

ARTICLE III

Weeds and Brush

Sec. 7-3-10. Undesirable Plant Management Advisory Commission designated.

(a) The Board of Trustees is appointed to act as the Local Weed Advisory Board for the Town, to enact the Undesirable Plant Management Plan.

(b) The Local Weed Advisory Board shall have the duties and responsibilities as provided by state statute. (c) In addition to the above, the Local Weed Advisory Board is specifically charged with the following tasks:

(1) Develop a local noxious weed list;

(2) Develop a plan for integrated management of these noxious weeds;

(3) Recommend management criteria including effective and appropriate physical, cultural, chemical and biological control methods; and

(4) Where prudent, recommend that identified landowners be required to submit an individual integrated weed management plan. (Ord. 360, 1997; Ord. 481 §1, 2003) Editor's Note: Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.

Sec. 7-3-20. Declaration of nuisance

(a) It is unlawful and a nuisance for any person who owns or is in possession of any lot, tract, acreage or parcel to permit any grass, weeds or brush to grow or remain in excess of six (6) inches in length.

(b) Any accumulation of rubbish on any lot, tract or parcel of land in the Town is hereby declared to be a nuisance, and it is unlawful to permit any such rubbish to remain in any such place. (Ord. 223 §2, 1987; Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 565 §1, 2007)

Sec. 7-3-30. Duties of property owner and lessee; unlawful accumulations; inspections

It shall be the duty of any owner and any lessee of any lot, tract, acreage or parcel of real property in the Town, including such owners or lessees of agricultural lands (as defined in Section 39-1-102(1.6)(a), C.R.S.) to keep the property free of junk and rubbish, to cut to within three (3) inches of the ground and remove from the property, unless cut small enough to be used for mulch, all grasses, weeds and brush exceeding six (6) inches in length, and eradicate the weed commonly known as goat heads or puncture vines regardless of height, and to consistently maintain said real property up to any street or avenue adjoining such lot or tract between the property line and the curblineline thereof, and on or along any alley adjoining such lot or tract. (Ord. 223 §3, 1987; Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 565 §2, 2007)

Sec. 7-3-40. Notice to abate; cutting, removal by Town

(a) In addition to the remedies provided in the Colorado Noxious Weed Act, in case of the failure of any owner or lessee of any lot, tract or parcel of land to cut and remove weeds, brush, junk or rubbish, as provided in this Article, and upon the election of the Town to remove such weeds, brush, junk or rubbish, the Town Administrator is authorized to give notice by certified mail addressed to the last known post office address of the owner of such land as that address appears in the records of the County Clerk and Recorder. Such notice shall require:

(1) Compliance with the terms of the notification;

(2) Acknowledgment by the addressee of the notification and submission to the Town Administrator of an acceptable plan and schedule for the completion of a management plan; and

(3) A request from the addressee for an administrative hearing which the Town must receive on or before the close of business of seven (7) calendar days from the date of the notice. If such election is not made within seven (7) calendar days from the date of the notice or the land owner or occupant otherwise fails to comply with the notice, the Town may then proceed to enforce a 7-13 management plan which may include, but not be limited to, cutting of such weeds and brush or removal of junk and/or rubbish.

(b) The Town, through its agents or employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this Article. If an order of the Town Administrator has not been complied with within thirty (30) days after its issuance, the Town, at the discretion of the Town Administrator, may cause the elimination or removal of the infestation of weeds or brush and/or the removal or elimination of accumulated junk and/or rubbish. Any owner, lessee or other party in interest who fails to comply with an order issued by the Town Administrator is hereby obligated to pay administrative costs and expenses incurred in the elimination or removal of the conditions complained of. Such administrative costs shall include the cost of removal or elimination, legal costs and fees and administrative fees which are occasioned by enforcement of this Article. All costs are independent of any other penalties or powers of enforcement of the Town.

(c) No agent or employee of the Town shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this Section, except when such damages were willfully or deliberately caused by the landowner or occupant. (Ord. 223 §4, 1987; Ord. 232 §1, 1987; Ord. 481 §1, 2003; Ord. 565 §3, 2007)

Sec. 7-3-50. Burning of wastes, garbage and trash

(a) It is unlawful for any person to burn or set fire to any rubbish, trash, debris, litter, junk, weeds, brush, grass or other flammable material within the Town limits.

(b) This Section shall not apply to:

(1) Any fire specifically authorized by the Town or the Fire Protection District; such as agricultural burning.

(2) Fires for cooking, heating or aesthetic purposes. Examples would include fires contained in fire pits, chimneas, barbeques and pig roast pits. The size of the fire containment facility may not exceed twenty-five (25) square feet in width or eight (8) feet in height. (Ord. 177 §8-15, 1984; Ord. 486 §1, 2004; Ord. 494 §1, 2004)

Sec. 7-3-70. Notice of violation

(a) In addition to any other available remedy, the Town Clerk or the Chief of Police may give written notice of a violation of Section 7-3-20 above to any person owning, occupying or possessing a lot, tract or parcel of land in violation of Section 7-3-20 above. Said notice shall direct such person to comply with the provisions of Sections 7-3-30 and 7-3-40 above within seven (7) days after the date on said notice.

(b) If such person fails to comply with Sections 7-3-30 and 7-3-40 above within the time and in the manner prescribed in such notice, the Town Clerk may order a Town employee or agent to cut and remove all weeds or brush, to remove any accumulation of rubbish, or both, as applicable. Upon

completion of such work, the Town Clerk shall make a full report to the Town Administrator of the expenses incurred by the Town in performing such work. (Ord. 223 §5, 1987; Ord. 232 §2, 1987; Ord. 412, 2000; Ord. 481 §1, 2003)

Sec. 7-3-80. Assessing costs

(a) Upon completion of the cutting work done by Town forces and/or the Town's designee under this Article, charges shall be made against the owner of the property on which weeds were cut. The charges shall be the Town's actual costs for labor, equipment and materials, plus an administrative penalty of fifty dollars (\$50.00) for the first cutting, one hundred dollars (\$100.00) for the second cutting and one hundred fifty dollars (\$150.00) for the third and subsequent cuttings within five (5) years, plus a twenty-five-percent surcharge for supervision and inspection. The Town Administrator may set a minimum labor, equipment and material charge for cutting operations of less than one (1) hour.

(b) The Town shall have all remedies for collection of such assessment provided by state statute or by any ordinance of the Town, including the right to certify the assessment to the County Treasurer for the purpose of having such assessment, together with a ten-percent penalty for cost of collection, placed upon the tax list and collected in the same manner as taxes are collected. Such assessment and penalty shall be a lien against each lot, tract or parcel of land assessed until paid and shall have priority over all other liens except general taxes and prior special assessments. (Ord. 223 §6, 1987; Ord. 481 §1, 2003; Ord. 565 §4, 2007)

Sec. 7-3-90. Objection to assessment

(a) In the event that any person desires to object to any assessment made in accordance with Section 7-3-80(a) above, written objection shall be delivered to the Town Clerk within thirty (30) days after the date of mailing of the notice of assessment. Such written objection shall set forth the grounds for the objection, and the name, address and telephone number of the objector.

(b) Upon receipt of such written objection, the Town Clerk shall designate a regular meeting of the Board of Trustees as the date when such objector may appear and have the objection heard before the Board of Trustees. The Town Clerk shall send notice of the date and time of such meeting to the objector at the address set forth on the written objection.

(c) At the hearing on the objection, the Board of Trustees shall hear evidence from the Town Administrator or any Town employee or agent designated by the Town Administrator, and from the objector. The Board of Trustees shall issue a decision upholding or denying the assessment. Should the Board of Trustees fail to uphold any assessment, the objector shall be discharged from any liability therefor.

(d) Failure to timely object as provided in Subsection (a) above constitutes a waiver of any right to object to any assessment made in accordance with Section 7-3-80(a) above. (Ord. 223 §7, 1987; Ord. 481 §1, 2003)

Sec. 7-3-100. Right of entry

The Town Clerk, Town Administrator, Chief of Police or any Town employee or agent may enter upon or into any lot, tract or parcel of land for the purpose of inspecting the same to ascertain whether the terms and provisions of this Article should be enforced, and any person making such entry shall be free from any action for any liability on account thereof. (Ord. 223 §8, 1987)