

TITLE VIII

HEALTH, SAFETY AND WELFARE

CHAPTER 1

LITTER AND JUNK

Section:

- 8-1-1: Littering
- 8-1-2: Storage of Litter
- 8-1-3: Keeping of Junk
- 8-1-4: Definitions
- 8-1-5: Keeping of Junk Vehicles
- 8-1-6: Enforcement Procedures for the Storage of Litter, the Keeping of Junk and the Keeping of Junk Vehicles

8-1-1: Littering

- A. It shall be unlawful for any person to deposit, throw, or leave any litter or junk on any public or private property or in any waters.
- B. It shall be an affirmative defense that:
 - 1. The litter or junk is placed in a receptacle or container installed on such property for such purpose which such person is authorized to use; or
 - 2. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.
- C. Whenever litter or junk is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter or junk to be so thrown, deposited, dropped or dumped there from.
- D. It shall be unlawful for any person to deposit, throw, or leave any litter or junk on any public or private property or in any waters. Any person in violation of littering shall be punished by a fine or imprisonment and restitution, if applicable, as set for the Olathe Municipal Code, Title IX, Chapter 3. (Ord. 2016-04)

8-1-2: Storage of Litter

- A. It shall be unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited any litter upon his own property or upon property of which he is a tenant in lawful possession, except within a trash can or container which has a tight-fitting lid, or a trash bag, or unless the litter is totally enclosed within a building.
- B. The keeping, storage or deposit of litter in violation of this Section is hereby declared to be a nuisance and may be abated in accordance with the procedures set forth in this Section 8-1-6. (Ord. 2016-04)

8-1-3: Keeping of Junk

- A. It shall be unlawful for any person to keep, store or deposit or allow to be kept, stored or deposited junk upon his own property or upon property of which he is a tenant in lawful possession, unless the junk is totally enclosed within a building or is screened by a fence or other enclosure from view off of such person's property or is kept within a receptacle for such purpose with a tight-fitting lid.
- B. The keeping, storage or deposit of junk in violation of this Section is hereby declared a nuisance and may be abated in accordance with this Section 8-1-6. (Ord. 2016-04)
- C. It shall be an affirmative defense that:
 - 1. A motor vehicle without license plates is operable and meets equipment requirements of Part 2, Article 4, Title 42, C.R.S. 1973, as amended, and does not have a license plate merely because of problems of obtaining proper title, or
 - 2. Repealed Ord. 02-06.
 - 3. The used building materials or firewood are stored or stacked in a reasonably neat and orderly manner.

8-1-4: Definitions

- A. For the purpose of this Chapter, "litter" shall mean all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid of every form, size, kind and description.
- B. For the purpose of this Chapter, "junk" shall include, but not be limited to, discarded, unusable or broken machinery, appliances, furniture, furnishings or sporting equipment, used building or construction materials, and all other items commonly known as junk. (Ord. 2016-04)

8-1-5: Keeping of Junk Vehicles

- A. It shall be unlawful for any person to keep, store, deposit, or allow to be kept, stored, or deposited junk vehicles upon their own property or upon property of which they are a tenant in lawful possession, unless the junk vehicle is totally enclosed within a building or is screened by a fence or other enclosure from view of such person's property.
- B. The keeping, storage, or deposit of junk vehicles in violation of this section is hereby declared to be a nuisance and may be abated in accordance with the procedures set forth in this Section 8-1-6.
- C. It shall be an affirmative defense that:
 - 1. An unregistered motor vehicle is operable and meets equipment requirements of C.R.S. §§ 42-4-204 to 42-4-231, and does not have a license plate merely because of problems of obtaining proper title.
 - 2. An unregistered motor vehicle is a "Collector's item" or "Parts car" as defined by C.R.S. § 42-12-101, provided that no more than one vehicle so defined shall be kept outside of a building on any one property.
 - 3. A unregistered motor vehicle or an inoperable vehicle is stored in conjunction with a properly zoned vehicle repair business, provided all vehicles are covered by a dated work estimate and order signed by the vehicle owner authorizing repairs.
 - 4. An unregistered motor vehicle or an inoperable vehicle is used for demonstration or instructional purposes and is located upon the premises of any public school.
 - 5. A motor vehicle legally impounded or immobilized pursuant to law.

8-1-6: Enforcement Procedures for the Storage of Litter, the Keeping of Junk and the Keeping of Junk Vehicles (ord. 2016-04)

- A. Complaints.
 - 1. Any person may file a complaint alleging a violation of 8-1-2, 8-1-3 or 8-1-5. Such complaint must be in writing and signed by the complainant. The Town will not investigate anonymous complaints or complaints not submitted in writing.

2. All investigations regarding violations of 8-1-2, 8-1-3 or 8-1-5 shall be handled by the Town Administrator or their designee. (hereinafter the "Enforcement Officer").
3. If the Enforcement Officer determines that a violation of 8-1-2, 8-1-3 or 8-1-5 exists, a Notice shall be provided to the real property owner directing that the owner:
 1. Remove the litter, junk or junk vehicle which is in violation of this Regulation within twenty-one (21) days;
 2. Enter into a written agreement with the Enforcement Officer within twenty-one (21) days to mitigate the violation; or
 3. Request, within twenty-one (21) days, a hearing before the Town of Olathe Planning Commission to show cause why such Notice should not be enforced.
 4. The Notice shall be issued by certified mail, return receipt requested, to the real property address as well as real property owner's address as listed with the County Assessor, if different.
 5. The Enforcement Officer has the authority to enter into an agreement with the owner regarding mitigation of the violation, so long as the violation is reasonably expected to be completely resolved within ninety (90) days. Mitigation which is expected to take longer than ninety (90) days must be approved by the Town of Olathe Planning Commission.

B. Show Cause Hearing.

1. At the hearing, the property owner and any other interested party may present testimony and evidence regarding the property and alleged violation. The property owner shall have the burden to show by a preponderance of the evidence that there is no violation of Section 8-1-2, 8-1-3 or 8-1-5.
- 2.. The Town of Olathe Planning Commission shall issue a written determination, via first class mail, within fourteen (14) days of the hearing, declaring whether this Section 8-1-2, 8-1-3 or 8-1-5. If the Town of Olathe Planning Commission determines the condition violates this Section 8-1-2, 8-1-3 or 8-1-5, it shall set a date by which the violation must be corrected.

3. A determination by the Town of Olathe Planning Commission pursuant to this section is final, and is appealable only through applicable civil court procedures.

C. Entry Upon Real Property.

1. If a real property owner fails to correct a violation pursuant to the Notice or other procedures herein, the Town of Olathe may enter the real property in order to abate the violation.

D. Impoundment.

1. The Town of Olathe may, at its discretion, may impound any junk or junk vehicle to a private or Town-owned impound lot.
2. Within forty-eight (48) hours after impoundment, the Town of Olathe shall notify the real property owner via first class mail of the location and contact information of the impound lot where the impounded property is being stored.
3. If the real property owner does not claim the impounded property within ninety (90) days, such impounded property shall be deemed abandoned and may be disposed of by the Town as it sees fit.
4. If the real property owner claims the impounded property within ninety (90) days, it shall be released only if all of the following conditions are met:
 - a) the real property from which the impounded property was removed is currently in compliance with this Section 8-1-2, 8-1-3 or 8-1-5;
 - b) the Town is adequately assured that the impounded property will be appropriately stored so there is no further violation of this Section 8-1-2, 8-1-3 or 8-1-5;
 - c) all costs assessed under this Section, including removal and storage costs, have been paid in full. If the foregoing condition have been met, the impounded property may be released to the owner

to be removed from the impound lot at the owner's expense.

E. Emergency Actions.

If the Town of Olathe reasonably believes a violation of this Section 8-1-2, 8-1-3 or 8-1-5 is an immediate threat to the health or safety of Town of Olathe citizens, it may take all necessary steps, including the entry upon private property, to abate or eliminate such threat without notice. In any instance in which emergency abatement procedures are taken, the costs incurred by the Town of Olathe may be collected in accordance with this Section.

F. Recovery of Costs.

1. All costs associated with the removal of junk vehicles, and impoundment or disposal thereof, shall be paid by the real property owner, including an additional five percent (5%) of such costs for inspection of the real property and incidental expenses.
2. Costs which the Town of Olathe may recover include, but are not limited to, all out of pocket costs and expenses, costs attributable to Enforcement Officer's time and equipment use, and reasonable attorney's fees.
3. A bill of costs shall be mailed to the real property owner, and payment in full shall be due within fourteen (14) days of the date of the bill. In the event that the bill remains unpaid after fourteen days, the costs may be assessed as a lien against the real property until paid and shall have priority over all other liens except general taxes and prior special assessments. If the costs remain unpaid after ninety (90) days from the date of the bill, such costs together with a ten percent (10%) penalty for collection expenses shall be certified to the Montrose County Treasurer for collection in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property taxes, shall apply to the collection of assessments pursuant to this Section.

G. Other Remedies.

1. Nothing in this Section shall be construed to limit or restrict the Town's ability to pursue other remedies available under other Town's other municipal code or pursuant to state or federal law. The remedies provided in this Section are not

exclusive in any way and may be pursued by the Town singularly or in combination to achieve the most expeditious resolution to the accumulation of junk vehicles.