

ORDINANCE NO. 18-_____

AN ORDINANCE AMENDING SECTIONS 102 (RIGHT OF ENTRY), 105 (APPEAL OF NOTICE AND ORDER; HEARING), 106 (FAILURE TO COMPLY WITH ORDER TO ABATE) AND 108 (ABATEMENT; EMERGENCY ORDER); CREATING SECTION 110 (ADOPTION OF RULES AND REGULATIONS) OF ARTICLE 5 (PUBLIC HEALTH AND SANITATION – ENFORCEMENT); AND REPEALING PART 2 (INSPECTIONS AND ENFORCEMENT) OF ARTICLE 12 (HOUSING CODE) OF CHAPTER 6 (NEIGHBORHOOD VITALITY/COMMUNITY HEALTH) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ENFORCEMENT OF THE HOUSING CODE

WHEREAS, the City Council of Colorado Springs, Colorado (the "City Council"), desires to make the enforcement provisions within Chapter 6, Article 12, of the City Code (the "City Housing Code") consistent with the enforcement provisions otherwise applicable for Chapter 6, Article 5, Public Health and Sanitation - Enforcement; and

WHEREAS, City Code § 6.12.205 of the City Housing Code presently provides that appeals of notice and orders are heard in accord with the City Zoning Code, which results in appeals of notice and orders to the City Planning Commission; and

WHEREAS, the City Housing Code includes, *inter alia*, minimum standards applicable to rental dwellings and dwelling units for basic facilities and sanitary conditions that are more appropriately addressed as public health concerns, appealable to the Municipal Court Referee under Chapter 6, Article 5, Public Health and Sanitation - Enforcement; and

WHEREAS, the provisions of Chapter 6, Article 5, Public Health and Sanitation - Enforcement, further provide for judicial relief from the Municipal Court for inspection and abatement warrants, which is appropriate to address dangerous conditions that may exist due to breaches of the minimum standards of the City Housing Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 102 (Right of Entry) of Article 5 (Public Health and Sanitation – Enforcement) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

6.5.102: RIGHT OF ENTRY:

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B. In the event that the owner or occupant of any premises located within the City refuses to permit entry by the Administrator or Medical Director when entry is sought pursuant to subsection A of this section, or the owner or occupant has received a notice and order and either failed to appeal the notice and order within ten (10) days or failed to abate a dangerous condition within the period specified in the notice and order, the Administrator or Medical Director may make application to any Judge of the Municipal Court of the City for the issuance of an inspection **and/or an inspection and abatement** warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state the facts giving rise to the belief that a condition which is dangerous to the public health exists at the premises and otherwise conform with the requirements of CMCR 241. Any warrant issued pursuant to the application shall command the owner or occupant to permit entry by the Administrator or Medical Director for the purpose stated.

Section 2. Section 105 (Appeal of Notice and Order; Hearing) of Article 5 (Public Health and Sanitation – Enforcement) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

6.5.105: APPEAL OF NOTICE AND ORDER; HEARING:

All appeals of notice and orders, **emergency orders, and assessments of reinspection fees** under this chapter shall be filed and heard in accord with chapter 11 of the City Code.

Section 3. Section 106 (Failure to Comply with Order to Abate) of Article 5 (Public Health and Sanitation – Enforcement) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

6.5.106: FAILURE TO COMPLY WITH ORDER TO ABATE:

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D. Inspection Fees For Repeat Offenders:

1. For purposes of this section, "repeat offender" is defined as an owner of property who has been ~~previously cited for~~**issued** and failed to abate one or more notice and order for a violation of article 12 of this chapter at least two (2) or more times during any successive six (6) month period~~;~~, **or has been issued five (5) or more Notice and Orders pursuant to section 6.5.104 for violations of article 12 of this chapter on separate days within a consecutive twelve (12) month period regardless of whether the owner of the property has abated the individual violations in compliance with the Notice and Order.** The "owner of property" shall be the owner of record as reflected in the records of the El Paso County Assessor. The previous violations may have occurred at one or more properties owned by the owner cited. An owner who has been designated a repeat offender for a period of twelve (12) or more successive months, shall be redesignated as a "chronic repeat offender". For purposes of this section, "reinspection" is defined as any and all inspections at any property owned by a repeat offender or chronic repeat offender, after ~~issuance of the first notice and order to abate for a violation subsequent to~~ the classification of the person as a repeat offender or chronic repeat offender.

2. The Administrator is authorized to assess a fee of not less than two hundred fifty dollars (\$250.00) for each reinspection necessitated by a repeat offender's continued noncompliance with any notice and order to abate~~;~~, **or the issuance of a new Notice and Order pursuant to section 6.5.104.** The Administrator is authorized to assess a fee of not less than five hundred dollars (\$500.00) for each reinspection necessitated by a chronic repeat offender's continued noncompliance with any notice and order to abate~~;~~, **or the issuance of a new Notice and Order pursuant to section 6.5.104.** The Administrator shall regularly reinspect until the owner successfully complies with the notice and order to abate.

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Section 4. Section 108 (Abatement; Emergency Order) of Article 5 (Public Health and Sanitation – Enforcement) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

6.5.108: ABATEMENT; EMERGENCY ORDER:

A. Whenever the Administrator or Medical Director deems that an emergency exists which requires immediate action to protect the public health, safety or welfare, the **Administrator or** Medical Director may, without prior notice or hearing, issue an order stating that the emergency exists and requiring that the action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this article to the contrary, the order shall be effective immediately.

B. * * *

C. In the event that the person to whom the emergency order is issued fails or refuses to comply immediately, the Administrator **or Medical Director** may without prior notice to the owner, occupant or agent of the owner, remove, correct or otherwise abate the condition giving rise to the issuance of the emergency abatement order. Except as otherwise provided, the provisions of subsection 6.5.106B and section 6.5.107 of this article shall apply to the removal, correction or other abatement.

Section 5. Section 110 (Adoption of Rules and Regulations) of Article 5 (Public Health and Sanitation – Enforcement) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is created as follows:

6.5.110: ADOPTION OF RULES AND REGULATIONS:

A. The Administrator is authorized to adopt written rules and regulations necessary for the proper enforcement of the provisions of this chapter, so long

as those rules and regulations do not conflict with the provisions of this chapter. Any rules and regulations pertaining to article 12 shall include only those rules and regulations necessary to implement article 12 and not establish new standards for housing. The procedure for the adoption or amendment of rules and regulations shall be as follows:

1. The Administrator shall hold a public hearing on all proposed rules, regulations and amendments thereto, after at least five (5) days' public notice by publication in the official newspaper. The notice may set forth the rules and/or amendments, or may consist of a brief statement thereof, and shall include the time, date and place of the public hearing.
2. The Administrator shall take under advisement any evidence presented at the hearing, in establishing the rules and regulations, and all rules and regulations and amendments thereto shall be subject to the approval of the Mayor and the City Attorney.
3. After the approval, the rules and regulations shall be published in one of the following ways:
 - a. By publication in full one time in the official publication, or
 - b. By publication of a notice in the official publication that rules and regulations have been adopted and are on file with the Office of the City Clerk.
4. All rules and regulations shall become effective upon the publication and filing.
5. Any rules or regulations so adopted may be repealed by the Administrator with the approval of the Mayor and the City Attorney, by publication through one of the two (2) methods provided, and by filing of the repealer with the City Clerk.

B. Whenever communicable diseases or the sanitary condition of the City shall be of such character as to warrant emergency rules and regulations, it shall be the duty of the Administrator or Medical Director to make rules and regulations deemed necessary to protect the public safety and health. Rules and regulations which are declared to be emergency rules and regulations, though not herein or otherwise authorized, shall be adopted formally by the procedure set forth in this section as soon as may be practical after promulgation of the same.

Section 6. Part 2 (Inspections and Enforcement) of Article 12 (Housing Code) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is hereby repealed and reserved.

Section 7. This ordinance shall be in full force and effect after its final adoption and publication as provided by Charter.

Section 8. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2018.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk