

§ 7-3-1 **Intent.**

The governing body of the Village of Bosque Farms hereby finds that it is necessary to provide for the abatement of conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction to or interference with the comfortable enjoyment of adjacent property or premises, or hazardous or injurious to the health, safety or welfare of the general public; and to provide standards to safeguard life, health and public welfare.

§ 7-3-2 **Responsibility for compliance.**

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Section 7-3. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition, and which do not comply with the requirements of this Section 7-3. All occupants, including tenants and lessees, of a dwelling are responsible for keeping it in a clean, sanitary and safe condition in that part of the dwelling or premises which they occupy and control in compliance with the requirements of this Section 7-3.

§ 7-3-3 **Definitions and word usage.**

A.

For specific purposes of this Section 7-3, the following terms, whenever used or referred to in this Section 7-3, shall have the respective meanings assigned to them unless a different meaning clearly appears from the content. Words not defined here shall be defined by standard dictionary definitions.

B.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral; the singular number includes the plural and the plural the singular.

C.

As used in this Section 7-3, the following terms shall have the meanings indicated:

ABANDONED

To intentionally and permanently give up, surrender, or relinquish all interest or ownership in property.

ANTIQUÉ VEHICLE

A vehicle which is at least 35 years old.

COLLECTOR

The owner of one or more vehicles that are antique, historic or special interest, who collects, purchases, acquires, trades, or disposes of these vehicles or parts thereof for their own use in order to preserve, restore, and maintain a vehicle for hobby purposes.

DWELLING UNIT

Any structure or part of a structure intended for human occupancy and containing one or more connected rooms and a single kitchen, designed for living and sleeping purposes. A dwelling unit may include a mobile/manufactured home, a modular housing unit, a site-built house, or planned residential development.

EXTERIOR PROPERTY

The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GOVERNING BODY

The Village of Bosque Farms Mayor and Councilors.

GRAFFITI

Letters, numbers, a word or words, writings or inscriptions, symbols, drawings, carvings, stickers, etchings or any other marking of any nature whatsoever which defaces, obliterates, covers, alters, damages or destroys the real or personal property of another.

HISTORIC OR SPECIAL INTEREST VEHICLE

A vehicle of any age which, because of its significance, is being collected, preserved, restored or maintained by a hobbyist as a leisure pursuit.

INFESTATION

The presence within or contiguous to a structure or premises of insects, rats, vermin or other pests to such a degree as to pose a threat to the health or safety of occupants of the structure or any other contiguous structure or premises.

INOPERABLE MOTOR VEHICLE

Any motor vehicle which is incapable of being propelled under its own power.

JUNK VEHICLE

Any motor vehicle, other than an antique, historic, or special interest vehicle, which:

(1)

Has been continually inoperative for at least 120 days or has been wrecked, dismantled, partially dismantled, or abandoned; and

(2)

Does not meet minimum safety standards for operation on the public streets and highways of this state.

OCCUPANCY

The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT

Any individual living or sleeping in a building, or having possession of a space within a building.

OUTDOOR STORAGE

Storage not contained by four walls and a roof.

OWNER

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or record in the official records of the state, county or municipality as holding title

to the property; including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PARTS CAR

An antique, historic, or special interest motor vehicle generally in inoperable condition which is owned by a collector to furnish parts and/or harvest parts that are usually unobtainable from normal sources, thus enabling a collector to preserve, restore and/or maintain an antique, historic or special interest motor vehicle.

PERSON IN CHARGE OF PROPERTY

Owner, tenant, lessee, manager, occupant, agent, representative, or employee.

PLANNING AND ZONING ADMINISTRATOR/CODE ENFORCEMENT OFFICER

The Village of Bosque Farms Planning and Zoning Administrator/Code Enforcement Officer or their designee.

PREMISES

A piece of real estate, house, or building and its land.

REFUSE

Includes, but is not limited to, debris, garbage, litter, rubbish and/or the like.

(1)

DEBRIS Bits and pieces of stone, wood, glass, such as after destruction.

(2)

GARBAGE The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, not including managed compost.

(3)

LITTER Includes but is not limited to any discarded, uncared for, or worn-out manufactured material, construction material, machinery, including parts of motor vehicles, tires, aircraft, appliances, household furniture or scrap metal, and other materials.

(4)

RUBBISH Combustible and noncombustible waste materials, except garbage including yard waste, i.e., decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings.

STRUCTURE

Anything constructed, placed or erected above ground level which requires location on the ground or is attached to something having a location on the ground, but not including a tent, vehicle, vegetation, public utility pole or line, signs or fences. For the purpose of this Section 7-3, a mobile/manufactured home is a structure, with or without wheels, when located on any lot.

VILLAGE

The Village of Bosque Farms.

WEEDS

All rank, noxious, poisonous, harmful, unhealthful vegetation or any growth whatsoever of an offensive, unsightly nature, whether alive or dead.

§ 7-3-4**Weeds.**

A.

Owner/occupant responsibility.

(1)

The person in charge of the real property is required and responsible to take the appropriate action for the control of weeds in conformance with this section:

(a)

On the real property owned or occupied by them;

(b)

In the alley and/or public utility easement abutting such real property to its center line; and

(c)

In the area between such real property and the edge of any abutting street.

(2)

Each such person in charge of property shall destroy, cut, control, and remove such weeds as often as the growth and condition of such weeds may require in order to maintain a maximum height of 12 inches.

B.

Separate offense. Violations continued for a period of 15 days after conviction shall be prosecuted and treated as a separate offense.

§ 7-3-5**Structure interiors.**

The interior of a structure shall be maintained free from hazardous conditions, infestations, structurally sound and sanitary so as not to pose a threat to public health, safety, or welfare.

§ 7-3-6**Exterior property areas.**

A.

Vacant structures and land. All structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health or safety.

B.

Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition free from refuse and infestation.

C.

Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the continuous and repetitive accumulation of stagnant water thereon, or within any structure located thereon and in accordance with Section 10-1, Zoning, § **10-1-5N.**

D.

Static display. A "static display" is a public exhibition of stationary objects as part of the landscaping. This includes agricultural equipment, implements or machinery which promotes or reflects the rural atmosphere of the Village of Bosque Farms. These displays are exempt from § **7-3-7**; inoperable vehicles are not considered static displays pursuant to this Section 7-3.

E.

Refuse or infestation.

(1)

Accumulation of refuse or infestation. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of debris, garbage, litter, rubbish, or infestation.

(2)

Household appliances such as refrigerators, freezers, washers, dryers, dishwashers, and similar equipment shall not be discarded or stored on exterior property.

(3)

Disposal and storage of refuse. The owner of every occupied premises shall comply with Section 9-1, Solid Waste, of the Village Code.

(4)

Hazardous chemicals. Any oil, fluids, solvents, and other substances that constitute a fire, health, or environmental hazard shall be stored, handled and disposed of in accordance with state and federal regulations.

F.

Graffiti. The owner of a property within the Village which has any form of graffiti on any building, structure, or surface without the permission of the owner of the property shall be required to either restore the defaced surface by removing the graffiti or repainting the defaced surface within 10 business days after notice by the Planning and Zoning Administrator/Code Enforcement Officer or their designee.

§ 7-3-7 **Antique, historic, special interest, parts, and inoperable/junk motor vehicles.**

A.

It is unlawful for any person to permit or cause to remain in or about their lot an inoperable/junk motor vehicle, except as set forth in this section.

B.

In order to preserve the residential and/or rural character and appearance of the Village, and to protect the health and safety of the residents, the accumulation of inoperable/junk motor vehicles is restricted and shall be regulated as follows:

(1)

After written notification of violation, the owner will be given 15 days to make the vehicles operable.

(2)

Proof of activity, including but not limited to invoices dated within the preceding 10 days after the vehicle has been deemed inoperable or vehicle parts have been ordered and have not been received, will be grounds to grant an extension by the Planning and Zoning Administrator/Code Enforcement Officer or their designee for an additional 30 days.

(3)

Separate offense. Violations continued for a period of 15 days after conviction shall be prosecuted and treated as a separate offense.

C.

This section shall not be construed to permit the parking or placing of antique, historic, special interest, parts or inoperable/junk motor vehicles on any public right-of-way.

D.

Exceptions.

(1)

Owners of antique cars, historic, or special interest motor vehicles shall store vehicles, associated parts cars and replacement parts for those vehicles on their private property, provided that:

(a)

Such vehicles and parts cars, and the outdoor storage area, are maintained in such a manner that they do not constitute a health, safety, or fire hazard; and

(b)

Vehicles and parts cars stored outdoors shall be stored within an outdoor storage area which will effectively screen them from public view year-round. The vehicles may be stored within

a solid fence (Section 10-1, Zoning, § **10-1-5G**, of the Village Code) constructed at least six feet high, but not more than eight feet high; and

(c)

Such storage area shall be kept free of weeds, rubbish, garbage, litter, trash, and other objectionable objects; and

(d)

Such storage area shall be included in the calculation of impervious surface area on a lot as set forth in Section 10-1, Zoning, § **10-1-5J**. This restriction does not apply in the C-1 Zone; and

(e)

Storage area setbacks are subject to the regulations as stated in Section **10-1-5D** of the Village of Bosque Farms Zoning Ordinance; and

(f)

The storage area shall not be used for any business venture and/or business enterprise.

E.

All motor vehicle storage areas shall be paved or surfaced with base course or gravel, with the exception of agricultural equipment.

§ 7-3-8 **Unsafe structures and equipment.**

A.

General. When a structure or equipment is found by the Planning and Zoning Administrator/Code Enforcement Officer or their designee to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

B.

Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C.

Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D.

Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Planning and Zoning Administrator/Code Enforcement Officer or their designee finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin- or rat-infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

E.

Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

(1)

The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

(2)

Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

F.

Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Zoning Administrator/Code Enforcement Officer or their designee is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the Zoning Administrator/Code Enforcement Officer or their designee shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

G.

Notice. Whenever the Zoning Administrator/Code Enforcement Officer or their designee has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or person's responsible for the structure

or equipment, it shall be placed on the condemned equipment in accordance with § **7-3-12**. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in § **7-3-12**.

H.

Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provision within the time given, the Zoning Administrator/Code Enforcement Officer or their designee shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.

I.

Placard removal. The Zoning Administrator/Code Enforcement Officer or their designee shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Zoning Administrator/Code Enforcement Officer or their designee shall be subject to the penalties provided by this code.

J.

Prohibited occupancy. Any occupied structure condemned and placarded by the Zoning Administrator/Code Enforcement, or their designee shall be vacated as ordered by the Zoning Administrator/Code Enforcement Officer or their designee. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

K.

Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the Zoning Administrator/Code Enforcement Officer, or their designee shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action.

L.

Record. The Zoning Administrator/Code Enforcement Officer or their designee shall cause a report to be filed in the permanent property file on record with the Village of Bosque Farms on any unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

§ 7-3-9 **Dangerous building or debris removal.**

The Village of Bosque Farms will institute appropriate and lawful procedures pursuant to NMSA 1978, § 3-18-5 et seq. to correct or abate violations regarding dangerous buildings or debris removal.

§ 7-3-10 **Door-to-door sales.**

A.

The practice of solicitors, hawkers, peddlers, itinerant merchants or transient vendors (except newspapers) going in or upon private premises in the Village, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences, for the purpose of soliciting orders for the sale of goods, wares, merchandise or publications, other than newspapers, or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance, and such practices are prohibited by this Section 7-3 as constituting a nuisance.

B.

The provisions of this Section 7-3 shall not apply to the sale, delivery or soliciting of orders for newspaper publications, and the provisions of this Section 7-3 shall not apply to the sale of or the soliciting of orders for the sale of milk, dairy products, poultry, eggs, and other farm or garden produce so far as the sale of the commodities named in this section are authorized by law.

§ 7-3-11 **Duties and powers of Planning and Zoning Administrator/Code Enforcement Officer or their designee.**

A.

Inspections. The Planning and Zoning Administrator/Code Enforcement Officer or their designee has the authority to request an inspection of buildings, structures, and the use of land to determine compliance with this Section 7-3. This provision does not grant right of entry without due process if necessary.

B.

Right of entry. The Planning and Zoning Administrator/Code Enforcement Officer or their designee shall request, with proof of or basis for due cause, to enter the structure or premises at a notified and reasonable time, subject to constitutional restrictions on reasonable searches and seizures. If entry is refused or not obtained, the Planning and Zoning Administrator/Code Enforcement Officer or their designee is authorized to pursue recourse as provided by law.

C.

Identification. The Planning and Zoning Administrator/Code Enforcement Officer or their designee shall carry proper identification when inspecting structures or premises in the performance of duties under this Section 7-3.

§ 7-3-12 **Notices and orders.**

A.

Notice to person responsible. Whenever the Planning and Zoning Administrator/Code Enforcement Officer or their designee determines that there has been a violation of this Section 7-3 or has grounds to believe that a violation has occurred, notice shall be given, in the form of a citation as prescribed in Subsection **B**, to the person responsible for the violation as specified in this Section 7-3. Notices for dangerous buildings or debris removal procedures shall comply with NMSA 1978, § 3-18-5.

B.

Form. Such notices and/or citations shall be in accordance with all of the following:

(1)

Be in writing.

(2)

Include a description of the real estate sufficient for identification.

(3)

Include a statement of the violation or violations and why the notice is being issued.

(4)

Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, structure, or property into compliance with the provisions of this Section 7-3, except as otherwise provided in this Section 7-3.

(5) After first notice of violation, property owner/homeowner will be permitted to request a 1 (one) time extension of 15 (fifteen) days, to allow for corrections or to seek assistance in bringing the cited property into compliance. The request of extension must be in writing.

C.

Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

(1)

Hand delivered to the property owner or person responsible for the property;

(2)

Sent by first-class mail, addressed to the last known address of the property owner or person responsible for the property; or

(3)

If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure and/or premises affected by such notice with proof of notice filed with the Village Clerk/Administrator.

§ 7-3-13 **Fee Schedule for Non-Compliance.**

A.

Fee schedule for continuation of violation(s) after the time allotted to resolve the issue which caused a notice of violation(s). Any person failing to comply with the notice of violation, citation or order within 15 days as served in accordance with §§ **7-3-4** through **7-3-8** or after the 1 (one) time extension request shall be assessed a lack of compliance fee to cover the costs of continued compliance efforts of 50.00 (fifty) dollars for failure to comply with the first notice of violation(s) within the time allotted. Then, after 10 additional days, a 100.00 (one hundred) dollar fee for failure to comply with the second notice to bring the violation(s) into compliance will be assessed. Finally, after 7 additional days, 150.00 dollars for the third attempt to bring the violation(s) into compliance will be assessed. If the citations or notices of violation(s) are not complied with after the third attempt, the Planning and Zoning Administrator/Code Enforcement Officer or their designee shall cite the matter to the Municipal court. The Planning and Zoning Administrator/Code Enforcement Officer or their designee may proceed to and/or institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Section 7-3 or of the order or direction made pursuant thereto. Any action taken on such premises by the authority having jurisdiction shall be charged against the real estate upon which the structure is located, and a lien may be placed upon such real estate. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

B.

Penalties.

(1)

Any person violating any of the provisions of this Section 7-3 shall, upon conviction, be subject to a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment. Each subsequent offense after conviction shall be prosecuted and treated as a separate offense. A case cited into the Municipal Court due to non-compliance as outlined in 7-3-13 A resulting in a conviction by the municipal Judge, requires the Municipal court to assess a mandatory fine of no less than 200.00 dollars along with the other mandatory court costs as required by law, which fine shall not be suspended nor deferred by the Municipal court. The municipal court may allocate up to a maximum of 10 days for the violation(s) to come into compliance, or the defendant will face additional action.

(2)

This provision does not preclude further action as set forth in § **7-3-12A**.
§ 7-3-14**Liability.**

(3) History of violations for the property will renew every calendar year.

A.

The Planning and Zoning Administrator/Code Enforcement Officer or their designee charged with the enforcement of this Section 7-3, while acting for the jurisdiction, shall not be liable for any damages, fees or costs accruing to person or property as a result of an act required or permitted in the discharge of official duties.

B.

Any suit instituted against any official or employee because of an act performed by that official or employee in the lawful discharge of duties and under the provisions of this Section 7-3 shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Planning and Zoning Administrator/Code Enforcement Officer or their designee shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Section 7-3. Any person charged with enforcement of this Section 7-3, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.