

**Saguache County  
State of Colorado  
Board of County Commissioners**

**ORDINANCE NO. \_\_\_\_\_**

**WHEREAS**, in Saguache County, Colorado ("the County") public nuisances are, or may in the future be detrimental to the public health, safety, welfare and comfort of the citizens of Saguache County; and

**WHEREAS**, public nuisances have been demonstrated as affecting and interfering with the enjoyment of and reducing the value of property by promoting the following: vandalism, the presence of vermin, creations of fire hazards and other safety and health hazards to children and adults, interference with the comfort and well-being of the public and creations, extension and aggravation of blight; and

**WHEREAS**, adequate protection of public health, safety, welfare and comfort requires that public nuisances be regulated, prohibited and abate; and

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR SAGUACHE COUNTY, STATE OF COLORADO THAT ORDINANCE \_\_\_\_ BE AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:**

That the Board of County Commissioners by this Ordinance does hereby adopt the regulation and abatement of nuisances, and the following rules and procedures for the administration of said Ordinance, set forth as follows:

**SECTION 1**  
**NAME**

**1.0** This Ordinance shall be titled the "**Saguache County Nuisance Ordinance**".

**SECTION 2**  
**PURPOSE & SCOPE**

**2.0** The Board of County Commissioners of Saguache County concludes that providing a comprehensive mechanism for identifying, abating and compelling the removal of rubbish; including trash, junk and garbage is necessary in order to preserve the public health, safety and welfare of the citizens of Saguache County. Nuisances, if not controlled and eliminated, can result in visual blight, attractive nuisances, incompatibility with existing land uses, attraction of disease infested rodents and other vermin, fire and other hazards, depositing of hazardous or toxic substances in unapproved sites, and air, noise, light and water pollution.

2.01 To provide for and compel the removal of weeds and brush from lots and tracts of land within the county except agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6), C.R.S., and from the alleys behind and from the sidewalk areas in front of such property at such time, upon such notice, and in such manner as the Board of County Commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove such weeds and brush, and to assess the reasonable cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the property from which such weeds have been removed.

2.02 Pursuant to section 30-15-401, C.R.S., The Board of County Commissioners of Saguache County has the authority to adopt ordinances for the control of those matters of purely local concern, including compelling and providing for the removal of rubbish within unincorporated Saguache County.

2.03 This ordinance shall apply to all property within the unincorporated territory of Saguache County, Colorado. Provided however, this Ordinance shall not apply to actively farmed agricultural properties, as designated by the Saguache County Assessor.

2.04 Any condition which would constitute a violation, but is duly authorized under any other County, State, or federal law, is and shall be an affirmative defense to prosecution.

### **SECTION 3** **DEFINITIONS**

**3.0** "Abatement" as used herein means the removal, stoppage, prostration or destruction of that which causes or constitutes a nuisance under the definition of the Ordinance, whether by removal and proper, legal disposal, or other plan of mitigation acceptable to the County and in conformance with this Ordinance.

**3.01** "Agricultural Land" as used herein means Agricultural land as that term is defined at C.R.S. 39-1-102(1.6) as amended from time to time.

**3.02** "Board" as used herein means the Board of County Commissioners for Saguache County, Colorado.

**3.03** "County" as used herein means Saguache County, Colorado.

**3.04** "Enforcement Officer" as used herein means that County employee responsible for enforcement of this Ordinance. No person shall be designated as Enforcement Officer, unless prior to their appointment they shall have demonstrated prior experience in the area of code or law enforcement and have a full working knowledge of this Ordinance.

**3.05** "Establishment" as used herein means any real property, premises, structure, mobile home, or location at which an activity constituting a nuisance is alleged to exist.

**3.06** "Garbage" as used herein means disposable waste generated as a by-product of individual human activity, having no intrinsic economic value and which presents either a health concern or litter problem if improperly disposed of.

**3.07** "Junk/Inoperative Vehicle" A vehicle that is inoperable (unable to move under its own power), or is partially or totally dismantled or has all or portions of

its body work missing or substantially damaged or is not registered with the State of Colorado as required by §42-3-103 or §42-12-401 and §42-12-402, C.R.S., and/or the number plate assigned to it is not permanently attached to the vehicle as required by §42-3-202, C.R.S. or is lacking proper equipment to the extent that would be unsafe or illegal to use on public road rights-of-way or otherwise not equipped with lamps and other equipment as required by §42-4-202—42-4-227, C.R.S. This definition does not include implements of husbandry, farm tractors, farm or ranch equipment or vehicles customarily operated in a farm or ranch operation. This definition includes inoperable vehicle(s) which is visible from roads or adjoining, adjacent or neighboring property. A junk vehicle covered by a tarp is deemed to be "visible" within the meaning of this section.

**3.08** "Kennel/Pet Animal Facility" as used herein means a lot or building in which ten (10) or more dogs or cats, at least four (4) months of age, are kept commercially for board, propagation, or sales.

**3.09** "Manufactured Home" as used herein means a home that was factory-built in the U.S.A. to the Housing and Urban Development (hereinafter "HUD") Title 6 construction standards which took effect June 15, 1976, and displaying a Certification Label and Data Plate.

**3.10** "Mobile Home" as used herein means a factory-built home that was built before June 15, 1976, and not built to a uniform construction code. HUD presumes these homes to be unfit for habitation.

**3.11** "Modular Home" as used herein means a home that is factory-built to the code adopted by the State of Colorado or IBC Code.

**3.12** "Nuisance" as used herein shall mean any activity constituting an act(s) and or violation(s) identified within this Ordinance engaged in, or a continuing violation of three (3) or more days, then as stated herein for each 24-hour period thereafter. Provided, further, without limiting the foregoing the following acts are declared to be a "nuisance" and are therefore in violation of this Ordinance:

- 3.12.1** Unlicensed by the Department of Agriculture or Illegal Kennel/Pet Animal Facilities: The ownership, maintenance of, or operation of a dog, animal kennel, or sanctuary without a current license or in conflict with County land use, zoning and other applicable Ordinances.
- 3.12.2** Junk/Inoperative Motor and Recreational Vehicles: The keeping, storage, depositing or accumulation of motorized or recreational vehicles deemed to be detrimental to or presenting an existing or potential risk to the public health, safety and general welfare.
- 3.12.3** Garbage and Rubbish: The keeping, storage, depositing or accumulation of garbage or rubbish or other similar materials detrimental to the public health, safety and general welfare.
- 3.12.4** Building Materials: Unusable construction materials or debris not disposed of expeditiously. Provided, however, building materials being used, or to be used, for a project of repair or renovation for which a valid building permit has been obtained and is active may be stored for such period of time as is necessary to expeditiously complete the project, and shall not be considered a nuisance under this Ordinance.
- 3.12.5** Allowance of Weeds and Brush: weeds and brush from lots and tracts of land within the county except agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6), C.R.S., and from the alleys behind and from the sidewalk areas in front of such property
- 3.12.6** Transport of Nuisance Materials: The transport of any materials identified by or inferred within this Ordinance which are not properly secured.
- 3.12.7** Outdoor lighting is to be directed downward and shielded. High or low pressure sodium bulbs may be a maximum of 100 watts. Mercury vapor lamps are prohibited. Mast mounted lights must be kept to a minimum number and a maximum height of twenty-two (22) feet.

**3.13** "Owner" as used herein means the Owner of record of an Establishment or any person with legal, financial or equitable interest in real property subject to these regulations and on which the alleged nuisance activity exists at the time of the violation.

**3.14** "Posted" as used herein means posting a copy of the Notice of Violation in some conspicuous place upon the premises.

**3.15** "Recreational Vehicle" as used herein means any building, structure or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels or transported by trailer (whether directly attached at the time of violation or not) to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, off-road/all-terrain vehicles, snow mobiles, travel trailers and camping trailers not meeting the specification required for a manufactured or mobile home. A vehicle may be a Recreational Vehicle and a Junk/ Inoperable Vehicle.

**3.16** "Rubbish" as used herein shall include any one or more of the following:

**3.16.1** Used tires: Except as otherwise regulated pursuant to the Solid Waste Disposal Sites and Facilities Act, Part I of Article 20 of Title 30, C.R.S. and any rules and regulations promulgated there under the outside storage of used tires constitutes rubbish. Provided, however, used tires incorporated into construction approved by the County.

**3.16.2** Junk Vehicle or Junk Recreational Vehicle: Junk/Inoperative Vehicle(s) or Recreational Vehicle(s) that also meet the definition of Junk Vehicles shall constitute rubbish.

**3.16.3** Junk Mobile Home or Junk Manufactured Home: A mobile home or a manufactured home in a condition which presents a substantial danger or hazard to public health, safety, or welfare because it is unused by the Owner, or is uninhabited or uninhabitable as a result of deterioration, or decay or which subjects adjoining property to danger or damage by storm, soil erosion, or persons seeking temporary hideout or shelter in the Mobile Home or Manufactured home is deemed a Junk Mobile Home or Junk Manufactured Home and constitutes Rubbish.

**3.16.4 Discarded articles or materials:** Discarded articles or materials, which include but are not limited to personal property such as bottles, glass, cans, scrap metal, used/worn out vehicle parts, rubber tires not otherwise allowed as set forth herein, disposable packages or containers, paper, cardboard, furniture, carpet, construction debris, appliances and any combination thereof, disposed of on the ground and not stored within a completely enclosed building. Said articles and materials are not permitted to be stored in an abandoned or Junk Mobile Home, recreational vehicle or vehicle.

## **SECTION 4** **RESPONSIBILITY FOR MAINTENANCE**

**4.0 Applicability:** Every Owner, occupant, lessee or holder of any possessory interest in an establishment within the County's jurisdiction is required to maintain their structures and premises so as not to create or maintain a nuisance, as defined herein.

## **SECTION 5** **COMPLAINTS**

**5.01 Complaints from the Public:** Any person may file a complaint alleging a violation of these regulations. Such complaint shall be in writing and signed by the complainant. The County shall not be obligated to investigate anonymous complaints or complaints not filed in writing.

**5.02 Enforcement Officer(s):** The Enforcement Officer(s) designated by the County under this Ordinance may act to investigate any complaint when provided with information by law enforcement, health services or other governmental and quasi-public entities, and/or where there is reasonable information to believe that a violation effecting public health, safety, or welfare exists, or where in the normal conduct of their duty the Enforcement Officer becomes aware of a potential violation.

**5.03 Documentation of Complaints:** All complaints shall be logged and recorded on written forms approved by the County.

**5.04 Complaints Not Maintained:** Those complaints deemed incomplete,



erroneous or to not constitute a violation or result in prosecution shall not be required to be maintained or available for public inspection.

## **SECTION 6** **INSPECTION**

**6.0** **Procedures:** Upon receipt of a complaint the delegated Enforcement Officer(s) for the County shall perform a site inspection of the identified establishment to determine the validity of the complaint.

**6.01** **Timing:** The inspection required by the immediate preceding section shall take place within ten (10) working days of the complaint, unless such evidence exists to believe that an immediate health or safety risk exists; where in such emergency cases an inspection shall be performed as soon as possible, but not more than two working days from the filing of the complaint with the County.

**6.02** **Investigation:** As part of the inspection, the Enforcement Officer(s) shall attempt to speak to the complainant and any other person responsible for the establishment as well as such persons and/or agencies as may have direct knowledge pertinent to the complaint.

**6.03** **Documentation:** The Enforcement Officer(s) shall maintain a detailed record of all findings, including time, date, persons spoken to and titles or agency (if applicable), photographs and copies of any maps, Ordinances, or other materials relevant to the inspection.

## **SECTION 7** **NOTIFICATION PROCESS**

**7.0** **Nuisance Declared:** If, after inspecting the establishment a nuisance is determined to exist, as defined within this Ordinance, then the following abatement procedures shall be followed. Any violation(s) occurring more than twenty-four (24) hours after service of a Notice of Violation (NOV) shall be deemed to be a separate violation.

**7.01** **Notice:** A written Notice of Violation (hereinafter, "NOV") that a documented nuisance exists shall be prepared by the designated Enforcement Officer(s) and the NOV shall be posted on the establishment, sent by Certified Mail to the establishment's owner at the address listed in the records of the



Saguache County Assessor's Office and to the mailing address of the establishment if such address is different from the address in the Assessor's records.

**7.02** Service Defect not Fatal: Failure or refusal of the occupant or Owner to receive the NOV does not affect the right of the County to seek abatement, prosecution or any other remedy.

**7.03** Contents of Notice: The Notice of Violation (NOV) shall, at minimum, contain the following:

**7.03.1** A description of the alleged nuisance.

**7.03.2** The location the alleged nuisance occurred.

**7.03.3** The date the nuisance was declared.

**7.03.4** A statement setting forth the requirements to abate the violation and the date by which abatement must occur which shall not be less than thirty (30) days from the date of issuance of the NOV.

**7.03.5** The penalties for failure to abate the alleged nuisance.

**7.03.6** The contact person for the County and contact information for appealing the NOV or obtaining additional information.

**7.03.7** A statement that the recipient of the NOV may appeal the NOV and a description of how to appeal the NOV.

## **SECTION 8** **APPEAL**

**8.0** Procedure to Appeal to Enforcement Officer: The Owner of the identified establishment may, in writing, contest or provide written explanation to the Enforcement Officer(s) or propose a detailed plan and time frame to abate the violation.

**8.01** Service of Appeal to Enforcement Officer: All appeals must be either hand delivered to the Saguache County Land Use Department or sent to that office by Registered Mail. Such appeals must be served on the Saguache County Land Use Department on or before twenty (20) days following service of the NOV on the

Owner.

**8.02 Determination of Appeal to Land Use Administrator:** The Land Use Administrator shall provide a written response and deposit such response in the United States Mail by registered mail within ten (10) days after receiving the explanation or plan from the cited party.

**8.02.1** The Land Use Administrator(s) response may include, based upon a proposed abatement plan an approved extension stating the period allowed for abatement, or may present a counter-proposal to the establishment's owner to secure abatement.

**8.03 Procedure to Appeal to County Administrator:** If the Owner receiving the NOV is unable to reach a resolution with the Enforcement Officer and Land Use Administrator after filing an explanation or remedial plan for abatement, the Owner may, within fourteen (14) days of receiving the written rejection by the Land Use Administrator file a written appeal to the County Administrator. This may be accomplished by writing a statement including, but not limited to:

**8.03.1** An explanation of what attempts were made to resolve the dispute during the Appeal to the Enforcement Officer and Land Use Administrator.

**8.03.2** The reasons why the Owner does not believe a nuisance exists including a statement of any affirmative defenses to the existence of a nuisance.

**8.03.3** A detailed plan to abate the alleged nuisance including specific time frames for the abatement of the nuisance.

**8.03.4** A copy of the NOV shall be attached to the Owner's Appeal to the County Administrator.

**8.04 Determination of Appeal to Board of County Commissioners:** The County Administrator (or qualified designee) shall schedule the Appeal before the Board of County Commissioners.

**8.05 Stay of Enforcement:** No action shall be taken regarding the NOV during any period between the filing of an appeal and service of the determination of the appeal. Provided, however, the fact that an appeal or abatement plan was being processed shall not be grounds for defense or failure to abate within the required

thirty (30) days.

**8.06 Failure to Satisfy Notice of Violation (NOV):** Failure to respond to the NOV within the thirty (30) days allowed within the Ordinance, failure to provide or adhere to the terms of an abatement plan or extension granted in writing by the Land Use Administrator shall be deemed as failure to abate. In such cases, the Enforcement Officer shall submit the NOV in accordance with County procedures, for prosecution as a violation of law for appearance before the appropriate court or whatever other remedies the County may pursue.

## **SECTION 9** **ABATEMENT**

**9.0 Remedies of Law:** Consistent with this Ordinance, failure to respond or comply with a NOV shall result in the seeking by the County or its designated agents, of any and all permissible remedies under the law to abate the conditions which constitute the nuisance, as identified in the NOV and may include:

**9.0.1** Seeking a complaint by the Sheriff's Office to be served upon the Owner, Occupant and/or parties identified in the NOV.

**9.0.2** Requesting the court to award an administrative entry and seizure warrant for the County to execute or to contract to execute abatement of the violations.

**9.0.3** Any and all other remedies applicable to the condition to be abated/remediated and consistent with and permissible under the laws of Saguache County, the State of Colorado and the United States Government.

**9.01 Responsible Parties:** The Owner of Record and Occupant of Record of the establishment, premises, location or structure at the time of a NOV shall be responsible for complying with that NOV, and will be liable for any costs incurred by the County therewith, notwithstanding the fact that an interest in said establishment is transferred to any other party(ies) after such NOV is issued.

**9.02 Abandonment Vacancy not a Defense:** It shall not be a defense if a determination is made where a nuisance exists when the establishment is vacant, abandoned, foreclosed, under contract, boarded up or otherwise enclosed, unoccupied or encumbered.

**9.03** Abatement may be done by Private Contract: If the Owner, occupant or other person(s) served with a NOV fails to respond to the request for abatement and it is necessary for the County to correct the violation(s), the County may opt to do the work by private contract rather than by County staff.

**9.04** Sale of Salvaged Materials: The County may, sell any materials salvaged from an abatement action by the County. Although the County is under no obligation to salvage materials from an abatement, as practicable, the County may do so and sell the same at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.

**9.05** Statement of Costs: A statement of all fees, fines and other expenses incurred by the County, less any net proceeds of the sale of salvageable goods received by the County, shall be submitted to the violator for payment. If not paid within ten (10) days, then a general lien shall be placed in the County's records and the County may pursue collection remedies, which may be available.

## **SECTION 10** **PENALTIES AND REMEDIES**

**10.0** Administrative Entry & Seizure Warrant: No entry upon private property shall be made for the purpose of rubbish or junk or junked vehicle removal or the removal of any materials in connection with an abatement process by the County and/or its legally designated contractors and agents until an administrative entry and seizure warrant has been obtained from a court of competent jurisdiction, in accordance with C.R.S. 30-15- 401 (1)(a)(I)(B), as amended.

**10.0.1** *Affidavit for warrant.* A county court or district court having jurisdiction over property from which rubbish shall be removed pursuant to the ordinance and shall issue an administrative entry and seizure warrant for the removal of such rubbish. Such warrant shall be issued upon presentation of county ordinance provisions and a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish within a

reasonable prescribed period of time, a general description of the location of the property which is the subject of the warrant, a general list of any rubbish to be removed from such property, and the proposed disposal or temporary impoundment of such rubbish, whichever the court deems appropriate.

**10.0.2** *Service of warrant.* Within ten days following the date of issuance of an administrative entry and seizure warrant such warrant shall be executed in accordance with directions by the issuing court, a copy of such issued warrant shall be provided or mailed to the property owner, and proof of the execution of such warrant, including a written inventory of any property impounded by the executing authority, shall be submitted to the court by the executing authority.

**10.01** Prosecution: Upon discretion of the County, a prosecution may be brought against the Owner in accordance with C.R.S. 30-15-402 and 410.

**10.01.1** Separate Violation: Each day (a 24-hour period) a nuisance exists after a complaint is issued or otherwise identified shall constitute a separate violation.

**10.01.2** Summons and Complaint: A summons and complaint may be issued by the County Sheriff or his deputies upon receipt of the same.

**10.01.3** Fine: Violation(s) of the provisions of this Ordinance shall be punishable by a fine of not more than one-hundred dollars (\$100.00) for each violation. In addition to this penalty, the County may assess the reasonable cost thereof, including five percent for inspection and other incidental costs in connection therewith, upon the lots and tracts from which such rubbish has been removed. Any assessment pursuant to this Ordinance shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In case such assessment is not paid within a reasonable time specified by ordinance, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state 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 assessments.

**10.01.4** How Paid: All fines, inspection fees, costs and forfeitures (except surcharges) for the violation of these regulations shall be paid to the Treasurer of Saguache County not later than thirty (30) days after imposition.

## **SECTION 11** **ADDITIONAL REMEDIES**

**11.0** Supplement to Existing Law: The remedies provided for are: supplemental and complementary to all of the provisions of this Ordinance, and State and Federal law, and nothing herein shall be read, interpreted or construed in any manner to limit any existing right or authority of the County to abate and compel removal of any and all nuisances.

**11.01** Cumulative: The remedies provided in these regulations shall be cumulative and in addition to any other remedies, which may be available to the County including but not limited to injunctive actions. Nothing contained herein shall be construed to preclude the Board of County Commissioners from seeking such other remedies in addition to, or in lieu of, the remedies herein in addition to, or in lieu of, the remedies herein specified.

## **SECTION 12** **EXEMPTIONS**

**12.0** These regulations shall not apply to those establishments otherwise exempt by law, including C.R.S. 30-15-401 and C.R.S. 30-15-401(a)(1)(A), and land assessed as agricultural by the Saguache County Assessor.

## **SECTION 13** **MISCELLANEOUS**

**13.0** Effective Date: This Ordinance took effect \_\_\_\_\_, and as provided below.

**13.01** Period of Public Hearing Requirement: The Saguache County Land Use Department shall, upon passage of this Ordinance, coordinate a period of public education and information regarding the Ordinance, as well as to

publicize legal and available means of disposal of nuisance materials covered under this Ordinance.

**13.02 Evaluation and Monitoring:** The Saguache County Land Use Department shall coordinate and cause to be implemented, in conjunction with the Nuisance Ordinance Enforcement Officer, a ninety (90) day evaluation of the performance of the Ordinance and shall report to the Board of County Commissioners no later than 30 days, with its findings and any recommendations for the amendment of the Ordinance.

**13.02.1** At least two (2) subsequent six (6) month reviews shall also be conducted and reported to the Board of County Commissioners.

**13.03 Safety Clause:** The Board of County Commissioners hereby finds, determines and declares that these regulations are necessary for the health, safety and welfare of the citizens of Saguache County, Colorado.

**13.04 Severability:** If any section, subsection, clause or phrase is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portions of these regulations.

**13.05 Conflicting Provisions:** Where any provision of these regulations conflict with any other provision of these regulations, or any other law, the more stringent requirement, regulation, restriction or limitation shall apply.

**SECTION 14**  
**EFFECTIVE DATE**

**14.0** This ordinance shall be effective \_\_\_\_\_.

APPROVED AND ADOPTED ON \_\_\_\_\_, SAGUACHE COUNTY,  
COLORADO, this \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

Board of Commissioners



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Chairman

ATTEST:

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Commissioner

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Clerk and Recorder

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Commissioner