

**TITLE 4**  
**HEALTH AND SANITATION**

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CHAPTER 1  
**NUISANCES**

SECTION:

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4-1-1: **SHORT TITLE:** This chapter shall be known as the *PUBLIC NUISANCE ORDINANCE*. (Ord. 82, 2-11-2003)

4-1-2: **PURPOSE:** The purpose of this chapter is to protect the public health, safety and welfare of the people of the city from the dangers inherent in nuisances. No owner or person in charge of property may permit or cause a nuisance affecting public health, safety and welfare. (Ord. 82, 2-11-2003)

4-1-3: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section:

**ATTRACTIVE NUISANCE:** Includes any condition, instrument or machine which is unsafe, unprotected and may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators, motor vehicles, machinery, equipment and devices; any structurally unsound fences or structures; or any lumber, trash, fences, debris

or vegetation which may prove hazardous or dangerous to inquisitive minors.

**JUNK:**

Includes inoperative, wrecked and dismantled or partly dismantled vehicles not meant to be rebuilt, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

**PERSON:**

A natural person, individuals, firm, partnership, association, corporation or any other entity.

**PERSON IN CHARGE OF PROPERTY:**

An agent, occupant, lessee, renter, manager, contract purchaser or other person having possession or control of property or supervision of a construction project.

**PERSON RESPONSIBLE:**

The person responsible for abating a nuisance includes:

A. The owner, the named individual(s) listed in the Grant County tax assessor's office records for the real property at issue;

B. The "person in charge of property", as defined in this section; and

C. The person who caused a nuisance, as described in this chapter or another ordinance of the city.

**PUBLIC PLACE:**

A building, way, place or accommodation, publicly or privately owned, open and available to the public.

**SUMMARY ABATEMENT:**

To take immediate action in order to meet the purposes of this chapter.

**TRASH:**

All trash shall include, but is not limited to, all refuse which is the after product of human consumption and items of no or nominal value. (Ord. 82, 2-11-2003)

**4-1-4: NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND WELFARE:**

**A. Enumerated Nuisances:** It is unlawful for any owner or person in charge of property in the city to maintain such premises in such a manner that any of the following conditions are found to exist thereon, or for any person to do any of the following on any public property or on any public place:

**1. Animal Carcasses:** Permit an animal carcass under their ownership or control to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

**2. Cesspools Or Septic Tanks:** Maintain cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.

**3. Debris And Trash:** Fail to remove and keep removed, unless specifically authorized by ordinance to do otherwise:

a. All household garbage, debris, rubbish, offal, dead animals, animal and human waste, and waste materials.

b. Accumulations of litter, glass, scrap materials (which includes, but is not limited to, wood, metal, paper, and plastic), junk, combustible materials, stagnant water, or trash (which includes, but is not limited to, clothing, household furniture, household appliances and other household items that are discarded outside the home).

c. All dead bushes, dead trees, dead vines and dead grass and stumps with the exception of such material which:

(1) Is being maintained as part of a naturescaped property;

(2) Does not result in a nuisance as otherwise defined in this chapter; and

(3) Is located on a property which is otherwise substantially in compliance with this chapter; or

d. Accumulations of items that emit foul odors or if the continued placement of the item on the lot creates any health hazard.

**4. Storage Of Nontrash Items:** Fail to remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

- a. Accumulations of wood pallets.
  - b. All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.
  - c. Accumulations of vehicle parts, tires and associated accessories.
  - d. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.
  - e. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site.
  - f. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
  - g. All recyclable materials, except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well maintained manner.
  - h. All other nontrash items which:
    - (1) Are of a type or quantity inconsistent with normal and usual use; or
    - (2) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel; or
  - i. Accumulations of items that emit foul odors or if the continued placement of the item on the lot creates any health hazard.
5. Nuisance Dog: Allow a dog to be a nuisance. A dog is a public nuisance if it:
- a. Bites a person;
  - b. Chases a vehicle or person;
  - c. Damages or destroys property of a person other than the keeper of the dog;

d. Scatters garbage;

e. Trespasses on private property of persons other than the keeper of the dog;

f. Disturbs any person by frequent or prolonged noises;

g. Is running at large;

h. Creates a stench offensive to a person other than of the keeper of the dog;

i. Injures or kills a pet or domestic animal;

j. Is maintained as a dangerous animal by definition of the keeper of the dog; or

k. Is not controlled by a leash of less than ten feet (10') in length and adequate for said dog unless on the real property of the owner, possessor or controller.

#### 6. Fences:

a. Construct or maintain a barbed wire fence or allow barbed wire to remain as part of a fence along a sidewalk or public way or along the adjoining property line of another person.

b. Construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

7. Holes, Tanks And Attractive Nuisances: Have on his property or in possession any holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition or attractive nuisance which may endanger neighboring property or the health or safety of the public or the occupants of the property.

8. Junk: Maintain junk upon real property either private or public, outdoors on a street, lot or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress. This subsection does not apply to junk kept in a licensed junkyard or automobile wrecking house.

9. Noise: Allow loud and prolonged noise by automobiles, persons, animals, music or construction during hours between nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M., in any residential zone.

10. Notices And Advertisements: Place notices or any placard, bill, advertisement or poster upon real property, public or private, without permission from the owner or person in control of the property. This subsection A10 shall not be construed to amend or repeal any regulation adopted by the city regulating the use or location of signs and advertising.

11. Open Vaults Or Privies: Allow an open vault or privy to be constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with state health division regulations.

12. Overgrown Lawn Areas: Fail to cut and remove and keep cut and removed all grass that is located in lawn areas and has a prevailing height of more than ten inches (10"); or fail to cut and remove and keep cut and removed all brush, shrubs, vines, grass, weeds, and other vegetation overgrowing beyond a property line or right of way of a public thoroughfare abutting on the property.

13. Plastics, Oil, Grease Or Petroleum Products: Allow plastics, oil, grease, or petroleum products to be introduced into the sewer system.

14. Premises: Allow premises to be in such a state or condition as to cause an offensive odor or to cause an unsanitary condition.

15. Rainwater, Ice Or Snow: Permit rainwater, ice or snow to fall from a building or structure onto a street or public sidewalk or to flow across the sidewalk.

16. Radio Or Television Reception: Operate, or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonable preventable interference with radio or television reception by a radio or television receiver or good engineering design. This subsection does not apply to devices licensed, approved and operated under the rules and regulations of the federal communications commission.

17. Snow On Sidewalks: Allow snow to remain on the sidewalk for a period longer than the first two (2) hours of daylight after the snow has fallen.

18. Stagnant Water: Maintain stagnant water which affords a breeding place for mosquitoes and other insects.

19. Surface Drainage: Allow drainage of liquid wastes from private premises.

20. Trees: Maintain the following:

a. Trees or bushes that interfere with street or sidewalk traffic. An owner or person in charge of the property that abuts a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet (8') above the sidewalk and not less than ten feet (10') above the roadway.

b. Dead or decaying tree, if it is a hazard to the public or to persons or property on or near the property.

21. Water Pollution: Allow pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.

22. Weeds And Noxious Growth: Permit weeds or other noxious vegetation to grow upon his property or overgrow beyond a property line or right of way of a public thoroughfare abutting on the property. It shall be the duty of an owner or person in charge of property to cut down or to destroy weeds or other noxious vegetation as often as needed in order to prevent the weeds or noxious vegetation from becoming unsightly, from becoming a fire hazard, from maturing or going to seed.

B. General Nuisances: In addition to the nuisances specifically enumerated in subsection A of this section, every other thing, substance or act that is determined by the council to be injurious or detrimental to the health, safety, welfare, or peace of the city is declared a nuisance and may be abated as provided for in this chapter.

C. Declaration Of Enumerated And General Nuisances: The acts, conditions, or objects specifically enumerated and defined in subsection A of this section are declared public nuisances affecting public health, safety, welfare or peace. The nuisances enumerated and defined in subsection A of this section are prohibited in the city and may be abated by the procedures set forth in sections 4-1-5 and



4-1-6 of this chapter. The procedures for abatement set forth in section 4-1-5 of this chapter shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any manner provided by law. (Ord. 82, 2-11-2003)

**4-1-5: ABATEMENT PROCEDURE:**

- A. Notice: Except in the case of summary abatement or immediate danger or when a violation occurs at a public place or on public property, upon determination by the city council that a nuisance exists on property or adjacent right of way, the council shall cause a notice to be posted upon the property directing the repair, removal or other actions as may be necessary to correct the violation(s).

1. The notice to abate shall contain:

a. The date of notice, and the name of the owner(s) and parties responsible, if known.

b. A description of the real property by street address or by a description sufficient for identification of the property on which the nuisance exists.

c. A statement that one or more nuisances within the provisions of this chapter exist at the property with a general description of the nuisance(s).

d. A statement that penalties, charges, and liens may result from a failure to remedy the nuisance(s).

e. A statement that said penalties, charges and liens can be avoided if the nuisance or nuisances are abated within fifteen (15) days from the date of the notice.

f. A statement that, if the person responsible fails to remove nuisance(s) within fifteen (15) days, the city may abate the nuisance(s) and the cost of abatement will be charged to the person responsible.

g. A statement that the person responsible has a right to protest the findings of the notice to abate nuisance by giving written notice as described in subsection B2 of this section to the city recorder-manager within fifteen (15) days from the date of notice.

2. Any notice mailed pursuant to this chapter shall be effective when deposited in the United States mail, certified, return receipt requested, and addressed to the party to receive the notice at that party's last known address, as shown by the records of the city or, if no known address exists within the city records, as shown by the records of the Grant County tax assessor's office.

3. If the person responsible is not the owner, an additional notice as outlined above shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed and become a lien on the property.

4. Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates with the city stating the date and place of the mailing and posting. Any error in the execution or the filing of the certificate shall not make the notice void.

5. The notice provisions of this section shall not restrict the giving of notice by other means, including mail. If the owner and/or person responsible are personally served with the notice to abate the nuisance, the notice does not have to be mailed to the persons personally served.

6. An error in the name or address of the owner or person responsible shall not make the notice void, and in such case, the posted notice shall be sufficient.

7. The failure of any person to receive any notice required under this chapter properly served, mailed, posted or published under this chapter shall not affect the validity of any proceedings taken under this chapter.

**B. Abatement By Person Responsible; Appeal Procedure:**

1. The owner or responsible person may appeal the notice to abate nuisance requirement within fifteen (15) days after the posting and mailing of the notices as provided in subsection A of this section in the manner described in subsection B2 of this section.

2. An owner or person responsible, protesting that no nuisance exists, shall file a written statement to the city recorder-manager with the following information within:

a. The name and address of the person appealing the notice to abate nuisance and the date of the appeal; and

b. A concise written statement designating the portion of the notice to abate nuisance being appealed and the facts supporting the appeal.

3. As soon as practicable after receiving the written appeal but not more than twenty (20) days after receiving the written appeal, the council shall set a date to hear the appeal. Once the council sets the appeal date, the council may continue the hearing for good cause. Written notice of the time, date and place of the hearing shall be given to the owner and all persons responsible at least twenty (20) days prior to the date of hearing. Said notice shall include the following information:

a. A statement of the nature of the nuisance violations and list the applicable criteria from this chapter that apply to the nuisance violations.

b. A statement of the names and addresses of the person or persons responsible for the nuisance violations.

c. A description of the real property by street address or by a description sufficient for identification of the property on which the nuisance exists.

d. State the date, time and location of the hearing.

e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal based on that issue.

f. State the name of the city representative to contact and the telephone number where additional information may be obtained.

g. State that a copy of all documents and evidence submitted in this matter and applicable criteria are available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost.

h. State that if any staff report is used at the hearing it shall be made available to the public at least seven (7) days prior to the publication.

i. A statement that the procedures for this hearing shall proceed as follows: 1) the city council shall state the sections of this chapter

and criteria that apply to violation(s); 2) the city council shall present into evidence all applicable documents and evidence; 3) the city council shall allow testimony and comments from the opposing party(ies) and the public; and 4) the city council shall make a determination.

4. Failure of a person to receive the notice prescribed in subsection B3 of this section shall not impair the validity of the hearing.

5. The notice provided under subsection B3 of this section shall be published in a newspaper of general circulation in the city at least ten (10) days prior to the date of the hearing.

6. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or use of radio or television.

**C. Appeal And Determination:**

1. At the time and place stated in the notice, the city council shall hear and consider all relevant evidence, including, but not limited to, the testimony of the responsible party, city personnel, neighbors, witnesses or other interested parties, and may consider staff reports or other written materials, on the following issues:

a. Whether the activity, condition, or conduct stated in the notice to abate the nuisance exists on the property or existed after the time for compliance stated in said notice;

b. Whether the person(s) appealing the notice to abate the nuisance are responsible parties; and

c. The appropriate method of abatement, the amount of administrative penalties and the imposition of abatement costs.

2. After the conclusion of the hearing, the council shall make findings and issue its written determination in the official minutes of the council. A copy of the written determination shall be mailed to the appealing party(ies).

3. If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within ten (10) days after the council's written determination is signed.

4. In the absence of any appeal to the city council, the public nuisance found to exist on the property shall be abated by having such property, building or structures rehabilitated, repaired or demolished within the time specified, and in the manner and means specifically set forth in the notice to abate nuisance issued by the city council and this chapter.

**D. Abatement By City:**

1. If the nuisance has not been abated by the person responsible within the time allowed, the council may cause the nuisance to be abated.

2. The officer charged with abatement of the nuisance shall have the right to enter into or upon the property at reasonable times to investigate or cause the removal of a nuisance.

3. The city recorder-manager shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of twenty percent (20%) of those expenses for administrative costs.

**E. Assessment Of Costs:**

1. The city recorder-manager shall forward to the owner and the person responsible, by certified mail, a notice stating:

a. The total cost of abatement, including the administrative costs.

b. That the costs as indicated will be assessed to the responsible party unless paid within thirty (30) days from the date of the notice.

c. That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city recorder-manager not more than fifteen (15) days from the date of the notice.

2. No sooner than thirty (30) days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objection to the costs assessed.

3. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, the council shall proceed to collect said funds in any manner available to the city under the law.

4. An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed charges will not void the charges. (Ord. 82, 2-11-2003)

4-1-6: **SUMMARY ABATEMENT; PENALTIES:**

A. **Summary Abatement:** The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other ordinances. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

B. **Penalty:** A violation of a provision of this chapter shall subject the violator to a penalty not to exceed two thousand dollars (\$2,000.00) per offense.

C. **Separate Violations:**

1. Each day's violation of a provision of this chapter constitutes a separate offense.

2. The abatement costs of a nuisance are not a penalty for violating this chapter but are an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of the nuisance within ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty under subsection B of this section. (Ord. 82, 2-11-2003; amd. 2007 Code)

CHAPTER 2  
LANDFILL USE

SECTION:

- 4-2-1: Use Restricted
- 4-2-2: Penalty

4-2-1: **USE RESTRICTED:** No unauthorized person shall place and leave in the city dump owned and operated by the city, any household appliances, car bodies, car parts or parts of other vehicles or any dead animals or parts of dead animals. (Ord. 10, 6-1-1971; amd. 2007 Code)

4-2-2: **PENALTY:** Violation of this chapter shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00). (Ord. 10, 6-1-1971)

**CHAPTER 3  
DISCARDED VEHICLES**

**SECTION:**

- 4-3- 1: Definitions
- 4-3- 2: Declaration Of Public Nuisance
- 4-3- 3: Investigation
- 4-3- 4: Contents Of Notice
- 4-3- 5: Entry On Private Property
- 4-3- 6: Hearing By Municipal Judge
- 4-3- 7: Abatement By City; Appraisal
- 4-3- 8: Low Value Vehicle
- 4-3- 9: Public Sale
- 4-3-10: Redemption Before Sale
- 4-3-11: Assessment Of Costs

4-3-1: **DEFINITIONS:** As used in this chapter, the following mean:

**COSTS:** The expense of removing, storing, or selling a discarded vehicle.

**DISCARDED VEHICLE:** A. A vehicle that does not have an unexpired license plate lawfully affixed to it and is in one or more of the following conditions:

- 1. Inoperative.
- 2. Wrecked.
- 3. Dismantled.
- 4. Partially dismantled.
- 5. Abandoned.
- 6. Junked.



B. "Discarded vehicles" include major parts of vehicles, including, but not limited to, bodies, engines, transmissions, and rear ends.

**LAW ENFORCEMENT OFFICER:**

Includes any authorized law enforcement officer of the county.

**PERSON IN CHARGE OF PROPERTY:**

An agent, occupant, lessee, contract purchaser, owner, or person having possession, control, or title to property where a vehicle is located.

**VEHICLE:**

Every device in, upon, or by which a person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**VEHICLE OWNER:**

An individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or an interest, legal or equitable, in a vehicle. (Ord. 61, 5-14-1991)

**4-3-2: DECLARATION OF PUBLIC NUISANCE:** The open accumulation and storage of discarded vehicles is found to create a condition tending to reduce the value of private property; promote blight, deterioration, and unsightliness; invite plundering; create fire hazards; constitute an attractive nuisance causing a hazard to the health and safety of minors; create a harborage for rodents and insects; and to be injurious to the health, safety, and general welfare. Therefore, the presence of a discarded vehicle on private property is declared to be a public nuisance which may be abated in accordance with the provisions of this chapter. (Ord. 61, 5-14-1991)

**4-3-3: INVESTIGATION:**

A. **Duties Of Investigative Official:** When a law enforcement officer investigates a discarded vehicle on private property and determines that an apparent nuisance exists which should be abated, the officer shall:

1. Attempt to discover the owner of the vehicle and the person in charge of the property on which the vehicle is located; and

2. Give written notice to them by personal service or by registered or certified mail that the vehicle is in violation of this chapter.

- B. **Owner Unavailable; Placement Of Notice On Vehicle:** If the owner of the vehicle is not found, the officer shall place a notice on the windshield or some other part of the vehicle or the property where it can be easily seen. (Ord. 61, 5-14-1991)

4-3-4: **CONTENTS OF NOTICE:** A notice issued under section 4-3-3 of this chapter shall state:

- A. That a certain discarded vehicle is in violation of this chapter and that, within ten (10) days after sending or posting the notice:

1. The vehicle must be removed from the city or to the storage junkyard of a lawfully conducted business dealing in junked vehicles; or

2. The vehicle must be completely enclosed within a building.

- B. That the alternative to compliance with subsection A of this section is to petition the city recorder-manager within the ten (10) day period described in subsection A of this section and make a written request to appear before the municipal judge to show why the nuisance should not be immediately abated.

- C. That failure to comply with this chapter authorizes the city to remove the nuisance, charge the cost against the property from which it was removed, and to sell the vehicle to satisfy the costs of removal and storage. (Ord. 61, 5-14-1991)

4-3-5: **ENTRY ON PRIVATE PROPERTY:**

- A. **Right Of Entry For Examination:** A law enforcement officer is authorized to enter onto private property at all reasonable times and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

- B. **Issuance Of Search Warrant; Affidavit:** No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the municipal court showing probable cause for the

inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the vehicle in question or the property on which it is located.

- C. **Interference With Officer:** No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 61, 5-14-1991)

**4-3-6: HEARING BY MUNICIPAL JUDGE:**

- A. **Fix Time For Hearing:** Following a request, the judge or the city council shall fix a time for a hearing to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the judge or the city council may order the vehicle removed by the city in accordance with the provisions of this chapter.
- B. **Judgments:** The judge or the city council shall make its order in the form of a judgment declaring the vehicle to be a public nuisance. The judgment may order the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. Persons receiving the notice specified in section 4-3-4 of this chapter shall be sent copies of the judgment of the court or decision of the city council.
- C. **Imposition Of Conditions:** The judge or the city council may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for removal of the vehicle when, in its opinion, circumstances justify such action. It shall refuse to order removal of the vehicle when the vehicle, in the opinion of the court or the city council, is not subject to the provisions of this chapter. The court or the city council shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 61, 5-14-1991; amd. 2007 Code)

**4-3-7: ABATEMENT BY CITY; APPRAISAL:**

- A. Time Limit: Ten (10) days after giving the notice required in section 4-3-4 of this chapter; or, if a hearing is held, ten (10) days after a judgment declaring a vehicle to be a public nuisance as required in section 4-3-6 of this chapter, the city will have jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or authorized independent contractors. No person shall interfere with, hinder or refuse to allow authorized persons to enter onto private property for the purpose of removing a vehicle under the provisions of this chapter.
- B. Appraisal: After removing the vehicle, the city shall have it appraised by a person reasonably acquainted with the value of such vehicles. (Ord. 61, 5-14-1991)

**4-3-8: LOW VALUE VEHICLE:**

- A. Disposal Procedure: If an abandoned vehicle is appraised at a value of five hundred dollars (\$500.00) or less by a person who holds a certificate issued under Oregon Revised Statutes 819.230, the law enforcement official disposing of the vehicle, shall:
1. Notify the registered owner and secured parties as provided in Oregon Revised Statutes 819.215, subsection (3);
  2. Photograph the vehicle;
  3. Notify the state department of transportation that the vehicle will be disposed of; and
  4. Unless the vehicle is claimed by a person entitled to possession of it within fifteen (15) days of the date of notice, dispose of the vehicle and its contents in the manner and pursuant to the requirements of Oregon Revised Statutes 819.215.
- B. Sale Without Notice And Public Auction:
1. If a vehicle taken into custody is appraised at a value of one thousand dollars (\$1,000.00) or less, or if it is an abandoned vehicle appraised at a value of one thousand dollars (\$1,000.00) or less but more than five hundred dollars (\$500.00), the law enforcement officer may dispose of the vehicle without notice and public auction if any of the following occur:

a. The owner of the vehicle and any lessor or security interest holder shown in the records of the state department of transportation sign a release, under oath, disclaiming any future interest in the vehicle.

b. The owner and any lessor or security interest holder shown in the records of the state department of transportation have been sent notification of the location of the vehicle and, within fifteen (15) days after the date the notification is mailed, the persons notified have not signed releases or the vehicle has not been reclaimed. Failure to sign a release or to reclaim the vehicle shall constitute a waiver of interest in the vehicle.

2. Upon completion of the requirements under this subsection, the authority may sell the vehicle without notice and public auction to any of the persons described in Oregon Revised Statutes 819.220. The law enforcement official shall issue to the person purchasing the vehicle a certificate of sale under Oregon Revised Statutes 819.240 and shall notify the person that the person might be required by the provisions of Oregon Revised Statutes 819.016 to apply for a salvage title. (Ord. 61, 5-14-1991; amd. 2007 Code)

**4-3-9: PUBLIC SALE:**

**A. Public Sale Notice:**

1. If the vehicle is appraised over one thousand dollars (\$1,000.00), the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state: (Ord. 61, 5-14-1991; amd. 2007 Code)

a. The sale is of discarded property in possession of the city.

b. A description of the vehicle, including the type, make, license number, identification number, and any other information that will aid in accurately identifying the vehicle.

c. The terms of the sale.

d. The date, time, and place of the sale.

2. The notice of sale shall be published two (2) times. The first publication shall be made not less than fifteen (15) days before the date of the proposed sale, and the second shall be made not less

than seven (7) days before the date of the proposed sale. (Ord. 61, 5-14-1991)

**B. Conduct Of Public Sale:**

1. If a vehicle is appraised over one thousand dollars (\$1,000.00), the law enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold. (Ord. 61, 5-14-1991; amd. 2007 Code)

2. The vehicle shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs.

3. At the time the purchase price is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder-manager.

4. The certificate of sale shall be on a form provided by the city recorder-manager. (Ord. 61, 5-14-1991)

**4-3-10: REDEMPTION BEFORE SALE:**

**A. Redemption Requirements:** A vehicle impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:

1. Submit satisfactory evidence of ownership or interest in the vehicle to the law enforcement officer.

2. Pay the costs owing at the time the application to redeem is made.

3. Give evidence that the nuisance character of the vehicle will not be resumed.

**B. Receipt:** Upon compliance with subsection A of this section, the law enforcement officer shall execute a receipt and cause the vehicle to be returned. (Ord. 61, 5-14-1991)

**4-3-11: ASSESSMENT OF COSTS:**

- A. **Notice To Property Owner:** After disposing of the discarded vehicle and deducting any money received from sale of the vehicle from the costs, the city recorder-manager shall give notice by personal service or by certified mail to the person in charge of the property from which the vehicle was removed:
1. Of the unpaid costs of abatement.
  2. That the costs as indicated will be assessed to the responsible party unless paid within thirty (30) days from the date of the notice.
  3. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder-manager within twenty (20) days from the date of the notice of unpaid costs.
- B. **Hearing Of Objections:** Within forty (40) days after the date of the notice of objection, objections to the proposed assessment will be heard and determined by the council.
- C. **Failure To Pay Costs:** If the costs of the abatement are not paid within thirty (30) days from the date of the notice, or within ten (10) days of a court or council determination made under subsection B of this section, assessment of the costs as stated or as decided by the council, shall be turned over to a collection agency.
- D. **Errors Or Failure To Receive Notice, Assessment Not Void:** An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. (Ord. 61, 5-14-1991)