

**Chapter 8.04  
NUISANCES**

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**8.04.010 Purpose and intent.**

The purpose and intent of this chapter is to create and maintain a safe and healthy environment for the citizens of the City of Colfax, Washington, by identifying and reducing the conditions that contribute to injury, illness, devaluation of property, and the incidence of crime through the existence of general nuisance conditions on public and private property as authorized by RCW [35.23.440](#)(10). (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.020 Definitions.**

- A. "Abate" means to take whatever steps are deemed necessary by the code enforcement officer to ensure that the property complies with applicable nuisance ordinance requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.
- B. "Adjacent or neighboring properties" means any property with clear line of sight to the property in question, or any property which would generally be used for comparison by an assessor or real estate professional for purposes of comparative valuation. (Ord. 15-03 §1 (Exh. 1) (part)).
- C. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.
- D. "City" means the city of Colfax, Washington.
- E. "Code enforcement officer" means a regular or specially commissioned officer so designated by the chief of police, city administrator, or mayor.

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F. "General nuisance" consists of doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing, which either:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others; or
2. Offends decency; or
3. Is offensive to the senses; or
4. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, alley, or highway in the city; or
5. In any way renders other persons insecure in life or the use of property; or
6. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property; or
7. Creates or permits the existence or continuance of any of the specific nuisances identified in Section [8.04.040](#).

G. "Graffiti" means unauthorized markings, inscriptions, words, figures, designs or other inscribed material visible from premises open to the public, that have been placed upon any property through the use of paint, ink, dye, or any other substance capable of marking property.

H. "Junk vehicle" means a vehicle substantially meeting at least three of the following criteria:

1. Is fifteen years old or older;
2. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, or missing wheels, tires, motor, or transmission;
3. Is apparently inoperable;
4. Is without a valid, current registration plate;
5. Has an approximate fair market value equal only to the approximate value of the scrap in it;
6. Is left on private property for more than twenty-four hours without the permission of property owner or the person having right to the possession of the property, or a public street or other property open to the public for purposes of vehicular travel or parking, or upon or with in the right-of-way of any road or highway, for one hundred sixty-eight hours or longer.

I. "Mitigate" means to take measures, subject to city approval, to minimize the harmful effects of the nuisance violation where remediation is either impossible or unreasonably burdensome.

J. "Noxious weed" or "weed" means any plant growing in the city which is determined by the state noxious weed control board to be injurious to crops, livestock, or other property and which is included

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for purpose of control on Whitman County's noxious weed list; or, if not included on Whitman County's noxious weed list has been designated for control by resolution of the City Council.

K. "Owner" means any person owning property, as shown on the real property records of Whitman County or on the last assessment roll for taxes, and shall also mean any lessee, tenant, occupant or other person having control or possession of the property.

L. "Person" means any individual, association, partnership, corporation or legal entity, public or private, and the agents and assigns of such individual, association, partnership, corporation or legal entity.

M. "Remediate" means to restore a site to a condition which does not pose a probable threat to the general public health, safety or welfare and which does not detract from or unreasonably impact the real, estimated, or assessed value of adjacent or neighboring properties.

N. "Responsible person" means any agent, lessee or other person occupying or having charge or control of any premises, except the owner.

O. "Vehicle" means every device capable of being moved upon a roadway and in, upon, or by which any person or property is or may be transported or drawn upon a roadway, and includes, without limitation, automobiles, trucks, trailers, motorcycles and tractors, excepting (except, exempting) devices moved by human or animal power or used exclusively upon stationary rails or tracks. Additionally, "vehicle" means any object or structure which has ever been issued a vehicle identification number (VIN) by any government licensing agency, regardless of title status.

P. "Unsafe" means buildings, structures or equipment that are unsanitary, or that are deficient due to inadequate means of egress or that constitute a fire hazard, or that are dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance. A vacant structure that is not secured against entry shall be deemed unsafe.

### **8.04.030 Administration.**

The code enforcement officer is authorized to enforce this chapter and issue civil notice or citations as provided herein or take appropriate abatement procedures. Such enforcement action or actions may be taken by either of the city officers or officials mentioned herein upon observation of the acts or things declared to be a nuisance or upon citizen complaints of the occurrence of such acts or things declared to be a nuisance following appropriate investigation. (Ord. 15-03 §1 (Exh. 1) (part)).

### **8.04.040 Nuisances prohibited.**

No person, firm, or entity shall erect, contrive, cause, continue, maintain, or permit to exist any general public nuisances within the city, including any public rights-of-way abutting a person, firm, or entity's property. Prohibited public nuisances include, but are not limited to:

A. Maintaining on any such lot or land grass more than 12" in length, weeds included on the Whitman County noxious weed list; or, which are included on the state of Washington noxious weed list

(nwcba.wa.gov) and others that have been designated by resolution of the City Council for control although any such noxious weed may not have been included on the Whitman County noxious weed list.

- B. The existence of any dead, diseased, infested or dying tree that may constitute a danger to street trees, streets or portions thereof or neighboring structures,
- C. The existence of any tree, shrub or other vegetation, unless by consent of the city, which is apt to destroy, impair, or interfere with streets, sidewalks, sewers, utilities or other public improvements;
- D. The existence of any vines, climbing plants, or other vegetation growing into or over any public hydrant, pole or street light; or the existence of any shrub, vine or plant growing on, around or in front of any hydrant, standpipe, or any other facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto;
- E. Fire Hazards. The existence of any accumulation of materials or objects in a location when the same endangers property or public safety, or constitutes a fire hazard;
- F. The existence of a sidewalk or a portion of a sidewalk adjacent to any premises which is out of repair and in a condition to endanger persons or property, or in a condition to interfere with the public convenience in the use of such sidewalk;
- G. The existence of any obstruction to a street, alley, crossing or sidewalk, and any excavation in or under any street, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which, having been made by lawful permission, is kept and maintained after the purpose thereof has been accomplished and for an unreasonable length of time;
- H. Unhealthy and Unsanitary Accumulations of Materials, Garbage, Recyclables, Appliances..
  - 1. Any putrid, unhealthy or unwholesome bones, meat, hides or skins; or the whole or any part of any dead animal, fish or fowl; or waste parts of fish, vegetable or animal matter in any quantity; but nothing in this subsection shall prevent the temporary retention of waste in approved covered receptacles.
  - 2. Building and Construction Materials. Accumulations, stacks, or piles of building or construction materials not associated with a current, in-progress project in disarray or exposed to the elements on the property.
  - 3. Garbage, Recyclables, Compost, and Infestations.
    - a. Garbage not kept in a proper receptacle with a tight-fitting lid.
    - b. Accumulations of broken or neglected items, litter, salvage materials, and junk not in an enclosed structure making material nonvisible to surrounding neighbors.
    - c. Recyclables not properly stored and regularly disposed of.

d. Creating or maintaining accumulations of matter, including foodstuffs that harbor or are an attraction for the infestation of insects or vermin; failing to eliminate such infestations; or failing to eliminate intrusive insects.

4. Appliances.

a. All broken or discarded household furniture, furnishings or equipment, or any appliances not in an enclosed structure.

b. All accessible refrigeration appliances not having the doors secured or removed, or any enclosure that can entrap humans or animals.

I. Buildings, Structures, Equipment and Fences.

1. Buildings or portions thereof which are deemed unsafe pursuant to the Colfax nuisance code; provided, that such conditions or defects exist to the extent that the life, health, property or safety of the public or the structure's occupants is endangered.

2. Unsafe structures and equipment:

A. General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

B. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

E. Unlawful structure. An unlawful structure is one found in whole or in part to have been erected, altered or occupied contrary to law.

F. Dangerous structure or premises. For the purpose of this code, any structure or a premise that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that could potentially place the residents in danger due to its lack of proper function.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure that has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. Any portion of a building which remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

G. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

H. Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect 30 days prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

I. Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in form as prescribed in Section 08.04.060. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 8.04.060.

J. Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

K. Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties listed in the City's fee schedule for nuisances. .

L. Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for fees listed in the Colfax Fee schedule.

M. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. Contact the Colfax Building department to inquire if any permits would be required prior to the beginning of work or repairs.

N. Record. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

I. The existence of any fence or other structure on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition.

J. The existence on any premises of any unused or abandoned or junk trailer, house trailer, automobile, boat, or other vehicle or major parts thereof on city right-of-way or private property. A junk vehicle, boat or other vehicle is a vehicle, boat or other vehicle certified under RCW [46.55.230](#), and all changes made by reference thereto, as meeting at least three of the following requirements stated within Section [8.04.020\(G\)](#):

Exception: "Project" cars may exist on private property as long as obvious monthly progression in its restoration is being made. In no case will a project car be allowed to remain on private property inoperable for more than one year. No project cars may remain on city property for any length of time. Additionally, "junk vehicle" does not include:

1. A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
2. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW [46.80.130](#).

K . The existence on any premises of any abandoned or unused well, cistern or storage tank. Such structures must be demolished or removed from the city or securely closed barring any entrance or



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trapdoor thereto, or without filling any well or cistern or capping the same with sufficient security to prevent access thereto by children;

L . Smoke, Soot, or Odors. The escaping or emitting of any unnecessary or harmful smoke, soot, fumes, or gases, or odors offensive or harmful to persons of ordinary sensibilities.

M . Sound.

1. Any noise or sound that intrudes into the property of another person that exceeds the maximum permissible noise levels as established in WAC [173-60-010](#).

2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential zone, so as to unreasonably disturb or interfere with the peace and comfort of owners or possessors of real property.

3. Any other sound occurring frequently, repetitively, or continuously which annoys or disturbs the peace, comfort, or repose of a person of reasonable sensitivity. Also see noise Control CMC 8.20.

N . Dust. Disturbing the topsoil of any land area, or permitting the same, by any person without taking affirmative measures to suppress and minimize the blowing and scattering of dust so as to unreasonably disturb or interfere with the peace and comfort of owners or possessors of real property.

O . Soil/Debris Runoff. Disturbing the topsoil of any land area, or permitting the same, by any person without taking affirmative measures to suppress and minimize the blowing and scattering of soil and debris that potentially could add an inordinate amount of soil in water runoff so as to unreasonably disturb or interfere with the peace and comfort of owners or possessors and accompanying condition of real property.

P. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. An example would be for the discharge directly onto a neighboring property.

P. Yard Sales. The holding of a yard sale on the same real property more than four consecutive days. This does not include professionally run estate sales.

Q . Graffiti. All graffiti upon public or private property is deemed a nuisance.

R . Toxic or Caustic Substances. Improper storing of any toxic, flammable, or caustic substances or materials.

S . Holes, Pits, and Excavations. All uncovered holes, pits, or excavations not marked or guarded that are in excess of ten or more inches in width at the top and four feet or more in depth.

T. Bodies of Water. The polluting of any waterway, well, or body of water. (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.050 Voluntary correction.**

Whenever the code enforcement officer for the City, as authorized herein, determines a nuisance has occurred or is occurring, and further determines that issuing a citation as a civil infraction is not necessary to rectify the nuisance, or that an emergency does not exist or that the act or thing declared to be a nuisance is not a repeated violation with knowledge by the person that such act or thing is a violation of this chapter, then the code enforcement officer may seek voluntary correction by contacting the person responsible for the nuisance, explaining the violation and requesting correction. The code enforcement officer and the person responsible for the nuisance may enter into a voluntary correction agreement that identifies the acts or things constituting the nuisance, reference to the specific code provision violated, the necessary corrective action to be taken, and the time by which the correction must be completed. The enforcement person may require such additional terms and conditions reasonably necessary to accomplish the corrective action including, without limitation, the assessment of reasonable costs and monetary penalties if the terms of the voluntary correction agreement are not met by the person entering into the agreement. (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.060 Civil enforcement.**

A. If after voluntary corrections is unsuccessful or if a code violation is repeated, the code enforcement officer may issue a notice of civil violation to any person responsible for permitting, maintaining or repeating a nuisance in violation of this chapter. The notice of civil violation shall include: (1) the name and address of the person found to be the owner or the owner's agent or the occupant responsible for correcting the violation, (2) the address or sufficient description of the property at which the nuisance exists, (3) a brief description of the violation and reference to the applicable code provision violated, (4) a statement of the required corrective action, (5) a statement of the time by which correction must be completed, which shall not be less than 15 days from date of issued infraction, unless the code enforcement officer has found that an imminent hazard exists to the health or safety of the public, and (6) a statement of office address and office phone number of the enforcement person or their agent. It shall also contain a statement that if the person responsible does not complete correction of the violation by the date required, the city may abate the condition and recover costs and penalties as provided herein. Such notice of violation shall also advise that the person responsible may appeal such notice by filing a written appeal with the Court of the City. Such notice of appeal shall be so filed within seven calendar days of the date of the personal service or mailing of the notice of violation, and such notice of appeal shall specify what portion of the violation notice is being challenged and grounds for such challenge.

B. The code enforcement officer or their agent shall serve the notice of civil violation either personally upon the person responsible or by mailing it to them by regular and certified mail, return receipt

requested, at their last known address. Service by mail shall be deemed effective the third day following the day the notice was placed in the mail, excluding Sundays and holidays.

C. If a notice of appeal is filed, the matter shall be promptly set for a hearing to be scheduled before the judge on the next available court date or not longer than 15 days, whichever is sooner.

D. At the hearing, the person appealing may introduce evidence to show that there is no violation of this chapter, or that the City's conditions or timeline as to compliance is not reasonable, or that they are not responsible under the terms of this chapter to abate such nuisance. The code enforcement officer may introduce evidence that there is a violation and that the timeline is reasonable and to rebut evidence. Each party may call witnesses. Technical rules of evidence need not be followed. The burden of proof shall be upon the enforcement person to show by a preponderance of the evidence that there is a violation as claimed and that the time given for correction and the method or extent of correction required are reasonable.

E. After receiving evidence and argument, the Court shall either (1) authorize the enforcement person to proceed to abate the violation, unless the person responsible does so within the next five days, or (2) if the Court finds there is not a violation of this chapter or that the City has not proceeded according to this chapter, the Court shall direct the City not to proceed under such notice. The Court may authorize the code enforcement officer to proceed, but may order a delay where the Court has found that the property owner can abate the nuisance and the delay will not have any adverse effect upon other property or upon the safety of any person. The Court shall also compute and assess the monetary penalty, if any, as provided herein. The Court in each case shall enter a written decision and shall mail a copy to the person appealing, as well as to the code enforcement officer, no later than ten working days after the hearing. The person appealing shall have fifteen days from the date of mailing of the written decision to petition to the superior court or district court for injunctive relief seeking to restrain the City from proceeding with the abatement of the violation, and the court is authorized to affirm, reverse or modify such enforcement action, and any such hearing or trial shall be de novo, meaning the court shall be directly reviewing the action by the city as a new matter.

F. If the person responsible has not appealed the notice of violation as provided for in this chapter, or if the property owner has appealed but the Court has found for the enforcement person and has not authorized a delay and there has been no appeal to superior court and correction has not been made within the specified time, the City is authorized by this chapter to proceed with its own personnel or with a contractor to abate the nuisance in any reasonable manner.

G. Civil monetary penalties shall accrue at the rate established in Section A: Property Maintenance of the City of Colfax Fee Schedule after the date the correction of the nuisance was to be completed as provided in subsection A of this section until completion of the correction unless a different date of completion is established by the board of adjustment; provided, that the Court may assess a lesser penalty if the person showed diligence in correcting the violation or whether good faith of code interpretation existed. No penalties shall accrue while an appeal is pending unless the Court finds the appeal was frivolous or for delay only. The monetary penalty and the cost of abatement accomplished

by the City constitute a personal obligation of the responsible person and the City Attorney may, by use of appropriate legal remedies including, without restricting the City's remedies, foreclosing against the real property of the responsible person in the manner of foreclosing mechanic's liens pursuant to Chapter [60.04](#) RCW, recover such penalties and abatement costs, together with interest and reasonable attorney's fee, and to enter into compromises. (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.070 Junk vehicle--Abatement--Notice--Authorizing disposal.**

A. As permitted by RCW [46.55.230](#), at the request of a property owner, and notwithstanding any other provision of law, any law enforcement officer having jurisdiction shall inspect an abandoned junk motor vehicle or any parts thereof. The officer shall record the make of such motor vehicle and the serial number or vehicle identification number, if available, and shall also detail the damage or missing equipment to verify that the value of such abandoned junk vehicle is equivalent to the value of the scrap metal therein only.

B. Prior to impoundment of any junk vehicle, written notice shall be mailed to the last registered vehicle owner of record, and to the owner of the land upon which the vehicle is located, as shown on the last equalized assessment roll, if such can be determined. Such notice shall state:

1. A description of the vehicle and license number, if licensed, and the location of the vehicle; and
2. That the vehicle has been determined to be a public nuisance, and will be removed after the expiration of fifteen days after the date of mailing, unless a hearing is requested, with costs to be assessed against the registered owner of the vehicle and the record owner of the land. The recipient will further be advised of procedures to request the hearing.

C. If, prior to the expiration of fifteen days after the notice is mailed, a request for hearing is received, said vehicle shall not be impounded, but a notice giving the time, location, and date of a hearing before the Municipal Court on the question of abatement and removal of the vehicle, or part thereof, as a public nuisance shall be mailed, by certified or registered mail, with a five-day return requested to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

D. This section shall not apply to:

1. A vehicle, or part thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
2. A vehicle, or part thereof, which is completely hidden from public view by a fence to the satisfaction of the chief of police; or

3. Up to a total of two vehicles, or parts thereof, which are covered by properly fitting automobile covers that are designed for that purpose and which completely cover all body parts; or

4. A vehicle, or part thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, fenced according to the provisions of RCW [46.80.130](#), as now or hereafter amended.

E. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced to its presence, then costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located or otherwise attempt to collect such cost from the owner. Additionally, the owner of the property may give the city permission to remove the vehicle(s).

F. After notice has been given of the intent of the city to dispose of the vehicle, and after a hearing, if requested, has been held, and upon ruling by the hearing officer, the vehicle or part thereof shall be removed, at the request of a law enforcement officer, with notice to the Washington State Patrol and the State Department of Licensing that the vehicle has been wrecked. The city may make final disposition of such vehicles or parts, provided such disposal shall be only as scrap. (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.080 Emergency enforcement.**

Whenever the code enforcement officer finds, as a result of a declared nuisance, that an emergency condition results therefrom or it reasonably appears to cause or constitute an imminent or immediate danger to the health and safety of the public, and the responsible person cannot be contacted or refuses to immediately abate the same, the enforcement person shall have authority to summarily and without notice abate the same. Notice of the abatement action shall be given to the responsible party as soon thereafter as possible and the city shall be entitled to recover the abatement costs as provided in Section 8.04.060(G). (Ord. 15-03 §1 (Exh. 1) (part)).

**8.04.090 Abatement suit.**

Whenever the enforcement person determines a nuisance to exist, the city may proceed, in addition to any other remedy provided herein, to enjoin and abate the same pursuant to Chapter [7.48](#) RCW et seq., as amended. (Ord. 15-03 §1 (Exh. 1) (part)).

**Chapter 8.20**  
**NOISE CONTROL<sup>1</sup>**

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**8.20.010 Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this chapter:

- A. "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.
- B. "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is twenty times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure of twenty micropascals.
- C. "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.
- D. "Gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle.

E. "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

F. " Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except such vehicles powered by engines not exceeding five horsepower, and farm tractors.

G. "Motor vehicle" means any vehicle which is selfpropelled, used primarily for transporting persons or property upon public highways and required to be licensed under RCW [46.16.010](#). Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks are not motor vehicles as that term is used in this chapter.

H. "Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing noise resulting therefrom.

I. "New motor vehicle" for noise purposes, means a motor vehicle manufactured after December 31, 1975, whose equitable or legal title has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.

J. "Noise" means the intensity, duration and character of sounds, from any and all sources.

K. "Off-highway vehicle" means any self-propelled vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW [46.16.010](#).

L. "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

M. "Property boundary" means an imaginary line exterior to any enclosed structure at ground surface which separates the real property owned by one person from that owned by another person, and its vertical extension.

N. "Public highway" means the entire width between the boundary lines of every way publicly maintained by the city of Colfax when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

O. "Receiving property" means real property within which the maximum permissible noise levels specified in this chapter shall not be exceeded from sources outside such property.

P. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type.2 as specified in the American National Standards Institute Specification §1.4-1971. (Prior code §8.28.010).

**8.20.020 Vehicle noise.**

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A. No person shall operate anywhere within the city of Colfax any motorcycle, motor vehicle, new motor vehicle or off-highway vehicle, or any combination thereof, under any conditions of grade, load or acceleration in such a manner as to exceed the following maximum permissible sound levels for the category of vehicle, as measured in dBA with an approved sound level meter no closer than fifty feet from the place of location and/or travel of the respective vehicle.

	<b>Vehicle</b>	<b>Sound Level</b>
Class A:	Motor vehicles over 10,000 pounds GVWR or GCWR, new motor vehicles over 10,000 pounds GVWR or GCWR or off-highway vehicles	86 dBA
Class B:	Motorcycles	80 dBA
Class C:	All other motor vehicles	76 dBA

B. Every motor vehicle, motorcycle and off-highway vehicle operated anywhere within the city of Colfax shall, at all times, be equipped with a muffler in good working order and constant operation.

C. No person shall operate a motor vehicle, motorcycle or off-highway vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency braking to avoid imminent danger shall be exempt from this provision. (Ord. 1166 §1, 1984: prior code §9.28.020).

**8.20.030 Identification of environment.**

Environmental designations for noise abatement shall be classified as follows:

A. Class A EDNA:

1. R-1 zone;
2. R-2 zone;
3. R-3 zone.

B. Class B EDNA:

1. S-service zone;
2. B-service zone;
3. SC zone.

C. Class C EDNA:



1. M-manufacturing zone;
2. C-commercial zone. (Prior code §8.28.030).

**8.20.040 Maximum permissible environmental noise levels.**

- A. No person shall cause or permit noise to intrude in to the property of another person, which noise exceeds the maximum permissible noise levels set forth in this section.
- B. The noise limitations established are as follows, after any applicable adjustments provided for in this chapter are applied:

EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY		
	Class A	Class B	Class C
Class A	55 dBA	57 dBA	60 dBA
Class B	57	60	65
Class C	60	65	70

- C. Between the hours of ten p.m. and seven a.m. the noise limitations of the foregoing table shall be reduced by ten dBA for receiving property within Class A EDNA's.
- D. At any hour of the day or night the applicable noise limitations in subsections B and C of this section may be exceeded for any receiving property by not more than:
1. Five dBA for a total of fifteen minutes in any one-hour period;
  2. Ten dBA for a total of five minutes in any one-hour period;
  3. Fifteen dBA for a total of one and five-tenths minutes in any one-hour period. (Prior code §8.28.040).

**8.20.050 Exemptions.**

- A. The following shall be exempt from the provisions of this chapter between the hours of seven a.m. and ten p.m.:
1. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances;
  2. Sounds created by blasting;
  3. Sounds created by the installation or repair of essential utility services.
- B. The following shall be exempt from the provisions of this chapter:

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1. Noise from electrical substations and existing stationary equipment used in the conveyance of water by a utility;
  2. Noise from existing industrial installations which exceed the standards contained in these regulations and which over the previous three years have consistently operated in excess of fifteen hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours which would affect exemptions under this chapter shall be subject to such approval as may be required by the Washington State Department of Ecology.
- C. The following shall be exempt from the provisions of this chapter except insofar as such provisions relate to the reception of noise within Class A EDNA's between the hours of ten p.m. and seven a.m.: sounds originating from temporary construction sites as a result of construction activity.
- D. The following shall be exempt from all provisions of this chapter:
1. Sounds originating from aircraft in flight;
  2. Sounds created by surface carriers engaged in interstate commerce by railroad;
  3. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes and carillons;
  4. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;
  5. Sounds created by emergency equipment and work necessary in the interest of law enforcement, or for health, safety, or welfare of the community;
  6. Sounds originating from officially sanctioned parades and other public events;
  7. Sounds from existing refrigeration equipment for preservation of retail food goods;
  8. Sounds caused by natural phenomena and unamplified human voices;
  9. Noise caused by auxiliary equipment on motor vehicles used for highway maintenance.
- E. Nothing in this chapter shall be construed to permit law enforcement, ambulance, fire or other emergency personnel or highway maintenance personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.
- F. Nothing in these exemptions is intended to preclude the requirement that persons install the best available noise abatement technology consistent with economic feasibility.

Such requirements shall be as set forth from time to time by the Washington State Department of Ecology, subject to the laws of the state of Washington. (Prior code §8.28.050).

### **8.20.060 Variances and implementation schedules.**

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A. Variances may be granted by the Colfax city council or their duly authorized representatives to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of unavailability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

B. An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.

C. Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than thirty days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.

D. Sources of noise subject to this chapter upon which construction begins after the effective date of the ordinance codified in this chapter shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance. (Prior code §8.28.060).

### **8.20.070 Right of entry.**

The chief of police or his designated assistant shall have the authority to enter upon and remain upon private property to enforce the provisions of this chapter; provided, however, that such entry is specifically limited to a period of time to investigate an existing possible violation of this chapter and to contact the driver and impound the vehicle, if necessary, as herein authorized. (Ord. 1166 §3, 1984).

### **8.20.073 Impoundment--Authority.**

In addition to any other civil remedies provided herein, the chief of police or his designated assistant shall have the authority to impound any motor vehicle, motorcycle or off-highway vehicle which violates this chapter upon the following procedures:

A. The respective vehicle has been the subject of at least two civil violations of this chapter in any one calendar year;

B. The respective vehicle shall be held in the care, custody and control of the city of Colfax until the owner thereof pays an impoundment fee of one hundred dollars, plus ten dollars per day that the vehicle has been impounded, and further provides that the vehicle shall be properly equipped in compliance with this chapter. (Ord. 1166 §4, 1984).

### **8.20.075 Impoundment--Procedure.**

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The following process is established with respect to any vehicle which is impounded as herein authorized:

- A. Any aggrieved party may file a "Petition for Release" with the municipal court for the release and/or adjustment of the impoundment and storage fees.
- B. The petition for release shall be in a form prescribed by the municipal court clerk and shall state the reason and specific request for relief.
- C. The municipal court clerk shall schedule a hearing within thirty days before the municipal court to determine the request for relief of any petition for release.
- D. The municipal court clerk shall notify each person filing a petition for release that a public hearing will be conducted, and will indicate the day, time and place.

Any such person may testify and present further information in support of the respective petition for release. Upon the completion of the hearing on each petition for release, the municipal court clerk shall enter the decision of the municipal court in the court records and shall mandate such relief as allowed.

- E. Any aggrieved party may appeal the final decision of the municipal court to the Whitman County superior court within thirty days of the entry of the final decision. (Ord. 1166 §5, 1984).

#### **8.20.078 Vehicle equipment prohibitions.**

Notwithstanding any other provision herein, the operator of any motor vehicle, new motor vehicle, motorcycle or off-highway vehicle shall not allow to be used within the city of Colfax any compression or jake brakes. (Ord. 1166 §6, 1984).

#### **8.20.080 Enforcement--Generally.**

The chief of police or his designated assistant shall be required for conducting all sound level measurements as may be necessary. Except as may otherwise be required by the State Department of Ecology, no special permits or licenses shall be required to authorize a person to conduct a sound level measurement, and any person so conducting such measurements shall be competent to testify as to his findings in any enforcement proceeding. (Prior code §8.28.080).

**8.20.090 Violation--Penalty.** Any person who violates any provision of this chapter, or any amendment thereto, shall be deemed guilty of a civil infraction and shall be fined a sum not to exceed two hundred fifty dollars. (Ord. 1101 §l, 1981: prior code §8.28.090).

1For statutory provisions on noise control, see RCW [70.107](#).