

ORDINANCE NO. 4424

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE CITY'S CODE OF ORDINANCES TO ADDRESS INCONSISTENCIES WITHIN THE CODE

RECITALS:

The City Code of Ordinances ("Code") has recently had a comprehensive review as part of a contract with Code Publishing Company. During that review a small number of inconsistencies in the Code were found. In order to address those inconsistencies, the following amendments are being proposed.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT the following amendments are made to the following sections of the Code.

1) In 2004, Mesa County adopted Resolution No. 2004-220-2 which provided for the regulation of ambulances and created procedures for the licensing of ambulance service providers. Subsequently a selection process took place and the City of Grand Junction Fire Department was selected as the ambulance service provided for the Grand Junction Ambulance Service Area (see City Council Resolution No. 14-06).

As a result of those actions, Section 2.24.010 is hereby amended to read as follows:

(Chapter 2.24 FIRE DEPARTMENT)

2.24.010 Fire Department transportation charges.

The Fire Department shall abide by the terms of Mesa County Resolution 2004-220-2 and as subsequently amended when determining emergency transportation fees, rates and charges.

2) In 1983, the Grand Junction City Council created the Parks and Recreation Board by Ordinance No. 2162. In 1986, bylaws for the Grand Junction Parks and Recreation Board were adopted naming the board the Grand Junction Parks and Recreation Advisory Board. To be consistent all references in the Code and particularly in Chapter 2.32, to the Parks and Recreation Board are hereby changed to Parks and Recreation Advisory Board.

3) The general penalty section of the Code is codified as 1.04.090. There are several other sections in the Code that refer to penalties that are inconsistent with the general penalty. In order for the penalty to be consistent throughout the Code (other than those exceptions specifically identified in Chapter 1.12) the following sections are hereby amended:

(Chapter 3.08 LODGING TAX)

3.08.150 Penalty.

It shall be unlawful for any person to violate, omit or refuse or fail to comply with the several provisions of this chapter, or to commit any act or omission declared to be a violation of this chapter. A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(Chapter 5.16 CONTRACTORS)

5.16.150 Violation of chapter – Penalties.

In addition to suspension or revocation of licenses by the Board as provided by this chapter, any person violating any of the provisions of this chapter or any lawful rule or regulation of the Building Board of Appeals, or any lawful order of the Building Inspector, shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter are committed, continued or permitted.

A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(Chapter 12.08 RIVERFRONT TRAILS)

12.08.130 Violation – Penalty.

The adopted regulations shall have the force and effect of law with respect to all users of, or visitors to, the riverfront trails. A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#).

(Chapter 13.04 WASTEWATER SYSTEM)

13.04.320 Service charges – Charge for reconnecting after disconnection for sewer service charge delinquency – Penalty for unauthorized reconnections.

(a) If the sewer service is disconnected by shutting off the water supply, reconnection shall be made only upon the payment of all delinquencies plus a reconnecting charge as established by resolution of the City Council.

(b) It shall be unlawful, after sewer service has been disconnected by shutting off the water supply or in any other manner, for any person to reconnect such water supply without the consent of the City, and any person violating this provision shall be deemed guilty of a misdemeanor.

(c) A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(Chapter 13.28 STORMWATER MANAGEMENT)

13.28.040 Enforcement.

(m) The violation of any provision of this chapter or with any orders, rules, regulations, permits and permit conditions shall be deemed a municipal offense. Any person violating this chapter shall, upon an adjudication of guilt or a plea of guilty or no contest, be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(1) If any person violates any order of the City Manager, a Hearing Board or Officer or the Council, or otherwise fails to comply with any provisions of this chapter or the orders, rules, regulations and permits issued hereunder, or discharges into the storm drain system or into State waters contrary to the provisions of this chapter, federal or State requirements, or contrary to any order of the City, the City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees, and other expenses of investigation, enforcement action, administrative hearings, and litigation, if the City prevails in the action or settles at the request of the defendant. Any person who violates any of the provisions of this chapter shall become liable to the City for any expense, loss, or damage to the City or to the storm drain system occasioned by such violation. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

(2) Any person who knowingly makes, authorizes, solicits, aids, or attempts to make any false statement, representation or certification in any hearing, or in any permit application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#).

(3) The remedies provided for in this chapter, including recovery of costs, administrative fines and treble damages, shall be cumulative and in addition to any other penalties, sanctions, fines and remedies that may be imposed. Each day in which any such violation occurs, whether civil and/or criminal, shall be deemed a separate and distinct offense.

(Chapter 13.32 WATERSHED AND WATER SUPPLY STANDARDS)

13.32.090 Violations – Penalties.

(a) It is unlawful to engage in any activity not in compliance with these regulations or any amendment thereto and/or the permit requirements hereof. Any person, corporation or other legal entity, either as owner, lessee, permittee, occupant or otherwise, who violates any provision of these regulations and/or who engages in any activity not in compliance with these regulations shall be charged with a misdemeanor.

(b) Any person, corporation or other legal entity, upon conviction of a violation of these regulations, shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#).

(c) Any person, corporation or other legal entity shall be guilty of a separate offense for each and every day during any portion of which any violation of these regulations is committed, continued or permitted.

(d) Nothing herein shall limit the City from seeking any other remedies available by law or in equity, including but not limited to injunctive relief, the recovery of damages and the payment of costs and reasonable attorneys' fees. All remedies shall be cumulative.

(Chapter 15.08 BUILDING CODES – ADMINISTRATION)

15.08.050 Violation and penalty.

The penalties imposed for violation of the codes and of the statutory sections authorizing their adoption are as follows:

Any person, firm or corporation violating this chapter or any provision of any adopted code herein is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, remodeled, used or maintained in violation of this part or of any provision of this chapter, the City Attorney may institute an appropriate action injunction, mandamus or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use. The City Attorney may use or enforce any remedies provided by law or in equity. Jurisdiction for any action brought under this title shall be in the Municipal Court of the City and such action shall be heard and decided in accordance with the rules of that Court.

4) In 2003, Ordinance No. 3589 repealed and re-enacted Code Section 6-61 Barking Dogs (now Section 6.12.060). The reenactment of paragraphs (d), (e) and (f) was not clear so it is the City's desire to clearly re-enact those sections. Therefore Section 6.12.060 is hereby amended to read:

(Chapter 6 DOGS AND CATS)

6.12.060 Barking dogs.

(a) Prohibition. No owner of a dog shall fail to prevent it from disturbing the peace and quiet of any other person by loud and persistent barking, baying, howling, yipping, crying, yelping, or whining, whether the dog is on or off the owner's premises.

(b) Provocation Defense. Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of subsection (a) of this section.

(c) Complainant's Rights and Responsibilities.

(1) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state the description of the offense, the date, time, place and duration of the offense, and if known, the name of

the dog's owner, the owner's address and telephone number, and a description of the dog. The identity of a complainant shall be kept confidential until a violation of this section is charged.

(2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.

(3) No person or owner shall be convicted at trial for violation of this section unless oral testimony or other means of reliable evidence is presented proving the elements of subsection (a) of this section. Other reliable evidence includes, but is not limited to, videotape and digital video recordings.

(d) Warning process. The warning process to be employed prior to a charge being instituted for notification of violation of subsection 6.12.060(a) shall be substantially as follows:

(1) The warning must relate to a barking incident separate from the charged violation.

(2) The animal control officer may issue a warning after receiving two complaints from two different persons who do not reside in the same household.

(3) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state, if known, the name of the dog's owner, the owner's address and telephone number, a description of the dog, description of the offense, the date, time, place and duration of the offense.

(4) A record or incident report shall be kept of any such complaint and investigation.

(5) A warning to a dog owner shall fully cite section 6.12.060(a) and advise the owner of penalty for the violation of section 6.12.060(a). The warning shall also state that a complaint has been received, recite the date of the alleged offense, and conclude that the owner's dog may have disturbed the peace of another individual. The warning must be identified as being issued by any animal regulation officer empowered by the city council to enforce the provisions of this article.

(e) Notice and evidence of warnings. An owner shall be deemed to have been issued and received a warning under subsection (d) of this section if the warning is personally served upon the owner or keeper, posted on the owner's or keeper's premises, or placed in the U.S. mail, postage prepaid and addressed to the owner of the dog according to the last address given by the owner or keeper at the time such owner obtained a license certificate or license tag.

(f) Complainant's rights and responsibilities.

(1) The identity of a complainant shall be kept confidential until a violation of this section is charged.

(2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.

(3) No person or owner shall be convicted at trial for violation of this section unless testimony is presented by at least two complaining witnesses or by one complaining witness when there is only one occupied residence within three blocks or one-quarter mile in any direction.

5) In 1997, the City established a wood stove replacement fund of \$25,000. That fund has been depleted thus leaving the provisions in the Code relative to the Wood Stove Replacement Grant Program obsolete. Therefore, these provisions should be repealed.

(Chapter 8.20 AIR POLLUTION)

8.20.150 and 8.20.160 Repealed.

6) In Section 8.32.020, a list of approved trees is established by the Forestry Board. In Section 8.32.080, the list is referred to but says as established by the Parks and Recreation Department. For consistency, Section 8.32.080 is amended to read as follows:

(Chapter 8.32 TREES)

8.32.080 Maintenance of planting strip.

(a) "Planting strip" shall refer to that area between the back of any curb of any street and the edge of the sidewalk closest to the street or if there is no curb then from edge of asphalt of any street to the edge of the sidewalk.

(b) Duty of Owner to Maintain. It shall be the duty and obligation of every person in the City to keep and care for in the manner provided in this section the planting strip fronting or adjoining the premises owned by such person. Such planting strip shall be maintained in an aesthetically pleasing manner in either drought tolerant plant material, grass or other plantings, stone aggregate, decorative rocks, bark mulch, or like materials or combinations thereof, with or without plantings. Vegetation shall be watered and fertilized to provide optimum growing conditions.

(c) Trees. Any trees planted shall be on the approved list of trees as provided in Section 8.32.020. The City shall provide maintenance (spraying, trimming and removal) of trees only. Prior to any maintenance, the City shall attempt to notify any contiguous property owner but the City shall not be held liable for failure to give notice.

(d) Hard Surfacing. In unusual situations where drainage or traffic problems exist, or in commercial zones or premises where public buildings or uses are involved, hard surfacing such as concrete, terrazzo, brick, flagstone, asphalt or other impervious substances may be authorized by written permit at the discretion of the City Manager. If hard-surfacing materials are authorized in conjunction with tree plantings, proper tree wells as determined by the City Manager shall be constructed by the owner.

(e) Minimum Open Area Around Trees. No person shall deposit or maintain, upon the planting strip in any street, stone, cement, debris or other substance which impedes the free entrance of water and air to the roots of any tree in such public highway or other public place without leaving an open space or ground outside the trunk of such tree, in area not less than six square feet for a tree three inches in diameter and for every two inches of increase of such diameter there must be an increase of at least two square feet of open ground.

(f) Compliance with Other Provisions. Any shrubs or other plantings and the use of other materials shall comply with regulations concerning traffic safety and other provisions of this code.

(g) Appeal. Any person aggrieved by the decision of the City Manager may appeal such decision to the Forestry Board, and such Board may affirm, reverse or modify the decision of the City Manager.

7) The most current map for riverfront trails is referred to in the Riverfront Trails regulations and it states that it is on file in the Office of the City Clerk. The City's GIS contains the most up-to-date map and referring to that location is more efficient.

(Chapter 12.08 RIVERFRONT TRAILS)

12.08.010 Definition – Incorporation of riverfront map.

"Riverfront," "riverfront trails" or "trails" means those areas, facilities, lands and waters as identified on the map entitled "Riverfront Map," which map is incorporated in this article by this reference. The City Manager or his designee shall provide to the Parks and Recreation Advisory Board updated and revised maps of the riverfront as additional trails, lands, lakes or facilities are acquired, placed or constructed. The most current map shall be on file on the City's Geographical Information System (GIS) and incorporated by reference into this chapter and shall constitute the riverfront map. The substitution of maps and incorporation thereof by reference shall not necessitate readoption of this chapter.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado the 19th day of April, 2010

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this 5th day of May, 2010.

/s/ Teresa A. Coons
President of the Council

Attest:

/s/ Stephanie Tuin
City Clerk