

**TITLE 3**  
**PUBLIC HEALTH AND SAFETY**

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CHAPTER 1  
**NUISANCES<sup>1</sup>**

SECTION:

- 3-1-1: Noisome Substances
- 3-1-2: Offensive Matter
- 3-1-3: Nauseous Liquids
- 3-1-4: Cellars, Drains
- 3-1-5: Animal Enclosures
- 3-1-6: Penalty; Abatement
- 3-1-7: Abatement Without Prosecution

3-1-1: **NOISOME SUBSTANCES:** It is a public nuisance to cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected or to remain in any place in the town to the prejudice of others. (1975 Code § 7.04.010)

3-1-2: **OFFENSIVE MATTER:** It is a public nuisance for any owner, lessee, occupant or resident of any premises to suffer or cause to be maintained on such premises for twenty four (24) hours or longer any unwholesome, decaying or putrid animal or vegetable matter which contaminates the atmosphere or endangers or injures the health of any person, or which is indecent or offensive to the senses, or interferes with the comfort or enjoyment of any resident in the town. (1975 Code § 7.04.020)

3-1-3: **NAUSEOUS LIQUIDS:** It is unlawful for any person to cause or permit any nauseous, foul or putrid liquor or other liquid substance to be discharged, placed or thrown, or to flow from or out of any premises into or upon any adjacent premises, or any public street, alley, road or sidewalk, or into any channel or watercourse. (1975 Code § 7.04.030)

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1. MCA § 7-5-4104.

3-1-4:       **CELLARS, DRAINS:** Whoever shall suffer or cause any cellar, vault, drain, pool, privy, or sewer belonging to or controlled by him to become, from any cause, nauseous, foul, offensive or injurious to the public health, or unpleasant and disagreeable to adjacent residents or persons, within the limits of the town, shall be deemed guilty of committing a public nuisance. (1975 Code § 7.04.040)

3-1-5:       **ANIMAL ENCLOSURES:** It is a public nuisance for any person to keep or maintain any pen or enclosure, stable or building for animals in such a filthy or unwholesome condition as to be offensive to neighbors or passersby, or injurious to the health of the neighborhood. (1975 Code § 7.04.050)

3-1-6:       **PENALTY; ABATEMENT:** Whoever causes, erects, suffers or maintains any nuisance or other offense prohibited by this chapter shall, upon conviction, be subject to penalty as provided in section 1-4-2 of this code. Every such nuisance or offense, when a conviction therefor is had, shall be abated by the chief of police or other proper officer, at the expense of the defendant. (1975 Code § 7.04.060; amd. 2006 Code)

3-1-7:       **ABATEMENT WITHOUT PROSECUTION:** Whenever any nuisance shall exist upon, in front of, or along any lot or parcel of land within the town, whether such lot or parcel of land be occupied or unoccupied, the chief of police, instead of prosecuting the owner of the premises, or his agent, may cause such nuisance to be abated either after notice or, in case of emergency, immediately without notice. Such abatement shall be done at the expense of the owner, and the town may specially assess such expense to such property as a tax, which shall be collected as other taxes are collected. (1975 Code § 7.04.070)

## CHAPTER 2

**WEEDS<sup>1</sup>**

## SECTION:

- 3-2-1: Definition
- 3-2-2: Weeds Prohibited
- 3-2-3: Notice To Destroy
- 3-2-4: Action Upon Noncompliance
- 3-2-5: Penalty

3-2-1: **DEFINITION:** "Noxious weeds" means all rank vegetable growth of every kind and nature including, but not limited to, dandelions and all weeds known as Canada thistle, Scotch bull thistle, Russia thistle, sow thistle, quack grass, leafy spurge (*euphorbia esula* or *euphorbia virgato*), field bindweed, Russian knapweed (*centaurea picris*), hoary cress (*lapidium draba*, *lapidium repens*, and *humerophysa pubesens*), dodder or any similar unwanted vegetation over eight inches (8") in height. (1975 Code § 7.08.010)

3-2-2: **WEEDS PROHIBITED:** No owner or owners of any lot, place or area within the town, or agent of such owner or owners, shall permit noxious weeds on such lot, place or area and one-half ( $\frac{1}{2}$ ) of any road or street lying next to such property abutting thereon. The existence of such noxious weeds shall constitute a public nuisance. (1975 Code § 7.08.020)

3-2-3: **NOTICE TO DESTROY:**

- A. Notice To Owner: Whenever noxious weeds are found to exist upon any premises within the town, the town shall notify the owner of the property or, if no such person can be found, the person in control of the premises.

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1. Municipalities authorized to require the removal, etc., of noxious weeds, see MCA § 7-22-4101.

- B. **Contents Of Notice:** The notice shall state that the existence of such noxious weeds constitutes a public nuisance, and shall order the owners, or persons in charge, to exterminate or remove all such weeds on any lot, place or area within the town limits, and upon one-half ( $\frac{1}{2}$ ) of any adjacent street or road. The notice shall further inform such property owners, or their agents, that upon their failure to remove or exterminate such weeds within a specified time, the town may proceed to have such weeds removed or exterminated and assess the cost thereof to the property involved.
- C. **Service Of Notice:** Personal notice of the order shall be served. In case personal service cannot be obtained, then the notice shall be published in a prominently displayed advertisement, once a week for two (2) weeks in a newspaper in the town, or if no such paper exists, in a newspaper within the county. The last date of publication shall be not less than seven (7) days prior to the date upon which the town shall commence the removal of weeds from such property. (1975 Code § 7.08.030)

**3-2-4: ACTION UPON NONCOMPLIANCE:**

- A. **Removal By Town:** Upon the failure, neglect or refusal of any owner or owners, or agent thereof, to exterminate or remove noxious weeds growing, lying or located upon the property of the owner or upon one-half ( $\frac{1}{2}$ ) of any road or street lying next to the lands before the date specified in the notice, the engineer or other responsible town official may exterminate or remove such noxious weeds.
- B. **Costs:** Such official shall report to the town clerk-treasurer the cost of such extermination. The clerk-treasurer shall make an additional charge of ten percent (10%) to cover administrative costs.
- C. **Lien:** The total costs shall be assessed against the lot or parcel of land from which or adjoining which the noxious weeds have been exterminated or removed. The clerk-treasurer shall cause the aforesaid costs to become a lien against the property involved. (1975 Code § 7.08.040)

- 3-2-5: PENALTY:** Any person violating a provision of this chapter shall, upon complaint and conviction thereof, be subject to penalty as provided in section 1-4-2 of this code. (1975 Code § 7.08.050; amd. 2006 Code)

## CHAPTER 3

**GARBAGE AND RUBBISH<sup>1</sup>**

## SECTION:

- 3-3-1: Definitions
- 3-3-2: Disposal Of Wastes
- 3-3-3: Garbage Containers
- 3-3-4: Garbage Stands
- 3-3-5: Ash Containers
- 3-3-6: Inflammable Rubbish, Acids And Explosives
- 3-3-7: Penalty

3-3-1: **DEFINITIONS:** When used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

**ASHES:** A. The residue from the burning of wood, coal, coke or other combustible materials in homes, stores, institutions and small industrial establishments, for the purpose of heating, cooking and disposing of waste combustible materials. Cinders produced in steam generating plants are not included within the meaning of this term.

B. The residue from household refuse incinerators and from yard rubbish burners is normally classed as ashes, as are also remains from burning leaves and yard rubbish in open fires.

**GARBAGE:** A. Includes animal and vegetable waste resulting from the handling, preparation, cooking

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1. For regulation by town of disposition and removal of ashes, garbage and other offensive matter, see MCA §§ 7-14-4105, 7-14-4106.

and consumption of foods. It is composed largely of organic matters and their natural moisture content.

B. The term does not include within its meaning food processing wastes from canneries, slaughterhouses, packing plants or similar industries, or large quantities of condemned food products.

C. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is stored, cooked or consumed.

**INFLAMMABLE  
RUBBISH OR  
COMBUSTIBLE  
RUBBISH:**

Comprises miscellaneous flammable materials. Generally it is the organic component of rubbish, such as paper, rags, cartons, boxes, wood, excelsior, furniture, bedding, rubber, leather, tree branches, yard trimmings and similar material.

**NONCOMBUSTIBLE  
RUBBISH:**

Comprises miscellaneous refuse materials that are nonflammable at ordinary temperatures. For the most part it is the inorganic component of rubbish, such as tin cans, metals, mineral matter, glass, crockery, dust, metal furniture, etc.

**RUBBISH:**

All refuse not included in garbage and ashes. It consists of a great variety of combustible and noncombustible waste materials from households, stores and institutions. This waste is defined more specifically as "combustible rubbish" and "noncombustible rubbish", but whenever the word "rubbish" is used alone, it means a mixture of both. "Trash" is synonymous with "rubbish". (1975 Code § 7.12.010)

**3-3-2: DISPOSAL OF WASTES:** The disposal of garbage, rubbish and other wastes shall be as the town council orders by ordinance and regulation. (1975 Code § 7.12.020)



**3-3-3: GARBAGE CONTAINERS:**

- A. **Containers Required:** The owner, operator and occupant of every human habitation who disposes of garbage by the use of containers shall provide, or cause to be provided, portable vessels or containers for the deposit therein of garbage. (1975 Code § 7.12.030; amd. 2006 Code)
- B. **Specifications:** Such containers shall have handles, shall not exceed forty (40) gallons' capacity, be provided with a suitable flytight cover, and be so constructed and at all times maintained so as to prevent leakage.
- C. **Placement:** Such containers shall be placed and kept as required and directed by the town.
- D. **Apartments And Multiple-Family Dwellings:** In the case of apartments or other multiple-family dwellings, as many containers shall be provided as the town health officer or other responsible town official shall specify and require. (1975 Code § 7.12.030)
- E. **Condition Of Receptacles:** Receptacles that have deteriorated to the extent of having jagged or sharp edges, capable of causing injury to the collectors or others whose duty it is to handle the containers, or to the extent that the covers will not fit tightly, or to the extent of allowing the garbage to be scattered, will be condemned by the town acting through the health officer or other responsible town official and will be required to be replaced upon notification. (1975 Code § 7.12.040; amd. 2006 Code)

**3-3-4: GARBAGE STANDS:** All garbage containers as described above shall be placed or stationed on an impervious, well drained base constructed of either cement, metal or wood at a height of not less than six inches (6") nor more than one foot (1') from the level of the alley or street. The garbage containers shall be located on the owner's property adjoining an alley or street. (1975 Code § 7.12.050)

**3-3-5: ASH CONTAINERS:** Ashes and other heavy, noncombustible refuse, of the size to fit in a receptacle, shall be placed in a separate receptacle of volume not to exceed two (2) cubic feet and of construction sufficiently strong to hold such refuse. (1975 Code § 7.12.060)

3-3-6

3-3-7

3-3-6:       **INFLAMMABLE RUBBISH, ACIDS AND EXPLOSIVES:** No person shall place or cause to be placed in or near the receptacle provided for the removal of ashes any highly inflammable rubbish, acids or explosives of any kind whatsoever. (1975 Code § 7.12.070)

3-3-7:       **PENALTY:** Any person violating a provision of this chapter shall, upon complaint and conviction thereof, be subject to penalty as provided in section 1-4-2 of this code. (1975 Code § 7.12.080; amd. 2006 Code)

## CHAPTER 4

**DECAY**

## SECTION:

- 3-4-1: Interpretation
- 3-4-2: Definitions
- 3-4-3: Junkyards
- 3-4-4: Community Decay
- 3-4-5: Shielding
- 3-4-6: Public Nuisance
- 3-4-7: Penalty

3-4-1: **INTERPRETATION:** Nothing in this chapter shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution which is more restrictive than the provisions in this chapter. (Ord. 131, 8-27-2002)

3-4-2: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**COMMUNITY DECAY:** Accumulations of rubble, debris, junk, trash, waste or refuse within the public view.

**JUNKYARD:** Any establishment, place or property which is maintained, operated or used for storing, keeping, buying or selling junk, scrap, or other waste materials.

**PERSON:** An individual, firm, partnership, company, association, corporation, or any other entity whether organized for profit or not.

**PUBLIC NUISANCE:** A. Includes:

1. A condition which endangers safety or health, is offensive to the senses, or obstructs

the free use of property by an entire community or neighborhood or by any considerable number of persons.

2. Any premises where persons gather for the purpose of engaging in unlawful conduct.

3. A condition which renders dangerous for passage any public highway or right of way or waters used by the public.

B. Excepted: No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

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**PUBLIC VIEW:**

Any point six feet (6') above the surface of the center of any public road from which the community decay can be seen.

**SHIELDING:**

Refers to fencing or other manmade barriers to conceal community decay from public view. It also refers to natural barriers. Any shielding barrier must conform to all local zoning, planning, building and protective covenant provisions. Any shielding is to be sufficient height so that none of the violation on the premises is visible to public view. (Ord. 131, 8-27-2002)

Amended  
ORD#139  
06/27/2006

**3-4-3:**

**JUNKYARDS:** No person shall establish, operate or maintain any junkyard within the town limits. (Ord. 131, 8-27-2002)

Amended  
ORD#139  
06/27/2006

**3-4-4: COMMUNITY DECAY:** No person shall allow, suffer or permit community decay to exist within the public view on any property with the town limits. (Ord. 131, 8-27-2002)

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**3-4-5: SHIELDING:** All plans for shielding shall be approved by the town council prior to commencing construction or implementation, shall provide a similar degree of shielding at all times of the year, shall be attractive and neat in appearance, shall be maintained at all times in good condition, and shall comply with other town ordinances such as setback, height, zoning, etc. (Ord. 131, 8-27-2002)

Amended  
ORD#139

**3-4-6: PUBLIC NUISANCE:** Any condition existing in violation of this chapter is declared to be a public nuisance. (Ord. 131, 8-27-2002)

Amended  
ORD#139

**3-4-7: PENALTY:** Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to penalty as provided in section 1-4-2 of this code. Each day the violation exists shall be deemed a separate offense. (Ord. 131, 8-27-2002; amd. 2006 Code)

