

RESOLUTION NO 2020-0007

A RESOLUTION AMENDING AND SUPERSEDING RESOLUTION NO. 2016-R10 CONCERNING THE KERSEY TREE BOARD

WHEREAS, the Town of Kersey strives to ensure a safe, healthy, and well-planned community; and

WHEREAS, the Town of Kersey recognizes the benefits of trees within the Town of Kersey and strives to become and maintain the distinction of being a Tree City USA; and

WHEREAS, the Board of Trustees is supportive of creating and maintaining a Tree Board to aid in programs, evaluations, and opportunities to engage citizens in the importance of trees to the community and to make recommendations to the Board of Trustees concerning tree related issues.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF KERSEY, COLORADO that this Resolution amends and supersedes Resolution No, 2016-R10, and

BE IT FURTHER RESOLVED that the Board of Trustees supports, authorizes and ratifies the creation and maintenance of the Kersey Tree Board as outlined in the following paragraphs:

Creation; membership; qualifications; terms; vacancies.

(a) There shall be an advisory Tree Board consisting of six (6) voting members, appointed at large by vote of the Board of Trustees to serve two (2) year terms. A member may be re-appointed at the expiration of the member's term, in the discretion and by vote of the Board of Trustees. The members of the Tree Board shall serve without pay. Adult residents of the Town shall be eligible to serve as members. An adult non-resident may serve as a member if the Board of Trustees finds that the non-resident has a connection to the Town of Kersey and a strong, sincere desire to further the interests of the Town and the Tree Board; if any non-resident member fails to maintain a connection to the community as deemed by the Board of Trustees, such member may be removed by a vote of a majority of the entire Board of Trustees.

(b) In addition to the six (6) voting members, the Mayor shall appoint one (1) member of the Board of Trustees as a nonvoting liaison member of the Tree Board. This member's term shall be one (1) year, with eligibility for subsequent one-year terms for so long as he or she remains a member of the Board of Trustees.

(c) No voting member of the Tree Board shall be eligible to serve on any other board or commission of the Town during that member's tenure on the Tree Board.

(d) Members of the Tree Board may be removed from office for inefficiency, neglect of duty or malfeasance, upon written notice and after public hearing. The removal of any Tree Board member shall require the vote of a majority of the entire Board of Trustees.

(e) The Board of Trustees shall make such appointments as necessary to fill the unexpired terms of vacancies which may occur on the Tree Board, with the exception of any vacancy left by the nonvoting liaison member, which shall be filled by appointment by the Mayor.

Organization and procedure.

(a) The Tree Board shall adopt bylaws and rules for the transaction of business and shall keep minutes and a record of its resolutions, transactions, findings and determinations, and all of its votes, which minutes and record shall be publicly available.

(b) The Tree Board shall have regular meetings once a month. Special meetings may be called at any time by four (4) of its voting members, upon giving of at least twenty-four (24) hours' notice of said special meeting to its members.

(c) Except for such provisions as are herein expressly provided for, the Tree Board shall have power to make reasonable rules for the conduct of its business.

Functions and duties.

The Tree Board shall:

(1) Make recommendations to the Town Board concerning the purchase or disposition of trees, shrubs, vines, hedges or plants located upon the public right-of-way of any street, alley, sidewalk or in any other public place in the Town.

(2) Make recommendations to the Town Board about policies, rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the public right-of-way of any street, alley, sidewalk or in any other public place in the Town or upon privately owned property in the Town. Upon adoption by the Town Board, copies of such policies, rules, regulations and specifications shall be available to the public through the office of the Town Clerk.

PASSED, APPROVED AND ADOPTED the 10th day of March, 2020.

TOWN OF KERSEY

By: _____
Mayor

ATTEST:

Town Clerk

TOWN OF KERSEY
ORDINANCE NO. 2016 -008

AN ORDINANCE AMENDING ARTICLE III, SECTION 7 OF THE KERSEY MUNICIPAL CODE ADDING A NEW SUBSECTION 7-61 AND INCLUDING A PROVISION IN SUBSECTION 7-61 REGARDING THE REMOVAL OF TRAFFIC HAZARDS.

WHEREAS, the Town of Kersey ("Town") is a Colorado statutory municipality, with all powers and authority vested under Colorado law; and

WHEREAS, the Town recognizes the importance of keeping both private and public property safe and keeping public roadways and right of ways unimpeded by trees or other vegetation; and

WHEREAS, trees or other vegetation that are dead or impede traffic pose a safety risk to the property and/or health of persons, traffic, or public areas within the Town of Kersey.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF KERSEY, COLORADO, AS FOLLOWS:

Section 1. Article III, Section 7 of the *Kersey Municipal Code* titled "Weeds, Refuse and Trees" is hereby amended to include a new Section, 7-61 which shall be titled "Removal of Traffic Hazards."

Section 2. The following provision is hereby added to Section 7-61 of the Kersey Municipal Code:

- (1) The Town Engineer or other Town authority may by written notice sent by certified mail require the owner of real property abutting on the right-of-way of any highway, alley, sidewalk or other public way to trim or remove, at the expense of said property owner, any tree limb or any shrub, vine, hedge or other plant which projects beyond the property line of such owner onto or over the public right-of-way and thereby obstructs the view of traffic, obscures any traffic control device or otherwise constitutes a hazard to drivers or pedestrians, or impedes traffic.
- (2) It is the duty of the property owner to remove any dead, overhanging boughs of trees located on the premises of such property owner that endanger life or property on the public right-of-way.
- (3) In the event that any property owner fails or neglects to trim or remove any such tree limb or any such shrub, vine, hedge or other plant within ten (10) days after receipt of written notice from the Town to do so, the Town may do or cause to be done the necessary work incident thereto, and said property owner shall reimburse the Town for the cost of the work performed.

* * *

Introduced, read, passed on first reading by the concurrence of at least a majority of the Board of Trustees, and ordered published the 9th day of MAY, 2016.

TOWN OF KERSEY, COLORADO

By _____
Bob Kellerhuis, Mayor

ATTEST:

Julie Piper, Town Clerk

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