

ORDINANCE NO. 2 2021

AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY SECTIONS 13 OF THE ORDINANCES OF THE TOWN OF MOORCROFT AND ADOPTING A NUISANCE COMPLIANCE PROGRAM TO PROMOTE, PROTECT AND IMPROVE THE HEALTH, SAFETY, AND WELFARE OF ALL CITIZENS OF THE TOWN OF MOORCROFT AND TO AID IN THE RESOLUTION OF COMPLAINTS THROUGH THE ENFORCEMENT OF THE TOWN'S NUISANCE CODES.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MOORCROFT, CROOK COUNTY, WYOMING, THAT THE TOWN HEREBY AMENDS AND RESTATES SECTIONS 13 IN THEIR ENTIRETY AND DOES FURTHERE HEREBY ADOPTS THE FOLLOWING NUISANCE COMPLIANCE REGULATIONS.

**ARTICLE I
DEFINITIONS**

For the purposes of this chapter, the following definitions, terms, phrases, words and their derivations shall have the following meanings. The word "shall" is mandatory, and the word "may" is permissive.

- 1.1 Abandoned, Inoperable Vehicle. Any vehicle which does not display current registration, or which is totally or partially suspended above the ground by jacks, blocks, or other devices, or when any of the four tires of the main wheels have been removed or are deflated other than for immediate repair, or any vehicle which is dismantled, partially dismantled, inoperative, abandoned or discarded, or is unable to immediately perform the function or purpose for which it was originally constructed under its own power and in compliance with governing and applicable traffic ordinances and statutes, or any motor vehicle not having current license plates lawfully affixed thereto. For purposes of this Nuisance Ordinance, the term "vehicle" shall mean any transportation device originally designed or constructed to be self-propelled, regardless of whether it contains an engine any other time, including without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies, and other off road vehicles; and, shall further include any open or enclosed trailers which are primarily designed to haul or store cargo.

Exceptions:

- (i.) Any "antique" vehicle, defined as a vehicle being at least twenty five (25) years old and which is owned and maintained solely as a collector's item, shall not be considered an Abandoned Vehicle, provided that any such antique vehicle shall remain within an enclosed structure on the property or shall remain covered by a commercial grade vehicle cover;

(ii.) Any vehicle which is being stored or restored by the owner shall not be considered an Abandoned Vehicle, provided that no person shall have more than one (1) such vehicle on their property at any time and any such vehicle shall be and remain inside an enclosed structure on the property or shall remain covered by a commercial grade vehicle cover.

- 1.2 Abate. Repair, replace, remove, destroy or otherwise remedy a condition by such means and in such a manner and to such an extent as determined necessary to protect, restore, maintain community standards of health, and general welfare.
- 1.3 Debris. Includes any abandoned, wrecked, dismantled, disassembled, or inoperative vehicles, motor vehicle parts, tires, iron, glass, paper, rags, wood, machinery parts, cloth manufactured items which by reason of partial or complete disassembly or dilapidation are unable to perform the function or purpose for which it was originally constructed, dead animals, animal excretion, batteries, household appliances, furniture, rubber and plastic pilings or products, barrels, construction or remodeling debris of any kind, and any scrap or salvage material of any kind. The term debris shall not include firewood cut into individual lengths which is stacked or organized in a neat and orderly manner and is covered to prevent rodent harborage.
- 1.4 Inoperable Vehicle. Any vehicle incapable of immediate operation under its own power and in compliance with governing and applicable traffic ordinances and statutes, or any motor vehicle not having current license plates lawfully affixed thereto.
- 1.5 Nuisance. The creation and/or maintenance by any person of any condition or use of real or personal property in such a manner as to offend the senses or to unreasonably interfere with the use or enjoyment of the property of another, or which is detrimental to the property of another or which causes the substantial diminution in value or degrades the value of another's property by permitting any condition to exist which results in substantial annoyance, inconvenience or injury to the public, in whole or in part.
- 1.6 Offending Person. Any individual, firm, association, partnership, corporation, or any entity, public or private.
- 1.7 Property. Any real property within the Town limits or any Town property which is not a street or highway.
- 1.8 Street or Highway. The entire width between the boundary lines of every public way maintained by the Town of ~~Pine Haven~~ Moorcroft when any part thereof is open to the use of the public for purposes of vehicular travel.

- 1.9 Vegetation. All weeds, grasses, and ~~rank overgrowth~~, troublesome or harmful vegetation growing on any premises outside of the traveled portion of any street or alley within the ~~city~~ town that exceeds the height of 8 inches. Weeds shall include, but not be limited to, such plants as may be so designated by the Crook County Weed and Pest Board.

ARTICLE II MAINTENANCE DUTY – GENERAL

2.1 Purpose. The accumulation of debris on private or public property including public utility easement and public thoroughfares is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for insects, rodents, skunks, and other vermin and to be injurious to the health safety and general welfare of the public. Therefore, the presence of debris on public or private property, except as expressly permitted, is declared to constitute a nuisance which may be abated as such in accordance with the provisions of this chapter.

2.2 Maintenance. It shall be the responsibility of every person and business, whether owner, lessee, mortgagee or renter, of any property, lot, building, or premises, including business, hotel, restaurant, dwelling house, apartment, or other establishment within the Town limits, at all times, to maintain such property in a clean and orderly condition and not to permit any deposit or accumulation of Debris other than those ordinary attendant upon the use of which such premises are legally intended.

2.3 Nuisance. It is hereby declared to be unlawful for any person to maintain or permit the existence of any nuisance upon any property within the Town of Moorcroft. Any person who may be in violation of this section shall, in addition to any penalty that may be imposed for the violation of this code, be subject to the provisions of this chapter and be required to reimburse the Town of Moorcroft for expenses incurred in the abatement of the nuisance.

ARTICLE III NUISANCES

3.1 Specific Nuisances Declared.

- A. It is unlawful for any person or business to place, store, discard, throw or deposit any item or article on any property or premises within the Town that will catch and maintain water from any source, thereby creating a breeding ground or harborage for mosquitoes and/or other insects. Items such as tires, buckets, bottles, pans or like items may not be stored outside of an enclosed building or approved structure for longer than 72 hours, and even ~~then~~ then, must be stored in such a manner that prevents the collection and stagnation of water. Such actions are deemed a danger and constitute a public life safety

hazard.

- B. It is unlawful for any person or business to store, place, discard or deposit any heavy appliance, i.e., stove, dishwasher, refrigerator, clothes dryer, washing machine, ~~bath tub~~bath tub, etc. or other airtight container(s) outside for longer than 24 hours. Such items are deemed a danger and constitute a public life safety hazard.
- C. It is unlawful for any person to cause, allow or permit the pooling, ponding or depositing of sewage or human excrement in any place or manner, except through and by means of an approved waste system. Such occurrence is deemed a danger and constitutes a public life safety hazard.
- D. It is unlawful for the owner, responsible person or contractor in charge of any construction or demolition site to cause, maintain, permit or allow to be caused, maintained or permitted, the excessive accumulation of any debris on the site at any time before, during or after the commencement or completion of the construction or demolition project. All construction debris and litter must be controlled on site to prevent wind blown debris from impacting adjacent properties. The owner, responsible person or contractor shall have and maintain on the site a proper container to contain or otherwise control construction debris generated on the site.
- E. It shall be unlawful for any person or business to allow or maintain property or a premise in such a condition as to attract rodents, skunks or other vermin. This shall include, but not be limited to, piles of debris, dirt, construction or demolition materials or excessive amounts of firewood as shall be determined by the proper authority.
- F. It shall be unlawful for an owner, responsible person or contractor to allow any condition which, without a lawful permit, interferes with, obstructs or tends to obstruct or which renders dangerous for passage, any public street, sidewalk, ditch or drainage.
- G. It shall be unlawful for any person in charge or control of private property to allow any abandoned vehicle, mobile home, or any partially dismantled, inoperable/unlicensed, wrecked, junked or discarded motor vehicles of any kind, and discarded automobile parts, and other like materials or objects to remain on such property longer than 14 days unless it be in an enclosed building or properly zoned area. This provision shall not apply to Antique Vehicles or vehicles being restored by the property owner, provided that no more than one (1) vehicle may be retained for restoration purposes and further provided that any Antique Vehicle shall either be stored in an enclosed building or shall be covered with a commercial car cover.

- H. It is unlawful for any person in charge or control of private property to cause, allow or permit the accumulation of debris, garbage, litter, open garbage pits, rubbish, or vegetation on such property.
- I. It shall be unlawful for any person to live, reside, camp or sleep overnight for longer than fourteen (14) days in any camper, recreational vehicle or any other type of camping shelter located inside the town limits of the Town of Moorcroft, other than at a properly established and permitted camping site.
- J. It is unlawful for any person in charge or control of private property to cause, allow or permit a nuisance to exist on such property.

3.2 Vegetation.

A. Weeds and tall grass have been determined to pose an immediate danger due to their ability to go to seed quickly, provide a harborage for rodents, insects, and to become a fire risk. As such, a summary abatement procedure is necessary to prevent their uncontrolled spread.

B. It is hereby declared unlawful for any owner, occupant, agent, or mortgagee in possession of any lot or premises within the Town of Moorcroft to fail or neglect to mow or cut and remove vegetation that may grow upon such lot or premise, or upon any space between such property and any Town street or right of way, or upon any portion of any alley adjoining such premises as required herein.

C. Any vegetation growing to a height exceeding eight (8) inches anywhere within the Town including any platted lots (whether developed or undeveloped), easements and rights of way is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Ordinance. Cut vegetation shall not be placed in streets, alleys, gutters, town rights of way, public property or property belonging to another. Cut vegetation shall be bagged and placed in city garbage containers or taken to an appropriate and lawful disposal site. The following vegetation shall be exempt from the height regulation in this section.

- (a) Planted trees
- (b) Bushes
- (c) Flowers
- (d) Planted material growing in gardens or planting beds including fruit or standing crops

D. Every owner or occupant of any real property shall trim all trees and bushes on the property owned or occupied by them which are overhanging the sidewalks, streets, or alleys so that the branches or stems thereon will not interfere with pedestrians or public travel. Trees shall be trimmed so that all parts shall be at least eight (8) feet above any sidewalk it may overhang and at least fourteen (14) feet above any street or alley.

E. If a tree, or any of its parts adjoining any streets or alley ways, in any way causes a hindrance to the general public, or in any way endangers the security and usefulness of any public street, highway, alley, utility, or sidewalk, the same is hereby declared a nuisance.

3.3 Additional Nuisances Not Limited. The foregoing specific nuisances shall not limit in any way the definition of nuisance or the scope of nuisance enforcement. No nuisance may be maintained as a non-conforming use or allowed to continue as a "grandfathered" activity.

ARTICLE IV ENFORCEMENT

4.1 Authority to Enforce. Any Town Official, Town police officer(s), or his/her authorized designee shall have authority to enforce this chapter.

4.2 Notice of Violation. Upon the discovery of any nuisance, the Town Official, police officer or any authorized designee shall provide written notice of the violation of this ordinance to the offending person. Notice provided to the offending person shall provide the following information:

- A. A statement of the particular nuisance being claimed, including a specific description of the debris being claimed as a nuisance (if any), and the vehicle identification number (if available) of any abandoned vehicle or inoperable vehicle, provided that vehicle identification number is readily ascertainable by law ~~enforcement;~~enforcement.
- B. A statement that the offending party shall have a period of fourteen (14) days for vegetation violations and thirty (30) for other violations, within which to abate the nuisance, or three (3) days to abate the nuisance if the nuisance constitutes a hazard to public health or ~~safety;~~safety.
- C. A description of the real property, by street address, or otherwise, on which the nuisance ~~exists;~~exists.
- D. A statement that if the nuisance is not abated within the time period provided, the town may either (1) issue a criminal citation for the nuisance for each day the nuisance is not abated; or (2) abate the nuisance and the cost of the abatement may be charged to the owner of the nuisance, or assessed against the land upon which the nuisance exists, or ~~both;~~both.
- E. A statement that if the offending person fails to abate the nuisance without just cause, such failure will be declared to be unlawful and shall constitute a misdemeanor, punishable by fine of not less than \$50.00 and not more than \$750.00; and,

- F. A statement that a hearing upon the allegation of a public nuisance may be requested by giving written notice to the Town Clerk within ten (10) days of the date of the notice of violation, and that if a hearing is not so requested, the right to a hearing shall be waived.

4.3 Service of Notice. Notice of violations shall be personally served upon the offending person or upon any person over the age of fourteen (14) years who may reside at the location of the nuisance. In the event the Town is unable to personally serve the offending person, notice shall be served by certified return receipt mail to the last known mailing address. If unsuccessful notice shall be served by a single publication of the notice in a newspaper of general circulation in Crook County, Wyoming. Notice of any nuisance which constitutes an immediate hazard to public health or safety may be served on the offending person by personal service or by posting the notice of violation at the location of the nuisance.

It shall be illegal for any person, other than an authorized Town representative, to remove any posted notice from the property.

The notice provisions of this section shall not apply to, and no notice shall be required to declare and enforce, the abatement of a nuisance caused or created by any offending person upon Town property or upon property owned by any other persons. Upon discovery of any such nuisance, the Mayor or his representative may immediately issue citations to the offending person for each day the nuisance is not abated.

4.4 Proof of Service. Proof of service of the notice of violation shall be made by the certification of any police officer or employee of the Town, or by affidavit of any person over eighteen years of age, naming the person to whom notice was given and specifying the time, place and manner thereof.

4.5 Enforcement Procedure. Upon failure of the offending person to abate the nuisance ~~within fourteen (14) days~~ after service of the notice of violation fourteen (14) days for vegetation violations, thirty (30) days for other violations, the Town shall have the authority to enter the property and abate the nuisance through its authorized contractors or representatives. The actual cost of the abatement procedure shall be charged back to the offending person who shall be responsible for all such costs. In the event any cost incurred in the abatement remains unpaid by the offending person for a period of thirty (30) days or more, the cost shall be collectible by the Town, together with attorney's fees and costs incurred in the collection proceedings. In addition to the Town's right to abate the nuisance, any offending party failing to abate the nuisance without just cause shall be guilty of a misdemeanor punishable by fine of not less than \$50.00 and not more than \$750.00 for each separate violation. Each day a nuisance continues to exist shall constitute a separate violation for which a separate citation shall not be required.

4.6 Hearing Procedure. A request for a hearing upon the allegation of a public nuisance and the assessment of costs shall be made in writing and delivered to the Town Clerk within ten (10) days from the date of the notice to abate. Such request shall specify the property concerning which the request is made, the requesting party's name and address, and nature of the interest held by the requesting party. In the event a request for hearing is not filed as provided by this section, the right to a hearing shall be considered to have been waived.

In the event a request for hearing is filed as provided, a hearing shall be held before at least three (3) members of the Town Council or such other individual or group as designated by the Town Council to act as hearing examiner. The purpose of the hearing shall be to confirm or deny the existence of a public nuisance and for taking such further action as is authorized under this chapter. Notice of the ~~time, place and hour~~date, time and location of the hearing shall be sent by certified mail at least (14) fourteen days in advance of the hearing to all known parties.

At any such hearing all parties shall be afforded an opportunity to present evidence, to cross-examine and present ~~argument~~argument, provided that all persons testifying shall be sworn. Irrelevant, ~~immaterial~~immaterial, or unduly repetitious evidence will be excluded as determined by the Town Council or hearing examiner. All evidence presented shall be of the type commonly relied upon by reasonable prudent people in the conduct of their serious affairs.

At or after such hearing, and in the event of confirmation that a public nuisance exists, the Town Council or hearing examiner, as the case may be, may resolve or order that the Mayor and/or his employees or agents, remove or otherwise abate that nuisance, provided, however, that if the circumstances justify, in the opinion of the entity or person presiding at the hearing, the time for abatement may be delayed. In the event the nuisance is confirmed, administrative and removal costs may be assessed at the hearing. If it is found that a public nuisance does not exist, abatement authority shall be ~~denied~~denied, and costs shall not be assessed.

Appeals from adverse decisions rendered by the Town Council or hearing examiner pursuant to this section may be made in accordance with any applicable provisions of the Wyoming Statutes for appeals from the Municipal Court.

4.7 Removal-Voluntary Consent-Affidavit.

Any resident in violation of this nuisance ordinance may voluntarily consent to the abatement of such nuisance by the Town. Such consent shall be given by all owners of the property, who shall execute an affidavit in a form acceptable to the Town attorney. The affidavit shall state that there are no other owners of the property; that the owners will reimburse the Town for the actual costs of removal or such other costs as are established by the Town Council for such removal; and that such reimbursement will be made to the Town within (30) thirty days of removal. Such affidavit shall constitute a statement by the owners signing such affidavit that they will indemnify the Town for any loss of expense alleged by any other party as a result of removal or disposal. The execution of such affidavit shall also release the Town of any liability associated with, or in any way resulting from, the Town's abatement.

Notwithstanding the other provisions of this Ordinance, the cost of abating a nuisance shall be waived for those Town residents meeting the same resource eligibility requirements under W.S. 39-11-109(c)(ii) through (vii). All persons wishing to qualify for waiver of nuisance abatement costs must: (1) furnish proof of the age and/or income requirements as set forth in W.S. 39-11-109(c)(ii) through (vii); (2) own, or be in the process of purchasing the property from which the nuisance is abated; and (3) be living on the property on which the nuisance is to be abated.

**SECTION V
SEVERABILITY CLAUSE**

Should the courts of this state or of the United States declare any section, provision, paragraph, clause, sentence, phrase or part thereof of this Ordinance invalid or unconstitutional or in conflict with any other section, provision, paragraph, clause, sentence, phrase, or part thereof of this Ordinance, then such decision shall affect only the section, provision, paragraph, clause, sentence, phrase or part thereof declared to be unconstitutional or unauthorized and shall not effect any other part whatsoever of this Ordinance.

**SECTION VI
REPEALING CLAUSE**

Sections 13 of the Moorcroft Town Code are hereby repealed in their entirety.

**SECTION VII
LEGAL STATUS**

Whenever there is a discrepancy between the requirements of these regulations and any other Town regulations, the most restrictive shall apply.

**SECTION VIII
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after passage on three readings or an emergency reading and publication according to law.

Passed, approved and adopted on this 28th day of June, 2021.

TOWN OF MOORCROFT:

ATTEST:

By


Mayor


Town Clerk/Treasurer

Certificate of Posting

I Cheryl Schneider as Town Clerk for the Town of Moorcroft, hereby certify that Ordinance # 2 202107, was posted on July 1st, 2021.


Town Clerk/Treasurer