

RESOLUTION NO. 2018-24

A Resolution Requiring The Prompt Removal Of Ruined, Damaged And Dilapidated Materials To Abate An Immediate Menace To The Public Comfort, Health, Peace And Safety , In The Town of Edgewood, Santa Fe County, New Mexico; Requiring The Owner Or Owners, Occupants Or Agents Of The Owners Of The Property Promptly To Commence And Complete The Removal From The Property Of All Ruined, Damaged And Dilapidated Materials, Including But Not Limited To Homes, Buildings, Constructed Structures, Remaining Debris, And Other Materials Attached Thereto And Other Flammable, Nuisance Or Noxious Materials Located On The Property; Providing That The Owner, Occupant Or Agent In Charge Of The Property May File Written Objections To This Resolution And Seek A Hearing Before The Governing Body Of The Town of Edgewood, As Provided By Statute; Authorizing The Administration Of The Town of Edgewood To Cause Removal Of The Ruined, Damaged, Dilapidated, Nuisance, Noxious, Ruins, Rubbish Or Debris, Materials and Mobile Homes, And If The Owner Or Owners Of The Property Do Not Timely Undertake Such Removal; Requiring Detailed Documentation If The Town Does The Removal; Providing That The Town of Edgewood Shall Recover Its Costs Incurred For Removal Of The Ruined, Damaged And Dilapidated Materials As And To The Extent Provided By Statute.

WHEREAS, it has been brought to the attention of the Town Council, the Governing Body of the Town of Edgewood (hereinafter, the "Governing Body"), that the premises at *0 Edgewood, or 99 Moseley (owner addressed), parcel number: 96001638.* Office of the Santa Fe County Clerk, (hereinafter, the "Property"), in the Town of Edgewood (the "Town") and the County of Santa Fe, *that a dwelling (storage building) was placed on the property and being occupied as a living quarters; has been illegally erected, and being occupied: (no permits, inspections, nor occupancy granted), not maintained, and used for a dumping site; and*

WHEREAS, *the Shed, on the Property has been utilized as a living quarter with no upgrades of such. The manufactured sheds are stamped "NOT FOR HUMAN OCCUPANCY" These sheds are not electrically wired, equipped with water lines, nor installed with heating. There is no insulation, proper ventilation, no permanent foundation, nor has been permitted or inspected by the proper authorities. The property in which the shed has been placed has not been maintained and been actively used as a storage/dump site. There are four (4) inoperative*

vehicle: (2) of which does not have a motor enclosed and being used for storage. Trash, asphalt, junk, appliances, and great deal of other materials are scattered throughout the property, and in the middle of the roadway.

WHEREAS, the Town previously issued a Courtesy Notice was issued in October, 2017, Citation issued in December, 2017 and an Action Plan initiated Order on December, 2017; to the owners of the Property by certified mail, return receipt requested. Four (4) follow ups were completed finding the Property to have no change; although, now it appears to have been abandoned. 2nd citation sent out in March 2018 with no response or appearance made to Municipal Court. A warning letter stipulating this property to be unsafe and a nuisance and ordering the immediate removal of the shed, inoperative vehicles, and all debris described hereto; all according to the provisions of the Zoning Ordinance, No. 2014-02 Amended 10/2017 Section 39, of the Town of Edgewood; and

WHEREAS, the roadway is being blocked by debris, appliance, clean fill matter, and garbage; creating a dangerous hazard to the public.

WHEREAS, The Property remains in a dilapidated, damaged and ruined condition that continues to deteriorate and constitutes a menace to the public health and safety; and

WHEREAS, the Code Enforcement Officer of the Town as well as the State of New Mexico Construction Industry Division Inspector has found that the structure of the shed and property is not manufactured or suitable for human occupants, and the structure is an extreme safety hazard and dangerous to life and limb; and

WHEREAS, the Property lacks adequate site security or protection from entry or intrusion onto the Property, with dangerous debris throughout; and

WHEREAS, by reason of possible abandonment of the Property *without protection from the elements, it is highly likely that the property has been infected by mold or mildew and become infested by mice, rats and other vermin which may carry disease dangerous to human life; and*

WHEREAS, the *Shed is not securely anchored to the ground nor is it on a permanent foundation; all parts of the sides or roof are subject to detachment by the wind and present a threat to adjoining properties; and*

WHEREAS, the Governing Body is reliably informed and hereby finds that the abandonment of the Property and the condition of the Property resulting from such abandonment further constitutes an imminent and serious fire and safety hazard which is a menace to the public comfort, health, peace and safety of the residents and property owners of the Town; and

WHEREAS, the property records of Santa Fe County, New Mexico, show the owner of *0 Edgewood/ 99 Moseley/ Parcel # 96001638 as Steven Woodard; Real-estate Contracted to Jeramiah Weingarten; and*

WHEREAS, in the event that the Property Owner does not timely commence and complete the removal of all the ruined, damaged and dilapidated materials, wreckage and debris (including but not necessarily limited to the structures) from the Property, the Town, pursuant to Section 3-18-5, N.M.S.A. (1978), is authorized and empowered to cause the removal of such ruined, damaged and dilapidated materials, wreckage and debris to provide for the public comfort, health, peace and safety; and

WHEREAS, pursuant to Section 3-18-5(F), N.M.S.A. (1978), any costs incurred by the City for the removal of ruined, damaged and dilapidated materials, wreckage and debris from the

Property shall constitute a lien upon the Property, which lien may be filed and be foreclosed in accordance with Sections 3-36-1 through 3-36-6, N.M.S.A. (1978).

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Town of Edgewood, New Mexico, that:

1. The shed and its structural elements located upon the Property, *0 Edgewood/99 Moseley/ Parcel # 96001638 as described herein*, in the Town of Edgewood and the County of Santa Fe, constitute and are hereby declared to be an imminent and serious menace to the public comfort, health, peace and safety of the Town and its residents and property owners.

2. Prompt abatement of the hazardous conditions on the Property, *including removal from the Property of ruined, damaged and dilapidated materials, wreckage and debris, including but not limited to the structures, vehicles, and other elements, as well as all nuisance, noxious, ruins, rubbish or debris and loose flammable materials on the Property, is required to protect the public comfort, health, peace and safety of the Town, its residents and property owners.*

3. Pursuant to this Resolution and Section 3-18-5, N.M.S.A. (1978), the owner or owners of the Property (the "Owners," which term shall include all claimants of an interest in the Property) are hereby ordered to commence and promptly to bring to completion the removal from the *Property of ruined, damaged and dilapidated materials, wreckage and debris, including but not limited to the structures, and other elements and loose flammable materials located on the Property; to provide for the proper disposal or recycling of such materials; to bring the Property into such condition that it no longer constitutes a menace to the public comfort, health, peace and safety; and to leave the Property in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled, to the full and complete satisfaction of the Town as determined by the Clerk / Treasurer in his/her discretion.*

4. The Owners are further ordered to provide for the future security of the Property to prevent any further damage thereto and to prevent any further menace to the public comfort, health, peace and safety of the Town and its residents and property owners, to the full and complete satisfaction of the Town as determined by the Clerk / Treasurer in his/her discretion and in compliance with all applicable Town ordinances.

5. A copy of this Resolution shall be served on the owner, occupant or agent in charge of the building, structure or premise. If the owner, as shown by the real estate records of the county clerk, occupant or agent in charge of the building, structure or premise cannot be served within the Town, a copy of this Resolution shall be posted on the building, structure or premise, and shall be published one time in a newspaper of general circulation in the Town.

6. Within ten (10) days of the receipt of a copy of this resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure or premise shall commence abatement of the unsatisfactory conditions on the Property and removal of ruined, damaged and dilapidated materials wreckage and debris, structure, and other elements, nuisance, noxious, ruins, rubbish or debris as provided herein, or shall file a written objection with the Town Clerk asking for a hearing before the governing body of the Town. Such abatement and removal shall be vigorously and continuously prosecuted until the unsatisfactory conditions have been fully resolved and the prohibited materials entirely removed from the Property as provided herein.

7. In the event that abatement of the unsatisfactory conditions on the Property, including removal of ruined, damaged and dilapidated materials wreckage and debris, structures, mobile home and other elements, nuisance, noxious, ruins, rubbish or debris as provided herein, is not commenced by the Owners, or any of them, within ten (10) days of being served a copy of this

resolution or the posting and publishing of the resolution, or within five (5) days of the determination by the governing body that the resolution shall be enforced following a hearing on the matter, or following entry of judgment by the district court sustaining the determination of the governing body following appeal, if any, or such extension or extensions of time as may be lawfully required in accordance with Section 3-18-5, N.M.S.A. (1978), then the Town administration shall and is hereby instructed to undertake the abatement of such unsatisfactory conditions and the removal of all ruined, damaged and dilapidated materials, wreckage and debris, structures, mobile home and other elements, nuisance, noxious, ruins, rubbish or debris from the Property in the manner provided by Section 3-18-5, N.M.S.A. (1978). As provided in Section 3-18-5(F), N.M.S.A. (1978), the reasonable costs incurred by the Town to abate the unsatisfactory conditions on the Property and for removal of ruined, damaged and dilapidated materials, wreckage and debris including removal of the mobile home and its structural elements and flammable materials, structures and other elements, nuisance, noxious, ruins, rubbish or debris from the Property, to provide for proper disposal or recycling of such materials, and to bring the Property into such condition that it no longer constitutes a menace to the public comfort, health, peace and safety, shall be a lien upon the Property and shall be filed and foreclosed in the manner provided by Sections 3-36-1 through 3-36-6, N.M.S.A. (1978).

8. In the event the Town staff conducts the removal, there shall be one responsible member of the Town staff at the site prior to and during all removal operations equipped with adequate camera and inventory sheets who shall:

- Take pictures of each loader load before removal.
- Do so from as many angles as necessary to properly depict what is being removed.

- Record all VIN or other identifying numbers of motor vehicles, parts, appliances or machinery or tools being removed.

- Make a note or notes on the inventory sheet sufficient to show for every loader scoop that the material removed is nuisance, noxious, ruins, rubbish or debris.

- Make a note or notes on the inventory sheet sufficient to show materials or things determined to be valuable salvage and record their storage destination and the person responsible for their safekeeping.

9. If a written objection is filed with the Town Clerk as required in this section, the governing body shall:

- (1) fix a date for a hearing in its resolution and the objection;
- (2) consider all evidence for and against the removal resolution at the hearing; and
- (3) determine if its resolution should be enforced or rescinded.

10. Any person aggrieved by the determination of the governing body following the hearing provided in section 9 of this resolution may appeal to the district court by:

(1) giving notice of appeal to the governing body within five (5) days after the determination made by the governing body; and

(2) filing a petition in the district court within twenty (20) days after the determination made by the governing body. The district court shall hear the matter de novo and enter judgment in accordance with its findings.

11. The governing body finds that all enforcement procedures provided for in Ordinance No. 2003-12 of the Town of Edgewood have been undertaken by the Town in compliance with the provisions of that ordinance.

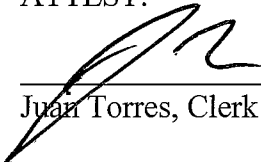
12. The provisions of this Resolution are in addition to those provided for by ordinances of the Town of Edgewood, and are independently authorized by § 3-18-5, N.M.S.A. (1978).

PASSED, APPROVED and ADOPTED, by the Governing Body of the Town of Edgewood, this 17TH day of OCTOBER, 2018, at the Regular Meeting of the Edgewood Town Council.



John Bassett, Mayor

ATTEST:



Juan Torres, Clerk / Treasurer

