

ORDINANCE NO. 2-2022

AN ORDINANCE RELATING TO THE REGULATION OF JUNK CARS, ABANDONED VEHICLES, JUNK, REFUSE AND GARBAGE WITHIN THE TOWN OF ECKLEY, COLORADO

WHEREAS, Section 31-15-103, C.R.S. authorizes the Board of Trustees (the "Board") of the Town of Eckley, Colorado (the "Town") to make and publish ordinances which are necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the Town and the inhabitants thereof; and

WHEREAS, on September 1, 1988, the Board adopted Ordinance No. 2 (1988) relating to the regulation of junk cars and abandoned vehicles; and

WHEREAS, in 2012, the Board subsequently adopted Ordinance No. 2-2012, which amended Ordinance No. 2 (1988), relating to the regulation of junk cars and abandoned vehicles; and

WHEREAS, on or about November 2, 1999, the Board adopted Ordinance No. 1-1999 regarding junk, refuse and garbage in the Town; and

WHEREAS, on or about August 3, 2004, the Board adopted Ordinance No. 4-2004 amending Ordinance 1-1999 regarding junk, refuse and garbage in the Town; and

WHEREAS, on April 14, 2009, the Board adopted Ordinance No. 1-2009, amending Ordinance No. 1-1999 and Ordinance 4-2004 regarding junk, refuse and garbage in the Town; and

WHEREAS, on April 3, 2012, the Board adopted Ordinance No. 1-2012, amending Ordinance No. 1-1999 and Ordinance 4-2004 and Ordinance 1-2009 regarding junk, refuse and garbage in the Town; and

WHEREAS, on February 16, 2022, the Board amended Ordinance No 1-2012 adding Section 3-E relating to Tractor/Trailer Repair.

WHEREAS the Board desires to repeal the previously adopted ordinances regarding the regulation of junk, refuse, garbage, junk cars and abandoned vehicles within the Town to adopt revised prohibitions relating to the regulation of said matters pursuant to this Ordinance.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ECKLEY, COLORADO:

Section 1. Application

This Ordinance shall apply to any public street, alley, sidewalk, driveway, highway, right of way, parking area or other public ways, and all public parks, playgrounds, squares, spaces, grounds, and buildings ("Public Property") and any private lot, tract, parcel, land, or property ("Private Property") within the Town of Eckley (the "Town").

Section 2. Definitions.

As used in this Ordinance, the following terms are defined:

1. "Abandoned Vehicle" means:

- a. Any Vehicle left unattended on Private Property for a period of one hundred twenty hours (120) or longer without the consent of the owner, occupant, or tenant of such property or his legally authorized agent; or
 - b. Any Vehicle left unattended on Public Property for a period of one hundred twenty (120) hours or longer unless the Vehicle is parked on a public street within fifty feet of the property or residence of the owner.
2. "Garbage" means animal and vegetable wastes, resulting from the handling, preparation, cooking, and consumption of food, and wastes from the handling, storage, and sale of produce.
 3. "Junk" means and includes any manufactured good, appliance, fixture, furniture, mattress, machinery, metal, iron, tires, cable, old cordage, personal property, or any other thing or part, whether of value or valueless, that is demolished, broken, discarded, dismantled, partially dismantled, dilapidated, or so worn, deteriorated or in such condition that it would not be normally usable in its current state for its original manufactured use. This shall include, by way of illustration only and without limitation, used lumber, rags, rubber, scrap metal, scrap material, waste, rubble, or machinery or automobile parts.
 4. "Junk Vehicle" means any Vehicle which is not capable of operating under its own power in its existing mechanical condition, or any dismantled, partially dismantled, discarded, wrecked, rusted, demolished, or partially demolished Vehicle to the extent that such Vehicle is inoperable.
 5. "Litter" is "Garbage" and "Refuse" as defined in this Ordinance.
 6. "Refuse" means and includes any branches, grass clippings, leaves, other lawn or garden waste, hay, straw, manure, shavings, excelsior, paper, ashes, containers, wrappings, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials including, but not limited to, plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks, or loose, discarded or unused material; all rubbish of any kind or nature whatsoever, and any other materials commonly known as rubbish or refuse of any kind, nature, or character or by any means known.
 7. "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 includes, without limitation, automobile, airplane, truck, truck tractor trailer, travel trailer, fifth wheel trailer, horse trailer, motor home, camper (whether or not mounted on a motor vehicle), bus, motorcycle, motor scooter, tractor, buggy and wagon, or any of the parts thereof. "Vehicle" includes any antique vehicles.

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Section 3. Junk and Abandoned Vehicles.

A. Leaving Vehicles on Public Property. It is unlawful for any person to park, place, leave, or otherwise deposit any Abandoned Vehicle or Junk Vehicle on any Public Property within the Town.

B. Leaving Vehicles on Private Property.

1. It is unlawful for any person who is the owner of or any person who is in charge or control of Private Property, or any tenant, lessee, occupant, renter or otherwise, to store, permit, or allow any Junk Vehicle to remain on such Private Property for a time period in excess of seventy-two hours.
2. It is unlawful for any person to dump or deposit, or cause to be dumped or deposited, an Abandoned Vehicle or Junk Vehicle on the Private Property of another or on Public Property, unless such property is clearly marked and designated as a legally permitted dump or receptacle for the deposit of Abandoned Vehicles or Junk Vehicles.

C. Vehicle Owner. In any prosecution charging a violation of Section 3.A or 3.B of this Ordinance, proof that the particular Vehicle described in the complaint was parked, stored or kept in violation of said Section 3.A or 3.B, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such Vehicle was the person who parked, placed, stored or kept such vehicle at the place where, and for the time during which, such violation occurred.

D. Motor Vehicle Hobby Repair. It is unlawful for any person to repair, recondition, rebuild or work on any Vehicle as a hobby, unless all activities associated therewith are conducted in and totally contained within a residential or commercial garage or totally screened by an opaque fence or wall, including opaque entrance and exit gates, and conducted in such a manner so as not to create a safety, health or fire hazard; except, this shall not apply to minor repair and maintenance activities such as, by way of illustration only, the changing of oil, spark-plugs or tires, so long as such minor work does not exceed a reasonable length of time. The sale and/or marketing of more than one repair, rebuilding, or reconditioning of a Vehicle during one calendar year for which a person receives any compensation shall be deemed a business and must be performed in accordance with all applicable Town ordinances.

E. Trailer/Trailer Repair. It is unlawful for any person to repair, recondition, rebuild or work on any tractor/trailer, unless all activities associated therewith are conducted within in and completely contained within a residential or commercial garage or totally screened by an opaque fence or wall, including opaque entrance and exit gates, and conducted in such a manner so as not to create a safety, health or fire hazard: except this shall not apply to minor repairs and preventive maintenance activities, so long as such minor work does not exceed 48 hours.

F. Exceptions. Notwithstanding the provisions of this Section 3, in accordance with the Town Zoning Ordinance, the keeping or storage of Abandoned Vehicles or Junk Vehicles is permitted as follows:

1. For the purposes of enforcement of the provisions of this Ordinance; or
2. Upon the premises of an automotive repair or automobile storage business and totally screened by an opaque fence, including opaque entrance and exit gates, not less than 6' or more than 8' in height or totally within an enclosed building; or
3. When legally impounded or immobilized pursuant to law or ordinance; or

4. When used for purposes of instruction by, and located upon the premises of, any public school and totally screened by an opaque fence, including opaque entrance and exit gates, not less than 6' or more than 8' in height or totally within an enclosed building; or
5. When authorized pursuant to the provisions of Section 3.F of this Ordinance; or
6. When such Junk Vehicle is kept inside a completely enclosed building or is screened by an opaque fence, which fence may not be less than 6' and not more than 8' in height so as not to be visible from any adjacent street or public way, or from abutting land.

G. Collector's Item.

1. Vehicles that would otherwise be deemed unlawful under this Ordinance may be maintained outdoors upon Private Property if the vehicle is a "collector's item" as defined by Section 42-12-101(2), C.R.S., as may be amended from time to time, and so long as such vehicle is parked and maintained in such a manner so as not to create a safety, health, or fire hazard; are screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means; and are kept free of weeds, trash and other objectionable items.
2. The Vehicle must be titled and registered as required under Section 42-12-401, C.R.S. The property owner bears the burden of proving that the Vehicle is a collector's item.

H. Removal – Disposition-Impounding.

1. The Code Enforcement Officer of the Town is authorized to issue an order requiring the removal of any Junk Vehicle displayed, stored, kept, parked, or remaining on any property in the Town in violation of this Ordinance within a reasonable time stated in the order.
 - a. Such order may be issued whether or not a summons and complaint is issued.
 - b. After the expiration of the time stated in such order, the Junk Vehicle therein described shall be subject to removal and impoundment by the Town of Eckley as provided in this section.
2. Notice of an order issued under the provisions of Section 4 (A) shall be given by attaching a copy of such order or an official notice thereof to the Junk Vehicle described in the order.
3. Upon request of a law enforcement officer, any Junk Vehicle subject to removal and impoundment by the Town of Eckley under the provisions of this Ordinance shall be removed by the Police Department from any Public Property or Private Property in the Town, impounded, and placed in the Police car impound.
4. Any Junk Vehicle removed and impounded pursuant to the provisions of this Ordinance shall be held, stored, reclaimed, and disposed of.

Section 4. Litter

A. Litter on Public Property. No person shall throw or deposit Litter in or upon any Public Property within the Town, except in designated public receptacles, or in authorized receptacles for collection of such Litter.

B. Litter from Vehicles. No person shall drive or move any Vehicle within the Town unless such Vehicle is so constructed or loaded as to prevent any Litter or any load or contents, or any parts thereof, including mud, dirt, sticky substances, or foreign matter of any kind, from being thrown or deposited upon any Public Property.

Section 5. Junk, Refuse or Garbage.

A. Junk, Refuse and Garbage on Private Property. It is unlawful for any person to store, place upon, or allow to remain on his/her Private Property any Junk, Refuse, or Garbage that is visible from Public Property or adjacent Private Property, or is otherwise maintained in an offensive or unsightly manner.

B. Depositing or Dumping Junk, Refuse or Garbage. It is unlawful for any person to dump or deposit, or cause to be dumped or deposited, Junk, Refuse, or Garbage on the Private Property of another, or on Public Property, unless such property is clearly marked and designated as a legally permitted dump or receptacle for the deposit of Junk, Refuse, or Garbage.

Section 6. Discharge of Noxious Liquids.

It is unlawful to discharge out of or from or permit to flow from any Private Property or Vehicle, foul or noxious liquid or substance of any kind whatsoever, into or upon any adjacent Private Property, or into or upon any Public Property in the Town.

Section 7. Abatement.

A. Notice to Remove. If any owner, tenant, lessee, or occupant, renter or otherwise ("Occupant") of any Private Property situated within the boundaries of the Town fails to keep such property in compliance with this Ordinance, the Town may give written notice to any such Occupant to cause to be removed or remedied any such violation of this Ordinance.

B. Manner of Delivery. Such notice shall be in writing and may be either personally delivered to any such Occupant or delivered by United States first class mail, addressed to such Occupant at his/her last known mailing address. Such notice shall be deemed delivered when so personally delivered or when deposited in the United States mail.

C. Form of Notice. Such written notice, as described in this Section 7, shall contain the following information:

- a. A statement describing the nature and date of the violation of this Ordinance, including identification of the Private Property or Public Property;
- b. A statement that the violation be corrected within 15 calendar days of the date of the notice; and
- c. A statement that if the Occupant fails to correct the violation within 15 calendar days of the date of the notice, then the Town may take either or both of the following actions:
 - i. Issue the Occupant a citation, causing the Occupant to appear in municipal court where the Occupant may be fined not less than \$20.00 nor more than \$300.00

for each day the violation continues after the 15th day of the date of the notice; and/or

- ii. Cause the removal to be done by any means at the Town's disposal and assess the whole cost thereof, including five percent (5%) for inspection and other incidental costs in connection therewith, upon such Private Property. This assessment when levied shall be and constitute a lien against such lot or tract of land (if applicable) until paid by Occupant and shall have priority over all other liens except general taxes and prior special assessments. If the Occupant fails to pay such assessment within a period of 15 days of the date of the notice of the assessment, the Town has the power and authority to certify to the Yuma County Treasurer such assessment, with directions to the Yuma County Treasurer to collect the assessment in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessment.

Section 8. Violation — Penalty. It is unlawful for any person to violate any provision of this Ordinance, and any person found guilty of violating any provision of this Ordinance shall be punished for each violation by a fine of not less than \$20.00 nor more than \$300.00 FOR EACH DAY THE VIOLATION CONTINUES AFTER THE 15TH DAY OF THE DATE OF THE WRITTEN NOTICE DESCRIBING SUCH VIOLATION AS PROVIDED IN THIS ORDINANCE. The abatement procedure and penalties shall be cumulative and are not mutually exclusive.

Section 9. Removal by Town. If the Occupant fails to correct the violation as described in the notice within fifteen (15) calendar days from the date of the notice, the Town may cause the same to be done by any means at its disposal, and the Town and those acting in its behalf or at its direction shall not be liable to anyone for trespass, conversion or for any other civil or criminal liability, penalty or claim when acting in good faith in accordance with the provisions of this Section 9. Any Town employee or anyone acting in its behalf or at its direction is expressly authorized to enter upon Private Property to remove Junk, Refuse, Garbage, Abandoned Vehicles or Junk Vehicles. It is unlawful for any person to interfere, hinder or refuse to allow said Town employee or those acting in its behalf or at its direction to enter upon Private Property for such purpose and to remove Junk, Refuse, Garbage, Abandoned Vehicles or Junk Vehicles in accordance with the provisions of this chapter. Any Occupant shall have the right to remove Junk, Refuse, Garbage, Abandoned Vehicles or Junk Vehicles or have the same removed at his/her own expense any time prior to arrival of the Town or those acting on its behalf for such purpose.

Section 10. Assessment of Costs.

A. Removal by Town. In the event it becomes necessary for the Town to cause to be removed any items in violation of this Ordinance pursuant to Section 9 above, the Town shall assess the whole costs thereof, including an additional five percent (5%) of such sum for inspection and other incidental costs in connection therewith, upon the Private Property from which the Abandoned Vehicles, Junk Vehicles, Junk, Refuse, or Garbage is removed. This assessment, when levied, shall be a lien against said Private Property until paid and shall have priority over all other liens except general taxes and prior special assessments.

B. Notice. The Town Clerk shall deliver written notice of the assessment and lien to the owner of the Private Property in the same manner provided for delivering notice in Section 7 of this Ordinance. Such notice shall describe the Private Property against which the assessment has been levied, the amount of the assessment,

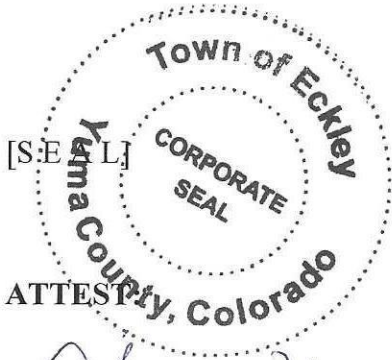
the fact that the assessment constitutes a lien against the described property, the name of the owner of the lot or tract of land involved, and the date by which the assessment must be paid, which shall be within fifteen (15) days from the date of the notice of assessment, which is deemed to be a reasonable time, in order to avoid certification of the assessment and lien to the Yuma County Treasurer for collection proceedings.

C. **Collection.** If the assessment is not paid within the fifteen (15) day period as provided in the notice of assessment, the Town Clerk shall certify such assessment to the Yuma County Treasurer, who shall proceed to collect the same in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments.

Section 11. Repealer. All prior acts, ordinances, resolutions, codes, or parts thereof, by the Town in conflict or inconsistent herewith are hereby repealed, including Ordinance No. 2 (1988), Ordinance No. 2-2012, Ordinance No. 1-1999, Ordinance No. 4-2004, and Ordinance No. 1-2012 previously adopted by the Board, provided, however, that this Repealer shall not be construed to revive any act, ordinance, resolution, code, or parts thereof, heretofore repealed or superseded, and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

Section 12. Severability. If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of, and shall be severable from, the remaining portions of this Ordinance. The Board hereby declares that it would have adopted this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts may be declared unconstitutional or invalid.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 2 day of March 2022.



TOWN OF ECKLEY

Jessie Vance, Mayor

ATTEST

Ailene Vance, Town Clerk