

**CHAPTER 8
LITTER AND WEED CONTROL**

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5-8-1 PURPOSE.

Litter, weeds, and other deleterious substances upon public and private property, canal rights-of-way, streets, alleys, sidewalks, parks, rights-of-way easement, and the like, within the City detracts from the appearance of the City and reduces property values. Such deleterious substances also increases the spread of contagious diseases and infections, and creates a health and safety hazard to children. It is necessary for the preservation of health, safety, sanitation and the public welfare that proper and adequate regulations be adopted to require property owners, tenants and all persons having control of real property and the storage, disposal, deposit, or accumulation of deleterious substances, to remove and dispose of such deleterious substances in the manner specified in this Chapter. (Ord. 2968, 10-9-14; Ord. 3279, 10-24-19)

5-8-2 DEFINITIONS.

Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

AIRCRAFT. Any craft designed for navigation or flight in air.

BULKY WASTE. Stores, water heaters, washing machines, refrigerators, freezers, microwaves, whole goods, durable consumer electronics, televisions, tires, tire rims, and similar items as well as household construction debris.

GARBAGE. Waste (animal, vegetable, and/or other matter) that results from the handling, packing, preparation, processing, consumption, dealing in, canning, storage, transportation, decay, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter (including, but not by way of limitation, used tin cans, and other food containers; including all putrescible waste matter which is likely to attract flies or rodents).

LITTER. Garbage and Rubbish, including, but not limited to, that which is loosely strewn, uncollected, unpackaged, or uncontained which may include paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, disposable packages, cigarette butts and other tobacco products, gum, and containers.

NOXIOUS WEED. Any plant classified by the Director of the Idaho State Department of Agriculture as a "noxious weed" in Title 06, Chapter 22 of the Idaho Administrative Procedures Act (IDAPA), as amended from time to time.

OCCUPANT. Any person having control, possession or charge over real property.

ORNAMENTAL FLOWERS; ORNAMENTAL PLANTS: Flowers and plants which are intentionally planted for decorative purposes (including screening, accent, specimen, color, landscaping, xeriscaping, and aesthetic purposes) and are not grown primarily for agricultural purposes and which are not trees, shrubs, or weeds, as defined in this Chapter). Many are flowering plants and garden varieties that tend to be specially bred cultivars that improve on the original species in qualities such as color, shape, scent, and long-lasting blooms.

RUBBISH. Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes and Bulky Waste. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material, which will not burn at ordinary incinerator temperatures (not less than one thousand six hundred (1600) degrees F).

SHRUB: A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15') feet in height.

TREE: A woody and perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen feet (15') in height and two inches (2'') in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree.

WEED: A plant (that is not a tree or a shrub, as defined in this Chapter), growing or dead that is more than ten (10'') inches in height, measured from the surface of the area contiguous with such a plant, unless otherwise permitted by this Chapter. Every plant identified as a noxious weed by the Idaho Administrative Procedure Act (IDAPA) 02.06.22 is prohibited within City

limits. Plants that are not noxious weeds and are otherwise permitted in this Chapter, such as ornamental flowers and ornamental plants, shall not be considered weeds for purposes of this Chapter.

(Ord. 2968, 10-9-14; Ord. 3176, 04-12-18; Ord. 3279, 10-24-19; Ord. 3332, 09-10-20; Ord. 3504, 02-23-23)

5-8-3 LITTERING PROHIBITED

No person shall deposit or allow to be deposited litter in or upon any public or private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way easement, or property within the City, except in receptacles designed therefor. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-4 DEPOSIT OF LITTER IN RECEPTACLES.

No person shall deposit or allow to be deposited litter in any receptacle, upon any public place or private property in a manner which exceeds the capacity of such receptacle or which will create a likelihood of its being dispersed, blown, or carried by natural elements or animals. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-5 DEPOSIT OF PETROLEUM PRODUCTS.

No person shall pour or deposit oil or any other petroleum product upon any public or private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way easement provided nothing herein shall prevent the use of oil, asphalt or other petro-chemicals for the purpose of construction, maintenance or operation of a street or alley. (Ord. 3279, 10-24-19)

5-8-6 IMPROPER HAULING OF LITTER.

It is unlawful for any person to haul litter, or otherwise operate a vehicle carrying litter, in any manner which causes litter to be deposited or to accumulate upon any private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way, or upon any publically-owned property within the City, upon any public street, sidewalk or private property, or which creates a reasonable likelihood that litter will be blown, dropped or spilled therefrom. (Ord. 3054, 01-26-16; Ord. 3176, 04-12-18; Ord. 3279, 10-24-19)

5-8-7 POSTING NOTICES.

No person shall post or affix any handbill or sign upon any public utility pole, building, sign post, lamp post, telephone pole, structure, shade tree, appurtenance, or upon any public structure, except as may be expressly authorized or required by law. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-8 POSTING HANDBILLS OR SIGNS.

No person shall post or affix any handbill or sign to any utility pole, building, sign post, lamp post, telephone pole, structure, shade tree, appurtenance, or any structure owned by any other person, without the consent of the owner or occupant thereof. (Ord. 3054, 01-26-16; Ord 3279, 10-24-19)

5-8-9 LITTER UPON PRIVATE PROPERTY.

It shall be unlawful and a public nuisance for any persons owning, occupying, or having control of private property within the City to deposit, store or allow the accumulation of litter upon such property, except:

- (A) The temporary storage or accumulation of construction debris or materials in a manner which prevents the same from being blown or disbursed upon adjoining property, while a building or structure is being constructed upon the premises, or during remodeling or reconstruction thereof.
- (B) Upon any property owned or operated by any recycler, salvage dealer, or junk yard dealer licensed by the City, subject to all provisions and restrictions contained in any ordinance or statute governing the operation of such licensed business. (Ord. 3054, 01-26-16; Ord. 3176, 04-12-18; Ord 3279, 10-24-19)

5-8-10 LITTER VIOLATION. The hauling, depositing, or allowing of litter to be deposited in violation of this Code is an infraction for every twenty-four (24) hour time period that such litter is not removed following City notice to remove unless the litter is not removed after seventy-two (72) hours following the first notice of infraction, after which the violation automatically becomes a misdemeanor. (Ord. 3279, 10-24-19)

5-8-11 REMOVAL OF PLANT NUISANCES.

- A. It shall be unlawful and a public nuisance for any owner(s) or occupant(s) or for controller(s) of any real property within the City to allow weeds or noxious weeds to grow, exist or accumulate upon such real property.
- B. Permitted Plantings. Where otherwise allowed by this Code (including this Chapter and the Zoning Code), and where it is not determined by the Fire Marshall to be a fire hazard or fire nuisance or determined by the Zoning Administrator to be a public nuisance, the following plantings that are not noxious weeds are permitted:

- 1. Ornamental flowers and ornamental plants;
- 2. Plants grown for agricultural purpose or food production; and
- 3. Intentional landscape or xeriscape plantings, including native or drought tolerant plants, where the height of the plants in excess of ten inches (10') is not due to neglect.

(Ord. 3054, 01-26-16; Ord. 3279, 10-24-19; Ord. 3504, 02-23-23)

5-8-12 NOTICE TO ABATE.

(A) Whenever a violation of this Chapter comprises a public nuisance, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) of the premises requiring abatement of the nuisance identified in this notice.

(B) Said notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished through personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance within ten (10) calendar days after the date of the notice; that the owner(s), occupant(s), or person(s) in control of the property given the notice may, within ten (10) calendar days following receipt of the notice, deliver in writing to the Clerk their objections to the abatement of the nuisance and request an appeal hearing before a panel comprised of three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.

(D) Where the Director of Community Development Services determines that abatement of the nuisance requires more than ten (10) days to abate, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed ten (10) calendar days after receipt of such notice. The Director's deferral of abatement shall be in writing and shall identify a date by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter. (Ord. 3176, 04-12-18; Ord. 3279, 10-24-19; Ord. 3365, 1-14-21)

5-8-13 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within ten (10) business days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within ten (10) calendar days following the decision by the Board of Adjustment panel. (Ord. 3176, 04-12-18; Ord. 3279, 10-24-19)

5-8-14 CITY ABATEMENT

- (A) City is authorized to use public funds to abate a weed nuisance.
- (B) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate a weed nuisance within ten (10) calendar days following a final decision regarding the weed nuisance, the City may enter the property and commence abatement, pursuant to Idaho Code.
- (C) If the City abates the weed nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3176, 04-12-18; Ord. 3279, 10-24-19)