

## Title 8

### Health, Sanitation and Nuisances

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**Chapter 8.04**

**General Disturbances**

**8.04.010 Keeping of waste material prohibited.**

(a) It is unlawful to deposit, accumulate, store, keep, abandon or to allow the deposit, accumulation, storage, keeping or abandonment of waste material, including but not limited to, garbage, rubbish, trash, waste metal, waste paper products, waste lumber, discarded building materials, discarded furniture or furnishings, abandoned or inoperable vehicles, abandoned or discarded machinery or machinery parts, feces or debris on private or public property within the Town; provided, however, that this provision shall not apply if the same is stored or collected in conjunction with a business enterprise lawfully situated and licensed for such storage or collection.

(b) The deposit, accumulation, storage, keeping, abandonment of any of the types of waste material or debris described in Subsection (a) above, or the allowance or granting of permission to do the same, on public or private property within the Town is declared to be a nuisance and to be detrimental to the health, safety, convenience and general welfare of the citizens.

(c) Any law enforcement, community service or code enforcement officer 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. 15-97, 1997)

**8.04.020 Unsanitary conditions.**

It is unlawful for any person to maintain or keep within the Town any of the following unsanitary conditions:

(1) Any accumulation of manure on premises where animals are kept, unless the premises are kept clean and the manure is kept in a box or vault which is emptied at least once each week;

(2) Privies, vaults, cesspools, pits or like places which are not securely screened;

(3) Garbage in any quantity which is not covered or screened; or

(4) Any premises within the Town which are infested with rats, flies, mice or vermin or to keep on any premises any uncovered garbage or waste materials of any kind which might attract, sustain or cause an infestation of rats, flies, mice or vermin.

(5) All such premises and conditions are nuisances and may be abated as such, in addition to any penalty which may be imposed for a violation of this Code. (Ord. 15-97, 1997)

**8.04.030 Noxious weeds.**

It is unlawful for the owner of any lot, block or parcel of land within the Town, or any agent in charge of such property, to allow or permit noxious weeds to grow or to remain when grown upon the property or on or along any alleys behind or sidewalk area in front of the same. All such noxious weeds shall be cut and removed on or before July 15 of each and every year. (Ord. 15-97, 1997)

**8.04.040 Abatement of nuisances, including waste material, unsanitary conditions and noxious weeds.**

(a) The Town shall cause a notice to be served upon the owner, occupant or agent in charge of any lot, building or

premises in or upon which any nuisance in relation to health or sanitation may be found, or who may be the cause of such nuisance, requiring him or her to abate the same within fifteen (15) days after receipt of such notice. If such owner, occupant or agent fails to comply with such notice, he or she is subject to fines as provided in this Code. In addition to, or in lieu of, prosecuting the owner or occupant for an ordinance violation, if the notice to abate is not complied with within the required time, the Town may cause such nuisance to be abated and shall assess the cost of such abatement against the property and shall notify the owner or occupant of such assessment and the amount. Such assessment shall be a lien upon the property until it is paid. If the charge or assessment is not paid to the Town within thirty (30) days after the receipt of such notice of assessment, the charge or assessment shall be certified to the County Treasurer, to be placed by him or her upon the tax list for the current year and collected in the same manner as other taxes are collected, with ten percent (10%) penalty thereon to defray the cost of collecting.

(b) In the event it is necessary to immediately abate a nuisance in order to protect the health, safety, and welfare, the Chief of Police may immediately, without notice, cause such nuisance to be abated. (Ord. 15-97, 1997)

**8.04.050 Removal and disposal of abandoned personal property.**

(a) No person shall abandon any personal property, excluding motor vehicles, upon the streets or alleys of the Town or upon any property of the Town, or upon property other than his or her own without the consent of the owner. Any personal property so left on privately owned property longer than forty-eight (48) hours shall be presumed to be abandoned,

unless prior arrangements with the owner of the property have been made. Any personal property left unattached within any portion of the streets or alleys of the Town or on any property of the Town for a period of forty-eight (48) hours or more shall be presumed abandoned, unless the owner or operator has conspicuously affixed information indicating his or her intention to return or has otherwise notified the Police Department of his or her intention to move the same.

(b) The Police Department is authorized to remove and dispose of all personal property which is found to be abandoned upon the streets or alleys of the Town. The Police Department may sell all unclaimed, removed, confiscated or abandoned personal property, other than firearms, at public sale to be conducted at a date, time and place set by the Police Department. The Police Department may sell all unclaimed, removed, confiscated or abandoned firearms only to firearms dealers licensed pursuant to applicable State and Federal laws and regulations. Notice of the sales shall be published in a newspaper of general circulation in the Town once during each of the two (2) weeks preceding the day of the sale, which notice shall contain a general description of the articles to be sold. The Police Department shall execute and deliver a bill of sale for each article sold to the purchaser. (Ord. 15-97, 1997)

**8.04.060 Abandoned refrigerators.**

It is unlawful for any person to store, keep or abandon any ice box, refrigerator, deep freeze or other container having an airtight compartment, without first removing the door or doors; except any such container when it is in active use or when it is stored or kept for sale by any person engaged in the business of selling the same; and except any container which is too small in area to permit a child to become locked therein. (Ord. 15-97, 1997)

**8.04.070 Electric and barbed wire fences.**

(a) No electrically charged fences shall be installed, maintained or operated on any property within the Town, except low-voltage electrified fencing to protect landscaping from wildlife-related damage approved through site specific development plans in compliance with the Estes Valley Development Code and to animal-proof refuse disposal containers and enclosures subject to written approval of the Colorado Division of Wildlife.

(b) No barbed wire or other sharp pointed fences shall be installed on any property within the Town; except on any property on which a permit has been issued to keep and maintain horses, pursuant to the provisions of Section 7.08.070 of this Code, a barbed wire fence may be built and maintained so long as the fence is at least fifty (50) feet from the outside boundary line of the property. (Ord. 15-97, 1997; Ord. 5-04, §1, 2004)

**8.04.075 Open burning prohibited.**

(a) Except as provided in this Section, it is unlawful for any person to burn or allow the burning of any garbage, trash, wastepaper, wood, leaves, waste or any other flammable material on any open premises within the Town unless an open burning permit is first obtained from the Air Quality Control Division of the Colorado Department of Health, or any agency authorized by said department to grant open burning permits.

(b) The following sources of open burning are exempted from obtaining an open burning permit:

(1) Open fires used for the noncommercial cooking of food for human beings. An open fire shall not be built in any area which constitutes a fire hazard such as near trees, brush or any flammable structure. Such open

fire shall be attended at all times by a responsible person who is at least eighteen (18) years of age. Said person shall have available at all times a fire extinguishment method for use in connection with the fire, if needed. The means of extinguishment shall be located at the site of the burn. The flame height of any open burning shall not exceed four (4) feet at any time. Said fire shall be contained in one (1) of the following:

- a. Self-contained cooking grill, commonly known as a barbecue grill;
- b. A built-in barbecue pit; or
- c. A cooking fire contained in a fire ring of not more than six (6) feet in diameter made of stone or other noncombustible material.

(2) Flares to indicate some danger to the public.

(c) The Fire Chief, or his or her authorized designee, may, by written notice to the Town Clerk, ban open burning within the Town due to weather and related conditions which in his or her sole discretion constitute a hazard if open burning is allowed. Said written notice to the Town Clerk shall contain the effective dates of the ban, and any conditions which the Fire Chief deems appropriate. The Fire Chief's written ban shall be effective upon receipt by the Town Clerk. The Town Clerk shall notify local media of the ban and shall have the ban published one (1) time as other legal notices of the Town are published. (Ord. 11-97 §1, 1997; Ord. 9-00 §1, 2000)

**8.04.080 Fire protection.**

(a) No person shall burn combustible trash, rubbish or waste without a private incinerator, barrel or other container within the Town nor

shall any person operate or cause to be operated an incinerator or any other container for the burning of combustible trash, rubbish or waste within the Town unless the container or incinerator, or other burning process has previously been approved by the Colorado Air Pollution Control Commission.

(b) When a fire is in progress, the Fire Chief (or in his absence the Assistant Chief) may order any building or buildings, fences or other structures, that are in close proximity to such fire to be torn down, blown up or otherwise disposed of, if he deems it necessary for the purpose of checking the progress of any fire.

(c) Open burning is prohibited except as follows:

(1) It is unlawful for any person to burn or allow the burning of any garbage, trash, wastepaper, wood, leaves, waste or any other flammable material on any open premises with the Town unless an open burning permit is first obtained from the Air Quality Control Division of the Colorado Department of Health, or any agency authorized by said department to grant open burning permits.

(2) The following sources of open burning are exempted from obtaining an open burning permit: Open fires used for the non-commercial cooking of food for human beings. An open fire shall not be built in any area which constitutes a fire hazard, such as near trees, brush or any flammable structure. (Ord. 15-97, 1997)

**8.04.090 Inoperable vehicles.**

(a) It shall be unlawful for the owner or any person having control over any inoperable vehicle to allow such vehicle to remain within the limits of the Town, except in areas specifically zoned for the storage, maintenance or repair of such vehicles.

(b) Inoperable vehicle means any automobile, truck or self-propelled vehicle incapable of moving under its own power or which lacks a valid state license plate or does not comply with the minimum safety requirements of state motor vehicle laws.

(c) No motor vehicle shall be deemed abandoned or inoperable under this Section if said motor vehicle is stored in a fully enclosed garage or similar structure on private property.

(d) Inoperable vehicles found in areas other than those specifically zoned as aforesaid may be towed, impounded and disposed of in accordance with the provisions of state law. (Ord. 15-97, 1997)

**8.04.091 Key lock box system.**

(a) The following structures shall be equipped with a key lock box at or near the main entrance or such other location as approved by the Fire Chief:

(1) Commercial or industrial structures protected by an automatic alarm system or automatic suppression system or such structures that are secured in a manner that restricts access during an emergency.

(2) Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living units.

(3) Structures owned or occupied by State political subdivisions.

(4) Hospitals and residential health care facilities.

(b) All newly constructed structures subject to this Section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence

on the effective date of the ordinance codified herein and subject to this Section shall have one (1) year from said effective date to have a key lock box installed and operational.

(c) The Fire Chief shall designate the type of key lock box system to be implemented within the Town and shall have the authority to require all structures to use the designated system.

(d) The owner or occupant of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure.

(e) The Fire Chief shall be authorized to implement rules and regulations for the use of the key lock box system.

(f) Any person who owns or occupies a structure in violation of this Section shall be subject to the penalties set forth in Section 1.20.010 of this Code for any violation of this Section. (Ord. 13-07 §1, 2007)

**Chapter 8.05**

**Beetle-Infested Trees**

**8.05.010 Definitions.**

In this Chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:

*Destruction* means cutting and chipping an infested tree; or other method of disposing of an infested tree approved by the Director.

*Director* means the Public Works Director of the Town or his or her designated agent(s).

*Douglas fir beetle* means the species *Dendroctonus pseudotsugae*.

*Infested tree* means (i) a tree, alive or dead, which is infested with the mountain pine beetle, spruce ips beetle and/or Douglas fir beetle; and (ii) any species or variety of tree that is dead or substantially dead, and all deadwood to which the bark is still attached which, because of their condition, may serve as a breeding place for the mountain pine beetle, spruce ips beetle and/or Douglas fir beetle.

*Mountain pine beetle* means the species *Dendroctonus ponderosae*.

*Occupant* means any person in physical possession of any lot, tract or parcel of real property located within the corporate limits of the Town who is not the owner of such property. For the purposes of this Chapter, *occupant* does not include the owner of an easement or right-of-way across property.

*Owner or landowner* means any person who owns any lot, tract or parcel of real property located within the corporate limits of the Town.

*Person* means an individual, association, partnership, corporation or other legal entity.

*Property* means any lot, tract or parcel of real property located within the corporate limits of the Town.

*Spruce ips beetle* means the species *Ips hunter* and *Ips pilifrons*. (Ord. 08-08 §1, 2008)

**8.05.020 Duty of landowner and occupant to permit inspection.**

An owner or occupant, whose property may have located on it one (1) or more infested tree(s), shall allow the Director to enter such property for the purpose of immediate inspection of the trees located upon such property when at least one (1) of the following events has occurred:

- (1) The owner or occupant has requested the inspection;
- (2) A neighboring landowner or occupant has reported a suspected infested tree and requested an inspection; or
- (3) The Director has made a visual observation from a public right-of-way or area and has reason to believe that infested tree or trees exist on the property of the owner or occupant. (Ord. 08-08 §1, 2008)

**8.05.030 Inspection for infested trees.**

(a) Subject to the requirements and limitations of this Section, the Director shall have the right to enter upon any property, whether public or private, during reasonable hours for the purpose of inspecting for the existence of an infested tree when at least one (1) of the three (3) events described in Section 8.05.020 has occurred. However, no agent or employee of the Town shall enter upon any property to inspect for an infested tree without the permission of the owner or occupant or without an inspection warrant issued pursuant to this Section.

(b) If verbal permission to inspect the property is not obtained from the affected owner or occupant, the Town shall send written notice to the landowner and any occupant of the property advising that the Director desires to inspect the property for an infested tree. The notice shall be sent by certified mail. The notice may be sent to the landowner at the address to which tax notices are sent according to the records of the County Treasurer and to the occupant at the property address. Alternatively, the Director may personally serve such notice upon the affected owner or occupant. Where possible, inspections shall be scheduled and conducted with the concurrence of the owner or occupant.

(c) If permission to enter upon and inspect the property is not obtained within ten (10) days after the notice described in Subsection (b) of

this Section has been received, or within ten (10) days of date of service if the notice is personally served, the Director may request that an inspection warrant be issued by the Municipal Court. The Municipal Court Judge shall issue an inspection warrant upon presentation by the Director of an affidavit satisfying the requirements of Rule 241(b)(2) of the Colorado Municipal Court Rules of Procedure. The Municipal Court Judge may issue an area-wide inspection warrant pursuant to this Section unless otherwise prohibited by law.

(d) In case of an emergency involving imminent danger to public health, safety or welfare, the Director may enter the property to conduct an emergency inspection without a warrant and without complying with the requirements of this Section. (Ord. 08-08 §1, 2008)

**8.05.040 Notice of infestation and removal.**

(a) If the Director determines that property contains one (1) or more infested trees, the Director shall notify the owner and any occupant of the property. Such notice shall be given either by certified mail or personal delivery.

(b) The notice shall:

(1) Advise the owner and occupant that the property contains one (1) or more infested trees;

(2) Advise the owner and occupant of Town-approved methods for the removal and destruction of infested trees; and

(3) Advise the owner and occupant that all infested trees must be removed within ten (10) days following receipt of the notice, or that an acceptable plan and schedule for removal of the infested trees must be submitted to the Director within such ten-day period. (Ord. 08-08 §1, 2008)

**8.05.050 Abatement order.**

(a) In the event the owner fails to comply with the Director's notice as described in Section 8.05.040 by removing the infested trees or submitting an acceptable schedule for such removal within the applicable ten-day period, the Town has the authority to provide for and complete the removal by obtaining and acting on an abatement order.

(b) Upon the expiration of the period of notice, or at any time thereafter, if the required action has not taken place, the Town may apply to the Municipal Court for an abatement order.

(c) An application for an abatement order shall be accompanied by an affidavit affirming that:

(1) The Director has determined that the subject property has one (1) or more infested trees;

(2) The Director has complied with the notice requirements of Section 8.05.040; and

(3) The owner has failed to remove the infested trees, has failed to submit an acceptable plan for removal of the infested trees within the required time or has failed to remove the infested trees pursuant to the accepted plan.

(d) The Town shall give notice to the owner and any occupant of the property of its application for an abatement order either by certified mail or by personal service of the notice.

(e) The notice of application for an abatement order shall include a copy of the Town's application and its affidavit in support thereof, as well as the date, time and place at which the Town will appear before the Municipal Court to request entry of the abatement order.

(f) At the stated time, date and place, the Municipal Court Judge shall review the Town's application for an abatement order, the affidavit and any statement of the Town offered in support thereof, as well as any statement and evidence presented by the owner or occupant, if present.

(g) The Municipal Court Judge shall issue an abatement order if:

(1) The subject property has one (1) or more infested trees;

(2) The Director has complied with the notice requirements of Section 8.05.040; and

(3) The owner has failed to remove the infested trees, has failed to submit an acceptable plan and schedule for removal of the infested trees within the required time or has failed to remove the infested trees pursuant to the accepted plan.

(h) An owner is responsible under this Chapter for any infested trees permitted to remain on the owner's property after the Director has given notice of a violation pursuant to Section 8.05.040.

(i) In case of an emergency involving imminent danger to public health, safety or welfare, the Town may authorize immediate removal of any infested tree without notice or an abatement order.

(j) The Town may pursue the remedies set forth in this Section with or without filing a complaint in the Municipal Court, at the Town's sole discretion.

(k) The owner shall be assessed twice the whole cost of removal of the infested trees from the property, including administrative fees incurred by the Town. If all of the costs and charges incurred by the Town are not paid

within thirty (30) days of the date of the assessment, the unpaid costs shall be certified to the County Treasurer for collection in the same manner as real property taxes. (Ord. 08-08 §1, 2008)

**8.05.060 Unlawful acts.**

(a) It shall be unlawful and a violation of this Code for any owner to fail or refuse to remove all infested trees from his or her property within the time period provided for in a notice of violation sent by the Director pursuant to Section 8.05.040 of this Chapter.

(b) It shall be unlawful and a violation of this Code for any owner or occupant to deny the Director access to the property owned or occupied by the owner or occupant if the Director presents an inspection warrant issued pursuant to this Chapter.

(c) It shall be unlawful and a violation of this Code for any person to expose for sale, offer for sale, transfer, give away or offer to give away any infested tree anywhere within the Town. (Ord. 08-08 §1, 2008)

**8.05.070 Applicability.**

The provisions of this Chapter shall apply to all public and private lands within the corporate limits of the Town. (Ord. 08-08 §1, 2008)

**Chapter 8.06**

**Noises**

**8.06.010 Definitions.**

The following words, terms and phrases, when used in this Article, shall have the following meanings ascribed to them:

*Ambient sound level* means the total sound pressure level in the area of interest, including the noise source of interest.

*A-weighting* means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

*Background sound level* means the total sound pressure level in the area of interest, excluding the noise source of interest.

*Code Enforcement Officer* means an employee of the Town authorized to issue variances pursuant to Section 8.06.060.

*Construction* means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*dB(A)* means the A-weighted unit of sound pressure level.

*Decibel (dB)* means the unit of measurement for sound pressure level at a specified location.

*Emergency work* means any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electric, telephone, sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

*Impulsive sound* means a sound having duration of less than one (1) second with an abrupt onset and rapid decay.

*Motor vehicle* shall have the same meaning as set forth in Section 42-1-102 (58), C.R.S.

*Muffler* means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

*Multi-use property* means any distinct parcel of land that is used for more than one (1) category of activity. Examples include, but are not limited to:

- a. Commercial, residential, industrial or public service properties having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

- b. Commercial buildings that have a residential use located above, behind, below or adjacent to the commercial use.

*Noise disturbance* means any sound originating from or received within the Town limits that:

- a. Endangers the safety or health of any person;
- b. Disturbs a reasonable person of normal sensitivities; or
- c. Endangers personal or real property.

*Person* means any individual, corporation, company, association, society, firm, partnership, joint stock company, the Town or any political subdivision, agency or instrumentality of the Town.

*Public right-of-way* means any street, avenue, boulevard, road, highway, sidewalk, alley, trail or similar place which is leased, owned or controlled by a governmental entity.

*Public space* means any real property or structures thereon that is owned, leased or controlled by a governmental entity.

*Pure tone* means any sound that can be judged as a single pitch or set of single pitches.

*Real property line* means either:

- a. The line, including its vertical extension, that separates one (1) parcel of real property from another; or
- b. The vertical and horizontal boundaries of a dwelling unit that is contained within a multi-use building.

*Sound level* means the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow or fast integration speed.

*Sound level meter* means an instrument used to measure sound pressure levels conforming to standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

*Sound pressure level* means twenty (20) multiplied by the logarithm, to the base ten (10), of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

*Unreasonable noise* means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the Town or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment. (Ord. 2-04 §1, 2004)

**8.06.020 Unreasonable noise prohibited.**

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises or in or upon any motor vehicle owned, possessed or driven by such person or under such person's control or operation. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Ord. 2-04 §1, 2004)

**8.06.030 Maximum permissible noise levels.**

(a) A noise measured or registered in the manner provided in Section 8.06.030 from any source at a level which is in excess of the dB(A) established for the time period and zoning districts listed in this Section is hereby declared to be a noise disturbance and is unlawful. When a noise source can be identified and its noise measured in more than one (1) zoning district, the limits of the most restrictive zoning district shall apply.

| <b>Zoning District, Maximum Noise [dB(A)]</b> |                    |                 |
|---|--------------------|-----------------|
| <i>Areas Zoned</i>                            | <i>Sound Level</i> |                 |
|   | 7 a.m. - 8 p.m.    | 8 p.m. - 7 a.m. |
| Rural Estate (RE-1)                           | 55                 | 50              |
| Rural Estate (RE)                             | 55                 | 50              |
| Estate: 1 Acre (E-1)                          | 55                 | 50              |
| Estate: .5 Acre (E)                           | 55                 | 50              |
| Residential (R)                               | 55                 | 50              |
| Residential (R-1)                             | 55                 | 50              |
| Two-Family (R-2)                              | 55                 | 50              |
| Multi-Family (RM)                             | 55                 | 50              |
| Accommodations (A)                            | 55                 | 50              |
| Accommodations (A-1)                          | 55                 | 50              |
| Commercial Outlying (CO)                      | 60                 | 55              |
| Commercial Downtown (CD)                      | 60                 | 55              |
| Commercial Heavy (CH)                         | 60                 | 55              |
| Office (O)                                    | 60                 | 55              |
| Restricted Industrial (I-1)                   | 80                 | 75              |

(b) If the noise source in question is a pure tone, the limits set forth above shall be reduced by five (5) dB(A).

(c) In multi-use buildings, when noise originates in one (1) unit and is received in another unit within the same building, the maximum dB(A) for such noise shall be the same as the maximum dB(A) for the zoning district in which the building is located. (Ord. 2-04 §1, 2004)

**8.06.040 Classification and measurement of noise.**

For the purposes of classifying any noise disturbance and determining whether it is in violation of Section 8.06.030, the following test measurements and requirements shall be applied; provided, however, that a violation of Section 8.06.020 may occur without the following measurements being made:

(1) Noise shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or public property other than the public right-of-way, the noise shall be measured at or within the property boundary of the receiving land use.

(2) The noise shall be measured on a sound level meter.

(3) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour. (Ord. 2-04 §1, 2004)

**8.06.050 Exceptions.**

The provisions of this Article shall not apply to:

(1) Noise from emergency signaling devices;

(2) Noise from agricultural activities;

(3) The operation of aircraft or other activities which are subject to federal law with respect to noise control, and the generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(4) Noise from domestic power tools and lawn and garden equipment operated between 7:00 a.m. and 8:00 p.m., provided that such tools or equipment generate less than eighty-five (85) dB(A) at or within any real property line of a residential property;

(5) Sound from church bells and chimes when a part of a religious observance or service;

(6) Any tools or equipment used in construction, drilling, earthmoving, excavating or demolition, provided that all motorized equipment used in such activity is equipped with functioning mufflers, and further provided that such work takes place between 7:00 a.m. and 8:00 p.m.;

(7) Noise from snow blowers, snow throwers and snowplows when operated with a muffler for the purpose of snow removal;

(8) The Town and its employees, when engaged in any activity for the maintenance, installation or repair or any Town facility or utility or engaged in any other Town activity or function;

(9) Any Town-sanctioned special event;

(10) Noise generated from golf course maintenance equipment when used on a golf course;

(11) Noise generated by tools or equipment during emergency operations or activities that are reasonably necessary for the public health, safety or welfare; or

(12) Any event sanctioned by Park School District. (Ord. 2-04 §1, 2004)

**8.06.060 Variances.**

(a) Any person who owns or operates any stationary noise source may apply to the Code Enforcement Officer for a variance from one (1) or more of the provisions of this Article. Applications for a variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the variance is requested, including the hardship that will result to the applicant, his or her client or the public if the variance permit is not granted;
- (3) The level of noise that will occur during the period of the variance;
- (4) The section or sections of this Article for which the variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this Article within a reasonable time.

(b) Failure to supply the information required by the Code Enforcement Officer shall be cause for rejection of the application.

(c) The Code Enforcement Officer may charge the applicant a reasonable fee to cover expenses resulting from the processing of the variance application.

(d) The Code Enforcement Officer may, at his or her discretion, limit the duration of the variance, which shall be no longer than one (1) year. Any person granted a variance and requesting an extension of time shall apply for a new variance under the provisions of this Section.

(e) No variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the variance will not constitute a danger to public health; and
- (2) Compliance with this Chapter would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(f) Under no circumstances shall the noise level of an activity for which a variance is granted for a period of time in excess of eight (8) hours exceed ninety (90) decibels.

(g) In determining whether to grant a variance, the Code Enforcement Officer shall consider:

- (1) The character and degree of injury to, or interference with, the public health and welfare and the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the variance is sought; and
- (3) The ability of the applicant to apply the best practical noise control measures.

(h) A variance may be revoked by the Code Enforcement Officer if there is:

- (1) Violation of one (1) or more terms or conditions of the variance;
- (2) Material misrepresentation of fact in the variance application; or
- (3) Material change in any of the circumstances relied on by the Code Enforcement Officer in granting the variance.

(i) Variance decisions may be appealed to the Town Administrator by the applicant or any affected person. (Ord. 2-04 §1, 2004)

**8.06.070 Motor vehicle maximum sound levels.**

(a) No person shall operate or cause to be operated a public or private motor vehicle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle exceeds the levels set forth below:

| Vehicle class (GVWR)  | Speed limit where posted 35 mph or less or speed limits regulated under the adopted Model Traffic Code [sound pressure level dB(A)] | Speed limit where posted greater than 35 mph [sound pressure level dB(A)] |
|---|---|---|
| Motor vehicles with a manufacturer’s gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kg) or more, or by any combination of vehicles towed by such motor vehicle  | 86  | 90  |
| Any other motor vehicle or any combination of vehicles towed by any motor vehicle, to include but not be limited to, automobiles, vans, light trucks or any motorcycle with a gross vehicle weight rating (GVWR) less than 10,000 pounds (4,536 kg) | 80  | 84  |

(b) No person shall operate or cause to be operated any motor vehicle off a public right-of-way in such a manner that the sound level emitted exceeds the limits set forth in Section 8.06.030. This Section shall apply to all motor vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious crafts, campers and dune buggies.

(d) The noise shall be measured on a sound level meter.

(c) Noise shall be measured at a distance of at least twenty-five (25) feet from the lane being monitored.

(e) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour. (Ord. 2-04 §1, 2004)

**8.06.080 Violations and penalties.**

Any person who violates any provision of this Article, upon conviction, shall be subject to the penalty in Section 1.20.020. (Ord. 2-04 §1, 2004)

**Chapter 8.08****Possession and Use of  
Tobacco Products by Minors****8.08.010 Intent.**

It is the intent of this Chapter to protect the public health, safety and welfare by prohibiting the possession and use of tobacco products by minors and by prohibiting the dissemination and furnishing of tobacco products to minors. (Ord. 11-96 §1(part), 1996)

**8.08.020 Definitions.**

As used in this Chapter, the following words or phrases are defined as follows:

(1) *Minor* means any person under the age of eighteen (18).

(2) *Smoking* means the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind and includes the lighting of a pipe, cigar or cigarette of any kind.

(3) *Tobacco product* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco. (Ord. 11-96 §1(part), 1996)

**8.08.030 Unlawful possession or use of tobacco products by minors.**

(a) It shall be unlawful for any minor to possess any tobacco product.

(b) It shall be unlawful for any minor to consume or use, either by smoking, ingesting, absorbing or chewing, any tobacco product.

(c) It shall be unlawful for any minor to purchase, obtain or attempt to purchase or obtain any tobacco product by misrepresentation of age or by any other method.

(d) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product. (Ord. 11-96 §1(part), 1996)

**8.08.040 Unlawful furnishing of tobacco products to minors.**

(a) It shall be unlawful for any person to knowingly furnish to any minor, by gift, sale or any other means, any tobacco product.

(b) It shall be an affirmative defense to a prosecution under this Section that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the minor receiving the tobacco product as being eighteen (18) years of age or older. (Ord. 11-96 §1(part), 1996)

**8.08.050 Vending machines.**

It shall be unlawful for any person to sell or offer to sell cigarettes or tobacco products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

(1) Factories, businesses, offices or other places not open to the general public;

(2) Places to which minors are not permitted access; or

(3) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to, establishments holding a valid liquor license

issued pursuant to Article 47 of Title 12, C.R.S. As used in this Section, *under direct supervision* means the vending machine shall be in plain vision of the employee or owner during regular business hours. It shall be an affirmative defense to a prosecution under this Subparagraph that the person selling or offering to sell the tobacco product was presented with and reasonably relied upon a document which identified the person purchasing the tobacco product as being eighteen (18) years of age or older. (Ord. 11-96 §1(part), 1996)

#### **8.08.060 Sale of tobacco products.**

(a) It shall be unlawful for any business proprietor, manager or other person in charge or control of a business of any kind to engage, employ or permit any minor to sell tobacco products from such business.

(b) It shall be unlawful for any business proprietor, manager or other person in charge or control of a business of any kind to stock or display a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of any adult business employee for each transaction. The foregoing sentence shall be not effective until December 31, 1996. The provisions of this Subsection shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, and to vending machines meeting the requirements of Section 8.08.050 of this Code. (Ord. 11-96 §1(part), 1996)

