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Yavapai County  
Patsy Jenney-Colon, Recorder  
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YAVAPAI CO. BO. OF SUPERVISORS  
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SURCHARGE 0.00  
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YAVAPAI COUNTY ORDINANCE NO. ~~1997-1~~ 1997-2

AN ORDINANCE ADOPTED PURSUANT TO A.R.S. §11-268, REQUIRING AN OWNER, LESSEE OR OCCUPANT OF REAL PROPERTY WITHIN THE UNINCORPORATED AREA OF YAVAPAI 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 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.

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PART I: DEFINITIONS.

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

1. **"Board"** means the Yavapai 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 Yavapai County.
5. **"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 as determined by the Hazard Abatement Officer.

6. **“Grounds”** means any private or public land, vacant or improved.
7. **“Hazard Abatement Officer”** means the County employee(s) or other person(s) designated to discharge the duties of the County pursuant to this ordinance unless otherwise expressly provided herein.
8. **“Lessee”** means a person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.
9. **“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.
10. **“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 right-of-way for and on behalf of the United States government, either under contract or federal law.
11. **“Owner”** means a person who is a record owner of real property as shown in the public records in the office of the Yavapai County Recorder, and includes a person holding equitable title under a recorded installments sales contract, contract for deed or similar instrument.
12. **“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.
13. **“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.
14. **“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:

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.
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.
3. Places, permits or provides for rubbish, trash, weeds filth, debris or building materials to remain upon any other private or public property in the County not owned or under the control of the person, firm or corporation.

**B. Duty to Remove.** A person, firm or corporation shall remove or otherwise abate a public nuisance as defined herein within 30 calendar days after mailing or personal service of a Notice to Abate as provided herein.

**C. Notice to Abate.** Upon reasonable belief 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, 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.

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

1. The street address 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 reasonable belief 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 a rubbish, trash, weeds, filth, debris or building materials must be disposed of at an approved waste collection facility or

by other legal means and that a tipping fee receipt or other evidence of legal disposal is to be submitted to the Hazard Abatement Officer prior to a determination of compliance with the Notice 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.

7. A statement that the owner, occupant or lessee shall have 15 days from mailing or personal service of the notice to abate to appeal the issuance of the notice to the Board of Supervisors and that failure to appeal will constitute waiver of all right 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 is guilty of a Class 1 misdemeanor and may be subject to criminal penalties in addition to the costs of abatement.

**E. Appeal of Notice to Abate.** Any person receiving a Notice and Order 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 15 days after the Notice 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 place the matter on the agenda for its next regular meeting or, 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, 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.

F. **Removal by Board.** If the Owner, Lessee, or Occupant fails to remove or otherwise abate the Public Nuisance within 30 calendar days of mailing or personal service of the Notice to Abate (or such extension thereof as may be granted in writing by the Board), the Board 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 180 days after the right to do so first accrues, a new Notice to Abate shall be served as provided in Paragraph II (C).

1. **Cost of Removal.** The costs assessed for removal or abatement shall not exceed the actual costs and incidental expenses thereof. Before undertaking the actual removal or abatement, the Hazard Abatement Officer shall attempt to obtain at least three written estimates from qualified contractors (if available locally) and shall accept the lowest such estimate that is otherwise satisfactory to the County. In the alternative, the removal or abatement may be performed by Yavapai County personnel, and the cost shall be deemed to be the same as the lowest estimate obtained from a qualified contractor as determined herein.

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.

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.

G. **Assessment.** Upon the removal or abatement of Public Nuisance as provided in Paragraph II (E) (1), the actual cost of removal or abatement, 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.

H. **Notice of Assessment.** A written Notice of Assessment shall be served in the same manner as the Notice to Abate.

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 entire cost is due and payable in full no later than 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 YAVAPAI COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO 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 15 days from the 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.
- 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 consideration by the Board of Supervisors. The Report shall list the common address, legal description and tax parcel number 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 costs of any additional inspections and other incidental costs. Upon acceptance of the Report, it shall be signed by the Chairman.
- K. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall place the matter on the agenda for its next regular meeting, 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. 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 30 calendar days after receipt of the Notice to Abate (or any extension as may be granted in writing by the County) the assessment shall be delinquent and may be recorded in the office of the Yavapai County Recorder.
- 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 the assessment shall be subject and inferior to all prior recorded mortgages and encumbrances and to such other liens as specifically provided by law.
- N. **Foreclosure.** The Board may, but shall not be obligated to, bring an action to enforce the assessment lien in the Yavapai 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 on the same lot or tract or grounds or continuous sidewalks, streets and alleys of land and any or all liens may be recorded and may be enforced in the same or separate actions by the County.
- 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.

**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 I 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, filth or debris.

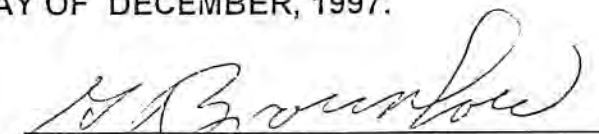
**B. Fine.** Upon conviction of a violation of Part III(A) of this Ordinance, the Court shall impose a fine of not less than One Hundred (\$100.00) Dollars.

**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 Yavapai County pursuant to statute or common law, specifically including those set forth in A.R.S. §13-2908, 36-602, and 49-143.

**PASSED AND ADOPTED THIS 8th DAY OF DECEMBER, 1997.**


**SEAL**

  
Gheral Brownlow, Chairman  
Yavapai County Board of Supervisors

ATTEST:

  
Bev Staddon, Clerk of the Board

APPROVED AS TO FORM

  
Deputy County Attorney

12/2/97