

CHAPTER 7

GARBAGE, REFUSE, WEEDS, AND TRASH CONTAINERS

Sec. 7-1. Prohibited disposal of garbage, trash, etc.

(a) It shall be unlawful for any person within the town to throw, leave or deposit on the streets or on public or private premises any carcass, paper, glass, tin can, nails, ashes, fruit, vegetables, peelings, garbage, trash, slop or any refuse likely to render the streets or premises unclean, unsightly, dangerous to health, life or limb, or affecting health, life, or limb.

(b) No refuse matter of any sort shall be deposited within the town limits at any place except at such locations as may be approved by the council of the Town of Amherst as public dumping grounds and which are designated as such at each location by an appropriate sign, at the curb for curbside trash pick-up or in a dumpster.

(c) It shall be unlawful for any person to deposit on any public dumping ground refuse matter of any sort except ashes, clean dirt, incombustible trade wastes, grass, weeds, leaves, plant trimmings and such other refuse matter as may from time to time approved in writing by the Town Manager; but all such other refuse matter shall be completely covered by either ashes or clean dirt, unless otherwise directed by the Town Manager. (Code 1965, Sec. 3-8.)

Sec. 7- 2.1. Maintenance of premises.

In order to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience and morale of its inhabitants, all owners, occupants and persons in charge of real property, including vacant lots, shall at all times maintain such premises in a clean and sanitary condition, free from stagnant water, weeds, filth, trash, garbage, refuse, litter, unsightly objects and other substances which might endanger the health or safety of other residents of the town.

A. Weeds

1. *Definitions.* The following definitions shall apply to these words when used in this section:
 - a. *Neglected property* shall include any property which contains weeds that violate the provisions of this section and whose owner/occupant has failed to cut the weeds after receiving notice from the town.
 - b. *Nuisance* shall mean the doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property. Wherever the term nuisance is used in this section, it shall be deemed to mean a public nuisance.
 - c. *Owner* shall mean and include the owner or occupant of any parcel of real estate, including but not limited to any person in possession thereof having charge thereof as an executor,

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administrator, trustee, guardian or agent, and the beneficiary of any easement or right of use thereof.

- d. *Person* shall include individuals, corporations, partnerships and all other legal entities which may hold title to real or personal property.
 - e. *Premises* shall mean a tract of real property with a building or buildings thereon and shall include its grounds and other appurtenances.
 - f. *Property* shall mean both real property and personally.
 - g. *Public nuisance* shall mean a nuisance which is common to the public generally and which injures those citizens generally who may be so circumstanced as to come within its influence. A nuisance shall be deemed to be public if it is committed in such a place and in such a manner that the aggregation of private persons injured thereby is sufficiently great so as to constitute a public annoyance and inconvenience.
 - h. *Weeds* shall include any plant, grass or other vegetation (herbaceous or woody) over twelve (12) inches in height, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, cultivated crops, or undisturbed woodland not otherwise in violation.
2. *Prohibited growth.* It shall be unlawful for the owner or owners, occupant or occupants of any property, either vacant or developed, situated in the town to allow weeds to reach a stage of growth wherein it causes a public nuisance.
 3. *Violation.* Any owner or occupants coming under the provisions of this section who shall fail to cause weeds to be cut and/or removed from such property or premises within the time specified will be deemed to be in violation of this section.
 4. *Notice to cut, remove.* The owner or occupants of property situated in the town shall be, and are hereby, required to cut and/or remove all weeds. It shall be the duty of the Town Manager to serve notice on the owner or owners to cause such grass, weeds, other foreign growth to be cut and/or removed from the premises within fifteen (15) calendar days after notification.
 5. *Service of notice—Generally.* All notices to comply with the provisions of this section shall be served either by personal service, publication, posting or by certified mail and such procedures shall be deemed the equivalent of personal service. If the owner or owners of any unoccupied lot or premises is not a resident of the town and does not have an agent in the town upon whom notice can be served, notice may be given by sending the same by certified mail to the last-known address of the nonresident owner. The last-known address of the owner shall be that shown on the current real estate tax assessment books or current real estate tax assessment records. Nonresident owners shall also have fifteen (15) calendar days to comply with said directive.
 6. *Enforcement.*
 - a. The Town Manager shall be responsible for enforcing the provisions of this section. The Town Manager shall have the authority to delegate duties and powers to other appropriate agencies and individuals to assist in the enforcement of this section. Whenever the words "Town Manager" are used in this section, they shall include all the agencies or individuals to which the Town Manager delegates enforcement powers, except where the context clearly indicates a different meaning.

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- b. The Town Manager shall have the authority, whenever deemed appropriate, to have such weeds on property or on such portions of the property as deemed appropriate cut and/or removed and to restrict their future growth by the town's agents or employees, in which event, the costs and expenses thereof, shall be chargeable to and paid by the owner or owners of such property and may be collected by the town in the same manner as taxes and levies are collected and all unpaid costs and expenses shall constitute a lien against such property. Any owner may avoid any liability to the town provided abatement is completed prior to the initiation of the abatement process by the town's designated agent.

7. *Application for removal of weeds.*

- a. Whenever any Town of Amherst resident or property owner believes that the provisions of this section are being violated, such person shall notify the Town Manager in writing and the Town Manager shall examine the condition of the property described in such notice. If the Town Manager determines that the provisions of this section are being violated, the owner/occupant of the offending property shall be given notice as provided in this section and shall be requested to remove the weeds from the property within fifteen (15) calendar days of the delivery or mailing of the notice.
- b. If the owner of the property cannot be found within the town after a reasonable search, notice shall be sent by registered mail, return receipt requested, to the last known address of the owner as provided in this section and a copy of the notice shall be posted on the property in a conspicuous place and such procedures shall be deemed the equivalent of personal service.
- c. If the owner/occupant of the property does not cut the weeds within fifteen (15) calendar days of the delivery or mailing of the notice or within fifteen (15) calendar days of the posting of the notice, whichever period is greater, the Town Manager shall declare the property to be "neglected property," and such designation shall remain in full force and effect until the owner gives the Town Manager adequate assurances that the property will be properly maintained in regard to weeds in the future.
- d. Once the Town Manager designates a parcel of property to be "neglected property," the person or organization that is contracted by the town to abate such nuisances shall be authorized to go onto the property as an agent of the town at the owner's sole cost and expense to cut, remove and restrict the future growth of the offending weeds. The agent shall be responsible for taking all precautions necessary to cut, remove and restrict the growth of offending weeds in a safe and proper manner.
- e. Neither the town, or its employees and officials, shall be liable for any damages or injuries caused by cutting, removing or restricting the future growth of weeds from a "neglected property" and shall not be liable for any damages, injuries or expenses incurred by any agent or any other person in cutting, removing or restricting the future growth of weeds.
- f. The provisions of this section shall not authorize an agent to enter onto property to remove trees or shrubbery unless the branches, limbs, or other parts of the trees or shrubbery extend or protrude onto private property in a manner which constitutes a danger to citizens or property or where the limbs or branches are likely to fall in such a manner as to endanger private citizens or property. If the Town Manager determines that the trees or shrubbery constitute a danger to private citizens or property, the agent may be authorized to cut and remove such trees and shrubbery that have been designated for removal by the Town Manager in accordance with the provisions of this section.

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8. *Costs of expenses chargeable to owner.*

- a. Cost and expenses incurred for abatement of nuisances shall be assessed upon the owner of the property. The assessment shall be collected by the town as taxes and levies are collected. Every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property. Included in every charge to the property owner in the abatement cost shall be an administrative service charge of twenty (20) percent of the abatement cost and interest on any unpaid balance of the abatement cost accruing at a rate of ten (10) percent per annum from date of the assessment until paid.
- b. With respect to all such accounts remaining unpaid fourteen (14) days after being assessed, a notice of the lien of the special assessment shall be prepared by the treasurer and recorded in the clerk's office of the circuit court. The treasurer may take any appropriate steps, including initiating court action, to enforce the lien to satisfy the special assessment.

B. Safety

Under a finding by the Town Council that a health or fire hazard exists on any premises, the Town Manager shall give written notice to the owner, occupant or person in charge of such premises to take such action as may be necessary to abate such violation within ten days or within such lesser period as may be provided in such notice, which may be served in any manner authorized by law for the service of process.

If any owner, occupant or person in charge of any premises to whom such notice is given as above provided fails to comply with such notice within the time therein specified, the Town Manager shall proceed to have done that which was directed in such notice to be done, and the expense so incurred shall be chargeable to and paid by the owner or occupant of the premises involved and may be collected by suit or motion or by distress sale, or by any other means by which taxes and levies are collected.

(Amended August 8, 2012)

Sec. 7-3. Town collection and removal service regulations.

The procedure for collection and removal by the town of refuse matter shall be in accordance with the following regulations:

(a) *Householders, etc., to provide receptacles.*

Every person having refuse matter for removal by the garbage collectors for the town shall provide the containers hereinafter specified. Such containers shall be placed at the curb in front of the dwelling or place of business after 6:00 PM of the day preceding scheduled trash pick-up.

(b) *Separate garbage and ash receptacles.*

If ashes and garbage are to be removed, there shall be provided at least two containers, an ash container and a garbage container.

(c) *Manner and type of refuse, etc., to be placed in receptacles.*

Only clean ashes shall be put into the ash container, but hot cinders or ashes shall not be placed therein. All garbage such as fruit, vegetables, peelings, kitchen and table refuse, food containers, cans and paper shall be put into the garbage container. Ash and garbage containers shall not be filled within four inches of the top. Grass, weeds, plant trimmings, leaves and similar refuse matter shall be placed in a separate container.

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(d) *Construction, etc., of receptacles.*

Ash and garbage containers shall be constructed of non-leaking, sturdy material and shall be equipped with tight-fitting lids. Although the person having refuse matter for collection shall generally have the discretion to use any type of container he chooses, the Town Manager may require sturdy or secure containers to prevent scavenging animals from invading containers on a case-by-case basis. Every person having refuse matter for collection shall be responsible for keeping all items in the refuse container until pick-up.

(e) *Tops to be kept on receptacles.*

The tops of such ash and garbage containers shall be kept on to prevent the spilling out of contents, the escape of odors and the attraction of flies.

(f) *Size and number of receptacles.*

Every person having refuse matter for removal may have up to three (3) thirty-five (35) gallon containers.

(g) *Miscellaneous; noncollectible refuse.*

All garbage, meat, bones, vegetables and other organic refuse shall be contained in covered containers, and all paper and refuse shall be in containers, all paper cartons shall be flattened and baled, all hedge, shrubbery and tree clippings shall be tied in compact bundles and leaves in bags or other containers to facilitate the removal of garbage and refuse and in order that the streets of the town may be kept free from paper and trash which is not properly restrained. The Town Manager may refuse to remove trash, garbage, ashes or clippings unless prepared in accordance with this section.

(h) *Mandatory compliance.*

It shall be unlawful for any person to violate or fail to comply with any provision of this section. (Code 1965, subsecs 3-7, 3-9.)

Sec. 7-4. Collection and disposal personnel.

The town council shall provide for the employment of such personnel or contractors as may be necessary for the operation of the town garbage and refuse collection service. All such personnel and contractors shall be under the direction of the Town Manager. (Code 1965, Sec. 3-2.)

Sec. 7-5. Collection charges.

Garbage and refuse collection fees and charges shall be as from time to time established by the town council.

(Amended June 11, 2014)

Sec. 7-6. Use of Trash Containers.

Except as provided for in this section, all owners of property or residents located in the Town who are connected to the Town of Amherst water utility system shall participate in the refuse collection service provided by the Town of Amherst.

Any person who contracts with a commercial waste hauler, whose bona fides shall be evidenced by the possession of a current business license issued by the Town of Amherst or the County of Amherst, shall not be charged for Town refuse collection service provided that he provides proof of such a contract to the Town

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Manager. The burden of such proof shall be on the person requesting the waiver of fees, and no adjustment to bills issued or rebates to bills paid shall be made for more than two prior billing cycles. The existence of a then-current contract shall be subject to periodic verification by the Town Manager. Any person benefitting from such a waiver of fees shall not receive refuse collection service from the Town of Amherst.

Utility customers with water service involving only a fire sprinkler or irrigation water meter shall not be charged for Town refuse collection service.

Wholesale and contract water customers shall not be charged for Town refuse collection service.

Except for unusual cases approved on a case-by-case basis by the Town Council, it shall be unlawful for any owners of property or residents located in the Town who are not on the Town of Amherst utility system to place garbage and refuse at curbside for collection by the town.

It shall be unlawful for any person, other than the owner, to dispose of garbage, trash, or other refuse in a dumpster or trash container which is labeled "Private Owned-Not for Public Use". Any person who violates the provisions of this ordinance shall be subject to a Class 4 misdemeanor.

(Amended June 11, 2014 and March 11, 2015)