

Title 8

HEALTH AND SAFETY

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Chapter 8.04

GARBAGE, RUBBISH AND WASTE

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## ARTICLE I. IN GENERAL

8.04.010 Definitions. As used in this chapter:

A. "Garbage" consists of every accumulation of animal, vegetable, and any other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits, fowls or vegetables. "Garbage" does not include wastewater or dead animals.

B. "Rubbish" consists of wood, wood products, branches, chips, shavings, woodenware, printed matter, papers, pasteboard, grass, rags, straw, rubber products, plastics and all other combustible material not included in this chapter under the term "garbage."

C. "Waste material" consists of crockery, queensware, glass, glassware, ashes, cinders and any other noncompressible metal material, sod, sand, gravel, stone and building material, large machinery, vehicles, furniture, dead animals, debris or rubbish from construction, demolition or repair of buildings. (Ord. 107 §1-1, 1983)

8.04.020 Accumulation of refuse prohibited--Nuisance.

Any accumulation of refuse on any premises, improved or unimproved, in the town is prohibited and is declared to be a nuisance. (Ord. 107 §1-2, 1983)

8.04.030 Abatement.

Whenever the board of trustees shall direct, the town clerk shall immediately thereafter notify any owner of property, his agent or any person having charge of such property, in writing, that an order has been made by the board requiring the removal of any accumulated refuse from such property or premises within three 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 may order that such refuse be removed by the clerk or other agent of the board and assess the cost there 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 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 county for two successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his property, and shall designate a time and place when the board will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten days after the time fixed for hearing such objections, and unless the objections are sustained, the town clerk shall certify such assessment to the county treasurer to be placed by him on the tax list for the current year, to be collected in the same manner as other

taxes are collected, with ten percent penalty to defray the cost of collection, as provided by the laws of the state. (Ord. 107 §1-3, 1983)

8.04.040 Accumulation and deposit of garbage prohibited. No person shall deposit or place any garbage, rubbish, waste material or ashes in such a manner the same is or tends to become a nuisance or in such a manner endangers or tends to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage, waste material, rubbish or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit, or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his own premises or the premises of another. (Ord. 107 §1-4, 1983)

8.04.050 Refuse not to be thrown in street or other property. No hay, straw, shavings, excelsior, paper or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones or rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalk, gutter, sewer, intake, alley, vacant lot or other property. (Ord. 107 §1-5, 1983)

8.04.060 Responsibility of owners, lessees. 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. Any such accumulation shall constitute a nuisance, and shall be nonconforming in the use of such premises. (Ord. 107 §1-6, 1983)

8.04.070 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 or 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. (Ord. 107 §1-7, 1983)

8.04.080 Removal of refuse from business. Discarded automobile parts, stoves, furniture, wool, hides, junkyard refuse and packinghouse 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 flammable which might endanger life or property shall be removed to such places as approved by the board; such removal to be handled by the establishments responsible therefor. (Ord. 107 §1-8, 1983)

8.04.090 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 other purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent. (Ord. 107 §1-9, 1983)

8.04.100 Burning of garbage and waste material. No person shall set on fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials in any ash pit or other receptacle or upon the ground. Any such act is a nuisance because of smoke and odor. (Ord. 107 §1-10, 1983)

## ARTICLE II. DISPOSAL SITES

8.04.110 Control of site property. All garbage, rubbish, waste material and ashes disposal sites owned or under the control of the town, together with all matter whatsoever deposited or existing thereon, shall be the property of the town, and no person shall enter upon such sites, or carry off, dispose of, burn or in any manner disturb or molest any matter or thing deposited or existing upon such sites, except pursuant to regulations or provisions as promulgated and adopted by the board. (Ord. 107 §2-1, 1983)

8.04.115 Acceptable material at town dump. The town disposal site shall accept garbage and rubbish as defined in this title. In addition, the town disposal site shall accept refrigerators, stoves and other large appliances so long as all doors are removed and are separate. (Ord. 148 §4, 1986)

8.04.120 Rates. All disposal rates, whether at the gate or by passes, charged by the town disposal site shall

be fixed by appropriate resolution of the board of trustees. Any change or amendments of the rates shall be made only upon approval of the board. Dumping rates to be charged at the dumping sites shall take into consideration the cost of operating the site. (Ord. 107 §2-2, 1983)

8.04.130 Personnel. The town board may employ an employee or employees to operate, control and maintain the dump site. Compensation for the employee or employees rates and hours of operation shall be set by appropriate resolution of the town board. (Ord. 107 §2-3, 1983)

### ARTICLE III. VIOLATION--PENALTY

8.04.170 Designated. It is unlawful for any person to violate any of the provisions of this chapter and every person who is convicted of such violation shall be punished by a fine of not more than three hundred dollars. (Ord. 107 §4-1, 1983)

Chapter 8.06NOXIOUS WEEDSSections:

- 8.06.010 State statutes incorporated.
- 8.06.020 Noxious weeds advisory board.
- 8.06.030 Public nuisance declared.
- 8.06.040 Town maintenance supervisor--Inspection of municipal property.
- 8.06.050 Enforcement on private land.
- 8.06.060 Contradictory ordinances not enforced.

8.06.010 State statutes incorporated. The town incorporates all provisions of Colorado Revised Statutes 35-5.5-101 et seq. as they apply to a statutory town. (Ord. 202 §1, 2000)

8.06.020 Noxious weeds advisory board. Pursuant to Colorado Revised Statutes 35-5.5-107, there is established a noxious weeds advisory board consisting of the town board of trustees. The mayor shall act as chairman and the mayor pro tem shall act as secretary. (Ord. 202 §2, 2000)

8.06.030 Public nuisance declared. All noxious weeds designated by rule pursuant to the noxious weed act are declared subject to integrated management by the town noxious weed advisory board and, in addition, are declared to be public nuisances subject to the town's ordinances pertaining to nuisances. (Ord. 202 §3, 2000)

8.06.040 Town maintenance supervisor--Inspection of municipal property. The town maintenance supervisor shall be responsible to periodically inspect all municipal property to determine the existence of noxious weeds and shall recommend a management abatement plan to the noxious weed advisory board. (Ord. 202 §4, 2000)

8.06.050 Enforcement on private land. The mayor shall appoint either the town maintenance supervisor or zoning officer to be responsible with enforcing the noxious weed act on private land within the town. (Ord. 202 §5, 2000)

8.06.060 Contradictory ordinances not enforced. Any town ordinance that contains provisions that contradict the noxious weed ordinance codified in this chapter shall not be enforced. (Ord. 202 §6, 2000)

Chapter 8.08UNDESIRABLE PLANTSSections:

- 8.08.010 Undesirable plants.
- 8.08.020 Declaration of nuisance.
- 8.08.030 Removal of undesirable plants required by property owner.
- 8.08.040 Enforcement.
- 8.08.050 Violation--Penalty.

8.08.010 Undesirable plants. Russian, spotted and diffuse knapweed and leafy spurge are declared to be undesirable plants to be controlled in accordance with this chapter. (Ord. 163 §1, 1991)

8.08.020 Declaration of nuisance. Leafy spurge, Russian knapweed, spotted knapweed and diffuse knapweed, and all other plants designated "undesirable plants" by the town are declared to be a public nuisance. Such action may be taken as is available for nuisance abatement under the laws of this state and the town of La Veta, Colorado, and as the town council/board of trustees, in their sole discretion, deem necessary. (Ord. 163 §2, 1991)

8.08.030 Removal of undesirable plants required by property owner. Property owners within the town shall be responsible for the elimination of undesirable plants from their property within ninety days of the effective date of the ordinance codified in this chapter. Such removal shall be accomplished in an ecologically feasible and environmentally safe manner in accordance with all applicable laws, ordinances, rules and regulations. (Ord. 163 §3, 1991)

8.08.040 Enforcement. The town shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours or upon proper notice for the purpose of inspecting for the existence of undesirable plants, and shall have the right to propose, implement or enforce the management of undesirable plants upon such lands in accordance with the provisions of Colorado Revised Statutes 35-5.5-109. (Ord. 163 §4, 1991)

8.08.050 Violation--Penalty. Violation of this chapter shall be subject to a penalty of up to five days in jail or a fine up to three hundred dollars, such fine or imprisonment in addition to any other remedies herein or allowed by ordinance, law, rule or regulation. (Ord. 163 §5, 1991)

Chapter 8.09NUISANCESSections:

- 8.09.010 Public nuisances defined.
- 8.09.020 Nuisances prohibited.
- 8.09.030 Complaint of nuisance; investigation; abatement.
- 8.09.040 Unnecessary destruction prohibited.
- 8.09.050 Abatement of nuisances by the town; penalty, costs and expenses.
- 8.09.060 Civil remedy not precluded.
- 8.09.070 Violation, penalty.

8.09.010 Public nuisances defined. In addition to those things which are elsewhere by ordinance of the town declared to be and constitute public nuisances, it is declared to be a public nuisance, or an act in the nature of a public nuisance, for any person who owns, leases (including, but not limited to, landlords and their agents and employees, who knowingly permit or encourage or knowingly and unreasonably fail to prevent tenants from committing the acts proscribed below), occupies, manages, or has possession to knowingly participate in, permit, abet, or otherwise allow the following to occur on or within any property or structure in the town (for purposes of this section, where an illegal activity references a section contained within the Colorado Revised Statutes (C.R.S.), the illegal activity shall have the same definition as contained within the C.R.S.):

1. The promotion of obscenity (C.R.S. 18-7-101 et seq.);
2. Prostitution (C.R.S. 18-7-201 et seq.);
3. Child prostitution (C.R.S. 18-7-401 et seq.);
4. Sexual exploitation of children (C.R.S. 18-6-403);
5. Professional gambling (C.R.S. 18-10-101 et seq.);
6. Manufacture, cultivation, growth, production, processing, sale, distribution, storage, use or possession of a controlled substance or any imitation controlled substance (C.R.S. 18-18-201 et seq. and 18-18.419 et seq.);
7. A violation of any provision of the Colorado Liquor Code, Escort Service Code (C.R.S. 12-25.5-101 et seq.), Massage Parlor Code (C.R.S. 12-48.5-101 et seq.),
8. Pursuant to the Colorado Noxious Weed Act (C.R.S. 35-5.5 et seq.), all noxious weeds, at any and all stages, their carriers, and any and all premises, plants, and things infested or exposed to infestation therewith are specifically declared to be public nuisances;
9. Where a person or persons repeatedly engage(s) in disturbing the peace;



10. To so negligently conduct any business or use any premises as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to the neighborhood;

11. To erect, continue to erect, or use any building or other place for the exercise of any trade, employment, or manufacture which, by occasioning noxious emissions, offensive smells or otherwise, is offensive or dangerous to the health of individuals or of the public.

12. Usage of an outhouse;

13. Noise.

a. Making unreasonable noise in a public place or near a private residence that person making the noise has no right to occupy,

b. Recklessly engaging in, or being responsible for, a course of conduct which is so loud that it materially interferes with or disrupts another individual in the conduct of lawful activities at such individual's home. Whether or not the noise is so loud that it materially interferes with or disrupts shall be measured against the objective standard of a reasonable person of normal sensitivity;

14. Conditions where the property or structure is:

a. A detriment to public health, safety or to general welfare,

b. So defective, unsightly, or in such condition of disrepair that it substantially diminishes the value of surrounding property or is otherwise substantially detrimental to surrounding properties. Examples of this condition shall include, but shall not be limited to, the keeping on, or disposing of on, or the scattering over the premises of any of the following:

i. Junk, trash or debris,

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

iii. Stagnant water,

iv. An excavation or an open foundation for which a building permit has expired, or

v. Uncovered wells or cisterns,

c. 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. Abandoned, boarded up, partially destroyed, or left unreasonably in a state of partial construction,

e. Has dry rot, warping or termite infestation,

f. Has a substantial number of broken windows which cause hazardous conditions or invite trespassers or malicious mischief,

g. Has landscaping that has not been maintained as follows:

- i. Trees and shrubs have not been trimmed and are overhanging public rights of way,
- ii. Grass or weeds have grown over six inches and have not been removed or cut, or
- iii. Dead or diseased plantings have not been removed or replaced,
- h. If a commercial or industrial establishment or multifamily building, the exterior has not been maintained so as to present a neat and orderly appearance which is compatible with the area as follows:
  - i. A substantial number of windows are cracked or broken,
  - ii. Painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed, or
  - iii. The building or structure has otherwise not been substantially maintained,
  - i. Parking lots have not been repaired or cracks, potholes, or other breaks in the parking lot surfaces have not been filled;
- 15. Any use of any building or structure which substantially annoys, injures, or endangers the comfort, health, repose or safety of the public by reason of vandalism, inadequate maintenance, abandonment or otherwise, including but not limited to:
  - a. Vacant, inadequately maintained, or boarded up buildings or structures which do not show evidence of current construction or remodeling activity,
  - b. Vacant buildings or structures which are not secure and to which entry may be made through opened or unlocked doors, windows or other openings;
- 16. Any place where people congregate which encourages a 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, or the residents in the vicinity, or the passersby on the public street or highway;
- 17. Any obstacle, tree, bush, fence or structure growing, installed, erected or maintained in an area above a roadway or sidewalk, or at the corner of an intersection which is so low as to be struck by a pedestrian or vehicle or which could obstruct the vision of motorists;
- 18. Town code Sections 9.20.100 (Deposit of garbage or offal), 9.20.110 (Open drains or cesspools), and 12.08.110 (Dead or diseased tree removal on private property) are specifically declared to be nuisances. (Ord. 191 (part), 1997)

8.09.020 Nuisances prohibited. A public nuisance as defined in Section 8.09.010 or as defined in any other section of the code, or any other violation of this code or Colorado State Law which adversely affects the health,

safety or welfare of the residents of the town is strictly prohibited. (Ord. 191 (part), 1997)

8.09.030 Complaint of nuisance; investigation; abatement. A. A person may make a complaint in writing of the existence of a public nuisance to the town clerk. 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, the name and address of the complainant, and the complainant's signature.

B. If, upon appropriate investigation and inspection, the town clerk, town marshal, mayor, or the mayor's designee has reason to believe that such nuisance exists but does not pose an emergency presenting imminent danger of serious injury to person or property, either the town marshal shall issue a citation using the uniform summons and complaint form, or the town clerk or town attorney shall institute a proceeding in the municipal court or other competent court of record, to abate any nuisance at common law or as defined in this chapter. When judgment shall be rendered against any person for creating, keeping, or maintaining any nuisance, it shall be the duty of the court before whom such conviction is had to order the defendant in such suit to forthwith abate the nuisance, and that, if the nuisance is not abated within twenty-four hours, the same shall be abated and removed by the town marshal or his or her designee. The order shall be entered on the docket of the court and be made a part of the judgment in the proceeding.

C. Whenever the town clerk, town marshal, mayor or the mayor's designee has reason to believe that a public nuisance exists, and such public nuisance constitutes an emergency presenting imminent danger of serious injury to person or property, the town marshal or his or her representative, may immediately enter into any building or upon any premises or property within the town for purposes of investigation and inspection and may order, without notice or judicial action, that the public nuisance be summarily abated by removal, destruction or mitigation. (Ord. 191 (part), 1997)

8.09.040 Unnecessary destruction prohibited. In any case where a nuisance is to be abated by the town, it shall be the duty of the town to proceed with due care and without any unnecessary destruction of property; the town shall in all cases be authorized to employ such assistance and adopt such means as may be necessary to effect the abatement of the nuisance in question. Abatement by the town may include, but not be limited to, removal or boarding up of the offending structure, removal of the cause of the

nuisance, the filling in or fencing of open foundations or other offending structures. (Ord. 191 (part), 1997)

8.09.050     Abatement of nuisances by the town; penalty, costs and expenses.

Every person keeping, creating, or maintaining any nuisance shall be liable for all costs and necessary expenses of abating the same when done by the town. Wherever the town shall abate a nuisance, the town clerk shall keep an account of all such expenses attending such abatement and shall be authorized to collect such by suit or otherwise in addition to penalty for violation thereof. The town clerk or town attorney may bring suit for collection of the costs and expenses (including filing fees and court costs and reasonable attorney's fees), and penalties and fines in the name of the town against the person creating, keeping or maintaining the nuisance so abated. In addition, such costs, fees, expenses and penalties may be collected by assessing such 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 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 county for two successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his property, and shall designate a time and place when the town board will hear any objections as to the correctness of the amount so assessed. If such assessment is not paid within ten days after the time fixed for hearing such objections, and if the objections are not sustained, the town clerk shall certify such assessment to the county treasurer to be placed by him on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent penalty to defray the cost of collection, as provided by Colorado state law. (Ord. 191 (part), 1997)

8.09.060     Civil remedy not precluded.

No provision of the town code pertaining to public nuisances shall be construed as prohibiting any private person from bringing any action, seeking any remedy or taking any step with respect to any nuisance as set forth in this chapter as that person may be authorized or permitted

to bring, seek, or take under state law. (Ord. 191 (part), 1997)

8.09.070     Violation, penalty.

It shall be unlawful for any person to violate any provision of this chapter. In addition to any fine or period of jail imposed by the court, any person convicted of violation any provision of this chapter shall be responsible for the costs and expenses of the town associated with abatement of any such nuisance. (Ord. 191 (part), 1997) (Ord. No. 250, § 7, 6-16-2009)