

## CHAPTER 7

### Health, Sanitation and Animals

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## ARTICLE I

### Garbage, Refuse and Trash

#### Sec. 7-1. Definitions.

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

(1) *Administrative authority* means the Town Manager, the Town Manager's designee or such other administrative official appointed to perform inspections, removal or other duties and to promote the enforcement of this Code.

(2) *At the curb* means at or near the perimeter of the premises, whether or not there is a curb, but does not mean or permit placement on the sidewalk or in the street.

(3) *Compost* means a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.

(4) *Garbage* means solid wastes from the domestic and commercial preparation and handling of food and from the storage and sale of produce.

(5) *Hazardous waste* means any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis and waste paints and inks.

(6) *Occupant* means a person entitled to possession of the property or premises, whether or not the owner.

(7) *Owner* means the owner of record, whether an individual, individuals or entity, any agent or representative of the record owner and any person or persons entitled to possession of the premises.

(8) *Property* means and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of records and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.

(9) *Refuse* means solid or liquid wastes, except hazardous wastes, whether putrescible or nonputrescible, combustible or noncombustible, organic or inorganic, including by way of illustration and not limitation wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width or breadth.

(10) *Refuse container* means a watertight receptacle of a solid and durable metal or nonabsorbent, fire-resistant plastic with a tightly fitting, insect- and rodent-proof cover of metal or plastic or a tightly secured plastic bag.

(11) *Rubbish* means nonputrescible solid wastes of a large size, including by way of illustration and not limitation large brush, wood, large cardboard boxes or parts thereof, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three (3) feet or more in length, width or breadth.

(12) *Town Manager* means the Town Manager of the Town of Kersey, Colorado, or the Town Manager's designee. (Ord. 142 §I, 1979; Ord. 195 §1, 1993; Ord. 2005-008 §1)

### **Sec. 7-2. Purpose.**

The purpose of this Chapter is to protect the public health, safety and welfare by regulating the accumulation, storage, transportation and disposal of refuse and rubbish to prevent conditions that may create fire, health or safety hazards, harbor undesirable pests or impair the aesthetic appearance of the neighborhood or Town. (Ord. 195 §1, 1993; Ord. 2005-008 §1)

### **Sec. 7-3. Garbage, refuse and rubbish accumulation prohibited.**

(a) The owner and the occupant of any premises within the Town, whether business, commercial, industrial or residential premises, shall maintain the property in a clean and orderly condition, permitting no deposit or accumulation of materials other than those collected in conjunction with a business enterprise lawfully situated and/or licensed for such storage or collection. All garbage, refuse and rubbish stored on the premises shall be stored in refuse containers and the storage area shall be kept free of loose refuse. Any refuse or rubbish which by its nature is incapable of being stored in refuse containers shall be neatly stacked and stored. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are not spilled by animals, wind or other elements and screened from view of the street.

(b) No person shall store or permit to remain on any business, commercial, industrial or residential premises owned or occupied by such person any manure, refuse, animal or vegetable matter or any foul or nauseous liquid waste, garbage or rubbish, which is likely to become putrid, offensive or injurious to the public health, safety or welfare, for a period longer than seven (7) days at any one (1) time.

(c) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

(d) The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents or is hazardous to persons is unlawful and is hereby declared to be a nuisance and a nonconforming use of the premises. (Ord. 195 §1, 1993; Ord. 2005-008 §1)

**Sec. 7-4. Responsibility for collection and disposal.**

(a) Each occupant or each owner of any premises wherein rubbish is produced or accumulated shall be jointly and severally responsible to provide for collection and removal of garbage, refuse and rubbish to the degree service is necessary to maintain the premises in a clean and orderly condition.

(b) All refuse containers or recyclable materials containers shall be kept in an appropriate storage area except on collection day or within twelve (12) hours preceding the time of regularly scheduled collection, when the containers may be placed at the curb or upon the edge of the alley for collection. Following collection, containers shall be returned to the storage area within twelve (12) hours after collection. Containers shall not at any time be placed on the sidewalk or street or in any manner so as to impair or obstruct pedestrian, bicycle or vehicular traffic. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-5. Tampering with containers**

(a) No person, other than the owner or agent or employee of any owner, occupant or entity shall tamper with any refuse container or its contents, remove the contents of any refuse container or remove a refuse container from the location where the same has been placed by the owner.

(b) No owner of any dog, cat or other pet shall permit, whether by overt act or omission, that pet to damage or open any refuse container or scatter the contents. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-6. Hazardous waste.**

No person shall place hazardous waste in containers for collection or bury or otherwise dispose of hazardous waste on public or private property anywhere within the Town. Hazardous waste shall be disposed of at the Weld County Health Department Hazardous Waste Collection Facility or other approved facility. No person shall cause or permit any toxic or flammable liquids or any waste containing crude petroleum or its products to be discharged into or upon any property, gutter, street, alley, highway, stormwater facility or watercourse or upon the ground, unless such liquid has undergone suitable treatment. This Section shall not apply to the Police Department or Fire Department, in an emergency or in an attempt to clean up a hazardous waste spill. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-7. Refuse containment in transit.**

No person shall collect, transport or receive any refuse or rubbish within or upon any public streets in the Town or anywhere in the Town except in leakproof containers or vehicles so constructed that no refuse or rubbish can leak or sift through, fall out of or be blown from such container or vehicle. Any person collecting or transporting any refuse or rubbish shall immediately pick up all refuse and rubbish which drops, spills, leaks or is blown from the collecting or transporting container or vehicle and shall otherwise clean the place onto which any such refuse or rubbish was so dropped, spilled, blown or leaked. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-8. Waste material; deposit on private property prohibited.**

It is unlawful for any person to discard or abandon refuse or rubbish upon premises not owned or occupied by such person without the consent of the owner thereof or the person occupying the same, and such materials so deposited without such consent shall be deemed to have been discarded and abandoned if the same remains upon such premises for a period exceeding seventy-two (72) hours. Discarding and abandonment of any such materials shall be deemed to be permission by the owner thereof to the Town to remove the same and assess the costs of such removal against those persons discarding or abandoning the same in accordance with the provisions of Sections 7-4 and 7-5 of this Article. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-9. Owner's ultimate responsibility.**

Every owner remains liable for violations of responsibilities imposed upon an owner by this Chapter even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises or furnishing required refuse containers and collection; except that no owner shall be responsible for the cost of removal pursuant to Section 7-11 of this Article, unless said owner has been sent a notice described in Section 7-11 to an address the owner has provided to the Town or to the owner's address in the County Assessor's records. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-10. Administrative authority.**

The administrative authority is authorized and directed to inspect and supervise the premises within the Town and, if it is found that any refuse, rubbish or garbage exists on any property in violation of this Chapter, the administrative authority shall, in addition to any other action permitted under this Code, remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess and collect a reasonable charge from the owner or occupant, all in accordance with the notice, removal and assessment provisions of Section 7-11 of this Article. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-11. Removal and assessment.**

(a) If any person fails to comply with the provisions of this Article, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the removal from the property of all refuse and rubbish found on the premises or in the adjoining streets and alleys. Such notice shall require removal of all refuse and rubbish within seven (7) days after mailing or delivery of such notice, except that if such accumulation of refuse and rubbish constitutes or may create a fire, health or safety hazard or harborage for rodents, such notice shall require removal within seventy-two (72) hours. If such refuse and rubbish are not removed within the stated time and maintained within compliance for the remainder of the calendar year, the Town may remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess the whole cost thereof, including fifteen percent (15%) of the costs for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the Town pursuant to this Article associated with removal of refuse and rubbish shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the

collection of any unpaid charges for rubbish or refuse removal in the manner provided by law for collection of debts and claims on behalf of the Town, including without limitation, collection and lien procedures provided in this Section.

(b) In addition to any other means provided by law for collection, if any such assessment is not paid within thirty (30) days after it is made and notice thereof is mailed, the same may be certified by the Town Clerk to the proper county authority and placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with a fifteen-percent penalty thereon to defray the cost of collection, as provided by the laws of the State.

(c) Failure to pay, within ten (10) days after mailing or delivery to the owner of the property, the amount assessed for refuse or rubbish removal as described in this Section shall cause such assessment to become a lien against such lot, block or parcel of land associated with and benefiting from said services, and said lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be effected at any time after such failure to so pay by recordation with county land records of a certification by the Town, setting forth the costs to be charged against the property, the dates of service and descriptions of services giving rise to such charges. This lien and collection procedure is supplementary and additional to any collection procedures described elsewhere within this Section or this Code. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Sec. 7-12. Appeal of assessment.**

(a) Any owner or occupant who disputes the amount of such assessment made against the property may, within thirty (30) days of receipt of the notice of assessment, appeal the assessment and request a revision or modification of the assessment.

(b) The appeal shall be made in writing and delivered to the Town Clerk and shall set forth such information as the applicant believes appropriate. Such appeal shall be heard by the Board of Adjustment within thirty (30) days after the appeal is filed with the Town Clerk. Notice of such hearing and proceedings shall be given to the applicant at least ten (10) days prior to the hearing date. The petitioner shall have the burden of proof that revision or modification is necessary to preserve substantial justice.

(c) Within ten (10) days after the hearing, the Board of Adjustment shall make findings of fact based upon information presented, shall make a decision based upon such findings and may revise or modify such assessment, confirm the assessment or reject the assessment to promote substantial justice. The decision of the Board of Adjustment shall be in writing, shall be final and shall be served upon the applicant within ten (10) days after the date of such decision, personally or by certified mail, return receipt requested. (Ord. 195 §1, 1993; Ord. 2005-O08 §1)

**Secs. 7-13—7-30. Reserved.**

## ARTICLE II

### Nuisances

#### **Sec. 7-31. Accumulation to constitute nuisances.**

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 by the Zoning Ordinance of the Town 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 in violation of this Article. (Ord. 195 §1, 1993)

#### **Sec. 7-32. Discharge of nauseous liquids.**

No person shall, himself or herself or by another in the Town, discharge out of or from or permit to flow from any house or place any foul or nauseous liquid or substance of any kind whatever into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 195 §1, 1993)

#### **Sec. 7-33. Littering.**

(a) It shall be unlawful for any person to throw or cause to be thrown or permit anyone in his or her employ to throw onto any public highway, thoroughfare, street, sidewalk or other place any kind of wire or scrap paper; any ashes, cans or glass of any character; old clothes; cloth of any kind; boots; shoes; hats; leather; hair; straw or hay; animal, vegetable or any other substance whatever; or any type of advertising matter; or to distribute or cause to be distributed or permit anyone in his or her employ to distribute any type of advertising matter in such a manner so as to cause the littering of any public highway, thoroughfare, street, sidewalk or public place. It shall further be unlawful for any person to sweep or cause to be swept, or cause anyone in his or her employ to sweep, from any store, office, warehouse, factory, hotel or any other building, occupied in whole or in part for commercial purposes, any refuse or dirt from such building onto any public highway, thoroughfare, street, sidewalk or other public place in the Town.

(b) It shall be unlawful for any person to drive, move or propel a vehicle or to allow a vehicle owned by such person to be driven, moved or propelled in such a manner so as to cause to be spilled, dropped or jostled onto any street, highway, thoroughfare, sidewalk or other public place in the Town any trash or rubbish; or to load or allow a vehicle to be so loaded so that the contents or any portion of the contents of such vehicle shall be spilled, dropped or jostled from such vehicle. Vehicles, including trucks loaded with or transporting any construction material, dirt, earth, clay, stone, macadam, brick, cement, sand, fuel, coal, wood, refuse or garbage, shall be loaded and the vehicle shall be in such condition so that none of the contents shall be loosed or spilled along the route which the vehicle is traveling.

(c) It shall be unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the Town any rubbish or trash, fruit or fruit particles, wrappers, containers, paper, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells,

stalks, animals, cloth or any other material of any kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(d) The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the Town, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. (Ord. 195 §1, 1993)

**Sec. 7-34. Use of property for dumping unlawful.**

It shall be unlawful for any person to 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. (Ord. 195 §1, 1993)

**Sec. 7-35. Nuisances enumerated.**

(a) Stale matter. No person whatsoever shall keep, collect or use, or cause to be kept, collected or used, in the Town any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation.

(b) Sewer inlet. No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article whatever that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health.

(c) Transporting of garbage; manure. Every cart or vehicle used to transport manure, garbage, swill or offal 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.

(d) Streets, streams and water supply. No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substances, or both, any dead animal, excrement, garbage or other offensive matter whatever upon any street, avenue, alley, sidewalk or public or private grounds. No person shall, in the Town, throw or deposit or cause or permit to be thrown or deposited 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.

(e) Dead animal; removal. When any animal shall die in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the Town. If such body shall not forthwith be 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 shall be in any street, highway or public grounds in the Town, it shall be the duty of the Town Administrator to cause such body to be removed forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the Town.

(f) Abate 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.

(g) Unused appliances. No person whatsoever shall keep any unused refrigerator, washer, dryer, freezer or other appliance within any accessible yard, lot carport or residential garage within the Town limits without first removing the door of the same.

(h) Removal of inoperable vehicle. It shall be unlawful for any person or other agent, either as owner, lessee, tenant or occupant of any lot or land within the Town to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Subsection shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations.

(i) Vacant residential dwellings. All broken windows in each vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Town Administrator.

(j) Outside storage of building materials. The outside storage of common building materials beyond a period of six (6) months is prohibited and declared to be a nuisance.

(k) Barking, yelping, howling or mewing by canine or feline. The keeping or harboring of any canine or feline which by loud, frequent or habitual barking, yelping, howling or mewing shall cause a serious annoyance to the neighborhood or to persons passing to and fro upon the streets or sidewalks is hereby declared a nuisance and is prohibited.

(l) Stagnant ponds. The permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance, and 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 nuisance accumulating thereon, and it shall be unlawful for any such owner or occupant to permit or maintain any such nuisance.

(m) Unauthorized posting of 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, store or other building or upon any fence, power pole, telephone pole 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. (Ord. 195 §1, 1993)

**Secs. 7-36—7-50. Reserved.**

## ARTICLE III

### Weeds, Refuse and Trees

#### Sec. 7-51. Definitions.

*Weed* means bindweed, dandelion, leafy spurge, Canada thistle, Russian knapweed, perennial sow thistle, puncture vine, poverty weed, knapweed, Russian thistle, fireweed, hairy stickweed, sandbur, common ragweed, cockleburs, common sunflower, marihuana and all weeds, grass, brush or other rank or noxious vegetation twelve (12) inches or more in height found growing on any lot or tract of land within the Town. Weeds are unlawful, a public nuisance and shall be removed. (Ord. 142 §II, 1979; Ord. 2005-008 §2)

#### Sec. 7-52. Weeds.

(a) It is unlawful for any person owning or having possession of any land, including any land abutting a public right-of-way, street, alley or sidewalk, to permit any weeds, grasses or unsightly vegetation to grow in height exceeding twelve (12) inches or to otherwise become a nuisance. For purposes of this Section, the term *public right-of-way* means and includes the non-traveled portion of any street or alley.

(b) Failure to cut or otherwise remove weeds as described above shall be unlawful. (Ord. 142 §III, 1979; Ord. 2005-008 §2)

#### Sec. 7-53. Removal.

If any person fails to comply with Section 7-52 above after issuance of a summons and complaint and a plea of guilty or trial to the Court and the finding of guilty, the Municipal Court may order the weeds cut by the Town and the cost of such cutting and removal to be added to any fine and costs previously imposed. If, within ten (10) days after such order, the costs of cutting and removal have not been paid, such costs shall become a lien upon the property and the proper Town official may certify such costs to the proper county authority for collection as taxes in the manner set forth in Sections 7-11 and 7-12 of this Chapter. In addition, a lien may be recorded in the County Clerk and Recorder's office, which lien shall not expire until paid and shall be superior to any other lien except the lien for general taxes and prior special assessments. (Ord. 142 §IV, 1979; Ord. 2005-008 §2)

#### Sec. 7-54. Sight obstruction.

Every owner or occupant of any property within the Town shall cut, trim or prune any weed, shrub, brush, tree or other vegetation which obstructs or interferes with a clear view of traffic signs or traffic on perpendicular streets or operation and maintenance of utility facilities or otherwise interferes with a sight distance triangle. (Ord. 142 §V, 1979; Ord. 2005-008 §2)

#### Sec. 7-55. Removal of dead or dangerous trees.

It shall be the duty of the owner, occupant or agent of any property to remove any dead trees or dead overhanging boughs or limbs which are dangerous to life or property located on the premises of such owner, occupant or agent. (Ord. 142 §VI, 1979; Ord. 2005-008 §2)

**Sec. 7-56. Removal or treatment of infected or infested trees.**

Upon discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of other trees or plants or which is capable of causing an epidemic spread of communicable disease or insect infestation, the Town shall require such property owner, occupant or agent to eradicate, remove or otherwise control such condition within a reasonable time, to be specified in a notice to the owner, occupant or agent. In addition to other notice provided herein, a notice shall be posted upon the dead, diseased, infected or infested tree. (Ord. 142 §VII, 1979; Ord. 2005-O08 §2)

**Sec. 7-57. Owner's ultimate responsibility.**

Every owner remains liable for violations of responsibilities imposed upon an owner by this Chapter, even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises or furnishing required refuse containers and collection. (Ord. 142 §VIII, 1979; Ord. 2005-O08 §2)

**Sec. 7-58. Yard waste composting regulations; nuisance.**

(a) Composting of yard wastes shall be permitted subject to the following specifications. The compost holding unit:

- (1) Shall not exceed five-foot cubes (125 cubic feet) in volume;
- (2) Shall be in a container constructed of wood, wire, metal or plastic, excluding plastic bags, or in a pit not more than two (2) feet deep or five (5) feet in diameter;
- (3) May be a stationary or rotating unit;
- (4) Shall be located in the backyard, and shall be screened or fenced so that it is not readily visible;
- (5) Shall be maintained to minimize odors; and
- (6) Shall not be allowed to attract rodents or to become a health or safety hazard.

(b) The creation or maintenance of yard waste composts in violation of the above specifications is hereby declared to be a public nuisance, and may be abated according to the procedures established in this Code for the abatement of nuisances. (Ord. 142 §X, 1979; Ord. 2005-O08 §2)

**Sec. 7-59. Prohibited trees.**

No owner, occupant, or agent shall allow any of the following trees to be planted, propagated or to grow in a wild and uncontrolled state upon any property: cotton-bearing cottonwood, cotton-bearing poplar, Siberian elm, Chinese elm, Russian elm or Russian olive. (Ord. 2005-O08 §2)

**Sec. 7-60. Administrative authority – trees.**

The administrative authority is authorized and directed to inspect and supervise the premises within the Town and, if it is found that any dead or dangerous tree or any infected or infested tree exists on any property in violation of this Article, the administrative authority shall, in addition to any other action permitted under this Code, remove or cause to be removed the dead or dangerous tree or infected and infested tree found upon such premises or in the adjoining streets or alleys, and assess and collect a reasonable charge from the owner/occupant in accordance with the notice, removal and assessment provisions of Sections 7-11 and 7-12 of this Chapter. (Ord. 2005-008 §2)

**Secs. 7-61—7-70. Reserved.**

**ARTICLE IV**

**Animals**

**Sec. 7-71. Definitions.**

As used in this Article, the following words shall be construed to have the meanings defined below:

(1) *Animal* shall include, but not be limited to, any cattle, horses, mules, sheep, goats or other hard-hoofed animals.

(2) *Fowl* shall include, but not be limited to, chickens, ducks, geese, turkeys, pigeons and other fowl. (Ord. 111 §2, 1974)

**Sec. 7-72. Permit required.**

(a) No person shall keep or maintain any animals, rabbits or fowl within the corporate limits of the Town unless such person has a valid permit to do so, and no animals, rabbits or fowl shall be allowed to run or fly at will.

(b) Application for a permit to keep animals, rabbits or fowl shall be made in writing on forms to be supplied by the Town Clerk. A permit shall continue until the end of the calendar year unless revoked as herein provided, and the permit shall not be transferable upon change in ownership of any animal, rabbit or fowl. (Ord. 111 §3, 1974)

**Sec. 7-73. Exclusions.**

(a) The area requirements or proximity of enclosures to residences, places of business and streets in this Article shall not be applicable to the display of fowl or animals by entrants in any show or fair authorized by the Town, nor the temporary maintenance by a licensed veterinarian of animals, rabbits or fowl during the time necessary for treatment.

(b) This Article shall not be applicable to any person engaged in operating a packing house or slaughterhouse governed by State Health Department regulations, and keeping animals or fowl for a

temporary period of time, not to exceed seventy-two (72) hours, in connection with the operation of such business. (Ord. 111 §5, 1974)

**Sec. 7-74. Hardship permit.**

Notwithstanding the provisions heretofore set forth, any person who considers such provisions unreasonable in his or her instance may apply to the Board of Trustees for a hardship permit. In determining whether such permit shall be authorized, the Board of Trustees shall be guided by the conditions herein set forth: the size of the premises, the population density of the area and the health, peace and welfare of neighbors of the applicant. The fee for a hardship permit, methods of revocation and hearing shall be the same as in the case of other permits. (Ord. 111 §6, 1974)

**Sec. 7-75. Revocation or denial of permits.**

(a) Upon the receipt of a complaint signed by any resident of the Town or upon an independent inspection conducted by the Chief of Police, the Chief of Police may recommend the revocation of any permit upon satisfactory evidence that the permittee is violating, or has violated, any of the conditions set forth in this Article. Upon such recommendation being filed with the Town Clerk, the Town Clerk shall cause written notice thereof to be mailed to the permittee notifying such permittee that hearings on such recommendation will be held at a Board of Trustees meeting in not less than ten (10) days from the date of the mailing of such notice, specifying the time and the place of said hearing. If, upon such hearing, the Board of Trustees finds that the permittee has violated the conditions set forth in this Article pertaining to the granting of such a permit, the Board of Trustees may forthwith revoke said permit and the permittee shall be allowed forty-eight (48) hours within which to rid the premises of such animals, rabbits or fowl and ten (10) days additional time to remove any offensive or prohibited material in accordance with the requirements of Section 7-77 below.

(b) Upon the denial of a permit under the provisions of this Article, the Town Clerk shall cause written notice of such denial to be mailed to the applicant, notifying said applicant of the denial. An applicant desiring to appeal such denial shall, within ten (10) days of receipt of the notice of such denial, notify the Town Clerk in writing, requesting a hearing before the Board of Trustees. Upon receipt of such request for hearing, the Town Clerk shall give notice of hearing to the applicant in the manner provided in the previous paragraph of this Section for hearings upon revocation. At any such hearing held after denial of a permit, the Board of Trustees shall, following such hearing, either direct that such permit be issued or affirm the denial of the permit. (Ord. 111 §7, 1974; 195 §1, 1993)

**Sec. 7-76. Swine and roosters.**

Notwithstanding the provisions heretofore set forth, no swine or male fowl capable of crowing shall be kept by any person within the boundaries of the Town, and no permit shall be issued therefor. (Ord. 111 §8, 1974)

**Sec. 7-77. Sanitary regulations.**

The premises upon which any animals, rabbits or fowl are kept shall be maintained in a sanitary condition and shall comply with all sanitary regulations. Said premises shall at all reasonable hours be subject to inspection by representatives of the Chief of Police. It shall be unlawful for any person

to refuse to permit such inspection upon identification being furnished that the inspector is a member of the Police Department. (Ord. 111 §10, 1974; 195 §1, 1993)

**Sec. 7-78. Penalties.**

Violation of any of the requirements of this Article, or failure to continue to comply with any conditions herein set forth, shall constitute a misdemeanor and upon conviction thereof shall be punished as set forth in Section 1-72 of this Code. (Ord. 111 §11, 1974)

**Secs. 7-79—7-90. Reserved.**

**ARTICLE V**

**Dogs**

**Sec. 7-91. License, application, fee and vaccination.**

(a) No person shall own, keep or harbor any dog, which has attained the age of five (5) months, within the limits of the Town without first having obtained a license. Application for the license shall be made to the Town Clerk.

(b) Each applicant for a license shall be required to pay a fee as set forth in the Town's fee schedule for each neutered or spayed dog and a fee as set forth in the Town's fee schedule for each unneutered or unspayed dog, or such other amount as may be set in a municipal fee schedule, prior to the issuance of the license. In the event that an applicant is charged in the Municipal Court with a violation of this Section, the application fee for a license for that year shall be as set forth in the Town's fee schedule for each neutered or spayed dog and a fee as set forth in the Town's fee schedule for each unneutered or unspayed dog. Any person who wishes to use the reduced fee for neutered or spayed animals shall present to the Town Clerk a signed statement from a licensed Doctor of Veterinary Medicine stating that such animal has been neutered or spayed.

(c) The Town Clerk shall not issue any license to any applicant until such applicant shall produce and display to the Town Clerk a certificate from a licensed Doctor of Veterinary Medicine showing that such dog has been vaccinated for rabies and that such vaccination will not expire during the period of the license.

(d) Dog licenses may be purchased at any time of the year and shall expire one (1) or two (2) years after the issuance of the license according to the terms of the license. Any dog brought into the Town shall be licensed within thirty (30) days after it is brought into the Town, and any keeper, harbinger or owner of any dog who becomes a resident of the Town shall cause the dog to be licensed within thirty (30) days after becoming a resident. Any dog which is brought into the Town on a temporary basis shall not need to be licensed if the temporary stay is less than thirty (30) days. Any dog brought into the Town on a temporary basis of greater than thirty (30) days shall be licensed according to this Article. (Ord. 188 §2, 1990; 195 §1, 1993)

**Sec. 7-92. Registration and replacement tag fee.**

(a) Upon proper application and payment of fees as provided in this Article, the Town Clerk will issue all licenses required by this Article, shall keep a suitable book or computer application for the registration of dogs, shall register therein all dogs whose owners, keepers or harborers have paid the fee herein provided, and shall keep a record of the date of registration, name, sex, breed and color of each dog so registered.

(b) The Town Clerk shall furnish to the person causing such dog to be registered a suitable metal tag bearing a number corresponding to that of the license issued for such dog and the year for which the tag is issued. Each dog so licensed shall be provided by its owner, keeper or harborer with a collar of suitable material with the license tag fastened thereto on such dog at all times while the dog is outside the owner's residence. Any owner who is requested to do so by an authorized Town official shall promptly present the tag to such official as proof of the dog's proper registration.

(c) No person shall use or permit the use of a license tag for any animal other than the animal for which the tag was duly issued.

(d) A duplicate metal license tag may be obtained from the Town Clerk upon payment of the fee as set forth in the Town's fee schedule if such tag is lost or destroyed. (Ord. 188 §3, 1990)

**Sec. 7-93. Dogs running at large.**

(a) No owner, keeper or harborer or any other person who has assumed responsibility for a dog shall permit such dog to run at large within the Town. The dog shall be presumed to be running at large when it is neither on the premises of the owner, keeper or harborer or other responsible person, nor on a leash ten (10) feet or less in length, attached to the dog and held by or tied to a person. A dog is presumed to be at large when it is found at any place within the Town other than upon the premises of its owner, keeper or harborer or if it is found in any public area designated by the Board of Trustees as being off limits to dogs and appropriate signs have been posted giving notice of the fact that dogs are not allowed.

(b) This Section shall not apply to professionally trained dogs utilized to assist physically impaired persons when accompanied by their masters, nor to dogs participating in dog shows, dog exhibits or dog training activities to the extent such exhibits and activities are conducted in compliance with law. (Ord. 188 §4, 1990; 195 §1, 1993)

**Sec. 7-94. Vicious dogs.**

(a) It shall be unlawful for any person to keep, harbor or possess a vicious dog or other vicious animal within the Town.

(b) *Vicious dog or animal* means any dog or animal that without provocation bites or attacks humans or other animals or in a vicious or terrorizing manner in an apparent attitude of attack approaches any person or other animal, whether or not the attack is consummated or capable of being consummated, or has otherwise acted in a manner that causes or should cause its owner to know that it is potentially vicious or dangerous, and specifically including animals with poisonous bites or any

animal which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property.

(c) No animal shall be construed to be a vicious animal if it has attacked or bitten any of the following persons:

(1) Any person engaged in the unlawful entry into or upon the animal owner's real or personal property;

(2) Any person engaged in attempting to stop a fight between such animal and another animal; and

(3) Any person engaged in attempting to aid such animal when it is injured. (Ord. 188 §5, 1990; Ord. 9-98 §1, 1998)

#### **Sec. 7-95. Impounding and redemption.**

(a) Any member of the Police Department or any authorized person may impound any dog found to be running at large within the Town. Any dog so impounded shall not be released by the Town or agency having control of the dog until the appropriate impound fee has been paid either to the agency having control of the dog or to the Town. The owner or other person having legal right to possession of the dog which has been impounded pursuant to this Article may redeem the dog any time while the dog is still at such an impound facility by paying a redemption fee, which redemption fee will be determined by the Town Clerk. The Town Clerk shall, not less frequently than annually, prepare a schedule setting forth the fees and boarding costs which must be paid prior to redemption. Such schedule shall be available from the Town Clerk upon reasonable request.

(b) Any dog which has been impounded and not redeemed shall be disposed of in a humane manner either by the Town or its agent no sooner than seventy-two (72) hours after the dog has been impounded unless disease, injury or other unforeseen circumstance requires sooner disposition.

(c) The Chief of Police shall cause a summons and complaint to be issued charging a violation of Section 7-93 above to each person who redeems a dog if that person or a member of his or her immediate family has redeemed the same dog from the Town's impound facility within the proceeding twelve (12) months. Nothing in this Section shall be construed to limit the authority of any police officer or employee of the Town to issue a summons and complaint for any violation of this Article, including first time violations.

(d) The Chief of Police or other Town employee shall make or cause to be made a written record of all impoundments and redemptions of dogs. Any person who has had a second redemption within a twelve-month period of time may be charged additional redemption fees in accordance with the schedule prepared by the Town Clerk as set forth in Subsection (a) above. (Ord. 188 §6, 1990)

#### **Sec. 7-96. Rabies control.**

(a) The owner of every dog, or other animal which is subject to rabies shall cause such dog, cat or other animal to be inoculated against rabies and shall obtain from a licensed veterinarian a rabies vaccination certificate, which certificate shall contain the following information:

(1) Name, address and telephone number of the owner of the vaccinated dog, cat or other animal;

(2) The date of the vaccination and the date of the expiration of the vaccination and the type of vaccine used;

(3) The year and number of the dog license;

(4) The type of animal;

(5) The breed, age, color and sex of the animal; and

(6) The signature of the veterinarian administering the vaccine.

(b) The owner of any animal that bites any human being shall report the occurrence to the Police Department and shall deliver the animal to the Police Department and provide such information as may be requested to the officer receiving the animal.

(c) Any animal which is found within the Town and which is suspected to be carrying rabies shall immediately be turned over to the Police Department. The Police Department shall, at the owner's expense, quarantine the animal for an appropriate period of time and take such other steps as may be necessary to prevent the spread of rabies.

(d) No person shall kill any suspected or confirmed rabid animal except upon the written consent of the Chief of Police, in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal. (Ord. 188 §7, 1990)

#### **Sec. 7-97. Disturbance of peace and quiet by animal.**

No owner, keeper, harborer or other person who has assumed responsibility for any animal shall permit such animal to disturb the peace and quiet of any other person by barking, whining, howling or making any other noise in a successive or continuous manner between sunset and sunrise so as to interfere with the sleep of any reasonable person of ordinary sensibilities. The Police Department or other Town employee shall have authority, without liability, to use all reasonable means to abate such disturbance of the peace and quiet, including the authority to impound such animal upon receipt of a signed complaint by a person whose peace and quiet has been disturbed. This Section does not authorize any police officer or Town employee to enter any animal owner's dwelling or other enclosed building upon the animal owner's premises without express legal authority. If an animal is impounded under this Section, such animal shall not be destroyed pursuant to Section 7-95 above until the owner of the animal has been notified of the animal's impoundment and has had an opportunity to redeem the animal. No person shall be convicted of a violation of this Section unless at least two (2) complaining witnesses testify at the trial, one (1) of which may be a police officer, or other collaborating evidence is presented and received. (Ord. 188 §8, 1990)

#### **Sec. 7-98. Control of animals.**

(a) No owner, harbinger or other person who has accepted responsibility for any animal within the Town shall permit such animal to be off the premises of the owner, harbinger or other person who has

accepted responsibility for the animal. If such animal is not on the premises of the owner, harborer or other responsible person, the animal must be on a leash of ten (10) feet or less in length.

(b) No person shall keep any wild or exotic animal. (Ord. 188 §9, 1990)

**Sec. 7-99. Unlawful to break impoundment facility.**

It shall be unlawful for any person to break, open, destroy or damage any impoundment facility, animal trap, fence or enclosure designed to contain animals, or to take, remove or attempt to remove from such facility any animal impounded therein without having first paid the fees provided in this Article. (Ord. 188 §10, 1990)

**Sec. 7-100. Number of animals limited.**

No person shall keep or harbor more than four (4) animals over the age of five (5) months within the Town without having first obtained legal authority to operate a veterinary facility. (Ord. 188 §11, 1990)

**Sec. 7-101. Humane treatment and care of animals.**

It shall be unlawful for any owner, keeper, harborer or other person who has assumed responsibility for an animal to:

(1) Fail to provide adequate food, water, shelter, veterinary services and humane care necessary to maintain good health and to prevent suffering.

(2) Physically abuse any animal.

(3) Abandon any animal or to leave the animal unattended for more than forty-eight (48) consecutive hours.

(4) Intentionally or maliciously kill or injure any animal unless necessary to defend a human being or other animal from attack.

(5) Confine any animal in a vehicle or structure without allowing ventilation so as to prevent the animal from suffering heat exhaustion, stroke or death or to confine any animal in any parked closed vehicle for more than one (1) hour. (Ord. 188 §12, 1990)

**Sec. 7-102. Penalties.**

(a) Any person who is found guilty of a violation of Sections 7-93 and 7-98 of this Chapter shall be punished as set forth in Section 1-72 of this Code for the first and second violation of this Article within a three-year period of time. Any person who is found guilty of a third violation of Section 7-93 or 7-98 of this Chapter shall be punished as set forth in Section 1-72 of this Code and a jail sentence not to exceed ninety (90) days, or both such fine and imprisonment.

(b) Any person who violates any other provision of this Article shall be punished as set forth in Section 1-72 of this Code or by a jail sentence of not more than ninety (90) days, or both such fine and imprisonment.

(c) In addition to the penalties described above, the Court shall impose such costs as may be appropriate, including costs of issuing a warrant, impounding and feeding the animal, restitution to any aggrieved person or entity as may be appropriate and any other costs which may be incurred by the Town or any victim as a result of the violation of this Article. (Ord. 188 §13, 1990)

**Secs. 7-103—7-120. Reserved.**