

ORDINANCE NUMBER 232

AN ORDINANCE CONCERNING NUISANCES AND PROVIDING FOR PENALTIES FOR VIOLATIONS.

WHEREAS, the Board of Trustees has determined that it is necessary, in order to protect the health and welfare of the citizens of the Town of Hugo, that certain nuisances be defined and made illegal, and

WHEREAS, the Board of Trustees has determined that, in the interest of justice, a method of enforcement, which includes notice and penalties, should be established.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUGO, COLORADO:

Section 1. Prohibited Generally. No person being the owner, agent or occupant or having under his or her control any building, lot or premise or unimproved real estate within the Town of Hugo shall maintain or allow any nuisance to be or remain therein.

Section 2. Definitions.

- a. *Hazard to health or safety* includes any activity so recognized by the United States, the State of Colorado or the ordinances of the Town of Hugo. Such hazard to health or safety shall constitute a nuisance.
- b. *Nuisance* means any substance, act, condition or use of property declared a nuisance by this ordinance or declared a nuisance by the State of Colorado or by any court or agency thereof, or known as a nuisance at common law or which is of such nature and duration as to substantially annoy, injure or damage the comfort, health, repose or safety of the public.
- c. *Person* as used in this ordinance means a natural person, corporation, limited liability company, business trust estate, partnership, association, joint stock company, joint venture, two (2) or more persons having a joint or common interest, any other legal or commercial entity, or a receiver, executor, trustee, conservator, personal representative, or any other representative appointed by order of any court.
- d. *Vacant building* is any unoccupied building that is or has become dangerous, or otherwise is deemed to be hazardous to the public health and safety. A vacant building may serve as a breeding ground for flies, mosquitoes, rats and other disease-bearing insects, rodent and small animals; may contain broken glass or sharp metal or wood protrusions; may be a ready source of fire and explosion; and may encourage pilfering and theft constituting a blighting influence upon the area in which it is located, and such vacant building shall constitute a nuisance. All broken windows and non-secured doors that allow access to a vacant building shall be secured by the owner or agent within seventy-two (72) hours after notice is given by the Town.
- e. *Junk or trash* is any accumulation of refuse, garbage or other waste or discarded material, or other matter commonly referred to as "rubbish", including but not limited to discarded building and construction materials. Such junk or trash shall constitute a nuisance unless properly permitted by Town zoning regulations.
- f. *Weeds* are any vegetation of little or no value and not used for ornamental or agricultural purposes. No owner, occupant or manager of any real property shall allow or permit weeds to grow or accumulate on any property located in the Town of Hugo (except undeveloped parcels one acre in size or larger) to a height in excess of twelve (12) inches above ground level. Such weeds shall constitute a nuisance.

Section 3. Authority.

- a. *Declaration of a nuisance.* Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 2 above may be so declared by the Town, and nothing contained elsewhere within this ordinance shall be construed to limit the power of the Town to make such declaration.
- b. *Filing a complaint.* Any resident of the Town may file with the Town Manager or his or her designee a direct, written complaint against any person alleged to be in violation of any provision of this ordinance.

Section 4. Notice and Abatement.

- a. *Notice to abate.* It shall be the duty of the Town to cause notice to be served upon the person responsible for any nuisance, whether declared by the Town or by direct, written complaint, requiring said person to abate the same in a reasonable time and in such reasonable manner as prescribed, and such notice may be given or served by any officer directed or deputized to give or make the same. In causing notices to be served, the Town may authorize the Town Marshal, other Town officials, inspectors, or any other appropriate Town employee, to issue notice of abatement. The reasonable time for abatement shall not exceed fourteen (14) days, unless it appears from the facts and circumstances that compliance could not reasonably be made with fourteen (14) days or that a good-faith attempt at compliance is being made, except, such time for abatement may be as brief as necessary to protect the public health and safety. Such notice shall be in writing, signed by the official issuing the same, and shall be personally served upon the owner or occupant of the premises upon which said nuisance exists, or, if not occupied, then by posting of the same prominently at some place on the premises upon which said nuisance exists. If service is by posting as aforesaid, then a copy of said notice shall also be mailed by certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of Lincoln County, Colorado, at the address of such owner therein shown. The Town may exercise its authority to issue one abatement notice per violation per calendar year, to allow the person responsible for any nuisance to come into compliance. However, the second alleged violation of this ordinance within any calendar year will result in a mandatory summons to the Hugo Municipal Court being served on the person responsible for the alleged nuisance.
- b. *Abatement and costs.* If the person notified in accordance with Section 4.a of this ordinance shall neglect or refuse to comply with the requirements of this notice to abate the nuisance within the time specified, or shall fail to maintain compliance by allowing a nuisance or nuisances to exist on their property within the next twelve (12) months following notification of a prior nuisance, such person shall be served a summon to appear in the Hugo Municipal Court to defend such neglect or refusal to comply. If such person is found to be guilty in the Municipal Court of a violation of this ordinance, the Town, in its discretion, or by order of the Municipal Court, may enter upon the premises and engage the necessary assistance and incur the necessary expenses to accomplish the abatement. Such parties shall proceed with due care and without any unnecessary destruction of property, and with proper respect for the occupant's constitutional rights. All costs of abatement shall be the responsibility of the owner of the property and/or the person responsible for the nuisance, and such costs and expenses may be collected by the Town in any action at law, including reasonable attorney's fees in the prosecution and collection thereof. All costs of abatement shall be delivered in writing by the Town to the person responsible for the nuisance, and such statement shall describe the date of the work and nature of the work performed, together with a ten-percent (10%) assessment for inspection and other incidental costs incurred by the Town in connection therewith, along with reimbursement to the Town of legal costs incurred in enforcement of this ordinance. Such statement shall require payment within thirty (30) days of the statement date, and if not timely paid, shall accrue interest on the unpaid balance thereof at twelve percent (12%) per year. Each assessment and statement shall be a lien against each parcel of land where the nuisance existed until paid, and shall have priority over other liens except general taxes and prior assessments.
- c. *Certification to County Treasurer.* In the event the assessment of the abatement of the nuisance is not paid within thirty (30) days of the final billing by the Town, or such deadline as may be established by the Hugo Municipal Court, whichever the case may be, the Town, through the Town Manager or Town Attorney, may certify the sum owed to the Lincoln County Treasurer, who shall collect the assessment, together with a ten (10) percent penalty for cost of collection, and all other costs as set forth in this Section 4, in the same manner as other taxes on real property are collected.

Section 5. Fines and Penalties. In addition to the costs of abatement, a fine of not less than twenty-five dollars (\$25.00) or a maximum assessed by the Hugo Municipal Court per day shall be assessed for any violation of this ordinance not abated within the time period provided in the notice to abate.

Section 6. Severability. If any one or more sections of parts of this ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this ordinance, it being the intention that the various provisions hereof are severable.

Section 7. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, of the Town of Hugo that is inconsistent or in conflict with this ordinance is hereby repealed to the extent only of such inconsistency or conflict. Town of Hugo Ordinance Number 218 is repealed in its entirety upon adoption of this ordinance.

Section 8. Recording and Authentication. Following adoption, this ordinance shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in the Town of Hugo book of ordinances.

Section 9. Effective Date. This ordinance shall take effect thirty (30) days after publication as required by law.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this Ninth day of January, 2012.

/s/ Patsie E. Smith
Patsie E. Smith; MAYOR

ATTEST:

/s/ Garald L. Ensign
Garald L. Ensign; TOWN CLERK