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BOOK 460 PAGE 349

Harriet R. Anderson, Recorder Park County

AN ORDINANCE

ORDINANCE NO. 6

County of Park
State of Colorado

AN ORDINANCE PROHIBITING THE ACCUMULATION OF RUBBISH IN THE COUNTY OF PARK, STATE OF COLORADO.

WHEREAS, pursuant to Section 30-15-401, C.R.S., as amended, the Board of County Commissioners of Park County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 30-15-401, C.R.S., specifically authorizes the adoption of ordinances and regulations to compel the removal of rubbish within the unincorporated areas of Park County; and

WHEREAS, it has come to the attention of the Board that residents of Park County have experienced problems with the accumulation of rubbish upon adjacent properties; and

WHEREAS, it is the opinion of the Board that in order to preserve the public health, safety and welfare of the citizens of Park County, the Board should take the following action:

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Park County, Colorado:

Section 1 - Purpose.

The purpose of this Ordinance is to protect the public health, safety and welfare of the citizens and residents of Park County, Colorado, by eliminating and controlling, to the extent possible, the accumulation of rubbish within the County, which if not eliminated or controlled, can result in negative visual impact, incompatibility with existing land uses, hazardous or toxic substances being deposited in unapproved sites, attraction of disease infested rodents and disease carrying insects; air, noise and water pollution, and other health and fire related hazards.

Section 2 - Authority.

This Ordinance is authorized pursuant to, inter alia, part 1 of Article 11 of title 30, part 4 of Article 15 of title 30, and part 1 of Article 20 of title 29, C.R.S., as amended.

Section 3 - Applicability.

3.1 This Ordinance shall apply throughout the unincorporated area of Park County, including public and state lands.

3.2 This Ordinance shall apply within the corporate limits of any incorporated town or city within Park County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein, and upon which an intergovernmental agreement between Park County and such incorporated town or city has been entered into relating thereto.

Section 4 - Definitions.

Agricultural Land: Means agricultural land currently in agricultural use that has, for at least two (2) years prior to any alleged violation of this Ordinance, been used for the primary purpose of obtaining any monetary profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the products of, livestock, poultry, fur bearing animals, or honeybees, or for dairying and the sale of dairy products, or for any other agricultural or horticultural use or animal husbandry or any combination thereof, or is in the process of being restored through conservation practices, including resting, deferred grazing, and fallowing, and has been classified or eligible for classification as agricultural land consistent with Section 39-1-102(1.6), C.R.S., as amended, and consistent with this definition during the preceding ten (10) years and is presently so used.

Board: The Board of County Commissioners of Park County, Colorado.

County: The unincorporated areas of Park County, including public and state lands, and the corporate limits of any incorporated town or city within Park County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and upon which an intergovernmental agreement between Park County and such incorporated town or city has been entered into relating thereto.

Industrial Tract: Means a lot, parcel or tract of

land currently zoned for industrial uses or otherwise authorized by variance or nonconforming use status to operate activities ordinarily restricted to industrial zone districts, or, if unzoned, classified by the Park County Assessor's Office, in whole or in part, as industrial.

Mining Equipment: Shall include materials and equipment commonly used in current mining operations within Park County; provided, however, that any such materials or equipment which have become so deteriorated or obsolete as to make them unusable, or if such materials or equipment are likely to create a danger of injury to any person or a hazard or have been discarded or abandoned, then such materials or equipment shall not be considered mining equipment, and shall be considered as rubbish.

Owner: Shall include the owner of record, whether person, partnership, firm, corporation, or other association of persons, any authorized agent or representative of the owner of record, and any occupant of the premises.

Rubbish: Shall include any trash, junk, garbage, litter, refuse, debris, used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of Article 20 of title 30, C.R.S., and any rules and regulations promulgated thereunder), lawn or garden waste, newspapers, magazines, scrap glass, used bottles, scrap metal, rags, used appliances, used machinery, used pipe or conduit, plastic or paper containers or other packaging or construction materials, motor vehicle parts, abandoned, inoperable or junk vehicles, furniture, oil, carcasses of dead animals, any other used manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, any noxious or offensive matter of any kind, any object likely to create a danger of injury to any person or a hazard, or any other object which has been discarded or abandoned.

Section 5 - Exemptions.

a. This Ordinance shall not apply to industrial tracts of ten (10) or more acres nor to agricultural land, as such terms are defined in this Ordinance.

b. This Ordinance shall not apply to "mining equipment" stored upon or used upon affected land subject to the Colorado Mine Land Reclamation Act as the term "affected land" is defined in Section 34-32-103(1), C.R.S., as amended, or on lands subject to the Colorado Supra Coal Mining Reclamation Act," pursuant to Article 33 of Title 34, C.R.S., as amended.

Section 6 - Unlawful Acts.

6.1 It shall be unlawful for any owner to allow the placement, presence, storage or accumulation of rubbish on any lot or tract of land in the County under such owner's control, possession, or ownership, or upon any alley or sidewalk adjacent to such lot or tract of land.

6.2 It shall be unlawful for any person to dump or dispose of rubbish in the County except in those places permitted and/or duly authorized by the Board for such purpose.

6.3 It shall be unlawful for any person to fail or refuse to comply with any order issued pursuant to this Ordinance.

Section 7 - Notice and Order for Removal of Rubbish.

In the event that rubbish should be placed upon, present, stored, or accumulate on any lot or tract of land in the County, or upon any alley or sidewalk adjacent to such lot or tract of land, the County Zoning Officer or the Board, upon its own motion, may make a determination that such condition/violation does exist. In the event the Zoning Officer and/or the Board determines that such condition does exist, the zoning officer shall issue a Notice and Order to the owner directing the owner either to remove such rubbish within twenty (20) days from the date of said Notice and Order, or to show cause within said twenty (20) days why said Order should not be enforced. Said Notice and Order shall be deemed issued by placing the same in the U. S. Mail, certified, return receipt requested, to the owner's last known address as indicated on the County's assessment roll.

Section 8 - Removal of Rubbish By County, Assessment of Costs, Collection.

8.1 If the owner fails or refuses to remove such rubbish within twenty (20) days from the date of the Notice and Order issued in accordance with Section 7 above, the Zoning Officer and/or the Board shall have the authority to remove such rubbish, either by and through County forces, contract for, or otherwise, and to assess the whole cost thereof, including five percent (5%) for inspection and incidental costs in connection therewith, upon the lots and tracts from which such rubbish has been removed. Any assessment pursuant to this subsection 8.1 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.

8.2 In case the assessment prescribed in Subsection 8.1 above is not paid within ninety (90) days from the date of removal of such rubbish by Park County, such assessment may be certified by the Clerk to the Board to the Park County Treasurer, who shall collect such assessment, together with a ten percent (10%) penalty for the cost of collection, 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 govern and apply to the collection of assessments pursuant to this Subsection 8.2.

Section 9 - Emergency Order.

9.1 Whenever the Zoning Officer or the Board deems that an emergency exists which requires immediate action to protect the public health, safety and welfare, the Zoning Officer or the Board may, without prior notice or hearing, issue an Order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this Ordinance to the contrary, such Order shall be effective immediately.

9.2 Any person to whom such emergency Order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.

9.3 In the event that the person to whom such emergency Order is issued fails or refuses to immediately comply therewith, the Zoning Officer or the Board may, without prior notice to the owner, occupant or agent of the owner, provide through County forces, contract for, or otherwise, to remove, correct or otherwise abate the condition giving rise to the issuance of the emergency Order, and to assess and collect the whole cost thereof to the owner of the affected property in accordance with Section 8 above.

9.4 Notwithstanding any provision of this Ordinance to the contrary, the Board may seek and obtain temporary restraining orders, preliminary injunctions, and permanent injunctions from the appropriate court of competent jurisdiction to effect the removal, correction or abatement of the condition, or conditions, which the Board deems an emergency requiring immediate action to protect the public health, safety and welfare, and to assess and collect the whole cost thereof, including attorneys' fees and costs of litigation, to the owner of the affected property in accordance with Section 8 above.

Section 10 - Continuing Violation.

Each day that such rubbish continues unremoved from the premises after the date of expiration of the twenty (20) day period prescribed in Section 7 hereinabove, shall constitute a separate violation.

Section 11 - Ownership of and Responsibility for Removal of Rubbish.

Any person generating or producing any rubbish shall be responsible for the proper storage, removal, transport and disposal of said rubbish. If any rubbish is disposed of other than in compliance with this Ordinance, and the ownership of said rubbish can be ascertained from the contents thereof, or in any other manner, the owner so ascertained may be prosecuted for unlawful disposal of rubbish.

Section 12 - Penalty.

Violation of the provisions of this Ordinance shall be punishable by a fine of not more than three hundred dollars (\$300.00) for each violation.

Section 13 - Enforcement.

13.1 The provisions of this Ordinance shall be enforced by the Park County Sheriff's Office.

13.2 The Board hereby designates the County Attorney, or his/her designee, as the County's legal representative to enforce the provisions of this Ordinance in conjunction with the Park County Sheriff's Office.

Section 14 - Disposition of Fines and Forfeitures.

All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Park County not less frequently than monthly, and shall be deposited into the General Fund of the County.

Section 15 - Additional Remedies.

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the remedies herein granted.

Section 16 - Safety Clause.

The Board hereby finds, determines and declares that

