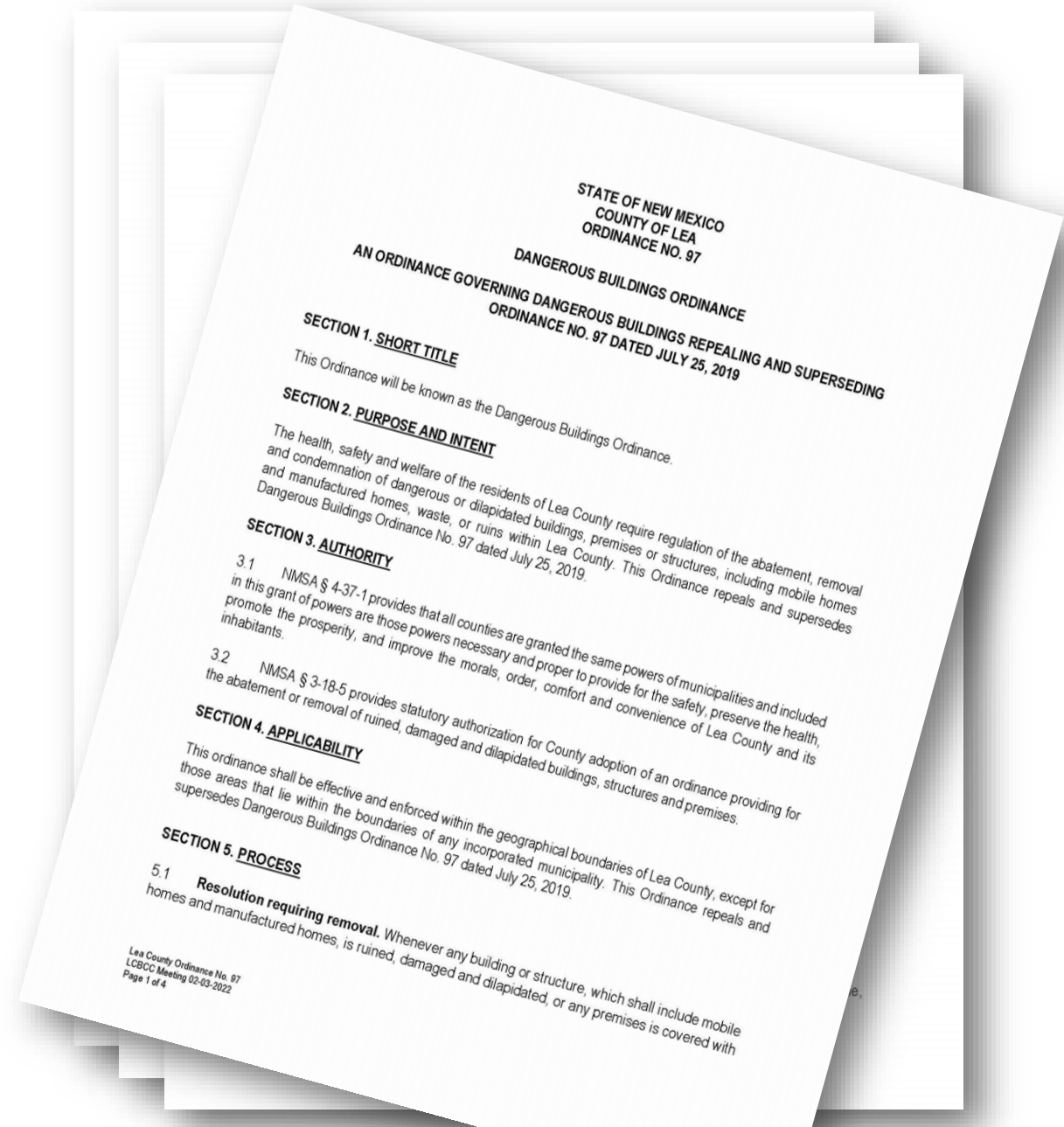




# Consideration to Adopt Lea County Ordinance No. 97 An Ordinance Governing Dangerous Buildings Repealing and Superseding Ordinance No. 97 Dated July 25, 2019





**LEA COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY FORM**

**LCBCC Meeting Date: Thursday, February 3, 2022**

Submit this summary form & all attachments to the Finance Director [clow@leacounty.net](mailto:clow@leacounty.net) & cc the Executive Coordinator [sstout@leacounty.net](mailto:sstout@leacounty.net) by: **Monday, January 24, 2022**

County Manager Approval [mgallagher@leacounty.net](mailto:mgallagher@leacounty.net) required for all time sensitive issues that do not meet the above deadline.

<b>DATE SUBMITTED</b> mm-dd-yyyy: 01/25/2022	<b>SUBMITTED BY</b> Name, Title, Dept: John Caldwell, County Attorney, Legal Department
<b>SUBJECT:</b> Hearing: Dangerous Buildings Ordinance No. 97, Repealing and Superseding Ordinance No. 97 Dated July 25, 2019	<b>ATTACHMENT(S):</b> Proposed Dangerous Buildings Ordinance No. 97
<b>NO. OF ORIGINALS FOR SIGNATURE:</b> 1 Ordinance	<b>ACTION REQUESTED:</b> Action Item
<b>BUDGET LINE ITEM NUMBER:</b>	<b>FISCAL BUDGET YEAR:</b>

**STRATEGIC PLAN** Implementation of 5 Year Strategic Plan:  
3.4 Quality of Life

**SUMMARY:**  
The proposed ordinance repeals and supersedes the current dangerous buildings ordinance. The most significant difference is applicability. The current ordinance applies only to the Lea County/Hobbs Extra-Territorial Area. The new dangerous buildings ordinance will apply to all Lea County, except those areas that lie within incorporated municipal boundaries.

<b>Requested Items Needed for Presentation</b> Easels/Laptop/Projector/Etc.: Easel <input type="checkbox"/> Laptop <input checked="" type="checkbox"/> Projector <input checked="" type="checkbox"/> Other: _____ <small>If checked, how many:</small>	<b>See Additional Summary Attached</b> <input type="checkbox"/>
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<b>SUBMITTER'S RECOMMENDATION(S):</b>	<b>Submitter's Signature</b> Department Director, Etc. Digitally signed by John Caldwell Date: 2022.01.25 13:57:25 -0700 <b>John Caldwell</b>
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<b>FINANCE REVIEW</b> Fiscal Impact/Cost:	<b>Reviewed by Finance Director</b>
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<b>LEGAL REVIEW:</b> (Note: Travel does not need legal review)	<b>Reviewed by County Attorney</b> Digitally signed by John Caldwell Date: 2022.01.25 13:57:37 -0700 <b>John Caldwell</b>
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<b>COUNTY MANAGER REVIEW:</b>	<b>Approved by County Manager</b> to be Placed on Agenda 
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<b>Item No.</b> <u>0303</u>			<b>RECORDING SECRETARY'S USE ONLY ~ COMMISSION ACTION TAKEN</b>		
Approved: _____	Denied: _____	Other: _____	Resolution No. _____	Policy No. _____	Ordinance No. <u>97</u>
Continued To: _____	Referred To: _____	Comments: <b>Repeals &amp; Supersedes Ordinance No. 97 Dated July 25, 2019</b>			

STATE OF NEW MEXICO  
COUNTY OF LEA  
ORDINANCE NO. 97

DANGEROUS BUILDINGS ORDINANCE

AN ORDINANCE GOVERNING DANGEROUS BUILDINGS REPEALING AND SUPERSEDING  
ORDINANCE NO. 97 DATED JULY 25, 2019

**SECTION 1. SHORT TITLE**

This Ordinance will be known as the Dangerous Buildings Ordinance.

**SECTION 2. PURPOSE AND INTENT**

The health, safety and welfare of the residents of Lea County require regulation of the abatement, removal and condemnation of dangerous or dilapidated buildings, premises or structures, including mobile homes and manufactured homes, waste, or ruins within Lea County. This Ordinance repeals and supersedes Dangerous Buildings Ordinance No. 97 dated July 25, 2019.

**SECTION 3. AUTHORITY**

3.1 NMSA § 4-37-1 provides that all counties are granted the same powers of municipalities and included in this grant of powers are those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of Lea County and its inhabitants.

3.2 NMSA § 3-18-5 provides statutory authorization for County adoption of an ordinance providing for the abatement or removal of ruined, damaged and dilapidated buildings, structures and premises.

**SECTION 4. APPLICABILITY**

This ordinance shall be effective and enforced within the geographical boundaries of Lea County, except for those areas that lie within the boundaries of any incorporated municipality. This Ordinance repeals and supersedes Dangerous Buildings Ordinance No. 97 dated July 25, 2019.

**SECTION 5. PROCESS**

5.1 **Resolution requiring removal.** Whenever any building or structure, which shall include mobile homes and manufactured homes, is ruined, damaged and dilapidated, or any premises is covered with

ruins, rubbish, wreckage or debris, the Board of County Commissioners may by resolution find that the ruined, damaged and dilapidated building, structure, mobile home, manufactured home or premises is a menace to the public comfort, health, peace or safety and require the removal of the building, structure, mobile home, manufactured home, ruins, rubbish, wreckage or debris.

5.2 **Service upon owner, occupant, or agent.** A copy of the resolution shall be served on the owner, occupant or agent in charge of the building, structure, mobile home, manufactured home or premises. If the owner, as shown by the real estate records of the County Clerk, occupant or agent in charge of the building, structure, mobile home, manufactured home or premises cannot be served within the County, a copy of the resolution shall be posted on the building, structure, mobile home, manufactured home or premises, and a copy of the resolution shall be published one time in a local newspaper of general circulation in the County.

5.3 **Time permitted for removal; written objection.** Within 10 days of receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure, mobile home, manufactured home or premises shall commence removing the building, structure, mobile home, manufactured home, ruin, rubbish, wreckage or debris, or file a written objection with the County Clerk asking for a hearing before the Board of County Commissioners.

5.4 **Hearing.** If a written objection is filed as provided in Section 5.3, the Board of County Commissioners shall:

5.4.1 Fix a date for a hearing on its resolution and the objection;

5.4.2 Consider all evidence for and against the resolution at the hearing; and

5.4.3 Determine if its resolution shall be enforced or rescinded.

5.5 **Appeal to District Court.** Any person aggrieved by the determination issued by the Board of County Commissioners made pursuant to Section 5.4.3 may appeal to the District Court by:

5.5.1 Giving written notice of appeal to the Board of County Commissioners within five days after the determination made by the Board of County Commissioners; and

5.5.2 Filing a petition in the District Court within 30 days after the determination made by the Board of County Commissioners. The District Court shall hear the matter de novo and enter a judgment in accordance with its findings.

## **SECTION 6. FAILURE OF OWNER, OCCUPANT, OR AGENT TO REMOVE; REMOVAL BY THE COUNTY; LIEN.**

6.1 If the owner, occupant or agent in charge of the building, structure, mobile home,

manufactured home or premises fails to commence removing the building, structure, mobile home, manufactured home, ruins, rubbish, wreckage or debris within 10 days of being served a copy of the resolution or of the posting and publishing of such resolution, or within 30 days of the determination by the Board of County Commissioners that the resolution shall be enforced, or after the District Court enters judgment sustaining the determination of the Board of County Commissioners, the County may remove or may contract for the removal of the building, structure, mobile home, manufactured home, ruins, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, mobile home, manufactured home, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from which it was removed. The lien shall be foreclosed in the manner provided in NMSA §§ 3-36-1 through 3-36-6.

**6.2 Payment by County for removal.** The County may, as one option, pay for the cost, all or part thereof, of removal of any condemned building, structure, mobile home, manufactured home, wreckage, rubbish or debris by granting to the person removing such materials the legal title to all salvageable materials.

**6.3 Duty to leave premises in clean, level, and safe condition.** Any person or firm removing any condemned building, structure, mobile home, manufactured home, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and safe condition, suitable for further occupancy or construction, and with all excavations filled.

**PASSED, APPROVED and ADOPTED** on this 3<sup>rd</sup> day of February, 2022, by the Lea County Board of County Commissioners in an open meeting in Lovington, New Mexico.

#### LEA COUNTY BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Dean Jackson (District 1), Chair  
Voted: Yes No Abstain

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Gary G. Eidson (District 3), Vice Chair  
Voted: Yes No Abstain

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Rebecca Long (District 2), Member  
Voted: Yes No Abstain

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Jonathan Sena (District 4), Member  
Voted: Yes No Abstain

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Pat Sims (District 5), Member  
Voted: Yes No Abstain

**ATTEST:** Keith Manes  
Lea County Clerk

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:**

By: \_\_\_\_\_  
Teri Davis, Deputy Clerk

\_\_\_\_\_  
John W. Caldwell, County Attorney