

CITY OF EVANS, COLORADO

ORDINANCE NO. -13

**AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE REMOVAL
AND DISPOSAL OF DEBRIS CAUSED BY THE SEPTEMBER 2013 FLOODING
FROM PRIVATE AND PUBLIC PROPERTIES**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, the City Council is authorized to perform or direct all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

WHEREAS, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damage to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

WHEREAS, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

WHEREAS, such flooding has caused the movement and accumulation of debris on and in public and private property; and

WHEREAS, such debris contains numerous materials and substances that create an immediate health and safety threat to the general public, including but not limited to animal waste, human sewage and waste, contaminated water, hazardous materials, oil, fuel, and petroleum products; and

WHEREAS, as a result of the mixing of the flooding and contaminated waters throughout the flooded areas, the City is unable to determine which parts of the flooded areas, if any, do not contain contaminated debris, and therefore the City must treat all debris as contaminated, and

WHEREAS, it is essential that the debris caused by the flooding is removed and disposed in a manner that protects the health, safety and welfare of the public and ensures the City will be reimbursed to maximum extent permitted by law for its removal and disposal efforts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS AS FOLLOWS:

1. The City of Evans, acting through its City Manager or other duly authorized designee shall promulgate regulations for the removal and disposal of all debris in the flooded area, as depicted on Exhibit A, attached hereto and incorporated by reference, regardless of whether the debris is located on or in public or private property.
2. No person shall remove or dispose of any debris from property located in the area depicted on Exhibit A, in any manner other than that set forth in the City's regulations.
3. The City of Evans Police and the City of Evans Code Enforcement Officer are hereby authorized to take such actions as necessary to enforce the City's regulations regarding removal and disposal of debris from the area depicted on Exhibit A.
4. Any person found to be in violation of this Ordinance or the regulations promulgated to implement this ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
7. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17th DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor