

**TITLE 3**  
**PUBLIC HEALTH AND SAFETY**

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CHAPTER 1  
**NUISANCES**

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3-1-1: **PURPOSE:**

- A. The intent of this chapter is to provide a comprehensive mechanism for the identification and abatement of public nuisances within the city, to safeguard the health, safety and welfare of the people by maintaining property or premises in good appropriate condition; to promote a sound and attractive community appearance; and to enhance the economic value of the community, and each area in it, through the regulation of the maintenance of property or premises.
- B. The remedies provided for in this chapter are supplemental and complementary to all of the provisions of this code, and state and federal law, and nothing herein shall be read, interpreted or construed in any manner to limit any existing right or power of the city to abate any and all public nuisances. (Ord. 2002-6, 11-4-2002)

3-1-2:       **APPLICABILITY:** The provisions of this chapter shall apply to all property throughout the city wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation of this chapter but which is duly authorized under any other city, state or federal law, shall not constitute a violation. (Ord. 2002-6, 11-4-2002)

3-1-3:       **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**ABATEMENT:**                   The removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.

**ATTRACTIVE  
NUISANCE:**                   Any condition, instrument or machine which is unsafe, unprotected and may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot, including, but not limited to, abandoned, broken or neglected vehicles, machinery, equipment, refrigerators, freezers, swimming pools, holes or excavations.

**OWNER:**                        The owner of record or any person with legal, financial or equitable interest in the property on which the alleged public nuisance exists at the time of the violation.

**PROPERTY:**                   Any real property, premises, structure or location on which a public nuisance is alleged to exist.

**PUBLIC NUISANCE:**           Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk subspace, deck; or any lot, land, yard, premises or location which, in its entirety or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life,

limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:

A. By reason of being a menace, threat and/or hazard to the general health and safety of the community.

B. By reason of being a fire hazard.

C. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.

D. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

The term public nuisance shall mean any nuisance designated in section 3-1-5 of this chapter.

**SUMMARY  
ABATEMENT:**

Abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair, or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this chapter. (Ord. 2002-6, 11-4-2002)

**3-1-4: RESPONSIBILITY FOR MAINTENANCE:**

- A. Every owner, occupant, lessee or holder of any possessory interest of real property within the city is required to maintain such property so as not to violate the provisions of this chapter.
- B. The owner of the property shall remain liable for violations hereof regardless of any contract or agreement with any third party

regarding such property or the occupation of the property by any third party. (Ord. 2002-6, 11-4-2002)

3-1-5:       **PUBLIC NUISANCES:** The following are declared to be public nuisances:

- A.    Unsafe Building Or Structure: Any building or structure which meets the definition of an unsafe building or structure as provided in the international building code or any successor provision.
- B.    Violation Of Planning And Zoning Laws And Regulations: Any violation of title 10 of this code relating to the city planning and zoning laws and regulations.
- C.    Imminent Life Safety Hazard: Any imminent life safety hazard which creates a present and immediate danger to life, property, health or public safety.
- D.    Attractive Nuisance: Any condition which constitutes an attractive nuisance whether within a structure or on the premises.
- E.    Repeated Disruptive Activities: Any building or place which has been operated or maintained in a manner that has resulted in repeated disruptive activities including, but not limited to, disturbances of the peace, public drunkenness, drinking in public, harassment of passersby, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, illegal parking, loud noises (particularly in late night or early morning hours), traffic violations, or police detentions and arrests.
- F.    Detrimental To Health: Any condition which renders air, food or drink unwholesome, unsanitary or detrimental to health.
- G.    Fire Hazard: Any condition which poses a fire hazard.
- H.    Animal Control: Any condition in violation of title 4, chapter 1 of this code.
- I.    Owning Animals Without Provisions For Protection Of Surrounding Properties: The ownership, possession or control of any animal or animals without proper provisions for the protection of the surrounding properties from odor and sound generated by the animals.

- J. Fences: Fences or other structures on private property abutting, fronting upon, or visible from the public right of way, which are severely sagging, leaning, fallen, or decayed, extending into the public right of way without permission of the city or which is otherwise in an unsafe or dilapidated condition.
- K. Accumulation Of Personal Property Or Wastes: The keeping, storage, depositing or accumulation on the premises for a period in excess of five (5) days of any personal property or wastes, including, but not limited to, abandoned, wrecked, partially dismantled, unlicensed or inoperative vehicles, abandoned, wrecked, partially dismantled or inoperative boats or vessels, trailers, campers, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, rubbish, debris, dirt, sand, gravel, concrete or other similar materials which is within the view of persons on adjacent or nearby real property or the public right of way. However, building materials being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary to expeditiously complete the project.
- L. Rotting Or Putrid Matter: Rotting or putrid matter, garbage, rubbish, refuse, or recyclable items which have not been recycled within fourteen (14) days of being deposited on the property.
- M. Lumber: Lumber (excluding building materials being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary to expeditiously complete the project), salvage materials including, but not limited to, auto parts, scrap metals, tires, or other materials stored on premises in excess of five (5) days and visible from adjacent or nearby real property or the public right of way.
- N. Vegetation: Vegetation including, but not limited to, weeds or grass that is overgrown and likely to harbor mice, rats, vermin, and other similar nuisances detrimental to neighboring properties, or vegetation growing into the public right of way, or vegetation obstructing the view of drivers on any public street or right of way or private driveway.
- O. Materials Stacked In Disorderly Manner: Materials stored or stacked on business, commercial or industrial property in a disorderly manner in view from the public right of way is prohibited. Nothing in this section shall be construed as prohibiting the orderly storage of business related materials and inventory above fence height where

permitted by applicable zoning designation and/or conditional use permit.

- P. Tarpaulins Or Temporary Covering Materials: Tarpaulins or other types of temporary covering materials used for covering of any material, item or property that would be a public nuisance is itself a public nuisance and is not a permissible means of abating a public nuisance.
- Q. Unsecured Buildings: Unsecured buildings constituting a hazardous condition or inviting or permitting trespassers or malicious mischief.
- R. Threat To Health, Safety Or Welfare Of Public: Any other condition or use of property which represents a threat to the health, safety and welfare of the public by virtue of its unsafe, dangerous or hazardous nature.
- S. Public Nuisance Defined In Statute: Any "public nuisance" as defined in Montana Code Annotated section 45-8-111 or otherwise recognized in law as constituting a public nuisance. (Ord. 2002-6, 11-4-2002)

3-1-6:       **ENFORCEMENT:** The city manager may designate a city department or employee to have primary responsibility for the abatement of a public nuisance under this chapter. Said city department or employee may be referred to herein as the enforcement officer. (Ord. 2002-6, 11-4-2002)

3-1-7:       **SUMMARY ABATEMENT:**

- A. Complaint; Inspection: Whenever a complaint is made to the enforcement officer of the existence of a "public nuisance", as defined in sections 3-1-3 and 3-1-5 of this chapter, the enforcement officer shall promptly cause to be inspected the property on which it is alleged that such public nuisance exists. Should the enforcement officer find that a public nuisance exists, and that the public health, safety or welfare may be in immediate danger, then summary abatement procedures shall be implemented and the enforcement officer may cause the nuisance to be removed or abated. The enforcement officer may notify the city building inspector if the public nuisance involves a building that appears structurally unsafe. The building inspector, upon being notified by the enforcement officer, shall cause the building on which it is alleged such public nuisance exists to be

inspected and submit a written report of such inspection and the findings to the enforcement officer.

- B. Notice To Owner: When summary abatement is authorized, notice to the owner, agent or occupant of the property is not required. Following summary abatement, the enforcement officer shall cause to be posted, on the property liable for the abatement, a notice describing the action taken to abate the nuisance. (Ord. 2002-6, 11-4-2002)

**3-1-8: ABATEMENT IN OTHER CASES; NOTICE:**

- A. Regular Abatement Procedures Required: If, after inspecting the property on which the nuisance is reported, the enforcement officer declares the existence of a public nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then regular abatement procedures shall be followed.
- B. Notice: The enforcement officer shall determine the individual, firm or corporation who, from the records in the county clerk and recorder's office, appears to be the titled owner of the aforesaid property and shall attempt to determine the individual in possession of the property, if different from the owner, and immediately cause a written notice to be served on such individual, firm or corporation by personal service. If the enforcement officer is unable to serve such individual, firm or corporation by personal service, the enforcement officer shall serve the notice by mailing a copy of the notice to such owner and to the individual in possession of the property, if different from the owner, at such owner's and individual's last known address, if any, by United States certified mail, return receipt requested, and the enforcement officer shall cause a copy of the aforesaid notice to be posted at such structure, location or premises. Notice shall be deemed to have been given on the day of personal service or three (3) days after mailing and/or posting of said notice. The posting of notice shall be conclusively deemed to be adequate notice to any and all occupants, users, possessors, or owners of the property or its contents, and the failure of any such occupant, user, possessor, or owner to see, read, understand, or otherwise receive the notice shall not invalidate any of the proceedings under this chapter.
- C. Contents Of Notice: The aforesaid notice to the owner and individual in possession of the property shall state the findings of the enforcement officer with respect to the existence of a public nuisance. The notice shall further state that unless the owner or individual in

possession thereof shall cause the abatement of the public nuisance, pursuant to the orders contained in the enforcement officer's notice, the public nuisance shall be abated by the city at the expense of the owner and the individual in possession.

- D. Defense: Any person who is the record owner and any individual that is in possession of the premises, location or structure at the time an order pursuant to this chapter is issued and served upon him, shall be responsible for complying with that order, and liable for any costs incurred by the city therewith, notwithstanding the fact that he, it or they conveys his, its or their interest in the property to another after such order was issued and served.
- E. Not A Defense: It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed. (Ord. 2002-6, 11-4-2002)

**3-1-9: ABATEMENT BY OWNER OR INDIVIDUAL IN POSSESSION:**

- A. Time Limitation: Within thirty (30) days after notice to abate a nuisance as provided for herein, the owner and individual in possession of the affected property shall remove and abate such nuisance.
- B. Grant Of Additional Time: The enforcement officer, upon written application by the owner or individual in possession of the affected property within the thirty (30) day period after the notice has been served, may grant additional time to effect the abatement of the public nuisance, provided that such extension is limited to a specific time period. (Ord. 2002-6, 11-4-2002)

**3-1-10: APPEAL PROCEDURES; HEARING:**

- A. Notice Of Appeal: The owner or individual in possession of the property who has been served with a notice pursuant to this chapter that a public nuisance exists, may, within seven (7) calendar days after notice is deemed to have been given pursuant to the provisions of this chapter, make a written demand to the enforcement officer for a hearing on the question of whether a public nuisance in fact exists. The hearing shall be held at the next scheduled regular meeting of the city council following receipt by the enforcement officer of the written demand and at least two (2) days' notice of the hearing shall

be given to the individual who made the written demand for the hearing.

- B. Hearing: The hearing shall be conducted by the city council. The city council may amend or modify the notice and/or order, or extend the time for compliance with the enforcement officer's order by the owner by such date as the majority of the council may determine.
- C. Evidence: The owner or the individual in possession of the subject property shall be given the opportunity to present evidence to the council in the course of the hearing.
- D. Abatement By City; Waiver Of Costs: In those instances where the nuisance has been abated by the city, the council shall have discretion to waive the cost of abating a nuisance, in whole or in part, if in the course of the hearing reviewing the decision, the council finds that any of the following did not conform to the provisions of this chapter:
  - 1. The notice to remove the nuisance;
  - 2. The work performed in abating the nuisance; or
  - 3. The computation of charges. (Ord. 2002-6, 11-4-2002)

**3-1-11: ABATEMENT BY CITY:**

- A. Authority To Enter And Abate: Should any public nuisance not be abated at the expiration of time stated in the notice/order or within such additional time as the enforcement officer or city council may grant, the enforcement officer, and/or his representatives, shall have the authority to enter upon the property and abate the public nuisance found thereon.
- B. Salvaged Materials:
  - 1. Sale: In abating such nuisance, the enforcement officer may go to whatever extent may be necessary to complete the abatement of the public nuisance and, should it be practicable to salvage any material derived in the aforesaid abatement, the planning department may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.

2. Proceeds: The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of a public nuisance by the enforcement officer shall be deposited to the general fund of the city and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property in question by the city council and collected as any other assessment by the city; however, any other alternative collection method may be utilized by the city to recoup the deficit. Should the proceeds of the sale of such salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner or individual in possession of the property from which the public nuisance was abated when a proper claim to the excess is established.

- C. Assistance To Enforcement Officer: In abating a public nuisance, the enforcement officer may call upon any of the city departments or divisions for whatever assistance shall be deemed necessary or may, by private contract, cause the abatement of the public nuisance.
- D. Statement Of Costs: The enforcement officer shall, after completing the removal and abatement, file a statement of costs with the finance department. (Ord. 2002-6, 11-4-2002)

**3-1-12: NOTICE OF ASSESSMENT; APPEAL OF CHARGES:**

- A. Notice Of Assessment; Objections: Upon receipt of the statement of costs from the enforcement officer, the finance department shall provide notice to the owner and individual in possession of the property, if different from the owner, as provided for in this chapter of the amounts set forth in the statement plus an additional amount sufficient to defray the costs of the notice and stating that the city proposes to assess against the property and to assess as a personal obligation of the owner and individual in possession of the property the amount set forth in the notice and that objections to the proposed assessment must be made, in writing, and received by the finance department within twenty (20) days from the date notice is deemed given. Upon the expiration of the twenty (20) day period, if no objections have been received by the finance department, the finance department shall enter that amount in the city liens docket which shall constitute a lien against the property. The amount entered as a lien shall constitute a special tax assessed on the property.

- B. **Administrative Review:** If objections of either the property owner or their representative are received by the finance department prior to the expiration of the twenty (20) day period, the finance department shall refer the matter for administrative review.
- C. **Written Determination:** Upon conclusion of administrative review, the enforcement officer shall make a written determination that the amount of the charges shall be canceled, reduced, or remain the same. A copy of this determination shall be furnished to the person making the objections together with a notice of such person's right to appeal to the city council.
- D. **Lien:** If no appeal of a determination by the enforcement officer is filed within the time period allowed, a copy of the determination will be furnished to the finance department who shall then enter a lien in the amount determined in the city liens docket as provided in subsection A of this section.
- E. **Appeal; Hearing:** If a timely appeal is received by the city council, a hearing shall be scheduled and held on the matter. If, after the hearing, the city council determines that the proposed assessment does not comply with subsection G of this section, the city council shall so certify to the finance department and the proposed assessment shall be canceled. If, after the hearing, it is determined that the proposed assessment or any part of it is proper and authorized, the city council shall so certify to the finance department who shall enter a lien in such amount as determined appropriate by the city council, in the lien docket as provided in subsection A of this section.
- F. **Final Administrative Decision:** The determination of the city council is a final administrative decision.
- G. **Criteria For Reduction Or Cancellation Of Assessment:** The enforcement officer, in administrative review, or the city council, on appeal, may reduce or cancel a proposed assessment if it is determined that:
  - 1. Any of the following did not conform to the provisions of this chapter:
    - a. The notice to remove the nuisance; or
    - b. The work performed in abating the nuisance; or

c. The computation of charges; or (Ord. 2002-6, 11-4-2002)

2. The owner of the property was eligible for a reduction or cancellation of the lien under subsection J of this section. (Ord. 2002-6, 11-4-2002; amd. 2009 Code)

H. **Criteria For Eliminating Civil Penalty:** The enforcement officer, in administrative review, or the city council, on appeal, may reduce a proposed assessment by eliminating the civil penalty portion of the invoice if it is determined that:

1. The current owner was not in possession of the property at the time the notice required in section 3-1-8 of this chapter was posted; or

2. The owner did not receive the notice to remove the nuisance, did not have knowledge of the nuisance and could not, with the exercise of reasonable diligence, have had such knowledge.

I. **Referral For Review:** If, after a lien has been entered in the docket of city liens, there is a written request of an owner who alleges that the owner did not receive notice of the proposed assessment, the finance department shall refer the matter for review pursuant to subsection B of this section.

J. **Cancellation Or Reduction Of Lien:** The lien may be canceled or reduced by the enforcement officer, in administrative review, or the city council, on appeal, if it is determined that the owner did not receive notice of the proposed assessment, did not previously have knowledge of the lien or of the nuisance abatement work constituting the basis of the lien, could not, in the exercise of reasonable care or diligence, have had such knowledge, and in addition, that the circumstances are such that a reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the city council, pursuant to subsection E of this section, the finance department shall cancel or reduce the lien if required by the determination of the enforcement officer and/or city council. (Ord. 2002-6, 11-4-2002)

**3-1-13: PERSONAL LIABILITY OF OWNER AND INDIVIDUAL IN POSSESSION:** The person who is the owner and/or the person who is in possession of the property at the time at which the notice required under section 3-1-8 of this chapter is deemed given shall be

personally liable for the amount of the assessment including all interest, civil penalties, and other charges. The liability of the owner and/or person in possession of the property shall be joint and several. (Ord. 2002-6, 11-4-2002)

**3-1-14: OVERHEAD CHARGE; CIVIL PENALTIES:**

- A. Account Of Expenses Including Overhead Charge: Whenever a nuisance is abated by the city, the enforcement officer shall keep an accurate account of all expenses incurred, including an overhead charge of twenty five percent (25%) for administration and a civil penalty of two hundred dollars (\$200.00) for each nuisance abated.
- B. Subsequent Nuisance: When the city has abated a nuisance maintained by any owner of real property, for each subsequent nuisance that is abated by the city within two (2) consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of fifty percent (50%), minimum of fifty dollars (\$50.00), of the cost of abatement shall be added to the costs, charges and civil penalties provided for in subsection A of this section. The civil penalty shall be imposed without regard to whether the nuisances abated by the city involved the same real property or was of the same character. (Ord. 2002-6, 11-4-2002)

**3-1-15: UNLAWFUL TO CREATE, KEEP OR MAINTAIN; PENALTY:** It shall be unlawful for any person to create, keep or maintain a public nuisance in the city. Any person convicted of violating this chapter is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) and not exceeding five hundred dollars (\$500.00), or by imprisonment not to exceed six (6) months, or by both fine and imprisonment, for each offense. It is the intent of the city council that the criminal offenses listed in this chapter be offenses involving legislative intent. Those offenses shall not require proof of any one of the mental states described in Montana Code Annotated, subsections 45-2-101(33), (37) and (58). (Ord. 2002-6, 11-4-2002)



## CHAPTER 2

**REFUSE COLLECTION AND REMOVAL**

## SECTION:

- 3-2-1: Definitions
- 3-2-2: Standards For Accumulation
- 3-2-3: Responsibilities
- 3-2-4: Prohibitions
- 3-2-5: Inoperable Or Unlicensed Vehicles
- 3-2-6: Enforcement; Penalty And Property Assessments

3-2-1: **DEFINITIONS:** The following definitions of terms shall apply unless the context clearly indicates another meaning or unless elsewhere stated for specific application:

**COMMERCIAL REFUSE COLLECTOR:** The person or entity who is or intends to be engaged in the collection and/or transportation of garbage and refuse, in any part of the city.

**COMMERCIAL REFUSE GENERATOR:** Any person in charge or owning, leasing, renting or occupying any multi-family dwelling unit with three (3) or more units, business, industrial or commercial building, including, but not limited to, an apartment complex, store, office, factory, motel or hotel that generates garbage and refuse.

**GARBAGE:** Every accumulation of animal, vegetable or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruits or vegetables, including the cans, containers and wrappers wasted along with such materials.

**OCCUPANT:** The person occupying a dwelling unit or the person operating, managing or keeping any

hotel, restaurant, food establishment, commercial establishment, business establishment, school, church, institution or premises wherein or whereon garbage and refuse accumulates or is likely to accumulate.

**REFUSE:**

Any waste product solid or having the character of solids rather than liquids in that it will not flow readily without additional liquid and which is composed wholly or partly of such materials as garbage, swill, seepings, cleaning, trash, rubbish, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue or animals sold as meat; fruit or other vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetable offal, animal excreta, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, discarded appliances, junk vehicles, furniture; wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, wooden ware, printed matter, paper, paper board, pasteboard, grass, rags, straw, boots, shoes, hats and all other combustible material not included under the term "garbage" or any other such substance which may become a nuisance.

**RESIDENTIAL  
REFUSE GENERATOR:**

Any person generating garbage or refuse other than a commercial refuse generator including occupants and owners of duplex dwellings which do not have common refuse collection containers or commercial refuse containers. (Ord. 85-2, 6-17-1985)

**3-2-2: STANDARDS FOR ACCUMULATION:** The following standards and requirements are established as a minimum for the sanitary accumulation and storage of garbage and refuse containers pending collection:

- A. **Use Of Containers Required:** All garbage shall be placed in containers owned by the commercial refuse collector or in containers owned by the property owner or occupant as specified herein. Refuse which does not fit into the above mentioned containers and/or which is not collected by the refuse collector shall be the responsibility of the refuse generator as specified in sections 3-2-3 and 3-2-4 of this chapter.
- B. **Distribution And Placement Of Containers:** Commercial refuse containers and residential refuse containers owned by the commercial refuse collector shall be distributed and placed as designated by the director of public works considering accessibility for refuse and garbage generators and accessibility for the efficient collection by the commercial refuse collector.
- C. **Owner To Provide Containers; Specifications:** Garbage and refuse containers shall be provided for every habitable building or business establishment which does not have commercial refuse containers. The property owner or his agent shall be responsible to provide such containers. Said containers shall be portable, not more than thirty five (35) gallons' capacity, galvanized metal, or plastic, sufficient to hold garbage accumulating between collection periods. Said containers shall be provided with handles and tightfitting covers. (Ord. 85-2, 6-17-1985)

3-2-3: **RESPONSIBILITIES:** Every person shall have the duty of maintaining premises and equipment which are owned by him or under his supervision; or of maintaining containers in compliance with the requirements of this chapter, Gallatin County health regulations and all applicable provisions of state law. Every property owner shall remain liable for violations imposed upon him by this chapter even though an obligation is also imposed on occupants of his buildings, and even though the owner has, by agreement, imposed on occupants the duty of complying with all the requirements of this chapter:

A. **Commercial:**

1. **Maintenance Of Alleys:** All commercial refuse generators shall maintain their alleys, if they exist, free from refuse and garbage and keep the area surrounding the refuse and garbage containers free from refuse, garbage and other potential hazards to the public health, safety and welfare.

2. Maintenance Of Containers: Commercial establishments using containers owned by the commercial refuse collector shall be responsible for keeping the containers in a sanitary condition at all times.

B. Residential:

1. Storage Of Containers: Residential occupants and owners should store their garbage and refuse containers in racks constructed in a manner which keeps the containers six inches (6") to eighteen inches (18") aboveground.

2. Maintenance Of Alleys: Residential occupants and property owners whose property is adjacent to an alley where garbage and refuse is accumulated shall be responsible to keep one-half ( $\frac{1}{2}$ ) of the alley adjacent to said property clear of all garbage and refuse that originated from their property to facilitate passage by the commercial refuse collector and all other vehicles and maintain said alleys free from garbage and refuse accumulation.

3. Service By Commercial Refuse Collector: Residential occupants and property owners whose property is serviced by the commercial refuse collector on the street right of way shall be responsible to place their garbage containers on the scheduled collection day(s) at the street right of way adjacent to their property line. Containers and racks shall not be placed at the street property line before three o'clock (3:00) P.M. on the day preceding the day of collection, and, after the containers are emptied, they shall be removed from the street property line on the day of collection and stored within a structure upon the premises or immediately adjacent to a structure upon the premises.

- C. Break Down Materials To Fit In Containers: Refuse generators, wherever possible, shall attempt to break down materials so they fit into containers.
- D. Removal Of Garbage Not Removed By Commercial Collector: It shall be the responsibility of all refuse generators and property owners to remove from their property all garbage and refuse which is not removed by the commercial refuse collector.
- E. Construction, Repair Or Demolition: All persons, partnerships, corporations or other legal entities engaged in the construction, repair or demolition of any building or structure or part thereof shall remove and dispose from any street, alley, gutter, park, sidewalk or

any other public way or any other property not owned by it, all waste matter and rubbish deposited thereon in connection with that portion of the repair, construction or demolition work under its special or general supervision. Said waste matter and refuse shall be removed and disposed of within ten (10) days of final cessation of work on such building or structure. (Ord. 85-2, 6-17-1985)

3-2-4:       **PROHIBITIONS:** The following prohibitions are placed upon all refuse generators, commercial property occupants and owners, residential occupants, residential property owners and individuals within the city:

- A.     **Prohibited Substances:** Placing in collection containers flammable liquids, hot ashes, dead animals, concrete, dirt, plaster or materials which do not allow the container lid to close. (Ord. 85-2, 6-17-1985)
- B.     **Placing Or Allowing To Remain:** Placing and allowing to remain upon any lot, whether occupied or vacant, any garbage or refuse of any kind for a period of ten (10) days or any shorter period of time specified by the director of public works.
- C.     **Burning:** Burning any garbage or refuse on private or public property in any manner other than in an incinerator which is established and enclosed within an existing structure without permission of the director of public works or the Central Valley fire district. (Ord. 85-1, 6-17-1985; amd. 2009 Code)
- D.     **Unauthorized Use:** Placing in or adjacent to any collection containers owned or used by any commercial refuse collector garbage, trash or other debris, of any type or nature, by any individual, agent or employee of any firm, partnership or corporation not authorized to use any particular commercial collection container. (Ord. 85-2, 2-17-1987)

3-2-5:       **INOPERABLE OR UNLICENSED VEHICLES:**

- A.     **Storage:** Inoperable or unlicensed vehicles shall be stored on wheels and tires or on blocks in a secure and safe manner.
- B.     **Concealed:** Inoperable or unlicensed vehicles and parts shall be covered with a tarp or concealed and tightly secured or enclosed with a solid fence rendering them generally unseen from public view.

- C. Free Of Debris: The entire area where an inoperable or unlicensed vehicle is stored shall be kept free from all accumulated debris. (Ord. 85-2, 6-17-1985)

3-2-6: **ENFORCEMENT; PENALTY AND PROPERTY ASSESSMENTS:**

- A. Nuisance Declared: All garbage and refuse not collected and removed by the commercial refuse collector and allowed to remain unremoved by the property occupant or owner for a period of ten (10) days is hereby declared to be a common nuisance.
- B. Duties Of Police Officers And Community Service Officer: It shall be the duty of all police officers, the community service officer and employees under the community service officer's supervision to oversee the prompt removal of all garbage and refuse not collected by the commercial refuse collector.
- C. No Accumulation Allowed: No garbage or refuse shall be allowed to accumulate along any street, alley, or public place, on or upon any vacant lot or other lots by either the occupant or owner of the property. For purposes of this chapter, one-half ( $1/2$ ) of any street or alley lying next to the lands abutting thereon shall be considered part of such land.
- D. Notice By Community Service Officer: It shall be the duty of the community service officer or his authorized representative to enforce the provisions of this chapter and, upon determining a violation exists, shall ascertain the name and mailing address of the occupant or owner of the premises and the description of the premises where the violation exists. Written notice of the violations shall be served upon said occupant or owner of the property directing that said garbage or refuse be removed from the property within ten (10) days or the city will cause said garbage and/or refuse to be removed, with the cost thereof to be charged against the property owner from whose property said garbage and refuse is to be removed. Charges for said garbage and removal shall be set by the city council from time to time and communicated to the community service officer considering not only the actual expense for removal incurred by the city or charged by the city but also an administrative fee for the issuance of notice and other related tasks related to such garbage and refuse removal.

- E. **Failure To Remove:** If the owner or occupant shall fail to remove said garbage and/or refuse within the time specified in the notice of violation, the community service officer shall cause the removal of said garbage and/or refuse and shall bill the costs thereof, together with a reasonable charge for administration and supervision, to the owner of the premises. If said charges are not paid forthwith, the community service officer shall certify the same to the city council, who shall pass a resolution asserting such charges as a special tax against the premises involved. (Ord. 85-2, 6-17-1985)
- F. **Penalty For Violation:** When a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the city office. Thereafter, an investigation of such allegations shall be made and appropriate action taken as provided by this chapter. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Persons or legal entities who violate this chapter or fail to comply with any of its requirements shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code, and, in addition, shall pay all costs and expenses involved in conviction. Each day such violation occurs may be considered a separate offense and punishable as such.
- G. **Intent Of Absolute Liability:** It is the intent of the city council that the misdemeanor criminal offenses listed in this chapter be offenses involving legislative intent. Said offenses shall not require proof of any one of the mental states in Montana Code Annotated subsections 45-2-101(35), (43) and (65). (Ord. 85-2, 6-17-1985; amd. 2009 Code)



## CHAPTER 3

**WEEDS**

## SECTION:

- 3-3-1: Declared Nuisance
- 3-3-2: Duty To Maintain Property
- 3-3-3: Vacant Lots To Be Cleared
- 3-3-4: Duty To Notify
- 3-3-5: Notice Of Violation
- 3-3-6: Failure To Remove
- 3-3-7: Violation; Penalty

3-3-1:       **DECLARED NUISANCE:** All weeds, noxious or otherwise, grass and other wild and uncared for vegetation are hereby declared to be a common nuisance. (Ord. 2007-5, 8-6-2007)

3-3-2:       **DUTY TO MAINTAIN PROPERTY:**

- A.       Prohibited: No noxious or other weeds, grass, or other wild and uncared for vegetation of whatever character, shall be allowed to grow upon any property located in the city, or upon or along any boulevard, road, street, avenue, or alley adjacent thereto. It shall be the obligation of the owner of property located in the city to remove, cut or cause to be cut and at all times keep down the growth of all noxious or other weeds, grass, or other wild or uncared for vegetation on any such property, and upon and along any boulevard, road, street, avenue or alley adjoining such property.
- B.       Roadway And Adjoining Property: For the purposes of this section, the owner shall be obligated to maintain one-half ( $\frac{1}{2}$ ) of any road, street, avenue, or alley adjoining the property, and to maintain any boulevard adjoining the property. (Ord. 2007-5, 8-6-2007)

**3-3-3: VACANT LOTS TO BE CLEARED:**

- A. Clearing Required: No noxious or other weeds, grass, or other wild and uncared for vegetation of whatever character shall be allowed to grow upon or along the line of any railway, street, public place, or along or upon any vacant or other lots, either by the owner or tenant of property. It shall be the obligation of the owner or tenant to cut or cause to be cut and at all times keep down the growth of all noxious or other weeds, grass, or other wild or uncared for vegetation on any such property.
- B. Considered Included In Property: For the purposes of this section, one-half ( $\frac{1}{2}$ ) of any road, street, avenue, or alley lying next to the lands abutting thereon shall be considered part of such land. (1983 Code § 7.08.030)

**3-3-4: DUTY TO NOTIFY:** It shall be the duty of the director of public works or his authorized representative to enforce the provisions of this chapter, and, upon a determination that a violation of this chapter exists, shall ascertain the name and mailing address of the owner of the premises and the description of the premises where the violation exists. The name and mailing address of the owner may be obtained from the current assessment list maintained by the office of the Gallatin County assessor. Written notice of violation shall be served upon said owner directing that said noxious weeds shall be cut and removed from the premises within ten (10) days or the city will cause said noxious weeds to be removed, with cost thereof to be charged against said owner. Charges for weed removal by the city shall be set by resolution of the city council from time to time and communicated to the director of public works. The charge for weed removal shall be up to seventy five dollars (\$75.00) per hour until modified by resolution of the city council. (Ord. 2007-5, 8-6-2007)

**3-3-5: NOTICE OF VIOLATION:** Notice of violation shall be made either by posting a copy of said notice on the premises, or by mailing a copy of said notice to the owner by first class United States mail. Said notice shall be deemed complete on the day that notice is posted or mailed. (Ord. 2007-5, 8-6-2007)

**3-3-6: FAILURE TO REMOVE:** If the owner shall fail to remove said noxious weeds within the time specified in the notice of violation, the director of public works shall cause said noxious weeds to be

cut and removed from the premises, and shall bill the cost thereof, together with a reasonable charge for administration and supervision, to the owner of the premises. If said charges are not paid forthwith, the director of public works shall certify the same to the city council, who shall pass a resolution asserting such charges as special tax against the premises involved. (Ord. 2007-5, 8-6-2007)

**3-3-7: VIOLATION; PENALTY:**

- A. Violation: When a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the city office and thereafter an investigation of such allegations shall be made and appropriate action taken as provided by this chapter.
- B. Penalty: Any person who shall violate the provisions of this chapter shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. (Ord. 2007-5, 8-6-2007)



## CHAPTER 4

**TREES AND SHRUBS**

## SECTION:

- 3-4- 1: Definitions
- 3-4- 2: Tree Board
- 3-4- 3: Tree Species To Be Planted
- 3-4- 4: Adoption Of Tree Regulations
- 3-4- 5: Visibility At Intersections
- 3-4- 6: Public Tree Care
- 3-4- 7: Pruning Standards
- 3-4- 8: Tree Topping
- 3-4- 9: Pruning And Corner Clearance
- 3-4-10: Dead Or Diseased Tree Removal On Private Property
- 3-4-11: Removal Of Stumps
- 3-4-12: Protection Of Trees
- 3-4-13: Interference With Tree Board
- 3-4-14: Arborist License And Bond
- 3-4-15: Review By City Council
- 3-4-16: Penalty

3-4-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**PARK TREES:** Trees, shrubs, bushes and all other woody vegetation in public parks, and all areas owned by the city, or to which the public has free access as a park.

**STREET TREES:** Trees, shrubs, bushes, and all other woody vegetation in public streets, roads, avenues, or other rights of way. (Ord. 2007-9, 12-17-2007)

**3-4-2: TREE BOARD<sup>1</sup>:**

- A. Created; Established: There is hereby created and established a city tree board which shall consist of three (3) members. The members of the city tree board shall be recommended by the park and recreation board and approved by city council. (Ord. 2007-9, 12-17-2007)
- B. Term Of Office: The terms shall be two (2) year staggered terms expiring on April 30. If a park and recreation board member also serves on the tree board, the term shall be the same as their term on the park and recreation board. (Ord. 2007-9, 12-17-2007; amd. 2009 Code)
- C. Compensation: Members of the city tree board shall serve without compensation.
- D. Duties And Responsibilities:
1. It shall be the responsibility of the city tree board to study, investigate, counsel, develop and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented from time to time to the city council and, upon their acceptance and approval, shall constitute the official comprehensive city tree plan.
  2. The city tree board shall promote and supervise the establishment of a tree inventory for street and park trees. The inventory shall be updated as deemed necessary.
  3. The city tree board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.
- E. Officers: The city tree board shall elect a chairman and a secretary annually.
- F. Meetings: The city tree board shall meet at such time as determined by the city tree board, which shall be at least annually. All meetings shall be open to the public except in such circumstances as prescribed by state law.

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1. See article II, subsection 2.04B4 of the administrative code.

- G. Quorum: A quorum of the city tree board shall be two (2) members.
- H. Vote: The city tree board may act upon the majority vote of the members of the city tree board.
- I. Rules; Order Of Business; Minutes: The city tree board shall determine its own rules and order of business and shall provide for the keeping of the minutes of its proceedings.
- J. Documents And Records: All documents and records of the city tree board shall be public records and shall be made available for examining or copying. (Ord. 2007-9, 12-17-2007)

3-4-3:       **TREE SPECIES TO BE PLANTED:** The city tree board shall develop and maintain a list of tree species that may be planted as street trees or park trees. The trees to be planted, spacing and distances should be recommended by the city tree board and approved by city council via resolution. (Ord. 2007-9, 12-17-2007)

3-4-4:       **ADOPTION OF TREE REGULATIONS:** The city tree board shall adopt regulations for tree size and spacing, and distance from curbs, sidewalks, street corners, fireplugs, and utilities. (Ord. 2007-9, 12-17-2007)

3-4-5:       **VISIBILITY AT INTERSECTIONS:** This chapter and any regulations adopted hereunder shall not amend, repeal, or conflict with the visibility at intersection requirements of section 10-5-1 of this code. (Ord. 2007-9, 12-17-2007)

3-4-6:       **PUBLIC TREE CARE:**

- A. Right To Plant, Prune, Maintain And Remove: The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right of way lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds, and for compliance with city ordinances.
- B. Unsafe Trees: The city tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition

or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the section and location of said trees is in accordance with section 3-4-3 of this chapter, and any regulations adopted thereunder. (Ord. 2007-9, 12-17-2007)

3-4-7:       **PRUNING STANDARDS:** All tree pruning on public property shall conform to the ANSI A300 standards for tree care operations. (Ord. 2007-9, 12-17-2007)

3-4-8:       **TREE TOPPING:** It shall be unlawful, as a normal practice, for any person, firm, or city department to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the city tree board. (Ord. 2007-9, 12-17-2007)

3-4-9:       **PRUNING AND CORNER CLEARANCE:**

- A.     Required: Every owner of any tree overhanging any street or right of way within the city shall prune the branches so that such branches shall not severely obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet (13') above street surface or eight feet (8') above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.
- B.     Utility Tree Trimming Policy: Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable

franchise agreements. A utility tree trimming policy must be reviewed by the utility company and city tree board prior to any trimming by the utility company. (Ord. 2007-9, 12-17-2007)

**3-4-10: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY:**

- A. **Right To Remove:** The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city.
- B. **Notice To Owner:** The city tree board will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice.
- C. **Failure To Remove:** In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the owner of the property. Charges for removal by the city shall be set by resolution of the city council from time to time. The charge for removal shall be two hundred forty dollars (\$240.00) per hour until modified by resolution of the city council. If said charges are not paid forthwith, the city council shall pass a resolution asserting such charges as special tax against the premises involved. (Ord. 2007-9, 12-17-2007)

**3-4-11: REMOVAL OF STUMPS:** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 2007-9, 12-17-2007)

**3-4-12: PROTECTION OF TREES:** In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered. Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy of the tree. (Ord. 2007-9, 12-17-2007)

3-4-13:       **INTERFERENCE WITH TREE BOARD:** It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter. (Ord. 2007-9, 12-17-2007)

3-4-14:       **ARBORIST LICENSE AND BOND:** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a city business license. The business license fee shall be paid in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors. Before any business license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of one million dollars (\$1,000,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. 2007-9, 12-17-2007)

3-4-15:       **REVIEW BY CITY COUNCIL:** The city council shall have the right to review the conduct, acts, and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city council who may hear the matter and make final decisions. (Ord. 2007-9, 12-17-2007)

3-4-16:       **PENALTY:** Any person violating any provision of this chapter shall, upon conviction or a plea of guilty, be subject to a fine not to exceed one thousand dollars (\$1,000.00). (Ord. 2007-9, 12-17-2007)

## CHAPTER 5

**HANDBILLS AND POSTERS**

## SECTION:

- 3-5-1: Removal Required  
3-5-2: Deemed Principal; Penalty

3-5-1: **REMOVAL REQUIRED:** It shall be required for any person to remove any handbills, stickers, placards, posters or any other advertising matter of any kind or description on city property, buildings, traffic control devices, signs, street lighting poles, or power transmission poles within two (2) days of the conclusion of the sale and/or event being advertised. (Ord. 2005-8, 10-3-2005)

3-5-2: **DEEMED PRINCIPAL; PENALTY:** Any person, firm, or corporation for or on whose behalf said advertising is placed on said property described in section 3-5-1 of this chapter shall be deemed to be a principal in the commission of this offense and shall be subject to a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) for each offense. (Ord. 2005-8, 10-3-2005)

