

**ORDINANCE NO. 2008-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH DEBRIS, AND DILAPIDATED BUILDINGS THAT CONSTITUTE A HAZARD TO PUBLIC HEALTH AND SAFETY; AMENDING THE PIMA COUNTY CODE BY AMENDING TITLE 7, CHAPTER 33 TO IMPROVE THE CLARITY OF THE MEANING OF "WEED" AND THE PROVISIONS AND PROCEDURES FOR REMOVAL, ABATEMENT, INJUNCTION, AND COST RECOVERY.**

**WHEREAS, A.R.S § 11-268 allows Pima County to remove, abate or enjoin rubbish, weeds, filth, debris, and dilapidated buildings which constitute a hazard to public health and safety.**

**WHEREAS, A.R.S. § 3-201 and Arizona Administrative Code R3-4-244 clearly define "noxious weed."**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, AS FOLLOWS:**

**SECTION 1.** Title 7, Chapter 33 of the Pima County Code is hereby amended to add Section 7.33.025 and amend Sections 7.33.010, 7.33.020, 7.33.030, 7.33.040, 7.33.050, 7.33.060, and 7.33.070 as follows:

**7.33.010 Definitions.**

**A.** In this chapter, unless the context otherwise requires:

1. "Contiguous areas" means sidewalks, streets, trails and alleys dedicated and open to the public that are contiguous to property.
2. "Occupant" means an occupant of property, but does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States of America, either under contract or under federal law.
3. "Property" means real property including buildings, grounds and lots.

4. "Weed" includes any species of plant that is, or is liable to be, detrimental or destructive and difficult to control or eradicate including those regulated pursuant to Arizona Administrative Code R3-4-244, including Pennisetum ciliare (L.) Link-Buffergrass.

#### **7.33.020 Removal.**

The owner, lessee or occupant of property shall remove all rubbish, trash, weeds, filth, debris, and dilapidated buildings that which constitute a hazard to public health ~~or~~ and safety from the property and contiguous areas.

#### **7.33.025 Opportunity to Correct**

- A. Upon reasonable belief that a violation of Section 7.33.020 has occurred, the county may provide the owner, lessee or occupant an opportunity to correct the violation by removing or abating all rubbish, trash, weeds, filth, debris, and dilapidated buildings.
- B. If the county allows the owner, lessee or occupant or any lienholder an opportunity to correct, the owner, lessee or occupant shall notify the county of the removal or abatement. Within 30 calendar days of receipt of notification that all rubbish, trash, weeds, filth, debris, and dilapidated buildings have been removed or abated, the county shall determine compliance and notify the owner, lessee or occupant of the determination. If the owner, lessee or occupant fails to remove or abate all rubbish, trash, weeds, filth, debris, and dilapidated buildings, the county may take any enforcement action authorized by law for the removal or abatement of all rubbish, trash, weeds, filth, debris, and dilapidated buildings.
- C. An opportunity to correct is not appealable.

#### **7.33.030 Notice of ~~violation~~ Abatement.**

A. Upon reasonable belief that a violation of Section 7.33.020 has occurred, the county environmental officer may issue a notice of abatement to the owner, lessee or occupant .

The notice shall include the following:

- ~~1. Provide a notice of violation in writing which shall be served upon the owner, lessee or occupant personally or by certified United States mail at their last known address, or at the address on file in the county treasurer's office to which the most recent property tax bill was mailed. If a notice of violation is served upon a lessee or occupant of property who is not the owner of the property, a copy of the notice shall be mailed to the owner by first class United States mail to the owner's last known address or may be served by any other means reasonably calculated to provide the owner with notice.~~
- ~~2. The notice shall provide that the owner, occupant or lessee shall have thirty days to remove any rubbish, trash, weeds, filth or debris upon the property or contiguous areas and the estimated cost to the county for the removal.~~
- ~~3. The notice shall provide that the owner, occupant or lessee shall have ten days to appeal the issuance of the notice to the board. The date of mailing of the appeal shall be the date of filing. All appeals of notices shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the clerk of the board.~~
- ~~4. The board shall set a date to hear the appeal after receipt of a notice of appeal timely filed. Written notice of the hearing shall be provided to the appropriate county departments and to the owner, lessee or occupant who is appealing. The board shall determine, based upon a preponderance of the evidence, whether a violation of the ordinance has occurred and shall issue its determination in writing upholding or reversing the notice of violation. The decision of the board shall be final.~~

1. A compliance date, but not less than 30 calendar days from the notice date, to remove all rubbish, trash, weeds, filth, debris, and dilapidated buildings which constitute a hazard to public health and safety from the property and contiguous areas;
  2. The estimated cost to the county for the removal if the owner, occupant or lessee, does not comply.
- B. Within 10 business days of the notice of abatement the owner, occupant or lessee may appeal the notice to the Board of Supervisors. All appeals shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the Clerk of the Board. The date of mailing of the appeal shall be the date of filing. The Board of Supervisors shall set a date to hear the appeal after receipt of a notice of appeal timely filed. Written notice of the hearing shall be provided to the appropriate county departments and to the owner, lessee or occupant who is appealing. The Board of Supervisors' decision is final.
- C. The notice shall either be served upon the owner, lessee or occupant personally or by certified mail at their last known address, or at the address on file in the County Treasurer's office to which the most recent property tax bill was mailed. If the owner of the property does not reside on the property, a duplicate notice shall be mailed to the owner at the owner's last known address. The notice should be mailed to any known lienholder.
- D. The county may provide a copy of the notice of abatement to the local fire authority.

**7.33.040 Assessments Abatement by county.**

- A. Upon expiration of the thirty days after issuance of the notice provided for in Section 7.33.030 of this chapter or upon issuance of the final decision of the board in writing upholding issuance of the notice provided for in Section 7.33.030, the environmental officer shall If the owner, lessee, or occupant fails to remove or abate all rubbish, trash, weeds, filth, debris, and dilapidated buildings by the compliance date determined in the

notice of abatement or the Board of Supervisors' final appeal hearing decision, the county may remove, abate, enjoin or cause the removal or abatement of the rubbish, trash, weeds, filth, debris, and dilapidated buildings by the county's employees, agents or contractors at the expense of the owner, lessee or occupant.

- ~~1. Issue an order of abatement directing the removal of all rubbish, trash, weeds, filth or debris by the county's employees, agents or contractors ten days after the issuance from the property or contiguous areas which were the subject of the notice under Section 7.33.030. The order shall be in writing and signed by the county manager or his designee. The order shall include the estimated actual cost for the removal, including a five percent surcharge to recover the county's incidental costs incurred in connection with the removal or abatement.~~
- ~~2. A copy of the order of abatement shall be posted upon the subject property. The order shall also be sent by certified United States mail to the owner, lessee or occupant at their last known address or their most recent address to which a property tax bill was mailed by the county treasurer. If the order who is not the owner of the property, a duplicate notice shall also be sent to the owner at the owner's last known address.~~
- ~~3. After ten days have elapsed from the date of issuance of the order of abatement, the county's employees, agents or contractors may enter upon said property and remove all rubbish, trash, weeds, filth, or debris from any property or contiguous areas which were the subject of a notice issued pursuant to Section 7.33.030.~~

B. The county shall provide advance written notice identifying the scheduled date(s) of abatement to the owner, lessee or occupant at their last known address, or at the address on file in the County Treasurer's office to which the most recent property tax bill was mailed. If the owner of the property does not reside on the property, a duplicate notice shall be mailed to the owner at the owner's last known address.

**7.33.050 Assessments.**

4. A. ~~Within thirty days after~~ After the county, its employees, agents or contractors have removed, abated, or caused the removal or abatement of the rubbish, trash, weeds, filth, debris, and dilapidated buildings pursuant to this section Chapter, the county shall issue ~~an a written~~ order of assessment. ~~The order shall be in writing and shall list~~ The order of assessment shall include the following:
1. The common address, legal description and tax parcel number of the property; ;  
and
  2. ~~The order shall also list~~ The total actual cost of removal including the five percent surcharge levied by the county. all incidental costs, legal costs, and costs for any additional inspections;
- B. ~~If the county obtains an injunction to compel compliance with Section 7.33.020, the Court shall award attorneys' fees and all costs associated with securing or enforcing the injunction, including costs of additional inspections, to the County. An award of fees and costs by a court is not appealable to the Board of Supervisors. The Court's order awarding fees and costs may be recorded as an assessment and may be collected in the manner provided for in this Section and A.R.S. § 11-268(E).~~
- C. ~~The order shall be signed by the county manager or his designee and~~ The order of assessment shall be recorded in the office of the County Recorder including the date and amount of the assessment and the legal description of the property.
5. ~~The order of assessment shall contain the following notice in bold face print:  
NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S. 11-268(D)  
SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN  
THIS ORDER IN FAVOR OF PIMA COUNTY. THE COUNTY MAY TAKE  
LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY  
DESCRIBED TO RECOVER THE COSTS INDICATED IN THIS ORDER OF  
ASSESSMENT.~~

~~6. The order of assessment shall indicate that the owner, lessee or occupant shall have ten days from the date of issuance to appeal the amount of assessments levied by the county. The date of mailing of orders of assessment shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of assessment may be appealed. The board shall not hear any appeals of violations upon appeal of an order of assessment.~~

~~7. The board shall set a date to hear the appeal of an order of assessment after receipt of a notice of appeal timely filed. Written notice of the hearing shall be provided to the department and to the owner, lessee or occupant who is appealing. The board shall determine based upon a preponderance of the evidence whether the assessment was made in accordance with the provisions of this chapter and state statute and whether the amount actually represents the costs incurred by the county. The board shall issue its determination in writing upholding or modifying the amount of assessment. The decision of the board shall be final.~~

D. Within 10 business days of the order of assessment the owner, occupant or lessee may appeal the amount of the assessment levied by the county to the Board of Supervisors. All appeals shall be in writing and shall specify the grounds for appeal. Only the amount of the assessment may be appealed. The Board of Supervisors shall not hear any appeals of violations upon appeal of an order of assessment. The appeal shall be filed with the Clerk of the Board. The date of mailing of the appeal shall be the date of filing. The Board of Supervisors shall set a date to hear the appeal after receipt of a notice of appeal timely filed. Written notice of the hearing shall be provided to the appropriate county departments and to the owner, lessee or occupant who is appealing. The Board of Supervisors shall determine whether the assessment was made in accordance with the provisions of this Chapter and state statute and whether the amount actually represents the costs incurred by the county. The Board of Supervisors shall issue its determination in

writing upholding or modifying the amount of the assessment. The Board of Supervisors' decision is final.

~~8. E.~~ The ~~order of assessment shall indicate that the~~ assessment shall be paid to the Pima County Treasurer. ~~Further, the order of assessment shall provide that~~ and any delinquent assessments shall bear interest at the legal rate from the date of delinquency.

~~9. F.~~ A prior assessment under this ~~chapter~~ Chapter is not a bar to a subsequent assessment or assessments under this ~~chapter~~ Chapter, and any number of liens pursuant to this ~~chapter~~ Chapter may be enforced in the same action.

G. Assessments that are imposed under this Chapter run against the property until they are paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

**~~7.33.050 Lien enforcement.~~**

~~A. I.~~ The ~~department~~ county shall maintain a list of all delinquent assessments made pursuant to this ~~chapter~~ Chapter.

~~B. J.~~ All assessments sixty calendar days delinquent shall be forwarded to the County ~~manager~~ Administrator or his designee for review. If the County ~~manager~~ Administrator or his designee determines that the value of the assessment and interest, together with the value of all other liens having priority over the assessment does not exceed the value of the

property, the county attorney may commence legal action to foreclose the lien and request the superior court to order the property sold and the proceeds used to pay off all liens having priority and the assessment and interest.

~~C-K.~~ If the County ~~manager~~ Administrator or his designee determines that the value of assessment and interest, together with the value of all other liens having priority over the assessment exceeds the value of the property, legal action to foreclose the lien need not be commenced.

~~D-L.~~ Upon payment in full of an assessment and interest, the county shall record a notice of satisfaction of assessment in the office of the County Recorder. The notice shall contain the name of the owner of the property, the tax parcel number, the common street address and the legal description of the subject property. The notice shall refer to the date of the order of assessment and the docket and page number in the office of the County Recorder where such order is recorded.

### **7.33.060 Penalties.**

A. In addition to the abatement and assessment procedure or injunction provided for by this ~~chapter~~ Chapter, ~~a person is guilty of a petty offense if such person;~~ 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 1 misdemeanor.

1. ~~After being noticed of a violation of Section 7.33.020, fails to remove the rubbish, trash, weeds, filth or debris that is the subject of said notice prior to such removal by the county pursuant to an order of abatement issued pursuant to Section 7.33.040; or~~
2. ~~Places any rubbish, trash, filth or debris upon any private or public property now owned or under the control of such person.~~

~~B. In addition to any fine which may be imposed upon a person who violates subsection A.2 of this section, such person is liable for all costs which may be assessed pursuant to this chapter for the removal of the rubbish, trash, filth or debris.~~

~~C.B.~~ The provisions of this ~~section~~ Section are cumulative and do not bar any other enforcement action provided for by law.

**7.33.070 Applicability.**

The provisions of this ~~chapter~~ Chapter apply to all unincorporated areas of the county.

**SECTION 2:** If any of the provisions of this Ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not effect other provisions or applications of this Ordinance which can be given effect without the invalid provision or circumstance. To this end, the provisions of this Ordinance are severable.

**SECTION 3:** This Ordinance shall take effect 31 days from the date of its adoption.

**PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona,**  
this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Chairman of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

REVIEWED BY:

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Deputy County Attorney

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Ursula Kramer, Director  
Department of Environmental Quality

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