

Ordinance 09-03, Series 2017 An Ordinance Regulating Vehicles on Public Property in the Town of Jamestown ("Town")

WHEREAS, Pursuant to Section 31-15-401(1)(b), C.R.S., the Town may create ordinances for the improvement of health, safety and welfare of its citizens within town limits; and

WHEREAS, the Town is concerned with the growing volume of abandoned and junked vehicles within town limits due to the resultant potential safety issues and concerns regarding the aesthetics of the town; and

WHEREAS, it is desirable that the Town has a current and appropriate ordinance to prohibit abandoned and junked vehicles on public property as the current ordinance has been in existence since 1966 and must be updated.

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Article 1. Purpose and Authority

Section 1. Purpose: The purpose of this ordinance is to protect the health, safety and welfare of the citizens of Jamestown in regard to use and treatment of vehicles on public property.

If the any portion of the vehicle in question is on public right-of-way or public property, the entire vehicle will be treated as being so and enforcement will be in accordance with this ordinance.

Section 2. Authority:

- (a) This ordinance is authorized by Section 31-15-401(1)(b), C.R.S., which provides that the Town Board shall have the power to Regulating the use of land on the basis of the impact thereof on the community or surrounding areas, in order to provide for the protection of the health, safety and welfare of the community.
- (b) And by Section 31-15-401 (1), C.R.S., in relation to the general police power, the governing bodies of municipalities have the power to declare what is a nuisance and abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist.
- (c) And pursuant to Section 29-20-105 (1), C.R.S., Local governments are authorized and encouraged to cooperate or contract with other units of government pursuant to part 2 of article 1 of this title for the purposes of planning or regulating the development of land including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations.

Article 2. Specifications

Section 1. Adoption of Boulder County Ordinance: The Jamestown Board of Trustees hereby elects, on behalf of the Town to have select provisions of Boulder County Ordinance Sections IV.14 & IV.15, of Boulder County Ordinance 2017-1, as amended or revised from time to time, apply to and within the Town.

Section 2. Enforcement: Enforcement of Ordinance No. 09-03, Series 2017 shall be provided by the Boulder County Sheriff's Department, or other Boulder County enforcement officials as authorized by the County Board of Commissioners.

Section 3. Further Acts: The Mayor is authorized to negotiate and execute on behalf of the Town, any agreements or amendments to existing agreements concerning enforcement of Ordinance No. 09-03, Series 2017, provided such agreements or amendments are substantially similar to the established Intergovernmental Agreement, dated \_\_\_\_\_.

### Article 3. General Requirements

#### Section 1. Definitions

(a) Vehicle - a motorized, self-propelled device that is capable of moving itself from place to place upon wheels that is commonly used to transport persons or property over public roadways, and is required to be licensed for legal use on public roadways. Vehicles include, but are not limited to, motorcycles, cars, buses, recreational vehicles, and trucks.

(b) Abandoned vehicle -

1. Any vehicle left unattended, fully or partially, on public property for 48 hours; or
2. Any vehicle that is left unmoved on public property; if any of the vehicle is on public property then the entire vehicle is determined to be on public property; or
3. License plates or other identifying marks have been removed from the vehicle.

(c) Junked vehicle or junker -

1. Any vehicle that does not bear valid, unexpired license plates, unless of a type specifically exempted from motor vehicle licensing by the laws of the State of Colorado; or
2. Any vehicle that is wrecked, damaged or substantially dismantled to the extent that such vehicle is inoperable; or
3. If designed to be capable of moving itself when in proper repair, is incapable of being moved under its own power in its existing condition, or does not have all tires inflated.
4. A vehicle having the attributes of an automobile hulk, except that a junker has an apparent value of three hundred fifty dollars (\$350.00) or less

(d) Hulk- a vehicle or portion thereof that meets all of the following requirements:

1. Is at least five years old;
2. Is extensively damaged; such damage including, but not limited to:
  - (a) missing one or more major component motor, transmission or body part;
  - (b) cannot be made an operative vehicle without a substantial amount of labor to make repairs;
3. Has a fair market value equal only to the value of the scrap or parts in it;
4. Has been the subject of complaints; and
5. Is legally or mechanically inoperative.

A vehicle is not a hulk for purposes of this ordinance if it is:

1. A collectible, classic, antique or vintage vehicle in the process of restoration or awaiting restoration within a building or a sight-obscuring fence where it is not visible from a street or other public or private property;
2. A vehicle whose value exceeds the value of its original purchase price; or
3. A vehicle open to public view as a display or clearly marked for sale by a private party. Such sale is to be completed in a timely manner and does not constitute a right to use property as a permanent sale site or license to become such a site.



- (e) Special mobile machinery – machinery that is pulled, hauled, or driven over a public road and is not designed primarily for the transportation of persons, property, or cargo over public roadways and is commonly used for construction, maintenance and repair of roadways and ditches.
- (f) Trailer - portable structure pulled by a vehicle, is designed for carrying cargo or as a temporary dwelling for travel, recreational or vacation uses, and is legal to be used upon the public streets and highways
- (g) Inoperable - unable to be driven legally or practically without the extensive addition of accessories or parts.
- (h) Public place - a place that is generally open to all persons in a community as opposed to being restricted to specific persons. Churches, schools, and commercial buildings as well as any publicly owned right-of-way or property (park, open space or other Town-owned property) which is frequented by persons are considered to be public places.
- (i) Public property - any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, as defined in section 31-1-101 (6), C.R.S., or other governmental entity of the State of Colorado.
- (j) Right-of-way / way: the road area historically and traditionally used for transportation of vehicles and land platted, dedicated or granted to the Town for transportation of persons, property, and vehicles.

Section 2. Any person, at the direction of the Town of Jamestown Board of Trustees, Town Clerk, or the Boulder County Sheriff, or their designee, is hereby authorized to remove, or have removed at their direction, a vehicle, automobile hulk or junker from any public way or place, under any of the circumstances hereinafter enumerated, the Sheriff or designee hereby finding and determining such vehicles under such circumstances to be obstructions to traffic or public nuisances:

- (a) When any vehicle is left unattended upon any bridge or where such vehicle constitutes an obstruction to traffic or public utility or public infrastructure;
- (b) When any vehicle upon a public way is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;
- (c) When a vehicle is parked in violation of any traffic ordinance and is an obstruction or hazard or potential obstruction or hazard to any lawful function, street maintenance or snow removal, or limits the normal access to or use of any public, private property, or public infrastructure or utility;
- (d) When a vehicle is left on a public way or place and appears to be abandoned or a complaint is received that it is abandoned and remains there continuously for a period of forty-eight (48) hours after notice is posted on the windshield that it may be impounded, or when an automobile hulk or junker is left on public or limits access to private property. A junker is a vehicle having the attributes of an automobile hulk, except that a junker has an apparent value of three hundred fifty dollars (\$350.00) or less;
- (e) When the driver of a vehicle is reasonably suspected of using license plates or a license permit unlawfully, misusing the license plates or license permit issued to the driver, or a vehicle is driven or parked without proper license plates or license pennit, or with no license plates or license permit, or driven or parked with an invalid or expired license permit;

(f) When an unlicensed trailer or unlicensed special mobile machinery is left on public property for longer than 48 hours;

(g) A licensed vehicle, special mobile machinery, or trailer is parked in the public right-of-way or public place that is not moved within a two (2) week time period.

#### Article 4. Procedure

##### Section 1. Process:

(a). When a person or vehicle is found in violation of the aforementioned subsections of Article 3 Section 2, the Town, via Town Clerk or Board of Trustee member, or their delegee, will place a notice on the offender's vehicle requesting removal within forty-eight (48) hours of awareness of the violation.

(b). If the violation is not remedied within forty-eight (48) hours of the notice, the Town Clerk, Mayor, or a Trustee will notify the Boulder County Sheriff's Office of the violation. The Sheriff's Office will investigate the violation with the attempt to have the vehicle removed by the owner or operator and ticket the vehicle for removal if not addressed. If the vehicle is not removed within forty eight (48) hours, the vehicle may be impounded immediately without any notice at the discretion of the officer.

(c) When a person or vehicle is found in violation of the aforementioned subsections of Section 2, and said violation constitutes an immediate and dangerous traffic hazard or limits access to public infrastructure or utility, the vehicle may be impounded immediately without any notice at the discretion of the officer.

(d). The Sheriff's Office will establish a procedure for a person to appeal the impoundment of his/her vehicle. The appeal procedure will be posted on the Sheriff's Office website and a copy will be available at the Sheriff's Office.

#### Article 5. Violation, Penalty, Severability and Repeal

Section 1. Violation: Any person who violates Article 3 of this ordinance shall be punished in accordance with the select provisions of Boulder County Ordinance Section F, subsection 1815 of Boulder County Ordinance 2010-1 as revised or amended from time to time. Any person who violates any other provision of this Ordinance shall be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not to exceed ten (10) days or both such fine and imprisonment. Each day during any portion of which any violation of any provision of this Ordinance is committed, continued or permitted by any such person shall be deemed a separate offense.

Section 2. Severability: If any portion of this Ordinance, or application thereof to any person or circumstances, be held invalid, such invalidity shall not affect the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. No Impairment: The repeal or modification of any provision of any ordinance of the Town of Jamestown by this Ordinance shall not release, extinguish, alter, modify or change in whole or in part



any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings or prosecutions.

Section 4. Repeal: All ordinances or parts of ordinances, specifically Ordinance No. 4, Series 1966 and Ordinance 40, Series 1934, of the Town of Jamestown, Colorado in conflict herewith are hereby repealed.

Section 5. Safety Clause; Ordinance Immediately Effective: The Board of Trustees wherewith finds, determines and declares that this ordinance is necessary to the immediate preservation of the public health and safety in order to timely provide for safety of citizens and preservation of property. This ordinance shall be effective upon adoption and signing by the Mayor if approved by three-fourths of the members of the Board of Trustees.

INTRODUCED, READ, ADOPTED, APPROVED, SIGNED AND ORDERED PUBLISHED BY TITLE THIS 11<sup>th</sup> DAY OF September 2017.

Town of Jamestown:



~~Tara Schoedinger, Mayor~~

Victor A Harris  
Mayor Pro Tem

Attest:



Kristi Rutledge, Town Clerk