



STATE OF COLORADO }
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COUNTY OF ELBERT }

At a regular meeting of the Board of County Commissioners for Elbert County, State of Colorado, held at the Courthouse in Kiowa on Wednesday, the 12th day of September A.D. 2012, there were present:

Del Schwab	Commissioner Chairman
John Shipper	Commissioner
Kurt Schlegel	Commissioner
Sheryl Caldwell	Deputy, Clerk to the Board

When the following proceedings, among other, were had and done, to wit:

ORDINANCE NO. 12-01

AN ORDINANCE REGARDING THE ACCUMULATION AND REMOVAL OF JUNK AND RUBBISH IN ELBERT COUNTY

WHEREAS, pursuant to section 30-15-401, C.R.S., as amended, the Board of County Commissioners of Elbert County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and 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, residents of Elbert County experience problems with the accumulation of junk and rubbish upon adjacent or nearby properties; and

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

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of Elbert, State of Colorado, that Ordinance Number 11-01 An Ordinance Regarding the Accumulation and Removal of Rubbish, Nuisances, and Junked/Inoperable Motor Vehicles in Elbert County, enacted by the Board on May 25, 2011, is hereby repealed and replaced in whole effective upon the adoption of Ordinance Number 12-01; and

BE IT FURTHER ORDAINED by the Board of County Commissioners of the County of Elbert, State of Colorado, as follows:

Section 1. Purpose.

1.1 The purpose of this Ordinance is to protect the public health, safety and welfare of the citizens and residents of Elbert County, Colorado, by eliminating and controlling the accumulation of junk and rubbish within the County, which if not eliminated or



controlled, can result in visual blight; attractive nuisances; incompatibility with existing land uses; hazardous or toxic substances being deposited in unapproved sites; attraction of disease-infested rodents and other vermin; air, land, water, and noise pollution; and fire and other hazards.

Section 2. Authority and Effect.

2.1 This Ordinance is authorized pursuant to among other things, section 30-15-401, C.R.S., *et seq.*, as amended.

2.2 Ordinance 11-01, enacted May 25, 2011 and as amended, 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 this Ordinance.

Section 3. Applicability.

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

3.2 This Ordinance shall apply within the corporate limits of any incorporated town or city within Elbert County which elects by appropriate ordinance or resolution to have the provisions and enforcement of this Ordinance apply therein, and upon which an intergovernmental agreement between Elbert County and such incorporated town or city has been entered into relating thereto.

Section 4. Definitions.

4.1 Agricultural Land. Shall have the meaning as set forth in 39-1-102 (1.6), C.R.S.

4.2 Board. The Board of County Commissioners of Elbert County, Colorado.

4.3 County. The unincorporated areas of Elbert County, including public and state lands, and the incorporated limits of any town or city within Elbert County which elects by appropriate ordinance or resolution to have the provisions and enforcement of this Ordinance apply therein and upon which an intergovernmental agreement between Elbert County and such incorporated town or city has been entered into relating thereto.

4.4 Enforcement Officer. The Elbert County Sheriff is the designated Elbert County employee with the authority under this Ordinance to pursue violations. The Elbert County Sheriff may designate his/her authorities under this Ordinance to other Elbert County employees in his/her discretion.

4.5 Industrial Tract. A lot, parcel or tract of land zoned for such use and classified by the Elbert County Assessor's Office as industrial.



4.6 Junk. Any old or scrap copper; brass; glass; rope; rags; batteries; paper or cardboard; trash; tires or rubber debris; waste; junked, inoperable, dismantled or wrecked motor vehicles or parts thereof; appliances or parts thereof; iron, steel, and other old or scrap ferrous or non-ferrous materials; disposable packages or containers; furniture; carpet or remnants thereof; or construction debris disposed of on the ground and not stored within a completely enclosed building or completely screened enclosure. These types of materials may not be permitted to be stored in an abandoned or junked mobile home, recreation vehicle or vehicle.

4.7 Property Owner. The owner of record of the property as shown in the records of the Elbert County Assessor's Office, whether person, partnership, firm, corporation, governmental agency, or other association of persons, any authorized agent or representative of the owner of record, or any occupant of the premises.

4.8 Rubbish. Any trash, junk, garbage, litter, refuse, debris, lawn or garden waste, remnant or discarded construction or remodeling or repair materials, unlicensed or inoperable motor vehicles including without limitation mobile or manufactured homes, motor vehicle parts or tires, used or waste tires, newspapers, magazines, packaging materials, waste paper or cardboard, dead animal carcasses, unwanted or discarded household items including but not limited to appliances and furniture, metal, scrap, any other items that has been abandoned or discarded, and any object or material which causes or is likely to cause a public hazard or nuisance. Rubbish does not include collector's items properly stored in accordance with 42-12-103, C.R.S.

Section 5. Unlawful Acts.

5.1 It shall be unlawful for any Property Owner to cause or allow the accumulation of junk or rubbish on any lot, parcel, or tract of land in the County, except Industrial Tracts of ten or more acres and Agricultural Land, under such Property Owner's control, possession, or ownership, or upon any County road or right-of-way, private road, alley, or sidewalk adjacent to such lot or tract of land.

5.2 It shall be unlawful for any person to dump or dispose of any junk or rubbish in the County except in those places permitted and/or duly authorized by the Board for such purpose.

Section 6. Notice and Order.

6.1 If probable cause exists to believe that a violation of this Ordinance has occurred, the Enforcement Officer shall conduct an investigation of the site to determine if an unlawful condition does exist. In the event that the Enforcement Officer determines that an unlawful condition does exist, a Notice and Order shall be issued to the Property Owner.

6.2 The Notice and Order shall:

1. Provide a description of the violation and measures required to correct the violation.



2. Require the Property Owner to remove such violation within fourteen (14) days from the date of said notice, unless the Enforcement Officer determines in his/her sole discretion that a longer time period should be allowed or that a shorter time period is justified because the violation appears to present an immediate risk to the public health, welfare, or safety.
3. Include a statement that if the Property Owner believes that the Notice and Order has been issued in error or without just cause, the Property Owner may request, in writing, no later than fourteen (14) days after the date of the issuance of the Notice and Order, to appear before the Board of County Commissioners for a show cause hearing as to why such notice of violation should not be enforced.

6.3 A Notice and Order shall be deemed issued by placing the same in U.S. Mail, certified, return receipt requested, to the Property Owner's last known address as indicated in the records of the Elbert County Assessor's Office and to the mailing address of the property in question if one exists. Service shall be complete upon mailing or personal service in the same manner provided in Rule 304 of the Colorado Rules of County Court Civil Procedure.

6.4 If, after reasonable efforts, the Enforcement Officer is unable to locate the owner for personal service or service via U.S. Mail, the Notice and Order may be published in such a manner as is in accordance with Rule 304 of the Colorado Rules of County Court Civil Procedure concerning publication, except that said publication shall be for a period of fourteen (14) days, and the Notice and Order shall be posted in a conspicuous place at or on the subject property.

Section 7. Show Cause Hearing.

7.1 A request by the Property Owner for a show cause hearing shall be in writing and submitted no later than fourteen (14) days after the date of the issuance of the Notice and Order. Upon the request for the hearing, and pending the Board's decision, the Notice and Order shall be stayed.

7.2 The requested show cause hearing shall be set for a date as soon as practicable considering the Board's calendar. Written notice of the hearing shall be issued via U.S. Mail, certified, return receipt requested, to the Property Owner at least fourteen (14) days prior to the date of the hearing.

7.3 The Property Owner shall have a full and fair opportunity to present any relevant evidence or witnesses to the Board in order to establish why the Notice and Order should not be enforced or delayed in its enforcement. The Board shall consider all such evidence and testimony, along with any presentation made by the Enforcement Officer or other governmental agency or County Staff, in reaching its decision in accordance with this Ordinance.

Section 8. Administrative Entry & Seizure Warrant.



8.1 If the Property Owner fails or refuses to abate such violation of this Ordinance within the time period established in the Notice and Order issued in accordance with Section 6 or from the decision of the Board pursuant to Section 7, the Enforcement Officer, without further notice to the Property Owner, may initiate proceedings for an administrative entry and seizure warrant through the county court or district court having jurisdiction over the property from which the junk or rubbish shall be removed authorizing the County to enter the property and remove or otherwise abate the violation(s).

8.2 A sworn or affirmed affidavit shall be prepared and submitted, along with supporting documents or pictures, to the court. The affidavit shall establish the factual basis for the issuance of the warrant. Documents presented to the court shall include the following:

1. A copy of this Ordinance;
2. Evidence that the Property Owner has received notice of the violation and has failed to remove or otherwise abate the violation within a reasonable prescribed period of time;
3. A general description of the location of the property;
4. A general list of any junk or rubbish to be removed from the property; and
5. The proposed disposal or temporary impoundment of such junk or rubbish, whichever the court deems appropriate.

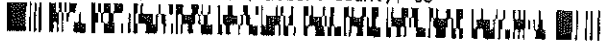
8.3 Within ten (10) days following the date of issuance of an administrative entry and seizure warrant, the warrant shall be executed in accordance with the directions by the issuing court. A copy of the issued warrant shall be provided or mailed to the Property Owner and proof of execution of such warrant, including a written inventory of any property impounded, shall be submitted to the issuing court.

Section 9. Impoundment and Disposal.

9.1 Any junk or rubbish removed from the property pursuant to the an administrative entry and seizure warrant shall be dealt with in accordance with the terms of such warrant, including the impoundment of junk or rubbish or the disposal of junk or rubbish in the manner specified by the court issuing the warrant.

Section 10. Removal of Rubbish by County: Assessment of Costs; Collection.

10.1 Any removal or abatement of violations under this Ordinance performed by the County, either by or through County forces, contract, or otherwise, the County shall assess the reasonable cost thereof, including five percent (5%) for inspection and other incidental costs in connection therewith upon the lots and tracts from which such junk or rubbish has been removed.



10.2 Any assessment prescribed in Section 10.1 which is not paid within sixty (60) days from the date of the mailing of an invoice may be certified by the Elbert County Clerk and Recorder to the Elbert County Treasurer, who shall collect such assessment, together with a ten (10%) percent 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 govern and apply to the collection of assessments pursuant to this Section 10.

10.3 Any assessment pursuant to Section 10.1 shall be a lien against such lot, parcel, or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

Section 11. Enforcement and Penalties.

11.1 The Board hereby designates the County Attorney, or his/her designee, as the County's legal representative in the civil enforcement of the provisions of this Ordinance.

11.2 If so directed by the Board, a criminal prosecution may be brought against the Property Owner in accordance with sections 16-2-201, 30-15-402 and 30-15-410, C.R.S., as amended. All prosecutions for all offenses under this Ordinance shall be by the District Attorney according to the Colorado County Court Rules of Criminal Procedure.

11.3 Each day that such violation remains on the premises after the date of expiration of the time period established in the Notice and Order issued in accordance with Section 6 or from the decision of the Board pursuant to Section 7 for removal or abatement shall constitute a separate violation.

11.4 Violations of the provisions of this Ordinance shall be punishable by a fine as follows:

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|----|------------------------|----------|
| 1. | First Violation: | \$100.00 |
| 2. | Second Violation: | \$200.00 |
| 3. | Third Violation: | \$400.00 |
| 4. | Subsequent Violations: | \$600.00 |

11.5 All fines paid for the violation of this ordinance shall be made payable to Elbert County and submitted to the Elbert County Treasurer's Office and deposited into the general fund of Elbert County. All surcharges collected shall be paid to the Clerk of the Court and subsequently credited to the Victims and Witnesses Assistance and Law Enforcement Fund of the Eighteenth Judicial District of the State of Colorado pursuant to section 30-15-402(2), C.R.S., as amended.

11.6 The remedies provided in this Ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other



applicable statute, ordinance, rule, order or regulation.

Section 12. Severability.

12.1 If any section, subsection, clause, sentence, phrase or part of this Ordinance is declared invalid by a court of competent jurisdiction, such invalidity shall not affect, impair or invalidate any remaining provisions of this Ordinance.

Section 13. Conflicting Provisions.

13.1 Where any provision of this Ordinance conflicts with any other provision of this Ordinance, or any other law or Ordinance, the more stringent shall apply.

Section 14. Interpretation.

14.1 This Ordinance shall be so interpreted and construed as to effectuate its general purpose to reduce and regulate the accumulation of junk and/or rubbish in Elbert County.

Section 15. Effective date.

15.1 This Ordinance shall take effect immediately upon adoption on the second and final reading and shall remain in effect until such time as this Ordinance is amended, temporarily suspended or repealed.

Section 16. Emergency.

16.1 The Board hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Elbert County, Colorado.

Section 17. Certification.

17.1 The Elbert County Clerk and Recorder shall certify to the passage of this Ordinance and make not less than three copies of the adopted ordinance available for inspection by the public during regular business hours.



INTRODUCED, READ AND ADOPTED ON FIRST READING, on the 9th day of May, 2012, and ordered published in full in the Elbert County News.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF ELBERT, COLORADO

BY: *Del Schwab*
DEL SCHWAB, CHAIR

ATTEST:

BY: *Diana Hartsough*
DIANA HARTSOUGH
ELBERT COUNTY CLERK AND RECORDER

AMENDED, on the 8th Day of August, 2012, and published in full in the Elbert County News.

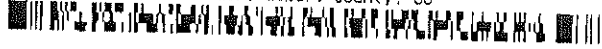
ADOPTED ON SECOND AND FINAL READING, AS AMENDED, on the 12th day of September, 2012, and ordered published in its entirety in the Elbert County News.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF ELBERT, COLORADO

BY: *Del Schwab*
DEL SCHWAB, CHAIR

ATTEST:

BY: *Diana Hartsough*
DIANA HARTSOUGH
ELBERT COUNTY CLERK AND RECORDER



CERTIFICATE

I hereby certify that the foregoing Ordinance No. 12-01 was introduced, read and adopted on first reading as an ordinance necessary for the immediate preservation of the public health, safety and welfare at the regular meeting of the Board of County Commissioners of the County of Elbert on the 9th day of May, 2012, and the same was published in full in the Elbert County News, a newspaper of general circulation published in Elbert County, on the 24th day of May, 2012. Following the first reading and initial publication, this ordinance was amended on the 8th day of August, 2012 and published in full in the Elbert County News on the 23rd day of August, 2012. Thereafter, this ordinance was adopted on second and final reading, as amended, at a public hearing of the Board of County Commissioners of the County of Elbert on the 12th day of September, 2012. Said ordinance was published in its entirety in the Elbert County News on the 20th day of September, 2012.

ATTEST:

BY: *Diana Hartsough*
DIANA HARTSOUGH
ELBERT COUNTY CLERK AND RECORDER

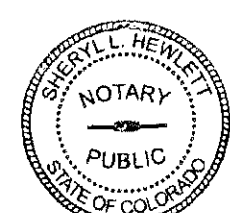


State of Colorado)
) ss.
County of Elbert)

Subscribed and sworn to before me this 25th day of September, 2012 by Diana Hartsough as the Elbert County Clerk and Recorder.

Jan. 2015 June 15, 2013 SA
My Commission Expires

Sheryl L Hewlett
Notary Public



My Commission Expires June 15, 2013