

ORDINANCE NO 242

AN ORDINANCE AMENDING ORDINANCE NUMBER 238 IN ITS ENTIRETY
PROHIBITING JUNK VEHICLES IN THE MUNICIPAL LIMITS OF THE TOWN OF
SUGAR CITY

WHEREAS, C.R.S. § 31-15-401(c) authorizes the Board of Trustees of the Town of Sugar City to declare what is a nuisance and abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; and

WHEREAS, the Board of Trustees desires to control junk vehicles located within the municipal limits of the Town of Sugar City;

WHEREAS, the Board of Trustees previously adopted Ordinance Number 238 to address this issue and now wish to substantially amend the ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUGAR CITY AS FOLLOWS:

JUNK VEHICLES

Ordinance Number 238 is hereby amended in its entirety as follows:

- 1 Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance.
 - a To "Abandon": means to leave a vehicle with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.
 - b "Building": means a structure, as defined herein, which is enclosed with walls and a roof so that there are no sides left open.
 - c "Costs": means the expenses removing, storing or selling a vehicle, serving a party or filing an action
 - d "Hobby": means the repairing, reconditioning, or rebuilding of vehicles for personal enjoyment or entertainment and with no profits or compensation or reimbursement of any kind involved.
 - e "Vehicle" means any device of conveyance capable of moving itself or of being moved from place to place upon wheels or track or by water or air, whether or not intended for the transport of persons or property, and includes any place therein adapted for overnight accommodation of persons or animals or for the carrying on of business.

- f "Junk Vehicle" means any vehicle not capable of moving itself or of being moved in its ordinary modality in its existing mechanical condition; or any dismantled, partially dismantled, discarded, wrecked, demolished or partially demolished vehicle; or any automobile, truck or self-propelled vehicle which does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law; or any vehicle that does not bear a current, valid license plate.
 - g "Storage": means to place or leave an object in a location for any period of time.
 - h "Structure": means anything constructed, erected, or placed upon real property which is so firmly attached to the land as to be reasonably considered part of the real estate, and includes buildings of every type and nature whatsoever.
- 2 Junked vehicles and abandoned vehicles are a public nuisance.
- 3 Leaving Junked Vehicles on Street Prohibited. It shall be unlawful for any person, firm, corporation, or entity to knowingly leave any junk vehicle, abandoned vehicle, or parts thereof on any public street, alley or highway within the Town of Sugar City.
- 4 Junk Vehicles Prohibited. It shall be unlawful for any person, firm, corporation, or entity to store, keep, or place any junk vehicle, abandoned vehicle, or any parts thereof upon any public or private property within the Town of Sugar City, or for an owner, occupier, landlord, tenant, or party in control on any real property within the Town, to permit or allow any junk vehicle, abandoned vehicle, or any parts thereof to be placed or kept on any public or private property within the Town of Sugar City except and unless in a building.
- a Exceptions:
- A Collector's Item. Any vehicle registered as a collector's item by the State of Colorado, under the provisions of C.R.S. § 42-12-102, provided such vehicle is maintained in such a manner that it does not constitute a health, safety or a fire hazard and is stored pursuant to C.R.S. § 42-12-103.
 - B Business Enterprise. Vehicles stored or kept on the premises of a business enterprise operated in a lawful place and in a lawful zoning district and in a lawful manner when necessary to the operation of such business enterprise, provided that any dismantled, discarded, wrecked, demolished, or partially demolished vehicles(s) are stored in a building.
- 5 Hobby Repair Work. It is unlawful for any person firm, corporation, or entity to repair, keep, or work on any junk vehicle as a hobby unless such hobby is conducted in and totally contained within a building and conducted in such a manner so as not to create a health, safety or a fire hazard; except this shall not apply to minor repair and maintenance activities such as, by way of illustration but not limited to, the changing of oil, sparkplugs or tires, so long as said minor work does not exceed a reasonable length of time not to exceed twenty-four hours. Repair of vehicles purchased for

repair and resale or vehicles repaired for any compensation received shall be considered an auto repair business and not a hobby.

6 Auto Repair Business.

- a It shall be unlawful for any person to engage in a vehicle repair business on residential premises or premises zoned for residential use.
- b A person shall be deemed to be in the vehicle repair business if he undertakes the repair of any vehicle belonging to other persons, or which he has purchased for repair and resale or any other vehicles other than that used regularly by himself or his family. The presence of any vehicles on residential property which are .. undergoing repairs and which are not owned by and registered in the name of the occupant of the premises shall be deemed a prima facie violation of this section.
- c As used in this section, the word "person" shall include any person actually engaged in such automobile repair and the occupant of the premises upon which the repair has occurred.

7 Investigation. The code enforcement officer, Mayor or the Mayor's authorized representative is hereby authorized to investigate any matter at any place within the Town which reasonably appears to be in violation of the provisions of this chapter.

- 8 Notice. If, after an investigation, probable cause exists to believe a violation of this chapter exists, a written notice of the violation shall be issued to the owner of the vehicle or any person in charge or control of the vehicle or the property owner, or his agent, manager, tenant, resident, lessee, renter, or occupant of the premises on which such vehicle is located. Such notice of violation shall include the date issued, the name of the person to whom the notice is issued, the violation involved, a time limit of twenty-four hours to remove or correct the cause of such violation, and the signature of the issuing official. For the purpose of this section, the tenant, occupant, or lessee shall be deemed agent of the owner of the premises. Where no person can be located upon whom to issue the written notice said notice shall be issued by firmly attaching the notice to the vehicle, or parts thereof, in plain sight.

9 Issuance of Summons and Complaint.

- a If after twenty-four hours from the time of issuance of the notice of the violation of this chapter, the cause of such violation has not been removed from the Town of Sugar City or to a building or corrected, a summons and complaint shall be issued unless satisfactory arrangements have been made with the official signing the notice. The summons shall contain the following information: vehicle location, identification of the vehicle by make, year, and, if possible, by model and VIN.
- b Service of the summons and complaint, upon the owners and lienors of a motor vehicle shall be deemed sufficient if a copy of the same is sent to the person shown as the owner or lienor on the records of the Colorado Department of

Revenue, Division of Motor Vehicles, or any similar department of any sister state, by first class mail, at the address as shown by the records of the Colorado Department of Revenue, Division of Motor Vehicles, or any similar department of any sister state, whether or not the letter is actually received. Service shall be deemed completed seven (7) days after the letter is mailed.

- c In the event that the owner of the vehicle or lienor cannot be located in order to serve a notice of violation or a summons and complaint, then a summons and complaint shall be issued against the vehicle. Said summons and complaint shall be firmly attached to the vehicle, or parts thereof, in plain sight.
- 10 **Private Property Entry.** The code enforcement officer, mayor or the mayor's authorized representative is authorized to enter upon properties for the purpose of posting these notices and to affix the notice in any reasonable manner to vehicles and parts.
- 11 **Removal of Notices.** It shall be unlawful for any person other than code enforcement officer, mayor or the mayor's authorized representative to remove any notice posted under the provisions of this chapter.
- 12 **Effecting Vehicle or Parts Removal.** The code enforcement officer, mayor or the mayor's authorized agent, is hereby empowered and authorized to remove and impound vehicles, or part(s) thereof, from any public street, alley or other public place or from private property in any of the following circumstances.
- a Upon failure, neglect, or refusal of any person, firm corporation, or entity notified pursuant to paragraph 8, above, to properly remove the cause of said violation from the Town of Sugar City or to place it in a building, or to correct the violation, within the time limit provided therein.
 - b When any abandoned vehicle is found on public or private property.
 - c When any vehicle is parked in such a position that it constitutes an obstruction to traffic or is unlawfully parked in any prohibited or restricted area, or is parked or so used as to endanger or be likely to endanger any user or potential user of any public highway, or is in violation of the traffic ordinances of the Town or of any rule or regulation promulgated in connection therewith by any law enforcement official acting in conjunction with the board of trustees.
- 13 **Penalty.** Any person convicted of violating any portion of this chapter shall be fined not to exceed \$1,000.00 per violation or imprisoned for a period not to exceed 30 days and / or both.
- 14 **Costs.** All costs incurred by the Town for the removal and storage of a vehicle, or parts thereof, shall be assessed to the owner and become a lien on the vehicle. All costs of each vehicle shall be paid by the owner or his agent before such vehicle can be reclaimed or redeemed. Such costs shall include a sum not to exceed \$50.00 for

the administrative expenses of the Town and the normal market rate per day for storage of the vehicle.

- a Where the owner of such property or the owner's agent fails to pay such costs within thirty days after a statement therefore has been rendered by entering the statement by registered mail, return receipt requested, the code enforcement officer shall order the vehicle disposed of as an abandoned vehicle under C.R.S. § 42-4-1805.
- b The Board of Trustees of the Town of Sugar City is authorized to modify any costs, fees or fines set forth in this Ordinance from time to time by resolution.
- 15 No Remedy Exclusive. No remedy provided herein shall be exclusive but the same shall be cumulative.
- 16 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- 17 Amended. All previously adopted Ordinances are hereby amended to the extent necessary to conform to this Ordinance.
- 18 The Board of Trustees of the town of Sugar City, Colorado, hereby finds, determines, and declares that this action is necessary for the preservation and protection of the public health, safety, and general welfare and shall become effective immediately upon final passage thereof.

INTRODUCED, READ, PASSED, ADOPTED, APPROVED AND ORDERED
PUBLISHED this 10th day of JUNE, 2005.

TOWN OF SUGAR CITY

By Don Corvel
Mayor

ATTEST:

Brenda McEwen
Town Clerk