

Questions from Council Member Speer

1. *How does regulating the types and height of weeds and brush protect public health, safety, and welfare?*

The city code provides the background for the regulation and reads as follows: 6-2-1, “Legislative Intent,” B.R.C. 1981, The purpose of this chapter is to protect the public health, safety, and welfare and preserve neighborhood environments by regulating the type and height of weeds and brush that are allowed in the city and to exempt certain areas of the city from the restrictions of this chapter, particularly mountain parks, streams and watercourses, open space, and stream rights of way, that should be allowed to remain in a natural-appearing state.

Code officers are trained to address unkept yards that create a hazard to the neighborhoods by collecting debris, harboring rodents, and creating a fire hazard in the dry months of the summer heat. Landscapes that are intentionally grown and kept as native, low water xeriscape, and/or as bee habitats are not subject to the requirements of this ordinance. Properties with a violation of the weed ordinance are issued a notice of violation (warning) with a time period to correct the violation. This time period to correct is based on conversations with the resident, the amount of work needed to correct the violation, and can be extended at a resident’s request should that become necessary.

2. *What is the definition of a weed?*

The city code provides a definition that reads as follows: 6-2-2, “Definitions,” B.R.C. 1981, (a) For purposes of this chapter, weeds means grass and herbaceous plants, but does not include plants in flower or vegetable gardens; small plots of wheat, barley, oats, or rye; and planned and maintained shrubs and woody plants.

Code officers also issue notices (warnings) for plants that are identified on the State of Colorado Noxious Weeds List A. These plants are regulated per state law as dangerous to people, livestock, and native habitats and must be eradicated from the property.

3. *What are the demographics of the residences currently receiving weed and trash violations (e.g., age, income, race, ethnicity, renter/homeowner)? How does this distribution compare to the city as a whole?*

We do not collect demographic information on property owners who receive weed and trash violations generally. An analysis done in 2022 looked at all weeds and trash related incidents, including the sections of the B.R.C. in proposed ordinance (6-2-3, 6-3-3, and 6-3-9, B.R.C. 1981), as well as additional weeds and trash-related issues not included in the proposed ordinance (e.g., 6-2-4, 6-3-4, 6-3-5, B.R.C. 1981). The analysis looked at incidents from October 2020 through September 2022 and found that 76% of those receiving weeds and trash notifications were for rental units and 24% consisted of owner-occupied units. The city is currently split at 49% owner occupied and 51% rental. This suggests that rental properties are overrepresented in the weeds and trash violations. A heat map of the data shows that incidents are concentrated in the University Hill and South Boulder neighborhoods.

Heat map of weeds, trash violations

October 2020 through September 2022

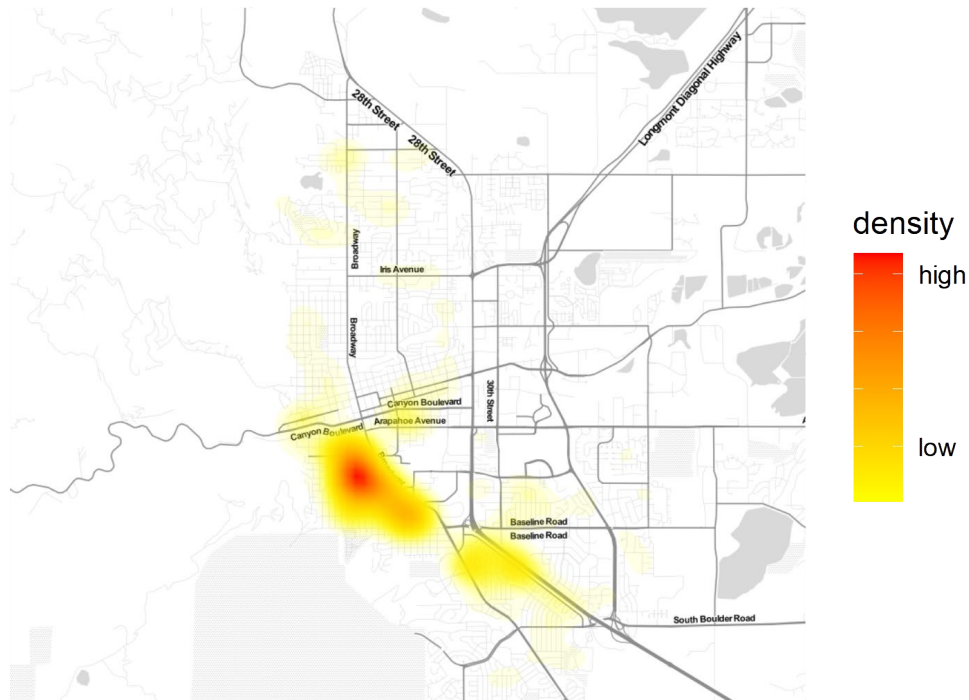


Figure 1. Heat map of weeds, trash violations. Data from October 2020 through September 2022

4. *If the demographics of those receiving violations do not match the demographics of the city as a whole, how many members of the working group that created this ordinance come from the groups that receive the most citations for weed and trash violations?*
We do not collect such demographic information from our staff members.
5. What proportion of people's income are the fines that are issued? If we do not know this information, how can we collect it to ensure that making it easier to issue \$100-\$500 violations does not have a disproportionate impact on lower-income residents?
We do not collect information on individual resident income. However, Boulder Municipal Court, whose main goal is compliance, has a process by which individuals receiving citations for any reason, not just violations of this proposed ordinance, may reduce fines depending on a variety of factors including financial hardship. Legally, we cannot require someone to share their income unless they are requesting a payment plan, reduction in fine, or alternative sentence such as community service. The Boulder Municipal Court strives to ensure that we are evaluating each case individually with the goal of compliance without undue financial hardship on an individual.
6. *What reasons do people give for violating the weed and trash ordinance?*
While anecdotal, some reasons for violating the ordinance that residents express to officers include:

Weeds and Trash – questions from council

- I didn't know that was a code violation.
- I am experiencing a health or age-related problem.
- I've been on vacation.
- My landlord should be taking care of that.
- My trash was rummaged through.
- I don't own a mower.

Code officers work with residents to connect them with resources to help eliminate barriers that they are experiencing. This work includes connections to city and county programs, volunteer groups that assist with their current situations, and extensions of time to make arrangements with resources to complete work before a citation would be issued.

7. *Why are the policies CUSG and BARHA requested to be codified not being codified (e.g., resetting cumulative violations every August)?*

Administrative or operational practices are generally addressed through the establishment of operating policies or protocols. As such, the current city code does not codify resetting cumulative violations every year for any existing escalating fine violation. However, internal procedures contained within BPD General Orders related to code enforcement require an officer to reset the fine escalation every year, so such practice is already codified within established operating rules. This practice has been in place for the bear resistant trash container requirement (6-3-12, B.R.C. 1981) since 2015 and has been very successful. Additionally, rules pertaining to other fee schedules are similarly not codified in ordinances and codifying a different process for one particular violation could impact the city's future ability to defend the use of escalating fees in other circumstances where such a process is not also codified.

Relatedly: What is the process for changing internal operating procedure documents... can internal policy documents be changed without council's awareness or approval?

City Council sets city policy through its legislative power (ordinances). The city manager and departments then carry out policies through operations. Administrative operating policies and procedures are routinely reviewed against best local and national practices, City of Boulder policies, and the specific needs to serve the Boulder community. When a change is suggested by staff, it is reviewed internally and can be approved, depending on the policy or procedure at question, by the individual department head or may require additional approval from HR, Finance, and/or the city manager. Some policies may also require additional review by the City Attorney's Office. Administrative policies and procedures are not subject to council approval.

8. *What non-punitive measures for weed and trash violations were/have been considered/tried?*

In accordance with existing ordinances, code officers issue a notice (warning) with a period to correct the violation. Officers will also offer a variety of resources to a resident should they identify a need for assistance to comply due to health, age, or finances. Citations would be issued if the resident did not correct the violation after the notice period and all extensions have expired.

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The Code Enforcement Unit has planned and participated in numerous educational events, pilot programs, and noxious weed roundups over the years. Code enforcement partners with several city departments, outside agencies, and CU to collaborate on finding solutions to issues that impact our city neighborhoods and environment. The current Hill Revitalization Working Group is actively looking for incentive-based solutions and increased educational/awareness tools to increase compliance related to this area.

9. *Is the number of violations expected to go up, down, or stay the same with this ordinance change?*

Our hope is that the number of violations will reduce because of this effort and staff will be tracking such impacts. While the substantive requirements of the proposed ordinances are not changing, there may be an initial increase of violations if individuals do not comply with the notice (warning) as this proposed ordinance change will make serving non-compliant individuals with a civil citation easier and more efficient. However, the goal with this change would be to increase voluntary compliance prior to the issuance of any civil citation, and the data seen in this work related to bear-resistant containers seems to suggest we should see a decrease in weeds and trash violations.

10. *Is the amount of money collected in fines expected to go up, down, or stay the same with this ordinance change?*

Voluntary compliance with city codes is the goal of all enforcement actions taken by the city. Fines collected for non-compliance may see a slight initial increase as a result of more accountability with problem properties because the proposed ordinance will implement a more efficient process for this last step of enforcement, however, as mentioned above, staff also hopes that the proposed ordinance changes will increase compliance efforts and as such, fines for weeds and trash violations should decrease in equal measure.

11. *If multiple violations are found at a property, is a fine imposed on each violation?*

Yes, provided that each violation is different. For example, trash at multiple locations on the property would not constitute separate violations, but there could be a violation cited for trash and a second violation cited for weeds. The citation issued will indicate which code has been violated. Each violation has its own assessed fine by violation type, as regulated by individual ordinances.

12. *How many people exercise their right to a hearing to dispute charges? Do the demographics of the people who dispute their charges differ from those who do not dispute their charges?*

We do not collect data responsive to this request.

Questions from Council Member Friend

1. *What is the rationale for not including the requirement of resetting the fines each year into the ordinance?*

Please see response in No. 8 above.

2. *The Code Enforcement Unit has started emailing (when an email address is available) all documents generated for case files as of February 1. Would it be possible to digest any lessons (from notices being sent by email) that may be learned from that change before we codify?*

Staff does not believe they will have sufficient data by which to properly evaluate the impacts of the recently enacted email notification process change by the time we will be before City Council to discuss the proposed ordinance on February 16. Anecdotally, code enforcement notes that the similar change to a civil process related to bear resistant trash containers has indeed resulted in a reduction of violations across the city.