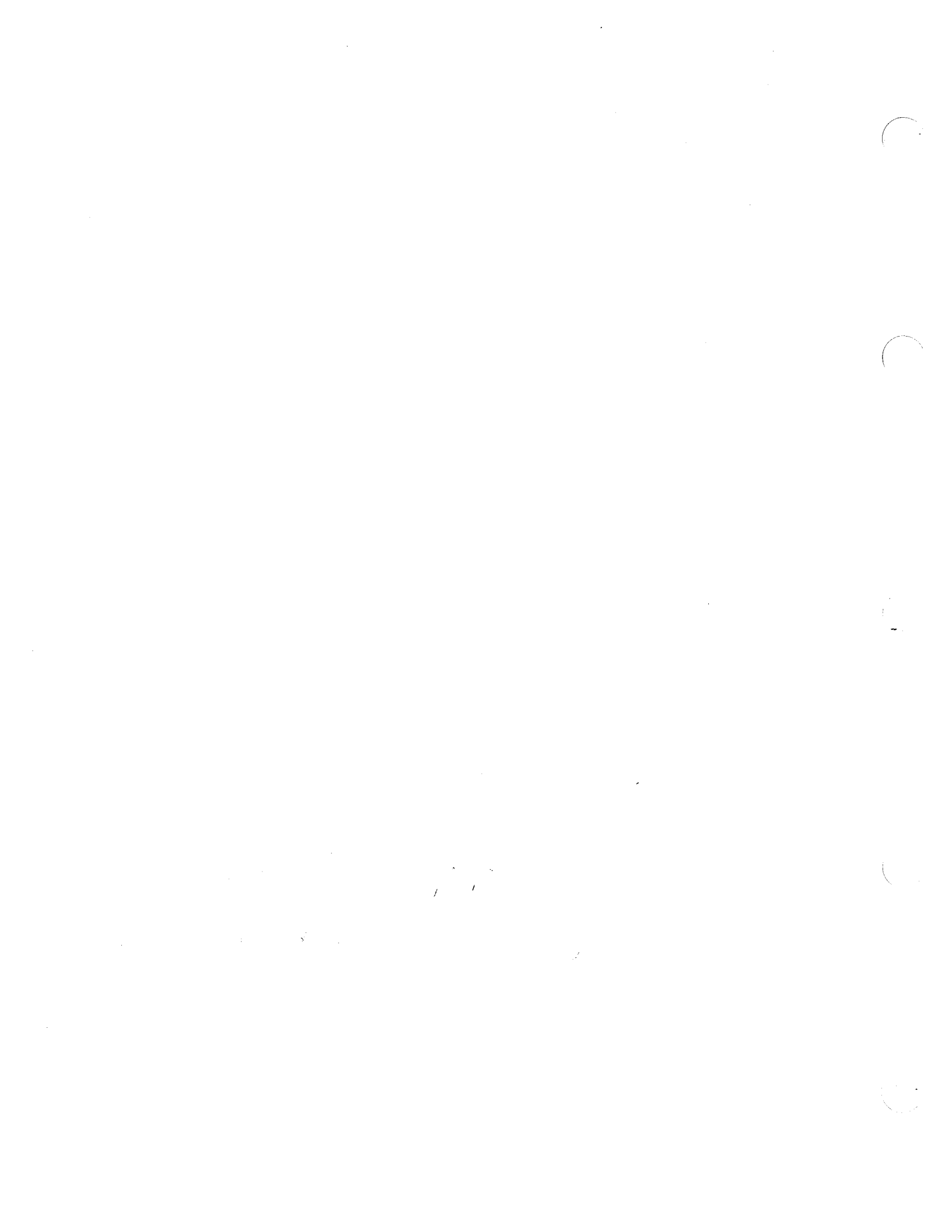


TITLE 3
PUBLIC HEALTH AND SAFETY

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CHAPTER 1

NUISANCES

SECTION:

- 3-1- 1: Animal Pen, Enclosure, Stable Or Building
- 3-1- 2: Dead Animals
- 3-1- 3: Putrid, Decaying Or Offensive Matter
- 3-1- 4: Coarse Or Nonflammable Rubbish
- 3-1- 5: Dumping Waste In Ditch, Flume Or Natural Watercourse
- 3-1- 6: Obstructing Street, Sidewalk Or Thoroughfare
- 3-1- 7: Storage Of Inflammable Liquid Or Substance
- 3-1- 8: Water Flowing On Street Or Alley
- 3-1- 9: Notice Required
- 3-1-10: Nonresident Owner

3-1-1: **ANIMAL PEN, ENCLOSURE, STABLE OR BUILDING:** Any person who shall, within the limits of this town, keep or maintain any pen, enclosure, stable or building for swine, cattle, sheep, horses or other animals in such a filthy condition as to be offensive to neighbors or passersby or injurious to the neighborhood, shall be guilty of maintaining a nuisance, and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, and costs of prosecution and the continuance of such nuisance for every day after notification by any officer to abate the same shall be deemed a separate offense, and punished accordingly. (1909 Code § 11-2-3-1; amd. 2010 Code)

3-1-2: **DEAD ANIMALS:** It shall be the duty of the owner of any animal dying within the town limits, forthwith, or with all reasonable dispatch, and before the same becomes offensive from decomposition, to remove the same beyond the town limits and there burn or bury the same, and any such owner who fails, neglects, or refuses to remove, and burn or bury the same after reasonable notice, or who shall throw or leave such dead animal in any public way, or on any private grounds, or in any watercourse, or in any pit or vault, unburied, shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code,

plus costs of prosecution, and if the party responsible therefor shall not proceed to at once abate such nuisance, it shall be the duty of the council to abate the same and the costs thereof may be recovered in an action before the town judge in addition to the penalty herein provided. (1909 Code § 11-2-3-3; amd. 2010 Code)

3-1-3: PUTRID, DECAYING OR OFFENSIVE MATTER: If any person shall throw, place, or deposit into any street, alley, or lot, any putrid, or decayed meat, fish, fowl, dung, dead animal, vegetable, fruit, or other decaying or offensive matter whatever, or anything likely to become so, or shall allow such filth, offal, dung, or other matter as aforesaid to be or remain upon his premises, or in any outhouse, stable, privy, or other place on the premises occupied by him, or in any street or alley in the rear or front of such premises, in such manner as to be offensive or injurious to any person or neighborhood, every such person committing any of the acts herein mentioned shall be guilty of creating a nuisance, and upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution, and the town shall abate such nuisance and offensive matter, the cost of such removal, plus an additional amount of twenty five percent (25%) for administrative fees, to be assessed against the owner. (1909 Code § 11-2-3-4; amd. 2010 Code)

3-1-4: COARSE OR NONFLAMMABLE RUBBISH: Every person who, within the limits of this town, shall throw or deposit loose paper or wastepaper, straw, hay or other coarse or nonflammable rubbish, e.g., car parts, tires, wood, in any of the streets or alleys, or shall allow the same to accumulate upon the premises occupied by him, so as to become dangerous to such or adjoining premises, shall be guilty of creating a nuisance, and upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution and a like sum for each day such nuisance is continued after due notice by any officer to abate the same. In the event the author of such nuisance shall refuse to abate such nuisance, the same shall be done by the town, and the expense thereof, plus an additional amount of twenty five percent (25%) for administrative fees, shall be assessed against the property. (1909 Code § 11-2-3-6; amd. 2010 Code)

3-1-5: DUMPING WASTE IN DITCH, FLUME OR NATURAL WATERCOURSE: Any person who shall empty, dump, or throw any manure, ashes, tin cans, or other rubbish or dead animal into any

open or covered water ditch, flume, or natural watercourse within the limits of this town shall be guilty of creating a nuisance, and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution, for such offense. (1909 Code § 11-2-3-7; amd. 2010 Code)

3-1-6: OBSTRUCTING STREET, SIDEWALK OR THOROUGHFARE: It is hereby declared a nuisance to allow any wagon or other vehicle, agricultural implement, merchandise, or other obstruction to remain in and upon and to encumber any street, sidewalk, or thoroughfare of this town, and any person who shall continue to occupy and use any of the public streets or thoroughfares for that purpose shall be guilty of committing a nuisance, and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution, and a like fine shall be imposed for each day such nuisance is continued after notice from any officer to abate same. (1909 Code § 11-2-3-8; amd. 2010 Code)

3-1-7: STORAGE OF INFLAMMABLE LIQUID OR SUBSTANCE: No person, company, or corporation, shall store or keep in any tank, reservoir, store house, building or any one place, within the limits of this town, any coal oil, kerosene, gasoline, petroleum, naphtha, or other highly inflammable liquid or substance, in any greater quantity than one hundred (100) gallons, nor any quantity of dynamite, nitroglycerine, or like substance, greater than one hundred (100) pounds, nor more than one thousand (1,000) giant caps, and that in the original package; provided, that any place where the above mentioned articles are stored shall at all times be under the supervision of the council, however small the quantity, and it may forbid the storage of any such articles in any quantity whatever in any particular place. Any person who shall keep any of the above mentioned articles within this town, in any quantity, shall immediately notify the mayor, in writing, stating the quantity stored and the exact location of the same. All powder shall be kept and vented from a separate building than that in which any other articles of merchandise are kept. Any person violating any of the provisions of this section or who stores any of the articles above specified in any of the places forbidden by the council, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution. (1909 Code § 11-2-3-9; amd. 2010 Code)

3-1-8: **WATER FLOWING ON STREET OR ALLEY:** Any person who shall, within the limits of this town, divert upon any street or alley any flowing water coming to the surface on his premises, or conduct thereto by means of pipes, ditches or aqueducts, or raising to the surface on his premises in any manner, in such quantity as to remain or flow upon the surface of such street or alley, shall be guilty of committing a nuisance and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, plus costs of prosecution. Each day such nuisance continues unabated after notice from any officer to abate the same shall be deemed a separate offense and punishable accordingly. (1909 Code § 11-2-3-10; amd. 2010 Code)

3-1-9: **NOTICE REQUIRED:** Before any person shall be convicted of any offense in this title defined as a nuisance, it shall be made to appear that such person has been served with reasonable notice, whether verbal or written, by any officer of the town to abate the same, and that such person has failed to do so; and in the case of a violation of any provisions of this title, it is the duty of any officer to enter complaint before the town judge, to prosecute the case, to enforce the prescribed penalty, and as part of the judgment rendered in such case the town judge may direct any of the town departments for whatever assistance shall be deemed necessary or may, by private contract, cause the abatement of such nuisance, and add the costs thereof to the other costs in the case. (1909 Code § 11-2-3-12; amd. 2010 Code)

3-1-10: **NONRESIDENT OWNER:** In case any nuisance hereinabove described shall be in, upon, or about any vacant lot, tenement, or structure within this town and owned by a nonresident with no agent living in this town, the council may order any of the town departments for whatever assistance shall be deemed necessary or may, by private contract, cause the abatement of such nuisance and the same shall be done at the expense of the owner of the premises, and the costs thereof may be recovered in a civil action against such owner and his property sold to satisfy any judgment recovered. (1909 Code § 11-2-3-13; amd. 2010 Code)

CHAPTER 2

WEEDS AND DRY GRASSES

SECTION:

- 3-2-1: Definition; Nuisance Declared
3-2-2: Duty To Control
3-2-3: Duty To Abate; Owner Responsible

3-2-1: **DEFINITION; NUISANCE DECLARED:** The word "weeds" as used in this chapter, shall include all rank, uncultivated vegetable growths and all deleterious, unhealthful growth of all types six inches (6") or more in length, or those designated as noxious by the Montana department of agriculture noxious weed program. All "weeds" as herein defined, are hereby declared to be a public nuisance. (Ord., 4-9-2002)

3-2-2: **DUTY TO CONTROL:** No owner, lessee, or occupant, nor any agent, servant, representative or employee of such owner, lessee or occupant having control of any lot of ground or having the same for sale or disposition, or any part of any lot, shall permit or suffer the growth of weeds on the premises. They shall be sprayed or cut and removed on any such lot, or part of lot. (Ord., 4-9-2002)

3-2-3: **DUTY TO ABATE; OWNER RESPONSIBLE:**

- A. Notice To Abate: Any person who may permit, suffer or allow weeds to grow upon his premises; or any combustible materials to be or remain upon his premises, or premises controlled by him or under his supervision or care, shall be served with a notice from the town either by personal service or certified mail to the last known post office address of such person.
- B. Failure To Comply; Abatement By Town; Costs; Lien: Upon failure of the owner, tenant, agent or person in charge of any premises within

the limits of the town to control or cut, destroy and remove weeds and other like growth within the ten (10) days designated by such notice, then, in such event the town's designated agent shall have cause to have the weeds sprayed or removed from the owner's premises by hiring a private contractor. The cost of spraying or removal plus an additional charge of twenty five percent (25%) for administrative costs shall become a tax lien against the property if not paid to the town clerk-treasurer within sixty (60) days of billing. (Ord., 4-9-2002)

CHAPTER 3

ABATEMENT OF DANGEROUS STRUCTURES

SECTION:

- 3-3- 1: Definitions; Nuisance Declared
- 3-3- 2: Responsibility For Maintenance
- 3-3- 3: Enforcement
- 3-3- 4: Abatement
- 3-3- 5: Abatement By Owner
- 3-3- 6: Appeal Proceedings; Hearing
- 3-3- 7: Abatement By Town
- 3-3- 8: Notice Of Assessment
- 3-3- 9: Personal Liability Of Owner
- 3-3-10: Overhead Charge; Civil Penalties

3-3-1: **DEFINITIONS; NUISANCE DECLARED:**

- A. Definitions: As used in this chapter, the following terms and phrases shall have the meanings ascribed to them as follows:

DANGEROUS BUILDING OR STRUCTURE: Any building or structure which meets the definition of a "dangerous building" as provided in the uniform code for the abatement of dangerous buildings or any successor provision adopted pursuant to this code.

SUBSTANDARD BUILDING OR STRUCTURE: Any building or structure which meets the definition of "substandard building" as provided in the uniform housing code section 1001, or any successor provision adopted pursuant to this code.

UNSAFE BUILDING OR STRUCTURE: Any building or structure which meets the definition of "unsafe building or structure" as provided in the uniform building code, or any successor provision adopted pursuant to this code.

B. Nuisance Declared: Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation hole, pit, basement, cellar, sidewalk subspace, dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any harm, damage or injury to any one or more neighbors of the property, in any one or more of the following particulars:

1. By reason of being a menace, threat or hazard to the general health and safety of the community.

2. By reason of being a fire hazard.

3. By reason of being unsafe for occupancy, or use on, in, upon, or about the aforesaid property.

4. By reason of lack of sufficient or adequate maintenance of the property and/or being vacant, any of which substantially depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that is permanently harmful to the adjacent property. (Ord., 4-2-2008)

3-3-2: **RESPONSIBILITY FOR MAINTENANCE:** Every owner, occupant, lessee or holder of any possessory interest in real property within the town is required to maintain such property so as not to violate the provisions of this chapter. The owner of the property shall remain liable for violations hereof regardless of any contract or agreement with any third party regarding such property or the occupation of the property by any third party. (Ord., 4-2-2008)

3-3-3: **ENFORCEMENT:** The town council shall have primary responsibility for the abatement of the nuisance as defined under this chapter. (Ord., 4-2-2008)

3-3-4: **ABATEMENT:**

A. Complaint Made; Inspection: Whenever a complaint is made to the town council of a dangerous nuisance as defined in this chapter, the town council shall promptly cause to be inspected the property on

which it is alleged that nuisance exists, and that the public health, safety or welfare is in immediate life threatening danger, then abatement procedures shall be implemented and the town council may cause the nuisance to be removed or abated.

B. Notice:

1. Owner: When abatement is authorized, notice to the owner, agent or occupant of the property informing of the need for the immediate abatement shall be required, either by personal service or certified mail to the last known post office address of such owner as shown on the tax records in the Carbon County treasurer's office. Failure or refusal of the occupant or owner to receive the notice does not affect the right of abatement.

2. Mortgagee: The town council shall also determine from the county clerk and recorder's records who is the mortgagee of the property, if any, as documented therein, and cause a written notice to be served on mortgagee by United States mail, return receipt requested.

3. Contents Of Notice: The aforesaid notice of the owner and mortgagee, if any, of the property shall state clearly and concisely the findings of the town council with respect to the existence of the nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the nuisance, pursuant to the orders contained in the town council notice, the nuisance shall be abated by the town at the expense of the owner.

4. Responsibility For Compliance: Any person who is the record owner of the premises, location or structure at the time an order pursuant to this chapter is issued and served upon him, shall be responsible for complying with that order, and liable for any costs incurred by the town therewith, notwithstanding the fact that he conveys his interest in the property to another after such order was issued and served.

B. No Defense: It shall not be a defense to the determination that a nuisance exists that the property is boarded up or otherwise enclosed. (Ord., 4-2-2008)

3-3-5: **ABATEMENT BY OWNER:** Within thirty (30) days after the personal delivery or mailing of a notice to abate a nuisance, the owner, agent of the owner or individual in possession of the affected property shall remove and abate such nuisance or show that no nuisance in

fact exists. The statement shall be filed with the town clerk-treasurer. The town council, upon written application by the owner within the thirty (30) day period after notice has been served, may grant additional time for the owner to effect the abatement of the nuisance. (Ord., 4-9-2002; amd. Ord., 4-2-2008)

3-3-6: APPEAL PROCEEDINGS; HEARING:

- A. Request For Hearing: The owner or occupant of the property who has been served with a notice pursuant to this chapter that a nuisance exists and that it must be abated within thirty (30) days, may, within seven (7) calendar days after receipt of such notice, make a written demand to the council for a hearing on the question of whether a nuisance in fact exists.
- B. Hearing: The hearing shall be held at the next scheduled regular meeting of the town council, following receipt by the town clerk-treasurer of the written demand, and at least two (2) days' notice of the hearing shall be given to the individual who made the written demand for the hearing. The hearing shall be conducted by the town council.
- C. Evidence: The owner, agent of the owner, occupant and mortgagee, if any, of the subject property shall be given the opportunity to present evidence to the council in the course of the hearing.
- D. Council Action: The council may amend or modify the notice and/or order, or extend the time for compliance. A majority vote of the council is required for extension of the compliance date.
- E. Abatement By Town; Waiver Of Cost: In those instances where the nuisance has been abated by the town, the council shall have discretion to waive the cost of abating the nuisance, in whole or in part, if, in the course of the hearing reviewing the decision, the council finds that any of the following did not conform to the provisions of this chapter:
 - 1. The notice to remove the nuisance;
 - 2. The work performed in abating the nuisance; or
 - 3. The computation of charges. (Ord., 4-2-2008)

3-3-7: ABATEMENT BY TOWN:

- A. **Power To Abate:** Should any nuisance not be abated at the expiration of time stated in the notice/order or within such additional time as the town council may grant, the council shall have the power to enter upon that property and abate the nuisance found thereon.
- B. **Salvage Material:**
1. **Sale Of Salvaged Material:** In abating such nuisance, the town council may go to whatever extent may be necessary to complete the abatement of the nuisance, and should it be practicable to salvage any material derived in the aforesaid abatement, the town may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.
 2. **Proceeds Of Sale:**
 - a. **Inadequate To Cover Costs:** The proceeds, if any, obtained from the sale of salvaged materials from the abatement of a nuisance by the town shall be deposited in the general fund of the town and any deficit between the amount so received and the cost of abatement may be levied as an assessment against the property in question by the town council and collected on property taxes by the town if abatement costs are not recouped from the property owner within sixty (60) days of billing by the town clerk-treasurer.
 - b. **Excess Funds:** Should the proceeds of the sale of such salvaged materials exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the nuisance was abated when a proper claim pursuant to state law for the excess is established.
- C. **Work Done By City Employees Or Contract:** In abating a nuisance, the town council may call upon any of the town employees for whatever assistance shall be necessary or may, by private contract, cause the abatement of the nuisance.
- D. **Statement Of Costs:** The council shall, after completing the removal and abatement, file a statement of costs with the town clerk-treasurer. (Ord., 4-2-2008)

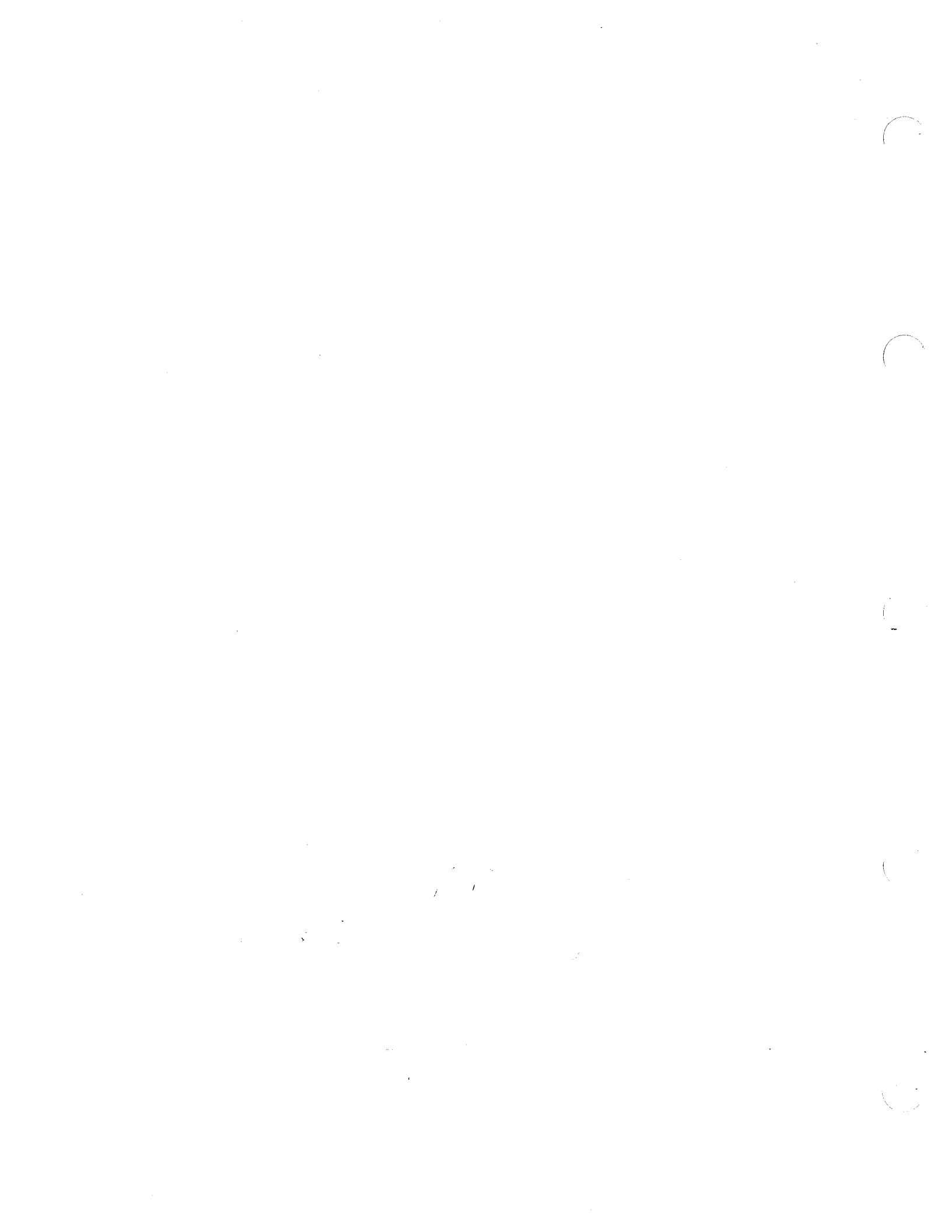
3-3-8: NOTICE OF ASSESSMENT:

- A. **Right To Object:** Upon receipt of the statement of costs from the town council, the town clerk-treasurer shall mail to the owner of the property upon which the nuisance has been abated notice of the amounts set forth in the statement, plus an additional amount of twenty five percent (25%) for administration fees and any additional amount sufficient to defray the costs of the notice, plus civil penalty; and stating that the town proposes to assess against the property a tax lien in the amount set forth in the notice and that objections to the proposed assessment must be made, in writing, and received by the town clerk-treasurer within twenty (20) days from the date of mailing such notice.
- B. **No Objections Filed:** Upon the expiration of the twenty (20) day period, if the town clerk-treasurer has received no objections, the town clerk-treasurer shall record a lien in that amount with the Carbon County clerk and recorder which shall, therefore, constitute a lien against the property.
- C. **Objections Filed:** If the town clerk-treasurer, prior to the expiration of the twenty (20) day period receives objections of either the property owner or their representative, the town clerk-treasurer shall refer the matter to the town council for review.
- D. **Council Review:** Upon conclusion of the review, the town council shall make a written determination that the amount of the charges shall be canceled, reduced or remain the same. A copy of this determination shall be furnished to the person making the objection. The town council, in review, may only reduce a proposed assessment by eliminating the civil penalty of the invoice if it is determined that:
1. The current owner was not in possession of the property at the time the notice was served; or
 2. The owner did not receive the notice to remove the nuisance; didn't have knowledge of the nuisance and could not with the exercise of reasonable diligence, have had such knowledge.
- E. **Request By Owner After Lien Filed:** If, after a lien has been recorded in the office of the clerk and recorder, there is a written request of an owner who alleges that the owner did not receive notice of the proposed assessment, the town clerk-treasurer shall refer the matter to the town council for review. The lien may be canceled or reduced

by the town council, if it is determined that the owner did not receive the notice of the proposed assessment, did not previously have knowledge of the lien or of the nuisance abatement work constituting the basis of the lien, could not, in exercise of reasonable care or diligence, have had such knowledge, and in addition, that the circumstances are such that reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the town council pursuant to this section, the town clerk-treasurer shall cancel or reduce the lien if required by the determination of the town council. A copy of the determination will be furnished to the town clerk-treasurer who shall then record a lien, the amount to be determined by the town council, in the office of the Carbon County clerk and recorder as provided in this section. The determination of the town council is a final administrative decision. (Ord., 4-2-2008; amd. 2010 Code)

3-3-9: **PERSONAL LIABILITY OF OWNER:** The person who is the owner of the property at the time at which the notice required under this chapter is served shall be personally liable for the amount of the assessment including all interest, civil penalties and other charges. (Ord., 4-2-2008; amd. 2010 Code)

3-3-10: **OVERHEAD CHARGE; CIVIL PENALTIES:** Whenever a nuisance is abated by the town, the town clerk-treasurer shall keep an accurate amount of all expenses incurred, including an overhead charge of twenty five percent (25%) for administration costs, an amount sufficient to defray costs of notice and a civil penalty of two hundred dollars (\$200.00) for each nuisance abated. When the town has abated a nuisance maintained by any owner of real property, for such subsequent nuisance that is abated by the town within two (2) consecutive calendar years, an additional civil penalty of fifty percent (50%), minimum of fifty dollars (\$50.00), of the cost of abatement shall be added to the costs, charges and civil penalties provided for in this section. The civil penalty shall be imposed without regard to whether the nuisances abated by the town involve the same real property or are of the same character. (Ord., 4-2-2008; amd. 2010 Code)



CHAPTER 4
JUNKED VEHICLES

SECTION:

- 3-4-1: Definitions
3-4-2: Nuisance Designated; Abatement
3-4-3: Responsibility

3-4-1: **DEFINITIONS:** For the purpose of this chapter, the following terms, phrases and words shall follow the Montana Code Annotated:

COMPONENT PART: Any identifiable part of a discarded, ruined, wrecked or dismantled motor vehicle including, but not limited to, fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

JUNK VEHICLE: A. A motor vehicle including component parts, i.e., discarded, ruined, wrecked, or dismantled; that, except as provided in subsection B of this definition, is not lawfully and validly licensed and that remains inoperative or incapable of being driven.

B. If a vehicle is permanently registered under Montana Code Annotated section 61-3-562 and meets the criteria for a junk vehicle under subsection A of this definition, the vehicle is a junk vehicle.

PERSON: Any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or other governmental or

private entity, whether organized for profit or not.

PUBLIC VIEW: Any point six feet (6') above the surface of the center of a public road from which junk vehicles can be seen.

SHIELDING: The construction or use of fencing or constructed or natural barriers to conceal junk vehicles from public view. (2010 Code)

3-4-2: NUISANCE DESIGNATED; ABATEMENT: No person shall park, store, keep, place, leave or permit the same, any abandoned, wrecked, junked or dismantled motor vehicle or vehicle upon any private property within the town for a period in excess of one month. The presence of any abandoned, wrecked, junked or dismantled vehicle or motor vehicle, or parts thereof upon private property as specified in this chapter, is declared a public nuisance and will be abated as such in accordance with the provisions of this chapter. (2010 Code)

3-4-3: RESPONSIBILITY: The occupant of any private property in the town shall be responsible for any violation of this chapter, with the head of the household being deemed to be the occupant. In the case of a vacant lot or an unoccupied premises, the person owning the same shall be responsible for any violation of this chapter. (2010 Code)