

**ORDINANCE NO. 977**

**AN ORDINANCE CREATING SECTIONS 8.20.165 AND 8.20.205; AND AMENDING SECTIONS 8.20.017 D, 8.20.050, 8.20.060, 8.20.095 A, 8.20.099, 8.20.160, 8.20.200, 8.20.220 A4, 10.48.070, AND 12.20.050 C & F OF THE DOUGLAS MUNICIPAL CODE FOR PROPERTY MAINTENANCE AND NUISANCE ABATEMENT REQUIREMENTS**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DOUGLAS, WYOMING**, that:

**WHEREAS**, the City of Douglas (City) Council finds and determines that the following changes and clarifications need to be made in regards to property maintenance and nuisance abatement; and

**WHEREAS**, consideration has been given to ensure fairness to all City of Douglas residents and make new regulations reasonable.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DOUGLAS, WYOMING**, that:

**Section 1.** Section 8.20.165 of the Douglas Municipal Code is hereby created to read as follows:

**8.20.165 – Junked vehicles, and unlicensed or inoperative vehicles.**

It is unlawful for any person owning or occupying a lot or premises, or for that person's agent, to permit or cause the accumulation of junked vehicles upon the lot or premises. Nothing in this section is intended to prohibit the accumulation of such junk vehicles in or upon establishments or premises lawfully authorized and/or expressly permitted.

- A. "Junked vehicle" means any vehicle originally designed or constructed to be self-propelled, regardless of whether it contains an engine, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies, off-road vehicles, and boats on private property which are found to either:
1. Be wrecked, abandoned, dismantled, partially dismantled, discarded, or inoperative;
  2. Promote blight and deterioration;
  3. Invite plundering;
  4. Create fire hazards;
  5. Create a harborage for insects, rodents, skunks and other vermin;
  6. Constitute an attractive and dangerous nuisance creating a hazard to the health and safety of minors; or
  7. Which causes or tends to cause substantial loss in the value of other property in the neighborhood in which such premises are located or which is found to be injurious to the health, safety and general welfare of the public.
- B. For purposes of this section, any one of the following nonexclusive circumstances existing prior to, or at the time notice is delivered, shall be considered evidence that a vehicle upon private property constitutes a public nuisance:
1. Not less than thirty (30) days have passed without the vehicle being removed or screened;
  2. A vehicle which is totally or partially suspended above the ground by jacks, blocks or other devices, except for a vehicle undergoing active repair, for up to forty-eight (48) hours when the same is being repaired;
  3. A vehicle which does not display a current license plate, tag or valid temporary permit, except those in possession of licensed dealers for the purpose of sale at the place licensed for the sale;

4. A vehicle which is inoperative, or in a state of major disassembly or disrepair, or which is in the process of being stripped or dismantled, other than for up to thirty (30) days when repairing the same; or
5. A racecar that is not currently actively engaged in racing and equipped for racing with roll cage, windows removed, driver's name, sponsors and/or number displayed. Any racecar shall be concealed behind a six (6) foot opaque fence or within an enclosed building, with the exception of not more than ten (10) days prior to or following the date of the race event.
6. Demolition derby cars; or vehicles in an operable condition specifically adapted or constructed for exclusive operation on raceways, or parts thereof shall be considered junked vehicles ten days (10) following the demolition race in which they were used.

Demolition derby cars shall not be permitted on residential property more than fourteen (14) days prior to the event in which the demolition derby racecar is entered. Proof of event registration may be required.

Within no more than ten (10) days following the date of the race event, any demolition derby car shall be concealed behind a six (6) foot opaque fence or within an enclosed building.

C. Exceptions. This section does not apply to:

1. Vehicle storage incident to an automobile sales, towing, storage or repair business operated in compliance with all applicable law; or
2. The storage of wrecked, junked or inoperative vehicles by a lawful salvage business operating in compliance with all applicable law; or
3. For use in refurbishing and restoring vehicles as a hobby, a property owner may keep on his/her property no more than two (2) unlicensed or inoperative vehicles and materials involved with the repair and restoration of those vehicles, provided the vehicles and materials are effectively concealed from view.

“Effectively concealed from view” means any vehicle which is maintained in such a manner that it does not constitute a health hazard, does not attract children, rodents or pests, and which is located so that it is not readily visible from a public place or surrounding private property, or is enclosed in a building, or is completely covered with an intact, opaque cover, or is concealed behind appropriate opaque fencing.

**Section 2.** Section 8.20.205 of the Douglas Municipal Code is hereby created to read as follows:

**8.20.205 - Trees and Shrubs**

A. Definitions. For this chapter, the following words and phrases shall have the following meanings:

1. “Arborists” are herein defined as any person, firm, or corporation engaged in the business of cutting, trimming, pruning, spraying, injecting chemicals, or removing trees or shrubs for compensation.
2. “City property” means all city-owned property, including parks, and dedicated rights of way and other real property.
3. “Park trees” are hereby defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city.
4. “Public Nuisance” means any dangerous or unsafe tree or portions thereof on streets or alleys, in parks, on other public places, and private property, or posing a hazard thereof; any destructive or communicable disease or pestilence which endangers the growth, health, life, or well-being of trees or shrubs in the city.
5. “Street trees” are hereby defined as trees on land lying between property lines on either side of all streets, avenues, alleys, or right of ways within the city.

6. "Tree Topping" is described as the severe cutting back of limbs to stubs larger than three inches in diameter within the crown to such a degree so as to remove the normal canopy and disfigure the tree.

B. Trees to be Trimmed. Every owner or occupant of any real property shall trim all trees on property owned or occupied by him which are overhanging the sidewalks, streets or alleys so that the branches thereon will not interfere with pedestrians or public travel. Same shall be trimmed so that all parts shall be at least eight (8') feet above any sidewalk it may overhang. Same shall be trimmed so that all parts shall be at least fourteen (14') feet above any street or alley it may overhang.

If a tree, or any of its parts, adjoining boulevards, or alley ways, on private property in any way causes a hindrance to the general public, or in any way endangers the security and usefulness of any public street, highway, alley, utility, or sidewalk, the same is hereby declared a nuisance. The city shall issue a written notice requiring the owner or agent to correct or remove said nuisance within ten (10) days, unless such nuisance constitutes a traffic safety hazard, in which case the owner shall be required to abate the hazard within three (3) days. If the owner or agent does not correct said nuisance within the time specified, the city shall cause the same to be corrected or removed, and the costs thereof shall be billed to the property owner at a rate equal to one and one half (1 1/2) times or a citation will be issued by the code compliance officer.

C. Tree Topping. It shall be unlawful for any person, firm, or city department to top any tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where proper pruning practices are impractical may be exempted from this ordinance at the determination of the Parks Department.

D. Hedges and Shrubbery. Every owner or occupant of any real property shall trim all hedges and shrubbery adjacent to public sidewalks so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk in the city and/or streets and alleys so that no part of said hedges and/or shrubbery shall extend over any part of a street or alley. In case of corner lots, there shall be no hedges or shrubbery within the triangle, having its sides fifteen feet (15') each way from the corner of said lot facing the two (2) streets, and there shall be no other plants over two feet (2') high within such triangle.

E. Injury to Trees or Shrubbery. It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority to do so, to willfully injure, destroy, deface, disfigure or demolish any fruit, shade or ornamental tree or shrub, growing, standing or being either on private ground or any street, parking area, public park or place within the city.

F. Attachment of Signs, Notices, Wires or Ropes. It shall be unlawful to attach any sign, advertisement, or notice to any tree or shrub on city property. It shall be unlawful to attach any wire or rope to any tree or shrub in any public street, parkway, or other city property without the approval of the Parks Department.

G. Street Corners. Trees and bushes shall be trimmed in a manner which does not prevent visibility at street corners or intersections.

H. Fire Hydrants. Trees and bushes shall be trimmed in a manner which provides clear visibility of and accessibility to hydrants.

I. Existing Trees. Trees in existence and growing at the date of this ordinance shall be exempt from setback requirements.

**Section 3.** Section 8.20.017 D of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.017 – Definitions.**

D. Nuisance" or "public nuisance" means any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial loss in the value of other property in the neighborhood in which such premises

are located or promotes urban blight and deterioration, or invites plundering, or creates fire hazards, or constitutes an attractive nuisance creating a hazard to the health and safety of minors, or creates a harborage for vermin, or to be injurious to the health, safety and general welfare of the public. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:

**Section 4.** Section 8.20.050 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.050 – Notices form.**

Whenever the code compliance officer is of the opinion that any condition is a public nuisance as defined within this code, the code compliance officer shall attempt to give written notice to the owner of the condition, if his or her address is known, to the owner of the land where the condition is located, or any person occupying property, or to any other person or entity known by the code compliance officer to have a security interest in the alleged public nuisance. Such notice shall include substantially the following information:

- A. The name of person who is the owner as disclosed in the tax records of Converse County, Wyoming, or otherwise recorded; the name of person who is occupier of property if known, or the name of person who has a security interest if known;
- B. The date of the inspection of the property;
- C. A description of the real property, by street address or otherwise, on which the nuisance exists;
- D. A statement that a certain condition is a nuisance within the provisions of this chapter and in the case of a vehicle, the notice should include make, year and vehicle identification number if reasonably possible and what must be abated;
- E. A statement that such nuisance must be abated within ten (10) days from the date on the notice;
- F. A statement that if the nuisance is not abated within the time provided, the city may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both;
- G. A statement that a hearing upon the allegation of a public nuisance and the assessment of costs may be requested by giving written notice to the clerk of municipal court within ten (10) days from the date on the notice, and that a request must specify the property concerning which the request is made, the requesting party's name and address, and the nature of the interest held by the requesting party; that upon request a hearing will be scheduled to determine if a public nuisance exists and as to the assessment of administrative costs and the costs of abatement; that if a hearing is not so requested the right to a hearing shall be waived; and
- H. A statement that failure to abate the nuisance may result in a city abatement and/or criminal charges.

**Section 5.** Section 8.20.060 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.060 – Method of service.**

- A. If, after inspection of the premises, the code compliance officer determines that a public nuisance exists, a notice of violation shall be served upon the owner of property on file with the Converse County Assessor for tax purposes. Notice shall be served in one or more of the following ways:
  - 1. Personal service by the code compliance officer; or
  - 2. Certified mail, return receipt requested, signature required; or
  - 3. Posting a copy of the notice in some conspicuous place on the offending property. In the case of vehicles, where practical, the notice shall also be affixed to the windshield or some other part of the vehicle where it can be easily seen. Where affixing the notice

to a vehicle is impractical, and in the case of other nuisances, the notice shall be posted at the site or on the premises where the nuisance exists; or

4. In the event that service cannot be perfected by any of the above listed methods, then notice of the violation and the contents thereof, shall be published in a newspaper of general circulation in the community one (1) time per week for two (2) consecutive weeks.
- B. Proof of notice shall be made naming the person to whom notice was given and specifying the time, place and manner thereof, by the certification of any officer or employee of the city, affidavit of any person over eighteen (18) years of age, naming the person to whom notice was given and specifying the time, place and manner thereof. Proof of notice shall be made in each case and maintained for a period of two (2) years from the date of abatement of the nuisance for which notice has been given.
- C. Receipt of service of the notice shall be deemed completed upon delivery by personal service, by mailing of the certified letter plus three (3) days, or upon the publication of the notice for the first time in the newspaper.

**Section 6.** Section 8.20.095 A of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.095 - Waiver of abatement costs.**

- A. Notwithstanding the other provisions of the ordinance codified in this section, the cost of abating a nuisance shall be waived for those Wyoming residents meeting the same resource eligibility requirements under W.S. 39-11-109(c)(ii) through (vii). All persons wishing to qualify for waiver of nuisance abatement costs must:
1. Furnish proof of the age and/or income requirements as set forth in W.S. 39-11-109(c)(ii) through (vii);
  2. Must own, or be in the process of purchasing the property from which the nuisance is abated; and
  3. Be living on the property from which the nuisance is abated.

**Section 7.** Section 8.20.099 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.099 - Removal – Voluntary consent – Affidavit.**

The author of a nuisance may voluntarily consent to its removal by the city. To give such consent, all responsible persons of the property shall execute an affidavit acceptable to the city administrator, stating that there are no other responsible person(s) of the property; that the responsible person(s) waive the right to hearing under 8.20.064; that the responsible person(s) will reimburse the city for the actual costs of removal and administrative overhead attributable to removal; and that reimbursement will be made to the city within thirty (30) days of removal. The affidavit shall contain an agreement by the responsible person(s) to indemnify the city for any loss, damage or expense alleged by any person as a result of removal or disposal. The affidavit shall release the city from any and all liability on account of the removal and disposal of a nuisance.

**Section 8.** Section 8.20.160 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.160 - Accumulation of refuse, garbage, debris.**

It is unlawful for any person owning or occupying a lot or premises, or for that person's agent, to permit or cause the accumulation of garbage, refuse, or debris as defined in this section upon the lot or premises which causes or tends to cause substantial loss in the value of other property in the neighborhood in which such premises are located or which is found to be injurious to the health, safety and general welfare of the public. Nothing in this section is intended to prohibit the accumulation of such garbage, refuse or debris in or upon establishments or

premises lawfully authorized for the purpose of treating or disposing of accumulated garbage, refuse or debris such as authorized junkyards and landfills.

"Debris" means discarded automobile parts or tires, household appliances, furniture or equipment, billboard refuse, silt from automobile washracks, dead animals, large or bulky boxes, barrels, tanks or containers, any refuse resulting from the wrecking, construction or reconstruction of any building, fence, sidewalk or structure of any kind or character, or any discarded refuse of a highly explosive or inflammable nature, or anything whatsoever which may be found to be unsanitary, dangerous or injurious to the health, safety and general welfare of the public.

"Garbage" means any and all kitchen refuse, waste food, offal or animal matter or anything whatsoever which may decompose and become offensive, foul, unsanitary or dangerous to health.

"Refuse" means any and all grass clippings, leaves, weeds, or other yard waste, hay, straw, paper, rubbish, containers, glass, cans, bottles and any and all other material commonly known as rubbish or refuse of any kind, except as excluded in this chapter.

**Section 9.** Section 8.20.200 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.200 - Weeds**

A. For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

1. "Native areas" means those areas adjacent to the city's open drainageways and areas of natural groundcover, and/or areas of extreme topography.
2. "Drainageways" means a route or course along which water moves or may move to drain a region.
3. "Wood plants" means perennial plant materials such as trees, shrubs, vines and groundcovers with woody fiber, which serve as desirable flora components of an urban landscape.

B. Weed Removal. All premises and adjoining property, including the space between such property and the street and that portion of the alley adjoining such property, and the sidewalk areas abutting thereon, shall be maintained free from weeds and untended growth of vegetation in excess of ten (10) inches in height. The presence of such weeds may create a fire, safety or health hazard, or may attract vermin either on the property, on neighboring properties, or on both. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers, gardens and lawns. Nothing in this subsection is intended to prohibit the use of tall, decorative grasses or plants as part of a landscaping or xeriscaping scheme.

Exception. Tracts of land greater than two (2) acres in size which are unsubdivided and unimproved and/or subdivided but unimproved, and under single ownership. Fire break required as per subsection C of this section.

C. Fire Break Required.

1. It is the duty of every owner of any lot, or parcel of ground in the city, to mow and maintain a strip for a fire break between their private property and the native areas adjoining the property. The width of the fire break shall be determined by the Community Development Department, and shall be based on the height, type and amount of growth, wind and geographical conditions, and type of exposure threatened.
2. Tracts of land greater than two (2) acres in size which are unsubdivided or subdivided and unimproved, and under single ownership shall be mowed a minimum of ten (10') feet from the property line into the property or twenty (20') feet when adjacent to

residential neighborhoods unless otherwise specified by the Community Development Department as per subsection 1 above.

3. Drainageways, excluding the North Platte River, shall be mowed a minimum of ten (10') feet extending out from the top of the bank. When drainageways are adjacent to residential neighborhoods, they shall be mowed a minimum of twenty (20') feet extending out from the top of the bank. Woody plants located within this area are exempt from having to be mowed. The code enforcement officer, for reasons of erosion, spoilage of natural groundcover, etc., can deem the mowing of the drainageway to be impractical, and exempt from the mowing requirement.
4. Native areas and/or areas of extreme topography, as determined by the Community Development Department, and the natural vegetation contained therein, are exempt from the weed removal and height limitation provisions of this chapter with the exception of subsection 1 above.

D. Composting Exception. The provisions of subsection A of this section do not prohibit the maintenance of a compost pile on residential property, so long as the compost pile does not create a hazard and is:

1. Contained;
2. Maintained so as not to produce offensive odors or attract flies or vermin;
3. Located, insofar as reasonably possible, so that it is not visible from abutting properties or streets;
4. Maintained in compliance with all rules, regulations and procedures that may be promulgated by the public works director.

**Section 10.** Section 8.20.220 A4 of the Douglas Municipal Code is hereby amended to read as follows:

**8.20.220 - Structure exteriors, accessory structures, fences and walls.**

4. Basement hatchways that provide access shall be equipped with devices that secure the unit from unauthorized entry. Such basement hatchways shall also be maintained to prevent the entrance of rodents, rain and surface water.

**Section 11.** Section 10.48.070 of the Douglas Municipal Code is hereby amended to read as follows:

**10.48.070 - Parking of recreational and utility vehicles and trailers on public streets.**

The purpose of this section is to address health, safety, and welfare concerns related to snow removal, street sweeping, traffic movement, ingress and egress from private property on to public right-of-ways, police observation of property, masking the presence of abandoned or inoperable vehicles, property values, and blight. The Code Compliance Officer shall have the authority declare a nuisance and enforce items listed in this section.

“Unit” means a recreational vehicle, recreational trailer, motor home, bus, detached camper, boat, construction trailer, utility trailer, horse trailer, oversize vehicle, or similar vehicle or trailer.

- A. Not more than one (1) unit may be parked within the paved portion of a public street adjacent to a building site and/or to the property to which the unit registration displays.
- B. Units must be legally registered and have the ability to be moved under their own power or the power of a motorized vehicle.
- C. Units shall not be parked in a manner that creates a vehicular or pedestrian traffic hazard.
- D. No units described in this section shall be parked on any arterial street.
- E. None of the units described in this section shall be used for dwelling or residential purposes.

- F. Short term parking, of no more than three (3) consecutive days of any thirty-day period, of units as defined in this Section, is permitted provided such parking does not constitute a safety hazard, does not create a nuisance, and does not conflict with provisions of this code. Any parking in excess of this time period is prohibited and is considered a nuisance.
- G. Construction units may be parked at a site, other than that which it is registered to, where it is actively being utilized as part of a working construction site for which a building permit has been issued. The unit shall be removed as soon as its use is deemed unnecessary by the Code Compliance Officer. Construction units shall not create a safety hazard, create a nuisance, or conflict with provisions of this Code.

**Section 12.** Section 12.20.050 C and F of the Douglas Municipal Code is hereby amended to read as follows:

**12.20.050 - Maintenance.**

- C. Pruning, Corner Clearance. 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 obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of any sidewalk and fourteen (14) feet above the surface of any street or alley. 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 parks/recreation/cemetery division 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 street light or interferes with visibility of any traffic control device or sign.
- F. Replacement of Mature Trees. In the event of development that may infringe upon mature trees, the following considerations are to be implemented:
  - 1. The City Arborist shall review the plans for all developments proposed through the community development department. The purpose of their review will be to determine whether or not there are existing trees that may be affected by such development. They will determine the approximate age of such tree(s), the historic significance of such tree(s), the approximate monetary value of such tree(s), and provide a recommendation on whether or not the development needs to be modified to avoid removal of such tree(s). If no City Arborist exists then the City shall contact a representative of the State Forestry Office who shall perform the same functions as stated within this section.
  - 2. If it is determined that any tree(s) will need to be removed, the developer shall contribute funding to the city's tree planting budget in an amount equal to the value of the tree(s) to be removed as determined by the City Arborist, using established tree valuation calculations but not to exceed one thousand dollars (\$1,000.00) per tree. This amount shall be earmarked for tree replacement along public rights-of-way. In the absence of a City Arborist, a State Forestry arborist will be contacted to determine the value.

**Section 13.** Douglas Municipal Code Sections 1.04.050, 1.04.060 and 2.08.060, by reference, are incorporated herein and made a part hereof.

**PASSED AND APPROVED ON FIRST READING** this 28<sup>th</sup> day of March, 2016.

**PASSED AND APPROVED ON SECOND READING** this 11<sup>th</sup> day of April, 2016.

**PASSED, APPROVED, AND ADOPTED** on Third and Final Reading this 25<sup>th</sup> day of April, 2016.

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Bruce A. Jones, Mayor

**Attest:**

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Karen Rimmer, City Clerk

Published:

**ATTESTATION**

I, Karen Rimmer, the Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

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Karen Rimmer, City Clerk