

TELLER COUNTY, COLORADO

ORDINANCE NO. 21

PROHIBITING THE ACCUMULATION OF RUBBISH

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

WHEREAS, Section 30-15-401(a)(I)(A), C.R.S., authorizes the adoption of ordinances and regulations to compel the removal of rubbish, including trash, junk and garbage, within Teller County.

WHEREAS, the Board previously enacted Ordinance No. 11 on July 6, 2001 providing for the removal of rubbish and establishing penalties for violations.

WHEREAS, the Board has determined that changes to Ordinance No. 11 are necessary to update it and to comply with Colorado S.B. 21-271.

WHEREAS, it is the opinion of the Board that adoption of this Ordinance is necessary to preserve the public health, safety and welfare of the citizens of Teller County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Teller County, Colorado that this Ordinance No. 21 is adopted to prohibit the accumulation of rubbish in Teller County.

Section 1: General Provisions

- 1.1 Purpose. The purpose of this Ordinance is to protect the public health, safety, and welfare of the citizens and residents of Teller County, Colorado, by eliminating and controlling, to the extent possible, the accumulation of rubbish within the County, which, if not eliminated or controlled, can result in visual blight, "attractive nuisances," incompatibility with existing land uses, hazardous or toxic substances being deposited in unapproved sites, attraction of disease-infested rodents and other vermin, fire and other hazards, and air, noise, and water pollution.
- 1.2 Authority and Effect. This Ordinance is authorized pursuant to, inter alia, C.R.S. §§ 30-11-101 et seq., 30-15-401 et seq., and 29-20-101 et seq. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by the County pursuant to previous regulations, provided that the violation is also a violation of this Ordinance.
- 1.3 Repeal of Ordinance No. 11. Ordinance No. 11 enacted on July 6, 2001, is hereby repealed and replaced in whole by this Ordinance No. 21.
- 1.4 Effective Date. This Ordinance takes effect and is in force from and after its adoption by the Board of County Commissioners and 30 days after the second publication.
- 1.5 Applicability.
 - 1.5.1 This Ordinance shall apply throughout the unincorporated area of Teller County.
 - 1.5.2 This Ordinance shall not apply to industrial tracts of ten (10) or more acres.
 - 1.5.3 This Ordinance shall not apply to agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6), C.R.S.
- 1.6 Severability. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
- 1.7 Conflicting provisions. Where any provision of this Ordinance conflicts with any other provision of this ordinance, or any other law or ordinance, the more stringent requirement, regulation, restriction or limitation shall apply.
- 1.8 Safety clause. The Board of County Commissioners hereby finds, determines, and declares that adoption of this Ordinance is necessary for the preservation and protection of the public health, safety, and welfare of the inhabitants of Teller County, Colorado.

Section 2: Definitions.

- 2.1 Agricultural Land. Any parcel of land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6), C.R.S.
- 2.2 Board. The Board of County Commissioners of Teller County, Colorado.

- 2.3 Code Enforcement Officer. The County peace officer(s) designated by this Ordinance to issue notice of violations, citations, or summonses and complaints to enforce this Ordinance pursuant to section 30-15-402.5, C.R.S.
- 2.4 County. The unincorporated areas of Teller County, including public and state lands.
- 2.5 Industrial Tract. A lot, parcel, or tract of land currently zoned for industrial uses or otherwise authorized by variance or nonconforming use status to operate activities ordinarily restricted to industrial zone districts.
- 2.6 Junk Vehicle. Any vehicle which is inoperable, which is wholly or partially dismantled, or which does not bear current license plates, unless such vehicle would under no circumstances be licensable under Colorado statutes or is used as a historical display. For purposes of this Ordinance, the definition of "vehicle" means a device that is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks and includes but is not limited to: an automobile, a motor vehicle, a noncommercial or recreational vehicle, an off-highway vehicle, a truck, a farm tractor, a snowmobile, and any trailer or camper designed to be drawn by or carried upon a motor vehicle, all as defined in section 42-1-102, C.R.S.
- 2.7 Owner. The owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any agent or representative of the owner of record including any lessee, occupant, manager or person in control of the premises or property.
- 2.8 Rubbish. Any trash, junk, garbage, litter, refuse, debris, lawn or garden waste (yard clippings, branches, and leaves), newspapers, magazines, glass, metal, plastic or paper containers or packaging, remnant construction or demolition materials, unused or unusable building materials, vehicle parts, junk vehicle(s), abandoned or junk equipment, used appliances or furniture, oil, carcasses of dead animals, any object likely to injure any person or create a traffic hazard, rejected or unused matter, organic or inorganic refuse, rejected or waste food, offal, swill, ash, manure, sawdust, any other object which has been discarded or abandoned, and outside storage of used or waste tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of Article 20 of Title 30, C.R.S., and any rules and regulations promulgated thereunder).
- 2.9 Unused Building Materials. Any building materials which remain on property for more than thirty (30) days after: (1) the expiration of any required building permit, or (2) the completion, suspension, or abandonment of work on the building project.

Section 3 - Standards.

- 3.1 Accumulation of rubbish is unlawful. It is unlawful for any owner, occupant or manager of any property to cause, allow or permit the accumulation of rubbish on any lot, parcel, or tract of land in the County under such owner's control, possession, or ownership.
- 3.2 Storage of garbage and refuse. Any owner, occupant, person in control, or manager of any property must keep and store garbage, rejected or waste food, and refuse in tightly closed containers that will prevent easy entry by animals to avoid the dispersal of such garbage, rejected or waste food, and refuse by animals, wind, or any other means.
- 3.3 Removal of rubbish. Any owner, occupant, person in control, or manager of any property must remove, or cause to be removed, from property, all accumulated rubbish not less than once each week. Business establishments that deal in food or any other product that results in the accumulation of rubbish on the premises must remove such rubbish, rejected or waste food, or cause it to be removed, from the premises not less than twice per week, timed so that rubbish cannot accumulate on the premises for longer than three and one-half days.
- 3.4 Disposal of rubbish. Rubbish must be disposed of only by depositing the same in or at an approved disposal site. Papers, and other combustibles, but excluding wet rubbish, may be burned in incinerators in conformity with the regulations of the State Department of Health and Teller County. The use of county trash receptacles on streets, in parks and at public buildings for disposal of rubbish is also prohibited. Law enforcement officials may open and inspect any such rubbish, for the purpose of identifying the owner or originator thereof.
- 3.5 Transport of rubbish. Rubbish shall be transported upon the streets of this County only when in an enclosed vehicle, or when properly covered and contained in a manner that will effectively prevent litter, dispersal, dissemination of odor and the attraction of insects.
- 3.6 Accumulation of manure. Other than as a fertilizer applied to lawns or gardens, manure shall not be accumulated or kept on any property for any purpose, but shall either be plowed under or removed by the owner, occupant or agent, not less frequently than once monthly from the first day of May to the first day of November, and not less than once every 2 months from the first day of November to the first day of May. This Section shall not apply to manure generated on the property that is zoned Agricultural and is currently in agricultural use.

Section 4 - Violations, Notice and Order

- 4.1 Violation. A person who violates any provision of this Ordinance commits an offense under section 30-15-402, C.R.S. and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation. Each day of violation shall be a separate offense.
- 4.2 Notice and Order. If probable cause exists to believe that a violation of this Ordinance has occurred, the County, by its Code Enforcement Officer(s) or other authorized representative, shall give written notice of violation of this Ordinance to the violator that describes the nature and date of the violation and an order to correct such violation within thirty (30) calendar days of the date of such notice and such notice may be provided by a standard form issued by the Code Enforcement Officer.

- 4.2.1 The notice and order may require that the violation be corrected within a period of time less than thirty (30) calendar days if the Code Enforcement Officer determines, in his or her sole discretion, that the violation presents an immediate risk to the public health, safety, or welfare.
- 4.2.2 An additional notice is not required for any subsequent violation of the same provision of this ordinance.
- 4.2.3 A notice of violation may be personally served by the Code Enforcement Officer or sent via first class mail to the owner's mailing address as listed in the records of the Teller County Assessor's Office and to the mailing address of the property in question, if one exists.

Section 5 - Enforcement and Penalties.

- 5.1 Citations or summonses and complaints. The Code Enforcement Officer has the authority to issue citations or summonses and complaints to enforce this Ordinance.
- 5.2 Penalty Assessment Procedure. The penalty assessment procedure provided in section 16-2-201, C.R.S. may be followed to enforce this Ordinance. If that procedure is followed, the notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge at a specified time and place, and any other matter reasonably adapted to effectuating the purposes of section 16-2-201, C.R.S. A duplicate copy shall be sent to the clerk of the county court. If the person given a penalty assessment notice chooses to acknowledge guilt, the person may pay the specified fine in person or by mail at the place and within the time specified in the notice. If the person chooses not to acknowledge guilt, the person shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified herein for the offense of which the person was found guilty and customary court costs may be assessed against the person in addition to the fine.
- 5.3 Penalties. Upon conviction, or admission of guilt, each violation of any provision hereof is punishable as follows:
 - \$250.00 fine for the first violation
 - \$500.00 fine for the second violation
 - \$1,000.00 fine for the third and subsequent violations
- 5.4 Fines payable to County Treasurer. All fines and forfeitures collected by the court for the violation of this Ordinance shall be paid to the Teller County Treasurer within thirty (30) days of receipt and shall be deposited into the General Fund of the County.
- 5.5 Statutory surcharge. In addition to the penalties prescribed in this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge in an amount fixed by statute that shall be paid to the clerk of the court by the defendant, as provided by section 30-15-402(2)(a), C.R.S.

Section 6 - Abatement of accumulated rubbish by entry and seizure warrant.

- 6.1 Administrative entry and seizure warrant. If a property owner does not remove the rubbish in accordance with the notice and order of the County, the County may apply for an administrative entry and seizure warrant for removal of such rubbish to be issued by the county or district court having jurisdiction over the property. The application shall include this Ordinance and a sworn or affirmed affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish in accordance with the notice and order, a general description of the location of the property, a general list of any rubbish to be removed, and the proposed disposal or temporary impoundment of such rubbish, whichever the court deems appropriate. Within 10 days following the date of issuance of an administrative entry and seizure warrant, such warrant shall be executed in accordance with direction by the issuing court, a copy of the warrant shall be provided or mailed to the property owner, and proof of the execution of the warrant, including a written inventory of any property impounded by the executing authority, shall be submitted to the court by the executing authority.
- 6.2 Assessment of Costs of Removal of Rubbish by County. After obtaining an administrative entry and seizure warrant, the County may remove, or contract for the removal of, such rubbish and assess the reasonable costs thereof, including, without limitation, five percent (5%) for inspection and other incidental costs in connection therewith, upon the lots and tracts from which such rubbish has been removed. The assessment shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within thirty (30) days, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent (10%) penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this State for the assessment and collection of general taxes, including laws for sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this section.

Section 7 - Civil Injunction.

- 7.1 The Board, upon the recommendation of the Code Enforcement Officer, or in its own discretion, may refer violations of this Ordinance to the County Attorney's Office for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation.

The foregoing text is the authentic text of Teller County Ordinance No. 21.

CERTIFICATION: The foregoing ordinance was introduced and read on August 4, 2022 by the Board of County Commissioners of Teller County, Colorado, and approved for publication.

DATE OF FIRST PUBLICATION: August 24, 2022

The publication and notice of this Ordinance will be performed in accordance with C.R.S. 30-15-405 and 30-15-406 and shall become effective 30 days after the second publication of the Ordinance.

Public Comment regarding Ordinance #21 is being accepted through 09/22/2022. You may send your comments either by email to Ordinance21@co.teller.co.us or mail to Teller County Administration, PO Box 959, Cripple Creek, CO 80813.