

ORDINANCE NO. 348

**AN ORDINANCE OF THE BOARD TRUSTEES OF THE TOWN OF  
SIMLA, COLORADO AMENDING TITLE 3, CHAPTER 1 OF THE TOWN  
CODE OF SIMLA REGARDING LITTERING AND UNLAWFUL  
DUMPING**

WHEREAS, the Board of Trustees desires to amend the Town Code of Simla to revise how the Town regulates littering and unlawful dumping.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Trustees of the Town of Simla as follows:

**Section 1.** Section 3-1-3 of the Town Code of Simla is hereby amended to read as follows:

**Section 3-1-3: Rubbish, Refuse, and Junk, ~~and Litter~~:**

A. Definitions: For the purpose of this code, the word "rubbish", "refuse", or "junk", ~~or "litter"~~ shall mean and include all types of rubbish, including grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, silt, discarded furniture, discarded appliances, containers, boxes, glass, cans, bottles, garbage, trash, scrapped material and parts, junked parts, waste and discarded building and construction material, including, but not limited to, plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire, or metal binding, litter, sacks or loose, discarded or unused material; and all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known. The term "rubbish" or "refuse" shall not include nonhazardous, nontoxic, organic materials contained in compost bins or piles or stored "mulch" commonly accepted and used by organic gardeners, landscapers, and owners or tenants of property for private use in yards, gardens, flowerbeds, landscaping, or similar legitimate use.

B. Deposit of Rubbish, Refuse, and Junk ~~and Litter~~ on Property Prohibited: No person, landowner, tenant, entity, or one otherwise in possession or control of real property located within the town of Simla, shall deposit or place, or allow others to deposit or place, on his or her property, any rubbish, refuse, or junk, ~~or litter~~ in such a manner that the same is or tends to become a nuisance, or which creates a foul odor, aesthetically unpleasing, unsanitary, unhealthy, or dangerous or potentially dangerous condition upon the property or to surrounding properties.

C. Allowing Rubbish, Refuse, and Junk ~~and Litter~~ Prohibited: No person, landowner, tenant, entity, or one otherwise in possession or control of real property located within the town of Simla, shall in any manner allow rubbish, refuse, or junk, ~~or litter~~ to be located upon any public street, right of way, alley, sidewalk, curb, gutter, wastewater facility, or other public place, or upon his or her own property or premises, or the property or premises of another.

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**Section 2.** Section 3-1-5 of the Town Code of Simla is hereby repealed in its entirety and replaced as follows:

**Section 3-1-5: Littering and Unlawful Dumping on Public or Private Property:**

A. "Litter" shall be defined as all "rubbish", "refuse", and "junk" as defined in Section 3-1-3 of this chapter, all "garbage", and all waste material, debris, or other foreign substances, solid or liquid, of every form, size, kind, and description.

B. "Littering" shall be defined as dumping, dropping, throwing, or depositing any litter or otherwise causing or permitting any litter to escape from a vehicle or otherwise.

C. Littering and Dumping Prohibited: It shall be unlawful for any person to deposit, throw, leave, or dump litter on any public or private property within the Town or any waters within the Town unless:

1. The property is an area designated by the State or any of its agencies or political subdivisions, including the Town, for the disposal of the material and the person is authorized by the property public authority to so use the property; or

2. The litter is placed in a receptacle or container used on the property for that purpose.

D. Littering or Dumping From Vehicles: Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, the operator of the vehicle shall be presumed to have caused or permitted the littering. In the event that positive identification cannot be made, it shall be presumed that the registered owner of the vehicle has caused or permitted the littering to occur.

E. Sidewalks and Parking Areas to be Kept Free of Litter: It is unlawful for the owner or person in charge of a place of business or shopping area to fail or refuse to maintain in a clean and unlettered condition the sidewalk area adjacent to the shopping area or place of business and any area used by persons for automobile parking. It is unlawful for persons owning or occupying property to fail or refuse to keep the sidewalk and driveways abutting the person's premises clean and free of litter. It is unlawful for any person to sweep into or deposit in any gutter, street, alley or other public or private place within the Town an accumulation of litter from any building or lot, or from any public or private sidewalk or driveway.

F. Penalties:

1. Pursuant to C.R.S. § 18-4-411(4)(a), littering is a civil infraction punishable by a mandatory fine of not less than twenty dollars (\$20.00) nor more than five hundred dollars (\$500.00) upon a first conviction; by a mandatory fine of not less than fifty dollars (\$50.00) not more than one thousand dollars (\$1,000.00) upon a second conviction; and by a mandatory fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) upon a third or subsequent conviction. Such fine shall be imposed for each day

that the violation exists or for each occurrence, in addition to any abatement costs incurred by the Town.

2. In the discretion of the municipal court, all or any portion of a fine imposed in excess of the mandatory minimum fine may be suspended upon the condition that the defendant gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon, or upon the condition that the defendant pick up litter at a time prescribed by and at a specified place or places within the Town for not less than eight (8) hours upon a first conviction or for not less than sixteen (16) hours upon a second or subsequent conviction.

**Section 3.** Section 3-1-6 of the Town Code of Simla is hereby repealed in its entirety and replaced as follows:

A. Notification: Except set forth herein and except Section 3-1-5, upon determination by the town, through its authorized and designated employees or agents, that a violation of this chapter has occurred, the landowner, tenant, entity, or person or persons, otherwise in control of the subject property shall be notified of the violation and shall be required to remove the nuisance within a specified amount of time as set forth below. The landowner, tenant, entity, or person or persons otherwise in control of the subject property, or a combination of the same, may also be subject to fines and costs as set forth in this chapter. At the discretion of the town, through its authorized employees or agents, the town may first seek to resolve the violation through personal contact with the person or persons in control of the offending property, or by certified mailing to the person or persons at their last known address.

B. Notice Of Violation: Should the person or persons in control of the offending property, refuse to comply with the informal request to bring his or her property into compliance, or should the town determine that a formal notice should be served immediately, a formal notice of violation shall be either personally served upon or mailed by certified mail to the person or persons in control of the offending property. The notice of violation shall include a description of the subject or offending property by street address and shall inform the person of the applicable violation of this code. The notice shall include a copy of the applicable portion of this code or other code adopted by the town and shall further state what action the owner must take to bring his or her property into compliance with the code and shall set a date certain, as set forth below, in which time the subject property must be in compliance with town codes.

C. Time For Compliance: Any notice of violation conveyed in accordance with this code shall require the person or persons in control of the offending property to bring his or her property into compliance within the following time periods, measured as of the date of the notice (and not the date of receipt of the notice):

5 days:	Section <u>3-1-2</u> , "Weeds, Brush, Trees, And Shrubs", of this chapter
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	Subsections 3-1-3D Obstruction of Streets and Alleyways, E, F, and G of this chapter
30 days:	Subsections 3-1-3A, B, and C of this chapter
	Section <u>3-1-4</u> , "Junked Motor Vehicles On Private Property", of this chapter

The town, through its employees or agents, may grant extensions of time for compliance for good cause shown. The person or persons in control of the offending property shall not be required to notice in the case of the obstruction of town thoroughfares as described in Subsection 3-1-3D of this chapter and the town, through its agents or employees, may take immediate action to remove the obstruction or blockage in such cases.

D. Failure To Comply: Should the person or persons in control of the offending property fail or refuse to comply with the notice of violation within the time set forth in the notice, the town shall cause a summons and complaint to be served upon the person or persons, in accordance with the Colorado municipal court rules of procedure, requiring the person or persons to appear in Simla municipal court on a date certain to answer the charges against him or her.

E. Abatement: The town, through its employees and agents, upon the determination that a person or persons in control of the offending property, has failed and refused to bring the subject property into compliance, and/or upon a finding of the Simla municipal court judge that the subject property is in violation of this chapter, may take such action as is necessary to abate the nuisance and to bring the subject property into compliance. The whole cost, thereof, including the town's reasonable attorney fees, together with five percent (5%) for inspection and other incidental costs in connection therewith, shall be assessed upon the lots and tracts of land from which the nuisance item or items are removed. The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

F. Certification To County Treasurer: In the event the assessment for the abatement of the nuisance is not paid within thirty (30) days of the final billing of the town, or such deadline as established by the Simla municipal court, whichever the case may be, the town may certify the sum owed to the Elbert County treasurer who shall collect the assessment, together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected. The certification described herein shall be applicable to those violations set forth in Section 3-1-2; Subsections 3-1-3B, C, and D; Section 3-1-4, and Section 3-1-5 of this chapter.

**Section 4.** A new Section 3-1-7 is hereby added to Title 3, Chapter 1 of the Simla Town Code to read as follows:

**Section 3-1-7: Penalties:**

A. Except for Section 3-1-5, the town representative shall first seek to resolve any violation of this chapter by issuing a notice in letter form informing the property owner of

the violation and containing a time limit for the property owner to comply. The written notice shall be delivered by the town representative, in person, or by regular mail.

B. If the property owner fails to adequately respond to the informal request to correct the offending condition existing on his or her property, the town representative shall issue a formal notice and order as described in Section 3-1-6. Any such notice and order shall also require that a fine be paid in the amount of forty-five dollars (\$45.00) within the time limit set forth in the notice.

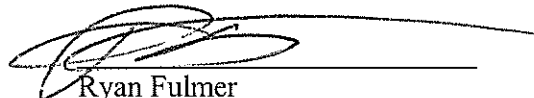
**Section 5. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that anyone, or part, or parts be declared unconstitutional or invalid.

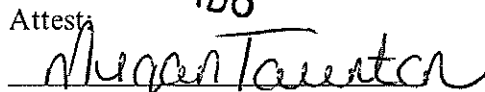
**Section 6. Safety.** The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety, and welfare.

**Section 7. Effective Date.** This Ordinance shall become effective thirty (30) days after publication.

Adopted and ordered published this 8<sup>th</sup> day of July, 2025.



  
Ryan Fulmer  
Mayor

Attest:  
  
Megan Taunton, Town Clerk