

ORDINANCE CONCERNING ACCUMULATION AND REMOVAL OF RUBBISH

Ordinance No. 11172008O001

BE IT ORDAINED by the Board of County Commissioners of Larimer County, Colorado:

Section 1. Authority:

Pursuant to section 30-15-401, C.R.S., the Board of County Commissioners of Larimer County has the authority to adopt ordinances for the control of those matters of purely local concern, including compelling and providing for the removal of rubbish within unincorporated Larimer County. The manner by which such an ordinance is enforced may be prescribed by the Board of County Commissioners, and may include removal of rubbish performed by Larimer County upon notice and failure of the property owner to remove rubbish. The reasonable costs incurred from any such removal by Larimer County may be assessed upon the lots and tracts from which rubbish has been removed, and collected in the same manner as other taxes.

Section 2. Purpose:

The Board of County Commissioners of Larimer County, Colorado, finds and declares that controlling and eliminating the accumulation of rubbish within unincorporated Larimer County is necessary in order to preserve the public health, safety and welfare of the citizens of Larimer County. The accumulation of rubbish, if not controlled and eliminated, can result in visual blight, attractive nuisances, incompatibility with existing land uses, attraction of disease infested rodents and other vermin, fire and other hazards, depositing of hazardous or toxic substances in unapproved sites, and air, noise and water pollution.

Section 3. Scope of Ordinance:

This Ordinance shall apply within the unincorporated territory of Larimer County, Colorado, however, this Ordinance shall not apply to industrial tracts of land that are ten (10) or more acres in size, or to agricultural land currently in agricultural use, as defined in this Ordinance.

Section 4. Definitions:

- 4.1 "*Agricultural Land*" shall have the meaning as set forth in 39-1-102(1.6), C.R.S.
- 4.2 "*Board*" means the Board of County Commissioners of Larimer County, Colorado.
- 4.3 "*County*" means the unincorporated areas of Larimer County, Colorado.

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

4.5 *"Planning and Building Services Division Director"* is the designated Larimer County employee with the authority under this Ordinance to pursue rubbish violations. The Planning and Building Services Division Director may designate his or her authorities under this Ordinance to other Larimer County employees in his or her discretion.

4.6 *"Property Owner"* means the owner of record of the property as shown in the records of the Larimer County Assessor's Office.

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

Section 5. Violations:

It shall be unlawful for any property owner to allow the accumulation of rubbish on any lot, parcel or tract of land in the County except industrial tracts of ten or more acres and agricultural land which are excluded from this Ordinance.

Section 6. Notice of Violation:

If probable cause exists to believe that a violation of this Ordinance has occurred, notice of the violation shall be sent by the Planning and Building Services Division Director, or his/her designee, as follows:

6.1 Written notice of the violation shall be sent via first class mail to the property owner at the address listed in the records of the Larimer County Assessor's Office and to the mailing address of the property if such address is different from the address in the Assessor's records.

6.2 The notice shall:

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

6.2.b Require that the violation be corrected within 30 days after the date of the notice unless the Planning and Building Services Division Director, or his/her designees, determines in his/her sole discretion, that a longer time should be allowed, or that a shorter time is justified because the violation appears to present an immediate risk to the public health, welfare, or safety.

6.2.c Include a statement that if the property owner believes that notice has been issued in error or without just cause, the property owner may request in writing, no later than seven business days after the date of the notice, a hearing before the Board of County Commissioners in order to obtain a written determination from the Board whether the condition of the property violates this Ordinance.

6.3 The date of any requested hearing shall be as soon as practicable considering the Board's calendar. Written notice of the date of the hearing shall be sent via first class mail to the property owner at least seven business days prior to the date of the hearing.

6.4 At the hearing, the Board will receive relevant information from the property owner and others bearing on the issue of whether the condition of the property violates this Ordinance. The property owner shall have the burden to show by a preponderance of the evidence that the property does not violate this Ordinance.

6.5 The Board will provide a written determination within ten [10] days of the hearing. If the Board determines the condition of the property violates this Ordinance, the Board shall set the date by which the violation must be corrected. The Board's determination is final and appealable only through applicable civil court procedures.

Section 7. Administrative Entry and Seizure Warrant:

If the violation of this Ordinance is not fully corrected within the time period established in the written notice of violation, or within the time period established in the Board's written determination if a hearing was requested, the Planning and Building Services Division Director, or his/her designee, without further notice to the property owner, may initiate proceedings for an administrative entry and seizure warrant through the district or county court of Larimer County authorizing the County to enter the Property and remove the rubbish. In seeking an administrative and seizure warrant, a sworn or affirmed affidavit shall be presented to the court which sets forth the factual basis for the warrant as follows: (i) a general description of the location of the property; (ii) a general description of any rubbish to be removed from the property; (iii) evidence that the property owner has received notice of the violation and has failed to abate the violation within the time prescribed by such notice; and (iv) a proposal about whether the rubbish to be removed should be disposed of or temporarily impounded.

7.1 Execution of Warrant: Within ten (10) days following the date of issuance of an administrative entry and seizure warrant, the County, by and through County forces, contract, agent or otherwise, shall execute the warrant in accordance with the directions of the issuing court. A copy of the issued warrant shall be provided or

mailed to the property owner. Proof of the execution of such warrant, including a written inventory of any property impounded by the executing authority, shall be submitted to the court by the County.

7.2 Disposal and Impoundment: Any rubbish removed pursuant to an administrative entry and seizure warrant shall be dealt with in accordance with the terms of such warrant, including the impoundment of rubbish and/or the disposal of rubbish in the manner specified by the court in the warrant.

7.3 Costs of Removal: All reasonable costs associated with the removal of rubbish, and impoundment if ordered by the court, shall be paid by the property owner, including an additional five percent (5%) of such costs for inspection of the property and incidental expenses. A bill of costs shall be mailed to the property owner and payment in full shall be due within 15 days of the date of the bill. In the event that the bill remains unpaid after 15 days, the costs may be assessed as a lien against the property until paid and shall have priority over all other liens except general taxes and prior special assessments. If the costs remain unpaid after 90 days from the date of the bill, such costs together with a ten percent (10%) penalty for collection expenses shall be certified to the Larimer County Treasurer for collection in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property taxes, shall apply to the collection of assessments pursuant to this Section 7.

Section 8. Other Remedies:

Nothing in this Ordinance shall be construed to limit or restrict Larimer County's ability to pursue other remedies available under other Larimer County regulations or pursuant to state or federal law. The remedies provided in this Ordinance are not exclusive in any way and may be pursued by Larimer County singly or in combination to achieve the most expeditious resolution to the accumulation of rubbish.

Section 9. Severability:

If any section, clause, sentence, or part of this Ordinance is declared invalid by a court of law for any reason, such determination shall not affect the validity of the remaining provisions of this Ordinance.

Section 10. Publication and Effective Date:

Following its adoption, this Ordinance shall be published in a newspaper of general circulation for Larimer County once by title only with the date of the initial publication and containing any section, subsection or paragraph of the Ordinance which was amended following the initial publication and shall take effect thirty (30) days after the date of the publication in said newspaper.

Upon motion duly made and seconded, the foregoing Ordinance was adopted on the 17th day of November, 2008.

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY, COLORADO

By: Glenn W. Gibson
Chair

ATTESTATION:

I, Melissa Lohry, Larimer County Clerk/Deputy Clerk attest that the foregoing Ordinance Concerning Accumulation and Removal of Rubbish was read at a meeting of the Board of County Commissioners and has been published in full in a newspaper of general circulation for Larimer County at least ten (10) days prior to the date of its adoption in compliance with Section 30-15-406 C.R.S. 1973, as amended.

Melissa Lohry
Larimer County Clerk/Deputy Clerk

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