

ORDINANCE NO. 28A - continued.

SECTION 5. Severability: If any section, subsection, sentence or clause or phrase or other portion of this Ordinance is for any reason held illegal, invalid, unconstitutional or void by any Court of agency of competent jurisdiction, such holding shall not affect the validity of all other portions of this Ordinance.

Passed, adopted and approved this First day of March, A. D., 1984.

(Seal)

ATTEST: MAYOR s/ Ezra Yoder

CLERK s/ Jackie L. Garrett

ORDINANCE No 29A

AN ORDINANCE PROVIDING FOR THE CUTTING AND REMOVAL OF WEEDS, BRUSH AND RUBBISH FROM LOTS IN THE TOWN OF STRATTON, AND PROVIDING FOR THE DOING OF SUCH WORK BY THE TOWN IN CASE OF THE FAILURE OF THE OWNER TO PERFORM, AND FOR THE ASSESSMENT OF THE CHARGES THEREFORE AGAINST LOTS AND FOR THE COLLECTION OF SUCH ASSESSMENTS AS TAXES, AND FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE.

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

Section 1 Ordinance No. 14-A of the Town of Stratton is, by these presents, repealed in its entirety.

Section 2. Definitions: For the purpose of this Ordinance, the following items shall have the meanings set forth in this Section.

A. "Town" - The Town of Stratton, Colorado, a municipal corporation created and existing under the laws of the State of Colorado, and being located in Kit Carson County, Colorado.

B. "Owner" - an owner is any person or persons who hold any right, title or interest in any real property located within the established and legal boundaries of the Town. No person shall be deemed an owner of any right, title or interest in any real property located within the established and legal boundaries of the Town unless this interest is shown of record in the office of the Clerk and Recorder of Kit Carson County, Colorado, at the time of any alleged violation of the conditions of this Ordinance.

C. "Person" - a person is any natural person, Corporation, Partnership, Association, or other legal entity created by law or otherwise who holds any recorded right, title, or interest in real property located within the established and legal boundaries of the Town, except a person who holds a legal or equitable interest in the real property by virtue of and under the terms and conditions of any mortgage, Deed of Trust, or Judgment Lien.

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D. "Recorded right, title, or interest" - any right, title or interest in real property located in the established and legal boundaries of the Town which is shown of record in the office of the Clerk and Recorder of Kit Carson County, Colorado, except an interest under a lease agreement or under a mortgage, Deed of Trust, or Judgment Lien, shall be deemed a right, title or interest held by an owner. Possession of the real property shall not be required to establish responsibility for compliance with the conditions of this Ordinance.

E. "Address" - the address of the owner shall be the address of the owner shown by the records of the the Treasurer of Kit Carson County, Colorado, as of the date of any alleged violation of this Ordinance.

F. "Rubbish" - rubbish is waste, rejected matter or material, and/or worn out, discarded, broken or worthless items, including but not limited to tree and bush toppings, twigs, branches, and other organic and inorganic refuse.

G. "Weeds" - weed or weeds shall be any uncultivated plant growing wild on any real property located within the established and legal boundaries of the Town.

H. "Growing Season" - the growing season for the purpose of this Ordinance is from June 1st to July 1st of any given year. (ITEM H. HAS BEEN APPEALED, SEE ORDINANCE NO. 31A.)

I. "Real Property" - real property is deemed for the purpose of this Ordinance to be the surface of the land and real estate, lots, and tracts of land, owned by any person or persons and which are located within the established and legal boundaries of the Town and includes the surface of that portion of any alley behind such real property and the sidewalks in front of such property. In the event the real property is located on a corner and has sidewalks in front of, as well as along the side of the property shall be included in the definition of real property. (SEE ORDINANCE NO. 31A.)

J. "Town Board" - the Town Board is the Board of Trustees of the Town of Stratton, Colorado. (SEE ORDINANCE NO. 31A.)

SECTION 3. The Town Board has considered the problem of weeds growing within the established and legal boundaries of the Town, together with the problem of the accumulation of rubbish therein, and does find and determine that it is necessary for the immediate preservation of the public health, safety, wealth, welfare, and general peace of the general public living and residing within the Town to control such weed growth an accumulation of rubbish.

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SECTION 4. The owner of real property located within the established and legal boundaries of the Town shall control weed growth on their real property by mowing at least once during the growing season any such weeds to a height of not more than two (2) inches above ground level. (SECTION 4. AMMENDED. SEE ORDINANCE NO. 31A.)

SECTION 5. The owner of real property located within the established and legal boundaries of the Town shall keep their real property free from all rubbish by cleaning up and removing such rubbish from their real property at least once a year; such removal to take place no later than July 1st of that year.

SECTION 6. In the event that any owner of real property located within the Town shall fail, refuse or neglect to control weed growth and/or to clean up and remove all rubbish from their real property as provided by this Ordinance, such person shall be served with a Complaint and Summons, and Summons shall cite this Ordinance by Ordinance Number and designate it as the "Weed and Rubbish Control Ordinance", and shall require any such owner to appear before the Municipal Judge of the Town, upon the date, time, and place set forth in such Summons, to show cause why such person should not be found to be guilty of a violation of this Ordinance. The date and time for such hearing shall not be less than seven days after the date upon which such Summons is served upon the owner, and not more than twenty days after the Summons is served upon the owner unless such time is extended by the Municipal Judge for good cause.

Such hearing shall be conducted in accordance with established law and rules relating to evidence and testimony and the Town as well as the owner, can at their option, be represented by an attorney duly authorized to practice law within the State of Colorado.

In the event that the owner shall be found not guilty of a violation of this Ordinance, the Complaint shall be dismissed and held for naught.

In the event the owner is found guilty of a violation of this Ordinance, he shall have the right to appeal the decision of the Municipal Judge to the County Court of Kit Carson County, Colorado, as provided by law.

In the event that the owner shall for whatever reason, elect not to file an appeal from the decision of the Municipal Judge, or in the event the decision of the Municipal Judge is affirmed on appeal, then the owner shall within five days after found guilty of a violation of this Ordinance, comply with the provisions of this Ordinance so violated. In the event that the owner shall fail, refuse or neglect to comply with the conditions of this Ordinance so violated within the five days allotted, then the Town Board shall proceed to control the weed growth and removal of rubbish as contemplated by this Ordinance and thereafter to assess the whole cost thereof, including an additional five per cent (5%) thereof for inspection and other incidental costs in

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connection therewith against the real property upon which the weeds were mowed and/or the rubbish was removed.

The Town Clerk, shall within ten days after the weeds have been mowed and/or the rubbish removed, mail to the owner, at his address, by registered mail, return receipt requested, a notice of the total cost and five percent (5%) additional fee, notifying the owner if the total assessment is not paid within twenty days of the date of mailing of the notice, the total assessment may be certified by the Clerk of The Town to the Treasurer of Kit Carson County, Colorado, who shall collect the additional assessment, together with an additional ten percent (10%) penalty for cost of collections, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the law for the sale and redemption of property taxes, shall apply to the collection of such assessments. Receipt of the notice shall be deemed completed on the date the notice is mailed.

The total sum of the assessment, including all additional fees and penalties shall, under the general laws of this state for the assessment and collections of general taxes, constitute a valid and collectable tax assessment and lien against the real property.

SECTION 7. Any person who shall violate the provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be taxed all Court costs and shall be fined in an amount of not less than Five and no/100 Dollars (\$5.00), nor more than One hundred and no/100 Dollars (\$100.00), as well as any assessment that may thereafter be made for the completion of any weed control or removal of rubbish as heretofore set forth by the Town Board.

SECTION 8. Severability: If any section, subsection, sentence, clause or phrase or other portion of this Ordinance is, for any reason, held illegal, invalid, unconstitutional or void by any court or agency of competent jurisdiction, such holding shall not affect the validity of all other portions of this Ordinance.

SECTION 9. The Town Board does find and determine that this Ordinance is necessary for the immediate preservation of the public health, safety, wealth, welfare, and peace of the public, and therefore an emergency does exist, and therefore this Ordinance shall become effective five (5) days after the publication thereof.

Passed and adopted and ordered published this third day of May, A. D., 1984.

MAYOR s/EZRA YODER

ATTEST:

(SEAL) TOWN CLERK s/JACKIE L. GARRETT