

Title 8

HEALTH AND SAFETY

Chapters:

8.04 Weed Control

8.06 Community Decay

8.08 Litter Control

8.12 Undesirable Vegetation Control

8.16 Air Pollutants

8.20 Emergency Medical Services

8.24 Special Events

Chapter 8.04

WEED CONTROL*

Sections:

8.04.010 Purpose.

8.04.020 Object.

8.04.030 Scope.

8.04.040 Definitions.

8.04.050 Weed management district established.

8.04.060 District weed board.

8.04.110 Powers--Duties.

8.04.111 Regulations controlling the harvesting and transportation of baby's breath (*Gypsophila paniculata*) plants within the city and county.

8.04.112 License required for buyers and collectors of baby's breath (*Gypsophila paniculata*).

8.04.120 District weed board--Hearings--Appeals.

8.04.130 Nuisance declared.

8.04.140 Unlawful to permit noxious weeds to propagate.

8.04.145 Regulating the picking and transporting of baby's breath (*Gypsophila paniculata*).

8.04.150 Noxious weed management program.

8.04.160 Board action--Noncompliance.

8.04.170 Board action--Destruction of weeds.

8.04.180 Voluntary weed embargo program.

8.04.190 Revegetation--Board approval required.

8.04.200 Voluntary weed management agreements--Board approval required.

8.04.210 Noxious weed fund--Authorized.

8.04.220 Noxious weed fund--Sources of money.

8.04.230 Noxious weed fund--Expenditures.

8.04.240 Weed control costs--Determination.

8.04.250 Weed control costs--Payment.

8.04.260 Financial assistance to persons responsible for weed control.

8.04.270 Tax liability for payment of weed control costs.

8.04.280 Responsibility for assessments and taxes for weed control levied on leased state lands.

8.04.290 State and federal aid programs.

8.04.300 Cooperation agreements.

8.04.310 Violation--Penalty.

* Prior ordinance history: Ord. 84.

8.04.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to administer and implement the Butte-Silver Bow weed district noxious weed program as required by Part 21 of Chapter 22 of Title 7, Montana Code Annotated, (MCA).

(Ord. 268 § 1 (part), 1986)

8.04.020 Object.

It is the object of this chapter to declare and define what vegetation within the Butte-Silver Bow weed district shall be noxious weeds; to provide the manner in which such weeds shall be exterminated; to require that the owner or owners of any property within the boundaries of Butte-Silver Bow exterminate or remove noxious weeds from their premises and the one-half of any road or street lying next to the land or boulevard abutting their premises; to provide for hearing before the district weed board by any person adversely affected by any action of the board; and finally to provide in the event that the owner or owners of any of said premises neglect to exterminate or remove the noxious weeds therefrom, after hearing before the board, for levying the costs of such extermination or removal as a special tax against the property.

(Ord. 268 § 1 (part), 1986)

8.04.030 Scope.

The Butte-Silver Bow district weed board shall serve in an advisory capacity to the government of Butte-Silver Bow.

(Ord. 268 § 1 (part), 1986)

8.04.040 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow district weed board.
- B. "Boulevard" or "parkway" or "planting strip" means that strip of land within the public right-of-way which is between the sidewalk and the roadway.
- C. "Buyer" or "collector" means an individual or company that is in the business of buying baby's breath (*Gypsophila paniculata*) to market for resale. A buyer or collector must have a current Butte-Silver Bow business license in order to do business as a "buyer" or "collector" of baby's breath (*Gypsophila paniculata*) in the city and county of Butte-Silver Bow, state of Montana.
- D. "Council" means the council of commissioners of the city and county of Butte-Silver Bow.

- E. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow.
- F. "Department" means the Montana Department of Agriculture provided in Section 2-15-3001, MCA.
- G. "District" means the Butte-Silver Bow weed management district organized under the authority of Section 7-22-2102, MCA and includes all the land within the boundaries of Butte-Silver Bow, state of Montana.
- H. "Government" means the local government of the city and county of Butte-Silver Bow.
- I. "Harvest" means to remove any part of a baby's breath (*Gypsophila paniculata*) plant from areas where it grows when the plant is mature and bearing seed.
- J. "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses and which is designated:
1. As a statewide noxious weed by rule of the department; or
 2. As a district noxious weed by the board, following public notice of intent and a public hearing. The term weeds shall specifically include the following: dyers woad (*Isatis tinctoria* L.), baby's breath (*Gypsophila paniculata*), wild caraway (*Carium carvi*), common tansy (*Tanacetum vulgare*), matrimony vine (*Lycium halime falium*) and dalmation toadflax (*Linaria dalmatica*), and houndstongue (*Cynoglossum officinale*); and
 3. Baby's breath (*Gypsophila paniculata*) is hereby established as a noxious weed, subject to all regulations and penalties as set out in Chapter 8.04 except as provided in Section 8.04.111 and 8.04.112.
- K. "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, or right-of-way for a casual or lateral.
- L. "Picker" means a person or persons who gathers any part of a baby's breath (*Gypsophila paniculata*) plant by cutting or pulling plants with the purpose of selling such plants to a buyer or collector. A picker may also work for a buyer or collector for wages.
- M. "Supervisor" means the person employed by the board to conduct the district noxious weed management program and supervise other district employees.
- N. "Transportation" means to move baby's breath (*Gypsophila paniculata*) by any means from one location to another within the city and county of Butte-Silver Bow, state of Montana.
- O. "Weed management or control" means the planning and implementation of a coordinated

program for the containment, suppression, and where possible, eradication of noxious weeds.
(Ord. 443 § 1, 1993; Ord. 351 § 1, 1989; Ord. 268 § 1 (part), 1986)

8.04.050 Weed management district established.

There is formed and established a weed management district in the city and county of Butte-Silver Bow, state of Montana, which district shall include all of the land within the boundaries of the city and county of Butte-Silver Bow. (7-22-2102 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.060 District weed board.

The chief executive and the council of commissioners shall appoint and confirm a district weed board as provided in Chapter 2.98 of the Butte-Silver Bow Municipal Code.
(Ord. 486 § 10, 1994; Ord. 268 § 1 (part), 1986)

8.04.110 Powers--Duties.

A. The board may:

1. Taking into consideration education, licensing requirements and appropriate experience, hire a weed control supervisor and other employees, subject to available funds. All weed district employees shall serve at the discretion of the board and may be terminated by the board;
2. Purchase such chemicals, materials, and equipment and pay other operational costs as it determines necessary for implementing an effective weed management program. Such costs must be paid from the noxious weed fund;
3. Determine what chemicals, materials, or equipment may be made available to persons controlling weeds on their own land. The cost for such chemicals, materials, or equipment must be paid by such persons and collected as provided in this chapter;
4. Enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if such plant species spreads or threatens to spread into the state; and
5. Perform other activities relating to weed management.

B. The board shall:

1. Administer the district's noxious weed program;
2. Establish management criteria for noxious weeds on all land within the district;
3. Make all reasonable efforts to develop and implement a noxious weed program covering all land

within the district owned or administered by a federal agency. (7-22-2109 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.111 Regulations controlling the harvesting and transportation of baby's breath (*Gypsophila paniculata*) plants within the city and county.

Regulations controlling the harvesting and transportation of baby's breath (*Gypsophila paniculata*) plants within the city and county of Butte-Silver Bow, state of Montana are as follows:

- A. Transportation of baby's breath (*Gypsophila paniculata*). It is unlawful for any person to knowingly transport, haul, carry or cart to ship any part of the noxious weed, baby's breath (*Gypsophila paniculata*) in a vehicle upon the public highways of the city and county of Butte-Silver Bow without having said noxious weed fully enclosed within said vehicle covered with a suitable material to prevent the spread of noxious weeds or parts thereof.
- B. Penalty. Any violation of the section regarding transportation of baby's breath (*Gypsophila paniculata*) shall constitute a misdemeanor offense punishable by a maximum fine not to exceed one hundred dollars per violation and jurisdiction for any such violation shall be in the city court of the city and county of Butte-Silver Bow.
- C. Right of Entry Upon Private Property. Employees of the city and county of Butte-Silver Bow, state of Montana, shall have the right-of-entry upon private property for the purpose of inspections of collected baby's breath (*Gypsophila paniculata*) at all reasonable times.

(Ord. 351 § 2, 1989)

8.04.112 License required for buyers and collectors of baby's breath (*Gypsophila paniculata*).

- A. Buyers and collectors of baby's breath (*Gypsophila paniculata*) shall pay an annual license fee as set out in Section 5.04.100.
- B. All licensed collectors of baby's breath (*Gypsophila paniculata*) shall report to the Butte-Silver Bow business license division of the treasurer's office by October 1st of each year, the amount of the baby's breath (*Gypsophila paniculata*) collected for that year.
- C. In addition to that annual license fee provided for in subsection A above, all licensed collectors shall pay a five-percent gross proceeds tax to the city and county of Butte-Silver Bow. This tax shall be five percent of the gross sales of all baby's breath (*Gypsophila paniculata*) picked and/or shipped from said county. This amount shall be due and payable October 1st of each year for all sales of baby's breath (*Gypsophila paniculata*) from the previous twelve months.

(Ord. 351 § 2, 1989)

8.04.120 District weed board--Hearings--Appeals.

- A. A person adversely affected by any notice, action, or order of the board may request an administrative hearing before the board. The request for a hearing must be made within fifteen days of the date of the notice action or order of the board which is being objected to. The board shall hold a hearing within thirty

days of the request. Participants may be represented by legal counsel. The board shall make a record of the proceedings and enter its order and findings within seven days after the hearing.

B. An order of the board may be appealed to the council within thirty days from the time the order is entered. The council shall hear such appeal within thirty days after the notice of appeal and shall render their order and findings within seven days after such hearing. Participants may be represented by legal counsel.

C. Within thirty days after the council renders its order and findings, the person adversely affected may file a petition in district court requesting that the order and findings of the council be set aside or modified. The court may affirm, modify, or set aside the order complained of, in whole or in part. (7-22-2110 MCA) (Ord. 368 § 1 (part), 1986)

8.04.130 Nuisance declared.

Noxious weeds and the seed of any noxious weeds are declared a common nuisance. (7-22-2115 MCA) (Ord. 268 § 1 (part), 1986)

8.04.140 Unlawful to permit noxious weeds to propagate.

It is unlawful for any person to permit any noxious weed to propagate or go to seed on his land, except that any person who adheres to the noxious weed management program of the district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section. (7-22-2116 MCA) (Ord. 268 § 1 (part), 1986)

8.04.145 Regulating the picking and transporting of baby's breath (*Gypsophila paniculata*).

A. The following regulations are established controlling the picking and transportation of baby's breath (*Gypsophila paniculata*) within the district established by Section 8.04.050:

1. All commercial buyers, persons or firms who intend to purchase or collect or offer to purchase or collect baby's breath (*Gypsophila paniculata*) within the district for the purpose of resale must obtain a Butte-Silver Bow business license;
2. Baby's breath (*Gypsophila paniculata*) may not be picked, collected or purchased within the district for the purpose of resale after the cutoff date set each year by the board;
3. The board shall annually give public notice at least seven days in advance of the cutoff date referred to in subdivision 2 of this subsection;
4. All baby's breath (*Gypsophila paniculata*) plants which are picked within the district for the purpose of resale must be boxed or bagged in seed-tight containers at the point of purchase or collection.

B. Any person or firm violating any of those regulations set forth in subsection A of this section shall be guilty of a misdemeanor and shall be subject to those penalties set out in Section 8.04.310.

C. Any person or firm violating any of those regulations set out in subsection A of this section shall, in addition to any penalties imposed under Section 8.04.310 be subject to revocation of that Butte-Silver Bow business license referred to in subdivision 1 of subsection A of this section.
(Ord. 324 § 1, 1988)

8.04.150 Noxious weed management program.

- A. The noxious weed management program must be based on a plan approved by the board.
- B. The noxious weed management plan must:
 - 1. Specify the goals and priorities of the program;
 - 2. Review the distribution and abundance of each noxious weed species known to occur within the district and specify the locations of new infestations and areas particularly susceptible to new infestations; and
 - 3. Estimate the personnel, operations, and equipment costs of the proposed program.

C. The board shall provide for the management of noxious weeds on all land or rights-of-way owned or controlled by the city and county of Butte-Silver Bow or any municipality within the confines of the district. It shall take particular precautions while managing the noxious weeds to preserve beneficial vegetation and wildlife habitat. Where at all possible, methods for such control shall include cultural, chemical, and biological methods.

D. The board may establish special management zones within the district. The management criteria in such zones may be more or less stringent than the general management criteria for the district.

E. The board shall update the weed management plan as necessary to reflect changing conditions and to meet program goals. (7-22-2121 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.160 Board action--Noncompliance.

A. Where complaint has been made or the board has reason to believe that noxious weeds described in this part are present upon a person's land within the district in violation of the law, that person must be notified by mail or telephone of the complaint and the board may request inspection of such land. The board or its authorized agent and the landowner or his representative shall inspect the land at an agreeable time, within ten days of notification of the landowner. If after reasonable effort the board is unable to gain cooperation of the person, the board or its authorized agent may enter and inspect the land to determine if the complaint is valid.

B. If noxious weeds are found, the board of supervisor shall notify the person or his representative and seek voluntary compliance with the district weed control program. If voluntary compliance is not possible, notice of noncompliance must be sent to the person by certified mail.

- C. The notice must specify:
1. The basis for the determination of noncompliance;
 2. The geographic location of the area of noncompliance, by legal description or other reasonably identifiable description;
 3. Measures to be undertaken in order to comply with the district's management criteria; and
 4. A reasonable period of time, not less than ten days, in which compliance measures must be initiated; and
 5. The right of the person to request, within the time specified in subdivision 4 of this subsection, an administrative hearing as provided by Section 8.04.120.

D. A person is considered in compliance if he submits and the board accepts a proposal to undertake specified control measures and is in compliance for so long as he performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

E. In accepting or rejecting a proposal, the board shall consider the economic impact on the person and his neighbors, practical biological and environmental limitations, alternative control methods to be used and the relationship to the weed management plan. (7-22-2123 MCA)
(Ord. 321 § 1, 1988: Ord. 268 § 1 (part), 1986)

8.04.170 Board action--Destruction of weeds.

A. If corrective action is not taken and no proposal is made and accepted or no request for an administrative hearing is made within the time specified in the notice, the designated representative of the board may forthwith enter upon the person's land and institute appropriate control measures. In such case the board shall submit a bill to the person, itemizing man-hours of labor, material and equipment time, together with a penalty not exceeding ten percent of the total cost incurred. Labor and equipment must be valued at the current rate paid for commercial management operations in the district. The bill must specify and order a payment due date of thirty days from the date the bill is sent.

B. A copy of the bill must also be submitted by the board to the Butte-Silver Bow clerk and recorder.

C. If a person receiving an order to take corrective action requests an administrative hearing, the board may not institute control measures until the matter is finally resolved, except in case of an emergency. In such a case, the person is liable for costs as provided in subsection A only to the extent determined appropriate by the board, commissioners or court that finally resolves the matter. (7-22-2124 MCA)
(Ord. 321 § 2, 1988: Ord. 268 § 1 (part), 1986)

8.04.180 Voluntary weed embargo program.

The board may establish voluntary embargo programs to reduce the spread of noxious weeds into the district. (7-22-2126 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.190 Revegetation--Board approval required.

A. Any state agency or local government unit approving a mine, major facility, transmission line, solid waste facility, highway, subdivision, or any other development resulting in significant disturbance of land within the district shall notify the board.

B. Whenever any person or agency disturbs vegetation on an easement or right-of-way within the district by construction of a road, irrigation or drainage ditch, pipeline, transmission line, or other development, the board shall require that the disturbed areas be seeded, planted, or otherwise managed to reestablish a cover of beneficial plants.

C. 1. The person or agency disturbing the land shall submit to the board a written plan specifying the methods to be used to accomplish revegetation. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and weed management procedures to be used.

2. The plan is subject to approval by the board, which may require revisions to bring the revegetation plan into compliance with the district weed management plan. Upon approval by the board, the revegetation plan must be signed by the chairman of the board and the person or agency responsible for the disturbance and constitutes a binding agreement between the board and such person or agency. (7-22-2152 MCA)

(Ord. 268 § 1 (part), 1986)

8.04.200 Voluntary weed management agreements--Board approval required.

A. Any person may voluntarily seek to enter into an agreement for the management of noxious weeds along a state or county highway or road bordering or running through his land. The supervisor may draft such an agreement upon the request of and in cooperation with the person; however, the agreement must, in the board's judgment, provide for effective weed management. The weed management agreement must be signed by the person and, on approval of the board, by the chairman. An agreement involving a state highway right-of-way must also be signed by a representative of the Montana Department of Highways.

B. The agreement must contain a statement disclaiming any liability of the board and, if applicable, the Department of Highways for any injuries or losses suffered by the person in managing noxious weeds on the state or county highway right-of-way. The signed agreement transfers responsibility for managing noxious weeds on the specified section of right-of-way from the board to the person signing the agreement. If the board later finds that the person has failed to adhere to the agreement, the board shall issue an order informing the person that the agreement will be void and that responsibility for the management of noxious weeds on the right-of-way will revert to the board unless the person complies with the provisions of the agreement within a specified time period. (7-22-2153 MCA).

(Ord. 268 § 1 (part), 1986)

8.04.210 Noxious weed fund--Authorized.

A. The council shall create a noxious weed management fund, to be designated the "noxious weed fund."

B. This fund shall be kept separate and distinct by the county treasurer. (7-22-2141 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.220 Noxious weed fund--Sources of money.

A. The council may create the noxious weed fund by:

1. Appropriating money from the general fund of the government;
2. At any time fixed by law for levy and assessment of taxes, levying a tax not exceeding two mills on the dollar of total taxable valuation in the district; and
3. Levying a tax in excess of two mills if authorized by a majority of the qualified electors of the district voting in an election held for this purpose pursuant to 7-6-2331 through 7-6-2536, MCA.

B. The proceeds of the tax shall be used solely for the purpose of managing noxious weeds in the district and shall be designated to the noxious weed fund.

C. Any proceeds other than from the source listed in subsection A of this section shall revert to the noxious weed fund and shall be available for reuse within the fiscal year or any subsequent year.

D. The council may accept any private, state, or federal gifts, grants, contracts, or other funds to aid in the management of noxious weeds within the district. These funds must be placed in the noxious weed fund. (7-22-2142 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.230 Noxious weed fund--Expenditures.

A. The noxious weed fund shall be expended by the council at such time and in such manner as is deemed best by the board to secure the control of noxious weeds.

B. Warrants shall be drawn upon the noxious weed fund. No warrants shall be drawn except upon claims duly itemized by the claimant, except payroll claims which shall be itemized and certified by the board for approval by the council, and each such claim shall be presented to the council for approval. (7-22-2145 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.240 Weed control costs--Determination.

The council shall determine and fix the cost of the control of noxious weeds in the district, whether the same be performed by the individual landowners or by the board. (7-22-2143 MCA)

(Ord. 268 § 1 (part), 1986)

8.04.250 Weed control costs--Payment.

The total cost of such control shall be paid from the noxious weed fund. The cost of controlling such weeds growing along the right-of-way on a state or federal highway shall, upon the presentation by the board of a verified account of the expenses incurred, be paid from the state highway fund in compliance with 7-14-2132 MCA, and any agreement between the board and the Montana Department of Highways. Costs attributed to other lands within the district shall be assessed to and collected from the responsible person as set forth in Section 18.04.140. (7-22-2144 MCA)

(Ord. 268 § 1 (part), 1986)

8.04.260 Financial assistance to persons responsible for weed control.

A. The council, upon recommendation of the board, may establish cost-share programs with any person, specifying costs that may be paid from the noxious weed fund and costs that must be paid by the person. Cost-share programs may be established for special projects and for established management zones.

B. 1. When under the terms of any voluntary agreement, whether entered into pursuant to Section 18.04.160 or otherwise, or under any cost-share program entered pursuant to this section a person incurs any obligation for materials or services provided by the board, the board shall submit a bill to the person, itemizing man-hours of labor, material, and equipment time. The bill must specify and order a payment due date not less than thirty days from the date the bill is sent.

2. A copy of the bill must be submitted by the board to the Butte-Silver Bow clerk and recorder. If the sum to be repaid by the person billed is not repaid on or before the date due, the clerk and recorder shall certify the amount thereof, with the description of the land to be charged, and shall enter the sum on the assessment list as a special tax on the land, to be collected in the manner provided in Section 18.04.270. (7-22-2146 MCA)

(Ord. 268 § 1 (part), 1986)

8.04.270 Tax liability for payment of weed control costs.

A. The expenses referred to in Section 18.04.170 shall be paid by the government out of the noxious weed fund, and unless the sum to be repaid by the person billed under Section 18.04.170 is repaid on or before the date due, the Butte-Silver Bow clerk and recorder shall certify the amount thereof, with the description of the land to be charged, and shall enter the same on the assessment list of Butte-Silver Bow as a special tax on the land. If the land for any reason is exempt from general taxation, the amount of such charge may be recovered by direct claim against the lessee and collected in the same manner as personal taxes. When such charges are collected, they shall be credited to the noxious weed fund.

B. In determining what lands are included as land covered by the special tax and are described in the certificate of the county clerk, it is presumed that all work done upon any of the land of any one landowner is for the benefit of all the land within the district belonging to such owner which was contiguous to or joined the parcel upon which the work was done at the time the work was done, together with the parcel on which the work was done, and the amount certified becomes a tax upon the whole thereof. (7-22-2148 MCA)

(Ord. 268 § 1 (part), 1986)

8.04.280 Responsibility for assessments and taxes for weed control levied on leased state lands.

The lessee of agricultural state land is responsible for assessments and taxes levied by the council for the district as provided in 77-6-114, MCA. (7-22-2149 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.290 State and federal aid programs.

The board is empowered to cooperate with any state or federal-aid program that becomes available. Under such a plan of cooperation, the direction of the program shall be under the direct supervision of the board. (7-22-2150 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.300 Cooperation agreements.

A. Any state agency controlling land within the district, including the Department of Highways; the Department of State Lands; the Department of Fish, Wildlife, and Parks; the Department of Institutions; the Department of Natural Resources and Conservation; and the university system, shall enter into a written agreement with board. The agreement must specify mutual responsibilities for noxious weed management on state-owned or state-controlled land within the district.

B. The board and the governing body of each incorporated municipality within the district shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality. The board may implement management procedures described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains the responsibility of the governing body of the municipality, as specified in 7-22-4101, MCA.

C. The board may develop and carry out its noxious weed management program in cooperation with boards of other districts, with state and federal governments and their agencies, or with any person within the district. The board may enter into cooperative agreements with any of these parties. (7-22-2151 MCA)
(Ord. 268 § 1 (part), 1986)

8.04.310 Violation--Penalty.

A. Any person who in any manner interferes with the board or its authorized agent in carrying out the provisions of this chapter or who refuses to obey an order or notice of the board is guilty of a misdemeanor, and upon conviction thereof, he shall be fined not to exceed one hundred dollars for the first offense and not less than one hundred dollars or more than two hundred dollars for each subsequent offense.

B. Jurisdiction for all violations of this chapter shall be in the city court of Butte-Silver Bow.

C. All fines, bonds and penalties collected under the provisions of this chapter shall be paid to the Butte-Silver Bow treasurer and placed by him to the credit of a fund to be known as the "noxious weed fund." (7-22-2117 MCA)

(Ord. 26.8 § 1 (part), 1986)

Chapter 8.06

COMMUNITY DECAY*

* **Cross References:** Community enrichment department, ch. 2.87.

Sections:

8.06.010 Purpose.

8.06.020 Definitions.

8.06.030 Community decay standards.

8.06.040 Powers and duties of an agency.

8.06.050 Procedures for enforcement.

8.06.060 Methods of compliance.

8.06.070 Contents of notice.

8.06.075 Penalty.

8.06.080 Appeals.

8.06.090 Failure to comply.

8.06.100 Enforcement authority.

8.06.110 Duties of community decay coordinator.

8.06.120 District Court review.

8.06.010 Purpose.

The purpose of this chapter is to provide for an ordinance to control public nuisances referred to as "community decay" caused by accumulation of rubble, debris, junk or refuse (including buildings which have become dilapidated through neglect or inattention) and establish procedures for its enforcement pursuant to Sections 7-5-2109, 7-5-2110 and 7-5-2111, MCA. (Ord. 02-24 § 1, 2002; Ord. 360 § 1 (part), 1989)

8.06.020 Definitions.

A. "Agency" means the city-county health department or the city-county law enforcement department, building code department or any other city-county department, officer or employee appointed by the chief executive to enforce the regulations set forth herein, all of which are designated to enforce this chapter.

B. "City-county" means the local government of the city and county of Butte-Silver Bow, Montana and includes all of its departments, boards, commissions, and agencies.

C. "Community decay" means a public nuisance created by allowing rubble, debris, junk (including junk vehicles) or refuse (including buildings which have become dilapidated through neglect or inattention) to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property. "Community decay" as used in this chapter may not be construed or defined to apply to normal farming, ranching or other agricultural operations, or to a farm, ranch or other agricultural facility or any appurtenances thereof, during the course of its normal operation.

D. "Council" means the council of commissioners of the city and county of Butte-Silver Bow which

shall sit as the body to hear appeals from decisions of an agency (as defined in this chapter) in matters enforcing the community decay regulations.

E. A junk vehicle is defined as any discarded, ruined, wrecked or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven.

F. "Jurisdictional area" means the city and county of Butte-Silver Bow, state of Montana, and includes that area contained within its territorial limits, including that area within the territorial limits of the Town of Walkerville.

G. "Owner" means an individual, firm, partnership, company, association, corporation, city, town or any other entity whether organized for profit or not, owning any land, easement or right-of-way as recorded in the official record of the clerk and recorder.

H. "Public nuisance" means a nuisance which may affect, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

I. "Sheriff" means the sheriff of the city and county of Butte-Silver Bow Montana or his/her designee.

(Ord. 03-3 § 1, 2003; Ord. 02-24 § 2, 2002; Ord. 454 § 1, 1993; Ord. 360 § 1 (part), 1989)

(Ord. No. 09-7, § 1, 10-21-2009)

8.06.030 Community decay standards.

It shall be a violation of the Butte-Silver Bow community decay ordinance to allow community decay conditions, including, but not limited to, the following listed conditions, to exist on any land or property, outside of an enclosed building in the "jurisdictional area" of the city-county that is not considered to be a normal farm, ranch or other agricultural operation or facility:

- A. Metal Fixtures, Appliances and Related Items. The storage and accumulation of iron, metal, component vehicle and machine parts, junk vehicles, household appliances, barrels and other salvaged metal items, unless such material is stored in an approved, licensed motor vehicle wrecking facility. If such material is being accumulated as part of an ongoing, active salvage business other than an approved, licensed motor vehicle wrecking facility, said salvage business must be located in a properly zoned area for such a business;
- B. Boxes, Building Materials and Related Items. The dumping, piling, stacking, depositing, storing or large accumulation of:
 - cardboard boxes
 - broken packing boxes
 - paper

bricks

concrete

concrete blocks

waste wood

dirt

demolition waste

other similar materials.

All of the above materials shall be removed to a licensed solid waste disposal facility located in the proper zone unless such material is to be used as fill material. If such material is to be used as fill material, all such material shall be covered with clean fill materials every ten days and access to fill area must be restricted, i.e., posted, barricaded, etc. Failure to comply with the periodic cover and access control requirements shall constitute a violation of this chapter.

- C. Rubble, Debris or Refuse. The accumulation and storage of any other rubble, debris, junk or refuse that, upon investigation by the agency, is deemed to be a public nuisance as defined in this chapter.
- D. Recreational Vehicles. Exterior premises must be free of the storage and accumulation of wrecked, ruined, or dismantled snowmobiles, four wheelers, camp trailers, pedal bikes, motorbikes, and boats or their component parts.
- E. Exterior Premises--Clean and Safe. All exterior premises shall be maintained by the responsible person or tenant, where relevant, in accordance with this section.
 - 1. Clean, Sanitary and Reasonably Safe.
 - a. In a clean and sanitary condition, free from debris;
 - b. Free from litter, rubbish, trash and garbage which are not contained as provided under Chapter 8.08 Litter Control of the Butte-Silver Bow Municipal Code (B-SB MC);
 - c. Free from nuisance motor vehicles, nuisance boats, scrap metals, and all household furniture not designed for outdoor use;
 - d. In a condition so as not to become infested with rodents or a rodent harborage;
 - e. Free from used building materials;

- f. Free from appliances, furnaces, water heaters, water softeners or building materials which are not integrated into a structure within five days being placed on premises;
 - g. Free from any accumulation of combustible materials which are not used as an integral part of an authorized business carried out on the premises;
 - h. Free of any raw materials, equipment parts, or bulk commodities, unless said items are a raw material used in a lawful business carried out on the premises or a final manufactured product;
 - i. Free from motor vehicle, boat or aircraft parts and tires, (excluding tires used as sandboxes, swings, and playground equipment).
2. Unpaved Lawn Park Areas/Boulevards. The unpaved public lawn park areas (boulevards) abutting private property between the curb and lot line shall be maintained by the abutting property owner in conformance with Chapter 8.12 Undesirable Vegetation Control and Section 17.38.051 Landscaping Requirements/Boulevards.
3. Maintenance of Alleys and Vacated Street and Alleys. All alleys and vacated streets and alleys, abutting private property between the center of the alley or street and the lot line, shall be maintained by the abutting property owner in accordance with Chapter 8.12 Undesirable Vegetation Control.
4. Grading and Drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon in conformance with Section 17.38.020 Air, Water and Soil Pollution. All courts, yards or other areas on the premises shall be properly graded to divert water away from the structure. Adjacent ground surface shall be sloped away from the structure with a grading of at least one-half inch per foot for a minimum of five feet where possible or by other means such as eaves, troughs and downspout extensions.

Approved retention and detention basins however, shall be permitted to hold water in accordance with their approved design and capacity in conformance with Section 17.38.025 Stormwater Drainage.

5. Sidewalks, Walkways, Stairs, Driveways and Parking Facilities. Private concrete sidewalks shall be maintained in accordance with the standards for public sidewalk maintenance. Walkways, stairs, driveways, and parking facility areas shall be maintained in good repair and reasonably safe. Parking facilities shall comply with the requirements of Chapter 17.40 Off-Street Landscaping and Paving. Public sidewalks shall be maintained in accordance with Chapter 12.12 Sidewalk Maintenance and Section 17.38.050 Landscaping Requirement--Curb--Gutter.
6. Weeds. All exterior premises shall be kept free from noxious weeds as defined in Chapter

8.04 and undesirable vegetation (nuisance weeds) as defined in Chapter 8.12. Where nuisance weed destruction is not performed by the responsible person, weeds shall be destroyed by the code official. Nuisance weeds which equal or exceed eight inches in height shall be destroyed by cutting and mulching. Noxious weeds shall be controlled in accordance with the provisions of Chapter 8.04. 7. Landscaping. Landscaping, plantings and other decorative surface treatments, including species of grass common to Montana, shall be installed and maintained so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in Montana. Unless granted a variance for a natural lawn from the code official, grass shall be maintained to a height not to exceed eight inches. Plantings, including, but not limited to grasses, trees and shrubs shall be maintained so as not to present hazards to persons or vehicles traveling on public rights-of-way and shall be maintained so as to enhance the appearance and value of the property on which located, and thereby enhancing the appearance and value of abutting property, the neighborhood and the city-county.

- a. Application for variance for a natural lawn, if desired shall be made by the responsible person to the code official on a form promulgated by the health department.
- b. The application shall state with specificity the dimensions of the area sought for variance, along with a diagram showing the position of the area relative to sidewalks, driveways, streets, alleys, and other public rights-of-way.
- c. The application shall state the species, if ascertainable, and maximum height of the grasses.
- d. The application may be made without cost to the applicant. The application shall be approved or approved with reasonable conditions unless it is determined that the granting will conflict with the purpose and intent of this code, and the criteria established by the Montana Supreme Court for the granting of variances, in which event the application will be denied. The denial of an application or the reasonableness of conditions imposed may be appealed to the council of commissioners. The appeal must be made in writing to the secretary of the council of commissioners and clearly state the reasons for filing the appeal. The council of commissioners will review the appeal at their next regular meeting. The applicant will be notified of the council of commissioners' decision within thirty days of the presentation of the appeal.
- e. In the event that the responsible person fails to comply with an order of a code official to cut grass or trim trees or shrubs, the code official shall have the grass cut to a height of three inches and have the trees trimmed and shall recover the cost through special assessments levied against the benefited property. A seventy-five dollar administrative fee for processing and administering the special assessment shall be added to the special assessment against the benefited property.

8. Firewood Storage. Firewood shall be stored in straight, orderly piles which are raised a minimum of six inches off the ground, which are not more than six feet in height, which are not in the 'front yard' as defined in the Zoning Ordinance, and which are no closer than four feet to a dwelling.
 9. Exterior Storage. Exterior storage is subject to all required reviews, approvals and permits under the Zoning Ordinance, as set forth in Title 17, B-SB MC. All exterior storage as defined in this code which is upon commercial and/or industrially-zoned property shall be completely contained within a building or in an outdoor storage area effectively screened from the view of residentially-zoned properties and public rights-of-way. Acceptable screening materials include, but are not limited to, screen fencing, walls of wood or face brick, earthen berms, and deciduous or coniferous trees. Exterior storage is prohibited on residentially-zoned or used property.
 10. Rodent Harborage. All premises shall be kept free from non-domesticated rodent harborage. Where non-domesticated rodents are found, they shall be promptly exterminated by a state approved process which will not be injurious to human health. After rodent extermination, proper precautions shall be taken to control rodent harborage and prevent reinfestation.
 11. Exhaust Vents. Pipes, ducts, conductors, fans, blowers or other exhaust vents shall not discharge gases, toxic fumes steam, vapor, hot air, grease, smoke odors or other gaseous or particulate wastes directly upon public or private property or that of another tenant on the same premises.
 12. Accessory Buildings/Structures. All accessory buildings and structures, including windows and doors which are a part thereof, shall be maintained structurally sound, in good repair, reasonably weather-tight, watertight, and rodent proof. Responsible persons shall not permanently remove any door or window except to board up a door or window in accordance with the Building Code set forth in Chapter 15.04, B-SB MC.
 13. Motor Vehicles and Motor Vehicle Repair Work. Chapter 10.52 regulating parking of motor vehicles and nuisance motor vehicles and motor vehicle repair work on public rights-of-way and Title 17, Zoning, Permitted Uses and Section 17.44.040(C) Home Occupation Regulations shall be complied with.
 14. Graffiti. The owner of any building, structure or accessory building shall be responsible for removing all graffiti therefrom within fifteen days of graffiti replacement.
- F. Exterior of Structures. The exterior of all structures shall be maintained by the responsible person in accordance with this section.
1. Exterior Walls, Surfaces and Repairs. All exterior walls and surfaces, including, but not limited to, decorative features and overhang extensions, doors, door and window frames, cornices, porches and trim, shall be maintained in good repair. All exterior surfaces shall be free from decay, missing parts, serious cracking, irregularities, and peeling, flaking

and chipped paint. Flaking and chipping paint, when removed, shall be collected and stored in containers and disposed of in accordance with federal and state law. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and affected surfaces treated and repainted in a workmanlike manner. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight. All surface repairs shall be completed and closely match the existing surface color and texture.

2. Street Numbers. All dwellings or buildings in the city-county shall be numbered in accordance with Chapter 15.09 Locatable Address Code of the B-SB MC.
3. Structural Members. All structural members shall be maintained structurally sound, in good repair, and be capable of safely supporting the imposed loads.
4. Foundation Walls. All foundation walls shall be maintained structurally sound, plumb and free from open cracks and breaks, in good repair, and shall be kept in such condition so as to prevent the entry of rodents.
5. Exterior Walls. All exterior walls shall be maintained structurally sound, free from holes, breaks, loose or rotting materials, in good repair, and maintained weatherproof.
6. Roofs and Drainage. The roof and flashing shall be maintained structurally sound, tight and not have defects that admit water. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. All roof repairs shall be completed and closely match the existing roof surface color and texture.
7. Decorative Features. All cornices, belt courses, corbels, terracotta trim, wall facings and similar decorative features shall be maintained in good repair with property anchorage and in a safe condition. Any missing parts shall be placed with matching parts.
8. Overhang Extensions. All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained structurally sound and in good repair with property anchorage.
9. Stairways, Decks, Porches, Ramps and Balconies. Every exterior stairway, deck, porch, ramp, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Any new or replacement stairways, decks, porches, ramps and balconies shall be installed in accordance with the requirements of the International Building Code, pursuant to Chapter 15.04 of the B-SB MC.
10. Chimneys and Towers. All chimneys, cooling towers, smokestacks and similar

appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

11. Handrails and Guardrails. Every stairway, deck, porch, ramp and balcony with more than three risers or more than thirty inches above grade, shall have handrails and guardrails installed. Every handrail and guardrail shall be maintained structurally sound, in good repair with proper anchorage, and capable of supporting imposed loads. Any new or replacement handrails or guardrails shall be installed in accordance with the requirements of the International Building Code, pursuant to Chapter 15.04 of the B-SB MC.
12. Windows, Storm Windows, Skylight, Door and Frames. Every window, storm window, skylight, door and frame shall be kept in sound condition, good repair and weathertight.
13. Glazing. All window glazing materials shall be maintained free from cracks and holes.
14. Openable Windows. Every window, other than a fixed window, shall be easily openable, capable of being held in position by existing window hardware, and have locking devices in good repair and good working order.
15. Doors. All exterior doors, door assemblies and hardware shall be maintained in good working condition and in good repair.
16. Door Type and Hinges. Doors leading into each dwelling and dwelling unit shall be of solid-core slab type or insulated steel construction, equipped with door hinges so arranged as to be inside the dwelling or dwelling unit or with locking pin hinges.
17. Basement Hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water, in good repair and in good working condition. Guardrails shall be installed in the absence of a hatch door.

(Ord. 02-24 § 3, 2002; Ord. 360 § 1 (part), 1989)

(Ord. No. 09-7, § 2, 10-21-2009)

8.06.040 Powers and duties of an agency.

Those departments and individuals included within the definition of agency as set forth in Section 8.06.020(A) to enforce the regulations set forth herein shall have the following powers and duties:

- A. The duty to inspect when the agency has been made aware, by complaint or observation, that community decay exists in an area;
- B. The power to determine whether or not this chapter applies after an inspection of the property or area;
- C. The duty to send a written notice of violation to the owner of the property in violation of this

chapter;

- D. The owner to approve, approve with conditions, modify or disapprove a plan of abatement submitted under Section 8.60.060(B);
- E. The power, with council approval, to enter upon the property for the specific purpose of abating the violation of this chapter provided that the property owner is given due notice in writing of the violation. Upon failure of the property owner to comply with this chapter, officers and employees of the city-county may enter upon the property for specific purpose of abating the violation;
- F. The power, with council approval, to assess the property owner for the actual cost of an abatement.

(Ord. 03-3 § 2, 2003; Ord. 02-24 § 4, 2002; Ord. 454 § 2, 1993; Ord. 360 § 1 (part), 1989)

8.06.050 Procedures for enforcement.

A. When an agency receives a complaint or has made an observation that a public nuisance has been created, such agency shall inspect the property alleged to be in violation of this chapter. Upon inspection, the agency shall determine whether there is a violation of this chapter.

B. If an agency determines that a violation of this chapter has occurred, such agency shall notify the owner of the property, in writing, of the violation. This notice shall be sent by certified mail or served on the owner of the property by a law enforcement officer and the property shall be posted in a conspicuous manner. This notice shall include a statement as described under the "contents of notice" section of this chapter.

C. After fifteen days from the receipt of the notice of violation by the owner of the property in violation, an agency shall determine whether the violation has been abated by the owner.
(Ord. 02-24 § 5, 2002; Ord. 454 § 3, 1993; Ord. 360 § 1 (part), 1989)

8.06.060 Methods of compliance.

A. Within ten working days after notification of violation, the owner shall submit to the agency a plan of abatement in writing (signed by the accused offender) which shall include: (1) type of abatement; (2) date of commencement of action; (3) reasons why abatement cannot be started within fifteen days; and (4) date for achievement of complete compliance. Such plan may be approved on condition, modified or disapproved by the agency and further proceedings may be deferred under this chapter pending abatement.
(Ord. 03-3 § 3, 2003; Ord. 02-24 § 6, 2002; Ord. 454 § 4, 1993; Ord. 360 § 1 (part), 1989)

8.06.070 Contents of notice.

The notice of violation shall be sent or served on the owner of the parcel on which the violation has occurred. The violation notice shall state:

- A. The nature of the violation which is alleged to exist and its location;

- B. The name of the owner and of any other person against whom the agency requests the enforcement order to be issued;
- C. The steps and methods available to correct the violation;
- D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- E. That the recipient of the notice may appeal the decision and demand in writing a hearing before the council and that demand for this hearing must be made within ten days after receipt of the notice; and
- F. That failure to comply with the notice within the time specified (unless extended by reason of further proceedings) constitutes a violation which enables officers and employees of the county to enter upon the property for the specific purpose of abating the violation of this chapter and to assess the property owner for the actual costs for the abatement. (Nonpayment of such an assessment becomes a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes.) (7-5-2111, MCA)

(Ord. 02-24 § 7, 2002; Ord. 454 § 5, 1993; Ord. 360 § 1 (part), 1989)

8.06.075 Penalty.

A person convicted of the offense of maintaining a public nuisance under this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars or imprisonment not to exceed six months, or by both fine and imprisonment. Each day during which a violation exists shall constitute a separate offense punishable hereunder. Jurisdiction for such violations shall be in the city court of Butte-Silver Bow.

(Ord. 03-3 § 4, 2003; Ord. 02-24 § 8, 2002)

8.06.080 Appeals.

If an accused offender is not in agreement with the decision of an agency, he/she may, within ten days of the rejection of the abatement plan, appeal that decision to the council of commissioners. The council of commissioners shall hold a hearing no less than ten days nor more than thirty days from the date of application for appeal. The applicant must be given notice of the hearing at least seven days before the date of the hearing. Within four weeks after the hearing, the council of commissioners shall, in writing, reaffirm, modify or withdraw the agency's decision. Once an application for a hearing has been made, the effectiveness of the agency's decision shall be stayed until the council of commissioners has held the hearing and reaffirmed or modified the determination of the agency.

(Ord. 03-3 § 5, 2003; Ord. 02-24 § 9, 2002; Ord. 454 § 6, 1993; Ord. 368 § 1 (part), 1990; Ord. 360 § 1 (part), 1989)

8.06.090 Failure to comply.

A. If the owner has not complied with the council of commissioners-ordered abatement, an agency may send written notification by certified mail and allow ten days further to complete abatement. Ten days after receipt of notice by owner, officers and employees of the city-county may enter upon the owner's property with

the specific purpose of abating the violation.

B. The council of commissioners shall assess the actual costs of abatement, together with a reasonable charge for administration and supervision, to the property owner/user for the violation incurred by an agency.

C. Nonpayment of the assessment becomes a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes. (7-5-2111, MCA)

D. Any liens collected under the provisions of this chapter shall be paid to the Butte-Silver Bow treasurer and placed by him/her to the credit of a fund to be known as the "community improvement fund." (Ord. 03-3 § 6, 2003; Ord. 02-24 § 10, 2002; Ord. 454 § 7, 1993; Ord. 368 § 1 (part), 1990; Ord. 360 § 1 (part), 1989)

8.06.100 Enforcement authority.

The Butte-Silver Bow health officer and the Butte-Silver Bow sheriff or their designee shall be the community decay coordinator of the city-county, and are appointed with the authority of and responsibility to enforce compliance with the community decay ordinance, codified in this chapter. (Ord. 02-24 § 11, 2002; Ord. 360 § 1 (part), 1989)

8.06.110 Duties of community decay coordinator.

Duties of the community decay coordinator shall include but are not limited to:

- A. Maintain files and records to document notices of violations and to record other matters related to community decay;
- B. Communicate and report suspected violations to the appropriate agencies prior to issuance of "notification of violation" to the owner;
- C. Interpret the meaning and intent of this chapter and otherwise promote procedural uniformity in the administration of this chapter;
- D. Call meetings and have interactions with other departments as deemed necessary to coordinate community decay cleanup efforts;
- E. Initiate appropriate investigatory action for apparent community decay violations through coordination with legal counsel of Butte-Silver Bow City-County;
- F. Prepare such material (agendas, property descriptions, reports) as may be necessary for the board of health to properly conduct meetings for the purpose of administering this chapter;
- G. Publish notices of hearings as required by this title and applicable state statutes;
- H. Promote community cleanup efforts through active public relation techniques (i.e., radio,

television, pamphlets, etc.).
(Ord. 03-1 § 7, 2003; Ord. 360 § 1 (part), 1989)

8.06.120 District Court review.

The District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana, shall have jurisdiction to review all questions of fact and all questions of law in a suit brought by any person aggrieved by decision of the council, but no suit to review such decision of the council shall be maintained unless the same is begun within a period of sixty days after the decision of the council has been filed with the clerk and recorder.
(Ord. 03-3 § 8, 2003)

Chapter 8.08

LITTER CONTROL

Sections:

- 8.08.010 Definitions.**
- 8.08.020 Pedestrian and motorist regulations.**
- 8.08.030 Vehicles transporting loose materials.**
- 8.08.040 Loading and unloading operations.**
- 8.08.050 Construction/demolition projects.**
- 8.08.060 Household solid waste containerization and removal.**
- 8.08.070 Commercial solid waste containerization and removal.**
- 8.08.080 Provision for solid waste disposal and storage facilities at new buildings.**
- 8.08.090 Keeping property clean.**
- 8.08.100 Burning and burying of litter.**
- 8.08.110 Enforcement authorizations.**
- 8.08.120 Enforcement authorization of inspectors.**
- 8.08.130 Liability--Enforcement--Penalty.**

8.08.010 Definitions.

For purposes of this chapter the following definitions shall apply:

- A. "City-county" is the local government of the city and county of Butte-Silver Bow and includes that area within its territorial limits.
- B. "Containers" are locally approved metal, heavy-duty paper or plastic receptacles used for the disposal and storage of litter.
- C. "Litter" is any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage or junk.
- D. "Private property" includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.
- E. "Public property" includes, but is not limited to, the following exterior locations: streets, street

medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, public housing project grounds, public vacant lots, parks, beaches, playgrounds, other publicly owned recreation facilities, and public waterways and bodies of water.

(Ord. 453 § 1, 1993: Ord. 94 § 1, 1979)

8.08.020 Pedestrian and motorist regulations.

A. It is unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property within the corporate limits of the city-county, except in containers or areas lawfully provided therefor.

B. In the prosecution charging a violation of subsection A of this section from a motor vehicle, proof that the particular vehicle described in the complaint was the origin of the litter, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

C. It shall be the duty of every person distributing commercial handbills, leaflets, flyers or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

D. To facilitate proper disposal of litter by pedestrians and motorists, such publicly patronized or used establishments and institutions as may be designated by the department of public works shall provide and regularly empty and maintain in good condition adequate containers that meet standards prescribed by the department. This requirement shall be applicable to, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile food and drinking vendors, motels, hospitals, schools and colleges.

(Ord. 453 § 2, 1993: Ord. 94 § 2(A), 1979)

8.08.030 Vehicles transporting loose materials.

A. It is unlawful for any person, firm, corporation, institution or organization to transport any loose cargo by truck or other motor vehicle within the city-county unless the cargo is covered and secured in such manner as to prevent depositing of litter on public and private property.

B. The duty and responsibility imposed by subsection A of this section shall be applicable alike to the owner of the truck or other vehicle, the operator thereof, and the person, firm, corporation, institution or organization from whose residence or establishment the cargo originated.

C. In the prosecution charging a violation of subsection A of this section, lack of adequate covering and securing shall in itself constitute proof a violation has been committed.

(Ord. 453 § 3, 1993: Ord. 94 § 2(B), 1979)

8.08.040 Loading and unloading operations.

A. Any owner or occupant of an establishment or institution at which litter is attendant to the

packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers there for the disposal and storage of such litter and shall make appropriate arrangements for the collection thereof.

B. Further, it shall be the duty of the owner or occupant to remove at the end of each working day any litter that has not been containerized at these locations.
(Ord. 453 § 4, 1993; Ord. 94 § 2(C), 1979)

8.08.050 Construction/demolition projects.

A. It is unlawful for the owner, agent or contractor in charge of any construction or demolition site to cause, maintain, permit or allow to be caused, maintained or permitted the accumulation of any litter on the site before, during or after completion of the construction or demolition project except as provided in subsection B of this section.

B. It shall be the duty of the owner, agent or contractor to have on the site adequate containers for the disposal of litter and to make appropriate arrangements for the collection thereof or for transport by himself/herself to an authorized facility for final disposition.

C. The owner, agent or contractor may be required at any time to show proof of appropriate collection, or if transported by himself/herself, of final disposition at an authorized facility.
(Ord. 453 § 5, 1993; Ord. 94 § 2(D), 1979)

8.08.060 Household solid waste containerization and removal.

A. All residences located in any area in which household solid waste collection is by the city-county or its contractor or by approved solid waste collection contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections. The type, size and number of containers, as prescribed by the department of public works shall be as follows:

1. Not more than four containers with a capacity not less than ten gallons nor more than thirty gallons each. No container shall be used to hold materials weighing more than seventy pounds nor shall any container be used for the deposit of hot ashes.

B. All items too large to fit into containers, such as, but not limited to, appliances, furniture and mattresses, shall be disposed of only at the city-county solid waste collection site either by the resident or a licensed solid waste contractor.

C. All loose materials which normally fit into containers but which are excess as a result of special circumstances such as holidays or yard cleanup shall be bundled and tied securely to prevent them from flowing or scattering and shall be placed beside the containers.

D. Containers shall be kept securely covered at all times.

E. Any container which does not conform to prescribed standards or which has defects likely to hamper collection, cause spread of litter or injure the person collecting the contents thereof or the public

generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the department of public works or its collector. Failure to do so within seven days of such notification shall constitute a violation of this section.

F. In placing containers for collection and removing them after collection, all residents shall follow these practices prescribed by the department of public works;

1. Containers shall be placed at the rear property line adjacent to the alley or on the front curb where no adequate alley exists no more than twelve hours before time of collection and are to be removed no later than twelve hours after time of collection.

G. It is unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.
(Ord. 453 § 6, 1993; Ord. 94 § 2(E), 1979)

8.08.070 Commercial solid waste containerization and removal.

A. All commercial establishments and institutions which generate solid waste for collection by the city-county or its contractor or approved contractors shall abide by the following container requirements prescribed by the department of public works: 1. There shall be no restrictions as to the size of the containers or the weight of materials placed therein, provided that they are of the type that can be mechanically dumped by a licensed solid waste collector and are securely covered. Maintenance of these containers are the responsibility of the garbage collector, and the containers shall be cleaned routinely.

B. Containers shall be kept covered at all times.

C. Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the department of public works or its collector. Failure to do so within seven days of such notification shall constitute a violation of this section.

D. It is unlawful for any owner, manager or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.
(Ord. 453 § 7, 1993; Ord. 94 § 2(F), 1979)

8.08.080 Provision for solid waste disposal and storage facilities at new buildings.

A. Before building permits shall be issued for construction of commercial buildings and multiple-dwelling units, plans for the adequacy, location and accessibility of solid waste containerization and storage facilities must be approved by the department of public works.

B. No certificate of occupancy shall be issued for such premises until the department's approval of these facilities has been obtained.
(Ord. 453 § 8, 1993; Ord. 94 § 2(G), 1979)

8.08.090 Keeping property clean.

A. It shall be the duty of the owner, agent, or lessee to keep exterior private property free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments and other lodging points.

B. Owners, agents, occupants or lessees whose properties face on sidewalks and strips between streets and sidewalks shall be responsible for keeping those sidewalks and strips free of litter and shall be responsible for keeping alleys free of litter where those properties abut alleys.

C. It is unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.

D. It shall be the duty of every nonresident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter.

E. If after due warning and issuance of citation, the land owner, agent, occupant or lessee fails to remove litter from any private property, the department of public works is authorized to serve written notice to the owner or his appointed agent that if the condition is not corrected within ten days, the property will be cleaned by the city-county and the owner or his appointed agent billed for the cost thereof. If the bill is not paid within thirty days, execution may be issued by Butte-Silver Bow against the property for the amount of the cleaning charge, and such execution shall constitute a lien on the property until the claim has been satisfied.

F. The local government of the city-county is authorized to enter into contracts with owners or their appointed agents wherein the city-county, or contractors operation on behalf of the city-county, may clean the lots as needed for fees based on footage covered or time required.
(Ord. 453 § 9, 1993: Ord. 94 § 2(H), 1979)

8.08.100 Burning and burying of litter.

No person shall burn or bury any litter within any yard or open space within the city-county without having first obtained a permit from the Butte-Silver Bow fire department.
(Ord. 00-6 § 1, 2000: Ord. 453 § 10, 1993: Ord. 94 § 2(I), 1979)

8.08.110 Enforcement authorizations.

Designated personnel in the following departments are authorized to enforce sections of this chapter as prescribed below:

A. Law Enforcement and Parking Commission. Regular officers are empowered to enforce any regulation of which violations may be observed in the normal course of patrol duty. Members of units assigned to special parking details in the uptown or other commercial areas (patrolmen, meter maids) have authority to enforce in their normal course of duty, violations of the following sections:

8.08.020A	Littering by pedestrians and motorists.
8.08.020C	Littering with handbills, leaflets, etc.
8.08.030A	Transporting loose materials without adequate covering.
8.08.040A	Lack of containers at loading/unloading operations.
8.08.040B	Failure to clean loading/unloading areas.
8.08.070D	Depositing commercial solid waste in sidewalk or other pedestrian litter receptacles.
8.08.090A	Litter on private premises.
8.08.090B	Litter on sidewalks and strips.
8.08.090C	Sweepouts.

B. Public Works Department and Health Department. Since these departments are the one most directly concerned with litter control, their director are authorized to delegate enforcement authority to such officers and/or inspectors within their departments as they deem appropriate. Such authority is applicable to the entire chapter.

C. Housing Authority.

8.08.060	Where there are violations of household solid waste regulations at publicly owned housing projects.
8.08.090	Where there are violations of clean-property regulations at the above project.

(Ord. 453 § 11, 1993; Ord. 94 § 3(A), 1979)

8.08.120 Enforcement authorization of inspectors.

In pursuance of their normal work, inspectors in the following departments and agencies are authorized to enforce the following sections:

A. Building and Zoning Department.

8.08.050	Litter control at construction/demolition projects and appropriate collection/disposal.
8.08.080	Approval of solid waste disposal and storage facilities at new buildings.

B. Fire Department.

8.08.060	Wherever violations of household solid waste containerization regulations constitute existing or potential fire hazards.
8.08.070	Wherever a similar situation prevails with regard to commercial solid waste containerization regulations.
8.08.090	Wherever violations of clean-property regulations constitute existing or potential fire hazards.
8.08.100	Wherever there is open burning without a permit.

C. Housing Authority.

8.08.060	Where there are violations of household solid waste containerization regulations.
8.08.090	Where there are violations of clean-property regulations at the above projects.

D. Further, along with their regular duties, patrol personnel of the parks and recreation department are authorized to enforce the following sections at parks, beaches and other recreation facilities over which the department has jurisdiction:

8.08.020A	Littering by pedestrians.
8.08.020C	Littering with handbills, leaflets, etc.

(Ord. 00-6 § 2, 2000; Ord. 453 § 12, 1993; Ord. 94 § 3(B), 1979)

8.08.130 Liability--Enforcement--Penalty.

A. It is unlawful for any person to violate any of the provisions of this chapter by doing any act forbidden or by failing to perform any duty imposed herein and any such act or omission shall be deemed a misdemeanor and jurisdiction for prosecution thereof shall be vested in the city court of Butte-Silver Bow.

B. A minimum schedule of penalties for first offense within a three-year period for violations of this chapter is as follows:

8.08.020A	Littering by pedestrians and motorists, \$50.00; dumpouts, \$300.00.
8.08.020C	Littering with handbills, leaflets, etc., \$50.00.
8.08.020D	Failure to provide litter containers, \$100.00.
8.08.030A	Transporting loose materials without adequate covering, \$100.00.
8.08.040A	Lack of containers at loading/unloading operations, \$50.00.
8.08.040B	Failure to clean loading/unloading areas, \$100.00.
8.08.050A	Accumulations of litter at construction/demolition sites, \$100.00.
8.08.050B	Lack of containers at construction/demolition sites, \$100.00.
8.08.050C	Inability to show proof of proper end disposition of construction/demolition material, \$300.00.
8.08.060A	Improper household solid waste containerization, \$50.00.
8.08.060D	Uncovered household containers, \$25.00.
8.08.060E	Failure to replace defective household containers, \$50.00.
8.08.060F	Failure to follow prescribed putout practices, \$25.00.
8.08.060G	Depositing household solid waste in sidewalk or other pedestrian litter containers, \$25.00.
8.08.070A	Improper commercial solid waste containerization, \$50.00.
8.08.070B	Uncovered commercial containers, \$50.00.
8.08.070C	Failure to replace defective commercial containers, \$50.00.
8.08.070D	Depositing commercial solid waste in sidewalk or other pedestrian receptacles, \$200.00.
8.08.090A	Litter on private premises, \$50.00.
8.08.090B	Littering on sidewalks and strips, \$25.00.
8.08.090C	Sweepouts, \$35.00.
8.08.100	Open burning without a permit, \$50.00.

C. Each and every day during which a violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.

D. Whenever a minimum penalty is provided in this chapter for a particular violation of this chapter, then no penalty lower than the specified minimum penalty may be imposed, provided however that the penalty imposed shall be a fine not to exceed five hundred dollars or imprisonment in the county jail for a term not to exceed six months, or both.

E. Whenever no penalty is specified for a particular violation of this chapter, then the penalty imposed shall be a fine not to exceed five hundred dollars or imprisonment in the county jail for a term not to exceed six months, or both.
(Ord. 00-6 § 3, 2000; Ord. 503 § 1, 1995; Ord. 453 § 13, 1993; Ord. 303 § 1, 1987; Ord. 94 § 4, 1979)

Chapter 8.12

UNDESIRABLE VEGETATION CONTROL

Sections:

8.12.010 Purpose.

8.12.020 Scope of prohibition.

8.12.030 Definitions.

8.12.040 Jurisdiction.

8.12.050 Nuisance declared.

8.12.060 Maintenance of real property adjacent to public right-of-way.

8.12.070 Control of undesirable vegetation.

8.12.080 Failure to control.

8.12.090 Tax liability for payment of charges.

8.12.100 Service and notice.

8.12.110 Violation--Penalty.

8.12.010 Purpose.

It is the purpose of this chapter to control the growth of undesirable vegetation on private property adjacent to any public right-of-way within the urban area of the city and county of Butte-Silver Bow.
(Ord. 196 § 1, 1984)

8.12.020 Scope of prohibition.

No undesirable vegetation as defined in Section 8.12.030 shall be allowed to grow upon private property adjacent to any public right-of-way within the urban area of the city and county of Butte-Silver Bow.
(Ord. 196 § 2, 1984)

8.12.030 Definitions.

For the purposes of this chapter, the following words shall have the meaning ascribed to them as follows:

A. "Forb" means any herb that is not grass or grass-like.

- B. "Undesirable vegetation" means all weeds, whether noxious or otherwise, and all grass and uncared for vegetation and all forbs over eight inches high.
- C. "Control" means implementation of measures such as mowing, cutting, herbicide treatments, cultivating, grazing or any combination of measures for the containment, suppression and where possible eradication of undesirable vegetation.

(Ord. 07-13 § 1, 2007; Ord. 196 § 3, 1984)

8.12.040 Jurisdiction.

The provisions of this chapter shall apply to all real property adjacent to any public right-of-way within the urban area of the city and county of Butte-Silver Bow as described and shown on the adopted map entitled "Butte-Silver Bow Urban Area Boundary Map," which map was approved and adopted by Butte-Silver Bow Council Resolution No. 681, and is now on file and of record in the office of the Butte-Silver Bow clerk and recorder.

(Ord. 196 § 4, 1984)

8.12.050 Nuisance declared.

All undesirable vegetation as defined in Section 8.12.030 is declared to be a nuisance.

(Ord. 196 § 5, 1984)

8.12.060 Maintenance of real property adjacent to public right-of-way.

It shall be the duty of the owner of any real property located within the jurisdictional area of this chapter to provide for regular weeding, pruning, and other maintenance of all undesirable vegetation located on his private property adjacent to the public right-of-way.

(Ord. 196 § 6, 1984)

8.12.070 Control of undesirable vegetation.

Undesirable vegetation shall be kept cut to a height of not more than eight inches. It shall be the duty of the owner of any real property adjacent to any public right-of-way where the growth of undesirable vegetation exists to control the undesirable vegetation on said property and also to control weeds on alleys abutting behind the property to the middle of the alleys and on the sidewalk area including any right-of-way area between the property line and the curb line or designated roadway. If such control is not accomplished, the Butte-Silver Bow weed board may, after notice to the owner of record of the real property order the cutting by or on behalf of the city and county of Butte-Silver Bow, and the procedures set out in Section 8.12.090 for collection of costs and expenses shall apply in addition to the penalties provided by this chapter. Undesirable vegetation shall not be permitted to remain upon the ground after cutting, but shall be removed.

(Ord. 07-13 § 2, 2007; Ord. 196 § 7, 1984)

8.12.080 Failure to control.

If the owner shall fail to control the undesirable vegetation within ten days of the notice of violation, the

Butte-Silver Bow weed board shall cause the undesirable vegetation to be controlled and removed from the premises, and shall bill at a rate of two hundred dollars per hour, together with a reasonable charge for administration and supervision, to the owner of the premises, with the minimum charge to be two hundred dollars. If the owner fails to pay the bill within thirty days, the Butte-Silver Bow weed board shall certify the amount of such charges to the clerk and recorder for collection.
(Ord. 07-13 § 3, 2007: Ord. 196 § 8, 1984)

8.12.090 Tax liability for payment of charges.

If any charges to be paid by the owner pursuant to Section 8.12.080 have not been paid within thirty days, the clerk and recorder shall certify the amount thereof, with the description of the premises charged and shall extend the same to the assessment list as a special tax on said real property. If the real property for any reason is exempt from general taxation, the amount of such charge may be recovered by direct claim against the owner or lessee and collected in the same manner as personal taxes.
(Ord. 07-13 § 4, 2007: Ord. 196 § 9, 1984)

8.12.100 Service and notice.

Service of the notice required in Section 8.12.070 may be made by registered or certified mail, return receipt requested, and service shall be deemed complete upon delivery. If the address of a person to be notified is unknown or receipt of a notice which has been mailed is returned unsigned, such notice may be served by posting the same on a conspicuous place on the real property upon which the undesirable vegetation is located, in which event service shall be deemed complete as of the time of the posting.
(Ord. 196 § 10, 1984)

8.12.110 Violation--Penalty.

Any person within the jurisdictional area of this chapter who fails to comply with the requirements hereof, or who knowingly hinders, prevents, or interferes with the Butte-Silver Bow weed board or its agents in the performance of their duties under this chapter shall be guilty of a misdemeanor. Jurisdiction of such violations shall be in the city court of Butte-Silver Bow, Montana, upon written complaint of the Butte-Silver Bow weed board, the sheriff, or any law enforcement officer of Butte-Silver Bow.
(Ord. 07-13 § 5, 2007: Ord. 196 § 11, 1984)

Chapter 8.16

AIR POLLUTANTS

Sections:

8.16.010 Authority.

8.16.020 Intent.

8.16.030 Scope.

8.16.040 Definitions.

8.16.050 Regulations.

8.16.060 Permit.

8.16.070 Enforcement.

8.16.080 Penalties.

8.16.010 Authority.

The authority to promulgate this chapter is provided for in Ordinance No. 68 of the city and county of Butte-Silver Bow.
(Ord. 330 § 1, 1988)

8.16.020 Intent.

This chapter is necessary to preserve, protect, improve, achieve and maintain such levels of air quality as will protect the health and welfare of citizens of the city and county of Butte-Silver Bow.
(Ord. 330 § 2, 1988)

8.16.030 Scope.

This chapter applies to all persons, agencies, institutions, businesses, industries or government entities living in or located within the area defined in the attached district map and legal description. Stationary sources with the potential to emit more than twenty-five tons per year of any pollutant, with the exception of five tons per year of lead, regulated under the Montana Clean Air Act, are not subject to this chapter.
(Ord. 330 § 3, 1988)

8.16.040 Definitions.

For the purpose of this chapter the following definitions shall apply:

- A. "Air contaminant" means dust, ash, fumes, gas, mist, smoke, vapor, odor or any particulate matter or a combination thereof present in the outdoor atmosphere.
- B. "Air pollution control district" means the geographical area designated as such by the map and legal description attached to the ordinance codified in this chapter and by this reference made a part hereof.
- C. "Board" means the Butte-Silver Bow board of health as defined by Ordinance No. 68.
- D. "Class I permit" means an emission permit issued by the government to operate a residential solid fuel burning device during an air pollution alert.
- E. "EPA Method" means 40 CFR Part 60, Subpart AAA, Sections 60.531, 60.534 and 60.535.
- F. "Emission" means a release into the outdoor atmosphere of an air contaminant.
- G. "Government" means the local government of Butte-Silver Bow.
- H. "Opacity" means a measurement of visible emissions defined as the degree expressed in percent to which emissions reduce the transmission of light and obscure the view of an object in the background. Opacity shall be determined only by government personnel who have successfully completed the Montana Department of Health and Environmental Sciences Visual Emissions

Evaluation Course and hold a current qualification.

- I. "Oregon Method" means Oregon Department of Environmental Quality "Standard Method for Measuring the Emissions and Efficiencies of Woodstoves," Sections 1 through 8 and OAR Chapter 340, Division 21, Sections 100, 130, 140, 145, 160, 161, 163, 164 and 165.
- J. "Particulate matter-Ten (PM-10)" means particulate matter up to a nominal size of ten micrometers.
- K. "Residential solid fuel burning device" means any fireplace, fireplace insert, wood stove, woodburning heater, wood-fired boiler, coal-fired furnace, coal stove or similar device burning any solid fuel used for aesthetic, cooking or heating purposes, which burns less than 1,000,000 BTU's per hour.
- L. "Sole source of heat" means one or more residential solid fuel burning devices which constitute the only source of heat in a private residence for purpose of space heating. No residential solid fuel burner or burners shall be considered to be the sole source of heat if the private residence is equipped with a permanently installed furnace or heating system designed to heat the residence connected or disconnected from its energy source, utilizing oil, natural gas, electricity or propane. A sole source permit may be issued by the government when the heating system is only minimally sufficient to keep the plumbing from freezing. Only residences equipped with a residential solid fuel burning device which qualifies for a Class I permit may obtain a new sole source of heat permit after July 1, 1988.
- M. "Special need" means a person who demonstrates an economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the Low Income Energy Assistance Program "L.I.E.A.P." as administered in the city and county of Butte-Silver Bow by the District 12 Human Resource Development Council.

(Ord. 330 § 4, 1988)

8.16.050 Regulations.

- A. Solid Fuel Burning Devices.
 - 1. Within the air pollution control district, no person owning or operating a residential solid fuel burning device shall cause, allow or discharge emissions from such device which are of an opacity greater than twenty-five percent.
 - 2. The provisions of this subsection shall not apply to emissions during the building of a new fire, for a period or periods aggregating no more than thirty minutes in any four-hour period.
 - 3. Within the air pollution control district, no person in control of a residential solid fuel burning device shall emit any visible emission from such device during an air pollution alert declared by the government unless a sole source of heat, special need permit, Class I permit or a temporary sole source of heat permit has been issued for such device.

4. Within the air pollution control district, no person in control of a residential solid fuel burning device for which a sole source of heat, special need or Class I permit has been issued shall cause, allow or discharge any emissions from such devices which are of an opacity greater than ten percent during an air pollution alert declared by the government. The provisions of this paragraph shall not apply to emissions during the building of a new fire or for refueling for a period or periods aggregating no more than thirty minutes in any four-hour period.
5. For the purpose of this section, the government may declare an air pollution alert to be in effect whenever the ambient concentration of PM-10 within the air pollution control district equals or exceeds hundred micrograms per cubic meter (ug/m^3) averaged over any four-hour period and when scientific and meteorological data indicate the average PM-10 concentrations will remain at $100 \text{ ug}/\text{m}^3$ if an air pollution alert is not called. The government may call an air pollution alert whenever available scientific and meteorological data indicate that the ambient concentration of PM-10 within the air pollution control district can reasonably be expected to equal or exceed $100 \text{ ug}/\text{m}^3$ averaged over a four-hour period within the next twenty-four hours. As a surrogate method for PM-10 measurement, the government may use nephelometer readings correlated to ambient PM-10 concentrations.
6. The government has a duty, when declaring an air pollution alert to be in effect, to take reasonable steps to publicize that information and to make it reasonably available to the public at least three hours before initiating any enforcement action for a violation of this subsection.
7. Every person operating or in control of a residential solid fuel burning device within the air pollution control district has a duty to know when an air pollution alert has been declared by the government.

B. Solid Fuel.

1. Within the air pollution control district no person shall burn any material in a residential solid fuel burning device except black and white newspaper, untreated wood and lumber, and products manufactured for the sole purpose of use as fuel. Products manufactured or processed for use as fuel must conform to other applicable sections of this program.
2. The use of coal as a fuel in a residential solid fuel burning device is prohibited within the air pollution control district.

C. Liquid Fuel. It shall be a violation of this chapter to allow diesel fuel burning vehicles or locomotives to idle over a period exceeding one hour during an air pollution alert.
(Ord. 330 § 5, 1988)

8.16.060 Permit.

A. Class I Permits.

1. The government may issue a Class I permit for solid fuel burning devices if the emissions do not

exceed 3.0 grams per hour weighted average when tested in conformance with the Oregon Method or 4.1 grams per weighted average when tested using the EPA Method.

2. Class I permits issued for solid fuel burning devices which may be operated during an air pollution alert shall be valid for a period of two years for any solid fuel burning device. They shall not be transferable from person to person or from place to place unless reissued by the government. After a Class I permit expires, the government shall require information to determine if the solid fuel burning device is capable of meeting emission requirements before issuing another permit.

B. Sole Source Heat Permit. Within the air pollution control district, no person in control of a residential solid fuel burning device which is a sole source of heat shall cause, allow or discharge any emissions from such device which are of an opacity greater than ten percent during an air pollution alert called by the government unless a sole source of heat permit has been issued for a residential solid fuel burning device by the government. Sole source heat permits shall be valid for one year.

C. Temporary Sole Source of Heat Permit. In an emergency situation the government may issue a temporary sole source of heat permit. An emergency situation shall include but is not limited to a situation where a person demonstrates that his furnace or central heating system is inoperable other than through his own actions or the situation where the furnace or central heating system is involuntarily disconnected from its energy source by a public utility or other fuel supplier. The term of the temporary sole source of heat permit is at the discretion of the government based on need.

D. Special Needs Permit.

1. A person who demonstrates an economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the Low Income Energy Assistance Program (L.I.E.A.P.) as administered in the city and county of Butte-Silver Bow by the District 12 Human Resource Development Council, is eligible for a special need permit which shall be issued by the government.
2. Application for a special need permit may be made to the government at any time, and a special need permit shall be valid for a period of not more than one year from the date it is issued. Special need permits may be renewed; providing, the applicant meets the applicable need and economic guidelines at the time of application for renewal. Special need permits shall be issued at no cost to the applicant. A special need permit is not transferable from place to place and is not transferable to a person other than the person to whom it is issued.

(Ord. 330 § 6, 1988)

8.16.070 Enforcement.

A. The provisions of this chapter shall be enforced by the Butte-Silver Bow health department health authorities or the appropriate law enforcement officials.

- B. Sole source of heat permits, special need permits, Class I permits and temporary sole source of

heat permits for residential solid fuel burning devices can be issued, denied, suspended and revoked.
(Ord. 330 § 7, 1988)

8.16.080 Penalties.

A. The minimum schedule for penalties for violations of this chapter is as follows:

1. First violation, twenty-five dollars;
2. Second violation, fifty dollars;
3. Third or subsequent violation, one hundred dollars.

B. No person or entity shall be cited for a violation of this chapter more than once in any calendar day. However, each calendar day of violation may be considered a separate offense.

C. For the purpose of Section 8.16.090, only those violations of this chapter by a person or entity which have occurred within one year of a present offense shall be considered as prior violations.

D. Violation of this chapter shall be considered a misdemeanor punishable by a fine not to exceed five hundred dollars and imprisonment in the county jail for a term not to exceed six months, or by both a fine and imprisonment.

E. Jurisdiction shall be in the city court of Butte-Silver Bow.
(Ord. 330 § 8, 1988)

Chapter 8.20

EMERGENCY MEDICAL SERVICES

Sections:

8.20.010 Definitions.

8.20.020 License required.

8.20.030 Criteria for license.

8.20.040 Cancellation of license.

8.20.050 Notice and hearing required.

8.20.060 Existing services.

8.20.070 Exemptions.

8.20.080 Penalty.

8.20.010 Definitions.

For the purposes of this chapter, the following terms and words shall have the meanings set forth in this section, unless the context requires otherwise:

- A. "Ambulance" means a privately owned motor vehicle that is maintained and used for transportation of patients.

- B. "Attendant" means any person qualified as provided by this chapter to care for the handicapped, wounded, injured, ill or sick during the time ambulance service is provided.
 - C. "City-county" means the local government of the city and county of Butte-Silver Bow, Montana and includes all of that area within its jurisdictional boundaries.
 - D. "Council" means the Butte-Silver Bow council of commissioners, the governing body of the local government of the city and county of Butte-Silver Bow, Montana.
 - E. "Department" means the Department of Public Health and Human Services of the state of Montana.
 - F. "Emergency Medical Service" means a pre-hospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.
 - G. "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless. The term does not include a person who is nonambulatory and who needs transportation assistance solely because that person is confined to a wheelchair as the person's usual means of mobility.
 - H. "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or any other organization of any kind.
 - I. "Wheelchair van" means any privately owned service which uses motor vehicles adapted and equipped to carry passengers in a wheelchair, whether such chair is the property of the carrying vehicle, or of the passenger, and wherein the passenger, although requiring the use of a wheelchair, does not require medical or nursing attention while a passenger.
- (Ord. 583 § 1, 1997; Ord. 516 § 1 (part), 1995)

8.20.020 License required.

- A. A person may not conduct or operate an emergency medical service within the corporate limits of the city-county without first obtaining a license from the city-county and otherwise complying with the requirements of this chapter.
- B. Applications for a license must be made in writing to the city-county treasurer on forms specified by the treasurer.
- C. Each license must be issued for a specific term which shall be concurrent with the term for which the applicant is licensed by the Department pursuant to the provisions of Title 50, Chapter 6, Part 3, Montana Code Annotated (MCA). Renewal may be obtained by demonstrating renewal of the required license by the Department and compliance with the requirements of this chapter.
- D. There must be paid to the city-county, with each application for a license or for renewal of a license, a license fee of five hundred dollars.

E. The license is not transferable.
(Ord. 516 § 1 (part), 1995)

8.20.030 Criteria for license.

Any person desiring to obtain the license required by this chapter shall meet the following requirements:

- A. The applicant must possess a current license from the Department to provide emergency medical services, both transport and treatment services, at the advanced life-support level.
- B. The applicant must have adequate personnel, vehicles, equipment and facilities to respond at the advanced life-support level throughout the city-county, twenty-four hours per day, seven days per week.
- C. The applicant must have adequate personnel, vehicles, equipment and facilities to respond at the advanced life-support level to emergency calls to all locations within the fire protection services district of the city-county within eight minutes or less on at least ninety percent of the calls.
- D. The applicant must have a commercial general liability policy, in a form acceptable to the city-county, insuring the applicant for not less than the sum of two million dollars, per occurrence, for bodily injury or death and two million dollars, per occurrence, for loss or damage to property. Said policy shall name the city-county as an additional named insured. The applicant must furnish proof of insurance coverage prior to issuance and renewal of the license.
- E. The applicant must comply with all rules and regulations governing emergency medical services and emergency medical technicians as promulgated by the Department and the Board of Medical Examiners as contained in the Administrative Rules of Montana.
- F. No license certificate shall be issued under this chapter to any new applicant unless the council shall find that further emergency medical service is required by public convenience and necessity, and that the applicant is fit, willing and able to perform such public transportation, and to conform to the provisions of this chapter and rules promulgated by the department, the health department and the sheriff.
- G. Upon adoption of the findings, the council shall issue a certificate of public convenience and necessity stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance; otherwise the applicant shall be denied. However, no certificate of public convenience and necessity shall be required of any applicant for renewal of an existing license.

(Ord. 516 § 1 (part), 1995)

8.20.040 Cancellation of license.

The city-county may cancel a license if it finds that the licensee has:

- A. Violated any provision of this chapter or of the rules promulgated by the Department or the

Board of Medical Examiners, as contained in the Administrative Rules of Montana; and

- B. Failed or refused to remedy or correct the violation within the time and in the manner directed by the city-county.

(Ord. 516 § 1 (part), 1995)

8.20.050 Notice and hearing required.

- A. The city-county shall not deny or cancel a license without:

1. Delivery to the applicant or licensee of a written statement of the grounds for denial or cancellation or the charge involved;
2. An opportunity to answer at a hearing before the council to show cause, if any, why the license should not be denied or canceled.

- B. After receipt of written notice of grounds for denial or cancellation or charges, any applicant or licensee desiring a hearing before the council must make written application within ten days.

(Ord. 516 § 1 (part), 1995)

8.20.060 Existing services.

Any person providing emergency medical services within the city-county as of the effective date of this chapter shall have a period of one hundred twenty days to meet the requirements and obtain the license required by this chapter.

(Ord. 516 § 1 (part), 1995)

8.20.070 Exemptions.

The provisions and requirements of this chapter shall not apply to:

- A. The fire department of the city-county;
- B. Any person providing emergency medical services outside the city-county who, in the course of providing the services, transports a patient from outside the city-county into or through the city-county.
- C. Any person providing emergency medical services within the city-county who is providing the services at the request of the city-county pursuant to a written mutual aid agreement between the city-county and the person.

(Ord. 516 § 1 (part), 1995)

8.20.080 Penalty.

- A. In addition to all other penalties provided in this title, any persons violating the provisions of this chapter shall, upon conviction thereof, be fined as follows:

1. First violation, no less than one hundred dollars;
2. Second violation, no less than two hundred dollars;
3. Third or subsequent violation, no less than three hundred dollars.

B. No person or entity shall be cited for a violation of this chapter more than once in any calendar day. However, each calendar day of violation may be considered a separate offense.

C. Only those violations of this chapter by a person or entity which have occurred within one year of a present offense shall be considered as prior violations.

D. Violation of this chapter shall be considered a misdemeanor punishable by a fine not to exceed five hundred dollars and imprisonment in the county jail for a term not to exceed six months, or by both a fine and imprisonment.

E. Jurisdiction shall be in the city court of Butte-Silver Bow.
(Ord. 516 § 1 (part), 1995)

Chapter 8.24

SPECIAL EVENTS

Sections:

8.24.010 Purpose and intent.

8.24.020 Objective.

8.24.030 Scope.

8.24.040 Definitions.

8.24.050 Permit required.

8.24.060 Permit application content and procedure.

8.24.070 Denial or revocation of permit.

8.24.080 Exemptions

8.24.090 Enforcement.

8.24.100 Severability clause.

8.24.110 Preemption.

8.24.010 Purpose and intent.

The city and county of Butte-Silver Bow (city-county), Montana, hereby recognize that in consideration of the increasing number of special events, that as a matter of public policy it is incumbent on the local government to protect the health, safety, and welfare of the participants, and the general public, and to protect real property.

(Ord. No. 09-11, §§ 1, 2, 1-20-2010)

8.24.020 Objective.

The objective of this chapter is to provide for the health, safety and welfare of participants and the general public during special events, as well as protection of real property, while at the same time promoting

economic development and celebrating Butte-Silver Bow's unique heritage.
(Ord. No. 09-11, §§ 1, 3, 1-20-2010)

8.24.030 Scope.

This chapter pertains to all festivals, celebrations, and special events as defined in this chapter that are held within Butte-Silver Bow.
(Ord. No. 09-11, §§ 1, 4, 1-20-2010)

8.24.040 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

A. "Actual attendance" shall be the peak attendance at any point in time during the event. The event promoter, the special events manager and the council of commissioners, shall determine this number.

B. "Anticipated attendance" is the event representative's estimate of the number of persons projected to attend the event. The estimate shall be determined by presold tickets as well as passes given to staff, vendors, media, band members, and security personnel, or by knowledge obtained through past special events.

C. "Emergency medical services" means the ability to provide such emergency medical services for the special event sufficient to sustain on an emergency basis the medical safety of all persons that might require such services, whether stemming directly or indirectly from such event.

D. "Extraordinary costs" shall include all increases in cost of county personnel, supplies, and material resulting from the operation of said event.

E. "Law enforcement official" shall mean the duly elected, acting, or appointed sheriff of Butte-Silver Bow County or his/her designee.

F. "Person" means any natural person, partnership, voluntary association, corporation, or political entity.

G. "Special event" means any event that has one of the following components: an event that has greater than five hundred anticipated participants; or an event that makes use of public property, including streets, parks, (when event exceeds five hundred people) and other publicly owned venues (excluding the civic center); or any event which closes public rights-of-way.

H. "Special events manager" shall mean the person assigned by the chief executive of the city-county of Butte-Silver Bow, Montana, to be responsible for the administration and enforcement of this chapter.
(Ord. No. 09-11, §§ 1, 5, 1-20-2010)

8.24.050 Permit required.

No person shall operate any special event or cause other persons to gather for the purpose of a special event without holding a permit for a special event issued by the council of commissioners.
(Ord. No. 09-11, §§ 1, 6, 1-20-2010)

8.24.060 Permit application content and procedure.

A. To secure a special events permit, an application must be completed and submitted to the council of commissioners for processing by the special events manager. The special events manager shall review the permit application, all submitted attachments, and forward a recommendation to the council of commissioners. The council of commissioners shall approve, approve with conditions or deny the permit application.

B. The application shall contain information addressing the following:

- (1) The name, address and phone number of the person or entity organizing the event; if an entity is the applicant, include the names of all board members or responsible officers;
- (2) The purpose of the proposed special event and the date(s) and hours of the operation;
- (3) The exact location(s) of the proposed special event and the means of ingress and egress thereto, including emergency vehicle access routes and a maintained fire lane at least ten feet wide;
- (4) The estimated total attendance of the special event;
- (5) Confirmed provisions for the following:
 - (i) Garbage cans and frequent disposal of trash and other nonhuman waste;
 - (ii) Sanitary disposal of human waste;
 - (iii) Hand washing or hand sanitizing stations;
 - (iv) Emergency services and first aid;
 - (v) Health permits for food vendors;
 - (vi) Private security;
 - (vii) Law enforcement as required by the law enforcement official;
 - (viii) Emergency disaster plan;
 - (ix) Proof that persons serving alcohol have undergone state approved "responsible beverage service and sales" training;
 - (x) Notification to residents, business owners, and property owners within the special event

area, and any reasonable accommodations as requested;

- (xi) Adequate lighting for night events;
- (xii) Secured permits for temporary business vendors as required and issued by the county treasurer;
- (xiii) Proof of event liability insurance in the amounts of seven hundred fifty thousand dollars per claim and one million five hundred thousand dollars per occurrence which limits are set forth in the Montana Tort Claims Act, with said insurance policy naming the city and county of Butte-Silver Bow, Montana, as an additional insured during the term of the special event including setup and tear down;
- (xiv) Permission for closure and use of parking lots;
- (xv) Controls in place to prevent pets and animals, leashed or unleashed, inside the designated special event, excluding those animals that are participating in the special event and excluding any and all service animals as defined by the Americans with Disabilities Act (ADA) standards; and
- (xvi) To pay extraordinary costs incurred.

C. The permit application must include the following signatures before being considered for approval:

- (1) The sheriff or his/her designee;
- (2) The director of fire services or his/her designee;
- (3) The public works director or his/her designee;
- (4) The parks and recreation director in consultation with the park and recreation board if the special event is proposed to take place on the grounds of a public park property; and
- (5) A representative of the Montana Department of Transportation if a special event is proposed to take place on a state maintained highway or urban roadway.

D. An application fee of one hundred dollars shall be submitted with the application. This fee shall be nonrefundable unless the applicant voluntarily withdraws his application, no more than ten days after submittal. This fee will be deposited into a special events account, as established, as directed by the council of commissioners.

E. Process:

- (1) The special events manager shall consult with other public health and safety agencies to determine whether the information presented to address the provisions required in this section

are satisfactory and are complete.

- (2) If the application is determined to be complete and the provisions required by Section 8.24.060 are addressed, the Butte-Silver Bow Council of Commissioners shall approve a permit for the special event. The permit shall be approved not less than fifteen days preceding the date of the special event.

(Ord. No. 09-11, §§ 1, 7, 1-20-2010)

8.24.070 Denial or revocation of permit.

A. A permit may be denied or revoked by the council of commissioners for any of the following reasons:

- (1) The proposed special event is determined to potentially cause a danger to the public health or safety;
- (2) The applicant has failed to provide complete and/or accurate information on the application or fails to agree to comply with any of the provisions required in Section 8.24.060 of this chapter; and
- (3) The applicant has failed to comply with provisions of a previously granted permit.

B. The permit shall be revoked by delivering a written notice of revocation to the person operating the special event, or one of its responsible officers, or by mailing such notice to the person at the address as shown on the application. Service of the notice of revocation shall be complete on delivery or mailing.

(Ord. No. 09-11, §§ 1, 8, 1-20-2010)

8.24.080 Exemptions.

A. The event representative may provide a written request, combined with facts and documentation, asking for an exemption from one or more of the permit requirements. The special events manager will then review the request and submit it to the council of commissioners, who will decide whether to grant the exemption.

B. The request for an exemption must be submitted to the special events manager with the application.

C. Political events, sporting events, school events, events on private property not affecting traffic or the public, events at the Butte Civic Center, and events in public parks with less than five hundred persons, are exempt from securing this permit.

(Ord. No. 09-11, §§ 1, 9, 1-20-2010)

8.24.090 Enforcement.

A. Violators of this chapter will receive notification of the violation with the event subject to being stopped immediately.

B. Violators who fail to obtain a permit or violate the terms and conditions of an approved permit will be subject to a penalty not to exceed five hundred dollars for each violation.

C. Jurisdiction shall be in the city court of the city and county of Butte-Silver Bow.
(Ord. No. 09-11, §§ 1, 10, 1-20-2010)

8.24.100 Severability clause.

If any section, subsection, sentence, clause, phrase or word of this chapter is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter and the remainder of the chapter will remain in force and effect.
(Ord. No. 09-11, §§ 1, 11, 1-20-2010)

8.24.110 Preemption.

Nothing in this ordinance shall be construed to preempt a person's constitutional rights, including the right of free assembly.
(Ord. No. 09-11, §§ 1, 12, 1-20-2010)