

## ORDINANCE NO 564

Series 2023

### AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.04, AND CHAPTER 8.08 OF THE DOLORES MUNICIPAL CODE PERTAINING TO NUISANCES

WHEREAS, Colorado Revised Statutes, § 31-15-401 grants general police powers to the Board of Trustees to promulgate ordinances for the health, safety, and welfare of the public, including regulation of nuisances that affect public safety within the Town's corporate boundaries; and,

WHEREAS Chapter 8.04 and 8.08 of Title 8 of the Dolores Municipal Code pertains to the Town's authority to regulate public nuisances; and,

WHEREAS the Board of Trustees have discussed the need to revise this Chapter 8.04 and Chapter 8.08 to address concerns over enforcement and the current conditions in the Town of Dolores; and,

WHEREAS the Board of Trustees wishes to revise its Municipal Code to modernize the requirements, eliminate inconsistencies, and streamline the enforcement of the Town's nuisance ordinance.

NOW THEREFORE, BE IT ORDAINED BY TOWN OF DOLORES BOARD OF TRUSTEES THAT Chapter 8.04 and 8.08 of Title 8 of the Dolores Municipal Code is amended as follows:

Section 1. Chapter 8.04 and Chapter 8.08 of the Dolores Municipal Code are hereby repealed and reenacted in their entirety as follows:

#### *Chapter 8.04 - NUISANCES*

*Sections:*

*8.04.010 - Definitions. As used in this chapter, the following terms shall have the meanings indicated:*

*“Action to abate a public nuisance” means any action authorized by this Chapter to restrain, remove, terminate, prevent, abate or perpetually enjoin a public nuisance.*

*“Author of nuisance”. Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the owner or his or her agent, the tenant or his or her agent and all other persons having control of the property on which such nuisance exists shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.*

*“Building” means any dwelling, office building, commercial or industrial structure or any other structure of any kind including as defined by the adopted building codes, whether or not such building is permanently affixed to the ground upon which it is situated and includes any shipping container, shed, trailer, semi-trailer, trailer coach, mobile home, modular home, manufactured home or other vehicle designed or used for occupancy by persons for any purposes.*

*"Inoperable vehicle" means any automobile, truck or self-propelled vehicle, or any trailer, recreational vehicle, incapable of moving under its own power or which lacks a valid current license plate and registration as required by the state of Colorado or does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.*

*"Nuisance" means any substance, act, occupation, condition, or use of property declared a nuisance by this chapter or declared a nuisance by the state or by any court or agency thereof, or known as a nuisance at common law, or which is of such nature and duration as to:*

- 1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public.*
- 2. In any way render the public insecure in life or in the use of property;*
- 3. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, or other public way.*

#### *8.04.020 – Public nuisances; policy.*

*A. No person, being the owner, agent tenant, or occupant or having under his control any building, lot or premises or unimproved real estate within the town limits shall maintain or allow any nuisance to be or remain therein.*

*B. It is the policy of the Town pursuant to Section 31-15-401(c), C.R.S., that every public nuisance shall be restrained, prevented, abated, and perpetually enjoined. It is the duty of the Town Attorney or his or her designee to bring and maintain an action, pursuant to the provisions of this Article, to restrain, prevent, abate, and perpetually enjoin any such public nuisance. Nothing contained in this Article shall be construed as an amendment or repeal of any of the criminal laws of this Town or this State, but the provisions of this Article, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws.*

*B. The accumulation of weeds, brush and trash poses an immediate threat of fire and other hazard to public health and safety which are addressed through a summary abatement procedure under Chapter 8 in this Code.*

#### *8.04.030 - Authority to declare nuisances.*

*Nothing in this Chapter is intended to diminish the authority of the Board of Trustees to declare that any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 8.04.010 of this chapter may be so declared by the board of trustees, and nothing in Section 8.04.040 of this chapter shall be construed to limit the power of the town to make such declaration.*

#### *8.04.040 - Nuisances designated.*

*A. Junkyards and Dumping Grounds. All places used or maintained as junkyards or dumping grounds or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and house trailers or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places essentially interfere with the comfortable enjoyment of life or property by others, are declared to be nuisances.*

*B. Discharge of Noxious Liquids. The discharge out of or from any house or place of foul or noxious liquid or substance of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the town is declared a nuisance.*

*C. Stale Matter. The accumulation of any stale, putrid or stinking fat or grease or other matter is declared to be a nuisance.*

*D. Sewer Inlet. Any article or materials accumulated in any sewer, sewer inlet or privy vault that shall have a sewer connection, which cause or might cause such sewer, sewer inlet or privy vault to become noxious or offensive to others or injurious to public health, are declared to be nuisances.*

*E. Dead Animal Removal. The body of any animal which has died, and which is undisposed of after twenty-four hours after death is declared to be a nuisance.*

*F. Stagnant Ponds. Any cellar, vault, drain, sewer, pond of water or other place in this town that shall be noxious or offensive to others, or injurious to public health, through an accumulation or deposit of noxious, offensive, or foul water or other substances shall be deemed a nuisance. This applies in all cases for which no other specific provisions are made in this chapter or any other ordinances of the town.*

*G. Open Wells, Cisterns or Excavations. It is declared that permanent excavations exceeding five feet in depth, cisterns and wells or any excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty pounds or are securely fenced with a solid fence to a height of at least five feet, and it is unlawful for any person to permit such nuisance to remain on premises owned or occupied by him. Any wall or cistern on any property within the limits of the town, whenever a chemical analysis or other proper test or the locations of the same shows that the water of the well or cistern is probably contaminated, impure or unwholesome, shall be deemed a nuisance. Any abandoned or unused well or cistern shall be filled with dirt and covered.*

*H. Handbills, Posters and Placards. Any handbill, poster, placard or painted or printed matter which shall be struck, posted, or pasted upon any public or private house, store, or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house shall be deemed a nuisance.*

*I. Unused Appliances. Any unused refrigerator, washer, dryer, freezer, plumbing fixtures, or other appliance within any accessible yard or lot or carport or residential garage within the limits of the town.*

*J. Vacant Buildings. It is declared a nuisance for the owner of any vacant building to fail to replace any broken window or fail to secure any other means of entry into such building within seventy-two hours after notice is given by the town.*

*K. Transporting of Garbage or Manure. The transport of manure, garbage, swill, or offal upon any street in this town in a vehicle so as to allow such filth to be scattered or thrown into such street is declared a nuisance.*

*L. Removal of Inoperable or Abandoned Vehicle. Except as may expressly be permitted for lawful commercial activity under the Dolores Land Use Code, any inoperable or abandoned vehicle, or any abandoned vehicle, parked out-of-doors on any lot or piece of ground in the town not removed from the town within thirty days after the expiration of its registration, as determined by examining the license plate on the exterior of the vehicle, is a nuisance. Except that nothing herein shall prohibit a property owner from keeping no more than three inoperable motor vehicles on their private property provided the same are screened from public view.*

*M. Keeping a dog which individually, or in combination with another dog or dogs together, makes any noises or disturbances by barking, howling, yelping, whining or other utterance which is audible beyond the premises on which the dog is kept, in excess of twenty (20) consecutive minutes during the day (7 a.m. to 9 p.m.) or in excess of ten (10) consecutive minutes during the night (9:01 p.m. to 6:59 a.m.).*

*N. Accumulation of Garbage, Refuse, Etc. Any accumulation of refuse, trash or other waste or discarded material outside of a designated landfill, including discarded building and construction materials, that endangers the public health and safety or which results in annoyance or discomfort to the public is declared to be a nuisance.*

*O. Smoke and Odor from Burning. Any smoke and odor resulting from the burning of refuse, trash, or other materials outside of a solid fuel-burning device, including but not limited to those materials outlined in subsection P of this section, is declared to be a nuisance.*

*P. Accumulation of Manure. The accumulation of manure or other animal waste in quantities which endanger or tend to endanger the public health and safety, or which results in annoyance or discomfort to the public is declared a nuisance. This subsection does not apply to a light spread of manure upon lawns or gardens or which is plowed under the surface of the ground.*

*Q. Any place where people congregate which encourages the disturbance of the peace or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity or the passersby on the public streets or highways.*

*R. Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale, or distribution of drugs, furnishing or selling intoxicating liquor or fermented malt beverages to persons under the legal drinking age, solicitation for prostitution or trafficking in stolen property.*

*S. Any building, fence, structure, tree or other vegetation or land within the Town, the condition of which presents a substantial danger or hazard to public health or safety, define this including any "dangerous building," as defined in the building codes, as adopted by reference by the Town.*

*T. Any unsafe structure or equipment as defined in the adopted building code of whatever kind which is unused by the owner or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion or rodent infestation or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter;*

*U. Discharging, placing or tracking any offensive water, liquid waste, dirt, mud, construction debris or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot, or which as the result of continued discharge will render the place of discharge offensive or likely to become so;(13)Keeping any drinking vessel for public use without providing a method of decontamination between uses.*

*V. Corrupting or rendering unwholesome or impure any spring, stream, pond, or lake.*

*W. Any toilet or sanitary wastewater facilities not constructed and maintained in accordance with the ordinances of the Town or the laws and regulations of the State.*

*X. Keeping any animal or human fecal material, dead animal or other filthy or offensive substance upon any lot, street, alley, highway, park, or other place.*

*Y. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults, septic tanks and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from any enforcement officer or official of the Town.*

*Z. Obstructing or tending to obstruct or interfere with, excavating into the grade of, or render dangerous for passage any street or sidewalk, lake, stream, drainage canal or basin or any public park without first obtaining the written permission of the Town, specifically including the placement of portable toilets, construction Dumpsters, construction materials, construction debris, topsoil and/or landscaping material on Town streets or sidewalks.*

*AA. The obstruction or maintenance of any drainage system, drainage easement, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, in a manner which will become obstructed and/or cause the water to back up and overflow therefrom or to become unsanitary;(20)Cross-connecting with the Town's water supply system by introducing into such system any foreign water not a part of the treated water supply system.*

*BB. Any use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises, lumber, junk, trash, debris or abandoned, discarded or unused objects or equipment such as motor vehicle parts, machine parts, furniture, stoves, refrigerators, freezers, or other appliances, cans or containers.*

CC. Continuous or repeatedly conducting or maintaining of any business, occupation, operation, activity, building, land, or premises in violation of provisions of this Code or a statute of this State, after receiving reasonable notice of such violation.

DD. Unsheltered storage of old, unused, stripped, and junked machinery implements or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of ten (10) days or more (except in licensed junkyards) within the Town.

EE. Outside storage or accumulation of: (a) Any new or marketable used tires that are not neatly stacked or displayed in a marketable manner and allowed in the applicable zone district; (b) Nonmarketable tires in any manner for a period of greater than one (1) month. Nonmarketable tires are defined as those tires which are incapable of holding air or which have less than 2/32 of tread, or both. Any person charged with a violation of this Subparagraph may produce a receipt evidencing the removal and quartering of nonmarketable tires during the thirty-one (31) days prior to the notice of violation, which receipt shall create a rebuttable presumption that no such violation has occurred; (c) Any tires on property located in a residential district, except that up to two (2) tires per dwelling unit may be kept outside for up to one (1) week on any property within a residential zone district; or (d) Indoor personal items for more than seventy-two (72) hours, including but not limited to clothing, bedding, indoor toys, cooking and eating utensils, newspapers and magazines, furniture and appliances intended for indoor use. For the purposes of this Subparagraph, storage on decks, in carports and in open garages shall be considered outside storage.

FF. Outside storage or accumulation of building, construction, plumbing, electrical and mechanical materials, and supplies for use on the premises for a period longer than six (6) months. Permitted materials shall be neatly stacked on the premises.

GG. Any building, lot, land, premises or business, occupation or activity, operation or condition which, after being ordered abated, corrected or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of: (a) Any ordinance of this Town; or (b) Any regulation enacted pursuant to the authority of an ordinance of this Town.

HH. Those offenses which are known to the common law of the land or the statutes of the State of Colorado as nuisances when the same exist within the Town limits or within any unincorporated areas of land entirely contained within the outer boundaries of the Town, such areas known as "enclaves".

II. Any graffiti or graffiti and/or related vandalism which shall mean any unauthorized inscription, symbol, design or configuration of letters, numbers or symbols or any combination thereof written, drawn, scribed, etched, marked, painted, stained, stuck on or adhered to any surface (public or private), including but not limited to trees, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, streets, underpasses, overpasses, bridges, trestles, buildings and any other surface or surfaces, regardless of the material of the component, remaining on the subject property for a period greater than ten (10) days.

JJ. No person shall bring into the Town or keep therein for sale or otherwise, either for food or for any other purpose whatever, any animal, dead or alive, matter, substance or thing which shall be or which shall occasion a nuisance in the Town or which shall be dangerous or detrimental to health or which results in annoyance or discomfort to the public.

*KK. "Weed" means construed to be any unsightly, useless, troublesome, or injurious herbaceous plant, and shall include rank vegetable growth which exhales unpleasant or noxious odors, and also high and rank vegetable growth that may conceal filthy deposits and any plant designated by the state of Colorado or Montezuma County as a noxious weed. The term shall also apply to dry vegetation which constitutes a fire hazard in the judgment of the Building Official or fire marshal.*

#### *8.04.050 – Complaint filing.*

*Complaints of nuisances may be made to the attention of the town clerk, marshal, or any other town official and should state the nature of such nuisance, the location, including street address, name of the owner, agent or occupant of the building or lot, if known, and the name and address of the complainant. Nothing herein shall prohibit the Town Manager or Building Official from initiating action under this Chapter without a complaint.*

#### *8.04.060 – Inspection—Right of entry—Emergencies.*

*A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or whenever an authorized representative of the town shall have reasonable cause to believe that there exists in any building or upon any premises any conditions which constitutes a nuisance hereunder, the town clerk, mayor, marshal or police officer, the Building code only authorizes the Building Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on any of them. If such building or premises is occupied, such person shall first present proper credentials, state the nature of the complaint, and request entry; and if such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises and, upon locating said owner, occupant or other person or persons, shall present proper credentials, state the nature of the complaint, and request entry. If entry is refused, such person shall give the owner or occupant, or, if said owner or occupant cannot be located after a reasonable effort, he shall leave at the building or premises, a twenty-four-hour written notice of intention to inspect. The notice given to the owner or occupant or left on the premises as aforesaid shall state that the property owner has the right to refuse entry and that in the event that such entry is refused, inspection may be made only upon issuance of a search warrant by the municipal judge of the town or a judge of any other court having jurisdiction.*

*B. After the expiration of said twenty-four-hour period from the giving or leaving of notice, the town clerk, mayor, marshal or police officer, or any of them, or their authorized representative, may appear before the municipal judge of the municipal court of the town and, upon a showing of probable cause, shall obtain a search warrant entitling him to enter the building or go upon such premises. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, said person may enter into the building or go upon the premises using such reasonable force as may be necessary to gain entry.*

*C. For the purpose of subsection B of this section, a determination of probable cause will be based upon reasonableness, and if a valid public interest justified the intrusion contemplated, then there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises*

*in issue on order to obtain a search warrant. It is unlawful for any owner or occupant of the building or premises to resist reasonable force used by any authorized agent acting pursuant to this section.*

*D. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this chapter, the town clerk, mayor, marshal or police officer, or the authorized representative of any of them, upon a presentation of proper credentials or identification and upon stating the nature of the complaint in the case of an occupied building or premises, or possession of said credentials in the case of an unoccupied building or premises, may enter into any building or go upon any premises within the jurisdiction of the town. In said emergency situation, such person or his authorized representative may use such reasonable force as may be necessary to gain entry into the building or upon the premises.*

*E. For purpose of subsection D of this section, an "emergency situation" includes, but is not limited to, any situation where there is imminent danger of loss of life, limb and/or property. It is unlawful for any owner or occupant of the building or premises to resist reasonable force used by the authorized official acting pursuant to this subsection.*

#### *8.04.070 - Abatement—Failure to comply.*

*A. Each and every nuisance declared or defined by any ordinance of the town or otherwise is prohibited, and the town manager, building official and town marshal are authorized, in their discretion, to cause the same to be abated in accordance with the procedures set forth in this Chapter. If any nuisance is found to exist upon public property, it shall be the duty of the town to abate such nuisance immediately.*

*B. Upon authorization of the town manager or marshal, if any nuisance found to exist shall cause imminent danger to the life, limb, property, or health as to require immediate abatement, any such nuisance may be abated without notice of abatement as set forth herein.*

*C. A summary abatement procedure applicable to weed, brush and the accumulation of trash under Chapter 8.08 may be applied in the Town's discretion.*

#### *8.04.080 - Notice to abate.*

*A. In the case of any nuisance not requiring summary abatement, it shall be the duty of the town manager, building official, town clerk or marshal to cause notice to be served upon the person responsible for or author of any nuisance which may be found, requiring said person to abate the same in a reasonable time and in such reasonable manner as prescribed, and such notice may be given or served by any officer directed or deputized to give or make the same. In causing notice to be served, the town manager, town clerk or marshal may authorize town officials, inspectors, or any other appropriate town employee to issue notice of abatement. The notice of abatement shall give the author of the nuisance or responsible party fourteen days to comply unless it appears to town staff from the facts and circumstances that compliance could not reasonably be made within fourteen days. Town staff may grant an extension to comply when it appears that a good-faith attempt at compliance is being made. Such notice shall be in writing, signed by the official issuing the same and shall be personally served upon the author of the nuisance and the owner or occupant of the premises upon which said nuisance exists or, if not occupied, then by the posting of the same*



*prominently at some place on the premises upon which said nuisance exists. If service is by posting as aforesaid, then a copy of said notice shall also be mailed by certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of Montezuma County, Colorado, at the address of such owner as therein shown.*

*B. A summary notice to abate procedure is applicable to weeds, brush and the accumulation of trash as provided under Chapter 8.08.*

*08.04.090 - Abatement by Town—Procedure.*

*If, after notification, a nuisance is not voluntarily abated, except for a summary abatement as defined by 8.04.070, the following procedures shall apply:*

*A. An action to abate a public nuisance under this Article may be brought in Municipal Court or District Court in the discretion of the Town Attorney*

*B. Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.*

*C. An action to abate a public nuisance shall be brought by the Town Attorney or his or her designee in the name of the State and the Town.*

*D. An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases.*

*E. If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court or District Court, either by verified complaint or affidavit, the Court may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Town Manager or his or her designee to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court.*

*F. Within ten (10) days, or such greater or shorter time as may be allowed by the Court, following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.*

*G. The Court may, as part of a preliminary injunction, direct the town marshal or town manager to seize and close such public nuisance and to keep the same closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Municipal Court. Preliminary injunctions may be issued as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the Town Attorney or the*

*H. The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate and prevent the continuance or reoccurrence of the nuisance. The Court may grant declaratory relief, mandatory orders or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its orders.*

*I. The judgment in an action to abate a public nuisance may include an order directing the Town Manager or his or her designee to seize and close the public nuisance and to keep the same effectually closed until further order of the Court, not to exceed one (1) year.*

*J. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction or other abatement of a public nuisance, in whole or in part by the author of the public nuisance. The judgment may include an order directing the town marshal or town manager to remove, correct or abate the public nuisance if the author of the nuisance fails or refuses to do so within a reasonable time as determined by the Court, at the cost of the author of the public nuisance.*

*K. If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not recur, the Court may require the posting of bond, in an amount fixed by order of the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence of or continuance of the public nuisance.*

*L. Any violation or disobedience of any injunction or order issued by the Court in an action to abate a public nuisance shall be punishable by a fine of up to four hundred ninety nine dollars (\$499.00) and each day on which the violation or disobedience of an injunction or order continues or recurs may be considered as a separate action of contempt of Court.*

*M. For seizing and closing any building or premises as provided in this Article, or for performing other duties pursuant to the direction of the Court in accordance with the provisions of this Article, the Town shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended to abate the nuisance.*

*N. All fees and costs allowed by the provisions of this Section, the costs of a Court action to abate any public nuisance and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property where the nuisance was located, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.*

*O. Nothing contained in this Article shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to the recording of Court orders involving real estate as authorized under this Chapter.*

*P. In addition to the remedies set forth herein, the assessment, together with up to fifteen percent (15%) of said assessment for inspection and other incidental costs in connection therewith, shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except*

*general taxes and prior special assessments. In accordance with Section 31-20-105, C.R.S., such assessment may be certified by the Town Manager or Town Clerk to the County Treasurer, to be placed on the tax list for the current year and collected and paid over in the same manner as provided by law for the collection of property taxes. Any amount charged on the tax roll of the succeeding year and any unpaid balance so carried over shall bear interest at the rate of eight percent (8%) per annum, until paid.*

*08.04.100 - Abatement by Town—Cost recovery.*

*A. The person or persons responsible for any nuisance within the town shall be liable for and pay and bear all costs and expenses of the abatement of the nuisance, which costs and expenses may be collected by the town in any action at law, referred for collection in connection with an action to abate a nuisance or assessed against the property as hereinafter provided.*

*08.04.110 - Remedies cumulative and nonexclusive.*

*A. No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction of violation of this chapter in the municipal court of the town, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist.*

*B. Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and, when applicable, the abatement provisions of this chapter shall serve and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law.*

*8.04.120 - Violation—Penalty.*

*Any person found guilty of authoring a nuisance in violation of this chapter or disobedience of any injunction or order issued by the Court in an action to abate a public nuisance shall be punishable by a fine of up to four hundred ninety nine dollars (\$499.00) and each day on which the violation or disobedience of an injunction or order continues or recurs may be considered as a separate action of contempt of Court.*

#### *Chapter 8.08 – SUMMARY ABATEMENT PROCEDURE FOR WEEDS AND RUBBISH*

*Sections:*

*8.08.010 - Abatement—Generally.*

*A. No owner of any lot, block or parcel of ground within the town, nor any tenant or agent in charge thereof, shall allow or permit weeds or brush to grow or remain when grown, on such lot, block or parcel of ground, or along any sidewalk adjoining the same and to the middle of the alley behind same, but such weeds or brush shall be cut close to the ground and kept so cut. All lots, blocks or*

*parcels of land, and sidewalks adjoining same shall also be kept free from brush, weeds, rubbish, trash, junk, and garbage.*

*B. After cutting, all such weeds and brush shall immediately be removed by the owner of such lot, tract, or parcel of land from the town.*

*C. A violation of this section shall be punished as set forth in Section 1.12.010 General Penalty.*

*8.08.020 - Definitions.*

*Terms used in this Chapter shall have the same meaning as those set forth in Section 8.04.010.*

*8.08.030 - Declared nuisance.*

*The growth of brush, weeds, and the accumulation of garbage, junk rubbish, or trash upon the lots, tracts, or parcels of ground, sidewalks adjoining same and to the middle of alley behind same within the town is found and declared to be a nuisance and poses an immediate threat of fire and other danger to the health, safety and welfare of the town inhabitants. Such conditions are therefore subject to a summary abatement procedure set forth in this Chapter.*

*8.08.040 - Failure to abate—Notice—Work by town clerk or town manager.*

*In case of the failure of any owner of such lot, tract or parcel of land to cut or remove the brush, weeds, garbage, junk, rubbish, or trash as set forth in this chapter after having had ten days' notice in writing from the town clerk/town manager, the town clerk/town manager shall order town crews to cut all weeds and brush and remove same, and/or to remove any brush, weeds, garbage, junk, rubbish, or trash from such lot tract, parcel alley, and sidewalk area. This written notice shall be sent certified mail, return receipt requested. If the notice is returned as refused, it shall be deemed delivered.*

*8.08.040 - Abatement by town—Statement of costs.*

*Upon the completion of the work as set forth in Section 8.08.090 of this chapter, the town clerk/town manager shall assess the amount properly chargeable against the owner of said property or parcel of land on whose account the cutting and/or removing of brush, weeds, garbage, junk, rubbish, or trash occurred. Said amount shall include all actual expenses incurred in said work together with any necessary costs of administration, expenses, and costs of an inspection, which may be collected as provided in Section 08.04.090.*

Section 3. The Town Trustees hereby finds, determine, and declare that this Ordinance is promulgated under the general police power of the Town of Dolores, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Trustees further determine that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 5. This Ordinance shall take effect \_\_\_\_\_, 2023 or thirty (30) days after final publication whichever is later.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 22<sup>nd</sup> day of May 2023, in the Town Board Chambers in Town Hall, Dolores, Colorado, at which time and place all persons may appear and be heard concerning the same.

Passed adopted and approved on the first reading on May 8, 2023.

DOLORES BOARD OF TRUSTEES:

By: \_\_\_\_\_

Mayor Leigh Reeves

Attest:

By: \_\_\_\_\_

Town Clerk Tammy Neely

Passed adopted and approved on the second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

DOLORES BOARD OF TRUSTEES:

By: \_\_\_\_\_

Mayor Leigh Reeves

Attest:

By: \_\_\_\_\_

Town Clerk Tammy Neely