Chapter 8.04
JUNK, RUBBISH AND WEEDS

Sections:
8.04.010 Definitions.
8.04.020 Duties of property owner and lessee – Unlawful accumulations – Inspections.
8.04.030 Cutting and removal required.
8.04.040 Notice to cut and remove.
8.04.050 Notice to abate – Cutting, removal by City.
8.04.060 Assessing costs.
8.04.070 Notice of assessment.
8.04.080 Collection of assessments.
8.04.090 Penalty for violations.
8.04.100 Administrative hearing.

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

*Brush* means natural growth of bushes and vegetation such as is growing out of place in the location where growing, and shall include all cuttings from trees and bushes, and high and rank vegetable growth, which may conceal filthy deposits.

*Junk* means and includes, but is not limited to, ferrous and nonferrous metals, wood or wood products, appliances not being used for their intended purposes, rubber or plastic products, dismantled or inoperable machinery, equipment, tools, junk vehicles or trash or similar materials.

*Rubbish* means all combustible or noncombustible waste, including but not limited to ashes, bottles, cans, carcasses of dead animals, cardboard, cloth, crockery, human or animal excrement, glass, abandoned or unusable household furnishings or appliances, metals, plastics, tree branches, limbs, waste building materials or items discarded in such a manner as to create a reasonable likelihood of becoming a harborage for insects or vermin or disease, or otherwise create a health or safety hazard.

*Weed* means an unsightly, useless, troublesome or injurious herbaceous plant and such plant as is out of place at the location where growing, and includes all rank vegetable growth which exudes unpleasant or noxious odors, and also high and rank vegetable growth that may conceal filthy deposits. This includes, but is not limited to, any plant species designated in the categories described in § 35-5.5-108, C.R.S. Plant species described in § 35-5.5-108, C.R.S. are maintained by the Colorado Department of Agriculture.

(Ord. 3864 § 1, 2-1-06. Ord. 2832, 5-3-95. Code 1994 § 16-26; Code 1965 § 14-24)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

State law reference(s) – Junk defined, § 31-15-401(1)(d), C.R.S.
8.04.020 Duties of property owner and lessee – Unlawful accumulations – Inspections.

(a) (1) It shall be the duty of each and every owner and each and every lessee of any tract or parcel of real property in the City, including such owners or lessees of agricultural lands (as defined in § 39-1-102(1.6)(a), C.R.S. to keep the property free of junk and rubbish, to cut to within three inches of the ground all weeds and brush exceeding six inches in height, including puncture vine regardless of height, and to keep such growth down on each lot or tract of ground on or along any street or avenue adjoining such lot or tract between the property line and the curbline thereof, and on or along any alley adjoining such lot or tract between the property line and the center of such alley.

(2) The requirements of subsection (a)(1) of this section shall not apply to undeveloped lands over one acre in size; instead, such owners or lessees of such lands shall be required to keep weeds down or cut between the property line of such land and the center of any adjacent right-of-way and shall be required to keep the weeds down or cut within 20 feet of any adjacent tract, parcel or area on which the weeds are kept down or cut, and within 40 feet of any adjacent right(s)-of-way, as provided or required in subsection (a)(1) of this section or as otherwise set forth in this chapter.

(3) Notwithstanding any language to the contrary in subsections (a)(1) and (a)(2) of this section, every owner and every lessee of any tract or parcel, whether or not agricultural or undeveloped, shall remove and cut designated undesirable plants from such property.

(b) It is unlawful for any owner or lessee of any lot or tract of ground in the City to pile, store or allow to accumulate any junk or rubbish on the premises. This section does not apply to salvage yards permitted under Chapter 21.40 GJMC.

(c) The City, through its agents or 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 violations, when at least one of the following circumstances has occurred:

(1) The landowner or occupant has requested an inspection;

(2) A neighboring landowner or occupant has reported a suspected weed, junk or rubbish violation and requested an inspection; or

(3) An authorized agent of the City has made a visual observation from a public right-of-way or area and has reason to believe that a violation exists.

No entry upon premises, lands or places shall be permitted until the landowner or occupant has been notified, either orally or by a notice being posted in a conspicuous location at the property. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(d) If after the City has given a notice of a pending inspection or requested an inspection and the landowner or occupant denies access to the City employee, agent or inspector, the City may seek an inspection warrant issued by the Municipal Court. The Court shall issue an inspection warrant upon presentation of an affidavit which contains information which gives the inspector reasonable cause to
believe that a provision of this chapter is being or has been violated, establishes that the occupant or landowner has denied access to the inspector, and which describes the land. No landowner or occupant shall deny access to such land when presented with an inspection warrant. Denial of access when presented with an inspection warrant shall be deemed a violation and shall be deemed, in addition to other civil or criminal remedies, contempt of court.

(Ord. 3864 § 2, 2-1-06; Ord. 2832, 5-3-95. Code 1994 § 16-27; Code 1965 § 14-25)

8.04.030 Cutting and removal required.
It shall be the duty of the owner, agent or lessee of any lots, tracts or parcels of land, except as stated in GJMC 8.04.020, to cut weeds or brush and to remove such weeds or brush, together with rubbish, and to keep such weeds down each year. All such weeds and brush shall immediately, upon cutting, be removed with the rubbish to the appropriate disposal site.

(Code 1994 § 16-28; Code 1965 § 14-26)

8.04.040 Notice to cut and remove.
The City Manager shall publish for three consecutive days each spring a notice in the official newspaper of the City notifying all owners of property, without naming them, that it is their continuing duty to cut the weeds and brush and to remove the weeds and brush, together with the rubbish, from their properties and from the streets and alleys as provided in this chapter, during the time provided in this chapter, and that, in default of such cutting and removal, the work may be done under order of the City Manager and the cost thereof, together with the penalties provided in this chapter, will be charged to the respective lots, tracts or parcels of land.

(Code 1994 § 16-29; Code 1965 § 14-27)

8.04.050 Notice to abate – Cutting, removal by City.
(a) In case of the failure of any owner or lessee of any lot, tract or parcel of land to cut and remove weeds, brush, junk or rubbish, as provided in this chapter, and upon the election of the City to remove such weeds, brush, junk or rubbish, the City Manager is authorized to give notice by certified mail addressed to the last-known post office address of the owner of such land as that address appears in the records of the County Recorder. Such notice shall require:

(1) Compliance with the terms of the notification;

(2) Acknowledgment by the addressee of the notification and submission to the City Manager of an acceptable plan and schedule for the completion of a management plan; or

(3) A request from the addressee for an administrative hearing of which the City must receive on or before the close of business of seven calendar days from the date of the notice.

If such election is not made within seven calendar days from the date of the notice, or the land owner or occupant otherwise fails to comply with the notice, the City may then proceed to enforce a management plan, which may include, but not be limited to, cutting of such weeds and brush or removal of junk and/or rubbish.
(b) A management plan shall be prepared by the City and shall include, but not be limited to, a document containing the signatures of the owner and the lessee, if the owner is not in actual possession of the property, a mutually agreed upon date for elimination or removal of weeds, brush, junk and/or rubbish, and a bond, cash deposit or other acceptable form of security payable to the City in an amount reasonably calculated to approximate the cost of cleanup, and/or to secure performance of the management plan.

(c) An administrative hearing, if requested by the party in interest, shall be specific as to the condition of weeds, brush, accumulated junk and/or rubbish, and evidence shall be heard by the duly appointed board as to these matters only. Statements and evidence, if offered, shall be taken from all parties in interest, which evidence must be relevant to the existence of and/or the removal or elimination of the infestation of weeds, brush and/or the accumulation of junk and/or rubbish. The board shall make findings of fact from the evidence presented at the hearing as to whether the conditions complained of exist and should be eliminated. If the board determines that weed or brush infestation exists or if an accumulation of junk and/or rubbish exists and should be cut or removed, the City Manager may issue an order based on the findings of the board, directing that the infestation or accumulation be removed or eliminated. The order of the City Manager shall be a final decision and may only be appealed to the district court, pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a party in interest to timely file an appeal constitutes a bar and a waiver of any right to contest the City’s right to eliminate or remove the weeds, brush, junk and/or rubbish from the property and charge the resulting costs against the person and/or the property. The City, through its agents or 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 chapter. If an order of the City Manager has not been complied with within 30 days after its issuance, the City, at the discretion of the City Manager or his designee, may cause the elimination or removal of the infestation of weeds or brush and/or the removal or elimination of accumulated junk and/or rubbish. Any owner, lessee or other party in interest who fails to comply with an order issued by the City Manager or his designee is hereby obligated to pay administrative costs and expenses incurred in the elimination or removal of the conditions complained of. Such administrative costs shall include the cost of removal or elimination, legal costs and fees, and administrative fees which are occasioned by enforcement of this chapter. All costs are independent of any other penalties or powers of enforcement of the City.

(d) No agent or employee of the City shall have a civil cause of action against a landowner 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 landowner or occupant.

(Ord. 3864 § 3, 2-1-06. Code 1994 § 16-30; Code 1965 § 14-28)

8.04.060 Assessing costs.
Upon completion of the cutting work done by City forces and/or the City’s designee under this chapter, charges shall be made against the owner of the property on which the weeds were cut. The charges shall be the City’s actual costs for labor, equipment and materials plus an administrative penalty of $50.00 for the first cutting, $100.00 for the second cutting and $150.00 for the third and subsequent cutting(s) within
five years, plus a 25 percent surcharge for supervision and inspection. The City Manager may set a minimum labor, equipment and material charge for cutting operations of less than one hour.

(Ord. 3864 § 4, 2-1-06. Code 1994 § 16-31; Code 1965 § 14-29)

**State law reference(s)** – Authority to assess costs, § 35-5.5-109, C.R.S.

8.04.070 Notice of assessment.
The Community Development Department, as soon as may be practicable after an assessment is made under this chapter, shall send by mail, addressed to the owner of the affected lots or tracts of land, at the reputed post office address of such owner as it appears in the records of the County Assessor, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner or owners, and the amount of the assessment.

(Code 1994 § 16-32; Code 1965 § 14-30)

8.04.080 Collection of assessments.
It shall be the duty of the owner to pay the assessment levied under this chapter within 20 days after the mailing of such notice, and in case of his failure so to do, he shall be liable personally for the amount of the assessment, and such assessment shall be a lien upon the respective lots or parcels of land from the time of such assessment. In case the owner shall fail to pay such assessment within 20 days after notice has been mailed to him, as provided by this chapter, then it shall be the duty of the City Manager to certify the amount of the assessment to the County Treasurer or other officer of the County having custody of the tax list at the time of such certification, to be by him placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a 25 percent administrative surcharge thereon to defray the costs and to provide an economic disincentive for violations and the continuation of violations; and all of the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments.

(Code 1994 § 16-33; Code 1965 § 14-31)

8.04.090 Penalty for violations.
The fact that assessments have been made against property as provided in this chapter for cutting and removing weeds, brush and rubbish shall not prevent the owner, agent or lessee from being punished by fine or jailing under the general provisions of this code, but such fine or penalty may be imposed on those found guilty of violating the provisions of this chapter in all cases, whether an assessment has or has not been made in accordance with the provisions of this chapter.

(Code 1994 § 16-34; Code 1965 § 14-32)

8.04.100 Administrative hearing.
(a) Hearing Board. The City Council shall, as needed, appoint an administrative hearing board which shall hear evidence and render findings of fact as outlined in this section. The board shall serve as the Undesirable Plant Management Advisory Commission. The members of the board shall be residents of
the City. The board shall annually elect a chairperson and a vice-chairperson. A majority of the members of the board shall constitute a quorum for the conduct of business.

(b) Management Plan. The administrative hearing board in its capacity as the Undesirable Plant Management Advisory Commission shall develop a recommended management plan for the integrated management of designated undesirable plants within the City. The management plan shall be reviewed at regular intervals but not less often than once every three years. The management plan shall be transmitted to the City Council for approval, modification or rejection.

(c) Designation of Undesirable Plants. The administrative hearing board shall designate undesirable plants which are subject to management. Plant species may be in addition to those designated in GJMC 8.04.010.

(d) Individual Management Plans. The administrative hearing board shall require that identified landowners or lessees be required to submit an individual management plan to control undesirable plants upon such person’s property.

(e) Authority of City Council. The City Council shall have the sole and final authority to approve, modify or reject the management plan, management criteria and management practice recommendations of the administrative hearing board as to the requirements of weed management in and for the City. The City Council shall not hear appeals from the board on enforcement actions taken by the board, the City Manager or City staff.

(Code 1994 § 16-35; Code 1965 § 14-33)