

TITLE 4

Public Health and Safety

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CHAPTER 1

Nuisances

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4-1-1. Town policy and purpose.

It is hereby declared to be the policy of the Town to declare certain activities and conditions to be nuisances and to prohibit nuisances, as herein defined, within the Town in order to promote public health, safety and well-being. (Ord. 295, 2-20-1997)

4-1-2. Definitions.

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

Designated Town official. The Public Works Director or any other person designated and authorized by the Board of Trustees.

Hazard to health or safety includes any activity so recognized by the United States, the State or the ordinances of the Town. Such hazards shall also include activities causing foul or offensive odors, actively promoting the growth or propagation of disease-carrying insects or rodents, polluting the air or groundwater of adjacent property, creating loud or offensive sounds or causing drainage or runoff to occur in other than historical patterns.

Inoperable motor vehicle. Any motor vehicle which is not capable in its present condition of being promptly started and driven under its own power.

Junk motor vehicle. Any motor vehicle which is inoperable, not enclosed in a building, not substantially screened or fenced or which does not meet the full requirements of Section 42-15-101, C.R.S., Motor Vehicles as Collectors' Items, or which lacks one (1) or more of the following items which are standard factory equipment on any particular vehicle model:

- (a) Windshield.
- (b) Side or rear window.
- (c) Door.
- (d) Fender.

Motor vehicle. Any self-propelled vehicle which is generally and commonly used to transport persons and property, including but not limited to any truck, automobile, mo-ped, motorcycle, all-terrain vehicle, bus, tractor or snowmobile.

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

- (a) Substantially annoy, injure or endanger the health, safety or well-being of the public; or
- (b) In any way render the public insecure in life or in the use of property; or
- (c) Unlawfully or substantially interfere with, obstruct or render dangerous for passage any street, alley, highway or other public way.

Person. Any person, firm, partnership, association, corporation, company or public or private organization of any kind, including federal, state or local government.

Property. Any real property within the Town which is not a street, alley or other public way.

Trash, garbage, refuse, rubbish, litter, and debris shall be interchangeable and shall mean any waste, or discarded or abandoned materials, debris or discarded articles from the ordinary household or from any business or building, including but not limited to waste materials and scrap construction materials from the construction of buildings and other structures; and yard rubbish, including but not limited to tree branches, trunks and clippings. (Ord. 295, 2-20-1997)

4-1-3. Nuisances prohibited.

No person being the owner, agent, occupant or having under his control any building, lot or premises or unimproved real estate within the Town shall maintain or allow any nuisance to be or remain thereon. (Ord. 295, 2-20-1997)

4-1-4. Authority of Town to declare nuisances.

Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 4-1-2 of this Chapter may be so declared by the Board of Trustees, and nothing in Section 4-1-11 shall be construed to limit the power of the Town to make such declaration. (Ord. 295, 2-20-1997)

4-1-5. Complaints.

Complaints of nuisances shall be made in writing to any Town official. All complaints shall state the nature of the nuisance, the location of the nuisance, including street address, the name of the owner, agent or occupant of the building or lot and the name and address of the complainant. (Ord. 295, 2-20-1997)

4-1-6. Abatement of nuisances.

(A) Notice to abate. By the direction of the Board of Trustees, written notice to abate a nuisance may be served personally or by certified mail, return receipt requested, by any law enforcement officer or the designated Town official and shall be posted on the property upon which the nuisance exists in a conspicuous place. The notice required by this Section shall, in addition to other requirements herein, state that:

(1) If the nuisance is not abated within the time stated in the notice to abate, such time being reasonable depending on the nature and extent of the nuisance, the cost of such abatement may be assessed as a lien against the property pursuant to the terms of this Chapter, together with an additional five-percent assessment for inspection and incidental costs, and collected in the same manner as real estate taxes against the property.

(2) Such notice shall be in writing, specifying all nuisances on the property as declared by the Board of Trustees, signed by the official issuing the same and may be served upon the owner and occupant of the property either personally or by placing such notice in the United States mail, certified mail, return receipt requested, to the attention of the occupant of the property and to the owner of such property as shown upon the tax rolls of the County, if said owner is different from the occupant.

(B) Abatement pursuant to notice. The owner, agent, occupant or person having under his control the property upon which the nuisance exists shall abate the nuisance within the time period for abatement as set forth in the notice to abate.

(C) Summary abatement. If any nuisance found to exist shall cause imminent danger to life, limb, property or health so as to require immediate abatement, such nuisance may be summarily abated by action of any law enforcement officer or designated Town official at the direction of the Board of Trustees at the property owner's expense as provided in Section 4-1-7 of this Chapter.

(D) Noncompliance with notice to abate. If, after notification as provided for in Subsection (A) of this Section, a nuisance is not voluntarily abated within the time provided in the notice to abate, such person having under his control the property upon which the nuisance exists shall be in violation of this Chapter, and the Town may proceed at once to commence appropriate legal action:

(1) The Town is authorized to institute proceedings in the Municipal Court or other court of competent jurisdiction to obtain a judicial determination that a nuisance exists, to obtain an order from the court to abate such nuisance, to enjoin the same and for such other and further relief as may seem necessary or proper, including but not limited to the costs and expenses of abatement together with an additional five-percent assessment for inspection and incidental costs.

(2) Upon a judicial determination that a nuisance exists, the Town is authorized to abate said nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate said nuisance or cause the same to be abated, including employees of the Town or by contract or otherwise. It shall be the duty of the Town or any of its representatives to proceed in all abatement cases with due care and without any unnecessary destruction of property. (Ord. 295, 2-20-1997)

4-1-7. Collection of costs of abatement to the Town.

(A) The owner of any property on which a declared nuisance exists within the Town shall be liable for and shall pay and bear all costs and expenses incurred by the Town for abatement of said nuisance, which costs and expenses may be collected by the Town in any action at law.

(B) If any property owner fails to pay to the Town within ten (10) working days after notice by the Town of costs and expenses incurred, the Town may commence to collect such amount. The Town shall mail a notice to the owner of the property upon which a nuisance existed and was abated by the Town, at the address shown upon the tax rolls, by certified mail, return receipt requested, notifying such owner that work has been performed pursuant to this Chapter, stating the date of performance of the work, the nature of the work, itemizing the expenses incurred by the Town and demanding payment of the costs thereof, together with the five-percent assessment for inspection and incidental costs and an additional ten-percent assessment for costs of collection. Such notice shall state that if said total amount, including costs and additional assessments as provided herein, is not paid within thirty (30) days after mailing the notice, it shall become an assessment on and a lien against the property of said owner and will be certified as an assessment against such property and the assessment will be collected in the same manner as a real estate tax upon the property.

(C) If the Town Clerk shall not receive payment within the period of thirty (30) days following the mailing of such notice, the Town Clerk shall certify the delinquent account to the County Treasurer, who shall collect the assessment in the same manner as other taxes are collected. Each such assessment shall be a lien against each lot or tract of land upon which the declared nuisance exists until paid and shall have priority over other liens except general taxes and prior special assessments. (Ord. 295, 2-20-1997)

4-1-8. Inspections and right of entry.

(A) Whenever necessary to make an inspection or to enforce any of the provisions of this Chapter, or whenever the Board of Trustees has investigated and documented any formal complaint and has probable cause to believe that there exists in any building or upon any property a condition which constitutes a nuisance hereunder, at the direction of the Board of Trustees, a designated Town official, accompanied by a sheriff's deputy as witness, shall attempt to personally contact the owner or occupant of said building or property. Upon making contact with said owner or occupant, the designated Town official shall present proper credentials, including a notice of intent to inspect, signed by the Board of Trustees and detailing the nature of the action, and shall request the right of entry to inspect. If such building or property is unoccupied, the designated Town official shall make a reasonable effort to locate the owner or occupant or other person having charge or control of the building or property and, upon locating said owner or occupant or other person, shall present proper credentials including a signed notice of intent to inspect, and shall request the right of entry. If entry is refused or if the designated Town official is unable to locate the owner, occupant or person in control of the property, the Town official shall send written notice of intent to inspect by certified mail to the record owner of the property, return receipt requested. In addition, the notice of intent to inspect shall be posted on all entrances to said building or, if a vacant lot, shall be posted on all main street frontages. The notice shall state that the property owner or occupant has refused entry or that the Town has been unable to contact such person and that the Town intends to inspect the property by seeking a search warrant from the Municipal Court or any other court having jurisdiction.

(B) After the expiration of the time period detailed in the issued notice of intent to inspect, if permission has not been granted, the designated Town official shall appear before the Municipal Court and, upon presentation of the findings of the Board of Trustees, shall request a search warrant entitling him to enter said building or go upon such property. Upon presentation of said search warrant and proper credentials, or possession of the same in case of an unoccupied building or property, the designated Town official may enter into said building or go upon said property at all reasonable times with a sheriff's deputy, using only such reasonable force as may be necessary to gain entry.

(C) For the purposes of this Section, a determination of probable cause will be based upon reasonableness, and, if a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The official person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or property at issue in order to obtain a search warrant. It shall be unlawful for any owner or occupant of said building or property to resist reasonable force used by any designated Town official and sheriff's deputy acting pursuant to a search warrant issued in compliance with this Section.

(D) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the designated Town official and sheriff's deputy, upon presentation of proper credentials or identification in case of an occupied building or property, or possession of said credentials in the case of an unoccupied building or property, may enter into any building or go upon any property within the jurisdiction of the Town. In said emergency situation, the designated Town official and sheriff's deputy may use only such reasonable force as may be necessary to gain entry into said building or upon said property.

(E) For the purposes of Subsection (D) above, an emergency situation shall include any situation where there is imminent danger of loss of life, limb and/or property. (Ord. 295, 2-20-1997)

4-1-9. Remedies.

(A) 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 the municipal ordinances or any other provision of law.

(B) Any person who shall have possession or control of any private property, whether he is owner thereof or not, in or upon which any nuisance shall exist or may be found, whether such nuisance has been heretofore or shall be hereafter created, shall be deemed in violation of a separate offense, as the author of a nuisance, for every period of twenty-four (24) hours' continuance of such nuisance after due notice given to abate same.

(C) In addition to any other penalty provided for herein, any junk motor vehicle on any property within the Town in violation of the provisions of this Code may be removed and impounded by any law enforcement officer under contract with the Town until lawfully claimed or disposed of at the expense of the owner thereof or the owner of the property upon which such vehicle is found. If not

claimed within ninety (90) days, the property impounded may be sold or otherwise disposed of. (Ord. 295, 2-20-1997)

4-1-10. Penalties.

Whenever, in any section of this Chapter, the doing of any act is required, prohibited or declared to be unlawful, any person who shall be convicted of such a violation shall, for each offense as herein defined, be subject to penalties in accordance with Section 1-4-1 of this Code. The minimum fine imposed for each violation shall be one hundred dollars (\$100.00), and the court shall not reduce or suspend any portion thereof. (Ord. 295, 2-20-1997)

4-1-11. Nuisances declared.

The following acts or conditions are declared nuisances:

(A) Accumulation and deposit of garbage and refuse. The accumulation of refuse, garbage, rubbish, waste material or ashes on any premises in the Town, improved or unimproved, is prohibited and hereby declared to be a nuisance.

(B) Accumulation of manure. The accumulation of manure or other animal waste in quantities which endanger the public health and safety is hereby declared a nuisance. This provision does not apply to a light spread of manure upon lawns or gardens or which is plowed under the surface of the ground.

(C) Appliances. Any refrigerator, washer, dryer, freezer or other appliance within any accessible yard, lot or carport within the limits of Town without the door or lid of the same being locked or permanently removed is hereby declared a nuisance. Outdoor use of refrigerators, washers, dryers, freezers or other large electrical appliances constitutes a potential health and safety hazard because of accessibility to the appliance by children and is hereby declared a nuisance.

(D) Dangerous buildings or structures. Any unoccupied building, house or other structure which is in such a state of disrepair that it may collapse or may present a hazard to children who may enter upon such premises is hereby declared a nuisance. Indications of state of disrepair include, but are not limited to:

(1) A window or door in the structure is missing or broken or an opening exists and has not been covered in such a manner as to prevent entry;

(2) A weakened wall or roof which has fallen or is in danger of same;

(3) Dangerous objects are protruding;

(4) The structure is a partially completed new building on which construction has been abandoned for a period of three (3) months, unless the abandoned construction has been exempted from this provision by decision of the Board of Trustees; or

(5) The structure does not substantially comply with the Town's building code.

(E) Dead animals; removal. The body of any domestic animal which has died and which is not disposed of within twenty-four (24) hours after death is hereby declared to be a nuisance.

(F) Discarded building materials. All plaster, broken concrete, brick, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material of any kind resulting from wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk, building or structure, which is not promptly removed or discarded is hereby declared to be a nuisance. For purposes of enforcement of this Subsection, the owner, lessee, sublessee, tenant or occupant of the property from which the discarded building materials emanate and/or the owner, lessee, sublessee, tenant or occupant of the property on which the discarded materials are found may be liable.

(G) Discharge of noxious liquids. The discharge from any house or place of foul or noxious liquid or substance of any kind whatsoever into or upon any property or lot or into any street, alley or public place in the Town is hereby declared a nuisance.

(H) Disorderly premises. Discarded automobile parts, including the trailers of tractor trailer trucks, appliances, furniture and other large discarded items, shall be removed periodically, not to exceed thirty (30) days, from property within the Town so that the premises are clean and orderly at all times. A disorderly premises shall also include keeping any property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unwholesome manner, noxious or offensive to others or injurious to public health. For purposes of enforcement of this Subsection, the person responsible for the maintenance of a disorderly house may be the owner of the property, lessee, sublessee, tenant or occupant, jointly or severally.

(I) Industrial equipment on residential property. Except on new construction sites, all equipment and/or machinery used by contractors, builders or other persons, including but not limited to trailers of tractor trailer trucks, dump trucks, backhoes, tractors or other excavating or hauling equipment parked or stored on properties zoned residential within the Town, which is not enclosed within a building or substantially screened or fenced, for thirty (30) days, is hereby declared a nuisance.

(J) Junk motor vehicles. Any junk motor vehicle not enclosed within a building, which is parked or left on any property or lot in the Town and is not removed from the Town within thirty (30) days after the junk motor vehicle is first parked or left on that property is hereby declared a nuisance. This Subsection does not declare as nuisances any junk motor vehicles left in a depository maintained by a government entity for impounded vehicles or left on the premises of a business, the nature of which involves the storage of or sale of parts from junk motor vehicles, if such business complies with all other provisions of this Code. For purposes of enforcement of this Subsection, the person responsible for the nuisance caused by the junk motor vehicle may be the owner, lessee, sublessee, tenant or occupant of the property or the registered owner or the lessee of the junk motor vehicle, jointly or severally.

(K) Dumping grounds. All places used or maintained in whole or in part as dumping grounds or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which essentially interfere with the comfortable enjoyment of life or property by others, are hereby declared to be nuisances. This Subsection does not declare as nuisances any junk motor

vehicle left in a depository maintained by a government entity for impounded vehicles or left on the premises of a business, the nature of which involves the storage of or sale of parts from junk motor vehicles, if such business complies with all other provisions of this Code.

(L) Noisemaking devices to attract children. The use of bells, whistles, sirens, music, horns or any other noisemaking devices for the purposes of attracting children or minors to any vehicle upon the streets, highways, rights-of-way, alleys or public ways of the Town for the purpose of selling, distributing or giving away any product whatsoever to such minors is hereby declared to be a public nuisance and hazard and is expressly prohibited and shall be unlawful, except activities carried on as part of duly authorized public parades or processions or by authorized mobile ice cream or food vendors.

(M) Open wells, cisterns or excavations. It is hereby declared that excavations exceeding five (5) feet in depth, cisterns and wells or any excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least five (5) feet, and it shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him. Any well or cistern on any property within the limits of the Town, whenever a chemical analysis or other proper test of the location of the same shows that the water of said well or cistern is probably contaminated, impure or unwholesome, shall be deemed a nuisance. Any abandoned or unused well or cistern shall be filled with dirt and covered.

(N) Outdoor burning. Any outdoor burning of refuse, trash, hay, grass clippings, wood, leaves or other materials, unless the Town has authorized and posted a sign permitting such burning in a designated area, is hereby declared to be a nuisance.

(O) Sewer inlet. Any articles or materials deposited or accumulated in any sewer, sewer inlet or privy vault that shall have a sewer connection or any article which causes or might cause such sewer, sewer inlet or privy vault to become noxious or offensive to others or injurious to public health, are hereby declared to be nuisances.

(P) Stagnant liquids. Any cellar, vault, drain, sewer, pond of water or other place in the Town that shall be noxious or offensive to others, or injurious to public health, through an accumulation or deposit of noxious, offensive or foul water or other substances is hereby declared a nuisance. This applies in all cases for which no other specific provisions are made in this Chapter or any other ordinance of the Town.

(Q) Stale matter. The accumulation or use of any stale, putrid or stinking fat or grease or other matter, including smoke or fumes created by the burning or destruction of putrid matter, is hereby declared to be a nuisance.

(R) Undesirable plants. Leafy spurge, Russian knapweed, spotted knapweed and diffuse knapweed are declared to be public nuisances.

(S) Weeds and grass. Except in cases where there is a risk of erosion, where a property is in proximity to natural or wooded areas or where the topography of the property, including slope and land contours, or the presence of swamps or other freestanding water on the property makes mowing or removal by other means difficult or inappropriate, weeds or grass in excess of six (6) inches upon a

tract or lot occupied by any structure which is habitable or capable of occupation or along a sidewalk or alley adjacent thereto, or weeds in excess of twelve (12) inches upon a tract or lot without a habitable structure or in irrigation or drainage ditches, are hereby declared to be nuisances. Excessive overgrowth constitutes a potential health hazard by promoting insect and rodent propagation and allergic reactions. (Ord. 295, 2-20-1997)

CHAPTER 2

Littering

4-2-1 Definitions

4-2-2 Littering

4-2-3 Disposal of flammable or explosive refuse

4-2-4 Transportation of loose materials

4-2-5 Enforcement

4-2-1. Definitions.

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

Trash, garbage, refuse, rubbish, litter and debris shall be interchangeable and shall mean any waste, useless, unwanted, discarded, abandoned or worthless materials, debris or discarded articles from the ordinary household or from any business; building rubbish, including but not limited to waste materials and scrap construction material from the construction of buildings and other structures; and yard rubbish, including but not limited to tree branches, trunks and clippings. (Ord. 295, 2-20-1997)

4-2-2. Littering.

It shall be unlawful for any person to throw, place, scatter, deposit, bury or sweep any trash, garbage, refuse, rubbish, litter, debris or ashes into or upon any public street, alley, sidewalk, gutter, sewer intake, vacant lot or other public place or upon his own premises or the premises of another. (Ord. 295, 2-20-1997)

4-2-3. Disposal of flammable or explosive refuse.

It shall be unlawful for any person to remove any refuse that is highly explosive or flammable or which might endanger health, life or property, or any silt and similar deposits from automobile wash racks to any place except places as approved by the Public Works Director. The person or establishment responsible for creating the refuse is responsible for disposal. (Ord. 295, 2-20-1997)

4-2-4. Transportation of loose materials.

It shall be unlawful for any person to move or convey any vehicle carrying trash or loose material of any kind on any roadway, street, highway, alley or public place within the Town unless such vehicle is equipped with a receptacle or container or secure covering so as to prevent, and which does prevent, any load, contents or litter from being blown or deposited upon any roadway, street, highway, alley or public place within the Town. (Ord. 295, 2-20-1997)

4-2-5. Enforcement.

The Municipal Court shall have jurisdiction in prosecution of violations of this Chapter. In addition to penalties as provided for in Section 1-4-1 of this Code, the Town may seek restitution for the costs of cleanup associated with any violation of this Chapter. (Ord. 295, 2-20-1997)