

TITLE 3
PUBLIC HEALTH AND SAFETY

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CHAPTER 1

GARBAGE AND REFUSE

SECTION:

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3-1-1: **DEFINITIONS:** Whenever used in this chapter the following words and terms shall have the meanings ascribed to them in this section:

GARBAGE: All rejected or wasted household food, kitchen refuse and all other organic refuse resulting from the preparation of food, and decayed and spoiled food.

RUBBISH¹: All refuse, trash, ashes, wastepaper, cans, bottles, leaves, grass cuttings, shrubbery and tree trimmings, shavings and packing materials, weeds and all other solid wastes except garbage. (Ord. 98, 3-13-1972)

3-1-2: **ACCUMULATION AND DEPOSITS PROHIBITED²:**

- A. Removal Required: All garbage, rubbish, trash, manure and other debris within the limits of the town must be removed from the places

1. See also chapter 4 of this title.

2. See also subsection 3-2-1B of this title.

where the same shall accumulate and be disposed of in a manner provided in this chapter, and any accumulation of the same on any premises in the town contrary to this chapter is hereby declared to be a nuisance.

- B. Prohibited Deposits: No garbage, rubbish, trash, debris, weeds or brush shall be discarded or deposited in any street, alley, vacant lot, sidewalk, gutter, sewer or place other than as herein prescribed. (Ord. 98, 3-13-1972)

3-1-3: REMOVAL OF RUBBISH AND GARBAGE:

- A. Rubbish may be removed and disposed of by the owner or occupant of the premises upon which it accumulates or by the regular employees of such owner or occupant, but otherwise, rubbish shall be collected and removed only by the town or its agents or its contractors.
- B. Garbage shall be collected and removed only by the town and its agents or contractors. (Ord. 98, 3-13-1972)

3-1-4: COLLECTION SERVICE PROVIDED BY TOWN: The town may enter into exclusive agreements with any person for the collection and removal of rubbish or garbage from the town, and the town may also, in the alternative, make provision for the collection and removal of rubbish and garbage by its own employees or agents. (Ord. 98, 3-13-1972)

3-1-5: COLLECTION SCHEDULES AND CHARGES; RULES AND REGULATIONS:

- A. Collection Schedule: Rubbish and garbage shall be collected and removed from premises within the town at such intervals as the town board of trustees, by resolution from time to time, may prescribe, and the number of collections per period of time may be varied in accordance with the character of the premises involved and the amount of rubbish and garbage accumulating thereon.
- B. Collection Charges: Charges for the collection and removal of rubbish and garbage by the town or by its contractors shall be fixed by resolution of the board of trustees and shall take the form of a

schedule of monthly rates to be charged with respect to each type of property or business within the town and shall be graduated according to the contractor of the property or business involved and the amount of garbage and rubbish accumulating for disposition thereon.

- C. Rules And Regulations: The town board of trustees may, by resolution, promulgate rules and regulations governing the accumulation of rubbish and garbage for collection, the type and kind of containers to be used for such accumulation, the manner of use and the care of such containers and such other rules and regulations as are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the collection and removal of rubbish and garbage within the town.
- D. Schedules And Rules On File: The schedules of collection and of charges and the rules and regulations provided for herein shall be kept on file in the office of the town clerk and open to public inspection at all times, and such schedules and rules and regulations shall be otherwise communicated to owners and occupants of property within the town in such manner as the board of trustees may direct. (Ord. 98, 3-13-1972)

3-1-6: CONSTRUCTION AND REMODELING PROJECTS; TREE TRIMMING REMOVAL:

- A. The collection and removal of rubbish herein provided for by the town shall not ordinarily include the collection and removal of rubbish or waste material arising out of or accumulating at the site of new construction or remodeling of any premises nor the collection and removal of trees and limbs and other waste material arising out of the activities of professional tree trimmers; except, that the town may, upon such conditions and upon payment of such fees as may be set forth in the collection fee schedule, remove such material.
- B. Any person, other than a professional tree trimmer, desiring to place tree trimmings or hedge cuttings for collection shall cause the same to be cut not more than five feet (5') in length and eighteen inches (18") in diameter and shall place the same for collection in the same manner and time provided for the collection of rubbish. (Ord. 98, 3-13-1972)

3-1-7: RUBBISH AND GARBAGE CONTAINERS:

- A. Rubbish shall be kept separate from and not commingled with garbage and shall be placed in weather tight containers sufficient to hold the same without spilling or scattering until removed. Rubbish containers shall be of such type and size as can be readily lifted and dumped into a truck, and a standard metal, fifty five (55) gallon barrel shall be deemed sufficient for such purpose. Rubbish shall not be deposited in ash pits or other receptacles of such nature that shoveling would be required to remove rubbish therefrom.
- B. Garbage shall be deposited in metal or plastic containers sufficient to receive that amount which may accumulate between times of collection, but no garbage containers shall have a capacity exceeding ten (10) gallons, and each shall be provided with bail or handles and a tightfitting cover. Rubbish or substances other than garbage shall not be deposited in garbage containers, and garbage shall not be wrapped. All surplus liquid shall be drained from garbage before it is placed in containers.
- C. Rubbish and garbage containers and tree trimmings shall be placed at the rear of lots and buildings as close to the alley as is feasible, where an alley abuts the lot, otherwise at the nearest street line, and shall be accessible to collectors at all scheduled times of collection.
- D. It shall be unlawful for any person, except collection personnel in the course of their duties and the owner or other person regularly using the same, to remove, handle or otherwise disturb the containers and receptacles used for the collection and removal of rubbish or garbage as herein provided.
- E. The town shall not be responsible for any loss or damage to any rubbish or garbage containers. (Ord. 98, 3-13-1972)

3-1-8: VIOLATION AND PENALTY: Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 98, 3-13-1972; amd. 1992 Code)

CHAPTER 2

NUISANCES

SECTION:

- 3-2-1: Conditions Declared To Be Nuisances
- 3-2-2: Nuisances Prohibited; Abatement By Landowner
- 3-2-3: Abatement By Town; Prior Notice; Legal Action
- 3-2-4: Assessment Of Costs And Collection
- 3-2-5: Penalty

3-2-1: **CONDITIONS DECLARED TO BE NUISANCES:** The following conditions, occurring within the corporate limits of the town of Flagler, are hereby declared to be a nuisance, and a threat and danger to the health, welfare, and safety of the inhabitants of the town:

- A. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or which are otherwise dangerous to human life, or which in relation to existing use from time to time constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment¹;
- B. The accumulation or growth of trash, garbage, refuse, abandoned machinery including motor vehicles, abandoned household appliances, and any unhealthful growth or substance upon any lot or tract²; and
- C. The discharge from any lot or tract or structure thereon of any unwholesome or nauseous liquid, gas, or other substance. (Ord. 129, 3-14-1994)

1. See title 7, chapter 2 of this code.

2. See sections 3-1-2 and 3-3-2 of this title.

3-2-2: NUISANCES PROHIBITED; ABATEMENT BY LAND-OWNER: Each and every nuisance declared or defined by any ordinance of the town or otherwise is hereby prohibited. Every owner of real property within the town and their tenants or agents in charge thereof shall be and are required to abate such nuisance and thereafter to prevent the reoccurrence of such nuisance. (Ord. 129, 3-14-1994)

3-2-3: ABATEMENT BY TOWN; PRIOR NOTICE; LEGAL ACTION:

- A. In the event of the failure or refusal of any such owner, tenant, or agent to abate a nuisance, in compliance with section 3-2-2 of this chapter, the town may give notice in writing to the owner of the premises where the nuisance exists, as such owner is shown on the tax rolls of the Kit Carson County treasurer, and in the case of a corporation to the registered agent thereof, giving notice of the nature of the nuisance and informing the owner, and any known tenant or agent of the property, that if the nuisance is not abated in the manner and within the time stated in the notice, which time shall not be less than thirty (30) days nor more than ninety (90) days after service of the notice, the nuisance may be abated by the town and the cost thereof will be assessed against the real property in accordance with subsection C of this section.
- B. Such notice shall be given by personal service of a copy of the same upon the owner of record if he or she can be found within the town limits; otherwise, notice shall be given by mailing a copy of the notice to the owner of the property by certified mail, return receipt requested, and such receipt shall be conclusive proof of the date of service. In the event that the town, through its designated agent or employee, cannot locate the owner of record of the property where the nuisance exists, either through personal service or certified mailing, the town shall also cause a copy of the notice to be affixed to the front door or other noticeable portion of the subject property, if improvements are located upon the property. The town may also serve copies of the notice upon any tenant or agent of the property by personal service or certified mail.
- C. If the nuisance is not abated within the time provided by the notice, the town may commence an action in the Flagler municipal court, or any other court of competent jurisdiction, to obtain a judicial determination that the nuisance exists, to obtain an order that the nuisance be abated, specifying the manner of such abatement,

awarding the town its costs, attorney fees and expenses of abatement, and assessing a fine and costs against the owner, if the court deems that such fine is appropriate. The provisions of this subsection shall not preclude the board, or its designated employee or agent, from meeting with the owner of the property where the nuisance exists prior to commencing such action, to discuss the nuisance and allow the owner to show cause, if he or she has any, why the nuisance does not exist, how the nuisance may be abated, or to discuss reasonable alternatives or timetables for the abatement of the nuisance. (Ord. 148, 9-11-2000; amd. 2004 Code)

3-2-4: ASSESSMENT OF COSTS AND COLLECTION:

- A. Upon judicial determination of the costs of abatement, a statement showing the cost and expense of such work for each parcel of real estate, by separate ownership, shall be filed with the town clerk, who shall present the same to the board of trustees at their next regular meeting, and the board thereupon shall determine and assess the amount properly chargeable against each such parcel and its owner on account of such abatement work.
- B. The clerk, forthwith after the making of such assessment as provided in subsection A of this section, shall send by ordinary mail, addressed to each such owner at his last known address, a notice of such assessment and a statement of the amount thereof, and the clerk shall file in the records of the town a certification of such mailing. If such owner shall fail, neglect or refuse to pay such assessment within thirty (30) days after the mailing of such notice, the clerk shall certify said assessment to the Kit Carson County treasurer or to the county officer having custody of the tax list at the time of such certification, to be by such officer placed upon the tax rolls for the current year and to be collected in the same manner as other taxes are collected, with a ten percent (10%) penalty thereon to defray the cost of collection, as provided by law, and the same shall be a lien upon each such parcel of real property until paid. (Ord. 129, 3-14-1994)

3-2-5: PENALTY: Any person who shall violate this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to penalty as provided in section 1-4-1 of this code, notwithstanding that an assessment may have been made as herein provided. (Ord. 129, 3-14-1994)

CHAPTER 3

JUNK, JUNKED VEHICLES AND JUNKYARDS

SECTION:

- 3-3-1: Definitions
- 3-3-2: Nuisances Declared; Exceptions
- 3-3-3: Abatement Procedures
- 3-3-4: Penalties

- 3-3-1: **DEFINITIONS:** For the purpose of this chapter the following definitions or terms shall apply:

JUNK: Old or scrap metal, appliances, or equipment, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, appliances, equipment, or parts thereof, iron, steel, tin, aluminum, and other old scrap ferrous or nonferrous material.

JUNKED VEHICLE: Any vehicle formerly used for transportation on public streets and highways which does not have a current license and registration and/or has been practically inoperative, either by operation of law or as a matter of fact, for a period of sixty (60) days or longer. "Practically inoperative" shall mean the vehicle is incapable of being safely driven, under its own power, upon the streets and highways of the state of Colorado.

JUNKYARD: Any establishment or place of business maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of junked vehicles.

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**MOTOR VEHICLE
COLLECTOR:**

A. The owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades, or disposes of these vehicles or parts thereof for his own use in order to preserve, restore, and maintain a vehicle for hobby purposes or uses; or

B. A bona fide member of a national automobile club or association whose charter recognizes in membership a sincere demonstration of interest in the history of automotive engineering, in the preservation of antique vintage, or special interest motor vehicles, in a sharing of knowledge and experience with other automotive enthusiasts, and in the promotion of good fellowship among such members or collectors. (Ord. 154, 9-10-2001)

3-3-2: NUISANCES DECLARED; EXCEPTIONS:

A. Junk Or Junked Vehicles¹: Junk and junked vehicles are deemed to be a nuisance.

1. Junk; Notice To Remove, Time Limit: No owner of any lot, block, or parcel of ground within the town of Flagler, nor any tenant or agent in charge thereof, shall allow or permit any junk to remain on such lot, block or parcel of ground, on or along any sidewalk adjoining the same, or in the alley adjoining the same, to remain on the property longer than thirty (30) days after receiving notice to remove such junk.

2. Junked Vehicles, Equipment Or Parts; Removal Required, Time Limit: No owner of any lot, block, or parcel of ground within the town of Flagler, nor any tenant or agent in charge thereof, shall allow or permit any junked, discarded or partially wrecked vehicle, equipment, or parts thereof, to remain on such lot, block or parcel of ground, or on or along any sidewalk adjoining the same, or in the alley adjoining the same, to remain on the property longer than thirty (30) days once the vehicle has been defined as a junked vehicle.

1. See subsection 3-2-1B of this title.

- B. Junkyards: Junkyards are allowed only in such districts as may be allowed, if at all, in title 8 of this code. Any junkyards not thus allowed are deemed to be a public nuisance.
- C. Exceptions: This chapter shall not apply to a motor vehicle dealer or a used motor vehicle dealer who is licensed and in compliance with all applicable state of Colorado statutes, including, but not limited to, Colorado Revised Statutes 12-6-101 et seq., and provided that the operation of the business complies with all local, state, and federal rules, laws, and regulations applicable to the sale of motor vehicles. Further, a motor vehicle collector may store motor vehicles, as described in Colorado Revised Statutes 42-12-101 et seq., or parts thereof, on his private property provided such vehicles and parts, cars, and the outdoor storage areas are maintained in such manner that they do not constitute a health hazard, a safety hazard, or a fire hazard, and are effectively screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means approved by the board. Such storage areas shall be kept free of weeds, trash, and other objectionable items. (Ord. 154, 9-10-2001)

3-3-3: **ABATEMENT PROCEDURES:** The town shall remedy or abate any nuisance as defined by this chapter in the following manner:

- A. If any owner, tenant or agent in charge of real property shall allow a nuisance to exist on any lot, block or parcel, or alley for longer than thirty (30) days after being notified in writing to remove the nuisance, by the designated appointed town employee or agent, by personal service or registered or certified mail, the designated town official may direct that the nuisance be abated or caused to be abated by the town, and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) additional fee of the total cost for inspection and other incidentals. The town may also, at its option, cite the offending party or parties to appear in the Flagler municipal court, prior to abatement procedures being implemented. In the event that the matter is placed before the Flagler municipal court, the costs of abatement may include the legal costs incurred by the town in enforcing this chapter.
- B. Upon abatement being taken by the town, the offending party or parties shall have thirty (30) days to pay the assessment. Failure to pay such assessment shall cause such assessment to become a lien against such lot, block or parcel of land which assessment shall have priority over all liens, except general taxes and prior special

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assessments, and the same may be certified at any time, after such failure to so pay the same, within thirty (30) days, by the town clerk to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection. (Ord. 154, 9-10-2001)

3-3-4: **PENALTIES:** Any person or entity found to be guilty of violating any of the provisions of this chapter, may be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this chapter are committed, continued, or permitted. Such offense may be punishable by a fine not to exceed the sum of five hundred dollars (\$500.00) per offense. (Ord. 154, 9-10-2001)

CHAPTER 4

WEEDS, BRUSH AND RUBBISH¹

SECTION:

- 3-4-1: Nuisance Declared
- 3-4-2: Duty Of Property Owner To Remove
- 3-4-3: Removal By Town; Costs
- 3-4-4: Violation And Penalty

3-4-1: **NUISANCE DECLARED:** All weeds, brush and rubbish on private property and on adjoining alleys and adjoining streets and avenues to the curb lines thereof within the town are hereby declared to be a nuisance and a threat and danger to the health, welfare and safety of the inhabitants of the town. (Ord. 117, 3-12-1984; amd. Ord. 154, 9-10-2001)

3-4-2: **DUTY OF PROPERTY OWNER TO REMOVE:** Every owner of real property within the corporate limits of the town and the tenants or agents in charge thereof shall be and are required to cut and remove all weeds from said property and adjoining alleys and adjoining streets and avenues to the curb line and to remove all brush and rubbish therefrom and keep and maintain said property, alley and portion of street and avenue free from weeds, brush or rubbish. (Ord. 117, 3-12-1984; amd. Ord. 154, 9-10-2001)

3-4-3: **REMOVAL BY TOWN; COSTS:**

- A. Authority To Remove; Notice; Costs: In the event of the failure or refusal of any such owner, tenants or agent to comply with the provisions of section 3-4-2 of this chapter, the town shall have the power and authority to destroy or remove such weeds, brush and rubbish and to assess the cost thereof against the real property as

1. See also chapter 1 of this title.

provided in this chapter; provided, however, that not less than fifteen (15) days prior to the exercise of such power, the town, through its duly acting clerk, shall first give notice in writing to the landowner and to the tenant or agent in charge, by registered mail at the last known address of such persons, giving notice that if the weeds, brush and rubbish are not removed from the premises on or before fifteen (15) days from the date of such notice, such removal will be done by the town and the cost thereof, including cost of inspection and other incidental costs, will be assessed against the real property.

- B. **Costs Assessed:** Upon completion of the work provided for in subsection A of this section, a statement showing the cost and expense of such work for each parcel of real estate by separate ownership shall be filed with the clerk, who shall present the same to the board of trustees at its next regular meeting, and the board, thereupon, shall determine and assess the amount properly chargeable against each such parcel and its owner on account of such work and any charges incidental thereto.
- C. **Notice Of Assessment; Lien:** The clerk, forthwith after the making of such assessment as provided in the preceding subsection, shall send by ordinary mail, addressed to each such owner at his last known address, a notice of such assessment and a statement of the amount thereof, and the clerk shall file in the records of the town a certification of such mailing. If such owner shall fail, neglect or refuse to pay such assessment within thirty (30) days after the mailing of such notice, the clerk shall certify said assessment to the Kit Carson County treasurer or to the county officer having custody of the tax list at the time of such certification, to be by such officer placed upon the tax rolls for the current year and to be collected in the same manner as other taxes are collected, with a ten percent (10%) penalty thereon to defray the cost of collection, as provided by law, and the same shall be a lien upon each such parcel of real property until paid. (Ord. 117, 3-12-1984; amd. Ord. 154, 9-10-2001)

3-4-4: **VIOLATION AND PENALTY:** Any person who shall violate this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 117, 3-12-1984; amd. 1992 Code; Ord. 154, 9-10-2001)

CHAPTER 5
FIREWORKS

SECTION:

- 3-5-1: Definition
- 3-5-2: Prohibited Acts
- 3-5-3: Public Displays, Permits
- 3-5-4: License Issuance For Manufacture, Wholesale Or Retail
- 3-5-5: Responsibility To Remove Combustibles
- 3-5-6: Educational Rockets

3-5-1: **DEFINITION:** As used in this chapter, unless context otherwise requires, the following definitions shall apply:

- A. "Fireworks" means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, dayglo bombs, and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance.
- B. "Fireworks" does not include, toy caps which do not contain more than twenty five one-hundredths ($\frac{25}{100}$) of a grain of explosive compound per cap; sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices, and novelty auto alarms; or highway flares, railway fusees, ship distress signals, smoke candles, and other emergency signal devices. (1992 Code; amd. Ord. 154, 9-10-2001)

3-5-2: **PROHIBITED ACTS:** Except as provided for in this chapter, and article 28, title 12 of the Colorado Revised Statutes as hereinafter amended, it shall be a misdemeanor for any person to offer for sale, expose for sale, sell or have in his possession with intent to offer for sale, sell, use or explode any fireworks. (1992 Code; amd. Ord. 154, 9-10-2001)

3-5-3: **PUBLIC DISPLAYS, PERMITS:** The board of trustees has the authority to grant permits for supervised public displays of fireworks. The application for permit shall be made at least fifteen (15) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such a character and so located, discharged and fired as not to be hazardous to property, or endanger any person. Before a permit is granted, the operator and location and handling of the display shall be approved, after investigation, by the fire chief. No such permit shall be transferable or assignable. The board of trustees shall require a performance bond from the permittee in a sum of not less than one thousand dollars (\$1,000.00) conditioned upon compliance with the provisions of this chapter and article 28, title 12 of the Colorado Revised Statutes. The town shall not be required to post a bond for displays which it produces. (1992 Code; amd. Ord. 154, 9-10-2001)

3-5-4: **LICENSE ISSUANCE FOR MANUFACTURE, WHOLESALE OR RETAIL:** The board of trustees may grant a license for a person or organization to manufacture, wholesale, or retail fireworks within the town. The license shall be valid for a period of twelve (12) months from the date of issuance and a license fee shall be set by resolution of the board of trustees. No license shall be issued until such time as the person making application has filed with the town clerk proof of public liability insurance in an amount to be specified by resolution of the board of trustees. The license shall not issue unless the board of trustees finds the following to be facts:

- A. The applicant, or if a corporation its officers and directors, are of good moral character and reputation and in determining character, the board of trustees be governed by the provisions of Colorado Revised Statutes 24-5-101, as amended;
- B. The applicant has no plan, intent or scheme to make sales prohibited by state law; and

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- C. The applicant has obtained a license to manufacture, wholesale or retail fireworks from the secretary of state of Colorado. (1992 Code; amd. Ord. 154, 9-10-2001)

3-5-5: **RESPONSIBILITY TO REMOVE COMBUSTIBLES:** The town marshal shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held contrary to the provisions of this code or Colorado state law. (1992 Code; amd. Ord. 154, 9-10-2001)

3-5-6: **EDUCATIONAL ROCKETS:** Nothing in this chapter shall prevent or regulate the manufacture, sale, use or possession of educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant when such engine or model cartridge is designed to be ignited by electrical means. (1992 Code; amd. Ord. 154, 9-10-2001)

CHAPTER 6

YARD OR GARAGE SALES

SECTION:

- 3-6-1: Purpose
- 3-6-2: Definitions
- 3-6-3: Limitations
- 3-6-4: Notification To Town Clerk

3-6-1: **PURPOSE:** The purpose of this chapter is to limit and regulate the number of yard or garage sales that can be held at any one location during a period of one year in a residential district within the town of Flagler. (Ord. 133, 4-13-1998)

3-6-2: **DEFINITIONS:** For the purpose of this chapter, the meanings of words herein contained shall be as follows:

LOCATION: Any part of the physical address given by the town of Flagler to a site wherein a yard or garage sale is held.

**YARD SALE OR
GARAGE SALE:** The offering for sale of new or used items of personalty, for gain, by a person, persons, or other entity, from the yard, driveway, garage, or any other portion of a subject location in a residential area. "Yard sale or garage sale" shall not refer to a sidewalk or other similar outdoor site owned or operated by an established business in a commercial or industrial district, and used for the sale of retail goods. Further, a "yard sale or garage sale" shall not refer to a home occupation as defined in the town's zoning ordinance¹. (Ord. 133, 4-13-1998)

1. See title 8 of this code.

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3-6-3: **LIMITATIONS:** No person, persons, or other entity shall be allowed to conduct, hold, operate, or allow the conducting, holding, or operation of a yard or garage sale at a location more than four (4) times over a period of three hundred sixty five (365) consecutive days. Should a yard or garage sale carry over into subsequent days, each day shall be counted toward the four (4) day allowed maximum. The board, may at its discretion, allow additional days for the holding of a yard or garage sale upon written request from the applicant and for good cause shown. (Ord. 133, 4-13-1998)

3-6-4: **NOTIFICATION TO TOWN CLERK:** No later than twenty four (24) hours prior to the holding of a yard or garage sale, the owner of the subject location shall provide notice to the town clerk of such sale and the town clerk will register such sale date for purposes of compliance with this chapter. (Ord. 133, 4-13-1998)

CHAPTER 7

GROUND WATER PROTECTION**SECTION:**

- 3-7-1: Definitions
- 3-7-2: Restrictions Within The Primary Protection Zone
- 3-7-3: Exemptions
- 3-7-4: Preservation Of Ground Water
- 3-7-5: Maps
- 3-7-6: Penalties

3-7-1: DEFINITIONS:

- AQUIFER:** A geologic formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs.
- GROUND WATER:** Water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.
- HAZARDOUS SUBSTANCES:** Petroleum products and those materials and substances identified by the state of Colorado and the United States' federal laws as being hazardous, on the federal hazardous waste list, or substances other than those listed on the federal hazardous waste list that are determined by state or federal agencies to pose a significant threat to any community water supply, well, or well field.
- PETROLEUM PRODUCT:** Fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils,

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motor oils, hydraulic fluids, and other similar products.

POTABLE WATER:

Water that is satisfactory for drinking, culinary, and domestic purposes meeting current state and federal drinking water standards.

PRIMARY
PROTECTION ZONE:

An area extending not less than two hundred feet (200') radially from any well supplying potable water to any community water system.

STORAGE SYSTEM:

Any one or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults, or other portable or fixed containers used, or designed to be used, for the storage of hazardous substances.

WELL:

Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to convey ground water from an aquifer or aquifer system to the surface by pumping or natural flow, or to monitor the characteristics of ground water within an aquifer system. (Ord. 153, 9-10-2001)

**3-7-2: RESTRICTIONS WITHIN THE PRIMARY PROTECTION
 ZONE:**

- A. No person shall discharge or cause or permit the discharge of a hazardous substance (including herbicide and pesticide) to the soils, ground water, or surface water within the primary protection zone except as allowed in section 3-7-3 of this chapter. Any person knowing or having evidence of a discharge shall report such information to the appropriate water system personnel.
- B. New sanitary landfills are prohibited within the primary protection zones.
- C. The use, handling, production, and storage of hazardous substances is prohibited in primary protection zones except as provided in section 3-7-3 of this chapter.

- D. Wastewater treatment plants are prohibited within the primary protection zones.
- E. Septic tanks are prohibited within the primary protection zone. (Ord. 153, 9-10-2001)

3-7-3: EXEMPTIONS: The following activities or uses are exempt from the provisions of section 3-7-2 of this chapter:

- A. The transportation of any hazardous substance through the primary protection zone, provided the transporting vehicle is in transit.
- B. The use of herbicides and pesticides may be used within the primary protection zone provided that best management practices are used as approved by the town manager or it is determined that the use of such herbicides and pesticides does not pose a serious threat to the ground water.
- C. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
- D. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facilities.
- E. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- F. Consumer products limited to use within a commercial business or public facility and used solely for janitorial or minor maintenance purposes.
- G. Consumer products located in the home which are used for personal, family, or household purposes.
- H. The use of water treatment chemicals connected with the operation of the well. (Ord. 153, 9-10-2001)

3-7-4: PRESERVATION OF GROUND WATER:

- A. The town of Flagler hereby claims and appropriates as part of its water service to its residents, all right, title, and interest in and to the ground water and right to use ground water in the alluvium and aquifers underlying and located within the town boundaries.

3-7-4

3-7-6

- B. After the effective date hereof, no person other than the town of Flagler and/or its authorized agents, may drill or construct a water well or withdraw ground water from the alluvium or aquifers underlying and located within the town boundaries.
- C. Those wells which are owned and operated by private persons within the town as of the effective date hereof and which are drawing water from the alluvium or aquifer underlying the town may continue to operate and draw water as before and said wells may also be repaired or rehabilitated when needed. However, said use or quantity of water drawn from such wells may not increase significantly and the well may not be substituted, relocated, or otherwise moved by the owner or operator without the consent of the town of Flagler. (Ord. 153, 9-10-2001)

3-7-5: **MAPS:** The town shall maintain at the town hall maps or other details reflecting the location of the primary protection zones available for inspection. (Ord. 153, 9-10-2001)

3-7-6: **PENALTIES:** Any violation of this chapter shall be punishable by a fine of up to five hundred dollars (\$500.00) for each separate violation thereof. Further, the town may seek equitable remedies for any recurring violation including injunctions and restraining orders. (Ord. 153, 9-10-2001)