

Village of Cimarron
Resolution No. 2022-26

A Resolution Finding That the Property Located at 708 E 7th, in the Village of Cimarron, New Mexico, Contains a Ruined, Damaged and Dilapidated Building, Structure or Premise That Is A Menace to the Public Comfort, Health, Peace or Safety; Requiring the Removal of the Building, Structure, Ruins, Rubbish, Wreckage or Debris; Providing for Notice to the Owner, Occupant or Agent in Charge of the Property; Providing for Objection by the Owner, Occupant or Agent in Charge of the Property and Hearing by the Town Council; Providing for Removal by the Town; and Providing for Recovery of Costs by the Town and Constituting a Lien Against the Property for the Cost of Removal.

WHEREAS, it has been brought to the attention of the Governing Body of the Village of Cimarron that the property located at 708 E 7th in the Village of Cimarron, NM, more fully described as the O T CIMARRON Lot: 30 Block: 19 UPC 1109159302101 LAND 1 Subd: O T CIMARRON Lot: 31 Block: 19 UPC 1109159302101 LAND 2 Subd: O T CIMARRON Lot: 32 Block: 19 UPC 1109159302101 LAND 3O Village of Cimarron, Colfax County, New Mexico ("Property"), contains one or more ruined, damaged and dilapidated structures or the premise is covered with ruins, rubbish, wreckage or debris (hereinafter collectively referred to as "hazardous nuisance materials"); and

WHEREAS, the property records of Colfax County, New Mexico, show the owner of the Property as Alfred J Naranjo, PO Box 67063, Albuquerque, NM, 87193-7063; and

WHEREAS, the owner, occupant or agent in charge of the Property was notified by certified mail on September 17, 2021 and the letter was returned undeliverable telephone attempts have been made and no communication has been confirmed; and

WHEREAS, no action has been undertaken by the owner, occupant or agent in charge to abate and remove the hazardous nuisance materials; and

WHEREAS, the provisions of NMSA 1978, § 3-18-5 authorize the governing body to order the removal of the hazardous nuisance materials and, in the event that the owner, occupant or agent in charge fails to comply with said order, to undertake abatement and removal of the hazardous nuisance materials itself and to assess the reasonable cost of removal as a lien against the Property.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Village of Cimarron, New Mexico, that:

The hazardous nuisance materials located upon the Property, **708 E 7th Street**, O T CIMARRON Lot: 30 Block: 19 UPC 1109159302101 LAND 1 Subd: O T CIMARRON Lot: 31 Block: 19 UPC 1109159302101 LAND 2 Subd: O T CIMARRON Lot: 32 Block: 19 UPC 1109159302101 LAND 3 as described herein, in the Village of Cimarron, New Mexico, 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.

1. Prompt abatement of the hazardous conditions on the Property, including removal from the Property of all of the hazardous nuisance materials, is required to protect the public comfort, health, peace and safety of the town and its residents.

2. Pursuant to this Resolution and the provisions of NMSA 1978, § 3-18-5, the owner, occupant or agent in charge of the Property is hereby ordered to commence and promptly bring to completion the removal from the Property of all of the hazardous nuisance materials, which shall include all ruined, damaged and dilapidated buildings or structures and all ruins, rubbish, wreckage and debris, to provide for the proper disposal of such hazardous nuisance 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 Mayor or his designee.

3. The owner, occupant or agent in charge of the Property is 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, to the full and complete satisfaction of the town as determined by the Mayor or his designee and in compliance with all applicable town ordinances.

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

5. 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 Property shall commence abatement of the unsatisfactory conditions on the Property and removal of the hazardous nuisance materials 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.

6. 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 on 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.

7. Any person aggrieved by the determination of the governing body following the hearing provided in section 7 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.

8. In the event that abatement of the unsatisfactory conditions on the Property, including removal of the hazardous nuisance materials as provided herein, is not commenced by the owner, occupant or agent in charge of the Property 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 NMSA 1978, § 3-18-5, then the town administration shall and is hereby instructed to undertake the abatement of such unsatisfactory conditions and the removal of all of the hazardous nuisance materials from the Property in the manner provided by NMSA 1978, § 3-18-5. As provided in NMSA 1978, § 3-18-5(F), the reasonable costs incurred by the town to abate the unsatisfactory conditions on the Property and for removal of the hazardous nuisance materials 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 NMSA 1978, § 3-36-1 through 3-36-6.

9. In the event that 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:

- (1) take pictures of each loader load before removal;
 - (2) do so from as many angles as necessary to properly depict what is being removed;
 - (3) record all VIN or other identifying numbers of motor vehicles, parts, appliances or machinery or tools being removed;
 - (4) 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;
- and

(5) 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.


10. The town, in its discretion, may pay for the costs of removal of the hazardous nuisance materials by granting to the person removing such materials the legal title to all salvageable materials in lieu of all other compensation.

11. The governing body finds that all enforcement procedures provided for in the ordinances of the Village of Cimarron have been undertaken by the town in compliance with the provisions of said ordinances.

12. The provisions of this Resolution are in addition to those provided for by the ordinances of the Village of Cimarron and are independently authorized by NMSA 1978,

§ 3-18-5

PASSED, APPROVED AND ADOPTED by the Governing Body of the Town of Cimarron this 13 day of April, 2022.



Matthew Gonzales, Mayor

Attest:



Shawn Jeffrey, Village Administrator