

Title 8

HEALTH AND SAFETY

Chapters:

- 8.04 Noise Regulations
- 8.08 Burning Restrictions
- 8.12 Garbage Collection and Disposal
- 8.16 Litter and Junk
- 8.20 Weeds
- 8.24 Nuisances
- 8.28 Fireworks Regulations
- 8.32 Sexually Oriented Businesses
- 8.34 Certain Medical Marijuana Businesses and Operations Prohibited
- 8.36 Control of Smoking
- 8.38 Retail Marijuana Establishments Prohibited
- 8.40 Disaster Emergency Regulations

Chapter 8.04

NOISE REGULATIONS

Sections:

- 8.04.010 Unreasonable noise.
- 8.04.020 Prima facie unreasonable noise.

8.04.010 Unreasonable noise.

A. It is unlawful for any person to make, continue, or cause or permit to be made or continued any unreasonably excessive or unnecessary or unusually loud noise or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

B. It is unlawful to use truck "jake brakes" within the City.

C. Unreasonable noise is hereby declared to be a nuisance which may be abated pursuant to law. (Ord. 8 §1, 1998)

8.04.020 Prima facie unreasonable noise. The following circumstances shall be prima facie evidence that the sound in question is "unreasonable noise" for the purposes of Subsection 8.04.010(A).

A. The operation or use of any musical instrument, radio, tape player, CD player, phonograph, or similar device between the hours of eleven p.m. and seven a.m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located. (In business and industrial use districts, said distance shall be one hundred fifty feet.)

B. Unmuffled or improperly muffled engine exhaust noise.

C. Sound broadcast from speakers or similar equipment from a motor vehicle or premises which is audible within vehicles on the street with windows closed or within buildings or other premises with the windows closed. (Ord. 8 §1, 1998)

Chapter 8.08

BURNING RESTRICTIONS

Sections:

- 8.08.010 Definitions
- 8.08.020 Open Burning of Materials Generally Prohibited
- 8.08.030 Burning Activities Allowed Subject to Restrictions

8.08.010 Definitions. The definitions of words and phrases used in this Chapter which pertain to the concept of "open burning" shall reasonably conform with any which may be provided in C.R.S. 25-7-103 and in Colorado Air Quality Control Commission Regulation No. 9.

8.08.020 Open Burning of Materials Generally Prohibited. It shall be unlawful to conduct any form of outdoor or open burning activity anywhere in the City of Delta except as specifically allowed by Section 8.08.030. This general prohibition shall apply whether or not burning is conducted within a receptacle or facility designed for the containment of outdoor fires. It is specifically intended to prohibit the burning of all forms of trash, garbage, refuse and other waste materials including without limitation, all forms of vegetation such as leaves, tree limbs, grass, shrub and garden trimmings, and all forms of manufactured products and materials except food materials being used for, and in the process of, cooking meals for human consumption in the manner specifically allowed under Section 8.08.030A.

8.08.030. Burning Activities Allowed Subject to Restrictions. Notwithstanding any express or implied provision of Section 8.08.020 to the contrary, the following outdoor or open burning activities shall be deemed lawful subject to all specified restrictions and conditions:

A. The outdoor cooking of food in grills, barbeque pits and other containment devices specifically designed for cooking activity, and the use of matches, torches, welding and ignition devices, tobacco products, flares, fireworks, explosives and other products and devices commonly used for domestic, commercial, training and industrial purposes, provided that the pertinent activity otherwise complies with all applicable State laws and regulations."

B. Open burning on real property of surface brush, weeds and other cover vegetation for purposes of routine ditch and field maintenance and general agricultural purposes on the following conditions:

1. The areas to be burned either consist of an easement area owned and controlled by an incorporated or unincorporated ditch association, or are otherwise located entirely within one or more contiguous lots or parcels of land titled in the name(s) of the same owner(s) and containing one half acre or more in the aggregate.

2. The desired removal of brush, weeds and other cover vegetation cannot be as practically or economically accomplished by means other than burning.

3. Any burning activity is continuously attended by an owner of the easement or property on which the surface burning is to occur, or some properly delegated officer or agent of such owner, who has the ability to control and extinguish the fire through immediately available water sources and other fire suppression tools that are adequate to prevent spread of the fire to man-made improvements and/or to other areas of adjoining land.

4. The owner of the pertinent easement or property observes all applicable provisions, conditions and/or limitations of Department of Public Health and Environment Colorado Air Quality Control Commission Regulation 9 entitled "Open Burning Prescribed Fire and Permitting", 5 CCR 1001-11, as amended, and has also first complied with applicable provisions of Delta County Burn Regulations (Ordinance No. 2007-02, as amended) by providing notice of an intent to conduct open burning through the "Burn Hotline" at 399-2955 or any successor phone number maintained for burning notification purposes by Delta County.

(Prior Code §9-11; Ord. 8, 1987; Ord. 16, §1, 2012)

Chapter 8.12

GARBAGE COLLECTION AND DISPOSAL

Sections:

- 8.12.010 Applicability.
- 8.12.030 Trash collection requirements.
- 8.12.050 Trash containers.
- 8.12.090 Unlawful acts.
- 8.12.100 Rates and charges.
- 8.12.110 Discretionary collection.
- 8.12.120 Violations and enforcement.
- 8.12.130 Collection service charges--General provisions.
- 8.12.140 Remedies for nonpayment.
- 8.12.150 Special collection limitations.
- 8.12.160 Trash collection fees/rates table.

8.12.010 Applicability. The provisions of this Chapter shall apply to all territory within the corporate limits of the City. (Prior Code §10-1)

8.12.030 Trash collection requirements.

A. Private persons and companies shall be allowed to collect refuse, garbage and waste within the City at such rates as they may contract with individual consumers.

B. Industrial or commercial establishments or multi-family residences or eight or more units, and other residences which were annexed after April 19, 1994, shall not be liable for payment or user charges for City waste services as long as such users are being served by another refuse collection service operating within the City instead of City service. It shall be the responsibility of persons using other trash collection services to terminate City trash collection services and charges by notifying the City on forms to be provided by the City.

C. Nothing in this Code shall prohibit the provision of waste services by persons other than the City to industrial users, commercial users, multi-family residences of eight or more units, and residences annexed after April 19, 1994.

D. Residences shall be charged for collection service, whether or not they use City collection services, except those qualified family residences of eight or more units, and those residences annexed after April 19, 1994, which notify the City

and have adequate alternative weekly trash service. (Ord. 9, §1, 1983; Ord. 17, §1, 1997)

8.12.050 Trash containers.

A. The City shall collect trash only from those trash containers meeting City specifications compatible with City collection equipment.

B. The City shall determine which residential customers shall be required to use individual containers and which shall use shared containers.

C. The City shall provide ninety (90) gallon containers to each residential customer required to use individual containers at the time the dwelling unit is first served. Thereafter, the customer shall be responsible to maintain it in good condition. Provided, however, the City may perform minor repairs to the containers as appropriate in the City's discretion. Replacement of any container shall be at the customer's expense. Such container shall be owned by the City and not removed from the property served.

D. The City will supply a nonresidential customer with the necessary containers at the time the customer is first served. Such customer shall maintain all containers in good condition. Provided, however, the City may make minor repairs to such containers as appropriate in its discretion. Upon termination of service, any City supplied container or its replacement shall be returned to the City in good condition or the customer will be charged for the cost of repair or replacement. Such container is owned by the City and shall not be removed from the property served.

E. The City shall maintain a supply of containers for sale to customers who need to replace containers.

F. Each customer must have a sufficient number of complying containers adequate to accommodate the amount of trash normally generated by the customer.

G. Containers which are overfilled, overweight in violation of this Chapter, or dangerous need not be serviced by the City.

H. Containers of City customers shall be appropriately identified.

I. Containers shall be placed at the edge of the alley easily accessible to City collection equipment, unless a customer does not abut an alley.

J. Customers without an alley shall place their containers adjacent to an abutting street. Containers shall be removed from any street by the customer following collection on the same day the trash is collected by 8:00 p.m. Containers shall be set out on the street for collection no sooner than the morning prior to collection.

K. Containers may be placed in other locations accessible to City trucks for collection only if approved by the City. (Ord. 17, §1, 1997; Ord. 3, §1, 1983; Ord. 17, §1, 1976; prior Code §10-5)

8.12.090 Unlawful acts.

A. It is unlawful for any person to molest, remove, handle or otherwise disturb the trash containers or contents thereof of another without permission of the other person.

B. It is unlawful for any person to utilize City trash collection services without paying the charges imposed by this Chapter.

C. It is unlawful for any person to place trash for collection with or in cans or containers belonging to a City customer unless such person is paying the charges imposed by this Chapter and has the other's permission.

D. It is unlawful for any person not a City customer to mark or possess a container or can with the standard City identifying mark. (Prior Code §10-9; Ord. 12, §1, 1993)

8.12.100 Rates and charges.

A. The owner, tenant and occupant of premises to which trash collection service is provided by the City or charges due there from shall be jointly and severally liable for the charges as set out in Section 8.12.160.

B. The City shall determine the size and number of required containers and authorized pick-ups each week for all customers. (Ord. 3, §2, 1983; Ord. 11, §1, 1990; Ord. 12, §1, 1992; Ord. 11, §1, 1993; Ord. 37, §1, 1995; Ord. 17, §1, 1997; Ord. 47, §1, 2000; Ord. 8, §1, 2006; Ord. §12, 2008; Ord. 7, §2, 2013)

8.12.110 Discretionary collection. Non-scheduled collections may be made at the discretions of the City at a charge to be determined by the City.

8.12.120 Violations and enforcement.

A. Continuing violations of this Chapter are hereby declared to be a nuisance which may be abated in any lawful manner.

B. The City may maintain an action to enjoin any violation of this Chapter or enforce compliance with provisions of this Chapter.

C. It shall be unlawful to violate any provision of this Chapter.

D. The City may refuse to pick up any trash under circumstances in violation of this Chapter. (Ord. 17, §3, 1976; Ord. 17, §1, 1997)

8.12.130 Collection service charges--General provisions.

A. Charges for collection service shall be payable, assessed and billed at periodic intervals specified by the City.

B. Monthly collection service charges shall commence when service is first utilized, or pursuant to Subsection 8.12.030(D).

C. Collection service charges may be billed with the water bills or otherwise, as determined by the City.

D. All bills shall specify a due date. Bills not paid by the due date shall be subject to fees as set out in Section 13.04.270.

E. All charges and fees imposed by this Chapter shall become a lien on the property served as of the date they are billed or due. (Ord. 17, §4, 1976; Ord. 17, §1, 1997; Ord. 5, §1, 2001; Ord. 7, §3, 2013)

8.12.140 Remedies for nonpayment.

A. In addition to any other remedies which the City may have, the City may take the following action upon failure to pay any charges or fees by the date specified as due upon the bill, or when they are otherwise due:

1. The City may foreclose the lien imposed by this Chapter in accordance with law.

2. The City may maintain an action for the amount of charges due in a court of competent jurisdiction including interest as allowed by law.

3. The City may certify the amount of any charge due to the County Treasurer as a delinquent charge upon such property served to be collected similarly as taxes are collected.

4. The City may discontinue trash collection service to any premises for which the bill is not paid in accordance with the procedures set forth in Section 13.04.140 of this Code. Charges shall continue to accrue, however.

B. It shall be unlawful to fail to pay the charges imposed in this Chapter. (Prior Code §10-13; Ord. 17, §1, 1997)

8.12.150 Special collection limitations.

A. No extremely flammable, toxic, explosive or hazardous materials, no large or heavy metal objects, no objects which could damage collection equipment or trucks, no materials contaminated with contagious diseases, and no dead animals shall be placed in any containers for collection. Special arrangements must be made with the City for collection of such items or collection of other large or unusual loads. The City may refuse to collect such items or may charge an additional fee.

B. Damage to City property or extraordinary expense to the City caused by violations of this Chapter may be collected from the customer as an additional collection charge or in any other lawful manner.

C. The City may in its discretion collect dead animals, yard waste and tree trimmings, items too large or heavy for the containers, or otherwise not allowed to be placed in containers at such fees as the City may determine. (Ord. 17, §1, 1997)

8.12.160 Trash collection fees/rates table.

Refuse	Container Size (gallons)	Monthly Base Charge	Extra Pickup
	90	\$12.00	\$17.75
300	\$27.00	\$40.25	
Over 300	\$38.00	\$57.00/gal	
Shared containers	\$12.00/unit	\$17.75/unit	

(Ord. 10, §2, 2013)

Chapter 8.16

LITTER AND JUNK

Sections:

- 8.16.010 Littering.
- 8.16.020 Storage of litter.
- 8.16.030 Keeping of junk.
- 8.16.040 Definitions.

8.16.010 Littering.

A. It shall be unlawful for any person to deposit, throw, or leave any litter or junk on any public or private property or in any waters.

B. It shall be an affirmative defense that:

1. The litter or junk is placed in a receptacle or container installed on such property for such purpose which such person is authorized to use; or

2. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

C. Whenever litter or junk is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter or junk to be so thrown, deposited, dropped or dumped therefrom. (Ord. 4, §2(part), 1986)

8.16.020 Storage of litter.

A. It shall be unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited any litter upon his own property or upon property of which he is a tenant in lawful possession, except within a trash can or container which has a tight-fitting lid, or a trash bag, or unless the litter is totally enclosed within a building.

B. The keeping, storage or deposit of litter in violation of this Section is hereby declared to be a nuisance and may be abated in accordance with law. (Ord. 4, §2(part), 1986)

8.16.030 Keeping of junk.

A. It shall be unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited junk upon his own property or upon property of which he is a tenant in lawful possession, unless the junk is totally enclosed within a building or is screened by a fence or other enclosure from view

off such person's property or is kept within a receptacle for such purpose with a tight-fitting lid.

B. The keeping, storage or deposit of junk in violation of this Section is hereby declared to be a nuisance and may be abated in accordance with law.

C. It shall be an affirmative defense that the used building materials or firewood are stored or stacked in a reasonably neat and orderly manner. (Ord. 4, §2(part), 1986)

8.16.040 Definitions.

A. For the purpose of this Chapter, "litter" shall mean all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid of every form, size, kind and description.

B. For the purpose of this Chapter, "junk" shall included by not be limited to discarded, unusable or broken machinery, appliances, furniture, furnishings, or sporting equipment; used building or construction materials; inoperable motor vehicles; vehicles without current license plates or State safety inspection stickers, if they are required by the State; or vehicles which do not comply with safety equipment requirements of State law; and all other items commonly known as junk.

C. An item may be both "junk" and "litter" as defined in this Chapter. (Ord. 4, §2(part), 1986)

Chapter 8.20

WEEDS

Sections:

- 8.20.010 Weed control.
- 8.20.020 Nuisance declared.
- 8.20.030 Conflicting statutes superseded.

8.20.010 Weed control.

A. It shall be unlawful for the owner, lessee or occupant of any property to fail to control weeds on said property and upon that portion of abutting street and alley rights-of-way lying between said property and the centerline of said rights-of-way in accordance with the requirements of this Section.

B. All weeds shall be removed or kept mowed or clipped reasonably close to the ground but in no case shall they be allowed to be higher than 6". Clippings must be promptly removed from the premises and disposed of properly.

C. The following circumstances shall be an affirmative defense to the requirements for weed control set out in this Section:

1. The plants are maintained in accordance with good agricultural practices, the property is used for grazing or other bona fide agricultural use, and the property is located in an A-1 District or appurtenant to a legal non-conforming agricultural use; or

2. The plants are located in parks, wildlife refuges, water fowl sites or open natural areas operated by governmental agencies; or

3. The plants are cultivated ornamental shrubs, bushes, flowers or edible vegetables; or

4. The plants are part of a reasonably maintained xeriscaped or landscaped area. (Ord. 4 §2(part), 1986; Ord. 15 §1(part), 1993)

8.20.020 Nuisance declared.

A. Weeds or plants in violation of the requirements of Section 8.20.010 are hereby declared to be a nuisance and the City may abate them in any lawful manner including the procedures specified in Chapter 8.24 of this Code, or in this Section.

B. The City may enter upon property maintained in violation of this Chapter and remove weeds and vegetation as appropriate to abate any nuisance. Prior to such entry, the City shall give reasonable notice to the owner of record and any

apparent tenant or occupant of the property. The City's costs in so doing may be recovered as provided in Section 8.24.030. (Ord. 15 §1(part), 1993)

8.20.030 Conflicting statutes superseded. Any statute or regulation of the State of Colorado in conflict with the requirements of this Chapter or the procedures of Chapter 8.24 are hereby declared to be superseded by the ordinances of the City of Delta. (Ord. 15 §1(part), 1993)

Chapter 8.24

NUISANCES

Sections:

- 8.24.010 Nuisances prohibited.
- 8.24.020 Abatement of nuisances.
- 8.24.030 Cost of abatement.
- 8.24.040 Affirmative defenses to nuisance actions.

8.24.010 Nuisances prohibited.

A. It shall be unlawful for any person to create, cause, or maintain any nuisance, or to permit any nuisance to exist upon or in connection with any premises owned by him or under his control.

B. The following are hereby declared to be a nuisance:

1. Any thing or activity which unreasonably annoys or interferes with the use or enjoyment of public or private property or which constitutes a health or safety hazard.
2. Anything declared to be a nuisance by any City ordinance or by the statutes or regulations of the State.
3. Any other thing or activity which under law constitutes a nuisance.
4. Any excavation exceeding 5 feet in depth, and cisterns, wells, or any excavation used for storage of water which is not adequately covered with a locked lid or other covering weighing at least 60 pounds, or is not securely fenced with a solid fence to the height of at least 5 feet.
5. Any unoccupied building, house or other structure which is in such a state of disrepair that it may collapse at any time or poses a safety hazard to persons upon the premises.
6. Manure stored for any purpose other than immediate use as fertilizer.
7. Any unused refrigerator, washer, dryer, freezer, or other appliance accessible to children outside a residence which does not have the door removed.
8. The Placement of graffiti upon any public or private property within the territorial limits of the City of Delta; and the failure of a registered owner of property, or the responsible agent of such owner, to remove graffiti from affected property within three (3) days after delivery of notice to remove the same has been provided to the owner or agent by the City Manager, a City Code enforcement officer, or a City police officer. The term "graffiti" is defined to mean the product of intentional painting, scratching or coloring (with any contrast medium whatsoever) of any public or private

property except by permission of the owner of such property, including the City Manager in the case of City property or the supervisory officer of any other public property.

9. Any sing that is in violation of Chapter 17.68 of this code.

C. Any use or the manner of use of any property which is declared a nuisance by this Section shall be a nuisance subject to abatement under this Chapter notwithstanding the fact that such a use might otherwise be allowed under the City's zoning, land use, building or other regulations. (Ord. 4, §2(part), 1986; Ord. §7, 2008; Ord. 3 §3, 2016)

8.24.020 Abatement of nuisances.

A. In addition to any other powers granted to the City by law to abate nuisances, any nuisance may be abated in accordance with the provisions of this Section.

B. The City may maintain an action in a court of competent jurisdiction to enjoin or abate a nuisance.

C. The City may prosecute any person maintaining or allowing a nuisance to exist in Municipal Court, and upon conviction, the Court may enter an order on such items as it deems appropriate for the abatement of the nuisance in addition to any fine or jail sentence. (Ord. 4, §2(part), 1986)

D. The City may give notice in writing to any person responsible for the maintenance of a nuisance, which notice shall allow a reasonable time for such person to correct or eliminate the nuisance. If such person shall fail to correct or eliminate the nuisance by the time specified in the notice, the City may take action for the correction or elimination of the nuisance and shall have the right to enter upon private property for such purpose. The City may collect the cost of doing so in accordance with Section 8.24.030. Prior to entering upon private property, the City shall request the permission of the owner or party in possession of the premises if their address is known to the City. If such permission is not granted or such persons are not located, the Municipal Court may issue an order authorizing entry and abatement of the nuisance upon a showing of probable cause and compliance with the notice requirements or this subsection.

E. The City may take all necessary steps, including the entry upon private property, to abate or eliminate a nuisance without notice when such nuisance constitutes an immediate health or safety hazard. In such event, the costs incurred by the City may be collected in accordance with Section 8.24.030. Prior to entry, the City shall obtain an order from the Municipal Court authorizing entry, which order the Court may

issue on a showing of probable cause. (Ord. 4, §2(part), 1986; Ord. 3, §7, 1987)

8.24.030 Cost of abatement.

A. The City may recover all costs, including attorney's fees plus interest and penalties allowed by law it incurs in abating any nuisance as provided in this Section.

B. The City may maintain an action in a court of competent jurisdiction for costs incurred in abating a nuisance.

C. The cost incurred shall be an assessment and lien upon the property affected which may be foreclosed by the City in accordance with law which shall have priority over all other liens except general taxes and prior special assessments.

D. The costs incurred by the City may be certified to the County Treasurer to be collected as delinquent charges together with interest and penalties authorized by law in a manner similar to property taxes against the property on which the nuisance was maintained.

E. Costs which the City may recover include, but are not limited to, all out-of-pocket costs and expenses, costs attributable to City employee time and equipment use, reasonable attorney fees and a charge for overhead and administration in the amount of \$15.00 plus twenty percent (20%) of any and all removal and abatement costs, regardless of the specific type of nuisance involved. (Ord. 4, §2(part), 1986; Ord. 15 §2, 1993; Ord. §7, 2008)

8.24.040 Affirmative defenses to nuisance actions. It shall be an affirmative defense to a violation of subsections 8.24.010(A), (B)(1), (2), (3) or (6), or to "Performance Standards" in City Zoning Regulations prohibiting public or private nuisances, that the thing or activity is a lawful agricultural operation which has been in operation for more than one year and was not a nuisance at the time the operation began, unless negligent operation, a material change in the operation, or a substantial increase in the size of the operation occurs to cause the nuisance. As used in this Section, "agricultural operation" shall have the same meaning as "agriculture" as defined in CRS 35-1-102(1), as amended, including "mink farms." (Ord. 8 §1, 1999)

Chapter 8.28

FIREWORKS REGULATIONS

Sections:

- 8.28.010 General provisions.
- 8.28.020 Temporary stands.
- 8.28.030 Fireworks prohibited in certain areas.
- 8.28.040 Nuisance declared.

8.28.010 General provisions.

A. The manufacture, sale and use or fireworks within the City shall be subject to the provisions of state statutes and regulations including C.R.S. 12-28-101 et seq. and the provisions of this Code. Whichever restrictions are the more stringent shall control in the case of any conflict. "Fireworks" as used in this Chapter shall include all items commonly known or sold as fireworks.

B. No fireworks display may be conducted without the approval of the City Council. The applicant must submit proof of general liability insurance for the event in a minimum amount equal to the liability limits as set out in the Colorado Intergovernmental Immunity Act for property damage and bodily injury. Fireworks and shells to be used in authorized public displays shall be stored, held, and handled in accordance with the conditions of the permit.

C. No fireworks may be manufactured within the City of Delta.

D. Except for fireworks held for an immediate and lawful retail sale, no fireworks may be stored within the City except within the Industrial District 1. No fireworks may be stored unless a permit for storage is obtained from the City. All storage facilities shall meet the requirements of the Code for the Manufacture, Transportation and Storage of Fireworks, N.F.P.A. 1124-1984 as published by the National Fire Protection Association. In addition, all applicable storage requirements of state and federal law shall be met. The permit may be revoked for failure to comply with applicable requirements.

E. It shall be unlawful to sell fireworks at retail within the City of Delta except for (1) sales allowed by C.R.S. 12-28-106, and (2) except for sales of those items allowed under state law including toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap, sparklers, trick matches, cigarette loads, trick noise makers, toy smoke devices and novelty auto alarms, so long as such

devices are not capable of flight, do not travel in excess of ten feet in any direction and do not produce loud noises.

F. Any person selling fireworks shall prohibit smoking and open flames within fifty feet of the location of the fireworks and post "No Smoking" signs accordingly. Retail sales of fireworks allowed pursuant to paragraph (E) (2) may be made only from June 1st to July 5th of any year.

G. No fireworks shall be sold from any motor vehicle, travel home, trailer, or any other vehicle. (Ord. 7, §1(part) 1988)

8.28.020 Temporary stands.

A. No fireworks may be sold from a temporary stand until a permit for the stand has been obtained from the City.

B. Applications for a permit for a temporary stand shall be made on forms supplied by the City which shall contain information as convenient to administer provisions of this Section.

C. Submitted with the application shall be an application fee in the amount of \$25.00 and a Certificate of Insurance indicating general liability insurance in an amount not less than \$150,000 per person, \$400,000 per occurrence for property damage and bodily injury, which may not be cancelled without at least thirty days notice to the City.

D. No permit shall be issued unless the City determines that the following criteria are met:

1. The applicant has a City Sales and Use Tax License and none of the applicant or its agents, employees or principals have fail to pay or remit City Sales or Use Tax in previous years.

2. Any applicable provisions of the Transient Merchant Regulations have been met.

3. The building inspector has approved the plans for the stand pursuant to Section 104(e) of the Uniform Building Code.

4. A clear zone of at least fifty feet shall be maintained around the stand.

5. The stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have at least two doors.

6. Each stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have a fire extinguisher at each end.

7. Vegetation around the stand shall be no more than two inches above grade except for trees and shrubs.

8. No smoking or burning shall be allowed within fifty feet of the stand. No fireworks shall be discharged within fifty feet of any stand.

E. The City Manager may revoke any permit if he determines at a hearing with reasonable notice that the above criteria are not being met. Any permit may be temporarily suspended pending such hearing.

F. Additional terms and conditions may be included in any permit as necessary to protect the public safety and welfare and to prevent fire hazards. (Ord. 7, §1(part), 1988)

8.28.030 Fireworks prohibited in certain areas. It shall be unlawful to discharge any fireworks in City parks or areas where a fire hazard exists. (Ord. 7, §1(part), 1988)

8.28.040 Nuisance declared. Any violation of this Chapter is hereby declared to be a nuisance which may be abated in any lawful manner. (Ord. 7, §1(part), 1988)

Chapter 8.32

SEXUALLY ORIENTED BUSINESSES

Sections:

- 8.32.010 Definitions.
- 8.32.020 Location of sexually oriented businesses.
- 8.32.030 Measurement of distance.
- 8.32.040 Additional regulations.
- 8.32.050 Conduct in sexually oriented business.
- 8.32.060 Right of inspection.

8.32.010 Definitions.

A. For the purposes of this Chapter, the following definitions shall apply:

1. ADULT ARCADE - Any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines for viewing by persons, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting "specified sexual activities" or "specified anatomical areas."

2. ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE - A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe "specified sexual activities" or "specified anatomical areas." Provided, however, if less than 30% of its display floor area is used for such, the business shall not be deemed an adult bookstore, adult novelty store, or adult video store; or

b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." Provided, however, if less than 30% of its display floor area is used for such items, the business shall not be deemed an adult bookstore, adult novelty store, or adult video store.

3. ADULT CABARET - Means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

a.. Persons who appear nude or in a state of nudity or seminudity; or

b. Live performances that are characterized by the exposure of "specified anatomical areas" or by the exhibition of "specified sexual activities."

4. ADULT MOTEL - A hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

5. ADULT MOTION PICTURE THEATER - A commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

6. ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of "specified anatomical areas" or by "specified sexual activities."

7. COMMERCIAL ESTABLISHMENT - The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations, and any business engaged in commerce.

8. EMPLOYEE - A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

9. ESTABLISH A SEXUALLY ORIENTED BUSINESS - means
a. The opening or commencement of any such business as a new business;

b. The conversion of an existing business into a sexually oriented business;

c. The addition of a different sexually oriented business to any other existing sexually oriented business; or

d. The relocation of a sexually oriented business.

10. FOYER - An architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

11. MANAGER - An operator, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

12. NUDITY OR STATE OF NUDITY:

a. The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

b. A state of dress which fails opaquely and fully to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

13. NUDE MODEL STUDIO - Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

14. OPERATOR - Includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business.

15. PEEP BOOTH - A room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of "specified anatomical areas" or "specified sexual activities."

16. PERSON - An individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

17. OWNER - Any person owning, directly or beneficially:

a. Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or

b. In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

18. PUBLIC PARK - An area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

19. SEXUALLY ORIENTED BUSINESS - An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes. An establishment engaged in commerce may have other principal business purposes that do not involve the depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

20. SEMINUDE OR SEMINUDITY - A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

21. SPECIFIED ANATOMICAL AREAS - As used herein means and includes any of the following:

a. Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered ; or

b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

22. SPECIFIED CRIMINAL ACTS - Sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity, prostitution, or pandering.

23. SPECIFIED SEXUAL ACTIVITIES - Includes any of the following:

a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

c. Masturbation, actual or simulated;

d. Human genitals in a state of sexual stimulation, arousal, or tumescence; or

e. Excretory functions as part of or in connection with any of the activities set forth in subsections a through d of this definition. (Ord. 8, §1, 2004)

8.32.020 Location of sexually oriented businesses.

A. It shall be unlawful for any person to own, operate, or establish a sexually oriented business outside of the "I" Zoning Districts or on a premises abutting the premises of:

1. Any church;

2. Any public or private school;

3. Any residentially zoned property;

4. Any public park;

5. Any licensed childcare facility or daycare business;

6. Any property, public or private, that is used for and equipped with facilities for recreation, especially by children. Any area dedicated for use by children, whether or not incidental to school use, is included within the scope of this subsection.

B. It shall be unlawful for any person to own, manage, operate, or establish a sexually oriented business within a building within 100 feet of the right-of-way of Highways 50, 92, or 348.

C. It shall be unlawful for any person to own, manage, operate, or establish a sexually oriented business which does not comply with Section 18.32.040, or which is in a building within 1000 feet of any other building housing a sexually oriented business. (Ord. 8, §1, 2004; Ord. 7, §1, 2009; Ord. 4, §8, 2011)

8.32.030 Measurement of distance.

A. The distance between any two sexually oriented business buildings shall be measured in a straight line, without regard to intervening structures, between the closest exterior structural walls of each building.

B. The distance between any sexually oriented business building and a highway shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business building to the nearest right-of-way line of the highway. (Ord. 8, §1, 2004)

8.32.040 Additional regulations.

A. All exterior windows in a sexually oriented business shall be opaque to such an extent that interior objects viewed from outside shall be so obscure as to be unidentifiable. Exterior windows in sexually oriented businesses shall not be used for any display or sign except for a sign that complies with the requirements of this Chapter.

B. All doors for ingress and egress to a sexually oriented business, except emergency exits used only for emergency purposes, shall be located on the front of the sexually oriented business. For purposes of this subsection, the front of a sexually oriented business shall be deemed to be that facade of the building that faces the front lot line of the lot or parcel on which the business is located. Every sexually oriented business shall have a foyer at every point of ingress or egress, except for emergency exits. In the case of a sexually oriented business having more than one front lot line, the sexually oriented business shall be oriented such that the front of the business faces away from the nearest of any of the land uses listed in Subsection 18.32.020(A).

C. The interior portion of the premises of a sexually oriented business to which patrons are permitted access

shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, manager and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

D. Any adult cabaret or adult theater shall have one or more separate areas designated as a stage. Entertainers shall perform only upon a stage. The stage shall be fixed and immovable and located inside the building in which the adult use operates. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage.

E. The entire premises must be brought into compliance with Sections 15.04.080 and 15.04.090 regardless of its location, or whether a building permit is required or not. (Ord. 8, §1, 2004)

8.32.050 Conduct in sexually oriented business.

A. No owner, operator, manager or employee mingling directly with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity.

B. No owner, operator, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

C. It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsections (D) and (E) of this Subsection.

D. An owner, operator, manager or employee who desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

E. A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post

one or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows:

"All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited."

F. Hours of operation.

1. It shall be unlawful for a sexually oriented business to be open for business or for the owner, operator, manager or any employee of a sexually oriented business to allow patrons upon the premises during the following time periods:

a. On any Monday through Friday, other than January 1, from 12:00 a.m. until 8:00 a.m.;

b. On any Saturday and Sunday from 2:00 a.m. until 8:00 a.m..

G. Minimum age.

1. Except for such employees as may be permitted by law, it shall be unlawful for any person under the age of eighteen years to be upon the premises of a sexually oriented business.

2. It shall be unlawful for the owner, operator, manager or any employee of the licensee to allow anyone under the age of eighteen years, except for such employees or delivery persons as may be permitted by law, to be upon the premises of a sexually oriented business.

H. Signs for sexually oriented businesses. In addition to complying with all applicable sign regulations, a sexually oriented business shall display a sign, clearly visible and legible at the entrance to the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises is off limits to those under the age of eighteen years. No sign for a sexually oriented business shall contain words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities. (Ord. 8, §1, 2004)

8.32.060 Enforcement.

A. The City Manager and his designated representative shall have the right of entry to inspect and enforce the provisions of this Chapter in accordance with the procedures

and provisions City Building Codes in addition to any other provisions provided by law.

B. Continuous violation of this Ordinance are hereby declared to be a nuisance which may be abated in accordance with law. (Ord. 8, §1, 2004)

Chapter 8.34

Certain Medical Marijuana Businesses and Operations
Prohibited

Sections:

- 8.34.010 General Prohibitions and Related Exceptions.
- 8.34.020 Violations and Enforcement.
- 8.34.030 Declaration and Confirmation of Nuisance.
- 8.34.040 Definitions.

8.34.010 General Prohibitions and Related Exceptions.

A. No license to establish, operate, continue to operate or permit to be operated any medical marijuana center, optional premises cultivation operation or medical marijuana infused products manufacturing or sale facility shall be lawful in the City of Delta. No person shall maintain any such business or operation or any other enterprise engaged in the possession, use, cultivation, production, sale or distribution of marijuana or marijuana products other than those which are properly conducted by patients and primary care givers as expressly allowed by, and specifically conforming with, the provisions of Article XVIII, Section 14 of the Colorado Constitution and any related State laws and regulations.

B. The overall intent of this Section is to fully exercise the City's local option allowed under C.R.S. 12-43.3-106. No intent to deprive or limit the rights of medical marijuana patients and their primary care givers established under the said Amendment of the Colorado Constitution, or under any related State law and regulations, shall be inferred from this Section. (Ord. 1, 2011)

8.34.020 Violations and Enforcement Remedies. Any violation of Section 8.34.010 by any person or entity may be referred by the City for appropriate criminal prosecution by the Seventh Judicial District Attorney pursuant to pertinent provisions of C.R.S. 12-43.3-101 *et seq.* Any such violation may also be pursued as a public nuisance subject to abatement in any lawful manner. In this regard, the City may pursue any one or more of the specific remedies for abatement of nuisances set forth in Delta Municipal Code Section 8.24.020. (Ord. 1, 2011)

8.34.030 Declaration and Confirmation of Nuisance. Any business in the City limits which conducts the cultivation, manufacture, harvest, sale, use or distribution of marijuana or

marijuana products in any form, other than as may be authorized for patients and primary care givers under Article XVIII, Section 14 of the Colorado Constitution, is hereby confirmed to be an ongoing nuisance in keeping with the letter and spirit of long-standing provisions of Section 8.24.010 of the Delta Municipal Code. (Ord. 1, 2011)

8.34.040 Definitions. As used in this Chapter 8.34, the following definitions shall apply:

A. The term "marijuana" or "useable form of marijuana" (sometimes spelled "marihuana" or referred to by the scientific name of "*cannabis sativa*") and the terms "medical use", "patient" and "primary care giver" shall have the same meaning as those terms are defined by said Article XVIII, Section 14(1) of the Colorado Constitution.

B. The terms "medical marijuana", "medical marijuana center", "medical marijuana infused product", "medical marijuana infused product manufacturer" and "optional premises cultivation operation" shall have the same meaning as those terms are defined by C.R.S. 12-43-101 *et seq.*, as supplemented by any regulations lawfully adopted by authority of said Colorado statutes.

C. The term "person" shall mean any natural person, partnership, association, company, corporation, limited liability company or other organization or entity, and shall include a manager, agent, owner, officer or an employee of such organization or entity.

D. The term "possess or possession" shall mean having physical control of a pertinent substance or product controlled by this Section, or control of the premises in which such substance or product is located or having the power and intent to control such substance or product, without regard to whether the one in possession has actual ownership of such substance or product. Possession may be held by more than one person at a time. Direct consumption or use of the pertinent substance or product is not required for purposes of determining its possession.

E. The term "produce or production" means (a) all phases of growth of marijuana from seed to harvest, (b) combining marijuana with any other substance for sale or distribution, including storage and packaging for resale, and (c) preparing, compounding, processing, and encapsulating, packaging, or re-packaging, labeling or re-labeling of any

marijuana or its derivatives whether alone or mixed with any amount of any other substance or product.

F. All other pertinent definitions provided in C.R.S. 12-43.3-101 *et seq.* shall apply verbatim to this Chapter 8.34 unless otherwise expressed or reasonably implied herein. (Ord. 1, 2011)

CHAPTER 8.36

CONTROL OF SMOKING

Sections:

- 8.36.010 Legislative Declaration.
- 8.36.020 Definitions.
- 8.36.030 General Smoking Restrictions.
- 8.36.040 Exceptions to Smoking
Restrictions.
- 8.36.050 Optional Prohibitions.
- 8.36.060 Unlawful Acts-Penalty-Disposition
of Fines and Surcharges.

8.36.010 Legislative Declaration. The City of Delta hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The City further finds and determines that a balance should be struck between the health and environmental concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort, and environment of the people of this City by limiting exposure to environmental tobacco smoke. (Ord. 13 §1, 2006; Ord. 2 §2, 2015)

8.36.020 Definitions. As used in this Chapter, unless the context otherwise requires:

(1) "Auditorium" means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

(2) "Bar" means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(3) "Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after

December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the one-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

(4) "Employee" means any person who:

(a) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(b) Provides uncompensated work or services to a business or nonprofit entity.

"Employee" includes every person described in this subsection (4), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(5) "Employer" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

(6) "Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted under Section 8.36.040. "Entryway" also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be fifteen feet.

(7) "Environmental tobacco smoke," "ETS," or "secondhand smoke" means the complex mixture formed from the gases, particles, and vapors released during the burning, heating, or vaporization of tobacco, nicotine, marijuana, or any other substance or product, also known as "sidestream smoke," and such gases, particles, and vapors exhaled by the smoker.

(8) "Food service establishment" means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

(9) "Indoor area" means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

(9.5) "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate.

(10) "Place of employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

(11) "Public building" means any building owned or operated by:

(a) The state, including the legislative, executive, and judicial branches of state government;

(b) Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or

(c) Any other separate corporate instrumentality or unit of state or local government.

(12) "Public meeting" means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law.

(13) "Smoke-free working area" means an indoor area in a place of employment where smoking is prohibited under this Chapter.

(14) "Smoke" or "Smoking" means the burning, heating, electrical ignition, or vaporization of a lighted cigarette, cigar, pipe, vaporizer or other electronic smoking device, or any other matter, or substance, or instrument that contains tobacco, nicotine, marijuana, or any other substance.

(15) "Tobacco" means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, vaporizer or other electronic smoking device, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

(16) "Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

(17) "Work area" means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. 13 §1, 2006; Ord. 2 §2, 2015)

8.36.030 General Smoking Restrictions.

A. Except as provided in Section 8.36.040, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

(a) Public meeting places;
(b) Elevators;
(c) Government-owned and or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

(d) Taxicabs and limousines;
(e) Grocery stores;
(f) Gymnasiums;
(g) Jury waiting and deliberation rooms;
(h) Courtrooms;
(i) Child day care facilities;
(j) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

(k) (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

(l) Food service establishments;
(m) Bars;
(n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;

(o) Indoor sports arenas;
(p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
(q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the rooms or units designated as sleeping quarters within a hotel or motel that are rented to guests;

(r) Bowling alleys;
(s) Billiard or pool halls;

(t) Facilities in which games of chance are conducted;

(u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

(v) Public buildings;

(w) Auditoria;

(x) Theaters;

(y) Museums;

(z) Libraries;

(aa) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and non-public schools;

(bb) Other educational and vocational institutions;

and

(cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (A).

B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian." (Ord. 13 §1, 2006)

8.36.040 Exceptions to Smoking Restrictions. This Chapter shall not apply to:

(1) Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if any private vehicle is being used for the public transportation of children or as part of health care or day care transportation.

(2) Limousines under private hire;

(3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent.

(4) Any retail tobacco business;

(5) A cigar-tobacco bar;

(6) An airport smoking concession;

(7) The outdoor area of any business;

(8) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;

(9) A private, non-residential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars. (Ord. 13 §1, 2006)

8.36.050 Optional Prohibitions.

A. The owner or manager of any place not specifically listed in Section 8.36.030, including a place otherwise exempted under Section 8.36.040, may post signs prohibiting smoking or providing smoking and non-smoking areas. Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

B. If the owner or manager of a place not specifically listed in Section 8.36.030, including a place otherwise exempted under Section 8.36.040, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 8.18.030(1)(k)(I), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section. (Ord. 13 §1, 2006)

8.36.060 Unlawful Acts - Penalty - Disposition of Fines and Surcharges.

A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Chapter to violate any provision of this Chapter.

B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.

C. A person who violates this Chapter 8.36, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars for a first violation within a calendar year, a fine not to exceed three hundred dollars for a second violation within a calendar year, and a fine not to exceed five hundred dollars for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. (Ord. 13 §1, 2006)

Chapter 8.38

Retail Marijuana Establishments Prohibited

Sections:

- 8.38.010 Definitions.
- 8.38.020 Retail Marijuana Establishments Prohibited.
- 8.38.030 Penalties.

8.38.010 Definitions

The terms used in this Chapter, unless the context otherwise requires, shall have the same meanings defined in the Colorado Retail Marijuana Code, Title 12, Article 43.4, Colorado Revised Statutes, as now existing or as hereafter amended by the state legislature.

8.38.020 Retail Marijuana Establishments Prohibited

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana establishment, including a retail marijuana store, marijuana cultivation facility, marijuana testing facility, or marijuana product manufacturing facility within the City limits, or within any area hereinafter annexed to the City, and also declares the same to be a public nuisance under Chapter 8.24.010 of the Delta Municipal Code.

8.38.030 Penalties

A. A violation of any provision of this Chapter shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than one (1) year, or by both such fine and imprisonment.

B. Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate offense.

C. The City is authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation; and

D. Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity. (Ord. 4, 2013)

Chapter 8.40

Disaster Emergency Regulations

Sections:

- 8.40.010 Definitions.
- 8.40.020 Procedures.
- 8.40.030 Disaster Emergency Response Powers.
- 8.40.040 Compensation.
- 8.40.050 Line of Succession.
- 8.40.060 Conflicting Ordinances, Orders, Rules and Regulations Suspended.
- 8.40.070 Violation of Regulations.
- 8.40.080 Penalty.
- 8.40.090 Applicability of State Law.

8.40.010 Definitions.

A. **Disaster Emergency:** An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or water contamination requiring action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the City.

B. **Emergency:** A serious situation or occurrence that happens unexpectedly and demands immediate action, or creates urgent need for action or assistance.

8.40.020 Procedures

A. Declaration of Disaster Emergency. The City Council shall have the power to declare through a resolution that a disaster emergency exists and resources for the emergency are at or beyond city capacity, or the threat of such event is imminent. If a quorum of the City Council cannot be formed, the Mayor shall have the authority to declare a disaster or emergency on a temporary basis until a quorum of Council can be seated.

B. Declaration in Writing. The resolution declaring a State of Disaster Emergency by the Council or Mayor shall be in writing and shall describe the nature of the emergency; the area

threatened, the conditions which have brought it about, and the conditions that would remedy it in the opinion of Council based on the available information. The City Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the City Clerk and forward a copy to the Colorado Division of Homeland Security and Emergency Management.

C. Effect of Declaration. The issuance of a declaration of a disaster emergency shall automatically empower the City Manager to exercise any and all of the emergency powers permitted by state and local law and as set forth in the resolution. The City Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the City Manager and evaluate and enact policies and other incident support as required. In case of a disaster emergency requiring immediate action of the City Council to protect public health, safety, or welfare, the City Council may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or other presiding officer finds feasible in circumstances, with full compliance with the Charter requirements relating to notice to be achieved as soon as possible thereafter. Nothing in this Chapter shall abridge or curtail the powers of the City Council to properly and adequately respond to the emergency. A declaration of disaster emergency may grant the City Manager the authority to access emergency reserves, including reserves maintained pursuant to Section 5 of Article XX of the Colorado Constitution, and to request assistance from the Colorado Division of Homeland Security and Emergency Management.

D. Duration. A state of disaster emergency shall remain in effect until the Council or City Manager declares that the threat of danger has passed or that the disaster emergency conditions no longer exist. Notwithstanding the forgoing, a state of disaster emergency shall not be continued or renewed for a period in excess of seven days unless the City Council expressly approves a longer duration. The City Council may by motion terminate the state of disaster emergency at any time. Upon continuation or termination of a state of disaster emergency, the City Manager shall immediately issue and publish a notice affecting the same. Any declaration continuing or terminating a state of disaster emergency shall be filed with the City Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security and Emergency Management.

8.40.030 Disaster Emergency Response Powers.

A. Upon the issuance of the declaration of disaster emergency and for as long as said declaration is in effect, the City Manager of this code shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.

B. During the course of a declared disaster emergency a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.

C. During the course of a declared disaster emergency, the City Manager may, on behalf of the city, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

D. During the course of a declaration disaster emergency, the City Manager may promulgate such regulations as the manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the City Council, shall be circulated to the public, and shall be disseminated to the news media. These regulations may include, but shall not be limited to powers granted by applicable state or local law. Specifically, during the course of any declared emergency, the City Manager may:

1. Suspend the provisions of this code that prescribe conduct of city business, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency.

2. Transfer, reassign or otherwise change the direction, personnel, or functions of city departments for the purpose of performing or facilitating emergency services.

3. Direct and compel evacuation of persons from any stricken or threatened area within the city if the City Manager deems the action necessary for the immediate preservation of life or property or other emergency mitigation, response, or recovery measures.

4. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.

5. Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein.

6. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles with the city.

7. Make provision for the availability and use of temporary emergency housing.

8. Waive all provisions for competitive bidding and direct the purchase agent to purchase necessary supplies in the open market at not more than commercial prices.

9. Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster response forces or to facilitate the mass movement of persons to or from critical areas within or without the city.

10. Declare a public curfew.

11. Close or regulate the business hours of any commercial establishment in the city when such closing or regulation is in the public interest.

12. Cause to be carried out such other reasonable measures or regulations as are necessary to preserve public peace, health, and safety.

E. During the course of a declared disaster emergency, the City Manager is authorized to exercise all powers permitted by the City Charter and state law to require emergency services of any city officer or employee and command the aid of as many citizens of the city as the manager deems necessary in the execution of the manager's duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for civil defense workers.

8.40.040 Compensation. Compensation for services or private property used by the city in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principals and procedures set forth in C.R.S. 24-32-2111 and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

8.40.050 Line of Succession.

A. If the Mayor is unable to perform the duties of the Mayor set forth in this Chapter, then the duties conferred upon the Mayor shall be performed in descending order, as follows: by the Mayor Pro-Tem, then by the City Council Member most senior in length of service, then by the City Council Member whose last name begins with a letter that is closest to the beginning of the alphabet.

B. The City Manager shall, at the start of each calendar year, publish and submit to City Council an order of succession of city officials who shall execute the duties and powers described in this Chapter for execution by the City Manager in the event that the City Manager is unavailable to manage a disaster emergency.

C. In any calendar year in which the City Manager fails to publish and submit such list to City Council, the line of succession of authority to manage a disaster emergency shall include those occupying the following positions (if applicable) in the following order:

1. The City Manager or Acting City Manager
2. The Deputy/Assistant City Manager
3. The last appointed Acting City Manager still employed with the City
4. The Community Development Director
5. The Director of Public Works
6. The Finance Director; or
7. The Chief of Police
8. In the event none of the above noted people are available to serve, the next highest ranking person within each of the various departments, in the line of succession as indicated above, shall serve.

D. However, the succession of authority provided in this section shall always be subject to the power of the City Council to determine, by appropriate motion, that any Council Member or staff member shall take responsibility for the management of a disaster emergency.

8.40.060. Conflicting Ordinance, Orders, Rules and Regulations Suspended. Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, orders, rules and regulations if a conflict arises during the state of disaster emergency.

8.40.070 Violation of Regulations. It shall be unlawful for any person to violate any of the provisions of this Chapter or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Chapter, or to willfully obstruct, hinder, or delay any person in the exercise of any duty or authority pursuant to the provisions of this chapter. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the City Manager

shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Chapter.

8.40.080 Penalty. Any person convicted of a violation of any section of this Chapter or any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine of up to \$1000.00 or by imprisonment of up to one year in jail or by both such fine and imprisonment.

8.40.090 Applicability of State Law. The Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Chapter to the extent applicable.

The State of Colorado Emergency Relief statute (C.R.S. 24.33.5-1102) allows the Governor to provide the distribution of medicine, food, and supplies.

The State of Colorado Grants to Individuals statute (C.R.S. 24-33.5-1106) authorizes the Governor to accept a grant from the federal government to provide financial assistance to an individual or family in a single major disaster declared by the President.