

ORDINANCE # 99-02BEFORE THE BOARD OF COUNTY COMMISSIONERS  
COUNTY OF GILPINAN ORDINANCE AMENDING ORDINANCE #98-1 TO MODIFY AND EXPAND THE  
DEFINITION OF TRASH TO INCLUDE ANIMAL EXCREMENT AND WASTE AND  
TO PROVIDE FOR THE REMOVAL OF TRASH AS SO DEFINED FROM LOTS AND  
TRACTS OF LAND WITHIN THE COUNTY OF GILPIN AND PROVIDING  
PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the County has heretofore enacted Ordinance No. 98-1 to provide for and compel the removal of rubbish including trash, junk and garbage from lots and tracts of land within the County pursuant to authority vested in the County under §30-15-401(1) C.R.S. *et. seq.*; and,

WHEREAS, the unreasonable accumulation of animal excrement and waste upon lots and tracts of land in Gilpin County constitutes a threat to the health, safety and welfare of County residents; and,

WHEREAS, the unreasonable accumulation of animal waste and excrement is nauseous, offensive and a threat to human health and therefore properly included within the legislative definition of trash set forth in this ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN, COLORADO, AS FOLLOWS:

1. TRASH. For purposes of this ordinance, the term "trash" shall include any garbage, litter, refuse, debris, rubbish, grass clippings, or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material, furniture, oil, carcasses of dead animals, any nauseous or offensive matter of any kind, including but not limited to unreasonable accumulations of animal waste and excrement, any object or material likely to injure any person or create a traffic hazard, or any other object or material which has been discarded or abandoned, but specifically, excluding weeds, brush, or other growing things in place. For purposes of this ordinance, the following accumulations of animal waste and excrement are unreasonable:

- a. On lots or tracts of 3 contiguous acres or less, animal waste and excrement in excess of 3 cubic yards.
- b. Upon lots or tracts in excess of three acres, but less than seven contiguous acres, animal waste or excrement in excess of 8 cubic yards.

- c. On lots or tracts greater than seven acres, but less than twenty contiguous acres, animal waste or excrement in excess of 12 cubic yards.
- d. Upon lots or tracts twenty acres or greater in size, no accumulation of animal waste or excrement shall be deemed to be unreasonable for purposes of this ordinance.

The term "trash" shall further include motor vehicle parts in whole or in part, unlicensed and inoperable motor vehicles and inoperable machinery and equipment to the extent any of the foregoing items are not housed, fenced, or otherwise totally concealed from public view.

2. No owner or occupant of property within the County of Gilpin shall permit or allow the accumulation or collection of trash upon any lot or tract of land within the County of Gilpin, excepting such accumulation or collection upon lots or tracts of ten (10) acres or more within a district zoned for industrial use (C-5), or upon agricultural lands currently in agricultural use, as said term is defined in C.R.S. 1973, §39-1-103(6)(a)(I) and further excepting herefrom such collection or accumulation in alleys behind, and upon sidewalk areas in front of, such lots or tracts of land within the County of Gilpin, at such times and in such manner as prescribed in ¶3 of this ordinance.

3. Trash may be placed in alleys behind and upon sidewalk areas in front of lots and tracts of land within Gilpin County upon those days established for collection of trash by persons licensed by Gilpin County to operate a business of transporting and disposing of trash, provided that such accumulation or collection upon lots and tracts within the county shall be permitted no more than one (1) day per week, and for the sole and exclusive purpose of facilitating the collection, transport and disposal of such trash.

4. **NOTICE.** In the event a collection or accumulation of trash is found to exist upon any lot or tract of land within the County of Gilpin, other than as specifically authorized herein, the County, without limiting any other remedy legal or equitable available to County, including but not limited to an action commenced by the Gilpin County Board of Health to abate or enjoin the continued accumulation of trash upon a lot or tract of land, pursuant to C.R.S. §25-1-617 et. seq., may remove such accumulation or collection of trash from such lot or tract of land upon compliance with the following procedure:

- a. The County shall, by written notice posted in a conspicuous place upon the lot or tract of land upon which trash has been allowed to accumulate, give notice to the property owner to remove the trash collection or accumulation within ten (10) days from the date of posting. In the event the property upon which trash has been accumulated or collected is occupied, the building inspector shall make a reasonable effort to deliver such written notice to the occupant thereof, provided however that personal notice shall not be required as a condition precedent to exercise of the procedure set forth in the immediately succeeding paragraph, so long as notice has been properly posted on the premises.
- b. In the event the property owner shall fail to comply with the written notice given pursuant to subparagraph (a) above, the County shall apply to the Gilpin County

Court for an administrative entry and seizure warrant for the removal of the rubbish. The application for issuance of administrative entry and seizure warrant shall be accompanied by a sworn affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish within ten (10) days from the date of such notice having been given to the property owner, a general description of the location of the property which is the subject of the warrant, a general list of the rubbish to remove from the property and the County's proposal for disposal or removal of the rubbish.

- c. Within ten (10) days following the date of issuance of an administrative entry and seizure warrant by the Court, such warrant shall be executed in accordance with directions by the issuing Court. A copy of the issued warrant shall be provided or mailed to the property owner. Proof of execution of such warrant, including a written inventory of any property impounded by the County shall be submitted to the Court by the executing authority. For purposes of this ordinance, the executing authority shall be the Gilpin County Sheriff's Department. The Gilpin County Sheriff's Department is authorized to retain the services of private contractors to execute an administrative entry and seizure warrant provided that the Gilpin County Sheriff's Department shall supervise such execution.

5. ASSESSMENT OF COSTS. In the event the owner or occupant of the property has failed to comply with the written notice demanding removal of trash, and the County, pursuant to the administrative entry and seizure warrant procedure, has removed the trash from the property, the cost of such removal including transport and disposal of the trash removed shall be assessed to the lot or tract of land from which the trash was removed, such costs to include a 10% penalty for the cost of collection. Any assessment pursuant to this paragraph shall constitute a lien against the lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In the event the assessment hereunder is not paid within thirty (30) days from the date notice of assessment is provided to the property owner by certified mail, the assessment may be certified by the county clerk to the county treasurer, who shall collect the assessment together with a 10% penalty for the cost of collection in the same manner as other taxes are collected.

6. REMEDY NOT EXCLUSIVE. The foregoing remedies shall be in addition to any other lawful remedy available to the County of Gilpin to compel the removal of trash including, but not limited to injunctive relief, or such other relief as may be available under Gilpin County Zoning Resolutions or remedies available under C.R.S. 1973, §30-28-124 or §25-1-617 *et. seq.*, and all remedies available for the abatement of public nuisances.

7. VIOLATIONS AND PENALTIES. Every person convicted of a violation of this ordinance shall be punished by a fine of not more than \$600 for each separate violation. Each day upon which trash remains upon a lot or tract of land within the county, after expiration of the ten day notice period for removal, specified in paragraph 4(a) shall be deemed a separate offense.

8. The penalty assessment procedure provided in §16-2-201 C.R.S. may be followed by any arresting law enforcement officer for any violation of this county ordinance.
9. ENFORCEMENT PERSONNEL. The Gilpin County Manager, Gilpin County Building Inspector and Gilpin County Zoning Officer, are authorized to enforce this County Ordinance and may issue citations or summonses and complaints enforcing this ordinance without regard to certification requirements set forth in Part 3, Article 31, Title 24 C.R.S. provided however, that nothing in this ordinance shall be construed to vest authority in any person to enforce this ordinance through execution of an administrative entry and seizure warrant issued pursuant to §30-15-401, the Gilpin County Sheriff being the sole official authorized to execute any such administrative entry and seizure warrant, in accordance with the provisions of this ordinance.
10. BAIL BOND. Bail bond shall be accepted when any person has been arrested for the violation of this ordinance and a continuance or postponement of trial is granted. Such bond shall have the same validity and effect as bail bonds provided for under criminal statutes of this state.
11. APPLICABILITY. This ordinance shall apply throughout the unincorporated area of the County of Gilpin including public and state lands and to any incorporated town or city within the County of Gilpin which shall elect by ordinance or resolution to have the provisions hereof applied.
12. SEVERABILITY. If any one or more of the findings, determinations or provisions of this ordinance should be held invalid, then such finding, determination or provision shall be null and void and shall be deemed separate from the remaining findings, determination or provisions, and in no way affect the validity of any of the other findings, determinations, and provisions of this ordinance.
13. REPEALER. Upon the effective date of this ordinance, Gilpin County Ordinance No. 3, shall be deemed to be repealed in its entirety.
14. EMERGENCY CLAUSE. The Board of County Commissioners of Gilpin County finds that it is in the interest of the public health and safety that this ordinance take effect upon second reading. It is the finding and determination of the Board of County Commissioners that the control of accumulations of trash, debris, refuse and garbage within the County pursuant to an ordinance enacted in accordance with statutory requirements set forth in §30-15-401(1)(a)(I)(A) and (B) is essential to prevent the threat of harm to the environment of Gilpin County, the spread of disease, contamination of lands and waters of the county, and adverse effect on property valuations.

INTRODUCED, READ, AND PASSED on first reading, ordered published in full in a newspaper of general circulation published in the County of Gilpin at least ten (10) days prior to adoption, this 13 day of July, 1999.

PASSED AND ADOPTED on second and final reading at a regularly scheduled meeting of the Board of County Commissioners the 3<sup>rd</sup> day of August, 1999.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF GILPIN, COLORADO



[Signature]  
Chairman

ATTEST:

Deputy

[Signature]  
County Clerk

APPROVED AS TO FORM:

[Signature]  
County Attorney

CERTIFICATE

Certificate of the Gilpin County Clerk and Recorder: Judith Dornbrock Gilpin County Clerk and Recorder hereby certifies as follows:

1. The above and foregoing ordinance was introduced at a regularly scheduled meeting of the Board of County Commissioners held on the 3<sup>rd</sup> day of August, 1999.
2. The above and foregoing ordinance was published in the Central City Register Call, a newspaper of general circulation published in the County of Gilpin, at least ten (10) days prior to adoption at a regularly scheduled meeting of the Board of County Commissioners held on the 3<sup>rd</sup> day of August, 1999.



[Signature]  
Deputy  
Gilpin County Clerk and Recorder