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CHAPTER 8.02

Nuisances

8.02.010 Purpose and intent.

(a) It is the policy of the Town pursuant to Section 31-15-401(c), C.R.S., as amended, that every public nuisance shall be restrained, prevented, abated and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain an action, pursuant to the provisions of this Chapter, to restrain, prevent, abate and perpetually enjoin any such public nuisance.

(b) Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the other criminal laws of the State, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws.

(c) Further, it is not the policy or purpose of this Chapter to repeal or preempt any zoning ordinance or other ordinances of the Town which regulate the use of property, and all other ordinances shall be construed along with, and read together with, this Chapter. (Ord. 205 §2, 1990)

8.02.020 General definitions.

When used in this Chapter, the following words shall be interpreted as follows, unless the context indicates otherwise:

Action to abate a public nuisance means any action authorized by this Chapter to declare and then restrain, remove, terminate, prevent, abate or perpetually enjoin a public nuisance.

Building means any dwelling, office building, store, warehouse or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semitrailer, coach, manufactured home, mobile home or any other vehicle designed or used for occupancy by persons for any purpose.

Inoperable vehicle means any automobile, truck or self-propelled vehicle incapable of moving under its own power or does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.

Nuisance means any substance, act, occupation, condition or use of property declared a nuisance by this Chapter or declared a nuisance by the state of Colorado 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 comfort, health, repose or safety of the public;
- b. In any way render the public insecure in life or in the use of property; or
- c. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.

Person means any individual, partnership, corporation, association or agent, servant or employee of any individual, partnership, corporation, association or other type of organization. (Ord. 205 §1, 1990)

8.02.030 Defined and declared.

Public nuisances shall include, but shall not be limited to, the following acts or conditions:

(1) Fire hazards, including dry or dead shrubs, dead trees, combustible refuse and waste, or any material growing on a street, sidewalk or upon private property within the Town, which by reason of its size, manner of growth and location constitutes a fire hazard to a building, improvement, crop or other property or, when dry, will in reasonable probability constitute a fire hazard.

(2) Hazardous obstructions, including any obstacle, landscaping or tying installed or maintained in the sight triangle reaching a height higher than four (4) feet above the adjoining top of curb at the applicable corner of the street intersection, or four (4) feet above the nearest pavement surface where there is no curb, or the existing traveled roadway at the corner in question where there is no curb or pavement. Hazardous obstructions do not include existing or future permanent buildings otherwise constructed or maintained in accordance with applicable zoning and building regulations, public utility poles and trees trimmed at the trunk at least eight (8) feet above the level of the ground surface, provided that such trees are spaced so that trunks do not obstruct the vision of motorists.

(3) Polluted water, such as a swimming pool, pond or other body of water which is abandoned, unattended, unfiltered or otherwise not maintained, resulting in the water becoming polluted.

a. For purposes of this Section, *polluted water* also means water contained in a swimming pool, pond or other body of water which contains one (1) or more of the following:

1. Bacterial growth, including algae.

2. Remains of insects.

3. Remains of deceased animals.

4. Reptiles.

5. Rubbish.

6. Feces.

7. Refuse.

8. Debris.

9. Papers.

10. Any other foreign matter or material which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition;

b. Any unlawful pollution or contamination of any surface or subsurface waters in this Town, of the air, or of any water, substance or material intended for human consumption; however, no action shall be brought under this Subsection if the State Department of Health or any other agency of the State charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on the pollution or contamination.

(4) Refuse, waste matter and junk which, by reason of its location and character, is dangerous to public health, safety or welfare, is unsightly or interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises.

a. *Refuse, waste matter and junk* includes, but is not limited to, rubbish, refuse, debris, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, crates, cartons, containers, boxes, inoperable machinery or parts thereof, scrap metal and other pieces of metal whether ferrous or nonferrous, dead plants and trees, trimmings from plants and trees, cans, bottles, barrels, bones, rags, used rubber or used rope.

b. *Junk* shall also be defined as any material or object, used or new, which is not presently usable, including but not limited to scrap metals and their alloys, bones, rags, cloth, rubber pieces, rope, tinfoil, bottles, tools, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, automobile or airplane tires, machinery and appliances. Objects or material shall be considered junk if they are so worn, deteriorated or obsolete as to make them unusable in their existing condition, if they are not capable of being used in their present location on the property, or if they cannot legally be used due to the absence of legal prerequisites to use.

c. Keeping of junk restricted. It shall be unlawful for any person to store, keep or allow to be stored or kept any articles or materials which may be classified as *junk* according to the definition contained in this Chapter, adjacent to or in close proximity to any schoolhouse, church, public park or residence, or in a zoning district prohibiting outdoor storage or processing of junk unless such junk is kept in proper and tight buildings. A building shall be considered proper for the storage of junk only if it consists of four (4) solid walls and a roof, it meets all Town requirements for buildings and it effectively shields its contents from the view of the public. Junk stored or kept in violation of this Section is declared to be a public nuisance, and may be abated pursuant to the provisions specified in this Chapter.

(5) Maintenance of property, including owning, leasing occupying, managing or having possession of any premises in this Town in such manner that any of the following conditions are found to exist thereon:

a. The premises are a detriment to public health, safety or general welfare.

b. The premises are so defective, unsightly or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Manifestation of this condition shall include, but shall not be limited to, the keeping on, disposing of on, or the scattering over the premises of, any of the following:

1. Junk, trash or debris.

2. Abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators or freezers.

3. Stagnant water or an excavation.

4. Any device, decoration, design, fence or structure which is unsightly by reason of its condition or its inappropriate location.

c. The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use or property values of such adjacent properties.

d. The premises are abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction;

e. Buildings have dry rot, warping or termite infestation.

f. The premises have a substantial number of broken windows which cause hazardous conditions and invite trespassers and malicious mischief.

g. The landscaping on the premises has not been maintained, as follows:

1. The majority of plant materials have not been adequately irrigated and maintained and are dead or dying;

2. Lawns have grown over six (6) inches or shrubs have not been trimmed and are overhanging public rights-of-way;

3. Noxious weeds have grown over six (6) inches and have not been removed; or

4. Dead or diseased plantings have not been removed or replaced.

h. The exteriors of commercial establishments or multi-family buildings have not been maintained, so as to present a neat and orderly appearance which is compatible with the area, as follows:

1. A substantial number of windows are cracked or broken,

2. Painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed; or

3. The building has otherwise not been substantially maintained.

i. Parking lots have not been repaired or cracks, potholes or other breaks in the parking lot surface have not been filled.

j. Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter

k. Permitting any garbage container to remain on a premises when it has become unclean or offensive or which is injurious to the public health.

l. Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area, except when it is temporarily deposited for immediate removal.

m. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept. 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.

n. Permitting any slaughterhouse, market, meat shop, stable, feed yard or other place or building where any animals are slaughtered, kept, fed or sold, to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.

o. Keeping or collecting any stale or putrid grease or other offensive matter.

p. Having or permitting upon any premises any fly- or mosquito-producing condition.

q. Keeping any drinking vessels for public use without providing a method of decontamination between uses.

r. Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the Town.

s. Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults, septic tanks and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from any enforcement officer or official of the Town.

(6) Any building, land, premises, business, occupation, activity, operation or condition which, after being ordered abated, corrected or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of:

a. Any ordinance of the Town.

b. Any regulation enacted pursuant to the authority of an ordinance of the Town.

(7) Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, the residents in the vicinity, or the passersby on the public streets or highways.

(8) Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under the age of twenty-one (21), solicitation for prostitution or trafficking in stolen property.

(9) Any building, fence, structure or land within the Town, the condition of which presents a substantial danger or hazard to public health and safety.

(10) Any cellar, vault, sewer, drain, place, property or premises within the Town which is damp, unwholesome, nauseous, offensive or filthy, which is covered for any portion of the year with stagnant or impure water, which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health.

(11) Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.

(12) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the Town.

(13) The maintenance of any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, in a manner so as to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.

(14) Sewer inlet: any article or materials accumulated in any sewer, sewer inlet or privy vault that has a sewer connection, which causes or might cause such sewer, sewer inlet or privy vault to become noxious or offensive to others or injurious to public health.

(15) Unsheltered storage of old, unused, stripped and junked machinery, implements or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the Town.

(16) Junkyards and dumping grounds, including 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 house trailers or machinery of any kind, or 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 essentially interfere with the comfortable enjoyment of life or property by others.

(17) Those offenses which are known to the common law of the land and the statutes of Colorado as nuisances when the same exists within the Town limits or within a mile thereof.

(18) Dead animals: the body of any animal which has died and which is undisposed of after twelve (12) hours after death.

(19) Noisemaking devices to attract children, including the use of bells, whistles, sirens, music, horns or any other noisemaking devices for the purpose of attracting children or minors to any vehicles 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 declared to be a public nuisance and hazard and is expressly prohibited and shall be unlawful, except such activities carried on as part of duly authorized public parades or processions.

(20) Open wells, cisterns or excavations.

a. It is 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 it shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him or her.

b. Any well or cistern on any property within the limits of the Town, whenever a chemical analysis or other proper test or the location of the same shows that the water of the well or cistern is probably contaminated, impure or unwholesome, shall be deemed a nuisance.

c. Any abandoned or unused well or cistern shall be filled with dirt and covered.

(21) It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door, lid, snaplock or other locking device, which may not be released from the inside, without first removing said door, lid, snaplock or other locking device. Such icebox, refrigerator or other container shall be a public nuisance which may be abated without judicial proceedings by removal of the door, lid, snaplock or other locking device.

(22) Vacant buildings: It is declared a nuisance for the owner of any vacant building to fail to replace any broken window or fail to secure any other means of entry into such building within seventy-two (72) hours after notice is given by the Town.

(23) Transporting of garbage: The transport of garbage, swill or offal upon any street in the Town in a vehicle which is not fitted with a substantially tight enclosed box thereon allowing no portion of such filth to be scattered or thrown into such street is declared a nuisance.

(24) Barking, yelping, howling or mewing by dogs or cats: Any dog or cat which, by loud or frequent or habitual barking, yelping, howling or mewing, causes a serious annoyance to the neighborhood or to persons passing to and fro upon the streets or sidewalks.

(25) Junk vehicles:

a. It is unlawful for any person to store, keep or permit to be stored or kept any junk vehicle, or parts thereof, unless in a fully enclosed structure or unless approved in the official development plan for a PUD district.

b. The following definitions shall apply in the interpretation and enforcement of this Subsection:

Antique vehicle means any vehicle, at least twenty-five (25) years old, which is valued principally because of its early date of manufacture, design, historical interest or as a collector's item, and licensed as a collector's series or horseless carriage by the state of Colorado or another state with similar license provisions.

Junk vehicle means any vehicle not capable of travel under its own power or any vehicle not bearing current registration plates or, if bearing such plates, which remains stationary or unused for more than thirty (30) consecutive days, or any automobile, truck or self-propelled vehicle which does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law. However, such definition does not include antique vehicles or vehicles which are capable of travel under their own power but which do not bear current registration plates, when such vehicles are located upon vehicle sale lots which hold current Town business licenses.

Person means the owner of the vehicle or parts thereof, or the owner, manager, lessee or possessor of the property where the vehicle or parts are stored.

Private property means real property which is owned by a private person or entity.

Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery, and shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motorscooter, tractor, buggy and wagon.

(26) Vicious animals and guard dogs:

a. No person shall own or harbor a vicious animal within the Town. Such animal shall be summarily impounded as a public nuisance, which may be abated by the court in proceedings brought before it. If impoundment of said animal running at large cannot be made with safety to the Animal Control Officer or other persons, the animal may be destroyed by an authorized police official without notice to the owner or harborer.

b. Guard dogs: It shall be unlawful to place or maintain any dog in any area for the protection of persons or property unless the dog is physically confined to a specific enclosed area and is under complete and absolute control and the area posted as required. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high, with the following legend:

Warning — These Premises Patrolled by Guard Dogs Trained to Attack

accompanied by a decal that provides pictorial warning of a guard dog. (Ord. 205 §3, 1990)

8.02.040 Author defined.

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the owner or his or her agent, the tenant or his or her agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance arises from the unusual or unnecessary use of such property or from the business thereof conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (Ord. 205 §4, 1990)

8.02.050 Authority of Town to declare.

Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in this Chapter may be so declared by the Board of Trustees, and nothing in this Chapter shall be construed to limit the power of the Town to make such declaration. (Ord. 205 §5, 1990)

8.02.060 Complaints.

A person may make a complaint of the existence of a public nuisance to any Town official. Such complaint shall include, whenever possible, the nature of the public nuisance, the location, including the address, the name of the owner, occupant or manager of the property, the duration of the nuisance and the name and address of the complainant. Complaints not received by a Town official shall be referred to one of them as appropriate. (Ord. 205 §6, 1990)

8.02.070 Inspection; right of entry; emergencies.

(a) Whenever an official of the Town has reason to believe that a public nuisance exists and that such public nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the Town official or his or her authorized representative may immediately enter into any building or upon any premises within the jurisdiction of the Town for purposes of inspection or abatement.

(b) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the Town official, or his or her authorized representative, upon a presentation of proper credentials or identification in the case of an occupied building or premises, may enter into any building or go upon any premises within the jurisdiction of the Town. In said emergency situation, such person or his or her authorized representative may use such reasonable force as may be necessary to gain entry into said building or upon said premises.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever a Town official or his or her authorized representative shall have reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance as described in this Chapter, such Town official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on any of them. If such building or premises is occupied, such person shall first present proper credentials and demand entry. If such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner, occupant or other person having charge or control of the building or premises and upon locating said owner, occupant or other person, shall present proper credentials and demand entry. If entry is refused, such person shall give the owner or occupant, or if said owner or occupant cannot be located after a reasonable effort, shall leave at the building or premises a twenty-four (24) hours' written notice of intention to inspect. The notice given to the owner or occupant, if left on the premises as aforesaid, shall state that the property owner has the right to refuse entry and that, in the event that such entry is refused, inspection may be made only upon issuance of a search warrant by the judge of the court having jurisdiction.

(d) After the expiration of the twenty-four-hour period from the giving or leaving of notice, the Town official or authorized representative may appear before the municipal or other state court judge and, upon a showing of probable cause, shall obtain a search warrant entitling him or her to enter said building or go upon such premises. Upon presentation of said search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, such person may enter into the building or go upon the premises using such reasonable force as may be necessary to gain entry.

(e) For the purposes of Subsection (d) above, 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 person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises in issue in order to obtain a search warrant. It shall be unlawful for any owner or occupant of said building or premises to resist reasonable force used by any authorized agent acting pursuant to this Section. (Ord. 205 §7, 1990)

8.02.080 Jurisdiction; parties; process.

(a) An action to abate a public nuisance may be brought in Municipal Court or any other court where appropriate.

(b) Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.

(c) An action to abate a public nuisance may be brought by the Town Attorney in the name of the People of the State of Colorado and the Town.

(d) An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases. (Ord. 205 §8, 1990)

8.02.090 Abatement; failure to comply.

(a) Each and every nuisance declared or defined by any ordinance of the Town or otherwise is prohibited, and the Town officials are authorized in their discretion to cause the same to be summarily abated in such manner as they may direct, subject to the limitations provided in this Chapter. If any nuisance is found to exist upon public property, it shall be the duty of the Town to abate such nuisance immediately.

(b) Whenever a public nuisance exists which constitutes an emergency presenting imminent danger or serious injury to persons or property, an administrative officer may order with notice or judicial action that the public nuisance be summarily abated by removal, destruction or mitigation.

(c) Unless a specific provision of this Chapter states otherwise, when a public nuisance does not require summary abatement, a Town official may prepare and serve a notice to abate on the owner, manager, occupant or possessor of any property which constitutes the public nuisance. Such notice shall:

(1) State that, if the nuisance is not abated within seven (7) days, an action may be brought in the municipal or other state court to abate the nuisance and that all costs of abatement, plus ten percent (10%) of such costs for inspection and other additional administrative costs including, but not being limited to, reasonable attorney fees, may be assessed against the person found by the court to have caused, allowed to be caused or allowed to continue the public nuisance, and may become a lien upon any property on which the abatement was performed.

(2) Be in writing, signed by the official issuing the notice, and be served, either personally or by means of posting on the premises upon which the nuisance exists. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property at the last known address.

(d) When a public nuisance has not been voluntarily abated within the time specified in the notice to abate, the following procedure shall apply:

(1) If the person notified in accordance with Subsection (c) above neglects or refuses to comply with the requirements of the notice to abate the nuisance within the time specified, the Town official, or his or her authorized agent, may proceed at once, upon the expiration of the time specified in the notice, to commence appropriate legal action to cause the nuisance to be abated; provided that if the owner is unknown or cannot be found, the Town official may proceed to abate the nuisance after notice has been posted for the period equal to the time specified to abate the nuisance. In either case, the expense of such abatement shall be collected from the owner of the property upon which the nuisance existed.

(2) The Town may bring action in the municipal or other state court to have the nuisance declared as such by the court and for an order enjoining the public nuisance or authorizing its restraint, removal, termination or abatement by the owner, the person who caused the nuisance, the person who

allowed the nuisance to be caused or to continue, the Town official or his or her duly authorized representative, or any person under contract with the Town to perform such services.

(3) The action to declare and abate a public nuisance shall be brought by the Town in the name of the People of the Town, by the filing of a complaint, which shall be verified or supported by an affidavit. A summons shall be issued and served as in civil cases, and any employee of the Town who is over the age of eighteen (18) may serve the summons and verified complaint upon the respondent. Trial shall be to the Municipal Court.

(4) A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than thirty (30) days from the date of service of the summons and complaint. The trial shall be held upon the appearance date, unless the court grants a continuance for good cause shown.

(5) The respondent shall file a response on or before the appearance date set forth in the notice of appearance.

(6) Upon the date and at the time set for appearance and trial, if the respondent has filed no response and fails to appear and if the Town proves that proper service was made on the respondent at least thirty (30) days prior to the appearance date, the court may grant such orders as are requested by the Town; except that the court shall order that enforcement by the Town be stayed for ten (10) days and that a copy of the court's order be mailed to the respondent at his or her last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a nonappearing party. For good cause shown, and prior to enforcement, the court may set aside any entry of default and the judgment entered thereon.

(7) Upon a judicial determination that a nuisance exists, the Town official may be authorized to abate the nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate the nuisance or cause the same to be abated, including the employees of the Town or by contract or otherwise. All other Town officials and employees are authorized and directed to render such assistance to the Town official as may be required for the abatement of the nuisance and in connection with the enforcement of this Chapter.

(8) The judgment of the Municipal Court may be appealed to the District Court.

(e) The remedies specified in this Section shall be in addition to all other remedies provided by law. (Ord. 205 §9, 1990)

8.02.100 Judgment; relief.

(a) The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate and prevent the continuance or reoccurrence of the nuisance. The court may grant declaratory relief, mandatory orders or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the court may retain jurisdiction of the case for the purpose of enforcing its order.

(b) The judgment in an action to abate a public nuisance may include an order directing the Town Marshal or any officer or Town official to seize and close the public nuisance, and to keep the same effectually closed until further order of the court, not to exceed one (1) year.

(c) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction or other abatement of a public nuisance, in whole or in part, by the Town Marshal or any Town official at the expense of the owner or operator of the public nuisance.

(d) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Chapter, the imposition of a fine of not more than three hundred dollars (\$300.00), conditioned upon failure or refusal of compliance with the orders of the court within any time limits therein fixed. (Ord. 205 §10, 1990)

8.02.110 Redelivery of seized premises.

If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of court in the proceedings, and demonstrates by evidence satisfactory to the court that the public nuisance has been abated and will not recur, the court may order the premises delivered to the owner or operator. As a condition of such order, the court may require the posting of bond, in an amount fixed by the order of the court, for the faithful performance of the obligation on the owner or operator thereunder to prevent recurrence or continuance of the public nuisance. (Ord. 205 §11, 1990)

8.02.120 Responsibility for costs of abatement; collection; failure to pay.

(a) A person found by the court to have caused a public nuisance or to have allowed the nuisance to be caused or to continue shall be liable for the costs specified in this Section, including reasonable attorney fees. Such costs may be collected by the Town in a civil action or assessed and filed as a lien against any property on which the abatement was performed as specified in this Section.

(b) If the costs of abatement have not been otherwise collected, the Town official shall prepare a statement enumerating the actual costs of abatement and collection plus ten percent (10%) of the abatement costs for inspection and other additional administrative costs. The costs enumerated in this statement shall be a first and prior lien upon the property relating back to the date upon which the abatement was performed. A copy of this statement shall be mailed by certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of the County, at the address of such owner as therein shown.

(c) The owner may request a hearing before the Board of Trustees to contest the amount of the costs. Such request must be made in writing and be filed with the Town within ten (10) days of the date of mailing or service of the first statement to the owner. The owner shall be given at least two (2) weeks' written notice of the date, time and place of any hearing scheduled. The decision of the Board of Trustees shall be final. If the statement remains unpaid, the amount shall be certified to the County Treasurer of the County in which the property is located.

(d) If, after the expiration of the period of time provided for in the notice, or as extended, costs or expenses are incurred by or on behalf of the Town in the abatement or in connection with the abatement of the nuisance, and said costs are not otherwise collected, then the Town Treasurer may certify the legal description of the property upon which such work was done, together with the name of the owner thereof as shown by the tax rolls of the County, together with a statement of the work performed, the date of performance and the costs thereof.

(e) The Town Clerk shall mail a notice to the owner of said premises as shown by said tax roll, 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 and demanding payment of the costs thereof, together with five percent (5%) assessment for inspection and other incidental costs in connection therewith. Such notice shall state that, if said amount is not paid within thirty (30) days after mailing the notice, it shall become an assessment on and a lien against the property of the owner, describing the same, and will be certified as an assessment against such property, together with the ten percent (10%) assessment for costs of collection, and the abovementioned assessments will be collected in the same manner as a real estate tax upon the property.

(f) Each such assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens except general taxes and prior special assessments. (Ord. 205 §12, 1990)

8.02.130 Remedies cumulative and nonexclusive.

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

(b) Whenever a nuisance exists, no remedy provided for in this Chapter 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. (Ord. 205 §13, 1990)

8.02.140 Violations; penalty.

(a) Whenever in any section of this Chapter the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person, firm or corporation who shall be convicted of a violation of any such section shall be subject to such penalties as are provided in Section 8.02.100.

(b) Any person who has possession or control of any private ground or premises, whether he or she is owner thereof or not, in or upon which any nuisance exists or may be found, whether such nuisance has been heretofore or shall be hereafter created, shall be deemed guilty 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 the same.

(c) Any violation or disobedience of any injunction or order issued by the court in an action to abate a public nuisance shall be punished as a contempt of court by a fine of not more than three hundred dollars (\$300.00) and imprisonment of not more than five (5) days; but the court may treat each day on which the violation or disobedience of any injunction order continues or recurs as a separate contempt.

(d) Fees, costs and fines, liens and collection.

(1) For seizing and closing any building or premises as provided in this Chapter, or for performing other duties pursuant to the direction of the court pursuant to the provisions of this Chapter, the Town shall be entitled to a reasonable sum fixed by the court, in addition to the actual costs incurred or expended.

(2) All fees and costs allowed by the provisions of this Section, the costs of a court action to abate any public nuisance and all fines levied by the court in contempt proceedings incident to any

action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this Chapter, and the same shall be enforceable and collectible by execution issued by order of the court, from the property of any person liable therefor.

(3) Nothing in this Chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of court orders involving real estate as authorized under this Chapter. (Ord. 205 §14, 1990)

CHAPTER 8.04

Corrals, Barns, Stables and Pens

8.04.010 Nuisance declared.

Any corral, barn, stable, pen or other place in this Town where horses, cattle, sheep or swine or other animals are kept that shall be nauseous or offensive to any citizens of the Town or injurious to the public health shall be deemed a nuisance. (Ord. 54 §1, 1922)

8.04.020 Abatement of nuisance.

The Town Marshal or Health Officer shall have authority to abate any such nuisances, whether the same shall be upon private or public ground or premises, and shall have authority to call the necessary assistance therefor. (Ord. 54 §2, 1922)

8.04.030 Violation; penalty.

Any person who is the author of or maintains any such nuisance within the limits of the Town shall, upon conviction, be fined in a sum not less than five dollars (\$5.00) or more than one hundred dollars (\$100.00), and each day he or she neglects or refuses to abate such nuisance after being notified by the Town Marshal to do so shall be a separate offense. (Ord. 54 §3, 1922)

CHAPTER 8.06

Dangerous Buildings Code

8.06.010 Adoption of Code.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is hereby adopted as the Code for the Abatement of Dangerous Buildings of the Town, by reference thereto, the *Uniform Code for the Abatement of Dangerous Buildings*, 1997 Edition, and any amendments thereto, and the Appendix thereto, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, all to have the same force and effect as if set forth herein in every particular, except that Section 403 of the *Uniform Code for the Abatement of Dangerous Buildings*, 1997 Edition, is not adopted. The subject matter of the adopted code and appendix includes comprehensive provisions and standards regulating the abatement of dangerous buildings in the Town and further provides for the enforcement of the code, notices and orders of the Building Official, appeal, procedures for conduct of hearing appeals, enforcement of the order of the Building Official or the Board of Appeals, performance of work of repair or demolition and the recovery of cost of repair or demolition. (Ord. 2003-4)

8.06.020 Penalties.

Any person, firm, unincorporated association or corporation who violates any provision of the *Uniform Code for the Abatement of Dangerous Buildings* shall be deemed guilty of a misdemeanor, and each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted; and, upon conviction of any such violations, such person shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300.00), or imprisonment of not more than ninety (90) days, or by both such fine and imprisonment. (Ord. 2003-4; Ord. 2004-9 §§1, 2)

8.06.030 Severability.

If any sentence, clause, phrase or section of the provisions of this code or its application to any person, firm, unincorporated association or corporation or any circumstance is held to be invalid or unconstitutional by a decision of any court, such decision shall not affect the validity of the remaining portions of this code. (Ord. 2003-4)

8.06.040 Conflicting code provisions, ordinances or resolutions.

All existing Town code sections, ordinances or resolutions that conflict with these provisions are hereby amended and/or repealed. (Ord. 2003-4)

CHAPTER 8.08

Garbage and Refuse

8.08.010 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Garbage means kitchen and table refuse, offal, dead animals, swill, every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, birds, fruits or vegetables.

Refuse means all broken crockery, broken bottles, broken bricks, tin vessels, grass, weeds, flowers, pasteboard boxes, paper, soil, sweepings, ashes, stones, manure, waste building materials, cement, tree limbs, and every kind of waste matter or material. (Ord. 159 §1, 1977)

8.08.020 Responsibility of owner, tenant, etc., for disposal and removal.

Any owner, lessor, agent, tenant or occupant of any house, dwelling or building where housekeeping, cooking or eating is done, or where any business is carried on in the Town, shall dispose of and remove garbage and refuse which may accumulate from such house, dwelling or building. (Ord. 159 §2, 1977)

8.08.030 Depositing upon public places or vacant lots prohibited.

It is unlawful for any person to deposit or cause or permit to be deposited any garbage or refuse upon any street, alley, park, other public place, or upon any vacant lot within the Town limits, or to store or keep the same otherwise than in containers or receptacles as required by this Chapter. (Ord. 159 §3, 1977)

8.08.040 Depositing, keeping, etc., on private premises.

It is unlawful to keep, place or deposit garbage or refuse on any private grounds or premises in the Town limits whatsoever, except in containers or receptacles required by this Chapter. (Ord. 159 §4, 1977)

8.08.050 Burning refuse, garbage, weeds or grass clippings.

No person shall at any time burn any refuse, garbage, weeds or grass clippings within the Town limits. (Ord. 159 §5, 1977)

8.08.060 Containers required.

Every owner, lessor or agent of any business establishment and of any house, dwelling or building where housekeeping, cooking or eating is done shall provide and keep at all times suitable and sufficient vessels of not more than thirty-gallon capacity for receiving and holding without running over or leaking, garbage and refuse which may accumulate from such house, dwelling or building. No refuse, garbage, weeds or grass clippings shall be placed in any street or alley or on private property for collection except in such containers. (Ord. 159 §6, 1977)

8.08.070 Containers; condemnation.

Containers that have deteriorated so as to cause injury to garbage collectors or so as to result in loose-fitting lids shall be condemned by the Town Administrator (Town Clerk). (Ord. 159 §7, 1977; Ord. 2004-11 §7)

8.08.080 Disputes as to placement of containers and frequency of collection.

In all cases of dispute or complaint concerning the place where garbage or refuse containers shall be placed while awaiting the removal of their contents or how often any garbage or refuse shall be removed, when the same are not specifically fixed by this Chapter or other laws of the Town, the Town Administrator (Town Clerk) shall determine any disputed point referred to in this Section, and his or her decision shall be final. (Ord. 159 §8, 1977; Ord. 2004-11 §7)

8.08.090 Disturbing containers or contents prohibited.

No person shall molest, remove, handle or otherwise disturb the garbage and refuse containers or contents which have been placed for servicing by the garbage collector, except the owner, occupant, lessor or tenant of the residence, dwelling or building, or their employees and agents. (Ord. 159 §9, 1977)

8.08.100 Collection by private party.

No persons except the employees of the Town shall collect any garbage or refuse of another within the Town or shall convey any garbage through any street, land, road, alley or public highway of the Town, unless such person shall have first obtained special permission from the Town Administrator (Town Clerk) for such collection, removal and conveyance. (Ord. 159 §10, 1977; Ord. 2004-11 §7)

8.08.110 Use of Town dump.

No person shall enter the Town dump for any purpose except to deposit tree limbs or branches, lumber scraps, bricks, stones, cement or soil without obtaining special permission from the Town Administrator

(Town Clerk). Anyone receiving permission from the Town Administrator (Town Clerk) to collect garbage or refuse or enter the Town dump shall pay a fee of one dollar (\$1.00) per load not exceeding three (3) cubic yards, and one additional dollar (\$1.00) for each additional three (3) cubic yards or part thereof to help defray the cost of disposal. No person shall be permitted to salvage within the dumping area. Such rate may be changed by resolution of the Board of Trustees at any time. (Ord. 159 §11, 1977; Ord. 2004-11 §7)

8.08.120 Rates.

(a) The fees set forth in this Section are fixed as the charges for removal and hauling of garbage and refuse in the Town:

(1) One dollar and twenty-five cents (\$1.25) a month for each family residential unit, irrespective of whether or not the same is a single-family residence, multiple-family residence, apartment or mobile home; and

(2) For commercial establishments, individual rates to be negotiated between the businessman and the Board of Trustees, based on the relation of the foregoing rates and service to the volume of refuse and frequency of pickup required by the respective businesses.

(b) The rates set forth in Subsection (a) above on residences may be raised or lowered and rates for commercial establishments may be established by resolution of the Board of Trustees. (Ord. 159 §12, 1977)

8.08.130 Violation; penalty.

Violation of any of the provisions of this Chapter or failure to comply with the conditions thereof shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding three hundred dollars (\$300.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable under this Chapter. (Ord. 159 §13, 1977)

CHAPTER 8.12

Junk Vehicles and Repair of Vehicles

8.12.010 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter:

Costs means the expenses of removing, storing or selling a junked vehicle.

Fully enclosed structure means any commercial or residential garage and any other manmade or natural barrier which effectively prevents viewing of the area screened and its contents from adjacent walkways, roadways or alleys.

Hobby means the repairing, reconditioning or rebuilding of all vehicles which is done for personal enjoyment or entertainment only, with no profits, compensation or reimbursement of any kind involved.

Junk vehicle means any self-propelled vehicle designed for highway travel under its own power which is not capable of such travel in its existing mechanical condition; any dismantled, partially

dismantled, discarded, wrecked, demolished or partially demolished vehicle; or any vehicle designed for highway travel not bearing a current license plate or license certificate.

Vehicle means a machine propelled by power other than human power designed to travel along the ground, in the air or through water by use of wheels, treads, runners, slides, wings or hulls and to transport persons or property or pull non-self-propelled vehicles or machinery and includes, without limitation, automobile, airplane, boat, truck, trailer, motorcycle, motor scooter, moped, tractor, buggy and wagon. (Ord. 199 (part), 1986)

8.12.020 Leaving junked vehicles on street prohibited.

No person shall knowingly leave any partially dismantled, wrecked, discarded, junked or unlicensed vehicle on any street or highway within the Town. (Ord. 199 (part), 1986)

8.12.030 Junk vehicles prohibited; exceptions.

(a) It shall be unlawful for any person to store or keep any junk vehicle on any premises, within any zoning district or anywhere within the Town unless in a fully enclosed structure.

(b) It shall be unlawful for any person to store or keep any junk vehicle parts on any premises, within a zoning district or anywhere within the Town unless in a fully enclosed structure.

(c) In the event of the storage or keeping of such junk vehicles or parts thereof in the Town, the persons responsible for the violation of this section shall include the owner of the junk vehicle or parts thereof; the occupant or lessee of the premises where stored or kept; and the owner of such premises.

(d) Exceptions.

(1) Any vehicle registered as a collector's item by the State of Colorado under the provisions of CRS 1973, Sections 42-15-101 and 42-15-102, as amended, provided such vehicles are maintained in such a manner that they do not constitute a fire hazard and are contained in a fully enclosed structure.

(2) Vehicles stored or kept on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, provided that any dismantled, discarded, wrecked, demolished or partially demolished vehicles are stored in a fully enclosed structure or in a junkyard, as defined in Title 17 of this Code. (Ord. 199 (part), 1986)

8.12.040 Hobby repair work.

It is unlawful for any person to repair, keep or work on any junk vehicle as a hobby, unless such hobby is conducted in and totally contained within a fully enclosed structure and conducted in such a manner so as not to create a safety, health or fire hazard; except that this shall not apply to minor repair and maintenance activities such as, by way of illustration, the changing of oil, sparkplugs or tires, so long as said minor work does not exceed a reasonable length of time, not to exceed three (3) days. Repair of vehicles purchased for repair and resale or vehicles repaired for any compensation received shall be considered an auto repair business, not a hobby. (Ord. 199 (part), 1986)

8.12.050 Auto repair business.

It shall be unlawful for any person to engage in a vehicle repair business on residential premises or premises zoned for residential use under the zoning ordinance. A person shall be deemed to be in the

vehicle repair business if he or she undertakes the repair of any vehicles belonging to other persons, or which he or she has purchased for repair and resale or any other vehicle other than that used regularly by himself, herself or his or her family. The presence of any vehicles on residential property which are undergoing repairs and which are not owned by and registered in the name of the occupant of the premises shall be deemed a prima facie violation of this Section. As used in this Section, the word *person* shall include any person actually engaged in such automobile repair and the occupant of the premises upon which the repair has occurred. (Ord. 199 (part), 1986)

8.12.060 Investigation.

The Town Marshal or his or her authorized representative is authorized to investigate any matter at any place within the Town which reasonably appears to be in violation of the provisions of this Chapter. (Ord. 199 (part), 1986)

8.12.070 Notice.

(a) If, after an investigation, there is probable cause for believing a violation of this Chapter exists, a written notice of violation shall be issued immediately to the owner of the vehicle, any person in charge or control of the vehicle or the property owner, or his or her agent, manager, tenant, resident, lessee, renter or occupant of the premises on which such vehicle is located. Such notice of violation shall include the date issued, the name of the person to whom the notice is issued, the violation involved, a time limit of fifteen (15) days to remove or correct the cause of such violation, and the signature of the issuing officer.

(b) For the purpose of this Section, the tenant, occupant or lessee shall be deemed an agent of the owner of the premises. (Ord. 199 (part), 1986)

8.12.080 Issuance of summons and complaint.

If, after fifteen (15) days from the date of issuance of the notice of the violation of Section 8.12.030(b) above, the cause of such violation has not been removed or corrected, a summons and complaint shall be issued to the person named on the notice of violation unless satisfactory arrangements for an extension of time have been made with the Town Marshal. The summons shall contain at least the following information: the vehicle, by make, year and model. In the event that the owner of the vehicle or his or her agent, manager, tenant, resident, lessee, renter or occupant of the premises on which such vehicle is located cannot be located in order to serve such notice of violation, then a summons and complaint shall be issued against the vehicle. Said summons and complaint shall be firmly attached to the vehicle, or parts thereof, in plain sight. (Ord. 199 (part), 1986)

8.12.090 Effecting removal.

(a) Upon failure, neglect or refusal of any owner or agent of the owner so notified to properly dispose of such vehicle or parts thereof within the time limits set forth in this Chapter, the Town Marshal, or his or her authorized representative, is authorized and empowered to remove the same at the expense of such owner or agent of the owner, plus a sum not to exceed forty dollars (\$40.00) for the administrative expenses of the Town.

(b) In case the owner or agent of the owner of such property fails to pay such costs within the thirty (30) days after a statement therefor has been rendered, the Town Marshal or his or her authorized representative shall order the vehicle disposed of as an abandoned vehicle under Section 22-21 of the Model Traffic Code and/or report the same to the Town Clerk, who shall assess the costs against the

property in question. Such assessment shall constitute a perpetual, first and prior lien on the property involved, subject to general taxes and/or prior special assessments. The Town Clerk shall certify to the County Treasurer the assessments which are not paid within twenty (20) days after the date of assessment. Ten percent (10%) of the amount shall be added to the assessments to pay the cost of collection. (Ord. 199 (part), 1986)

8.12.100 Penalty.

Any person convicted of violating any portion of this Chapter shall be fined not to exceed three hundred dollars (\$300.00) or imprisoned for a period not to exceed ninety (90) days and/or both. (Ord. 199 (part), 1986)

CHAPTER 8.16

Weed Control

8.16.010 Cutting of weeds required.

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, 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. (Ord. 134 §1, 1970)

8.16.020 Abatement by order of Board of Trustees.

If any owner, tenant or agent in charge fails to cut weeds as required by Section 8.16.010 above within five (5) days after being notified to do so by the Town Clerk or Town Administrator, by certified mail, the Board of Trustees may direct that the weeds be cut or sprayed by an employee of the Town and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) additional for inspection and other incidentals. (Ord. 134 §2, 1970)

8.16.030 Assessment and collection of costs.

(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 or sprayed by order of the Board of Trustees, the whole costs of cutting or spraying 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. (Ord. 134 §3, 1970)

CHAPTER 8.20

Fireworks

8.20.010 Declaration and intent.

The Board of Trustees declares that the purpose of this Chapter is to protect the life and property of the citizens of the Town from the injury and damage resulting from the indiscriminate firing and exploding of fireworks, and that this Chapter is necessary for the preservation of the public health, safety and welfare of the citizens of the Town. (Ord. 209 §1, 1991)

8.20.020 Definitions.

As used in this Chapter, unless the context clearly indicates otherwise, the following words and phrases shall be as defined in this Section:

Fireworks means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, roman candles, Day-Glo bombs, and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tables or other device containing any explosive substance. The term *fireworks* does not include:

- a. Toy caps which contain less than twenty-five hundredths (0.25) of a grain of explosive compound per cap; and
- b. Highway flares, railway fuses, smoke candles and other emergency devices when being used in emergency situations.

Retail stand means any temporary or permanent structure, stand, building or other permanent or temporary facility, used to sell, deliver, transfer, consign or furnish fireworks to another person not for resale.

Retailer includes any person who sells, delivers, transfers, consigns or furnishes fireworks to another person not for resale. (Ord. 209 §2, 1991)

8.20.030 Sale of fireworks.

It is unlawful for any person, firm or corporation to sell or to offer to sell at retail in the Town any fireworks until such person, firm or corporation has first obtained a permit from the Town for sale of fireworks at retail pursuant to the provisions of this Chapter. (Ord. 209 §3, 1991).

8.20.040 Application for permit to sell fireworks at retail.

Any person, firm, or corporation desiring to obtain a permit to sell fireworks at retail shall file an application with the Town Clerk, which application shall be accompanied by a nonrefundable application fee of twenty-five dollars (\$25.00) and shall contain the following information:

- (1) The name and address of the applicant;

(2) If the applicant is a corporation, the name and addresses of the principal officers of the corporation, and the name and address of a person who will manage, be responsible for and be in charge of the sale of fireworks at retail;

(3) If the applicant is a partnership, the names and addresses of the partners and the name and address of the person who will be in charge of, supervise and manage the sale of fireworks;

(4) Location where the applicant will sell fireworks; and

(5) Whether the applicant intends on constructing a temporary stand for the sale of said fireworks. (Ord. 209 §4, 1991)

8.20.050 Review of permit applications.

Upon receipt of said application by the Town Clerk and upon approval by the Board of Trustees and payment of the application fee as provided above for each location at which fireworks shall be sold at retail, the Town Clerk shall issue a permit for the sale of fireworks at retail, which shall be valid for a period of twelve (12) months from the date of issuance. Each separate permit issued shall apply and be valid only with respect to the location for which it is issued. In the event the Board of Trustees determines, based upon the information contained in the application, that a permit should not be issued, no permit shall be issued. (Ord. 209 §5, 1991)

8.20.060 Limit on location and transferability.

A fireworks sale permit is valid only for the premises or location for which it is issued. Such permit is not transferable, assignable or renewable. (Ord. 209 §6, 1991)

8.20.070 Filing application.

Each application for a fireworks sale permit shall be filed with the Town Clerk on or before June 20 of the calendar year in which the permit is sought. (Ord. 209 §7, 1991)

8.20.080 Limit on sale of fireworks.

(a) It is unlawful for any person, firm or corporation to sell or offer to sell at retail in the Town any fireworks prior to June 26 or after July 5 of any calendar year.

(b) It is unlawful for any person, firm or corporation to permit or authorize any person under the age of twenty-one (21) years to own, operate, sell or be employed at a fireworks stand in the Town. (Ord. 209 §8, 1991)

8.20.090 Temporary stands for the sale of fireworks at retail.

In the event any person, firm or corporation desires to construct a temporary stand or facility for the sale at retail of fireworks and said temporary stand or facility is otherwise in compliance with the Town zoning ordinance, it is unlawful for any person, firm or corporation to construct or maintain said temporary stand prior to June 20 or after July 10 of any calendar year. Further, any temporary stand which is constructed or maintained for the purpose of the sale of fireworks at retail shall be maintained in a safe and orderly manner so as not to interfere with any vehicle or pedestrian traffic or with any emergency vehicle of the Town. (Ord. 209 §9, 1991)

8.20.100 Seizure of fireworks.

Any authorized agent or officer of the Town is authorized to and shall seize, take and remove at the expense of the owner or possessor all stocks of fireworks offered or exposed for sale, stored, held or used in violation of this Chapter. (Ord. 209 §10, 1991)

8.20.110 Penalty.

Any person, firm or corporation violating any of the provisions of this Chapter, upon conviction of such violation, shall be punished by revocation of the permit or license issued to such person if the same has been issued to such person and, in addition, shall be subject to a fine of not more than one hundred dollars (\$100.00) or imprisonment of not more than thirty (30) days. (Ord. 209 §12, 1991)

CHAPTER 8.24

Emergency Telephone Service System

8.24.010 Findings.

The Town finds, determines and declares that it is necessary to protect and preserve the health, safety and welfare of the citizens of the Town and that the installation, construction, maintenance and continuation of adequate emergency telephone service be made available to the citizens of the Town through the construction, installation, maintenance and use of a 911 enhanced emergency telephone service. (Ord. 212 (part), 1991)

8.24.020 Service charges; collection.

(a) The Town establishes and authorizes the imposition of an assessment or charge as set forth and designated in CRS 29-11-102 upon each exchange facility within the Town. Said charge shall be set and determined from time to time by the Otero County emergency telephone service authority board, and said charge shall not be set or modified more frequently than annually.

(b) Telephone service suppliers providing telephone service in the Town are authorized to collect emergency telephone charges imposed by this Chapter in accordance with CRS 29-11-101, et seq., as amended, and to pay that assessment directly to the Otero County emergency telephone service authority board. (Ord. 212 (part), 1991)

8.24.030 Intergovernmental agreement.

The Mayor is further authorized to enter into and execute an intergovernmental agreement concerning the implementation and operation of an emergency telephone service system, which agreement shall be by and between the various organizations and entities within the 911E service area which provide emergency response services. (Ord. 212 (part), 1991)