

APACHE COUNTY ORDINANCE FOR REMOVAL OF TRASH, RUBBISH, WEEDS, FILTH, DEBRIS AND DILAPIDATED BUILDINGS PURSUANT TO A.R.S. § 11-268

I. PURPOSE

A.R.S. § 11-268 requires each county board of supervisors to pass an ordinance compelling owners, lessees or occupants 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. Therefore it is the purpose of this ordinance to provide for the health and safety of the public by enacting an ordinance to meet the requirements of A.R.S. § 11-268.

II. APPLICABILITY

This ordinance applies to unincorporated areas of the county.

III. DEFINITIONS

"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.

"Occupant" does not include any corporation or association operating or maintaining rights-of-way for an on behalf of the United States Government, either under contract or under federal law.

IV. GENERAL PROVISIONS

A. Each owner, occupant or lessee of a building, ground or lot located in the unincorporated area of Apache County shall remove any rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety from any buildings, grounds, lots, contiguous sidewalks, streets and alleys. Failure to remove these health and safety hazards following reasonable written notice to the owner, occupant or lessee as provided below may result in the removal of the health or safety hazard by the county at the expense of the owner, occupant or lessee which expense may include the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement by an assessment upon the lot and tracts of land from which the health and safety hazard is removed. This assessment may be recorded as a lien on the lot or tract of land until paid.

B. 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 one misdemeanor and, in addition to any fine which may be imposed for violation of any provision of this section, is liable for all costs which may be assessed pursuant to this ordinance for the removal of the rubbish, trash, filth or debris.

V. PROCEDURE

A. The Apache County Health Department, after making a determination that certain rubbish, trash, weeds, filth, debris or dilapidated buildings constitute a hazard to public health and safety shall provide written notice to the owner, occupant or lessee of buildings, grounds or lots that a health and safety hazard exists and that the rubbish, trash, weeds, filth, debris or dilapidated buildings must be removed from buildings, grounds, lots, contiguous sidewalks, streets and alleys. The owner, occupant or lessee shall be given not less than thirty (30) days before the day set for compliance. The notice shall include the estimated cost to the county for the removal if the owner, occupant or lessee does not comply with the notice. 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.

B. The owner, occupant or lessee shall have the right to appeal, to the board of supervisors, this notice pursuant to Section VII.A below.

C. If the owner, occupant or lessee of the buildings, grounds or lots, after notice as provided in this ordinance, 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 or cause the removal of the rubbish, trash, weeds, filth, debris or dilapidated buildings.

D. The county may remove the rubbish, trash, weeds, filth, debris or dilapidated buildings by using its own forces or by contracting with an outside party. The owner, occupant or lessee shall be responsible for paying the actual costs of removal or abatement, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement. The owner, occupant or lessee will be sent a bill and a copy of the assessment made upon the lots or tracts of land outlining the actual costs of removing the rubbish, trash, weeds, filth, debris or dilapidated buildings.

E. At the time the billing is issued and the assessment is made, it will be recorded in the office of the Apache County Recorder as a lien on the lot or tract of land until paid. This hazard abatement lien is subject and inferior to the lien for general taxes and to all prior

recorded mortgages and encumbrances. The county may bring an action to enforce the lien in the 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 of the proof of all matter recited in the assessment and of the regularity of all proceedings before the recording of the assessment. Interest will be charged at the rate of 10 per cent per annum from the date of assessment.

F. A prior assessment for the purposes provided in this ordinance 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.

VI. SPECIAL PROVISIONS FOR DILAPIDATED BUILDINGS

A. Before removal of a dilapidated building the board of supervisors will consult with the State's historic preservation officer to determine if the building is of historical value.

B. If the county removes a dilapidated building pursuant to this ordinance, notice shall be given to the county assessor who shall adjust the valuation of the property on the property assessment tax roles from the date of removal.

VII. APPEAL PROCESS

A. NOTICE

The owner, occupant or lessee may appeal the notice to the board of supervisors by written appeal filed within ten (10) days after personal service of the notice on the owner, occupant or lessee or within fifteen (15) days of the mailing by certified mail to the owner, occupant or lessee. The notice of appeal must include the basis for the appeal including any facts or arguments which the owner, occupant or lessee believes show that the notice is improper or incorrect. The board of supervisors will hold a hearing on the appeal within thirty (30) days. The board of supervisors may affirm the notice, remand the notice to the Health Department for redetermination consistent with the opinion of the board of supervisors, modify the notice based upon evidence presented at the hearing or require the notice to be withdrawn. If the board of supervisors affirms the notice and the time for compliance with the thirty-day notice has run the owner, occupant or lessee shall have an additional five (5) days in which to comply with the notice to remove the health or safety hazard.

B. ASSESSMENT

The owner, occupant or lessee may appeal the assessment to the board of supervisors by written appeal filed within ten (10) days of personal service of the notice of assessment or fifteen (15) days of mailing by certified mail of the notice of assessment. The notice of appeal must include the basis for the appeal including any facts or arguments which the owner,

occupant or lessee believes show that the assessment is improper or incorrect. The board of supervisors will hold a hearing on the appeal within thirty (30) days. The board of supervisors may affirm the amount of the assessment, remand the amount of the assessment to the Health Department for redetermination consistent with the opinion of the board of supervisors, modify the assessment based upon evidence presented at the hearing or require that the assessment be withdrawn. Notice of the board of supervisors' final decision will be hand delivered or mailed by first class mail to all parties by the clerk of the board within ten (10) calendar days of the board of supervisors' decision.

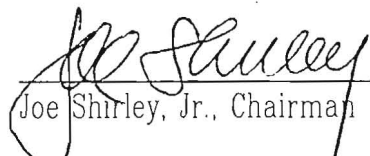
VIII. APPEAL TO THE SUPERIOR COURT

Judicial review of the final decision of the county board of supervisors shall be pursuant to A.R.S. § 12-901 et seq..

Adopted by the Apache County Board of Supervisors on this 3rd day of September, 1996.

ATTEST:


Clarence A. Bigelow Clerk


Joe Shirley, Jr., Chairman

9/3/96
Trash Ordinance

It was now the time and hour set for the hearing and possible adoption of an Ordinance for Removal of Trash, Rubbish, Weeds, Filth, Debris and Dilapidated Buildings. Mr. Bigelow said this Ordinance is specifically orientated toward elements that are unsafe, unhealthy hazard situations, but the Ordinance does not cover aesthetics within the County. The State of Arizona passed a law mandating such an ordinance.

Mr. Shirley opened the hearing for public comment.

J.W. Neff of Vernon spoke regarding the trash dump and transfer station along Hwy 60 near Vernon. He said he had been in contact with individuals at the State level to assist in getting it cleaned up or closed down. He stated that the Ordinance was long over due. The Ordinance should include that all trash taken to the transfer sites should be enclosed in plastic bags. He provided pictures of the transfer site near Vernon.

Susan Znaiden of Alpine, stated that she had a letter for the Board from another person in Alpine regarding the Ordinance. She said we have laws doing this already. One step leads to another step. I think there is enough zoning.

Harry Griffith of Concho stated that he had been talking to individuals since 1989 in reference to some type of ordinance as some type of health ordinance was needed. He said he was a strong believer in the Ordinance and thought it should be passed to protect and help the County. It needs to be a type of ordinance that can be enforced.

Paul Ward felt that the passing of the Ordinance, unfortunately would create a vehicle to utilize against the people. He felt there was some kind of legislation in place to do something like this already, along with planning and zoning and State regulations.

Monica Yowler said she felt this Ordinance had loop holes. She also felt there was a lack of animal control and that a leash law was needed. Someone is responsible to help keep the area cleaned up, clean up is needed, not only in Concho, but the County.

Ray Sandoval of Concho said that action was needed to clean up some of the trash around and enforcement be made of the ordinance and laws to get it cleaned up.

Sue Lowell of Concho asked the Board to approve the Ordinance and get the trailers, trash and such cleaned up, making Concho prouder. She discussed a burned out trailer and the rodents that live in it, making it a health hazard.

Kyle Taylor of Concho provided a picture of a trashy place within Concho Valley. He said he lived next to a burned out trailer, with furniture and trash in the yard and would like it cleaned up before some one gets hurt as kids now play in the trailer.

Jesse Griffith, spoke in favor of the Ordinance.

Mary Phelan of Alpine stated she was definitely in favor of the Ordinance being passed. Over the years she has complained loudly about the dilapidated buildings and the danger to health and safety.

Monica Yowler suggested that maybe the adoption of the Ordinance should be tabled until definite procedures of how and who fines, is directly responsible are addressed. Concho is the gateway to St. Johns, pride starts at the County line.

Ray Sandoval said that Concho was working on being like a third world country, if there is no Ordinance or enforcement.

Mr. Bigelow said that this Ordinance was not designed as a zoning ordinance and would not have any impact on zoning. It is a specific ordinance dealing with the health and safety as mandated by the State. Concerning the landfill, the Blue Hills Board of Directors has authorized Denny Johnson to investigate methods of keeping the crows off the bins. Alpine is being used as a testing area concerning this but unfortunately there is no fail safe system for wind and birds. The County has also implemented the utilization of the trustee prisoners to clean the transfer sites. He said that the Ordinance will not satisfy everyone. Don Foster will have the prime responsibility to administer the Ordinance. Flaws within the Ordinance, later will be identified but he felt this is the appropriate vehicle that follows the State guidelines. Mr. Bigelow then recommended adoption of the Ordinance.

Mr. Shepherd moved approval of the Ordinance as presented. Mr. Lee seconded the motion.

Mr. Griffith said that Lake Investment should have pressure placed on them to get the area cleaned up now that the Ordinance is approved.

Mrs. Yowler said the deed restrictions and having a home owners association was misrepresented in the Concho Valley area.

Mr. Burdick of the County Attorney's office explained that now the Ordinance is required to be published in the newspaper before it will actually be in effect. Vote unanimous.

~~Mr. Bigelow recommended approval of the request from JTPA for approval to purchase two (2) copy machines from Xerox on GSA contract.~~

~~Mr. Shepherd moved approval, seconded by Mr. Lee. --Vote unanimous.~~

~~Sue Hall, Clerk of Court stated that her office had received CPAF grant funding for a Clerk in her office. The~~