

**ORDINANCE NO. 21
SERIES 2023**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL
REPEALING AND REPLACING CHAPTER 7 OF THE CRESTED BUTTE
MUNICIPAL CODE.**

WHEREAS, the Town of Crested Butte, Colorado ("the Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, Town Council finds it is necessary and proper to repeal and replace Chapter 7 of the Crested Butte Municipal Code as provided in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE COLORADO:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Chapter 7 of the Crested Butte Municipal Code is hereby repealed and replaced as provided for on the attached **Exhibit A** effective October 1, 2023.

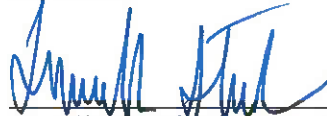
Section 3. Upon the effective date, the codifier is hereby authorized to renumber the Code in conformance with these amendments.

LMS
September INTRODUCED, READ, AND SET FOR PUBLIC HEARING THIS 5th DAY OF ~~AUGUST~~ 2023.

ADOPTED BY THE TOWN COUNCIL UPON SECTION READING IN PUBLIC HEARING THIS 18th DAY OF September 2023.

TOWN OF CRESTED BUTTE, COLORADO

ATTEST:



Lynelle Stanford, Town Clerk

By: 

Ian Billick, Mayor



CHAPTER 7

Health, Sanitation and Animals

ARTICLE 1 Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Brush means voluntary growth of bushes and such as are growing out of place at the location where growing, and shall include all cuttings from trees and bushes; and also high and rank shrubbery.

Litter means the scattering or dropping of rubbish, trash or other matter.

Nuisance means any state of things prohibited by or allowed to exist in violation of this Chapter or any of the provisions hereof and not otherwise specified.

Refuse, Rubbish or Trash means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste, and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

Weed means any undesirable plant as defined in Section 7-3-10.

Wrecked or junked vehicle means an inoperable vehicle.

Sec. 7-1-20. Common law nuisances.

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the Town, and any person causing or permitting any such nuisance shall be in violation of this Article.

Sec. 7-1-30. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance; and any person who shall hereafter make, cause to be made or exist, maintain, continue, increase, suffer, or permit any nuisance specified in this Chapter in any manner specified herein and not otherwise specified, shall be deemed the author of a nuisance.

Sec. 7-1-40. Prohibition of nuisances.

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

Sec. 7-1-50. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Manager dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated.

Sec. 7-1-60. Constitution of separate offense.

In the case of a nuisance in or upon any street, alley, or other public or private grounds, the author thereof shall be deemed guilty of a separate offense for every period of twenty-four (24) hours' continuance thereof after notice has been given to abate the same.

Sec. 7-1-70. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter.

Sec. 7-1-80. Abatement of nuisance; notice.

- (a) In all cases where a nuisance shall be found in any building or upon any grounds or other premises within the jurisdiction of the Town, twenty-four (24) hours' notice shall be given, in writing, signed by the Town Manager or their designee, to the owner of said premises or the occupant or person in possession, charge, or control of such building or other premises where he or she is known and can be found, to abate such nuisance and comply with the requirements of this Chapter. However, in the case where accumulated refuse has been deemed to be the nuisance, the Town Manager shall require the removal of such accumulated refuse within thirty (30) days of such notice.
- (b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated forthwith after the notice herein provided shall be given, the Town Marshal and any deputy shall have authority to abate any such nuisance, whether the same is upon private or public ground or premises, and to call for any necessary assistance and incur the necessary expense for the abatement of such nuisance.
- (c) The Town Marshal or deputy may, if necessary in the interest of public safety, remove and abate any such nuisance summarily without notice if he or she reasonably believes that attempts to provide notice as set forth in Subsection (a) above would be unsuccessful or result in unnecessary delay.
- (d) The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter.

Sec. 7-1-90. Report of costs.

Upon the completion of any work by the Town contemplated by this Chapter, it shall be reported in writing by the applicable department performing such work, to the Town Manager, which report shall make a clear statement of the work done by the Town and the expense incurred in so doing, so that the Town Manager may determine the cost of such work. Separate reports shall be made for each instance, lot or parcel of land.

Sec. 7-1-100. Assessment of property.

After considering the report of costs, the Town Manager shall determine and assess the whole cost for the abatement thereof, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the author of the nuisance, lots and tracts of land from which the nuisance was abated.

Sec. 7-1-110. Notice of assessment.

The Town Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the author of the nuisance or 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 nuisance or lots or parcels of land, the name of the owner and the amount of the assessment.

Sec. 7-1-120. Payment of assessment.

- (a) It shall be the duty of the owner to pay such assessment or object thereto, in writing, within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. The same shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the Town shall have all remedies for collection thereof provided by state statutes, for the purpose of having the same placed upon the tax list and collected in the same manner as taxes are now collected. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments.
- (b) The amount of such 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.

Sec. 7-1-130. Objection to assessment; hearing.

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon schedule a hearing before the Town Council within thirty (30) days when said objector may appear before the Town Council.

Sec. 7-1-140. Certified assessment.

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes.

Sec. 7-1-150. Cumulative remedies.

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

Sec. 7-1-160. Concurrent remedies.

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 Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this

Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law.

Sec. 7-1-170. Violations and penalties.

Any person who violates any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. If a deadline for removal or abatement of the nuisance has expired, no notice, other than the initial notice given in this Article, shall be required. (Prior code 9-1-5, 9-1-7; Ord. 17 §1 1992; Ord. 4 §1, 2009)

ARTICLE 2 Nuisances

Sec. 7-2-10. Accumulation to constitute nuisance.

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars, or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the Town for such purposes, the existence of any such material or items shall constitute a nuisance and shall be a violation of this Article.

Sec. 7-2-20. Posting handbills, posters, and placards.

Any handbill, poster, placard, or painted or printed matter which shall be stuck, posted, or pasted upon any public or private house or other building or upon any fence, power pole, telephone pole, streetlight pole, traffic control post, or other structure without the permission of the owner, agent, or occupant of the house shall be deemed a nuisance and may be abated as provided in this Chapter.

Sec. 7-2-30. Stagnant ponds.

Except for purposes of irrigation, storm water control or wetlands the permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance. Every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon. It is unlawful for any such owner or occupant to permit or maintain any such nuisance.

Sec. 7-2-40. Nuisances on public property.

- (a) No person shall throw or deposit, or cause or permit to be thrown or deposited, any refuse, rubbish, trash, or other unwanted or offensive matter upon any street, alley, sidewalk, public building, park or public grounds within the Town.
- (b) No person shall spit, expectorate, or throw or deposit any spit, saliva, expectoration, tobacco juice, or tobacco quid in or upon any sidewalk or in or upon any floor of any public building within the Town.
- (c) Any person who commits the activities described in a, b, or c above shall be deemed the author of a nuisance.

Sec. 7-2-50. Streams and water supply.

No person shall throw or deposit or cause or permit to be thrown or deposited in the Town anything specified in any foregoing part of this Section, or any other substance that would tend to have a polluting effect, into the water of

any stream, ditch, pond, well, cistern, trough, or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water.

Sec. 7-2-60. Sewer inlet.

No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm) or sewer inlet any article that might cause the sewer or sewer inlet to choke up or become nauseous or offensive to others or injurious to public health.

Sec. 7-2-70. Privies.

No person shall maintain, keep, permit, or suffer to exist any private privy, cesspool, water closet, or any other receptacle whatsoever for human excrement or other substances except for temporary facilities commonly referred to as portapottys which are associated with Town events, construction projects or other Town permitted activities where such facilities are professionally provided and maintained.

Sec. 7-2-80. Nauseous liquids.

No person shall discharge or allow to be discharged out of or from, or permit to flow from, any business, residence, or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley, or other public place.

Sec. 7-2-90. Cellars, vaults, drains and sewers.

Any cellar, vault, drain, sewer, or other place upon or within any private premises or grounds that is nauseous or offensive to others or injurious to public health, through an accumulation or deposit of nauseous, offensive, or foul water or other substance, shall be deemed a nuisance.

Sec. 7-2-100. Deposit of nauseous or offensive substances.

- (a) No person shall deposit upon, throw upon, or cause to be deposited or thrown upon the private premises of others, or upon private premises which he or she may own in whole or in part, in which he or she may have any property interest or of which he or she may have possession or control, any substance whether liquid, solid, or otherwise, that he or she should reasonably know to be, or to become through an accumulation or deposition thereof, nauseous or offensive to others or injurious to public health.
- (b) No person shall deposit upon or in any place in the Town, not authorized elsewhere in this Chapter, any substance which emits smells or odors or is otherwise detrimental to public comfort or public health. No person in possession or control of any premises shall maintain, permit, or suffer to exist any substance in any such place not authorized by this Chapter.

Sec. 7-2-110. Stale matter.

No person shall keep, collect, or use, or cause to be kept, collected, or used, any stale, putrid, or stinking fat or grease or other stale matter, or render or fry out the same, other than such matter kept for normal weekly trash accumulation.

Sec. 7-2-120. Transporting garbage, manure.

Every vehicle or trailer used to transport manure, garbage, compost, or kitchen waste in any street in the Town shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street.

Sec. 7-2-130. Dumping on property.

No person shall use any land, premises, or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials, or combustible materials of any kind.

Sec. 7-2-140. Slaughterhouse prohibited.

No slaughterhouse or other place for slaughtering animals shall be kept within the Town, nor shall any person keep any green, unsalted hides for a period exceeding twenty-four (24) hours.

Sec. 7-2-150. Corrals, barns and pens.

Any corral, barn, stable, pen or other place in the Town, , where horses, cattle, sheep, swine, or other animals are kept or where any business or establishment is maintained or carried on, that is nauseous, unwholesome, or offensive to others or injurious to the public health, shall be deemed a nuisance.

Sec. 7-2-160. Dead animal removal.

When any animal larger than a dog dies in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal is in any street, highway, or public grounds in the Town, it shall be the duty of the Town Marshal to cause such body to be removed forthwith beyond the limits of the Town.

Sec. 7-2-170. Noisemakers.

The use of music, noisemakers, or loudspeakers on the streets of the Town for the sale or vending of products, advertising, or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter.

ARTICLE 3 Undesirable Plant Management and Enforcement

Division 1 General

Sec. 7-3-10. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to such terms in this section, except where the context clearly indicates a different meaning:

Colorado Noxious Weed Act or the *Act* means the provisions contained in C.R.S. §35-5.5-101 *et seq.*

Commissioner means the commissioner of the Colorado Department of Agriculture or his designee.

Department means the Colorado Department of Agriculture.

Federal agency means each agency, bureau, or department of the federal government responsible for administering or managing federal lands.

Integrated management means the planning and implementation of a coordinated program utilizing a variety of methods for the management of noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. Such methods may include, but are not limited to, education, preventive measures, good stewardship, and the following integrated management techniques as further described in the Management Plan.

Landowner means any owner of record of State, County, municipal, or private land and includes an owner of any easement, right-of-way, or estate in land.

Local noxious weed means any alien plant of local importance that has been declared a noxious weed by the Weed Advisory Board.

Management means any activity that prevents a plant from establishing, reproducing, or dispersing itself.

Management objective means the specific, desired result of integrated management efforts as described in the Management Plan.

Management plan means the Weed Management Plan for the Town of Crested Butte as developed by the Weed Advisory Board and adopted by resolutions of the Town Council.

Native plant means a plant species that is indigenous to the State of Colorado.

Noxious weed means an alien plant or parts of an alien plant that have been designated by rule by the Commissioner or the Department as being noxious or any plant that has been declared a local noxious weed by the Weed Advisory Board, and which meets one (1) or more of the following criteria described in the Management Plan.

Property owner means any individual, partnership, corporation, association or federal, State, or local government or agency thereof owning, occupying, or controlling any land, easement, or right-of-way, including any State, County, municipal, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas or oil pipeline, high-voltage electrical transmission line, or right-of-way for a canal or lateral.

State noxious weed means any noxious weed identified by the Commissioner or the Department by rule pursuant to the terms and provisions of the Colorado Noxious Weed Act. Such weeds may be referred to herein as A List weeds, B List weeds, or C List weeds depending upon their designation as such by the Commissioner pursuant to the terms of C.R.S. §35-5.5-108.

Undesirable plant means a noxious plant species that is designated as undesirable by this Article, the Commissioner, or by the Weed Advisory Board.

A List weeds shall mean all noxious weeds in Crested Butte that are designated for eradication, either by the Commissioner pursuant to the terms of C.R.S. §35-5.5-108 or by local designation by the Weed Advisory Board.

B List weeds shall mean all noxious weeds in Crested Butte that are designated for required management, either by the Commissioner pursuant to the terms of C.R.S. §35-5.5-108 or by local designation by the Weed Advisory Board.

C List weeds shall mean all noxious weeds in Crested Butte that are designated for recommended management, either by the Commissioner pursuant to the terms of C.R.S. §35-5.5-108 or by local designation by the Weed Advisory Board.

Undesirable plant management means the planning and implementation of an integrated program to manage undesirable plant species pursuant to the Management Plan.

Town Council means the Town Council of the Town of Crested Butte, Colorado.

Town Manager means the Town Manager of the Town in title, as well as any designee, including any Town staff member or other employee of the Town, or any agent, delegate, or contractor of the Town.

Weed means any undesirable plant.

Weed Advisory Board means the persons appointed by the Town Council to advise on matters of noxious weed program direction.

Sec. 7-3-20. Duty to manage undesirable plants; landowner responsibility.

It is the duty of all property owners to use integrated management pursuant to the Management Plan to manage and prevent the spread of all noxious weeds and undesirable plants on the Town of Crested Butte Noxious Weed List.

Sec. 7-3-30. Local priority weed list.

The Town Council, after consultation with the Weed Advisory Board, may elevate the status of any B List weed or C List weed that is located within Crested Butte from the B List weed or C List weed to that of an A List weed or B List weed, as applicable, if deemed necessary and appropriate. The Town Council, after consultation with the Weed Advisory Board, may also, at any time, apply to the Commissioner for a waiver of compliance with an eradication designation set forth by the Commissioner for any particular A List weed or B List weed designated for eradication in Crested Butte, pursuant to C.R.S. §35-5.5-108.5(3)(c). If such a waiver is approved, the noxious weed in question shall be reclassified as either a B List weed or C List weed, as may be determined by the Town Council.

Sec. 7-3-40. Designation of additional undesirable plants.

The Town Council may designate additional undesirable plants or weeds not otherwise designated as State noxious weeds for eradication or management within Crested Butte pursuant to the terms of C.R.S. §35-5.5-108(3) after a public hearing following thirty (30) days' prior public notice.

Sec. 7-3-50. Weed Management Plan; adoption and updates.

The Weed Advisory Board has, pursuant to the direction of the Town Council, developed the Management Plan, and will review such Management Plan on an annual basis for any desired changes or adjustments to such plan and shall report to the Town Council on such basis with any recommended changes or adjustments. As part of such review, the Weed Advisory Board will review the list of noxious weeds and undesirable plants to consider additional weeds

and to prioritize control efforts. The Management Plan must be renewed and adopted by the Town Council not less than once every three (3) years, but nothing shall prevent the Town Council from approving any changes or adjustments to the Management Plan more frequently. The Town Manager shall maintain the Management Plan and the priority weed list and make them available to the general public.

Sec. 7-3-60. Importation and cultivation.

Persons are prohibited from importing seeds, propagative plant parts, or live plants and cultivating any noxious weed within the Town of Crested Butte, and any such person doing so shall be fully prosecutable pursuant to the terms of C.R.S. §35-5.5-104.5.

Division 2 Administration and Enforcement

Sec. 7-3-70. Administering agency.

The Town Council shall provide for the administration and enforcement of the Management Plan authorized by this Article through the use of agents, delegates, or employees, and may hire additional staff or provide for the performance of all or part of the Management Plan by contract. The primary duty and responsibility of administering the Management Plan is hereby delegated to the Town Manager, and the Town Manager shall be the Town Council's primary officer in enforcement and administration thereof. Any agent, delegate, employee, Town staff, or contractor applying or recommending the use of regulated chemical control methods shall be licensed by the Department for such application or recommendation.

Sec. 7-3-80. Weed advisory board.

The Town Council shall maintain a Weed Advisory Board consisting of Town staff, local land management partners, weed experts, general community members, and other interested community members. The Weed Advisory Board shall have all of the authority and powers set forth herein as well as all of the authority and powers set forth in C.R.S. §35-5.5-107. The Town Council shall be entitled to remove members, as they may determine in their sole discretion.

Sec. 7-3-90. Identification and inspection of noxious weeds—Methods of identification.

- (a) The Town Manager shall have the right to enter upon any premises, lands, or places whether public or private, during reasonable business hours for the purpose of inspecting for the existence of noxious weed infestations, when at least one (1) of the following has occurred:
 - (1) The landowner or occupant has requested an inspection;
 - (2) A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection;
 - (3) The Town Manager has made a visual inspection from a public right-of-way or other area and has reason to believe that a noxious weed infestation exists; or
 - (4) The Town Manager has inspected a current aerial satellite map or drone footage of the property and determined there is reason to believe that a noxious weed infestation exists.
- (b) Where entry onto private premises is required to investigate the existence of noxious weeds such inspection shall be as provided for in Section 1-5-10.

Sec. 7-3-100. Notice of presence of noxious weeds—Notice letter.

- (a) Private lands. Upon a discovery of the presence of noxious weeds on private premises, the Town Manager has the authority to notify the landowner or occupant of the presence of noxious weeds. If a second notice from the Town Manager is necessary, such notice shall include the following:
- (1) The property inspection date;
 - (2) The landowner and/or occupant of record;
 - (3) The property tax ID number or legal description of the property, and/or aerial map;
 - (4) The noxious weeds to be managed;
 - (5) If the noxious weeds are weeds designated for eradication pursuant to designation as A List Weeds, identification of eradication as the required management objective;
 - (6) Advisement to the landowner or occupant to commence either eradication of the noxious weeds within five (5) days or management of the noxious weeds within ten (10) days after receipt of notice or submit an acceptable plan and schedule for the completion of the plan for compliance.
 - (7) Identification of the integrated weed management techniques presented by the Commissioner for eradication or the best available control methods of integrated management;
 - (8) The options of notice compliance;
 - (9) The consequences for non-compliance with the notice, an offer of Town consultation in Management Plan development, and notice of landowner and/or occupant's right to request a hearing before an arbitration panel.
 - (10) Statement that the Town Manager will seek an inspection warrant (right of entry) from the Town of Crested Butte Municipal Court, to enter property and manage identified noxious weeds unless the landowner and/or occupant complies with notice, submits an acceptable plan and schedule for completion of the plan or submits a written request for a hearing before the arbitration panel within ten (10) days.
- (b) Public lands.
- (1) The Town Manager may give notice to any State or federal department, or agency that administers or supervises lands under such governmental control within Crested Butte, to manage noxious weeds on its land.
 - (2) Such notice shall specify the best available methods of integrated management.

Sec. 7-3-110. Duty to consult.

Where possible, the Town Manager shall consult with the affected landowner, occupant, State or federal department, or agency that administers or supervises lands under such governmental control within Crested Butte in the development of a plan for the management of noxious weeds on the premises or lands.

Sec. 7-3-120. Eradication and management of weeds—Landowner; occupant or public agency response.

- (a) A Landowner, occupant, State or federal department, or agency that administers or supervises lands under such government's control within Crested Butte receiving notification of the presence of noxious weeds pursuant to Section above shall respond within a reasonable time after receipt thereof, but in no event to exceed five (5) days if eradication is ordered and ten (10) days if management is ordered, by any of the following:
 - (a) Complying with the terms of the notification.
 - (b) Acknowledging the terms of the notification and submitting an acceptable plan and schedule for the completion of the plan for compliance.
 - (c) If only management is ordered, requesting an arbitration panel to determine the final Management Plan. The panel shall be selected by the Town Manager and shall include:
 - (i) A weed management specialist or weed scientist;
 - (ii) A landowner owning similar lands in Crested Butte; and
 - (iii) A third member chosen by agreement of the first two (2) panel members.
 - (4) The landowner or occupant is entitled to challenge anyone (1) member of the panel, and the Town Manager shall name a new panel member from the same category.
- (b) Costs for the arbitration panel shall be paid by the requesting landowner or occupant. The decision of the arbitration panel shall be final.

Sec. 7-3-130. Enforcement—Direct action by Town to manage weeds.

In the event that the landowner, occupant, State or federal department, or agency that administers or supervises lands under such government's control within Crested Butte fails to comply with any notice to eradicate or manage the identified weeds or implement the plan developed by the arbitration panel, the Town Manager shall provide for and compel the eradication or management of such weeds in any manner deemed necessary by the Town Manager and in compliance with the provisions of C.R.S. §35-5-108, 35-5.5-109(5) or 35-5.5-110(3).

Sec. 7-3-140. Equal application.

No eradication or management of noxious weeds on private property shall occur without applying the same or greater management measures to any land or rights-of-way owned, administered, or controlled by the Town that are adjacent to the private property.

Sec. 7-3-150. Assessment of costs for treatment and eradication of noxious weeds—Private lands.

If the Town Manager provides for and/or compels the management or eradication of noxious weeds on private lands, the Town shall be entitled to recover certain costs.

Sec. 7-3-160. Recoverable costs/method of collection—Management.

- (1) If the Town Manager compels and provides for the management of noxious weeds pursuant to the provisions of C.R.S. §35-5.5-109, the Town is entitled to assess the whole cost thereof, including up to twenty percent (20%) for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
- (2) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.
- (3) Such assessment may be certified to the Gunnison County Treasurer for the collection of taxes.
- (4) Any funds collected shall be deposited in the Town Council's weed fund or any similar fund.

Sec. 7-3-170. Recoverable costs/method of collection—Eradication of A list weeds.

- (1) If the Town Manager compels and provides for the eradication of noxious weeds pursuant to their classification as A List weeds, the Town Council is entitled to assess the whole cost of eradicating such weeds, including up to one hundred percent (100%) of inspection, eradication, and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
- (2) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.
- (3) Such assessment may be certified to the Gunnison County Treasurer for the collection of taxes.
- (4) Any funds collected shall be deposited in the Town Council's weed fund or any similar fund.

(Ord. 11 §1, 2016)

Sec. 7-3-180. Landowner or occupant protest.

- (1) The Town Manager shall send a "Payment Notice/Potential Lien Assessment" letter by certified and regular mail to the landowner or occupant prior to any assessment on landowner or occupant's property.
- (2) Landowner or occupant shall be given thirty (30) days from the date on the Payment Notice/Potential Lien Assessment letter to respond.
 - (a) In the event landowner or occupant fails to respond to the letter within the prescribed thirty (30) days, the Town Manager shall assess a lien on landowner or occupant's property and may certify such lien to the Gunnison County Treasurer.
 - (b) If the landowner or occupant responds within the prescribed thirty (30) days and disputes the amount of the assessment, he or she is entitled to be heard before the Weed Advisory Board as to his or her concerns.

Sec. 7-3-190. Assessment of costs—Hearing.

- (1) The landowner or occupant, or an attorney on his or her behalf, will be allowed to present testimony to the Weed Advisory Board as to why they should not assess a lien on landowner or occupant's property for the costs outlined in the Payment Notice/Potential Lien Assessment letter.
- (2) The Town Manager will need to be present at the hearing to provide evidence favoring the imposition of a lien on landowner or occupant's property.

- (3) The Town Manager must show that prior to compelling the management of noxious weeds on landowner and/or occupant's property the Town Manager applied the same or greater management measures to any land or rights-of-way owned or administered by the Town that are adjacent to the private property.
- (4) The Town Manager must show that the level of management called for in the notice or the Management Plan developed by the arbitration panel has been successfully achieved pursuant to Section 7-3-~~300~~50 hereof.
- (5) The Weed Advisory Board may either grant or deny the lien assessment or continue the matter to a subsequent date certain.
- (6) If the Weed Advisory Board grants the lien assessment, the Certification of Assessed Costs shall be filed with the County Treasurer's Office.

Sec. 7-3-200. Limitations.

The Weed Advisory Board shall not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the Management Plan developed by the arbitration panel has been completed.

Sec. 7-3-210. Recoverable costs/method of collection—Public lands.

- (1) Any expenses incurred by the Town Council in the undertaking of the eradication or management of noxious weeds on public lands shall be a proper charge against such State board, department, or agency that has jurisdiction over the lands.
- (2) An agreement for the reimbursement of such expenses shall be reached within two (2) weeks after the date such an expense is submitted to such State board, department or agency, such agreement to be set forth in writing.
- (3) If an agreement is not reached or the charge is not immediately paid, such charge shall be submitted to the controller, who shall treat such amount as an encumbrance on the budget of the State board, department, or agency involved or such charge may be recovered in any court with jurisdiction over such lands.

Sec. 7-3-220. Scheduling and hearing.

The State or federal department, or agency that administers or supervises lands under such government's control within Crested Butte is afforded the same scheduling and hearing protections as provided to landowners or occupants of private lands hereunder.

Sec. 7-3-230. Miscellaneous - additional provisions.

- (1) The Town Manager shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purposes of ensuring compliance with any of the above requirements concerning noxious weed management and any other local requirements.
- (2) No agent, employee, or delegate 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 the above requirements except when the landowner or occupant willfully or deliberately caused such damages.

- (3) It shall be the duty of the Town Council to confirm that all public roads, public highways, public rights-of-way, and any easements appurtenant thereto, under its jurisdiction are in compliance with C.R.S. §35-5.5-101 et seq., and any violations thereof shall be the financial responsibility of the appropriate the landowner, occupant, State or federal department, or agency that administers or supervises lands under such government's control within Crested Butte.

Sec. 7-3-240. Cooperation with federal and State agencies.

The Town Council may enter into cooperative agreements with State, federal, and County departments and agencies for the integrated management of undesirable plants within their respective territorial jurisdictions.

Sec. 7-3-250. Public nuisance—Abatement.

All undesirable plants at any and all stages thereof, their carriers, and any and all premises, plants and things infested or exposed to infestation may be declared to be a public nuisance by the Town Manager. Once declared, such nuisances shall be subject to all laws and remedies relating to the prevention and abatement of nuisances. The Town Manager, in a summary manner or otherwise, may take such action, including removal and destruction, with reference to such nuisance as in their discretion appears necessary. The remedies of this section shall be in addition to all other remedies provided by law.

ARTICLE 4 Trees

Sec. 7-4-310. Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a danger to public safety shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety, and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value.

Sec. 7-4-320. Control of trees and shrubs.

- (a) Trees, shrubs, and other vegetation which are dead, broken, diseased, or infested by insects so as to endanger the well-being of other trees, shrubs, or vegetation or constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance.
- (b) The Town shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The Town shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.
- (c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat, or plant any tree, vine, shrub, hedge, or other woody plant upon public property or public right-of-way or other public parks and greenbelts within the Town, unless authorized or directed by the Town.
- (d) It is unlawful and deemed a nuisance for any person to injure, damage, or destroy any tree, shrub, vine, hedge, or other vegetation in or upon public rights-of-way or other public property within the Town,

unless a person notifies the Town of such damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement.

ARTICLE 5 Animals

Division 1 Dogs

Sec. 7-5-10. Definitions.

Whenever the following words or phrases are used in this Article, they shall have the meanings herein ascribed to them, unless the context indicates otherwise:

At large means off the premises of the owner or guardian, not under the control of a person and restrained by a substantial chain or leash not exceeding ten (10) feet in length, or physically confined without access to passers-by, except in such areas designated by the Town Council by resolution, and pursuant to such rules and regulations as are established by resolution of the Town Council.

Dog means both the male and female of the species.

Neutered means spayed or castrated dog.

Owner means any person, firm, association, or corporation owning, keeping, or harboring a dog.

Sec. 7-5-20. Vaccination.

It is unlawful to own, keep, harbor, or possess any dog over the age of six (6) months which has not been vaccinated against rabies. The owner shall have the dog vaccinated by a licensed veterinarian and shall keep the vaccinations current. The vaccines used will be ones licensed by the U.S. Department of Agriculture and approved by the Colorado Department of Public Health and Environment and will provide for at least a two-year duration of immunity. A certificate of vaccination shall be completed in duplicate by the veterinarian, one (1) copy to be issued to the dog owner and one (1) copy retained in the veterinarian's file. In the event that the dog is not of age to be properly vaccinated, the vaccination shall be waived until the dog has reached such age and shall then be immediately obtained as provided herein and a certificate delivered to the Town.

Sec. 7-5-30. Dogs running at large.

No person owning or keeping any dog shall fail to keep the dog on the premises of the owner or keeper unless the dog is:

- (1) On a chain or leash not exceeding ten (10) feet in length held by a person; or
- (2) Physically confined without access to passers-by.

Sec. 7-5-40. Unattended dogs prohibited in public areas.

- (a) It is unlawful to leave a dog on any street, alley or other public property unless attended by the owner or some other person, regardless of whether or not said dog is attached to a leash or a rope; provided, however, that it shall be lawful to safely and humanely leave an unattended dog in a motor vehicle so

long as the dog does not leave the motor vehicle except in compliance with Section 7-5-60 above or unless it is otherwise a violation of this Code.

- (b) Notwithstanding the provisions of this Section, the Town Council may, at its sole discretion, authorize by resolution the establishment of particular places on public property where dogs may be tied or hitched to a fixed object subject to such rules and regulations as may be promulgated by the Town Council.

Sec. 7-5-50. Dogs excluded from parks.

It shall be unlawful for an owner, keeper or any other person to allow any dog to enter or be in any public park within the Town, whether leashed or unleashed, with the exception of Totem Pole Park, Verzuh Rotary Park, and parts of the 8th Street Greenway, wherein dogs shall be permitted as long as all dogs shall be leashed therein at all times, and Big Mine Park, Red Lady Open Space, and the Deli Trail wherein dogs may be unleashed if under keeper's voice command, and dog excrement shall be promptly removed and all other rules and regulations regarding dogs are obeyed. Dogs may also be permitted to be unrestrained in such areas designated by the Town Council by resolution and pursuant to such rules and regulations as are established by resolution and pursuant to such rules and regulations as are established by resolution of the Town Council.

Sec. 7-5-60. Obligations of owner.

The owner of any dog shall:

- (1) Not allow any dog to obstruct or interfere with any person or motor vehicle on public property.
- (2) Keep and maintain such dog so that it does not, by noise or other activity, injure or interfere with the rights of other persons.
- (3) Commit no inhumane or cruel action against such dog.
- (4) Be liable and responsible for any damages caused by such dog at all times that it is off of the owner's premises.
- (5) Remove animal excrement.
 - (a) No owner of any animal shall fail to prevent such animal from defecating upon any property other than the premises of the owner of such animal unless it is within a permitted area in Town and is immediately removed and disposed of.
 - (b) It is a specific defense to a charge of violating this Subsection that the defecation occurred on private property with express permission of the owner or all tenants thereof.
 - (c) It is a specific defense to a charge of violating this Subsection that the owner immediately removed or cleaned up such deposit and disposed of it by depositing it in a toilet or a receptacle ordinarily used for garbage and covered by a lid or in an otherwise lawful and sanitary manner.
 - (d) The violation of this Paragraph is a strict liability offense punishable on the first conviction by a fine of twenty-five dollars (\$25.00), and a fine of fifty dollars (\$50.00) for the second conviction within two (2) years. For a third and subsequent offense within two (2) years, the general penalty provisions of Section 7-5-180 of this Article shall apply.

Sec. 7-5-70. Impounding of dog.

It shall be the duty of the Town Marshal or any other official designated by the Town Manager to catch and impound any dog that is not under proper control or confined to premises as herein provided or is in violation of any section of this Article, in a pound to be designated by the Town Manager; provided, however, that if any dog cannot be safely caught and impounded because of its dangerous or vicious propensities, such dog may be destroyed.

Sec. 7-5-80. Notice to owner and period of impounding.

Upon the impounding of any dog, it shall be the duty of the person impounding such dog to notify the owner thereof, if known. If the owner is not known, there shall be posted at the main door of the Town Hall, for a period of not less than three (3) days, a notice containing a description of the dog impounded. Any dogs impounded shall be kept for a period of three (3) days unless sooner redeemed by its owner. A fraction of a day shall be computed as being a full day for the purposes of this Section.

Sec. 7-5-90. Disposition of impounded dog.

Any owner may redeem a dog from the dog pound upon proof of ownership thereof and payment of a care and maintenance fee related to the actual cost of impounding such dog not to exceed an amount set by resolution of the Town Council per day or any portion of a day that a dog is maintained at the dog pound or any greater fee that might be charged by a veterinarian for the impounding of such dog and upon payment of a redemption fee as set by resolution of the Town Council and upon written proof of vaccination and registration of the dog, as provided by this Article. If the owner of a dog has not redeemed the same within three (3) days after impounding such dog and notice being given as required by this Article, then such dog may be euthanized or redeemed by any other person paying the required fee and having such dog vaccinated and registered as provided by this Article.

Sec. 7-5-100. Hydrophobia.

Whenever the Mayor shall apprehend danger from hydrophobia in the Town, it shall be his or her duty to issue proclamation requiring any and all persons owning or keeping any dog to securely muzzle such animal for such period as he or she may fix in said proclamation, and during said time it shall be unlawful for any owner or keeper of any dog to allow the same to go off of or leave the owner's or caretaker's premises without being muzzled as required by such proclamation.

Sec. 7-5-110. Vicious or dangerous dogs.

- (a) Definition. For purposes of this Article, a *vicious or dangerous dog* means any dog which:
- (1) Bites any person in a public place;
 - (2) Bites any person in a place upon private property where persons not owning said property are likely to be present by reason of invitation which is either direct or implied;
 - (3) Jumps upon any person in a public place, or in a place upon private property where persons are likely to be present by direct or implied invitation, while evidencing growling, barking or any other aggressive or intimidating behavior;
 - (4) Attacks or bites any other animal in any public place or upon any private property not owned or occupied by the owner or custodian of said dog; or
 - (5) Has or is suspected of having rabies or any other disease dangerous to humans or other animals.

- (b) Unlawful to keep a vicious or dangerous dog. It is unlawful to keep, harbor, or maintain any vicious or dangerous dog within the Town.
- (c) Disposition of vicious or dangerous dogs. Upon a finding by the Municipal Court that a dog is vicious or dangerous as defined herein, the Town Marshal and Town Manager shall have any one (1) or combination of the following powers to dispose of said dog:
 - (1) Confiscate and destroy the dog in some humane fashion.
 - (2) Order the dog permanently removed from Town.
 - (3) Order the dog confined to certain areas of the Town or certain areas of property within the Town.
 - (4) Establish any other condition deemed reasonable to protect the public.

Any dog suspected by the Town Marshal's Department of being a vicious or dangerous dog shall be deemed a public nuisance and may be confiscated by the Town Marshal's Department and held pending a determination by the Municipal Court that said dog is vicious or dangerous at or before the next regularly scheduled session of Municipal Court. If the Municipal Judge finds, by a preponderance of evidence available, that a dog is vicious or dangerous, the Municipal Judge may order anyone (1) or more of the dispositions set forth in Paragraphs (1) through (4) above, regardless of any finding that the owner of said dog has violated Subsection (b) above.

Sec. 7-5-120. Interference with officer.

No person shall hinder or delay the Town Marshal or other police officer in the discharge of the duties enjoined upon him or her by this Article.

Sec. 7-5-130. Unlawful to poison dog.

It is unlawful for any person to poison any dog or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog within the Town, and any person violating this Section shall be punished as hereinafter provided.

Sec. 7-5-140. Authority to destroy and dispose of dog.

- (a) Any dog unprovokedly biting, attacking, or assaulting human beings or other animals, either on public or private property, except where such human being or animal is trespassing upon or destroying or defacing the property of the owner of such dog, may be destroyed by the Town Marshal or other police officer.
- (b) Upon destruction of the dog as provided in Subsection (a) above, the Town Marshal shall immediately dispose of the body.

Sec. 7-5-150. ~~Sec. 7-5-180.~~ Violations and penalties.

- (a) A person in violation of Section 7-5-60 or 7-5-70 of this Article shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). If a third offense of Section 7-5-60 or 7-5-70 occurs within six (6) months from the date of the first offense, the owner shall be issued a summons to appear in Municipal Court and, if found guilty, the owner shall be ordered to remove such dog permanently from the Town. A person in violation of Section 7-5-20 of this Article shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). In assessing such fines, the

Municipal Judge shall not have the authority to reduce, suspend, or otherwise allow a fine less than the minimum fines set forth herein.

- (b) A person in violation of any provision of this Article other than Section 7-5-20, 7-5-60 or 7-5-70 shall be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00), by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment.
- (c) The Town may institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate, or remove any violation of this Article.
- (d) Any person violating any provision of this Article shall be liable to the Town for any expense, loss, or damage, including reasonable attorney's fees, occasioned by reason of such violation.
- (e) The remedies provided by this Article are cumulative and not exclusive and are in addition to any other remedies provided by law.

Division 2 Livestock

Sec. 7-5-210. Purpose.

The purpose of these regulations is to provide for the orderly and safe keeping and treatment of livestock within the Town. While the keeping of livestock provides benefit and enjoyment to those residents who choose to do so, it also has the potential to create nuisances to property and business owners in proximity to such activities. Through these regulations, the Town may ensure that the activities of residents who choose to keep livestock do not infringe on the use and enjoyment of property and the conduct of business within the Town.

Sec. 7-5-220. Definitions.

The definitions and terms used in this Article are defined as follows:

Animal nuisance means any noise, odor, waste, or other by-product of the keeping of domestic livestock which disturbs, disrupts, or prevents the use and enjoyment of property, the conduct of business, or violates certain portions of this Article.

Keeping of livestock means the boarding of domesticated livestock animals on property within the Town boundaries for the purpose of food production or other agricultural uses.

Livestock animals means animals generally used for food production or other agricultural purposes, including but not limited to chickens, pigs, ducks, goats, cows, sheep, and horses.

Running at large shall be taken and held to apply to any of such animals driven or straying away from the property or premises of the owner or keeper thereof or from any point within the Town, into and upon the streets, alleys, public parks, or other public places of the Town, or upon the property or premises owned, held or occupied by any person within the Town. The term shall also apply to such animals when picketed, provided, however, that such term shall not apply to animals driven through the Town upon and along the streets thereof.

Shelter means any structure or device used to house livestock as protection from weather, predators, or other similar hazards.

Sec. 7-5-230. Keeping of livestock.

- (a) Except as hereinafter provided, residents of the Town may keep the following permitted livestock animals on property in Town: up to six (6) chicken hens or rabbits or combination of chicken hens and rabbits and no more than one (1) potbellied pig. The total number of livestock animals on a property at any given time may not exceed seven (7). Horses and cows are permitted on Town Ranch, Verzuh Open Space and in the R1A zone district, but only between May 1 and November 1. Livestock animals not permitted in the Town include, but are not limited to sheep, goats, llamas, ducks, geese, and all pigs not otherwise identified in this Division.
- (b) All permitted livestock animals must be kept under adequate shelter, protected from weather, predators, and other hazards and must at all times be contained in a secure and humane area entirely on private property. Said shelter must protect the livestock from foxes, coyotes, bears, mountain lions, hawks, eagles, domestic dogs, and other predators. Any livestock shelter must be a permanent, stick-built structure or approved prefabricated model as determined by the Building Official. Shelters above thirty (30) inches in height may not be located in front yards and must satisfy design review and comply with building setback and all Code requirements as identified in Chapters 16 and 18 of this Code. Shelter is not required for cows or horses grazing lands only between May 1 and November 1.
- (c) The keeping of permitted livestock animals and the activities associated with the keeping of livestock animals, such as feeding, cleaning, and storage, must not violate this Article relative to the protection of wildlife in the Town. Feed for permitted livestock must be stored in a bear-proof container if located outdoors. All applicable animal treatment, abandonment, and control laws apply to livestock animals.
- (d) No livestock animal shall create a nuisance to any private property owner or the conduct of business. Animal waste products must be removed from the site regularly, and the accumulation of waste or excrement shall be deemed a nuisance. The Town shall determine if an activity or condition on a property containing livestock animals constitutes a nuisance and can require the owner to remedy the situation or remove the livestock animals at the sole expense of the owner.
- (e) The production of animals or animal products for commercial sale, with the exception of eggs produced by chicken hens, shall not be permitted under this Division. A person producing chicken hen eggs for commercial sale must possess a Town business license and a sales tax license and any relevant state licenses or permits. The slaughter of animals for the purpose of meat production for commercial sale is not permitted in Town.

Sec. 7-5-240. Running at large prohibited.

No livestock shall be allowed to run at large within the corporate limits of the Town.

Sec. 7-5-250. Impoundment of animals running at large.

It shall be the duty of the Town Marshal, any police officer or any person appointed in writing by the Town Marshal for said purpose, to take up, stable, or impound any such animals designated in Section 7-5-340 above found running at large.

Sec. 7-5-260. Penalties.

- (a) A person found to be in violation of any provision of this Division shall be issued a summons and subject to a fine not less than one hundred dollars (\$100.00) for each offense up to the maximum allowed in

Section 1-4-20, and/or be made to remove nuisance livestock animals or remedy conditions deemed to be a nuisance at the discretion of the Town. Each instance of violation shall be deemed a separate offense for purposes hereof.

- (b) If any animal is found running at large contrary to the provisions of this Article, the Town Marshal may, instead of impounding such animal as described in Section 7-5-350 above, file a complaint with the Municipal Judge against the owner of said animal. Upon the hearing of said complaint, if it is proved that any such owner has theretofore and during the preceding twelve (12) months allowed his or her animal to run at large in the Town contrary to this Division or that theretofore and during the preceding twelve (12) months any animal belonging to such owner had been impounded, then said owner shall be subject to fines up to the maximum allowed in Section 1-4-20.

Sec. 7-5-270. Exemptions.

Upon good cause shown the Town Manager may allow non-permitted livestock to be kept within the Town Municipal boundaries.

Division 3 Wildlife Protection

Sec. 7-5-310. Definitions.

The definitions and terms used in this Article are defined as follows:

Enforcement officer means any Town Marshal, Community Service Officer, or designated Town official.

Person or persons means any lawful person or entity that is the owner, manager, operator, resident, tenant, employee, homeowners' association, or other responsible party for any subject property, or division thereof, or of any business located on said subject property.

Wildlife means any nondomestic mammal or avian indigenous to the Crested Butte area, including but not limited to bear, elk, deer, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine, and fox.

Wildlife-resistant Dumpster means a Dumpster with a metal lid that has a latching device that prevents wildlife access to its contents.

Wildlife-resistant refuse container means any fully enclosed polycart or metal container with a lid. The lid must have a latching mechanism, which prevents access to the contents by wildlife. Wildlife-resistant containers must be approved by the Town or its contractor.

Sec. 7-5-320. Wildlife-resistant refuse containers or enclosure required.

- (a) Any refuse container, whether residential or commercial, regardless of size, that receives refuse that is edible by wildlife shall be: (1) an approved wildlife-resistant refuse container; (2) a wildlife-resistant Dumpster; or (3) a refuse container which is stored within a building, house, or garage.
- (b) Any restaurant waste grease must be deposited in a wildlife-proof commercial grease container or a container which is stored within a building, house, or garage.

Sec. 7-5-330. Maintenance and operation of wildlife-resistant refuse containers and Dumpsters.

- (a) Wildlife-resistant refuse containers and Dumpsters must be kept closed and secure when refuse is not being deposited.
- (b) It shall be the responsibility of any person to keep all refuse containers, Dumpsters, and grease containers in good and operable condition and repair when in use.

Sec. 7-5-340. Residential refuse disposal.

- (a) All residential containers that receive refuse edible by wildlife, except wildlife-resistant refuse containers, must be secured inside the home, garage, business, or wildlife-resistant trash enclosure. Persons unable to keep their refuse container inside the home, garage, business, or wildlife-resistant trash enclosure shall store their refuse in a wildlife-resistant refuse container.
- (b) Persons with curbside pickup shall place their refuse containers at the curb between the hours of 6:00 a.m. and 6:00 p.m. of the day for scheduled collection; except that any wildlife-resistant refuse container may be placed for curbside pickup between the hours of 6:00 p.m. on the day preceding the day for scheduled collection and 6:00 p.m. of the day for scheduled collection. After pickup, all refuse containers, except wildlife-resistant refuse containers, must be re-secured inside the home, garage, business, or wildlife-resistant enclosure by 6:00 p.m. on the day for scheduled collection. Wildlife-resistant refuse containers must also be removed from the curb after pickup by 6:00 p.m. on the day for scheduled collection.

Sec. 7-5-350. Feeding of wildlife.

- (a) No person shall knowingly leave or store any refuse, food product, pet food, or grain in a manner which would constitute a lure, attraction, or enticement of wildlife.
- (b) Bird feeders are permitted; however, between the dates of April 15 and November 15, all feeders must be suspended on a cable or other device so that they are inaccessible to bears, and the area below said feeders must be kept free from the accumulation of seed debris.

Sec. 7-5-360. Construction site refuse disposal.

All construction sites must have a designated container that receives refuse edible by wildlife. This container shall be either a wildlife-resistant refuse container or a container that is emptied at the end of each workday and then securely stored inside a trailer or building.

Sec. 7-5-370. Interference with enforcement officer.

No person shall interfere with, molest, hinder, or impede any enforcement officer in the discharge of his or her duties as herein prescribed or violate any of the provisions of this Article.

Sec. 7-5-380. Enforcement.

- (a) Enforcement officers may issue a warning notice, a citation requiring the purchase of a wildlife-resistant refuse container, or a summons and complaint to any person in violation of this Article.

- (b) An enforcement officer shall have the right to inspect property pursuant to Section 1-5-10 concerning any wildlife concern or potential wildlife attractant.

Sec. 7-5-390. Penalty assessment.

The violation of any provision of this Article by any person shall be unlawful and subject the offending person to fines in amounts not to exceed one hundred dollars (\$100.00) for the first offense; two hundred dollars (\$200.00) for the second offense; and three hundred dollars (\$300.00) for the third offense. Any additional offense after the third offense shall subject the offending person to the issuance of a summons and fines up to the maximum allowed in Section 1-4-20 for each offense. Each day that such violation continues to exist shall be deemed a separate offense.

ARTICLE 6 Prohibitions on Disposable Plastic Bags; Standards for the Use of Permitted Paper Bags

Sec. 7-6-10. Purpose.

The purpose of these regulations is to protect public health and safety and implement the general goals of the Climate Action Plan of the Town of Crested Butte (CAP) by prohibiting the use of disposable plastic bags and mandating certain standards for the use of permitted paper bags.

Sec. 7-6-20. Applicability.

Commencing September 1, 2018, disposable plastic bags shall not be used, retail or wholesale, within Town limits by any business. Commencing September 1, 2018, non-permitted paper bags shall not be used, retail or wholesale, within Town limits by any business, and only permitted paper bags may be used.

Sec. 7-6-30. Definitions.

The following terms shall have meanings ascribed thereto:

Disposable plastic bag means a bag made from either non-compostable plastic or compostable plastic provided by a business to a customer at the point of sale for the purpose of transporting goods. The term "Disposable Plastic Bag" shall not include:

- (a) Bags used by consumers inside stores to:
 - (1) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
 - (2) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
 - (3) Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - (4) Contain unwrapped prepared foods or bakery goods;
 - (5) Contain artworks; and
 - (6) Contain books and periodicals.

- (b) Bags provided by pharmacists to contain prescription drugs or bags provided by a medical marijuana center to provide the product to the patient;
- (c) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
- (d) Reusable carryout bags;
- (e) Non-permitted paper bags and permitted paper bags, as defined herein; or
- (f) Bags provided to the consumer for the purpose of transporting a partially consumed bottle of vinous liquor (wine) pursuant to the provisions of C.R.S. §44-3-423.

Retailer means a retail establishment or business that is a retail operation in the business of selling goods.

Non-permitted paper bags means a paper bag provided by a business to a customer at the point of sale for the purpose of transporting goods, which does not meet the standards of a "Permitted Paper Bag".

Permitted paper bags means a paper bag provided by a Retailer to a customer at the point of sale for the purpose of transporting goods, which meets all of the following requirements:

- (a) The bag is manufactured from at least forty percent (40%) recycled content; and
- (b) The bag is one hundred percent (100%) recyclable.

Reusable carryout bag means a bag that is specifically intended for multiple reuse and is made of cloth, fiber, or other machine washable fabric that is at least 2.25 millimeters thick and capable of carrying a minimum of eighteen (18) pounds with at least seventy-five (75) uses per bag. Reusable carry-out bags that are used for the transport of foodstuffs shall be machine washed periodically or otherwise replaced for health and safety reasons.

Sec. 7-6-40. Implementation of disposable plastic bag ban.

- (a) Retailers shall only offer either a reusable carryout bag or a permitted paper bag to a consumer for use.
- (b) Violation of the requirements set forth in this section shall subject the offending person and/or business to the penalties set forth in this Article.

Sec. 7-6-50. Town-wide prohibition on disposable plastic bags.

- (a) Disposable plastic bags shall not be used, retail or wholesale, within Town limits by any business.
- (b) Violation of the requirements set forth in this Section shall subject the offending person and/or business to the penalties set forth in this Article.

Sec. 7-6-60. Violations and penalties.

Any person and/or business upon conviction of a violation of any provision of this Article, shall be subject to the following penalties:

- (a) Upon the first violation, a one-time-only written warning notice that a violation has occurred shall be issued by the Town to the person and/or business. No monetary penalty shall be imposed for the first violation.

- (b) Upon a subsequent violation and conviction, the Town shall impose a penalty on the person and/or business. The penalty shall not exceed:
 - (1) Fifty dollars (\$50.00) for the first violation after the written warning;
 - (2) One hundred dollars (\$100.00) for the second violation in the same calendar year of the first violation; and,
 - (3) Three hundred dollars (\$300.00) for the third and each subsequent violation in the same calendar year of the earlier violations.
- (c) No more than one (1) penalty shall be imposed upon a person and/or business within any seven-day period.