

When recorded return to:
Natasha Kennedy, Clerk of the Board
P.O. Box 827
Florence, AZ 85132

PINAL COUNTY ORDINANCE NO. 2024-PZ-C-002-24

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

WHEREAS, at the regular meeting of the Pinal County Board of Supervisors held on September 04, 2024, a public hearing took place to determine whether this Ordinance should be approved pursuant to A.R.S. § 11-268; and,

WHEREAS, at the meeting on November 10, 1999, the Pinal County Board of Supervisors adopted Pinal County Ordinance No. 111099-RTO, an ordinance adopted pursuant to A.R.S. § 11-268; and,

WHEREAS, the Arizona Legislature has revised A.R.S. § 11-268 since Pinal County Ordinance No. 111099-RTO was adopted, and certain amendments are needed to accommodate changes in state statute and to better permit Pinal County to address the abatement of properties in violation of the Ordinance; and,

WHEREAS, the notice of hearing for this Ordinance was published in Pinal Central Dispatch, a newspaper of general circulation in the county seat, on August 15, 2024, as required by A.R.S. § 11-251.05.

NOW THEREFORE BE IT ORDAINED, that the Pinal County Board of Supervisors at their regular meeting on September 04, 2024, ADOPTED this Ordinance as follows:

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PINAL COUNTY ORDINANCE NO. 2024-PZ-C-002-24

PART I: REPEAL OF PINAL COUNTY ORDINANCE NO. 111099-RTO

Upon the effective date of this Ordinance, Ordinance No. 111099-RTO is repealed.

PART II: PURPOSE

The purpose of this Ordinance is to comply with A.R.S. § 11-268 and to provide for the remedy of situations or conditions existing on real property which constitute a hazard to public health and safety.

PART III: DEFINITIONS

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

“**Building**” means any structure on real property that is 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.

“**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.

“**County**” means the unincorporated areas of Pinal County.

“**Debris**” means the remains of something broken down or destroyed, or something discarded. “**Debris**” includes, but is not limited to, scrap, car parts, dilapidated structures, dilapidated or inoperable appliances, dilapidated or dismantled personal property mobile homes or manufactured homes, dilapidated or dismantled Park Model trailers, or dilapidated recreational vehicles or trailers.

“**Dilapidated**” means real or personal property having the condition of being in such disrepair or deterioration that it is likely to burn or collapse, and such a condition endangers the life, health, safety, or property of the public.

“**Dilapidated Building**” means any real property structure that is likely to burn or collapse, and its condition endangers the life, health, safety, or property of the public.

“**Lessee**” means a person who has the right to possession and use of goods, real property, or personal property pursuant to a lease, rental agreement, or other similar written instrument or oral understanding.

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“**Manufactured Home**” means a mobile home built after June 15, 1976, built on a permanent chassis, originally bearing an appropriate insignia of approval issued by the United States Department of Housing and Urban Development (HUD), in compliance with the applicable HUD Codes for Manufactured Homes (HUD Codes) in effect as of the date the Manufactured Home was constructed.

“**Mobile Home**” means a residential structure that was manufactured on or before June 15, 1976, that is transportable in one or more sections, eight (8) feet or more in body width, over thirty (30) feet in body length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities and not originally sold as a travel trailer or recreational vehicle and that includes the plumbing, heating, air conditioning, and electrical systems in the structure. “**Mobile Home**” does not include a recreational vehicle or a park model trailer.

“**Occupant**” means a person who has the actual use, possession, or control of real or personal property. “**Occupant**” 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 under federal law.

“**Owner**” means one or more persons, jointly or severally, in whom is vested all or part of the legal title to real or personal property or all or part of the beneficial ownership and has all the rights of ownership, including the right to possess, sell, lease, and enjoy the land or structure. “**Owner**” includes a mortgagee in possession. “**Owner**” does not include a state or federal landowner.

“**Park Model Trailer**” means a structure built on a single chassis, mounted on wheels and designed to be connected to the utilities necessary for the operation of installed fixtures and appliances and that has a gross interior area of not less than three hundred twenty (320) square feet and not more than four hundred (400) square feet when prepared for occupancy.

“**Person**” means an individual, corporation, company, trust, partnership, firm, association, or society. When the word “**Person**” is used to designate the party whose real or personal property may be the subject of a criminal or public offense, the term includes any territory, country, or any political subdivision of this state that may lawfully own any real or personal property, or a public or private corporation, or partnership or association.

“**Personal Property**” includes all interests in property, both tangible and intangible, except real property and fixtures. “**Personal Property**” includes movable property and structures unaffixed to land, including, but not limited to: manufactured homes, mobile homes, Park Model trailers, recreational vehicles, storage containers, and residential or commercial modular buildings.

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“**Public Nuisance**” means anything that is injurious to health, indecent, offensive to the senses or an obstruction to the free use of real or personal property that interferes with the comfortable enjoyment of life or property by an entire community or neighborhood or by a considerable number of persons, or anything that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, basin, public park, square, street, or highway. “**Public Nuisance**” includes an accumulation of rubbish, trash, weeds, filth, debris, or dilapidated building that constitutes a hazard to the public health and safety as determined by Pinal County Development Services, Pinal County Public Health, or any other department with jurisdiction over the condition, including, but not limited to, conditions that promote disease, harbor insects, and/or animals. It is unlawful to erect, construct, reconstruct, maintain or use any land in any zoning district in violation of any regulation or any ordinance pertaining to the land and any violation constitutes a “**Public Nuisance**”.

“**Recreational Vehicle**” means a vehicle such as a motor home, camping trailer, van, fifth wheel trailer or other type of recreational vehicle.

“**Real Property**” means any legal, equitable, leasehold, or other estate or interest in, over, or under a lot or tract of land, including, but not limited to: structures; buildings; grounds or lots; buildings and structures affixed to land, including, but not limited to, manufactured homes and mobile homes; contiguous sidewalks, streets, and alleys; fixtures; and other improvements and interests, located in the County.

“**Structure**” means any building, mobile home, manufactured home, Park Model trailer, recreational vehicle, storage container, residential or commercial modular building, object, vehicle, watercraft, aircraft, or place with sides and a floor, used for lodging, business, transportation, recreation, or storage.

“**Trailer**” means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, which is designed for carrying persons or property and for being drawn by a motor vehicle and is constructed so that no part of its weight rests on the towing vehicle. “**Trailer**” includes a semitrailer equipped with an auxiliary front axle commonly known as a dolly.

“**Weeds**” means all vegetation of any sort growing on sidewalks, streets, alleys, or private property in the County, and includes any of the following:

a. Sagebrush, chaparral, buffelgrass, and any other brush, grass, weeds attaining a growth of at least two (2) feet in height and having been present for over sixty (60) calendar days, as to become when dry, a fire hazard to adjacent property.

b. Weeds or brush which are otherwise noxious or dangerous.

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PART IV: CONDITIONS AND DEFECTS FOR CONSIDERATION IN DETERMINATION OF A PUBLIC NUISANCE OR DILAPIDATED BUILDING

The determination of whether a public nuisance is present or whether a building or structure is dilapidated shall be made by an authorized agent of the Pinal County Development Services Department or any other department with jurisdiction over the condition who is hereby authorized to take such actions as may be required to enforce the provision(s) of this Ordinance.

For the purpose of this Ordinance, any or all of the conditions or defects hereinafter described shall be deemed a public nuisance or dilapidated building or structure, 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:

1. Any rubbish, trash, weeds, filth, debris, or dilapidated building that is not disposed of in a clean and sanitary manner. Any rubbish, trash, weeds, filth, debris, or dilapidated building must be removed to an approved landfill or other facility for waste materials, including if appropriate, a hazardous waste facility, or by other legal means.
2. Any rubbish, trash, weeds, filth, debris, or dilapidated building that presents a hazard to the public health and safety. Conditions that are present and evidence of such a hazard include, but are not limited to, rodents, insects, odor, or risk of fire.
3. Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, blocked, or otherwise unsafe as to not provide safe and adequate means of exit in case of an emergency.
4. 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 event causing the damage, and is materially less than the minimum required for new buildings of similar structure, purpose, and location.
5. Whenever any portion or member or appurtenance presents a likely risk of failing, becomes detached or dislodged, or likely to collapse and injure persons or damage property.
6. Whenever any portion thereof has 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.

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7. Whenever the building or structure, or any portion thereof is likely to partially or completely collapse due to any of the following: (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building or structure; (d) the deterioration, decay, or inadequacy of its foundation; or (e) any other cause.

8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used or intended to be used.

9. Whenever 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.

10. Whenever the building or structure has been so damaged by fire, wind, earthquake, flood, or has become dilapidated or deteriorated as to be a harbor for rodents, vagrants, transients, or criminals, or enable persons to resort thereto for purposes of committing unlawful acts.

11. Whenever the 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 or ordinances of the County, or of any Arizona law relating to the condition, location, or structure of buildings.

12. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, inadequate maintenance, faulty construction or arrangement, faulty or defective heating apparatus, faulty or defective cooling apparatus, faulty or defective plumbing or other sanitation apparatus, is determined by an authorized agent of the Pinal County Development Services Department to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness, disease, or death.

13. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate entries or exits, lack of sufficient fire-resistive construction, faulty or defective electric wiring, faulty or defective gas connections, faulty or defective heating apparatus, faulty or defective cooling apparatus, or other cause, is determined by an authorized agent of the Pinal County Development Services Department to pose a fire hazard.

14. Whenever the condition of any building or structure constitutes a public nuisance as defined in this Ordinance or in Arizona law.

15. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure.

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PART V: VIOLATION OF ORDINANCE; REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, OR DILAPIDATED BUILDINGS; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIENS

1. **Violation.** A person shall have committed a violation of this Ordinance or created a public nuisance if such person, without lawful authority:

a. Owner, lessee, or occupant places, permits, provides, or enables rubbish, trash, weeds, filth, debris, or dilapidated building to remain upon real property in the County.

b. Owner, lessee, or occupant places, permits, provides, or enables rubbish, trash, weeds, filth, debris, or dilapidated building to remain upon contiguous sidewalks, streets, or alleys in the County which are open to the public.

c. Owner, lessee, or occupant places, permits, provides, or enables rubbish, trash, weeds, filth, debris, or dilapidated building to remain upon any private or public property in the County not owned or under the control of the person.

2. **Duty to Remove.** The owner, lessee, or occupant shall remove rubbish, trash, weeds, filth, debris, or dilapidated building or otherwise abate a public nuisance within thirty (30) calendar days after service of a Notice to Abate as provided herein.

3. **Notice to Abate.** Upon reasonable belief that a violation of this Ordinance has occurred, the Notice to Abate shall be served by an authorized agent of the Pinal County Development Services Department, a Pinal County Constable, or other authorized county employee, not less than thirty (30) calendar days before the date for compliance. The Notice to Abate shall include the date for compliance and the estimated cost of removal or abatement if the owner, lessee, or occupant does not comply with the Notice to Abate. The estimated cost of removal or abatement may be provided by either a qualified contractor or authorized agent of the Pinal County Development Services Department or other authorized county employee. Each day during which the violation continues beyond the date for compliance is a separate offense.

4. **Service of Notice to Abate.** The Notice to Abate shall be personally served or sent by certified mail to the owner, any lienholder, lessee, or occupant at the last known address, or the address to which the tax bill for the property was last mailed and posted on the property. If the owner does not reside on the property, a duplicate Notice to Abate shall be sent to the owner at the owner's last known address. If service by certified mail is unsuccessful, the Notice to Abate shall be posted at two locations on or at the real property. The date of service shall be the earliest of any of the following: the date of personal service, the date of receipt of certified mail, or the date that the Notice was posted on or at the real property.

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5. **Content of Notice.** The Notice to Abate shall contain the following:

a. The street address (if any) and the Assessor's tax parcel number of the real property on which the alleged violation(s) of the Ordinance occurred.

b. A brief written statement of why it is believed that the real property identified in the Notice to Abate is in violation of the Ordinance.

c. A written statement that the owner, lessee, or occupant shall have thirty (30) calendar days from the date of service of the Notice to Abate to remove any rubbish, trash, weeds, filth, debris, or dilapidated building upon the real property or upon contiguous sidewalks, streets, or alleys in the County which are open to the public.

d. A written statement that any rubbish, trash, weeds, filth, debris, or dilapidated building may be removed or repaired in accordance with instructions from an authorized agent of the Pinal County Development Services Department or other authorized county employee, agent, or contractor. It is the obligation of the owner, lessee, or occupant to obtain any necessary permits relating to the removal or repair of such rubbish, trash, weeds, filth, debris, or dilapidated building.

e. A written statement that the rubbish, trash, weeds, filth, debris, or dilapidated building must be disposed of at an approved landfill or other facility for waste materials, including if appropriate a hazardous waste facility, or by other legal means.

f. A written statement that Pinal County may cause the violation(s) to be abated if the owner, lessee, or occupant fails to comply with the Notice to Abate within thirty (30) calendar days and the cost of abatement shall be a lien against the real property.

g. A written estimate of the cost of removal or abatement by Pinal County, including incidental costs, that is based on either an estimate from a qualified contractor or authorized agent of the Pinal County Development Services Department or other authorized county employee.

h. A written statement that the owner, lessee, or occupant shall have fifteen (15) calendar days from the date of service of the Notice to Abate to appeal to the Pinal County Civil Hearing Office and that failure to appeal the Notice to Abate constitutes a waiver of all rights to a hearing and determination of the matter.

i. A statement that a party who places any rubbish, trash, weeds, filth, debris, or dilapidated building upon any private or public property in the County that is not owned or controlled by that party is guilty of a criminal offense under Arizona law, including A.R.S. § 13-1603, and may be subject to criminal penalties in addition to the costs of abatement.

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6. **Appeal of Notice to Abate.** Any person receiving a Notice to Abate may appeal to the Pinal County Civil Hearing Office as follows:

a. **Notice of Appeal.** A written Notice of Appeal shall be filed with the Pinal County Development Services Department no later than fifteen (15) calendar days from the date of service of the Notice to Abate. Failure to file a written Notice of Appeal within fifteen (15) calendar days constitutes a waiver of all rights to a hearing or any other form of appeal.

b. **Contents of Notice of Appeal.** The Notice of Appeal shall state in detail why the owner, lessee, or occupant (appellant) should not be required to comply with the Notice to Abate and describe why the rubbish, trash, weeds, filth, debris, or dilapidated building does not qualify as a public nuisance.

c. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the hearing on the appeal shall be scheduled as soon as practicable before the Pinal County Civil Hearing Office. At the time of the hearing, an authorized agent of the Pinal County Development Services Department shall appear and present evidence of condition(s) present on the real property alleged to constitute a public nuisance. The appellant may present evidence to controvert the existence of the alleged public nuisance. The hearing shall be conducted in accordance with the rules of the Pinal County Civil Hearing Office.

d. **Extension of Time for Compliance.** If the decision of the Civil Hearing Office is adverse to appellant, appellant shall have thirty (30) days from the date of the decision to comply with the Notice to Abate.

7. **Removal by Owner, Lessee, or Occupant.** If any person is required to remove any rubbish, trash, weeds, filth, debris, or dilapidated building pursuant to this Ordinance, and that person recklessly places any such rubbish, trash, weeds, filth, debris, or dilapidated building on any private or public property located in the County, that person shall provide Pinal County Development Services Department with a receipt from a disposal facility to indicate that the rubbish, trash, weeds, filth, debris, or dilapidated building has been disposed of as required by law.

8. **Removal of Nuisance.** If the owner, lessee, or occupant fails to remove or otherwise abate the public nuisance within thirty (30) calendar days from either the date of service of the Notice to Abate or from the date of an unsuccessful appeal (or by a later alternative date provided in writing by an authorized agent of the Pinal County Development Services Department), Pinal County Development Services Department may, at the expense of the owner, lessee, or occupant, remove or abate the public nuisance or cause it to be removed or abated.

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a. **Cost of Removal.** The cost of removal or abatement shall not exceed the estimate set forth in the Notice to Abate.

i. **Dilapidated Buildings.** Before removal of a dilapidated building, a designated county official shall consult with the state historic preservation officer to determine if the building is of historic value. Upon removal of a dilapidated building, the County Assessor shall adjust the valuation of the real property on the property assessment tax rolls from the date of removal.

b. **Assessment.** Upon removal or abatement of the public nuisance, the actual cost of removal or abatement, including the 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 Assessment shall not exceed the estimated cost of removal or abatement provided in the Notice to Abate. The County shall record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of the assessment and the legal description of the property.

c. **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. An appeal of the Notice of Assessment shall address any alleged inaccuracies and/or unreasonableness of the costs of removal or abatement.

d. **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, the Assessment shall be delinquent and the Assessment shall be recorded in the office of the Pinal 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 in full. The lien of the Assessment is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages.

i. **Foreclosure.** The Board of Supervisors may, but is not obligated to, bring an action to enforce the Assessment lien in the Pinal County Superior Court at any time after the recordation of the Assessment when the owner, lessee, or occupant has failed to maintain the payment of assessments as provided in Part V, Section 8(f) of this Ordinance. 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.

e. **No Bar to Subsequent Assessments.** A prior Assessment under this Ordinance is not a bar to a subsequent Assessment or assessments, and any number of liens on the same real property may be enforced in the same action.

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f. **Payment of Assessments.** Assessments under Part V, Section 8 of this Ordinance, pursuant to A.R.S. § 11-268(E), run against the real property until they are paid and are due and payable in equal annual installments as follows:

i. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.

ii. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.

iii. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.

iv. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.

iv. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

g. **Future Changes to Assessments.** Should the assessments or time such assessments are paid be changed, adjusted, or otherwise altered by operation of law, such changes shall hereby be incorporated into this Ordinance and replace the applicable section(s) of Assessments as set forth in Part V, Section 8(f).

PART VI: PLACING RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, OR DILAPIDATED BUILDING ON PROPERTY OF ANOTHER; PENALTY; ASSESSMENT

1. **Placing Rubbish, Trash, Weeds, Filth, Debris, or Dilapidated Building on Property of Another is Prohibited.** Any person that recklessly places any rubbish, trash, weeds, filth, debris, or dilapidated building on any private or public property in the County that is not owned or under the control of the person is guilty of a class 1 misdemeanor unless immediately removed.

2. **Liability for Costs.** In addition to any fine which may be imposed pursuant to Part VI, Section 1, any person is liable for all costs that may be assessed for the removal of the rubbish, trash, weeds, filth, debris, or dilapidated building.

3. **Fines.** One hundred percent (100%) of any assessed fine shall be deposited in the Pinal County general fund. At least fifty percent (50%) of the fine shall be used by Pinal County for purposes of illegal dumping cleanup.

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PART VII: 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 Pinal County pursuant to statute or common law, including, but not limited to, A.R.S. §§ 11-268, 13-2908, 36-183, and 49-143.

PASSED AND ADOPTED this 4st day of September, 2024, by the PINAL COUNTY BOARD OF SUPERVISORS.

Chairman of the Board

ATTEST:

Clerk/Deputy Clerk of the Board

APPROVED AS TO FORM:



Deputy County Attorney