

ORDINANCE NUMBER 254

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:
 1. Substantially annoy, injure or damage the comfort, health, repose or safety of the public;
 2. In any way render the public insecure in life or in the use of property;
 3. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, or other public way.
- 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.

Section 3. Policy.

It is the policy of the town pursuant to Section 31-15-401 of the Colorado Revised Statutes, as amended, that every public nuisance shall be restrained, prevented, abated, and perpetually enjoined. It is the duty of the town attorney or enforcement officer of the town to bring and maintain an action, pursuant to the provisions of this chapter, to restrain, prevent, abate, and perpetually enjoin any such public nuisance. Nothing contained in this chapter shall be construed as an amendment or repeal of any other of the criminal laws of this state, but the provisions of this ordinance, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws. Further, it is not the policy or purpose of this chapter to repeal or preempt any zoning ordinance or other ordinances of this town which regulates the use of property and all other ordinances shall be construed along with this chapter and read together with this ordinance.

Section 4. Nuisances ----- Defined and Declared

a. Vacant Buildings

Any Vacant Building within the Town of Hugo shall be secured, by the owner or agent within seventy-two (72) hours after notice is given by the Town, all broken windows and non-secured doors that allow access to a vacant building.

b. Refuse, Waste and Junk.

1. Refuse, waste matter and junk, which by reason of its location and character, is dangerous to public health, safety or welfare, unsightly or interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises. Refuse, waste and junk include but are not limited to rubbish, refuse, debris, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, crates, cartons, containers, boxes, inoperable machinery or parts thereof, scrap metal and other pieces of metal whether ferrous or non-ferrous, dead plants and trees, trimmings from plants and trees, cans, bottles, barrels, bones, rags, used rubber or used rope.

2. Junk shall also be defined as any material or object used or new, which is not presently usable, including, but not limited to: scrap metals and their alloys, bones, rags, cloth, rubber pieces, rope, tinfoil, bottles, tools, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, automobile or airplane tires, machinery and appliances. Objects or material shall be considered junk if they are so worn, deteriorated or obsolete as to make them unusable in their existing condition. If they are not capable of being used in their present location on the property, or if they cannot legally be used due to the absence of legal prerequisites to use.

3. Keeping of Junk Restricted. It shall be unlawful for any person to store or keep or allow to be stored or kept any articles or materials which may be classified as junk according to the definition contained in this chapter, adjacent to or in close proximity to any schoolhouse, church, public park, residence or in a zoning district prohibiting outdoor storage or processing of junk unless such junk is kept in proper and tight buildings or fencing. A building shall be considered proper for the storage of junk if, it meets all town requirements for buildings or fencing, and it effectively shields its contents from the view of the public. Junk stored or kept in violation of this section is declared to be a public nuisance and may be abated pursuant to the provisions specified in this chapter.

4. Nothing in this definition shall preclude a person from repurposing items, defined in this ordinance, as ornamental lawn decoration, provided that it is not obscene, unkept, or dangerous to the general public.

c. Weeds and Weed Control

1. Growth and Accumulation on Premises and Adjoining Sidewalks and Alleys Prohibited. No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit weeds to grow or remain when grown on such lot, block or parcel of ground or on or also any sidewalks adjoining the same or in the alley behind the same, but such weeds shall be cut close to the ground and kept so cut.

2. 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.

d. Fire Hazards.

Dry or dead shrubs, dead trees, combustible refuse and waste, or any material growing on a street, sidewalk or upon private property within the town which by reason of its size, manner of growth and location constitutes a fire hazard to a building, improvement, crop or other property or when dry, will in reasonable probability constitute a fire hazard.

e. Hazardous Obstructions.

An obstacle, landscaping or tying, installed or maintained in the sight triangle reaching a height higher than four feet above the adjoining top of curb at the applicable corner of the street intersection or four feet above the nearest pavement surface where there is no curb, or the existing traveled roadway at the corner in question where there is no curb or pavement. Hazardous obstructions do not include existing or future permanent buildings otherwise constructed or maintained in accordance with applicable zoning and building regulations, public utility poles, and trees trimmed at the trunk at least eight feet above the level of the ground surface, provided that such trees are spaced so that trunks do not obstruct the vision of motorists.

f. Polluted Water.

1. A swimming pool, pond or other body of water, which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted. For purposes of this section, "polluted water" means water contained in a swimming pool, pond or other body of water, which contains one or more of the following: bacterial growth, including algae; remains of insects, remains of deceased animals, reptiles; rubbish, feces, refuse, debris, papers, and any other foreign matter or material which because of its nature or location constitutes an unhealthy, unsafe or unsightly condition.

2. Any unlawful pollution or contamination of any surface or subsurface waters in the town or of the air, or any water, substance or material intended for human consumption, but no action shall be brought under this subsection if the State Department of Health or any other agency of the state charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on the pollution or contamination.

g. Public Burning.

1. The burning of wood, leaves, branches, and rubbish within the town limits is permitted, provided there are no countywide burn restrictions in place at the time, and;
2. Permission has been obtained, by the property owner or agent, from the fire marshal for the jurisdiction of the Town of Hugo.

h. Maintenance of property.

Owning, leasing, occupying, managing or having possession of any premises in the town in such manner that any of the following conditions are found to exist thereon:

1. The premises are a detriment to public health, safety or general welfare;
2. The premises are so defective, unsightly or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Manifestation of this condition shall include, but not be limited to, the keeping on, or disposing of on, or the scattering over the premises of any of the following:
 - I. Junk, trash or debris,
 - II. Abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators or freezers,
 - III. Stagnant water or an excavation,
 - IV. Any device, decoration, design, fence, or structure which is unsightly by reason of its condition or its inappropriate location;
 - V. A substantial number of windows are cracked or broken.
3. The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties;
4. The exterior of commercial establishments or multifamily buildings have not been maintained to present a neat and orderly appearance which is compatible with the area as follows:
 - I. A substantial number of windows are cracked or broken,
 - II. Painted surfaces are substantially cracked or peeling, or the paint has deteriorated to the point where the bare surface is substantially exposed, or
 - III. The building has otherwise not been substantially maintained;
5. Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard, or area except when it is temporarily deposited for immediate removal;
6. Permitting the accumulation of manure in any stable, stall, corral, feed yard, or in any other building or area in which any animals are kept. This provision does not apply to a light spread of manure upon lawns or gardens or which is plowed under the surface of the ground;
7. Keeping or collecting any stale or putrid grease or other offensive matter;
8. Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the town;
9. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults, septic tanks, and cesspools or other individual wastewater disposal systems within twenty days (20) after notice from any enforcement officer or official of the town.

10. Keeping or allowing any substance on a property within the town which creates or excretes noxious or offensive odors.
- i. Any building, land, premises, or business, occupation or activity, operation or condition which, after being ordered abated, corrected, or discontinued by lawful order of the town or any officer thereof, continues to be conducted or continues to exist in violation of:
 1. Any ordinance of this town,
 2. Any regulation enacted pursuant to the authority of an ordinance of this town
 - j. Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about the place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passerby on the public streets or highways.
 - k. Any building, fence, structure, or land within the town, the condition of which presents a substantial danger or hazard to public health and safety.
 - l. Any cellar, vault, or sewer which is in such condition to produce unwholesome or offensive odors, or which is injurious to the public health.
 - m. Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so.
 - n. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the town.
 - o. The maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner so as to become so obstructed to cause the water to back up and overflow therefrom, or to become unsanitary.
 - p. Sewer inlet. Any article or materials accumulated in any sewer or sewer inlet that shall have a sewer connection, which causes or might cause such sewer or sewer inlet to become noxious or offensive to others or injurious to public health.
 - q. Unsheltered storage of old, unused, stripped and junked machinery, implements, or personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, for a period of thirty days or more [except in licensed junkyards, or if it meets the provisions of Section 4(b)(4)] within the town.
 - r. Junkyards and Dumping Grounds. All places used or maintained as junkyards or dumping grounds or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and house trailers or machinery of any kind, or any of the parts thereof, or for the storing or leaving of any machinery or equipment, used by contractors or builders or by other persons, which places essentially interfere with the comfortable enjoyment of life or property by others. All such materials must be kept in a building or fence which is capable of screening such materials from the view of the public.
 - s. Those offenses which are known to the common law of the land and the statutes of the state as nuisances when the same exists within the town limits.

- t. Dead Animals. The body of any animal which has died, and which is undisposed of after twelve hours after death.
- u. Open Wells, Cisterns or Excavations. It is declared that excavations exceeding five feet in depth, cisterns and wells or an excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty pounds or are securely fenced with a solid fence to a height of at least five feet, and it shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him. Any well or cistern on any property within the limits of the town, whenever a chemical analysis or other proper test or the location of the same shows that the water of the well or cistern is probably contaminated, impure or unwholesome, shall be deemed a nuisance. Any abandoned or unused well or cistern shall be filled with dirt and covered.
- v. It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied, or abandoned building, structure, or dwelling under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or other container which has a door or lid, snap lock or other locking device, which may not be released from the inside, without first removing the door or lid, snap lock or other locking device. Such icebox, refrigerator or other container shall be a public nuisance which may be abated without judicial proceedings by removal of the door or lid, snap lock or other locking device.
- w. Transporting of Garbage or Manure. The transport of manure, garbage, swill or offal upon any street in this town in a vehicle which is not fitted with a substantially tight enclosed box thereon allowing no portion of such filth to be scattered or thrown into such street is declared a nuisance.
- x. It is unlawful for any person to store or keep or permit to be stored or kept any junk vehicle, or parts thereof, unless in a fully enclosed structure. For purposes of construing this subsection, "person's means the owner of the vehicle or parts thereof, or the owner, manager, lessee or possessor of the property where the vehicle or parts are stored. The following definitions shall apply in the interpretation and enforcement of this subsection:
 - 1. "Antique vehicle" means any vehicle, at least twenty-five years old, which is valued principally because of its early date of manufacture, design, historical interest or as a collector's item, and licensed as a collector's series or horseless carriage by the state of Colorado or another state with similar license provisions;
 - 2. "Junk vehicle" means any vehicle not capable of travel under its own power, or any vehicle not bearing current registration plates, or if bearing such plates, which remains stationary or unused for more than thirty consecutive days; or any automobile, truck or self-propelled vehicle which does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law; provided, however, that such definition shall not include antique vehicles, which are capable of travel under their own power but which do not bear current registration plates when such vehicles are located upon vehicle sale lots which hold current city business licenses;
 - 3. "Private property" means real property which is owned by a private person or entity;

4. "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery and shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

y. Unpermitted Camping

No unpermitted camping shall be allowed in any public parks or on any public property within town limits.

Section 5. Author of Nuisance ---- Defined

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the owner or his agent, then tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereof conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

Section 6. 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 Person may file with the Town Clerk, or any enforcement officer of the town a direct, written complaint against any person alleged to be in violation of any provision of this ordinance.

Section 7. Notice and Abatement.

a. Notice to abate. Except as defined in Section 4(c), of this ordinance concerning regulation of weeds and weed control, 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 by Town concerning Section 4(c) Weeds and Weed Control. If any owner, tenant or agent shall fail to cut weeds as required by this section, within seven (7) days after being notified to do so by the Town Clerk or designated enforcement officer, by personal delivery of written notice, or registered or certified mail, the Board may direct that the weeds be cut by an employee of the Town and charge the cost thereof to such owner, tenant, or agent in charge, together with ten percent (10%) additional for inspection and other incidentals.

c. Abatement and costs. If the person notified in accordance with Section 7(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 summons 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.

d. Collection of Costs of Abatement by Town pursuant to Section 7(b), of this ordinance. In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order of the Board, the whole cost of cutting such weeds, together with ten percent (10%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground by registered or certified mail, notice of the assessment of such cost. Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block, or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same within thirty (30) days, by the Town Clerk to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection.

e. 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 percent (10%) penalty for cost of collection, and all other costs as set forth in this Section 7, in the same manner as other taxes on real property are collected.

Section 8. 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 9. 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 10. 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 Ordinances Number 232, 245, and 246 are repealed in their entirety upon adoption of this ordinance.

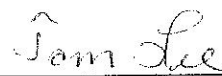
Section 11. Recording and Authentication.

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 12. Effective Date.

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

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 8th day of July, 2019.



Tom Lee; MAYOR

ATTEST:



Maria Nestor; TOWN CLERK