

## TOWN OF BERTHOUD

### ORDINANCE NO. 1250

#### AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO PROHIBITING ACCUMULATION OF REFUSE AND INOPERABLE MOTOR VEHICLES

**Whereas**, The Board of Trustees of the Town of Berthoud, Colorado (the “Town”), has been made aware of health and safety concerns arising from the accumulation of trash, scrap metal, garbage, unused building materials, inoperable or unlicensed motor vehicles, and rubbish on private property in residential zones throughout the Town; and

**Whereas**, The Town Board finds that unlawful storage of such materials harbors rodents, insect pests, and creates a public health issue as well as damages the aesthetic appeal of the neighborhood; and

**Whereas**, the corrections identified herein are to be incorporated into the Municipal Code as amendments intended to further the powers of municipal Code Enforcement officials in requiring remediation of such offenses; and

**WHEREAS**, the Town Board hereby determines that this ordinance is necessary for the health, safety, and welfare of the residents of the Town,

#### **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO THAT:**

Chapter 16 of the Berthoud Municipal Code is hereby repealed and replaced as follows:

##### **16.1 Definitions.** As used in this chapter:

- A. **“Administrative authority”** means the Town Administrator of the Town of Berthoud or his or her designated representative.
- B. **“Brush”** means a growth of bushes, shrubs and trees such as are growing without care, and shall include all cuttings from trees, shrubs and bushes.
- C. **“Control”** means preventing a plant from forming viable seeds for vegetative propagules.
- D. **“Inoperable Vehicle”** shall have the same meaning as set forth in Section 17.20-5 of this Code.
- E. **“Junk”** means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe

or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

- F. **“Junkyard”** means a building, structure or parcel of land, or portion thereof, used for collecting, displaying, storing, selling or reselling junk. Junkyards shall not include a recycling facility.
- G. **“Noxious plant”** means an alien plant or parts thereof, which means one or more of the following additional criteria:
1. It aggressively invades or is detrimental to economic crops or native plant community;  
It is a poisonous to livestock;
  3. It is a carrier of detrimental insects, diseases, or parasites;
  4. A direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.
- H. **“Person” or “occupant”** means an individual, partnership, corporation, association, or federal, state or local government or agency thereof owning, occupying, or controlling any land, easement, or right-of-way including any Town, county, state or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.
- I. **“Rubbish or Refuse”** means any waste product not completely enclosed in a building or receptacle, in public view, and not in accordance with the trash pickup provisions of this Code. Such terms shall extend to motor vehicles or trailers not currently licensed or operable, due to either missing parts or non-functional parts, and not repaired and licensed within sixty days after becoming inoperable.
- J. **“Trash”** means all bottles, tin cans, refuse, junk, abandoned automobile bodies and parts, building materials, and any and all other forms of discarded, personal property, food waste, animal matter, vegetable matter, or paper goods subject to decay and not contained within a covered bin.
- K. **“Undesirable plant”** means the plants commonly known as leafy spurge, also known by the scientific name, *euphorbia esula*; and the knapweed plants, commonly known as diffuse, Russian and spotted knapweeds, also known by the

scientific names and centaurea diffusa, centaurea repens, and centaurea maculosa.

- L. “Weed” means any unsightly, useless, troublesome or injurious herbaceous plant, and shall include rank vegetable growth that may conceal forms of refuse or of a height of more than twelve inches.

#### **16.2 Containers Required**

It shall be the duty of all persons in charge of real property, and all other persons producing or having trash, to provide and keep watertight garbage containers of galvanized metal or other nonabsorbent material in which all trash shall be kept. All trash shall be placed and kept in such containers until it is hauled away and in a manner that is not accessible to birds, racoons, and other animals.

#### **16.3 Building Materials Removed From Construction Sites**

All discarded or unused construction materials, to include, but not be limited to, plaster, concrete, bricks, cinder blocks, stones, wood, roofing material, wire, sacks or material of any kind resulting from building construction or wrecking shall be promptly removed at least every seven (7) days. During the term which the building permit is in effect, materials shall be stored in such a manner as to be safe, neat, and not be scattered about the property.

#### **16.4 Burning of Wastes Unlawful**

It shall be unlawful for any person to burn or cause to be burned any junk, rubbish, or trash within the corporate limits of the Town.

#### **16.5 Accumulation Prohibited**

It shall be unlawful for any person in charge of real property to cause or permit junk, rubbish, or trash to accumulate in the Town unless it is held in approved containers and is removed from the premises no less often than every fourteen (14) days.

#### **16.5-1 Weed growth, undesirable plants, and trash, rubbish, or refuse, accumulation - Deemed public nuisance.**

A. The existence within the Town on any lot, block or parcel of land of noxious weeds, undesirable plants or of any weeds, or of a size maturity to affect the health or comfort of the inhabitants of the Town is hereby declared to be a public nuisance.

B. The accumulation of trash, rubbish, or refuse, as defined in this chapter, on any lot, block or parcel of land within the Town is declared to be a public nuisance.

#### **16.5-2 Junk/Junkyard Unlawful**

It shall be unlawful for any person in charge of real property to cause or permit accumulation of junk in the Town unless it is screened from public view. Junk and Junkyards screened from

public view shall not create any condition that is a threat to public health, safety and welfare. Violations considered to be a threat to public health, safety and welfare will be deemed a public nuisance. Such determination will be at the discretion of the Town.

#### **16.5-4 Inoperable vehicles**

Inoperable vehicles shall not be stored on private property unless screened from public view. To the extent not screened, such vehicles shall be deemed “junk” as defined in this chapter and may be dealt with accordingly.

#### **16.6 Depositing Waste Materials on Private Property**

It shall be unlawful for any person to discard or abandon garbage or trash upon the premises not owned or occupied by such person, without the consent of the owner thereof or the person occupying the same and it shall be presumed that permission was not granted where the depositor does not own or reside on the premises.

#### **16.7 Cutting and Removal of Weeds**

It shall be unlawful for the person in charge of real property to allow or permit weeds to grow or to remain grown upon said property. All plants shall be cut and removed before becoming weeds.

#### **16.8 Cutting and Removal of Brush**

It shall be unlawful for the person in charge of real property to allow or permit brush to obscure traffic signs, or impede pedestrian or vehicular travel. Brush must be trimmed or maintained to be a minimum of eight feet above any sidewalk or fourteen feet above any street. Brush shall be maintained behind the edge of any public sidewalk and shall be maintained to less than 30” in height for a minimum of 25 feet both ways from the corner of any street intersection.

#### **16.9 Abatement of nuisance - Notice required.**

Any violation described in Section 16.5 of the Berthoud Municipal Code shall entitle the administrative authority or any code enforcement officer to transmit by certified mail and first class mail, postage prepaid, or hand-deliver to such owner, occupant, or other person in charge of the lot, block, or parcel of land, or post in a conspicuous place on the premises, a notice advising such individual to comply with the requirements listed in such notice within ten (10) days of the date of such notice, or a formal code violation warning to the same effect shall be issued. After one such notice in any calendar year, citations may be issued by Code enforcement officer without additional prior notice.

#### **16.9-1 Abatement of nuisance- -Town may perform work.**

If any owner, tenant or agent in charge fails to cut or control weeds, undesirable plants or brush, or to remove trash, junk, rubbish, or refuse, as required by this chapter, within ten (10) days after being notified to do so by the Town, the Town may direct that the weeds, undesirable plants or brush be cut or that the junk, rubbish, refuse, and trash be removed by an employee of the Town or in the alternative to subcontract to have such work done, and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) additional for inspection and other incidentals. This provision is pursuant to the authority granted by C.R.S. 31-15-401(1) (d).

#### **16.9-2 Costs of abatement by Town- -Collection.**

1. In the event the weed(s), undesirable plant(s), brush or trash on any lot, block, or parcel of land, or along the sidewalk or street adjoining the same, or the alley behind the same are cut or removed by order of the administrative authority, the whole cost of cutting or removing such weeds, undesirable plants, brush or trash, rubbish, junk, or refuse, together with five percent (5%) fee for inspection and other incidentals, shall be paid to the Town Clerk (i) within thirty (30) days after mailing by the Town Clerk to the owner of such lot, block, or parcel of land by first class mail, postage prepaid, notice of the assessment of such costs; (ii) in the event said abatement occurs on vacant land, the Town may, in addition, add the whole cost of abating such violations together with five percent (5%) fee for inspection and other incidentals, to the cost of the building permit when such permit is applied for and may withhold said building permit or any other building permit applied for by the same owner if the whole fee is not paid.

2. Failure to pay such assessment within such period of thirty 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, to be collected, with a ten percent (10%) penalty to defray the cost of collection, as provided by the laws of the state.

3. If, during one 365-day period, the administrative authority performs a second or further inspection (other than an inspection showing compliance) for the same property and finds a second or further violation of the same type, the owner or occupant shall be assessed a reinspection fee. Such fee is established by the Town Board by Resolution. If such reinspection fee is not paid within thirty (30) days, it shall be collected pursuant to subsections A and B.

#### **16.9-3 Right of Entry on Property.**

The administrative authority or agents of the Town, without liability, may enter upon any property, vacant lots or premises in the Town to perform any duty imposed by this chapter.

**16.10 Violation - -Penalty.**

Every person convicted of a violation of any provision stated or adopted in this chapter shall be punished by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment. A minimum penalty for a conviction, however, shall be mandatory and shall not be less than fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, and three hundred dollars (\$300.00) for the third offense. In addition, the Municipal Judge may order the Defendant to remove such weeds, undesirable plants, brush or trash within ten (10) days and if the Defendant fails to do so, the Town may remove such weeds, undesirable plants, brush or trash pursuant to Section 8.08.050 and charge back the property owner for its costs plus five percent (5%) for inspection and other incidentals

**THE FOREGOING AMENDMENTS TO THE EXISTING MUNICIPAL CODE SHALL BE DEEMED TO REPEAL ANY INCONSISTENT PROVISIONS OF THE CODE AS IT EXISTED PRIOR TO ADOPTION OF THIS ORDINANCE. ONLY SECTIONS DESIGNATED ABOVE ARE AMENDED, AND ALL OTHER PROVISIONS OF CHAPTER 16 OF THE BERTHOUD MUNICIPAL CODE SHALL REMAIN IN FULL FORCE AND EFFECT.**

The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety, and welfare of the Town of Berthoud and the residents thereof, and shall become effective immediately upon final adoption.

INTRODUCED, READ and PASSED unanimously this September 25, 2018.

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William Karspeck, Mayor

ATTEST:

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Christian Samora, Town Clerk