

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. -13**

**AN EMERGENCY ORDINANCE AUTHORIZING THE CHIEF OF POLICE  
OR DULY AUTHORIZED OFFICIAL TO PROHIBIT ACCESS TO PUBLIC  
AND/OR PRIVATE AREAS DAMAGED BY FLOOD AND DEEMED TO BE UNSAFE**

**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**, pursuant to § 31-15-401, C.R.S., the City of Evans is empowered to regulate the police of the municipality and to pass and enforce all necessary police ordinances, and to do 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**, Section 3.17 of the Evans City Charter grants the Council the ability to constitute the Board of Health of the City and delegates all the powers, privileges and immunities granted to boards of health by statutes; 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 damage to public and private structures rendering them unsafe to inhabit or occupy.

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

1. The City of Evans Police Chief or other designated Official of the City may prohibit access to public and/or private areas damaged by the flood and deemed to be unsafe for access or whose safety cannot be reasonably ascertained.

2. The Police Chief or other designated of the City may enforce such actions by constructing or causing the construction of fences and other barriers around public and/or private property until the determination has been made that the property can be accessed safely.

3. No person shall access or attempt to access property to which access has been prohibited under the provisions this Ordinance.

4. Any person found to be in violation of this Ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

5. The restrictions imposed by this Ordinance shall not apply to emergency personnel or other persons duly authorized by the City.

6. 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.

7. 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.

8. 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 17<sup>th</sup> DAY OF SEPTEMBER, 2013.**

ATTEST:

CITY OF EVANS, COLORADO

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Lyle E. Achziger, Mayor