

# Board of Supervisors

**Patrick G. Call**  
Chairman  
District 1



**Michael J. Ortega**  
County Administrator

**Ann English**  
Vice-Chairman  
District 2

**James E. Vlahovich**  
Deputy County Administrator

**Richard R. Searle**  
Supervisor  
District 3

**Katie A. Howard**  
Clerk

**AGENDA FOR WORK SESSION**  
**Tuesday, January 4, 2011 at 2:00 p.m.**  
BOARD OF SUPERVISORS EXECUTIVE CONFERENCE ROOM  
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

**ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION**

**ROLL CALL**

*Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.*

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***ITEMS FOR DISCUSSION***

**Board of Supervisors**

1. Review and discussion of proposed revisions to the Hazard Abatement Ordinance; direction to staff.

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

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**Cochise County - 1415 Melody Lane, Building G - Bisbee, Arizona 85603**  
**(520) 432-9200 - Fax (520) 432-5016 - Email : [board@cochise.az.gov](mailto:board@cochise.az.gov)**  
**[www.cochise.az.gov](http://www.cochise.az.gov)**

**"PUBLIC PROGRAMS, PERSONAL SERVICE"**

DIS-56

Items For Discussion Item #: 1.  
Community Development

Work Session Board of Supervisors

Date: 01/04/2011

Review Hazard Abatement Ordinance

Submitted By: Katie Howard  
Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

NAME of PRESENTER: TBD TITLE of PRESENTER: TBD

ORGANIZATION NAME of PRESENTER: n/a

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### Information

#### Agenda Item Text:

Review and discussion of proposed revisions to the Hazard Abatement Ordinance; direction to staff.

#### Background:

The revised Hazard Abatement Ordinance was presented to the Board at its regular meeting on December 21, 2010. Several questions were raised by Board members and members of the public, during the Public Hearing, about the proposed revisions. The Board determined that a Work Session was required in order to have a fuller discussion of these questions. The formal Board item, to adopt the Ordinance, was tabled until February 8, 2011 and the Board requested a Work Session to be scheduled on January 4, 2011.

#### To BOS Staff: Document Disposition/Follow-Up:

n/a

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### Attachments

[December 2010 BOS Staff Report](#)

[Proposed Hazard Abatement Ordinance](#)

[Resolution87-91\\_Existing Hazard Abatement Ordinance](#)

[PowerPoint](#)



## **COCHISE COUNTY PLANNING DEPARTMENT**

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

TO: Board of Supervisors

FROM: Rick Corley, Zoning Administrator  
FOR: Carlos De La Torre, P.E., Community Development Director

DATE: December 9, 2010 for the December 21, 2010

SUBJECT: Docket R-09-02, County Hazard Abatement Ordinance—amendment to the whole.

### I. Background

Under ARS 11-268 (see attachment A) the State legislature gives counties the authority to abate hazards, establish a payment schedule for property owner to reimburse the County for abatement expenses, and place liens on properties to recoup County expenses when not voluntarily repaid by the owner(s). There has been a hazard abatement ordinance (Resolution 84-65) in effect in the County since October 19, 1984; this was amended in 1987 (Resolution 87-91) to allow liens to be placed on properties on which the County abated hazards. However, liens have not routinely been placed on properties. On June 11<sup>th</sup>, 2009, the Board of Supervisors gave staff direction to update Resolution 87-91 to reflect current County staffing and policies, and to provide a systematic approach to recovering County funds via the lien process. A work session with the Planning & Zoning Commission took place on May 12, 2010. At the December 8, 2010 Planning and Zoning Commission meeting the Commission voted 7-0 (unanimous) with a recommendation of approval to send the Ordinance to the Board of Supervisors.

Attachment B is the proposed Hazard Abatement Ordinance which is intended to simplify and clarify definitions and processes while meeting the new requirements of Statute ARS 11-268:

### II. Revisions to Hazard Abatement Ordinance Resolution 87-91:

Please note that the proposed Ordinance is an amendment to the whole of the currently adopted Ordinance. The entire Ordinance is new and would replace the existing Ordinance. Differences between the 1987 Ordinance and the proposed Ordinance:

The table of contents has been removed to match other ordinances.

Chapter 1 Purpose and Scope of the 1987 Ordinance is deleted.

Chapter 2 of the 1987 Ordinance is now "Part I: DEFINITIONS" instead of ENFORCEMENT

The Ordinance deleted two definitions and added fifteen new definitions for clarity. The definitions chapter has been moved ahead the enforcement chapter for reader clarity.

Part I of the proposed Ordinance consists of definitions. Note that Dilapated Building is defined as any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public;

Also the Hazard Abatement Officer has been clarified as the Zoning Inspector or duly authorized representative.

Chapters 4 through 8 of the 1987 Ordinance have been streamlined and included in a new Part II which describes the definitions and processes for violations, notices of abatement orders, appeals of the notices of abatement orders, and the material removal process.

Part II is the main part of the proposed Ordinance, it establishes at subparagraph (noted below):

- A. that dumping on your private land, public land or other private land is a violation; that dumping on public or others' land is also a class 1 misdemeanor;
- At subparagraphs B & C, those cited have 30 days to remove;
- C. any lienholder has been added to persons to issue a notice in writing;
- C. & D.2 reasonable belief was changed to finding probabable cause;
- D. spells out what is to be in the order, including an estimate of cost of clean-up, and notice that appeal must be taken within 15 days and that (D.4.) an affidavit attesting to the fact that said material was disposed of in a legal manner;
- E. provides the appeal process, hearing before board set within reasonable time (arbitrary deadlines difficult for scheduling, political pressure will force earliest reasonable time);
- F. spells out the process if the owner doesn't appeal (appeal stays enforcement per E.4) or abate F.1. If the removal or abatement is to be performed by an outside contractor, in retaining a contractor the Hazard Abatement Office shall comply with the County Procurement policy. In the alternative, removal or abatement may be performed by a State Prison work crew or Cochise County personnel if it is determined by the Hazard Abatement Officer to be feasible, in which case costs will be the actual costs to the County plus the time of County personnel assessed at applicable rates;
- G. establishes that the actual cost of abatement becomes the amount of the assessment against the subject property;
- H. provides for notice of assessment and a chance to appeal;
- I. establishes the appeal right;
- J. provides for a report of assessment as a basis for imposition of assessment. This must be signed by the Board Chairman before being established as an assessment. Board approval is not required. Upon receipt of the Report by the Board, the Chairman shall sign it, with

the authority to do so hereby delegated by the Board to the Chairman. Board approval of the Report is not required. Thereafter, upon recordation pursuant to Paragraph II.L, the assessment shall become a lien against the property. Requested change from the Clerk of the Board of Supervisors;

- K. establishes a right to hearing on the assessment;
- L. establishes that in the end, upon recordation, the assessment takes effect. Clarifies the County as the County Zoning Inspector or his designee and that it shall be recorded instead of may be recorded, upon the Board Chairman signing a Report of Assessment pursuant to Paragraph II.J;
- M. establishes that the assessment also constitutes a lien against the property;
- N. notes that the county may foreclose on the lien by forcing a sale;
- O. establishes that more than one assessment may be imposed on the same property over time, for multiple violations;
- P. gives the Board of Supervisors the option of appointing a hearing examiner to hear all or some appeals, and
- Q. establishes the schedule for collection of assessments established by the legislature, incorporation of which in this ordinance was the motivating force behind this revision.

Chapter 3 of the 1987 Ordinance is now ENFORCEMENT instead of DEFINITIONS.

Part 3 of the proposed Ordinance reiterates that wildcat dumping is a misdemeanor, independent of any other enforcement provisions of this ordinance.

Part 4 notes that any remedies in the ordinance are in addition to any other enforcement measures that may be imposed under law.

### III. Recommendation

Staff recommends the Board of Supervisors adopt R-09-02, County Hazard Abatement Ordinance—amendment to the whole approve the Hazard Abatement Ordinance.

Attachment A: ARS 11-268 State Statute

Attachment B: December 7, 2010 proposed Hazard Abatement Ordinance—an amendment to the whole

## Attachment A

### 11-268. Removal of rubbish, trash, weeds, filth, debris and dilapidated buildings; violation; classification; removal by county; costs assessed; collection; priority of lien; definition

A. The board of supervisors, by ordinance, shall compel the owner, lessee or occupant of buildings, grounds or lots located in the unincorporated areas of the county to remove rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys. Any such ordinance shall require and include:

1. Reasonable written notice to the owner, any lienholder, occupant or lessee. The notice shall be given not less than thirty days before the day set for compliance and shall include the estimated cost to the county for the removal if the owner, occupant or lessee does not comply. The notice shall be either personally served or mailed by certified mail to the owner, occupant or lessee at his last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

2. Provisions for appeal to the board of supervisors on both the notice and the assessments.

3. That any person, firm or corporation that places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation is guilty of a class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for the removal of the rubbish, trash, filth or debris.

B. The ordinance may provide that if any person with an interest in the property, including an owner, lienholder, lessee or occupant of the buildings, grounds or lots, after notice as required by subsection A, paragraph 1, does not remove the rubbish, trash, weeds, filth, debris or dilapidated buildings and abate the condition which constitutes a hazard to public health and safety, the county may, at the expense of the owner, lessee or occupant, remove, abate, enjoin or cause the removal of the rubbish, trash, weeds, filth, debris or dilapidated buildings.

C. The board of supervisors may prescribe by the ordinance a procedure for such removal or abatement and for making the actual cost of such removal or abatement, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement, an assessment upon the lots and tracts of land from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed.

D. The ordinance may provide that the cost of removal, abatement or injunction of the rubbish, trash, weeds, filth, debris or dilapidated buildings from any lot or tract of land located in the unincorporated areas of the county and associated legal costs be assessed in the manner and form prescribed by ordinance of the county upon the property from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed, abated or enjoined. The county shall record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of the assessment and the legal description of the property. Any assessment recorded after the effective date of this amendment to this section is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages. A sale of the property to satisfy an assessment obtained under this section shall be made on judgment of foreclosure and order of sale. The county may bring an action to enforce the lien in the superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

E. Assessments that are imposed under subsection D run against the property until they are paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

F. A prior assessment for the purposes provided in this section is not a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

G. Before the removal of a dilapidated building the board of supervisors shall consult with the state historic preservation officer to determine if the building is of historical value.

H. If a county removes a dilapidated building pursuant to this section, the county assessor shall adjust the valuation of the property on the property assessment tax rolls from the date of removal.

I. As used in this section occupant does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States government, either under contract or under federal law.

J. As used in this section, "dilapidated building" means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety or property of the public.

**“Attachment B”**

**ORDINANCE 10 –**

**COCHISE COUNTY  
HAZARD ABATEMENT ORDINANCE**

**PURSUANT TO AUTHORITY OF A.R.S. § 11-268.**

**[Note: Where a provision is required or authorized by statute, the relevant statute section number is indicated in brackets.]**

**PART I: DEFINITIONS**

As used herein, bold-faced terms shall have the following meaning:

1. **“Board”** means the Cochise County Board of Supervisors.
2. **“Building”** means any real property structure, movable or immovable, permanent or temporary, vacant or occupied, used (or of a type customarily used) for human lodging or business purposes, or where livestock, produce, or personal or business property is located, stored or used.
3. **“Contiguous Sidewalks, Streets and Alleys”** means any sidewalk, street, or alley, public or private, adjacent to the edge or boundary, or touching on the edge or boundary, of any real property.
4. **“County”** means the unincorporated areas of Cochise County.
5. **“Days”** means calendar days unless otherwise noted.
6. **“Dilapidated Building”** means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public.
7. **“Grounds”** means any private or public land, vacant or improved.

8. **“Hazard Abatement Officer”** means the County Zoning Inspector or duly authorized representative to discharge the duties of the County pursuant to this ordinance unless otherwise expressly provided herein.
9. **“Lessee”** means a person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.
10. **“Lots”** means any plot or quantity of land, vacant or improved, private or public, as surveyed, platted or apportioned for sale or any other purpose.
11. **“Occupant”** means a person who has the actual use, possession or control of real property. The term does not include any corporation or association operating or maintaining right-of-way for and on behalf of the United States government, either under contract or federal law. [A.R.S. § 11-268.I]
12. **“Owner”** means a person who is a record owner of real property as shown in the public records in the office of the Cochise County Recorder, and includes a person holding equitable title under a recorded installment sales contract, contract for deed or similar instrument.
13. **“Person”** means an individual, partnership, corporation, association, trust, state, municipality, political subdivision, or any other entity that is legally capable of owning, leasing, or otherwise possessing real property.
14. **“Public nuisance”** means a dilapidated building or an accumulation of rubbish, trash, weeds, filth or debris that constitutes a hazard to the public health and safety as determined by the Hazard Abatement Officer.
15. **“Real Property”** means buildings, grounds, or lots, as well as contiguous sidewalks, streets, and alleys, located in the County.

**PART II: VIOLATION OF ORDINANCE; REMOVAL OF PUBLIC NUISANCE BY OWNER, LESSEE OR OCCUPANT; SERVICE OF NOTICE TO ABATE; REMOVAL BY COUNTY; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIEN.**

- A. **Violation.** A person, firm or corporation shall have created a public nuisance and committed a violation of this ordinance if such person, firm or corporation without lawful authority, and in a manner that constitutes a hazard to public health and safety:

1. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon property located in the County of which they are owner, lessee, or occupant. [A.R.S. § 11-268.A]
2. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon contiguous sidewalks, streets and alleys in the County which are dedicated and open to the public. [A.R.S. § 11-268.A]
3. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon any other private or public property in the County not owned or under the control of the person, firm or corporation. [A.R.S. § 11-268.A.3]

**B. Duty to remove.** A person, firm or corporation shall remove or otherwise abate a public nuisance as defined herein in thirty (30) days after mailing or personal service of a Notice and Order to Abate as provided herein. [A.R.S. § 11-268.A.1]

**C. Notice and Order to Abate.** Upon finding probable cause that a violation of this ordinance has occurred, the Hazard Abatement Officer shall issue a notice in writing which shall be served in person or by certified mail upon the owner, any lienholder, occupant or lessee at their last known address or at the address on file in the County Treasurer's Office to which the most recent tax bill was mailed. If the owner does not reside on the property, a copy of the notice shall be served upon the owner in person or by certified mail to the owner's last known address. Failure by any party to receive the notice shall not be a bar to abatement, assessment of costs or lien of assessment pursuant to this Ordinance. [A.R.S. § 11-268.A.1]

**D. Notice and Order.** The Notice and Order to Abate shall include the following:

1. The street address, parcel number and a legal description sufficient for identification of the premises on which the alleged violation occurred.
2. A statement that the Hazard Abatement Officer has determined that there is a probable cause that a violation of this ordinance has occurred on the premises identified in the notice.
3. An order that the owner, occupant or lessee shall have thirty (30) days from the date of mailing or personal service of the order to remove any rubbish, trash, weeds, filth, debris or dilapidated buildings upon the property or upon contiguous sidewalks, streets or alleys.

4. A statement that rubbish, trash, weeds, filth, debris or dilapidated building materials constituting a public nuisance must be disposed of at an appropriate waste collection facility or by other legal means and that an affidavit attesting to the fact that said material was disposed of in a legal manner, to which a tipping fee receipt or other evidence of legal disposal may be attached, is to be submitted to the Hazard Abatement Officer prior to a determination of compliance with the Notice and Order to Abate.
5. A statement that the County may cause the violation to be abated if the owner, occupant or lessee fails to comply with the order within the specified compliance period.
6. An estimate of the cost of removal or abatement by the County, including incidental costs, to be based on an estimate provided by a qualified contractor or by the Hazard Abatement Officer. [A.R.S. § 11-268.A.1]
7. A statement that the owner, occupant or lessee shall have fifteen (15) days from the post mark date of mailing or personal service of the Notice and Order to Abate to appeal the issuance of the notice to the Board of Supervisors and that failure to appeal will constitute waiver of all rights to an administrative hearing and determination of the matter.
8. A statement that a party who places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated area of the county that is not owned or controlled by that party without authorized permission is guilty of a Class 1 misdemeanor and may be subject to criminal penalties in addition to the cost of abatement. [A.R.S. § 11-268.A.3]

**E. Appeal of Notice and Order to Abate.** Any person receiving a Notice and Order to Abate may appeal to the Board of Supervisors as follows[A.R.S. § 11-268.A.2]:

1. **Notice of Appeal.** A written Notice of Appeal shall be filed with the Clerk of the Board within fifteen (15) days after the Notice and Order to Abate was mailed or personally served. The date of receipt by the Board shall be the date of filing.
2. **Contents of Notice of Appeal.** The Notice of Appeal shall state in reasonable detail why the appellants should not be required to comply with the Notice and Order to Abate.
3. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board

has appointed a hearing officer pursuant to Paragraph II.P, refer the appeal to the hearing officer. The Hazard Abatement Officer shall appear and present evidence of the existence of the Public Nuisance. The appellant may present evidence controverting the existence of the Public Nuisance. The hearing shall be informal and without regard to the rules of procedure or evidence governing court proceedings. The Board shall decide the appeal. The appellant may appeal the Board's decision to Superior Court, as provided by statute.

4. **Extension of Time for Compliance.** If the Board's decision is adverse to the appellant, the date of compliance set forth in the Notice and Order to Abate shall be extended until thirty (30) days from the date of the Board's decision.

**F. Removal by Board.** If the owner, lessee or occupant fails to remove or otherwise abate the Public Nuisance in thirty (30) days of mailing or personal service of the Notice and Order to Abate (or such extension thereof as may be granted in writing by the Board), the Board or its designee may, at the expense of the owner, lessee or occupant, order removal or abatement of the Public Nuisance or cause it to be removed or abated; provided, however, that if such removal or abatement is not undertaken within one hundred and eighty (180) days after the right to do so first accrues, a new Notice and Order to Abate shall be served as provided in Paragraph II.C. [A.R.S. § 11-268.B]

1. **Cost of Removal.** The costs assessed for removal or abatement shall not exceed the actual costs and incidental expenses thereof. If the removal or abatement is to be performed by an outside contractor, in retaining a contractor the Hazard Abatement Officer shall comply with the County Procurement policy. In the alternative, removal or abatement may be performed by a State Prison work crew or Cochise County personnel if it is determined by the Hazard Abatement Officer to be feasible, in which case costs will be the actual costs to the County including the time of County personnel assessed at applicable rates. [A.R.S. § 11-268.C]
2. **Historical Review.** Before the removal of a dilapidated building, the Board shall consult with the state historic preservation officer to determine if the building may be of historical value. [A.R.S. § 11-268.G]
3. **Removal from Tax Rolls.** Upon the removal of a dilapidated building, the County Assessor shall adjust the valuation of the Real Property on the property assessment tax roll from the date of removal. [A.R.S. § 11-268.H]

**G. Assessment.** Upon the removal or abatement of Public Nuisance as provided in Paragraph II.F, the actual cost of removal or abatement, together with the actual cost of

any additional inspections and other incidental costs, shall be an assessment against the Real Property on which the Public Nuisance was located. [A.R.S. § 11-268.C]

- H. Notice of Assessment.** A written Notice of Assessment shall be served in the same manner as the Notice and Order to Abate. The Notice of Assessment shall list the common address, legal description and tax parcel number of the property. The Notice of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual costs of any additional inspections and other incidental costs. The Notice shall state that the entire cost is due and payable in full not later than thirty (30) days from the date of issuance of the Notice and that the assessment will become delinquent as of that date. The Notice shall be signed by the Hazard Abatement Officer. The Notice shall also contain the following statement in bold face print:

**NOTICE: THIS NOTICE OF ASSESSMENT PURSUANT TO A.R.S. § 11-268 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THE NOTICE IN FAVOR OF COCHISE COUNTY. THE COUNTY MAY FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS STATED IN THE NOTICE OF ASSESSMENT.**

The Notice of Assessment shall indicate that the owner, lessee or occupant shall have fifteen (15) days from the post marked date of the mailing or personal service of the Notice of Assessment to appeal the amount of the assessment imposed by the County.

- I. Appeal of Notice of Assessment.** All appeals of assessments shall be in writing and shall specify the grounds for appeal of the assessment. The date of receipt of the Notice of Appeal by the Board shall be the date of filing. No appeals of violations shall be heard upon appeal of an assessment. [A.R.S. § 11-268.A.2]
- J. Report of Assessment.** If an appeal of the Notice of Assessment is not timely filed, the Hazard Abatement Officer shall prepare a Report of Assessment for review by the Board of Supervisors. The Report shall list the common address, legal description and tax parcel of the property. The Report of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual cost of any additional inspections and other incidental costs. Upon receipt of the Report by the Board, the Chairman shall sign it, with authority to do so hereby delegated by the Board to the Chairman. Board approval of the Report is not required. Thereafter, upon recordation pursuant to Paragraph I.L, the assessment shall become a lien against the property.
- K. Hearing on Appeal.** Upon receipt of the Notice of Appeal of Assessment, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if

the Board has appointed a hearing officer pursuant to Paragraph II.P of this ordinance, refer the appeal to the hearing officer. Written notice of the hearing shall be provided to the Hazard Abatement Officer, to other appropriate County departments and to the Appellant. The Hazard Abatement Officer shall appear and present the facts supporting the assessment as well as an itemized listing of the actual cost of removal or abatement, the costs of any additional inspections and other incidental costs. The Appellant may present evidence controverting the imposition of the assessment. The Board shall determine whether the assessment was made in accordance with the provisions of this ordinance and applicable state statutes, and whether the amount of the assessment is sufficient to cover the actual costs of abatement and related activities. After hearing all of the evidence presented, or after reviewing recommendations made by its hearing officer, the Board shall issue its findings in writing upholding or modifying the amount of the assessment. The decision of the Board of Supervisors shall be final.

**L. Recordation.** If the owner, lessee or occupant fails to pay the assessment within thirty (30) days after receipt of the Notice of Assessment (or any extension as may have been granted in writing by the County Zoning Inspector or his designee), and fails to timely appeal the assessment, that assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder, upon the Board Chairman signing a Report of Assessment pursuant to Paragraph II.J. If a Notice of Assessment is appealed to the Board and the assessment is sustained in whole or in part in a written decision by the Board, and the owner, lessee or occupant fails to pay the amount of the assessment ordered by the Board within thirty (30) days after receipt of the Board's decision, the assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder. [A.R.S. § 11-268.D]

**M. Lien of Assessment.** The assessment shall be a lien against the real property from and after the date of recordation and shall accrue interest at the statutory judgment rate until paid. The lien of assessment shall be subject to and inferior to all prior recorded mortgages and encumbrances and to such other liens as specifically provided by law. [A.R.S. § 11-268.D]

**N. Foreclosure.** The Board may, but shall not be obligated to, bring an action to enforce the assessment lien in the Cochise County Superior Court at any time after the recordation of the assessment. The recorded assessment is prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings before the recordation thereof.

**O. Subsequent Assessments.** A prior assessment shall not constitute a bar to a subsequent assessment or assessments for such purposes and any number of liens may be recorded and may be enforced in the same or separate actions by the County. [A.R.S. § 11-268.F]

**P. Hearing Officer; Appointment and Duties.** In fulfilling the responsibilities required of the Board of Supervisors pursuant to this ordinance, the Board may, by a majority vote of its members, appoint a hearing officer to review appeals of Notices to Abate and/or Notices of Assessment. The hearing officer shall hold hearings and take testimony, make findings and prepare recommendations to be reported for action by the Board of Supervisors.

**Q. Assessment schedule.** Assessments that are imposed pursuant to this ordinance run against the property until they are paid, and are due and payable in equal annual installments as follows [A.R.S. § 11-268.E]:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one year after the assessment is recorded;
2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000.00) shall be paid within two years after the assessment is recorded;
3. Assessments of one thousand dollars (\$1,000.00) or more but less than five thousand dollars (\$5,000.00) shall be paid within three years after the assessment is recorded;
4. Assessments of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) shall be paid within six years after the assessment is recorded;
5. Assessments of ten thousand dollars (\$10,000.00) or more shall be paid within ten years after the assessment is recorded.

### **PART III: ADDITIONAL PENALTIES**

**A. Classification; Liability.** In addition to the penalties imposed pursuant to the abatement and assessment provisions of this ordinance, any person, firm or corporation placing any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation shall be guilty of a Class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this ordinance, shall be liable for all costs which may be assessed pursuant to this ordinance for the removal of the rubbish, trash, filth or debris. [A.R.S. § 11-268.A.3]

### **PART IV: NON-EXCLUSIVE REMEDY**

The remedies provided for in this ordinance shall be in addition to any and all other remedies, civil or criminal, available to Cochise County pursuant to statute and common law, specifically including those set forth in A.R.S. §§ 13-2908, 36-602 and 49-143.

**PASSED AND ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2010.**

---

Patrick G. Call, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

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Katie A. Howard  
Clerk of the Board

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Britt Hanson  
Chief Civil Deputy County Attorney

**ORDINANCE - 10**

**COCHISE COUNTY  
HAZARD ABATEMENT ORDINANCE**

**PURSUANT TO AUTHORITY OF A.R.S. § 11-268.**

**[Note: Where a provision is required or authorized by statute, the relevant statute section number is indicated in brackets.]**

**PART I: DEFINITIONS**

As used herein, bold-faced terms shall have the following meaning:

1. **“Board”** means the Cochise County Board of Supervisors.
2. **“Building”** means any real property structure, movable or immovable, permanent or temporary, vacant or occupied, used (or of a type customarily used) for human lodging or business purposes, or where livestock, produce, or personal or business property is located, stored or used.
3. **“Contiguous Sidewalks, Streets and Alleys”** means any sidewalk, street, or alley, public or private, adjacent to the edge or boundary, or touching on the edge or boundary, of any real property.
4. **“County”** means the unincorporated areas of Cochise County.
5. **“Days”** means calendar days unless otherwise noted.
6. **“Dilapidated Building”** means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public.
7. **“Grounds”** means any private or public land, vacant or improved.

8. **“Hazard Abatement Officer”** means the County Zoning Inspector or duly authorized representative to discharge the duties of the County pursuant to this ordinance unless otherwise expressly provided herein.
9. **“Lessee”** means a person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.
10. **“Lots”** means any plot or quantity of land, vacant or improved, private or public, as surveyed, platted or apportioned for sale or any other purpose.
11. **“Occupant”** means a person who has the actual use, possession or control of real property. The term does not include any corporation or association operating or maintaining right-of-way for and on behalf of the United States government, either under contract or federal law. [A.R.S. § 11-268.I]
12. **“Owner”** means a person who is a record owner of real property as shown in the public records in the office of the Cochise County Recorder, and includes a person holding equitable title under a recorded installment sales contract, contract for deed or similar instrument.
13. **“Person”** means an individual, partnership, corporation, association, trust, state, municipality, political subdivision, or any other entity that is legally capable of owning, leasing, or otherwise possessing real property.
14. **“Public nuisance”** means a dilapidated building or an accumulation of rubbish, trash, weeds, filth or debris that constitutes a hazard to the public health and safety as determined by the Hazard Abatement Officer.
15. **“Real Property”** means buildings, grounds, or lots, as well as contiguous sidewalks, streets, and alleys, located in the County.

**PART II: VIOLATION OF ORDINANCE; REMOVAL OF PUBLIC NUISANCE BY OWNER, LESSEE OR OCCUPANT; SERVICE OF NOTICE TO ABATE; REMOVAL BY COUNTY; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIEN.**

- A. **Violation.** A person, firm or corporation shall have created a public nuisance and committed a violation of this ordinance if such person, firm or corporation without lawful authority, and in a manner that constitutes a hazard to public health and safety:
  1. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon property located in the County of which they are owner, lessee, or occupant. [A.R.S. § 11-268.A]

2. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon contiguous sidewalks, streets and alleys in the County which are dedicated and open to the public. [A.R.S. § 11-268.A]
3. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon any other private or public property in the County not owned or under the control of the person, firm or corporation. [A.R.S. § 11-268.A.3]

**B. Duty to remove.** A person, firm or corporation shall remove or otherwise abate a public nuisance as defined herein in thirty (30) days after mailing or personal service of a Notice and Order to Abate as provided herein. [A.R.S. § 11-268.A.1]

**C. Notice and Order to Abate.** Upon finding probable cause that a violation of this ordinance has occurred, the Hazard Abatement Officer shall issue a notice in writing which shall be served in person or by certified mail upon the owner, any lienholder, occupant or lessee at their last known address or at the address on file in the County Treasurer's Office to which the most recent tax bill was mailed. If the owner does not reside on the property, a copy of the notice shall be served upon the owner in person or by certified mail to the owner's last known address. Failure by any party to receive the notice shall not be a bar to abatement, assessment of costs or lien of assessment pursuant to this Ordinance. [A.R.S. § 11-268.A.1]

**D. Notice and Order.** The Notice and Order to Abate shall include the following:

1. The street address, parcel number and a legal description sufficient for identification of the premises on which the alleged violation occurred.
2. A statement that the Hazard Abatement Officer has determined that there is a probable cause that a violation of this ordinance has occurred on the premises identified in the notice.
3. An order that the owner, occupant or lessee shall have thirty (30) days from the date of mailing or personal service of the order to remove any rubbish, trash, weeds, filth, debris or dilapidated buildings upon the property or upon contiguous sidewalks, streets or alleys.
4. A statement that rubbish, trash, weeds, filth, debris or dilapidated building materials constituting a public nuisance must be disposed of at an appropriate waste collection facility or by other legal means and that an affidavit attesting to the fact that said material was disposed of in a legal manner, to which a tipping fee receipt or other evidence of legal disposal may be attached, is to be submitted to the Hazard Abatement Officer prior to a determination of compliance with the Notice and Order to Abate.

5. A statement that the County may cause the violation to be abated if the owner, occupant or lessee fails to comply with the order within the specified compliance period.
6. An estimate of the cost of removal or abatement by the County, including incidental costs, to be based on an estimate provided by a qualified contractor or by the Hazard Abatement Officer. [A.R.S. § 11-268.A.1]
7. A statement that the owner, occupant or lessee shall have fifteen (15) days from the post mark date of mailing or personal service of the Notice and Order to Abate to appeal the issuance of the notice to the Board of Supervisors and that failure to appeal will constitute waiver of all rights to an administrative hearing and determination of the matter.
8. A statement that a party who places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated area of the county that is not owned or controlled by that party without authorized permission is guilty of a Class 1 misdemeanor and may be subject to criminal penalties in addition to the cost of abatement. [A.R.S. § 11-268.A.3]

**E. Appeal of Notice and Order to Abate.** Any person receiving a Notice and Order to Abate may appeal to the Board of Supervisors as follows[A.R.S. § 11-268.A.2]:

1. **Notice of Appeal.** A written Notice of Appeal shall be filed with the Clerk of the Board within fifteen (15) days after the Notice and Order to Abate was mailed or personally served. The date of receipt by the Board shall be the date of filing.
2. **Contents of Notice of Appeal.** The Notice of Appeal shall state in reasonable detail why the appellants should not be required to comply with the Notice and Order to Abate.
3. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P, refer the appeal to the hearing officer. The Hazard Abatement Officer shall appear and present evidence of the existence of the Public Nuisance. The appellant may present evidence controverting the existence of the Public Nuisance. The hearing shall be informal and without regard to the rules of procedure or evidence governing court proceedings. The Board shall decide the appeal. The appellant may appeal the Board's decision to Superior Court, as provided by statute.
4. **Extension of Time for Compliance.** If the Board's decision is adverse to the appellant, the date of compliance set forth in the Notice and Order to Abate shall be extended until thirty (30) days from the date of the Board's decision.

**F. Removal by Board.** If the owner, lessee or occupant fails to remove or otherwise abate the Public Nuisance in thirty (30) days of mailing or personal service of the Notice and Order to Abate (or such extension thereof as may be granted in writing by the Board), the Board or its designee may, at the expense of the owner, lessee or occupant, order removal or abatement of the Public Nuisance or cause it to be removed or abated; provided, however, that if such removal or abatement is not undertaken within one hundred and eighty (180) days after the right to do so first accrues, a new Notice and Order to Abate shall be served as provided in Paragraph II.C. [A.R.S. § 11-268.B]

1. **Cost of Removal.** The costs assessed for removal or abatement shall not exceed the actual costs and incidental expenses thereof. If the removal or abatement is to be performed by an outside contractor, in retaining a contractor the Hazard Abatement Officer shall comply with the County Procurement policy. In the alternative, removal or abatement may be performed by a State Prison work crew or Cochise County personnel if it is determined by the Hazard Abatement Officer to be feasible, in which case costs will be the actual costs to the County including the time of County personnel assessed at applicable rates. [A.R.S. § 11-268.C]
2. **Historical Review.** Before the removal of a dilapidated building, the Board shall consult with the state historic preservation officer to determine if the building may be of historical value. [A.R.S. § 11-268.G]
3. **Removal from Tax Rolls.** Upon the removal of a dilapidated building, the County Assessor shall adjust the valuation of the Real Property on the property assessment tax roll from the date of removal. [A.R.S. § 11-268.H]

**G. Assessment.** Upon the removal or abatement of Public Nuisance as provided in Paragraph II.F, the actual cost of removal or abatement, together with the actual cost of any additional inspections and other incidental costs, shall be an assessment against the Real Property on which the Public Nuisance was located. [A.R.S. § 11-268.C]

**H. Notice of Assessment.** A written Notice of Assessment shall be served in the same manner as the Notice and Order to Abate. The Notice of Assessment shall list the common address, legal description and tax parcel number of the property. The Notice of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual costs of any additional inspections and other incidental costs. The Notice shall state that the entire cost is due and payable in full not later than thirty (30) days from the date of issuance of the Notice and that the assessment will become delinquent as of that date. The Notice shall be signed by the Hazard Abatement Officer. The Notice shall also contain the following statement in bold face print:

**NOTICE: THIS NOTICE OF ASSESSMENT PURSUANT TO A.R.S. § 11-268 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THE NOTICE IN FAVOR OF COCHISE COUNTY. THE COUNTY MAY FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO**

## **RECOVER THE COSTS STATED IN THE NOTICE OF ASSESSMENT.**

The Notice of Assessment shall indicate that the owner, lessee or occupant shall have fifteen (15) days from the post marked date of the mailing or personal service of the Notice of Assessment to appeal the amount of the assessment imposed by the County.

- I. Appeal of Notice of Assessment.** All appeals of assessments shall be in writing and shall specify the grounds for appeal of the assessment. The date of receipt of the Notice of Appeal by the Board shall be the date of filing. No appeals of violations shall be heard upon appeal of an assessment. [A.R.S. § 11-268.A.2]
- J. Report of Assessment.** If an appeal of the Notice of Assessment is not timely filed, the Hazard Abatement Officer shall prepare a Report of Assessment for review by the Board of Supervisors. The Report shall list the common address, legal description and tax parcel of the property. The Report of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual cost of any additional inspections and other incidental costs. Upon receipt of the Report by the Board, the Chairman shall sign it, with authority to do so hereby delegated by the Board to the Chairman. Board approval of the Report is not required. Thereafter, upon recordation pursuant to Paragraph II.L, the assessment shall become a lien against the property.
- K. Hearing on Appeal.** Upon receipt of the Notice of Appeal of Assessment, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P of this ordinance, refer the appeal to the hearing officer. Written notice of the hearing shall be provided to the Hazard Abatement Officer, to other appropriate County departments and to the Appellant. The Hazard Abatement Officer shall appear and present the facts supporting the assessment as well as an itemized listing of the actual cost of removal or abatement, the costs of any additional inspections and other incidental costs. The Appellant may present evidence controverting the imposition of the assessment. The Board shall determine whether the assessment was made in accordance with the provisions of this ordinance and applicable state statutes, and whether the amount of the assessment is sufficient to cover the actual costs of abatement and related activities. After hearing all of the evidence presented, or after reviewing recommendations made by its hearing officer, the Board shall issue its findings in writing upholding or modifying the amount of the assessment. The decision of the Board of Supervisors shall be final.
- L. Recordation.** If the owner, lessee or occupant fails to pay the assessment within thirty (30) days after receipt of the Notice of Assessment (or any extension as may have been granted in writing by the County Zoning Inspector or his designee), and fails to timely appeal the assessment, that assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder, upon the Board Chairman signing a Report of Assessment pursuant to Paragraph II.J. If a Notice of Assessment is appealed to the Board and the assessment is sustained in whole or in part in a written decision by the Board, and the owner, lessee or occupant fails to pay the amount of the assessment

ordered by the Board within thirty (30) days after receipt of the Board's decision, the assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder. [A.R.S. § 11-268.D]

**M. Lien of Assessment.** The assessment shall be a lien against the real property from and after the date of recordation and shall accrue interest at the statutory judgment rate until paid. The lien of assessment shall be subject to and inferior to all prior recorded mortgages and encumbrances and to such other liens as specifically provided by law. [A.R.S. § 11-268.D]

**N. Foreclosure.** The Board may, but shall not be obligated to, bring an action to enforce the assessment lien in the Cochise County Superior Court at any time after the recordation of the assessment. The recorded assessment is prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings before the recordation thereof.

**O. Subsequent Assessments.** A prior assessment shall not constitute a bar to a subsequent assessment or assessments for such purposes and any number of liens may be recorded and may be enforced in the same or separate actions by the County. [A.R.S. § 11-268.F]

**P. Hearing Officer; Appointment and Duties.** In fulfilling the responsibilities required of the Board of Supervisors pursuant to this ordinance, the Board may, by a majority vote of its members, appoint a hearing officer to review appeals of Notices to Abate and/or Notices of Assessment. The hearing officer shall hold hearings and take testimony, make findings and prepare recommendations to be reported for action by the Board of Supervisors.

**Q. Assessment schedule.** Assessments that are imposed pursuant to this ordinance run against the property until they are paid, and are due and payable in equal annual installments as follows [A.R.S. § 11-268.E]:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one year after the assessment is recorded;
2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000.00) shall be paid within two years after the assessment is recorded;
3. Assessments of one thousand dollars (\$1,000.00) or more but less than five thousand dollars (\$5,000.00) shall be paid within three years after the assessment is recorded;
4. Assessments of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) shall be paid within six years after the assessment is recorded;
5. Assessments of ten thousand dollars (\$10,000.00) or more shall be paid within ten years after the assessment is recorded.

### **PART III: ADDITIONAL PENALTIES**

**A. Classification; Liability.** In addition to the penalties imposed pursuant to the abatement and assessment provisions of this ordinance, any person, firm or corporation placing any

rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation shall be guilty of a Class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this ordinance, shall be liable for all costs which may be assessed pursuant to this ordinance for the removal of the rubbish, trash, filth or debris. [A.R.S. § 11-268.A.3]

**PART IV: NON-EXCLUSIVE REMEDY**

The remedies provided for in this ordinance shall be in addition to any and all other remedies, civil or criminal, available to Cochise County pursuant to statute and common law, specifically including those set forth in A.R.S. §§ 13-2908, 36-602 and 49-143.


**PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

\_\_\_\_\_  
Patrick G. Call, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Katie A. Howard  
Clerk of the Board

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Britt Hanson  
Chief Civil Deputy County Attorney

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V.L. THOMPSON, Benson  
Chairman



JUDITH A. GIGNAC, Sierra Vista

DAVID S. HUNT  
Administrator/Clerk

ANN ENGLISH, Mc Neal

# County of Cochise

## BOARD OF SUPERVISORS

P.O. BOX 225  
BISBEE, ARIZONA 85603  
(602) 432-5703

### RESOLUTION NO. 87-91

A RESOLUTION OF THE BOARD OF SUPERVISORS OF  
COCHISE COUNTY AMENDING THE PREVIOUSLY ADOPTED  
COCHISE COUNTY HAZARD ABATEMENT ORDINANCE

WHEREAS, A.R.S. §11-268 empowers counties to compel the removal of rubbish, trash, weeds, filth, debris and dilapidated and dangerous buildings which constitute a hazard to public health and safety from buildings, lots, grounds, contiguous sidewalks, streets and alleys; and

WHEREAS, by Resolution, The Board of Supervisors adopted an ordinance known as "The Cochise County Hazard Abatement Ordinance" which became effective September 17, 1984;

WHEREAS, a properly noticed public hearing was conducted prior to enactment of the proposed amendments;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the Cochise County Board of Supervisors herein amends the Ordinance known as "The Cochise County Hazard Abatement Ordinance" to read as set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Cochise County Planning Director is hereby re-designated as Cochise County Hazard Abate-

870923097

ment Officer.

UPON MOTION DULY MADE, SECONDED AND CARRIED, this Resolution is passed and adopted in open meeting this 8<sup>th</sup> day of September, 1987.

COCHISE COUNTY BOARD OF SUPERVISORS

By: *C. L. Thompson*  
Chairman



FEE # 870923097  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE            HOUR  
09/09/87      10

REQUEST            OF  
COCHISE COUNTY BOARD OF SUPV  
CHRISTINE RHODES-RECORDER  
FEE :            0.00            PAGES :    25

870923097  
COCHISE COUNTY BOARD OF SUPV  
BOX 225  
BISBEE            ,    AZ.    85603

COCHISE COUNTY

HAZARD ABATEMENT ORDINANCE

870923097

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## Chapter 1

### TITLE AND SCOPE

#### TITLE:

Section 101. These regulations shall be known as the "Cochise County Hazard Abatement Ordinance"; and may be cited as such and will be referred to herein as "this ordinance".

#### PURPOSE AND SCOPE:

Section 102. (a) PURPOSE: It is the purpose of this ordinance to provide a just, equitable and practicable method to be cumulative with and in addition to, any other remedy of Cochise County, which may be otherwise available at law, whereby any rubbish, trash, weeds, filth, debris or damaged and dilapidated buildings which constitute a hazard to public health and safety may be compelled to be removed from buildings, grounds, lots, contiguous sidewalks, streets and alleys, located within the unincorporated area of Cochise County.

(b) SCOPE: The provisions of this ordinance shall apply to all hazardous conditions as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

## Chapter 2

### ENFORCEMENT

#### GENERAL:

Section 201. (a) ADMINISTRATION: The position of hazard abatement officer is hereby created, said officer being herein authorized to enforce the provisions of this ordinance.

(b) INSPECTIONS: The health officer, representative of fire district if one is established, and the hazard abatement officer and their authorized representatives are hereby authorized to make such inspections as may be required to enforce the provisions of this ordinance. The Hazard Abatement Officer or his authorized representative may take such actions as may be required to carry out the provisions of this Ordinance.

(c) RIGHT OF ENTRY: Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the hazard abatement officer or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such buildings or premises unsafe, dangerous or hazardous, the hazard abatement officer or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the hazard abatement officer by this ordinance, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the hazard abatement officer or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the hazard abatement officer or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the hazard abatement officer or his authorized representative for the purpose of inspection and examination pursuant to this ordinance.

"Authorized representative" shall include the officers named in Section 201(b) and their authorized inspection personnel.

COMMENTARY:1/ In order for the hazard abatement officer (or his representative) to make an inspection, he must have "reasonable cause to believe" that there exists rubbish, trash, weeds, filth, or debris in or on a building or premises, or a dilapidated and dangerous building, which creates a condition which is unsafe, dangerous, or hazardous. Generally, the inspection will result from a complaint which he has received, or by observation of a condition that appears so dangerous that following up with an inspection is reasonable. It is not intended that the officer travel all over the county searching for hazardous conditions. Also, if the officer is not given permission by the owner to inspect, the officer must get a court warrant to inspect the property, and this requires him to make a showing of reasonable cause to the court.

#### BOARD OF APPEALS:

Section 202. In order to provide for final interpretation of the provisions of this ordinance and to hear appeals provided for hereunder, there is hereby established a Board of Appeals consisting of the Board of Supervisors. The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant, with a copy to the hazard abatement officer. Appeals to the Board shall be processed in accordance with the provisions contained in Section 501 of this ordinance. Copies of all rules or regulations adopted by the Board shall be delivered to the hazard abatement officer who shall make them freely accessible to the public.

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1/ Commentaries serve as a guide in interpreting and carrying out the text of the ordinance.

## Chapter 3

### DEFINITIONS

#### GENERAL:

Section 301. For the purpose of this ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged, copyright 1961, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Board of Appeals": The Board of Supervisors shall constitute the Board of Appeals for all appeals pursuant to this ordinance.

"Debris": The definition of debris in addition to its ordinary accepted meaning, shall include accumulations of combustible or flammable materials which are determined by the hazard abatement officer to constitute a hazard to public health or safety.

## Chapter 4

### REMOVAL OF RUBBISH, TRASH, FILTH, WEEDS, DEBRIS OR DILAPIDATED AND DANGEROUS BUILDINGS

#### REQUIREMENT FOR REMOVAL:

Section 401. When rubbish, trash, weeds, filth or debris, are accumulated on or in buildings, grounds, lots, contiguous sidewalks, streets or alleys and the hazard abatement officer determines that the accumulation or condition constitutes a hazard to public health and safety, or if the hazard abatement officer determines that a dilapidated and dangerous building constitutes a hazard to public health or safety, the hazard abatement officer may require the owner, lessee or occupant of buildings, grounds or lots located in unincorporated areas of the County to remove such rubbish, trash, weeds, filth, debris or dilapidated and dangerous building.

#### NOTICE OF VIOLATION:

Section 402. The hazard abatement officer shall provide formal written notice of the alleged violation to the owner, occupant or lessee of the subject premises not less than thirty (30) days prior to the date set for compliance. Such notice shall include the estimated cost to the County to remove, and advise the owner, occupant or lessee that if the county removes the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building, said expense shall be assessed to said owner, occupant or lessee. Said notice shall be either personally served or mailed to the owner, occupant or lessee at his last known address by certified mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

#### REMOVAL BY COUNTY:

Section 403. If, after notice, and after the specified date of compliance, the owner, occupant or lessee fails to remove the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building, and abate the conditions which constitute a hazard to public health and safety, the County may, at the expense of the owner, occupant or lessee, remove or cause removal of such trash, weeds, filth, debris or dilapidated and dangerous building. The

cost to be charged for such removal will be the actual cost of removal or abatement, including a five percent (5%) charge for additional inspection and incidental costs.

**ASSESSMENT OF COSTS OF REMOVAL:**

Section 404. The cost of removal of the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building from any lot or tract of land located in the unincorporated areas of the County may be assessed, as set forth in Chapter 8 of this Ordinance, upon the lot or tract of land from which the rubbish, trash, weeds, filth, debris or dilapidated and dangerous buildings are removed. The assessment, from the date of its recording in the Office of the County Recorder, shall be a lien on the lot or tract of land, until paid.

**APPEAL:**

Section 405. Both the notice of violation and any assessment imposed pursuant to this chapter may be appealed to the Board of Appeals in the manner provided in Chapter 5 of this Ordinance.

**RESTRICTIONS ON ENFORCEMENT:**

Section 406. As used in this chapter, "occupant" does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States Government, either under contract or under federal law.

**REVIEW OF HISTORIC VALUE:**

Section 407. Before the removal of a dilapidated and dangerous building the Board of Supervisors shall consult with the State Historic Preservation Office to determine if the building is of historic value.

**REMOVAL FROM TAX ROLLS:**

Section 408. If a county removes a dilapidated and dangerous building pursuant to this section, the County Assessor shall remove the structure from the property assessment tax rolls.

**COMMENTARY:** This chapter is intended to provide a way to remove rubbish, trash, weeds, filth, debris, or dilapidated and dangerous buildings that present a real danger to persons or property. This primarily occurs

in three cases: (1) accumulations or conditions which have a strong potential for causing or carrying a fire; (2) accumulations or conditions likely to cause injury to any person; and (3) accumulations or conditions likely to cause hazards to the health of any person. A.R.S. §36-601 provides a separate and additional ordinance and remedy to deal with accumulations that can cause disease or other health problems. While this chapter deals with situations caused by the occupant of the property, it also deals with involuntary acts of dumping by other persons or acts of nature. However, this section shall only be enforced when the condition is serious enough to present a real hazard to persons or property. It is not intended to apply as an "aesthetic" control -- that is, a way to get the county to beautify a neighbor's site.

## Chapter 5

### APPEAL

#### GENERAL:

Section 501. (a) FORM OF APPEAL: An owner, occupant or lessee of property affected may appeal from any notice and order or any action of the hazard abatement officer under this ordinance, or any assessment made pursuant to this Ordinance, by filing at the office of the hazard abatement officer written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the County of Cochise".

2. A caption reading: "Appeal of \_\_\_\_\_", giving the names of all appellants participating in the appeal."

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

6. The signatures of all parties named as appellants and their official mailing addresses.

7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty (30) days from the date of the service of such notice, order or action of the hazard abatement officer; provided, however, that if the condition is such as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the hazard abatement officer.

(b) PROCESSING OF APPEAL: Upon receipt of any appeal filed pursuant to this section, the hazard abatement officer shall present it at the next regular or special meeting of the Board of Appeals.

(c) SCHEDULING AND NOTICING APPEAL FOR HEARING: As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the hazard abatement officer. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

EFFECT OF FAILURE TO APPEAL:

Section 502. Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SCOPE OF HEARING ON APPEAL:

Section 503. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

STAYING OF ORDER UNDER APPEAL:

Section 504. Enforcement of any notice and order of the hazard abatement officer issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

COMMENTARY: A detailed appeal process is provided. Owner/occupant can challenge a decision of the hazard abatement officer to the Board of Supervisors. The Board will look carefully at the facts to see if the accumulation of rubbish, trash, filth, weeds, and debris, or dilapidated and dangerous building, is truly a hazard to public health or safety. In short, every protection is given to the property owner. There is a separate process to allow the property owner a right to challenge an interpretation by the hazard abatement officer to an independent advisory board.

## Chapter 6

### PROCEDURE FOR CONDUCT OF HEARING APPEALS

#### GENERAL:

Section 601. (a) RECORD: A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Board.

(b) REPORTING: The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the Board, but shall in no event be greater than the cost involved.

(c) CONTINUANCES: The Board may grant continuances for good cause shown.

(d) OATHS -- CERTIFICATION: In any proceedings under this chapter, the Board, any board member, has the power to administer oaths and affirmations and to certify to official acts.

(e) REASONABLE DISPATCH: The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

#### FORM OF NOTICE OF HEARING:

Section 602. The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the Board of Appeals at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Appeals."

**SUBPOENAS:**

Section 603. (a) **FILING OF AFFIDAVIT:** The Board may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specified the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.

(b) **PENALTIES:** When any person refuses without lawful excuse to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for herein, the Board may seek a court order to compel such attendance or production.

**CONDUCT OF HEARING:**

Section 604. (a) **RULES:** Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(b) **ORAL EVIDENCE:** Oral evidence shall be taken only on oath or affirmation.

(c) **HEARSAY EVIDENCE:** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this case.

(d) **ADMISSIBILITY OF EVIDENCE:** Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(e) **EXCLUSION OF EVIDENCE:** Irrelevant and unduly repetitious evidence shall be excluded.

(f) **RIGHTS OF PARTIES:** Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him to testify;
5. To rebut the evidence against him; and
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

(g) OFFICIAL NOTICE:

1. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the Board or departments and ordinances of the County or rules and regulations of the Board.
2. Parties to be notified. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board of Appeals.
3. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board of Appeals.
4. Inspection of the premises. The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that: (i) notice of such inspection shall be given to the parties before the inspection is made; (ii) the parties are given an opportunity to be present during the inspection; and (iii) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

METHOD AND FORM OF DECISION:

Section 605. (a) HEARING BEFORE BOARD ITSELF: Where a contested case is heard before the Board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

(b) FORM OF DECISION: The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

(c) EFFECTIVE DATE OF DECISION: The effective date of the decision shall be as stated therein.

## Chapter 7

### PERFORMANCE OF WORK OR REMOVAL

#### GENERAL:

Section 701. (a) PROCEDURE: When any work or removal is to be done pursuant to this ordinance, the hazard abatement officer shall issue his order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

(b) COSTS: The cost of such work shall be made a special assessment against the property involved as in the manner set forth in Section 808 through 813 of this ordinance, or may be made a personal obligation of the property owner, whichever the Board of Supervisors shall determine is appropriate.

## Chapter 8

### RECOVERY OF COST OF WORK OR REMOVAL

#### ACCOUNT OF EXPENSE, FILING OF REPORT -- CONTENTS:

Section 801. The director of public works shall keep an itemized account of the expense incurred by Cochise County in the work or removal of any materials, done pursuant to the provisions of this ordinance. Upon the completion of the work or removal, said director shall prepare and file with the hazard abatement officer a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the hazard is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 402.

#### REPORT TRANSMITTED TO BOARD OF SUPERVISORS -- SET FOR HEARING:

Section 802. Upon receipt of said report, the hazard abatement officer shall present it to the Board of Supervisors who shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of the Board of Supervisors shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the last equalized assessment roll of the County, if such so appear, or as known to the clerk. Such notice shall be given at least ten (10) days prior to the date set for hearing and shall specify the day, hour and place when the Board of Supervisors will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by person interested in or affected by the proposed charge.

#### PROTESTS AND OBJECTIONS -- HOW MADE

Section 803. Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of the Board of Supervisors at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of the Board of Supervisors shall endorse on every such protest or objection the date it was

received by him. He shall present such protests or objections to the Board of Supervisors at the time set for the hearing, and no other protests or objections shall be considered.

#### HEARING OF PROTESTS:

Section 804. Upon the day and hour fixed for the hearing the Board of Supervisors shall hear and pass upon the report of the director together with any such objections or protests. The Board of Supervisors may make such revision, correction or modification in the report or the charge as it may deem just; and when the Board of Supervisors is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the Board of Supervisors on the report and the charge, and on all protest or objections, shall be final and conclusive.

#### PERSONAL OBLIGATION OR SPECIAL ASSESSMENT:

Section 805. (a) GENERAL: The Board of Supervisors of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved, in the manner set forth in Section 807 through 813 of this ordinance.

(b) PERSONAL OBLIGATION: If the Board of Supervisors of this jurisdiction orders that the charge shall be a personal obligation of the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

#### CONTEST:

Section 806. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after the entry of such judgment.

#### ASSESSMENT AND LIENS FOR UNPAID COSTS & CHARGES -- ESTABLISHMENT:

Section 807. If any costs or charges, as imposed pursuant to this ordinance, are not paid by the owner, occupant or lessee

within thirty (30) days of such removal, such unpaid amount shall constitute an assessment upon the lots and tracts of land from which the rubbish, trash, weeds, filth or debris are removed and a lien upon said lot, tracts, or land until paid. Said lien may be perfected by the county against the subject property by recording a notice of lien in the Office of the Cochise County Recorder. Such notice of lien shall specify the nature of assessment, the amount of the lien and the name and address of the owner of the lot or tract and the person failing to pay the charges assessed. The lien shall continue in full force and effect on the tract of land or lot until the charges assessed are paid. Such liens are subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. The County may bring an action to enforce the lien in the Cochise County Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence that the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

INTEREST:

Section 808. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate established for delinquent taxes from and after said date.

REPORT TO ASSESSOR AND TAX COLLECTOR -- ADDITION OF ASSESSMENT TO TAX BILL:

Section 809. After confirmation of the report, certified copies of the assessment shall be given to the Assessor and the County Treasurer, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

FILING COPY OF REPORT WITH COUNTY TREASURER:

Section 810. If the County Assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the County Treasurer within thirty (30) days after recordation of the lien. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessors map book for the current year.

COLLECTION OF ASSESSMENT -- PENALTIES FOR FORECLOSURE:

Section 811. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

USE OF PROCEEDS:

Section 812. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this county, who shall credit the same to the General Fund.

MULTIPLE ASSESSMENTS:

Section 813. A prior assessment for the purpose provided in this section is not a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

Chapter 9

VALIDITY

SEVERABILITY:

Section 901. The various parts of this Hazard Abatement Ordinance are hereby declared to be severable. If any Chapter, section, subsection, sentence, clause, phrase or word of this Hazard Abatement Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of said Hazard Abatement Ordinance.


REPEAL OF CONFLICTING REGULATIONS:

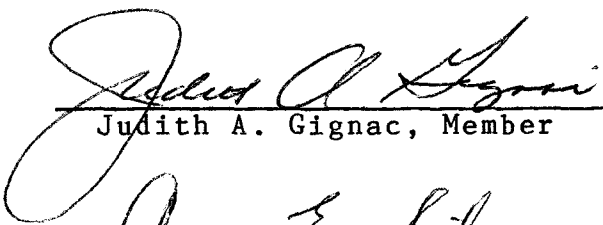
Section 902. All regulations or ordinances or a portion of some in conflict with the provisions of this Hazard Abatement Ordinance, inconsistent with the provision of this Hazard Abatement Ordinance, are hereby repealed to the extent necessary to give this Hazard Abatement Officer full force and effect. All previous editions of the Hazard Abatement Ordinance are hereby repealed.

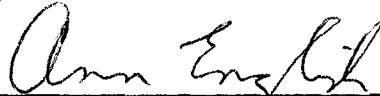
EFFECTIVE DATE:

Section 903. This Hazard Abatement Ordinance shall become effective beginning September 8, 1987 and remain in full force and effect thereafter.

APPROVED AND ADOPTED BY THE COCHISE COUNTY BOARD OF SUPERVISORS  
THIS 8<sup>th</sup> DAY OF September, 1987.

  
\_\_\_\_\_  
V.L. Thompson, Chairman

  
\_\_\_\_\_  
Judith A. Gignac, Member

  
\_\_\_\_\_  
Ann English, Member

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# COCHISE COUNTY

Hazard Abatement Ordinance Revisions  
(Docket R-09-02)



Board of Supervisors  
December 21, 2010



## Direction from Previous Work Sessions

- Board of Supervisors' Work Session: June 11, 2008
- Direction from Board of Supervisors to update the County Hazard Abatement Ordinance, originally adopted in 1984 (as Resolution 84-65) and revised only once in 1987 (as Resolution 87-91)
- Planning Commission study session May 12, 2010
- At the December 8, 2010 Planning and Zoning Commission meeting the Commission voted 7-0 (unanimous) with a recommendation of approval to send the Ordinance to the Board of Supervisors.
- Receipt of Commission comments and guidance and public comments and suggestions resulted in a major revision—**simplification**-- of the ordinance as an amendment to the existing 1987 Ordinance.



## Purpose of Revision

- To update staff titles and department names to reflect current administrative structure;
- To revise document to be consistent with new State Statutes;
- To provide a systematic approach for recovering County expenditures for removing hazards from properties when the owner, occupant or lessee does not undertake this responsibility in a timely manner; and
- To provide clarification and a process for appeal of findings under this Ordinance.
- To keep the wording as close to the Arizona Revised Statutes as possible.



# Major Revisions

- **New format:** As such, this is an amendment to the entire Ordinance.
- **Definitions:** Deleted two and added 15 new definitions for clarity.
- **New Administrative Organization:** All entries pertaining to the Director of Public Works have been changed to the Hazard Abatement Officer. The Public Works Department no longer exists within the County administrative framework.
- **Part II is the main part of the Ordinance:** It incorporates the new State Statute provisions and is a simplified version from the current (1987) Ordinance.



## Abatement Measures

- **Hazard Abatement Officer** enforces the Ordinance; is the County Zoning Inspector or duly authorized representative is the Hazard Abatement Officer.
- **Notice to Abate:** Substance of the Hazard Abatement Officer's notice to abate is detailed in Part II,D; subject individual may appeal Notice to Abate within 15 days to Board of Supervisors.
- **Appeals** of the Hazard Abatement Officer's orders go to the Board of Supervisors. Board may appoint a Hearing Officer to hear appeals of Notices to Abate and/or Notices of Assessment. ([Part II.P].
- **"Wildcat Dumping"** [placing trash on property you do not own] violation statement in Part II.A.3 and enforcement statement in Part III.A has been added per Statute [Class 1 misdemeanor];
- **Abatement by the County:** If a violator does not clean up the public nuisance within 30 days, the Board or its designee may, at the expense of the owner, cause it to be removed. County must comply with the County Procurement policy or in the alternative, the clean up may be performed by a State Prison work crew or Cochise County personnel to keep cost as low as possible.
- **Assessments/lien on the property:** Upon removal of the Public Nuisance, the costs shall be assessed against the property. Notice of Assessment to be served to owner who has 15 days to appeal to the Board. If no appeal, Hazard Abatement Officer submits a Report of Assessment to the Board; upon acceptance of the report by the Board, the Chair signs the report and records it as a lien on the property.
- The Board may, but is not obligated to, enforce the assessment by foreclosure.



Questions/ Comments?





# Recommendation

Staff recommends the Board of Supervisors approve the Hazard Abatement Ordinance.