

Chapter 15.20 PUBLIC NUISANCES¹

15.20.005 Purpose and scope.

The purpose of this chapter is to ensure that public nuisances are prevented, discontinued, and abated in a timely manner and do not reoccur. Other chapters of the Anchorage Municipal Code address public nuisances as well. Various municipal agencies are responsible for regulating public nuisances, depending upon the type or location of the public nuisance. Any police or peace officer may enforce provisions of this chapter. The provisions in this chapter, including the description of the various types of public nuisances, procedures for prevention, discontinuation, inspection, enforcement, appeal, and abatement, as well as the appeal and remedies sections, are not exclusive or a limitation on municipal agencies in addressing public nuisances.

(AO No. 2003-130, § 1, 10-7-03; AO No. 2019-75 , § 1, 6-18-19)

15.20.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means real property that has been abandoned by all of its lawful owners.

Abandoned vehicle means a motor vehicle left unattended upon an area set forth in section 15.20.030 for a period in excess of 72 hours.

Anchorage Fire Exposure Model (AFEM) means the objective tool used by the fire department to analyze fuels, fire behavior, and suppression response capability.

Camping means use of space for the purpose of sleeping or establishing a temporary place to live including, but not limited to:

1. Erection of a tent, lean-to, hut, or other shelter;
2. Setting up bedding or equipment in such a manner as to be immediately usable for sleeping purposes, whether indoors or outdoors, on or under any structure not intended for human occupancy;
3. Sleeping outdoors with or without bedding, tent, tarpaulin, hammock or other similar protection or equipment; or
4. Setting up cooking equipment, including a campfire, with the intent to remain in that location overnight.

¹Cross reference(s)—Fines, § 14.60.030; motor vehicle electronically amplified sound systems, § 15.70.095; health, tit. 16; animals, tit. 17; supplementary district regulations, ch. 21.45; building regulations, ch. 23.05; dangerous buildings, ch. 23.65; streets and rights-of-way, tit. 24; prohibited advertising signs and nuisances, § 25.70.010; sewer service, ch. 26.50; solid waste collection, ch. 26.70; solid waste disposal, ch. 26.80.

State law reference(s)—Nuisances, AS 46.06.

Cinders, dust, fly ash, noxious acids, fumes and gases mean all matter other than dense smoke, including smoke, cinders, dust and soot, formed as the result of the combustion of fuel that are carried in the gas streams so as to reach the external air and that have not been completely consumed by the combustion process.

Department as used in this chapter means the appropriate municipal agency, including the Anchorage Health Department, Department of Development Services, Planning Department, Anchorage Water and Wastewater Utility, or the Anchorage Police Department, responsible for regulating public nuisances, which may depend upon the type or location of the public nuisance.

Director as used in this chapter means the agency head or designee of the appropriate municipal agency.

Garbage means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruit or vegetables, including the cans, containers, wrappers or other tangible items wasted or used along with such materials.

Hotel shall mean any building or facility used for visitor accommodations as defined in Title 21 and meeting the definitions of "hotel/ motel" or "extended-stay lodging," as those specific commercial use types are defined in section 21.05.050 of this Code.

Hotel employee shall mean any individual who has been employed or contracted by a hotel operator for the purpose of providing services at a hotel. This definition shall include any individual who is employed by a person or entity that has contracted to provide such services.

Hotel operator shall mean any person or entity that owns, controls and/or operates a hotel.

Junk or salvage means any abandoned, used, wornout, wrecked, scrapped, partially or fully dismantled or discarded tangible material, including vehicles of all kinds, or any combination of materials or items including appliances, chemicals, building materials, equipment or parts thereof, fiber, machinery, metal, scrap metal, rags, rubber, paper, plastics, lumber or wood, that cannot without further alteration and reconditioning be used for their original purposes.

Junk or salvage yard means any parcel, tract or lot or portion thereof that is used for the purpose of the outdoor storage, handling, dismantling, wrecking, keeping or sale of junk or salvage.

Junk vehicle means a vehicle that:

1. Is not currently registered under AS ch. 28.10 for operation upon the public roads of the municipality or does not display a valid, current seasonal waiver tab issued by the state division of motor vehicles based on a seasonal use waiver granted under section 15.80.060 pursuant to AS ch. 46.14;
2. Is stripped, wrecked or otherwise inoperable due to mechanical failure;
3. Has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or
4. Is in a condition which exhibits more than one of the following elements:
 - a. Broken glass;
 - b. Missing wheels or tires;
 - c. Missing body panels or parts; or
 - d. Missing drive train parts.

Litter means all improperly discarded waste material, including but not limited to convenience food, beverage and other product packages or containers constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic materials, thrown or deposited on the lands and waters within the boundaries of the municipality.

Mold shall mean any form of multicellular fungi that live on plant or animal matter in an indoor environment. Types of mold include, but are not limited to: cladosporium, penicillium, alternaria, aspergillus, fuarium, trichoderma, memnoniella, mucor, and stachybotrys chartarum. Laboratory testing to identify the species of a fungi as a type of mold is not required, if the appearance, smell and other observations of the common senses make it reasonable to conclude a particular substance is mold.

Particulate matter means finely divided solid or liquid particles in the air or in an emission, including but not limited to dust, smoke, fumes, spray and fog.

Public nuisance means any act or condition forbidden by any provision of this chapter and any act or condition that annoys, injures or endangers the safety, health, comfort or repose of the public.

Putrescible waste means organic waste, including human or animal parts, excrement or bodily fluids, which is capable of being decomposed by microorganisms.

Refuse containers means all garbage cans, dumpsters, or similar containers designed and used to hold waste.

Significant when used to describe the presence of mold shall mean mold that is present on surfaces such as walls, wall cavities, wallpaper, carpeting, ceilings, piping, ventilation systems, or other interior building structures where moisture is not intended to accumulate or where mold is not customarily found, but does not include minor mold or mildew found on surfaces that can accumulate moisture as part of their proper and intended use when maintained in proper repair.

Solid waste means garbage, litter, refuse, rubbish and other unwanted or discarded matter with insufficient liquid content to be free-flowing.

Vacant building means a structure designed for residential or commercial use that has not been lawfully used for residential or commercial purposes for 180 days. Vacant building does not include:

1. Vacation properties;
2. Structures used only a seasonal basis;
3. A building that has been vacant for less than 365 days, if the building has been continuously offered in good faith for sale, lease or rent since the 181st day it most recently ceased to be used for lawful residential or commercial purposes; or
4. Buildings for which there is:
 - a. A valid, open and current building permit for repair, rehabilitation, construction, or demolition,
 - b. Such permitted repair, rehabilitation, construction, or demolition activity is actively underway, and
 - c. Such permitted repair, rehabilitation, construction or demolition is completed within one year from the date the initial permit was issued.

Waste means useless, superfluous or discarded material.

- A. Liquid waste means any putrescible or other waste, whether combustible or noncombustible, with sufficient liquid content to be free-flowing, excluding liquids containing hazardous wastes as defined and regulated by federal, state or other municipal laws.
- B. Solid waste means any putrescible or other waste, whether combustible or noncombustible, with insufficient liquid content to be free-flowing, including but not limited to garbage, litter, refuse, rubbish, ashes, junk or salvage, animal excreta, other tangible material, and other unwanted or discarded matter, excluding solids containing hazardous wastes as defined and regulated by federal, state or other municipal laws.

Wastewater means water contaminated by human or animal excreta, food wastes, sewage, washwater and other liquid wastes discharged into water-carried sewage disposal systems, excluding liquids containing hazardous wastes as defined and regulated by federal, state or other municipal laws.

Wildfire danger area means a wildland-urban interface area which has been designated as a high danger area in accordance with the Anchorage Fire Exposure Model in current use by the Anchorage Fire Department.

Wildland-urban interface means that geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

(GAAB 18.15.010, 18.20.020, 18.20.050; CAC 8.10.010, 8.10.050; AO No. 79-63; AO No. 92-129(S); AO No. 97-109(S), § 1, 8-26-97; AO No. 2003-130, §§ 2, 3, 10-7-03; AO No. 2009-83(S), § 1, 7-7-09; AO No. 2016-81(S), § 1, 8-25-16 ; AO No. 2017-119(S) , § 1, 11-9-17; AO No. 2018-118 , § 2, 1-1-19; AO No. 2019-94(S) , § 1, 8-6-19)

Cross reference(s)—Definitions and rules of construction generally, § 1.05.020.

15.20.020 Public nuisances prohibited; enumeration.

- A. No person shall allow, maintain or permit a public nuisance to exist or allow, maintain or permit recurrence of a public nuisance. Such existence, allowance, maintenance, permitting or recurrence of a public nuisance is a violation of this chapter.
- B. Public nuisances include, but are not limited to, the following acts and conditions:
 - 1. *Abandoned real property and vacant buildings.* Vacant buildings and abandoned real property, except those that have been registered and meet all requirements of section 15.20.105.
 - 2. *Attractive nuisances.* Attractive nuisances dangerous to children in the form of abandoned or broken equipment, hazardous pools or ponds or excavations, neglected machinery or abandoned refrigerators, freezers, or other major appliances.
 - 3. *Dangerous excavations.* Any swimming pool or other dangerous excavation in the earth, including but not limited to a gravel pit, kept, maintained or permitted to be in an uncovered, unprotected or otherwise dangerous or hazardous condition, except for excavations having the slope ratios required in title 23.
 - 4. *Disposal of solid or liquid waste on another's property.* No person shall deposit or place solid or liquid waste upon a street, alley or municipal property, or upon any property owned by another or in a refuse container owned by another except with the written consent of the owner and for the purpose of collection.
 - 5. *Disposition and handling of solid or liquid waste.* The following are public nuisances:
 - a. The burning of solid or liquid waste, or the emission from any stack or chimney of any smoke, soot, particulate or gaseous matter in a manner that is noxious, harmful or abnormally bothersome to the public.
 - b. Discarding or placing any solid or liquid waste upon public property not set aside by law as a refuse disposal site or sanitary fill.
 - c. Discarding, placing or maintaining any junk or salvage upon any private property that is not an authorized junk or salvage yard in accordance with applicable federal, state and local law. The owner, lessee, agent or occupant of any private property not maintained as a junk or salvage yard in accordance with applicable federal, state and local law, shall not allow nor permit any junk or salvage to remain on the property, nor fail to maintain the property free of wastes, in a manner approved by the department.

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- d. Storage of garbage except in tightly covered, washable refuse containers or sealed garbage bags approved by the department, or in the case of solid waste that can be further categorized as junk or salvage, storage in an unsecured manner. Containers shall be kept in a clean and sanitary condition by the owner.
 - e. Transportation of putrescible waste except in tightly covered washable containers or sealed garbage bags to prevent littering or leakage and access of insects, rodents and other potential disease carriers.
 - f. Storage or maintenance of refuse containers, excluding dumpsters, in front or side yards visible from public streets or alleys for unreasonable periods, seven days being prima facie evidence of an unreasonable period.
 - g. Storage or maintenance of packing boxes, junk or waste in front or side yards visible from public streets for unreasonable periods, seven days being prima facie evidence of an unreasonable period.
6. *Litter.*
- a. No person shall deposit, dump, abandon, throw, scatter or transport solid or liquid waste in any manner as to cause the littering of any public or private property, street, alley, ditch, drain, watercourse or gutter.
 - b. No person shall operate, drive, cause or permit to be driven or operated any motor vehicle carrying solid or liquid waste unless such motor vehicle is constructed, loaded and operated in such a manner as to prevent such solid or liquid waste from spilling, dropping, leaking, sifting, blowing or accidentally escaping from the vehicle.
 - c. No person shall operate, drive, cause or permit to be operated or driven any motor vehicle carrying solid or liquid waste that is reasonably capable of blowing out or falling from the vehicle unless such vehicle uses while in transit a suitable cover that effectively prevents the loss of such solid or liquid waste that will not be easily torn, shredded or broken under normal use, and that is either an integral part of the vehicle or a separate cover of suitable materials with fasteners designed to secure all sides of the cover to the vehicle.
 - d. No person shall operate, drive, cause or permit to be operated or driven any motor vehicle transporting particulate matter reasonably capable of becoming airborne without either covering such particulate matter as required in subsection B.6.c of this section or complying with the applicable fugitive emission guidelines as provided pursuant to AMCR 15.35.090.
 - e. No person shall operate, drive or cause or permit to be operated or driven any motor vehicle from which solid or liquid waste is deposited or lost or has escaped unless the operator or the owner or operator's designated agent promptly picks up such solid or liquid waste and cleans the affected area as soon as reasonably possible.
 - f. No person having the care as owner, lessee, agent or occupant of any premises shall deposit, store or keep on his property any solid or liquid waste except in a clean and sanitary manner, in a closed or covered refuse container and in accordance with all other applicable provisions of this Code and all other federal and state laws and regulations.
 - g. It shall be a rebuttable presumption that the owner of a motor vehicle operated in violation of subsections a through f of this subsection has caused or permitted the operation or driving of that motor vehicle.
7. *Wastewater and other discharges.* The discharge or exposure of wastewater, liquid waste, garbage or other putrescible waste to people, insects, rodents or other animals in such a way that the transmission of infective material may result thereby.

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8. *Soot, cinders, noxious acids, fumes and gas.* Causing or permitting the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner as to be detrimental to any person or the public, endanger the health, comfort and safety of any such person or of the public, or cause or have a tendency to cause injury or damage to property or business. The escape of such matter is a public nuisance and may be summarily abated by the department.
 9. *Unsafe buildings.* Buildings or parts thereof in a condition that may endanger the life, safety or health of persons frequenting such buildings or parts thereof and that do not conform to the applicable requirements of title 23.
 10. *Unsanitary handling of food.* Any establishment handling, processing or serving food and kept in an unsanitary condition or having unapproved water supply, sewage disposal or solid waste disposal facilities or employing persons having any communicable disease, or where the presence of rats, mice, vermin or insects is evident.
 11. *Unightly premises.* Property including but not limited to building exteriors maintained in such condition as to become so defective or unsightly or in such condition of deterioration or disrepair that the property causes appreciable diminution of the property values of surrounding property or is materially detrimental to proximal properties and improvements. This includes but is not limited to the keeping or disposing of or the scattering over the property or premises of any waste, lumber, or unused objects of equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers; stagnant water or excavations; or any device, decoration, design, fence, structure, clothesline or vegetation that is unsightly by reason of its condition or its inappropriate location.
 12. *Vehicles.*
 - a. A vehicle abandoned in contravention of section 15.20.030.
 - b. Storage of a junk vehicle in public view within the municipality for five days or more in contravention of section 15.20.050.
 - c. A vehicle operated in a manner which fails to stop when a police officer gives the operator a visual or audible signal to bring the vehicle to a stop and eludes a pursuing police officer in contravention of section 9.28.011. A vehicle which is a nuisance under this subsection may be abated through impoundment or forfeiture either in court or in a proceeding under Title 14. Forfeiture may be ordered as a remedy only if the same vehicle has, while owned by the same person, previously been impounded as a nuisance vehicle under this section. In lieu of forfeiture, the municipality may elect to impose a fine of \$1,500.00 on the vehicle owner allowing the owner to retain possession of the vehicle. If probable cause to believe that a vehicle was used in violation of section 9.28.011 is shown, the court or hearing officer shall order seizure of the vehicle pending a hearing and decision on the merits and may set bail for release of the vehicle. An application for an order of impoundment pending a hearing and a showing of probable cause for such impoundment may be made by ex parte presentation to a magistrate or hearing officer in the same manner as an application for a warrant.
 13. *Visible emissions.*
 - a. Except as otherwise provided in AMCR 15.35, no person shall cause, suffer, permit or allow the emission of any air contaminant that is greater than 20 percent opacity from any equipment for a period or aggregating more than three minutes in any one hour.
 - b. The opacity of an air contaminant shall be measured at the point of emission, except when the point of emission cannot be readily observed, in which case it may be determined at an observable point of the plume nearest the point of emission.

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- c. This section shall not apply when the presence of water vapor or steam condensate is the only reason the emission fails to meet the requirements of this section.
14. *After-hours clubs.* An after-hours club, for the purposes of this section, is an enterprise involving the unlicensed sale or dispensing of alcoholic beverages or permitting gambling as provided in section 8.60.040.
15. *Prohibited campsites.* A prohibited campsite is an area where one or more persons are camping on public land in violation of section 8.45.010, chapter 25.70, or any other provision of this Code. A prohibited campsite is subject to abatement by the municipality. The municipal official responsible for an abatement action may accomplish the abatement with the assistance of a contractor, association or organization. Notwithstanding any other provision of this Code, the following procedure may be used to abate a prohibited campsite:
- a. Prior to beginning the removal of a prohibited campsite, a notice of campsite abatement shall be posted on or near each tent, hut, lean-to, or other shelter designated for removal, or, if no structure for shelter exists, a notice shall be affixed in a conspicuous place near the bedding, cooking site, or other personal property designated for removal. The notice shall:
- i. State the approximate location of the campsite, the code provision under which the campsite is prohibited, and that the campsite may be removed under one of the procedures set forth in subparagraph B.15.b.
- ii. State an appeal may be filed with the court, and include the court's address, except this statement is not required where the municipality commences a forcible entry and detainer action under subparagraph B.15.b.iv.
- iii. State a notice of intent to appeal may be filed with the municipality, and include the appropriate address, except this statement is not required where the municipality commences a forcible entry and detainer action under subparagraph B.15.b.iv.
- iv. State that either an appeal or notice of intent to appeal received before the abatement date will delay abatement pursuant to subparagraph B.15.e.
- v. Also be given orally to any persons in or upon the prohibited campsite or who identifies oneself as an occupant of the campsite that the campsite is subject to abatement as provided for in the posted notice.
- vi. If personal property is to be stored, the notice shall include contact and location information for reclaiming it or disclaiming an interest in the property.
- b. A notice of campsite abatement shall identify whether it is a 24-hour wildfire danger area notice, 72-hour notice, ten-day campsite notice, ten-day zone notice, or notice to quit; and the subsequent abatement activities of the municipality shall comply with the respective procedure for removal of a prohibited campsite and the personal property thereon:
- i. Twenty-four hours' notice, wildfire danger area abatement. When a municipal burn ban is in effect, the municipality may post a wildfire danger area with notices describing the area in which prohibited campsites may be abated after 24 hours by removal and storage of personal property. Notices shall be posted in accordance with subsec. 15.20.020B.15.b.v.(A).
- ii. Seventy-two hours' notice, protected land use. After verbal notice to an apparent occupant of a prohibited campsite within 100 feet of protected land uses the municipality may post the prohibited campsite with a notice stating all personal property not removed within 72 hours of the date and time the notice is posted may be removed and stored. For the purposes of this section:

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- (A) Protected land uses shall include: paved greenbelt and major trail systems (including but not limited to Coastal, Chester Creek, Ship Creek, Campbell Creek); schools; playgrounds; habilitative care facilities; the Harry J. McDonald Memorial Center; community centers; neighborhood recreation centers; and athletic fields.
 - (B) The separation distance shall be measured from the lot line of the protected land use to the nearest illegal camp structure.
 - iii. Seventy-two hours' notice. The municipality may post a prohibited campsite with a notice stating all personal property not removed within 72 hours of the date and time the notice is posted may be removed and stored.
 - iv. Ten days' notice, campsite abatement. The municipality may post a prohibited campsite with a notice stating all personal property not removed within ten days of the date and time the notice is posted may be removed and disposed of as waste, unless sooner claimed or disposal authorized by the owner. At the expiration of this ten-day period the personal property may be disposed of as waste if no person has either given notice or removed property in accordance with this section.
 - v. Ten days' notice, zone abatement. The municipality may post a zone or campsite area with notice stating all personal property in or around the posted zone at the end of ten days of the date and time the notice is posted may be removed and disposed of as waste, unless sooner claimed or disposal authorized by the owner.
 - (A) Notice shall be conspicuously posted under the circumstances and describe in detail the zone to be abated. The notices shall be within sight of one another and reasonably maintained for the entire notice period.
 - (B) At the expiration of the notice period any personal property in the zone may be disposed of as waste if no person has either given notice or removed the property in accordance with this section.
 - (C) Tents, structures, and associated personal property placed in the zone after notices were posted shall be stored pursuant to subparagraph B.15.c.
 - (D) Zones shall be contiguous, reasonably compact, identifiable areas with boundaries that are recognizable landmarks, clear transition areas between developed and undeveloped lands, or physical features of development such as roads, rights-of-way cleared of trees, paved trails, utility lines, private property yards or fences, or named structures. At any one time, the municipality shall post no more than ten zones to be abated.
 - (E) If the action to physically remove the campsite is not commenced by the municipality within ten days of the removal date provided in the notice, the municipality shall repost notice before abatement may occur. Nothing shall prohibit the municipality from posting notice that the removal in a zone or campsite area will occur over a period of several days.
 - vi. Forcible entry and detainer action. The municipality may post a "notice to quit" and commence a forcible entry and detainer action in court consistent with the procedures of AS 09.45.060—09.45.160 and Alaska Rule of Civil Procedure 85. At the conclusion of the eviction hearing, the court shall include in its decision the date after which personal property remaining on the premises may be presumed abandoned and disposed of by the municipality.

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- c. Storage of personal property removed from a prohibited campsite. The municipality may store in any reasonable manner the personal property removed from a prohibited campsite. At the time of removal a notice shall be posted at the location, unless previously posted notices are still visible and accurate, with contact and location information for reclaiming personal property or disclaiming an interest in it. If no person removes the property, the municipality may dispose of the personal property 30 days from the date a notice in paragraph B.15.b. was posted. If the person(s) in possession of the personal property at the time it was removed or the prohibited campsite posted identify it and disclaim any interest, the personal property may be disposed of immediately. If a person reclaims stored personal property, it shall be released upon payment of an administrative fee not to exceed ten dollars. For purposes of this section, the following criteria applies:
- i. Junk, litter, garbage, debris, lumber, pallets, cardboard not used to store other personal items, and items that are spoiled, mildewed, or contaminated with human, biological or hazardous waste shall not be stored and may be disposed of summarily.
 - ii. A weapon, firearm, ammunition or contraband, as those terms are defined in section 7.25.020, shall be delivered to the Anchorage Police Department and processed in accordance with chapter 7.25.
 - iii. If not subject to paragraph i. or ii. above, the following items, when in fair and usable condition and readily identifiable as such by persons engaged in removing a prohibited campsite, shall be deemed valuable and eligible for storage:
 - (A) Tents and similar self-contained shelter,
 - (B) Sleeping bags,
 - (C) Tarps,
 - (D) Toiletries and cosmetics,
 - (E) Clocks and watches,
 - (F) Medication,
 - (G) Personal papers and identification,
 - (H) Photographs,
 - (I) Luggage, backpacks and other storage containers,
 - (J) Books and other reading materials,
 - (K) Radios, audio and video equipment,
 - (L) Generators,
 - (M) Cooking equipment in clean condition,
 - (N) Shoes and clothing, and
 - (O) Property stored in a manner that reasonably suggests the owner intended to keep it.
- d. Within 24 hours after posting the notice of campsite abatement or of zone abatement, the municipal official responsible for posting is directed to inform the director of the Anchorage Health Department, or a designee, of the notice posting and prohibited campsite or zone location, and the Anchorage Health Department is directed to provide written or electronic notification to community social service agencies within the first work day after receipt of the

notice. The community council(s) containing or within 500 feet of the area shall also be notified of a pending zone abatement. The purpose of the notices under this subsection is to encourage and accommodate the transition of campsite occupants to housing and the social service community network, and report zone abatement activities to affected communities. Failure of notice under this subsection shall not invalidate the abatement. To facilitate these purposes, the notice will include:

- i. The location of the camp;
 - ii. The date for removal; and
 - iii. An estimate of the number of structures to be removed and of the number of residents of the camp or zone.
- e. Appeal procedure. A posted notice of campsite abatement is a final administrative decision and appeals shall be to the superior court within 30 days from the date the notice of campsite abatement is posted, in accordance with the Alaska court rules. If the owner or person in possession of personal property at the time the notice is posted responds in writing to the municipality prior to expiration of a ten-day notice of the owner's intention to appeal the campsite abatement to the superior court, the municipality shall not remove the personal property until at least 30 days have passed from the date the notice was first posted, except as provided in subparagraph B.15.f.ii.
- f. Before abatement, the responsible municipal official shall verify whether an intention to appeal or an appeal of the notice of campsite abatement was filed within the applicable time period. If no timely appeal was filed removal of the campsite may proceed. If an appeal was timely filed:
- i. Abatement of the campsite area is stayed until the appeal is withdrawn, settled, or a decision is issued and any subsequent appeal rights expire; provided that:
 - ii. At any time after the expiration of the notice period, the municipality may remove personal property and store it until either the appeal is withdrawn, settled, or a decision is issued and any subsequent appeal rights expire. Storage of personal property and its release shall be in accordance with subparagraph B.15.c.
- g. At the time removal is to begin, if any individuals are present at the campsite, they shall be verbally notified the campsite is prohibited and to be removed. Prior to actual removal:
- i. The individuals shall be given at least 20 minutes to gather their personal property and disperse from the area; and
 - ii. The responsible municipal official or persons working under their authority shall not prevent individuals claiming personal property from removing that property immediately, unless the personal property is unlawful or otherwise evidence of criminal activity.
- h. Exceptions:
- i. Nothing in this section shall prevent a peace officer from conducting an investigation, search, or seizure in a manner otherwise consistent with the state and federal constitutions, or federal, state or local law.
 - ii. Nothing in this section shall prevent lawful administrative inspection or entry into a prohibited campsite, nor prevent clean-up of any items not listed in subparagraph c.iii., or of garbage, litter, waste or other unsanitary or hazardous conditions on public land at any time.
 - iii. Where exigent circumstances posing a serious risk to human life and safety exist, the abatement of a campsite may proceed without prior notice. Personal property removed

under this paragraph shall be stored in accordance with subparagraph B.15.c., to the extent reasonable and feasible under the circumstances.

- iv. When the public land where a prohibited campsite is located is clearly posted with no trespassing signage, no camping signage, or as not being open to the public, including posting of closed hours, the abatement of the campsite may proceed without additional notice, and after the occupants of the prohibited campsite are provided at least one hour to remove their personal property. Personal property removed under this exception may only be disposed of in accordance with chapter 7.25 or subparagraph B.15.c.
 - i. The right of action provided in section 15.20.130D. is not available when the public nuisance is a prohibited campsite located on public property.
 - j. The municipality and its employees or agents shall not be liable for damages as a result of an act or omission in the storage, destruction, disposition or release of property under this subsection B.15., but this does not preclude an action for damages based on an intentional act of misconduct or an act of gross negligence. The municipality and its employees or agents shall not be liable in any case release of property to a person when the personal property lacks affirmative marks identifying its owner.
16. *Mold in visitor accommodations.* The presence of significant visible mold on or in a hotel is a public nuisance. The municipality may order efforts to remediate and prevent significant mold in hotels and require and enforce abatement of mold as provided for in section 15.20.106.
17. *Public use of wildfire danger areas.* The unauthorized use of a wildfire danger area by the public when closed by the fire chief is a public nuisance. When there is a burn ban in effect the fire chief or designee may declare wildfire danger areas closed to public use. When closed to public use, exigent circumstances presumptively exist for immediate abatement of prohibited campsites within the wildfire danger area under subsection 15.20.020B.15.h.iii.
- C. No person shall be prohibited by this section from disposing of solid or liquid waste on their own property so long as that person complies with this chapter and all other applicable provisions of federal, state and local laws.

(GAAB 16.68.110, 18.15.020, 18.15.030, 18.20.030, 18.20.060; CAC 8.10.020, 8.10.050; AO No. 113-76; AO No. 78-48; AO No. 79-63; AO No. 93-173(S), § 3, 2-24-94; AO No. 95-42, § 3, 3-23-95; AO No. 2001-145(S-1), § 12, 12-11-01; AO No. 2003-130, § 4, 10-7-03; AO No. 2009-83(S), § 2, 7-7-09; AO No. 2010-43(S), § 1, 6-22-10; AO No. 2010-63, § 1, 9-14-10; AO No. 2011-52, § 1, 4-26-11; AO No. 2016-81(S), § 2, 8-25-16 ; AO No. 2017-119(S) , § 2, 11-9-17; AO No. 2017-130(S) , § 1, 12-5-17; AO No. 2018-53(S) , § 1, 6-26-18; AO No. 2018-61 , § 1, 7-31-18; AO No. 2018-118 , § 2, 1-1-19; AO No. 2019-94(S) , § 2, 8-6-19)

Cross reference(s)—Administrative enforcement fine schedule, § 14.60.030.

15.20.030 Abandoned vehicles prohibited.

- A. It is unlawful for a person to abandon a vehicle on a street or highway within the municipality.
- B. It is unlawful for a person to abandon a vehicle on public property not set aside by law as a refuse disposal open for the disposal of vehicles.
- C. It is unlawful for a person, without consent of the property owner or person in possession or control of the property, to abandon a vehicle on private property unless such property is licensed as a junkyard and is open for disposal, or unless all necessary fees for removal and storage have been paid and all other requirements of disposal have been met.

(GAAB 18.20.030)

State law reference(s)—Similar provisions, AS 28.11.010.

15.20.040 Disposition of abandoned vehicles.

- A. An abandoned vehicle may be impounded.
- B. Adequate notice of impoundment and procedures for redemption of a vehicle shall be given to registered owners of vehicles and other persons known to have a legal interest in them. Adequate notice shall consist of a certified letter or personal service, when the persons involved are known, or publication for ten days if such persons are not known. The notice shall contain:
 - 1. A description of the vehicle and any property therein,
 - 2. The date, time and place of removal;
 - 3. An indication of the place of impoundment;
 - 4. An itemized statement of amounts due the municipality for towing and storage and stating that such fees must be paid prior to redemption of the vehicle; and
 - 5. A statement that unless the right to possession is established to the satisfaction of the director and the vehicle reclaimed within 20 days from the date of mailing or publication of the notice, or unless arrangements are made for the storage of the vehicle within that time, the vehicle and its contents may be sold at public auction or, in the director's discretion, if the vehicle is determined by the director to be inoperable or worth less than \$200.00 disposed of by crushing or other means of destruction.
- C. If a vehicle impounded pursuant to the provisions of this section is not redeemed within the 20-day period set forth in subsection B. of this section, the director may publish notice of public auction. The notice shall contain a description of the vehicle, the name of the owner, if known, and a provision stating that the vehicles described will be sold to the highest responsible bidder, and a certificate of sale will be issued for vehicles sold. Such auction may be held ten days or more following the date of publication. Impounded vehicles may also be crushed or otherwise destroyed as provided in subsection B. of this section without further notice at the expiration of the 20-day redemption period. If a vehicle is destroyed, the director shall notify the state department of public safety as provided by AS 28.10.440.
- D. The department shall keep a record of all vehicles impounded, containing the date, time and place of impounding, a description of the vehicle and contents therein, the estimated retail value of the vehicle, its operating condition, the cause for which impounded, the place of impoundment, the date of redemption if redeemed, the amount paid upon redemption, the date of notice to owner and the means of notice, and the notice of sale, record of sale, price paid and name of purchaser, or record of other means of disposal.
- E. An abandoned vehicle may be removed from private property if the owner or person in lawful possession or control of the property makes a written request prior to removal.

(GAAB 18.20.040; AO No. 2009-134, § 1, 1-12-10)

Cross reference(s)—Disposal of abandoned, stolen or found property, ch. 7.25; vehicles and traffic, tit. 9; redemption and sale of impounded vehicles, ch. 9.50.

15.20.050 Junk vehicles prohibited.

- A. It is unlawful for the registered owner or other person with legal right to possession of a junk vehicle to place or allow such vehicle to remain in public view on any property within the municipality for more than five

days. It is also unlawful for the owner, tenant or other person in possession or control of any property to cause or allow a junk vehicle to be placed or remain in public view on such property for more than five days.

- B. Notwithstanding the provisions of subsection A of this section, if the director has reasonable grounds to believe that repairs can be made to render a junk vehicle operable, that the registered owner or other person entitled to possession of the vehicle is willing to undertake or have performed such repairs, that the vehicle does not pose any health or safety hazard, and that there is no reasonable means for removing the vehicle from public view while repairs are being performed, the director may authorize a period of no more than 30 days for the performance of such repairs. In no case, however, may this section be construed as authorizing the operation of a junkyard or other salvage or repair business where other requirements of the law have not been met.
- C. If a junk vehicle has been abandoned on private property, the owner, tenant or other person in control or possession of the property upon which the vehicle has been abandoned may request the vehicle's removal pursuant to section 15.20.040.E.

(GAAB 18.20.060)

15.20.060 Disposition of junk vehicles.

- A. Upon observation of what appears to be a junk vehicle, the director shall give written notice by personal service or certified mail to any or all offenders described in section 15.20.050.A, as well as by notice affixed to the vehicle. Notice affixed to the vehicle shall suffice for subsequent action if none of the offenders described in section 15.20.050.A can be located and served within the five-day period. The notice shall contain:
 - 1. The street address and other information sufficient to identify the location of the vehicle;
 - 2. A statement that the vehicle constitutes a public nuisance and a copy or summary of the relevant Code sections;
 - 3. A statement that if the vehicle is not removed from public view within five days from issuance of the notice, the department shall impound and sell or destroy the vehicle at the offender's expense; and
 - 4. A statement that, if the offender can show ability and willingness to make the repairs necessary to convert the junk vehicle into an operable vehicle, application may be made at any time before the five days have expired for a 30-day waiver to make the necessary repairs.
- B. Upon expiration of the five-day period, or 30-day period where relevant, the director may impound a junk vehicle and sell it at public auction pursuant to the notice provisions of section 15.20.040.C or may have the vehicle privately sold, crushed or otherwise destroyed without further notice in accord with the provisions of section 15.20.040.B. If a vehicle is destroyed, the director shall notify the state department of public safety pursuant to AS 28.10.440.

(GAAB 18.20.070)

15.20.070 Disposition of vehicles both junk and abandoned.

If a vehicle is both junk and abandoned, the department may pursue its abatement under either the junk or abandoned vehicle provisions of this chapter or parts of both.

(GAAB 18.20.100)

15.20.080 Recovery of costs of impoundment, sale and destruction of junk or abandoned vehicles.

- A. The costs of impounding, storing, selling and destroying junk or abandoned vehicles may be charged or assessed by the municipality against the vehicle, the registered owner of the vehicle, any person who has acquired legal title to the vehicle from or through the registered owner and any person who has violated section 15.20.030 or section 15.20.050.A.
- B. When a vehicle is found in violation of section 15.20.030 or 15.20.050, it shall be presumed that either the registered owner of the vehicle found abandoned was in control of the vehicle at the time of abandonment or that the vehicle was abandoned by another person with the consent of the registered owner, such abandonment being a public nuisance for which the registered owner holds legal responsibility. That presumption may be rebutted by presentation of satisfactory evidence that the vehicle was abandoned by another person at the time of the violation without the consent of the registered owner and beyond the control of the registered owner.

(GAAB 18.20.080; AO No. 95-131, § 1, 9-21-95)

15.20.090 Preservation of certain rights regarding junk or abandoned vehicles.

- A. *Right to operate lawful junkyard or storage yard.* Nothing in this chapter shall be construed as limiting the right of any person to operate a lawful junkyard or storage yard.
- B. *Authority to abate public nuisances.* Nothing in this chapter shall be construed to limit the right of the department, pursuant to other provisions of this title and the common law, to abate summarily a public nuisance, including but not limited to the nuisances defined in this chapter.
- C. *Impoundment authority of police.* Nothing in this chapter shall be construed as limiting the authority of police officers to impound vehicles and arrange for their storage, sale, redemption or destruction as provided in other titles of this Code.

(GAAB 18.20.110, 18.20.120, 18.20.130)

15.20.100 Abatement of after-hours clubs.

- A. Following a conviction of an individual of permitting gambling on own premises in violation of section 8.16.040 or sale of liquor in unlicensed premises in violation of section 10.50.015.A or AS 4.11.010(a), the municipality shall notify the owner of the premises as indicated by the property tax records of the municipality that an individual has been convicted of the offense on their premises. The letter shall direct that registered owner to prevent such activity in the future and inform the registered owner of the potential penalties as set forth in this section. The copy shall be delivered either by certified mail, return receipt requested, or through personal service. A copy of the letter may be recorded in the state district recorder's office.
- B. Following any convictions for violations of section 8.16.040, section 10.50.015.A or AS 4.11.010(a) occurring on the premises after notification to the owner of record in accordance with subsection A of this section, the municipality may seek penalties as set forth in subsection C of this section. These penalties are in addition to any penalties or remedies, including injunctive relief, available through section 15.05.120.
- C. Following notification to the owner under subsection A of this section:

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1. Upon the first offense of the same type (gambling shall be considered as one type of offense and unlicensed alcohol sales shall be considered as a separate type of offense), the record owner may be subject to a fine of up to \$5,000.00.
 2. Upon the second offense of the same type, the record owner may be subject to a fine of up to \$10,000.00.
 3. Upon a third or subsequent offense of the same type, the property, including the real property and any structures located on the real property, may be forfeit to the municipality.
- D. Any fines levied pursuant to this section shall be a lien upon the property. If the record owner transfers the property after the incident giving rise to a fine but prior to recording of the lien, the fine may be collected as a personal debt of the individual who was the record owner at the time of the offense.
- E. Any record owner receiving notification under subsection A of this section shall give such notification to any subsequent purchaser of the property. The notification and the level of penalties due for any subsequent offense shall run with the property.
- F. This section may be enforced, and the penalties under this section may be imposed, either by an administrative hearing officer or by the courts.
- (AO No. 93-173(S), § 4, 2-24-94)

15.20.105 Vacant buildings and abandoned real property; registration; duties to sign, secure, and maintain.

- A. *Duty to register.* The owner of a vacant building or former owner of an abandoned real property not registered pursuant to this section must file a complete registration statement within 30 days of the building becoming vacant or abandoned.
1. *Contents of registration.* Registration statements shall be submitted in a manner and on a form prescribed by the director, and shall include:
 - a. For each owner of the building, or abandoning owner of the real property, the owner's:
 - i. Name,
 - ii. Street address,
 - iii. Mailing address,
 - iv. Phone number,
 - v. Facsimile number, if any,
 - vi. Email address, and
 - vii. If the owner of a vacant building being registered is not also the owner of the real property upon which the building is situated, then include the same information listed above for the owner of the real property;
 - b. For each agent authorized to act on an owner's behalf for the real property or building, the agent's:
 - i. Name,
 - ii. Street address,
 - iii. Mailing address,

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- iv. Phone number,
 - v. Facsimile number, if any, and
 - vi. Email address;
 - c. The real property or building's street address, if any, and the tax parcel identification number of the real property or real property upon which the building is located;
 - d. An identification, by type and coverage levels, of any insurance policies covering the building or real property;
 - e. For vacant buildings:
 - i. The period of time the building is expected to remain vacant, and
 - ii. The current plan, with timetable, for returning the building to appropriate occupancy or for demolition; and
 - f. For abandoned real property, a sworn statement from each owner that each abandoning owner has abandoned the real property to the municipality, together with an acknowledgment that abandonment of real property does not relieve any owner of any lawful liability, responsibility, or obligation.
2. *Annual fees.* The owner of a vacant building, and the former owner of an abandoned real property, shall pay an annual registration fee, which shall be deposited into the municipality's nuisance property abatement fund. Annual registration fees shall be as follows:
- a. \$100.00 for the first year,
 - b. \$500.00 for the second year,
 - c. \$1,000.00 for the third year, and
 - d. \$0.10 per building total gross floor area with a minimum of \$1,000.00 for the fourth and each subsequent year the property remains registered.
3. *Obligation to update registration.* An owner shall notify the director, within 30 days, of any change in the information provided in the registration statement, by filing an updated registration statement. There shall be no fee associated with the filing of an updated registration statement.
- B. *Duty to sign.* No later than 31 days after a building becomes vacant or abandoned, the owner of the vacant or abandoned building, other than a residential property for which the director has waived in whole the requirements of subsection C.1., shall post a weather-proof and durable sign in a format approved by the director:
- 1. Indicating the name, mailing address, telephone number, and email address of the owner or abandoning owner;
 - 2. Indicating the name, mailing address, telephone number, and email address of any agent authorized to act for the owner or abandoning owner with respect to the property, or to accept notice or service of process related to the property;
 - 3. Stating that "No Trespassing" is permitted;
 - 4. That is no smaller than 8.5 inches by 11 inches; and
 - 5. At each entrance or former entrance to a vacant or abandoned building, unless obscured by fencing or other barrier, in which case a sign shall be conspicuously placed on each side of the fence or other barrier visible from a public street or sidewalk.

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- C. *Duty to secure.* Vacant and abandoned buildings shall be secured so as to prevent ingress or egress, except by persons authorized by an owner, as follows:
1. All doors, windows, and other openings shall be closed, weather-tight, and secured against entry by animals and trespassers by means of plywood or commercial grade steel.
 - a. The director may waive the requirements of section C.1., in whole or in part, for a door or window where the door or window is in good repair, can be closed and secured, is weather-tight, and is sufficient to prevent ingress or egress in the absence of a covering.
 2. The director may order the grounds on which the vacant or abandoned building is situated or to be fenced, using materials and of a perimeter deemed sufficient by the director, in order to prevent further unlawful activity, where there the director determines there is good cause to believe:
 - a. That a vacant or abandoned building has not, by means specified in subsection C.1., been sufficiently secured against unauthorized ingress or egress, or
 - b. That the building or real property is the site of repeated unlawful activity.
- D. *Duty to maintain.*
1. The real property where a vacant or abandoned building is situated shall be kept clean, sanitary and free from waste, trash, rubbish, debris, and excessive vegetation.
 2. Vacant and abandoned buildings shall:
 - a. Meet the requirements of title 23;
 - b. Be kept in a condition that is structurally safe;
 - c. Be kept clean, sanitary, and free from waste, trash, rubbish, debris, and animals;
 - d. Be appropriately winterized;
 - e. Be kept free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure; and
 - f. Be kept free of unauthorized signs and posters.
 3. Adherence to this section does not relieve any person of any valid obligation set forth in any covenant, condition, restriction or homeowners' association rule or regulation, or any other requirement of this code that applies to the property.
- E. *Removal from registry.* The owner of a registered vacant or abandoned real property or building, or the agent of the owner, may apply to remove the registered real property or building from the registry if the real property or building is no longer vacant or abandoned. Application for removal from the registry shall be accompanied by corroborating documentation that the real property or building is no longer vacant or abandoned. The director shall approve or deny the application within 30 days. If denied, the director shall describe the reasons in a written decision. A denial of an application for removal from the registry may be appealed as provided in subsection 15.05.090C.
- F. *Government buildings.* The director may send a courtesy notice to a federal, state or local government agency advising a federal, state or local government building fails to satisfy the duties to sign, secure and maintain the building in accordance with this section.
- G. *Liens.* Unpaid registration fees, delinquent fines imposed for violations of this section, and costs incurred by the municipality for enforcement and work performed to achieve compliance with this section become a lien upon the real property upon which the building or structure is or was located. The director shall cause to be recorded a claim of lien at the Anchorage District Recorder's Office. The lien placed shall meet all Alaska

Statutes and municipal codes, and may be foreclosed upon in accordance with AS 09.45.170 through 09.45.220 or similar statutes in substitution thereof.

(AO No. 2016-81(S), § 3, 8-25-16 ; AO No. 2019-9(S) , § 6, 2-12-19)

15.20.106 Mold in hotels; abatement, remediation and prevention measures; enforcement.

- A. *Complaint of mold, order and action for abatement.* Any person may submit a complaint of the presence of visible mold or effects of exposure to mold in a hotel to the director. If the director receives a credible complaint of significant visible mold on or in a hotel building or facility from a hotel guest or hotel employee, the director shall inspect the area of the hotel premises alleged to have mold. In addition to the procedures described in this section, all powers of the director existing in Title 15 shall apply to visible mold abatement, prevention and enforcement including, but not limited to, fees, penalties, fines, inspections, compliance agreements, compliance orders, emergency orders, enforcement orders, recovery of fees and administrative costs incurred in enforcement actions, and injunctive relief. Violations are subject to civil penalties as prescribed in section 14.60.030.
1. If significant visible mold growth is discovered on or in a hotel, the director may issue a notice of violation as authorized by this title directing the hotel operator(s) to remove and clean up the mold and remediate the area by a specific date and require a reinspection. The initial notice of violation shall state a civil penalty and will be imposed if the visible mold identified at the initial inspection is not completely removed to the satisfaction of the director at the time of reinspection, and that failure to remove and clean up mold shall subject the hotel operator to additional penalties and enforcement actions. Additionally, the director shall have the power to order the repair of the source of the moisture.
 2. If upon reinspection of the hotel area following the initial notice of violation, or upon any subsequent reinspections as deemed necessary by the director, significant visible mold continues to be present and the director determines the hotel operator failed to take adequate action to correct the condition or repair or replace facilities or equipment as ordered, the director may take any one or combination of the following actions:
 - a. Impose the civil penalties stated in the initial notice of violation;
 - b. Issue an additional notice of violation with a specific date that removal, clean up, or repair and/or replacement of equipment or materials must be completed, with civil penalties to be imposed for the subsequent violations for failure to do so upon a reinspection;
 - c. Placard the hotel area, and any areas of the hotel that may reasonably expose persons to substantial airborne mold from the significant visible mold, and order hotel rooms or areas placarded to be vacated within a reasonable time. Tampering with a placard placed as ordered by the director shall subject the violator to a civil penalty. The placard shall indicate the hotel room or area is unfit for human habitation and is closed to all persons except those authorized by the director to enter; or
- B. *Subsequent violations.* If, after a second notice of violation of significant visible mold in the same area of the hotel, the hotel operator fails to adequately respond to orders to abate significant visible mold or environmental factors contributing to mold growth, the director may issue additional civil penalties, post public notices ascribing to the presence of mold, or close areas or rooms of the hotel. The director is not required to use or exhaust all actions in subsection A.2. prior to taking action under this subsection.
- C. *Evacuation and closure.* If a hotel operator continues to fail to adequately abate significant visible mold or environmental factors contributing to mold growth under this section, or the director determines the presence of significant mold presents a significant public health hazard, the director may:

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1. Order the cessation of hotel operations, evacuation and closure of the hotel until such time as violations of this section are abated, or
 2. Refer the hotel operator to development services as a dangerous building under section 23.70.702. A hotel vacated and closed under this subsection may not reopen any portion of the hotel to employees or the public without the written approval of the director.
- D. *Violation of closure.* Any person who, without authority from the director to do so, enters an area of a hotel placarded, closed or vacated under this section is subject to a civil penalty as provided in section 14.60.030.
- E. *Whistleblower protection.* A hotel employee who takes any lawful act under this section, including making a complaint of the presence of mold to the director or any other person, shall not be subjected to any adverse employment action by the hotel operator or employer because of such act. Such a hotel employee shall have the same rights and entitled to the same relief to make the hotel employee whole as a government false or fraudulent claims whistleblower under section 1.60.120. If a hotel operator or employer takes any adverse employment action against a hotel employee protected by this section, the hotel employee may bring an action in the appropriate court for the relief provided by this section.

(AO No. 2017-119(S) , § 3, 11-9-17)

15.20.110 Inspections; right of entry.

- A. Subject to subsection B of this section, the director may at any reasonable time and upon presentation of proper identification, enter upon and inspect any land, building or premises where reasonable cause exists that there has been or is a violation of this chapter, or enter upon such land, building or premises to perform a duty of the director under this chapter.
- B. Where federal or state law so requires, the director shall obtain an administrative search warrant authorizing an inspection and exhibit the warrant to the owner, agent or occupant of the premises before conducting the inspection. The director shall apply to the State of Alaska trial courts to obtain an inspection warrant, stating the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within ten (10) days.

(AO No. 2003-130, § 5, 10-7-03)

15.20.120 Enforcement actions and appeal procedures.

- A. In addition to notice of violation or citation or other enforcement actions, the director may issue an enforcement order to any person who violates the provisions of this chapter. The enforcement order may be issued by personal service or certified mail to the violator's last known address according to Municipal Assessor's property records, or if the violator's address or identity is unknown, by posting a dated and signed placard in a conspicuous place on each parcel of property containing the public nuisance. The enforcement order may be issued to more than one person for the same public nuisance, including the property owner, occupant of the property, agent of the property owner, and the person who causes or maintains the public nuisance, for all such persons are jointly and severally liable for the public nuisance.
- B. An enforcement order shall identify the violator and the property where the public nuisance is located, briefly describe the nature of the public nuisance, and list the provisions of this chapter that have been violated. The enforcement order shall require the abatement of the public nuisance within no less than ten days of service of the enforcement order, or the violator shall be subject to specified fines, penalties, costs and other remedies for each violation of this chapter, and for each day the violation continues. If a significant public health hazard exists, clean-up may be required less than ten days from the date of service. The

enforcement order shall inform the violator that if the public nuisance is not abated within the designated time period, and the violator does not enter into a written compliance agreement with the department which extends the abatement deadline, the municipality may abate the violation and assess the abatement costs and any administrative fees to the violator or violators, who are all jointly and severally liable. The enforcement order shall also give notice that if the violator commits a similar offense within one year of service of the enforcement order, even if the similar type of public nuisance occurs on a different property parcel, the violator shall be subject to enhanced fines, penalties, costs and other remedies, as provided for in this chapter. A description of the Administrative Hearing Office appeal procedure shall also be provided with the enforcement order.

- C. An enforcement order is final with respect to a violator who does not appeal to the Administrative Hearing Office within ten days of its service in accordance with section 14.30.050, unless a written compliance agreement is entered into between the department and the violator or the violator has abated the public nuisance to the satisfaction of the department. Once an enforcement order is final, the department may file a notice of violation of the enforcement order with and seek a compliance order from the Administrative Hearing Office, which may include abatement of the public nuisance if it still exists.
- D. If a timely appeal is not taken to the superior court from an Administrative Hearing Officer's final decision, and the violator has not complied with the Administrative Hearing Officer's compliance order, the municipality may file a civil action with the superior court to seek enforcement of the Administrative Hearing Officer's compliance order.
- E. An enforcement order need not be issued before other legal action is commenced with respect to a violation of this chapter, including filing an original action in court. Also, the pendency of any proceeding regarding an enforcement order does not stay any other legal action with respect to a violation that is the subject of the enforcement order. Whether the department proceeds with any other legal action shall depend upon, but not be limited to, the nature of the public nuisance, the danger to the public health which the public nuisance presents, the condition or deterioration of the premises, or the time reasonably necessary to take required action.

(AO No. 2003-130, § 6, 10-7-03; AO No. 2017-130(S) , § 2, 12-5-17)

Editor's note(s)—Section 3 of AO No. 2017-130(S) states, "Absent other action by the Assembly, this ordinance shall sunset on July 1, 2021 and be automatically repealed."

15.20.130 Penalties and remedies.

- A. In addition to other legal action and remedies provided in this chapter and other related provisions of the Anchorage Municipal Code, the department may seek any or all of the following remedies:
 - 1. Enjoin or abate a violation of this chapter.
 - 2. Recover the costs of abatement.
 - 3. Recover damages suffered because of the violation.
 - 4. Recover a fine as set forth in section 14.60.030, or if no fine is set forth in section 14.60.030, a fine of not less than \$100.00 for each day in violation, including for days in which the public nuisance continues or is not fully abated after an enforcement order is issued.
 - 5. Assess up to double the amount of fine, penalty, costs and damages for a second or subsequent offense committed within one year of service of an enforcement order, even if the offense occurs on a different property parcel. For purposes of this subsection a second or subsequent offense must be categorized the same as the original offense, as identified in subsection 15.20.020B.

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6. Recover a civil penalty not exceeding \$2,000.00 for each violation.
- B. The department shall keep an account of the cost, including incidental expenses, incurred by the municipality in the abatement of any violation of this section. A bill for collection shall be forwarded to the violator specifying the nature and costs of the work performed. For purposes of this section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the municipality in the preparation of the notices, specifications, contracts, work inspection, and interest from date of completion at the rate prescribed by law for delinquent real property taxes.
- C. The remedies provided in this section are not exclusive, but are cumulative of all other remedies available at law or in equity.
- D. A person who lives or owns real property located within 300 feet of a public nuisance may recover money damages from the owner of that property. An action under this subsection may be made only in the small claims court of the state of Alaska and is subject to the jurisdiction and procedures of that court. No action may be brought under this subsection unless the plaintiff first delivers written notice to the municipal manager and the owner of the subject property advising of the violation and that party's intent to bring action under this subsection within 30 days if the violation is not corrected or the municipality has not commenced its own enforcement actions within that time. Upon proof by a preponderance of the evidence that a public nuisance exists or has existed on the property 30 or more days after written notice was given to the owner, the court shall award damages to the plaintiff in a minimum amount of \$50.00 for every day that violation exists and in such additional amounts as the plaintiff may prove he or she is entitled.

(AO No. 2003-130, § 7, 10-7-03)