



# City of Cañon City

City Council Chambers, 128 Main Street – Cañon City, CO 81215-1460  
719-269-9011 [www.canoncity.org](http://www.canoncity.org)

## VISION COMMITTEE MEETING

January 23, 2019  
4:00 p.m.

## AGENDA

### CALL TO ORDER

**ROLL CALL:** COUNCIL MEMBERS COCHRAN, GONZALES, HAMRICK, JAQUEZ, MEISNER, TURNER, MAYOR PRO TEM SMITH, MAYOR TROUTMAN

### DISCUSSION:

Continued from the September 19, 2018 meeting. Consideration of Re-organization and clarification of portions of Title 8 (Nuisances), Title 9 (Public Peace, Morals and Welfare), Title 12 (Streets, Sidewalks and Public Places), and Title 15 (Buildings and Construction, including the creation of Title 14 to relocate language on drainage, stormwater and floodplain regulations. Work Session focus on TITLE 8 continued from the September 19, 2018 meeting, and then discussion of TITLE 9.

**ADJOURN** The next regular meeting is scheduled for February 20, 2019.

Posted pursuant to code on January 16, 2019  
Cindy Foster Owens, City Clerk



# City of Cañon City

**P.O. Box 1460 • 128 Main Street • Cañon City, CO 81215-1460  
(719) 269-9011 – Fax: (719) 269-9017**

## STAFF REPORT

**TO:** Mayor and City Council  
**FROM:** Tony O'Rourke-City Administrator  
**THROUGH:** Deana Swetlik, AICP-Community Development Director and Patrick Mulready-City Planner  
**CC:** Joelene Inman and Dan Victoria-Code Enforcement Officers, City Attorney  
**DATE:** 23 January 2019

**RE:** (Continued Discussion on Title 8, 9, 12, 14, 15 Re-organization/Updates)  
Second Work Session to Focus on Title 8

*\_\_x\_\_ Reviewed by City Attorney*  
*\_n/a\_ Reviewed by Finance Director*

### Section 1.

#### OVERVIEW:

This is the follow up work session on “Title 8, 9, 12, 14, 15 Re-organization/Updates” topic, with a continued focus on Title 8.

NOTE THIS STAFF REPORT COVERS TITLE 8 ONLY

Previous discussions with Council on this occurred:

1. September 6, 2017 General Government Meeting
2. August 22, 2018 Vision Committee Meeting
3. September 19, 2018 Vision Committee Meeting

The packet contains:

1. Staff Report
2. Attachment A: Proposed updates to Title 8 from September 19, 2018 Council Meeting (redlined version-highlighted areas indicate changes from September work session)
3. Attachment B: General Public Info Graphic for Violation Process
4. Attachment C: Staff day-to-day Administrative Protocol (Council request from last meeting)
5. Attachment D: Resolution 7, Series 2014 (Council request from last meeting)
6. Attachment E: Draft 2019 Resolution – partner component to a Title 8 Ordinance (Resolution 7, Series 2014 needs to be updated)

## Section 2.

### ANALYSIS:

1. As a recap from the September 19, 2018 Vision Committee Meeting:
  - a. Staff walked through a detailed presentation identifying the why and the what of the proposed modifications to Title 8.
  - b. The meeting included a page by page walk through of the proposed (redlined) Title 8 to identify concerns/changes/items to consider further.
  - c. Council asked for a copy of the Administrative Protocol that staff has been using. Staff and the City Attorney took this to be different items, so two different reference documents are included as part of this packet (Attachment C and Attachment D).
2. Attachment A includes the redlined version of Title 8. The **redlines** include what was previously proposed to be modified and changes that have occurred as a result of the September 19, 2018 work session. The changes specific from the September 19, 2018 meeting are highlighted in **yellow**.
3. Attachment B is provided simply for your information. This includes a General Public informational graphic that illustrates the general noticing process. This information graphic is one of several that were created within Community Development in 2017 to help illustrate various processes within the Department.
4. Attachment C in this packet includes staff's day-to-day Administrative Protocol that they've been using as a guideline. This was established in 2017. This may have been the item requested by Council at the September meeting.
5. Attachment D in this packet includes a 2014 Resolution adopting an Administrative Fine Schedule. This may have been what Council requested at the September meeting.
6. Attachment E is a draft Resolution that would need to be adopted in conjunction with a Title 8 Ordinance. This Resolution is a necessary update to Resolution 7, Series 2014 (Attachment D) that established the Administrative Fine Schedule.

The remaining portion of this Staff Report provides more detail on the proposed changes that have occurred from the September 18, 2018 meeting:

#### General

- Grammatical and/or readability modifications as noted during the page-by-page walk through. These are identified in Attachment A.

#### Section 8.12 Definitions

- Land definition has been updated

- Added a definition of “Effectively Screened.” This definition in essence existed within Section 8.30.010. Since it was really a definition, and for clarity, it has been pulled into the Definition Section.

#### **Section 8.18 Offensive Trade or Business**

- 8.18.010 (E) Modified and added more detail to boarding up of windows.

#### **Section 8.20.020 Liquid Fuel Products**

- Language simplified/duplicative/irrelevant information removed.

#### **Section 8.26.010 Littering – General Provisions**

- Added language to cover personal property from an eviction.

#### **Section 8.30 Inoperable Motor Vehicles**

- Clarified language utilizing three primary conditions:
  1. Sheltered
  2. Unsheltered but Effectively Screened
  3. Unsheltered and not Effectively Screened
- Painting vehicles language updated/simplified.
- Added language back in on Collector cars.

#### **Section 8.34 Outside Storage**

- Added evicted property in (A)
- Added language clarifying construction materials

#### **Section 8.42 Enforcement and Penalties**

- Extended summons and appeal process timelines to (7) days.
- 8.42.020 D0 (C) (4) (e) language was added back in.

#### **RECOMMENDED ACTION:**

- Agree to the draft Title 8 language.
- Agree to the draft companion Resolution language.

*(Note: Both of these items will be brought back for formal adoption after the work sessions on Titles 9, 12, 14, and 15 are complete.)*

**A BILL FOR  
ORDINANCE NO. \_\_, SERIES OF 2019**

**AN ORDINANCE REPEALING CHAPTER 1.18 OF TITLE 1 ENTITLED "ADMINISTRATIVE ENFORCEMENT", REPEALING AND REINSTATING CERTAIN CHAPTERS OF TITLE 8 CONCERNING NUISANCES AND NUISANCE ABATEMENT REPEALING CHAPTER 12.16, SIDEWALK AND GUTTER MAINTENANCE, RELOCATING CHAPTER 8.12 TO A NEW CHAPTER 9.23, SMOKING IN PUBLIC PLACES, RELOCATING CHAPTERS 8.48 AND 8.50 TO NEW CHAPTERS IN TITLE 9, FIREWORKS AND OPEN BURNING, RELOCATING CHAPTER 8.60 TO A NEW CHAPTER 15.42, FIRE PROTECTION AND EMS IMPACT FEE, DELETING CHAPTER 15.32, MOVING BUILDINGS, REINSTATING TITLE 14, DRAINAGE, STORMWATER AND FLOODPLAIN REGULATIONS**

**WHEREAS**, Chapter 1.18 of Title 1 of the City of Cañon City Municipal Code (the "Code") provides certain administrative procedures for the abatement of nuisances in the City and alternative abatement procedures for nuisance are outlined in Chapter 8, resulting in conflicts between these two provisions;

**WHEREAS**, the City Council now desires to provide a comprehensive procedure to define and abate nuisances in one code title by repealing Chapter 1.18 of Title 1 and repealing certain chapters of Title 8 of the Cañon City Municipal Code, with the exception of Chapter 8.40 and Sections 8.16.020 through 8.16.120;

**WHEREAS**, the City Council desires to revise and clarify several nuisances contained within Title 8 and make other revisions to the Code where necessary to effectuate these changes;

**WHEREAS**, upon review of Title 8, the City Council has determined that several Chapters of Title 8 should be moved to other sections of the Municipal Code, according their subject matter and enforcement remedies; and

**WHEREAS**, the City Council of Cañon City finds that this ordinance is in the best interests of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF CAÑON CITY:**

Section 1: Chapter 1.18 of Title 1 of the Cañon City Municipal Code is hereby repealed in its entirety.

Section 2: Title 8 of the Cañon City Municipal Code, with the exception of Chapters 8.12 and 8.40 and Sections 8.16.020 through 8.16.120, is hereby repealed.

Section 3: A new Title 8, renamed Nuisances and the following Chapters, are hereby adopted to read as follows:

**8.10 PURPOSE AND GENERAL PROVISIONS**

**8.10.010 Purpose, scope and authority.**

- A. It shall be the policy of the City to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City and, therefore, the City Council declares that every nuisance shall be unlawful, and shall be restrained, prevented, abated and enjoined. This ~~chapter title~~ governs the prohibition and control of nuisances throughout the City. Authority to enforce the provisions of this title is vested in any authorized City Code Enforcement Officer, ~~as that term is defined in Section 1.18.020 of this Code~~. Code Enforcement Officers shall have the same authority as peace officers with respect to the limited matters addressed in this ~~Chapter 8.38 title~~.
- B. Whenever any action, activity, operation, condition or circumstance is described in this ~~chapter title~~ or in any other ~~chapter title~~ of this Code as a nuisance, the enforcement and abatement tools, processes and remedies authorized and otherwise provided for in this ~~chapter title~~ shall be available to Code Enforcement Officers charged with the responsibility and authority to identify and thereafter take action intended to restrain, prevent, or cause the abatement of such nuisances. Sanctions and remedies available to the Municipal Court pursuant to this ~~chapter title~~ shall also be available to the Municipal Court with respect to nuisances described in other sections of this Code.

#### **8.10.020 Voluntary compliance; discretionary authority of Code Enforcement Officers.**

In furtherance of the City's policy of encouraging voluntary compliance, any person deemed or alleged to be in violation of, or not in compliance with, any of the provisions of this ~~chapter title~~ shall, to the extent possible or practical, in the sole discretion of the Code Enforcement Officer, be notified of such alleged violation or lack of compliance prior to the initiation of either abatement or enforcement proceedings, and shall be offered an opportunity to bring the property or use of the property into compliance. Code Enforcement Officers are authorized to exercise discretion in the investigation and enforcement of violations of this ~~chapter title~~ in furtherance of this policy.

#### **8.10.030 Right of entry.**

- A. ~~Right of entry generally.~~ Whenever necessary to make an inspection to enforce this ~~chapter title~~, or whenever a Code Enforcement Officer has reasonable cause to believe there exists in any building or upon any premises any condition which constitutes a nuisance, the Code Enforcement Officer shall first present proper credentials and request entry. If entry is refused, the officer shall give the responsible party, or if the responsible party cannot be located after a reasonable effort, he shall leave at the building or premises, a written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the responsible party has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a Municipal Judge of the City, or by a judge of any other court having jurisdiction.

B. **Search warrants.** The Code Enforcement Officer may appear before the Municipal Judge and upon a showing of probable cause shall obtain a search warrant entitling him to enter the building or upon the premises, using such reasonable force as may be necessary to gain entry. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act. The Municipal Court Judge or any Associate Judge of the Municipal Court of the City shall have the power to issue search warrants upon a proper showing of probable cause as provided in this subsection.

C. **Emergencies.** Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this ~~chaptertitle~~, a Code Enforcement Officer may enter into any building or upon any premises within the City, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property or threat to public safety. It is unlawful for any owner or occupant of the building or premises to deny entry to any Code Enforcement Officer or to resist reasonable force used by the officer acting pursuant to this ~~subsection~~.

## 8.12 DEFINITIONS

### 8.12.010 Interpretation.

The following words, terms and phrases, when used in this ~~chaptertitle~~, ~~shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~ The terms ~~defined below~~ shall be broadly interpreted to achieve the purposes intended. ~~In the interpretation of the definitions of garbage, trash and junk set forth herein, it is the City Council's intent that these definitions be liberally construed to include like matters, materials, objects or substances, whether or not the same be specifically identified. It is further the intent that the definitions not be considered mutually exclusive, and that in the interpretation, it be recognized that any substance or material or object may constitute trash, garbage and junk at the same time. It is the intent of the City Council that the definitions not be considered mutually exclusive and liberal construction is deemed necessary by the City Council in order to fulfill the public purpose of this title, which is to ensure that the City is maintained in a clean, safe, healthy and attractive condition.~~

### 8.12.020 Words and Terms.

C. “Abate” shall mean to bring into compliance, halt, eliminate or remedy.

D. ~~“Agent” means and includes any person acting on behalf of or in place of a responsible party, including tenant, manager or lessee.~~

E.~~D.~~ “Advisory commission” means the City Council or those individuals appointed by City Council to advise on matters of undesirable plant management.

F.E. “Alien plant” means a plant species which is not indigenous to the State nor to the native plant community in which it is found.

G.F. “Approved trash receptacle” means and includes any durable, leak-proof container with a tight-fitting cover, any securely tied or sealed refuse bag made of heavy paper or plastic material and designed for outdoor storage of trash, recyclables, and/or any container that might be specified in regulations adopted pursuant to Section 8.16.030. When and where permitted under this Chapter, commercial containers also are approved trash receptacles.

H.G. “Biological management” means the use of an organism to disrupt the growth of undesirable plants.

I.H. “Business dumpster” means a commercial container having a capacity of more than 96 gallons, but less than or equal to 3 cu/yards, including recycling dumpsters.

J.I. “Chemical management” means the use of herbicides or plant growth regulators to disrupt the growth of undesirable plants.

K.J. “City Administrator” means the City Administrator of the City of Cañon City or his or her designee.

L.K. “Code Enforcement Officer” shall mean the City Administrator or the City Administrator's designee, including, but not limited to, any person employed by the City as a Code Enforcement Officer, the City Engineer, the City's Building Official, any City building property inspector or any other City official or employee charged with enforcing the provisions of this titlechapter.

M.L. “Commercial container” means a dumpster or other container having a capacity exceeding ninety-six (96) gallons used for the containment of large quantities of trash and, in certain circumstances, construction waste. For purposes of this chapter, there are two types of commercial containers, “business dumpsters” and “construction dumpsters”.

N.M. “Construction dumpster” means a commercial container having a capacity greater than 3 cu/yards, including containers commonly known as “rear-loaders” or “roll-off containers”.

O.N. “Construction waste” means waste material associated with or resulting from the construction, remodeling, repair or demolition of a house, dwelling unit, building or other structure.

P.O. “Control” means preventing a plant from forming viable seeds or vegetative propagules.

P. “Cultural control” means those methodologies or management practices conducted to favor the growth of desirable plants over undesirable plants, including, but not limited to, maintaining an optimum fertility and plant moisture status in an area,

planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.

Q. “Effectively screeninged” of means screening utilized in an outdoor storage area that may be accomplished through the use of materials such as solid fencing, dense vegetation, or earth berms; provided that the effect of such screening is that any and all inoperable motor vehicles personal property and/or other materials in the outdoor storage area are not visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.

R. “Garbage” means waste resulting from the handling, preparation, cooking and consumption of food or wild animal carcasses, and wastes from handling, storage and sale of produce.

S. “Hazardous materials” means any substance, material, or waste which poses a hazard to persons or property and which is or becomes regulated by any local governmental authority, the State of Colorado, or the United States Government, including, but not limited to, any oil or petroleum compounds, flammable substances, explosives, radioactive materials, asbestos, or any material or substance which is designated as a hazardous or regulated substance.

T. “Integrated management” means the planning and implementation of a coordinated program utilizing a variety of methods for management of undesirable plants, which methods may include but are not limited to education, preventive measures, good stewardship, and control methods. The purpose of integrated management is to achieve healthy and productive plant communities by the least environmentally damaging methods.

U. “Junk” means scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, inoperable motor vehicles automobiles in non-operative condition, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

V. “Junkyard” has the same meaning as provided in Title 17 of this Code.

W. “Land” means any lot or parcel of land within the city, and includes the including the following, as may exist: area

1. Area from the edge of the rear or side boundary of such lot or parcel to the center of the alley from the center of the alley, if any, behind any lot or tract or land; or;

2. ~~in the absence of an alley, the rear line of such lot or tract of land, to and including the curb and gutter, if any; in the street in front or on the side of such lot or parcel of land~~Area from the edge of the front or side boundary of such lot or parcel to and including the curb and gutter, if any, or to the edge of the pavement if no curb or gutter exists.

3. ~~in the absence of a curb and gutter, the lateral line of the roadway in front or on the side of such lot or parcel of land;~~

4.3. Rights-of-way for roads and ditches shall be deemed to constitute "land."

V.X. "Landscaping" means a combination of living plants, such as trees, shrubs, vines, groundcover, flowers, vegetable plants, sod or grass; and may include natural features, such as rock, stone and bark; and structural features, including, but not limited to, fountains, reflecting pools, art work, screen walls, fences and benches. Uncontrolled weeds shall not be considered as landscaping. Sidewalks, whether paved or gravel, which serve as functional links between parking areas and principal structures, or which serve as general public access routes around a principal structure, or between a principal structure and a public street or alley, is not landscaping. Other sidewalks or paths which serve as casual access to or through landscape areas on private property may be considered nonliving landscape features.

W.Y. "Litter" means and includes any and every waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or vegetable matter or both, or any noxious or offensive matter whatever, including, but not limited to, any discarded dead animal, fishing line, bait, chemical, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, junk, paper, cardboard, can, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feathers, grass clippings, leaves, cut weeds, branches cut from trees or bushes, brick, cinderblock, building material, paint, concrete, soil, sand, gravel, stone, glass, asphalt, ashes, cigarette, cigar, food or food product, solvent, dye, beverage, and liquid except water.

X. ~~"Litter" means all rubbish, waste material, refuse, garbage, trash, debris, or other foreign substances, solid or liquid, of every form, size, kind, and description.~~

Y.Z. "Management plan" means the undesirable plant management plan developed by City Council, using integrated management.

Z-AA. "Mechanical control" means those methodologies or management practices that physically disrupt plant growth, including but not limited to filling, mowing, burning, flooding, mulching, hand-pulling and hoeing.

AA-BB. "Motor vehicle" ~~shall mean any 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, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, and off-highway vehicles, shall have the same meaning as defined pursuant to Title 42 of the Colorado Revised Statutes.~~

**BB.CC.** “Extensively damaged motor vehicle, Extensively damaged” means a motor vehicle that has significant visible damage including, but not limited to, broken or missing windows, a broken or missing windshield, significant body damage which would make the motor vehicle un-drivable or a missing wheel, tire, motor or transmission.

**CC.DD.** “Inoperable motor vehicle, Inoperable” means any motor vehicle that does not have a current license plate and registration validation sticker lawfully affixed thereto or that is in a condition of being extensively damaged, junked, wrecked, wholly or partially dismantled, discarded, abandoned, flat tire(s), or unable to perform the functions or purpose for which it was originally constructed.

**DD.EE.** “Native plant” means a plant species which is indigenous to the State.

**EE.FF.** “Non-residential zone district” means General Commercial Zone District, Central Business Zone District, and/or Class 1 Industrial Zone District.

**FF.GG.** “Noxious plant” means an alien plant or parts thereof, which meets one (1) or more of the following additional criteria:

1. It aggressively invades or is detrimental to economic crops or native plant communities;
2. It is poisonous to livestock;
3. It is a carrier of detrimental insects, diseases or parasites; or
4. The direct or indirect effect of the presence of such plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

**GG.HH.** “Noxious plant infestation” means the direct or indirect presence of a noxious plant on any land that has a detrimental effect on the environmentally sound management of the natural or agricultural ecosystem of the land and the surrounding area.

**HH.II.** “Nuisance” includes, but is not limited to:

1. The conducting or maintaining of any business, occupation or activity prohibited by Colorado statute or regulation, or by any provision of this Code;

2. ~~The conducting or maintaining of any business, occupation or activity prohibited by this Chapter 8.38 or by any other provision of this Code;~~

3. ~~The continuous or repeated conducting or maintaining of any business, occupation, operation, activity, building, land or premises in violation of any Colorado statute or regulation;~~

4.2. Any building, structure or land open to or used by the general public, the condition of which presents a substantial danger or hazard to public health or safety;

5.3. Any unlawful pollution or contamination of the surface or subsurface of any land within the City or of any water intended for human consumption;

6.4. Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the State of Colorado or of any Code Enforcement Officer, continues to be conducted or continues to exist in violation of any Colorado statute or regulation ~~or of this Chapter 8.38 or in violation of any other provision of this Code;~~

7.5. Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the health or safety of the citizens of the City, or which is indecent or offensive to the senses so as to interfere with the comfortable enjoyment of life or property;

8.6. Any activity, operation, condition, building, structure, place, premises or thing that has been declared to be a nuisance in any other chapter or section of this Code or in the Charter of Cañon City;

9.7. Any ~~activity, operation, condition, building, structure, place, premises or thing that is conducted or otherwise exists in violation of the provisions of the version~~ of the Uniform Housing Code adopted by the City;

10.8. Any ~~activity, operation, condition, building, structure, place, premises or thing that is conducted or otherwise exists in violation of the provisions of the version~~ of the Uniform Code for the Abatement of Dangerous Buildings adopted by the City;

11.9. Any condition which, in the reasonable judgment of a Code Enforcement Officer, constitutes a nuisance within the scope of this ~~chapter title~~;

12.10. The unlawful cultivation, manufacturing, sale, offer for sale, or distribution of medical marijuana without a license; ~~or~~

13.11. The unlawful cultivation, manufacturing, sale, offer for sale, or distribution of retail marijuana without a license.

H.JJ. "Occupant" means and includes any person who occupies the whole or a part of a building, premises, or land, whether alone or with others, whether for residential or commercial purposes. "Occupant" means and includes the terms "tenant" and "lessee".

J.J.KK. "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, lienholder, mortgagee, or beneficiary of a deed of trust; or
2. The owner of record, as reflected by the records of the office of the county assessor.

KK.LL. "Person" includes a natural person, association, corporation, partnership, limited liability company and any other legal entity capable of owning, using, or occupying real or personal property.

LL.MM. "Place of collection" means a place for the collection of trash that is adjacent to or abuts the traveled portion of a public street or alley where trash may be temporarily placed for collection by a trash hauler without interfering with the movement of vehicles or pedestrians.

MM.NN. "Place of storage" means a place established in Chapter 8.16 this Chapter for the storage of trash receptacles, business and construction dumpsters on private property during periods when the trash receptacle is not in the place of collection as allowed by Chapter 8.16 this Chapter.

NN.OO. "Plant growth regulator" means a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.

OO.PP. "Private Property, private" means any property lot or parcel, including any improvements thereon, that is not public property. Private property includes any privately owned vacant lot or parcel.

PP.QQ. "Public Property, public" means any property lot or parcel, right of way or other real or personal property owned or controlled by any public entity.

QQ. "Public place" means and includes:

1. Any street, highway, public right of way, sidewalk, driveway or alley, school building, school grounds, public building, library, fire station, public park or any parking lot;
2. The entire premises of any shopping center, restaurant, bar, store, service establishment, service station, theater, auditorium or place of amusement,

~~except any portion of the premises reserved for the use of the owner or operator thereof or the employees of such owner or operator, and except any portion of the premises from which the general public is excluded;~~

3. ~~Any lobby, corridor, elevator, stairway, public room, common room or recreation room in a hotel, motel, office building or apartment building.~~

RR. ~~“Public or private property” means and includes, but is not limited to, the right of way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground, or building, any refuge, conservation, or recreation area, and any residential, farm, or ranch properties or timberlands.~~

SS.RR. ~~“Refuse” means any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinderblocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all trash of any kind or nature whatsoever; and any other materials commonly known as trash or refuse of any kind or character or by any means known.~~

TT.SS. ~~“Residential zone district” means Rural Living Zone District, Low Density Residential Zone District, Low Density, Small Lot Residential Zone District, Medium Density Residential Zone District, High Density Residential Zone District, Mobile Home Park Zone District, Mobile Home Subdivision Zone District, and/or Planned Development Zone District.~~

UU.TT. ~~“Responsible party” means any person who makes or causes any nuisance to exist, or who has possession or control of any real property or premises, whether as owner, occupant or tenant, where any nuisance is found, or, in the case of a motor vehicle, as owner or operator of the same.~~

UU. ~~“Right-of-way” or “ROW” means an area of land that is dedicated for public or private use to accommodate a transportation system and/or necessary public utility infrastructure (including, but not limited to, water lines, sewer lines, power lines, and gas lines).~~

VV. ~~“Trailer” means a wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the streets and highways, including but not limited to any camper trailer, semitrailer, trailer, trailer coach or utility trailer, as defined by the applicable Model Traffic Code, as amended.~~

VV.WW. ~~“Trash” means any type of refuse or garbage, including but not limited to animal and vegetable waste and waste material resulting from the handling, storage, preparation, cooking, consumption or sale of food or foodstuffs, ashes, debris, yard and household waste and other portable solid waste material, but does not include construction waste or hazardous material.~~

**WW.XX.** “Unsheltered” means located outside a garage or other building in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.

**XX.YY.** “Undesirable plant” means a noxious plant species that is designated as undesirable by this chapter or by City Council or by the advisory commission.

**YY.ZZ.** “Undesirable plant management” means the planning of an integrated program to manage undesirable plant species.

**ZZ.AAA.** “Weed” means any unsightly or noxious plant or vegetation in excess of eight (8) inches in height which is out of place at the location where the same is growing and which is regarded as a common nuisance. The word “weed” shall not include flower gardens, plots of shrubbery, vegetable gardens, and grain plots.

**AAA.BBB.** “Vegetative growth” includes all plant material, grass, weeds, shrubs, bushes, trees or parts thereof, whether growing or not, that constitute or could present a fire hazard, mosquito breeding site, source of contamination of waters of the state, obstruction of the public right-of-way, or menace to the public health, safety or welfare.

**BBB.CCC.** “Vision clearance area” shall have the same meaning as vision triangle in Sec. 12.12.020 and as described in Sec. 17.20.200 of this Code.

## **8.14 NUISANCE PROHIBITED**

### **8.14.010 General Provisions.**

It shall be unlawful for any person:

- A. To create, operate, maintain, conduct or permit any nuisance, ~~as defined in this Chapter~~.
- B. To interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by an officer or agent of the City acting pursuant to a provision of this title or pursuant to a court order.
- C. Every day, or portion thereof, any nuisance exists or continues, shall constitute a separate offense

## **8.18 OFFENSIVE TRADE OR BUSINESS**

### **8.18.010 General Provisions.**

Whenever the pursuit of any trade, business or manufacturing or the maintenance of any substance or condition of things results in a condition detrimental to the health, safety, general welfare or comfort of the inhabitants of the City, such pursuit shall be declared unlawful, shall be deemed a nuisance, and shall be abated. By way of illustration, but not limitation, the pursuit of the following trades or businesses shall constitute unlawful nuisances:

- A. Junkyards and dumping grounds. All places used or maintained, or permitted to be used or maintained, as junkyards, or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, machinery of any kind, or for any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, when such places are kept in such manner as to interfere with the comfortable enjoyment of life or property by others or cause a detriment to the public health, safety or welfare. Nothing in this subsection 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 pursuant to this Code.
- B. Slaughterhouses and rendering plants. All places used or maintained or permitted to be used or maintained for slaughtering animals, for bone crushing, bone boiling, bone rendering, bone burning, fat boiling, fat rendering, fat drying, gut cleaning or the making of glue, or the manufacture of fertilizing materials of any kind or description from any dead animal or part thereof, or any boiling of offal, swill, fat or grease of any description when such places are operated in any unclean or offensive manner, or when such places are operated so as to interfere with the comfortable enjoyment of life or property by others or cause a detriment to the public health, safety or welfare.
- C. Improper storage operations. All places at which the responsible party keeps, stores or permits to be kept or stored any building materials, construction materials, paper, trash, waste material, junk, or litter upon any property in such a manner to cause a fire hazard or other detriment to the health, safety or general welfare of the inhabitants of the City, or in such a manner that the stored materials may be blown or deposited upon any other public or private property.
- D. Slaughtering of animals. Any use of residential property for animal slaughtering or butchering whether for private use or for sale in a manner which interferes with the comfortable enjoyment of life or property by others or causes a detriment to the public health, safety or welfare.
- F. Windows, doors and other means of ingress or egress shall not be continually obstructed by boards, paper, plastic or other material intended to block light, ventilation or access for a period longer than thirty (30) days. During that period, the owner shall rehabilitate the building and make any improvements necessary for the removal of any existing obstruction. This Section shall not apply to blinds.

curtains or other similar obstructions that are intended to block light to allow for use of the building or associated floor the building or provide security when the building or floor of the building is occupied but temporarily not in use. This Section shall also not apply to buildings solely used for residential purposes. No person shall allow a windows, doors and other means of ingress or egress in a building, or a portion of a building designed for human use or occupancy to continue to be obstructed for longer than thirty (30) days, unless the owner establishes by substantial evidence to the reasonable satisfaction of the City Administrator or his/her designee that one of the following applies:

1. The building is the subject of an active building permit for repair or rehabilitation and the owner or owner's designee is progressing diligently to complete the repair or rehabilitation.
2. The building is vacant due to fire, flood, earthquake, or other form of natural disaster and the owner is actively pursuing assistance for demolition, rehabilitation or restoration of the building and/or premises from local, state or federal assistance programs or from insurance agencies.

~~Boarded up windows and/or doors except when required to secure a building due to damaged windows or doors and then only for a repair period of not more than 30 days, reasonable time extensions may be granted by the Building Official or his or her designee when presented with documentation that a time extension is necessary.~~

## **8.20 OFFENSIVE DISCHARGES**

### **8.20.010 Noxious liquids.**

It shall be unlawful and deemed a nuisance to discharge out of or from, or permit to flow from any house or place, any foul or noxious liquid or substance of any kind whatsoever, into or upon any adjacent ground or lot, or into any street, alley, sidewalk or public place.

### **8.20.020 Liquid fuel products.**

The leakage of five (5) gallons or more of liquid fuel products into the environment from any tank, line, or delivery vehicle, constitutes a danger to the health, safety and welfare of the general public and the citizens of the City and is therefore a nuisance.

~~A. To aid in preventing the leakage of liquid fuel products, the owner, station manager, or leaseholder, as operator of each underground liquid fuel installation shall cause to be posted in a conspicuous place at said installation a true copy of the state oil inspection regulations concerning instruction requirements for leak detection.~~

B. ~~Such owner, station manager, or leaseholder, as operator, shall also maintain and reconcile accurate daily inventory records on all underground liquid fuel tanks for indication of possible leakage from tanks or piping.~~

C. ~~Diesel emissions. It shall be unlawful for any owner or operator of any diesel-powered engine to cause or permit the same to be idled for a period in excess of fifteen (15) consecutive minutes, or for a period in excess of forty five (45) minutes in any one hundred twenty (120) minute period, (it being the intent of this provision that an owner or operator may not circumvent the provisions of this section by the repeated turning on and off of a diesel engine) at any time that the outside temperature is twenty two (22) degrees Fahrenheit or above; provided, however, that unattended vehicles operated by diesel powered engines shall not be allowed to idle at any time; and provided further, however, that the provisions of this section shall not apply to ambulances or other emergency vehicles.~~

#### **8.20.030 Leaking receptacles, offensive channels.**

~~It shall be unlawful and deemed a nuisance for any responsible party to permit the existence of any unclean, leaking, foul, unsafe, or dangerous, defective or filthy drain, ditch, trail, or gutter, or any leaking or broken slop, garbage, or manure box or receptacle of like character, whenever and wherever found in the City, shall be deemed a nuisance.~~

#### **8.20.040 Harmful chemicals.**

It shall be unlawful and deemed a nuisance for any responsible party to apply or use any herbicide, pesticide, insecticide, rodenticide, disinfectant, fumigant or other harmful chemical, gas or vapor upon the property in such a manner that the harmful chemical, gas or vapor leaches, escapes, migrates, or flows from the property and deposits in or on any other public or private property.

#### **8.20.050 Illicit discharges.**

Illicit discharges into storm sewers, stormwater drainage channels or into waters and waterways within the City shall be governed by the provisions of Chapter [8.7014.20](#).

### **8.22 OFFENSIVE LOCATIONS**

#### **8.22.010 Stagnant ponds.**

Any cellar, vault, drain, sewer, pond of water, or other place that shall be noxious or offensive to others, or injurious to public health, safety or welfare through an accumulation or deposition of noxious, offensive or foul water, or other substances, or be conducive to the breeding of mosquitoes, shall be unlawful and deemed a nuisance.

#### **8.22.020 Open wells, cisterns or excavation.**

Excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water, are nuisances unless the same are adequately covered with a locked lid, or other covering weighing at least sixty (60) pounds or are securely fenced to a height of at least five (5) feet, and it shall be unlawful for any responsible party to permit such nuisance to remain on any premises.

#### **8.22.030 Stale matter.**

It shall be unlawful and deemed a nuisance to keep, collect, or use or cause to be kept, collected, or used, or permit to be kept or used, any stale, putrid, or stinking fat or grease or other matter, except for commercial use that has regular scheduled pickups.

#### **8.22.040 Sanitary sewer inlets.**

It shall be unlawful and deemed a nuisance to deposit in or throw into, or permit to be deposited in or thrown into, any sanitary sewer, sanitary sewer inlet, or privy vault that shall have a sanitary sewer connection, any article whatsoever that might cause such sanitary sewer, sanitary sewer inlet, or privy vault, to overflow, backup or otherwise become noxious or offensive to others, or to become injurious to public health, safety or general welfare of the residents of the City.

#### **8.22.050 Refuse Hauling Vehicles**

The parking, storage or keeping of any truck, wagon, trailer, tank wagon or other vehicle used or being used to transport garbage, trash, offal, manure, debris, dead animals, excrement, hides, cesspool or grease trap refuse, or any other nauseous, unhealthful or offensive substances, within two hundred fifty (250) feet of any residence longer than necessary to load such vehicle, other than one occupied solely by the person keeping, storing or parking such vehicle, is declared to be a nuisance.

#### **8.22.060 Exceptions.**

The provisions of this Chapter shall not apply with respect to stormwater sewer inlets or other stormwater facilities owned or controlled by the City or with respect to illicit discharges governed by Chapter 8.7014.20 of this Code.

### **8.24 CONDITION OF STABLE; FERTILIZER; BUILDINGS**

#### **8.24.010 General Provisions.**

A. The following conditions shall constitute nuisances:

1. Any animal or fowl enclosure in which any animal or fowl may be kept, or in any other place in which manure or liquid discharges of such animals or fowls may accumulate, and which is maintained in an unsanitary condition,

allowing an offensive odor to escape therefrom, or providing an insect or rodent attractant;

2. Manure or any other organic material used on premises for fertilizing purposes which are allowed to become offensive to sight, an attraction to insects or rodents, or to otherwise create an unsanitary condition;
3. Whenever manure or any other organic material shall accumulate and affect the health of the public; or
4. To allow any building or premises or appurtenance thereof, or any use made or maintained on or within property, to become offensive in odor, offensive to sight, or to create an unsanitary or hazardous health condition.

## **8.26 LITTERING**

### **8.26.010 General Provisions.**

A. A. It is unlawful and deemed a nuisance for any person to deposit, throw or place any litter upon any street, alley, sidewalk or public property or place in the City, except in public receptacles or authorized private receptacles.

B. It is unlawful and deemed a nuisance to place evicted personal property within the public right-of-way. When a nuisance created by the placement of evicted personal property in any public right-of-way within the City has occurred, the following procedures shall apply:

1. The City shall abate the nuisance by immediately removing any and all evicted personal property from any public right-of-way within the City and transport such property to any site designated as a repository for solid waste and/or rubbish.
2. No later than the close of the next business day following the removal of the evicted property, the City shall provide notice, by certified mail, postage prepaid, to the last known address of the owner of the evicted personal property. Such notice shall state that the evicted property constituted a nuisance and that such property has been removed, and the notice shall identify by street address and telephone number the repository where the evicted personal property was disposed.
3. The owner of the real property from which the evicted personal property was removed shall be responsible for reimbursing the City for the cost of disposal of the evicted personal property. If the owner fails within thirty (30) days after billing to pay such costs to the City, such costs may be collected as a lien against the real property.

4. The City is authorized to abate any nuisance caused by the placement of evicted personal property onto any public right-of-way within the City and to dispose of such evicted personal property as provided herein. The procedures contained herein shall not constitute a bailment, and the City shall not be considered the bailee of any evicted personal property. No person shall maintain any claim or suit against the City, its officers, officials, employees or agents responsible for disposing of any personal property or possession under this Section.

C. It is unlawful and deemed a nuisance for any person, while an operator or passenger in any vehicle, to deposit, throw or place any litter in or upon any street, alley, sidewalk or public property or place in the City, except in public receptacles and authorized private receptacles.

D. It is unlawful and deemed a nuisance to operate any truck, trailer or vehicle in such a manner that the load or any portion of the content of such vehicle is blown or deposited in or upon any street, alley, sidewalk or public property or place in the City.

E. It is unlawful and deemed a nuisance for any person, except an authorized public employee or officer or a person who has previously obtained a permit, to post, place, glue, staple, nail, affix or attach any handbill, poster, placard, sign, announcement or other painted or printed material upon or to any street, alley, sidewalk, lawful sign, utility pole or any public or private dwelling, store or other building or fence within the City without the permission of the owner or occupant of such property.

E. It is unlawful and deemed a nuisance to keep or store any construction materials unless such materials are covered or secured or in some manner protected so as to prevent such materials from being blown, scattered about or otherwise moved.

FF. ~~No person shall~~ It is unlawful to deposit, throw, ~~dump~~ or ~~deposit leave~~ litter on any private property, ~~except into an approved trash receptacle and with the permission of the responsible party in control of the property. It shall be an affirmative defense to a violation of this section if such property is designated by permit or law for the disposal of such material and the person is authorized by the proper public authority.; whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property.~~

## 8.28 PROPERTY MAINTENANCE

### 8.28.010 General Provisions.

A. The following shall be unlawful and are deemed nuisances:

1. The keeping of any ~~dwelling, boardinghouse, rooming house or other residential~~ property ~~in violation of any provision of this Chapter or of Title 17, including any violation of the maximum occupancy limitation imposed by by that chapter or any condition of the approval of the use of property imposed by action of the City, is a nuisance. A disorderly house shall also include keeping any such property~~ in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unsightly or unwholesome manner, noxious or offensive to others or injurious to public health, safety or welfare.
2. To allow any property, including any private residence, to deteriorate, either through abandonment or neglect, to the extent that such property becomes an unsightly nuisance and a detriment or danger to surrounding property or the general public. Evidence of abandonment or neglect which could render a property either an unsightly nuisance or a detriment or a danger to surrounding property may include a combination of some of the following or occurrences and conditions which are similar to the following: Substantial peeling or faded paint; broken shutters or facia; bent, broken or rusted gutters; broken doors, windows or screens; detached doors or screens; broken or damaged fencing; damaged or dead landscaping; cracked and/or potholed cement or asphalt paving; extensive and substantial damage to the roof or cladding; presence of weeds in gravel or paved parking areas.
3. The responsible party shall, at all times, maintain the property free of litter, trash, garbage or refuse. Weed or grass clippings shall not be left or stored by the responsible party in such a manner as to allow the clippings to be windblown onto other private property or public property.

## **8.30 INOPERABLE MOTOR VEHICLES**

### **8.30.010 Unsheltered Storage Prohibited.**

A. A. Any unsheltered The unsheltered storage of an inoperable motor vehicle may not be parked, stored or kept for more than fourteen (14) days or more on private property within the city is hereby declared nuisance and dangerous to the public health, safety and welfare outside a screened outdoor storage area. It shall be unlawful to have more than two unsheltered inoperable vehicles stored on private property at the same time.

**A.B.** An unsheltered inoperable motor vehicle that remains on private property for more than 14 days not located in a garage or other building shall be placed in an effectively screened outdoor storage area in the rear or side yard of such private property for the period which the vehicle remains on the property. Effective screening of an outdoor storage area may be accomplished through the use of materials such as solid fencing, dense vegetation, or earth berms; provided that the effect of such screening is that any and all inoperable motor vehicles in the outdoor storage area are not visible to a person standing upon any public street, alley, sidewalk or right of way or to any person standing at ground level upon any adjoining piece of property. No more than two effectively screened, inoperable motor vehicles may be stored on private property at the same time, unless such activity is accordance with this Code.

**B.C.** B. The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects or refuses to abate the nuisance commits a violation. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The payment of any penalty does not exempt the offender from compliance with the requirements of this chapter. No person, after a notice of violation has been given, shall move the inoperable motor vehicle or vehicles in question to any other private property upon which storage of such vehicle or vehicles is not permitted or onto any public property or right-of-way.

**C.** , and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled

**D.** Painting of motor vehicles is prohibited unless conducted inside an approved spray booth.

**E.E.** Vehicles which are considered collector's items, as defined in C.R.S. § 42-12-101, are permitted to be stored in accordance with state law.

**D.** Nothing in this chapter shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Code, including without limitation allowing accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, whether indoor or outdoor, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports or explosion hazard.

**D. E.**

### **8.30.020 Exceptions.**

This chapter does not apply to a motor vehicle which is a collector's item or parts car as defined in C.R.S. 42-12-101 and which is licensed and stored in compliance with the provisions of

~~state law, in particular C.R.S. 42-12-101 et seq. Nor does this chapter apply to A~~ny person who is conducting an automobile sales, storage or repair enterprise operated in compliance with existing zoning regulations when the storage is necessary to the operation of such business enterprise. ~~These exceptions for collector's items and certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this chapter~~

## 8.32 DEAD ANIMALS

### 8.32.010 General Provisions.

- A. When any animal in the city dies, it shall be the duty of the owner or keeper of such animal to promptly dispose of its remains in a proper manner, either by burial outside the city limits, if permitted by applicable law of the jurisdiction in which the burial occurs, or by delivery of the remains to the Humane Society Shelter House, or any similar facility equipped to dispose of such remains, and payment of the appropriate fee for the service provided. The City Administrator and the Chief of Police shall maintain a list of such facilities operating in Fremont County, Colorado.
- B. When the body of any dead animal is ~~in on~~ any public property in the City, it shall be the duty of the Chief and other officers of the Cañon City Police Department, including Animal Control Officers, to cause such body to be removed forthwith and disposed of at the Humane Society or other similar facility equipped to dispose of the same.€.
- C. It is unlawful ~~and deemed a nuisance for any person in possession or control of any occupied or unoccupied lot or tract of land within City, or any part thereof, to bury or cause to be buried~~ any dead animal within the ~~City~~. Any dead animal that may be legally buried outside the city shall be buried sufficiently deep to prevent the escape of effluvium that may be injurious to the public health. Any such burial shall be in accordance with all other requirements, if any, of the jurisdiction where the burial is accomplished.

## 8.34 OUTSIDE STORAGE

### 8.34.010 General Provisions.

- A. It shall be unlawful to, or cause to be stored, any personal property in the front yard, front porch, or area visible from the public street in the City, except as provided by subsection C. Personal property includes items such as, but not limited to household appliance, household furniture, household fixtures, auto parts, chemicals, building materials, landscape materials, machinery and ~~evicted~~ property.
- B. It shall be unlawful, to store, ~~or cause to be stored upon property or~~ to allow to be viewed by the general public, or any member thereof, goods, materials or

substances not otherwise or specifically defined or definable as trash, garbage or junk, but which goods, materials or substances are of a type, kind, quantity or description not commonly associated with the zoning classification or permitted use of the property. This subsection shall apply to storage of firewood, unless the amount is two (2) cords or less, and the firewood is neatly stacked.

**C. Exceptions:**

1. Permanently installed facilities.
2. Goods offered in a yard sale may be stored in accordance to 17.20.220.
3. Lawn furniture, including, but not limited to, tables, chairs, umbrellas and benches.
4. Furniture and other household goods, associated with moving into or out of any residential structure, may be stored for a period not to exceed seven (7) days.
5. Landscape materials to be installed on the same lot(s) that they are stored upon may be stored for a period not to exceed fifteen (15) days.
6. Fencing materials to be used for construction of fences on the same lot(s) that they are being stored upon may be stored for a period not to exceed thirty (30) days.
7. Building materials to be used for constructions of structures or facilities on the same lot(s) that they are stored upon may be stored for a period not to exceed ninety (90) days. It shall be lawful and deemed a nuisance to store any construction materials in a manner which causes such materials to be blown, scattered about or otherwise moved.
8. As permitted in Sections 17.20.140 and 17.20.170.

**8.36 WEED AND VEGETATIVE PLANT MANAGEMENT STANDARDS**

**8.36.010 Vegetative Growth.**

No vegetative growth shall encroach onto the public right-of-way, except as permitted pursuant to Chapter 12.12.

**8.36.020 Weeds.**

It is unlawful and deemed a nuisance for any person in possession or control of any occupied or unoccupied lot or parcel of land within the City, or any part thereof, including the sidewalk, alley or street adjacent to the same, to permit the growth of weeds, to store,

keep, or place cut or dead growth, weeds, grass, brush, tree limbs, branches, or other unsightly debris creating hazardous conditions on public or private property. It shall be the duty of every owner and every party in possession of land within the city to cut or destroy all weeds growing thereon.

### **8.36.030 Undesirable Plant Management.**

This Section shall be known and may be cited as the “Cañon City Weed Management Act.”

#### **A. Legislative declaration—Rule of construction.**

1. In enacting this Section, the City Council finds and declares that there is a need to ensure that all the lands of the City, whether in private or public ownership, are protected by and subject to the jurisdiction of the City with respect to the management of undesirable plants as designated by the State of Colorado and City Council. In making such determination the City Council hereby finds and declares that certain undesirable plants constitute a present threat to the continued economic and environmental value of the lands of the City and if present in any area of the City must be managed. It is the intent of the City Council, that the advisory commission appointed under this Section, in developing undesirable plant management plans, will consider the elements of integrated management as defined in this Section, as well as all appropriate and available control and management methods, seeking those methods which are least environmentally damaging and which are practical and economically reasonable.
2. This Section is in addition to other provisions of this Section and is intended to be an expansion of, not a substitution for, those provisions.

#### **E.F. Duty to manage undesirable plants.**

1. All persons owning, controlling or occupying property within the city shall be responsible for the management and elimination of undesirable plants from the property owned, controlled or occupied by such person within thirty (30) days from the effective date of this ordinance.
2. It is the duty of all persons to use integrated methods to manage undesirable plants if the same are likely to be materially damaging to the land of neighboring landowners.
3. In all cases where such persons are not required to use integrated methods to manage undesirable plants, as provided in Subsection 2 of this Section B, the management and elimination of undesirable plants required under Subsection 1 of this Section B shall nevertheless be accomplished in an ecologically feasible and environmentally safe manner in accordance with all applicable laws, ordinances, rules and regulations.

**F.G.** Undesirable plant management—Municipal authority.

1. The City Council, by resolution, may adopt rules and other regulations as may be necessary and proper to enforce this Section and otherwise provide for the management of undesirable plants within the city; provided that neither this Section, nor any resolution, rule, other regulation, or exercise of power pursuant to this Section shall apply to unincorporated lands or facilities outside the corporate limits of the city, except such lands or facilities which are owned by or leased to the City, unless the City and the county of Fremont, state of Colorado otherwise agree pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.
2. The City Council shall provide for the administration of any undesirable plant management plan authorized by this Section through the use of agents, delegates, or employees and may hire additional staff or provide for the performance of all or part of the undesirable plant management plan through outside contract. Any agent, delegate, employee, staff, or contractor applying or recommending the use of chemical control methods shall be certified by the Department of Agriculture for such application or recommendation.
3. The City Council may cooperate with counties and other municipalities for the exercise of any or all of the powers and authorities granted by article 5.5 of title 35, C.R.S. Such cooperation shall take the form of an intergovernmental agreement pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.
4. This Section is intended by City Council to satisfy the requirement for the adoption of an undesirable plant management plan imposed by article 5.5 of title 35, C.R.S.

**D. Advisory commissions—Formation—Duties.**

1. The City Council shall be and hereby is appointed to act and function as the City's undesirable plant management advisory commission. The City Council reserves the right and power to appoint by resolution a commission of property owners to act as the undesirable plant management advisory commission for the City. The members of the commission of property owners, if so appointed, shall be residents of the City.
2. In the event that the City elects to cooperate with another county or municipality for any of the purposes set forth in article 5.5 of tide 35, C.R.S., the membership of the advisory commission shall be determined by the governing bodies of such cooperating local governments.

3. The advisory commission shall annually elect a chairman and secretary. A majority of the members of the commission shall constitute a quorum for the conduct of business.
4. The advisory commission shall have the powers and duties specified at C.R.S. § 35-5.5-107 and City Council reserves unto itself all rights and powers available to any “local governing body” under said section.

E. Designated undesirable plants.

1. The City Council pursuant to the mandate of the general assembly of the state of Colorado hereby finds and declares that the undesirable plants designated in this section are a present threat to the economic and environmental value of the lands of the City and shall, pursuant to this Section, manage these undesirable plants and weeds.
2. The following plant species are designated as undesirable plants which must be managed under the provisions of this Section: The plant commonly known as leafy spurge, also known by the scientific name Euphorbia esula; and the knapweed plants commonly known as diffuse, Russian, and spotted knapweeds, also known by the scientific names of Centaurea. diffusa, Centaurea repens, and Centaurea maculosa.'
3. City Council may designate additional undesirable plants by ordinance after a public hearing with not less than thirty days prior notice to the public.

F. Private lands—Control of undesirable plants—Charges.

1. City Council, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purpose of inspecting for the existence of weed infestations, when at least one of the following circumstances has occurred:
  - a. The owner or occupant has requested an inspection;
  - b. A neighboring owner or occupant has reported a suspected weed infestation and requested an inspection; or
  - c. An authorized agent of the local government has made a visual observation from a public right of way or area and has reason to believe that an infestation exists.
2. No entry upon any premises, lands, or places shall be permitted until the owner or occupant has been notified, either orally or by certified mail, that

such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the owner or occupant.

3. If, after receiving notice that an inspection is pending, the owner or occupant denies access to the inspector of the City, the inspector may seek an inspection warrant issued by a municipal, county, or district court having jurisdiction over the land. The court shall issue an inspection warrant upon presentation by the City Council, through its agent or employee, of an affidavit stating: The information which gives the inspector reasonable cause to believe that any provision of this Section is being or has been violated; that the occupant or owner has denied access to the inspector; and a general description of the location of the affected land. No owner or occupant shall deny access to such land when presented with an inspection warrant.
4. The City shall have the authority, acting directly or indirectly through its agent or staff, to notify the owner or occupant of such lands, advising the owner or occupant of the presence of undesirable plants. Said notice shall name the undesirable plants, advise the owner or occupant to control the undesirable plants, and specify the best available control methods of integrated management, including but not limited to biological management, chemical management, mechanical control, or cultural control. Where possible, the delegates, agents and employees of the City charged with enforcement powers and duties under this Section, shall consult with the affected owner or occupant in the development of a management plan for the control of the weeds on the premises or lands.
5. Within a reasonable time after receipt of notification, which at no time shall exceed ten days, the owner or occupant shall either:
  - a. Comply with terms of the notification;
  - b. Acknowledge the terms of the notification and submit an acceptable plan and schedule for the completion of the plan for compliance; or
  - c. Request an arbitration panel to determine the final management plan.
6. The arbitration panel selected by the City Council shall be comprised of a weed management specialist or weed scientist, an owner of similar land in the city, and a third panel member chosen by agreement of the first two panel members. The owner or occupant shall be entitled to challenge any one member of the panel, and the City Council shall name a new panel member from the same category. The decision of the arbitration panel shall be final.

7. In the event the owner or occupant fails to comply with the notice to control the identified undesirable plants or the management land developed by the arbitration panel, the City Council, through its delegates, agents or employees charged with enforcement powers and duties under this Section, may: Provide for and compel the control of such plants at such time, upon such notice, and in such manner as the City Council shall prescribe by ordinance or resolution; and assess the whole cost thereof, including up to fifteen percent for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the undesirable plants are located; except that City Council shall not levy a tax lien against land it controls as part of a public right-of-way. Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. Such assessment may be certified to the County Treasurer of the County in which the property is located and collected and paid over in the same manner as provided for the collection of taxes. However, any such assessment shall not be more than twenty percent (20%) of the assessed valuation of the entire contiguous tract of land in any one year. Any amount in excess of the twenty percent (20%) limitation remaining unpaid may be carried over and charged on the tax roll of the succeeding year, and any unpaid balance so carried over shall bear interest at the rate established by the Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S., until paid.
8. The City Council shall not provide for or compel the control of undesirable plants on private property pursuant to this Subsection F without first applying the same or greater control measures to any land or rights-of-way owned or controlled by the City that are adjacent to the private property.
9. The City Council shall not assess the cost of providing for or compelling the control of undesirable plants on private property until such control has successfully achieved the level of control called for in the notice to control the identified undesirable plants or the management plan developed by the arbitration panel.
10. The City Council, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this Section concerning undesirable plant management and any other local requirements.
11. No agent, employee or delegate of the City Council shall have a civil cause of action against an owner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this Section except when such damages were willfully or deliberately caused by the owner.

G. Public lands—Control of undesirable plants—Charges.

Pursuant to Section 35-5.5-110, C.R.S., it is the duty of each state board, department or agency which controls or supervises state lands to manage undesirable plants on any lands under its jurisdiction using the methods prescribed by the local governing body in whose jurisdiction such state lands are located. As to state lands within the city, the City Council shall have those rights and powers as are specified and otherwise provided for at Section 35-5.5-110, C.R.S.

H. Cooperation with federal and state agencies.

The City Council may enter into cooperative agreements with federal agencies and state agencies for the integrated management of undesirable plants within their respective territorial jurisdictions.

II. Public nuisance—Abatement.

The City Council hereby declares that all undesirable plants at any and all stages thereof, their carriers, and any and all premises, plants, and things infested or exposed to infestation therewith located within the city are a public nuisance. All such nuisances are subject to all laws and remedies relating to the prevention and abatement of nuisances, including, but not limited to, the provisions of this Section.

## **8.38 SIDEWALKS AND GUTTERS**

### **8.38.010 General Provisions**

- A. All persons are required to keep the sidewalk in front of and adjacent to the land occupied by them clear of ice, mud, dirt, rubbish and filth, landscaping and vegetative growth.
- B. After any fall of snow, the snow shall be immediately removed from such sidewalk within 24 hours from residential properties and immediately from commercial properties.
- C. Snow shall not be plowed, shoveled, or deposited on adjacent sidewalks, storm drains, or in front of or on curb ramps.
- D. No motor vehicle, trailer or equipment shall be parked or stored on any portion of the sidewalk and/or any portion of the right of way outside the traveled portion of said right of way, unless permitted by the City Engineer pursuant to Chapter 12.12. At no times shall the flow of pedestrian traffic be restricted.

## **8.42 ENFORCEMENT AND PENALTIES**

### **8.42.010 Administrative nuisance abatement – notice of abatement.**

A. ~~A Code Enforcement Officer, Any authorized City officer, including but not necessarily limited to Code Enforcement Officers and peace officers, upon the discovery of any nuisance on public or private property in the City, shall may, in the exercise of his or her discretion notify the responsible party in writing, requiring the responsible party to remove and abate from the property, the thing or things therein described as a nuisance, within the time specified in the notice. Service of a notice of violation by a Code Enforcement Officer pursuant to Section 1.18.040 of this Code shall be considered service of a notice to abate and the City may begin the abatement process with the application for abatement order.~~

1. ~~The time for abatement of a nuisance posing an imminent danger of damage or injury to or loss of life, limb, property or health shall not exceed one (1) day. If in the judgment of the Code Enforcement Officer a nuisance is a cause of imminent danger to the public health, safety or welfare, any such nuisance may be summarily abated by the City, and costs of abatement shall be charged and recovered as provided by Section 8.38.110.~~
2. As to other nuisances, the reasonable time for abatement shall not exceed seven (7) days, unless it appears from the facts and circumstances that compliance could not reasonably be made within seven (7) days or that a good faith attempt at compliance is being made.
3. ~~If the responsible party shall fail to comply with the requirements for a period longer than that named in the notice, then the Code Enforcement Officer or other authorized City official shall proceed to have the nuisance described in the notice, removed or abated from the property described in the notice without delay; and the Code Enforcement Officer shall have the authority to call for any necessary assistance. In no event shall the notice, described by this Section, be required prior to issuance of a summons and complaint.~~
4. Any nuisance located or found in or upon any street, avenue, alley, public sidewalk, highway, public right-of-way, public grounds, park, recreational facility, or other public property owned or controlled by the City, in the City, may be abated without notice. ~~Nor shall a notice described in this Section be required prior to issuance of a summons and complaint pursuant to subsection 8.42.020(D).~~

B. Service of notice. Service of a notice of a violation on the responsible party shall be by any of the following means:

1. Personally delivering a copy of the notice to the responsible party ~~described in the notice;~~
2. Mailing a copy of the notice by ~~first class or~~ certified mail, return receipt requested, to the last known address of a responsible party, as reflected in the ~~county~~ real estate records ~~of the county assessor;~~ or

3. Mailing a copy of the notice by certified mail, return receipt requested, to the last known address of the owner of the property described in the notice as reflected in the county assessor records if the property is unoccupied and by posting a copy of the notice in a conspicuous place at the unoccupied premises.
4. ~~Posting a copy of the notice in a conspicuous place at the site of the nuisance.~~
4. Service of the notice shall be deemed complete upon the date of personal delivery or three (3) business days after the date of mailing as required herein.

C. Contents of notice. The notice to abate, issued pursuant to the provisions of this Section to the responsible party upon which a nuisance was discovered, shall contain the following:

1. The address and other description of the property upon which the nuisance was discovered;
2. The name and address of the owner of the property upon which the nuisance was discovered as reflected in the county assessor records;
3. The name and address of the occupant of the property upon which the nuisance was discovered, if known, and if different from the owner;
4. A description of the thing or things or condition deemed to be a nuisance;
5. The time in which the thing or things or condition are to be removed or abated from the property;
6. A statement that, if the responsible party fails to comply with directions contained in the written notice or file a written protest thereto in the time allowed, the City may enter the property, abate the nuisance described therein and assess the costs thereof to the owner of the property; and
7. A statement that, if the cost of abatement is not paid, a lien may be placed upon any property for which the abatement was performed and the City will be entitled to the actual costs of abatement, plus fifteen percent (15%) of such abatement costs for inspection, a minimum fee assessment of one hundred dollars (\$100.00) and other incidental costs of abatement.

#### **8.42.020 Actions to abate a nuisance.**

When, in the reasonable judgment of a Code Enforcement Officer, a violation of this chapter exists, the officer may, on behalf of the City, abate a public nuisance by any of the following procedures:

- A. Abatement after notice. If, after written notice has been given as described in Section 8.42.010, the responsible party fails to abate the nuisance in the time specified in the notice, the City may enter upon such property for the purpose of abating the nuisance if an emergency exists that eminently threatens the health, safety and welfare of the public.
- B. Abatement by civil action. If, after written notice has been given, as described in Section 8.42.010, the responsible party fails to abate the nuisance in the time specified in the notice, the Code Enforcement Officer, on behalf of the City, When an alleged violation of this chapter has not been abated within the time specified in any notice to abate, the City may 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 ordering authorizing its restraint, removal, termination or abatement by the responsible party, or authorize abatement by an appropriate official or agency of the City. The Municipal Court is hereby authorized to make such findings and declarations, and to enter such orders in circumstances deemed appropriate.
  - 1. The City shall file a verified complaint for an abatement order which shall include an affirmation The application shall be accompanied by an affidavit affirming that the City has complied with the notice requirements of subsection 8.42.010(C) B and that the responsible party has failed to abate the identified nuisance upon the property.
  - 2. The Municipal Court shall review the verified complaint and schedule a hearing on the request for an abatement order. The Municipal Court shall direct the issuance of a summons stating the time, date, and place at which the request for an abatement order will be heard by the Municipal Court.
  - 3. The City shall serve the summons and complaint on the responsible party named in the complaint in the same manner as provided above for service of the original notice at least seven (7) days prior to the time of the hearing. The notice of application for an abatement order shall include a copy of the City's application and its affidavit in support thereof and state the time, date, and place at which the City will appear before the Municipal Court to request entry of the abatement order;
  - 4. At the time, date, and place stated in the summons, the Municipal Court Judge shall review and consider the request for an abatement order, any statement of the City in support thereof, and any statement and evidence presented by the responsible party, if present.
  - 5. Upon the date and at the time set for the hearing, if the responsible party fails to appear, and if the City proves that proper service was made on the responsible party, the Court may grant such orders as requested by the City. The Municipal Court Judge may consider evidence of actual notice received by a responsible party in determining whether adequate notice of a violation

has been provided. The Judge may find that notice is adequate despite a lack of technical compliance with subsection 8.42.010(C) upon evidence that a responsible party received actual notice of a written notice to abate a reasonable amount of time prior to the expiration of the abatement period. Failure to appear on any date set for a hearing shall be grounds for entering a default and judgment thereon against a non-appearing party. For good cause shown, and prior to enforcement, the Municipal Court may set aside an entry of default and the judgment entered thereon.

C. Abatement by administrative citation. If, after written notice has been given, as described in Section 8.42.010, the responsible party fails to abate the nuisance in the time specified in the notice, If the responsible party has failed to correct the violation noticed in the notice of violation within the time provided on such notice the Code Enforcement Officer may issue an administrative citation to the responsible party.

1. The Code Enforcement Officer shall serve the administrative citation on the responsible party in the same manner as provided above for service of the original notice. If personally served, the Code Enforcement Officer 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.
2. The administrative citation shall contain the following information:
  - a. The location of the violation(s) and the date and approximate time the violation(s) were observed. When applicable, the administrative citation shall identify the property in violation by address or legal description.
  - b. If, after written notice has been given, as described in Section 8.42.010, the responsible party fails to abate the nuisance in the time specified in the notice, Reference to the applicable sections of this Code that were violated and a description of the violations.
  - c. The administrative citation shall describe The action required to correct the violations.
  - d. A statement that the responsible party shall The administrative citation shall require the responsible party to correct the violations immediately and a description of the consequences of failure to correct said violations.
  - e. The administrative citation shall state the The amount of fine imposed for each violation.

- f. ~~An explanation~~ The administrative citation shall explain of how the fine shall be paid, ~~the available forms of payment~~, the time period by which it shall be paid, and the consequences of failure to pay the fine.
- g. ~~The administrative citation shall briefly state~~ ~~T~~he process for appealing the administrative citation.
- h. The ~~administrative citation shall contain the~~ signature of the Code Enforcement Officer and the signature of the responsible party if it can be obtained.

3. ~~An administrative citation may be appealed by the responsible party~~  
~~A person served with an administrative citation may file a notice of appeal~~ within ~~five (5) calendar~~seven (7) days from the service of the administrative citation ~~by filing a notice of appeal~~. 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.

- a. The notice of appeal shall be made in writing and shall be filed with the Municipal Court in person, by facsimile transmission or by mail. Regardless of the manner of filing such appeal, the notice of appeal must be filed with the Municipal Court within ~~five (5) calendar~~seven (7) days from the date the administrative citation was served. ~~The notice of appeal shall provide the basis for the appeal.~~
- b. 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.
- c. 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. The hearing shall be held no more than fourteen (14) days after a timely notice of appeal has been filed.
- d. In computing the day a notice of appeal must be filed or the day by which a hearing must be held, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or ~~City-recognized legal~~ holiday, the period is extended to the first day thereafter which is not a Saturday, Sunday, or ~~legal City-recognized~~ holiday.

4. 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 the procedures provided in this section.

- a. ~~The parties to an administrative appeal shall be the responsible party and a Code Enforcement Officer. Parties may be represented by legal counsel.~~ Each party may call and question witnesses, cross-examine witnesses and present evidence in support of its case.
- b. The CourtAHO, 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 and shall be paid in advance of the issuance of the subpoena unless otherwise ordered by the Court. The form of, and the process for issuing subpoenas shall be the same as in the Municipal Court.
- e. ~~The AHO shall have the power to call and question witnesses, review and consider the relevancy of documentary or other tangible evidence, and rule on evidentiary questions.~~
- d.c. The only issue to be decided by the AHO-Court is whether the Code Enforcement Officer exceeded his/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 a nuisance abatement hearing, the City bears the burden of proof to establish the existence of a public nuisance.~~ The City's meeting of this burden of proof shall constitute prima facie evidence that the Code Enforcement Officer did not exceed his or her authority. The appellant shall have the burden of rebutting such evidence.
- e.d. The standard of proof required in an administrative appeal permitted by this chapter is a preponderance of the evidence.
- f. ~~Copies, photographs, and photocopies may be admitted into evidence or substituted in evidence in place of original documents.~~
- g. ~~Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript.~~
- h.e. Whenever it appears that an appeal is not filed within the time permitted by this chapter, or the particular law or ordinance involved, or that the AHO-Court for some other reason lacks

jurisdiction, the appeal may be dismissed on the motion of any party or on the CourtAHO's own motion.

i.f. The decision of the AHO-Court shall be known as an administrative enforcement order. The AHO-Court may: (1) uphold the administrative citation and all penalties; or (2) dismiss the administrative citation and all penalties. The Court also may impose conditions and deadlines for violators to correct violations or abate nuisances and may require payment of any outstanding penalties and all fees and costs assessed pursuant to the provisions of this chapter.

j.g. In the event that the Court does not dismiss the administrative citation, the Court shall assess reasonable administrative costs of not less than one hundred dollars (\$100.00), but not to exceed two hundred dollars (\$200.00).

k.h. The administrative enforcement order shall become final on the date the order is mailed to or served upon the responsible party. A copy of the order shall be provided to the City.

l.i. 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 had been given to such responsible party. The AHO-Court may take testimony, evidence and argument from the City and issue an administrative enforcement order that may include an assessment of reasonable administrative costs in the absence of a responsible party who fails to appear at the hearing.

5. The City Administrator shall develop guidelines for fines based upon the City Administrator's assessment of the cost to the City for enforcing the various provisions of this chapter. Such guidelines shall be approved by the City Council. Thereafter, the City Administrator shall publish a schedule of fines for administrative citations. The schedule of fines shall be graduated in amount, with the smallest fine being assessed for the first administrative citation and increasingly larger fines for second, third and subsequent administrative citations. No single fine assessed for an administrative citation shall exceed Two Thousand Five Hundred Dollars (\$2,500.00). Such guidelines and fine schedule shall be approved by the City Council. The schedule of fines shall not be amended more often than once per year.
6. If the responsible party fails to correct the violation, subsequent administrative citations may be issued for additional violations of the same section. The fine assessed for each administrative citation issued for violations of the same section or sections shall not exceed the amount set in the City Administrator's schedule of fines regardless of the number of

violations per citation. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

7. The failure of any responsible party to pay the fines assessed by an administrative citation within the time specified on the citation or by an administrative enforcement order, may result in the imposition of a late fee of fifty dollars (\$50.00), a twenty percent (20%) charge to defray the cost of collection, and interest at a rate of ten percent (10%) per annum on all unpaid amounts, calculated from the date of the citation. In the event of failure to pay all fines assessed, the City Administrator may refer the matter for collection by whatever means are available to the City. In the case of delinquent charges, assessments or taxes, including fines and the costs of nuisance abatement respecting real property identified in an administrative citation and/or enforcement order served upon or issued to an owner of such property, the City Administrator shall, pursuant to C.R.S. § 31-20-105, certify the same to the treasurer of the County to be collected and paid over by the Treasurer of the County in the same manner as taxes are collected. An action or other process provided by law may be maintained by the City to recover or collect any amounts, including late fees, interest, and administrative costs, owing under this chapter.

8. Payment of an administrative fine shall not relieve a responsible party of the obligations to abate a nuisance or to otherwise come into compliance by discontinuing the activity or circumstance constituting the violation.

7.9. Abatement of a nuisance or other compliance will not relieve a responsible party who has been properly served an administrative citation from the obligation to pay the fine, except that some or all of the fine for a first offense may be waived by the Code Enforcement Officer, as provided in the guidelines adopted by the City.

D. Abatement by criminal action/penalty assessment. If a Code Enforcement Officer elects not to summarily abate the nuisance pursuant to subsection (A) above, abate the nuisance pursuant to subsection (B) above, or issue an administration citation pursuant to subsection (C) above, the Code Enforcement Officer may initiate a criminal action to have a nuisance declared as such by the court and to have the court impose sentence and otherwise enter orders as provided for in this chapter.

1. The criminal action shall be brought in the name of the people of the City of Cañon City by serving a copy of the summons and complaint upon the responsible party and filing the original with the court. Summons and complaints and subpoenas shall be served as in other criminal actions. Any employee or agent of the City of Cañon City, who is over the age of eighteen (18), may serve a summons and complaint upon the responsible party or a subpoena upon any witness to the violation.

2. The responsible party served with the summons and complaint shall have the right to enter a plea of guilty or not guilty in the Municipal Court. If the responsible party is found guilty, the court shall impose sentence and order abatement as provided by subsection 8.42.020(B).

#### **8.42.030 Recovery of expense of abatement.**

- A. If the City abates a nuisance pursuant to this chapter, it shall be entitled to recover the following:
  1. The actual costs of abatement, plus fifteen percent (15%) of such abatement costs for inspection, a minimum fee assessment of one hundred dollars (\$100.00) and other incidental costs of abatement.
  2. Such costs shall be paid to the City ~~'s Director of Finance~~ within thirty (30) days after the ~~City Administrator (or his designee) Director of Finance~~ has mailed notice of the assessment by certified mail to the owner of the property; provided, however, that if the property is occupied by someone other than the owner, the ~~City Administrator (or his or her designee) Director of Finance~~ shall mail such notice of assessment by certified mail, to both the occupant and the owner. Service shall be complete upon depositing the notice within the United States Postal Service, postage prepaid for certified mail.
  3. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid. The City may record a lien upon the property at the time of the notice of assessment or thereafter, if not paid.
  4. ~~Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and~~ Such assessment shall be a lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be collected by any legal means certified, including certification at any time after such failure to pay the same, by the City to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with fifteen percent (15%) penalty to defray the cost of collection.

#### **8.42.040 Penalty.**

- A. Any person ~~convicted of violating~~ found guilty of, or pleads *nolo contendere* to violating any provision of this chapter, shall be subject penalties in this Section, provided that the maximum fine for any violation shall not exceed the maximum fine authorized pursuant to Section 1.28.010 and further provided that nothing shall be construed as either prohibiting or limiting the City from pursuing such other remedial provisions as set forth in this chapter.

B. Any responsible party violating any provision of this title shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine pursuant to the following schedule:

1. Upon ~~the first finding of guilt or plea of nolo contendere the first conviction~~ for a violation of this ~~chapter title~~ in any twelve (12) month period, a fine of not less than one hundred dollars (\$100.00) per count;
2. Upon the second ~~finding of guilt or plea of nolo contendereconviction~~ for a violation of this ~~chapter title~~ in any twelve (12) month period, a fine of not less than two hundred dollars (\$200.00) per count;
3. Upon the third ~~finding of guilt or plea of nolo contendereconviction~~ for a violation of this ~~chapter title~~ in any twelve (12) month period, a fine of not less than three hundred dollars (\$300.00) per count;
4. Upon the fourth ~~finding of guilt or plea of nolo contendereconviction~~ for a violation of this ~~chapter title~~ in any twelve (12) month period, a fine of not less than five hundred dollars (\$500.00) per count.

C. In levying and imposing fines upon conviction of any of the sections specified herein, the court shall have no authority to reduce or suspend all or any portion of the minimum fines specified herein, it being the expressed intent of the City Council that the court will adhere to the fine schedule specified herein. The twenty-four (24) month period referred to in subsection B shall be measured from date of violation to date of violation.

D. As a portion of any judgment, fine or assessment levied upon conviction of a violation of this title, the court shall order that the violation be abated within a time established by the court, but in no event to exceed thirty (30) days from the date of conviction. Failure to abate within the time so ordered may constitute contempt of court, and may be punishable as such. The order also shall provide that, in the event the defendant has not abated the nuisance within thirty (30) days after the court order, the City or its agents are authorized to do so, at the expense of the defendant.

E. In addition to any fines levied hereunder, the court shall impose, as a portion of the costs assessed against a convicted responsible party, any costs incurred by the City in prosecuting, enforcing and abating the nuisance.

F. Each day during which any responsible party commits, or allows to remain unabated, any of the actions specified as unlawful in this chapter shall constitute a separate offense. Multiple violations of this chapter may be included on a single notice to abate or a single summons and complaint.

Section 4. Chapter 12.16 of the Cañon City Municipal Code is hereby deleted.

Section 5. Chapter 8.12 of the Cañon City Municipal Code is hereby repealed and moved to a new Chapter 9.23, Smoking in Public Places, with all references to “8.12” amended to read “9.23”.

Section 6. Title 9 of the Cañon City Municipal Code is hereby amended by the addition of new Division IX, Fire Regulations:

## **Division IX. Fire Regulations**

### **9.58 FIREWORKS.**

#### **9.58.010 Fireworks—Provisions of Colorado Revised Statutes adopted by reference pursuant to Section 9 of Article XII of the Charter of Cañon City, Colorado.**

There is adopted by reference Article 33.5 28 of Title 12-24 of the Colorado Revised Statutes (“C.R.S.”) as amended ~~on the effective date of the ordinance codified in this chapter, and as thereafter amended~~, all to have the same force and effect as if set forth herein in every particular, except for deletions, amendments and additions hereinafter in this chapter set forth.

#### **9.58.020 Certification—Copies for public use.**

The City Clerk shall certify the passage of the ordinance codified in this Chapter 9.58 and make not less than three (3) copies of Part 20, Article 28-33.5 of Title 2412, C.R.S., and the ordinance codified in this chapter available for inspection by the public during regular business hours. Copies of said Part 20, Article 33.5 28 of Title 2412, C.R.S., together with a certified copy of the ordinance codified in this chapter shall be available for sale to the public through the office of the City Clerk for an amount equal to the City’s cost of reproducing the same.

#### **9.58.030 Additions, amendments and deletions.**

Penalties for violations of this chapter shall be as set forth in Section 9.58.070 and the provisions of C.R.S. § 24-33.5-2010 12-28-110 are therefore deleted.

#### **9.58.040 Violations within city limits.**

Any act or omission which is described as a violation of any provision of Article 33.5 28 of Title 2412, C.R.S. shall constitute a violation of this Chapter 9.58 if committed or omitted within the corporate limits of the city.

#### **9.58.050 Violations outside of city limits.**

A. Any act or omission which is a violation if committed or omitted within the corporate limits of the city shall be a violation if committed or omitted within any park or other land owned or controlled by the City that is situated outside of the corporate limits of the city, including, but not limited to, Royal Gorge Park, Red

Canyon Park, Temple Canyon Park, Skyline Drive, Tunnel Drive, and the Cañon City water treatment plant and facilities.

B. Within any park or other land owned or controlled by the City which is located outside of the city limits, it shall also be unlawful for any person, firm, corporation or association to possess outside of a vehicle, cast, throw, explode, ignite, set off or otherwise fire:

1. Permissible fireworks, as defined at C.R.S. § ~~24-33.5-2001(11)(a), 12-28-101(8)~~, as may be amended.
2. Any device described at C.R.S. § ~~24-33.5-2001(5)12-28-101(3)(b)~~, except that it shall not be a violation of this Subsection 9.58.050(B) that a highway flare, railway fusee, ship distress signal, smoke candle or other emergency signal device was possessed, if such device was not ignited, and it also shall not be a violation that such device was ignited if:
  - i. The device was placed upon or near the edge of an existing roadway in a place that is a safe distance away from growing vegetation or other combustible materials; and
  - ii. The device was ignited for the sole purpose of signaling the approximate location of a person or persons involved in an actual emergency situation involving death or serious bodily injury or other circumstances that constituted an actual and immediate threat to human life, health or safety.

#### **9.58.060 Firearms and explosives.**

A. No person shall discharge a cannon or firearm of any kind or in any manner, nor cause to explode any gunpowder, blasting powder, giant powder, dynamite, TNT, nitroglycerine or other dangerous explosive, within the city or within the boundaries of any park or other land or facility owned or controlled by the City located outside of the corporate limits of the city, except:

1. A starter's gun or other firearm, including muzzle loaders, which fires blanks or blank cartridges may be used in a recognized athletic event or contest, public performance, theatrical event or in a public event sanctioned by City Council or the City Administrator;
2. A mechanical device utilizing an explosive powder or cartridge used in the construction trades may be used in the ordinary course of business; and
3. Explosives used in construction excavation projects, may be used in such projects, but only when a written permit for same shall have been previously

obtained from the City Building Inspector, for which no fee shall be charged.

B. No act described in Subsection A of this section shall be unlawful if committed by a peace officer or humane officer in the lawful discharge of such officer's duties.

#### **9.58.070 Penalties for violations.**

A. Any person who violates any provision of Section 9.58.040, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in an amount that is not less than fifty dollars (\$50.00), nor more than the maximum fine provided for in Section 1.28.010.

B. Except as provided in Subsection C of this Section 9.58.070, every person who violates any provision of Section 9.58.050 or of Section 9.58.060, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in an amount that is not less than two hundred dollars (\$200.00), nor more than the maximum fine provided for in Section 1.28.010.

C. Any person convicted of unlawfully discharging a firearm at any place within the City or within any park or other land owned or controlled by the City, if the court finds that such firearm was discharged from within a vehicle, shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than the maximum fine provided for in Section 1.28.010.

D. No portion of minimum fines provided for at Subsections A, B and C of this section shall be suspended by any court.

### **Chapter 9.60 OPEN FIRES AND OPEN BURNING**

#### **9.60.010 Definitions.**

A. "Fire Chief" means and refers to the Chief of the Fire Department operated by the Cañon City Area Fire Protection District.

B. "Jurisdiction of the City" means and includes all property within the boundaries of the City and all other land in the vicinity of the City that is owned or controlled by the City, including, but not limited to: Royal Gorge Park, Red Canyon Park, Temple Canyon Park, Skyline Drive, Tunnel Drive, Lakeside Cemetery, Greenwood Cemetery and all land containing facilities of the Cañon City Water Department.

C. "Official order," as used in this chapter, means and includes any order issued by the City Administrator pursuant to the authority granted in Subsection A of Section 9.60.020 which is distributed and posted in accordance with that subsection, and any certified written order of the Fire Chief delivered to the City Administrator which is posted and distributed as provided for in Subsection B of Section 9.60.020.

D. “Open burning” means as any outdoor fire, including but not limited to, bonfires, campfires, warming fires, charcoal grill fires, fires in wood-burning stoves, the use of explosives, outdoor welding or hot work, fireworks of all kinds or brands, including fireworks otherwise permissible pursuant to C.R.S. § 24-33.5-2001, and the prescribed burning of fence lines or rows, fields, farm lands, rangelands, wildlands, trash and debris. Open burning shall not include:

- (1) Fires in camp stoves or grills fueled by bottled gas or pressurized liquid and specifically designed for cooking or heating purposes;
- (2) Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion; and
- (3) Fires in commercially operated wood and/or charcoal-fired grills designed for cooking.

~~“Open burning” means the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.~~

~~“Outdoor fire” means and includes any open burning, any recreational fire or any other fire built, ignited or maintained in an outdoor location.~~

E. ~~Terms such as “bonfire,” “recreational fire,” “rubbish” and “Hazardous fire area” shall have the same meaning s given to them in thes uniform version of the fire code adopted by the Cañon City Area Fire Protection District, as approved and ratified by resolution or ordinance of City Council.~~

#### **9.60.020 Authority for issuance and enforcement of official orders banning ~~outdoor fires or~~ open burning and restricting access to hazardous fire areas.**

A. Whenever the City Administrator determines that conditions in and around the city are such that there is a high risk of fire, ~~based upon the Fire District’s needs and policies, in consultation with the Fire Chief and other local governmental entities with authority regarding fire restrictions,~~ the City Administrator shall have the authority, by written order to:

- ~~(1) to temporarily ban or otherwise restrict outdoor fires open burning;~~
- ~~(2) to ban or restrict the use of fireworks; and~~
- ~~(3) to deny or restrict public access to any hazardous fire area within the jurisdiction of the City.~~

~~Such authority shall be in addition to any similar authority granted under this Code to the Superintendent of Parks and any similar authority granted to the Fire Chief under any code or law applicable within the jurisdiction of the City.~~

- B. Copies of all such orders by the City Administrator shall be promptly distributed to a newspaper of general circulation in the city, posted on the City's official bulletin board at City Hall and on the City's website. Notice of the City Administrator's order also may be given to the general public using other means of communication available to the City Administrator.
- C. Whenever the Fire Chief shall issue a written order banning or otherwise restricting outdoor firesopen burning ; ~~banning or restricting the use of fireworks;~~ or denying or restricting public access to a hazardous fire area within the boundaries of the Cañon City Area Fire Protection District and deliver a certified copy of such order to the office of the City Administrator, such order shall be enforceable within the jurisdiction of the City by the Fire District. Copies of such orders by the Fire Chief shall be distributed and posted in the same manner and places as are provided for in Subsection A of this section with respect to the written orders of the City Administrator.
- D. In the event of a conflict between a provision of a written order of the City Administrator and a provision of a written order of the Fire Chief, the more stringent provision shall apply, unless the written order of the City Administrator provides otherwise.

#### **9.60.030 Duration**

The City Administrator, or his or her designee, is authorized to impose restrictions of a limited duration based on the nature and scope of the current conditions. Any such duration may be extended or modified by subsequent administrative order of the City Administrator, or his or her designee, based on continuing adverse fire conditions.

#### **9.60.040 Presumption.**

After the terms of an official order have been posted on the City's official bulletin board, City's website, and printed or summarized in a newspaper of general circulation in the city, all persons physically present within the jurisdiction of the City shall be presumed to have actual knowledge of the terms of such official order.

#### **9.60.050 Unlawful acts.**

It shall be unlawful for any person to ~~build, ignite, maintain, or refuse or fail to extinguish outdoor fire or~~ conduct any open burning in the City, including public, private, state and federal lands, in violation of this Code or in violation of an administrative order issued by the City Administrator, or his or her designee, in accordance with this Section.

#### **9.60.060 Penalty for violation.**

Any person convicted of violating any provision of this Section, with the exception of 9.60.020(C), shall, upon conviction, be punished ~~by a fine in an amount that is not less~~

~~than one hundred dollars (\$100.00), nor more than the maximum fine provided for in Section 1.28.010 as follows:~~

- A. First offense, a fine of one hundred fifty (\$150.00).
- B. Second offense, a fine of two hundred and fifty (\$250.00).
- C. Third offense, summons and a fine between three hundred fifty (\$350.00) to not more than four hundred ninety-nine hundred (\$499.00).
- D. The City also may seek an injunction, abatement, restitution or any other remedy to prevent, enjoin, abate or remove the violation.
- E. Each day a violation of this Section continues shall constitute a separate offense. Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

#### **9.60.070 Additional remedies.**

~~The remedies provided in this Section shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, including but not limited to prosecution under C.R.S. § 18-13-109 or any other applicable statute, ordinance, rule, order or regulation.~~

Section 7. Title 15 of the Cañon City Municipal Code is hereby amended by the addition of a new Chapter 15.42 as follows:

#### **15.42 FIRE PROTECTION AND EMS IMPACT FEE**

##### **15.42.010 Short title, authority, and applicability.**

- A. This chapter shall be known as and may be cited as the “Fire Protection and EMS Impact Fee Ordinance.”
- AB. Specific authority to impose impact fees for the benefit of the Fire District was granted to the Council of Cañon City by the qualified electors of the City during the City’s general election on November 1, 2005. Additional general authority is identified in City Ordinance No. 9, Series of 2005, through which the question decided by the voters was referred to them.
- BC. Prior to the distribution of any impact fees collected pursuant to this chapter, the Fire District must enter into an intergovernmental agreement with the City covering the collection, distribution and use of impact fees.
- DC. This chapter shall apply to all portions of the city, which is entirely within the boundaries of the Cañon City Area Fire Protection District.

### **15.42.020 Intent and purpose.**

- A. The provisions of this chapter are consistent with City plans and policies, as identified in Ordinance 9, Series of 2005 and elsewhere, and also are intended to implement and be consistent with the Local Government Land Use Control Enabling Act, Section 29-20-101, C.R.S., *et seq.*
- B. The purpose of this chapter is to regulate the use and development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide fire protection and emergency medical services in the city, as contemplated by Colorado state statutes and City plans and policies.

### **15.42.030 Rules of construction.**

- A. The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.
- B. The phrase *used for* includes *arranged for, designed for, maintained for, or occupied for.*
- C. The word *person* includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- D. The land use types listed in Section 15.42.060 shall have the same meaning as listed under the City's Zoning Ordinance and subdivision regulations.

### **15.42.040 Definitions.**

As used in this chapter:

- A. “Building Permit” means an official document or certification which is issued by the City Building Department and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term shall specifically include certificate of occupancy and occupancy permits, as those permits are defined or required by City regulations, including but not limited to uniform codes adopted by the City.
- B. **A**“Capital Facility” includes planning, site improvements, off-site improvements associated with new or expanded facilities, buildings and equipment, including communications equipment, with an average useful life of at least five (5) years, but excludes maintenance and operations.

- C. “City Official” means the City’s Zoning Administrator and/or any other City officer or official that the Council of Cañon City may designate to administer the various provisions of this chapter.
- D. “Emergency Medical Services” commonly referred to as EMS, means the provision of advanced life support services, as defined and discussed in Title 25, Article 3.5, C.R.S.
- E. **A** “Fee Payer” is a person who applies to the City of Cañon City for the issuance of a building permit or manufactured home permit for a type of land development activity specified in Subsection 15.42.060(A) of this chapter.
- F. “Fire District” means the Cañon City Area Fire Protection District, a Colorado special district (providing services within a geographic area that includes all land within the City of Cañon City) which is authorized to provide fire protection and/or emergency medical and rescue services and such other similar services as may be authorized by Colorado law.
- G. “Fire Protection” means the prevention and extinguishment of fires; the protection of life and property from fire; and the enforcement of properly adopted fire prevention codes.
- H. **A** “Living Unit” is any temporary or permanent unit utilized for or designed or intended to be utilized for human habitation.
- I. “Manufactured Home Permit” shall mean any certification of a permanent foundation for a manufactured home established upon a permanent foundation on any lot or parcel within the city. When no certification of a permanent foundation is required, “manufactured home permit” shall mean the required approval as to location (relative to applicable setback requirements) with respect to any manufactured home established within a mobile home park, mobile home subdivision or elsewhere within the city, provided that the manufactured home so located is the first living unit established on the space, lot or parcel in question. When no approval as to location is required, an application for City water service shall trigger the obligation for the owner of the land upon which a manufactured home is established, as the first living unit thereon, to pay the impact fee. It is City Council’s intention that this definition be broad enough to ensure that Fire Protection and EMS Impact Fees will be imposed and payable with respect to all new living units established in the city by reason of the installation of manufactured housing on lots, parcels or spaces where no living unit previously existed. When a manufactured home is established for the first time on a newly created lot or space within a mobile home park, the Fire Protection and EMS Impact Fee shall be paid by the owner of the mobile home park, but may be subject to reimbursement by the owner of the manufactured home pursuant to a written agreement between the owner of the mobile home park and the owner of the manufactured home.

J. “Rescue” means what commonly is called rescue, a service, which generally includes the provision of basic life support, and the extrication of accident victims from entrapment.

#### **15.42.050 Imposition of Fire Protection and EMS Impact Fee.**

- A. There is hereby imposed upon new development within the city a Fire Protection and EMS Impact Fee. Any person who, after the effective date of the ordinance adopting this chapter, seeks to develop land located within the city, by applying for the issuance of a building permit or manufactured home permit for one of the land use types specified in Section 15.42.060 of this Chapter, shall be required to pay a Fire Protection and EMS Impact Fee in the manner and amount set forth in this Chapter.
- B. No building permit or manufactured home permit for any land use types specified in Section 15.42.060 of this chapter shall be issued by the City unless and until the impact fee hereby required has been paid.

#### **15.42.060 Computation of the amount of Fire Protection and EMS Impact Fee.**

- A. At the option of the fee payer, the amount of the fee may be determined by the schedules set forth below:
  1. Single-family residence: \$304
  2. Multifamily residence: \$304 for each unit of family residence and/or for each apartment, town home, condominium or similar living unit. (e.g., \$608 for duplex; \$912 for triplex, etc.)
  3. Non-residential building *not including* hotel/motel: Total square footage of the building divided by 2000<sup>1</sup> and multiplied by \$304 (e.g., 9000 square foot nonresidential structure would be divided by 2000. The dividend of 4.5 would then be multiplied by \$304 for a total impact fee of \$1368).
  4. Hotel/motel: Total square footage divided by 2000 and then multiplied by \$304 and additionally multiplied by 2.5<sup>2</sup>.
- B. When a change of use, redevelopment or modification of an existing use requires the issuance of a building permit or manufactured home permit, the impact fee shall

---

<sup>1</sup> 2000 square feet is the average residential unit size for Fire District as projected by historic and current development and shall serve as one “residential equivalent unit” to be used in calculating a proportionate fee for commercial development.

<sup>2</sup> It is apparent from examining Fire Department and EMS responses of different land use types that land uses with higher densities have more incidents requiring Fire Department responses than land uses with lower population densities. Hotels and motels demand the highest per square foot response. Conservatively, this factor is 2.5 times the residential equivalency.

be based upon the net increase in the impact for the new use, as compared to the impact of the previous use.

- C. The person applying for the issuance of a building permit or manufactured home permit may, at such person's option, submit evidence to the entity (i.e., Fire District or City) which provides fire protection and/or emergency medical services for the land in question indicating that the fees set out in Subsection A of this Section 15.42.060 are not applicable to the particular development. Based upon convincing and competent evidence, said entity may adjust the fee accordingly and shall inform the City official of this adjustment.

#### **15.42.070 Payment of fee.**

- A. The fee payer shall pay the Fire Protection and EMS Impact Fee to the City, through its Building Department, prior to the issuance of a building permit or manufactured home permit which may be required for development listed in the schedule in Subsection 15.42.060(A). No building permit or manufactured home permit may be issued for any development listed in Subsection 15.42.060(A) until such fee has been paid.
- B. No impact fee is required for the issuance of any building permit for residential use or manufactured home installation, which does not result in an additional living unit.
- C. All monies collected pursuant to this chapter shall be properly identified as Fire Protection and EMS Impact Fees and earmarked and handled as provided in Section 15.42.080 of this chapter.

#### **15.42.080 Earmarking and handling of Fire Protection and EMS Impact Fees.**

- A. All monies collected and paid as Fire Protection and EMS Impact Fees pursuant to Sections 15.42.060 and 15.42.070, respectively, shall be earmarked as Fire Protection and EMS Impact Fees in a dedicated ledger account within the General Fund.
- B. Monies so earmarked shall be transferred to the Fire District in the manner established by any relevant agreement, but at least once per fiscal period. All monies collected pursuant to this chapter must be used only in accordance with the provisions of Section 15.42.090.
- C. The Director of Finance shall do all things necessary to ensure that all monies collected and handled by the City pursuant to this chapter shall be accounted for in accordance with generally accepted accounting principles.

#### **15.42.090 Use of funds.**

- A. Monies collected from Fire Protection and EMS Impact Fees shall be used for the purpose of contributing toward and defraying the cost of capital facilities of the Fire District that are used to provide fire protection and emergency medical services. Except as provided in Subsection C of this Section 15.42.090, impact fee collections shall be used exclusively for the acquisition and/or expansion of capital facilities of the Fire District needed to provide the fire protection and EMS services that are or will be made necessary by development within the city. Funds shall be expended in the order in which they are collected.
- B. The City shall enter into one or more intergovernmental agreements, as authorized by the statutes of the State of Colorado, concerning the use of monies collected as the Fire Protection and EMS Impact Fees pursuant to this chapter. Such agreement shall provide for the collection, investment, transmission and expenditure of such impact fees and provide for full and accurate accounting with respect to said monies.
- C. The City shall be entitled to retain up to four percent (4%) of all impact fees it collects as an administrative fee to offset the costs of administering this chapter.

#### **15.42.100 Refund of fee paid.**

- A. If a building permit or manufactured home permit expires and no construction has been commenced, then the fee payer shall be entitled to a refund of the Fire Protection and EMS Impact Fee paid as a condition for its issuance, minus the amount of the fee retained by the City as an administrative fee pursuant to Subsection 15.42.090(C), which amount shall be non-refundable. If the amount retained by the City was four percent (4%) of the impact fee collected, the fee payer shall be entitled to a refund equal to ninety-six percent (96%) of the impact fee paid. No interest will be paid to the fee payer on refunds due to the failure to commence construction.
- B. Any funds not expended or encumbered by the end of the calendar quarter immediately following eight (8) years from the date the impact fee was paid shall, upon application of the fee payer within one hundred eighty (180) days of that date, be returned to the fee payer by the Fire District with interest at the rate of three percent (3%) per annum. Any intergovernmental agreement between the City and the Fire District shall so provide.

#### **15.42.110 Exemptions and credits.**

- A. The following shall be exempted from payment of the impact fee:
  1. Alteration or expansion of an existing building or use of land where no additional living units are created, where the use is not changed, and where no additional demand for fire protection and EMS/rescue services will be produced over and above that produced by the existing use;

2. The construction of accessory buildings or structures which will not produce additional living units over and above those in the principal building or use of the land;
3. The replacement of a building, manufactured home, or structure that was in place on the effective date of the ordinance codified in this chapter, or the replacement of a building, manufactured home, or structure that was constructed subsequent thereto and for which the correct impact fee had been paid or otherwise provided for, with a new building, manufactured home, or structure of the same use, provided that no additional trips will be produced over and above those produced by the original use of the land;
4. By mutual agreement between the Fire District and the City, on the development of low- or moderate-income housing or affordable employee housing as defined by the City or state statutes; and
5. The construction or change in use of any building or structure owned or occupied by the City for purposes of conducting City business or performing City services, as determined solely by the Council of Cañon City.

B. Credits.

1. All improvements to and/or land dedications for fire protection and EMS required under a City development approval shall be credited against impact fees up to the total of the impact fees due. When the fee payer proposes credit for construction, he or she shall present cost estimates prepared by qualified professionals to be used in determining the amount of credit. When the fee payer proposes credit for land dedication, he or she shall present property appraisals prepared by qualified professionals and a certified copy of the most recent assessment of the property for tax purposes to be used in determining the amount of the credit. However, the Council of Cañon City and Fire District Board retain the right to determine the amount to be credited by preparing engineering and construction cost estimates and/or property appraisals, at the sole cost of the Fire District, for those improvements and/or land dedications. Such credits shall be calculated so as to be consistent with Section 29-10-104.5, C.R.S.
2. Fee payers claiming credits for construction and/or land dedication shall submit documentation sufficient to permit the City and/or Fire District to determine whether such credits claimed are due and, if so, the amount of such credits.

C. Exemptions or credits must be claimed by the fee payer at the time of the application for a building permit or manufactured home permit. Any exemptions or credits not so claimed shall be deemed waived by the fee payer.

### **15.42.120 Appeal.**

Any decision made by the City official, his or her designee, or the Building Official in the course of administering this chapter may be appealed in accordance with those procedures set forth in Colorado statutes and court rules. Every intergovernmental agreement made pursuant to this chapter shall specifically incorporate this appeal procedure.

### **15.42.130 Penalty and enforcement provision.**

- A. Any person who violates any provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in an amount that does not exceed the maximum fine provided for in Section 1.28.010.
- B. In addition to, or in lieu of, any criminal prosecution provided for in Subsection A of this Section 15.42.130, the City of Cañon City or any fee payer shall have the power to sue for relief in civil court to enforce the provisions of this chapter; provided that all costs incurred by the City in bringing or defending any such suit shall be paid or reimbursed by the Fire District. The City will not file any suit permitted under this subsection unless asked to do so in writing by the Fire District Board. The City will promptly notify the Fire District if the City is sued (served with process naming it as a defendant) pursuant to this subsection.
- C. Knowingly furnishing false information to the City and/or Fire District on any matter relating to the administration of this chapter shall constitute a violation of this chapter.

### **15.42.140 Severability.**

If any section, phrase, sentence, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Chapter 15.32 of the Cañon City Municipal Code is hereby deleted in its entirety.

Section 9. The Cañon City Municipal Code is hereby amended by the reinstatement of Title 14:

## **Title 14 DRAINAGE, STORMWATER AND FLOODPLAIN REGULATIONS**

### **14.10 DRAINAGE**

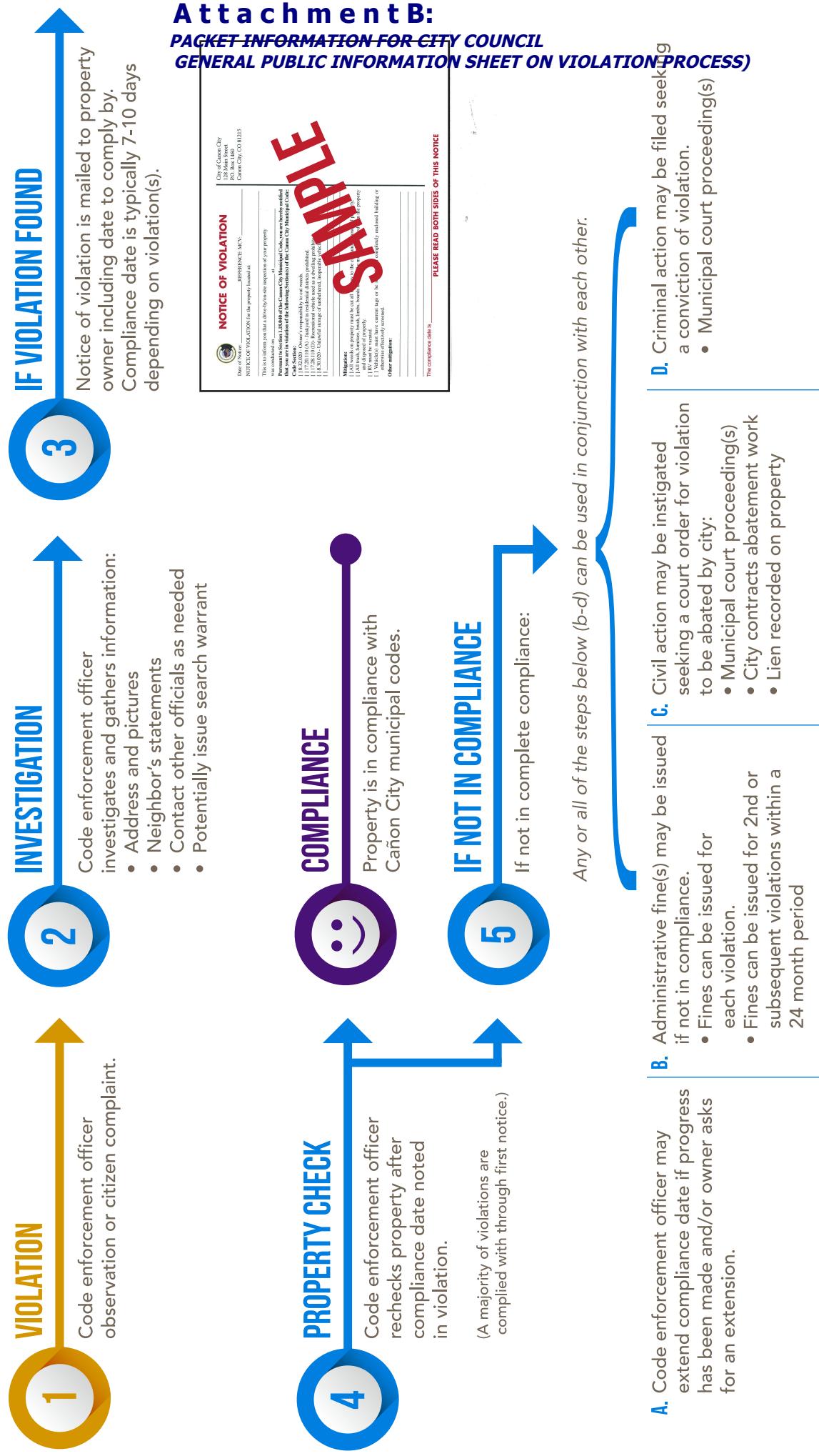
#### **14.10.010 Purpose and intent.**

The purpose of this chapter is to regulate maintenance of curbs, gutters, culverts, and ditches to protect public infrastructure, health, safety, and private property.



## GENERAL VIOLATION PROCESS

**COMMUNITY DEVELOPMENT DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**



## Attachment B:

**PACKET INFORMATION FOR CITY COUNCIL  
GENERAL PUBLIC INFORMATION SHEET ON VIOLATION PROCESS**

August 2017

**Attachment C:**

**PACKET INFORMATION FOR CITY COUNCIL:  
CODE ENFORCEMENT'S ADMINISTRATIVE PROTOCOL FOR NOTICING**



# ***City of Cañon City***

**P.O. Box 1460 • 128 Main Street • Cañon City, CO 81215-1460  
(719) 269-9011 – Fax: (719) 269-9017**

***Community Development Department  
Code Enforcement Division***

## **MEMORANDUM**

**TO: Deana Swetlik-Community Development Director  
FROM: Joelene Inman-Code Enforcement Officer  
Date: 12/13/2017**

### **RE: PROTOCOL: Noncompliance violation process for Code Enforcement**

1. Code Enforcement (CE) Officer observes or verifies a violation.
2. CE gathers evidence including pictures.
3. A Notice of Violation (NOV) FORM is mailed (even if responsible party was contacted by phone or in person)
4. CE rechecks property according to compliance date given for NOV.
5. If violations still exists a Notice of Noncompliance LETTER is mailed certified.
6. CE rechecks property according to new compliance date given.
7.
  - A. If little to no progress has been made an administrative fine FORM is issued for \$50.00 for every violation still existing. Responsible party is given an additional 10 days to comply.
  - B. If progress has been made, another LETTER for noncompliance is mailed to responsible party. This letter addresses progress made to-date, but restates that compliance is required and sets recheck date.
8. If little to no progress has been made after additional 10 days (a la #7A above), CE gathers additional evidence (pictures, neighbor's statements, and CE's report) to prepare for a possible court case. All information is discussed with the City Planner and/or the Community Development Director.
9. Involve City Attorney if approved by supervisor.

**RESOLUTION NO. 7, SERIES OF 2014**

**A RESOLUTION APPROVING GUIDELINES RESPECTING THE ADMINISTRATIVE CITATION PROCESS AND SETTING AN ADMINISTRATIVE FINE SCHEDULE**

**WHEREAS**, the Council of Cañon City recently adopted Ordinance No. 3, Series of 2014 in order to create enforcement tools intended to encourage property owners and occupants within the City to voluntarily comply with numerous City ordinances identifying behavior and circumstances constituting nuisance and related violations under the Cañon City Municipal Code and to provide for the issuance and enforcement of administrative citations when those who violate such provisions of the Municipal Code fail to voluntarily comply; and

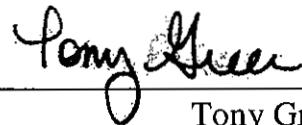
**WHEREAS**, said Ordinance No. 3 charged the City Administrator with the duty to develop guidelines with respect to the administrative citation process for approval by City Council and to publish a graduated schedule of fines that will apply with respect to administrative citations issued and served by the City's Code Enforcement Officers; and

**WHEREAS**, such guidelines and fine schedule are attached hereto as Exhibit A.

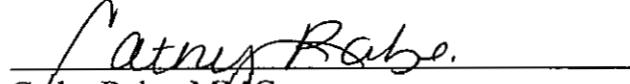
**NOW THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF CAÑON CITY, that:**

1. The guidelines and fine schedule attached hereto as Exhibit A are hereby approved, effective immediately.
2. That the fine schedule contained therein shall not be amended more frequently than once every twelve months.

Dated this 16<sup>th</sup> day of June, 2014.



Tony Greer, Mayor

  
\_\_\_\_\_  
Cathy Rabe, MMC  
City of Cañon City, Colorado

## Exhibit A

### Guidelines With Respect to Administrative Citations and Administrative Fines

WHEREAS, Section 1.18.050 of the Cañon City Municipal Code authorizes the City's Code Enforcement Officers to issue Administrative Citations to responsible parties who violate certain sections of the Cañon City Municipal Code following the service of written Notices of Violation, as provided for in Section 1.18.040, Cañon City Municipal Code; and

WHEREAS, Section 1.18.060, Cañon City Municipal Code identifies the information that should be contained in an Administrative Citation and provides that, in addition to other information, the Administrative Citation must state the amount of the administrative fine imposed upon a responsible party upon whom an Administrative Citation was served for the violation or violations identified therein; and

WHEREAS, Section 1.18.130 of the Cañon City Municipal Code requires the City Administrator to adopt and publish a schedule of fines after these guidelines have been approved by City Council.

NOW THEREFORE, the following guidelines and fine schedule shall apply:

1. Code Enforcement Officers shall encourage voluntary compliance from responsible parties who own and/or occupy property upon or with respect to which nuisances or other Municipal Code violations have been observed and shall attempt to communicate directly with such responsible parties before issuing Notices of Violation and/or Administrative Citations.

2. The issuance and service of a written Notice of Violation shall be an acceptable means of encouraging voluntary compliance if the Code Enforcement Officers are unable to meet directly with responsible parties. Reasonable efforts should be made to adequately describe to the responsible party the minimum steps that must be taken in order to come into compliance or abate a nuisance.

3. Administrative Citations may be issued and served on a responsible party only after such responsible party has been served a Notice of Violation satisfying the requirements of Section 1.18.040, Cañon City Municipal Code, and has failed to achieve compliance or abate the nuisance described in the notice. Not fewer than ten (10) calendar days must have passed following the service of the Notice of Violation before an Administrative Citation may be issued.

4. Additional time to abate a nuisance or to otherwise come into compliance shall be allowed in the sole discretion of the Code Enforcement Officer only if: (a) a diligent effort to come into compliance has been initiated by a responsible party; or (b) if a delay in undertaking remedial action occurs for reasons that are beyond the reasonable control of the responsible party or parties served with the Notice of Violation.

5. Code Enforcement Officers shall have authority to waive some or all of any administrative fine assessed through an Administrative Citation if, but only if, full compliance by the responsible party has been achieved within ten (10) days following the issuance of an Administrative Citation through which the administrative fine was assessed; provided that no portion of an administrative fine may be waived for a second or subsequent violation of the same code section in any twenty-four (24) month period.

6. Administrative fines shall be imposed according to the following schedule:

Administrative Citation Fine Schedule	
For a 1 <sup>st</sup> violation in a 24 month period	\$50.00 per count, up to a maximum of \$200.00
For a 2 <sup>nd</sup> violation in a 24 month period	\$100.00 per count, up to a maximum of \$400.00
For a 3 <sup>rd</sup> violation in a 24 month period	\$200.00 per count, up to a maximum of \$800.00
For a 4 <sup>th</sup> violation in a 24 month period	\$300.00 per count, up to a maximum of \$1,200.00
For a 5 <sup>th</sup> violation in a 24 month period	\$500.00 per count, up to a maximum of \$2,000.00
For a 6 <sup>th</sup> or subsequent violation in a 24 month period	\$2,500.00

7. Payment of an administrative fine shall not relieve a responsible party of the obligation to abate a nuisance or to otherwise come into compliance by discontinuing the activity or circumstance constituting the violation.

8. Abatement of a nuisance violation or other compliance will not relieve a responsible party who has been properly served an Administrative Citation from the obligation to pay the administrative fine set forth in the Administrative Citation, except that some or all of the fine for a first offense may be waived by the Code Enforcement Officer as provided hereinabove.

9. Violations with respect to which an Administrative Citation may be issued shall include, but not necessarily be limited to the following:

Type of Violation	Municipal Code Section	✓
To create, operate, maintain or conduct any nuisance, as defined in Chapter 38, CCMC (See Section 8.38.040 G)	8.38.130 A	
To interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by an officer or agent of the City acting pursuant to a provision of this chapter or pursuant to a court order	8.38.130 B	
To allow any property, including any private residence, to deteriorate, either through abandonment or neglect, to the extent that such property becomes an unsightly nuisance and a detriment or danger to surrounding property or the general public. Evidence of abandonment or neglect which could render a property either an unsightly nuisance or a detriment or a danger to surrounding property may include a combination of some of the following occurrences or conditions, or occurrences and conditions which are similar to the following: Substantial peeling or faded paint, broken shutters or facia, bent, broken or rusted gutters, broken windows or screens, detached doors or screens, broken or damaged fencing, damaged or dead landscaping, cracked and/or potholed cement or asphalt paving, presence of weeds in gravel or paved parking areas	8.38.130 C	
Junkyards and dumping grounds. All places used or maintained, or permitted to be used or maintained, as junkyards, or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, machinery of any kind, or for any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, when such places are kept in such manner as to interfere with the comfortable enjoyment of life or property by others or cause a detriment to the public health, safety or welfare. Nothing in this subsection 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 pursuant to this Code	8.38.140 A	
Slaughterhouses and rendering plants. All places used or maintained or permitted to be used or maintained for slaughtering animals, for bone crushing, bone boiling, bone rendering, bone burning, fat boiling, fat rendering, fat drying, gut cleaning or the making of glue, or the manufacture of fertilizing materials of any kind or description from any dead animal or part thereof, or any boiling of offal, swill, fat or grease of any description when such places are operated in any unclean or offensive manner, or when such places are operated so as to interfere with the comfortable enjoyment of life or property by others or cause a detriment to the public health, safety or welfare	8.38.140 B	

Type of Violation	Municipal Code Section	✓
Slaughtering of animals. Any use of residential property for animal slaughtering or butchering whether for private use or for sale in a manner which interferes with the comfortable enjoyment of life or property by others or causes a detriment to the public health, safety or welfare	8.38.140 D	
Any animal or fowl enclosure in which any animal or fowl may be kept, or in any other place in which manure or liquid discharges of such animals or fowls may accumulate, and which is maintained in an unsanitary condition, allowing an offensive odor to escape therefrom, or providing an insect or rodent attractant	8.38.150 A	
Manure or any other organic material used on premises for fertilizing purposes which are allowed to become offensive to sight, an attraction to insects or rodents, or to otherwise create an unsanitary condition	8.38.150 B	
Whenever manure or any other organic material shall accumulate and affect the health of the public	8.38.150 C	
To allow any building or premises or appurtenance thereof, or any use made or maintained on or within property, to become offensive in odor, offensive to sight, or to create an unsanitary or hazardous health condition	8.38.150 D	
Illegal dumping. It shall be unlawful for any person to put, place or dump garbage, trash, litter, refuse or waste material of any kind in, under, on or around a private, public or commercial garbage refuse dumpster, trash container, solid waste container or recyclable container belonging to another, without prior written permission for such use being granted by the owner, lessee or person in control of the real property upon which the dumpster or other trash container is located. This section shall not apply to public containers located in places other than public parks which are placed in public locations for use by the public. Use of containers in public parks and along public trails shall be governed by park rules set forth in or otherwise authorized in Chapter 9.44 or in public trail rules set forth in Chapter 9.46 of this Code	8.38.160	
Stagnant ponds. Any cellar, vault, drain, sewer, pond of water, or other place that shall be noxious or offensive to others, or injurious to public health, safety or welfare through an accumulation or deposition of noxious, offensive or foul water, or other substances, or be conducive to the breeding of mosquitoes, shall be unlawful and deemed a nuisance	8.38.170 A	
Stale matter. It shall be unlawful and deemed a nuisance to keep, collect, or use or cause to be kept, collected, or used, or permit to be kept or used, any stale, putrid, or stinking fat or grease or other matter	8.38.170 C	

<u>Type of Violation</u>	<u>Municipal Code Section</u>	<u>✓</u>
Sanitary sewer inlets. It shall be unlawful and deemed a nuisance to deposit in or throw into, or permit to be deposited in or thrown into, any sanitary sewer, sanitary sewer inlet, or privy vault that shall have a sanitary sewer connection, any article whatsoever that might cause such sanitary sewer, sanitary sewer inlet, or privy vault, to overflow, backup or otherwise become noxious or offensive to others, or to become injurious to public health, safety or general welfare of the residents of the City	8.38.170 D	
Noxious liquids. It shall be unlawful and deemed a nuisance to discharge out of or from, or permit to flow from any house or place, any foul or noxious liquid or substance of any kind whatsoever, into or upon any adjacent ground or lot, or into any street, alley or public place	8.38.180 A	
Liquid fuel products. The leakage of five (5) gallons or more of liquid fuel products into the environment from any tank, line, or delivery vehicle, constitutes a danger to the health, safety and welfare of the general public and the citizens of the City and is therefore a nuisance	8.38.180 B	
Leaking receptacles, offensive channels. Any unclean, leaking, foul, unsafe, or dangerous, defective or filthy drain, ditch, trail, or gutter, or any leaking or broken slop, garbage, or manure box or receptacle of like character, whenever and wherever found in the City, shall be deemed a nuisance	8.38.180 C	
Harmful chemicals. It shall be unlawful and deemed a nuisance for any responsible party to apply or use any herbicide, pesticide, insecticide, rodenticide, disinfectant, fumigant or other harmful chemical, gas or vapor upon the property in such a manner that the harmful chemical, gas or vapor leaches, escapes, migrates, or flows from the property and deposits in or on any other public or private property	8.38.180 D	
Diesel emissions. It shall be unlawful for any owner or operator of any diesel-powered engine to cause or permit the same to be idled for a period in excess of fifteen (15) consecutive minutes, or for a period in excess of forty-five (45) minutes in any one hundred-twenty (120) minute period, (it being the intent of this provision that an owner or operator may not circumvent the provisions of this section by the repeated turning on and off of a diesel engine) at any time that the outside temperature is twenty-two (22) degrees Fahrenheit or above; provided, however, that unattended vehicles operated by diesel powered engines shall not be allowed to idle at any time; and provided further, however, that the provisions of this section shall not apply to ambulances or other emergency vehicles	8.38.180 E	
It shall be unlawful and deemed a nuisance for any person to deposit, throw or place any litter upon any street, alley, sidewalk, or public grounds in the City except in public receptacles or authorized private receptacles	8.38.190 A	

Type of Violation	Municipal Code Section	✓
Littering of private property. The responsible party in control of any private property shall at all times, maintain the premises free of litter, trash, garbage or refuse. No person shall throw or deposit litter on any private property, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. Weed or grass clippings shall not be left or stored by the responsible party in such a manner as to allow the clippings to be windblown onto other private property or public property	8.38.190 B	
It shall be unlawful and deemed a nuisance for any person, while an operator or passenger in any vehicle, to deposit, throw or place any litter in or upon any street, alley, sidewalk or public grounds except in public receptacles and authorized private receptacles	8.38.190 C	
It shall be unlawful and deemed a nuisance to operate any truck, trailer or vehicle in such manner that the load or any portion of the content of such truck, trailer or vehicle is blown or deposited in or upon any street, alley, sidewalk or public grounds in the City	8.38.190 D	
It shall be unlawful and deemed a nuisance for any person to deposit, throw or place any papers, newspapers, handbills, letters, samples or literature in or upon any public street, alley, sidewalk or public grounds	8.38.190 E	
It shall be unlawful and deemed a nuisance for any person, except an authorized public employee or officer, or a person who has previously obtained a permit to do so from the City to post, place, glue, staple, nail, affix, or attach any handbill, poster, placard, sign, announcement or other painted or printed materials upon or to any street, alley, sidewalk, lawful sign, telephone pole, power pole, or any public or private dwelling, store, or other building or fence without the permission of the owner or occupant of such property	8.38.190 F	
It shall be unlawful to keep or store any construction materials unless such materials are covered or secured or in some manner protected so as to prevent such materials from being blown, scattered about or otherwise moved	8.38.190 G	
It is unlawful to store upon the property, place upon the property, or allow to remain on the property any trash or garbage, as described in Section 8.38.040, for a period in excess of seven (7) days	8.38.200 A	
It is unlawful to dump or deposit, or cause to be dumped or deposited, garbage, trash or junk on the property of another, or on any property owned by the City, unless such property is clearly marked and designated as a proper dump or receptacle for the deposit of trash, garbage or junk	8.38.200 B	

Type of Violation	Municipal Code Section	✓
It is unlawful to place or permit to remain anywhere in the City any garbage or other material subject to decay other than leaves or grass, except in a covered metal or plastic container, or in a sealed plastic bag, awaiting pickup and disposal	8.38.200 C	
It is unlawful to drive or move any truck or other vehicle unless such vehicle is loaded or covered so as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place	8.38.200 D	
Operate or cause to be operated on any highway or public way, any truck or vehicle transporting garbage, trash or junk, unless such vehicle or truck is fitted with a substantial, tight box or other container thereon so that no portion of such garbage, trash or junk shall be thrown or fall upon the highway or public way	8.38.200 E	
Cause or permit to accumulate any dust, dirt, ashes or trash, or any such material that can be blown away by the wind anywhere in the City except in a covered container or in a sealed plastic bag awaiting pickup and disposal	8.38.200 F	
Store, or cause or allow to be stored, upon the property any junk, as herein defined, unless the junk is completely contained within a house, garage or other permanent building on the property	8.38.200 G	
Store upon property or to allow to be viewed by the general public, or any member thereof, goods, materials or substances not otherwise or specifically defined or definable as trash, garbage or junk, but which goods, materials or substances are of a type, kind, quantity or description not commonly associated with the zoning classification or permitted use of the property. This subsection shall apply to storage of firewood, unless the amount is two (2) cords or less, and the firewood is neatly stacked	8.38.200 H	
Deposit household or commercial solid waste in any City-owned solid waste receptacle maintained on a sidewalk, in a public park, or in any other public place	8.38.200 I	
Disorderly house. The keeping of any dwelling, boardinghouse, rooming house or other residential property in violation of any provision of this chapter or of Title 17, including any violation of maximum occupancy limitations imposed by that chapter or any condition of approval of the use of property imposed by action of the City, is a nuisance. A disorderly house shall also include keeping any such property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unsightly or unwholesome manner, noxious or offensive to others or injurious to public health, safety or welfare	8.38.210	
Parking or keeping a vehicle or trailer containing garbage within 250 feet of a residence	8.20.020	
Littering property or water way	8.24.010 A	

<u>Type of Violation</u>	<u>Municipal Code Section</u>	<u>Y</u>
Unlawful refrigerator or icebox	8.28.010	
Improper storage of inoperable motor vehicle	8.28.020	
Failure to cut or destroy weeds	8.32.030	
Placing trash or waste material on the property of another	8.36.010 A	
Placing trash or waste material upon a street, alley, sidewalk or public grounds	8.36.010 B	
Depositing dead animal or offensive materials on public streets, alleys or sidewalks	8.36.010 C	
Depositing polluting materials in streams, ditches or other bodies of water	8.30.010 C	
Depositing paper or clothing on streets, alleys, sidewalks, parks or other public grounds	8.36.010 D	
Failure to dispose of animal remains	8.36.020 A	
Unlawful burying of dead animal	8.36.020 C	
Violation of Uniform Code for the Abatement of Dangerous Buildings See §8.38.040 G (11), CCMC	8.40.050	
Violation of Uniform Housing Code. See §8.38.040 G (10), CCMC	15.08.050	

**RESOLUTION NO. \_\_\_\_\_, SERIES OF 2019**

**A RESOLUTION REPEALING AND SETTING AN ADMINISTRATIVE FINE SCHEDULE**

**WHEREAS**, the Council of Cañon City recently adopted Ordinance No. \_\_\_\_\_, Series of \_\_\_\_\_ in order to update enforcement tools intended to encourage property owners and occupants within the City to voluntarily comply with numerous City ordinances identifying behavior and circumstances constituting nuisance and related violations under the Cañon City Municipal Code and to provide for the issuance and enforcement of administrative citations when those who violate such provisions of the Municipal Code fail to voluntarily comply;

**WHEREAS**, as part of that Ordinance, City Council continued the process of allowing for administrative citations as an enforcement tool for the City to obtain compliance with the City's nuisance abatement provisions;

**WHEREAS**, said Ordinance charged the City Administrator with the duty to develop guidelines and fines that will apply with respect to administrative citations issued and served by the City's Code Enforcement Officers; and

**WHEREAS**, the City Administrator desires to update previous guidelines.

**NOW THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF CAÑON CITY, that:**

1. Resolution No. 7, Series 2104 is hereby repealed.
2. The guidelines and fine schedule attached hereto as **Exhibit A** are hereby approved, effective immediately.
3. That the fine schedule contained therein shall not be amended more frequently than once every twelve months.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

---

Preston Troutman, Mayor

---

Cindy Foster-Owens, Clerk

## EXHIBIT A

### GUIDELINES WITH RESPECT TO ADMINISTRATIVE CITATIONS AND ADMINISTRATIVE FINES

1. Code Enforcement Officers shall encourage voluntary compliance from responsible parties who own and/or occupy property upon or with respect to which nuisances or other Municipal Code violations have been observed and shall attempt to communicate directly with such responsible parties before issuing Notices of Violation and/or Administrative Citations.

2. The issuance and service of a written Notice of Violation shall be an acceptable means of encouraging voluntary compliance if the Code Enforcement Officers are unable to meet directly with responsible parties. Reasonable efforts should be made to adequately describe to the responsible party the minimum steps that must be taken in order to come into compliance or abate a nuisance.

3. Additional time to abate a nuisance or to otherwise come into compliance shall be allowed in the sole discretion of the Code Enforcement Officer only if: (a) a diligent effort to come into compliance has been initiated by a responsible party; or (b) if a delay in undertaking remedial action occurs for reasons that are beyond the reasonable control of the responsible party or parties served with the Notice of Violation.

4. Code Enforcement Officers shall have authority to waive some or all of any administrative fine assessed through an Administrative Citation if, but only if, full compliance by the responsible party has been achieved within ten (10) days following the issuance of an Administrative Citation through which the administrative fine was assessed; provided that no portion of an administrative fine may be waived for a second or subsequent violation of the same code section in any twenty-four (24) month period.

5. Administrative fines shall be imposed according to the following schedule:

Administrative Citation Fine Schedule	
For a 1 <sup>st</sup> violation in a 24 month period	\$50.00 per count, up to a maximum of \$200.00
For a 2 <sup>nd</sup> violation in a 24 month period	\$100.00 per count, up to a maximum of \$400.00
For a 3 <sup>rd</sup> violation in a 24 month period	\$200.00 per count, up to a maximum of \$800.00
For a 4 <sup>th</sup> violation in a 24 month period	\$300.00 per count, up to a maximum of \$1,200.00
For a 5 <sup>th</sup> violation in a 24 month period	\$500.00 per count, up to a maximum of \$2,000.00
For a 6 <sup>th</sup> or subsequent violation in a 24 month period	\$2,500.00 per count