

ORDINANCE NO. 2015-02

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
MONTROSE COUNTY, COLORADO CREATING RUBBISH AND JUNK REGULATIONS.**

WHEREAS, Montrose County has received numerous complaints from citizens regarding properties that have accumulated large amounts of junk and trash and there are no County codes to address junk and trash; and

WHEREAS, to help address this issue, the County is proposing an Ordinance to provide for and compel the removal of rubbish, including trash, junk, and garbage; and

WHEREAS, these regulations apply to properties located in unincorporated Montrose County that are zoned General Residential and are less than one acre and properties zoned Multiple Family Residential; and

WHEREAS, the Board of County Commissioners of Montrose County, Colorado has determined that adoption of this Ordinance will preserve and improve the health, safety, and welfare of Montrose County citizens.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Montrose County, Colorado as follows:

Montrose County Rubbish and Junk Regulations

Section 1. AUTHORITY

The Board of County Commissioners of Montrose County (hereinafter "the Board") has the authority to adopt ordinances to provide for and compel the removal of rubbish, including trash, junk, and garbage, from property within the county pursuant to C.R.S. § 30-15-401(1)(a)(i).

Section 2. PURPOSE

The regulation of rubbish and junk within Montrose County (hereinafter "the County") is necessary to preserve and improve the health, safety, and welfare of Montrose County citizens.

Section 3. APPLICABILITY

- 3.1 These regulations only apply to properties located in unincorporated Montrose County that: 1) are zoned by the County as General Residential and are less than one acre (43,560 sq ft), or 2) are zoned by the County as Multiple Family Residential.
- 3.2 The owner of a property on which a violation occurs under this Regulation may be liable for such violation, even if committed by a tenant or other occupant.

Section 4. DEFINITIONS

- 4.1 "Impounded property" means that personal property which was deemed to be rubbish or junk and impounded by the County.
- 4.2 "Junk" means any broken, abandoned, or discarded item, or any item in disrepair, including but not limited to: unusable or broken machinery; metal or scrap; unlicensed or inoperable motor vehicles or motor vehicle parts or tires; unlicensed or inoperable recreational vehicles or their parts; uninhabitable or decaying mobile or manufactured homes or their parts; discarded construction or remodeling or repair materials; unwanted or discarded household items including but not limited to appliances, sporting equipment, and furniture; or any object or material which causes or is likely to cause a public hazard or nuisance.
- 4.3 "Owner" means the owner of real property on record with the Montrose County Tax Assessor's Office.
- 4.4 "Property" means real property.
- 4.5 "Rubbish" means any discarded item, including but not limited to: trash, garbage, litter, refuse, debris, newspapers, magazines, packaging materials, waste paper or cardboard, dead animal carcasses, household waste, and lawn or garden waste.

Section 5. VIOLATIONS

- 5.1 Rubbish
 - 5.1.a It shall be unlawful for any person to allow the accumulation of rubbish on his or her property, unless such rubbish is within a trash can or container which has a tight fitting lid, in a closed trash bag, or entirely enclosed within a building.
 - 5.1.b It shall be unlawful for any person to cause the accumulation of rubbish onto any public property or the private property of another, except into a receptacle or container for such purpose which such person is authorized to use.
- 5.2 Junk
 - 5.2.a It shall be unlawful for any person to allow junk upon his or her own property, unless such junk is within a trash can or container which has a tight fitting lid, entirely enclosed within a building, or is screened by a fence or other enclosure so that the junk cannot be seen from outside of the property.
 - 5.2.b It shall be unlawful for any person to cause junk to be on any public property or the private property of another without authorization and without complying with the provisions set forth in 5.2.a of this section.
 - 5.2.c This Section 5.2 shall not apply to any salvage businesses lawfully located in a General Residential District as of the effective date of this Regulation, and operated continually thereafter.

Section 6. COMPLAINTS

Any person may file a complaint reporting that a property in Montrose County is in violation of this Regulation. Such complaint must be in writing and signed by the complainant. The County is not obligated to investigate anonymous complaints or those complaints not filed in writing.

Section 7. NOTICE OF VIOLATION

- 7.1 All investigations regarding violations of this Regulation shall be handled by the Planning and Development Director, or his or her designee (hereinafter the "Enforcement Officer").
- 7.2 If the Enforcement Officer determines that a violation of this Regulation exists, a Notice and Order shall be sent ordering that the property owner:
 - 7.2.a Remove the rubbish or junk which is in violation of this Regulation within 21 days;
 - 7.2.b Enter into an agreement with the Enforcement Officer to mitigate the violation within 21 days; or
 - 7.2.c Request, within 21 days, a hearing before the Board of County Commissioners to show cause why such Order should not be enforced.
- 7.3 The Notice and Order may be issued by certified mail, return receipt requested, to the property address as well as property owner's address as listed with the County Assessor, if different. If service via certified mail is unsuccessful, service may be completed pursuant to Colorado Rule of Civil Procedure 4. If personal service cannot be obtained, service by publication pursuant to C.R.C.P. 4 is permissible, except that service by publication shall be one time per week for a period of fourteen (14) days, and a copy of the Notice and Order must also be posted in a conspicuous place at the property where the violation is occurring.
- 7.4 The Enforcement Officer has the authority to enter into an agreement with the owner regarding mitigation of the violation, so long as the violation is reasonably expected to be completely resolved within ninety (90) days. Mitigation which is expected to take longer than ninety (90) days must be approved by the Board.

Section 8. HEARING

- 8.1 If an owner requests a hearing before the Board to show cause why the Order should not be enforced, such a hearing shall be set as early as practical. The owner shall be notified of the date of the hearing via first class mail at least seven days in advance of the hearing.