

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-286

**A CODE ORDINANCE AMENDING CHAPTER 18, SECTION 36,
TO INCREASE THE MINIMUM NUMBER OF DAYS A NOTICE
PROVIDES TO A LANDOWNER TO CORRECT A VIOLATION
PRIOR TO ISSUANCE OF A CITATION**

WHEREAS, the Incorporated County of Los Alamos ("County") is a home rule charter municipality, as allowed by N.M. Constitution, Article X, Section 6; and

WHEREAS, New Mexico Statutes, Chapter 3, Article 18, authorizes home rule municipalities to regulate, abate, and impose penalties upon persons who create and maintain a public nuisance; and

WHEREAS, a public nuisance is defined by State law in § 3-8-1, as knowingly creating, performing, or maintaining anything that affects any number of citizens without lawful authority which is injurious to public health, safety, morals, or welfare or interferes with the exercise and enjoyment of public rights, including the right to use public property; and

WHEREAS, Chapter 3, Article 21 of New Mexico statutes grants County the authority to zone and regulate land use, by code ordinance, within its jurisdiction including the right to regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each zone or district; and

WHEREAS, County has enacted code ordinances that regulate the use of land within its jurisdiction, including the regulation of erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each zone or district; and

WHEREAS, in Code Ordinance 02-238, the Los Alamos County Council ("Council") repealed the prior Article II of Chapter 18 of the Los Alamos County Code of Ordinances ("County Code") and on January 7, 2014, and adopted a new Article II of Chapter 18, which included in part the current text of Chapter 18, Article II, Section 36; and

WHEREAS, Council, as part of its strategic goals in 2016 and 2017, directed the Community Development Department ("CDD"), through its Code Enforcement Division ("Code Enforcement"), to enhance its property maintenance inspections to remove blight within the County; and

WHEREAS, in 2016 and 2017, as directed by Council, County and CDD staff and officers began increased enforcement of the community; and

WHEREAS, various citizens of the County have voiced concern that such enhanced enforcement of Chapters 10 (Buildings and Building Regulations), 16 (Development Code), and

18 (Environment), of the County Code have not adequately taken into account the concerns of the affected citizens; and

WHEREAS, Council believes that it is necessary to increase the minimum number of days that Code Enforcement staff provide to the property owner in order to resolve a County Code violation; and

WHEREAS, any property owner must still comply with the maximum time to correct a violation within thirty (30) days from the issuance of the notice of violation; and

WHEREAS, Council finds that it is in the best interest of the citizens and County to provide non-compliant property owners with additional time to abate the nuisance and violation(s).

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, the Los Alamos County Code of Ordinances, Chapter 18, Section 36, is hereby amended as follows:

Section 1. Chapter 18, Section 36 (§ 18-36), of the County Code of Ordinances is hereby amended to increase the minimum time from which a County Code violation citation may be issued from two (2) days to fourteen (14) days, as follows:

Sec. 18-36. - Notice.

- (a) Any municipal police officer, upon observing, in plain view, any violation of this article, shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for its abatement by the owner or occupant or tenants, which limit shall be not less than ~~two~~ fourteen days or more than 30 days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address.
- (b) Nothing in this chapter or article however shall in any way limit or prevent the County from taking immediate measures under this or other chapters to prevent the imminent harm to or loss of property or life or which presents an imminent harm to the health, safety, and welfare of the public.
- (c) All notices shall contain the date and time of the next Community Development Advisory Board meeting.

Section 2. Severability. If any section, paragraph, clause or provision of this Code Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Code Ordinance.

Section 3. Effective Date. This Code Ordinance shall become effective thirty (30) days after publication of notice of its adoption.

Section 4. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this _____ day of _____, 2018.

INCORPORATED COUNTY OF LOS ALAMOS

**David Izraelevitz,
Council Chair**

ATTEST:

**Naomi D. Maestas,
Los Alamos County Clerk**