

**CITY OF PALMER
ACTION MEMORANDUM NO. 11-062**

Subject: Authorize the City Manager to File a Complaint Seeking Injunctive and Other Relief to Abate a Nuisance Located at 485 N. Alaska Street

Agenda of: December 13, 2011

Council Action: Authorized _____

Approved for presentation by:

City Manager _____
City Attorney _____
City Clerk _____

Signature: Douglas B. Griffin

Certification of Funds:

Total amount of funds listed in legislation: \$5,000

This legislation (√):

_____ Has no fiscal impact

_____ Funds are budgeted from this (these) line item(s):

√_____ Funds are not budgeted. Budget modification is required. Affected line item(s):

01-01-005-6027 Legal fees \$5,000

Unrestricted/undesignated fund balance (after budget modification) \$ 1,255,841

Director of Administration signature certifying funds: _____

Attachment(s):

- Letter from Sandra Garley to property owners dated October 19, 2011
- Memorandum from Ron Anderson dated October 12, 2011
- PMC 1.08 General Penalty
- PMC 8.38 Nuisances – Junk, Litter and Unsightly Premises

Summary statement: Action memorandum 11-062 requests City Council authorization to file a law suit seeking injunctive and other relief on property located at 485 N. Alaska to bring property into compliance with PMC 8.38 Nuisances – Junk, Litter and Unsightly Premises. A rough cost estimate for this legal action is \$5,000 which could be more or less depending on how the lawsuit evolves as the City Attorney advises that there are always uncertainties in litigation.

Background: The front yard at 485 N. Alaska Street contains a collection of trash and litter and is kept in a condition that creates a nuisance in violation of PMC 8.38 Nuisance – Junk, Litter and Unsightly Premises. The property owner has been contacted in person or by mail eight times since May 2004 regarding the condition of their property. While the owners, William B. and R. J. Jehlen, have periodically made some effort to clean-up, the property has continued to contain discarded items, junk and litter.

On October 7, 2011, two citations were issued to the Jehlens. The first citation was for junk vehicle on the property a violation of PMC 8.37 and the second citation was for a violation of PMC 3.38 Junk, Litter and Unsightly Premises.

Administration recommendation: Approve action memorandum 11-062.

DEPARTMENT OF COMMUNITY DEVELOPMENT



October 19, 2011

Sandra Garley
Director

David Meneses
Building Inspector

Beth Skow
Library & Arena Director

Mail: 231 W. Evergreen
Ave.

Location: 645 E. Cope
Industrial Way
Palmer, AK 99645-6748
Phone: 907-745-3709
Fax: 907-745-5443
www.cityofpalmer.org

William B & R. J. Jehlen
485 N. Alaska Street
Palmer, AK 99645

Subject: Final Notice of Continuing Violation Lot 18, Block 12, T. A. Smith
Subdivision, 485 N. Alaska Street

Dear Mr. Jehlen:

Since 2004, the City of Palmer (City) has notified you of a continuing violation of PMC 8.38, Nuisance - Junk, Litter and Unsightly Premises, caused by junk and trash, including a junk vehicle, on your property referenced above. Despite numerous notices you have failed or refused to abate these violations. The enclosed memorandum dated October 12, 2011, from Ron Anderson, Planning and Code Compliance Technician provides a timeline and correspondence memorializing the City's attempts to abate this continuing violation over time. A copy of PMC 8.38.075, Remedies, follows for your information and use. Note under PMC 8.38.075:

A. If the junk or litter is not properly disposed of or the unsightliness cured within 30 days after receipt of the final notice, the property owner and/or occupant is subject to the enforcement procedures as stated in PMC 1.08.011 or 1.08.013.

B. After first confirmation and documentation (including photography) that the condition of the property has not changed sufficiently to comply with the terms of the final notice, the zoning administrator may issue a ticket.

C. In circumstances where appropriate, given the magnitude of the offense or continuous noncompliance including without limitation offenders who fail to comply with the final notice even after conviction or repeat offenders, the zoning administrator may obtain city council approval to commence a lawsuit requesting a remedy allowed under PMC 1.08.013 or at law.

Please remedy this violation within 30 days of receipt of this notice otherwise it will be forwarded to the City Attorney for legal action pursuant to PMC 1.08.013 which provides:

The city may institute a civil action against a person, including a minor as provided in AS 29.25.072, who violates an ordinance. A person who violates a provision of this code may be subject to injunctive relief, compensatory relief, and a civil penalty not to exceed \$1,000 for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction. Each day that a violation of a provision of this code continues constitutes a separate violation. This section does not bar other civil remedies.

The City looks forward to your prompt abatement of this serious continuing violation.

Sincerely,



Sandra Garley
Director of Community Development

Enclosure: October 12, 2011 Memorandum containing timeline and correspondence regarding Notifications to Property Owner

CC: Jonathan C. Owen, Acting City Manager
Michael Gatti, City Attorney



DEPARTMENT OF COMMUNITY DEVELOPMENT

Sandra Garley
Director

David Meneses
Building Inspector

Mail: 231 W. Evergreen Ave.
Location: 645 E. Cope Industrial Way
Palmer, AK 99645-6748
Phone: 907-745-3709
Fax: 907-745-5443
www.cityofpalmer.org

MEMORANDUM

TO: Sandra Garley; Director, Community Development

FROM: Ron Anderson, Planning & Code Compliance Technician

DATE: October 12, 2011

SUBJECT: 485 N. Alaska Street Code Enforcement History

This property has been in violation of City Code for several years. The time-line is as follows:

1. May 24, 2004 first **"Notice to Abate"** letter sent to owner. Not Resolved.
2. October 10, 2005 next **"Notice to Abate"** letter was sent to owner. Not Resolved.
3. April 26, 2006 next **"Notice to Abate"** letter was sent to owner. Not Resolved.
4. April 18, 2007 next **"Notice to Abate"** letter was sent to owner. Not Resolved.
5. April 26, 2010 next **"Notice to Abate"** letter was sent to owner. Not Resolved.
6. January 28, 2011 next **"Notice to Abate"** letter was sent to owner. Not Resolved.
7. March 14, 2011 I personally served owner with **"Notice to Abate"** letter.
8. May 20, 2011 I personally contacted owner to discuss progress. Not Resolved.
9. October 7, 2011 owner served with two (2) "Code Compliance Citations", each with an \$85 fine. Owner has ten (10) calendar days to comply.
10. If still not in compliance, the remedy allowed by Code is for the City of Palmer to sue the property owner.

Attachments: Copies of past **"Notice to Abate"** letters
Copies of Citations (2)



"Alaska at its Best!"

CITY OF PALMER

231 West Evergreen Avenue
Palmer, Alaska 99645
Phone (907) 745-3271 • Fax (907) 745-0930
www.cityofpalmer.org

24 May 2004

William B. & R.J. Jehlen
485 N. Alaska Street
Palmer AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Property Owners:

This letter is the City's Formal Notice of Abatement that your property at 485 N Alaska Street (T.A. Smith subdivision, Block 12, Lot 18) is in violation of the city's municipal code Chapter 8.38, Nuisance – Junk, Litter and Unsightly Premises. The property contains a collection of trash, tires, litter, and appliances. This condition violates City code Chapter 8.38 (Nuisance – Junk, Litter and Unsightly Premises).

Rachel Jehlen signed for my initial, certified letter of 20 April. That letter (copy attached) asked that you begin to remove these materials from the property and that all such materials be removed within 15 days. That has not been done.

You must now properly dispose of these materials located on your property to cure the unsightliness of the premises within thirty days of receipt of this notice. If this is not done you are subject to an initial civil penalty of two hundred dollars plus an additional twenty-five dollars per day for each day of continued violation for which formal notice was provided.

This shall serve as your final notice of the city's findings regarding the condition of your property and the ensuing civil penalty to which you are liable. If you wish to contest this notice, you must contact me, in writing, within fifteen days of the receipt of this letter.

The City will appreciate your prompt attention to this matter.

Sincerely,

Sara Jansen
Community Development Coordinator



CITY OF PALMER

231 West Evergreen Avenue
Palmer, Alaska 99645
Phone (907) 761-1306 • Fax (907) 745-0930
www.cityofpalmer.org

"Alaska at its Best!"

October 10, 2005

William B. & R. J. Jehlen
485 N. Alaska Street
Palmer, AK 99645

Subject: Property ID# 5021B12L018

Dear Property Owner:

We conducted a site visit today to check on the progress of your yard cleanup. There has been a great improvement in the condition of your yard and we thank you for your efforts. It was noted that there is still some cleanup required. There seemed to be numerous items left out in the front yard that should be stored in a neat and orderly fashion.

It is our desire to see you succeed in your efforts and therefore we are offering you another two weeks to complete the cleanup. Our plan is to make another site visit on or about October 25, 2005; if the site is cleaned up, we will then be able to close your file.

Once again, we appreciate your efforts.

Sincerely,

A handwritten signature in blue ink that reads "Dawn U. Webster".

Dawn U. Webster
Planning and Code Compliance Technician

Admin/2005 10-10-05

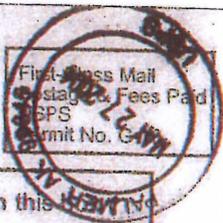
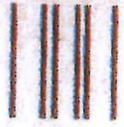
Admin/

*Site visit 11-9-05
OK to close file
dwb*

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <i>Kachelle J...</i></p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: _____</p>	
<p>1. Article Addressed to:</p> <p><i>Jehlen</i> <i>485 N. Alaska</i> <i>Palmer AK 99645</i></p>		<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Transfer from service label)</p> <p><i>7003 1680 0007 4233 5487</i></p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	



UNITED STATES POSTAL SERVICE



• Sender: Please print your name, address, and ZIP+4 in this box.

J

City of Palmer
231 West Evergreen
Palmer, AK 99645

1845 5487 4233 7000 0007 4233 5487

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42

Sent To: *Jehlen*

Street, Apt. No., or PO Box No.: *485 N. Alaska St.*

City, State, ZIP+4: *Palmer*

PS Form 3800, June 2002 See Reverse for Instructions





"Alaska at its Best!"

CITY OF PALMER

231 West Evergreen Avenue
Palmer, Alaska 99645
Phone (907) 761-1306 • Fax (907) 745-0930
www.cityofpalmer.org

April 26, 2006

WILLIAM B. & R. J. JEHLLEN
485 N. ALASKA STREET
PALMER, AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – Property ID# LOT 18, BLOCK 12,
T. A. SMITH - 5021B12L0018

Dear Property Owner:

This letter is the City's initial contact this year regarding your property at 485 N. Alaska Street, T. A. Smith Subdivision. The property appears to contain a collection of trash, litter, and other discarded items. This condition may violate City Code Chapter 8.38 (Nuisance – Junk, Litter and Unsightly Premises).

The City requests that you immediately begin to remove these materials from the property and to clean the property to a neat and orderly condition without an accumulation of junk, litter and unsightly materials. The city's annual spring cleanup day is scheduled for May 13, 2006. You may wish to take advantage of this program. If this work is not completed by May 18, 2006, the City may issue a formal notice to abate.

I ask for your cooperation in cleaning up this property. Both the City and the residents in your area will appreciate your efforts. Thank you for your attention to this request.

Sincerely,

Dawn U. Webster

Dawn U. Webster
Planning and Code Compliance Technician

Enc: 8.38

Admin/Jehlen

*6-6-06
looks better - still
needs work - see back on 7-6-06
dlw*



Property Review File

Street Address	485 N. Alaska Street		
Legal Description	Lot 18, Block 12, T A Smith 5021B12L018		
Property Owner	William B. & R. J. Jehlen		
Mailing Address	485 N. Alaska Street, Palmer, AK 99645		
Condition & Date	Trash and litter and debris scattered all around front yard. 4-25-06		
1 st Letter Sent	4-26-06	Deadline	5-18-06
2 nd Letter Sent		Deadline	
Follow Up:			



CITY OF PALMER

231 West Evergreen Avenue
Palmer, Alaska 99645
Phone (907) 761-1306 • Fax (907) 745-0930
www.cityofpalmer.org

April 18, 2007

WILLIAM B. & R. J. JEHLLEN
485 N. ALASKA STREET
PALMER, AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – Property ID# 5021B12L018 – Lot 18, Block 12, T A Smith Subdivision

Dear Property Owner:

Complaints continue to be received regarding the condition of your property located at 485 N. Alaska Street, Palmer, Alaska. The property contains a discarded appliance, tires and yellow tire bags, refuse, junk, and other discarded items. This condition violates City Code Chapter 8.38 (Nuisance – Junk, Litter and Unsightly Premises).

The City requests that you immediately begin to remove these materials from the property and to clean the property to a neat and orderly condition without an accumulation of junk, litter and unsightly materials. If this work is not completed by May 2, 2007, the City will issue a formal notice to abate.

I ask for your cooperation in cleaning up this property. Both the City and the residents in your area will appreciate your efforts. Thank you for your attention to this request.

Sincerely,

Dawn U. Webster
Planning and Code Compliance Technician

Admin/Jehle :



DEPARTMENT OF COMMUNITY DEVELOPMENT

Sandra Garley
Director

David Meneses
Building Inspector

Received

APR 26 2010

City of Palmer

Mail: 231 W. Evergreen Ave.
Location: 645 E. Cope Industrial Way
Palmer, AK 99645-6748
Phone: 907-745-3709
Direct Phone: 907-761-1306
Fax: 907-745-5443
www.cityofpalmer.org

WILLIAM B. & R. J. JEHLLEN
485 N. ALASKA STREET
PALMER, AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – Property ID# 5021B12L018

Dear Property Owner:

In response to complaints received by this office regarding the condition of your property, a site observation was conducted on April 26, 2010. You are being sent this letter because you are the listed owner of record for the property located at 485 N. Alaska Street, Palmer, Alaska. The property contains a collection of used items including, used building materials, coolers, and other discarded items. Additionally, there is a vehicle parked along the north side of your residence which appears to meet the definition of junk vehicle according to PMC 8.37; it appears to be inoperable, uninsured, and unregistered. The condition of your property appears to be in violation of City Code Chapter 8.38 (Nuisance – Junk, Litter and Unsightly Premises) and 8.37, (Junk Vehicles).

The City requests that you immediately begin to remove these materials from the property and to clean the property to a neat and orderly condition without an accumulation of junk, litter and unsightly materials. If this work is not completed by May 15, 2010, the City may issue a formal notice to abate. Please be advised, the city's cleanup day is May 8, 2010. You may be able to take advantage of the program to help rid yourselves of some of the items noted above.

We ask for your cooperation in cleaning up this property. Both the City and the residents in your area will appreciate your efforts.

Thank you for your prompt attention to this request.

Sincerely,

Dawn U. Webster
Planning & Code Compliance Specialist

Enclosures: PMC 8.37 and 8.38

City of Palmer



DEPARTMENT OF COMMUNITY DEVELOPMENT

Sandra Garley
Director

David Meneses
Deputy Director / Building Inspector

Mail: 231 W. Evergreen Ave.
Location: 645 E. Cope Industrial Way
Palmer, AK 99645-6748
Phone: 907-745-3709
Direct Phone: 907-761-1306
Fax: 907-745-5443
www.cityofpalmer.org

January 28, 2011

WILLIAM B. & R. J. JEHLEN
485 N. ALASKA STREET
PALMER, AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – Property ID# 5021B12L018

Dear Property Owner:

This letter is the City's Formal Notice of Abatement. The condition of your property at 485 N. Alaska St., Palmer, Alaska is in violation of the City's Municipal Code Chapter 8.38, Nuisance – Junk, Litter and Unsightly Premises. The property contains a collection of junk, building materials or appliances in violation of code.

You signed for receipt of my certified letter dated January 11, 2011 on January 20, 2011. A copy of that letter is enclosed. That letter asked that you begin to remove these materials from the property and all such materials be removed by January 28, 2011. That has not been done.

You must now properly dispose of these materials located on your property to cure the unsightliness of the premises within 30 days of receipt of this notice. If this is not done, you are subject to an initial civil penalty of \$75.00 plus an additional \$10.00 surcharge. If the violation is not removed within the allotted timeframe, additional fines may be assessed for each day of continued violation for which formal notice was provided.

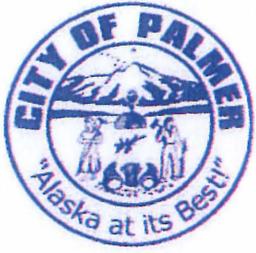
This shall serve as your **final** notice of the City's findings regarding the condition of your property and the ensuing civil penalty to which you may become liable. If you wish to contest this formal notice, you must contact me, in writing, within 15 days of the receipt of this letter.

Sincerely,

Ron Anderson
Planning & Code Compliance Specialist

Enclosure: Palmer Municipal Code, Chapter 1.08

City of Palmer



DEPARTMENT OF COMMUNITY DEVELOPMENT

Sandra Garley
Director

David Meneses
Deputy Director / Building Inspector

Mail: 231 W. Evergreen Ave.
Location: 645 E. Cope Industrial Way
Palmer, AK 99645-6748
Phone: 907-745-3709
Direct Phone: 907-761-1306
Fax: 907-745-5443
www.cityofpalmer.org

January 28, 2011

WILLIAM B. & R. J. JEHLLEN
485 N. ALASKA STREET
PALMER, AK 99645

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – Property ID# 5021B12L018

Dear Property Owner:

This letter is the City's Formal Notice of Abatement. The condition of your property at 485 N. Alaska St., Palmer, Alaska is in violation of the City's Municipal Code Chapter 8.37, Junk Vehicles. The property contains vehicles in violation of code.

You signed for receipt of my certified letter dated January 11, 2011 on January 20, 2011. A copy of that letter is enclosed. That letter asked that you repair, register and insure the vehicles or remove them from the property by January 28, 2011.

You must now properly dispose of the vehicles located on your property to cure the unsightliness of the premises within 30 days of receipt of this notice. If this is not done, you are subject to an initial civil penalty of \$75.00 plus an additional \$10.00 surcharge. If the violation is not removed within the allotted timeframe, additional fines may be assessed for each day of continued violation for which formal notice was provided.

This shall serve as your **final** notice of the City's findings regarding the condition of your property and the ensuing civil penalty to which you may become liable. If you wish to contest this formal notice, you must contact me, **in writing**, within 15 days of the receipt of this letter.

Sincerely,

Ron Anderson
Planning & Code Compliance Specialist

Enclosure: Palmer Municipal Code, Chapter 1.08

City of Palmer

Received
OCT 05 2011
City of Palmer

485



CODE COMPLIANCE CITATION
Violation of Palmer Municipal Code

C 0007

City of Palmer Case # 11-001

PLAINTIFF: CITY OF PALMER

THIRD JUDICIAL DISTRICT OF ALASKA IN THE DISTRICT COURT
AT PALMER. I, the undersigned officer, have reasonable grounds to
believe that the defendant committed the offense described below.
I certify under penalty of perjury that the following is true:

On October 7, 2011, at 7 am/pm,

defendant Jehlen William B

Last First Middle
Address(Residence): 485 N. Alaska St

Mailing: same as above

City: Palmer State: AK Zip: 99145

Vehicle License
Number EPT-656 State AK

did unlawfully, within the City of Palmer, Matanuska-
Susitna Borough, commit the following offense(s):

City of Palmer Code Section Violated: 11.31

Description of Offense: Tunk Vehicle

Location of Offense: same as above

MBS Tax Parcel # 5021812 L018

T 10 R02E Section 33 Meridian 5M

Fine: \$ 75 Surcharge: \$10.00 Total: \$ 85.00
(PMC 1.08)

- OPTIONAL APPEARANCE. See *Instruction on back*.
- MANDATORY COURT APPEARANCE. You must appear in court within 5 days. If you are under 18, you must bring your parent or legal guardian.

COURT ADDRESS: 435 S. Denali Street, Palmer, AK.
Bring the citation with you to court.

Circle one:

1. I acknowledge receipt of this citation on 10/07/11.
Defendant signature: _____

2. Certified Mail-ADDRESSEE ONLY-Return Receipt
Required Certified Mail No. _____
(copy attached)

3. Defendant refused to sign - personally served
Ron Anderson ra#1 10/7/11
Signature of Officer I.D. # Date

**WARNING: If you do not respond as required,
a warrant may be issued for your arrest or a default
judgment may be entered against you.
See "Consequences of Failure to Respond" on Back**

City Copy

NAME: Last Jehlen First William M. Court Date 11-1-11 C 0007

CODE COMPLIANCE CITATION
Violation of Palmer Municipal Code

C 0008
City of Palmer Case # 11-002

PLAINTIFF: CITY OF PALMER

THIRD JUDICIAL DISTRICT OF ALASKA IN THE DISTRICT COURT
AT PALMER. I, the undersigned officer, have reasonable grounds to
believe that the defendant committed the offense described below.
I certify under penalty of perjury that the following is true:

On October 7, 2011, at 7 am/pm,

defendant Jehlen William B
Last First Middle
Address (Residence): 485 S. Alaska St.

Mailing: same as above

City: Palmer State: AK Zip: 99645

Vehicle License
Number _____ State _____

did unlawfully, within the City of Palmer, Matanuska-
Susitna Borough, commit the following offense(s):
City of Palmer Code Section Violated: 5.38

Description of Offense: Nuisance: Junk
letter and unsightly premises

Location of Offense: same as mailing

MBS Tax Parcel # 5021 B12 L018

T 18 R 02E Section 33 Meridian 5M

Fine: 75 Surcharge: \$10.00 Total: \$85.00
(PMC 1.08)

- OPTIONAL APPEARANCE. See Instruction on back.
- MANDATORY COURT APPEARANCE. You must appear in court within 5 days. If you are under 18, you must bring your parent or legal guardian.

COURT ADDRESS: 435 S. Denali Street, Palmer, AK.
Bring the citation with you to court.

Circle one:
1. I acknowledge receipt of this citation on 10/17/11

Defendant signature: _____
2. Certified Mail-ADDRESSEE ONLY-Return Receipt
Required Certified Mail No. _____
(copy attached)

3. Defendant refused to sign - personally served.
Signature of Officer R. Anderson I.D. # 10711 Date 10/17/11

NAME: Last Jehlen First William M. B Court Date 11/11
C 0008

WARNING: If you do not respond as required,
a warrant may be issued for your arrest or a default
judgment may be entered against you.
See "Consequences of Failure to Respond" on Back

City Copy

Chapter 8.38
NUISANCE – JUNK, LITTER AND UNSIGHTLY PREMISES

Sections:

- 8.38.010 Definitions.
- 8.38.020 Owner and occupant to maintain premises.
- 8.38.030 Initiation of action.
- 8.38.040 Initial inspection and report.
- 8.38.050 Initial contact with owner and/or occupant.
- 8.38.060 Final notice to abate violation.
- 8.38.070 *Repealed.*
- 8.38.075 Remedies.
- 8.38.080 *Repealed.*
- 8.38.090 *Repealed.*
- 8.38.100 *Repealed.*
- 8.38.110 *Repealed.*
- 8.38.120 *Repealed.*
- 8.38.130 *Repealed.*
- 8.38.140 *Repealed.*

8.38.010 Definitions.

As used in this chapter, the following words are defined in this section:

“Junk” means any worn-out, wrecked, scrapped, partially or fully dismantled or discarded tangible material, combination of materials or items that cannot without further alteration and reconditioning be used for their original purposes, including but not limited to appliances, building material, chemicals, equipment, furniture, machinery, metal, rags, rubber, paper, plastics and wood.

“Litter” means all improperly discarded waste material, including but not limited to convenience food, beverage and other product packages or containers constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic material, thrown or deposited on the lands and waters within the boundaries of the city.

“Occupant” means the person in possession of the real property on which the junk or litter is located.

“Occupant” includes tenant and lessee.

“Owner” means the owner of the real property on which the junk or litter is located, or the agent of the owner.

“Unsightly premises” means property including but not limited to building exteriors maintained in such condition as to become so defective or unsightly or in such condition of deterioration or disrepair that the property causes appreciable diminution of the property values of surrounding property or is materially detrimental to proximal properties and improvements is a public nuisance. This includes but is not limited

to the keeping or disposing of or the scattering over the property or premises of any lumber, junk, trash or debris; abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers; stagnant water or excavations; or any device, decoration, design, fence, structure, clothesline or vegetation that is unsightly by reason of its condition or its inappropriate location.

“Zoning administrator” means the person or the designee authorized by the city manager to enforce this chapter. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.020 Owner and occupant to maintain premises.

A. The owner and the occupant of any private property in the city shall at all times maintain the premises free from significant accumulations of junk and litter; provided, however, that this section shall not prohibit the storage of junk or litter in authorized private receptacles for collection, or the storage of junk that is not visible to the public at large. A significant accumulation of junk or litter on any private property in the city contrary to this section is deemed to be a public nuisance.

B. The owner and the occupant of any private property in the city shall at all times maintain the property in a manner so that the property does not constitute an unsightly premises.

C. This chapter does not apply to property zoned industrial. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.030 Initiation of action.

A city resident may initiate action under this chapter by filing a written signed statement with the zoning administrator complaining about junk, litter, or an unsightly premises on private property in the city. The zoning administrator may initiate action even without a complaint. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.040 Initial inspection and report.

Upon receiving a duly filed complaint, the zoning administrator will inspect the property in a reasonable time and make a written report of the findings of the inspection. When practicable, photographs of the premises will be attached to the report. The reports are to be maintained for at least one year. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.050 Initial contact with owner and/or occupant.

Unless the zoning administrator finds that health and safety considerations require prompt abatement of junk, litter, or an unsightly premises, the zoning administrator may contact the owner and/or occupant informally, either verbally or in writing or both, and inform the owner and/or occupant that the property appears to contain junk, litter or be an unsightly premises, that such may violate city ordinance, and that the city requests the junk, litter, or unsightly premises be removed or otherwise brought into compliance within a reasonable time, normally not to exceed 15 days. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.060 Final notice to abate violation.

A. After the zoning administrator has made a written report of the findings of the inspection and determined that there is a violation of this chapter, the zoning administrator shall provide final notice to abate the violation.

B. Final Notice.

1. The zoning administrator is authorized to notify either the owner and/or the occupant of property regarding a violation of this chapter.

2. Notice to the owner may be provided at the owner's last known address as shown on the Matanuska-Susitna Borough assessment rolls for the city. Notice to the occupant may be provided by serving any adult residing on the premises. Notice to either the owner or occupant may be made in any other reasonable manner to assure due process is met.

3. The notice shall state the following:

a. The name of the owner and/or occupant;

b. The property description;

c. The specific type and location of the junk or litter on the property or describe what makes the premises unsightly;

d. The owner and/or occupant of the property is to properly dispose of junk or litter located on the property or to cure the unsightliness of the premises within 30 days of receipt of the notice;

e. If the junk or litter is not properly disposed of or the unsightliness cured within 30 days after receipt of the final notice, the property owner and/or occupant is subject to the enforcement procedures as stated in PMC [1.08.011](#) or [1.08.013](#). The zoning administrator may issue a ticket or obtain city council approval to commence a lawsuit requesting a remedy allowed under PMC [1.08.013](#) or at law. (Ord. 06-016 § 3, 2006; Ord. 516 § 3, 1997)

8.38.070 Response to formal notice.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.075 Remedies.

A. If the junk or litter is not properly disposed of or the unsightliness cured within 30 days after receipt of the final notice, the property owner and/or occupant is subject to the enforcement procedures as stated in PMC [1.08.011](#) or [1.08.013](#).

B. After first confirmation and documentation (including photography) that the condition of the property has not changed sufficiently to comply with the terms of the final notice, the zoning administrator may issue a ticket.

C. In circumstances where appropriate, given the magnitude of the offense or continuous noncompliance including without limitation offenders who fail to comply with the final notice even after conviction or repeat offenders, the zoning administrator may obtain city council approval to commence a lawsuit requesting a remedy allowed under PMC [1.08.013](#) or at law. (Ord. 06-016 § 3, 2006)

8.38.080 Hearing procedure.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.090 Hearing decision.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.100 Appeal.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.110 Enforcement of decisions and orders.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.120 Board established.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.130 Conflict of interest.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

8.38.140 Ex parte contacts prohibited.

Repealed by Ord. 06-016. (Ord. 516 § 3, 1997)

Chapter 1.08 GENERAL PENALTY*

Sections:

- 1.08.010 *Repealed.*
- 1.08.011 General fine penalties.
- 1.08.013 Other remedies.
- 1.08.120 Penalty surcharge.

* For Charter provisions authorizing the city to impose penalties for ordinance violation of not more than a fine of \$300.00 or imprisonment for 30 days, see Charter Section 1.9.

1.08.010 Designated.

Repealed by Ord. 06-005. (Ord. 535 § 3, 1998; Ord. 280 § 3, 1983; Ord. 205 § 3, 1978)

1.08.011 General fine penalties.

A. A person who violates a provision of this code shall, upon conviction, be subject to punishment by the fine established in the current, adopted budget.

B. If no other penalty is specifically or by adoption prescribed by a particular ordinance, the general penalty for violation of the ordinance is as stated in the current, adopted budget.

C. In accordance with AS 12.25.195 through 12.25.230, for a violation that cannot result in incarceration or the loss of a valuable license, a person may dispose of the citation without a court appearance by submitting to the clerk of court all of the following:

1. Payment of the fine amount and the applicable surcharge as established in the current, adopted budget; and
2. A copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine.

D. When the fine is forfeited under subsection (C) of this section, a judgment of conviction shall be entered. The fine paid is complete satisfaction for the offense. (Ord. 07-029 § 4, 2007; Ord. 06-005 § 4, 2006)

1.08.013 Other remedies.

The city may institute a civil action against a person, including a minor as provided in AS 29.25.072, who violates an ordinance. A person who violates a provision of this code may be subject to injunctive relief, compensatory relief, and a civil penalty not to exceed \$1,000 for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction. Each day that a violation of a provision of this code continues constitutes a separate violation. This section does not bar other civil remedies. (Ord. 06-005 § 5, 2006)

1.08.020 Penalty surcharge.

A. In addition to any fine or other penalty prescribed by law, a person who pleads guilty or nolo contendere to, forfeits bail for, or is convicted of:

1. A violation of this code comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, 28.35.030, or 28.35.032 and adopted under AS 28.01.010 shall be assessed a surcharge of \$75.00;

2. A misdemeanor or other violation of this code if a sentence of incarceration may be imposed for the misdemeanor or ordinance violation, other than a provision identified in subsection (A)(1) of this section, shall be assessed a surcharge of \$50.00; and

3. A misdemeanor or a violation of this code if a sentence of incarceration may not be imposed for the misdemeanor or ordinance violation shall be assessed a surcharge of \$10.00 if the fine or bail forfeiture amount for the offense is \$30.00 or more.

B. The surcharge shall be deposited into the general fund of the state in accordance with AS 29.25.072. (Ord. 537 § 3, 1998)