

ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA, STATE OF COLORADO.

ORDINANCE NO. ____

AN ORDINANCE PROHIBITING THE ACCUMULATION OF RUBBISH

WHEREAS, the Board of County Commissioners of Mesa County, Colorado (the "Board"), pursuant to section 30-15-401, C.R.S., has the authority to adopt ordinances for the control of those matters of purely local concern, including compelling and, to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 30-15-401(a)(I)(A), C.R.S. authorizes the adoption of ordinances and regulations to compel the removal of rubbish, including trash, junk and garbage, within Mesa County; and

WHEREAS, the Board adopted the Mesa County Land Development (the "Code") in 2020. The Code, as amended, prohibits items of junk being in ordinary view; and

WHEREAS, this Ordinance, in conjunction with the Code, creates a clearer process for the County to legally abate properties with junk on them; and

WHEREAS, Mesa County is experiencing large numbers of property owners in unincorporated Mesa County who are storing junk and rubbish on their properties to the detriment of the health and safety of their neighbors; and

WHEREAS, it is the opinion of the Board that the adoption of this Ordinance is necessary to preserve the public health, safety and welfare of the citizens of Mesa County; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Mesa County, Colorado that this Ordinance No. ____ is adopted to prohibit the accumulation of rubbish in Mesa County.

Section 1: General Provisions

- 1.1 Purpose. The purpose of this Ordinance is to protect the public, health, safety, and welfare of the citizens and residents of Mesa County, Colorado, by eliminating and controlling, to the extent possible, the accumulation of rubbish within the County, which, if not eliminated or controlled, can result in visual blight, "attractive nuisances", incompatibility with existing land uses, hazardous or toxic substances being deposited in unapproved sites, attraction of disease-infested rodents and other vermin, fire and other hazards, and air, noise, and water pollution.
- 1.2 Authority and Effect. This Ordinance is authorized pursuant to, inter alia, C.R.S. §§30-11-101 et seq., 30-15-401 et seq., and 29-20-101 et seq. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by the County pursuant to previous regulations, provided that the violation is also a violation of this Ordinance.
- 1.3 This Ordinance is to work in conjunction with the Code, as amended.

- 1.4 Mesa County Resolution 2005-017 is repealed and replaced in whole by this Ordinance.
- 1.5 Effective Date. This Ordinance takes effect and is in force from and after its adoption by the Board of County Commissioners and 30 days after the second publication.
- 1.6 Applicability.
 - 1.6.1 This Ordinance shall apply throughout the unincorporated area of Mesa County.
 - 1.6.2 This Ordinance shall not apply to industrial tracts of ten (10) or more acres.
 - 1.6.3 This Ordinance shall not apply to agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6) C.R.S.
- 1.7 Severability. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
- 1.8 Conflicting provisions. Where any provision of this Ordinance conflicts with any other provision of this Ordinance, or any other law or ordinance, the more stringent requirement, regulation, restriction or limitation shall apply.
- 1.9 Safety clause. The Board of County Commissioners hereby finds, determines, and declares that adoption of this Ordinance is necessary for the preservation and protection of the public health, safety, and welfare of the inhabitants of Mesa County, Colorado.

Section 2: Definitions.

- 2.1 Agricultural Land. Any parcel of land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6) C.R.S.
- 2.2 Board. The Board of County Commissioners of Mesa County, Colorado.
- 2.3 Code Compliance Officer. Member(s) of Mesa County Code Compliance Services designated by this Ordinance to issue notice of violations to enforce this Ordinance pursuant to section 30-15-402.5 C.R.S.
- 2.4 County. The unincorporated areas of Mesa County, including public and state lands.
- 2.5 Director. The Community Development Director for the Mesa County Community Development Division.
- 2.6 Industrial Tract. A lot, parcel, or tract of land currently zoned for industrial uses or otherwise authorized by variance or nonconforming use status to operate activities ordinarily restricted to industrial zone districts.
- 2.7 Junk Vehicle. Any vehicle which is inoperable, which is wholly or partially dismantled, or which does not bear current license plates and registration, unless such vehicle would under no

circumstances be licensable under Colorado statutes or is used as a historical display. For purposes of this Ordinance, the definition of “vehicle” means a device that is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks and includes but is not limited to: an automobile, a motor vehicle, a noncommercial or recreational vehicle, an off-highway vehicle, a truck, a farm tractor, a snowmobile, a lawn mower, and any trailer or camper designed to be drawn by or carried upon a motor vehicle, all as defined in section 42-1-102, C.R.S.

- 2.8 Owner. The owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any agent or representative of the owner of record including any lessee, occupant, manager or person in control of the premises or property.
- 2.9 Rubbish. Any trash, junk, garbage, litter, refuse, debris, lawn or garden waste (yard clippings, branches, and leaves), newspapers, magazines, glass, metal, plastic or paper containers or packaging, remnant construction or demolition materials, unused or unusable building materials, vehicle parts, junk vehicle(s), abandoned or junk equipment, used appliances or furniture, oil, carcasses of dead animals, any object likely to injure any person or create a traffic hazard, rejected or unused matter, organic or inorganic refuse, rejected or waste food, offal, swill, ash, manure, sawdust, or any other object which has been discarded or abandoned and outside storage of used or waste tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of Article 20 of Title 30, C.R.S., and any rules and regulations promulgated thereunder).
- 2.10 Unused Building Materials. Any building materials which remain on property for more than thirty (30) days after: (1) the expiration of any required building permit, or (2) the completion, suspension, or abandonment of work on the building project.

Section 3: Standards

- 3.1 Accumulation of rubbish is unlawful. It is unlawful for any owner, occupant, person in control, or manager of any property to cause, allow or permit the accumulation of rubbish on any lot, parcel, or tract of land in the County under such owner’s control, possession, or ownership.
- 3.2 Storage of garbage and refuse. Any owner, occupant, person in control, or manager of any property must keep and store garbage, rejected or waste food, and refuse in tightly closed containers that will prevent easy entry by animals to avoid the dispersal of such garbage, rejected or waste food, and refuse by animals, wind, or any other means.
- 3.3 Removal of rubbish. Any owner, occupant, person in control, or manager of any property must remove, or cause to be removed, from property, all accumulated rubbish not less than once each week. Business establishments that deal in food or any other product that results in the accumulation of rubbish on the premises must remove such rubbish, rejected or waste food, or cause it to be removed, from the premises not less than twice per week, timed so that rubbish cannot accumulate on the premises for longer than three and one-half days.
- 3.4 Disposal of rubbish. Rubbish must be disposed of only by depositing the same in or at an approved disposal site. Papers, and other combustibles, but excluding wet rubbish, may be burned in incinerators in conformity with the regulations of the State Department of Health and

Mesa County. The use of county trash receptacles on streets, in parks and at public buildings for disposal of rubbish is also prohibited. Law enforcement officials may open and inspect any such rubbish, for the purpose of identifying the owner or originator thereof.

- 3.5 Transport of rubbish. Rubbish shall be transported upon the streets of this County only when in an enclosed vehicle, or when properly covered and contained in a manner that will effectively prevent litter, dispersal, dissemination of odor and the attraction of insects.
- 3.6 Accumulation of manure. Other than as a fertilizer applied to lawns or gardens, manure shall not be accumulated or kept on any property for any purpose, but shall either be plowed under or removed by the owner, occupant or agent, not less frequently than once monthly from the first day of May to the first day of November, and not less than once every 2 months from the first day of November to the first day of May. This Section shall not apply to manure generated on the property that is zoned Agricultural and is currently in agricultural use.
- 3.7 It is unlawful and a violation of this Ordinance for any owner, occupant, person in control, or manager of any property to fail to meet the standards as outlined in this section 3 of this Ordinance.

Section 4 – Investigation, Notice of Violation

- 4.1 Notice to Cure. If probable cause exists to believe that a violation of this Ordinance has occurred, the County, by its Code Compliance Officer(s) or other authorized representative, shall give written notice to cure of this Ordinance to the violator that describes the nature and date of the violation and an order to correct such violation within thirty (30) calendar days of the date of such notice and such notice may be provided by a standard form issued by the Code Compliance Officer.
 - 4.1.1 The notice to comply may require that the violation be corrected within a period of time less than thirty (30) calendar days if the Code Compliance Officer determines, in his or her sole discretion, that the violation presents an immediate risk to the public health, safety, or welfare.
- 4.2 Notice of Violation and Order. If the time, as outlined in the notice to cure, has expired and the Code Compliance Officer continues to have probable cause that a violation of this Ordinance has occurred, the County, by its Code Compliance Officer(s) or other authorized representative, shall give written notice of violation of this Ordinance to the violator that describes the nature and date of the violation and an order to correct such violation within thirty (30) calendar days of the date of such notice and such notice may be provided by a standard form issued by the Code Compliance Officer.
 - 4.2.1 The notice and order may require that the violation be corrected within a period of time less than thirty (30) calendar days if the Code Compliance Officer determines, in his or her sole discretion, that the violation presents an immediate risk to the public health, safety, or welfare.
 - 4.2.2 An additional notice is not required for any subsequent violation of the same provision of this Ordinance.

4.2.3 A notice of violation may be personally served by the Code Compliance Officer or sent via first class mail to the owner's mailing address as listed in the records of the Mesa County Assessor's Office and to the mailing address of the property in question, if one exists.

4.3 Administrative Inspection Warrant. If a Code Compliance Officer has probable cause to believe that a violation of this Ordinance has occurred, the county may apply for an administrative inspection warrant for the purposes of inspecting the property. The Code Compliance Officer may make application to either the County or District Court. The application shall include this Ordinance and a sworn or affirmed affidavit stating the factual basis of why the Code Compliance Officer(s) has probable cause to believe there is a violation of this Ordinance, a general description of the location of the property, and a general description of the area of the property to be inspected. Within 10 days following the date of issuance of an administrative entry and seizure warrant, such warrant shall be executed during normal business hours and in accordance with direction by the issuing court, a copy of the warrant shall be provided or mailed to the property owner, and proof of the execution of the warrant shall be filed with the Court. Execution of the warrant shall be within fourteen (14) days of the issuance of the warrant.

Section 5 – Enforcement

5.1 If a violation of this Ordinance still exists after a notice to cure and notice of violation has been issued, the Code Compliance Officers may refer violations of this Ordinance to the County Attorney's Office for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation.

Section 6 – Abatement of accumulated rubbish by entry and seizure warrant.

6.1 Upon a finding of a Court of jurisdiction of either a violation of the Code or of this Ordinance, the County may seek the use of an administrative warrant as described in this section.

6.2 Administrative entry and seizure warrant. If a property owner does not remove the rubbish in accordance with the notice and order of the County, the County may apply for an administrative entry and seizure warrant for removal of such rubbish to be issued by the county or district court having jurisdiction over the property. The application shall include this Ordinance and a sworn or affirmed affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish in accordance with the notice and order, a general description of the location of the property, a general list of any rubbish to be removed, and the proposed disposal or temporary impoundment of such rubbish, whichever the court deems appropriate. Within 10 days following the date of issuance of an administrative entry and seizure warrant, such warrant shall be executed in accordance with direction by the issuing court, a copy of the warrant shall be provided or mailed to the property owner, and proof of the execution of the warrant, including a written inventory of any property impounded by the executing authority, shall be submitted to the court by the executing authority.

6.3 Assessment of Costs of Removal of Rubbish by County. After obtaining an administrative entry and seizure warrant, the County may remove, or contract for the removal of, such rubbish and

assess the reasonable costs thereof, including, without limitation, five percent (5%) for inspection and other incidental costs in connection therewith, upon the lots and tracts from which such rubbish has been removed. The assessment shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within thirty (30) days, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent (10%) penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this State for the assessment and collection of general taxes, including laws for sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this section.

Section 7: Publication and Effective Date.

The foregoing text is the authentic text of Mesa County Ordinance No. ____ The first reading of said Ordinance took place on April _____, 2023 at a regular Board of County Commissioners Meeting. It was published in full in the Grand Junction Daily Sentinel on April _____, 2023. The Ordinance was adopted on second reading at a regular Board of County Commissioners Meeting on _____, 2023 and shall take effect 30 days after final publication.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS this __ day of _____, 2023.

Janet Rowland, Chair
Board of County Commissioners of Mesa County, Colorado

ATTEST:

Bobbie Gross, Mesa County Clerk and Recorder