall be in addition to the required signature of an Animal Control Officer or Arapahoe County Deputy Sheriff. (Ord. 3 §3, 2010; Ord. 10 §1, 2010; Ord. 1 §1, 2012)

#### **Sec. 7-2-90. Seizure and impoundment of dogs.**

(a) Animal Control Officers shall seize and impound any dog which is running at large, either upon public property or upon private property, when an owner of such private property or his agent has given consent to an Animal Control Officer or Deputy Sheriff, to enter upon said private property and to seize such dog or to seize a vicious dog for impoundment at the dog's owner's expense, when said dog is unrestricted on the owner's property with no owner present.

(b) The Department shall impound all dogs which have been lawfully seized for running at large or for being a vicious dog.

(c) Upon the impounding of any dog, the Department shall cause written or verbal notice to be given to the owner, keeper or possessor (if known) of such dog. Any owner, keeper or possessor of an impounded dog may recover possession of such dog upon the payment for the cost of such dog's impoundment, unless the dog has been mistreated or is a vicious dog.

(d) If an owner, keeper or possessor of a dog impounded under the provisions of this Article refuses to claim such dog, does not claim such dog or does not pay the costs for such dog's impoundment, all within six (6) days after the receipt of the written or verbal notice required by this Article, then such dog shall come under the authority of the Department for final disposition, either by adoption or destruction.

(e) If an owner, keeper or possessor of a dog impounded under the provisions of this Article is unknown, said dog shall be held for a period of six (6) days, after which said dog will come under the authority of the Department for final disposition, either by adoption or destruction.

(f) An officer of the Department may exercise his discretion and return a dog found running at large to such dog's owner, keeper or possessor if the dog's owner, keeper or possessor first pays a "Release in Lieu of Impoundment Fee" as provided for in Section 7-3-110 of this Article. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-100. Enforcement and liability.**

Pursuant to Section 30-15-104, C.R.S., the Board of Trustees, the Board of County Commissioners of Arapahoe County, any of their assistants or employees or any other person authorized to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease that may occur to a dog in connection with the administration of this Article. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-110. Fees.**

The following fees are established for the administration of this Article:

(1) Annual license fees:

- a. A spayed female or neutered male dog annual fee: twelve dollars (\$12.00).
- b. An unspayed female or unneutered male dog annual fee: twenty-four dollars (\$24.00).

The above license fees shall be waived for one (1) dog for owners over the age of sixty-five (65) years.

(2) Impoundment fees:

- a. Cost for first day of impoundment: sixty-five dollars (\$65.00).
- b. Subsequent daily costs for care and feeding during impoundment: ten dollars (\$10.00).

(3) Release in lieu of impoundment fee: thirty dollars (\$30.00).

(4) Dead animal pickup for disposal fee:

- a. Animals zero (0) through fifteen (15) pounds: fifteen dollars (\$15.00).
- b. Animals sixteen (16) through fifty (50) pounds: thirty dollars (\$30.00).
- c. Animals fifty-one (51) through one hundred (100) pounds: fifty dollars (\$50.00).
- d. Animals exceeding one hundred (100) pounds: seventy-five dollars (\$75.00).

(5) Animal pickup for destruction and disposal:

- a. Small animals (dog, cat): thirty dollars (\$30.00).
- b. An additional shelter fee will apply if the animal is destroyed. (Ord. 3 §3, 2010; Ord. 1 §1, 2012; Ord. 02 §1, 2012)

**Sec. 7-2-120. Enforcement: peace officer designation.**

The provisions of this Article shall be enforced primarily by the Department, with assistance from the Arapahoe County Sheriff's Department. For purposes of enforcement and pursuant to Section 30-15-105, C.R.S., Arapahoe County Animal Control Officers may issue summonses and complaints to enforce this Article. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-130. Violations; strict liability.**

Violations of any provision of this Article shall be proven by establishing beyond a reasonable doubt that a person voluntarily acted or omitted to perform an act which such person was capable of performing, and that such act or omission was contrary to any provision of this Article constituting a violation. It shall not be necessary to prove a culpable mental state on the part of any person with respect to any material element of any violation. Any violations of this Article are ones of "strict liability," as defined by Title 18, Article 1, C.R.S. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

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

(a) Each violation of any provision of this Article which constitutes a class 2 petty offense, notwithstanding the provisions of Section 18-1.3-503, C.R.S., shall be punishable upon conviction by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.

(b) Any offense and repeated offenses of Section 7-2-70 of this Article shall require a mandatory court appearance. Each violation of Section 7-2-70 shall be punishable, upon conviction, by a fine not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment in the County jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.

(c) By the authority granted in Section 30-15-102, C.R.S., and in addition to Subsection (a) above, the penalty assessment procedures as provided for in Title 16, Article 2, Part 2, C.R.S., are herein adopted by reference. If, in the discretion of the Director, such penalty assessment procedures are utilized in relation to class 2 petty offense violations of this Article, except for violations of Section 7-2-70 of this Article, the following graduated penalty assessment schedule shall be applicable:

- (1) First offense: fifty dollars (\$50.00).
- (2) Second repeated offense: one hundred dollars (\$100.00).
- (3) Third repeated offense: three hundred dollars (\$300.00).
- (4) Fourth repeated offense: five hundred dollars (\$500.00).
- (5) Fifth and above repeated offenses: mandatory court appearance.

(6) Repeated offenses shall be cumulative only within a three-hundred-sixty-five-day period counting from and including the day of the first violation.

(7) Repeated offense means a conviction of a person for an additional repeated violation of the same provisions of this Article, for which violation of said same provision of such person has been previously convicted.

(d) Each violation of any provision of this Article which constitutes a class 2 misdemeanor by involving bodily injury to any person by a dog shall be punished upon conviction as provided for in Section 18.1.3-501, C.R.S. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-150. Incorporation of state statutes.**

All provisions of Title 30, Article 15, Part 1, C.R.S., are hereby adopted and incorporated by reference into this Article. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**Sec. 7-2-160. Applicability.**

The provisions of this Article shall apply to and may be enforced within all areas of the Town. (Ord. 3 §3, 2010; Ord. 1 §1, 2012)

**ARTICLE 3**

**Discharge of Firearms**

**Sec. 7-3-10. General provisions.**

(a) This Article is intended is intended to protect the public health, safety and welfare by regulating the discharge of firearms within the Town.

(b) It is unlawful and a violation of this Section for any person to fire, shoot or discharge any projectile from any gun, pistol, rifle, pellet gun, gas or mechanically operated gun, or other firearm whatsoever (collectively "firearm" or "firearms"), except as otherwise provided in this Article. For the purposes of this Article, any person who was the proximate cause of the discharge shall be deemed to have discharged the firearm.

(c) It is a violation of this Section if the discharge occurred outdoors and within the jurisdiction of the Town or if the projectile travels over such jurisdiction.

(d) The discharge of firearms by any member of any law enforcement office, including wildlife officers, in the course of such member's law enforcement training exercises or official duty shall not be deemed to be a violation of this Section.

(e) For the purposes of this Section, the term *firearm* includes any pistol, revolver, self-loading pistol, rifle or shotgun that uses gunpowder or other explosive substance. (Ord. 07 §1, 2013)

**Sec. 7-3-20. Defenses.**

(a) It is an affirmative defense to a charge of violating Section 7-3-10 above that the person discharging said firearm was:

(1) Reasonably engaged in lawful self-defense under the statutes of the State; or

(2) Reasonably exercising the right to keep and bear arms in defense of the person's or another person's home, person and property or in aid of the civil power when legally thereto summoned.

(b) It shall also be a specific defense to the charge of violation Section 7-3-10 if the discharge was for the purpose of putting down a distressed animal. (Ord. 07 §1, 2013)

**Sec. 7-3-30. Exemptions.**

Nothing in this Article shall be construed to forbid the United States marshals, sheriffs, constables and their deputies; any regular or ex officio police officer; any other peace officers; or members of the United States Armed Forces, Colorado National Guard or Reserve Officer Training Corps from discharging such weapons as are necessary in the authorized and proper performance of their official duties. (Ord. 07 §1, 2013)