ORDINANCE

Ordinance Adopting Policy Part 7 Chapter 5 Section 3 Regulating Zoning Inspector Entry and Seizure Warrants

BE IT ORDAINED by the Board of County Commissioners of Jefferson County that the existing Policy and Procedure 5.17 and the existing Policy 7.5.3 Regulating Zoning Inspector Entry and Seizure Warrants are hereby deleted and replaced with the following:

Title: Regulatory Policy Regulating Zoning Inspector Entry and Seizure Warrants	**Policy No.** Part 7, Planning and Land Use Chapter 5, Miscellaneous Section 3
	Effective Date January 24, 2011
Policy Custodian Planning and Zoning Division	**Adoption/Revision Date** December 14, 2010

Adopting Resolution(s): CC10-499

References (Statutes /Resos/Policies):, 30-15-401 C.R.S.; CC95-47, CC05-393, CC06-487

Purpose: An Ordinance authorizing the Jefferson County Planning and Zoning Division, and particularly its zoning inspectors to obtain administrative entry and seizure warrants from Jefferson County Court or Jefferson County District Court to enter, inspect and remove rubbish from lots and tracts of land within unincorporated Jefferson County, subject to the following requirements.

Policy: Regulating Zoning Inspector Entry and Seizure Warrants

A. Definitions. The Zoning Administrator shall have the authority to determine whether materials stored on lots or tracts constitute rubbish under this ordinance. The Zoning Administrator shall consider the following definitions in reaching that determination:

   1. "Rubbish" means junk, trash or garbage.

   2. "Junk" means all scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, and used automobiles, used tires and other manufactured goods, that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

   3. "Trash or Garbage" means refuse, waste, worthless or discarded material, worn or used items having little or no value, and material no longer usable for its original intended purpose.

B. Exclusions
   Industrial Tracts: Industrial tracts of ten (10) or more acres, and agricultural land currently in agricultural use as the term agricultural land is defined in §39-1-102(1.6) C.R.S. , shall be excluded from this ordinance.

C. Authorization
   Authorization by Zoning Administrator. The Jefferson County Zoning Administrator may authorize a zoning inspector to initiate proceedings under this ordinance when the Zoning Administrator reasonably believes that rubbish is being stored outside on any lot or tract

within Jefferson County. This belief may be based upon a complaint from the public (including an anonymous complaint) which has been corroborated by a zoning inspector, or may be based on review of a zoning inspector's personal observations of the lot or tract in question.

D. Notice

1. A zoning inspector must provide both the occupant of the property and the property owner with written notice at least thirty (30) days prior to application for an administrative entry and seizure warrant. Notice shall be provided by personal service, or by mailing postage prepaid, return receipt requested, to the address of the property, and also to the address of the owner as indicated in the records of the Jefferson County Assessor, if different.

2. The written notice must contain the following information:

   a. An address or legal description of the lot and/or tract of land sufficient to identify the property from which the rubbish must be removed;

   b. A general description of the rubbish to be removed;

   c. The date by which the rubbish must be removed to avoid the administrative entry and seizure;

   d. A warning that if the property owner fails to remove the rubbish, the County will do so through an administrative entry and seizure warrant;

   e. A warning that if the county removes the rubbish, the lot or tract will be assessed the reasonable cost of removal, plus five percent (5%) for inspection and incidental costs, that this assessment shall become a lien on the property until paid, having priority over all other liens except general taxes and prior special assessments, and that if the assessment is not paid within one hundred eighty (180) days, the Jefferson County Clerk and Recorder may certify the assessment to the Jefferson 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;

   f. The Zoning Inspector's name, work address and work phone number; and

   g. The Zoning Inspector's signature.

E. Application Procedures

1. After both the property owner and occupant have been provided notice as specified herein, if the rubbish is not removed by the date specified therein, a zoning inspector may apply to either Jefferson County Court or Jefferson County District Court for an administrative entry and seizure warrant.

2. The application shall consist of:

   a. a copy of the written notice to the property owner, including evidence that the property owner and the occupant of the property received such notice, such as a post office return receipt or an affidavit of personal service; and

   b. a sworn or affirmed affidavit stating: the factual basis for the warrant; a description of the location of the property; a general list of any rubbish to be removed; and a provision allowing the court to determine whether the rubbish will be disposed of or temporarily impounded.

F. Procedures for Executing the Warrant
Within ten (10) days following the date of the issuance of the administrative entry and seizure warrant, the warrant shall be executed in accordance with the issuing court's directions, and a copy of the issued warrant shall be provided or mailed to the property owner.

G. Submission of Proof to the Court
Following execution of the warrant, proof of the execution shall be submitted to the issuing court. Such proof shall include a written inventory of any property temporarily impounded.

H. Assessment
The reasonable cost of removal, plus five percent (5%) for inspection and incidental costs, shall be assessed upon the lots and tracts from which rubbish has been removed. This assessment shall be a lien on the lot or tract, and shall have priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within one-hundred eighty (180) days, the Jefferson County Clerk and Recorder may certify the assessment to the Jefferson 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.

Chair, Board of County Commissioners

Jefferson County Clerk and Recorder