

TOWN OF EDGEWOOD
RESOLUTION NO. 2022-21

A RESOLUTION REQUIRING THE PROMPT REMOVAL OF DEBRIS AND TRASH AND DISCARDED MATERIALS TO ABATE AN IMMEDIATE MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE AND SAFETY, IN THE TOWN OF EDGEWOOD, SANTA FE COUNTY, NEW MEXICO; LOCATED AT 72 ASPEN ROAD, LEGAL DESCRIPTION: T10N R 7E S23 -8 AC LOT, PARCEL NUMBER 98206292; 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 FLAMMABLE, NUISANCE OR NOXIOUS MATERIALS LOCATED ON THE PROPERTY; INCLUDING BUT NOT LIMITED TO REMAINING DEBRIS, AND OTHER MATERIALS THERETO AND OTHER 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 Commission, the Governing Body of the Town of Edgewood (hereinafter, the "Governing Body"), that the premises at 72 Aspen Road (hereinafter, the "Property"), in the Town of Edgewood (the "Town"), County of Santa Fe, has been unoccupied, has no electricity or gas, and has a large volume of trash scattered on site. There is no evidence of upkeep, or maintenance of this dilapidating Property; and

WHEREAS, the primary dilapidating house on the Property has been neglected and a large volume of trash has been left open to the elements, creating severe concern for the health, welfare, and safety of the community, and creating a breeding ground for molds and vermin; and

WHEREAS, the property records of Santa Fe County, New Mexico, show the owner of 72 Aspen Road, Edgewood, Parcel # 98206292 as Bank of New York Mellon (“Mellon Bank”); and

WHEREAS, the Town previously issued a Notice and Order on July 20, 2020; the Notice was removed with no response. Because ownership changed to the Mellon Bank, the Property was re-noticed on June 11, 2021 with no response received. Each such notice requested corrective action within thirty (30) days of such notice; and

WHEREAS, the Town again posted notice on the Property on June 17, 2022 and sent notice to the law office of Aldridge Pite of Las Vegas NV. The law firm was not responsive. A subsequent letter was sent to Mellon Bank on July 5, 2022; Mellon Bank responded and indicated they could enter the Property to remove hazardous matter – but has not done so. Subsequently, Mellon Bank indicated that they have closed the file for this Property. Accordingly, the Town issued a Citation on August 3, 2022. Each such notice referenced herein requested corrective action within thirty (30) days of such notice; and

WHEREAS, the driveway is being blocked by debris, appliances, and garbage, creating a dangerous hazard to the public; and

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

WHEREAS, the Code Enforcement Officer of the Town has found that the property is in a state that creates an extreme safety hazard and is dangerous for potential toxic hazard; and

WHEREAS, the Property lacks adequate site security or protection from entry or intrusion, 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 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, in the event that the Property owner does not timely commence and complete the removal of all the trash, debris and ruined, damaged and dilapidated materials, 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 municipality 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 trash, debris and abandoned material located upon the Property, at 72 Aspen Road / Parcel # 98206292 as described herein, in the Town of Edgewood, County of Santa Fe, constitutes and is 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, and debris, including but not limited to 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 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 Owners, 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, 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, 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, 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. 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 load before removal and do so from as many angles as necessary to properly depict what is being removed.

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 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 Nos. 2003-12 and 2018-08 of the Town of Edgewood have been undertaken by the Town in compliance with the provisions of those ordinances.

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 16TH day of AUGUST, 2022, at the Regular Meeting of the Edgewood Town Commission.


Audrey J. Jaramillo, CMO, Mayor

ATTEST:


Estefanie Muller, CMC, Clerk-Treasurer

