

# Article 14



## ● ● ● Rubbish, Weeds & Brush, & Unsafe Structure

### Article 14 • Rubbish, Weeds & Brush, & Unsafe Structure

#### 14-100 Purpose

- A. To protect the health, safety, and welfare of the citizens of Boulder County through the removal of rubbish (including trash, junk, and garbage); weeds and brush; and unsafe or abandoned buildings and structures from land in the unincorporated areas of the County. This includes removal by the County upon notice to and failure of the property owner to remove such rubbish, weeds, or unsafe structures, and the provision for criminal penalties in the event of failure to comply.

#### 14-200 Authority

- A. Section 30-15-401, C.R.S., as amended, authorizes the Board of County Commissioners to adopt ordinances for the control of matters of local concern, including providing for and compelling the removal of the following:
1. 'Rubbish': rubbish, including trash, junk, and garbage, from land within the unincorporated County and from alleys behind and sidewalk areas in front of such land, with the exception of:
    - a. industrial parcels of ten acres or greater; and
    - b. agricultural land, as defined by 39-1-102(1.6), C.R.S., as amended, currently in agricultural use.
  2. 'Weeds and Brush': weeds and brush from residential lots of two and one-half acres or less and from alleys behind and sidewalk areas in front of such lots; and
  3. 'Unsafe Structures:' any building or structure, as further defined below, with the exception of any building or structure on
    - a. affected land subject to the 'Colorado Mined Land Reclamation Act' as defined in 34-32-103(1.5), C.R.S., as amended, or (b) lands subject to the 'Colorado Surface Coal Mining Reclamation Act' pursuant to Article 33 of Title 34, C.R.S., as amended.

## 14-300 Applicability

- A. This Article shall apply throughout the unincorporated area of the County, with the exception of (see 30-15-401(8) & (9), C.R.S., as amended):
  - 1. Any municipal service, function, facility, or property whether owned by or leased to the incorporated municipality, unless the municipality consents pursuant to 30-15-401(8), C.R.S., as amended.
- B. This Article shall not duplicate or interfere with any service or facility authorized and provided by a special district, or contravene any power authorized and exercised by a special district, unless the County is specifically empowered by law to exercise authority with respect thereto, or the County and the special district agree pursuant to Part 2 of Article 1 of Title 29, C.R.S., as amended.

## 14-400 Definitions

- A. Abatement: To remove the rubbish, weeds and brush, or unsafe structure as prescribed in the notice of violation.
- B. Agricultural land is land which, regardless of the uses for which such land is zoned, the County Assessor has determined meets the definition of "agricultural land" in 39-1-102(1.6), C.R.S., as amended.
- C. Rubbish: Garbage, trash, and junk including, but not limited to, unwanted or discarded household items; waste from building construction, remodeling, and repair; tree branches, grass and shrub clippings, leaves, or other general yard and garden waste; motor vehicle parts or tires, or abandoned, unlicensed, or inoperable motor vehicles including without limitation mobile or manufactured homes; newspapers, magazines, packaging materials, waste paper or cardboard; dead animal carcasses; and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.
- D. Special District: Any special district established pursuant to Article 1 of Title 32, C.R.S., as amended; the Three Lakes Water and Sanitation District established pursuant to Article 10 of Title 32, C.R.S., as amended; the urban drainage and flood control district established pursuant to Article 11 of Title 32, C.R.S., as amended; any metropolitan sewage disposal district established pursuant to Part 4 of Article 4 of Title 32, C.R.S., as amended; any drainage district established pursuant to Article 20 of Title 37, C.R.S., as amended; the Cherry Creek basin water quality authority established pursuant to Article 8.5 of Title 25, C.R.S., as amended; any regional service authority established pursuant to Article 7 of Title 32, C.R.S., as amended; and the Regional Transportation District established pursuant to Article 9 of Title 32, C.R.S., as amended. (See 30-15-401(9)(b), C.R.S., as amended.)
- E. Unsafe Structure: A structure or building which, in the determination of the Chief Building Official: (1) is in a condition presenting a substantial danger or hazard to public health, safety, or welfare; or (2) is a dilapidated building which is unused by the owner or uninhabited because of deterioration or decay, and constitutes a fire hazard or subjects adjoining properties to a danger of damage by storm, soil erosion, or rodent infestation, or is a place frequented by trespassers and transients seeking a temporary hideout.
- F. Violation: The presence of rubbish, weeds and brush, or an unsafe structure, contrary to the provisions of this Article.
- G. Weeds and Brush: Any underbrush, bush, shrub, or plant material greater than nine inches in height which:
  - 1. ordinarily grows without cultivation; not in planting beds or otherwise in a controlled manner; or not for the purpose of food production; and
  - 2. is allowed to grow in such a manner or extent that it causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics; and
  - 3. is not a noxious weed designated under the County's Noxious Weed Management Plan, the removal of which shall be governed by that Plan and not this Article.

## 14-500 Process for Removal of Rubbish, Weeds and Brush, or Unsafe Structures

### A. Complaint and Verification of Violation

1. Upon complaint made or filed by a member of the public or by a County official or employee, the Director will take reasonable steps to verify the complaint as a violation.
2. The Director's authority to enter and inspect land, a building or structure for a violation, shall be governed by the same procedures for obtaining consent or an administrative search warrant as are set forth under Article 17-300(E)(1)-(2).

### B. Notification of Violation and Provision for Appeal

1. If the Director verifies a complaint as a violation, the Director will, as soon as practicable, provide written notice of the violation and the requirements for abatement to the property owner of record as identified on the Boulder County tax records (both to the address in the tax records and the property address, if different), and to any other responsible party whose identity and whereabouts are known to the Director.
2. The notification will include a description of the violation; the requirements for abatement including the time period in which abatement must occur; a proposed reinspection date to verify abatement; a statement of the right to appeal the determination of violation; and the time within which a written appeal must be filed. Ordinarily the Director will provide 30 days for abatement, unless the Director determines that a shorter or longer time is justified.
3. The property owner or other noticed person may appeal the Director's determination that a violation exists to the Board of County Commissioners.
  - a. Unless the notice of violation specifies a reasonable shorter time, the request for an appeal must be made to the Land Use Department in writing no later than 30 days after the date of the violation notice (with an additional three days allowed if the notice is mailed). The Director may specify a reasonable shorter time for filing an appeal in the notice, if the Director determines that an abatement time of less than 30 days is necessary.
  - b. If a timely appeal is filed, the Director will schedule a hearing before the Board to consider the appeal at the earliest available time for which adequate notice of the appeal may be given.
  - c. The Director will notify the party requesting the appeal of the hearing date and time as soon as possible after the hearing is scheduled. The Director also will notify adjacent property owners and any other known interested members of the public in advance of the hearing.
  - d. At the appeal hearing the Board will take testimony from the Director, the alleged violator, and any members of the public present. Based on the hearing the Board may affirm, reverse, or modify the determination of the Director as set forth in the notice of violation.

### C. Board of County Commissioners' Authorization for Abatement by County

1. If the alleged violator fails to comply with the County's requirements for abatement, the Director may request that the Board of County Commissioners, at a public meeting, authorize the County to arrange for abatement of the violation. The Director shall provide reasonable prior notice of the meeting to the alleged violator in the same manner as required for the initial notice of violation under Subsection (B)(1), above.

### D. Administrative Entry and Seizure Warrant for County Abatement

1. Upon authorization by the Board for County abatement of the violation, the Director shall seek an administrative entry and seizure warrant from the county or district court having jurisdiction over the property.
2. Such warrant shall be issued upon presentation of these regulations; an affidavit stating the factual basis for the warrant; evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time; a general description of the location of the subject property; a general description of the violation; and the proposed method and extent of abatement by the County (including a general list or description of the rubbish, weeds or brush, or unsafe structure to be removed).

**E. County Abatement**

1. Within 10 days following the date of issuance of an administrative warrant, the County shall abate the violation in accordance with the direction of the issuing court; a copy of the issued warrant shall be provided to the property owner; and proof of the execution of the warrant, including a written inventory of any property impounded by the County, shall be submitted to the court.
2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party, and may include the impoundment of rubbish or other property removed as part of the abatement.
3. A bill for the reasonable costs of abatement shall be mailed to the property owner of record at the addresses specified in Section (B)(1), above. The bill may include a separate charge for the reasonable costs of inspection and other incidental costs incurred by the County in abating the violation, which charge may not exceed five percent of the total abatement costs for rubbish and unsafe structure violations, and may not exceed ten percent of the total abatement costs for weeds and brush violations. Payment of the bill shall be due within 60 days of the date of the bill.
4. If the bill is unpaid after 60 days, the Director through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. (See 30-15-401(1)(a)(I)(A) and -(I.5)(B), C.R.S., as amended.)

## **14-600 Preservation of Remedies**

- A. Unless otherwise specified in this article, the remedies as provided in this Article, and as may be available under other applicable regulations of the County or pursuant to state or federal law, are not exclusive in any way, and may be pursued by the County singly or in combination to achieve the most expeditious abatement of violations involving the presence of rubbish, weeds and brush, and unsafe structures.