

**ORDINANCE #11
RUBBISH
ORDINANCE**

AN ORDINANCE PROVIDING FOR REMOVAL OF RUBBISH, INCLUDING TRASH, JUNK AND GARBAGE FROM LOTS AND TRACTS OF LAND WITHIN THE COUNTY: AND ESTABLISHING PENALTIES FOR VIOLATIONS OF SUCH PROVISIONS, AND REPEALING CERTAIN RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Board of County Commissioners of the County of Teller, Colorado:

Section 1 – General Provisions

1-1 Title. Rubbish Ordinance

1-2 Purpose. To provide for the manner in which rubbish shall be disposed of in Teller County, by prohibiting unlawful accumulation or disposition of junk and rubbish, and providing penalties for violation, as accumulation of rubbish is a health and safety hazard and a public nuisance.

1-3 Authority. Pursuant to Section 30-15-401, et. seq., C.R.S., Teller County has authority to enact ordinances establishing procedures to provide for and compel the removal of rubbish from lots and tracts of land within the County, and prohibiting the improper disposition of rubbish.

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. Any accumulation of rubbish on any premises, improved or unimproved, in the County is declared to be a nuisance, except on industrial land tracts of 10 or more acres when screened from view; on Agricultural land currently in agricultural use as defined in 39-1-102(1.6) C.R.S.; or when leaves, grass, shredded woody material and other similar organic matter is accumulated for composting and used as a soil amendment.

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 and declares that adoption of this Ordinance is necessary for the preservation of the public health, safety, and welfare.

Section 2 – Definitions For the purpose of this ordinance, the following words and phrases have the following meaning herein set forth:

APPROVED. Approved by the governing authorities having jurisdiction, such as the State of Colorado and local governments(s).

COUNTY. The County of Teller.

COMMISSIONERS. The County Commissioners or the Board of County Commissioners of Teller County.

DEPARTMENT. The Teller County Health Department

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), and which is visible from roads or adjoining, adjacent or neighboring property. A junk vehicle covered by a tarp covering is “visible” within the meaning of this section.

RUBBISH. Trash, junk, junk vehicles (~~two~~ (2) or more), garbage, useless waste, rejected or unused matter, organic or inorganic refuse, rejected or waste food, offal, swill, ash, yard clippings, branches, leaves, manure, sawdust, unused or unusable building materials, tires, wood, and unused or unusable vehicle parts.

UNUSED/UNUSABLE BUILDING MATERIALS.

a) With building permit. Building materials which remain on property for six (6) months, and which are not screened (including a tarp covering) from view.

b) Without building permit. Building materials which are not screened from view, which are not removed or screened (including a tarp covering) within thirty (30) days notice and order from the County.

c) After completion or abandonment of work. Building materials which remain on property for thirty (30) days or more after completion, suspension, or abandonment of work.

VEHICLE. Any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. Vehicle includes any ~~bicycle~~, trailer, or camper designed to be drawn by or carried upon a motor vehicle.

VIOLATIONS. With regard to violations occurring over more than twenty-four hours, each day of the occurrence shall be a separate violation.

Section 3 – Standards

3-1 Accumulation of rubbish.

It is unlawful for any owner, occupant or manager of any property to cause or permit the accumulation of rubbish on such property.

3-2 Storage of garbage and refuse.

Any owner, occupant, person in control, or manager of any property shall keep garbage, rejected or waste food, and refuse in tightly closed containers; and store garbage, rejected or waste food, and refuse in a manner that will prevent easy entry by animals and thereby avoid the dispersal of such garbage, rejected or waste food, and refuse by animals and prevent wind dispersal or any other means of dispersal.

3-3 Removal of rubbish.

Any owner, occupant, person in control, or manager of any property shall remove, or cause to be removed, from property, all accumulated garbage, rejected or waste food, and refuse 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 shall remove such rubbish, 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.

Rubbish shall 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.

3-4 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.

3-5 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.

3-6 Notice and Order. The County, by its Code Enforcement officer or other authorized representative, shall give written notice and order to the violator of this ordinance to correct such violation within thirty (30) days of the date of such notice. An additional notice is not required for any subsequent violation of the same provision of this ordinance.

Section 4 – Violations, enforcement and penalties

Violation of any provision of this ordinance is a class 2 petty offense.

4-1 Violation. Each day of violation shall be a separate offense.

4-2 Danger to public health.

When the Health Officer determines that an accumulation of rubbish or manure that would otherwise be permitted by this ordinance is, nonetheless, a danger to public health, the Health Officer may cause a notice and order to be delivered by certified mail, personal service, or posting to the owner, occupant, person in control, or manager of the property directing the removal of such rubbish or manure within 48 hours of the date of the postmark of the certified mailing of such notice and order, or the date of personal service and/or posting, in which case the owner, occupant, person in control, or manager of the property shall remove the rubbish or manure from the property within the time directed.

4-3 Abatement of accumulated rubbish by 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 issued by the county or district court having jurisdiction over the property, for removal of such rubbish. 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.

Upon thirty (30) days notice to the owner, by personal service or by mailing by certified mail, return receipt requested, the County may remove, or contract for the removal of, such rubbish and assess the reasonable costs thereof, including, without limitation, 5% for inspection and other incidental costs in connection therewith. 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 180 days, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent 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.

4-4 Penalty Assessment. When a person is issued a summons and complaint for a violation of this ordinance, the issuing officer may give the person a penalty assessment notice pursuant to Section 16-2-201 C.R.S. The notice shall be a summons and complaint, shall identify the alleged offender, shall specify the offense and applicable fine, and shall require that the alleged offender pay the fine or appear to answer the charge at a specified time and place. 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, he may pay the specified fine in person or by mail at the place and within the time specified in the notice. If he chooses not to acknowledge his guilt, he shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he was found guilty, but customary court costs may be assessed against him in addition to the fine.

4-5 Penalties.

Upon conviction, or admission of guilt pursuant to section 4.4 above, each violation of any provision hereof is punishable as follows:

First Violation: A fine of \$100.00

Second Violation: A fine of \$2050.00

Third ~~and subsequent~~ ~~violations~~: ~~————~~ A fine of \$4500.00 each.

~~Fourth and subsequent violations: A fine of \$500.00 each.~~

This Ordinance Number 11 is intended to repeal and replace existing Teller County Ordinance No. 5 series 1998 in its entirety upon this Ordinance taking effect.

CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON ~~_____~~ APRIL 26, 2001 BY THE BOARD OF COUNTY COMMISSIONERS OF TELLER COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.

DATE OF PUBLICATION: ~~_____~~ MAY 9, 2001

THE FOREGOING ORDINANCE WAS CONSIDERED ON ~~_____~~ AMAY 24, 2001 AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS EFFECTIVE 30 DAYS AFTER THE SECOND PUBLICATION.

DATE OF SECOND PUBLICATION: JUNE 6, 2001 ~~_____~~

EFFECTIVE: JULY 6, 2001: ~~_____~~

Constance R. Joiner
Teller County Clerk and Recorder

BY: THE TELLER COUNTY BOARD OF COUNTY COMMISSIONERS

Clarke D. Becker
Chairman, Board of County Commissioners
Teller County, Colorado

Attest:

Constance R. Joiner
Teller County Clerk and Recorder