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EL PASO COUNTY
STATE OF COLORADO

ROBERT C. "BOB" BALINK	El Paso County, CO
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**ORDINANCE NO. 06-03
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., specifically authorizes the adoption of ordinances and regulations to compel the removal of weeds and brush from residential lots of less than two and one-half acres within the unincorporated areas of El Paso County, and

WHEREAS, the Board has previously enacted Ordinance 92-2, as amended, 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2.2 Ordinance 92-2, enacted October 2, 1992, is hereby repealed and replaced in whole by this Ordinance.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.

Section 4: Definitions.

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.

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 less than two and one-half (2.5) acres 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.

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 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) 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 Weeds and Brush.

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 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) days of 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 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 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 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) 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.

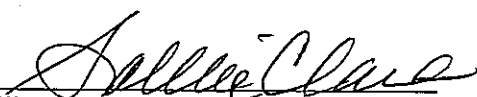
If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 14: Publication and Effective Date.

The foregoing text is the authentic text of El Paso County Ordinance No. 06-03. 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.

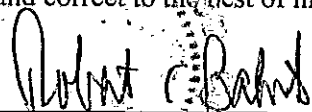
It was adopted without amendment on December 14, 2006, and is to be republished by title in the El Paso County Advertiser and News on January 10, 2007 and shall take effect April 2, 2007.

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 06-03, 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