

ORDINANCE NO. 2562

AMENDING ORDINANCE 1309 OF THE CITY OF GRAND JUNCTION, COLORADO

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That Ordinance 1309 of the City of Grand Junction, as amended, be amended, by modifying selected paragraphs of the Ordinance which is codified as Chapter 14 of the Code of Ordinances, all to read as follows:

Additions and alterations appear in all capitals.

Chapter 14 Article II shall be and is hereby entitled:

JUNK, RUBBISH AND WEEDS

14-24 The definitions paragraph is amended to include the following:

JUNK IS HEREBY DEFINED TO INCLUDE, BUT NOT BE LIMITED TO, FERROUS AND NON-FERROUS 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 IS HEREBY DEFINED TO BE 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, METAL, PLASTIC, TREE BRANCHES, LIMBS, WASTE BUILDING MATERIALS OR ITEMS DISCARDED IN SUCH A MANNER SO AS TO CREATE A REASONABLE LIKELIHOOD OF BECOMING A HARBOR FOR INSECTS OR VERMIN OR DISEASE OR OTHERWISE CREATE A HEALTH OR SAFETY HAZARD.

Weed is hereby defined to be 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 exhales unpleasant or noxious odors and also high and rank vegetable growth that may conceal filthy deposits, SPECIFICALLY INCLUDING, BUT NOT LIMITED TO, FOUR DESIGNATED UNDESIRABLE PLANTS, KNOWN COMMONLY AS LEAFY SPURGE AND DIFFUSE, RUSSIAN AND SPOTTED KNAPWEED.

14-25 Is re-titled to and amended to read in relevant part:

DUTIES OF PROPERTY OWNER AND LESSEE

It shall be the duty of each and every owner and EACH AND EVERY lessee of any tract OR PARCEL OF REAL PROPERTY of ground in the city to KEEP THE PROPERTY FREE OF JUNK AND RUBBISH AND TO cut to within three (3) inches of the ground all weeds and brush

EXCEEDING SIX (6) INCHES IN HEIGHT . . .

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 SECTION 4-3-1 OF THE ZONING AND DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION.

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:

- (a) THE LANDOWNER OR OCCUPANT HAS REQUESTED AN INSPECTION; OR
- (b) A NEIGHBORING LANDOWNER OR OCCUPANT HAS REPORTED A SUSPECTED WEED, JUNK OR RUBBISH VIOLATION AND REQUESTED AN INSPECTION; OR
- (c) 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.
- (d) 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 ON A CONSPICUOUS LOCATION AT THE PROPERTY. WHERE POSSIBLE, INSPECTIONS SHALL BE SCHEDULED AND CONDUCTED WITH THE CONCURRENCE OF THE LANDOWNER OR OCCUPANT.
- (e) IF AFTER THE CITY HAS GIVEN 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(S). 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, IN ADDITION TO OTHER CIVIL OR CRIMINAL REMEDIES, CONTEMPT OF COURT.

14-28 Is amended to read:

In case of failure of any owner or lessee of such lots, tracts or parcels of land to cut and remove weeds, brush, JUNK OR rubbish, as provided herein and UPON the election OF the city to remove said weeds, brush, JUNK OR rubbish, the Supervisor is authorized to give notice by certified mail addressed to the last known post office address of the owner of such lands as that address appears in the records of the county recorder. Notice(s) shall require: 1) COMPLIANCE WITH THE TERMS OF THE NOTIFICATION OR 2)

ACKNOWLEDGEMENT BY THE ADDRESSEE OF THE NOTIFICATION AND SUBMISSION TO THE SUPERVISOR OF AN ACCEPTABLE PLAN AND SCHEDULE FOR THE COMPLETION OF A MANAGEMENT PLAN OR 3) A REQUEST FROM THE ADDRESSEE FOR AN ADMINISTRATIVE HEARING, within TEN (10) days of the date of the notice. In the event such ELECTION is not made within TEN (10) days, 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, BRUSH OR REMOVAL OF JUNK AND OR RUBBISH.

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 THE WEEDS, BRUSH, JUNK AND/OR RUBBISH, AND A BOND, CASH DEPOSIT OR OTHER ACCEPTABLE FORM OF SECURITY PAYABLE TO THE CITY OF GRANT JUNCTION IN AN AMOUNT REASONABLY CALCULATED TO APPROXIMATE THE COST OF CLEANUP AND OR TO SECURE PERFORMANCE OF THE MANAGEMENT PLAN.

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 OF 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 A 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 THIRTY (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 HERE BY 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 A TWENTY-FIVE (25) PERCENT ADMINISTRATIVE SURCHARGE WHICH IS OCCASIONED BY ENFORCEMENT OF THIS ARTICLE. ALL COSTS ARE INDEPENDENT OF ANY OTHER PENALTIES OR POWERS OF ENFORCEMENT OF THE CITY.

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.

14-30 Is amended in relevant part to read:

The COMMUNITY DEVELOPMENT department . . .

14-31 Is amended in relevant part to read:

. . . with twenty-five (25) percent ADMINISTRATIVE SURCHARGE thereon to defray the COSTS AND TO PROVIDE AN ECONOMIC DISINCENTIVE FOR VIOLATIONS AND THE CONTINUATION OF VIOLATIONS . . .

14-33 Is added to read:

THE CITY COUNCIL SHALL APPOINT AN ADMINISTRATIVE HEARING BOARD WHO SHALL HEAR EVIDENCE AND RENDER FINDINGS OF FACT AS OUTLINED HEREIN. THE BOARD SHALL LIKEWISE 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.

(a) THE 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 OF GRAND JUNCTION. 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.

(b) THE BOARD SHALL DESIGNATE UNDESIRABLE PLANTS WHICH ARE TO BE SUBJECT TO MANAGEMENT. PLANT SPECIES MAY BE IN ADDITION TO THOSE DESIGNATED IN SECTION 14-24.

(c) THE BOARD SHALL REQUIRE THAT IDENTIFIED LANDOWNERS OR LESSEES BE REQUIRED TO SUBMIT AN INDIVIDUAL MANAGEMENT PLAN TO CONTROL UNDESIRABLE PLANTS UPON SUCH PERSONS PROPERTY.

(d) 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 BOARD AS TO THE

REQUIREMENTS OF WEED MANAGEMENT IN AND FOR THE CITY OF GRAND JUNCTION. THE CITY COUNCIL SHALL NOT HEAR APPEALS FROM THE BOARD ON ENFORCEMENT ACTIONS TAKEN BY THE BOARD, THE CITY MANAGER OR CITY STAFF. APPEALS OF THESE ACTIONS ARE TAKEN IN ACCORDANCE WITH 14-20.

14-34 Is added to read:

IF ANY PROVISION OF THIS ORDINANCE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATION OF THIS ORDINANCE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISIONS OR APPLICATIONS AND TO THIS END, THE PROVISIONS OF THIS ORDINANCE ARE DECLARED TO BE SEVERABLE.

Introduced this 22nd day of January, 1992.

PASSED and ADOPTED this 5th day of February, 1992.

NAME

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2562, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 22nd day of January, 1992, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 6th day of February, 1992.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk

Published: January 24, 1992

Published: February 7, 1992

Effective: March 8, 1992