

ORDINANCE NO. 1106

AN ORDINANCE AMENDING ARTICLE 20, TITLE 17 OF THE TOWN OF BERTHOUD
MUNICIPAL CODE

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER
AND WELD COUNTIES, COLORADO:

Section 1. Section 17-20-150 of the Town of Berthoud *Municipal Code* shall read as follows:

17-20-150 Inoperable Vehicles Prohibited

The outdoor placement or storage of any inoperable vehicle, as defined in paragraph (1) below, upon any lot or other real property not specifically zoned for such use in the Town, or upon any street, alley or public right-of-way within the Town, is unlawful and is declared a nuisance.

- (1) **Definition** – *Inoperable vehicle* means any automobile, truck, tractor, motorcycle, trailer, self-propelled construction equipment, self propelled excavation equipment or self-propelled vehicle which is unable to perform the functions or purposes for which it was originally constructed. The existence of any of the following conditions shall be *prima facie* evidence that a vehicle is inoperable and shall, upon proof by the Town that one or more of the following elements exist, require the owner or person on whose property the inoperable vehicle is parked, with their consent, to present proof that the alleged inoperable vehicle is operable:
 - a. The vehicle is in the same location for a minimum of fourteen (14) consecutive days. Proof of a pending insurance claim may be presented to rebut this evidence.
 - b. A vehicle displays no valid registration, license plates or valid state emissions sticker, if applicable.
 - c. An abandoned vehicle as defined in §42-4-1802(1), C.R.S. which states,

“(1) “Abandoned motor vehicle” means:
 - (a) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, outside the limits of any incorporated town or city for a period of forty-eight hours or longer;
 - (b) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, within the limits of any incorporated town or city for a period longer than any limit prescribed by any local ordinance concerning the abandonment of motor vehicles or, if there is no such ordinance, for a period of forty-eight hours or longer;
 - (c) Any motor vehicle stored in an impound lot at the request of a law enforcement agency and not removed from the impound lot within seventy-two hours after the time the law enforcement agency notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees;
 - (d) A motor vehicle fitted with an immobilization device that is on public property and deemed to be abandoned pursuant to section 42-4-1105 (7) (); or

- (e) Any motor vehicle left unattended at a regional transportation district parking facility, as defined in section 32-9-119.9 (6), C.R.S., that is deemed to be abandoned pursuant to section 32-9-119.9 (4) (b), C.R.S.”
- (2) Excepted from the enforcement of this ordinance are vehicles which are enclosed in a legally permitted garage or shed, or concealed from view from the adjoining properties and roadways by a solid fence or wall not less than six feet in height.
- (3) **Abatement** - Any vehicle constituting a nuisance as provided in this Article may be abated pursuant to the provisions of Part 18, Article 4 of Title 42, C.R.S., relative to the removal and disposition of vehicles by and under the authority of the Town. Abatement of such nuisance is in addition to any other remedies or penalties provided for in this Code.
- (4) Prior to the issuance of a summons and complaint the owner of the vehicle, or the owner of the property on which the vehicle is located, shall be given a written notice of the specific facts constituting the violation and fourteen (14) days to remediate the violation.
- (5) If the vehicle cannot be moved without jeopardizing the health or safety of the citizens of the Town, specifically if the vehicle cannot or is not in compliance with Colorado’s statutory vehicle emissions standards, then it must be towed from the property as opposed to being moved under its own power.
- (6) **Penalty** - It shall be unlawful for any person to fail to comply with the provisions of this ordinance. Each day which the violation continues constitutes a separate offense. The maximum penalty for a conviction of violating the ordinance shall be a fine of up to Three Hundred Dollars (\$300). Each day or portion thereof during which the nuisance continues shall be a separate violation.

Section 2. Effective Date:

On March 10, 2009 this ordinance was introduced, read and a public hearing set for its regular meeting of the Board of Trustees on May 12, 2009. On May 12, 2009 this ordinance was passed by a vote of 5 in favor and 0 opposed and ordered published.

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force 30 days after publication.

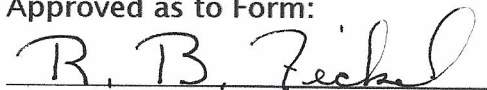
ATTEST:



Mary K. Cowdin - Town Clerk

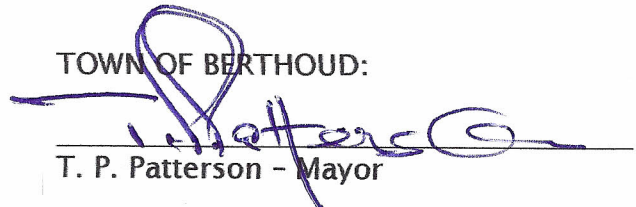
Published: 5-21-09

Approved as to Form:



R.B. Fickel, Town Attorney

TOWN OF BERTHOUD:



T. P. Patterson - Mayor