

ORDINANCE NO. 02-09
Series of 2009

AN ORDINANCE OF THE TOWN OF DILLON, COLORADO AMENDING CHAPTER 7, "HEALTH, SANITATION AND ANIMALS," OF THE DILLON MUNICIPAL CODE OF THE TOWN OF DILLON, COLORADO TO ADD A NEW ARTICLE VIII, "AQUATIC NUISANCE SPECIES;" AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town Council of the Town of Dillon, Colorado, wishes to amend Chapter 7, "Health, Sanitation and Animals," of the Dillon Municipal Code of the Town of Dillon, Colorado, to add a new Article VIII, "Aquatic Nuisance Species," to allow for the inspection of boats prior to use at the Dillon Marina in order to avoid the contamination of the Dillon Reservoir with aquatic nuisance species, namely zebra/quagga mussels; and,

WHEREAS, the Town Council has determined that it is in the best interest of the citizens of the Town to amend the Dillon Municipal Code as set forth herein below.

NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. That Chapter 7, "Health, Sanitation and Animals," of the Dillon Municipal Code of the Town of Dillon, Colorado shall be and hereby is amended to add a new Article VIII, "Aquatic Nuisance Species," to read as follows:

CHAPTER 7 Health, Sanitation and Animals

Article VIII Aquatic nuisance species

Sec. 7-8-10 Definitions.

As used in this Article, unless the context otherwise requires:

Aquatic nuisance species means exotic or nonnative aquatic wildlife or any plant species that have been determined by the State of Colorado Board of Parks and Outdoor Recreation in the Department of Natural Resources to pose a significant threat to the aquatic resources or water infrastructure of the state.

Conveyance means a motor vehicle, vessel, trailer, or any associated equipment or containers, including, but not limited to, live wells, ballast tanks, and bilge areas that may contain or carry an aquatic nuisance species.

Decontaminate means to wash, drain, dry, or chemically or thermally treat a conveyance in accordance with rules promulgated by the State of Colorado Board of Parks and Outdoor Recreation in the Department of Natural Resources in order to remove or destroy an aquatic nuisance species.

Equipment means an article, tool, implement, or device capable of containing or transporting water.

Inspect means to examine a conveyance pursuant to procedures established by the Marina by regulation in order to determine whether an aquatic nuisance species is present, and includes examining, draining, or chemically treating water in the conveyance.

Marina means the Town of Dillon marina.

Qualified peace officer means a Town of Dillon police officer, Code enforcement officer or Level Two US Fish and Wildlife Service certified watercraft inspector.

Sec. 7-8-20 Powers and duties of the Marina.

(1) In order to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the Town, the Dillon Marina is hereby authorized to establish, operate, and maintain an aquatic nuisance species check station in order to inspect conveyances pursuant to Section 7-8-30.

(2) Upon a reasonable belief that an aquatic nuisance species may be present, the Marina may:

(a) Require the owner of a conveyance to decontaminate the conveyance; or

(b) Decontaminate or impound and quarantine the conveyance pursuant to Section 7-8-30.

(3) The Marina may monitor the waters of the Town for the presence of aquatic nuisance species.

Sec. 7-8-30 Inspection of conveyances - impoundment and quarantine.

(1) (a) Every qualified peace officer is authorized to enforce this Article; except that such officer shall have a reasonable belief that a conveyance may contain an aquatic nuisance species before the officer orders the conveyance decontaminated or impounded and quarantined.

(b) Every qualified peace officer is authorized to stop and inspect for the presence of aquatic nuisance species a conveyance:

- (I) Prior to a vessel being launched onto waters of the Town;
- (II) Prior to departing from the waters of the Town or a vessel staging area;
- (III) That is visibly transporting any aquatic plant material; and
- (IV) Upon a reasonable belief that an aquatic nuisance species may be present.

(2) Except as provided in subsection (4) of this Section 7-8-30, a qualified peace officer may impound and quarantine a conveyance if:

- (a) The qualified peace officer finds or reasonably believes that an aquatic nuisance species may be present after conducting an inspection authorized by this Article;
- (b) The person transporting the conveyance refuses to submit to an inspection authorized by this Article for the presence of an aquatic nuisance species; or
- (c) The person transporting the conveyance refuses to comply with an order authorized by this Article to decontaminate the conveyance.

(3) The impoundment and quarantine of a conveyance may continue for the reasonable period necessary to inspect and decontaminate the conveyance and ensure that the aquatic nuisance species has been completely eradicated from the conveyance and is no longer living.

(4) Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded or quarantined pursuant to this Article; however, the conveyance being drawn is still subject to impoundment and quarantine under this Section 7-8-30.

Sec. 7-8-40 Prohibition of aquatic nuisance species - penalties.

(1) No person shall:

- (a) Possess, import, export, ship, or transport an aquatic nuisance species;
- (b) Release, place, plant, or cause to be released, placed, or planted into the waters of the Town an aquatic nuisance species; or
- (c) Refuse to comply with a proper order issued under this Article.

(d) Put a conveyance into the waters of the Town that has not been inspected and approved by the Town's aquatic nuisance species check station, or otherwise granted approval to be placed into such waters of the Town.

(2) A person who knowingly or willfully violates subsection (1) of this Section 7-8-40:

(a) For a first offense, is guilty of non-criminal violation as provided for in Sec. 1-4-20(a) of this Code;

(b) For a second and any subsequent offense, is guilty of criminal violation as provided for in Sec. 1-4-20(b) of this Code.

Sec. 7-8-50 Duty to report.

A person who knows that an aquatic nuisance species is present at a specific location shall immediately report such knowledge and all pertinent information to the Marina management.

Section 2. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 3. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS
17TH DAY OF MARCH, 2009.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE
ONLY THIS 7TH DAY OF APRIL, 2009.**

TOWN OF DILLON,
a Colorado municipal corporation

By: _____
Barbara Davis, Mayor

ATTEST:

By: _____
Jan Thomas, CMC, Town Clerk