

Mayor Chris Grenz,

As per your request from yesterday afternoon. This section lays out two parallel enforcement tracks for public nuisance violations that are simple step by step according to the City of Miles City Codes: Criminal prosecution in city court and a civil process through the city council. Here is a clear breakdown of how it functions operationally. Please remember "Criminal prosecution" going through City Court is the best practice, this insures due process is followed according to the 14<sup>th</sup> Amendment of the United States Constitution and we have less of a chance of infringing on ones rights, therefore a lot less chance of a lawsuit.

#### **Enforcement options**

- Default path: criminal prosecution in city court (misdemeanor).
- Alternative path: civil enforcement before the city council, chosen by the investigating officer or the mayor.

#### **Criminal enforcement process (city court)**

- Emergency situations:
  - Officer may immediately issue a citation.
  - Officer can take direct action to abate the nuisance.
  - Officer may enlist city staff for assistance.
- Non-emergency situations:
  - Written notice is issued to owner and/or occupant.
  - Up to 10 days is given to correct the issue.
  - Re-inspection occurs after the deadline.
  - If not corrected:
    - Citation is issued, and/or
    - Officer may abate the nuisance, or
    - Matter may be referred to city council.
- Notice requirements:
  - Methods: personal service, certified mail, or posting on property.
  - Owners (if different from occupant) must be notified by certified mail using tax records.

- Lack of owner notice does not stop enforcement against occupant, but prevents cost assessment to property taxes.
- Penalties:
  - Misdemeanor offense.
  - Fine up to \$500 and/or up to 6 months jail.
  - Court may order abatement.
  - Abatement costs can be assessed as a special assessment against the property.

#### **Civil enforcement process (city council)**

- Follows same initial notice requirements as criminal process.
- Officer requests a council hearing after notice.
- Hearing procedure:
  - City clerk schedules and notifies parties by certified mail.
  - Council hears testimony from city staff and interested parties.
- Council authority:
  - Can declare a nuisance by resolution.
  - Orders owner to:
    - Start abatement within 10 days.
    - Complete abatement within 30 days.
- If owner fails to act:
  - City performs abatement.
  - Costs become a lien/special assessment on the property.
- Financial enforcement:
  - Council approves assessment by resolution.
  - Sent to county treasurer for collection.
- Limitations:
  - Council cannot impose fines or jail time.

#### **Practical example**

If a property has accumulated junk vehicles:

- If deemed non-emergency: the officer issues a 10-day notice.

- If ignored:
  - Criminal path: citation filed in city court; court may fine the owner and order cleanup.
  - Civil path: hearing scheduled; council orders cleanup; if ignored, city removes items from property and bills the property via special assessment.

This structure gives flexibility: criminal enforcement emphasizes penalties and deterrence, while the civil route focuses on compliance and cost recovery tied to the property.

Here is a simple step-by-step process you can use for a city court order after a nuisance citation is issued:

1. The citation is filed in city court.
2. The judge reviews the case and issues a written order.
3. The order should clearly state that the property owner must begin cleanup by a specific date and must complete cleanup by a specific deadline.
4. The order should identify exactly what must be removed, repaired, or abated.
5. The order should state who is responsible for each part of the cleanup, usually the property owner, unless the court specifically assigns another party.
6. If the owner does not meet the deadline, the order should say that the city and or contractor is authorized to enter the property and complete the cleanup.
7. The order should also state that all city costs, including labor, equipment, disposal, and administrative costs, will be assessed against the property as allowed by law.
8. The order should specify which city department or official will oversee the cleanup, commonly the public works director designated by city code.
9. The order should direct the public works director to provide notice and coordinate follow-up.
10. The order should state that failure to comply may result in additional enforcement action.

A clean way to phrase it in the order is:

- “The property owner shall commence abatement no later than [date] and shall complete abatement no later than [date].”
- “If the property owner fails to comply, the City and or designated contractor is authorized to enter the property and abate the nuisance.”
- “All costs incurred by the City in abating the nuisance shall be assessed against the property as permitted by law.”
- “The Public Works Director shall supervise or coordinate the City’s abatement efforts.”

#### **Simple step-by-step version**

1. The city court issues a written order after the citation is filed.

2. The order must clearly state what condition must be corrected and what cleanup is required.
3. The order must give the property owner a specific start date and completion deadline.
4. The order should state that the property owner is responsible for doing the cleanup.
5. The order should also state that if the owner does not comply by the deadline, the city shall perform the cleanup itself or hire a designated contractor to do the work.
6. The order should name the city official responsible for overseeing the cleanup, this is the public works director designated by city code.
7. The order should state that all cleanup costs, including labor, equipment, disposal, contractor charges, and administrative costs, will be charged to the property.
8. The order should direct that those costs be certified to the city treasurer.
9. The city treasurer should then take the proper steps to place the costs on the property tax roll as a special assessment, special fee, or other lawful charge.
10. The order should also state that the city may collect the amount in the same manner as other property taxes, if permitted by law.

#### **Formal ordinance-style version**

##### **Court Order Language:**

The Court hereby orders that the property owner shall commence abatement of the nuisance no later than [date] and shall fully complete abatement no later than [date]. The property owner shall remove, repair, demolish, dispose of, or otherwise correct the conditions found to constitute the nuisance.

If the property owner fails to commence or complete abatement within the time ordered, the City is authorized to enter upon the property and abate the nuisance by use of City employees, equipment, or a designated contractor retained by the City.

The Public Works Director, Code Enforcement Officer, or other designated City official shall supervise, coordinate, and document the abatement process, including inspection, cleanup, disposal, and completion of the work.

All costs incurred by the City in abating the nuisance, including but not limited to labor, equipment, materials, disposal fees, contractor expenses, administrative expenses, and any related costs, shall be assessed against the property as permitted by law.

Upon completion of the abatement, the Public Works Director shall submit a written certification of the total costs to the City Treasurer. The City Treasurer shall take all lawful steps necessary to place the amount on the property tax roll as a special assessment, special fee, or other authorized charge against the property, and to collect the same in the manner provided by law.

##### **Suggested court-order wording**

You could also use language like this:

- “The property owner shall begin cleanup no later than [date] and shall complete all required abatement no later than [date].”
- “If the property owner fails to comply, the City may abate the nuisance by use of City personnel or by hiring a contractor.”
- “The Public Works Director shall supervise the abatement and document all costs incurred.”
- “All costs of abatement shall be certified to the City Treasurer.”
- “The City Treasurer shall place the certified amount upon the property tax roll as a special assessment or special charge against the property, subject to collection in the same manner as other lawful property tax charges.”

**Cleaner polished version**

When a citation is filed in city court, the judge’s order should clearly tell the property owner what must be cleaned up and by what date. The order should state that if the owner does not complete the cleanup on time, the city shall perform the work itself or hire a contractor to do it. The order should also name the Public Works Director for overseeing the cleanup and require that all costs be documented.

After the cleanup is completed by the city or a contractor, the Public Works Director should certify the total cost to the city treasurer. The city treasurer should then take the proper legal steps to add the amount to the property tax rolls as a special assessment or special fee, so the cost can be collected against the property.

Again, if I can be of more assistance feel free to contact me and we can go over whatever you need.

**Mark Winkley**  
**Animal Control/Code Enforcement**  
**Reserve Police Officer**  
**Miles City, MT 59301**  
**406-234-6273**