

Chapter 8.08 LITTER

Sections:

[8.08.010 Short title.](#)

[8.08.020 Definitions.](#)

[8.08.030 Littering prohibited.](#)

[8.08.040 Placement of litter in receptacles to prevent scattering.](#)

[8.08.050 Duty to keep public places free of litter.](#)

[8.08.060 Clearing of litter from private premises and adjacent public places by the city.](#)

[8.08.070 Litter thrown by persons in vehicles.](#)

[8.08.080 Placing commercial and noncommercial handbills on vehicles.](#)

[8.08.090 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.](#)

[8.08.100 Distributing handbills on posted property.](#)

[8.08.110 Distributing commercial and noncommercial handbills to inhabited private premises.](#)

[8.08.120 Posting notices prohibited.](#)

[8.08.130 Alternative procedure.](#)

8.08.010 Short title.

This chapter shall be known and may be cited as the "city of Colfax anti-litter law."

(Prior code § 5-9.01)

8.08.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Authorized private receptacle" means an approved refuse container as required and authorized by Chapter 8.20 of this title relating to garbage and rubbish.

"City" means the city of Colfax.

"Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature:

1. Which advertises for sale any merchandise, product, commodity or thing; or
2. Which directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
3. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefits and gain of any person so engaged as advertiser or distributor.

Title 8 - HEALTH AND SAFETY

Chapter 8.08 LITTER

"Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

"Litter" means garbage, refuse and rubbish as defined in this section and all other materials which, if thrown, deposited or allowed to accumulate as prohibited by this chapter, tend to create a danger to the public health, safety and welfare and which are not within a receptacle provided therefor.

"Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statutes or regulations and any newspaper filed and recorded with any recording officer as provided by general law and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

"Noncommercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet or any other printed or otherwise reproduced original or copy of any matter or literature not included in the definitions of a commercial handbill or newspaper as set forth in this section.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

"Private premises" means any private property, together with any structure thereon, whether inhabited or temporarily or continuously uninhabited or vacant, including the yard, grounds, walks, driveway, porch, steps, vestibule or entryway thereof and any off-street parking area.

"Public place" means any and all public streets, sidewalks, gutters, boulevards, alleys or other public rights-of-way and any and all public parks, squares, spaces, grounds and buildings.

"Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

"Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including, but not limited to, paper, wrappings, cardboard, tin cans, yard clippings, leaves, dirt (other than the natural soil in place), wood, glass, bedding, crockery, abandoned, dismantled or no longer used automobiles, junk, worthless and useless articles which are in such a state or such a quantity as to be unsightly against the general welfare, unhealthful, dangerous to persons or property or so as to interfere with the abatement of weeds and similar materials.

"Sidewalk" means the paved or unpaved, planted or unplanted, area maintained between the property line and the curb line or the edge of the surfaced roadway and shall include a driveway, curbing, bulkhead, retaining wall and other works for the protection of any sidewalk or parking located in any public street, way or thoroughfare within the city.

"Vehicle" means every device upon or by which any person shall or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Prior code § 5-9.02)

8.08.030 Littering prohibited.

No person shall throw, deposit or accumulate litter in or upon any public place or private premises, as defined in Section 8.08.020 of this chapter, within the city, except for collection or at a city dump or except while such person is temporarily engaged in clearing such public place or private premises of litter and improving such public place or private premises. No person shall deposit or cause to be deposited in any city-owned receptacle located in a public place the garbage or litter which was accumulated in the residence or place of business occupied by such person. (Amended during 2004 codification; prior code § 5-9.03)

Chapter 8.08 LITTER

8.08.040 Placement of litter in receptacles to prevent scattering.

Persons placing litter in authorized public or private receptacles shall do so in such a manner as to prevent the litter from being carried or deposited by the elements upon any public place or private premises.

(Prior code § 5-9.04)

8.08.050 Duty to keep public places free of litter.

Persons owning or occupying private premises within the city shall keep the public places abutting or adjacent to such premises free of litter, except while such person is temporarily engaged in clearing the public place or private premises. No person owning, occupying or controlling private premises shall sweep into or deposit in any public place within the city the accumulation of litter from any private premises or public place, except for the collection thereof when properly authorized by the city. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or flat or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalks in front of their business premises free of litter.

(Prior code § 5-9.05)

8.08.060 Clearing of litter from private premises and adjacent public places by the city.

- A. Notices to Remove. The city engineer and director of public works are authorized and empowered to notify the owner, his or her agent or person in control of any private premises within the city to dispose of litter on such premises or upon the public places abutting or adjacent to such premises. Such notice shall be given by posting private premises and by certified mail addressed to such owner, his or her agent or such other person at his or her last known address or by personal service on the owner, agent, person in control or occupant of such property.
- B. Contents of Notices. The notice shall describe the work to be done and shall state that if the work is not commenced within five days after the receipt of the notice and diligently prosecuted to completion without interruption, the director of public works shall dispose of the litter and the cost thereof shall be a lien on the property. The notice shall be substantially in the following form:

Notice to Remove Litter

The owner of the property described as follows:

commonly known as

is hereby ordered to properly dispose of the litter located on said property, to wit,

within five (5) days from the date hereof. If the disposal of the litter herein indicated is not commenced and diligently prosecuted to completion within the time fixed herein, the Director of Public Works of the City of Colfax shall cause such disposal to be done and the cost thereof,

Title 8 - HEALTH AND SAFETY

Chapter 8.08 LITTER

including any incidental expenses, will be made a lien upon the property pursuant to the provisions of Chapter 8.08 of the Colfax Municipal Code.

Estimated Cost of Disposal:

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Dated:;daterule;

- C. Director of Public Works to Keep Records. The director of public works shall cause to be kept in his or her office a permanent record containing:
1. A description of each parcel of property for which notice to dispose of litter has been given;
 2. The name of the owner, if known;
 3. The date on which such notice was mailed and posted;
 4. The charges incurred by the city in disposing of the litter and all incidental expenses in connection therewith; and
 5. A brief summary of the work performed.

Each such entry shall be made as soon as practicable after the completion of such work.

- D. Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of the litter within five days after notice has been given as provided in this section or within ten (10) days after the date of mailing such notice in the event the Post Office Department is unable to make delivery thereof provided the notice was properly addressed to the last known address of such owner or agent, the director of public works is authorized and empowered to pay for the disposal of such litter out of city funds or to order its disposal by city forces. The director of public works and his or her authorized representatives, including any contractor with whom he or she contracts for the work and the assistants, employees and agent of such contractor, are authorized to enter upon such property for the purpose of disposing of the litter described in the notice. Before the director of public works or contractor arrives, any property owner may dispose of the litter at his or her own expense.
- E. Charges to Owners. Where the city has effected the removal of such litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of seven percent per year after the date of the completion of the work, shall be charged to the owner of such property and the owner or his or her agent shall be billed therefor or by mail if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill will result in a lien.
- F. Recorded Statements Constitute Liens. Where the full amount due the city is not paid by such owner within thirty (30) days after the date of such billing by the director of public works, he or she shall cause to be recorded with the director of finance a sworn or certified statement showing the costs and expenses incurred for the work, the date the work was done and the location of the property on which such litter disposal work was done. The recordation of such sworn or certified statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such costs and expenses shall be subject to a delinquency penalty of ten (10) percent in the event they are not paid in full on or before the date the amount due becomes a lien. Sworn or certified statements recorded in accordance with the provisions of this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest and costs, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. The director of finance shall record such lien with the county recorder. The remedy provided in this section shall not constitute an election of remedies by the city.

Title 8 - HEALTH AND SAFETY

Chapter 8.08 LITTER

(Amended during 2004 codification; prior code § 5-9.06)

8.08.070 Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city or upon private property.

(Prior code § 5-9.07)

8.08.080 Placing commercial and noncommercial handbills on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, it is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(Prior code § 5-9.09)

8.08.090 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Prior code § 5-9.10)

8.08.100 Distributing handbills on posted property.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so or if there is placed on such premises, in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisements" or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed or have any such handbills left upon such premises.

(Prior code § 5-9.11)

8.08.110 Distributing commercial and noncommercial handbills to inhabited private premises.

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, in case of inhabited private premises which are not posted as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used when so prohibited by federal postal laws or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers (as defined in Section 8.08.020 of this chapter,) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Title 8 - HEALTH AND SAFETY

Chapter 8.08 LITTER

(Prior code § 5-9.12)

8.08.120 Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole, shade tree or upon any public structure or building, except as may be authorized or required by law.

(Prior code § 5-9.13)

8.08.130 Alternative procedure.

The procedures established by this chapter are alternative and cumulative to any other procedure allowed by law for the accomplishment of the objectives of this chapter.

(Prior code § 5-9.14)