



## **AGENDA**

### **TOWN OF DOLORES COLORADO**

#### **BOARD OF TRUSTEES MEETING/WORKSHOP**

**APRIL 24TH 2023, WORKSHOP 5:30-6:30 P.M./MEETING 6:30 P.M.**

**THE MEETING WILL BE HELD AT TOWN HALL 420 CENTRAL AVENUE.**

**IF YOU WISH TO ATTEND VIRTUALLY, PLEASE VISIT THE TOWN WEBSITE UNDER GOVERNMENT TOWN BOARD MEETING FOR THE ZOOM LINK**

<https://townofdolores.colorado.gov>

#### **WORKSHOP 5:30 TO 6:30 P.M.**

**Succession planning:** Town Manager selection process

#### **BOARD MEETING 6:20 P.M.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

**ACTION/APPROVAL OF THE AGENDA**

**IDENTIFICATION OF ACTUAL OR PERCEIVED CONFLICTS OF INTEREST.**

**CITIZENS TO ADDRESS THE BOARD:** This is an opportunity for Citizens to address the Board at this time or during a Public Hearing. Each Person will have 5 minutes. The Town Board encourages public comment by the following sources: Live at the Town Hall, virtually via ZOOM (see the Town Website for the link), or by submitting your comments, via email, to the Town Clerk at [tammy@townofdolores.com](mailto:tammy@townofdolores.com) any time before the dated Board meeting.

#### **CONSENT AGENDA:**

**Special event Permit:** Greater Dolores Action for an event to be held June 3<sup>rd</sup>, 2023, at JRP, from 10:00 a.m. to 10:30 p.m.

#### **STAFF REPORTS:**

**Jessica Thurman** Community Economic Development Director Montezuma County ECODEV

**Manager:** Ken Charles

**Attorney:** Jon Kelly

**PUBLIC HEARING AND ACTION:** Ordinance 562 Series 2023 2<sup>nd</sup> and final reading amending Title 12 of the Dolores Municipal Code to regulate the public use of the Town's Escarpment Properties.

**ORDINANCE AND RESOLUTIONS:**

- **Resolution R530 Series 2023:** Opposing to Statewide Land Use and Zoning preemptions in Senate Bill 23-213

**ADMINISTRATIVE BUSINESS AND PRESENTATIONS:**

- Presentation with Building Official: follow-up on life and safety inspections.
- Discussion of nuisance ordinance
- Flood Update: 2023 after the melt off

**FUTURE AGENDAS:**

**P&Z meeting:** May 2<sup>nd</sup>, 2023

**Parks meeting:** May 11<sup>th</sup>, 2023

**Board meetings:** May 8<sup>th</sup>, 2023, and May 22<sup>nd</sup> meeting/workshop

**ADJOURNMENT**

### Permit

In order to qualify for a Special Events Permit, You Must Be a Qualifying Organization Per 44-5-102 C.R.S. and One of the Following (See back for details.)

- Social
- Fraternal
- Patriotic
- Political
- Athletic
- Chartered Branch, Lodge or Chapter
- National Organization or Society
- Religious Institution
- Philanthropic Institution
- Political Candidate
- Municipally Owned Arts Facilities

<b>LIAB</b> Type of Special Event Applicant is Applying for:	<b>DO NOT WRITE IN THIS SPACE</b>
2110 <input checked="" type="checkbox"/> Malt, Vinous And Spirituous Liquor \$25.00 Per Day	Liquor Permit Number
2170 <input type="checkbox"/> Fermented Malt Beverage \$10.00 Per Day	

1. Name of Applicant Organization or Political Candidate: **Greater Dolores Action** State Sales Tax Number (Required)

2. Mailing Address of Organization or Political Candidate (include street, city/town and ZIP):  
**PO Box 1455, 19838 Hwy 145 Dolores CO 81323**

3. Address of Place to Have Special Event (include street, city/town and ZIP):  
**The Joe Powell Park West Railroad Ave Dolores, CO**

4. Authorized Representative of Qualifying Organization or Political Candidate: **Scott Clow** Date of Birth: **12.30.69** Phone Number: **9705703546**

Authorized Representative's Mailing Address (if different than address provided in Question 2.):  
**19838 Hwy 145 Dolores CO 81323**

5. Event Manager: **Scott Clow - same** Date of Birth: Phone Number:

Event Manager Home Address (Street, City, State, ZIP): Email Address of Event Manager:

6. Has Applicant Organization or Political Candidate been issued a Special Event Permit this Calendar Year?  
 No  Yes How many days? \_\_\_\_\_

7. Is the premises for which your event is to be held currently licensed under the Colorado Liquor or Beer codes?  
 No  Yes License Number \_\_\_\_\_

8. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed?  Yes  No **(Application Submitted)**

List Below the Exact Date(s) for Which Application is Being Made for Permit

Date			Date			Date			Date			Date		
Hours	From	To	Hours	From	To	Hours	From	To	Hours	From	To	Hours	From	To
	6/9/23													
	10:00 a.m.	10:30 p.m.												

**Oath of Applicant**

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature: **[Signature]** Title: **Vice Chair/Treasurer** Date: **6/18/23**

**Report and Approval of Local Licensing Authority (City or County)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 44, Article 5, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

Local Licensing Authority (City or County):  City  County Telephone Number of City/County Clerk:

Signature: Title: Date:

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

Liability Information			
License Account Number	Liability Date	State	Total
		-750 (999)	\$

(Instructions on Reverse Side)

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

GREATER DOLORES ACTION

is a

Nonprofit Corporation

formed or registered on 05/16/1996 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19961066928 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 03/17/2023 that have been posted, and by documents delivered to this office electronically through 03/20/2023 @ 09:54:32 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 03/20/2023 @ 09:54:32 in accordance with applicable law. This certificate is assigned Confirmation Number 14795398



*Jena Griswold*

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*





**Special Event Permit Perimeter Diagram**  
Revised per Sheriff's Input at 4-22-22 Meeting



Source: San Joaquin Hills User Group, and the GIS User Community

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## Park Use Permit Joe Rowell Park

2 messages

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Town of Dolores <no-reply@co.colorado.gov>  
Reply-To: Town of Dolores <no-reply@co.colorado.gov>  
To: ann@townofdolores.com, rj@townofdolores.com

Fri, Mar 17, 2023 at 10:55 PM

### General Information

**Will you be applying for a Special Event permit?**

Yes

**Describe area and provide a detailed drawing of location and layout for the event.**

2nd Street to the highway bridge, would love to have walking path in again, otherwise, same as last year

### Organization Contact Information

**Contact Person's Name**

Scott Clow

**Mailing Address**

PO Box 1455  
Dolores, Colorado. 81323

**Telephone**

970-882-4780

**Email**

scott@greaterdoloresaction.org

**Cell Phone**

970-570-3546

### Alternate Contact Person

**Alternate Contact Person**

John Chmelir

**Telephone**

970-799-3655

**Email**

john@greaterdoloresaction.org

### Event Information

**Starting Date and Time**

Sat, 06/03/2023 - 10:00

**Ending Date and Time**

Sat, 06/03/2023 - 23:00

**Size of Group**  
2000,

**Purpose of Use**  
Dolores River Festival

**Activities**  
Music, Vendors, Food, Beverage, Raft Rides, River Parade, Childrens' Activities

## **Fees and Requirements**

### **Camping - Optional**

**Campsite Location**  
Soccer Field, west parking area, west end of park beyond ballfield

### **Fees**

**Park Use Fees**  
Over 100 Guests for a Single Day - \$250

**Damage Deposit**  
Large Group - \$500

**Additional Fees**  
Ball Fields - \$20/day, Electricity - Accessory Power Pole - \$10/day, Electricity - Ball Field Lights - \$10/day, Equipment Loans - \$25/day, Parking Lot Closure - \$10/day

## **Agreement**

**Applicant**  
Greater Dolores Action

**Date**  
03/17/2023

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**Ann Swope** <ann@townofdolores.com>  
To: Kenneth Charles <manager@townofdolores.com>

Sat, Mar 18, 2023 at 6:17 AM

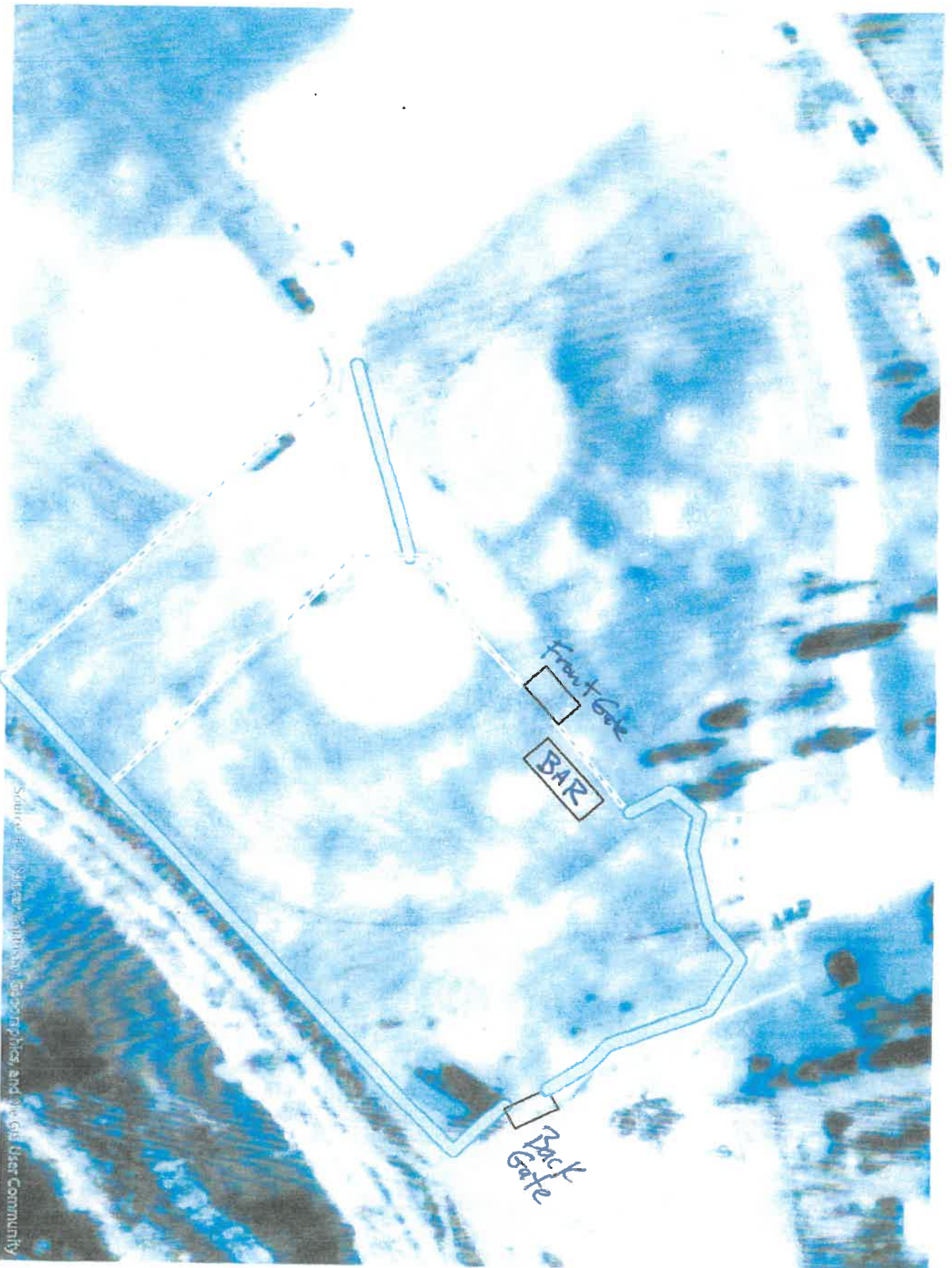
Riverfest 2023  
[Quoted text hidden]

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Ann Swope, Assistant Clerk  
Town of Dolores  
P O Box 630 Dolores CO. 81323  
970-882-7720 ext. 1  
ann@townofdolores.com



DUWICHES RIVER Festival 2023  
Special Event Permit Perimeter Diagram  
Revised per Sheriff's Input at 4-22-22 Meeting





**Special Event Permit Perimeter Diagram**  
Revised per Sheriff's Input at 4-22-22 Meeting



Source: Bill Winters, Sheriff's Office, and the Glen User Community

**Town of Dolores**  
**Resolution No R530**  
**Series 2023**

**RESOLUTION OF THE TOWN OF DOLORES IN OPPOSITION TO STATEWIDE LAND USE AND ZONING PREEMPTIONS IN SENATE BILL 23-213**

WHEREAS, for a century, the State of Colorado has committed both in statute and in the state constitution to the local control of land use planning and zoning because local governments are closest to the land and to the people that occupy it;

WHEREAS, zoning and land use cannot be viewed separately from the impacts of proposed uses of land on surrounding properties and a community as a whole, including the ability to ensure adequate water and utilities; to provide enough public safety services, schools, and recreational services; to make sure that sufficient and safe infrastructure is available to handle increased population or more intense uses; to align development with the community's economic goals; to prevent displacement of existing people; to preserve important historical sites; and to protect open space and the environment in general;

WHEREAS, Senate Bill 23-213 would place statewide mandates on hyper local land use matters and substitute the judgment of legislators and state regulators who lack the understanding needed to make the right decisions for our community;

WHEREAS, Senate Bill 23-213 will undermine long-range planning efforts and will severely limit our ability to maintain reasonable zoning regulations to ensure a high quality of life and sound economic environment for our current and future residents, workers, and business owners;

WHEREAS, Senate Bill 23-213 silences the voices of our residents by taking away the right to be heard at public hearings on zoning matters or to use their constitutional rights of initiative or referendum to address zoning and land use matters;

**NOW, THEREFORE**, be it resolved by the Board of Trustees of the TOWN OF DOLORES that:

1. It is the position of the TOWN OF DOLORES that municipalities are best suited to determine appropriate zoning laws for their communities and that collaboration and cooperation – not top-down statewide mandates and giveaways to special interests – are the solution to Colorado's affordable housing problem;
2. The TOWN OF DOLORES opposes Senate Bill 23-213 and strongly urges its legislators to vote NO on this unprecedented and irresponsible preemption.

Passed, adopted and approved April 24, 2023.

THE BOARD OF TRUSTEES OF THE TOWN OF DOLORES:

By: \_\_\_\_\_, Mayor

Attest: \_\_\_\_\_, Town Clerk

**ORDINANCE NO 562**

**SERIES 2023**

**AN ORDINANCE AMENDING TITLE 12 OF THE DOLORES MUNICIPAL CODE TO  
REGULATE THE PUBLIC USE OF THE TOWN'S ESCARPMENT PROPERTIES**

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 lands owned by the Town within its corporate boundaries.

WHEREAS, the Town of Dolores has acquired ownership of several tracts of real property lying and being north of Hillside Avenue and 11<sup>th</sup> Street, known by Montezuma County accessor parcel numbers 535916200031, 535909400002, 535910300018, 535910300019, 535910300012, and 535910400001.

WHEREAS, these properties lay north of Hillside Avenue and 11<sup>th</sup> Street and comprise the south facing escarpment of the Dolores River Canyon overlooking the Town of Dolores and are collectively referred to herein as the "Escarpment Area."

WHEREAS, in 2022 the Town annexed all of the properties making up the Escarpment Area into the corporate boundaries of the Town of Dolores.

WHEREAS, multi-use trails, the Overlook Trail and the Dolores Town Trail, have been established and signed in the Escarpment Area that benefit the public.

WHEREAS, the Town Marshal has identified portions of the Escarpment Area that should be closed to all public use to promote public safety around the Town's water tank and overlooking the Dolores Schools.

WHEREAS, the Board of Trustees identifies the following uses of the Escarpment Area as being beneficial to the citizens of the Town of Dolores: (1) maintenance and expansion of public works; (2) fire mitigation; (3) mitigation of erosion and geological hazards; (4) preservation of views and open space; (5) public safety; and (6) limited opportunities for recreation and non-motorized travel.

WHEREAS, the Board of Trustees, in order to promote the health, safety, and welfare of the public and regulate the use of the Escarpment Area consistent with these purposes, wishes to adopt an ordinance regulating the public access to and use of the Escarpment Area.

WHEREAS, Section 12.06 of Title 12 of the Dolores Municipal Code governs the use of the town's public property and places.

**NOW THEREFORE, BE IT ORDAINED BY TOWN OF DOLORES BOARD OF TRUSTEES THAT Title 12 of the Dolores Municipal Code is amended as follows:**



Section 1. Section 12.06.010 (Definitions) of Title 12 of the Dolores Municipal Code is amended to include the following definition:

*(3) Escarpment Area shall mean all property owned by the Town of Dolores lying north of Hillside Avenue and 11<sup>th</sup> Street/Montezuma County Road 31 and located within the corporate boundaries of the Town of Dolores, known by Montezuma County accessor parcel numbers 535916200031, 535909400002, 535910300018, 535910300019, 535910300012, and 535910400001. The provisions of this Code pertaining to parks, streets and recreation areas do not apply to the Escarpment Area.*

Section 2. Section 12.06.060 is added to Title 12 of the Dolores Municipal Code as follows:

*Section 12.06.060. Pubic Entry Prohibited. It being necessary to protect the Town of Dolores public works and to promote the public safety of the students and staff of the Dolores Schools:*

- (1) That portion of the Escarpment Area on tracts known by Assessor parcel numbers 535910300012 and 535910400001 lying and being north of 11<sup>th</sup> Street/Montezuma County Road 31, and Hillside Avenue and east of the Town of Dolores water tank shall be closed to the public at all times;*
- (2) The Town may post signs notifying the public that this area is restricted;*
- (3) It shall be unlawful for any person not authorized by the Town to enter or remain on Town property within this area;*
- (4) A violation of this section shall be punished as set forth in Section 1.12.010.*

Section 3. Section 12.06.070 is added to Title 12 of the Dolores Municipal Code as follows:

*Section 12.06.070. Use and Regulation of Escarpment Area. Except as otherwise prohibited by Section 12.06.060, public use of the Escarpment Area shall be governed as follows:*

- (1) The Town Manager or Town Marshal may order the that the Escarpment Area, or any portion thereof, when necessary to promote public safety be closed to the public; and it shall be unlawful to enter or remain upon the Escarpment Area when such order is in effect.*
- (2) The Board of Trustees may from time to time adopt regulations by Resolution governing the use of the Escarpment Area, which shall have the effect of law.*
- (3) The Escarpment Area is not open or available for reservation or special events by groups, associations, or similar organizations, except that the designated and signed trails in the Escarpment Area may be used in connection with events that may be permitted elsewhere under this Code.*
- (4) A violation of this section shall be punished as set forth in section 1.12.010.*

Section 4. Section 12.06.080 is added to Title 12 of the Dolores Municipal Code as follows:

*Section 12.06.080. Exception for official use. Nothing in Section 12.06.060 and Section 12.06.070 shall be deemed to prohibit use of the Escarpment Area by the Town of Dolores for the construction and maintenance of public works or any other public purpose. Nothing in these sections shall be construed to prohibit access to any portion of the Escarpment Area by town officials, employees, agents and contractors or law enforcement in the course of their official*

*duties; nor shall these sections be construed to prohibit access or motorized travel over any portion of the Escarpment Area by first responders, law enforcement, firefighters or a public utility during an emergency.*

Section 5. 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 6. 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 7. This Ordinance shall take effect May 25, 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 25<sup>th</sup> day of April, 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 this 10<sup>th</sup> day of April, 2023.

**DOLORS BOARD OF TRUSTEES:**

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

Mayor Leigh Reeves

Attest:

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

Town Clerk Tammy Neely

Passed adopted and approved on the second and final reading this 25<sup>th</sup> day of April 2023.

**DOLORS BOARD OF TRUSTEES:**

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

Mayor Leigh Reeves

Attest:

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

Town Clerk Tammy Neely

## CURRENT NUISANCE ORDINANCE WITH PROPOSED CHANGES FOR DISCUSSION

- **Title 8 - HEALTH AND SAFETY**

Chapters:

- **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.

International Building Code (IBC) - Any structure utilized or intended for supporting or sheltering any occupancy - "Building" means any dwelling, office building, commercial or industrial structure or any other structure of any kind, 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 and/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.

(Ord. 353 § 1, 1989)

- **8.04.020 – Public nuisances: policy. Prohibited generally.**

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.

(Ord. 353 § 2, 1989)

- **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 aAny 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.

(Ord. 353 § 3, 1989)

- **8.04.040 - Nuisances designated.**

A. Unwholesome Business. Offensive or unwholesomeness businesses or establishments are prohibited. From and after the effective date of the ordinance codified in this chapter, it is unlawful for any person of any kind to allow or suffer upon his premises or any premises which he is entitled to possess any offensive or unwholesome business or establishment within the town, or within one mile beyond the outer limits of the town as

such outer limits are now, or may be hereafter, constituted. Any slaughterhouse or other place for slaughtering animals within this town is therefore declared to be a nuisance.

B. 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.

C. 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.

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

E. 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.

F. 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.

G. 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.

H. 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 well 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.

I. Noise-making Devices to Attract Children. The use of bells, whistles, sirens, music, horns or any other noise-making devices for the purpose of attracting children or minors to any vehicle upon the streets, highways, rights-of-way, alleys or public ways of the town for the purposes of selling, distributing or giving away any product whatsoever to such minors is



declared to be a public nuisance and hazard and is expressly prohibited and shall be unlawful, except such activities carried on as part of duly authorized public parades or processions.

J. 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.

K. Unused Appliances. Any unused refrigerator, washer, dryer, freezer or other appliance within any accessible yard or lot or carport or residential garage within the limits of the town, ~~without the door of the same being removed is declared a nuisance.~~

L. 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.

M. 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.

N. Removal of Inoperable or Abandoned Vehicle. Any inoperable ~~and 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.~~

~~O. Barking, Yelping, Howling or Mewing by Dogs or Cats. Any dog or cat which, by loud or frequent or habitual barking, yelping, howling or mewing, causes a serious annoyance to the neighborhood or to persons passing to and fro upon the streets or sidewalks is declared a nuisance. How do we define this so that it is measurable? What is loud? And annoyance to whom?~~

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~~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.) and/or a cumulative period in excess of one-hundred twenty (120) minutes during any twenty-four (24) hour period shall be deemed to be a violation of this section.~~

P. 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. ~~Define this~~

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Q. 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.

R. 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. (Define this) 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.

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S. 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.

T. 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.

U. 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.

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V. Any dilapidated building 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:

W. 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.

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

Y. 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.

Z. 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.

AA. 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.

BB. 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.

CC. 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.

DD. 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 vehicles, machine parts, furniture, stoves, refrigerators, freezers, or other appliances, cans or containers. 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.

EE. 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.

FF. 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.

GG. 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.

HH. 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.

II. 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.

JJ. 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".

KK. 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, struck 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.

LL. 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. Do we need to define this?

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(Ord. 353 § 4, 1989)

- **8.04.050 – Complaint filing.**

Complaints of nuisances may be made to the attention of the town clerk, ~~mayor~~, marshal or any other town official and should. Any complaint shall 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.

(Ord. 353 § 5, 1989)



• **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.

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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.

(Ord. 353 § 6, 1989)

- **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, town mayor and 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. ~~summarily abated in such manner as they may direct, subject to the limitations herein provided.~~ 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 mayor, town clerk 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 summarily abated without notice of abatement as set forth herein. ~~by action of the mayor, town clerk, marshal, police officer or fire marshal or their designated representative.~~

(Ord. 353 § 7(A, B), 1989)

- **8.04.080 - Notice to abate.**

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 mayor,~~ 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. ~~The reasonable time for abatement shall not exceed fourteen days 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 ~~or~~ 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.

(Ord. 353 § 7(C), 1989)

• **8.04.090 - Abatement by cityTown—Procedure.**

If, after notification, a nuisance is not voluntarily abated, or in the event of 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 issue 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

A. If the person notified in accordance with Section 8.04.080 of this chapter, shall neglect or refuse to comply with the requirements of the notice to abate the nuisance within the time specified, such person shall be guilty of a violation of this chapter, and the mayor, town clerk, marshal and town attorney, or their authorized agent, may proceed at once, upon the expiration of the time specified in such notice, to commence appropriate legal action to cause such nuisance to be abated; provided, that if the owner is unknown or cannot be found, the town clerk may proceed to abate such nuisance after notice has been posted for the period equal to the time specified to abate said nuisance. In either case, the expense of such abatement shall be collected from the owner of the property upon which the nuisance existed.

B. When any owner has responsibility for a nuisance and such nuisance exists and the owner fails to abate the same after the giving of such notice as provided for in this chapter, within the time limited therein, or as extended, then the town attorney is authorized to institute proceedings in a court of competent jurisdiction to obtain a judicial determination that such nuisance exists, to abate such nuisance, to enjoin the same and for such other and further relief as may seem necessary and proper, including but not limited to the costs, attorney fees and expenses of abatement.

C. Upon a judicial determination that a nuisance exists, the mayor or town marshal may be authorized to abate the nuisance or cause the same to be abated, employing such force and persons as may be necessary to abate the nuisance or cause the same to be abated, including the employees of the town or by contract or otherwise. All other town officials and employees are authorized and directed to render such assistance to the mayor or town marshal as may be required for the abatement of such nuisance and in connection with the enforcement thereof.

D. Any officer or employees of the town who shall be authorized herein to abate any nuisance specified in this chapter shall have authority to engage the necessary assistance and incur the necessary expenses thereof. In any case where a nuisance is to be abated by the town, it shall be the duty of said authorized person to employ such assistance and adopt such means as may be necessary to effect abatement of the nuisance. It shall also be the duty of the town or any of its representatives to proceed in all abatement cases with due care and without any unnecessary destruction of property.

(Ord. 353 § 7(D), 1989)

• **8.04.100 - Abatement by ~~city~~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.

~~B. The notice required by this chapter shall, in addition to other requirements herein, state that, if the nuisance is not abated within the time stated in the notice, the cost of such abatement may be assessed as a lien against the property (describing the same) pursuant to the terms of this chapter, referring to this chapter, together with an additional five percent assessment for inspection and incidental costs and an additional ten percent assessment for costs of collection, and collected in the same manner as real estate taxes against the property. If the owner of the property is not personally served with a copy of such notice, then a true copy of such notice shall be mailed by registered or 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.~~

~~C. If after the expiration of the period of time provided for in the notice, or as extended, costs or expenses are incurred by or on behalf of the town in the abatement or in connection with the abatement of the nuisance, and the costs are not otherwise collected, then the town treasurer may thereafter certify to the town clerk the legal description of the property upon which such work was done, together with the name and the owner thereof as shown by the tax rolls of Montezuma County, Colorado, together with a statement of the work performed, the date of performance and costs thereof.~~

~~D. Upon receipt of such statement from the town treasurer, the town clerk shall mail a notice to the owner of said premises as shown by the tax roll, at the address shown upon the tax rolls, by first-class mail, postage prepaid, notifying such owner that work has been performed pursuant to this chapter, stating the date of performance of the work, the nature of the work and demanding payment of the costs thereof (as certified by the board of trustees), together with five percent assessment for inspection and other incidental costs in connection therewith. Such notice shall state that if the amount is not paid within thirty days after mailing the notice, it shall become an assessment on and a lien against the property of the owner, describing the same, and will be certified as an assessment for costs of collection, including a reasonable attorney fee, and the above mentioned assessments will be collected in the same manner as a real estate tax upon the property.~~

~~E. If the clerk shall not receive payments within the period of thirty days following the mailing of such notice, the clerk shall inform the board of trustees of such fact, and the board shall thereupon enact an ordinance assessing the whole cost of such work, including a charge of five percent of the whole cost for inspection and other incidental costs in connection therewith upon the lots and tracts of land upon which the nuisance was abated, together with a charge of ten percent of the whole costs for costs of collection.~~



~~F. Following the passage of such ordinance, the clerk shall certify the same to the county treasurer, who shall collect the assessment, including the ten percent charge for costs of collection, in the same manner as other taxes are collected.~~

~~G. Each such assessment shall be lien against each lot or tract of land until paid and shall have priority over other liens except general taxes and prior special assessments.~~

(Ord. 353 § 8, 1989)

- **8.04.110 - 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.

(Ord. 353 § 9, 1989)

- **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. As set out in Chapter 1.12 of this code, or the town may, in its discretion, also proceed against any violation or violations of this chapter by any person, partnership, corporation or other entity, in a civil action for abatement, injunction, damages, specific performance or by a lien foreclosure or through other equitable remedies, and these remedies shall be in addition to the criminal penalties provided in this section.~~

(Ord. 353 § 10, 1989)

- **Chapter 8.08 - 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.

(Ord. 465 (part), 2005; Ord. 365 (part), 1989; Ord. 274 § 1, 1968)

(Ord. 523, 9-21-2015)

- **8.08.020 - Definitions.**

As used in this chapter:

"Brush" means construed to be volunteer growth of bushes, shrubs and trees such as are growing wild and without care and shall include all cuttings from trees, shrubs and bushes and high and rank shrubbery growth which may conceal filthy deposits.

"Garbage" means all offal, waste matter or vegetable matter from a kitchen, market, or store, and other worthless, offensive or filthy material and every refuse accumulation of animal, fruit or vegetable matter; liquid or otherwise that attends to the preparation, use, cooking, dealing in storing meat, fish, fowl, fruit or vegetables.

"Junk" means abandoned, or inoperative vehicles and/or parts thereof, abandoned tires, and/or farm machinery and all parts thereof, junk refrigerators, junk appliances, generally and all other forms or discarded property.

"Rubbish" means house dirt, ashes, rags, abandoned articles of clothing or similar substances.

"Trash" means all bottles, tin cans, refuse, paper, fallen tree limbs, and all other forms of discarded refuse.

"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.

(Ord. 465 (part), 2005; Ord. 274 §§ 3, 4, 1968)

- **8.08.021 - 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 a threat and danger to the health, safety and welfare of the town inhabitants.

(Ord. 465 (part), 2005)

- **8.08.030 - Failure to abate—Notice—Work by town clerk or town**

administrator~~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 administrator~~manager~~, the town clerk/town administrator~~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.

(Ord. 365 (part), 1989; Ord. 274 § 6, 1968)

(Ord. No. 475, 4-9-2007)

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

Upon the completion of the work as set forth in Section 8.08.030 of this chapter, the town clerk/town manager~~administrator~~~~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.

(Ord. 365 (part), 1989; Ord. 274 § 8, 1968)

(Ord. No. 475, 4-9-2007)

- **8.08.060 - Assessment notice.**

A. The town clerk/town ~~administrator~~manager, as soon as an assessment of costs is made, shall send by certified mail, with return receipt requested, and regular first class mail, addressed to the owner or owners of such lot, tract or parcel of land, at the last known address of each owner as may appear on the assessment roll of the Montezuma County Assessor, Colorado, a notice of such assessment. Such notice shall contain a description of the lot, tract or parcel of land, the name of the owner or owners and the amount of the assessment.

B. All notice to property owners, as herein provided, shall be at such property owner's address as set forth on the assessment roll in the office of the county assessor of Montezuma County, Colorado.

(Ord. 465 (part), 2005: Ord. 274 §§ 7, 10, 1968)

(Ord. No. 475, 4-9-2007)

- **8.08.070 - Assessment—Failure to pay.**

It shall be the duty of the owner or owners to pay such assessment or to object thereto in writing as herein provided within thirty days after receipt of such notice of assessment. If said owner or owners fail to object in writing within thirty days, they shall be deemed to have waived hearing on such assessment and shall be personally liable for the amount of the assessment and the same shall also be a lien upon the respective lot, tract or parcel of land upon which said work was done from the time of the assessment, and the town shall have all the remedies for collection provided by the statutes of the state, including the right to certify the assessment to the proper officers of the County of Montezuma, Colorado, for the purposes of having the same placed upon the tax roll and collected in the same manner as property taxes are now collected.

(Ord. 465 (part), 2005: Ord. 274 § 11, 1968)

(Ord. No. 475, 4-9-2007)

- **8.08.080 - Assessment—Payment.**

The amount of such assessment may be paid to the town clerk at any time before the tax list is placed in the hands of the county treasurer or other property county officer, but after the tax list has been placed in the hands of the county treasurer or other proper county officer, payment be made only to the county treasurer.

(Ord. 465 (part), 2005: Ord. 274 § 12, 1968)

- **8.08.090 - Assessment—Objection.**

In the event any owner or owners, desire to object to the assessment they shall, within thirty days after receipt of the notice, file a written objection with the town clerk who shall

thereupon designate the next regular meeting of the board of trustees as the date when this objection may be heard by the board of trustees.

(Ord. 465 (part), 2005; Ord. 274 § 13, 1968)

- **8.08.100 - Assessment—Certification.**

In case the owner or owners fail to pay the assessment or to object thereto within the required time as provided in this chapter, then it shall be the duty of the town clerk to certify the amount of the assessment to the proper county officers, that they may collect the assessment as provided for by the statutes of the state for the collection of delinquent general taxes.

(Ord. 274 § 14, 1968)

- **8.08.110 - Violation—Penalty.**

In addition to the above-stated costs which may be assessed against the owner as general taxes and/or a lien upon the real estate, it shall be unlawful for any person to violate this chapter, and any person who violates the provisions of this chapter, shall upon conviction, be fined in a sum of not more than ~~four hundred ninety nine five hundred dollars and/or one hundred eighty days in jail.~~

(Ord. 473 (part), 2007; Ord. 465 (part), 2005; Ord. 274 § 15, 1968)

(Ord. No. 475, 4-9-2007)