TITLE 8 PUBLIC HEALTH AND SAFETY

TITLE 8 PUBLIC HEALTH AND SAFETY

Chapter 08.01 Civil Defense

Section 08.01.01 Yampa Defense Council Created. Whereas, the Office of Civilian Defense of the Federal Government has requested the cooperation and assistance of all municipalities in carrying out the Civilian Defense Program; and whereas, it is desirable to coordinate all activities within the Town relating to defense under one municipal agency; and whereas, a state of war exists which requires unusual and often speedy measures to be taken for the protection of the Town and its inhabitants, there is hereby created and established the Yampa Defense Council. The members of said Council shall be appointed by Mayor who shall be Ex-Officio Chairman.

Section 08.01.02 Rights, Duties, and Powers. Said Yampa Defense Council shall be charged with the duty of coordinating all civilian defense and emergency activities within the Town and shall, in conformity with the rules and regulations hereinafter provided for, exercise the following rights, duties, and powers:

A. Coordinate the activities of municipal and private agencies cooperating in the Defense Program;

B. Keep in close contact with the Office of Civilian Defense and the Colorado Council of Defense to the end that all requests, suggestions and instructions from said offices shall receive prompt and efficient attention;

C. Conduct careful studies and formulate complete plans and measures designed to afford adequate protection of life and property of the citizens of this community in any emergency likely to arise;

D. Sponsor and carry out recruitment, instruction and training of civilian auxiliary and volunteer service units in order to secure unity, balance and coordination in a program for emergency relief and civilian defense;

E. Survey existing facilities, proffers of facilities, services and ideas originating within the Town and make appropriate analysis and disposition of same;

F. Act as a clearing house on municipal defense information for all governmental, state, nearby municipalities and private agencies cooperating in the defense program;

G. Direct information regarding the defense program to all municipal departments and agencies which are or may be affected thereby;

H. Make recommendations from time to time for improvement in the handling of defense and emergency programs affecting the inhabitants of the Town;

I. Perform such other advisory functions as may be requested by agencies or departments of the Federal or State Government in connection with the national and state defense program.

Section 08.01.03 Rules and Regulations. The Mayor of the Town shall have the power to promulgate in writing, rules and regulations which shall be reasonably necessary: (a) for the protection of life and property within the Town from dangers created or increased by the existing state of war, or (b) for a coordinated and efficient program of civilian defense. Said rules and regulations may concern, but shall not be limited to, the following subjects:

A. Authorization, recruiting and training of volunteer defense workers;

B. Defense of the Town and its inhabitants against air raids, including warnings to be given, blackouts, and care of persons and property during same;

C. Prevention of sabotage of property within the Town;

D. Designation of appropriate symbols to be used by authorized defense workers and organizations and by no other persons or organizations.

Section 08.01.04 Non-Liability for Compliance. This ordinance, and all thinks done by authority of same, or by authority of any rule or regulation promulgated hereunder, shall constitute the exercise by the Town of Yampa of its governmental functions; and the Town, its officers, authorized persons and organizations as herein provided for, and any persons complying with this ordinance, or with rules and regulations lawfully promulgated by authority of this ordinance, in acting within the authority proved for herein and in a reasonable and prudent manner, shall not be liable for any damage sustained by any person or property as a result of the enforcement of or compliance with this ordinance or any such rules or regulations.

Chapter 08.02 Nuisances.

Section 08.02.01 Definitions. As used in this Section, the following terms shall have the meanings indicated:

A. Hazard to health or safety includes any activity so recognized by the United States, the State or the ordinances of the Town. Such hazards shall also include activities likely to cause foul or offensive odors, promote the growth or propagations of disease-carrying insects, pollute the air or groundwaters of adjacent property, create loud or offensive sounds or cause drainage and runoff to occur in other than historical patterns.

B. Nuisance means any substance, act, occupation, condition or use of property declared a nuisance by this Section or declared a nuisance by the State or by any

court or agency thereof, or known as a nuisance at common law, or which is of such nature and duration as to:

1. Substantially annoy, injure or damage the comfort, health, repose or safety of the public.

2. In any way render the public insecure in life or in the use of property.

3. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.

C. Offensive or unwholesome business or establishment means any business or establishment involving the provision of goods or services to others in exchange for something of value, which business or establishment may create, foster or maintain any hazard to health or safety.

Section 08.02.02 Nuisances Prohibited. No person being the owner, agent or occupant or having under his or her control any building, lot or premises or unimproved real estate within the Town limits shall maintain or allow any nuisance to be or remain therein.

Section 08.02.03 Nuisances Generally; Specified Nuisance Declared.

A. Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance may be so declared by the Board of Trustees, and nothing in this Section shall be construed to limit the power of the Town to make such declaration.

B. Unwholesome Business. Offensive or unwholesome businesses or establishments are prohibited. From and after the effective date of this Section, it shall be unlawful for any person to allow or suffer upon his or her premises any offensive or unwholesome business or establishment within the Town, or within one (1) mile beyond the outer limits of the Town as such outer limits are now, or may be hereafter, constituted. Any slaughterhouse or other place for slaughtering animals within the Town is declared to be a nuisance.

C. Discharge of Noxious Liquids. The discharge out of or from any house or place of foul or noxious liquid or substances of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the Town is hereby declared a nuisance.

D. Dead Animals; Removal. The body of any animal which has died and which is undisposed of after twenty-four (24) hours after death is hereby declared to be a nuisance.

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

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

G. Unused Appliances. Any unused refrigerator, washer, dryer, freezer or other appliance within any accessible; yard, lot carport or residential garage within the limits of the Town without the door of the same being removed is hereby declared a nuisance.

H. 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 from upon the streets or sidewalks is hereby declared a nuisance.

I. Accumulation of Garbage, Refuse, Etc. Any accumulation of refuse, trash or other waste or discarded material, including discarded building and construction materials that endangers the public health and safety is hereby declared to be nuisance.

J. Smoke and Odor from Burning. Any smoke and odor resulting from the burning of refuse, trash or other materials, except as otherwise permitted by the Town, is hereby declared to be a nuisance.

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

L. Certain Animals a Nuisance. That any person or persons who shall own or keep hogs, shoats, or pigs, within the limits of the Town of Yampa, shall, and is hereby

declared to the author of a nuisance, and the co-owning or keeping the same is hereby prohibited.

M. Disorderly House. The keeping of any dwelling, boardinghouse, rooming house or other residential property in violation of any provision of this Chapter, including any violation of maximum occupancy limitations imposed by this Section or any condition of approval of the use of property imposed by action of the Town is a nuisance. A disorderly house shall also include keeping any such property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unsightly or unwholesome manner, noxious or offensive to others or injurious to public health. For purposes of enforcement of this subsection, the person responsible for the maintenance of a disorderly house may be the owner of the property, lessee, sublessee, tenant, occupant or renter, jointly or severally.

N. Weed and Brush Control.

1. Weed and Height Restrictions. Landowners and lessees of land in the Town are required to prevent property owned or occupied from becoming overgrown in weeds or brush and are required to cut to the ground all weeds a brush when said weeds and brush grow to a height if eight (8) inches or more.

2. Method of Control. Weeds shall be controlled by cutting, spraying or other suitable method of weed control.

3. Notification of Owner. The Town shall notify the landowner or lessee or both, in writing, describing the property upon which weeds have become overgrown and directing that weed-control measures be taken within ten (10) calendar days from the date of service of weed notice.

4. Town Authorized to Control. In the event the landowner or lessee, or both, does not institute suitable weed control measures, then the Town is authorized to enter upon the premises and employ weed control measures. The landowner shall be responsible for the actual cost, within ten (10) calendar days of receipt of a bill from the Town, of weed control measures taken by the Town. The landowner shall also be responsible for the costs incurred by the Town to enforce collection of the cost of the weed control measures taken, including attorney fees and court costs.

Section 08.02.04 Complaints. Complaints of nuisances may be made in writing to any Town official. Whenever possible, any complaint shall state the nature of such nuisance, the location, including street address, name of the owner, agent or occupant of the building or lot, if known, and the name and address of the complainant.

Section 08.02.05 Inspections; Right of Entry; Emergencies.

A. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever an authorized representative of the Town shall have reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, the authorized 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; and if such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or occupant or other person having charge or control of the building or premises and, upon locating said owner, occupant or other person or persons, 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, he or she shall leave at the building premises, a twenty-four (24) hours' written notice of intention to inspect. The notice given to the owner or occupant or left on the premises as aforesaid shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge of the Town or a judge of any other court having jurisdiction.

B. After the expiration of said twenty-four (24) hour period from the giving or leaving of notice, the authorized Town official may appear before the Municipal Judge of the Town and, upon 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, said official may enter into said building or go upon said premises using such reasonable force as may be necessary to gain entry.

C. For the purposes of the above subsection (B), a determination of probable cause will be based upon reasonableness of probable cause will be based upon reasonableness, and if a bail 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 order to obtain a search warrant. If 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.

D. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Section, the authorized Town official, upon a presentation of proper credentials or identification in the case of an occupied building or premises, or possession of said credentials in the case of an unoccupied 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.

E. For purposes of the above subsection (D), an emergency situation shall include but not be limited to any situation where there is imminent danger of loss of life, limb and/or property. It shall be unlawful for any owner or occupant of said building or premises to resist reasonable force used by the authorized official acting pursuant to this subsection.

Section 08.02.06 Abatement of Nuisance; Failure to Comply.

A. Each and every nuisance declared or defined by any ordinance of the Town or otherwise is hereby prohibited, and all Town officials are hereby authorized, in their discretion, to cause the same to b e abated in such manner as they direct, subject to the limitations herein provided.

B. Upon authorization of the Town, if any nuisance found to exist shall cause such imminent danger to the life, limb, property or health as to require immediate abatement, any such nuisance may be summarily abated by action of the authorized Town official.

C. In the case of any nuisance not requiring summary abatement, it shall be the duty of the authorized Town official to cause notice to be served upon the person responsible for any nuisance which may be found, requiring said person to abate the same. The notice required by this Section shall, in addition to other requirements herein, state that, if the nuisance is not abated within the time stated in the notice, the cost of such abatement may be assessed as a lien against the property (describing the same) pursuant to the terms of this Section, referring to this Section, together with an additional five percent (5%) assessment for inspection and incidental costs and an additional ten percent (10%) assessment for costs of collection, and collected in the same manner as real estate taxes against the property. Such notice shall be in writing, signed by the official issuing the same and shall be served upon the owner and occupant of the premises by placing such notice in the United Stated mail, certified return receipt requested, to the attention of the occupant of the premises and to the owner of such property as shown upon the tax rolls of the County.

D. If the person notified in accordance with subsection (C) above shall neglect or refuse to comply with the requirements of the notice to abate the nuisance within the time specified, such person shall be guilty of a violation of this Section, and the Town may proceed at once to commence appropriate legal action to cause such nuisance to be abated, provided that, if the owner is unknown or cannot be found, the Town may proceed to abate such nuisance after notice has been posted for the period equal to the time specified to abate said nuisance. In either case,

the expense of such abatement shall be collected from the owner of the property upon which said nuisance existed.

Section 08.02.07 Responsibility for Costs of Abatement; Collection; Failure to Pay.

A. Assessment Notice. The Town Clerk, after such assessment is made, shall send by certified mail, with return receipt requested, addressed to the owner of such lots or tracts of land, at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner or owners and the amount of the assessment.

B. Action by Property Owner. It shall be the duty of the owner to pay such assessment or to object in writing within thirty (30) days after receipt of such notice. In the case of his failure to do so, he shall be liable personally for the amount of the assessment, and the same shall be a lien upon the property from the time of such assessment.

C. Amount of Assessment. The amount of assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer.

Section 08.02.08 Remedies Cumulative and Nonexclusive.

A. No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction of violation of this Section 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 herein shall be exclusive of any other charge or action, and, when applicable, the abatement provisions of this Section 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 Section 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.

C. Any person who shall have possession or control of any private ground or premises, whether he or she is owner thereof or not, in or upon which any such nuisance shall exist 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.