TOWN OF LOCHBUIE
COUNTIES OF WELD AND ADAMS
STATE OF COLORADO
ORDINANCE NO. 2019-641

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE TOWN
OF LOCHBUIE MUNICIPAL CODE (1) MAKING IT UNLAWFUL TO
OBSTRUCT TOWN PUBLIC RIGHT OF WAY; (2) MAKING IT
UNLAWFUL TO PLACE A DUMPSTER, STORAGE POD OR PORTABLE
TOILET ON PRIVATE RESIDENTIAL PROPERTY OR ON PUBLIC
RIGHT OF WAY WITHIN THE TOWN UNLESS CERTAIN CONDITIONS
ARE MET OR IN COMPLIANCE WITH A TOWN-ISSUED PERMIT
THEREFOR; (3) DECLARING IT A NUISANCE TO PLACE A
DUMPSTER, STORAGE POD OR PORTABLE TOILET ON PRIVATE
RESIDENTIAL PROPERTY WITHIN THE TOWN UNLESS CERTAIN
CONDITIONS ARE MET, OR IN COMPLIANCE WITH A TOWN-ISSUED
PERMIT THEREFOR; AND (4) SETTING THE PENALTIES FOR
VIOLATION THEREOF

WHEREAS, C.R.S. Section 31-15-702 authorizes the Board of Trustees to establish and
regulate the use of the Town streets and other public property; and

WHEREAS, Chapter 11 of the Town of Lochbuie Municipal Code regulates the streets,
sidewalks and public property of the Town; and

WHEREAS, The Board of Trustees finds and declares that a substantial danger to the
preservation of public health and safety exists as a result of placing items, articles, goods and
objects or the dumping of trash, construction materials, debris, landscape materials, snow, ice and
other waste on public streets and sidewalks or other public property, which activities interfere with
pedestrian and vehicular traffic on public rights-of-way and limit the availability of the streets for
lawful parking of vehicles; and

WHEREAS, the Board of Trustees, finding and declaring that a danger to public health
and safety exists as a result of the unpermitted or improper placement or storage of matter and
items on or around public streets and sidewalks or other public property, desires to adopt
regulations as set forth herein to regulate the placement of obstructions upon and within the Town
right of way and other public property and to provide for temporary permitting to allow certain
occupancy from time to time; and

WHEREAS, in accordance with Section 31-15-404, C.R.S., the Town has the authority to
adopt regulations to promote the peace, order, health, safety and welfare of the residents and
visitors to the Town, including the authority to declare what is a nuisance and abate the same; and

WHEREAS, in the exercise of this power, the Board of Trustees has previously adopted
Chapter 7 of the Lochbuie Municipal Code to declare what is a nuisance within the Town; and

WHEREAS, recognizing the dumpsters, portable toilets and storage pods can become
attractants for vermin, the Board of Trustees finds that unlimited placement of dumpsters, storage
pods and portable toilets on private residential property of the Town threatens the health, safety and welfare of the Town’s residents, visitors and property; and

WHEREAS, the Board of Trustees finds that this ordinance is necessary to protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LOCHBUIC, COLORADO:

Section 1. Adding a New Article IV to Chapter 11. Chapter 11 of the Town of Lochbuie Municipal Code is amended by the addition of a new Article IV to read as follows in its entirety:

ARTICLE IV – Prohibiting Public Right of Way Obstructions and Providing for Permitting for Placement of Dumpsters, Storage Pods and Portable Toilets on Public Right-Of-Way

11-4-10. - Definitions.

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

Construction materials means any material intended for or used in the construction of structures or buildings such as, without limitation, concrete, concrete block, brick, cement, plaster, glass, asphalt, timber, lumber, wood, shingles, pipe, cable, wire, conduit, duct, insulation, drywall, tile, fixture or like materials.

Debris means any solid or liquid waste, including by way of illustration and not limited to iron, brass, copper or other metal materials, ropes, rags, trash, garbage, cinders, fibers or fabrics, bottles or other glass, rubber materials, including, without limitation, tires, plastic materials, junk, paper, cardboard, machinery, motor parts, tools, equipment, appliances, household goods, furniture, firewood, cartons, boxes, pallets, barrels or other containers, animal carcasses, offal or manure, waste or discarded goods, rubbish, refuse or like materials.

Dumpster means any container exceeding a capacity of ten (10) cubic feet designed or intended to be used for the storage or hauling of trash, refuse, garbage, yard debris, recyclables or other waste materials.

Landscape materials means any material used in or derived from the landscape or improvements to the landscape of real property such as, without limitation, trees, tree branches, shrubs, plants, vegetation, brush, yard trimmings, leaves, sod, dead plant material, soil, earth, dirt, sand, gravel, rock, stone, boulders, mulch, fencing, paving materials or like materials.

Portable toilet means an enclosed, freestanding toilet not requiring a foundation, whether intended to be temporary or permanent.

Public property means any public street, right-of-way, road, highway, place, alley, sidewalk, easement, park, square, median, parkway, boulevard or plaza within the Town.
limits that is dedicated to public use, owned or maintained by the Town except for those rights-of-way established by law as a state highway.

*Storage pod* means any container intended for the purpose of storing or keeping household goods and other personal property that is intended to be filled, refilled or emptied while located outdoors on the property and then later removed from the property for storage off-site. A *storage pod* does not include a *dumpster*.

*Trash container* means any container designed or intended to be used for the periodic collection of trash, refuse, garbage, yard debris, recyclables or other waste materials.

*Vehicle* means any device that qualifies as a vehicle under the Model Traffic Code as adopted in this Code.

**11-4-20. - Dumping on or obstructing public property.**

(a) Dumping on or obstruction of public property prohibited.

(1) It shall be unlawful for any person to place, store or maintain on public property any item, article, good or object, including but not limited to any stockpile, pile, stack, stand, collection, assembly or other accumulation of construction materials, debris, landscape materials, or any item, article, good or object other unless such person is an employee, official or contractor of the Town acting within the scope of his or her municipal functions.

(2) This Section shall not apply to the State, its political subdivisions, special districts or other governmental entities or any employee, official or contractor of such entity acting within the scope of his or her official capacity, provided that such entity or person obtains written permission from the Town to engage in any activity otherwise prohibited by this Section prior to engaging in such activity.

(3) This Section shall not apply to:

(a) Lawfully parked vehicles; or

(b) Covered refuse and recycling containers only for the period from 7:00 p.m. on the evening before collection day until 7:00 a.m. on the day following collection day to enable such containers to be emptied by a public or private entity charged with trash collection; or

(c) Dumpsters, landscape materials, storage pods and portable toilets temporarily placed on public property in a lawful
street parking area within the Town by the owner or lawful tenant of such private property:

i. if no alternative location is available on the private property at which such dumpster, landscape materials, storage pod and/or portable toilet is in service;

ii. in active use and for a period of no greater than 72 hours unless a written Temporary Occupancy/Placement Permit in accordance with Section 11-4-30 is issued and all permits conditions are met; and

iii. only if all location restrictions set forth in subsection (d) are met.

(d) All items and structures otherwise permitted under subsection (3)(c) of this Section within the public right-of-way must comply with the following location restrictions:

i. The location must not block travel lanes or interrupt the flow of vehicular and/or pedestrian traffic;

ii. The location must not interfere with the public’s normal use of the property;

iii. The location cannot interfere with any lawfully existing structure; and

iv. The structure or use must not occupy more than 1/5 of the width of any paved sidewalk.

11-4-30. Temporary occupancy/placement permits for certain obstructions and/or placement of certain items on private property.

(a) The Town may issue Temporary Occupancy/Placement Permits to owners or occupants of property zoned or used for residential purposes to either permit the (i) occupancy of portions of the public sidewalk or right of way for temporary placement of dumpsters, landscape materials, storage pods and portable toilets in conformity with Section 11-4-20(3) (c) and (d) or (ii) temporary placement of dumpsters, landscape materials, storage pods, or portable toilets on residually zoned private property as contemplated by Section 7-1-80 of this Code upon approval of an application therefor and the payment of a permit fee to be set by the Board of Trustees by resolution.
(b) All permits may be revoked by the Town at any time. All permits shall contain conditions for the issuance of the permit which must be complied with, to include:

1. What item(s) are permitted;

2. Placement location restrictions, which, when within the public right-of-way, shall at a minimum comply with the restrictions set forth in Section 11-4-20(3)(d) of this Code;

3. Reasonable timeframe for placement; and

4. A statement that the permittee must comply with all permit conditions.

(e) Applications for a Temporary Occupancy/Placement Permit must include:

1. Name and address of applicant;

2. Address and location of proposed materials or item to be placed;

3. Type of item or materials to be placed to include size, weight and other dimensions;

4. Requested timeframe for occupancy/placement;

5. Reason for occupancy/placement (construction project, etc.);

6. If occupancy on public property, a statement as to why alternative locations for placement are not workable;

7. If occupancy on public property, a scaled drawing of the location of the proposed occupancy/placement to include:
   
   i. Indication of the scale (i.e. 1” = 20’) and a bar scale.
   
   ii. North arrow.
   
   iii. Property lines and dimensions of adjacent property.
   
   iv. Name of all adjacent public rights-of-way.
   
   v. Total width of all adjacent streets and alley rights-of-way
   
   vi. Location of curb, sidewalk, and landscaping;

8. If occupancy on public property, an agreement by the applicant that such applicant, upon issuance of a Temporary Occupancy Permit, will:

   i. be required to obtain and provide evidence of current liability insurance in the name of the licensee with the Town of Lochbuie also named as an insured, if applicable;
ii. agree to comply with all terms and conditions of the permit;

iii. agree to be responsible for all damages to property or injury to persons arising out of the exercise of the permit;

iv. agree to indemnify and save harmless the Town and all its officers, agents and employees from all suits, action or claims of any type brought for or on account of any injuries or damages received or sustained by any person or property related to the exercise of the permit, any act or omission of the permittee, the permittee’s agents or employees, or the failure of the permittee to maintain the structure or device or to provide necessary safety devices; and

v. agree to defend against any suit, action, or claim and pay any judgment with costs, which may be obtained against the Town its officers, employees or agents growing out of the injury or damage.

11-4-40. - Violations.

Any person who violates this Article shall, upon conviction thereof, be punished by a fine of not more than the maximum fine amount authorized in Section 1-4-20 of this Code for each separate violation.

Section 2. Amending Article 1 of Chapter 7 Governing Nuisances. Article 1 of Chapter 7 of the Town of Lochbuie Municipal Code is amended by the addition of a new Section 7-1-180 to read as follows:

7-1-180. - Placement of Dumpsters, Storage Pods, Or Portable Toilets on Residential Property Without a Permit.

(a) Terms used within this Section shall have the definitions as set forth in Section 11-4-10 of this Code.

(b) It shall be unlawful and declared a nuisance for any person to place, store or maintain on any property zoned or used for residential purposes within the Town any dumpster, landscape materials, storage pod and/or portable toilet unless (i) in active use and for a period of no greater than 72 hours; or (ii) a written Temporary Occupancy/Placement Permit in accordance with Section 11-4-30 of this Code is issued and all permits conditions are met.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the
invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

Section 5. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 6. Effective Date. This Ordinance shall take effect 30 days following publication by title.

ADOPTED by a vote of 6 in favor, 1 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 21st day of May, 2019.

TOWN OF LOCHBUIE, COLORADO

Jacob Logren, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of May 21, 2019 and ordered published by title only by The Brighton Blade newspaper on June 12, 2019.

ATTEST:

Linda Blackston, Town Clerk