

CHAPTER 7

Health, Sanitation and Animals

Article I	Nuisances Generally
Sec. 7-1	Nuisance defined
Sec. 7-2	Notice to abate; separate offenses
Sec. 7-3	Declaration of nuisance by Board of Trustees; abatement by Chief of Police
Sec. 7-4	Abatement without notice
Sec. 7-5	Assistance to abate authorized
Sec. 7-6	Recovery of expenses in abatement
Sec. 7-7	Authority to enter on property
Sec. 7-8	Specific offenses; construction of Article
Sec. 7-9	Littering prohibited
Sec. 7-10	Violations
Article II	Specific Nuisances
Sec. 7-21	Junkyards and dumping grounds
Sec. 7-22	Discharge of nauseous liquids
Sec. 7-23	Collection of stale, putrid or stinking fat or grease
Sec. 7-24	Offensive deposits in sewers, sewer inlets or privy vaults
Sec. 7-25	Slaughterhouses
Sec. 7-26	Dead animals
Sec. 7-27	Stagnant ponds
Sec. 7-28	Open wells, cisterns or excavations
Sec. 7-29	Unauthorized posting of handbills, posters and placards
Sec. 7-30	Building materials to be removed from construction sites
Sec. 7-31	Accumulation and use of manure
Article III	Garbage and Refuse
Sec. 7-41	General, definitions
Sec. 7-42	Accumulation of refuse prohibited and declared nuisance
Sec. 7-43	Accumulation of refuse; abatement
Sec. 7-44	Responsibility of owners and lessees for refuse on premises
Sec. 7-45	Removal of refuse from business required
Article IV	Waste Collection
Sec. 7-61	Collection; duty of Town to contract with third parties
Sec. 7-62	Persons served by water taps to receive service and pay the costs and billing
Sec. 7-63	Specifications for containers
Sec. 7-64	Lien and collection of unpaid bills; cessation of service
Article V	Weeds
Sec. 7-81	Growth and accumulation on premises and adjoining sidewalks and alleys prohibited
Sec. 7-82	Abatement by Town; assessment of costs
Sec. 7-83	Collection of costs of abatement by Town
Article VI	Trees
Sec. 7-101	Tree planting, maintenance and removal
Sec. 7-102	Control of Dutch elm disease; entire Town to be considered area in which elm trees protected; removal, destruction of dead or dying trees
Sec. 7-103	Inspection of trees for signs of breeding of elm bark beetles
Sec. 7-104	Maintenance of trees, storage of wood furnishing breeding places for elm bark

- beetles prohibited
- Sec. 7-105 Trees on private property
- Sec. 7-106 Failure to remove trees upon notice; removal by Town; costs to be charged to owner
- Sec. 7-107 Cost for removal of trees on lots or blocks along sidewalk or street
- Sec. 7-108 Failure to pay assessment; lien created

Article VII Animal Control

- Sec. 7-121 Definitions
- Sec. 7-122 Control required; running at large prohibited when
- Sec. 7-123 Dog and cat licenses required
- Sec. 7-124 Licensing requirements and standards for possession of raptors
- Sec. 7-125 License exemptions
- Sec. 7-126 License; term and time for licensing
- Sec. 7-127 Rabies vaccination certificate required
- Sec. 7-128 License fee
- Sec. 7-129 License issuance conditions
- Sec. 7-130 Dog and cat license; tag requirements
- Sec. 7-131 License; duplicate tags; ownership changes
- Sec. 7-132 Rabies control
- Sec. 7-133 Confinement of female dogs and cats in heat
- Sec. 7-134 Animal defecation; owner responsibility
- Sec. 7-135 Nuisance animals designated
- Sec. 7-136 Noisy animals
- Sec. 7-137 Animal bites; report and animal quarantine requirements
- Sec. 7-138 Certain animals prohibited
- Sec. 7-139 Vicious animals
- Sec. 7-140 Disposal of animals by court order; conditions
- Sec. 7-141 Accidents injuring animals; report required
- Sec. 7-142 Dead or injured animals
- Sec. 7-143 Impoundment authorized when; prosecution for violations
- Sec. 7-144 Redemption of impounded animals; conditions
- Sec. 7-145 Livestock; impoundment conditions
- Sec. 7-146 Livestock; holding following impoundment
- Sec. 7-147 Impoundment; disposition of unredeemed animals
- Sec. 7-148 Impoundment; records required
- Sec. 7-149 Fees; amendment authorized when
- Sec. 7-150 Animal care; unlawful activities designated
- Sec. 7-151 Protective custody for animals receiving inhumane treatment
- Sec. 7-152 Enforcement; obstructing an officer prohibited
- Sec. 7-153 Damaging impoundment facility prohibited
- Sec. 7-154 Violation; penalty

ARTICLE I

Nuisances Generally

Sec. 7-1. Nuisance defined.

Anything which is injurious to the health or morals, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, including those things specifically declared as nuisances within this Chapter, is declared a nuisance and as such shall be abated. (Prior code 18-1)

Sec. 7-2. Notice to abate; separate offenses.

Any state of things prohibited by Section 7-1 shall be deemed a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed the author thereof. Any person who shall have possession or control of any private ground or premises, whether he or she is the owner thereof or not, in or upon which any such nuisance shall exist or may be found, shall be deemed guilty of a separate offense, as the author of a nuisance, for every period of forty-eight (48) hours' continuance of such nuisance after due notice is given to abate the same. The written notice of forty-eight (48) hours may be given and served by the Chief of Police or other officer as he or she may designate. (Prior code 18-2)

Sec. 7-3. Declaration of nuisance by Board of Trustees; abatement by Chief of Police.

In the event that any nuisance within or upon any private premises or grounds is not abated forthwith after the notice provided for in Section 7-2 shall be given, the Board of Trustees may declare the same to be a nuisance and order the Chief of Police to abate the same, which order shall be executed without delay. The Chief of Police shall have the authority to call for the necessary assistance therefor. (Prior code 18-3)

Sec. 7-4. Abatement without notice.

In case of any nuisance as defined in Section 7-1 in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Chief of Police may abate the same forthwith without such notice given. (Prior code 18-4)

Sec. 7-5. Assistance to abate authorized.

Any officer who shall be duly authorized to abate any nuisance specified in this Chapter shall have authority to engage the necessary assistance and incur the necessary expenses thereof. (Prior code 18-5)

Sec. 7-6. Recovery of expenses in abatement.

The expense incurred by the Town in abating any nuisance may be recovered back by proper action from the creator thereof. (Prior code 18-6)

Sec. 7-7. Authority to enter on property.

The Mayor, Chief of Police, Trustees or any other persons who may be directed or deputized by the Board of Trustees may enter upon or into any lot, house or other building or premises, with proper respect

for the occupant's constitutional rights, to examine the same and ascertain whether any nuisance exists as defined in this Chapter, and shall be free from any action or liability on account thereof. (Prior code 18-7)

Sec. 7-8. Specific offenses; construction of Article.

The enumerated provisions of this Chapter are in no way deemed to be exclusive, and anything declared a nuisance in this Chapter shall be abated in accordance with the provisions contained in this Chapter and in addition, subject to the penalties provided for in Section 1-62. (Prior code 18-18)

Sec. 7-9. Littering prohibited.

(a) It shall be unlawful for any person to litter as provided in this Article. For purposes of this Article, any person who deposits, throws or leaves any litter on any public or private property or in any waters commits littering, unless:

(1) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property;

(2) The litter is placed in a receptacle or container installed on such property for such purpose; or

(3) Such person is the owner or tenant in lawful possession of such property, or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant.

(b) The term *litter*, as used in this Article, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(c) The phrase *public or private property*, as used in this Article includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas thereof or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands.

(d) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend such fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon.

(e) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Article, the operator of said motor vehicle is presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom. (Prior code 13-6)

Sec. 7-10. Violations.

Whenever in any section of this Chapter or rule or regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for, a violation of any such section shall, for each offense, be penalized as provided in Section 1-62. (Prior code 18-19)

Secs. 7-11—7-20. Reserved.

ARTICLE II

Specific Nuisances

Sec. 7-21. Junkyards and dumping grounds.

All places used or maintained as junkyards or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and housetrailers or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept in such manner as to essentially interfere with the comfortable enjoyment of life or property by others, are hereby declared to be a nuisance and may be abated as provided in this Chapter. (Prior code 18-21)

Sec. 7-22. Discharge of nauseous liquids.

It shall be unlawful to discharge out of or from, or permit to flow from, any house or place foul or nauseous liquid or substance of any kind whatsoever, into or upon any adjacent ground or lot, or into any street, alley or public place in the Town. Such discharge is hereby declared a nuisance and may be abated as provided in this Chapter. (Prior code 18-22)

Sec. 7-23. Collection of stale, putrid or stinking fat or grease.

It shall be unlawful to keep, collect or use or cause to be kept, collected or used in this Town any stale, putrid or stinking fat, grease or other matter. Such conditions are hereby declared a nuisance and may be abated as provided in this Chapter. (Prior code 18-23)

Sec. 7-24. Offensive deposits in sewers, sewer inlets or privy vaults.

It shall be unlawful to deposit in or throw into any sewer, sewer inlet or privy vault that shall have a sewer connection any article whatsoever that might cause such sewer, sewer inlet or privy vault to become nauseous or offensive to others or injurious to public health. Such deposits are hereby declared a nuisance and may be abated as provided in this Chapter. (Prior code 18-24)

Sec. 7-25. Slaughterhouses.

No slaughterhouse or other place for slaughtering animals shall be kept within the Town. Such places are hereby declared to be nuisances and may be abated as such. (Prior code 18-25)

Sec. 7-26. Dead animals.

When any animal shall die in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body shall not forthwith be removed, the same shall be deemed a nuisance, such owner or keeper shall be deemed to have caused a nuisance to exist, and such nuisance may be abated as provided in this Chapter. When the body of any such dead animal shall be in any street, highway or public grounds in the Town, it shall be the duty of the

Chief of Police to cause such body to be removed forthwith beyond the limits of the Town. (Prior code 18-26)

Sec. 7-27. Stagnant ponds.

Any cellar, vault, drain, sewer, pond of water or other place upon or within any private premises or grounds, in the Town, that shall be nauseous or offensive to others or injurious to public health, through an accumulation or deposit of nauseous, offensive or foul water or other substances, shall be deemed a nuisance and may be abated as provided in this Article. This applies in all cases for which no other specific provisions are made in this Article or any other ordinance of the Town. (Prior code 18-27)

Sec. 7-28. Open wells, cisterns or excavations.

It is hereby declared that excavations exceeding five (5) feet in depth, cisterns and wells or an 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 may be abated as provided in this Article. It shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him or her. (Prior code 18-28)

Sec. 7-29. Unauthorized posting of handbills, posters and placards.

Any handbill, poster, placard, or painted or printed matter which shall be stuck, posted or pasted upon any public or private house, store, or other buildings, or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house, shall be deemed a nuisance and may be abated as provided in this Chapter. (Prior code 18-29)

Sec. 7-30. Building materials to be removed from construction sites.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property. (Prior code 13-7)

Sec. 7-31. Accumulation and use of manure.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent. (Prior code 13-9)

Secs. 7-32—7-40. Reserved.

ARTICLE III

Garbage and Refuse

Sec. 7-41. General, definitions.

For the purposes of this Article, the word *refuse* shall mean and include 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. (Prior code 13-1)

Sec. 7-42. Accumulation of refuse prohibited and declared nuisance.

Any accumulation of refuse or other material on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance. (Prior code 13-3)

Sec. 7-43. Accumulation of refuse; abatement.

Whenever the Board of Trustees shall direct, the Town Clerk shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the Board of Trustees requiring the removal of any accumulated refuse from such property or premises within thirty (30) days after service of notice. If such property owner, agent or person having charge of such property shall not remove such refuse in accordance with the requirement of such order, the Board of Trustees may order that such refuse be removed by the Town Clerk or other agent of the Board of Trustees and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that, in case of failure to pay such assessment within ten (10) days after the same shall be made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Board of Trustees will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection, as provided by state law. (Prior code 13-4)

Sec. 7-44. Responsibility of owners and lessees for refuse on premises.

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Prior code 13-5)

Sec. 7-45. Removal of refuse from business required.

Discarded automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the Town dump by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Chief of Police or the Fire Chief. Such removal shall be handled by the establishments responsible therefor. (Prior code 13-8)

Secs. 7-46—7-60. Reserved.

ARTICLE IV

Waste Collection

Sec. 7-61. Collection; duty of Town to contract with third parties.

(a) The Town shall provide, by contract with third parties, for the collection and removal of garbage, ashes, trash and other waste material of every character collected or accumulated within the Town, except tree limbs (unless cut in three [3] to four [4] foot lengths and bundled), and other items of unusual size, hot ashes, explosive materials, radioactive materials and other similar types of hazardous material within the corporate limits of the Town.

(b) If any person or business desires to cancel the services of the Town as provided by the third party, then and in that event the person or business shall notify the Town Clerk, in writing, within ten (10) days before the first day of the next month of his, her or its desire to cancel said service. Said person or business using a private party for his or her trash removal shall still be bound by all other parts of the ordinances of the Town concerning or pertaining to trash removal. (Prior code 13-20)

Sec. 7-62. Persons served by water taps to receive service and pay the costs and billing.

(a) All persons and businesses receiving collection and removal for garbage, ashes, trash and other waste materials, shall be billed and shall pay said charges, monthly with their water bill, a sum not to exceed the actual cost to the Town for providing such service, including the incidental costs assessed thereto.

(b) The assessments for trash collection shall be determined by the individual water tap billings, except in the instance where more than one (1) single family is living in the unit served by one (1) water tap; then and in that event, an additional charge shall be made for each single-family unit.

(c) Each trailer or mobile unit served with water facilities by the Town shall be classified an individual single-family unit, except a trailer or mobile home park operation, as a whole, may deal directly with the third party on a commercial basis for the trash service. Notification of this arrangement must be made to the Town Clerk per Section 7-61(b). (Prior code 13-21)

Sec. 7-63. Specifications for containers.

(a) All ashes, trash, garbage and other waste materials shall be placed in suitable and approved receptacles or containers. Said receptacles and containers shall be furnished by each resident or business establishment at the expense of each resident or business establishment.

(b) Waste materials shall not include refrigerators, washers, dryers and other large or bulky items.

(c) The receptacles or containers to be provided by each resident or business establishment shall be placed by said resident, occupant or business establishment in a readily accessible location for handling by the contractor of the Town, and each receptacle or container shall be limited to not more than thirty (30) gallons in volume capacity and not more than seventy (70) pounds in weight per container. Each business establishment shall be further limited to no more than three (3) thirty-gallon (30) containers with weight not to exceed seventy (70) pounds per container per week. (Prior code 13-22)

Sec. 7-64. Lien and collection of unpaid bills; cessation of service.

(a) The assessment provided in Section 7-62 shall be a lien against each lot or tract of land where said water tap serves until fully paid and shall have priority over all other liens except general taxes and prior special assessments. In case such assessments are not paid, the Town Clerk may certify the assessments to the County Treasurer who shall collect the assessments, together with a ten percent (10%) penalty for the cost of collection as provided by law.

(b) In addition thereto, the Town may proceed to collect any unpaid assessments in any other manner allowed by law, including the cessation of the collection and removal of garbage, ashes, trash and other waste material service. (Prior code 13-24)

Secs. 7-65—7-80. Reserved.

ARTICLE V

Weeds

Sec. 7-81. Growth and accumulation on premises and adjoining sidewalks and alleys prohibited.

No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit weeds to grow, or remain when grown, on such lot, block or parcel of ground, or on or along any sidewalk adjoining the same, or in the alley behind the same, but such weeds shall be cut close to the ground and kept so cut. (Prior code 13-35)

Sec. 7-82. Abatement by Town; assessment of costs.

If any owner, tenant or agent in charge shall fail to cut weeds, as required by this Article, within five (5) days after being notified to do so by the Town Clerk, the Town Administrator may direct that the weeds be cut by an employee, agent or contractor of the Town and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) for inspection and other incidentals. (Prior code 13-36; Ord. 463, § 1, 1991; Ord. 658, § 1, 2001)

Sec. 7-83. Collection of costs of abatement by Town.

(a) In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by direction of the Town Administrator, the whole cost of cutting such weeds, together with five percent (5%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by certified mail, notice of the assessment of such cost.

(b) Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, within thirty (30) days, by the Town Clerk to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection. (Prior code 13-37; Ord. 658, § 2, 2001)

Secs. 7-84—7-100. Reserved.

ARTICLE VI

Trees

Sec. 7-101. Tree planting, maintenance and removal.

It shall be unlawful to sell or import into the Town or to plant or cause to be planted within the Town limits any of the following trees:

- (1) Any cotton-bearing cottonwood tree (*genus populus*);
- (2) Any box elder tree (*Acer negundo*); or
- (3) Any Chinese or Siberian elm tree (*Ulmus pumila*). (Ord. 460, § 16-153, 1991)

Sec. 7-102. Control of Dutch elm disease; entire Town to be considered area in which elm trees protected; removal, destruction of dead or dying trees.

The entire Town shall be considered as the specific area or zone within which elm trees are to be protected. Trees or parts thereof, if elm in a dead or dying condition that are or may serve as breeding places for the European elm bark beetle, shall be considered a public nuisance and shall be removed and destroyed or buried by the owner of the tree or trees. (Prior code 16-141)

Sec. 7-103. Inspection of trees for signs of breeding of elm bark beetles.

The Town shall, or allow a representative of the State Department of Agriculture to, examine and inspect all trees within the Town on public or private property for signs of breeding of elm bark beetles. (Prior code 16-142)

Sec. 7-104. Maintenance of trees, storage of wood furnishing breeding places for elm bark beetles prohibited.

It shall be unlawful for any owner or occupant of any premises within his or her control to maintain trees or store wood furnishing breeding places for the elm bark beetles. Such trees or wood shall include the following:

- (1) Dead or dying or obviously weakened elm trees, regardless of species or variety;
- (2) Dead or dying or obviously weakened branches in otherwise healthy elms;
- (3) Stumps of cut trees on which the bark remains;
- (4) Elm wood cut from trees, whether or not they were diseased, that is cut and piled for fireplace wood, whether stored indoors or out. (Prior code 16-143)

Sec. 7-105. Trees on private property.

(a) The Town shall at once cause written notice to be served upon the owner of the property upon which is situated:

- (1) Any tree, shrub or plant discovered to have any destructive or communicable disease or other pestilence which endangers the growth or health of trees;
- (2) Any tree, shrub or plant deemed to be a public nuisance or hazard, such as any plant that obstructs street lights, traffic signs or the free passage of pedestrians or vehicles; or
- (3) Any dead or dying trees or any trees that pose a threat to safety.

(b) Such notice shall require said property owner to eradicate, remove or otherwise control such condition within thirty (30) days. (Ord. 460, § 16-154, 1991)

Sec. 7-106. Failure to remove trees upon notice; removal by Town; costs to be charged to owner.

If any owner, tenant or agent in charge shall fail to cut and remove trees, as required by this Article, within thirty (30) days after being notified to do so by the Town or agent of the State Department of Agriculture, the Town may direct that the tree or trees be cut by an employee of the Town and charge the costs thereof to such owner, tenant or agent in charge, together with five percent (5%) additional for inspection and other incidentals. (Prior code 16-144)

Sec. 7-107. Cost for removal of trees on lots or blocks along sidewalk or street.

In the event the trees and any parts thereof on any lot, block or parcel of ground or along the sidewalk or street adjoining the same, or the alley behind the same, are cut by order of the Town, the whole cost of cutting such trees, together with five percent (5%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by certified mail, notice of the assessment of such cost. (Prior code 16-145)

Sec. 7-108. Failure to pay assessment; lien created.

Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, within thirty (30) days, by the Town Clerk to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent (10%) penalty to defray the cost of collection, as provided by state law. (Prior code 16-146)

Secs. 7-109—7-120. Reserved.

ARTICLE VII

Animal Control

Sec. 7-121. Definitions.

As used in this Article, the following words have the following meanings:

- (1) *Animal* means any live, vertebrate creature, domestic or wild, except human primate.
- (2) *Animal shelter* or *impoundment facility* means a facility in which to impound animals held by the Town, including a humane society or animal league, pursuant to agreement or contract, acting for the Town.
- (3) *At large* means off the premises of the owner and not under the control of the owner.
- (4) *Code enforcement officer* means a peace officer so designated by law, the ordinances of the Town or by written order of the Chief of Police to enforce the provisions of this Article.
- (5) *Control* is defined in Section 7-122.
- (6) *Exotic animal* means nonhuman primate, skunk, fox, raccoon, wild/exotic cat and similar animals.
- (7) *Farm animal* means horse, mule, ass, sheep, goat (excluding pygmy goat), llama, swine (excluding pot belly pig), cow or other cloven hoofed animals commonly known as livestock.
- (8) *Fowl animal* means chicken, turkey, goose, duck, guinea, household bird, pigeon and similar animals provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor. Commercial activities must comply with all other ordinances and zoning regulations.
- (9) *Household* means a dwelling unit and surrounding property customarily used by a single family for living purposes.

(10) *Kennel operation* means any activity which includes boarding, breeding or care and treatment of animals for compensation or profit. *Kennel operations* must comply with all other ordinances and zoning regulations.

(11) *Leash* or *lead* means a thong, cord, rope, chain or similar device which holds an animal in restraint, and which is not more than ten (10) feet long.

(12) *Litter* means offspring of one (1) of the adult animals being harbored which is commonly considered to be too young to wean.

(13) *Livestock* means any bovine animal, horse, mule, ass, sheep or goat (except pygmy goat).

(14) *Neighborhood* means the area within five hundred (500) feet of the exterior boundaries or the premises where the animal is kept.

(15) *Open area* means space on a lot or parcel of ground which is used exclusively for the containment of animals and which is not covered with any structures, paving, buildings or similar appurtenances, i.e. corrals.

(16) *Owner* means any person, partnership or corporation owning any animal or animals, or having the same in his or her or its care, custody or control, or who causes, encourages or suffers the same to remain upon their premises for a period of three (3) consecutive days or more.

(17) *Pet animals* means domestic dog, domestic cat, rabbit, guinea pig, hamster, mouse, snake, iguana, turtle, pot belly pig, pygmy goat, ferret and similar animals provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor.

(18) *Pet shop* means the premises of any person, partnership or corporation, whether operated separately or in connection with another business enterprise that buys or sells animals on a regular basis.

(19) *Premises* means real property owned, rented, leased, used, kept or occupied by a person or persons, a partnership, a corporation or governmental unit, howsoever described.

(20) *Public nuisance* means any animal that:

- a. Menaces or attacks persons or vehicles;
- b. Menaces or attacks other animals;
- c. Goes upon school premises without the permission of the person in charge thereof;
- d. Is at large;
- e. Damages private or public property;

e. Barks, howls, yelps, bawls or makes other loud, persistent noise in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous;

f. Being a female in heat, because of the nature of its confinement, or lack of the same, has attracted other animals and caused them to congregate or remain on or about any premises;

g. Is in a public park or lake with the exception of controlled dogs, service dogs, seeing-eye dogs, dogs trained as ears for the deaf, government-owned dogs or animals participating in shows or exhibits that are conducted in compliance with officially sanctioned activities;

h. Any other act or condition in this Article designated as a public nuisance.

(21) *Rabies vaccination* means the inoculation of an animal with a rabies vaccine approved by the Colorado Department of Health.

(22) *Raptor* means any migratory bird that is a member of falconiformes or strigiformes and, specifically, but not by way of limitation, means falcons, hawks, owls and eagles.

(23) *Town* means the Town of Johnstown, Colorado.

(24) *Trap* means any device used to contain or capture an animal.

a. *Humane trap* means any trap which does not cause injury to the animal trapped.

b. *Inhumane trap* means any trap which causes injury to the animal trapped.

(25) *Veterinary hospital* means any premises upon which a licensed veterinarian performs surgery, makes diagnoses and treats diseases or the injuries to animals.

(26) *Vicious animal* means any animal that constitutes a threat to the well-being or safety of human beings or other animals.

(27) *Wild animal* means any monkey (nonhuman primate), raccoon, skunk, poisonous snake or reptile, jaguar, cheetah, mountain lion, wildcat, panther, margay or any other species of cats other than ordinarily domesticated house cats, any bear, any nonpoisonous snake longer than six (6) feet, any crocodile or alligator longer than one (1) foot, any badger, prairie dog, beaver, muskrat or bat, or any wolf, coyote, fox or other species of canine other than ordinarily domesticated dogs. (Ord. 99-603 §1)

Sec. 7-122. Control required; running at large prohibited when.

(a) All animals, except domestic cats, shall be kept under control. No owner shall permit such animals to run at large within the Town. If any animal is found at any place within the Town other than upon the premises of its owner, the owner is presumed to have violated this Section.

(b) Dogs. A dog shall be considered running at large when it is neither on the premises of the owner nor on a leash ten (10) feet or less in length, attached to the dog and held by or tied to a person.

(c) Livestock. No horses, asses, mules, cattle, sheep, swine or goats shall be herded or picketed upon any street, alley, ditch-bank or public ground in the Town.

(d) Exclusions. This Section shall not apply to seeing-eye dogs accompanied by their masters, nor dogs participating in dog shows, dog exhibits or dog training activities to the extent that such shows, exhibits and activities are conducted in compliance with the requirements of this Code. (Ord. 99-603 §1)

Sec. 7-123. Dog and cat licenses required.

The owner, keeper, harbinger or any other person who has assumed the responsibility for any dog or cat within the Town shall secure a license for such dog or cat from the Town Clerk. (Ord. 99-603 §1)

Sec. 7-124. Licensing requirements and standards for possession of raptors.

(a) Persons who possess and maintain falconry licenses, as required by state and federal agencies may keep birds of prey on their premises; provided that such birds of prey are maintained according to state and federal laws and regulations.

(b) No person may keep, maintain, harbor or possess in or at any one (1) household, a combined total of more than three (3) raptors.

(c) Raptors shall be permitted provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor.

(d) Nothing in this Section will be interpreted to waive any requirements or Town ordinances related to building codes and zoning regulations. (Ord. 99-603 §1)

Sec. 7-125. License exemptions.

No license shall be required for any dog or cat under the age of six (6) months. A license may be issued to a dog/cat under six (6) months without rabies vaccination proof. No license shall be required for any dog or cat held for sale by any kennel or pet shop authorized to carry on business in the Town. No license shall be required for seeing-eye dogs. No license shall be required for dogs or cats brought into the Town for less than a thirty-day period and if licensed by another municipality. (Ord. 99-603 §1)

Sec. 7-126. License; term and time for licensing.

Licenses issued for dogs and cats shall be good for one (1) year only. The license period shall be from May 1 of the first year to April 30 of the next year. Dog and cat licenses shall be obtained prior to May 1 of the year following expiration. Dogs and cats brought into the Town shall be licensed no later than thirty (30) days from the date they are brought into the Town. (Ord. 99-603 §1)

Sec. 7-127. Rabies vaccination certificate required.

In order to entitle any applicant to a license under the provisions of this Article, such applicant shall produce and display to the Town Clerk a certificate issued by a licensed doctor of veterinary medicine certifying that the dog or cat has been vaccinated for rabies, and that such vaccination will not expire prior to April 30 of the year of the licensing period. (Ord. 99-603 §1)

Sec. 7-128. License fee.

Each applicant for a license shall be required to pay a fee of four dollars (\$4.00) for each dog or cat which has been neutered or spayed, and a fee of ten dollars (\$10.00) for each dog or cat which has not been neutered or spayed. The owner must be able to provide bona fide proof of such spaying or neutering. (Ord. 99-603 §1)

Sec. 7-129. License issuance conditions.

The Town Clerk shall issue to each person making proper application and payment of fees, as provided in this Article, a license for each dog or cat. The Town Clerk shall keep a suitable book for the registration of dogs and cats, and shall register therein all dogs and cats whose owners, keepers or harborers have paid the license fee herein provided, and shall keep a record of the date of registration, the name, sex, breed and color of each dog and cat and the place where the same shall be kept. (Ord. 99-603 §1)

Sec. 7-130. Dog and cat license; tag requirements.

(a) The Town Clerk shall furnish to the person causing the dog or cat to be registered a suitable tag bearing a number corresponding to that of the license issued for such dog or cat, and the year for which such tag is issued. Each dog or cat so licensed shall be provided by its owner, keeper or harborer with a collar or harness of suitable material, to which such license tag shall be securely fastened, and its owner shall keep such collar or harness with such tag fastened thereto on such dog or cat.

(b) It is unlawful for any owner, keeper, harborer or any other person who has assumed the responsibility for a dog or cat to permit such dog or cat to wear any license tag other than the one issued by the Town for the dog or cat. (Ord. 99-603 §1)

Sec. 7-131. License; duplicate tags; ownership changes.

(a) In the event a tag issued pursuant to this Article is lost or destroyed, a new or duplicate tag may be obtained from the Town Clerk upon payment of a fee of one dollar (\$1.00).

(b) In the event the ownership of a licensed dog or cat is changed, the new owner must license such dog or cat within thirty (30) days of purchase, and in accordance with the provisions of this Article, and pay to the Town Clerk a license fee of four dollars (\$4.00) for each dog or cat which has been neutered or spayed and a fee of ten dollars (\$10.00) for each dog or cat which has not been neutered or spayed. (Ord. 99-603 §1)

Sec. 7-132. Rabies control.

The owner of every dog or cat over the age of six (6) months shall cause such dog or cat to be inoculated against rabies, and such owner shall obtain from a licensed veterinarian a rabies vaccination certificate and tag. The tag shall be required to be attached to the collar or harness, as required in Subsection (a) of Section 7-130. (Ord. 99-603 §1)

Sec. 7-133. Confinement of female dogs and cats in heat.

The code enforcement officer may order any unspayed female dog or cat that is in a stage of estrous (heat) and is not properly confined, or is creating a public nuisance, to be removed to a boarding facility or a veterinary hospital until the period of estrous is finished. All expenses incurred as a result of such order shall be paid by the animal's owner. Failure to comply with such an order is a violation of this Section, and the animal may be impounded at the owner's expense. (Ord. 99-603 §1)

Sec. 7-134. Animal defecation; owner responsibility.

(a) Any owner, taking the animal upon any public way or other public property in the Town, shall immediately remove or cause to be removed and lawfully dispose of all fecal matter left on such property by the animal.

(b) Any owner, taking any animal upon any private property other than his or her own, shall immediately remove or cause to be removed and lawfully dispose of all fecal matter left on such property by the animal. (Ord. 99-603 §1)

Sec. 7-135. Nuisance animals designated.

(a) Any animal that menaces or attacks persons, vehicles or other animals, goes upon school premises without the permission of the person in charge thereof, damages, destroys or injures any shrubbery, plants, flowers, lawn, fence or other property, either private or public, or is found upon a public park, is declared to be a public nuisance, and the owner shall be deemed responsible for the actions of the animal.

(b) Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing or sight, thereby constituting a hazard of nuisance to the use or enjoyment of adjoining properties. (Ord. 99-603 §1)

Sec. 7-136. Noisy animals.

(a) It is unlawful for the owner, keeper, harbinger or any other person who has assumed the responsibility for an animal to permit such animal kept in any yard, house or other place to bark, howl, yelp, bawl or make other loud and persistent noise, in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous.

(b) The code enforcement officer, police officer or other designated officer of the Town shall have authority, without liability, to use all reasonable means to abate such nuisance, including the authority to impound such animal, upon receipt of a signed complaint, where the owner is absent from the premises; provided, however, that this authority does not extend to entering the owner's dwelling or other building upon the owner's premises.

(c) Upon impoundment of an animal for violation of this Section, such officer, or any of them, shall attempt to notify the absent owner by reasonable means as soon as possible, and such animal may not be destroyed until the owner is notified and has had the opportunity to reclaim the animal from impoundment. (Ord. 99-603 §1)

Sec. 7-137. Animal bites; report and animal quarantine requirements.

(a) The owner of any animal that bites a human being shall report the occurrence to the code enforcement officer when known to him or her or reported to him or her, and shall deliver the animal to the code enforcement officer, and shall provide such further information requested by the code enforcement officer.

(b) Any animal that bites a human being shall be quarantined pursuant to one (1) of the following procedures for a period of not less than ten (10) days:

(1) The code enforcement officer in his or her discretion may allow the animal to be quarantined on the owner's premises. Otherwise, the animal shall be quarantined in the animal shelter or a veterinary hospital at the expense of the owner. If the animal is quarantined in the animal shelter, the owner shall be assessed the fee required by the shelter for each day the animal remains at the shelter.

(2) Every person having knowledge thereof shall report to the code enforcement officer any suspected or positively diagnosed occurrence of rabies, and any biting by any suspected or confirmed rabid animal.

(3) No person shall kill any suspected or confirmed rabid animal except in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal.

(4) No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found.

(5) If rabies has been diagnosed by a veterinarian or medical doctor in any animal, such animal shall be summarily destroyed, and its brain sent immediately to the State Health Department in Denver for positive verification at the owner's expense; or the animal or its body may be disposed of according to law, regulation or order of the Department of Health.

(6) If a standard rabies incubation period has not been established for a particular species of animal, and any animal of that species has been diagnosed as rabid, or is reasonably suspected of being rabid, it shall be summarily destroyed, and if involved with another animal or human, a necropsy shall be performed to determine if the other animal is contaminated by rabies.

(7) When there has been a positive diagnosis of rabies within the Town, the Chief of Police may declare a Town-wide quarantine for a reasonable period of time. During the period of such quarantine, every owner of animals shall confine his or her animals within the premises of the owner, and shall not transport, take or remove his or her animal from the Town without the prior written consent of the code enforcement officer. (Ord. 99-603 §1)

Sec. 7-138. Certain animals prohibited.

It shall be unlawful for any person to keep, harbor, care for or possess the following animals within the Town:

(1) Any animal having poisonous bites.

(2) Any farm animal, as defined in this Article, on properties with less than five thousand (5,000) square feet of open area designated to be used by the animals. Furthermore, an additional two thousand five hundred (2,500) square feet of open area is required for each animal in excess of three (3). This open area must be located at least fifty (50) feet from any residence, business or other building intended for human habitation.

(3) Any wild or exotic animal, as defined in this Article. (Ord. 99-603 §1)

Sec. 7-139. Vicious animals.

(a) *Vicious animal* means:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals;

(2) Any animal which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this Article;

(3) Any animal which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

(4) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.

(b) No person shall own, keep, harbor or possess any vicious animal in the Town; provided, however, that an animal shall not be deemed a vicious animal because it has attacked or bitten any of the following persons:

(1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;

(2) Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined;

(3) Any person engaged in attempting to stop a fight between such animal and another animal;

(4) Any person engaged in attempting to aid such animal when it is injured.

(c) For the purpose of this Section, a person is lawfully upon the private property of such owner when he or she is on the property in the performance of any duty imposed upon him or her by the laws of the State or Town, or the laws or postal regulations of the United States, or when he or she is on such property at the invitation, expressed or implied, of the owner thereof.

(d) It is the duty of the code enforcement officer, police officer or other designated officer of the Town to investigate all complaints concerning vicious or dangerous animals. After such investigation, the officer shall determine whether such animal is vicious or dangerous.

(e) If the code enforcement officer, or any police officer of the Town, deems an animal to be vicious, he or she may issue a written warning to the owner of such animal, stating his or her determination that such animal is vicious, and shall request the owner to comply with the requirements of Subsection (f) through (i) below for vicious animals; and he or she may cause charges to be filed in Municipal Court against the owner, alleging the vicious propensities of such animal.

(f) Confinement. The owner of a vicious animal shall not suffer or permit the animal to go unconfined. A vicious animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground not less than one (1) foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(g) Leash and muzzle. The owner of a vicious animal shall not suffer or permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or other animal.

(h) Signs. The owner of a vicious animal shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(i) Insurance. Owners of a vicious animal must provide proof to the Town Clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious animal. (Ord. 99-603 §1)

Sec. 7-140. Disposal of animals by court order; conditions.

If a complaint has been filed in the Municipal Court against the owner, keeper, harbinger or any other person who has assumed responsibility for any animal within the Town for violation of this Article, the Municipal Court Judge shall have the authority, upon making the finding that such animal constitutes a nuisance or that such animal is a vicious animal, and further, that such animal, as a result, constitutes a real and present danger to the citizens of the Town, to order that the animal be destroyed in a humane fashion. (Ord. 99-603 §1)

Sec. 7-141. Accidents injuring animals; report required.

Any person who, while driving a motor vehicle, strikes or injures any domestic animal shall stop immediately and report the incident to the police. (Ord. 99-603 §1)

Sec. 7-142. Dead or injured animals.

Animals killed or injured on or along public streets are considered to have been running at large, and the code enforcement officer, police officer or other designated officer of the Town may remove such animals therefrom and, in his or her discretion, may take those animals needing medical attention to the animal shelter or a veterinarian. The owner of any animal receiving such medical attention shall be

responsible for any cost incurred. The Town is not and will not be liable for the costs of treatment of such animals. (Ord. 99-603 §1)

Sec. 7-143. Impoundment authorized when; prosecution for violations.

(a) It shall be lawful for the code enforcement officer, police officer or other designated officer of the Town to impound dogs and cats which have been found running at large, or to return the dog or cat to the owner, keeper, harbinger or any other person who has assumed the responsibility of the dog or cat, and issue to such person a penalty assessment citation or summons and complaint citation for the violation of this Article.

(b) It shall be no defense to a prosecution under Subsection (a) of Section 7-122 that the dog or cat alleged to have run at large was impounded in connection to the incident, nor shall the payment of a redemption fee protect the owner, keeper, harbinger or other person who has assumed responsibility for the dog or cat from prosecution for a violation of the provisions of this Article. (Ord. 99-603 §1)

Sec. 7-144. Redemption of impounded animals; conditions.

(a) The owner or other person having a legal right to the possession of any animal which has been impounded pursuant to this Article shall have the right to redeem the animal from the impoundment facility during the time that the animal is kept there, and until the animal is disposed of pursuant to this Article. The person seeking to redeem the animal shall satisfy the code enforcement officer or other person lawfully in charge of the redemption that such person is in fact the owner of the animal, or is the person having the lawful right to the possession of the animal.

(b) The person desiring to redeem any animal shall be obligated to pay the redemption fee required by the impoundment facility.

(c) As an additional condition to the right to redeem, the owner, keeper, harbinger or other person who has assumed the responsibility for a dog or cat not licensed must, within seven (7) days of the date of redemption, have produced a vaccination certificate for the dog or cat, obtain an animal license and pay the fee required by this Article for such license. Noncompliance may subject such person to receive another summons or penalty assessment for violations of this Article. (Ord. 99-603 §1)

Sec. 7-145. Livestock; impoundment conditions.

Any livestock found running at large in the Town shall be impounded by the code enforcement officer, police officer or other designated officer of the Town. (Ord. 99-603 §1)

Sec. 7-146. Livestock; holding following impoundment.

(a) All livestock so impounded by the officer under Section 7-145 shall be kept and controlled by the officer until the owner, or such other person who shall be legally entitled to possession of such livestock, shall call for the same and take control thereof.

(b) In the event no authorized person takes possession of the impounded livestock within twenty-four (24) hours after the same shall have been impounded by such officer, then the State Board of Livestock Inspection Commissioners, or an authorized brand inspector representing said board having

authority to move such livestock to a safe and practical place within the immediate vicinity, to be held during a legal advertising period, will be notified, and the livestock will be released to such authority. (Ord. 99-603 §1)

Sec. 7-147. Impoundment; disposition of unredeemed animals.

Any animal which has been impounded at the impoundment facility and not redeemed may be disposed of in a humane manner by the Town or by the Animal League, seventy-two (72) hours after 12:00 midnight of the day the animal was impounded, or as soon thereafter as possible. (Ord. 99-603 §1)

Sec. 7-148. Impoundment; records required.

The code enforcement officer, or other person lawfully in charge of the impounding, shall make or cause to be made a written record of all circumstances pertaining to the impounding and redemption of animals. Such records shall be in sufficient detail so that the provisions of this Article for multiple violations because of multiple redemptions can be enforced. (Ord. 99-603 §1)

Sec. 7-149. Fees; amendment authorized when.

Whenever this Article imposes or requires that a fee be paid, as distinguished from any penalty that may be imposed pursuant to Section 7-154, the Board of Trustees may amend the amount of such fees from time to time by resolution. (Ord. 99-603 §1)

Sec. 7-150. Animal care; unlawful activities designated.

It is unlawful for any owner, keeper, harbinger or any other person to:

(1) Fail to provide adequate food and water, proper shelter, veterinary services and humane care or treatment necessary to maintain the good health of the animal and to prevent suffering by the animal, when such animal is in his or her custody for more than twelve (12) consecutive hours;

(2) Commit or cause to be committed any act of cruelty, harassment or torture to any animal, or cause such animal to be wounded, mutilated, strangled or inhumanely killed, unless such act is necessary to defend a person or other animal from immediate attack;

(3) Abandon an animal; in this context, *abandon* means to leave the animal unattended for more than seventy-two (72) consecutive hours;

(4) Confine any animal within a parked, closed vehicle, without allowing cross-ventilation to prevent the animal from suffering heat exhaustion, heat stroke or death. Any code enforcement officer, police officer or other designated officer of the Town observing any animal suffering from a violation of this Subsection may enter the vehicle, leaving written notice in the vehicle, and shall impound such animal to protect its own well-being. Any such officer making entry into any vehicle for the purpose of this Subsection is immune from suit or liability, criminal or civil, for, caused by or arising out of such entry;

(5) Take and deliver to the animal shelter or elsewhere an animal, not his or her own, from any enclosed lot, premises or other building, not his or her own, unless he or she shall have first received permission from the owner of such animal, as well as otherwise authorized by this Article;

(6) Without the consent of the owner, release any dog from restraint, except when necessary to preserve the life of such animal; provided, however, that when an animal has been released under such necessity, the person making such release shall immediately inform the code enforcement officer that he or she has done so or, in the alternative, shall immediately return the animal to the custody of its owner;

(7) Tie or otherwise physically fasten any animal to any object on a public way, or so near to a public way that the animal may go upon the same, and leave the animal and depart the immediate vicinity thereof;

(8) Tie or otherwise physically fasten any animal in such a manner as to create an immediate physical danger to the well-being of the animal;

(9) Expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would know or should know that such substance would probably cause animals to be attracted thereto, eat thereof and be poisoned thereby; provided, however, that this Subsection does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances;

(10) Set any type of steel-jaw trap, or any other inhumane trap which, by its nature, may kill or maim any animal, including a human; provided, however, that this Subsection does not prohibit the use of common rat and mouse traps;

(11) Keep, maintain, harbor or possess in any one (1) household, a combined total of more than four (4) pet or fowl animals within the Town. A litter of the pet animals or fowl animals lawfully harbored may be kept until such time that a natural weaning period, as determined by the Town, has expired. A household located on one (1) acre or more of land may have a total of twelve (12) fowl animals, provided that an open area of at least one hundred (100) square feet per animal is provided and such open area is located at least fifty (50) feet from any residence, business or other building intended for human habitation;

(12) Cause, instigate, encourage or permit any dogfight, cockfight, bullfight or other combat between animals, or between animals and humans;

(13) At any time within the corporate limits of the Town, frighten, shoot at, wound, kill, capture, ensnare, trap, net, poison or in any other manner kill, injure or molest any wild birds, or injure the nest, eggs or young of such birds; provided, however, that this Section does not apply to English or European house sparrows or starlings; and provided further, the Chief of Police has authority to grant a permit for when, in his or her opinion, they have become a threat to the health and safety of the neighborhood. (Ord. 99-603 §1)

Sec. 7-151. Protective custody for animals receiving inhumane treatment.

(a) Any animal found receiving inhumane treatment, as described in Section 7-150 of this Article, may be removed and impounded at the expense of the owner by the code enforcement officer, police officer or other designated officer of the Town.

(b) Any animal whose life reasonably appears to be endangered may be so removed and impounded, whether or not in the presence of its owner. (Ord. 99-603 §1)

Sec. 7-152. Enforcement; obstructing an officer prohibited.

No person shall knowingly resist, oppose, obstruct or interfere with any officer from enforcing the provisions of this Article, or by threats or otherwise intimidate or attempt to intimidate any such officer in the discharge of his or her official duty. (Ord. 99-603 §1)

Sec. 7-153. Damaging impoundment facility prohibited.

It is unlawful for any person to break open, destroy or damage any door, gate, fence or enclosure used by the Town as an animal shelter or impoundment facility, or to take or attempt to take therefrom any animal impounded therein without having paid the fees provided in this Article. (Ord. 99-603 §1)

Sec. 7-154. Violation; penalty.

The violation of or failure to comply with the provisions of this Article shall constitute an offense against the Town, and subject the offender to punishment as follows:

	<u>Minimum</u>	<u>Maximum</u>
First Offense	\$25.00	\$1,000.00
Second Offense	50.00	1,000.00
Third Offense	75.00	1,000.00

The minimum fines set forth shall be mandatory and shall not be suspended for any reason. Each day any violation continues shall constitute a separate offense and is punishable accordingly. Any person charged with a fourth offense shall be required to appear in Municipal Court. (Ord. 99-603 §1)

Secs. 7-155--7-170. Reserved.