

CHAPTER XII

Refuse

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SECTION I

Refuse Accumulation and Collection

Sec. 12-1-1. Accumulation of refuse prohibited.

(a) Definitions. For the purposes of this Chapter, the word *refuse* shall mean and include any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish, containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or character or by any means known.

(b) Accumulation of refuse; prohibited and declared nuisance. Any accumulation of refuse on any premises, improved or unimproved, in the Town is prohibited and is hereby declared to be a nuisance.

(c) Abatement. Whenever there is an accumulation of refuse on any property within the Town limits, the Police Department, through either an officer or code enforcement personnel, may serve notice on the owner or occupant of such property requiring the removal of any accumulated refuse from such property or premises within ten (10) days after such service of notice. The property owner or occupant of said premises may, within such ten (10) days, appeal such determination to the Board of Trustees by filing a notice of appeal with the Town Clerk. If such property owner or occupant of the premises, agent or person who has been charged with such abatement shall not remove such refuse in accordance with the notice, the Town Administrator may cause the removal of such refuse and the Town may then assess the cost thereof against the property. The amount so assessed shall be a lien upon such property until the same is paid and, in the case of failure to pay such assessment after thirty (30) days and no appeal to the Board of Trustees having been made by the owner or occupant of the premises of the amount of the assessment, the Town Clerk may certify such assessment to the County Treasurer, to be placed on the tax list for the current year, to be collected with a ten-percent administrative fee to defray the cost of collection as provided by state law.

(d) Accumulation and deposit of garbage, etc., prohibited. No person shall deposit or place any garbage, rubbish, waste material or ashes in such a manner that the same is or tends to become a nuisance or in such a manner that endangers or tends to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage, waste material, rubbish or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner that endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another. All animal waste shall be placed in plastic bags and securely fastened or shall be placed in some other type of container approved by the Town Administrator.

(e) Refuse not to be thrown in street, vacant lot, etc. No hay, straw, shavings, excelsior, paper or other combustible material, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones or rubbish of any kind or nature whatsoever or any other refuse or material shall be thrown or swept into any street, sidewalk, gutter, sewer intake, vacant lot or other property. The Town may designate certain times of the year when leaves may be raked into the gutters where they will be picked up by the Town crews.

(f) Responsibility of owners, lessees, etc. for refuse on premises. It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain

the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance and shall be nonconforming in the use of such premises.

(g) Building materials to be removed from construction sites. All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about, by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property.

(h) Removal of refuse from business required. Discarded automobile parts, stoves, furniture, wool, hides, junk yard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the dump by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed in such places as approved by the Chief of Police or the Chief of the Fire Department; such removal to be handled by the establishments responsible therefor.

(i) Accumulation and use of manure. Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent.

(j) Burning of garbage and waste material. No person shall set on fire or burn any garbage, rubbish or waste material or any hay, grass, clippings, leaves or other combustible materials. Any such act is a nuisance because of smoke and odor. (Ord. 363 §§1-1—1-10, 1981; Ord. 510 §1, 2003)

Sec. 12-1-2. Collection.

(a) Definitions. For the purpose of this Section, the following words and phrases shall have the meanings hereinafter defined:

Garbage. Kitchen and table refuse and offal, swill and every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowls, birds, fruits or vegetables, not including dead animals and offal of slaughterhouses.

Waste matter. Broken crockery, broken bottles, broken bricks, tin cans, pasteboard boxes, paper, straw, grass clippings, sawdust, packing materials, shavings, boxes and all noncombustible waste matter, ashes and all other residue of materials burned, and other refuse and waste material other than garbage.

(b) Town to provide collection service. The Town or its agents, contractors or Town-licensed operators shall furnish garbage, rubbish, waste matter and ashes collection service as provided in this Chapter to all residences within the Town. The Town may also provide, at its option, trash service to businesses within the Town if such businesses wish to have such service.

(c) Contract. The Board of Trustees may enter into a nonexclusive contract or agreement with any person for the collection and disposal of ashes, trash and garbage, or any portion thereof throughout the Town, or it may at its discretion make provision for the collection and disposal of ashes, trash and garbage.

(d) Collection of garbage and waste matter by other than Town prohibited; exceptions. The Town by and through its duly authorized agents, employees, contractors or Town-licensed operators, shall be the sole agency for the collection and disposal of garbage and waste matter for residential properties, and no person except such duly authorized agents, employees, contractors or Town-licensed operators of the Town shall collect or dispose of any garbage or waste matter, whether his or her own or another's within the Town. Nothing in this Section shall relieve any contractor of the obligation of cleaning up premises after completion of his or her contract. Nothing in this Section shall prevent an individual from hauling his or her own waste material, provided that it is properly disposed of in conformity with all Town regulations and that such individual is subject to all other provisions of the Section.

(e) Charges for Town collection service.

(1) The Board of Trustees shall, by resolution, establish charges for collection service under this Section, prescribe the time and manner of payment of such charges and adopt measures designed to enforce the payment thereof such as, in its discretion, are necessary or desirable. Such resolution and amendments thereto, when adopted, shall be of the same force and effect as if incorporated in this Section.

(2) The amount of charges for garbage, rubbish, waste material and ashes collection service shall be a lien upon the property served until the same is paid. In case of failure to pay the established charges for garbage, rubbish, waste, material and ashes collection service by the owner or person having the occupancy, control or management of any premises, within thirty (30) days after the time prescribed for payment of such charges by the Board of Trustees, the Town Clerk shall cause a notice of such charge to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks a notice to such property owner of the amount of charges assessed against his or her property, and that, if such charges are not paid within ten (10) days thereafter, the Town Clerk shall certify such charges as assessed to the County Treasurer, to be placed by him or her on such tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by the laws of the state.

(f) Unauthorized molesting, removal of garbage, prohibited. No person shall molest, remove, handle or otherwise disturb any garbage or refuse containers or contents for servicing by the collectors; provided, that this Section does not apply to the owner, occupant, lessee or tenant of the residence or dwelling so placing the containers and contents. (Ord. 363 §2-8, 1981)

(g) Promulgation of rules and regulations by Board of Trustees. The Board of Trustees shall, by resolution, promulgate rules and regulations relating to the manner of preparing and accumulating garbage, rubbish, waste material and ashes for collection; the type and kind of containers to be used for such accumulation; the manner of use of and care for such containers; and such other rules and regulations as, in its discretion, are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the garbage, rubbish waste material and ashes collection system and service within the Town; and such resolutions, when adopted, shall be of the same force and effect as if incorporated in this Section.

(h) Enforcement of Section. The Town Administrator shall have charge and supervision of the garbage, rubbish, waste material and ashes collection system. He or she is empowered to employ and direct all assistants, laborers, agents, contractors, employees and Town-licensed operators in the operation of this service. He or she shall enforce the terms of this Section and the various rules and regulations promulgated hereunder from time to time. He or she shall be accountable to the Mayor and Board of Trustees in all matters pertaining to the exercise of his or her powers and duties. (Ord. 363 §§2-1—2-3, 2-5, 2-8, 2-10, 2-11, 1981; Ord. 434 §1, 1993; Ord. 510 §1, 2003; Ord. 527 §§1-3, 2005)

Sec. 12-1-3. Weeds and overhanging branches.

(a) Growth and accumulation on premises and adjoining sidewalks and alleys prohibited. No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit weeds to grow, or remain when grown, on such lot, block or parcel of ground, on or along any sidewalk adjoining the same, or in the alley behind the same, but such weeds shall be cut close to the ground and kept so cut.

(b) No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit branches of trees or shrubs to grow, or remain when grown, in such a manner as they overhang or otherwise obstruct a sidewalk, street or alley to such an extent so as to obstruct or impede the passage of vehicular or pedestrian traffic, or block or impair visibility to the extent to constitute a hazard to vehicular or pedestrian traffic.

(c) Abatement by Town. If any owner, tenant or agent in charge shall fail to cut weeds or branches, as required by this Section, within ten (10) days after being served with notice to do so by an officer in the Police Department or code enforcement officer by notice posted on the premises or served personally to the owner, tenant or agent in charge, the property owner or occupant of said premises may, within such ten (10) days, appeal such determination to the Board of Trustees by filing a notice of appeal with the Town Clerk. If such property owner or occupant of the premises, agent or person who has been charged with such abatement shall not remove such weeds in accordance with the notice, the Town Administrator may cause the removal of such weeds and the Town may then assess the cost thereof against the property. The amount so assessed shall be a lien upon such property until the same is paid and, in the case of failure to pay such assessment after thirty (30) days and no appeal to the Board of Trustees having been made by the owner or occupant of the premises of the amount of the assessment, the Town Clerk may certify such assessment to the County Treasurer, to be placed on the tax list for the current year, to be collected with a ten-percent administrative fee to defray the cost of collection as provided by state law.

(d) Collection of costs of abatement by Town.

(1) In the event the weeds or branches on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order of the Board of Trustees, the whole cost of cutting such weeds or branches, together with five percent (5%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by certified mail, notice of the assessment of such cost.

(2) Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special 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 a ten-percent penalty to defray the cost of collection. (Ord. 363 §§3-1—3-3, 1981; Ord. 510 §1, 2003)

Sec. 12-1-4. Violation and penalty. (Repealed by Ord. 420 §1, 1991. See Section 1-3-1 for applicable penalty.)

SECTION II

Dutch Elm Disease

Sec. 12-2-1. Notice to property owner.

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the Town, or which is capable of causing an epidemic spread of communicable diseases or insect infestation, such as Dutch Elm Disease, the Town Clerk shall, at once, cause written notice to be served upon the owner of the property upon which such diseased tree is situated, which notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified (but not less than ten [10] days) in such notice. (Ord. 321 §1, 1975)

Sec. 12-2-2. Service of notice.

Notice, as provided for in Section 12-2-1 above, may be served by mailing a copy thereof to such owner, postage prepaid, certified mail, addressed to his or her last known address, and by posting a copy of such notice in a conspicuous place on the premises involved. Service by mail shall be considered complete five (5) days after the notice is deposited in the mail and posted on the premises. (Ord. 321 §2, 1975)

Sec. 12-2-3. Penalty for violation.

It shall be unlawful for any person to fail to comply with the requirements of the notice, as provided in Section 12-2-1 above, and each violation shall be punished by a fine of not less than ten dollars (\$10.00) nor more than twenty-five (\$25.00) for each day that such violation continues. (Ord. 321 §3, 1975)

Sec. 12-2-4. Work done by Town.

If the work required to be done under Section 12-2-1 above is not accomplished within the time specified in the notice, the Town shall cause the work to be done and the cost of the same shall be collected from the property owner. Any notice given pursuant to this Section will so advise the property owner. If the Town causes the work to be done, the Town Clerk shall send a statement for the amount of the work to the property owner at his or her last known address. Any such statement shall be paid by the property owner within thirty (30) days after the statement is mailed to him or her. After such thirty-day period, any unpaid amount shall bear interest at the rate of six percent (6%) per annum. If the property owner is unable to pay the cost of such work within thirty (30) days, he or she may enter into an agreement for the payment of the same in monthly installments over a period not to exceed five (5) years; and the unpaid cost shall, by agreement, be made a lien on the lands of such property owner. Any unpaid balance due under such agreement shall bear interest at the rate of six percent (6%) per annum. The agreement shall be filed in the County Clerk and Recorder's office. (Ord. 321 §4, 1975)

Sec. 12-2-5. Report to Town Board; assessments.

The Town Clerk shall, at the first meeting in July of the Town Board each year, report to the Town Board any costs for work done by the Town under this Section which have not been paid by the property

owner or made the subject of an agreement with the property owner. Notice of such report shall be mailed to the property owner at least ten (10) days prior to the meeting at which the report is to be presented to the Town Board. The Town Board may, by ordinance, assess the cost of the work, together with an amount not to exceed seventeen percent (17%) to cover interest, legal and advertising fees and cost of collection, against the property of such owner. Such assessment shall be certified by the Town Clerk to the County Treasurer and shall be on a parity with the tax lien for general state, county, city, town or school taxes. Such assessment shall become delinquent on the first day of September after the date of assessment; and after the same becomes delinquent, shall be advertised and sold by the County Treasurers at the same time or times, in the same manner and under all the same conditions and penalties and with the same effect as now prescribed by the general laws of the State for the sale of real estate in default of payment of general taxes. A copy of the assessment ordinance shall be mailed to the property owner at his or her last known address within ten (10) days after adoption of the ordinance. (Ord. 321 §5, 1975)

Sec. 12-2-6. Inspections.

In order to accomplish the purposes of this Section, the Town employees are authorized to go upon any property in the Town for the purpose of inspecting trees, shrubs and other plants. (Ord. 321 §6, 1975)

Sec. 12-2-7. Nonwaiver.

The imposition of any penalty for a violation of this Section shall not be construed as a waiver of the right of the Town to collect the costs in accordance with the provisions of this Section. (Ord. 321 §7, 1975)