



RESOLUTION NO. 98-337

A RESOLUTION SETTING FORTH AN AMENDMENT TO ORDINANCE 98-2 -- THE MOHAVE COUNTY NUISANCE ABATEMENT ORDINANCE.

WHEREAS, at their regular meeting on November 2, 1998, the Mohave County Board of Supervisors held a public hearing regarding an amendment to Ordinance 98-2, the Nuisance Abatement Ordinance, as outlined in Exhibit "A" attached hereto, and

WHEREAS, at their special meeting on March 23, 1998, the Mohave County Board of Supervisors, after a public hearing, repealed Ordinance 86-1 and adopted a new Nuisance Abatement Ordinance, Mohave County Ordinance No. 98-2, for the unincorporated areas of Mohave County, and

WHEREAS, the intent of this ordinance is to require property owners to remove rubbish, trash, weeds, filth, debris, etc. which constitute a public health or safety hazard. In addition, this Ordinance provides penalties and remedies for enforcing the requirements of the Ordinance in the event of noncompliance, and

WHEREAS, pursuant to the provisions of A.R.S. 11-268, revised, the Board of Supervisors shall, by ordinance, compel the owner, lessee or occupants of buildings, grounds or lots located in the unincorporated areas of the County to remove rubbish, trash, weeds, filth and debris which constitute a hazard to public health, safety and welfare, and

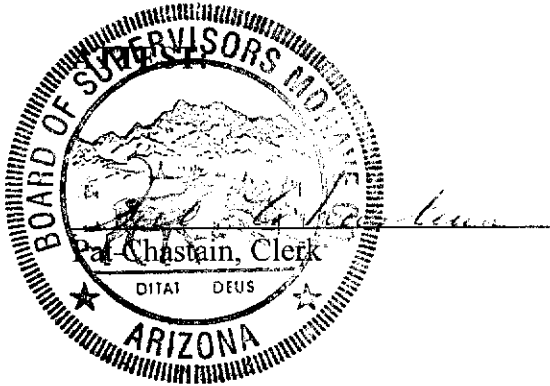
WHEREAS, it has always been the intent of Mohave County to provide for the full participation by the fire districts and this resolution facilitates this intent, and

WHEREAS, this amendment clearly provides for the participation of fire districts and/or other agents as authorized by Mohave County, and

WHEREAS, this public hearing was published in a newspaper of general circulation in Mohave County on October 17, 1998 and was posted on October 16, 1998.

NOW THEREFORE, BE IT RESOLVED, that the Mohave County Board of Supervisors, at their regular meeting on November 2, 1998, adopted Resolution No. 98-337 which amends Mohave County Ordinance 98-2 (~~struck language to be deleted and~~ **bolded, underlined language to be added**).

BE IT FURTHER RESOLVED, that this resolution and ordinance will be in full force and effective thirty (30) days from the date of approval of the Board of Supervisors.



MOHAVE COUNTY BOARD OF SUPERVISORS

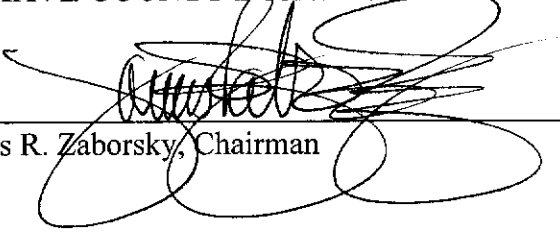

James R. Zaborsky, Chairman

EXHIBIT "A"
MOHAVE COUNTY ORDINANCE NO. 98-02

AN ORDINANCE ADOPTED PURSUANT TO A.R.S. § 11-268, REQUIRING AN OWNER, LESSEE OR OCCUPANT OF REAL PROPERTY IN MOHAVE COUNTY TO REMOVE RUBBISH, TRASH, WEEDS, FILTH, DEBRIS OR DILAPIDATED BUILDINGS CONSTITUTING A PUBLIC NUISANCE; PRESCRIBING THE PROCEDURE FOR NOTICE AND APPEAL; PROVIDING FOR THE REMOVAL THEREOF BY THE COUNTY OR THEIR AUTHORIZED AGENT AND THE ASSESSMENT OF THE COST THEREOF AS A LIEN AGAINST THE PROPERTY IN THE EVENT OF NON-COMPLIANCE; AND PRESCRIBING A PENALTY FOR THE PLACEMENT OF SUCH MATERIALS ON THE PROPERTY OF ANOTHER.

PART I: DEFINITIONS.

As used herein, capitalized terms shall have the following meanings:

- 1. "Authorized Agent" means an agency, or a district that is a political subdivision of the state, and is authorized by Mohave County to abate a public nuisance as defined in this ordinance. Specifically, it encompasses authorized fire districts, who have properly enacted the Uniform Fire Code.**
- 21. "Board" means the Mohave County Board of Supervisors.**
- 32. "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.**
- 43. "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.**
- 54. "County" means the unincorporated areas of Mohave County.**
- 65. "Dilapidated Building" means any Building in such disrepair, or damaged to such an extent that its strength or stability is substantially less than a new Building, or that is likely to burn or collapse, and the condition of which endangers the life, health, safety or property of the public.**
- 76. "Grounds" means any private or public land, vacant or improved.**
- 87. "Lessee" means a person who has the right to possess Real Property pursuant to a lease, rental agreement or similar instrument.**
- 98. "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.**
- 109. "Occupant" means a person who has the actual use, possession or control of Real Property. This term 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 federal law.**

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- 1110. "Owner"** means a person who is a record owner of Real Property as shown in the public records in the office of the Mohave County Recorder, and includes a person holding equitable title under a recorded installment sales contract, contract for deed or similar instrument.
- 1211. "Person"** means an individual, partnership, corporation, limited liability company, association, trust, state, municipality, political subdivision, or any other entity that is legally capable of owning, leasing or otherwise possessing Real Property.
- 1312. "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 Mohave County Planning & Zoning Department, or the Department of Health & Social Services, or other department, agency or fire district with jurisdiction over the condition.
- 1413. "Real Property"** means Buildings, Grounds, or Lots, as well as Contiguous Sidewalks, Streets and Alleys, located in the County.
- 1514. "Weeds"** mean all vegetation of any sort growing on streets, sidewalks, or private property in the unincorporated County, including any fire district and includes any of the following:
- a. Sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property.
 - b. Weeds which are otherwise noxious or dangerous.
 - c. Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard in an urban or suburban area of the unincorporated County.

PART II: CONDITIONS AND DEFECTS FOR USE IN DETERMINATION OF DILAPIDATED BUILDINGS

For the purpose of this ordinance, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dilapidated building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

The determination that a building or structure is dilapidated shall be made by the Chief Building Official or his authorized representative, including but not limited to the health officer, the fire chief, and the zoning manager who are hereby authorized to make such inspections and take such actions as may be required to enforce provisions of this ordinance.

1. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
2. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is materially less than the minimum required for new buildings of similar structure, purpose or location.

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3. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
4. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
5. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
6. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
7. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
8. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
9. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the zoning regulations of this jurisdiction, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
10. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by an agent of the Environmental Health Department or the Chief Building Official or his designee to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
11. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief or the Chief Building Official or his designee to be a fire hazard.
12. Whenever any building or structure is in such a condition as to constitute a public nuisance under the common law or in equity jurisprudence.

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13. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

PART III: REMOVAL OF PUBLIC NUISANCE BY OWNER, LESSEE OR OCCUPANT; REMOVAL BY COUNTY; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIEN.

- A. **Duty to Remove.** The Owner, Lessee or Occupant of Real Property shall remove or otherwise abate a Public Nuisance located thereon within thirty (30) calendar days after service of a Notice to Abate as provided herein.
- B. **Notice to Abate.** The Notice to Abate shall be served by the County Attorney on behalf of the Board not less than thirty (30) calendar days before the date for compliance and shall include the estimated cost of removal if the Owner, Lessee or Occupant does not comply. The estimated cost may be provided by a qualified contractor or may be a good faith estimate by the department initiating the Notice to Abate.
- C. **Service of Notice to Abate.** The Notice to Abate shall either be personally served or mailed by certified mail to the Owner, Lessee or Occupant at his or her last known 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 his or her last known address. The Notice shall be deemed as served five (5) days after the notice is mailed. Notice shall be also posted on the property.
- D. **Appeal of Notice to Abate.** Any Person receiving a Notice to Abate may appeal to the Board of Supervisors as follows:
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 to Abate was served or actually received by mail (as evidenced by the certified mail receipt) as per Part III, Section C of this Ordinance.
 2. **Contents of Notice of Appeal.** The Notice of Appeal shall state in reasonable detail why the appellant should not be required to comply with the Notice to Abate.
 3. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall place the matter on the agenda for its next regular meeting. The department which initiated the Notice to Abate 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 hear and decide the appeal, and its decision shall be final.

4. **Extension of Time for Compliance.** If the Board's decision is adverse to the appellant, the date for compliance set forth in the Notice to Abate shall be extended by the number of days elapsing between the filing of the Notice of Appeal and the rendering of the Board's decision.
- E. **Removal by Board.** If the Owner, Lessee or Occupant fails to remove or otherwise abate the Public Nuisance within thirty (30) calendar days (or such extension thereof as may be granted in writing by the Board or their authorized agent), the Board, or their authorized agent, may, at the expense of the Owner, Lessee or Occupant, remove or abate 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 eighty (180) days after the right to do so first accrues, a new Notice to Abate shall be served as provided in Paragraph III(C).
1. **Cost of Removal.** The cost of removal or abatement shall not exceed the estimate set forth in the Notice to Abate. Before undertaking the actual removal or abatement, the department which initiated the Notice to Abate shall attempt to obtain at least three written estimates from qualified contractors (if available locally) and shall accept the lowest such estimate. Alternatively, the removal or abatement may be performed by Mohave County personnel or Mohave County's authorized agent, and the cost shall be deemed to be the ~~same as the lowest estimate obtained from a qualified contractor~~ **cost of abatement, and three written estimates are not required.**
 - a. **Dilapidated Buildings.** 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. 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.
 2. **Assessment.** Upon the removal or abatement of the Public Nuisance as provided in Paragraph III(E)(1), the actual cost of removal or abatement **incurred by Mohave County**, together with the actual costs of any additional inspections and other incidental costs, shall be an Assessment against the Real Property on which the Public Nuisance was located. The form of the Assessment (setting forth the facts supporting it, as well as the amount) shall be approved by the Board and signed by the Chairman.
 3. **Notice of Assessment.** A Notice of Assessment shall be served in the same manner as the Notice to Abate. The Notice of Assessment may be appealed in the same manner as the Notice to Abate.

4. **Recordation of Assessment.** If the Owner, Lessee or Occupant fails to pay the Assessment within thirty (30) calendar days after receipt of the Notice of Assessment (or any extension as may be granted in writing by the Board or their authorized agent), the Assessment shall be delinquent and may be recorded in the office of the Mohave County Recorder. 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 the Assessment shall be subject and inferior to the lien for general taxes and all prior recorded mortgages and encumbrances.
 - a. **Foreclosure.** The Board may, but shall not be obligated to, bring an action to enforce the Assessment lien in the Mohave 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.
5. **No Bar to Subsequent Assessments.** A prior Assessment under this Ordinance is no bar to a subsequent Assessment, and any number of liens on the same Real Property may be enforced in the same action.

PART IV: PLACING RUBBISH, TRASH, FILTH OR DEBRIS ON PROPERTY OF ANOTHER; PENALTY; ASSESSMENT.

- A. **Placing Rubbish, Trash, Filth or Debris on Property of Another is Prohibited.** Any Person who places rubbish, trash, filth or debris on any Real Property not owned by or under the control of said Person is guilty of a Class 1 Misdemeanor.
- B. **Liability for Costs.** In addition to any fine which may be imposed pursuant to Paragraph IV(A), the Person shall be liable for all costs which may be assessed for the removal of the rubbish, trash, filth or debris pursuant to Part III of this Ordinance.

PART V: 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 Mohave County pursuant to statute or common law, specifically including, but not limited to, those set forth in A.R.S. § 13-2908, 36-602 and 49-143.