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RESOLUTION NO. 17-321

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION ADOPTING ORDINANCE NO. 18-03, REQUIRING THE  
REMOVAL OF UNSAFE BUILDINGS**

WHEREAS, pursuant to C.R.S. § 30-15-401, the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board") has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, C.R.S. § 30-15-401(1)(q) specifically authorizes the adoption of ordinances and regulations to compel the removal of any buildings or structures which present a substantial danger or hazard to public health, safety, or welfare from lots and tracts of land within the unincorporated areas of El Paso County; and

WHEREAS, the Board has identified a need to amend the previously enacted ordinance, Ordinance No. 08-01, to provide more efficient, effective, and consistent enforcement; and

WHEREAS, residents of El Paso County continue to experience problems with rubbish and trash upon adjacent or nearby properties; and

WHEREAS, pursuant to C.R.S. § 30-15-406, the proposed ordinance attached hereto as Exhibit A, was introduced and read before the Board of County Commissioners in a First Reading on October 24, 2017, and published in full in the El Paso County Advertiser and News/Fountain Valley News on November 1, 2017, at least ten days prior to adoption; and

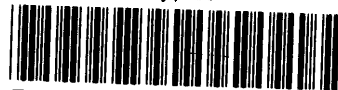
WHEREAS, in order to preserve the public health, safety and welfare of the citizens of El Paso County, the Board desires to repeal and replace Ordinance No. 08-01, and wishes to adopt Ordinance No. 18-03.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby adopts Ordinance No. 18-03, Requiring the Removal of Unsafe Buildings

BE IT FURTHER RESOLVED, that Darryl Glenn, duly elected, qualified member and President of the Board of County Commissioners, or Mark Waller, duly elected, qualified member and President Pro Tempore, of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the

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Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

DONE THIS 21st day of November, 2017, at Colorado Springs, Colorado.

ATTEST:


By:

  
Chuck Broemman  
Clerk and Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By:

  
Darryl Glenn  
President

**EL PASO COUNTY  
STATE OF COLORADO**

**ORDINANCE NO. 18-03**

**REQUIRING THE REMOVAL OF UNSAFE BUILDINGS**

**WHEREAS**, pursuant to Section 30-15-401, C.R.S., the Board of County Commissioners of El Paso County, Colorado (“Board”) has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, Section 30-15-401 (1)(q), C.R.S., specifically authorizes the adoption of ordinances and regulations to compel the removal of unsafe buildings and structures within the unincorporated areas of El Paso County, and

**WHEREAS**, the Board has previously enacted Ordinance 08-01, requiring the removal of unsafe buildings; and

**WHEREAS**, the Board has determined that changes to the ordinance are necessary in order to make its enforcement more efficient, effective and timely; and

**WHEREAS**, it is the opinion of the Board that in order to preserve the public health, safety and welfare of the citizens of El Paso County, the Board should take the following action.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of El Paso County, Colorado:

**Section 1: Purpose.**

The purpose of this Ordinance is to protect the public health, safety, and welfare of the citizens and residents of El Paso County, Colorado, by compelling the repair or removal of unsafe buildings which, if not repaired or removed, fire hazards, “attractive nuisances,” rodent infestations and other hazards.

**Section 2: Authority and Effect.**

2.1 This Ordinance is authorized pursuant to, inter alia, C.R.S. §§30-11-101, et seq., §§ 30-15-401, et seq., and §§ 29-20-101, et. seq.

**Section 3: Applicability.**

3.1 This Ordinance shall apply throughout the unincorporated area of El Paso County including public and state lands.

3.2 This Ordinance shall apply within the corporate limits of any incorporated town or city within El Paso County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and which enters into an intergovernmental agreement with El Paso County relating thereto.

**Section 4: Definitions.**

4.1 **Board:** the Board of County Commissioners of El Paso County, Colorado.

**4.2 Building:** a structure having a roof, supported by columns or walls.

**4.3 County:** the unincorporated areas of El Paso County, including public and state lands, and the corporate limits of any incorporated town or city within El Paso County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and which enters into an intergovernmental agreement with El Paso County relating thereto.

**4.4 Dilapidated:** reduced or fallen into partial ruin or decay, as from age, wear or neglect.

**4.5 Director:** the Executive Director of the El Paso County Planning and Community Development Department, or his or her authorized designee.

**4.6 Fire Hazard:** (1) capable of causing a fire or explosion or providing a ready fuel supply to augment the spread or intensity of a fire or explosion; and (2) posing a threat to life or the property of others.

**4.7 Owner:** the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record.

**4.8 Structure:** any mobile home, whether or not located on the ground, or any improvement constructed or erected upon real property which is fixed in a permanent location on the ground or which is attached to something having a permanent location on the ground. The term shall include, but is not limited to, fences, fixtures and walls.

**4.9 Unsafe Building or Structure:**

1. any building or structure, the condition of which presents a substantial danger or hazard to public health, safety, or welfare; or
2. any building which is materially dilapidated and unused by the owner or uninhabited because of deterioration or decay; and
  - a. which condition constitutes a substantial fire hazard; or
  - b. which condition subjects adjoining property owners to danger of damage by storm, soil erosion, or rodent infestation; or
  - c. which becomes a place frequented by trespassers or transients seeking a temporary hideout or shelter.

**Section 5: Exemptions.**

5.1 This Ordinance shall not apply to a building or structure located on affected land subject to the "Colorado Mined Land Reclamation Act," as the term "affected land" is defined in section 34-32-103 (1.5), C.R.S.

5.2 This Ordinance shall not apply to a building or structure located on lands subject to the "Colorado Surface Coal Mining Reclamation Act," pursuant to section 34-33-101, et seq., C.R.S.

**Section 6: Unlawful Acts.**

6.1 It shall be unlawful for any owner to maintain or permit to be maintained any unsafe building or structure on any property within the County under such owner's control, possession, or ownership.

6.2 Nothing in this Ordinance shall preclude the separate and/or concurrent prosecution of zoning or building code violations or both.

**Section 7: Notice of Violation and Executive Determination.**

7.1 If probable cause exists to believe that a violation of this Ordinance has occurred, a notice of violation shall be sent via first class mail to the owner's mailing address as listed in the records of the El Paso County Assessor's Office and shall be posted on the property alleged to be in violation.

7.2 The notice of violation shall specifically describe the nature of the violation and shall require that the violation be corrected within thirty (30) calendar days after the date of the notice. The notice of violation may require that the violation be corrected within a period of time less than thirty (30) calendar days if the Director determines, in his or her sole discretion, that the violation presents an immediate risk to the public health, safety, or welfare.

7.3 The notice of violation shall provide that the owner may request additional time to correct the violation.

7.4 If the violation is not corrected within the time period established in the notice of violation or approved extension of time, the Director may issue an executive determination to the owner authorizing the County Attorney's Office to pursue remedies under Sections 10, 11, or 12 of this Ordinance, subject to appeal as set forth below.

7.5 The Director shall mail the executive determination in the same manner as the notice of violation to the owner. The executive determination shall specify the nature of the violation and provide ten (10) calendar days after the date of the executive determination for the owner to request an appeal, at no cost to the owner, to the Board prior to the County Attorney's Office pursuing remedies under Sections 10, 11, or 12 of this Ordinance.

7.5.1 The executive determination shall state that the owner may appeal the Director's decision to the Board. The owner must submit an appeal in writing to the Director. Any written appeal must be received by the Director within ten (10) calendar days after the date of the executive determination. Any such appeals received beyond ten (10) calendar days shall be deemed untimely.

7.5.2 If no appeal is received within ten (10) calendar days after the date of the Director's executive determination, then the Director's executive determination shall be final and the County Attorney's Office may proceed with litigation to seek remedies pursuant to Section 10, 11, or 12 of this Ordinance.

**Section 8: Appeal Hearing.**

8.1 If the Director receives a timely appeal of his or her executive determination as set forth in Section 7, then the Director shall place the matter on the Board's next available land use hearing agenda which meets the requirements of Section 8.2 below.

8.2 The owner shall be notified of the date, time, and place of the hearing via first class mail to the owner's mailing address as listed in the records of the El Paso County Assessor's Office no less than five (5) calendar days prior to the hearing.

8.3 At the hearing, the owner shall have the opportunity to present evidence and testimony to show cause why further enforcement action should not be taken. The Board shall consider all such evidence and testimony, along with any presentation, evidence, or testimony offered by the Planning and Community Development Department or other County staff, in reaching its decision to affirm or overturn the decision to issue the executive determination.

8.4 At the conclusion of the appeal hearing, the Board may decide to overturn the decision to issue the executive determination or may affirm the decision and instruct the Director to proceed with one or more of the enforcement mechanisms provided in Sections 9, 10, 11 and/or 12 below.

8.5 The Appeal Hearing shall not be considered a quasi-judicial or legislative action or matter under any circumstances.

**Section 9: Criminal Prosecution.**

9.1 The Board may authorize the initiation of a criminal prosecution for violations of this Ordinance, except those committed through application of Section 4.9 (2)(c), in County Court.

9.2 County code enforcement officers shall have the authority to issue citations or summonses and complaints for the purpose of enforcing this Ordinance.

9.3 Any person who violates this Ordinance commits a class 2 petty offense and upon conviction thereof, shall be punished by a fine of two hundred and fifty dollars (\$250) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third and subsequent offenses. This graduated fine schedule shall apply to repeat offenses committed by the same owner with respect to the same lot, parcel or tract of land.

9.4 The penalty assessment procedure provided in Section 16-2-201, C.R.S., shall be followed in enforcing this Ordinance.

9.5 All fines and forfeitures for the violation of this Ordinance shall be paid to the El Paso County Treasurer within thirty (30) calendar days of receipt and shall be deposited into the General Fund of the County.

9.6 In addition to the penalties prescribed in Section 9.3 of this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars that shall be paid to the clerk of the court by the defendant, as provided by Section 30-15-402 (2)(a), C.R.S.

**Section 10: Civil Injunction.**

The Board, or the Director through an execution determination, may refer violations of this Ordinance to the County Attorney's Office for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation.

**Section 11: County Removal of Unsafe Building or Structure.**

11.1 The Board, or the Director through an executive determination, may refer violations of this Ordinance to the County Attorney's Office for application to the courts for an administrative entry and seizure warrant for the removal of the unsafe building or structure pursuant to Section 12 of this Ordinance. If a building or structure has been deemed unsafe only through application of Section 4.9 (2)(c), the application for an administrative entry and seizure warrant may only request authorization to secure the unsafe building or structure against entry by trespassers and transients.

11.2 Upon obtaining an administrative entry and seizure warrant, the Director shall have the authority to remove or secure the unsafe building or structure by and through County forces, contract, or otherwise. If the owner fails to pay the cost of securing or removal within ten (10) calendar days after the Director mails an invoice for such cost, the whole cost thereof, including five percent (5%) for inspection and incidental costs in connection therewith, may be assessed upon the lot, parcel or tract from which such unsafe building or structure has been removed or upon which such unsafe building or structure has been secured. Any assessment pursuant to this subsection 11.2 shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

11.3 In case the assessment prescribed in subsection 11.2 above is not paid within thirty (30) calendar days from the date of removal of or securing such unsafe building or structure by El Paso County, such assessment may be certified to the El Paso County Treasurer, who shall collect the assessment, together with a ten percent (10%) penalty for the cost of collection, in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection 11.3.

**Section 12: Administrative Entry and Seizure Warrant.**

12.1 No entry upon private property for the purpose of the removal or securing of an unsafe building or structure shall be made until an administrative entry and seizure warrant has been obtained from a court of competent jurisdiction.

12.2 A sworn or affirmed affidavit shall be prepared and submitted to the court which shall establish the factual basis for the warrant, including a reasonably specific description of the location of the property, a description of the unsafe building or structure to be removed from the property or secured, evidence that the owner has received notice of the violation and has failed to remove or secure the unsafe building or structure within a reasonable prescribed period of time, and the proposed method of disposal of such unsafe building or structure if applicable. Said affidavit shall be accompanied by a copy of this Ordinance.

12.3 Within ten (10) calendar days following the date of issuance of an administrative entry and seizure warrant, such warrant shall be executed in accordance with directions by the issuing court, a copy of such issued warrant shall be provided or mailed first class to the owner, and proof of the execution of such warrant shall be submitted to the issuing court.

**Section 13: Safety Clause.**

The Board hereby finds, determines, and declares that this Ordinance is necessary for the health, safety, and welfare of the citizens of El Paso County, Colorado.

**Section 14: Severability Clause.**

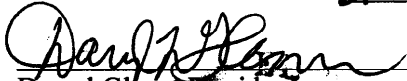
If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 15: Publication and Effective Date.**

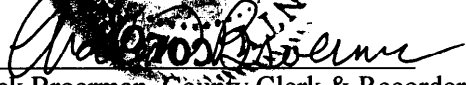
The foregoing text is the authentic text of El Paso County Ordinance No. 18-03. The first reading of the ordinance took place on October 24, 2017. It was published in full in the El Paso County Advertiser and News on November 1, 2017.

It was adopted without amendment on November 21, 2017, and is to be republished by title in the El Paso County Advertiser and News on November 29, 2017 and shall take effect on January 1, 2018.

DONE AND SIGNED this 21st day of November, 2017, at Colorado Springs, Colorado.

  
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Darryl Glenn, President  
Board of County Commissioners of  
El Paso County, Colorado

I hereby certify and attest that the provisions of Section 15, Ordinance No. 18- 03, as set forth hereinabove, are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Chuck Broerman, County Clerk & Recorder  
El Paso County, Colorado