

ORIGINAL ORDINANCE NO.: 2011
ENROLLED ORDINANCE NO.:

INTRODUCED BY:

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 8 & TITLE 12 OF LARAMIE MUNICIPAL CODE REGARDING NUISANCE REGULATIONS AND SNOW REMOVAL REGULATIONS.

WHEREAS, on July 6, 2006, the City Council adopted the nuisance regulations found in LMC Title 8, in order to secure the public health, safety and welfare of the residents and property owners, by the control and regulation of certain weeds, junk, junk vehicles, scattered garbage and rubbish with the limits of the City;

WHEREAS, on November 5, 2008, the City Council amended the 2006 nuisance regulations found in LMC Title 8;

WHEREAS, on February 15, 2018, the City Council amended the existing Snow, Ice and Debris – Removal from Sidewalks in LMC Title 12;

WHEREAS, the Laramie Municipal Code (LMC) should be amended from time to time so as to become or remain consistent with the Comprehensive Plan, and should be regularly reviewed, evaluated and amended, if necessary, based on private and city economic conditions, vision for the community, changing planning and zoning principles, frequent difficulty in implementing or enforcing any specific standard(s), or changes in the state, federal or case law;

WHEREAS, typographical errors have been found in LMC Title 8 and need correction;

WHEREAS, staff has identified other sections of LMC Title 8 in need of clarification and that are recommended for update and modification by staff;

WHEREAS, staff has identified other sections of LMC Title 12 in need of clarification and that are recommended for update and modification by staff;

WHEREAS, the Laramie City Council shall hold a public hearing on April 21, 2020 to take and consider public comments;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LARAMIE:

Section 1. That LMC 8.32.150 is **created** and **inserted** to read as follows:

“Second Hand Smoke Prohibited

A person, owner, manager, operator or employee that otherwise controls a public place or place of employment who knowingly permits or causes smoking in an enclosed area of a public place or place of employment as prohibited under Sections 8.56.030 and 8.56.035 of this code shall be deemed the author of the nuisance. Any secondhand smoke is offensive or injurious to public health and shall be declared to be a nuisance. (Ord. 1439 § 19, 2004)”;
and

Section 2. That LMC 8.32.170.A is **amended** to read as follows:

“1. "Junk" means and includes any items which have been discarded, disassembled, dilapidated, abandon, or are not able to be used for their originally intended purpose or function. These items include but are not limited to scrap metal, wood, construction materials, yard waste, furniture, appliances and any item the city manager determines to be a nuisance under this section. iron, glass, metal, straw, hedge trimmings, tree branches and limbs, furniture, appliances, grass clippings, weeds, yard waste, paper, rags, cordage, wood, machinery parts, cloth, manufactured item which by reason of partial or complete disassembly or dilapidation is unable to perform the function or purpose for which it was originally constructed, any other waste or discarded material of any nature or substance whatsoever, and any scrap or salvage materials or manufactured thing which is held for scrap or salvage purposes upon any real property located within the city or any other location specified by this chapter. "Junk" does not include firewood in individual lengths which are piled or stacked and compost piles. and;

Section 3. That LMC 8.32.170.A is **amended** to read as follows:

“2. "Junked vehicle" means any motor vehicle as defined in subsection (A)(3) of this section and tow-behind trailer which is wrecked, junked, dismantled, partially dismantled, inoperative, abandoned, unregistered or discarded or is unable to perform the function or purpose for which it was originally constructed.” And;

Section 4. That LMC 8.32.170.A is **amended** to read as follows:

“3. "Motor vehicle" means any vehicle originally designed or constructed to be self-propelled, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies, and other off-road vehicles.” And;

Section 5. That LMC 8.32.170.A is **amended** to read as follows:

“4. "Unsheltered" means located outside a garage or other building and visible ~~upon~~ from any public street, alley, sidewalk or right-of-way or any adjoining piece of property from ground level. Items stored entirely within an enclosed garage, covered or completely shielded by a fence and not visible from the street or other public or private property shall be considered to be sheltered whether or not the garage doors or fence are open from time to time.” And;

Section 6. That LMC 8.32.170.E is **amended** to read as follows:

“2. Any development site that has an active Building or Site Plan Permit; construction site; and;

Section 7. That LMC 8.32.175 is **deleted** to read as follows
“Second Hand Smoke Prohibited

A person, owner, manager, operator or employee that otherwise controls a public place or place of employment who knowingly permits or causes smoking in an enclosed area of a public place or place of employment as prohibited under Sections 8.56.030 and 8.56.035 of this code shall be deemed the author of the nuisance. Any secondhand smoke is offensive or injurious to public health and shall be declared to be a nuisance. (Ord. 1439 § 19, 2004)”; And;

Section 8. That LMC 8.32.180 is **amended** to read as follows:

“**1.** "Abate" or "abatement" means the action taken to remove or alleviate a nuisance, including but not limited to, demolition, removal, repair, boarding and securing or replacement of property.”
And;

Section 9. That LMC 8.32.180 is **amended** to read as follows:

“**2.** "Board of appeals (board of adjustment)" shall mean the board designated by the city council as the proper board to hear appeals concerning this chapter on nuisances and associated matters.”
And;

Section 10. That LMC 8.32.180 is **amended** to read as follows:

“**3.** "City manager" shall include the position of city manager and such designated positions as are employed thereby for the enforcement of the Municipal Code, or those individuals that are otherwise designated by the city manager to perform those functions.” And;

Section 11. That LMC 8.32.180 is **amended** to read as follows:

“**4.** "Notice of violation" shall mean that written notice prepared by the city to provide notice to individuals determined to be responsible for a public nuisance, or requiring notice of such due to their position, of that public nuisance and the steps deemed necessary to correct such nuisance.”
And;

Section 12. That LMC 8.32.180 is **amended** to read as follows:

“**5.** "Nuisance" or "public nuisance" means any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located or promotes urban blight and deterioration, or invites plundering, or creates fire hazards, or constitutes an attractive nuisance creating a hazard to the health and safety of minors, or creates a harborage for vermin, or to be injurious to the health, safety and general welfare of the public. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any **nuisance declared in this chapter or municipal code and any item defined as "Junk" or "Junked Vehicles"**, ~~of the following:~~

- ~~1. Any nuisance declared in this chapter or within the entire city municipal code;~~
- ~~2. Abandoned, discarded or unused objects or equipment including, but not limited to automobiles, furniture, stoves, refrigerators, freezers, cans, or containers.”~~ And;

Section 13. That LMC 8.32.180 is **amended** to read as follows:

“**6.** "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights and duties.” And;

Section 14. That LMC 8.32.180 is **amended** to read as follows:

“**7.** "Occupier" shall mean that person(s) actually occupying the property.” And;

Section 15. That LMC 8.32.180 is **amended** to read as follows:

“8. "Owner" or "property owner" shall mean that person(s) shown in Albany County tax records to be the recorded owner of the property. In the case of a landlord-tenant situation, regardless of any written lease, the ~~landlord~~ **owner** shall be solely liable for any violation maintained on the real property or other locations specified by this chapter.” And;

Section 16. That LMC 8.32.190.A.1.iii is **amended** to read as follows:

“iii. Certified mail, **electronic** return receipt requested, signature required, to the address on file with the Albany County Assessor for tax purposes; or” and;

Section 17. That LMC 8.32.190.A.2.vi is **amended** to read as follows:

“vi. The date by which the remedial action must be taken in order to comply with the notice. The date of remedial action required shall be not less than ~~thirty~~ **fifteen** days from the date of delivery of the notice, except in cases of emergency and summary abatement.” And;

Section 18. That LMC 8.32.200.A is **amended** to read as follows:

“A. Upon receipt of the notice as specified in Section 8.32.190(A)(3), the owner of the property shall abate the nuisance, and provide proof thereof to the city manager, within the ~~thirty~~ **fifteen** days period specified in the notice of violation.” And;

Section 19. That LMC 8.32.200.B.2 is **amended** to read as follows:

“2. No more ~~then~~ **than** one extension shall be granted.” And;

Section 20. That LMC 8.32.210.A is **amended** to read as follows:

“A. The owner or occupant of property who has been served with a notice of violation pursuant to this chapter may, within ~~ten business days~~ **fifteen days** from the date of service as defined in Section 8.32.190(A)(3), **may** submit a written demand to the ~~clerk~~ **Planning Division for a hearing before** of the board of appeals (board of adjustment) ~~for a hearing~~ on the question of whether a nuisance exists. If no appeal is filed within that period, the appeal shall be deemed waived.” And;

Section 21. That LMC 8.32.210.B is **amended** to read as follows:

“B. **Upon filing of a written notice of appeal, the matter shall be placed on the agenda of the next regularly scheduled meeting of the board of adjustment no later than 30 calendar days after the notice of appeal has been filed. The board of appeals (board of adjustment) may hear the appeal at its regular meeting or set a special hearing date, at its discretion.** ~~In the event that a hearing is demanded by the alleged violator, a hearing shall be scheduled within twenty days from the date of receipt of the written demand. The matter shall not be continued, unless both the alleged violator and the city agree to such continuance.~~” And;

Section 22. That LMC 8.32.210.C is **amended** to read as follows:

“C. The hearing shall be scheduled and conducted by the board of appeals (board of adjustment) pursuant to the procedures contained within Municipal Code Section 1.20.010 et seq., including maintaining **an audio or video with audio** ~~taped~~ transcript of the proceeding.” And;

Section 23. That LMC 8.32.220.B is **deleted** to read as follows:

~~“B. Any materials removed and salvaged by the city in the abatement of the public nuisance may~~

be sold for salvage and the proceeds deposited into the general account of the city. Those funds shall be applied to offset the cost of the abatement by the city, which any excess funds being sent to the owner of the property.” And;

Section 24. That LMC 8.32.220.C is **amended** to read as follows:

“~~CB.~~ The city shall be entitled to employ private contractors to assist in the abatement of the public nuisance ~~and use salvage funds to reimburse the expenses incurred therein.~~ If private contractors are utilized, the city shall impose a ~~twenty percent administrative fee~~ **fee of \$100.00 or fifty (50%) percent of the contractor’s fee, whichever is greater,** on the offending property owner.

Section 25. That LMC 8.32.230.A is **amended** to read as follows:

“A. After compilation of the costs and charges incurred by the city for the abatement of the public nuisance, ~~offset by any receipt of funds for salvaged materials,~~ the city shall mail by certified mail to the owner of the property a statement of the outstanding balance owed by the owner to the city for the nuisance abatement. Such balance shall be due and owing not more than thirty days following the mailing of the notice. The statement shall also include a statement of the rights of the owner to appeal such amounts as have been expended on the abatement of the nuisance within ten business days of the date of mailing. “and;

Section 26. That LMC 8.32.230.B is **amended** to read as follows:

“B. If the owner of the property wishes to contest the amount that was expended on the nuisance abatement, ~~or the amount received from the salvaged materials,~~ the **owner** may file a written notice of appeal, in person or by certified mail, ~~with to~~ **to** the clerk **Planning Division for a hearing before** of the board of appeals (board of adjustment) within ten business days from the date of mailing of the statement of charges. If no appeal is filed within that period, the appeal shall be deemed waived and the statement amount shall be immediately due and owing to the city. “and;

Section 27. That LMC 8.32.230.C is **amended** to read as follows:

“C. **Upon filing of a written notice of** ~~If the owner files an appeal of the amount owed,~~ **the matter shall be placed on the agenda of the next regularly scheduled meeting of the board of appeals (board of adjustment) no later than 30 calendar days after the notice of appeal has been filed. The board of adjustment may hear the appeal at its regular meeting or set a special hearing date, at its discretion.** ~~then the matter shall be set for hearing with the board of appeals (board of adjustment) within twenty days from the date the notice is received by the clerk.”~~ And;

Section 28. That LMC 8.32.230.D is **amended** to read as follows:

“D. If payment in full is not received by the city within ten business days from the time the statement became final, then such ~~shall~~ **may** be entered as a lien against the property and filed with Albany County Clerk of Record **or may be filed with a collection agency.**” And;

Section 29. That LMC 8.32.230.E is **added** to read as follows:

“**E. No entitlement for the property may be issued under Title 15 of Laramie Municipal Code unless all payments have been paid in full. An entitlement issued in violation of Title 15 is void.**” and;

Section 30. That LMC 8.32.240.B is **amended** to read as follows:

“B. Applications for waiver of nuisance abatement costs shall be filed with the ~~city manager~~ **planning division** on forms supplied by the city, within ten days after receipt of a notice of assessment. All information required to be given on such form shall be supplied and verified by the applicant. The maximum amount that may be waived under this section for any one parcel of real property or any one person shall be five hundred dollars per calendar year.” And;

Section 31. That LMC 8.32.250 is **deleted** to read as follows:

~~“ 8.32.250 - Vehicle impoundment - Transfer of title to the city.~~

~~Title to any impounded nuisance vehicle not reclaimed by the registered responsible person(s) or any lien holder within thirty days of the date of the report of an abandoned vehicle shall vest in the city. A change in the title may be obtained by the city pursuant to the authority of this chapter and the procedure established in state statutes to obtain a change in title.”~~ And;

Section 32. That LMC 8.32.260 is **amended** to read as follows:

“8.32.260 - Emergency abatement.

If any nuisance exists in such a condition so menacing to the public health, peace or safety that it is necessary that it be summarily abated, the city manager, **planning division, or designee** may proceed to abate the nuisance without notice or hearing. The determination of costs, notice of assessment and an appeal of charges for an emergency abatement shall be subject to the provisions of Section 8.32.230. (Ord. No. 1535, § 1, 9-2-2008)” and;

Section 33. That LMC 12.08.020 is **amended** to read as follows:

“All persons shall keep the sidewalks in front of and adjacent to the tenements or grounds owned by them clear of obstructions such as snow, ice, mud, dirt, rubbish or filth. All obstructions may be treated as nuisance violations and may be abated in accordance with Section 8.32.260, emergency abatement, of Laramie Municipal Code. Following any accumulation of snow, such persons shall cause the snow or ice to be removed from sidewalks by ~~twelve p.m. (noon)~~ **seven a.m.** the following day. For any accumulation of snow or ice a minimum forty-two inch path or the entire sidewalk must be cleared, whichever is less. For purposes of this section, adjacent sidewalks also include sidewalks crossing the alley up to the center line of the alley and any midblock sidewalk up to the centerline of the sidewalk.

If the obstruction is not cleared in accordance with Section 12.08.020, snow, ice and debris—removal from sidewalks, of Laramie Municipal Code, the city manager's designee shall post a violation notice in a conspicuous place on the offending property and the owner shall have **until seven a.m. the following day** ~~twenty-four hours~~ to remove the obstruction. If the obstruction is not removed ~~by in twenty-four hours~~ **seven a.m. the following day**, the city manager's designee may hire a contractor to remove the obstruction in accordance with section 8.32.260, Emergency Abatement of Laramie Municipal Code. For all violations of this section ~~within any six month period of time~~, the owner shall be charged the **fee of \$100.00 or fifty (50%) percent of the contractor's fee, whichever is greater.** ~~contractor's fee plus a fifty dollar administrative fee.~~ (Prior code § 34-8 (a); Ord. No. 1696 , § 3, 1-19-2016; Ord. No. 1743 , § 1, 2-13-2018).” And;

Section 34. That this ordinance shall become effective after its passage, approval and its publication.

Passed and approved this _____ day of _____, 2020.

Joe Shumway, Mayor and President of the
City Council

Attest: _____
Nancy Bartholomew
City Clerk

First Reading: July 21, 2020
Public Hearing: July 21, 2020
Second Reading: August 4, 2020
Third Reading and Final Action: August 19, 2020

Duly published in the *Laramie Boomerang* this _____ day of _____, 2020.