

**ORDINANCE NO. 796**

AN ORDINANCE AMENDING AND REPLACING IN ITS ENTIRETY  
SECTION 8.08 OF THE TOWN OF SARATOGA MUNICIPAL CODE  
CONCERNING NUISANCES

**WHEREAS**, Section 8.08 of the Town of Saratoga Municipal Code concerns nuisances, and;

**WHEREAS**, the Town of Saratoga has determined that it is in the best interest of the citizens of the Town to amend said ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF SARATOGA, CARBON COUNTY, WYOMING** that Section 8.08 shall be amended in its entirety as follows after passage and publication as follows:

**8.08 NUISANCES.**

**8.08.010 Violation prohibited.**

The accumulation or storage of more than four (4) derelict, abandoned, wrecked, dismantled, unlicensed or inoperative vehicles, or derelict, abandoned, wrecked, dismantled equipment, trailers, motor homes, litter or junk on private or public property, is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for insects, rodents, skunks and other vermin and to be injurious to the health, safety and general welfare of the public. Therefore, the presence of litter, or such derelict, abandoned, wrecked, dismantled, equipment, trailers, or motor homes or more than four (4) abandoned, derelict, wrecked, dismantled or inoperative vehicles, or unlicensed vehicles, on private or public property, except as expressly permitted by the Governing Body of the Town of Saratoga, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. It is unlawful for any person to maintain any nuisance on any property within the Town. Any person who may be in violation of this section shall, in addition to any penalty that may be imposed for the violation of this code, be subject to the provisions of this chapter.

**8.08.020 Enumeration not exclusive.**

The various nuisances described and enumerated in this section shall not be deemed to be exclusive, but shall be in addition to all other nuisances described and prohibited in this code.

A. **Obnoxious, Offensive Odors.** Obnoxious and offensive odors caused by dead, dying, rotting carcasses, animal feces or household refuse not stored in appropriate containers shall constitute a public nuisance.

D. **Discharging of Offensive Matter.** The placing, throwing or discharging from or out of any house or premises, of any filthy, foul or offensive matter, liquid or effluent of any kind, into any street, alley or public place, or upon any adjacent lot or ground, shall constitute a public nuisance.

E. Emission of Dense Smoke. The emission of dense smoke from any fire, chimney, engine, oil burner or other means within the Town causing unreasonable annoyance or discomfort to the public shall constitute a nuisance. For the purpose of testing and grading the density of smoke the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading, and smoke shall be defined as and declared to be dense when it is of a degree of density of number three of the chart, or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.

F. Certain Weeds. Weeds determined to be noxious by the Wyoming Weed and Pest Council, any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind found growing in any lot or tract of land in the town.

G. Maximum Height Permitted. Any weed, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height that they create a unsafe condition anywhere in the Town. The exception would be naturally occurring plant life in undeveloped areas of the town.

H. Abandoned, Junked, etc., Vehicles. Unlicensed, abandoned or junk vehicles and parts or remains thereof parked upon private property, public property, public streets, alleys or right-of-ways are declared to be nuisances. The presence of unlicensed vehicles, abandoned, wrecked, dismantled, derelict or inoperative vehicles, on private or public property, is declared to constitute a public nuisance that may be abated as such in accordance with the provisions of this chapter. The tearing down, stripping or junking of such vehicles shall be permitted only where and when such use is specifically authorized, permitted or licensed under other ordinances of the Town and in strict accordance therewith; or which use is conducted entirely within the confines of an accessory garage building, or in the confines of a privacy fenced area of the private property in accordance with other ordinance of the Town, then only provided that such vehicle is the property of the owner or occupier of the property and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the Town.

I. A vehicle shall be deemed to be "abandoned" under any of the following circumstances; provided, however, that a vehicle left unattended due to adverse road or weather conditions, acts of God, or mechanical difficulties shall not be deemed to be abandoned for the period required to see the passage of the conditions or a reasonable time to remove the vehicle for repairs:

1. If the vehicle is left unattended on a public street, highway, alley, parking lot or other public property within the jurisdictional limits of the Town for more than twenty-four hours after a notice to impound has been placed upon the vehicle pursuant to the provisions of Section 8.08.030 and the vehicle has been impounded and the notice of impound has been given pursuant Wyoming Statutes § 31-13-101, et seq.

2. If the vehicle has been left unattended on private property without the consent of the owner or person in lawful possession thereof.

Derelict Vehicles. A vehicle, or parts thereof, shall be deemed to be "derelict" if the vehicle is:

1. Inoperable to the extent that it is unable to perform its original intended function;
2. Partially or wholly dismantled;
3. Wrecked to the extent that prevents legal operation;
4. Junked or intended to be recycled or scrapped;
5. A single unlicensed vehicle is a nuisance on public property, but not on private property, unless there are more than four.

This section defining derelict and abandon vehicles shall not apply to the following:

1. A vehicle that is enclosed in a secure building or in the confines of a privacy fenced area of the private property in accordance with other ordinance of the Town;
2. A vehicle on the premises of a business enterprise, enclosed within a securely fenced area, operated in a lawful place and manner when necessary to the operation of the business enterprise;
3. A vehicle in an appropriate storage or depository facility maintained in a lawful place and manner by a governmental agency;
4. An antique motor vehicle as defined in W.S. 31-2-210 which is licensed as provided by law.
5. A vehicle which is covered by an intact manufactured custom car cover made for the specific type and size of vehicle which it covers.
  - a. In no instance may a person have more than two (2) such covered vehicles on his or her property.
  - b. No custom covered vehicle may be stored on public property or right-of-way.
6. A car that is currently actively engaged in racing and equipped for racing. Demolition race cars shall be considered derelict vehicles two weeks after the demolition race.

K. Junk. Any iron, glass, weeds, metal, lumber, stumps, grass, trash, straw, hedge trimmings, cut tree branches, paper, cordage, cloth, construction debris building material not intended for immediate use or other waste or discarded material of any nature or substance whatsoever or any scrap or salvage materials which are left or permitted to remain for any unreasonable period of time upon any Town property within or without the corporate limits of the

Town or upon or within the entire width between the boundary lines of every right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel shall constitute a nuisance.

L. Additional Junk not within the confines of a privacy fenced area of the private property in accordance with any other ordinance of the Town. Any large accumulation of iron, glass, weeds, metal, lumber, stumps, grass, trash, straw, hedge trimmings, cut tree branches, paper, cordage, cloth, construction debris building material not intended for immediate use or other waste or discarded material of any nature or substance whatsoever or any scrap or salvage materials which are left or permitted to remain for any unreasonable period of time upon any real property within the Town shall constitute a nuisance

M. This section defining additional junk shall not apply to neatly stacked seasonal firewood or neatly stacked construction material

N. Foul, Offensive Conditions. Any cellar, vault, private drain, pool, privy, sewer or grounds upon any premises owned or occupied by any person who becomes nauseous, foul, offensive or injurious to the public health, or any grounds or other premises in such condition as to be offensive and/or unwholesome to the neighborhood shall constitute a nuisance.

O. Any refrigerator or freezer, electronic equipment or appliances which are not being utilized for its intended or modified use.

8.08.030 Notice to abate nuisance -- Compliance required.

A. It shall be the duty of any person receiving a notice of a public nuisance as provided in this chapter to comply with the provisions of the notice and to respond to such notice within ten (10) days after the receipt of such notice, and if such person shall fail or refuse to abate such nuisance within thirty (30) days from receipt of such notice without just cause, such failure is declared to be unlawful and shall constitute a misdemeanor. Each day such nuisance persists shall constitute a separate violation.

B. It is unlawful and shall constitute a misdemeanor for any person, after having received notice as provided in this chapter, to remove any vehicle or junk from private property to any other private property upon which storage is not permitted, or onto any public property.

C. If the nuisance is not abated within the time provided, and after notice as provided by 8.08.040 the Town may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both.

8.08.040 Notice to abate nuisance -- Contents -- Procedure.

A. Whenever the Saratoga Town Council or their appointed representative is of the opinion that any condition is a public nuisance as defined herein, the town council or representative shall attempt to give written notice to the owner of the nuisance condition, if his or her address is known, to the owner of the land where the nuisance condition is located, and to any other person or entity known by the town council to have a security interest in the vehicle(s) or junk. The notice shall be attempted by registered mail or personal service, if the address of the individual or entity is known. In the case of vehicles, where practical, the notice shall also be affixed to the windshield or some other part of the vehicle where it can be easily seen.

Where affixing the notice to a vehicle is impractical, and in the case of junk, the notice shall be posted on the premises where the nuisance exists.

B. Such notice shall include substantially the following information:

1. A statement that a certain condition is a nuisance within the provisions of Section 8.08.010; in the case of a vehicle, the notice should include make, year and vehicle identification number if reasonably possible;
2. A description of the real property, by street address or otherwise, on which the nuisance exists;
3. A statement that such nuisance must be abated within thirty (30) days from the date on the notice;
4. A statement that if the nuisance is not abated within the time provided, the Town may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both;
5. A statement that a hearing upon the allegation of a public nuisance and the assessment of costs may be requested by giving written notice to the Saratoga Town Council or their appointed representative within ten (10) days from the date on the notice, and that a request must specify the property concerning which the request is made, the requesting party's name and address, and the nature of the interest held by the requesting party; that upon request a hearing will be scheduled to determine if a public nuisance exists and as to the assessment of administrative costs and the costs of abatement; that if a hearing is not so requested the right to a hearing shall be waived;
6. A statement that failure to abate the nuisance may result in the Town abating the nuisance and/or the filing of criminal charges.

C. In the event that notice, as provided in subsection A of this section, cannot be given to each individual known by the Saratoga Town Council or their representative who may have an interest in the vehicle or junk, then service shall be made by publication. Such notice by publication shall be made by three publications, once each week, in a newspaper of general circulation in Carbon County. The notice of publication shall contain the same information required in the notice described in subsection A of this section. A notice by publication may contain multiple listings of public nuisances.

D. Proof of notice shall be made by the certification of any officer or town hall employee, naming the person to whom notice was given and specifying the time, place and manner thereof. Proof of notice shall be made in each case and maintained for a period of two (2) years from the date of abatement of the nuisance for which notice has been given.

8.08.050 Hearing procedure.

- A. A request for a hearing upon the allegation of a public nuisance and the assessment of costs shall be made in writing and delivered to the municipal court clerk within ten (10) days from the date of the notice to abate. Such request shall specify the property concerning which the request is made, the requesting party's name and address, and nature of the interest held by the requesting party in the vehicle or junk.
- B. In the event of a public nuisance as defined in Section 8.08.010, of which notice has been given, and which remains unabated for more than thirty (30) days, the Saratoga Town Council or their representative is granted the authority to abate, remove or cause the nuisance to be moved; provided, however, that if a proper request for hearing is filed, abatement shall only proceed upon order of the municipal judge or such appointed official.
- C. In the event a request for hearing is filed as provided, a hearing shall be held before the municipal judge or such other appointed representative as designated by the Saratoga Town Council to act as hearing examiner. The purpose of the hearing shall be to confirm or deny the existence of a public nuisance and for taking such further action as is authorized under this chapter. Notice of the time, place and hour of the hearing shall be sent at least ten (10) days in advance of the hearing to the requesting parties and the Saratoga Town Attorney.
- D. At such hearing, all parties and the Town shall be afforded an opportunity to present evidence, to cross-examine and present argument; provided that all persons testifying shall be sworn; irrelevant, immaterial or unduly repetitious evidence shall be excluded; and the decision of the, municipal judge or appointed official shall be based upon the type of evidence commonly relied upon by reasonably prudent people in the conduct of their serious affairs.
- E. At or after such hearing, and in the event of confirmation that a public nuisance exists, the municipal judge or the appointed official, as the case may be, may resolve or order that the town council and/or their employees or agents remove or otherwise abate the nuisance; provided, however, that if the circumstances justify, in the opinion of the municipal judge or person presiding at the hearing, the time for abatement may be delayed. In the event a nuisance is confirmed, administrative and removal costs may also be assessed at the hearing. If it is found that a public nuisance does not exist, abatement authority shall be denied and costs shall not be assessed.
- F. Appeals from adverse decisions rendered by the hearing examiner or municipal judge pursuant to subsection D of this section may be made to the district court in the same manner as an appeal from an adverse decision rendered by an agency in a contested case under the provisions of Wyoming Statute Section §16-3-114 . The municipal judge or appointed official as provided in subsection C of this section is an agency within the meaning of the Wyoming Administrative Procedures Act and adverse decisions may be appealed in the manner provided therein.
- G. In the event a request for hearing or appeal, as provided, is not filed, the right to a hearing shall be considered to have been waived.

8.08.060 Removal--Voluntary consent--Affidavit.

The owner of any vehicle or junk or the owner of real property where any junk or vehicle has been abandoned may voluntarily consent to the removal of such property by the Town. In order to give such consent, all owners of the property shall execute an affidavit in a form acceptable to the Saratoga Town Attorney, stating that there are no other owners of the property, or lien holders having a security interest in the property; that unless waived by the Town the owners will reimburse the Town for the actual costs of removal or such other costs as are established by the Saratoga Town Council for such removal; and that such reimbursement will be made to the Town within thirty (30) days of removal. Such affidavit shall constitute a statement by the owners signing such affidavit that they will indemnify the Town for any loss or expense alleged by any other party as a result of removal or disposal. The execution of such affidavit shall also release the Town from any obligation to account or pay over to the owners any amount the Town receives for the property.

8.08.070 Disposal--Assessment of costs.

A. Any vehicle or junk which is impounded or removed and taken into custody, as provided in this chapter, may be disposed of according to the provisions of Wyoming Statute § 7-2-111 of § 31-13-108, 31-13-109 and § 31-13-110.

B. The Saratoga Town Council shall, from time to time, determine and fix an amount to be assessed as administrative costs in relation to enforcement of this chapter. This cost of administration may be set as a fixed sum per removal or as a percentage of the actual cost of removal under this chapter. The Town may take any action allowed by law to collect, the actual costs of removal and storage of any property constituting a public nuisance. Nothing herein shall prohibit the Town's right to waive cost of removal.

8.08.090 Property maintenance--Owner and occupant responsibility.

A. Persons owning or occupying places of business which face municipal sidewalks and strips or parkways between streets and sidewalks shall be responsible for keeping those sidewalks and strips free of litter. Cleanliness of the alleyways is the responsibility of the contiguous property owners.

B. It is unlawful to sweep or push litter from sidewalks and strips or parkways into streets. Sidewalk and strip or parkway sweepings must be picked up and put into household or commercial solid waste containers.

C. Waste material or refuse used in the manufacture or remanufacture of salable products may be stored in an approved manner on the premises and with the written permission of the health, fire and building departments.

D. Rock, stone, brick, concrete, dirt and other building materials or mineral wastes shall not be permitted to accumulate in alleyways or at the curb. Such material must be stored on private property in a safe manner and in such a way to prevent rodent harborage.

8.08.100 Abatement--Court action authorized.

The Saratoga Town Attorney is authorized to institute such proceedings in the name of the Town of Saratoga in any court having jurisdiction over such matters against any property, entity or individual for which the charge for abating a nuisance under this chapter has remained unpaid for a period of thirty (30) days after a bill therefore has been rendered to the owner of the property involved.

8.08.110 Litter removal--Authorization--Notice--Cost to be a lien.

In addition to any other penalties or remedies, the Saratoga Town Council or its designee is authorized and empowered to serve notice upon the occupant or the owner, or his agent, to remove litter from his private property. If the litter is not removed within five (5) days after service of notice, the town or its designee shall have it removed and the cost of removal shall be assessed against the property and constitute a lien thereon. The owner shall be notified, in writing, of the amount assessed, and if it is not paid, it shall be collected in the same manner as provided by 8.08.100.

8.08.120 Littering--General restrictions--Prosecution.

It is unlawful for any person to throw, discard, place, deposit, distribute, cause to be thrown, discarded, placed, deposited, or distributed, litter in any manner or amount on any public or private property within the corporate limits of the town, except in containers or areas lawfully provided therefore.

8.08.130 Nuisance Citations.

Any member of the Saratoga Police Department, code enforcement officer, or other lawfully authorized person is hereby granted authority to enforce the ordinances found in this Chapter through the use of forfeitable citations through the Saratoga Municipal Court using the bond schedule developed by the Saratoga Town Council.

8.08.140 Title to impounded vehicles.

Title to any impounded vehicle not reclaimed by the registered owner or any lien-holder within thirty (30) days of the date of the report required by Section 8.08.060 shall vest in the Town of Saratoga. A change in the title may be obtained by the Town pursuant to the authority of this chapter and the procedure established in state statutes to obtain a change in title.

8.08.150 Notice to removal.

A. Upon removal of any vehicle by the Town, a written report of the removal shall be sent to the last address of the owner, if known, otherwise such notice shall be sent to the Wyoming Department of Revenue and Taxation. The report shall include a description of the vehicle, the date, time and place of removal, the grounds for removal and the place of impoundment of the vehicle.

B. Proof of providing the report shall be made by the certificate of any town employee involved in the impoundment of the vehicle, specifying the person to whom the report was directed and the date and manner the report was provided.

C. Such report shall not be required if the retail value of the vehicle is less than Six Hundred Dollars (\$600.00) as may reasonably determined by the Saratoga Chief of Police or his designee.

PASSED, ADOPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

TOWN OF SARATOGA

By: \_\_\_\_\_  
Its Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT UPON  
PASSAGE AND PUBLICATION.**

First Reading: July 6, 2010 - Passed

Second Reading: July 15, 2010 - Passed

Third and Final Reading: August 3, 2010 - Passed