

TITLE 4
PUBLIC HEALTH AND SAFETY

Subject	Chapter
Nuisances	1
Abandoned Vehicles, Junk, Refuse And Debris	2



CHAPTER 1
NUISANCES

SECTION:

- 4-1-1: Definitions
- 4-1-2: Specific Nuisances
- 4-1-3: Penalty

4-1-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

AUTHOR OF NUISANCE:

When a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord thereof, or his agent, the tenant or his agent, and all other persons having control of the property upon which the nuisance exists, shall be deemed to be the authors thereof and shall be equally liable therefor; but where any such nuisance shall arise from the unusual or unnecessary use to which such property may be put, or from business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be made the authors thereof.

NUISANCE:

Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance. (Prior Code §§ 46, 47; amd. 2001 Code)

4-1-2: SPECIFIC NUISANCES:

- A. Slaughter House, Tanner, Soap Or Oil Factory: No person shall establish or continue within the limits of this town, any slaughter house, tannery, soap or oil factory, tallow, oil, offal, swill, fat or grease, or any other substance except at such place as the town council may determine; or permit any such place or any distillery, brewery, livery stable, pig pen, barn, cattle yard or shed, packing house, hide house, skinning or rendering establishment, laundry or any factory of any kind, place or premises, to be or become nauseous, foul or offensive, or so unclean as to be unnecessarily annoying to the citizens of this town or any of them, or in a state or condition detrimental to the public health. (Prior Code § 48)
- B. Unsound Food, Garbage, Waste Paper: All vegetable waste, litter, garbage, filth, refuse of any nature, putrid or unsound meat, fish, hides or skins of any kind, or filth, offal, dead animals, vegetables, stale, putrid or noisome fat, grease or other offensive matter which shall be detrimental to public health, which shall be found, kept, collected or used in or upon any street, alley, yard or area, and any wrapping paper, waste paper, handbills, old clothes, boots, shoes, hats, tin cans, broken dishes or any combustible materials or any rubbish whatsoever thrown into or upon any street, alley, sidewalk, gutter, ditch, aqueduct or canal, or vacant lot, shall be deemed a nuisance. (Prior Code § 49)
- C. Dead Animals:
1. Buried: All dead animals, putrid meat, fish or other offensive substance, shall be buried by the owner thereof, at a distance from any watercourse of at least forty feet (40'), and at a depth below the surface of the ground, not less than two feet (2'). The burial of livestock, including, but not limited to, cows, horses, pigs, etc., is prohibited. (Prior Code § 50; amd. 2001 Code)
 2. Removal: Whenever any carcass of any dead animal or other offensive substance injurious to the health or comfort of the public or persons in its vicinity, is found upon any ground or in any place, for the removal or abatement of which no person can be found liable, it shall be the duty of the town to remove or abate the same at the expense of the town. (Prior Code § 51; amd. 2001 Code)
- D. Offensive Liquid Or Refuse: Whenever from any distillery, brewery, tannery, hide house, slaughter house, laundry, fish house, soap factory or any yard or enclosure of any kind whatsoever, within the

limits of this town, there is placed, conducted or discharged into or on any street, alley, sidewalk, gutter, water ditch or canal, or any vacant lot, any filthy or offensive water, liquid waste, refuse or discharge of any kind which is offensive or liable to become so, the same shall be deemed a nuisance. (Prior Code § 52)

- E. Privy, Pig Sty: Any privy or pig sty erected or maintained nearer than fifty feet (50') to the street line of any lot in this town, without a special permit from the board of health, or within fifty feet (50') of the residence of any other person then the owner of such privy or pig sty, without the consent of such other person, is hereby declared to be a nuisance. Every barn or stack yard or offal yard erected, maintained or continued within two (2) rods of any street line, or the residence of any other person, without permission, is hereby declared to be a nuisance, and any shavings or straw (except when used for fuel), chaff, hay, grain, or forage placed within fifty feet (50') of any dwelling or place where fire is used is hereby declared to be a nuisance. Any pig sty, privy or corral located or maintained within twenty five feet (25') of any water for domestic or culinary purposes, is declared to be a nuisance. (Prior Code § 53)
- F. Unsanitary Premises: No person shall suffer, permit or have upon his premises, whether owned or occupied by him, between the dates of May 1 and October 1, any accumulations or deposits of manure for a longer period than ten (10) days unless securely protected from flies, nor shall any person between said dates suffer, permit or maintain upon his premises any privy vault, sink, pit or like place which is not securely protected from flies. (Prior Code § 54)

4-1-3: **PENALTY:** Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any provision of this chapter, shall, upon conviction, be guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Prior Code § 55; amd. 2001 Code)



CHAPTER 2

ABANDONED VEHICLES, JUNK, REFUSE AND DEBRIS

SECTION:

- 4-2-1: Definitions
- 4-2-2: Maintenance Unlawful; Exceptions
- 4-2-3: Abatement Procedures
- 4-2-4: Penalty

4-2-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ABATE: To put an end to any condition which is a violation of this chapter.

DELETERIOUS: Anything injurious to the health, safety or welfare of any person.

OWNER: Any person, who alone or with others:

- A. Has legal title to any premises or dwelling, with or without accompanying actual possession thereof; or
- B. Has charge, care or control of any premises or dwelling, as legal or equitable owner, lessee or is an agent of the owner or the estate of the owner in any manner.

PREMISES IDENTIFICATION: Numbers or addresses placed on or assigned to all new and existing buildings or lots so as to identify any piece or parcel of real property from any other piece or parcel without need for a full title search and legal description.

REFUSE, DEBRIS,
GARBAGE, JUNK
(Collectively
Referred To
Throughout This
Chapter As "JUNK"):

The term "junk", as used and intended in this chapter, includes, but is not limited to, the following: spent, useless, worthless or discarded materials; used tires; parts of vehicles; old and unused machinery and appliances or parts thereof; trash; rubbish; waste plant materials, trimmings, weeds, either growing or dead; litter; scrap building materials; waste food products; dead animals; unused or discarded bicycles, tricycles, or other types of recreational vehicles or parts thereof; scrap metal, waste paper products or lumber; accumulations of dirt, gravel, ashes or fire remains; or any other waste materials.

WRECKED,
INOPERABLE,
OBSOLETE OR
ABANDONED
VEHICLES:

The term "vehicle", as used and intended for purposes of this chapter, includes, but is not limited to, the following: a motor vehicle shall be deemed wrecked, inoperable, obsolete, unused or abandoned where:

A. They are vehicles designed to be used in demolition driving contests or similar events;

B. The vehicle is or has been made inoperable due to a collision or other event;

C. And if that vehicle has any one of the following characteristics:

1. Is in a state of being, or having been, wrecked, dismantled, either wholly or partially, or is inoperable for any reason, or has not been operated for a period of three hundred sixty five (365) days; or

2. Which, because of its defective or deleterious condition, constitutes a threat to public health or safety. (2001 Code)

4-2-2: MAINTENANCE UNLAWFUL; EXCEPTIONS:**A. Violations; Zoning Considerations:**

1. It shall be unlawful for any person or entity to cause or permit junked, wrecked, dismantled, inoperative, discarded or abandoned vehicles; and refuse, debris, garbage, weeds and junk, as defined herein, to be in or upon any yard, lot or piece of property within the incorporated limits of the town, or in or upon any parking space, alley or sidewalk adjoining such yard, lot or piece of property within the town.

2. It shall be unlawful for any person or party to operate, keep or maintain any vehicle or junk, as defined in this chapter, within the confines and boundaries of the town in any area zoned for residential use. Such items and operations shall be permitted, only where such items and operations are in conformance with the zoning plan of the town, and, then, only upon the obtaining of the necessary and proper business license or permit as may otherwise be required by the town in this or any other chapter.

B. Exceptions:

1. This chapter shall not apply to antique farm machinery or other similar items when said items are used for decorative or landscaping purposes. When so used, however, the items must be placed in an orderly manner and must be maintained free from weeds, trash and other unsightly items.

2. This chapter shall not apply to an item or property, as described in subsection A1 of this section, where that item is otherwise lawfully enclosed within a building or otherwise completely enclosed and surrounded by a fence not less than six feet (6') in height and of sufficient density and opacity as to fully and effectively visually mask observation of the items. This visual masking shall be sufficient to ensure that the item is not visible for viewing from a public or private way or other public or private property. This exception applies only in those situations where the enclosed or contained items do not otherwise endanger or adversely affect the health, safety or welfare of the community or its citizens, as herein defined, and where the keeping of such items does not violate any other law or ordinance. (2001 Code)

4-2-3: ABATEMENT PROCEDURES:**A. Notice To Abate; Requirements Of Notice:**

1. When a violation has been determined to exist, the town, by and through its designated representative, enforcement officer, or any law enforcement officer or officer (hereinafter "representative"), shall serve notice personally, or through the U.S. postal service mail, upon the occupant or owner of said property requiring the abatement and removal of the items or eradication of the conditions within a period of time not to exceed thirty (30) days from the date notice is received. A notice sent certified mail shall be deemed received by the addressee owner three (3) business days following posting in the U.S. mail. The representative of the town mailing any notice under this section shall certify that the notice was placed in the mail with the proper postage affixed and shall certify the name of the addressee and address to which the notice was sent. In all cases practicable, the notice shall be sent through the mail with a return receipt requested. However, failure on the part of the addressee to accept delivery or to sign the return receipt shall not be sufficient to defeat the presumption of receipt for an otherwise properly mailed notice.

2. The notice required in subsection A1 of this section shall contain information advising the affected party that the failure to correct the offending or noncomplying situation within the specified time period may result in prosecution for violation of this chapter.

B. Abatement Alternative: If any owner or occupant of property described in a notice properly served in accordance with the provisions of this chapter shall fail to abate any unlawful conditions in accordance with such notice, the town may, in addition to applying any other penalties and additional remedies of this chapter:

1. At the expense of the town, employ necessary assistance and cause such conditions to be brought into compliance with this chapter by doing any or all of the following:

a. Removing any deleterious objects or structures;

b. Removing any vehicles subject to abatement under this chapter; or

c. Removing any junk subject to abatement under this chapter.

2. After completion of the work, the town shall cause to be prepared an itemized statement of all expenses incurred in abating the noncomplying condition, including necessary administrative costs, and shall mail a copy thereof to the owner demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed by certified mail, return receipt requested, addressed to the property owner's last known address.

3. In the event the owner fails to make payment of the amount set forth in said statement to the town treasurer within the required twenty (20) days, the matter shall be referred to the town attorney who may:

a. Cause suit to be brought in an appropriate court of law; or

b. Refer the matter to the county treasurer to be included in the taxes payable by the property owner, and may attach a lien on the property, as hereinafter provided.

4. In the event collection of said costs are pursued through the courts, the town may sue for and receive judgment upon all said costs, together with reasonable attorney fees, interest and court and other costs.

5. In the event that the town attorney elects to refer the matter to the county treasurer for inclusion in the tax notice of the property owner, the town attorney shall cause to be prepared an itemized statement of all expenses incurred in abating the noncomplying condition, including all incurred administrative expenses and all lien transaction expenses, and shall cause to be delivered three (3) copies of said statement to the county treasurer within ten (10) days of the failure of the property owner to pay said costs. The town attorney shall request in writing that the county treasurer take such action as provided by law, requesting that the amount payable to the town be included in the tax notices to the property owner and that upon collection of said money it be paid by the county treasurer to the town. The town attorney shall also cause the same to become a lien upon the lands involved by filing the appropriate papers with the county assessor. (2001 Code)

4-2-4: **PENALTY:**

A. Punishment Specified: Violations of this chapter shall be punishable upon conviction either:

1. As a Class B misdemeanor subject to penalty as provided in section 1-4-1 of this code; or

2. By imposing civil penalties as follows:

a. Any person who is found by the town to be in violation of any of the provisions of this chapter, either by failing to do those acts required herein or by doing a prohibited act, shall be liable to the town for the following civil penalties:

(1) First citation, one hundred dollars (\$100.00);

(2) Second citation, two hundred dollars (\$200.00);

(3) All subsequent citations, five hundred dollars (\$500.00).

b. All citations shall be due and payable to the town treasurer within twenty (20) days of the date of issuance.

c. In the event any citation remains unpaid or not dismissed after twenty (20) days from the date of issuance, the matter shall be referred to the town attorney for suit in an appropriate court of law. The violator shall be liable for reasonable attorney fees, any administrative expenses, and court and other costs.

d. Persons cited under this subsection shall have the option of abating the violation within thirty (30) days of the date of issuance and having that citation dismissed by the town in accordance with administrative procedures established under the authority of this chapter.

- B. Notification Procedure: Only one notification procedure (as established administratively by the town under the authority of this chapter), shall be necessary for continuing violations on the same premises within the same calendar year and shall be deemed sufficient on any lot or parcel or property for the entire calendar year.
- C. Continuing Violation: Each day during or on which a violation occurs or continues shall constitute a separate offense and shall be punishable as such under this chapter. (2001 Code)