



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: February 2, 2023**

**AGENDA TITLE**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8557 amending Sections 6-2-3, "Growth or Accumulation of Weeds Prohibited," 6-3-3, "Accumulation of Trash, Recyclables, and Compostables Prohibited," and 6-3-9, "Special Trash Service Requirements on Certain Residential Rental Properties at Certain Times," B.R.C. 1981, to change the civil process for weeds and trash violations and establish a set fee schedule to accommodate the new civil process; and setting forth related details

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Tate, City Attorney  
Sandra Llanes, Deputy City Attorney  
Laurel Witt, Assistant City Attorney I  
Maris Herold, Boulder Police Chief  
Jen Riley, Code Enforcement Supervisor, BPD

**EXECUTIVE SUMMARY**

Proposed Ordinance 8557 (**Attachment A**) is being presented to City Council for two primary changes in process for the Code Enforcement Unit (CEU) of the Boulder Police Department: 1) the addition of a civil process for weed and trash violations; and 2) establishment of a set escalation fine schedule to accommodate the civil process. There are no substantive amendments proposed to the weeds or trash code.

Currently, trash or weed violators receive a notice of violation (warning) and a timeframe in which to remedy the violation. If the violation is not remedied, the violator is personally served with a criminal summons to appear in court. A municipal court criminal summons is subject to a maximum fine of \$2,650 and/or 90 days jail. If the person appears in court, they can plead guilty and pay a fine. The fine amount is up to the judge's discretion but typically is \$100 for a first offense. The individual also has an opportunity to contest the violation and set the matter for trial.

Proposed Ordinance 8557 provides an additional method of enforcement for trash and weeds violations that is civil rather than criminal in nature. Violators will still receive a warning (posted on the property and emailed to the owner/agent) and a time to remedy the violation. The warning notice contains the issuing Code Enforcement Officer's contact information should there be any questions on the action required. The individual may also contact the officer to discuss an extension of the timeframe to correct the violation. See **Attachment B**, Code Enforcement Process Flow Chart and Narrative, for an outline of the violation process.

However, if not remedied they would receive a Notice of Agency Action (civil citation) rather than a criminal summons. The citation would be posted on the property and also emailed to the property owner/agent. The individual would not have to appear in court but would have the option of paying \$100 for a first offense, \$250 for a second offense, and \$500 for a third offense. They would also retain the ability to contest the violation by requesting a hearing.

The CEU consists of four officers, a working supervisor, and a part-time administrative assistant (shared with animal protection). This team enforces exterior nuisance violations across the city. Due to these finite resources, and community member requests for more active patrols and enforcement, the team has looked to process improvement strategies for time saving options. Simultaneously, trash and weeds, and the corresponding need for more proactive enforcement has been identified by the Hill Revitalization Working Group ("HRWG") as both an issue and a viable solution to improve aesthetics and build toward a more positive neighborhood culture in the University Hill (the "Hill") neighborhood. It is also an issue that impacts other neighborhoods such as Martin Acres and Goss Grove.

The proposed change is needed because the current procedure requires personal service of a criminal summons. The officer may attempt service of the summons several times on various days of the week and different times of the day. This inefficient process can result in multiple visits to the property and a significant amount of the officer's time. A summons may also be mailed to the owner, especially in cases with an out-of-state owner. However, the mailing of a summons must be sent certified mail with restricted delivery to obtain the signature of the party named on the summons. The certified mailing must be signed by the named party and received by the officer prior to the listed court date for the case to proceed, otherwise the case must be dismissed. There has been a high failure rate of attempting to serve a summons through the mailing process. Lack of

service leaves the enforcement process stalled with no repercussion to the violating property.

The sooner a corrective action is taken in relation to the occurrence of a violation, the more effective the correction of the behavior can be. The delayed timeframe in issuing a summons can diminish the desired outcome of compliance.

Secondly, the proposed change is needed because identifying repeat offenders under the current system has been problematic particularly with houses containing multiple units and summonses being personally served to different tenants rather than one owner or landlord. This change will allow CEU staff to improve the effectiveness of enforcement when a citation becomes necessary, improving the overall condition of neighborhoods. The proposed escalation of fines for repeated offenses can also correct the behaviors that are causing the violation but currently, repetitive summonses must be issued to the same party, even within a single household, for this fine escalation to occur. Many of the properties that are cited have multiple tenants. This further complicates trying to issue a summons to just one resident, delays the incident to repercussion timeframe, and may not result in the desired behavior change which further frustrates neighbors and adds to the negative cultural and aesthetic aspects of neighborhoods.

## STAFF RECOMMENDATION

### Suggested Motion Language

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only Ordinance 8557 amending Sections 6-2-3, "Growth or Accumulation of Weeds Prohibited," 6-3-3, "Accumulation of Trash, Recyclables, and Compostables Prohibited," and 6-3-9, "Special Trash Service Requirements on Certain Residential Rental Properties at Certain Times," B.R.C. 1981, to change the civil process for weeds and trash violations and establish a set fee schedule to accommodate the new civil process; and setting forth related details

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The majority of community members will not see any economic change because the current typical fine imposed by a municipal judge for a first violation is \$100. Chronic violators may see an increase in fines (due to escalation of fines) if they receive multiple citations.
- **Environmental** – The potential impact of this is better management of weeds, trash, recyclables, and compostables within city limits.
- **Social** – The proposed ordinance provides an additional enforcement process of civil citation rather than just a criminal summons. Instead of a mandatory court

appearance, violators may either pay a set fine or request a hearing to dispute the citation. The fine escalation for second- and third-time offenses is intended to promote change in behavior and increase quality of life in neighborhoods.

## **OTHER IMPACTS**

- **Fiscal** – The proposed ordinance will change how weeds, trash, recyclables, and compostables are procedurally enforced by the city. As the city already has an enforcement mechanism that has fines as part of the process, the fiscal change will be minimal. Because some property owners and tenants avoid a summons due to the current criminal summons process that requires being served in person, there may be an increase in fees collected.
- **Staff time** – The proposed new process will reduce the amount of staff time required for delivery of citations, thereby increasing city efficiency. The current process requires that a tenant or owner of the property be served the violation in person. Frequently, tenants will not answer the door and/or are not available and owner information on file with the city or county is out of date. By posting the citation on the property, a proven process for enforcement, the staff time of return visits is saved. The proposed change will create efficiencies by reducing staff time for Code Enforcement and the Municipal Court in serving and processing violations.

## **RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

None.

## **BOARD AND COMMISSION FEEDBACK**

While not an official board or commission, the HRWG is considered an Internal City Committee working with community members, city staff, University of Colorado (CU) staff, student leaders, neighborhood representatives, and Boulder Area Rental Housing Association (BARHA) staff and members, with meeting facilitation services provided by Unlocking Government, a third-party consultant. This group is tasked with improving neighborhood quality of life issues.

Noise, safety, trash, and overall culture were identified as the major priorities for the HRWG to address in 2021 and beyond. On March 16, 2021, City Council directed city staff in a “Nod of Five” to explore options to evaluate and consider actions that could improve quality of life in the Hill neighborhood. City staff has coordinated with the HRWG, particularly through its Policy Subcommittee, by taking a holistic approach and developing a comprehensive [work plan](#) that supports City Council’s direction.

Most recently, council adopted [Ordinance 8531](#) which prohibits unreasonable amplified noise during the day. Other work plan items include evaluation and recommendations for changes related to repeat chronic nuisances.

The following are concerns raised by some members of HWRG and staff responses:

**Position:** Both CU Student Government and CU staff shared concerns that the original schedule of bringing forward the proposed ordinance in December 2022 could be detrimental to student engagement as it is near the end of the semester and also occurs amidst what feels like a rise in the seriousness of crime on the Hill. Several acts of gun violence throughout 2022 were cited as examples of what is leading to this perception and opinion. See **Attachment C**, CU Student Government correspondence.

**Response:** The city takes the safety of all residents seriously. Due to this being an administrative procedural change only, with no rules or regulations changing, a robust community engagement process has not been deemed necessary. However, in response to the concerns, the timing of the proposal was moved to February 2023 to ensure adequate feedback. At that time, students will have returned for the spring semester. Educational strategies will be deployed by both the city and CU during this time. If the proposed ordinance is approved by council, there will be a 30-day educational period prior to implementation of process changes. Code Enforcement Officers will also work to educate residents when posting notices on houses. Data shows that due to winter weather, trash and weed violations are typically lower in number until the Saint Patrick's Day holiday. This fact will in many ways extend the educational period, providing plenty of time to communicate effectively to students as to what to expect and how to respond to a violation notice or citation. Property owners and the owner's agents will be receiving mailed and/or emailed notices or citations to improve the timeliness of notification.

**Position:** After multiple meetings between city and BARHA staff and a presentation to the BARHA board, the organization sent an email to city staff on November 4, 2022, (**Attachment D**) indicating that it had chosen to oppose the proposed ordinance for the following reasons: increased property management staff time anticipated due to increased ease in issuing citations; a request to focus on violence on the Hill instead of administrative changes; and, the installation and monitoring of a restored emailed notification system to landlords. BARHA also made the following requests if the proposed ordinance does move forward: 1) codify the current practice of resetting the fine schedule every August or upon renewal of a lease; 2) codify the notice of violation (warning) that allows one week for the violation to be corrected without repercussion; 3) reinstate email notifications to property owners/landlords; and 4) send out reminder notifications to the rental licensing database to update email and contact information.

**Response:** The CEU is committed to working with BARHA to address its concerns and improve communication to work toward voluntary compliance of nuisance violations occurring at its properties. Violence in the Hill neighborhood is a priority for the Boulder Police Department and the requested process change will not diminish any focus on that concern. Rather, the change will allow CEU staff to improve the effectiveness of enforcement when a citation becomes necessary, improving the overall condition of the neighborhood and contributing to the long-term safety of the area. BARHA members' staff time may be impacted for properties that have repeat violations and warrant a citation. However, the efficiency of the process will help property management and

owners identify properties with chronic violations sooner, allowing them to act to intervene before the properties and the neighborhood are adversely affected. CEU will be manually sending email notifications, when email addresses are available, of notices and citations starting in January 2023. We will continue to work with our current records management system to enhance interactions with the community where we can.

With respect to the additional requests from BARHA, our current standard practice of resetting citation fines in August is intended to allow the fairest response to the high turnover of residents in some neighborhoods. This allows new residents at a property to start with a clean slate and builds a sense of understanding and trust with the landlords/managers that are integrating new residents to the rules in their leases and the city's ordinances. The intent of the resetting policy is to avoid penalizing new tenants with escalated fines for the acts of the previous tenants. This level of community engagement and cooperation is supported by all levels of city staff and has been vital in the successful application of the citation process since the beginning. The resetting procedure will be memorialized in an internal policy document known as a Boulder Police Department General Order specific to the CEU.

Secondly, notices of violation, also known as warnings, are a current CEU standard practice. The specified correction period varies depending on the factual circumstances of the violation and is determined by CEU on a case-by-case basis. This procedure will also be included in the General Order.

The addition of the email notice should improve the owner/managers ability to respond in a timely manner and notices are still posted on the door for the residents. Emailing of both a notice of violation (warning) and a notice of administrative action (citation) will begin February 1, 2023. This will be manually emailed by the issuing officer, independent of the current capability of the records management system. Code Enforcement is committed to continually improving its service to the community and agree that emailed notices are in line with this commitment.

Lastly, the rental licensing database is a vital record for communicating with property owners and agents. Keeping the license and county property data up to date as changes occur is crucial to timely notification. The city has made this process easily accessible and both BARHA and the city can work together to keep members reminded of the importance of this database.

## **PUBLIC FEEDBACK**

Because the proposed ordinance is primarily deemed administrative in nature and is focused on improving city process rather than substantive changes to regulations, it was decided that a large-scale community engagement process was not necessary. Nevertheless, the public was invited to share potential positive and negative impacts on their neighborhood on a Be Heard Boulder questionnaire. Due to the potential financial impacts of the escalating fine schedule for repeat offenders, the Community Connectors in Residence were consulted. In addition, because data shows that South Boulder is a hot

spot for both weeds and trash violations, staff sought consultation from the Martin Acres Neighborhood Association Steering Committee.

The Be Heard Boulder feedback form launched on January 10, 2023. Early responses from community members in 10 different neighborhoods anticipate a primarily positive impact on their neighborhood from the proposed changes. Specific reasons cited include saving officers' time, cleaner spaces, help with overflowing dumpsters, and overall improvement of health and safety. Anticipated negative impacts include both over-reach and lack of enforcement and that reducing consequences by not requiring a court hearing may lead to more violations. Some respondents also included other concerns in their neighborhoods such as speeding traffic, parking issues, encampments, lack of bear-proof trash cans in required areas, and auto/auto parts theft. A comprehensive report of Be Heard Boulder feedback will be provided to council and the public prior to the public hearing.

Brenda Ritenour, the city's Community Engagement Manager, consulted with Community Connectors in Residence in December. Community Connectors asked for clarifications about the reasons staff believe a civil process will lead to greater compliance than a criminal process. The group encouraged holding property owners responsible as well as property residents. Community Connectors also encouraged a robust education process for community members, particularly students who may have come from other communities, about landfill waste, the city's zero waste commitments and best practices. Community Connectors also expressed concerns about the large-item trash during move-out times and suggested placing large dumpsters in hot-spots to help collect the discarded furniture and housewares.

In a virtual conversation with Brenda Ritenour in January, the Martin Acres Neighborhood Association Steering Committee agreed that weeds and trash can be disruptive issues in the neighborhood. The Steering Committee prioritized trash issues over weeds, which illuminates a different perspective than the aggregate call data. They shared concerns about the seasonal move-out dumping that can occur when renters who are moving out in the spring or at the end of the summer leave furniture and other large items adjacent to private properties or in nearby ditches and greenways. They encouraged accountability for both property owners and property residents and expressed support for changes that will reduce the need for complaint calls or named complainants. They characterized the neighborhood as reluctant to call the police, preferring to focus on building neighborhood relationships. They also had concerns about xeriscape lawns with tall native plants being cited for weed violations. In addition to conversation about weeds and trash, the Martin Acres Neighborhood Association Steering Committee lifted other disruptive issues as more urgent priorities in some areas of the neighborhood including congested parking, neglected snow removal, stolen bikes and other property, and noise violations. Please see **Attachment E**, Community Questions, for more detailed information.

## **BACKGROUND**

The Boulder Police CEU actively patrols for and responds to complaints of unsecured and accumulated trash throughout the city. The effective storage and control of trash directly impacts the health and safety of the community. Trash is a wildlife attractant to animals such as bears, raccoons, skunks, and rats. Containing trash reduces human and wildlife conflicts. Accumulation of trash creates a nuisance to the community and degrades the safety and sense of security of the residents. In addition, the regulation of the type and height of weeds and brush that are allowed in the city is necessary to protect the public health, safety and welfare, and preserve neighborhood environments.

The CEU consists of four officers, a working supervisor, and a part-time administrative assistant (shared with animal protection). This team enforces exterior nuisance violations across the city. Due to these finite resources, and community member requests for more active patrols and enforcement, the team has looked to process improvement strategies for time saving options. Simultaneously, trash and weeds, and the corresponding need for more proactive enforcement has been identified by the HRWG as both an issue and a viable solution to improve aesthetics and build toward a more positive neighborhood culture on the Hill. It is also an issue that impacts other neighborhoods such as Martin Acres and Goss Grove.

The CEU works seven days a week responding to complaints of trash, weeds, and other nuisances in the city. The CEU strives to educate the public through personal interactions and issuance of notices of violation. The notices are formal warnings that describe the ordinance that is being violated and specify a timeframe to correct the violation. In most cases, these interactions result in voluntary compliance by the owner or resident. When a violation is not corrected through the cooperation of the owner or resident, an officer will attempt to issue a summons.

The current procedure requires that a criminal summons be issued to a person and be signed by them to be considered valid by the Boulder Municipal Court. An officer may attempt service of a summons several times on varied days of the week and different times of the day. This can result in multiple visits to the property and a significant amount of an officer's time. Summonses may also be mailed to the owner, especially in cases with an out-of-state owner. Such mailings must be sent certified with restricted delivery to obtain the signature of the party named on the summons. If the certified mailing is signed for by the named party and, if the officer receives the signature card back from the post office in time for the listed court date, the summons will be accepted by the court to proceed. There has been a high failure rate of attempting to serve summonses through the mailing process. Lack of service leaves the enforcement process stalled with no repercussion to the violating property.



The sooner a corrective action is taken in relation to the occurrence of a violation, the more effective the correction of the behavior can be. The delayed timeframe in issuing a summons can diminish the desired outcome of compliance. The proposed escalation of fines for repeat offenses can also correct the behaviors that are causing the violation, but currently, repetitive summonses must be issued to the same party, even within a single household, for this fine escalation to occur. Many of the properties that are cited have multiple tenants. This further complicates trying to issue a summons to just one resident, delays the incident to repercussion timeframe, and may not result in the desired behavior change which further frustrates neighbors and adds to the negative cultural and aesthetic aspects of neighborhoods.

In 2013, City Council took action to address a clear public safety risk that also threatened Boulder's wildlife by adopting an ordinance that made the same procedural changes proposed here to Section 6-3-12, "Bear Resistant Containers Required," B.R.C. 1981, to secure trash from being accessed by bears. This section of the code added a civil penalty process for violations to be addressed swiftly and consistently. A notice of agency action (civil citation) allows the CEU to issue a civil penalty fine for violations. These citations are considered served when they are posted at the property, sent through the mail, or emailed, if that information is available. A citation has proven to be an effective tool for the safety of the community, the bears, and utilizing the CEU's time more efficiently. This civil process still allows the recipient the opportunity for due process through the civil hearing process should they disagree with the officer's findings in a citation. Requesting a hearing is easily accessed through the link listed on a citation or on the city webpage which takes recipients to a short form.

The CEU is proposing this civil process be added to other nuisance codes that directly impact public health and safety, specifically ordinances pertaining to trash and weeds. This process is not intended to replace a notice of violation (warning) and the attempt to educate and gain voluntary compliance. Rather, it will allow the CEU to utilize the notice of agency action (civil citation) when violations are not corrected. It simply creates another enforcement tool for CEU. The proposed ordinance will leave the criminal summons option in place so that it can be used if the violation is still ongoing or becomes chronic.

## **ANALYSIS**

Proposed Ordinance 8557 provides an additional enforcement method for weeds and trash violations by adding a civil process (issuance of a civil citation) to the existing criminal summons process and includes a set escalation of fines. The initial fines are in line with those currently imposed by the Boulder Municipal Court. The difference is that rather than the court determining escalation rates for repeat offenses, these have been established in the proposed ordinance itself.

## **NEXT STEPS**

If City Council passes Proposed Ordinance 8557 on first reading, staff is prepared to proceed with second reading and a public hearing on February 16, 2023.

## **ATTACHMENTS**

- A – Proposed Ordinance 8557
- B – Code Enforcement Process Flow Chart and Narrative
- C – CU Student Government correspondence
- D – BARHA board email to city staff dated November 4, 2022
- E – Community Questions

ORDINANCE 8557

AN ORDINANCE AMENDING SECTIONS 6-2-3, "GROWTH OR ACCUMULATION OF WEEDS PROHIBITED," 6-3-3, "ACCUMULATION OF TRASH, RECYCLABLES, AND COMPOSTABLES PROHIBITED," AND 6-3-9, "SPECIAL TRASH SERVICE REQUIREMENTS ON CERTAIN RESIDENTIAL RENTAL PROPERTIES AT CERTAIN TIMES," B.R.C. 1981, TO CHANGE THE CIVIL PROCESS FOR WEEDS AND TRASH VIOLATIONS AND ESTABLISH A SET FEE SCHEDULE TO ACCOMMODATE THE NEW CIVIL PROCESS; AND SETTING FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,  
COLORADO:

Section 1. Section 6-2-3, "Growth or Accumulation of Weeds Prohibited," B.R.C. 1981, is amended to read as follows:

(a) No owner, lessee, agent, occupant, or person in possession or control of any occupied or unoccupied lot or tract of land or any part thereof in the city shall permit or maintain on any such lot or tract of land or along the sidewalk, street, or alley adjacent thereto any growth of weeds to a height greater than twelve inches.

(b) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, \$100.00;

(2) For the second violation of the same provision, \$250.00;

(3) For the third violation of the same provision, \$500.00; and

(4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(c) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.

(d) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 2. Section 6-3-3, “Accumulation of Trash, Recyclables, and Compostables Prohibited,” B.R.C. 1981, is amended to read as follows:

(a) No owner of any vacant land or property; occupant, owner, or manager of any single-family dwelling or similar property; owner, manager, or operator of any multiple family dwelling, private club, or similar property; or owner, operator, manager, or employee of any commercial or industrial establishment or similar property shall fail to:

- (1) Prevent the accumulation of trash, recyclables, and compostables that are visible to the public on such property and on the public right of way adjacent to the property;
- (2) Remove trash, recyclables, and compostables located on such property and on the public right of way adjacent to the property;
- (3) Remove trash frequently enough so that it does not cause putrid odors on the property;
- (4) Remove or repair broken or damaged windows located on such property. However, it shall be an affirmative defense to a violation of this provision that a person is a tenant who, under the terms of the tenancy, is not responsible for the maintenance of that property and who failed to address a particular maintenance issue for that reason;
- (5) Remove accumulated newspapers or other periodical publications from such property when such accumulated newspapers or publications are visible to the public and remain so for a period of more than twenty-four hours. It shall be an affirmative defense to any alleged violation of this paragraph that no more than three such newspapers or periodicals were accumulated for each residential unit or each business entity located on the property and that no newspaper or periodical more than three days old is located on the property; and
- (6) Sufficiently bundle or contain recyclable materials so that those materials are not scattered onto the public right of way or onto other properties.

...

(d) No owner, operator, or manager of any restaurant, brewpub, tavern, or any other business shall fail to:

- (1) Prevent trash from being scattered from the business property onto the public right of way or onto other properties; and
- (2) Remove or cause to remove immediately after closing all trash located on an outdoor seating area of the establishment and on the public right of way adjacent to the establishment.

(e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, “Quasi-Judicial Hearings,” B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, \$100.00;

(2) For the second violation of the same provision, \$250.00;

(3) For the third violation of the same provision, \$500.00; and

(4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(f) The city manager’s authority under this section is in addition to any other authority the manager has to enforce this chapter, including but not limited to Section 5-2-4, “General Penalties,” B.R.C. 1981, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.

(g) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

### Section 3. Section 6-3-9, “Special Trash Service Requirements on Certain

Residential Rental Properties at Certain Times,” B.R.C. 1981, is amended to read as follows:

(a) The city manager may, by regulation, designate a period of time up to sixteen consecutive days in the second quarter of the calendar year, and up to thirty-five consecutive days in the third quarter of the calendar year, as the periods during which this section is in effect in the special trash service zone.

...

(e) It shall be an affirmative defense to a charge of violation of this section that trash hauling service meeting the requirements of this section was not commercially available. This defense shall not apply if the asserted unavailability was due to refusal by a commercial hauler to provide such services based on legitimate business reasons concerning the property owner, including, without limitation, being in arrears on payments or refusing to sign a commercially reasonable contract.

(f) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, “Quasi-Judicial Hearings,” B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, \$100.00;

(2) For the second violation of the same provision, \$250.00;

(3) For the third violation of the same provision, \$500.00; and

(h) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 5. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

Aaron Brockett,  
Mayor

City Clerk

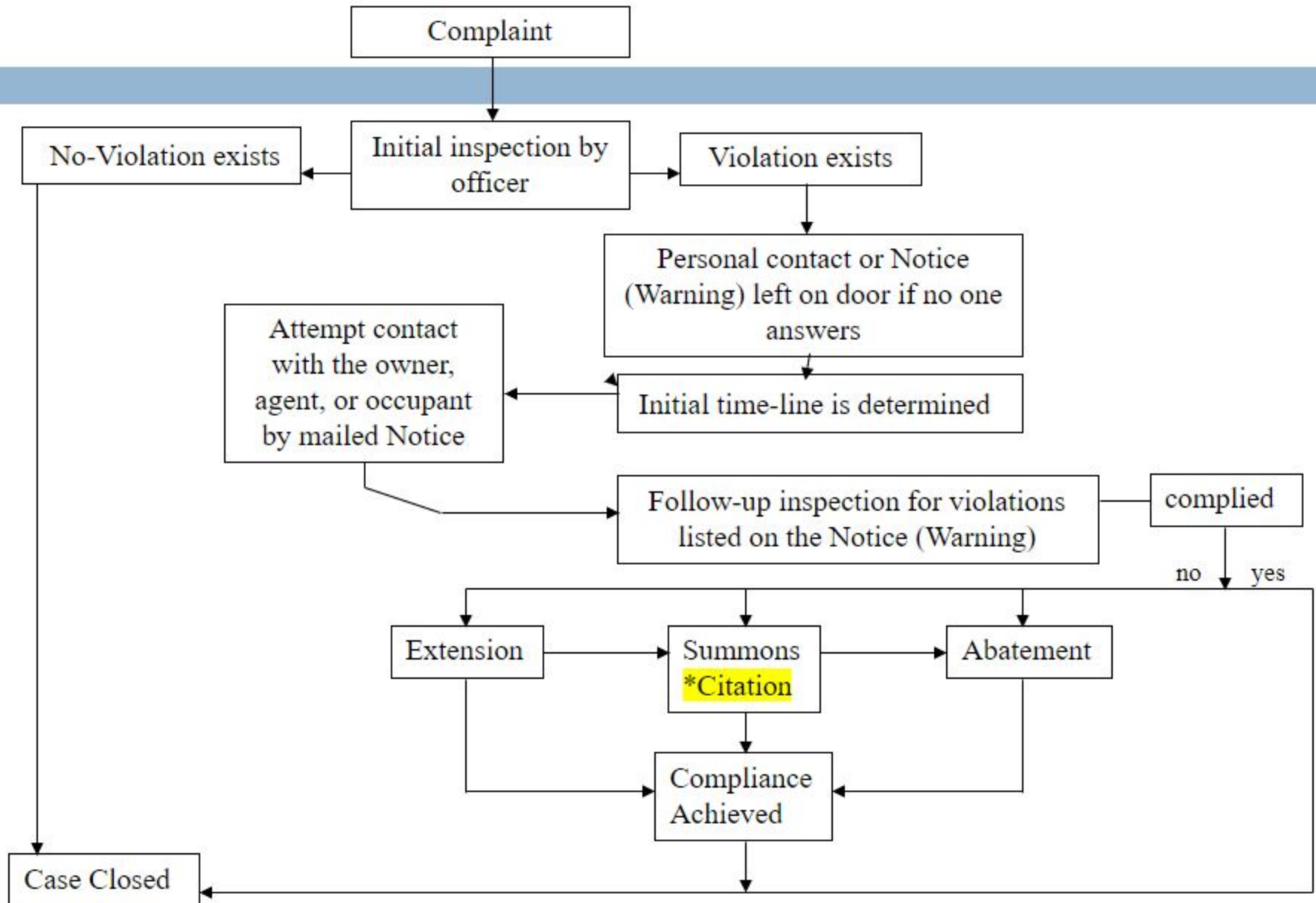
1 READ ON SECOND READING, PASSED AND ADOPTED, this 16th day February  
2 2023.

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4 \_\_\_\_\_  
5 Aaron Brockett,  
6 Mayor

7 Attest:

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10 City Clerk  
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# Code Enforcement Process Flow Chart





## Code Enforcement Process Flow Narrative

- Complaint
  - Code Enforcement (CE) receives complaints from a multitude of different sources.
    - Inquire Boulder
    - Code Enforcement phone extension x1875
    - In-person
    - Other City departments/Council
    - Email
- Initial inspection by officer
  - Code Enforcement Officer (CEO) responds to the location of the complaint to conduct an initial inspection of the property.
    - CEO will look for all violations of code during the inspection, not just the code suspected to be in violation. A notice is written with each violation listed, and initial timeline to correct, and photographs taken of each violation.
      - Addressing all violations at a property allows the officer to educate the resident on the importance of city codes and to discuss a reasonable work plan and timeline to correct violations at the property.
- Personal contact or Notice left on door if no one answers / Initial timeline is determined
  - CEO attempts to make contact at the property.
    - Contact made – CEO educates about each violation and a workplan with timeline to correct is agreed on.
      - The written notice is left with the resident
    - No contact made – CEO posts the written notice with initial timeline to correct on the door and takes a photo of the posting.
      - On some occasions there may be circumstances that prevent posting. The notice will then be mailed to the owner listed on the Boulder County Property record.
- Attempt contact with the owner, agent, occupant by mailed Notice
  - CEO will enter the case file and generate a Notice of Violation (notice). The notice is then mailed to the owner of record and the agent if listed on the rental license.
    - Notice includes the code language of the sections in violation and an initial timeline to correct the condition.

- Follow-up inspection for violations listed on the Notice
  - CEO responds back to the property after the timeline to correct the violations has expired for a re-inspection.
    - Violations are corrected – case closed
    - Violations remain – CEO attempts contact at the residence and determines the next enforcement step.
- Extension
  - CEO contacts the owner, agent, or resident a determines additional time is needed to comply with the violations.
    - An extension letter is issued with the new compliance date listed for each remaining violation.
    - Re-inspection will occur after the expiration of the timeline to determine compliance.
      - Violations are corrected – case closed
      - Violations remain – CEO attempts contact at the residence and determines the next enforcement step.
- Abatement
  - Abatement is the physical correction of the violation by a city approved contractor. Each section of code determines the process for abatement of the violation should it remain after notice. CEO may initiate the abatement process as the next enforcement step when appropriate.
    - The department is billed the cost of the abatement by the contractor.
      - The owner is billed the direct cost of the abatement plus administrative fees as dictated by the section of code in violation.
- Summons
  - A summons is a municipal charge that is issued to the tenant, agent, or owner when a violation is not corrected.
    - Summonses **must** be issued in person and signed by the violator, agent, or the owner.
      - May take several visits to the residence to get contact to be issued.
      - Fine determined by the municipal judge if convicted.
      - Fine does not escalate unless the same party is served for subsequent violations of the same code.
      - Can be issued through restricted delivery certified mailing.
        - Lengthy delivery time.
        - Not considered served if the signature card is returned without a signature, wrong signature, or signature card received from USPS after the court date listed on the summons.

- **\*Citation - Notice of Agency Action**

- A citation is a civil penalty that is issued to the tenant, agent, or owner when a violation is not corrected.
  - Citation must be allowed per section of code to be utilized by the CE officer.
  - Citation can be posted at the property, mailed, or emailed to the owner or agent if on file.
  - Fines are set by ordinance and escalate with each citation issued at that property.
  - Owner, agent, or tenant may request a hearing if they feel the citation was issued in error.
    - Hearings are quasi-judicial and held in Civil court vs. Municipal.



# Student Government

UNIVERSITY OF COLORADO **BOULDER**

## **Tri-Executive Statement on Proposed Code Changes and Hill Neighborhood**

Local leaders in Boulder are currently pushing through changes to the municipal trash and weed ordinances to impose new fines for code violations and involve property managers in these violations. As elected student leaders at the University of Colorado, we are increasingly concerned by the direction, language, attitudes, and results of these conversations to “revitalize” the University Hill neighborhood. We are told these new fines and changes are simultaneously small clerical changes to simplify violation processing for the City and are somehow also significant changes that will “solve” the massive problem of party trash and vegetation overgrowth on the Hill.

We are concerned that these changes do little to educate and involve students in their role as community members off campus and that they have the potential to deepen the already troubling divide between wealthy property owners and student tenants. Increased policing of strengthened municipal code and dismissive attitudes towards students does virtually nothing to solve the true issues facing all of the community members on the Hill and elsewhere in Boulder.

With the current proposed changes, we share other community partners’ concerns about the aspects of enforcement that have been discussed as a general practice but are not codified. If tenants are given formal notices prior to fines and if the cumulative violation count will reset every August, both policies which we strongly support, then they should be clearly codified as municipal code, not just verbal talking points to ease public concerns.

These code-change conversations are a microcosm of the difficulties student voices face when they try to engage with the Boulder community and be a force for good. The timing of these changes does not ease any broad ongoing needs of our community and is difficult to understand. From the start of our campaign and throughout the Unity administration, we have been focused on creating unity, equity, and safety for our students on and off campus. There is virtually no student role in the work of the Hill Revitalization Working Group; what little opportunity exists seems to us as merely a facade to demonstrate “community engagement” and student concerns are met with little engagement, dismissive behavior, and a general disinterest in understanding the needs of our students. The interactions we have had through the Hill Revitalization Working Group feels performative to us.

Boulder and the University of Colorado are deeply intertwined entities. The Hill plays a large part in the culture and image of our community. Students have lived in the Hill neighborhood for nearly as long as it has existed. Many of the first construction developments were investor-owned student housing - over 100 years ago. Sigma Alpha Epsilon built one of the first Greek life houses on the Hill in 1923.



# Student Government

UNIVERSITY OF COLORADO **BOULDER**

We do not contend that student concerns are above that of other residents, or that any problems in the Boulder community do not need shared solutions. Our students are not seen as equal members of this community and are instead treated like temporary disruptions to homeowners' lives. We deserve a true seat at the table where our own voices hold the same weight as those around us. We hear from students on a daily basis who are concerned about gun violence, sexual assault, lighting, aggressive policing, transportation, food insecurity, divisive community language, and many other issues which go ignored by Boulder community leaders. It is a sad state of affairs that student leaders, who strongly desire to see a more interconnected and friendly Hill community, must fight to have their voices heard and then be ignored.

At the end of the day, the current proposed trash and weed changes do little to create any real change and are doing little to engage our students in a more positive environment. We urgently call on our neighbors and community leaders to do better by our students.

Respectfully,

President Chloe Nicklas  
External Affairs Tri-Executive

President Lucie Nguyen  
Student Affairs Tri-Executive

President Rachel Hill  
Internal Affairs Tri-Executive

**From:** [meghan@barhaonline.org](mailto:meghan@barhaonline.org) <[meghan@barhaonline.org](mailto:meghan@barhaonline.org)>

**Sent:** Friday, November 4, 2022 12:54 PM

**To:** Amanda Nagl <[amanda@unlockinggov.com](mailto:amanda@unlockinggov.com)>; Llanes, Sandra <[LlanesS@bouldercolorado.gov](mailto:LlanesS@bouldercolorado.gov)>; Ritenour, Brenda <[RitenourB@bouldercolorado.gov](mailto:RitenourB@bouldercolorado.gov)>; Riley, Jennifer <[RileyJ@bouldercolorado.gov](mailto:RileyJ@bouldercolorado.gov)>

**Cc:** Friend, Rachel <[friendr@bouldercolorado.gov](mailto:friendr@bouldercolorado.gov)>; Wallach, Mark <[wallachm@bouldercolorado.gov](mailto:wallachm@bouldercolorado.gov)>; [meghan@barhaonline.org](mailto:meghan@barhaonline.org)

**Subject:** BARHA position and comment on Proposed Changes to the Weeds/Trash Ordinance (Section 6-2-3 et al)

## External Sender

Jen, Amanda, Sandra and Brenda -

Thank you for the opportunity to review the proposed changes to the weeds/trash ordinance (section 6-2-3 et al). We know you have put a lot of time into it and appreciate your willingness to not only meet with Jen and I but also with our Board. After much discussion, the BARHA Board has decided to oppose the proposed changes. We understand that the primary reason for this change is the time it takes to serve a municipal ticket and the challenges that come with personal service. While Bear trash has a civil administrative fine, the BARHA board noted that violating bear trash ordinances has much more serious consequences to both the bear and the resident than accumulation of trash does and warrants more fines, as well as ease of giving them.

When a ticket is issued, or in the case of the Bear Trash Ordinance, a municipal fine, they are usually passed to the tenant. In order for you to better understand our perspective, here is the scenario in our world:

1. Owner receives the mailing.
2. The owner immediately gets concerned because they almost always receive it well past the due date and have missed the window for us to cure.
3. The property manager reaches out to residents to make sure they didn't dispute it in real time with the posting from their door when it was in the warning stage.
4. Our accountant pays the fine (owner is out that money until resident pays it).
5. Our accountant charges it back to the resident
6. The property manager reaches out to the resident to remind them to keep their trash closed at all times.
7. Often times, the resident does not pay the ticket so we have to repeatedly follow up with them to collect.
8. Residents often get angry because we are collecting the payment for the ticket.

Ultimately the property manager/owner is holding the tenants accountable for their actions which requires a large amount of staff time on our part. As you can see this process is cumbersome. We certainly do not dispute the giving of tickets if it is warranted but have concerns that this proposal, with the addition of an administrative fine, will make it too easy to fine, leaving all the due process after the fact and increasing our workload considerably.

Now that the city is reinstating the email notification for Notice of Violation (warning), compliance will be expedited for more properties and leave additional staff time for executing personal service for your more egregious violators. As you know, currently we do get the notices but they are often after the deadline is due to remedy the situation. Since this is an increase in efficiency; it would make sense to

see if this change has a positive effect on compliance eliminating the need for this proposed ordinance change.

In addition, the Board expressed concerns for general safety of their tenants after the recent violence on the hill. They felt that that should be given priority over these proposed administrative changes.

However, If this ordinance were to move forward we request the following changes:

- Codify the current practice of resetting the fine schedule every August or upon renewal of lease. We understand that this is current practice but we are not aware that it is codified anywhere. Our organization and Board respects Jen Riley and her team and we feel it is appropriate to codify these practices in case there is any staff turnover in the future. This also gives the ability for any Boulder resident to look up and know that this reset exists.
- Codify the Notice of Violation (warning) Procedure, if it is not already. It is our understanding that the current practice of issuing Notice of Violations (warning) will continue. Jen Riley has been exemplary at reviewing this practice with us and reinstating email notification for violations. However, we cannot find where this process is in the current ordinance. If it is in the current Municipal Code please give us a reference that we can refer to, if not we ask that you add this warning procedure to the language.
- Reinstate Email Notifications. We understand that this is progress and may be done already (testing was 11/3). Many thanks to Jen and her team for making this happen. We feel this will increase compliance substantially.

For our part – we will send a reminder to the membership to be sure and keep their rental license current, with a quick how to link to the city's change of agent form. We understand with a 4-year renewal cycle, sometimes licenses have not been come up to date and this is a source of frustration for all involved. Since not all rental housing providers are our members, we ask that you put out reminders periodically through the rental licensing database as well. In that same vein, it is appropriate to notice this proposed ordinance change similar to the noise ordinance change through Be Heard Boulder and the Rental Licensing Database. This ordinance change will affect all of Boulder not just those that reside in or provide rental housing.

Please feel free to contact me if you have questions or would like to discuss further. We will of course be sending this information to Council as well.

Sincerely,

Meghan Pfanstiel, AICP  
Government Affairs Coordinator, Cell: 720-745-0563  
webpage: <https://www.barhaonline.org>



*Making it **easier** to be a **better** landlord*

**Questions/responses from community engagement conversations****Hill Revitalization Working Group:****Question:** *What is wrong with the current process?***Answer:** It is inefficient. The time to serve summonses is cumbersome and can be purposefully evaded from both tenants, owners, and property managers. The new process has been vetted and proven effective when adopted by council with the passing of the Bear trash can ordinance in 2013 and through several city departments that utilize this same process. This proposal does not take away any element of the current ordinance that is working effectively. Rather, the proposal continues the notice of violation (warning and request for compliance) process that is already in place and still allows for a quasi-judicial hearing at the resident's or owner's request.**Question:** *How does this change impact the municipal court?***Answer:** Currently, violators are issued a court summons and must appear in court for a ruling. With the change, the court will only be involved if the community member receiving the citation requests a hearing to contest the violation.**Question:** *Why not move all nuisance violations to administrative process?***Answer:** There is a robust restorative justice program in effect for CU students who are charged with some nuisance-type violations. This process has proven highly effective with a low recidivism rate. We do not want to change processes that are working effectively. Restorative Justice is not in place for weeds or trash violations.**Question:** *How many weeds and trash violations are currently issued?*

Incident	Timeframe	Incident volume, #	Address, #	Address w/repeat incidents, #	Fraction of addresses w/repeat incidents
Trash	Oct 20 - Sept 21	626	429	117	27%
Trash	Oct 21 - Sept 22	351	268	47	18%
Weeds	Oct 20 - Sept 21	158	152	6	4%
Weeds	Oct 21 - Sept 22	56	55	1	2%

**Answer:** The dataset studies are from October 2020-september 2022. There is great variance within the two years which may be accountable to the COVID-19 Pandemic or may be attributable to weather and bear activity though bear trash can violations are not included in these numbers. This data has not been fully scrubbed for repeats or omissions.**Question:** *What is the current fine for a violation when it goes to court?***Answer:** With the current summons procedure, a person receiving a violation must go to court, where the fines are set by the judge, up to \$2,650 maximum. The court typically imposes a \$100 fine for a first offense. The proposed civil process will set the fines at \$100 for the first violation, \$250 for the second and \$500 for the third, the process is more efficient, and the immediacy of the consequences may be more effective in changing behavior.



**Question:** *What if the resident wants to dispute the charges? In other words, they feel they are innocent and that there is not a violation for trash or weeds.*

**Answer:** There is information on the citations that directs the recipient on how they can pay the fine or how they can exercise their right to a hearing (protest and claim their innocence for the accusation) by following a link that will provide a short form for completion.

**Question:** *From an operational perspective, it sounds like the notice is posted on the door and also mailed to the owner and/or agent according to the rental license registration. The city previously would email the owner and agent. Can this occur again, as a part of this ordinance change? It can take a long time for mail to be received and traditionally, it has been received after the court date has passed which creates a lot of issues for the property owner who was otherwise unaware.*

**Answer:** Code Enforcement Unit staff is committed to providing notice (warning) and citations by manual email starting February 1, 2023 if an email address is available for the owner or agent.

### Community Connectors in Residence:

**Question:** *If compliance is the goal, why are we reducing the penalty/process from criminal to civil?*

**Answer:** The process to serve the court summons for a criminal offense can be cumbersome to achieving compliance. The summons must be issued directly to and signed by a person to be considered valid by the court. The officer sometimes must visit the property multiple times to come in contact with the recipient. Certified mail can also be used, particularly for out-of-town property owners. However, oftentimes that process cannot be completed in time for the court date. The civil citation is a more efficient method of issuing enforcement, leading to a higher rate of accountability and compliance. Civil penalties are not a reduction in the level of enforcement but rather a more appropriate method for these types of violations. Adding a civil citation option does not remove the option of using a court summons for chronic violators or egregious properties.

**Question:** *Will this make the property owner responsible?*

**Answer:** The citation would be issued to the property owner. Collection of any fees charged would be handled between the landlord and tenant(s) per the terms of their lease agreement. Renters who feel they are unfairly being held responsible can utilize our tenant rights resources: <https://bouldercolorado.gov/services/landlord-tenant-and-roommate-resources>

**Question:** *What if someone cannot afford the \$100 fine?*

**Answer:** Community members can reach out to the Municipal Court to request a hearing. The Boulder Municipal Court is a problem-solving court that looks at each case individually and works with community members to address the underlying cause for the offence and ways prevent future violations. Prosecutors and judges are willing to discuss options if the fine represents a financial burden.

### Martin Acres Neighborhood Association:

**Question:** *Does the ticket go to the property owner or the person living on the property?*

**Answer:** (See above answer)

**Question:** *Can both be made accountable?*

**Answer:** The ordinance holds the owner, agent, and occupant of a property responsible for violations.

**Question:** *Does a violation require a complaint?*

**Answer:** No, Code officers respond to complaints and also observe violations while in the community.

**Question:** *Does the Code Enforcement Unit differentiate between weeds and xeriscaping?*

*Some neighbors have desired native plants that grow up to 14 inches that could be mistaken for weeds.*

**Answer:** Officers do receive training on xeriscaping practices to help prevent these landscapes from being issued a warning. Should a warning be issued for an intentionally maintained landscape, the owner/occupant may contact the officer to clarify the findings of the notice. Xeriscaping is not a violation of the city code.

**Question:** *Will this help with the move-out dumping that happens at the end of the spring semester and sometimes also in August?*

**Answer:** Having more effective enforcement options does allow the officer to utilize their time more efficiently for these issues. Updating of these codes contributes to the enforcement efforts to keep the city clean and safe.