

Chapter 7

HEALTH, SANITATION, NUISANCES*

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ARTICLE I. IN GENERAL

Secs. 7-1–7-25. Reserved.

ARTICLE II. NUISANCES†

DIVISION 1. GENERALLY

Sec. 7-26. Public nuisance defined.

A public nuisance is hereby declared to be a thing, act, failure to act, occupation or use of property which shall:

- (1) Annoy, injure or endanger the safety, health, comfort or repose of the public;

***Cross references**—Administration, Ch. 2; animals, Ch. 4; buildings and building regulations, Ch. 5; demolition or repair of unsafe or dangerous buildings or structures required, procedure, § 5-26 et seq.; inspections of unsafe, dangerous or fire-damaged buildings by the fire chief and/or the health officer or designees, § 5-30; fire prevention and protection, Ch. 6; inspection of building by fire chief or designee and determination of safety, § 6-56; sewer plumbers and drain layers license required, § 8-26 et seq.; streets, sidewalks and other public places, Ch. 10; subdivision, Ch. 11; traffic and vehicles, Ch. 12; utilities, Ch. 13; sewer use regulations, § 13-131; vehicles for hire, Ch. 14; zoning, Ch. 15; landfills, § 15-450; junkyards, § 15-451.

†**Cross references**—Definition of public nuisance by dogs, § 4-26; restraint and prevention of public nuisance by dogs required, § 4-28; certain dogs declared public nuisance, § 4-32; unsafe or dangerous buildings declared a public nuisance, § 5-28; streets, sidewalks and other public places, Ch. 10; placing ice or snow on to public way prohibited, removal required, § 10-1.

- (2) Offend the public morals and decency;
 - (3) Unlawfully interfere with, obstruct or tend to obstruct, or render dangerous for passage any public park, commons, street or highway;
 - (4) In any way render any number of persons insecure in life or in use of or damage to property.
- (Ord. of 5-4-55, art. 0, §§ 1–4)

Cross references—Definitions and rules of construction generally, § 1-2; streets, sidewalks and other public places, Ch. 10.

Sec. 7-27. Abatement of nuisances and penalty.

(a) If any complaint shall be made in writing alleging a violation of this article, it shall be the duty of the board of selectmen to investigate it or cause it to be investigated.

(b) After the finding of a nuisance by the board of selectmen, a notice shall be delivered by certified mail, return receipt requested, or by personal service upon any person who is maintaining a nuisance requiring him to abate such nuisance within a reasonable time to be fixed by the selectmen in such notice. Each day such nuisance shall be maintained shall constitute a separate offense and be punishable as such.

(c) If such nuisance is not abated within the time fixed in the notice, the board of selectmen shall cause such nuisance to be abated. Such person shall pay all the expenses of abating the nuisance.

(Ord. of 5-4-55, art. 6, §§ 1–3)

Sec. 7-28. Littering prohibited.

(a) The health, safety and welfare of the citizens of the town requires that highways, private and public lands be kept free from littering with rubbish, garbage, refuse and other noxious materials.

(b) A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles or parts thereof, refuse of whatever nature, or any noxious thing on lands of others or within three hundred (300) feet of the lands of others, public or

private, or into the waters of any stream or the banks in the town or on or within view of a public highway in the town.

(c) If the throwing, placing or depositing was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing or depositing was done by the driver of such motor vehicle.

(d) Nothing in this section shall be construed as affecting the lawful operation of an automobile graveyard or junkyard, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste. Sanitary landfills, recycling centers and incinerators and solid waste from mining, quarrying, farming operations or logging and sawmill operations are exempt from the restrictions set forth above concerning the distance of three hundred (300) feet and visibility from a public highway.

(Ord. No. 0-87-2, §§ I–IV, 7-13-87)

Cross references—Streets, sidewalks and other public places, Ch. 10; streets, § 10-26 et seq.; traffic and vehicles, Ch. 12; zoning, Ch. 15.

State law reference—Similar provision, 24 V.S.A. 2201.

Secs. 7-29–7-45. Reserved.

DIVISION 2. HEALTH NUISANCES

Sec. 7-46. Defined.

Whatever is dangerous to human life or health and whatever renders soil, food, water and drink unwholesome, are declared to be nuisances affecting health.

(Ord. of 5-4-55, art. 1, § 1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 7-47. Prohibited.

No person shall:

- (1) Expose or offer for sale any decayed or unwholesome food;
- (2) Allow any diseased animals to run at large;
- (3) Allow any pond, pools of water or vessels holding stagnant water in which there is any obnoxious odor or in which

vermin breed or permit any nuisance to remain on his premises to the annoyances of any other person;

- (4) Allow carcasses of animals to be buried or otherwise disposed of in an unsanitary manner and not within twenty-four (24) hours after death;
- (5) Allow the accumulation of manure, swill or other noxious substances or rubbish which may be breeding places for flies, mosquitoes or vermin;
- (6) Allow privy vaults and garbage cans to not be flytight;
- (7) Allow dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render the occupancy of property uncomfortable to a person of ordinary sensibilities;
- (8) Allow stable manure, swill, rubbish, papers or other noxious substances to be transported through the streets of the town except in covered containers and in such manner as to prevent a nuisance;
- (9) Place or cause to be placed in a river, brook or stream flowing in or through the town any stone, log, timber, ashes, dirt, tin cans or other refuse, garbage, carcass, vegetable, or any other matter which will tend in any way to obstruct the natural flow of the water in any of the streams or will be injurious to the health of the public or individuals or in any way fill up or litter or render unsightly or obstruct the channel or banks of streams.

(Ord. of 5-4-55, art. 1, §§ 2-8, 11, 12, art. 4, § 9)

Cross references—Animals, Ch. 4; streets, sidewalks and other public places, Ch. 10.

Sec. 7-48. Certain animals restricted.

No horses, cattle, goats or swine or dog, fox or mink kennels or hen yards or rabbitries shall be kept so near the dwelling house of any other persons or so near to any public street, lane or alley, so as to be a nuisance or deleterious to persons residing in the vicinity. The determination and orders of the board of selectmen in such cases shall be final. All horse, cattle and goat farms, hog pens, hen yards or rabbitries must be kept clean and sanitary,

and deodorized by the application of dried muck, dried earth or some other effective absorbent or disinfectant.

(Ord. of 5-4-55, art. 1, § 13; Ord. of 8-15-56)

Cross reference—Animals, Ch. 4.

Sec. 7-49. Transportation of certain materials restricted.

No person shall transport any ashes, tin cans, garbage or rubbish of any description on any street, highway or other public thoroughfare within the town except in an enclosed truck, vehicle or container or in an open truck or vehicle which has a tarpaulin covering tied down or secured over the refuse being transported.

(Ord. of 5-4-55, art. 1, § 9; Ord. of 2-24-69)

Cross references—Streets, sidewalks and other public places, Ch. 10; traffic and vehicles, Ch. 12.

Secs. 7-50—7-65. Reserved.

DIVISION 3. NUISANCES AFFECTING MORALS
AND DECENCY

Sec. 7-66. Certain exhibitions prohibited.

No person shall publicly make any indecent, immodest, or immoral exhibition of his or her person or of any animal or thing or cause or procure any person to do so.

(Ord. of 5-4-55, art. 2, § 1)

Sec. 7-67. Disorderly houses prohibited.

No person shall permit his building or other place to be used, frequented or resorted to by riotous or disorderly persons, vagrants, gamblers or common prostitutes or shall permit any riotous or disorderly conduct therein or thereabout.

(Ord. of 5-4-55, art. 2, § 3)

Sec. 7-68. Certain pictures, literature, etc., prohibited.

No person shall sell, offer to sell, offer for sale or display any indecent or immoral literature, pictures, articles or other object or thing of an indecent or immoral nature.

(Ord. of 8-15-56)

Sec. 7-69. Games of chance prohibited.

No person shall expose in or upon a street, public place or common a table or device of any kind for the purpose of having any game of chance played, nor play any game at such table or device in or upon any street, public place or common within the limits of the town.

(Ord. of 5-4-55, art. 3, § 1)

Secs. 7-70—7-85. Reserved.

DIVISION 4. NUISANCES AFFECTING PROPERTY*

Sec. 7-86. Destruction of public property prohibited.

No person shall injure, deface or destroy a guide post, guide board, traffic sign, lamp or electric light post or light thereon or a building, fence post, or anything set, erected or made for the ornament of the town.

(Ord. of 5-4-55, art. 3, § 2)

Cross reference—Streets, sidewalks and other public places, Ch. 10.

Sec. 7-87. Destruction of private property prohibited in public ways.

No person shall move, mutilate or destroy without the consent of the board of selectmen, a sign, sign post, awning or other thing the private property of individuals lawfully set, erected or placed in or upon a street highway or public place.

(Ord. of 5-4-55, art. 3, § 3)

Sec. 7-88. Certain activity in public places restricted.

(a) No person shall beg in or upon a street or other public place, or lurk, loiter, or prowl about the premises of a citizen or in or about a restaurant, eating house, hotel or other place without giving a satisfactory account of himself or the honesty of his intentions.

***Cross references**—Streets, sidewalks and other public places, Ch. 10; streets, § 10-26 et seq.; signs, § 15-501 et seq.

(b) No person shall commit any nuisance in or on any street, highway, or public square, or in any stairway, hallway, or other public place.

(c) No person shall by noise, gesture or other means, wantonly and designedly frighten a horse in the street or public place.

(d) No person shall throw stones or other missiles in or upon any public street, common or other public place in town.

(e) No person shall course, coast or slide upon any board, sled, vehicle or other thing upon any sidewalk or footwalk within the limits of the town.

(f) No person shall course, coast, or slide upon any sleigh, sled, vehicle or other thing in any streets or highways within the limits of the town, except such streets as shall be designated by the board of selectmen.

(g) No person shall ride or use a bicycle upon any sidewalk or footpath within the town.

(h) No person shall suspend or cause to be suspended or displayed any sign, flag, article or merchandise or other thing over any sidewalk or street in the town unless the lowest part thereof be at least ten (10) feet above the sidewalk or street. No such sign, flag, article or merchandise or other thing shall be so suspended or maintained without written permission from the board of selectmen, which permission shall be revocable. Any person having such permission and suspending or displaying any such signs, flags, articles or merchandise or other things shall in all respects conform to any direction in relation to the location, extent, construction and maintenance thereof which shall be given by the board of selectmen.

(i) No sign, articles or merchandise or any other thing shall be displayed or maintained on any street or sidewalk within the limits of the town except that when authorized by the board of selectmen a person maintaining a regular place of business may display articles from his stock of merchandise in front of his place of business within an area prescribed in such authorization.

(j) A person owning or controlling a building from which snow, ice or water slides or falls or may slide or fall upon a street or

sidewalk within the town shall construct and maintain a guard upon the roof of the building to prevent snow, ice or water from sliding or falling from the building upon the street or sidewalk.

(k) No person shall project by means of any air pipe, blow-pipe, air gun, popgun, spring gun, bow gun, cross-bow or slingshot, any missile or substance whatsoever in or into any public street, highway, court, square, park, avenue or place within the town.

(l) No person shall place, replace or maintain any awning or shade over any part of any sidewalk unless it is safely and securely fastened and located and constructed so as to leave the walk obstructed. The lowest part of such awning or shade shall be not less than seven (7) feet above the sidewalk and in no case shall it extend beyond the line thereof.

(m) No person shall allow limbs of trees, shrubbery, fence posts, gates or other material to obstruct the sidewalks interfering with the free use by pedestrians.

(n) No person except by permission of the board of selectmen shall use the public streets or sidewalks in a manner which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks.

(o) No person shall operate an automobile in a public way in such a manner as to cause to be thrown mud, oil or water onto a pedestrian on any public sidewalk in the town.

(Ord. of 5-4-55, art. 2, §§ 2, 7, 8, art. 3, § 4, art. 4, §§ 1—8, 10, 13, 15)

Cross references—Buildings and building regulations, Ch. 5; streets, sidewalks and other public places, Ch. 10; streets, § 10-26 et seq.; obstruction of streets restricted, § 10-61 et seq.; traffic and vehicles, Ch. 12; bicycles, § 12-156 et seq.; signs, § 15-501 et seq.; projecting sign, § 15-505.

Sec. 7-89. Stolen or overdue library materials.

Any person who willfully damages, defaces or removes without authorization any book, recording, object or other property from the Springfield town library, or who detains any property borrowed from the Springfield town library for more than thirty (30)

days, after receiving written notice to return the property by certified mail, shall be fined the replacement value of the book, recording, object or other property. Each piece of library property shall be a single offense.

(Ord. No. 94-1, § II, 12-19-94)

Secs. 7-90—7-105. Reserved.

DIVISION 5. NUISANCES AFFECTING PEACE
AND SAFETY

Sec. 7-106. Disturbing lawful assembly prohibited.

No person shall willfully disturb or annoy a lawful assembly of people, or organized meeting of any kind or cause the same to be done in any manner or by any unlawful means whatsoever.

(Ord. of 5-4-55, art. 2, § 4)

Cross reference—Streets, sidewalks and other public places, Ch. 10.

Sec. 7-107. Certain noises prohibited.

No person shall make loud or unusual noises and annoying vibrations which offend the public peace and quiet.

(Ord. of 5-4-55, art. 4, § 12)

Sec. 7-108. Discharging certain fireworks and explosive devices prohibited.

No person shall, except in the performance of some duty required by law, discharge any squibs, firecrackers, fireworks of any kind or other preparation whereof gunpowder or other explosive substance is an ingredient, or which consists wholly of the same, within the principal inhabited areas of the town or within five hundred (500) feet of any dwelling house or into or across a public highway therein except by authority from the board of selectmen.

(Ord. of 5-4-55, art. 3, § 5; Ord. of 10-31-56; Ord. No. 89-04, §§ I—IV, 10-23-89)

Cross reference—Streets, sidewalks and other public places, Ch. 10.

Sec. 7-109. Discharge of firearms restricted.

(a) The health, safety and welfare of the inhabitants of the town requires the restriction of the discharge of firearms within certain areas of the town.

(b) No person shall discharge or fire or cause to be discharged or fired, any revolver, pistol, rifle, shotgun, air rifle, BB gun or other similar firearm or weapon within five hundred (500) feet of any dwelling, residence, barn, stable or from any road or street or on any property owned by the town. This section does not apply to

those areas within the town that are zoned by the zoning regulations as land reserve, residential agriculture or low density residential; nor shall it apply to the Bryant Municipal Forest.

(c) This prohibition shall not apply to the use thereof by a duly constituted law enforcement officer when such use is reasonably necessary in the performance of his/her duties. This section shall not prevent the discharge of firearms on any properly constructed range or in conduct of a contest, shoot, meet or game when reasonable precautions are taken for the protection of the public safety and permission for the use has first been obtained by the chief of police. This prohibition shall not prevent the use of firearms for the disposal of animals when permission for such use had been first obtained by the chief of police.

(d) A person who violates any provision of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) or be imprisoned for not more than thirty (30) days.

(Ord. No. 89-10, §§ I–IV, 10-23-89)

Secs. 7-110–7-125. Reserved.

ARTICLE III. HAZARDOUS WASTES*

Sec. 7-126. Purpose.

For protection of the health, safety, and welfare of the inhabitants of the town, it is necessary for the board of selectmen to have authority to determine where and when necessary, that certain parcels of land within the town contain hazardous wastes, toxic materials or harmful chemical matter. Upon such determination, the board of selectmen may restrict the uses and activities upon the lands consistent with the provisions in this article.

(Ord. No. 88-2, § I, 4-18-88)

***Cross references**—Streets, sidewalks and other public places, Ch. 10; subdivision, Ch. 11; utilities, Ch. 13; zoning, Ch. 15.

State law reference—Hazardous waste, 10 V.S.A. 6601 et seq.

Sec. 7-127. Applicability.

(a) This article shall apply to any parcel of land determined to contain hazardous waste, harmful or toxic substances by the United States Environmental Protection Agency (EPA) and declared to be a superfund site or an otherwise hazardous place.

(b) This article shall also apply to any parcel of land determined to contain hazardous waste, harmful or toxic substances by the board of selectmen or any applicable agency of the state.

(c) The restrictions in this article may apply to any parcel of land adjacent to land determined to be subject to section 7-126 and (a) and (b) above or to any parcel of land which carries seepages or any above or below ground watercourse containing hazardous or toxic materials from land described in section 7-126 and (a) and (b) above.

(Ord. No. 88-2, §§ II–IV, 4-18-88)

Sec. 7-128. Restrictions.

The board of selectmen, to protect the health and welfare of the inhabitants of the town, may by resolution upon the designation that a parcel of land contains hazardous, harmful or toxic wastes or chemicals restrict the subject land in one (1) or more of the following ways:

- (1) Prohibit the construction of or the maintenance of habitable buildings or other structures upon the subject premises;
- (2) Prohibit the breaking of the surface of the soil by digging, trenching, drilling, boring or disruption of the soil surface;
- (3) Prohibit the growing of crops upon the subject premises, the consumption or transportation thereof;
- (4) Prohibit any residential, commercial or recreational use of the premises;
- (5) Prohibit the taking, use or consumption of water from or which flows through the subject premises either above or below the soil surface;

- (6) Prohibit the excavation, filling or depositing of any solid or liquid material on the subject premises, including the sewage, sludge or other waste material;
- (7) Prohibit the making of any change in the topography of the subject premises;
- (8) Prohibit the entry upon the subject premises by any person where the degree of danger is such as to be a threat to life or to health;
- (9) Prohibit any activity on or near the subject premises which would tend to alter the water table thereon;
- (10) To place any other restriction on the subject premises which may in the exercise of prudence be necessary for public protection, including posting or fencing of the premises.

(Ord. No. 88-2, § V, 4-18-88)

Cross references—Buildings and building regulations, Ch. 5; streets, sidewalks and other public places, Ch. 10; subdivision, Ch. 11; utilities, Ch. 13; zoning, Ch. 15.

Sec. 7-129. Designation by resolution.

The board of selectmen shall designate such parcels of land as are subject to this article by resolution. In the resolution the board of selectmen shall determine the applicable restrictions necessary to carry out the purposes of this article.

(Ord. No. 88-2, § VI, 4-18-88)

Sec. 7-130. Notice required for restrictions, etc.

Prior to the adoption, modification or removal of a limitation imposed by resolution pursuant to the terms of this article, the board of selectmen shall cause notice to be given to each affected landowner and to any other person who may have a record interest in the premises and to any necessary state or federal agency.

(Ord. No. 88-2, § VII, 4-18-88)

Sec. 7-131. Form and contents of notice.

(a) The notice shall include:

- (1) A statement of the time, place and nature of the hearing;

- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved; and
- (4) A short and plain statement of the matters at issue.

(b) If the board of selectmen or other agency is unable to state the matters in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved. As soon as possible thereafter, a more definite and detailed statement shall be furnished.

(Ord. No. 88-2, § VII(A), 4-18-88)

Sec. 7-132. Hearing and disposition.

(a) *Hearing.* All persons who respond to the notice shall have an opportunity to present evidence and an argument on all issues involved.

(b) *Informal disposition.* Unless precluded by law, informal disposition may be made by stipulation, agreed settlement, consent order, or default.

(Ord. No. 88-2, § VII(B), (C), 4-18-88)

Sec. 7-133. Record.

The record in each case shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) All evidence received or considered;
- (3) A statement of matters officially noticed;
- (4) Questions and offers of proof, objections and rulings thereon;
- (5) Proposed findings and exceptions; and
- (6) Any decision, opinion or report.

(Ord. No. 88-2, § VII(D), 4-18-88)

Sec. 7-134. Evidence and transcripts.

(a) *Evidence.* Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(b) *Transcripts.* Oral proceedings or any part thereof shall be transcribed on request of any party subject to other applicable provisions of law and upon payment by the requesting party of the reasonable costs thereof.

(Ord. No. 88-2, § VII(E), (F), 4-18-88)