

**TOWN OF PARACHUTE  
ORDINANCE NO. 763-2019**

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**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO, AMENDING CHAPTER 11.11 OF THE PARACHUTE MUNICIPAL CODE RELATING TO THE DECLARATIONS OF NUISANCES AND ABATEMENT THEREOF.**

**WHEREAS**, the Town of Parachute (“Parachute” or the “Town”) is a home-rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Parachute Home Rule Charter;

**WHEREAS**, Section 31-15-401, C.R.S. *et seq.* grants municipalities the power and authority to declare and abate nuisances;

**WHEREAS**, Chapter 11.11 of the Parachute Municipal Code provides for the declaration and abatement of nuisances; and

**WHEREAS**, the Parachute Town Council desires to revise its nuisance code so as to enhance the appearance of the Town and its environs.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO THAT:**

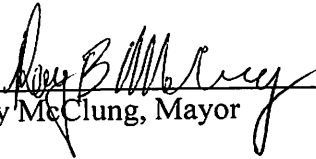
Section 1. The foregoing recitals are incorporated herein as if set forth in full.

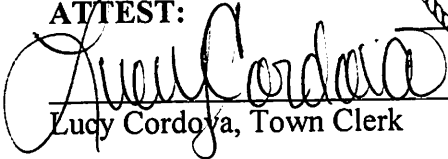
Section 2. Chapter 11.11 of the Parachute Municipal Code is hereby amended as set forth in Exhibit A, with double underlined text added and ~~strike-through language deleted~~.

**INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY** by a vote of 5 to 0 of the Council of the Town of Parachute, Colorado, at a regular meeting held at Town Hall in the Town of Parachute, Colorado, on the 21 day of FEBRUARY 2019 and approved by the Mayor on the 21 day of FEBRUARY 2019.

**TOWN OF PARACHUTE, COLORADO**



  
\_\_\_\_\_  
Roy McClung, Mayor

**ATTEST:**  
  
\_\_\_\_\_  
Lucy Cordova, Town Clerk

**PUBLIC NOTICE**

Public notice is hereby given that an Ordinance entitled:

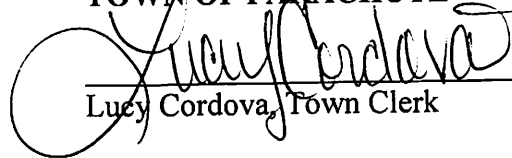
**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO, AMENDING CHAPTER 11.11 OF THE PARACHUTE MUNICIPAL CODE RELATING TO THE DECLARATIONS OF NUISANCES AND ABATEMENT THEREOF**

was introduced before the Town Council on February 21, 2019; that a copy of said Ordinance is posted at Town Hall; and that the Ordinance was approved at a regular meeting of the Town Council held on February 21, 2019, and approved by the Mayor on February 21, 2019.

Copies of the adopted ordinance are available for inspection at the Town Hall, Parachute, Colorado and available on the internet at <http://www.parachutecolorado.com>.

Dated this 21 day of February, 2019.

**TOWN OF PARACHUTE**



Lucy Cordova, Town Clerk

TOWN OF PARACHUTE  
ORDINANCE NO. \_\_\_\_-2019  
**EXHIBIT A**

Chapter 11.11

**PUBLIC NUISANCES**

Sections:

- 11.11.010 Definitions.
  - 11.11.020 Public nuisances – Policy.
  - 11.11.030 Public nuisances – Defined.
  - 11.11.040 Author of nuisance – Defined.
  - 11.11.050 Jurisdiction – Parties – Process.
  - 11.11.060 Temporary restraining order – Preliminary injunction – When to issue.
  - 11.11.070 Judgment – Relief.
  - 11.11.080 Redelivery of seized premises.
  - 11.11.090 Violation of injunction.
  - 11.11.100 Fees – Costs and fines – Liens and collection.
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- 11.11.010 Definitions.

As used in this chapter, unless the context otherwise requires:

“Action to abate a public nuisance” means any action authorized by this chapter to restrain, remove, terminate, prevent, abate, or perpetually enjoin a public nuisance.

“Building” means any house, office building, store, warehouse, or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situated, and includes any trailer, semi-trailer, trailer coach, mobile home, manufactured home, or other vehicle designed or used for occupancy by persons for any purposes.

- 11.11.020 Public nuisances – Policy.

It is the policy of the Town of Parachute pursuant to § 31-15-401(c), C.R.S., as amended, that every public nuisance shall be restrained, prevented, abated, and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain an action, pursuant to the provisions of this chapter, to restrain, prevent, abate, and perpetually enjoin any such public nuisance. Nothing contained in this chapter shall be construed as an amendment or repeal of any of the other criminal offenses of this Town, or the repeal of any of the criminal laws of this State, but the provisions of this chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws.

- 11.11.030 Public nuisances – Defined.

The following are deemed to be a public nuisance:

- A. Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passerby on the public streets or highways; or
- B. Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under the age of twenty-one (21), solicitation for prostitution, or trafficking in stolen property; or
- C. Any bawdy and disorderly house or house of ill fame or assignation within the Town or within three (3) miles beyond, except where the boundaries of another municipality adjoins the outer Town boundaries; or Any offensive or unwholesome business or establishment, or any business or establishment carried on in a manner dangerous to the public health, safety, or welfare within the Town or within one (1) mile beyond the outer limits of the Town; or
- D. Any building, fence, structure, or land within the Town, the condition of which presents a substantial danger or hazard to public health or safety including any deteriorated or dilapidated buildings or building that has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, as provided in the International Existing Building Code, International Building Code, or such other code as may be adopted by reference by the City; or
- E. Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or
- F. Any unlawful pollution or contamination of any surface or subsurface waters in this Town or of the air, or any water, substance or material intended for human consumption, but no action shall be brought under this subsection if the State Department of Public Health and Environment or any other agency of the state of Colorado charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on that pollution or contamination; or
- G. Any cellar, vault, sewer, drain, place, property, or premises within the Town which is damp, unwholesome, nauseous, offensive, or filthy, or which is covered for any portion of the year with stagnant or impure water, or which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health; or
- H. Permitting any garbage container to remain on a premises when it has become unclean, offensive, or which is injurious to the public health; or
- I. Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard, or area except when it is temporarily deposited for immediate removal; or
- J. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept; or

K. Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building, wherein any animals are slaughtered, kept, fed, or sold, to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed; or

L. Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so; or

M. Keeping or collecting any stale or putrid grease or other offensive matter; or

N. Having or permitting upon any premises any fly- or mosquito-producing condition; or

O. Keeping any drinking vessel for public use without providing a method of decontamination between uses; or

P. Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the Town; or

Q. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults, septic tanks and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from any enforcement officer or official of the Town; or

R. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage canal or basin, ~~or any public park,~~ or any public property without first obtaining the written permission of the Town; or

S. The maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner so as to become so obstructed so as to cause the water to backup and overflow therefrom, or to become unsanitary; or

T. Any use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, accumulation of, or scattering over the premises lumber, junk, trash, debris, or abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers; or

U. Unsheltered storage of old, unused, stripped and junked machinery, implements, or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the Town; or

V. Use of any land, premises, or property for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials, or combustible materials of any kind.

W. To park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. This Section shall not apply to any person with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise relating to inoperable vehicles in compliance with existing zoning regulations.

XV. Any building, land, premises, or business, occupation or activity, operation, or condition which, after being ordered abated, corrected, or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of:

1. Any ordinance of this Town;
2. Any regulation enacted pursuant to the authority of an ordinance of this Town.

YW. Those offenses which are known to the common law of the land and the statutes of Colorado as nuisances when the same exist within the Town limits or within a mile thereof.

11.11.040 Author of nuisance – Defined.

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the owner or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereof conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

11.11.050 Ascertaining Nuisance – Prohibition – Separate Offense.

A. Whenever the pursuit of any trade, business or manufacture, or the maintenance of any substance or condition of things shall, upon investigation, be considered by the City Manager dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated.

B. No person, being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the City, shall maintain or allow any nuisance to be or remain therein.

C. The author of a nuisance shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same.

11.11.050 Jurisdiction – Parties – Process.

- A. An action to abate a public nuisance shall be brought in Municipal Court.
- B. Except as otherwise may be provided in this chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.
- C. An action to abate a public nuisance may be brought by the Town Attorney in the name of the people of the state of Colorado and the Town of Parachute.
- D. An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction, or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases.

11.11.060 Temporary restraining order – Preliminary injunction – When to issue.

A. If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court or Judge thereof, either by verified complaint or affidavit, the Court or Judge may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Chief of Police or any police officer to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the temporary restraining order remains in effect, the building or place seized and closed shall remain in the custody of the Court. Within ten (10) days following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.

B. The Court may, as part of a preliminary injunction, direct the Chief of Police or any police officer to seize and close such public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Court. Preliminary injunctions may issue as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the Town Attorney or the people of the state or the Town in any action to abate a public nuisance.

11.11.070 Judgment – Relief.

A. The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate, and prevent the continuance or reoccurrence of the nuisance. The Court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its order.

B. The judgment in an action to abate a public nuisance may include an order directing the Chief of Police or any police officer to seize and close the public nuisance, and to keep the same effectually closed until further order of the Court, not to exceed ninety (90) days from the date of the order.

C. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction, or other abatement of a public nuisance, in whole or in part, by the Chief of Police or any police officer at the expense of the owner or operator of the public nuisance.

D. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this chapter, the imposition of a fine not to exceed the fine set forth in Appendix A of this code, conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed.

11.11.080 Redelivery of seized premises.

If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of Court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not reoccur, the Court may order the premises delivered to the owner or operator. As a condition of such order, the Court may require the posting of bond, in an amount fixed by the order by the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence or continuance of the public nuisance. (Ord. 200 §1, 1982; Amended Ord. 472 §9, 2003)



11.11.090 Violation of injunction.

Any violation or disobedience of any injunction or order issued by the Municipal Court in an action to abate a public nuisance shall constitute a Class A municipal offense. The Court may treat each day on which the violation or disobedience of an injunction or order continues or recurs as a separate offense. (Ord. 200 §1, 1982; Amended Ord. 323 §3, 1991; Amended Ord. 472 §9, 2003)

11.11.100 Fees – Costs and fines – Liens and collection.

A. For seizing and closing any building or premises as provided in this chapter, or for performing other duties pursuant to the direction of the Court pursuant to the provisions of this chapter, the Town shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.

B. All fees and costs allowed by the provisions of this section, the costs of a Court action to abate any public nuisance, and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this chapter, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.

C. Nothing in this chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of Court orders involving real estate as authorized under this chapter.