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ORDINANCE NO. 26-04

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

ORDINANCE REQUIRING THE REMOVAL OF UNSAFE BUILDINGS

WHEREAS, pursuant to C.R.S. § 30-15-401, the Board of County Commissioners of El Paso County, Colorado ("Board") has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, C.R.S. § 30-15-401(1)(q)(III), specifically authorizes the adoption of ordinances and regulations to compel the removal and/or securing of unsafe buildings and structures within the unincorporated areas of El Paso County: and

WHEREAS, the Board has previously enacted Ordinance No. 18-03, requiring the removal of unsafe buildings; and

WHEREAS, the Board has determined that changes to the ordinance are necessary in order to make its enforcement more efficient, effective and timely, and comply with Colorado House Bill 26-1239; and

WHEREAS, it is the opinion of the Board that in order to preserve public health, safety and welfare of the citizens of El Paso County, the Board should take the following action.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of El Paso County, Colorado:

Section 1: Purpose.

The purpose of this Ordinance is to protect public health, safety, and welfare of the citizens and residents of El Paso County, Colorado, by compelling the repair, removal, or securing of unsafe buildings which, if not repaired, removed, or secured, creates fire hazards, "attractive nuisances," rodent infestations and other hazards.

Section 2: Authority and Effect.

2.1 This Ordinance is authorized pursuant to, inter alia, C.R.S. §§ 30-11-101, et seq., §§ 30-15-401, et seq., and §§ 29-20-101, et. seq.

2.2 Ordinance No. 18-03, enacted November 21, 2017, is hereby repealed and replaced in whole by this Ordinance.

2.3 Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by the County pursuant to previous regulations, provided that the violation is also a violation of this Ordinance.

2.4 Nothing in this Ordinance shall preclude the separate and/or concurrent prosecution of zoning or building code violations or both.

Section 3: Applicability.

3.1 This Ordinance shall apply throughout the unincorporated area of El Paso County including public and state lands.

3.2 This Ordinance shall apply within the corporate limits of any incorporated town or city within El Paso County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and which enters into an intergovernmental agreement with El Paso County relating thereto.

Section 4: Definitions.

4.1 **Board:** the Board of County Commissioners of El Paso County, Colorado.

4.2 **Building:** a structure having a roof, supported by columns or walls.

4.3 **County:** the unincorporated areas of El Paso County, including public and state lands, and the corporate limits of any incorporated town or city within El Paso County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and which enters into an intergovernmental agreement with El Paso County relating thereto.

4.4 **Dilapidated:** reduced or fallen into partial ruin or decay, as from age, wear or neglect.

4.5 **Director:** the Executive Director of the El Paso County Planning and Community Development Department ("PCD"), or his or her authorized designee.

4.6 **Fire Hazard:** (1) capable of causing a fire or explosion or providing a ready fuel supply to augment the spread or intensity of a fire or explosion; and (2) posing a threat to life or the property of others.

4.7 **Owner:** the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record.

4.8 **Structure:** any mobile home, whether or not located on the ground, or any improvement constructed or erected upon real property which is fixed in a permanent location on the ground or which is attached to something having a permanent location on the ground. The term shall include, but is not limited to, fences, fixtures and walls.

4.9 **Unsafe Building or Structure:**

1. any building or structure, the condition of which presents a substantial danger or hazard to public health, safety, or welfare; or

2. any building which is materially dilapidated and unused by the owner or uninhabited because of deterioration or decay; and

    a. which condition constitutes a substantial fire hazard; or

    b. which condition subjects adjoining property owners to danger of damage by storm, soil erosion, or rodent infestation; or

    c. that becomes a place frequented by trespassers or transients seeking a temporary hideout or shelter.

Section 5: <u>Exemptions.</u>

5.1 This Ordinance shall not apply to a building or structure located on affected land subject to the "Colorado Mined Land Reclamation Act," as the term "affected land" is defined in C.R.S. § 34-32-103 (1.5), and C.R.S. § 34-32.5-103 (1).

5.2 This Ordinance shall not apply to a building or structure located on lands subject to the "Colorado Surface Coal Mining Reclamation Act," pursuant to C.R.S. § 34-33-101, et seq.

Section 6: Unlawful Acts.

It shall be unlawful for any owner to maintain or permit to be maintained any unsafe building or structure on any property within the County under such owner's control, possession, or ownership.

Section 7: Notice of Violation and Executive Determination.

7.1 A written notice of violation shall be issued by the Director or their designee based on personal knowledge of any violation and competent evidence acquired during a reasonable investigation. The notice shall be sent via first class mail to the owner's mailing address as listed in the records of the El Paso County Assessor's Office and to the mailing address of the subject property, if one exists.

7.2 The notice of violation shall specifically describe the nature of the violation, require the violation to be corrected within thirty (30) calendar days after the date of the notice, and provide that the owner may request additional time to correct the violation. The notice of violation may require that the violation be corrected within a period of time less than 30 days if the Director determines, in his or her sole discretion, that the violation presents an immediate risk to public health, safety, or welfare. The notice shall provide the remedies of the county under Sections 9, 10, 11, or 12 of this Ordinance, including any potential liens related to abatement costs.

7.3 If the violation is not corrected within the time period established in the notice of violation or approved extension of time, the Director may issue an executive determination to the owner authorizing the County Attorney's Office to pursue remedies under Sections 10, 11, or 12 of this Ordinance, subject to appeal as set forth below.

7.4 The executive determination shall be mailed to the owner in the same manner as the notice of violation. The executive determination shall specifically include a description of the violation, the remedies under Sections 9, 10, 11, or 12 of this Ordinance, and provide 10 ten days after the date of the executive determination for the owner to request an appeal, at no cost to the owner.

7.4.1 The executive determination shall state that the owner may appeal the Director's decision to the Board. The owner must submit an appeal in writing to the Director. Any written appeal must be received by the Director within ten (10) calendar days after the date of the executive determination. Any such appeals received beyond ten (10) calendar days shall be deemed untimely.

7.4.2 If no appeal is received within ten (10) calendar days after the date of the Director's executive determination, then the Director's executive determination shall be final and the County Attorney's Office may proceed with litigation to seek remedies pursuant to Sections 9, 10, 11, or 12 of this Ordinance.

Section 8: <u>Appeal Hearing.</u>

8.1 If the Director receives a timely appeal of his or her executive determination as set forth in Section 7, then the Director shall place the matter on the Board's next available land-use hearing agenda which meets the requirements of Section 8.2 below.

8.2 The owner shall be notified of the date, time, and place of the hearing via first class mail to the owner's mailing address as listed in the records of the El Paso County Assessor's Office and to the mailing address of the subject property, if one exists, no less than five (5) calendar days prior to the hearing.

8.3 At the hearing, the owner shall have the opportunity to present evidence and testimony to show-cause why further enforcement action should not be taken. The Board shall consider all such evidence and testimony, along with any presentation, evidence, or testimony offered by the Planning and Community Development Department or other County staff, in reaching its decision to affirm or overturn the decision to issue the executive determination.

8.4 At the conclusion of the appeal hearing, the Board may decide to overturn the decision to issue the executive determination or may affirm the decision and instruct the Director to proceed with one or more of the remedies provided in Sections 9, 10, 11 and/or 12 below.

8.5 The Appeal Hearing shall not be considered a quasi-judicial or legislative action or matter under any circumstances.

Section 9: Criminal Prosecution.

9.1 Only the Board may authorize the initiation of a criminal prosecution for violations of this Ordinance, except those committed through application of Section 4.9 (2)(c), in County Court.

9.2 The County Code Enforcement Officers shall have the authority to issue citations or summonses and complaints for the purpose of enforcing this Ordinance.

9.3 Any person who violates this Ordinance commits a civil infraction punishable pursuant to C.R.S. § 30-15-402, and upon conviction thereof, shall be punished by a fine of two hundred and fifty dollars ($250) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000) for the third and subsequent offenses. This graduated fine schedule shall apply to repeat offenses committed by the same owner with respect to the same lot, parcel or tract of land.

9.4 The penalty assessment procedure provided in C.R.S. § 16-2-201, shall be followed in enforcing this Ordinance.

9.5 All fines and forfeitures for the violation of this Ordinance shall be paid to the El Paso County Treasurer within thirty (30) days of receipt and shall be deposited into the General Fund of the County.

9.6 In addition to the penalties prescribed in Section 9.3 of this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars that shall be paid to the clerk of the court by the defendant, as provided by C.R.S. § 30-15-402 (2)(a).

Section 10: Civil Injunction and Penalties.

The Board, or the Director through an execution determination, may refer violations of this Ordinance to the County Attorney's Office for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation as provided by C.R.S. § 30-15-401(2)(d)(I), (II), (IV), (V), and (VI).

Section 11: County Removal or Securing of Unsafe Building or Structure.

11.1 The Board, or the Director through an executive determination, may refer violations of this Ordinance to the County Attorney's Office for application to the courts for an administrative entry and seizure warrant for the removal and/or securing of the unsafe building or structure pursuant to Section 12 of this Ordinance.

11.2 Upon obtaining an administrative entry and seizure warrant, the Director shall have the authority to remove and/or secure the unsafe building or structure by and through County forces, contract, or otherwise. If the owner fails to pay the cost of securing or removal within ten (10) calendar days after the Director mails an invoice for such cost, the whole cost thereof, including ten percent (10%) for inspection and incidental costs in connection therewith, may be assessed upon the lot, parcel or tract from which such unsafe building or structure has been secure or removed or upon which such unsafe building or structure has been secured. Any assessment pursuant to this subsection 11.2 shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

11.3 In case the assessment prescribed in subsection 11.2 above is not paid within thirty (30) calendar days from the date of removal of or securing such unsafe building or structure by El Paso County, such assessment may be certified to the El Paso County Treasurer, who shall collect the assessment, together with a ten percent (10%) penalty for the cost of 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 for taxes, shall apply to the collection of assessments pursuant to this subsection 11.3.

Section 12: <u>Administrative Entry and Seizure Warrant.</u>

12.1 No entry upon private property for the purpose of the removal or securing of an unsafe building or structure shall be made until an administrative entry and seizure warrant has been obtained from a court of competent jurisdiction.

12.2 A sworn or affirmed affidavit shall be prepared and submitted to the court which shall establish the factual basis for the warrant, including a description of the location of the property, a description of the unsafe building or structure to be removed from the property or secured based on competent evidence acquired during a reasonable investigation, evidence that the owner has received notice of the violation and has failed to remove or secure the unsafe building or structure

within a reasonable prescribed period of time, and the proposed method of disposal of such unsafe building or structure if applicable. Said affidavit shall be accompanied by a copy of this Ordinance.

12.3 Within thirty (30) calendar days following the date of issuance of an administrative entry and seizure warrant, the executing authority shall execute the warrant in accordance with directions by the issuing court, provide or mail first class a copy of such issued warrant to the owner, and submit to the Court proof of the execution of the warrant.

Section13: Safety Clause.

The Board hereby finds, determines, and declares that this Ordinance is necessary for the health, safety, and welfare of the citizens of El Paso County, Colorado.

Section14: Severability Clause.

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 15: Effective Date.

This Ordinance shall take effect on December 17, 2026.

FIRST READING:

INTRODUCED, READ, AND ACCEPTED ON FIRST READING on October 22, 2026, and ordered and published in the Colorado Springs Gazette.

ATTEST:

By: _____
Steve Schleiker
Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Carrie Geitner
Chair

SECOND READING:

INTRODUCED, READ, AND ADOPTED ON SECOND READING on November 12, 2026, and ordered and published by title in the Colorado Springs Gazette.

ATTEST:

By: _____
Steve Schleiker
Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Carrie Geitner
Chair

CERTIFICATE OF PUBLICATION AND ADOPTION

I hereby certify that the foregoing Ordinance No. 26-04 was introduced, read, and accepted on the first reading at the regular meeting of the Board of County Commissioners of the County of El Paso on October 22, 2026, and it was published in the Colorado Springs Gazette, a newspaper of general circulation published in El Paso County on November 2, 2026. Ordinance No. 26-04 was adopted on the second and final reading at a regular meeting of the Board of County Commissioners of the County of El Paso on November 12, 2026. Said Ordinance was published on November 17, 2026.

By: _____
Clerk to the Board
Clerk and Recorder's Office
El Paso County, Colorado

STATE OF COLORADO)
) SS.
COUNTY OF EL PASO)

Subscribed and sworn to before me this 18 day of Nov, 2026.

_____
Notary Public

ERICA RENE ADAMS
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20254034149
MY COMMISSION EXPIRES SEP 11, 2029

Commission expires: _____

ORDINANCE NO. 26-04

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

ORDINANCE REQUIRING THE REMOVAL OF UNSAFE STRUCTURES

PLEASE NOTE: First Reading of Ordinance No. 26-04 was held on October 22, 2026, and was published in the Colorado Springs Gazette on November 2, 2026, and November 17, 2026, and this Ordinance No. 26-04 will become effective thirty (30) days from publication of the Title.