

RESOLUTION No. 2010-015

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
SETTING FORTH THE DETERMINATION OF THE BOARD REGARDING
A RUBBISH COMPLAINT AT 244 SHANA LANE, OURAY COUNTY, COLORADO**

WHEREAS, there is in place in Ouray County Ordinance No. 95-1 entitled, "An Unincorporated County-Wide Ordinance Prohibiting the Accumulation of Rubbish on Private Property, Including Penalty Provisions and Enforcement for Violation of the Ordinance" ("Ordinance"); and

WHEREAS, said Ordinance provides generally that it is unlawful for an owner of real property within Ouray County to allow the accumulation of rubbish on property; and

WHEREAS, the Ordinance defines rubbish as: "Any trash; junk; garbage; litter; refuse; debris; outside storage of used tires...; lawn and garden waste; newspapers; magazines; glass; metal; plastic or paper containers or packaging; remnant construction or demolition materials; vehicle parts; abandoned or junk vehicles, equipment or mobile homes; used appliances or furniture; oil; carcasses of dead animals; any nauseating or offensive matter of any kind; any object likely to injure any person or create a traffic hazard; or anything else of an unsightly nature; or any other object which has been discarded or abandoned.";

WHEREAS, in October 2009 a rubbish complaint was received by the Ouray County Building Official from the property owner located at 869 CR 22, Ouray County, Colorado ("Complaining Property") regarding rubbish at a property located at 244 Shana Lane, Ouray County, Colorado ("Property"); and

WHEREAS, the Building Official inspected the Property and on November 9, 2009 discussed the alleged violation with the Board of County Commissioners of Ouray County, Colorado ("Board") and the Board determined that a violation did exist and directed that a Notice and Order issue; and

WHEREAS, the Board discussed the progress of the clean-up of the rubbish on the property at subsequent meetings on December 14, 2009; January 4, 2010; and February 8, 2010; and heard comments from the owner of the Property as well as the Complaining Property owner; and

WHEREAS, on February 16, 2010 the Board conducted a site visit with the Building Official and County Planner to inspect the Property, and the Board observed the Property from the Complaining Property and photographs of the Property were taken to illustrate the status of the removal of the rubbish and establish a baseline of the condition of the Property as of February 16, 2010 (such photographs are included as part of the record for the March 15, 2010 Board meeting and are identified as numbers 1-28) ("Photographs"); and

WHEREAS, on March 15, 2010 the Board continued their deliberations and discussions about the status of the rubbish on the Property and determined that there had been significant progress made by the owner of the Property in removing or screening items identified as rubbish on the Property, although some items identified as rubbish remained on the Property; and

WHEREAS, the Board deliberated the merits of requiring the owner of the Property to fence the entire parcel in order to provide adequate screening of the remaining items located on the Property that are considered to be rubbish, such as abandoned or junk vehicles, construction materials, and other debris; and

WHEREAS, as part of the deliberations, the Board considered the statements made by the Property owner at prior meetings about the use of old, discarded vehicles for parts and as "donor vehicles" for the owner's avocation of restoring old vehicles as well as statements that some of the items located on the Property are considered to be "yard art" and the Board concurred that some items located on the Property are "yard art" (for example, Photographs 4 and 7); and

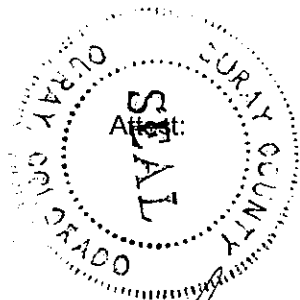
WHEREAS, the Board considered the construction materials stacked on the Property (Photographs 3 and 21) and determined that it was "active" construction materials and not remnant construction materials as described in the Ordinance and therefore not considered to be "Rubbish"; and


WHEREAS, the Board determined that numerous of the old vehicles located on the Property, visible from the Complaining Property, were not "yard art" and, because of their location and the apparent non-use of the vehicles, were considered to be junk or abandoned vehicles according to the terms of the ordinance.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The final determination on the rubbish complaint referenced herein is continued until May 10, 2010 at 1:30 p.m. at which time the Notice and Order will be dismissed if the following conditions have been met by the owner of the Property:
 - a. the stepside van shall be removed from the Property (the Board's preference) or the portion of the vehicle visible from the Complaining Property is to be fully covered (including the window facing the adjoining property) with like material as is shown on the van (Photographs 4 and 16),
 - b. the junk or abandoned vehicles located on the west side of the Property (as shown in Photographs 17 and 18) shall be removed from the Property or shall be completely screened by locating such vehicles behind existing screening or by the addition of new screening.
2. The Ouray County Building Official shall make an inspection and report to the Board of the Property owner's compliance with the conditions set forth herein prior to May 10, 2010. In the event that the conditions set forth above have not been satisfactorily met, the Board shall take such other appropriate action as may be necessary to compel the removal of the rubbish.
3. The Board's determinations referenced herein regarding the improvements and corrections relative to the rubbish complaint are contingent upon the owner of the Property maintaining the Property in at least the condition that it was in on February 16, 2010, utilizing the Photographs as a baseline inventory of the Property. The owner of the Property shall not utilize reflective materials, discarded car bodies, old signs and the like for screening or fencing materials.

APPROVED AND ADOPTED THIS 22nd DAY OF MARCH, 2010 RATIFYING ACTION TAKEN ON MARCH 15, 2010.




Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO


Lynn M. Padgett, Chair


K. Keith Meinert, Vice-Chair


Heidi M. Albritton, Commissioner