

Title 7

HEALTH AND SANITATION

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Chapter 7.04

NUISANCES

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7.04.010 Definitions. As used in this Chapter:

“Brush” means a volunteer growth of bushes and such brush as is growing out of place in the location where growing and shall include all cuttings from trees and bushes, also all high and rank vegetable growth which may conceal filthy deposits or provide a habitat for mice or vermin.

“Junk” includes, but is not limited to ferrous and nonferrous metals, wood or wood products, appliances not being used for their intended purpose, including refrigerators or iceboxes, rubber products, dismantled or inoperable machinery, equipment, tools, parts of vehicles or trash or similar materials that are visible or accessible to the general public.

“Refuse” includes brush, rubbish, weeds, junk, grass clippings, hay, straw or garbage of any kind.

“Rubbish” means all combustible or noncombustible waste, including, but not limited to, ashes, containers, bottles, cans, carcasses of dead animals, cardboard, paper, cloth, crockery, human or animal excrement, glass, abandoned or unusable household furnishings or appliances, refrigerators or iceboxes, metal, plastic, tree branches, limbs, waste and discarded building and construction materials including, but not limited to, plastics, plaster, broken concrete, bricks, cinder blocks, stones, roofing material, wood, wire or metal binding, paper and sacks, items discarded in such a manner so as to create a reasonable likelihood of becoming a fire hazard, a harbor for insects or vermin or disease, or otherwise creating a health or safety hazard or which detracts from the visual aesthetics of the Town.

“Weed” means any unsightly, useless, troublesome or injurious herbaceous plant, exceeding twelve inches (12") in height, and includes rank vegetable growth which exudes unpleasant or noxious odors, or that may conceal filthy deposits. By way of example, and not by way of limitation, “weed” includes the various species of Knapweed, Common Burdock, Whitetop and all forms of thistle, or other noxious plant. (Ord. 196 §1(part), 1993).

7.04.020 Accumulation of Refuse Prohibited--Declared Nuisance. Any accumulation of refuse on any premises, improved or unimproved, in the Town is prohibited and is declared to be a nuisance. (Ord. 196 §2(part), 1993).

7.04.030 Refuse on Premises--Responsibility of Owners and Lessees. It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, to at all times maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance, and shall be nonconforming in the use of such premises. (Ord. 196 §3(part), 1993).

7.04.040 Refuse Not to be Thrown in Street or Vacant Lot. No hay, straw, shavings, excelsior or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles,

broken glass, nails, tacks, wire, cans, rocks, stones or rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalk, gutter, alley, sewer, intake, vacant lot or other property, or any common area to which the public generally has access. (Ord. 196 §4(part), 1993).

7.04.050 Collection of Contagious or Infectious Refuse Prohibited. No person shall deposit or allow to collect on property within the incorporated limits of the Town, if said property is under his or her possession, ownership or control, any garbage, refuse, rubbish or substance or thing which is contagious or infectious or which contains any disease producing item or thing regulated by the Colorado Department of Health including but not limited to, those organisms or conditions controlled by Title 25 C.R.S. (Ord. 196 §5(part), 1993).

7.04.060 Possession and Storage of Highly Inflammable or Explosive Materials Prohibited. No person shall possess or store any highly inflammable or explosive material unless said material is lawfully possessed and is stored or maintained in such a fashion so as to eliminate or substantially reduce the risk associated with such highly inflammable or explosive material. Any person who knowingly violates this Section commits a Class A municipal offense. (Ord. 196 §6(part), 1993; Amended Ord. 258 §7(part), 2001).

7.04.070 Collection of Hazardous, Toxic or Poisonous Substances Prohibited. No person shall keep or allow the placement or collection of any hazardous, toxic or poisonous substances or material, including but not limited to, household hazardous wastes, used motor oil, used antifreeze, oil-based paint, turpentine, thinners or solvents, unless the same are placed in sealed receptacles for their containment without any danger of leakage or spillage and so long as said items are stored in a location to which the members of the public, children or pets do not have access. Any person who knowingly violates this Section commits a Class A municipal offense.(Ord. 196 §7(part), 1993; Amended Ord. 258 §8(part), 2001).

7.04.080 Building Materials to be Removed from Construction Sites. All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, construction or reconstructing of any room, basement, wall, fence or sidewalk or building or other structure shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse to adjacent or other property. (Ord. 196 §9(part), 1993).

7.04.090 Removal of Refuse from Business Required. Discarded automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house or slaughter house refuse shall be removed as frequently as necessary from such respective establishments by the proprietor in order that the premises be maintained in a clean and orderly condition at all times. Silt and similar deposits from automobile washracks shall be removed to the Town dump by the establishment creating such deposit. (Ord. 196 §10(part), 1993).

7.04.100 Duty to Cut Weeds and Brush and to Remove Refuse.

A. It shall be the duty of every person or entity or their agent, whether owner, lessee or renter of any lot, vacant lot, tract of land, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment within the incorporated limits of the Town to cut to the ground all weeds and brush and to keep such growth down on each lot or tract of ground, on or along any street or avenue adjoining the same between the property line and the curb line thereof and on or along any alley adjoining the same between the property line and the center of such alley.

B. It shall be the duty of every such person or entity to remove all cut weeds or brush, together with any refuse upon the premises, and to keep such weeds cut and removed each year on a regular and ongoing basis. All such weeds and brush or rubbish or refuse shall be removed and properly disposed of.

(Ord. 196 §11(part), 1993).

(Ord. 258 §10(part), 2001) (Subsection C removed per Ord. 473 §2, 2016)

7.04.110 Clerk to Give Annual Notice. A. Each year subsequent to the year of enactment of the Ordinance codified in this Chapter, the Town Clerk shall notify all residents, lessors, and owners of property or their agents that it is their duty to cut and to keep cut the weeds and brush and to remove the same, together with any refuse, from their property and from the streets and alleys in this Chapter provided, and that in the default of such cutting and removal the work of cutting and removing the same shall be done under the orders of the Town Trustees and the costs thereof shall be assessed to the respective lots, tracts or parcels of land.

B. The notice required by this Section shall be by publication annually after April 1st, but before June 1st, once each week during two (2) consecutive weeks, in a newspaper published regularly in Mesa County, State of Colorado, and qualified to accept and publish legal notices. Additionally, the Town Clerk shall provide such notice either through the Town newsletter or by inclusion of the same with utility billing statements which are regularly mailed out to utility consumers within and surrounding the incorporated limits of the Town.

(Ord. 196 §12(part), 1993).

7.04.120 Abatement and Enforcement.

A. In addition to the annual Notice provided for in Section 7.04.120 of this Chapter, and at any time after such annual Notice is published, an authorized representative of the Town shall notify in writing the owner or owners of property, his agent or any person having charge of such property, that a violation of their duty to remove any accumulated refuse from such property or to cut all weeds and/or brush and to remove the same from the property has occurred. Such Notice of Violation may be given to the owner or owners, their agent or any person having charge of such property by mailing as authorized in this Chapter or by the posting of such Notice in a conspicuous

place upon the subject property by an authorized representative of the Town.

1. The Notice of Violation issued by the Town shall contain (a) a description of the lots or parcels of land affected, (b) the name of the owner or owners appearing in the records of the Mesa County Assessor, (c) the nature of the violation, (d) the date and time by which the violation must be remedied, (e) the Public Works Department fee schedule setting forth the fees charged for refuse removal and any penalties thereon, and (f) an advisement regarding the Town's remedies for failing to comply with the Notice of Violation, including that the charges and penalties to be assessed, if not paid, shall constitute a lien upon the subject property until the same are paid.

2. For the purpose of mailing such Notice of Violation, it shall be sufficient to use the post office address of the owner or owners as it appears in the records of the Mesa County Assessor.

B. If such property owner, agent or person having charge of such property does not remove the accumulated refuse, or cut and remove all weeds and/or brush within the time specified by the Notice of Violation, then the Town may proceed to (a) prosecute the property owner, agent, or person having charge of such property for violating this Chapter and/or (b) have the accumulated refuse removed or have the weeds and/or brush cut and removed by a Town employee or any other person or entity that the Town has contracted with for such work.

C. Upon completion of the work contemplated by the preceding Section, the Town Clerk shall prepare a written statement of the work done and the expenses incurred by the Town for each lot or parcel of property. The Town Clerk shall present such report to the Board at the next regular or special Board meeting. The Board shall then consider, determine and assess against the subject property the amounts of all expenses incurred by the Town for the removal of accumulated refuse, the cutting of weeds and/or brush and the removal of the same, together with a five percent (5%) fee for the costs of collection, supervision and inspection.

D. As soon as possible after such an assessment is made by the Board, the Town Clerk shall mail Notice of the Assessment to the owner or owners of the property, by certified mail, return receipt requested.

1. The Notice of Assessment shall contain a description of the lots or parcels of land affected, the name of the owner or owners appearing in the records of the Mesa County Assessor, the amount of the assessment plus penalties thereon, and shall advise the property owner or owners that the charges and penalties to be assessed, if not paid, shall constitute a lien upon the subject property until the same are paid.

2. For the purposes of mailing such Notice of Assessment, it shall be sufficient to use the post office address of the owner or owners as it appears in the records of the Mesa County Assessor.

(Ord. 247 §1, 1978) (Ord. 473 §2, 2016)

7.04.130 Duty to Pay Costs of Abatement--Certification of Lien. It shall be the duty of the owner to pay the assessment referenced in Sections 7.04.120 and 7.04.130 within twenty (20) days after the receipt of such Notice to the property owner by certified or registered mail, and in case of the owner's failure to so pay, he or she shall be liable personally for the amount of the assessment and the same shall constitute a lien upon the respective lots or parcels of land involved from the time of such assessment. In case the owner shall fail to pay such assessment within twenty (20) days after Notice has been received by him, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the Mesa County Treasurer or other officer of the County having the custody of the tax list, at the time of such certification, to be placed by him or her upon the tax list for the current year and to be collected in the same manner as other taxes are collected with a ten percent (10%) fee thereon to defray the cost of collection; and all the laws of the State of Colorado for the assessment and collection of general taxes, including the laws for the sale of the property for delinquent taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments. (Ord. 196 §14(part), 1993) (Ord. 473 §2, 2016)

7.04.140 Right of Entry and Inspection. A. The Town, through its agents or employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of making an investigation of any condition reasonably appearing to be in violation of any of the provisions of this Chapter.

B. No employee of the Town, or any designee or person acting under the Town's direction or authority, shall be liable or responsible in any manner to the owner or occupant or person in charge of any lot or property for any loss or damage resulting to said property as the result of any removal or abatement activity lawfully conducted pursuant to this Chapter.

(Ord. 196 §15(part), 1993).

7.04.150 Limitations on Burning on Public Property - Authorization Required. It shall be unlawful for any person to kindle or maintain any bonfire, irrigation ditch fire, or rubbish fire, or authorize any such fire to be kindled or maintained, on or in any public street, alley, road, right-of-way or other public ground, without first obtaining written authorization from the De Beque Marshal's Department.

7.04.151 Limitations on Burning on Private Property – Authorization Required. It shall be unlawful for any person to kindle or maintain any bonfire, fire which is agricultural in nature, irrigation ditch fire, or rubbish fire, or authorize any such fire to be kindled or maintained on any private land without first obtaining permission from the Marshal. It shall be unlawful for any fire to be kindled or maintained in any outdoor container unless the container is inspected by and its use authorized by the Marshal's Department or their designated representative. The burning of garbage or refuse that smolders or gives off noxious odors is prohibited.

7.04.152 Fires Prohibited: When. The chief of the De Beque Marshal's Department may prohibit or restrict any and all outdoor fires within the city limits when atmospheric conditions or local circumstances make such fires hazardous.

7.04.153 Authorized Fires to be Attended. Any person obtaining authorization pursuant to this chapter must notify the De Beque Fire Protection District prior to commencing activities and must attend the permitted fire at all times to insure that the fire does not pose a hazard to life or property and to insure the fire is safely extinguished. Said person must have a working water hose and shovel in their possession when attending the fire in case of emergency and shall comply with any special restrictions that may be imposed by the Town of De Beque.

(Ord. 441, §2 (part), 2013)

7.04.154 Penalties. Repealed.

(Ord. 473 §2, 2016)

7.04.160 Town Disposal Sites. All garbage, rubbish, refuse, waste material and ashes disposal sites owned or under the control of the Town, together with all matter whatsoever deposited or existing thereon, shall be the property of the Town, and no person shall enter upon such sites, or carry off, dispose of, burn or in any manner disturb or molest any matter of thing deposited or existing upon such sites, except under the direction of authority of the Town Administrator or the Town Trustees. (Ord. 196 §17(part), 1993).

7.04.170 Violation--Penalty.

A. It is unlawful for any person to violate any of the provisions of this Chapter 7.04. Violations of any provision of this Chapter 7.04 shall be deemed to be a strict liability offense. Except as otherwise set forth in this Chapter, any violation of this Chapter shall constitute a Class B municipal offense.

B. The fact that assessments have been made against the property as provided in this Chapter shall not prevent the owner, agent of the owner or lessee or other person in control of the subject property from being punished for committing a municipal offense. The Municipal Court may impose penalties whether an assessment has or has not been made in accordance with this Chapter. Such fine or penalty shall be in addition to any other charges or assessments required hereunder but shall not be included in the amount of the lien provided for in Section 07.04.130.

(Ord. 196 §18(part), 1993; Amended Ord. 258 §11(part), 2001) (Ord. 473 §2, 2016)

Chapter 7.06

REFUSE COLLECTION

Sections:

7.06.010	Short Title.
7.06.020	Definitions.
7.06.030	Collection System Established.
7.06.040	Authorization to Haul Refuse.
7.06.050	Licensed Refuse Haulers.
7.06.060	Licensed Refuse Haulers - Contract.
7.06.070	Collection - Supervision.
7.06.080	Collection - Practices.
7.06.090	Deposit Restrictions.
7.06.100	Fees.
7.06.110	Authority to Contract.

7.06.010 Short Title. This Chapter shall be known and may be cited as the Town of De Beque Refuse Collection Ordinance. (Ord. 312 §1, 2006).

7.06.020 Definitions. For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this Section when not inconsistent with the context. Words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

A. “Ashes” means the residue from the burning of wood, coal, coke, or other combustible materials.

B. “Common pickup point” means the practice of two (2) or more residential customers placing their refuse and refuse containers close together in one place, so that the collection of their refuse can be easily made without having to move the vehicle used to collect the refuse.

C. “Garbage” means putrescible animal, vegetable, or mineral waste.

D. “Party” means any person, firm, partnership, association, corporation, company, or organization of any kind.

E. “Refuse” means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

F. “Residential” means non-commercial, non-transient customers whose refuse is derived principally from their own ordinary domestic activities.

G. “Rubbish” means non-putrescible solid waste, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

H. “Superintendent of Sanitation” or “Superintendent” means the party appointed to that position by the Town’s Board of Trustees.

(Ord. 312 §1, 2006).

7.06.030. Collection System Established. A system for the collection and disposal of refuse is established for the benefit of all persons residing within the Town of De Beque. This system shall serve all commercial, industrial and residential establishments within the Town, except for customers of licensed refuse haulers, as authorized by this Chapter. Refuse shall be collected at least once a week by the Town, or its contractor, from all locations within the Town limits, unless otherwise deemed appropriate or necessary by the Town. (Ord. 312 §1, 2006).

7.06.040 Authorization to Haul Refuse. Only the following may collect, transport or remove refuse, garbage, rubbish or toxic refuse from any location within the Town of De Beque:

- A. An individual may remove refuse from his own property, using his own equipment;
- B. The Town, or its contractor, utilizing the collection system herein established;
- C. Licensed and registered refuse haulers.

No other person shall collect, transport or remove refuse, garbage, rubbish or toxic refuse over any of the streets or alleys of the Town.

(Ord. 312 §1, 2006).

7.06.050 Authorized Refuse Haulers. A. Only those refuse haulers who have obtained current authority from a Colorado Public Utilities Commission, and have registered with the Town and the Town’s contractor pursuant to the authority in this Chapter may collect, transport or remove refuse, garbage, rubbish or toxic refuse within the Town, except as otherwise provided in this Chapter.

B. Every authorized and registered refuse hauler shall use a packer type truck or vehicle, or a truck or vehicle equipped with a type metal lining or side frames and a flame proof cover attached to such lining or side frames to prevent the loss of any contents thereof. Every authorized and registered trash hauler shall identify such truck or vehicle in the manner required by law, rule or regulation of the Colorado Public Utilities Commission.

C. In order to qualify for Town registration, a refuse hauler must produce evidence of applicable licenses and permits issued by the State of Colorado, and must show an ability to carry out such activity in conformance with this Chapter. Failure of a refuse hauler authorized and registered under this Section to carry out refuse collection, conveyance or disposal in accordance with the requirements of this Chapter shall render that refuse hauler liable to suspension or revocation of the authorization granted under this Section. Suspension or revocation shall be effected by the Town after a hearing at which the hauler has been given an opportunity to be heard on such matter.

(Ord. 312 §1, 2006).

7.06.060 Authorized Refuse Haulers - Contract. Any industrial or commercial establishment or multi-family residence of eight (8) or more units exempted by the provisions of Section 30-15-401(7), C.R.S., from the payment of the rates and charges for the Town's refuse collection system shall file a valid contract for refuse removal services with an authorized refuse hauler with the Town Clerk at least thirty (30) days prior to the beginning of the next month in which the customer intends to cease using the Town's refuse collection system. Failure of the customer to so file the contract shall make the customer responsible for payment of the refuse removal fees set forth authorized by this Chapter. (Ord. 312 §1, 2006).

7.06.070 Collection - Supervision A. All refuse collected by the Town, or its contractor, shall be collected, conveyed, and disposed of under supervision of the Superintendent of Sanitation. The Board of Trustees shall have the authority to make regulations concerning the days and frequency of collection, the type and location of waste containers and such other regulations pertaining to the collection, conveyance and disposal as it shall find necessary, and to change and modify the same after notice, provided that such regulations are not contrary to the provisions of this Chapter. (Ord. 312 §1, 2006).

7.06.080 Collection-Practices. The following regulations apply to special refuse problems:

A. Contagious Disease Refuse. The removal of wearing apparel, bedding, or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the Superintendent at the expense of the owner or occupant thereof. Such refuse shall not be placed in containers for refuse collection.

B. Flammable or Other Explosive Refuse. Highly flammable or explosive refuse materials shall not be placed in containers for refuse collection but shall be disposed of as directed by the Superintendent at the expense of the owner or possessor thereof.

C. Collection by Actual Producers or Outside Collectors.

1. Parties who desire to dispose of waste material not included in the definition of refuse and collectors of refuse from outside the Town who desire to haul over the streets

of the Town, shall use watertight vehicles provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled.

2. Disposal of refuse by parties so permitted under this subsection shall be made outside the Town limits.

3. The Superintendent shall have the authority to make such other reasonable regulations concerning individual collections and disposal and relating to the hauling of refuse over the Town streets by outside collectors as he shall find necessary.

(Ord. 312 §1, 2006).

7.06.090 Deposit Restrictions. A. It shall be unlawful to dispose of refuse, garbage, rubbish or toxic refuse, to throw or deposit the same, or to cause the same to be thrown or deposited, upon any street, alley, gutter, park or other public place, or to throw or deposit the same in any vacant lot or back yard, or to store or keep the same otherwise than in cans or receptacles as required by this Chapter. It shall also be unlawful for any person to store, deposit, or keep refuse, garbage, rubbish or toxic refuse in locations such that rats or other rodents can have access thereto or feed thereon. It shall be unlawful to deposit or leave any refuse, garbage, rubbish or toxic refuse or any abandoned object or substance in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles. Any person who knowingly violates this subsection commits a non-criminal municipal offense.

B. It shall be unlawful for any person, without permission or license, to throw or deposit refuse, garbage, rubbish or toxic refuse in any can, receptacle or container belonging to another. Any person who knowingly violates this subsection commits a non-criminal municipal offense.

C. It shall be unlawful for any person, firm or corporation to knowingly dispose of any toxic refuse in any manner other than provided by this Chapter, or by federal or State regulations. Any person who knowingly violates this subsection commits a Class A municipal offense.

D. No party shall place any refuse in any street, alley, or other public place, or upon private property whether owned by such person or not, within the Town except in proper containers for collection or under express approval granted by the Superintendent; nor shall any person throw or deposit any refuse in any stream or other body of water. Any person who knowingly violates this subsection commits a non-criminal municipal offense.

E. Any unauthorized accumulation of refuse on any premises is declared to be a nuisance and is prohibited. Any person who knowingly fails to remove any accumulation of refuse within thirty (30) days commits a non-criminal municipal offense.

F. Each day's violation of this Section shall be treated and considered to be a separate and distinct offense. Said offense shall be deemed one of strict liability.

(Ord. 312 §1, 2006).

7.06.100 Fees. A. All owners of occupied residential dwelling units and all owners of occupied commercial or industrial establishments shall be assessed the cost of the Town's refuse collection system in the amounts set forth by resolution of the Board of Trustees. This charge shall be for the operation and maintenance of the Town's refuse collection system. Such fees charged for refuse collection by the Town, or its contractor, shall be billed monthly with the domestic water, irrigation water and sewer service statement. Such fees shall be assessed against every owner of an occupied residential unit and every owner of an occupied commercial or industrial establishment, regardless of whether or not the Town's refuse collection system is used by said owner, except for those industrial or commercial establishments or multi-family residences of eight (8) or more units exempted by the provision of Section 30-15- 401(7), C.R.S.

In the event refuse collection is discontinued during the billing period at the request of an owner or occupant because of non-occupancy of a residential unit or commercial or industrial establishment, the fee shall be prorated based on the number of days in the billing period service was provided. In such an event, a rebate shall be given.

C. Each dumpster or similar high capacity container classified as commercial shall be considered as one (1) user, regardless of the number of parties using such container, and shall be billed as such. The Town shall have the right to determine the number of pickups from a dumpster per week, to be determined on the basis of the quantity of material commonly placed in a dumpster. The Town shall have the right to choose whether to bill each dumpster use separately, or bill the owner of the dumpster for the entire charge for that dumpster.

D. The Town may impose a higher charge for refuse which is greater in size than containers allowed under the Town's regulations, or where the refuse output of a party is so considerable that more pickups per week are required than those indicated above for that party's category, or because the Town, or its contractor, will necessarily incur additional or extraordinary expenses due to the nature and classification of the refuse deposited. The determination of the additional charge shall be made by the Town Clerk, and shall bear a reasonable relationship to the additional service which is required, or additional or extraordinary expenses incurred by the Town, or its contractor, for that party's refuse. Such decision by the Town Clerk shall be subject to appeal to the Town Board of Trustees.

E. All fees and assessments levied under this Chapter which have not been paid when due shall be deemed to be delinquent. In such an event, refuse collection by the Town may be suspended for non-payment. Such suspension shall not relieve the person owing such assessment the duty of complying with the requirements of this Chapter and all public nuisance laws.

F. All assessments and fees authorized by this Chapter and by resolution of the Board of Trustees shall become and remain a lien on the premises until said fees and assessments have been paid to the Town. This lien on the premises may be foreclosed by an action at law or in equity in the name of the Town in any court having jurisdiction thereof. In the event the fees and assessments are not paid when due, such delinquent amount shall be certified to the County Treasurer to be placed on

the tax list for the current year, and to be collected in the same manner as other general taxes are collected, with ten percent (10%) added to defray the costs of collection, pursuant to Section 31-20-105, C.R.S., as amended. All laws of this State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

G. If the Town must resort to court action for collection of amounts due it under this Chapter, the Town shall also be entitled to recover its reasonable attorney's fees and other expenses incurred in such action.

(Ord. 312 §1, 2006).

7.06.110 Authority to Contract. The Board of Trustees is hereby authorized to enter into contracts from time to time with one or more private refuse hauling companies to perform on behalf of the Town the refuse collection services established by this Chapter. (Ord. 312 §1, 2006).

Chapter 7.08

TRAILERS

Sections:

- 7.08.010 Compliance with Location Requirements.
- 7.08.020 Emergency, Temporary Parking on Streets.
- 7.08.030 Recreational Vehicle and Trailer Parking.

7.08.010 Compliance with Location Requirements. It is unlawful within the Town for any person to park any recreational vehicle, travel trailer, motorized home, motor home, recreational bus, or trailer on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, with the Town, except as provided in this Chapter.

(Ord. 311 §1, 2006; Amended Ord. 319 §1, 2006).

7.08.020 Emergency, Temporary Parking on Streets. Emergency or temporary stopping or parking of recreational vehicles, travel trailers, motorized homes, recreational buses and trailers are permitted on any street, alley or highway for not longer than twelve (12) hours subject to any other and further prohibitions, regulations and limitations imposed by traffic and parking regulations or ordinance for the street, alley or highway. Any person who violation this Section commits a noncriminal municipal offense.

(Ord. 311 §1, 2006; Amended Ord. 319 §1, 2006).

7.08.030 Recreational Vehicle and Trailer Parking. No person shall park or occupy any trailer travel trailer, motorized home, motor home, recreational bus or recreational vehicle, outside of an approved recreational vehicle park, trailer park or other specifically permitted location in accordance with the provisions of the Land Use Regulations, except that invited overnight guests may occupy such vehicles located on any tract of land owned by the person extending the invitation for a period of time not to exceed seventy-two (72) hours, and provided such use and occupancy does not violate any other ordinances. Temporary parking or occupancy shall be permitted in designated rest areas only for a period of twelve (12) hours. The parking of one unoccupied trailer, travel trailer, motorized home, motor home, recreational bus or recreational vehicle in a private garage building, or in a rear yard, or in a driveway at least twenty feet (20') from the street curb is permitted providing no living quarters shall be maintained or any business practiced in such trailer or recreational vehicle while such vehicle is so parked or stored. A permit must be obtained from the Town Clerk for a trailer, travel trailer, motorized home, motor home or recreational vehicle to be used as a temporary construction office on the site of and during construction, however, sleeping or cooking shall be prohibited. Any person who violates this Section commits a noncriminal municipal offense.

(Ord. 311 §1, 2006; Amended Ord. 319 §1, 2006).

Chapter 7.10

ODOR CONTROL

Sections:

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7.10.010 Purpose. This section is enacted to protect, preserve, and promote the health, safety, and welfare of the residents of De Beque through the reduction, prevention, and control of air pollution associated with activities that result in the omission of offensive odors and odors that may be deemed to be a nuisance by the Board of Trustees. It is the intent of this Chapter to establish and provide for the enforcement of air quality standards, rules and regulations, and permits that will be protective of human health and the environment and that prevent major interference with the comfortable enjoyment of life or property or the conduct of business within the Town.

7.10.020 Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter and all rules and regulations adopted hereunder.

“*Board*” means the Town of De Beque Board of Trustees.

“*Committee*” means a committee composed of three to five members, and said members shall include the Town Administrator, a Medical or Retail Marijuana Establishment Licensee appointed from time to time by the Board, a Board member, and two at large members from the Town appointed by the Board. The Committee must at all times have an odd number of members

“*Emission*” or “*emit*” means to discharge, release, or to permit or cause the discharge or release of one (1) or more odorous contaminants into the atmosphere.

“*Existing activities*” means activities, uses, or business operations occurring or in existence within the Town prior to the effective date of this Chapter that are found by the Committee to emit odorous contaminants.

“*New activities*” means activities, uses, or business operations that occur or come into existence within the after the effective date of this section that are found by the Committee to emit odorous contaminants.

“*Odorous contaminant*” means any particle, particulate matter, vapor, gas, or any combination thereof that stimulates the human olfactory organ and has a distinct and identifiable smell.

“*Source*” means any property, devices, facilities, or structures at, from, or by reason of which there is emitted or discharged into the atmosphere any odorous contaminant.

“*Person*” means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, or owner and shall include any municipal corporation, state or federal governmental agency, district, or any officer or employee thereof.

“*Property*” means any building, structure, real property, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts, and real property without buildings.

(Ord.488, §6, 2017)

7.10.030 Administration.

A. The Board may adopt by resolution certain rules and regulations deemed necessary for the proper and effective enforcement of the provisions of this Chapter. Such rules and regulations shall be consistent with the provisions of this Chapter and the standards established herein.

B. Persons conducting new and existing activities and/or owning any source shall be responsible for all costs associated with the odor contaminant inspection process set forth below, including costs of administration and enforcement.

C. The Town Administrator shall enforce the terms of this section and any rules and regulations related hereto unless otherwise reserved to the Board or other Town officer or employee.

D. The Committee shall use reasonable efforts to investigate all odor complaints submitted by residents of the Town and undertake enforcement and regulatory measures necessary to abate the effects of the odorous contaminants.

7.10.040 Odor Control Plans.

A. To prevent and control odorous contaminants, the Committee may require any person conducting existing or new activities and/or persons owning any source to submit to the Town an odor control plan. An odor control plan shall include the following information: (i) description of the odor(s) originating or anticipated to originate at or from the source; (ii) identification of the odor sources; (iii) proposed odor control technologies and practices to be used to meet the performance standards set forth in this Chapter; (iv) source operation and maintenance plans; (v) timeline for implementation; and (vi) any other information required by rules and regulations approved by the Board.

B. Odor control plans shall be required (i) to renew or obtain a new Medical or Retail Marijuana Establishment license; (ii) as part of an application for a business license for any other business upon recommendation by the Committee and approval by the Board; (iii) to continue to operate or conduct any new or existing activity if the person conducting the activity has been found by the Committee to be in violation of this Chapter; or (iv) as otherwise set forth in rules and regulations approved by the Board.

C. All odor control plans must be approved by the Board at a public meeting.

D. The Town Clerk shall maintain a copy of all approved odor control plans.

(Ord.488, §6, 2017)

7.10.050 Performance Standards.

A. No person shall cause or permit the emission of odorous contaminants from any source or as a result of any new or existing activity such that said odorous contaminants:

1. are detected after one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air; and
2. interfere with the reasonable and comfortable use and enjoyment of another's property.

B. In evaluating the performance standard:

1. The Committee shall use any instrument, device, or method designated by the Colorado Air Pollution Control Division for use in determining the intensity of an odorous contaminant and in the enforcement of Colorado Air Quality Control Commission Regulation 2; and
2. Whether or not odorous contaminant emissions interfere with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

C. A rebuttable presumption of interference with the reasonable and comfortable use and enjoyment of property shall arise if the Town Administrator receives five (5) or more complaints from individuals representing separate households or businesses within the Town within a 30-day period relating to a single odor description from the same source or premises, and the Committee verifies the source of the odor. To be considered an odor complaint the Town Administrator must have a record of it, and said record must include the following:

1. Name, address, and phone number of complainant;
2. Time and date of call;
3. Description of odor detected, including estimated location or source of the odor, and, if possible, prevailing wind or weather conditions observed when the odor complained of was detected.

7.10.060 Inspections.

A. For the purpose of determining compliance with the provisions of this Chapter, the Committee is hereby authorized and directed to make an inspection of a source within sixty (60) days of initiation of on-site operations of any business required to have an odor control plan, upon receipt of five (5) complaints regarding the same source as set forth in Section 7.10.060(C), and whenever necessary to determine compliance with an approved odor control plan.

B. If any person refuses or restricts entry and free access to any part of a premises or refuses inspection or sampling of any source or process where inspection is sought, the Committee, through its authorized representatives, may seek from a court of competent jurisdiction a warrant for inspection and order that such person refusing inspection be required to permit an inspection at a reasonable time without interference, restriction or obstruction. The court shall have full power, jurisdiction, and authority to enforce all orders issued under the provisions of this section.

1. It shall be unlawful for any person to violate the provisions of any warrant for inspection and order issued under the provisions of this Chapter.
2. It shall be unlawful for any person to hinder, obstruct, delay, resist, prevent in any way, interfere, or attempt to interfere with the Committee in the performance of its duties set forth in this section.

C. Within a reasonable time following an inspection, the Town Administrator, on behalf of the Committee, shall issue a written report explaining the Committee's findings, determining whether a person has violated the terms of this Chapter and/or whether the subject source is in compliance with its odor control plan, and the penalty to be imposed for non-compliance and what actions must be taken to bring the source into compliance.

D. In addition to the enforcement provisions provided in this Chapter, failing to bring a source into compliance pursuant to and within the time required by a Committee report shall be deemed a public nuisance, and the Town may seek to abate said nuisance pursuant to Chapter 10.44 of the Town Municipal Code.

7.10.070 Penalties.

A. It shall be unlawful for any person to violate any provision of this Chapter or any rule or regulation adopted by the Board pursuant to this section.

B. Any person who is found to have violated any provision of this Chapter, including failing to comply with an odor control plan, may be subject to a civil penalty of not more than five hundred dollars (\$500.00) per violation per day. In the event of a person's failing to comply with an odor control plan, it is expressly provided that a civil penalty shall not be imposed for such a violation unless the person fails to bring the source into compliance within the time required in the Committee report.

C. The Committee shall determine the penalty amount. In determining the propriety and amount of penalties, the Committee may consider the following factors:

1. The potential harm to the environment and to the public health, comfort, safety, or welfare as a result of the violation;
2. The history of previous violations;
3. The number of continuing rule or code violations;

4. The person's current compliance with this chapter and rules and regulations adopted and promulgated pursuant thereto;
5. Whether the violation occurred because of negligent or intentional conduct;
6. Economic benefit of noncompliance to the violator;
7. The effect of the penalty on the person or entity's ability to continue in business; and
8. The demonstrated good faith of the person or entity charged in attempting to achieve rapid compliance after notification of a violation and other facts and circumstances relevant to the violation.

D. Any person who disputes a finding of non-compliance by the Committee and/or a violation for which a civil penalty has been assessed may petition the Board in writing for a hearing. Said petition must explain the basis for the dispute and be delivered to the Town Clerk. A hearing before the Board shall occur within thirty (30) days of the date of petition or longer if the petitioner so agrees. Compliance with this subsection is a jurisdictional prerequisite to any action brought under this section and failure to comply forever bars any such action.

E. In the event a person fails to pay a civil penalty, the Town Administrator may collect penalties by action initiated in the Municipal court for collection of the penalty. A stay of any Committee report pending judicial review does not relieve any person from liability under subsection (A), above.

F. The Town may also petition the District court to issue a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this Chapter.

(Ord. 487 §2, 2017)