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**EL PASO COUNTY  
STATE OF COLORADO**

**ORDINANCE NO. 06-02  
PROHIBITING THE ACCUMULATION OF RUBBISH**

**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), C.R.S., specifically authorizes the adoption of ordinances and regulations to compel the removal of rubbish within the unincorporated areas of El Paso County, and

**WHEREAS**, the Board has previously enacted Ordinance 92-1, as amended, prohibiting the accumulation of rubbish; 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 accumulation of 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, fire and other hazards, and air, noise, and water pollution.

**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2.2 Ordinance 92-1, enacted October 2, 1992 and as amended, is hereby repealed and replaced in whole by this Ordinance.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 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 not apply to industrial tracts of ten (10) or more acres nor to agricultural land, as such terms are defined in this Ordinance.

**Section 4: Definitions.**

**Agricultural Land:** any parcel of land, presently and for at least two (2) years prior to any alleged violation of this Ordinance, that has been continually used for the primary purpose of obtaining monetary profit as a farm or ranch or forest land, 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 Director of the El Paso County Development Services Department, or his or her authorized designee.

**Industrial Tract:** a lot, parcel, or tract of land currently zoned for industrial uses or otherwise authorized by variance or nonconforming use status to operate activities ordinarily restricted to industrial zone districts.

**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.

**Rubbish:** any trash, junk, garbage, litter, refuse, debris, outside storage of used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of article 20 of title 30, C.R.S., and any rules and regulations promulgated thereunder), lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or packaging, remnant construction or demolition materials, vehicle parts, abandoned or junk equipment, used appliances or furniture, oil, carcasses of dead animals, any object likely to injure any person or create a traffic hazard, or any other object which has been discarded or abandoned.

**Section 5: Unlawful Acts.**

It shall be unlawful for any owner to allow the accumulation of rubbish on any lot, parcel, or tract of land in the County under such owner's control, possession, or ownership, or upon any alley or sidewalk adjacent to such lot, parcel, or tract of land.

**Section 6: Notice of Violation.**

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 ten (10) 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 ten (10) 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. Any extensions of time shall be valid only if granted in writing.

6.4 If the violation is not corrected within the time period established in the notice of violation or written extension of time, the matter shall be placed on the Board's agenda for a hearing to show cause why further enforcement action should not be taken.

#### **Section 7: Show Cause Hearing.**

7.1 If a violation is scheduled for a show cause hearing, the owner shall be notified of the date 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) days prior to the hearing.

7.2 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 Development Services Department or other County staff, in reaching its decision to affirm or overturn the decision to issue the Notice of Violation.

7.3 At the conclusion of the show cause hearing, the Board may decide to take no further action or may instruct the Director to proceed with one or more of the enforcement mechanisms provided in Sections 8, 9, and 10 below. In order to authorize an enforcement mechanism under this ordinance, there shall be evidence presented on the record for the board to determine that a violation of this Ordinance has occurred.

#### **Section 8: Criminal Prosecution.**

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

Only the Board 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 Rubbish.**

10.1 Only the Board 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 rubbish 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 rubbish by and through County forces, contract, or otherwise. If the owner fails to pay the cost of removal within ten (10) 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 lots, parcels, and tracts from which such rubbish 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 over all other liens except general taxes and prior special assessments.

10.3 In case the assessment prescribed in subsection 10.2 above is not paid within ninety (90) days from the date of removal of such rubbish 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 rubbish 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 rubbish to be removed from the property, evidence that the owner has received notice of the violation and has failed to remove the rubbish within a reasonable prescribed period of time, and the method of disposal or temporary impoundment of such rubbish, whichever the court deems appropriate. Said affidavit shall be accompanied by a copy of this Ordinance.

11.3 Within ten (10) 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,

including a written inventory of any property impounded by the executing authority, shall be submitted to the issuing court.

**Section 12: Impoundment.**

12.1 Impoundment of removed rubbish shall occur any time so ordered by the court.

12.2 Any material or equipment having salvage or reuse value should be removed to an impound lot either owned by the County or privately owned and subject to a contract with the County.

12.3 Upon impoundment, notice shall be sent by U.S. mail, first class, to the owner with information as to the impoundment location, the person to contact for reclaiming the property, and the conditions and time limits for retrieving impounded items as provided in subsection 12.5 below.

12.4 Reasonable storage fees may be collected for impounded items, which shall be paid into the General Fund of the County. If the owner notifies the director in writing that the impounded items will not be reclaimed and may be disposed of, the Director shall dispose of such items and may collect reasonable fees for such disposal, to be paid into the General Fund of the County.

12.5 Impoundment shall be for a period not to exceed ninety (90) days, whereupon the impounded items shall be regarded as abandoned and may be disposed of as the Director sees fit. If the owner of the impounded items seeks to reclaim them within the 90-day period, the impounded items shall be released upon the occurrence of all of the following: all of the impounded items owned by the owner are removed from the impound lot; satisfactory evidence is provided that the owner will move the items to a site that will not result in a violation of this Ordinance or of the El Paso County Land Development Code; the Director has verified that the property from which the impounded items were removed has remained in compliance with this Ordinance; and all costs assessable under this Ordinance, including storage costs, have been paid in full with cash, money order, or cashier's check.

**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.**

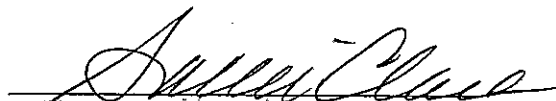
If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

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

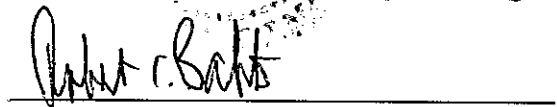
The foregoing text is the authentic text of El Paso County Ordinance No. 06-02. The first reading of the ordinance took place on November 6, 2006. It was published in full in the El Paso County Advertiser and News on November 29, 2006.

It was adopted without amendment on December 14, 2006, and is to be republished by title in the El Paso County Advertiser and News on January 10, 2007 and shall take effect April 2, 2007.

DONE AND SIGNED this 14th day of December, 2006, at Colorado Springs, Colorado.

  
Sallie Clark, Chair  
Board of County Commissioners of  
El Paso County, Colorado

I hereby certify and attest that the provisions of Section 14, Ordinance 06-02, as set forth hereinabove are true and correct to the best of my knowledge, information and belief.

  
Robert C. Balink, County Clerk and Recorder  
El Paso County, Colorado