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## Chapter 8.02

### Administrative Hearings

#### Sections:

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#### **8.02.010 General.**

A This chapter provides for administrative penalties that may be imposed for violation of certain sections of this code. The sections of the code specifically affected are: Title 8, Chapters 8.04 (Garbage and Refuse), 8.08 (Weeds and Brush), 8.12 (Nuisances), 8.16 (Alarm Systems) and Section 9.46.040 (Utility poles).

B. The purpose of this chapter is to encourage prompt compliance with this code and prompt payment of any penalties. (Ord. 955 §1, 2006)

#### **8.02.020 Definitions.**

For the purposes of this section, the following terms shall have the meanings assigned to them below:

- A. *City* means the city of Craig, Colorado.
- B. *Code* means those provisions of this code enumerated in Section 8.02.010 above.
- C. *Manager* means the city manager or the city manager's designee.
- D. *Enforcement official* means a person assigned to the Craig police department charged with enforcing the ordinances of the city or a person designated by the city manager.
- E. *Responsible party* means a person or entity who has violated the code or, in the case of property violations, the property owner, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this chapter.

F. *Administrative hearing officer* or *AHO* means the hearing officer with exclusive authority to hear appeals from administrative citations issued under this ordinance.

G. *Municipal court* means the municipal court for the city. (Ord. 955 §1, 2006)

#### **8.02.030 Authority.**

A. Any responsible party violating provisions of the code may be issued an administrative citation by an enforcement official as provided in this chapter.

B. Notwithstanding any other provision of the code, responsible parties cited under the provisions of this chapter shall have only the appeal rights granted herein.

C. Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate citation may be issued. However, once a citation has been issued for a violation of this code, no additional citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an order of the administrative hearing officer (AHO) within ten (10) days of its issuance or such other time as the AHO has specified.

D. A civil penalty assessed following an administrative citation issued by the enforcement official shall be payable directly to the manager of finance or, if not timely paid, may be collected in accordance with the procedures specified in this chapter.

E. Enforcement actions are intended to be cumulative in nature. The city may pursue one (1) or more civil, criminal and administrative actions, fees, fines, sentences, penalties, judgments and remedies and may do so simultaneously or in succession. (Ord. 955 §1, 2006)

#### **8.02.040 Procedures.**

A. Upon discovering a violation of this code, an enforcement official may issue an administrative citation to a responsible party on a form approved by the city manager.

B. The enforcement official may require that the responsible party provide evidence of identity and residential or working address.

C. The enforcement official shall attempt to issue the administrative citation to the responsible party at the site of any violation. If the responsible party is not located, a copy of the administrative citation shall be left with any adult person residing or working at the site or, if no adult person is found at the site and the violation occurred on private property or on property for which the responsible party has responsibility under an ordinance, then a copy of the administrative citation shall be posted in a conspicuous place on the property of the responsible party.

D. The enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

E. If the enforcement official is unable to issue the administrative citation to the responsible party, then the administrative citation shall be sent via first class mail to the responsible party. In the case of violations occurring on private property or on property for which the responsible party has responsibility under an ordinance, the administrative citation shall be sent to the most recent mailing address contained in the city's assessment division records for the property in violation or the property of the responsible party.

F. Notice shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fourth day after mailing of the administrative citation. (Ord. 955 §1, 2006)

**8.02.050 Contents of citation.**

A. The administrative citation shall state the date and location of the violations and the approximate time the violations were observed. Where applicable, the administrative citation shall identify the property in violation by address or legal description.

B. The administrative citation shall refer to the code sections violated and describe the violations.

C. The administrative citation shall describe the action required to correct the violations.

D. The administrative citation shall require the responsible party to immediately correct the violations and shall explain the consequences of failure to correct said violations.

E. The administrative citation shall state the amount of penalty imposed for the violations.

F. The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid and the consequences of failure to pay the penalty.

G. The administrative citation shall briefly state the process for appealing the administrative citation.

H. The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party, if it can be obtained. (Ord. 955 §1, 2006)

**8.02.060 Appeal of administrative citation.**

A. A person served with an administrative citation may file a notice of appeal within five (5) calendar days from the service of the notice. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this chapter, and failure to comply shall bar any such appeal.

B. The notice of appeal shall be made in writing and filed with the municipal court.

C. As soon as practicable after receiving the written notice of appeal, the municipal court shall assign an AHO who shall schedule a date, time and location for the hearing.

D. Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least five (5) calendar days prior to the date of the hearing. (Ord. 955 §1, 2006)

**8.02.070 Administrative hearing officers.**

A. The administrative hearing officer must be an attorney licensed to practice law in the state, with a minimum of three (3) years of experience, and will be paid an hourly wage agreed upon before assignment of the case for hearing. The hearing officer may be the associate municipal judge or any other qualified individual appointed by the municipal court.

B. Any person designated to serve as an AHO is subject to disqualification for bias, prejudice, interest or any other reason for which a judge may be disqualified in a court of law. (Ord. 955 §1, 2006)

**8.02.080 Administrative appeals.**

A. Administrative appeals are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow procedures as provided in this section.

B. The parties to an administrative appeal shall be the responsible party and the Craig police department/code enforcement. Parties may be represented by legal counsel. Parties may call and question witnesses.

C. The AHO, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The form of and the process for issuing subpoenas shall be the same as in the municipal court.

D. The AHO shall have the power to call and question witnesses, to review and consider the relevancy of documentary or other tangible evidence and to rule on evidentiary questions.

E. The only issue to be decided by the AHO is whether or not the enforcement official exceeded his or her authority in issuing the administrative citation. The city bears the burden of proof to establish the existence of a violation of the code. In the case of an abatement hearing, the city bears the burden of proof to establish the existence of a public nuisance. Once the city's burden of proof has been met, this shall constitute prima facie evidence that the enforcement official did not exceed his or her authority. The appellant shall have the burden of proof to show that the administrative citation was issued in error.

F. The standard of proof to be used by the AHO in deciding all issues at an administrative appeal is by a preponderance of the evidence.

G. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of its case.

H. Copies, photographs and photocopies may be admitted into evidence or substituted as evidence in place of original documents.

I. Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript.

J. Whenever it appears that a notice of appeal is not filed within the time permitted by the particular law or ordinance involved, or that the appellant for some other reason lacks jurisdiction, the case may be dismissed on the motion of any party or the AHO.

K. A decision of the AHO shall be known as an *administrative enforcement order*.

L. The AHO may uphold the administrative citation and all penalties, dismiss the administrative citation and all penalties or waive or conditionally reduce the penalties assessed by the administrative citation. The AHO may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties. All penalties assessed by the AHO shall be payable to the municipal court.

M. In the event that the administrative citation is upheld, the AHO shall assess reasonable administrative costs of not less than one hundred dollars (\$100.00), but not to exceed two hundred dollars (\$200.00).

N. The administrative enforcement order shall become final on the date of mailing the order to the responsible party. A copy of the order shall be provided to the city. (Ord. 955 §1, 2006)

**8.02.090 Failure to obey subpoena.**

It is unlawful for any person to refuse to obey a subpoena issued by an AHO. Failure to obey a subpoena constitutes contempt and may be criminally prosecuted and have penalties imposed in the same manner as violation of a municipal court subpoena. (Ord. 955 §1, 2006)

**8.02.100 Failure to attend administrative appeal.**

Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided. (Ord. 955 §1, 2006)

**8.02.110 Failure to comply with administrative enforcement order.**

It is unlawful for a responsible party to an administrative enforcement hearing, who has been served with a copy of the final administrative enforcement order, to fail to comply with the order. Failure to comply with a final administrative enforcement order may be criminally prosecuted and have penalties imposed similar to those for failure to comply with an order of the municipal court. (Ord. 955 §1, 2006)

**8.02.120 Penalties assessed.**

A. The manager shall establish policies to assist in the assessment of civil penalties for administrative citations.

B. If the responsible party fails to correct the violation, the following penalties shall be assessed. Subsequent administrative citations may be issued for violations of the same code section. The penalties assessed for each administrative citation issued for violations of the same code section or sections shall not exceed the following amounts regardless of the number of violations per citation:

1. First administrative citation: one hundred fifty dollars (\$150.00).
2. Second administrative citation: two hundred fifty dollars (\$250.00).
3. Third or subsequent administrative citation: three hundred dollars (\$300.00).

C. Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the city.

D. All penalties assessed shall be payable to the manager of finance, except as provided for in Section 8.02.080(L) of this chapter. (Ord. 955 §1, 2006)

#### **8.02.130 Failure to pay penalties.**

A. The failure of any responsible party to pay the civil penalties assessed by an administrative citation within the time specified on the citation or administrative enforcement order, if an administrative hearing was held, may result in the imposition of a late fee of fifty dollars (\$50.00) and interest at a rate of ten percent (10%) per annum.

B. In the event of failure to pay all penalties assessed, the manager may refer the matter for collection by whatever means are available to the city.

C. In the case of property violations, the manager shall certify a statement thereof and shall record a notice with the clerk and recorder of a lien against the property in violation.

D. An action or other process provided by law may be maintained by the city to recover or collect any amounts, including late fees, interests and administrative costs, owing under this chapter. (Ord. 955 §1, 2006)

## **Chapter 8.04**

### **Garbage and Refuse**

Sections:

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- 8.04.040 Officers and agents; reports
- 8.04.060 Administrative functions
- 8.04.070 Definitions
- 8.04.080 Containers
- 8.04.090 Maintenance; unlawful accumulations
- 8.04.100 Scattering garbage on streets

- 8.04.110 Depositing garbage and refuse in receptacles
- 8.04.120 Burning
- 8.04.130 Removal of building materials
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- 8.04.160 Spilling and littering unlawful
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- 8.04.170 Refuse escaping from vehicles
- 8.04.180 Refuse haulers
- 8.04.250 Refuse collection fee
- 8.04.255 Authority to provide contract refuse service involving unique pricing factors
- 8.04.260 Rental liability
- 8.04.270 Unpaid fees; lien
- 8.04.290 Service and fee exceptions
- 8.04.300 Penalty

**8.04.030 Officers and agents; duties.**

The city manager may appoint such officers or agents as he or she deems necessary to supervise the solid waste department and to enforce all ordinances and regulations pertaining to the solid waste department. (Ord. 955 §1, 2006; Ord. 562 Art. 1 §3, 1980)

**8.04.040 Officers and agents; reports.**

The officers or agents so appointed shall keep accurate accounts of all matters and things under their charge or control. The finance department shall report to the city council once per month the solid waste department's revenues and expenses. (Ord. 955 §1, 2006; Ord. 562 Art. 1 §4, 1980)

**8.04.060 Administrative functions.**

The Finance Department shall collect the fees for garbage and refuse removal and shall maintain all records in connection with the collections as required by law. (Ord. 955 §1, 2006; Ord. 562 Art. 1 §6, 1980)

**8.04.070 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

- A. *Active landfill area* means that portion of the sanitary landfill in which operations are in progress.
- B. *Building* means any structure which has a roof and is supported by columns and/or walls.
- C. *Debris* means:
  1. Discarded automobile parts or tires, household furnishings or equipment;

2. Silt or refuse from automobile wash racks and floor drains;
3. Manure other than a light application on lawns or gardens for fertilizing purposes;
4. Any refuse resulting from the wrecking, construction or reconstruction of any building, fence, sidewalk or structure of any kind or character;
5. Large or bulky boxes, barrels, tanks or containers;
6. Any discarded refuse of highly explosive or inflammable nature; or
7. Any waste materials of any unusual or excessive amount not normally accumulated as rubbish.

D. *Dwelling* means a building designed to be used as the living place for one (1) or more persons or families.

E. *Dwelling unit* means a building or portion thereof providing complete housekeeping facilities for one (1) family.

F. *Garbage* means any and all kitchen refuse, rejected or waste food, meat, fish, fowl, offal, carrion or other refuse, accumulation of fruit, vegetable or animal matter that attends the preparation, use, cooking of, dealing in or storage of meats, fish, fowl, fruits, vegetables or other substances which may decompose, or become foul, offensive, unsanitary or dangerous to health.

G. *Rubbish* means any refuse, excepting garbage, normally accumulated for disposal on and about a dwelling or place of business, such as cans, jars, bottles, containers, papers, glass, ashes, boxes, shavings, excelsior, clothing, dishes, lawn or shrubbery clippings, or trash of any kind or character not otherwise classified as garbage or debris in this section.

H. *Sanitary landfill site* means any site where refuse is being dumped. (Ord. 955 §1, 2006; Ord. 562 Art. 2 §1, 1980)

#### **8.04.080 Containers.**

A. With a manual pick-up system, all garbage and refuse shall be placed in containers of not more than thirty-two-gallon capacity and the combined weight of the garbage, refuse and the container shall not exceed one hundred (100) pounds, or garbage and refuse may be placed in canisters of not more than four-yard capacity. Canisters may be acquired and used in either of the following methods:

1. Canisters may be leased from the city at a monthly rental to be determined by the city. All rented canisters shall be maintained, repaired and replaced, when necessary, at the expense of the city.
2. If leased canisters are damaged because of misuse or negligence by the owner or tenant, the owner or tenant will be charged seventy-five dollars (\$75.00) or the current replacement cost, whichever is higher. The container shall be a watertight receptacle and shall be provided with a

suitable handle or handles on the outside and a tightly fitting cover equipped with a handle. It must not have any inside structures such as inside bands and reinforcing angles to prevent free discharge of the contents. Containers that have deteriorated so as to cause injury to garbage collectors or so as to result in loose-fitting lids will be condemned by the division of sanitation and health.

B. With a mechanical pick-up system, all garbage and refuse shall be placed in containers or canisters compatible with the mechanical collection vehicles. The city shall provide the containers and canisters for use with the mechanical pick-up system.

C. Every owner, lessor or agent of any business establishment or of any house, dwelling or building where housekeeping, cooking or eating is done shall provide and keep at all times suitable and sufficient vessels for receiving and holding without running over or leaking, garbage and refuse which may accumulate from such house, dwelling or building.

D. Every person shall place all containers adjacent to the curblin in front of his or her premises or alleyway on his or her premises in such a manner as to be accessible to the garbage collectors. The superintendent of the sanitation department shall designate whether the containers are to be placed on the curblin in front of the premises. (Ord. 955 §1, 2006; Ord. 713 §3, 1988; Ord. 562 Art. 3 §1, 1980)

#### **8.04.090 Maintenance; unlawful accumulations.**

It shall be the duty of every owner or occupant of any premises to keep and maintain the same at all times, including the sidewalk and parking in front and the alley in back thereof and any easement or other right-of-way between the property line and the curb or middle of the alley in a clean and orderly condition, permitting no deposit or accumulation of garbage, rubbish, litter, weeds or debris other than authorized in this chapter. Any unauthorized accumulation constitutes a nuisance. The owner or proprietor of each business establishment shall be responsible for keeping the sidewalk in front of such establishment free of any accumulation of dirt, papers or rubbish, which shall be taken up and deposited in a proper receptacle with other refuse from such establishment. (Ord. 955 §1, 2006; Ord. 874 §1, 1999; Ord. 562 Art. 3 §2, 1980)

#### **8.04.100 Scattering garbage on streets.**

It is unlawful for any person to scatter, deposit, throw or sweep any garbage, rubbish or debris on or into any street, gutter, sewer intake, alley, vacant property or public right-of-way. (Ord. 955 §1, 2006; Ord. 562 Art. 3 §3, 1980)

#### **8.04.110 Depositing garbage and refuse in receptacles.**

A. All garbage and rubbish shall be promptly deposited by the person responsible therefor in the receptacle or receptacles provided for in Section 8.04.080 and kept in no other place.

B. All ashes shall be kept in metal containers provided by the property owners or renters. If the ashes are still warm to the touch when set out for collection, they will not be picked up by collectors. (Ord. 955 §1, 2006; Ord. 713 §4, 1988; Ord. 562 Art. 3 §4, 1980)

#### **8.04.120 Burning.**

It is unlawful for any person to set fire to, burn or attempt to burn any garbage, rubbish or debris in the city. (Ord. 955 §1, 2006; Ord. 562 Art. 3 §5, 1980)

#### **8.04.130 Removal of building materials.**

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as to not be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property. (Ord. 955 §1, 2006; Ord. 713 §5, 1988; Ord. 562 Art. 3 §6, 1980)

#### **8.04.140 Grass clippings, leaves, tree trimmings and hedge cuttings.**

A. Grass clippings, leaves and hedge cuttings shall be placed in plastic bags, cardboard boxes or other approved containers and securely fastened. Weight of such containers or bags shall not exceed thirty (30) pounds.

B. Tree trimmings shall not exceed five (5) feet in length or six (6) inches in diameter. Small branches shall be tied in bundles not to exceed twelve (12) inches in diameter for ease in handling.

C. The above shall be placed for collection in the location and at the times specified by the superintendent of the sanitation department. (Ord. 955 §1, 2006; Ord. 713 §6, 1988; Ord. 562 Art. 3 §7, 1980)

#### **8.04.150 Tampering with containers.**

No person or persons shall tamper with, remove, handle or otherwise disturb the garbage and refuse containers or contents which have been placed for servicing by the garbage collector except the owner, occupant, lessor or tenant of the residence, dwelling or building, or their employees and agents. (Ord. 955 §1, 2006; Ord. 562 Art. 3 §8, 1980)

#### **8.04.160 Spilling and littering unlawful.**

It is unlawful for any person to spill or deposit any rubbish, garbage or debris on any street, alley or any other public or private property, or for rubbish, garbage or debris to be spilled, blown or littered by him or her upon any street, alley or any other private or public property. (Ord. 955 §1, 2006; Ord. 562 Art. 3 §9, 1980)

#### **8.04.165 Depositing garbage or refuse in or around others' receptacles.**

It is unlawful for any person to knowingly deposit garbage, refuse or rubbish in or around the dumpster, container or receptacle of another without permission of the owner, occupant, lessor or tenant of the residence. The minimum fine imposed for violation of this section shall be one hundred

dollars (\$100.00) for a first offense and double for a second or subsequent offense. (Ord. 955 §1, 2006; Ord. 863 §2, 1997)

**8.04.170 Refuse escaping from vehicles.**

No vehicle shall be driven or moved on any city street, alley or other public thoroughfare unless such vehicle is constructed or loaded or the load thereof secured to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom; except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway. (Ord. 955 §1, 2006; Ord. 562 Art. 3 §10, 1980)

**8.04.180 Refuse haulers.**

A. Permits required.

1. It is unlawful for any person to collect or haul, or cause to be collected or hauled, over the streets, alleys or other public thoroughfares within the city any rubbish, garbage or debris, except such rubbish, garbage or debris as is accumulated at the residence or place of business and hauled by the owner thereof, without first having been issued a permit therefor by the city.

2. Application for a permit to collect or haul rubbish, garbage or debris within the city shall be made to the city clerk upon such forms as may be provided by him or her for said purpose. The application shall always set forth the following information:

- a. Name and trade name, if any, of the applicant;
- b. Telephone numbers and business address;
- c. Identification for all vehicles to be used in collection or hauling of refuse; and
- d. Any other pertinent information requested by the city for the purpose of administering the provisions of this section.

3. A permit shall be issued to the applicant and for so many refuse-hauling vehicles as he or she may wish to use; provided that the city clerk is satisfied as to the following:

- a. The applicable permit fees have been paid;
- b. The vehicle or vehicles to be used by the applicant in the collection or hauling of refuse have first been inspected by the superintendent of the sanitation department and approved as to their compliance with the provisions of Section 8.04.170 or any other applicable law of the city or the state, and further, that they are in sanitary condition and do not constitute or create a health hazard;
- c. The applicant shall have in each refuse-hauling vehicle a motor vehicle liability insurance policy or evidence of such policy issued by an insurance carrier or insurer authorized to do business in the state in the sum of not less than one million dollars (\$1,000,000.00) for damages for or on account of any bodily injury to or the death of each person as the result of

any one (1) accident, in the sum of not less than one million dollars (\$1,000,000.00) for damages to the property of others as the result of any one (1) accident, and in the total sum of not less than one million dollars (\$1,000,000.00) for damages for or on account of any bodily injury to or the death of any persons and for damages to the property of others. Any liability for failure to comply with the requirements of this subsection shall be borne by the individual, partnership or corporation who owns such vehicle; and

d. The applicant has complied with all applicable provisions of this chapter or any other provisions of any ordinance or code of the city now or hereafter in force relating to the collecting, hauling or depositing of rubbish, garbage or debris.

4. The fees for any permits referred to in this section shall be as follows:

a. Fifty dollars (\$50.00) for every applicant and the first refuse-hauling vehicle used by him or her; and

b. Twenty-five dollars (\$25.00) for every additional refuse-hauling vehicle.

5. All permits issued under this section shall automatically expire on the first day of January of each year.

6. All permits issued to any applicant as provided in this section shall be nontransferable. Fees required hereunder may be prorated as follows when the permit granted is not a renewal: one-quarter (¼) of the fee for each quarter or fraction thereof remaining in the year.

B. Suspension or revocation of permits.

1. All permits issued under this section may be suspended or revoked by the city manager for cause at any time. Such cause shall be whenever any refuse hauler fails or refuses to comply with the provisions of this chapter, regulations adopted in accordance with this chapter or any other related ordinance or code, which may now or hereafter be in force.

2. No permit shall be suspended or revoked unless the city manager gives written notice to the refuse hauler and a hearing is held not sooner than three (3) days from the mailing or giving of such notice. The refuse hauler shall be given an opportunity to be heard at said hearing, and he or she shall have the burden of showing why his or her permit should not be suspended or revoked. If after such hearing the city manager is of the opinion that the refuse hauler violated or failed or refused to comply with the provisions of this chapter or any other related ordinance or code, which may now or hereafter be in force, without having shown substantial justification therefor, he or she may, in his or her discretion, suspend the permit of said refuse hauler and of any vehicles used by him or her for any period not exceeding the remaining period of the permit; or he or she may revoke the same for the full period of said permit.

3. The city manager may in his or her discretion suspend any permit issued under this section pending the outcome of the hearing to be held as provided in paragraph 2 of this subsection.

4. It is unlawful for any refuse hauler to use, or permit to be used, any vehicle for the purpose of collecting or hauling refuse unless the vehicle has a permit therefor, and the permit is not either

suspended or revoked at the time, as provided by the city pursuant to the provisions of this chapter. It is unlawful for any refuse hauler to engage in the hauling or collecting of refuse, for which a license is required by the provisions of this chapter, while the license to him or her is under suspension or has been revoked. (Ord. 955 §1, 2006; Ord. 713 §7, 1988; Ord. 562 Art. 3 §11, 1980)

**8.04.250 Refuse collection fee.**

The following fees shall be charged by the city monthly for refuse collection service and are payable on or before the first day of the following month:

A. Residential Household Rate. The monthly fee for each household shall be eleven dollars (\$11.00) for collections. Landfill costs for disposal of refuse shall be nine dollars (\$9.00) per household monthly. Any extra pickup for residential customers shall cost five dollars (\$5.00) per pickup. Any passenger tires left for pickup will be charged a disposal fee of five dollars (\$5.00) for each tire. The residential rate schedule shall become effective on January 1, 2009.

B. The monthly fees shall be based upon the attached table, entitled "Dumpster Rates With Landfill Fees Included, Effective January 1, 2009." The fee for collection of furniture and household appliances shall be fifteen dollars (\$15.00) each, except that for any appliance containing refrigerant which has not been properly removed by an EPA-approved technician as evidenced by a properly affixed sticker, the fee shall be fifty dollars (\$50.00).

<i>Residential Rates</i>	
Monthly fee	\$11.00 + \$9.00 landfill fee
Extra pickups for residential	\$5.00 each time
Passenger tires	\$5.00 each
Furniture & appliances	\$15.00 each
Refrigerators & freezers (with Freon)	\$50.00 each

1. Extra pickups for Dumpsters shall be ten dollars (\$10.00) for a two-yard Dumpster, twelve dollars (\$12.00) for a three-yard Dumpster, fifteen dollars (\$15.00) for a four-yard Dumpster, twenty-five dollars (\$25.00) for a six-yard Dumpster and thirty dollars (\$30.00) for an eight-yard Dumpster.

<i>Extra Pickups for Dumpsters</i>	
Size	Fee
2-Yard	\$10.00
3-Yard	12.00
4-Yard	15.00
6-Yard	25.00
8-Yard	30.00

2. Cartons, boxes, crates and other refuse which cannot be conveniently deposited in the containers herein provided for or which cannot be treated and handled as other garbage and refuse with the available equipment shall be subject to a special charge to be determined and assessed according to the particular circumstances.

3. Rates for rubbish and garbage collection under a manual collection system shall be converted to comparable household rates. The fee schedule as listed in this section shall become effective on January 1, 2009. Nothing in this chapter shall prohibit the city from collecting refuse and garbage from customers outside the city limits.

**Dumpster Rates With Landfill Fees Included  
Effective January 1, 2009**

Size	Charge	Number of Pickups Per Week						
		1	2	3	4	5	6	7
2-Yard	Rate	\$ 20.38	\$ 39.92	\$ 59.45	\$ 79.02	\$ 98.51	\$118.09	\$137.62
	Landfill Fee	15.01	30.02	45.03	60.04	75.05	90.06	105.07
	<b>Grand Total</b>	35.39	69.94	104.48	139.06	173.56	208.15	242.69
3-Yard	Rate	29.49	58.17	86.77	115.45	144.09	172.78	201.42
	Landfill Fee	22.51	45.02	67.53	90.04	112.55	135.06	157.57
	<b>Grand Total</b>	52.00	103.19	154.30	205.49	256.64	307.84	358.99
4-Yard	Rate	38.17	75.54	112.86	150.18	187.55	224.87	262.19
	Landfill Fee	30.00	60.00	90.00	120.00	150.00	180.00	210.00
	<b>Grand Total</b>	68.17	135.54	202.86	270.18	337.55	404.87	472.19
6-Yard	Rate	55.11	109.38	163.64	217.90	272.16	326.43	380.69
	Landfill Fee	45.02	90.04	135.06	180.08	225.10	270.12	315.14
	<b>Grand Total</b>	100.13	199.42	298.70	397.98	497.26	596.55	695.83
8-Yard	Rate	72.05	144.11	216.16	288.21	360.26	432.32	504.37
	Landfill Fee	60.06	120.12	180.18	240.24	300.30	360.36	420.42
	<b>Grand Total</b>	132.11	264.23	396.34	528.45	660.56	792.68	924.79

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4. Temporary construction Dumpsters may be provided for normal construction debris at the rate of forty dollars (\$40.00) per pickup for two-yard or three-yard Dumpsters, fifty dollars (\$50.00) for four-yard or six-yard Dumpsters and ninety dollars (\$90.00) for shingles (four-yard Dumpsters only). For unusual construction debris, the rates may be determined by the city according to weight.

**Temporary Construction Dumpsters**

<i>Size</i>	<i>Rate</i>
2- & 3-Yard (limit 600 lbs.)	\$40.00
4- & 6-Yard (limit 1,000 lbs.)	50.00
Shingles – 4-Yard only	90.00
Overweight Dumpsters	Assessed add'l landfill fees

C. A fifteen-percent reduction in the amount charged for refuse service shall be available to those commercial customers who sign an agreement for municipal refuse service for a period of twelve (12) months. The discount shall apply only to Dumpster rates and is reflected in the table above. (Ord. 985 §1, 2008; Ord. 981 §1, 2008; Ord. 977 §1, 2008; Ord. 956 §1, 2006; Ord. 955 §1, 2006; Ord. 945 §1, 2004; Ord. 863 §1, 1997; Ord. 697 §4, 1987; Ord. 669 §2, 1986; Ord. 653 §2, 1984; Ord. 641 §1, 1984; Ord. 631 §2(part), 1983; Ord. 617 §1, 1982; Ord. 562 Art. 5 §1, 1980)

**8.04.255 Authority to provide contract refuse service involving unique pricing factors.**

Nothing in this chapter shall prohibit the city from providing refuse service for customers involving volume discounts, mileage charges or other unique pricing factors. Such service may be bid upon by the city or acquired through proper negotiations. The public works director or city manager or their designee from the refuse department may represent the city in such bids or negotiations and may enter into a contract on behalf of the city. (Ord. 955 §1, 2006; Ord. 873 §1, 1998)

**8.04.260 Rental liability.**

The owner or owners of any premises or building or buildings shall be liable to the city for all fees charged in connection with the premises, building or buildings and, in case of any increase, the landlord, owner or owners thereof shall at once pay or cause to be paid such increased fees. Upon a failure to pay such fee on any such premises, building or buildings or any part thereof as in this chapter required, the owner shall be subject to the provisions as set forth in Section 8.20.270. (Ord. 955 §1, 2006; Ord. 562 Art. 5 §2, 1980)

**8.04.270 Unpaid fees; lien.**

The amount of charges for removal of garbage, rubbish or refuse shall be a lien upon the property served when accrued and shall remain until the same is paid. Customers shall receive notice and an administrative hearing during which they may contest the amount of said charges before said charges are certified to the county clerk and recorder or the county treasurer for collection and before water is discontinued to the property. In case of failure to pay a charge found to be legitimate after said hearing, the city clerk may certify the charge or charges to the county treasurer and the charge or charges shall become a recorded lien on the real property so served by the garbage collection and shall be collected in the manner as though they were a part of the taxes assessed against the property, together with the cost of collection. Upon receipt of said certified charges, the county treasurer shall proceed to collect the amounts so assessed against the property affected thereby in the same manner as the collection of general property taxes and redemption thereof. Said liens shall be the equivalent of tax liens and shall have priority over all other liens regardless of the date of such liens. The laws

of the state for the collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply. (Ord. 955 §1, 2006; Ord. 694 §3, 1987; Ord. 562 Art. 5 §3, 1980)

#### **8.04.290 Service and fee exceptions.**

The city is not responsible for supplying containers and canisters as provided in Section 8.04.080(B) for those persons or businesses not utilizing the city's refuse collection services. Those persons or businesses choosing not to use the city's refuse collection services shall not be liable for refuse collection fees as listed in Section 8.04.250. (Ord. 955 §1, 2006; Ord. 562 Art. 5 §5, 1980)

#### **8.04.300 Penalty.**

Any person or persons violating any of the terms of this chapter is guilty of a misdemeanor and, upon conviction, shall be fined in a sum not to exceed three hundred dollars (\$300.00). Each day that such a violation continues constitutes a separate offense. (Ord. 955 §1, 2006; Ord. 562 Art. 6 §2, 1980)

## **Chapter 8.08**

### **Weeds and Brush**

Sections:

- 8.08.010 Definitions; weeds and brush
- 8.08.020 Nuisance; abatement
- 8.08.030 Removal required
- 8.08.040 Failure to comply
- 8.08.050 Nuisance; abatement by city
- 8.08.060 Citation into municipal court; penalty

#### **8.08.010 Definitions; weeds and brush.**

As used in this chapter, *brush*, *developed growth*, *grass*, *noxious weeds*, *trees* and *shrubs* and *weeds* shall have the following meanings:

A. *Brush* is a volunteer growth of bushes or shrubbery over the average height of twelve (12) inches; or any combination of dead brush, tree trimmings and weeds; or poison oak or other injurious, poisonous, unsightly or illegal bushes or shrubbery.

B. *Developed* means having buildings or other site improvements in place.

C. *Grass* means any of various plants of the grass family used for food, fodder, grazing and/or as lawns, in excess of twelve (12) inches.

D. *Noxious weeds* means plants that are determined by the state of Colorado, Moffat County, or the city as a noxious weed or an alien plant that is aggressively invasive including, but not limited to:

Leafy Spurge, Russian Knapweed, Spotted Knapweed, Diffuse Knapweed, Canada Thistle, Musk thistle, Field Bindweed, Volunteer Rye and Jointed Goatgrass.

E. *Trees* and *shrubs* include all trees, shrubs, bushes and all other woody vegetation.

F. *Weeds* are herbaceous plants or vegetation over the average height of six (6) inches; or any combination of dead weeds, grass or vegetation; or poison ivy, ragweed or other injurious, poisonous, unsightly or noxious plants. (Ord. 955 §1, 2006; Ord. 886 §1, 2000; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

#### **8.08.020 Nuisance; abatement.**

A. Growing weeds and brush; dead weeds, grass, brush or tree trimmings; or any plants which conceal filthy deposits located on premises within the corporate limits of the city are declared to be nuisances and are subject to abatement as provided in this chapter.

B. Exceptions.

1. A natural growth of sagebrush, chokecherry or other brush or plants common to this area that are on undeveloped or unsubdivided land shall not be considered a nuisance unless, in the opinion of the city manager or his or her authorized representative, a fire danger exists to a structure or structures from such natural growth. If such a fire danger exists the owner, lessee, occupant or an agent of such owner, lessee or occupant shall cut a fire break at least fifty (50) feet wide between the brush or plants and any structures.

2. Flowers or vegetable gardens, cultivated or tended shrubbery or agricultural crops, including but not limited to hay or grass grown for feed, fodder or forage shall not be considered a nuisance.

3. The city council may, by resolution, exempt certain areas in the city, whether publicly or privately owned, from the prohibitions contained in this section if the city council determines that such areas are: natural open space, natural park, conservation areas, erosion control areas, agricultural zoned property or irrigation or drainage ditch rights-of-way. (Ord. 955 §1, 2006; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

#### **8.08.030 Removal required.**

A. It shall be unlawful for any person who is an owner, lessee, occupant or an agent of such owner, lessee or occupant, having control over any occupied or unoccupied lot or any parcel of land in the city not exempted under Section 8.08.020, to permit or maintain on any such lot, parcel of land or on or along the sidewalk, street or alley adjacent to the same, including any easement or other right-of-way, between the property line and the curb or middle of the alley, any growth of weeds, grass, brush and tree trimmings; any trees, bushes or other vegetation that interferes with vehicle movement in the alley or street; or any vegetation which conceals filthy deposits. It shall also be unlawful for any such person or persons to cause, suffer or allow an accumulation of noxious weeds, poison ivy, ragweed or other poisonous or narcotic plants or plants detrimental to health, to grow on any such lot or land in such manner that seeds, pollen or emanations therefrom may be carried

through the air into any public place. The foregoing enumeration is not intended to be all-inclusive, but rather is intended to be indicative of those type of plants which are considered a nuisance.

B. It shall be the duty of such owner, lessee, occupant or agent of such owner, lessee or occupant to cut and remove or cause to be cut and removed, sprayed or destroyed by any other lawful means all such weeds, grass, noxious weeds or other rank vegetation as often as may be necessary, and it shall be unlawful for any such person to neglect such duty. (Ord. 955 §1, 2006; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

**8.08.040 Failure to comply.**

A. In the event that the provisions of Section 8.08.030 are violated, the city manager or his or her authorized representative may cause to be served, whether personally or by mail, an administrative citation upon the owner, lessee, occupant or agent of such owner, lessee or occupant, or any person having care and control of such lot or parcel of land to cut or remove such weeds, brush or rank vegetation. Such personal service, or such written notice mailed to the last known address of the record owner of the property by certified mail, or to the manager, lessee, occupant or the agent of such owner, lessee or occupant, shall be deemed adequate notice. Such service shall be valid for a period of one hundred eighty (180) days. The owner, lessee, occupant or the agent of such owner, lessee or occupant, or any person having care and control of such lot or parcel of land, shall be responsible to maintain said property. Failure to maintain property for ninety (90) days after receiving notice shall be considered a separate violation.

1. If, after receiving the administrative citation to correct pursuant to this section, and the city's authorized representative performs a second or further inspection (other than an inspection showing compliance) within ninety (90) days after the first notice for the same property and finds a second or further violation of the same type, the owner, lessee, occupant or agent of such owner, lessee or occupant, or any person having care and control of such lot or parcel of land, shall be assessed a one-hundred-dollar inspection fee. Such fee shall be paid to the city within thirty (30) days of notice thereof from the city.

B. If the responsible party fails, neglects or refuses to correct the violation within ten (10) days (or other date established by the authorized representative) of the date the citation was served, the city manager or his or her authorized representative may abate the nuisance as set forth in Section 8.08.050, may cite such person into municipal court as set forth in Section 8.08.060, or may do both. (Ord. 955 §1, 2006; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

**8.08.050 Nuisance; abatement by city.**

If the person upon whom said notice is served fails, neglects or refuses to remove and abate the nuisance within the specified time period as required in the notice, the city manager or his or her delegate may remove and abate the nuisance, and the actual cost thereof, plus twenty percent (20%) for the cost for inspection and other incidental costs in connection therewith, shall become a first and prior lien upon the property relating back to the date the abatement was performed and shall be recorded with the county clerk and recorder. (Ord. 955 §1, 2006; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

**8.08.060 Citation into municipal court; penalty.**

If the person upon whom said notice is served fails, neglects or refuses to remove and abate the nuisance within the specified time period as required in the notice, such person may be served a municipal court summons and complaint. A summons shall be issued and served as in civil cases, and any employee of the city who is over the age of eighteen (18) may serve the summons and complaint upon the owner, agent, occupant or the person who allowed the nuisance to be caused or to continue. Any person who violates any provision of this chapter, or who fails to perform any duty enjoined upon such person under this chapter, upon conviction, shall be guilty of a Class A offense and shall be punished by a fine as set forth in Section 9.04.010 of this code. Each such person shall be guilty of a separate offense for each and every day such violation continues. (Ord. 955 §1, 2006; Ord. 874 §2(part), 1999; Ord. 759 §5(part), 1990)

## Chapter 8.12

### Nuisances

#### Sections:

- 8.12.010 Definitions
- 8.12.020 Nuisance prohibited; penalty
- 8.12.025 Complaint of nuisance
- 8.12.026 Right of entry generally
- 8.12.027 Right of entry in an emergency
- 8.12.030 Summary abatement; notice to abate; action to abate a nuisance
- 8.12.035 Assessment and collection of costs of abatement
- 8.12.039 Acts constitute violation of chapter
- 8.12.040 Specific nuisances declared

#### **8.12.010 Definitions.**

When used in this chapter, the following words shall be interpreted as follows, unless the context indicates otherwise:

A. *Administrative officer* means the city manager, chief of police or his or her designee or building official.

B. *Agent* means and includes any person acting on behalf of or in place of the owner.

C. *Building* means any dwelling, office building, store, warehouse or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semi-trailer, mobile home or any other vehicle designed or used for occupancy by persons for any purpose.

D. *Inoperable* means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed.

E. *Refuse, waste, litter and junk* means refuse, waste matter, litter and/or junk, which by reason of its location and character is dangerous to public health, safety and welfare, is unsightly or interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community or which would materially hamper or interfere with the prevention or suppression of fire upon the premises. *Refuse, waste, litter and junk* include, but are not limited to: rubbish, refuse, debris, rubble, asphalt, concrete, cartons, containers, boxes, inoperable machinery or parts thereof, scrap metal and other pieces of metal (whether ferrous or nonferrous), dead plants and trees, trimmings from plants and trees, cans, bottles, barrels, bones, rags, dead birds, dead fish, excrement, urine, fishing line, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, grass clippings, cut weeds, leaves, paint, tree branches, stone, glass, gravel, used rubber or used rope or any noxious or offensive matter whatever.

F. *Junk vehicle* means any vehicle not capable of traveling under its own powers, not bearing current registration plates, or which, for sixty (60) days or more, is inoperable or has not been in condition to be legally operated on the streets; provided, however, that such definition shall not include vehicles which are capable of travel under their own power but which do not bear current registration plates when such vehicles are located upon vehicle sale lots which hold current auto dealer's licenses or when such vehicles are being repaired at garages, body shops or other vehicle repair businesses which hold current state sales tax licenses.

G. Repealed.

H. *Owner* means and includes:

1. Any owner or holder of any legal or equitable estate in real property, including a dominant or servient tenement, except a future or reversionary interest and except the interest of a public trustee, lien holder, mortgagee or beneficiary of a deed of trust.
2. The owner of record, as reflected by the records of the office of the county assessor.
3. When the nuisance pertains to a vehicle under subsection F or L of this section, the owner of record of the vehicle, as reflected by the records of the office of the county clerk.

I. *Person* means and includes any individual, partnership, corporation, association, agent, servant or employee of any individual, partnership, corporation, association or other type of organization.

J. *Public or private property* includes, but is not limited to, the real property, building or structure thereon of any person, state, county, city, public or private corporation of the United States; the right-of-way of any street, road, railroad or highway; any body of water, irrigation ditch or watercourse, including frozen areas thereof and the shores and beaches thereof; any park, playground, building or recreation area; and any school grounds, school building or property used for school purposes.

K. *Statute* means a statute of the state of Colorado.

L. *Vehicle* means any trailer (including contents of the trailer), boat or machine, whether or not self-propelled, and any nonaquatic, self-propelled vehicle which, as originally built, contained an

engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, airplanes, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, wagons, dune buggies and other off-the-road vehicles.

M. *Yard* means the open space between buildings and property lines at the front, rear and sides of a property. The front yard shall be considered to be the yard between the street abutting the lot and an imaginary line running along the front edge of the building closest to the street and extending to the side property lines. On a corner lot, the front yard shall be considered to be the yard abutting the shorter street right-of-way. The rear yard shall be considered to be the area located on the opposite side of the lot from the front yard. The side yard shall be considered to be that portion of the yard which is neither the front nor the rear yard. (Ord. 1003 §1, 2010; Ord. 989 §1, 2009; Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

#### **8.12.020 Nuisance prohibited; penalty.**

A. The following are deemed to be nuisances and are prohibited:

1. Any building, land, substance or personal property:

a. The use or condition of which presents a substantial danger or hazard to the physical health and/or safety of the public; or

b. Used repeatedly for any purpose which is in violation of the provisions of this code.

2. The conduct or maintenance of any business, occupation, operation or activity in violation of the provisions of this code.

3. Any business, occupation, operation, activity or any building, land, substance or personal property the use or condition of which has been identified as a nuisance in this code, the Colorado Revised Statutes or the common law.

B. Any violation of the provisions of this chapter or of any injunction or order issued by the municipal court in an action to abate a nuisance is a Class A offense and shall be punished by a fine or jail sentence or both as set forth in Section 9.04.010 of this code. Unless the violation by its nature cannot be corrected, each day's failure to comply with the provisions of this chapter or with an injunction or order to abate shall constitute a separate violation, for which an additional penalty shall be imposed. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

#### **8.12.025 Complaint of nuisance.**

A person may make a complaint of the existence of a nuisance to a police officer, a community service officer, a building official, a code enforcement official, the city manager or his or her designee. Such complaint shall include, whenever possible, the nature of the nuisance, the location, including the address, the name of the owner, occupant or manager of the property, the duration of the nuisance and the name and address of the complainant. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

#### **8.12.026 Right of entry generally.**

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an administrative officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, such inspector may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on him or her; provided, however, that if such building or premises is occupied, such inspector shall first present proper credentials and request entry; and if such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises, and upon locating the owner, occupant or other person or persons shall present proper credentials and request entry. If entry is refused, the authorized inspector shall give the owner or occupant, or if the owner or occupant cannot be located after a reasonable effort, he or she shall leave at the building or premises a written notice of intention to inspect not sooner than twenty-four (24) hours after the time specified in the notice. After complying with all notice requirements and prior to entry into an occupied premises, the inspector shall first obtain an order from the court finding sufficient probable cause of a violation of the nuisance law and issuing an inspection warrant authorizing entry into the occupied premises. The requirements of this section shall not apply to public places, including privately owned vacant land, as defined in Section 8.12.010 which may be inspected by an administrative officer at any time without notice. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999)

**8.12.027 Right of entry in an emergency.**

A. Whenever an administrative officer has reason to believe that a nuisance exists, and that such nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the administrative officer, his or her authorized representative or a police officer may immediately enter into any building or upon any premises within the jurisdiction of the city for purposes of inspection or abatement.

B. In the emergency situation such person or his or her authorized representative may use such reasonable force as may be necessary to gain entry into the building or upon the premises.

C. For purposes of this section, an emergency situation includes any situation where there is imminent danger of loss of, or injury or damage to, life, limb or property. It is unlawful for any owner or occupant of the building or premises to deny entry to any administrative officer or to resist reasonable force used by the authorized official acting pursuant to this section. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999)

**8.12.030 Summary abatement; notice to abate; action to abate a nuisance.**

A. Whenever a nuisance exists which constitutes an emergency presenting imminent danger of serious injury to persons or property, an administrative officer may summarily abate the nuisance or order it abated by removal, destruction or mitigation without notice or judicial action.

B. Unless a specific provision of this code states otherwise, when a nuisance does not require summary abatement, an administrative officer, his or her authorized representative or a police officer shall prepare and serve a notice to abate on the owner, manager, occupant or possessor of any property on which a nuisance exists, or to the person conducting or maintaining the business, occupation, operation or activity which constitutes the nuisance. Such personal service, or such written notice mailed by certified mail to the last known address of the record owner of the property,

or to the manager, lessee, occupant, person responsible for conducting or maintaining the nuisance, or the agent of such owner, lessee or occupant, shall be deemed adequate notice. Such notice shall:

1. State that the nuisance is a Class A violation of this code punishable by a fine and, if the nuisance is not abated within ten (10) days or other appropriate time period as determined by the administrative officer and specified in the notice, an action may be brought in the municipal court for said violation and/or the city may abate the nuisance; and that if the nuisance is abated by the city, the costs of abatement, plus twenty percent (20%) of such cost for inspection and other administrative costs, shall be assessed against the owner, manager, occupant or possessor of the property on which the nuisance is found and shall become a lien upon the property on which the abatement was performed.

2. Be served, either in person, by certified mail or by means of posting on the premises upon which the nuisance exists. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property at his or her last known address.

3. In no event shall the notice required by this section be required prior to the issuance of a summons and complaint.

C. When a nuisance has not been voluntarily abated within the time specified in the notice to abate, the city may:

1. Bring a criminal action for enforcement of the ordinance in municipal court;

2. Bring an action in the municipal court to have the nuisance declared as such by the court and for an order enjoining the nuisance or authorizing its restraint, removal, termination or abatement by the owner, manager, occupant, agent or possessor of the property or by an administrative officer of the city, his or her authorized representative, a police officer, code enforcement official, building official or any person under contract with the city to perform such services; or

3. Bring an action to declare and abate a public nuisance in the name of the people of the city, by the filing of a summons and complaint. A summons shall be issued and served as in civil cases, and any employee of the city, who is over the age of eighteen (18), may serve the summons and complaint upon the owner, agent, occupant or the person who allowed the nuisance to be caused or to continue.

D. The remedies specified in this section shall be in addition to all other remedies provided by law. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

#### **8.12.035 Assessment and collection of costs of abatement.**

A. If the city has abated the nuisance, the owner, manager, occupant or possessor of the property shall pay the costs of inspection and other administrative expenses. Such costs shall be assessed and filed as a lien against any property on which the abatement was performed and shall be a first and prior lien upon the property.

B. A statement of the costs of the abatement plus twenty percent (20%) for administrative expenses shall be mailed or personally served upon the owner of the property. The owner may request a hearing before the city finance director to contest the cost of abatement. Such request must be made in writing within fifteen (15) days of the date the statement was mailed or served. The owner shall be given at least forty-eight (48) hours' notice of the hearing before the finance director. The decision of the finance director shall be final. If the statement remains unpaid, a lien shall be filed with the county clerk and recorder and the amount shall be certified by the finance director to the county treasurer of Moffat County for collection at tax sale. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

#### **8.12.039 Acts constitute violation of chapter.**

Any person who makes or causes any nuisance to exist shall be deemed responsible and liable for the nuisance. Moreover, any person who has possession or control of any private ground or premises, whether he or she is the owner of the property or not, where any nuisance exists or is found, shall be deemed responsible and liable for the nuisance. (Ord. 955 §1, 2006; Ord. 874 §3(part), 1999)

#### **8.12.040 Specific nuisances declared.**

The following are specifically declared to be nuisances and are prohibited:

1. Abandoned containers, open wells, cisterns or excavations.
  - a. Abandoning or discarding, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle, or other article, having a compartment of a capacity of one and one-half (1.5) cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside, or who, being the owner, lessee, agent or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition.
  - b. Wells, cisterns, gasoline storage tanks, excavations containing water and excavations exceeding five (5) feet in depth on private property, unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least six (6) feet. Any abandoned or unused well, cistern or excavation shall be filled with dirt and covered.
2. Attachments to utility poles.
  - a. It is unlawful for any person, firm or corporation to attach, affix, place, install or maintain, or permit or suffer to be attached, affixed, placed, installed or maintained, any telegraph, radio, wireless telephone or wireless telegraph apparatus, or any metal, wood or other substance to, on or upon any telegraph, telephone, electric light, electric railway or power wires or poles, or attachments belonging to another person, firm or corporation, without the consent of such person, firm or corporation given in writing.
  - b. Any person, firm or corporation that violates any of the provisions of this section shall, upon conviction, be fined not less than seventy-five dollars (\$75.00) or more than three hundred dollars (\$300.00), and each day's violation thereof shall constitute a separate offense.

3. Fire hazards. Combustible materials on public or private property within the city which are not stored in conformance with the Uniform Fire Code; dried shrubs, trees, refuse or waste on public or private property which by reason of its size, location, manner of growth or condition constitutes a fire hazard to a building, improvement, crop or other property.

4. Hazardous or unsanitary property. Any building or real property, whether open to the public or not, which presents a hazard of fire or accident or a hazard to health because of structural defects, decay, deterioration, litter, garbage, rodent infestation, broken glass, stagnant or polluted water, dry rot, termite infestation, accumulated manure or animal waste, dead animals, raw sewage seepage or hazardous waste.

5. Junk or litter. Any articles or materials classified as junk or litter according to the definition set forth in Section 8.12.010, on any vacant land or parcel, or adjacent to or in close proximity to any school house, church, public park, residence, business or in a zoning district prohibiting outdoor storage or processing of junk unless such junk is screened from public view by an approved solid fence not less than six (6) feet in height, or, if the topography requires such an enclosure, in a building with four (4) solid walls and a roof.

6. Junk vehicles. Any junk vehicle as defined in Section 8.12.010, or parts thereof, on public or private property, unless screened from public view by an approved solid fence not less than six (6) feet in height or, if the topography requires such an enclosure, in a building with four (4) solid walls and a roof; or unless such vehicle is stored in a lawful storage, junk or auto wrecking yard in a zone permitting such storage, junk or auto wrecking yard. Nothing in Section 8.12.040 shall be deemed or construed to prevent the city from acquiring, operating and maintaining a facility for the storage of motor vehicles, vehicles, boats, machinery or equipment.

7. Vehicle parking.

a. No person shall park, or knowingly permit to be parked, any vehicle other than a motorcycle or moped in any front or side yard of any building for any purpose except the washing of such vehicle, unless such vehicle is parked: (1) on a portion of the yard which provides direct access to a garage from a street; or (2) on an improved side yard area having a surface of asphalt, concrete, rock, gravel or other similar inorganic material, with a border that defines the parking area and that is designed and constructed to prevent loose material, such as rock or gravel, from spilling onto any abutting public street or sidewalk. The parking of a vehicle in violation of this section is hereby declared to constitute a nuisance.

b. Parking of commercial vehicles in residential areas is limited to not more than two (2) commercial vehicles for each dwelling unit.

c. Major repair and restoration of occupant-owned vehicles may occur only within a fully enclosed garage

d. No person shall park a vehicle upon a roadway for the principal purpose of displaying such vehicle for sale; greasing, painting or repairing such vehicle except repairs necessitated by an emergency or displaying advertising.

8. Unlawful activities. Any public or private place or premises which has become the location for frequent or repeated criminal activity, including but not limited to professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor or fermented malt beverages to underaged persons, solicitation for prostitution, theft, trafficking in stolen property or assaults and disturbances of the peace.

9. Any unlawful pollution or contamination of any land, surface or subsurface water in the city, or of any water substance or material intended for human consumption.

10. Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of a department or officer of the city or the county, continues to be conducted or continues to exist in violation of any statute or ordinance or in violation of any regulation of the city, county or the state.

11. Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential treat or hazard to people or property within the city are hereby declared a nuisance.

12. Any nuisance defined or declared as such by statute or ordinance.

13. Snow and ice.

a. It shall be unlawful for any person to deposit snow and/or ice on any public street or alley from public or private property. Snow materials may be pushed into the property owner's property so long as it does not interfere with regular snow plowing operations of the city's public works departments, nor impede sight distance for traveling motorists. The property owner, lessee, tenant, occupant, agent or any person otherwise in possession or control of the private property shall be responsible for the immediate removal and cleaning of any snow, ice or other materials tracked onto or otherwise deposited on any public street or alley from the public or private property. Failure to comply with this section shall be considered a code violation and shall be processed in accordance with Chapter 8.02 of this title.

b. Civil liability imposed. In the event the owner, lessee, tenant, occupant, agent or any person otherwise in possession or control of the private property fails to comply with the terms of this subparagraph or otherwise deposits or moves snow, ice or other materials upon or across a public street or alley, the owner, lessee, tenant, occupant, agent or any person otherwise in possession or control of the private property thereof shall be liable for any resulting injuries. Any civil liability for injuries caused by the condition of the public street or alley, or the failure to comply with this subparagraph, shall be imposed solely upon the owner, lessee, tenant, occupant, agent or any person otherwise in possession of the private property, and not upon the city.

c. If the city manager (or his or her authorized representative) determines that a violation of this subparagraph constitutes an emergency presenting an immediate danger of serious injury to persons or property, the city manager (or his or her authorized representative) may proceed in accordance with this chapter. (Ord. 963 §1, 2007; Ord. 955 §1, 2006; Ord. 874 §3(part), 1999; Ord. 775 §3(part), 1990)

## Chapter 8.16

### Alarm Systems

Sections:

- 8.16.010 General provisions and definitions
- 8.16.020 Fee; false alarms
- 8.16.030 Violation; penalty

#### **8.16.010 General provisions and definitions.**

A. Alarms distinguishable. Alarms received at the designated dispatch center must be distinguishable by type and no alarm shall be for multi-purpose usage.

1. Robbery-in-progress or robbery-just-occurred;
2. Burglary-in-progress or intrusion;
3. Trouble (fight or other disturbance); or
4. Fire/smoke.

B. Alarm, general. *General alarm* means any device which, when activated by any means, produces and/or transmits a signal, visual or audible, to indicate intrusion, trouble, fire, smoke or other activity for which the alarm was designed and/or used which notifies any person, or causes any person, to summon the police or fire department to respond to the premises from which the alarm emanates to investigate.

C. Alarm owner. *Alarm owner* means any person, firm or corporation which leases an alarm system to any other person, firm or corporation. *Alarm owner* includes *subscriber* if the subscriber is also the owner of the alarm system.

D. Burglary-in-progress or intrusion alarm. *Burglary-in-progress* or *intrusion alarm* means any alarm, as is defined in subsection B of this section, which is designed to indicate a burglary is in progress or intrusion into the premises. *Intrusion* shall mean any entry into the premises, which is unauthorized during which time a business or firm is closed to the public, or an intrusion into a residence by an unauthorized person.

E. Dialing alarms. Those alarms which automatically dial the telephone number of the police or fire departments shall be subject to all the provisions of this chapter.

F. False alarms. Any signal emanating from an alarm, as defined in subsection B of this section, to which the police or fire department respond to investigate shall be unlawful if the alarm results from:

1. False activation, including activating an alarm for a purpose for which the alarm was not designed;

2. Alarm malfunction, except mechanical or electrical failure over which the subscriber or owner had no control to prevent;

3. Activation of an alarm by subscriber, owner, or agent due to negligence or oversensitive settings; or

4. Activation of the alarm system for testing purposes when the police or fire department had not been given prior notice or did not approve the testing.

G. Fire/smoke alarm. *Fire/smoke alarm* means any alarm, as defined in subsection B of this section, which is designed to indicate the presence of fire or smoke.

H. Misuse of alarm. Any use of an alarm system, by subscriber or alarm owner, for a purpose for which the alarm system was not designed or for which a permit was not granted, is unlawful.

I. Robbery-in-progress or robbery-just-occurred alarm. *Robbery-in-progress* or *robbery-just-occurred alarm* means any alarm, as defined in subsection B of this section, which is designed to indicate that a robbery is in progress or that a robbery just occurred.

J. Subscriber. *Subscriber* means any person, firm or corporation which installs, subscribes to or uses any alarm or alarm system in or about its residence, business or other premises.

K. Trouble alarm. *Trouble alarm* means any alarm, as defined in subsection B of this section, which is designed to indicate a fight or a threat to life or limb.

L. Vehicle alarms. Those alarms installed in a motor vehicle shall not be subject to the provisions of this chapter. (Ord. 955 §1, 2006; Ord. 787 §§3, 4, 1992; Ord. 515 §1, 1979)

**8.16.020 Fee; false alarms.**

A. The subscriber shall pay to the city a fee for false alarms as set forth in this section. It shall be prima facie evidence of a false alarm if the police or fire department responds and discovers that the alarm was false based on its investigation.

B. False alarm fee schedule.

1. The fourth false alarm in one (1) year, thirty dollars (\$30.00);

2. The fifth false alarm in one (1) year, fifty dollars (\$50.00);

3. The sixth false alarm in one (1) year and every one (1) thereafter during that year, seventy-five dollars (\$75.00); and the police department will no longer respond to the alarms on an emergency basis.

*Year* shall mean a calendar year (365 days) beginning January 1 of each year. (Ord. 955 §1, 2006; Ord. 515 §4, 1979)

**8.16.030 Violation; penalty.**

Any person, firm or corporation who violates any provisions of this chapter shall be, upon conviction, fined a minimum of fifteen dollars (\$15.00) and a maximum of three hundred dollars (\$300.00). (Ord. 955 §1, 2006; Ord. 787 §§3, 4, 1992; Ord. 515 §1, 1979)

## **Chapter 8.20**

### **Emergency Telephone Charge**

Sections:

8.20.010 Intergovernmental agreement

#### **8.20.010 Intergovernmental agreement.**

Pursuant to Section 29-11-101, et seq., C.R.S., the city has entered into an intergovernmental agreement to participate in the Moffat County Emergency Telephone Service Authority for the purpose of providing E911 emergency telephone services to the citizens of the city. (Ord. 955 §1, 2006; Ord. 769 §5(part), 1990)