

Chapter 2

THE PRIDE, HEALTH AND SAFETY

SECTIONS:¹

- 5-2-1: Definitions**
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5-2-1: Definitions^{4 5}

The following definitions shall apply in the interpretation of this Ordinance:

1. Abandoned Vehicle means a machine propelled or pulled by power other than human power and designed to travel along the ground by use of wheels, treads, tracks, runners, or slides and shall include, without limitation, automobiles, trucks, motorcycles, tractors, field machinery, buses, campers, snowmobiles, all-terrain vehicles, trailers, bulldozers, earth-moving or compacting equipment, backhoes or truck bed/boxes which are: (Ord. 2-1999, eff. 7-10-1999)
 - a. inoperable; or (Ord. 2-1999, eff. 7-10-1999)
 - b. not capable of travel in connection with their normal power source; or (Ord. 2-1999, eff. 7-10-1999)
 - c. partially or wholly dismantled; or (Ord. 2-1999, eff. 7-10-1999)
 - d. Without current license plates, unless exempt from registration. (Ord. 2-1999, eff. 7-10-1999)
2. Hazardous or Toxic Substances means EPA-defined hazardous and toxic material described in the Resource Conservation and Recovery Act. (Ord. 2-1999, eff. 7-10-1999)

¹ Title 5, Chapter 2, is amended by the addition of a new section. (Ord. 4-2017, eff. 2-3-2017)

² Title 5, Chapter 2, Section 2 is amended and now becomes 5-2-3 and with the addition of a new paragraph. (Ord. 4-2017, eff. 2-3-2017)

³ Title 5, Chapter 2, Section 3 is amended and now becomes 5-2-4 with the addition of a new paragraph and renumbering the remaining. (Ord. 4-2017, eff. 2-3-2017)

⁴ Title 5, Chapter 2, Section 1, Subsection #3 (defining "Noise Pollution") is repealed. (Ord. 2-2014, eff. 3-6-2014)

⁵ Title 5, Chapter 2, Section 1, is amended by the addition of a new definition and renumbered. (Ord. 2-2017, eff. 2-3-2017)

3. Metal Storage/Shipping Container any rectangular structure made substantially of metal and larger than 120 square feet, used for storage of personal property, allowing ingress and egress on one end of the structure. (Ord. 2-2017, eff.2-3-2017)
4. Person means any natural person, firm, partnership, association or corporation. (Ord. 2-1999, eff. 7-10-1999)
5. Public Nuisance: Class 3 has the meaning set forth in C.R.S. §16-13305. (Ord. 2-1999, eff. 7-10-1999)
6. Rubbish means:
- a. any trash, garbage or litter; (Ord. 2-1999, eff. 7-10-1999)
 - b. any abandoned vehicle or any abandoned objects or materials, including without limitation, newspapers, magazines, glass, metal, plastic, packaging or construction materials, furniture, appliances, animal waste and carcasses of animals; (Ord. 2-1999, eff. 7-10-1999)
 - c. EPA-defined Hazardous and Toxic Substances or any noxious matter of any kind; (Ord. 2- 1999, eff. 7-10-1999)
 - d. any object likely to cause injury to any person, or to create a traffic hazard; (Ord. 2-1999, eff. 7-10-1999)
 - e. anything of an unsightly nature to a reasonable person. (Ord. 2-1999, eff. 7-10-1999)
7. Served means placing the item in the U.S. mail, certified, return receipt requested, to the owner at the owner's last known address as shown on the County's assessment roll and to the occupant at the property address. (Ord. 2-1999, eff. 7- 10-1999)

5-2-2 Adoption of Custer County Code 15-02 ⁶

The Town of Westcliffe shall adopt and ratify as its own, and incorporate by reference herein, Custer County Colorado Code 15-02, regulating open burning in Custer County and the Town of Westcliffe, excluding and deleting Part Five: Permitted Open Burning of Custer County Code 15-02 in its entirety, and replacing Part Five as follows:

1. Open Burning in the Town shall be permitted by permit only issued by Town

⁶ Title 5, Chapter 2, Section 2 is amended by repealing and reenacting in its entirety. (Ord. 6, 2017, eff. 4-6-2017)

of Westcliffe authorized personnel, and burning shall be restricted to Town zoning areas defined as Agricultural only. No burning of any kind shall be permitted in any other Town zoning area. No burning shall take place at any time when a fire ban has been imposed by any governmental agency covering the area in which the burn is to take place, regardless of the issuance of a permit by the Town. A reasonable permitting fee may assessed by the Town and modified thereafter by the Board of Trustees. (Ord. 4-2017, eff. 2-3-2017, Ord. 6-2017, eff. 4-6-2017)

5-2-3:⁷ Unlawful Acts^{8 9}

It shall be unlawful for any person:

- A. To allow the accumulation of Rubbish on any property under such person's control, possession or ownership. (Ord. 2-1999, eff. 7-10-1999)
- B. To dump or dispose of Rubbish in the Town, except in those places permitted or duly authorized by the Trustees for such purpose. (Ord. 2-1999, eff. 7-10-1999)
- C. To transport Rubbish except in a manner that keeps the Rubbish from littering public rights-of-way and the property of others. (Ord. 2-1999, eff. 7-10-1999)
- D. To fail or refuse to comply with any order issued pursuant to this Ordinance. (Ord. 2-1999, eff. 7-10-1999)
- E. To generate, or allow to be generated, any Noise Pollution from an owner or occupant's property. (Ord. 2-1999, eff. 7-10-1999)
- F. To store and Hazardous or Toxic Substances, except under conditions authorized by state or federal law. (Ord. 2-1999, eff. 7-10-1999)
- G. To maintain a Public Nuisance, Class 3. (Ord. 2-1999, eff. 7-10-1999)
- H. To place or maintain a Metal Storage/Shipping Container in a Residential Zone or in the Core Commercial Zone within the Town of Westcliffe. Metal Storage/Shipping Containers shall be permitted in Light Industrial Zones, Heavy Industrial Zones and Agricultural Zones within the Town. Metal Storage/Shipping Containers shall be permitted in Highway Commercial Zones within the Town provided such placement is not within view from any roadway in the Town, unless such Metal Storage/Shipping Container is rendered aesthetically neutral by placing a privacy fence or similar structure as to block such view from any roadway within the Town.(Ord.2-2017, eff. 2-3-2017)
- I. To Open Burn, as defined in PART TWO: DEFINITIONS, of County Code 15-02, any materials whether organic or otherwise within the Town of Westcliffe.(Ord.4-2017, eff. 2-3-2017)

⁷ Title 5, Chapter 2, Section 2, Subsection "E" is repealed. (Ord. 2-2014, eff. 3-6-2014)

⁸ Title 5, Chapter 2, Section 2, is amended by the addition of a new paragraph. (Ord. 2-2017, eff. 2-3-2017)

⁹ Title 5, Chapter 2, Section 2 is amended by the addition of a new paragraph and now becomes 5-2-3 (Ord. 4-2017, eff. 2-3-2017)

5-2-4:¹⁰ Enforcement and Penalties¹¹

1. Enforcement Process

- a. Any person may submit a signed written notice of possible rubbish violations of Title 5, Chapter 2, observed on any property in the Town to the Town Zoning Officer or Town Clerk. Unsigned rubbish notices shall be discarded with no action taken. Any Town employee or Town elected official may verbally notify the Town Zoning Officer of any observed possible rubbish violations of Title 5, Chapter 2. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
- b. The Town Zoning Officer shall visibly inspect the site of rubbish notices of possible violations to determine if a violation exists. Upon determination of a violation, the Town Zoning Officer shall give notice to the Owner and Occupant, if they are different, of the violation, by letter sent registered mail, return receipt requested, or by affixing a letter to an appropriate location on the site having a reasonable chance that the responsible party will receive such notice of the violation. In the event notice as stated herein fails, notice may be served as provided in the same manner as provided in Rule 4 of the Colorado Rules of Civil Procedure. The Town Zoning Officer shall include in the notice a reasonable time frame for the violation to be corrected and subsequent action if the violation is not corrected in a timely manner. The Town Zoning Officer shall have the authority to extend the time to correct the violation. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
- c. Should the violation persist beyond the time frame for the violation to be corrected, the Town Zoning Officer or other authorized Town official, shall request that the local law enforcement agency issue a summons to the responsible party. Each day after the expiration date of the time frame, (including any extensions thereto) provided by the Town Zoning Officer shall constitute a separate violation of this

¹⁰ Title 5, Chapter 2, Section 3 is amended to fix numbering errors and with the addition of subsection 5 “Rubbish Enforcement” by (Ord. 13-2015, eff. 11/7/2015)

¹¹ Title 5, Chapter 2, Section 3 is repealed and replaced in its entirety by (Ord. 3 2016, eff. 3/2/2016)

Ordinance. (Ord. 2-1999, eff. 7- 10-1999, Ord. 3-2016, eff. 3-2-2016)

- d. Violations of this Ordinance shall be punishable by a fine not to exceed three hundred dollars (\$300.00) for each violation. Additional fees may be imposed as contained herein. (Ord. 2-1999, eff. 7- 10-1999, Ord. 3-2016, eff. 3-2-2016)

2. Administrative Entry and Seizure Warrant.

- a. Upon legal authorization by a court of competent jurisdiction, the Town may enter upon private property for the purpose of removal and impounding such personal property which is the subject of the violation of this Ordinance. A written inventory of any items removed shall be tendered to the responsible party or posted in a prominent location if the responsible party is not available. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)

3. Impoundment

- a. Impoundment of removed rubbish shall occur at any time so ordered by the court. Items of nominal or no value shall be excluded from being impounded and may be disposed of as deemed appropriate by the Town. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
- b. Upon impoundment of rubbish, notice showing information as to the impoundment location, the person to contact for reclaiming the property, and the conditions and time limit for retrieving impounded items shall be tendered to a responsible party or posted in a location on the property in a conspicuous location. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
- c. Impoundments shall be for a period not to exceed 90 days from the date the notice of impoundment is served, thereafter, the impounded items shall be regarded as abandoned and may be disposed of by the Town as it sees fit. If the owner of the impounded items seeks in writing to reclaim them within the 90-day period, the impounded items shall be released upon the occurrence of all

of the following within 100 days from the date the notice of impoundment is served: (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)

1. All of the impounded items are removed from impound; (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
2. satisfactory evidence is provided that the owner will move the items to a site that will not result in a violation of this Ordinance or the zoning regulations; and (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
3. the Town has verified that the property from which the impounded items were removed has remained in compliance with this Ordinance; and (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)
4. all costs, including storage costs for impoundment, reasonable attorney fees and costs, have been paid in full, in cash, money order, or cashier's check. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)

4. Additional Remedies

The remedies provided in this Ordinance shall be in addition to any other remedies which may be available to the Town. Nothing contained in this Ordinance shall be construed to preclude the Town from seeking such other remedies in addition to, or In lieu of, the remedies provided for in this Ordinance. (Ord. 2-1999, eff. 7-10-1999, Ord. 3-2016, eff. 3-2-2016)

5. Rubbish Enforcement

The Park Supervisor of the Town of Westcliffe, and the local law enforcement shall have the authority to issue a citation, based on reasonable suspicion, to any individual who violates Town of Westcliffe municipal ordinance 5-2-3 B. A fine of \$25 for a first offense, \$50 for a second offense, and \$100 per incident thereafter shall be imposed. Fines shall be due and payable to the Town Clerk no later than 10 days after the date of issuance of such citation. Failure to pay the fine as indicated in the citation, shall result in a summons to appear in municipal court to answer to the charge (Ord. 13-2015, eff. 11-7-2015, Ord. 3-2016, eff. 3-2-2016)

6. Open Burning

Violations of this Ordinance shall be punishable by a fine not to exceed three hundred dollars (\$300.00) for each violation. (Ord.4-2017, eff. 2-3-2017)

5-2-5: Severance Clause

If any part of this Ordinance is for any reason held to be invalid, the remaining portions shall remain in effect. (Ord. 2-1999, eff. 7-10-1999)