

ORDINANCE NO. 333

AN ORDINANCE OF THE TOWN OF IGNACIO, COLORADO, MODIFYING SECTION 8-3-7 OF THE TOWN MUNICIPAL CODE ASSOCIATED WITH NUISANCES AND ESTABLISHING SECTION 8-3-7.5 FOR ABANDON VEHICLES.

WHEREAS, C.R.S. 31-15-103 states municipalities shall have power to make and publish ordinances not inconsistent with the laws of this state, from time to time, for carrying into effect or discharging the powers and duties conferred by this title 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 such municipality and the inhabitants thereof not inconsistent with the laws of this state; and

WHEREAS, CRS 31-15-401 allows the governing bodies of municipalities, in relation to the general police power, 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.

WHEREAS, Ordinances passed and published by the Town of Ignacio are established and maintained within the Town of Ignacio Municipal Code; and

WHEREAS, circumstances and changes require the Ignacio Town Board of Trustees to modify, change or update the Town of Ignacio Municipal Code in order to ensure public health and safety is preserved; and

WHEREAS, the Ignacio Town Board of Trustees seeks to complete needed changes to Municipal Code and specifically to sections that are associated with Nuisances.

NOW THEREFORE BE IT ORDAINED by the Board of Trustees of the Town of Ignacio, Colorado;

Section 1. The Town of Ignacio Municipal Code, Chapter VIII, Section 3 – Offenses Against Public Order and Decency, Subsection 7 shall be amended to read as follows:

(Delete current section language in its entirety)

8-3-7 Property of Public Nuisance.

Any person who maintains his or her property in such a condition as to injure, endanger the health, safety, comfort or property of his or her neighbors.

- (1) Allowing an inoperable motor vehicle to be parked or remain upon any public street or any private property, not within a garage, shall be a violation of this section.

(Add new section language, as follows)

8-3-7 Nuisances.

Nuisance means any substance, act, condition or use of property declared a nuisance by this Code that; substantially annoys, injures, or endangers the comfort, health or safety of the public; threatens the public health, safety and welfare; or is prohibited by statute, ordinance, law or provisions within this Code.

(1) Specific nuisances.

The items described herein are intended to establish a reasonable method of identifying situations or conditions that may constitute a nuisance, but are not intended to be exclusive of any other condition that constitutes a nuisance. In addition to any other conditions or activities described in this Code, the ownership, leasing, occupying, managing or possessing of any property, structure or premises upon which any of the following conditions are found to exist is declared to be a nuisance that may be abated by any lawful procedure:

- (a) The premises are a detriment to public health, safety or general welfare;
- (b) The premises are littered, defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Examples of these conditions may include, but shall not be limited to the following:
 - i. Accumulation of junk, trash, refuse or debris;
 - ii. Abandoned, discarded or unusable objects or equipment such as furniture, appliances and vehicles as defined in section 8-3-7.5 below;
 - iii. Stagnant water that constitutes a hazard;
 - iv. An excavation or an open foundation for which a building permit has expired; or
 - v. Uncovered wells or cisterns.
- (c) The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties;
- (d) The premises are abandoned, boarded up, partially destroyed, or left in an unreasonable state of partial construction;
- (e) Buildings have dry rot, warping or infestation;
- (f) The premises have a substantial number of inoperable or broken windows which cause hazardous conditions and invite trespassers and mischief;
- (g) The landscaping on the premises has not been maintained as follows:
 - i. Trees and shrubs have not been trimmed and are overhanging adjoining properties or public rights-of-way;
 - ii. Weeds or other growth over 12 inches that have not been removed or cut, except in areas where such removal is impractical such as irrigation ditches or other inaccessible areas; or

- iii. Dead or diseased trees and/or plants have not been removed or replaced.
 - (h) The exterior of commercial establishments or multifamily buildings have not been maintained so as to present a neat and orderly appearance which is compatible with the area.
- (2) Authority to enter on property.

The town manager or designated persons may enter upon or into any lot or premises, when necessary to enforce the provisions of this code, and has reasonable cause to believe that a nuisance exists. Entry must be at a reasonable time and credentials must be presented to occupants when permission to enter is requested. If the lot or premises is unoccupied, reasonable efforts should be made to contact the owner or person having possession or control of the subject property and permission sought before entry. If entry is refused, the town manager or designated persons shall seek recourse provided by law to secure entry.

(3) Abatement without notice.

In case of any nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the town, the town manager or designated persons may abate the same forthwith without notice. Additionally, cases where extreme public, health and safety issues are declared by the town manager or designated person, the nuisance may be abated without notice.

(4) Notice to abate.

Any state or things prohibited by this Code shall be deemed a nuisance, and any person who shall make, or cause such nuisance to exist shall be deemed the author thereof. Written notice to abate a nuisance shall be mailed to the author via certified mail or hand delivered by the town manager or designated person. The written notice shall establish a seven (7) day period for the abatement of the nuisance. Failure to abate the nuisance will result in a written summons into the Town of Ignacio Municipal Court.

(5) Declaration of nuisance.

In the event a nuisance within or upon any private premises or grounds is not abated after the notice provided in this article has been provided, the author will be cited by written summons into municipal court. The municipal court judge will exercise their authority to cause the abatement of the nuisance and levy adopted fines and fees allowed by applicable laws. The municipal court judge may also declare a nuisance be abated and order the town manager or designated person to abate the nuisance without delay.

(6) Assistance to abate generally.

The town manager or designated person shall have the authority to call for the necessary assistance or designate any officer who shall be duly authorized to

abate any nuisance specified in this section shall have authority to engage the necessary assistance and incur any necessary expenses.

(7) Recovery of expenses.

The expense incurred by the town in abating any nuisance may be collected by proper actions established by the municipal court or through other legal means.

(8) These remedies are in addition to any other remedy in the Town of Ignacio Municipal Code governing nuisances, including those in Chapter VII, Sections 4 and 5.

Section 2. The Town of Ignacio Municipal Code, Chapter VIII, Section 3, Subsection 7.5 shall be established and read as follows:

8-3-7.5 Abandoned vehicles.

- (1) The following definitions shall apply to the interpretation and enforcement of the provisions of this section:
 - (a) *Property* means any real property located within the corporate boundaries of the town which is not a public street, highway or right-of-way.
 - (b) *Vehicle* means a machine or device designed to travel along the ground by use of wheels, treads, runners or slides, intended to transport persons or property or intended as a temporary shelter for persons, and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, mobile homes, motor homes, recreation and off-highway vehicles.
- (2) It shall be unlawful for any person to leave any partially dismantled, wrecked, discarded or junked vehicle on any property or public right-of-way within the town.
- (3) It shall be unlawful for any person to abandon any vehicle within the town, and no person shall leave a vehicle on any property within the town for such time or under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. For the purposes of this section, any vehicle which has not been operated as intended for a period of 30 days shall be conclusively deemed to be abandoned.
- (4) It shall be unlawful for any person who is the owner of or otherwise in control of any property within the town to permit or allow any partially wrecked, junked, inoperable or abandoned vehicle to remain on any such property longer than 30 days, provided that this section shall not apply to any vehicle which is stored in an enclosed building or which is otherwise fully concealed, or to a vehicle on the premises of a lawful business enterprise when such vehicle is being actively repaired or deemed necessary to the operation of such business enterprise.
- (5) It shall be unlawful for any person to occupy or reside in any abandoned vehicle.

- (6) The police chief or any member of the police department is hereby authorized to investigate any vehicle which appears to be in violation of the provisions of this section.
- (7) In addition to any other penalty which may be imposed, any violation of this section shall be deemed a Nuisance and any violation may be abated and the expenses associated with the abatement collected by the Town.

Section 3. Effective Date. This Ordinance shall take effect within 30 days of publishing this ordinance by title.

PASSED, APPROVED, ADOPTED AND ORDERED PUBLISHED, this 18th day of June, 2018, by the Board of Trustees of the Town of Ignacio, Colorado.

Town of Ignacio

Stella Cox, Mayor

ATTEST:

Tuggy Dunton, Town Clerk