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RESOLUTION NO. 17-319

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

**RESOLUTION ADOPTING ORDINANCE NO. 18-01, REQUIRING THE
REMOVAL OF WEEDS AND BRUSH**

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)(a)(I.5)(A) specifically authorizes the adoption of ordinances and regulations to compel the removal of weeds and brush 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. 06-03, to provide more efficient, effective, and consistent enforcement; and

WHEREAS, residents of El Paso County continue to experience problems with weeds and brush 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. 06-03, and wishes to adopt Ordinance No. 18-01.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby adopts Ordinance No. 18-01, Requiring the Removal of Weeds and Brush.

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

Chuck Broerman
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El Paso County, CO

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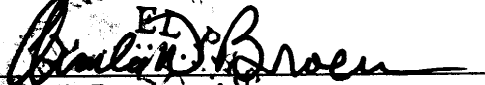
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DONE THIS 21st day of November, 2017, at Colorado Springs,
Colorado.

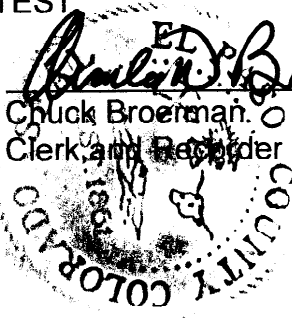
BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By:



Chuck Broerman,
Clerk and Recorder



By:



Darryl Glenn
President

**EL PASO COUNTY
STATE OF COLORADO**

**ORDINANCE NO. 18- 01
REQUIRING THE REMOVAL OF WEEDS AND BRUSH**

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)(a)(I.5), C.R.S., as amended by House Bill 13-1137, specifically authorizes the adoption of ordinances and regulations to compel the removal of weeds and brush from lots, parcels, and tracts of land, except agricultural land currently in agricultural use as the term is defined in Section 39-1-102(1.6) C.R.S., within the unincorporated areas of El Paso County; and

WHEREAS, the Board has previously enacted Ordinance 06-03, requiring the removal of weeds and brush; 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 eliminating and controlling, to the extent possible, the growth and proliferation of weeds and brush within the county, which if not eliminated or controlled, can result in negative visual impact, incompatibility with existing land uses, fire hazards, traffic hazards, the clogging of drainage ways, obstruction of public access ways, alleys, and sidewalks, and other detrimental health and safety impacts.

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.

2.2 Ordinance 06-03, enacted April 2, 2007, is hereby repealed and replaced in whole by this Ordinance.

2.3 Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by the County pursuant to previous regulations, provided that the violation is also a violation of this Ordinance.

Section 3: Applicability.

3.1 This Ordinance shall apply throughout the unincorporated area of El Paso County.

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.

3.3 This Ordinance shall apply only to residential lots, parcels, or tracts of less than two and one-half (2.5) acres.

3.4 This Ordinance shall not apply to lots and tracts of agricultural land as defined in this Ordinance.

3.5. The County shall not compel the removal of weeds and brush upon any lot or tract of land within the County during the time that a mortgage or deed of trust secured by the lot or tract of land is being foreclosed upon.

Section 4: Definitions.

Agricultural Land: any parcel of land presently classified as agricultural use by the El Paso County Assessor's Office, as defined and subject to the restrictions contained in C.R.S. § 39-1-102(1.6).

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

County: the unincorporated areas of El Paso County, 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.

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

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, and any occupant of the premises or property.

Residential: zoned and/or used for residential purposes.

Weeds and Brush: any plant which:

- a. ordinarily grows without cultivation;
- b. is not grown for the purpose of landscaping or food production; and
- c. attains a growth of nine inches (9") in or more in height, or grows or accumulates so as to become a fire, traffic, pedestrian, or other public health or safety hazard.

Weeds and Brush shall also include any vegetation that is growing in such locations that it obscures, obstructs, or otherwise impedes pedestrian or vehicular traffic along public access ways or that obscures, obstructs, or otherwise impedes sight vision along such public access ways, to the detriment of public health or safety.

Section 5: Unlawful Acts.

It shall be unlawful for any owner to allow the accumulation and/or outgrowth of weeds and brush on any residential lot, parcel, or tract of land of less than two and one-half (2.5) acres, except agricultural land currently in agricultural use as the term agricultural land is defined in Section 39-1-102(1.6) C.R.S., within the County under such owner's control, possession, or ownership, or upon any alley or sidewalk adjacent to such residential lot, parcel, or tract.

Section 6: Notice of Violation and Executive Determination.

6.1 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 to the mailing address of the property in question, if one exists.

6.2 The notice of violation shall specifically describe the nature of the violation and shall require that the violation be corrected within fourteen (14) 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 fourteen (14) 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.

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

6.4 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 9, 10, or 11 of this Ordinance, subject to appeal as set below

6.5 The Director shall mail the executive determination to the owner in the same manner as the notice of violation. The executive determination shall specify the nature of the violation and provide ten (10) calendar days from 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 9, 10, or 11 of this Ordinance.

6.5.1 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.

6.5.2 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 9, 10, or 11 of this Ordinance.

Section 7: Appeal Hearing.

7.1 If the Director receives a timely appeal of his or her executive determination as set forth in Section 6, then the Director shall place the matter on the Board's next available land use hearing agenda which meets the requirements of Section 7.2 below.

7.2 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.

7.3 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.

7.4 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 8, 9, 10, and/or 11 below.

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

Section 8: Criminal Prosecution.

8.1 Only the Board may authorize the initiation of a criminal prosecution for violations of this Ordinance in the County Court.

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

8.3 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.

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

8.5 All fines and forfeitures collected by the court 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.

8.6 In addition to the penalties prescribed in Section 8.3 of this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge in an amount fixed by statute that shall be paid to the clerk of the court by the defendant, as provided by C.R.S. § 30-15-402 (2)(a).

Section 9: Civil Injunction.

The Board, or the Director through an executive 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 10: County Removal of Weeds and Brush.

10.1 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 weeds and brush pursuant to Section 11 of this Ordinance.

10.2 Upon obtaining an administrative entry and seizure warrant, the Director shall have the authority to remove the weeds and brush by and through County forces, contract, or otherwise. If the owner fails to pay the cost of removal within ten (10) calendar days after the Director mails an invoice for such cost, the whole cost thereof, including ten percent (10%) for inspection and incidental costs in connection therewith, may be assessed upon the lots, parcels, and tracts from which such weeds and brush has been removed. Any assessment pursuant to this subsection 10.2 shall be a lien against such lot, parcel, or tract of land until paid and shall have priority based upon its date of recording

10.3 In case the assessment prescribed in subsection 10.2 above is not paid within thirty (30) calendar days from the date of removal of such weeds and brush 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 10.3.

Section 11: Administrative Entry and Seizure Warrant.

11.1 No entry upon private property for the purpose of weeds and brush removal shall be made until an administrative entry and seizure warrant has been obtained from a court of competent jurisdiction.

11.2 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 general list or site plan describing the weeds and brush to be removed from the property, evidence that the owner has received a notice of the violation and has failed to remove the weeds and brush within a reasonable prescribed period of time, and the proposed method of disposal of such weeds and brush. Said affidavit shall be accompanied by a copy of this Ordinance.

11.3 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 12: 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 13: Severability Clause.

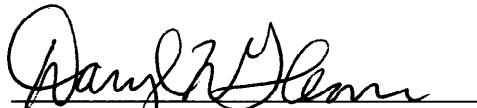
If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 14: Publication and Effective Date.

The foregoing text is the authentic text of El Paso County Ordinance No. 18-01. 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.



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

I hereby certify and attest that the provisions of Section 14, Ordinance 18-01 as set forth hereinabove are true and correct to the best of my knowledge, information and belief.



Cheri Breriman, County Clerk and Recorder
El Paso County, Colorado


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