

CITY OF BAYARD, GRANT COUNTY, NEW MEXICO
ORDINANCE No. _____

AN ORDINANCE CONCERNING THE REGISTRATION AND MAINTENANCE OF
NEGLECTED VACANT RESIDENTIAL AND COMMERCIAL STRUCTURES WITHIN THE
CORPORATE LIMITS OF THE CITY OF BAYARD,
AMENDING TITLE 4, "HEALTH, SANITATION AND ENVIRONMENT" OF THE CITY OF
BAYARD CODE BY INSERTING THE FOLLOWING NEW CHAPTER 1E
"REGISTRATION AND MAINTENANCE OF NEGLECTED VACANT RESIDENTIAL AND
COMMERCIAL STRUCTURES"

WHEREAS the City of Bayard requested the Board of Trustees to enact an ordinance pursuant to their statutory authority under N.M.S.A. 1978, Section 3-17-1 (1965, as amended through 1993), which ordinance would require the registration and payment of an annual fee where a vacant residential or commercial structure is certified in writing by the City Police Chief or Fire Chief to be neglected;

WHEREAS the Clerk of the City of Bayard published timely notice in the Silver City Daily Press, a newspaper of general circulation in Grant County, and gave timely notice to interested parties in accordance with the provisions of N.M.S.A. 1978, Section 3-17-3 (1973); and

WHEREAS the Board of Trustees conducted public meetings on March 8, April 12, May 10, June 14, July 20, August 9, and September 20, 2016, and duly considered all statements presented as well as written commentary provided.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF BAYARD, GRANT COUNTY, NEW MEXICO, THAT:

SECTION 1. INTRODUCTION. The CITY OF BAYARD CODE, Title 4 "Health, Sanitation and Environment" is hereby amended by adding a new Chapter 1E, titled "Registration and Maintenance of Neglected Vacant Residential and Commercial Structures," to read as follows:

SECTION 2. PURPOSE. The purpose of this ordinance is to help protect the health and safety of the residents of the City of Bayard so that vacant structures do not constitute a public nuisance, by ensuring appropriate maintenance of vacant residential and commercial structures to prevent the development of insanitary conditions, unsafe deterioration of the structure, and unauthorized entry. This ordinance will help promote the City's public welfare by preventing blight and protecting property values and neighborhood integrity and safety.

SECTION 3. DECLARATION OF PUBLIC NUISANCE. It is declared a public nuisance for any owner to cause, permit, or fail to maintain any vacant residential or commercial structure in a manner contrary to the provisions of this ordinance.

SECTION 4. APPLICABILITY. The provisions of this ordinance shall apply to all vacant residential and commercial structures within the corporate boundaries of the City of Bayard, as those boundaries may be altered from time to time by annexation.

SECTION 5. DEFINITIONS. For purposes of this ordinance, the following terms are defined as follows. Other terms used in this ordinance are defined in Title 4, CITY OF BAYARD CODE.

LOT	A measured parcel of land having fixed boundaries designated on a survey under one ownership as shown on the last assessor's roll of Grant County or the records of the City, whichever is the most recent.
NEGLECTED VACANT STRUCTURE	A structure which is vacant and is not maintained in accordance with the provisions of this ordinance and certified in writing to be neglected by the City Police Chief or Fire Chief.
OCCUPANCY	The act of residing in the structure with full utilities service or conducting a legal business, properly registered, from the structure with full utilities service.
OWNER:	The owner of record based on the public records of the Grant County clerk and office of the Grant County assessor and any person with legal, financial, or equitable interest in the structure, land, or premises at the time of the determination that the vacant structure is a neglected structure under the provisions of this ordinance.
REGISTRATION	The process of providing name, present address, and other contact information of the owner of a vacant structure for protection of the subject premises and the owner's investment.
STRUCTURE:	A combination of any materials fixed to the ground and having a roof, enclosed within exterior walls, and constructed to as a dwelling for the shelter of persons, including a building for the conduct of a legal business. A structure shall include any mobile home or manufactured home , as those homes are defined in NMSA. 1978, Section 3-21A-2(A) and -(B) (2001), whether used for residential or commercial purposes.

VACANT
STRUCTURE:

- (1) A residential or commercial structure that has remained unoccupied for a period of more than thirty (30) days.
- (2) A structure is not deemed to be vacant for purposes of this ordinance if any of the following circumstances exist:
 - a. Any unit or portion of the structure is occupied by authorized persons;
 - b. Any other structure on the same lot is occupied by authorized persons; or
 - c. Construction or alteration of the structure is in progress, and where a state permit is required such unexpired permit must be posted. If a required state permit is not posted or has expired, then the structure shall be considered a vacant structure and subject to the requirements of this ordinance.

SECTION 6. REGISTRATION OF NEGLECTED VACANT STRUCTURE.

- A. Notification of Determination of Neglect and Required Registration. When a vacant structure is determined to be neglected, and certified in writing, the City Clerk shall notify the owner by certified mail, return receipt requested, of the neglect determination and the requirement to register the neglected vacant structure with the City. Said notice shall contain a registration form.
 - (1) The owner must register the neglected vacant structure within thirty (30) calendar days of receipt of the notice.
 - (2) The owner must pay the neglected vacant structure fee with the registration.
- B. Registration Information. Registration shall be on a form available from the Village Clerk, which includes but is not limited to the following information:
 - (1) Name, address (physical and mailing), and contact telephone number of the owner;
 - (2) Name, address (physical and mailing), and contact telephone numbers of the local agent or representative for the structure /property, if other than the owner.
- C. Keep Registration Information Current. Upon any change in the facts provided in the initial registration, the owner shall file up-dated information within ten (10) business days of such change.
- D. Neglected Vacant Structure Fee. Upon notification of the neglected vacant structure determination, the owner must pay a prorated fee as established below, and continue to pay an annual fee on or before July 1 of each calendar year the vacant structure continues to be classified as a neglected vacant structure.
 - (1) Initial fee shall be prorated from the month following the receipt of notice of the neglected vacant structure determination, which shall be based on a first year annual fee of \$300.00 (\$25.00/month).

- (2) First full calendar year annual fee, where the structure is still designated as a neglected vacant structure, shall be \$300 (three hundred dollars).
 - (3) For each additional full calendar year the premises remains designated as a neglected vacant structure, the fee shall increase an additional \$100.00 (one hundred dollars) per year up to a maximum of \$500.00 (five hundred dollars) per year.
- E. Owner Not Exempt from Complying with Standards Upon Payment of Fee. Payment of the neglected vacant structure fee does not exempt the owner from complying with this ordinance and other applicable laws. Upon a showing that the vacant structure and lot are in full compliance with this ordinance, the Village will vacate the neglected vacant structure fee. No further fee will be due provided the vacant structure and lot continue to be in compliance with this ordinance.

SECTION 7. REQUIREMENTS AND STANDARDS.

- A. Maintenance in Accordance with all Applicable Laws. The owner of a vacant structure shall maintain it and its lot(s) in accordance with all applicable local ordinances and the state sanitary codes, building codes, and fire codes pertaining to the lot and the external (visible) parts of the structure.
- B. Security Standards. The owner shall maintain the vacant structure in a way that secures the structure from any unauthorized entry and shall comply with the following minimum security standards:
- (1) Promptly cover, secure, or repair all broken windows, doors, other openings, and any unsafe conditions at a vacant structure. Boards or coverings must be fitted and sized to the exterior opening.
 - (2) There shall be at least one operable door into each vacant structure, secured with a suitable lock.
 - (3) The lot(s) upon which a vacant residential or commercial structure is located shall be appropriately secured based on the conditions and surroundings, and maintained in a manner that eliminates any public safety hazard. Said lot(s) must be free of all combustible materials.
- C. Appearance Standards. The owner of a vacant structure shall comply with the following minimum appearance standards:
- (1) All vacant structures must be maintained in a manner that minimizes the appearance of neglect and deters unauthorized occupation. Owners shall promptly remove graffiti from the vacant structure and any fencing and immediately repair damage from attempted or actual intrusions into the vacant structure.
 - (2) All exterior surfaces, including any boarded windows or doors, shall be applied with sufficient paint, siding, stucco, or other finishes in the same

color or similar color to blend with the structure's existing exterior color scheme. All exterior surfaces, including roofs, shall be of sufficient construction to weatherproof the vacant structure.

- (3) The lot(s) upon which the vacant structure is situated, including all landscaping, shall be kept in such condition as not to create the appearance of an unsecured, unoccupied structure. Said lot(s) shall be free of litter, which includes debris and garbage.

SECTION 8. PARTIAL OR COMPLETE DESTRUCTION OF STRUCTURE. An owner of a structure rendered vacant as a result of catastrophic fire or act of nature shall: (i) *immediately* secure the premises with appropriate fencing and no trespass signs, (ii) within two calendar weeks from the catastrophic event clear the premises of all litter and debris; and (iii) within four calendar weeks from the catastrophic event demolish any remaining parts of the structure and clear the site or show proof to the Code Enforcement Officer of completed and filed application for appropriate state permits for rebuilding the partially destroyed structure.

SECTION 9. PENALTIES.

- A. Penalties: It is unlawful for any person who owns controls, or is the responsible agent of a vacant structure to fail to register and pay the requisite fee as provided in this ordinance, and to maintain, or cause or permit the maintenance of the vacant structure in a condition defined as a "neglected vacant structure" in this ordinance. Violations of this ordinance are in addition to any other violation established by law.
- B. Penalties. The court may impose fine of not more than \$500 (five hundred dollars) or imprisonment of more than ninety days or both upon finding any person in violation of any provision of this ordinance.
- B. Remedies Not Exclusive. This ordinance shall not be interpreted as limiting the penalties, actions, or summary abatement procedures that may be taken by the Village under existing laws, ordinances, or rules, including perfecting a lien upon the premises and foreclosure thereof.

SECTION 10. REPEALER. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

SECTION 11. SEVERABILITY. Should any provision of this ordinance be rendered invalid by a court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the City Council.

Findings:

1. The presence of unmaintained vacant residential and commercial structures creates a negative impression and has been shown to have an adverse economic impact on neighboring properties and businesses by depressing property values;
2. It is the property owner's responsibility to maintain a vacant structure to minimize the appearance of neglect and to secure the vacant structure from unauthorized entry, and such responsibility should not be a burden placed upon the entire community;
3. Trespassers find vacant structures to be attractive places to conduct criminal activities, and unauthorized access can lead to vandalism and even fires that put the structure and surrounding area at risk;
4. Neglected vacant and unsecured residential and commercial structures can become an attractive but dangerous play area for children and can harbor wild animals, pests, and vermin;
5. Vacant structures that have deteriorated or been neglected are a threat to public safety, health, and welfare of the community.
6. The City of Bayard has an interest in identifying and registering property owners of neglected and unsecured vacant residential and commercial structures located within the corporate limits of the City of Bayard; and
7. To provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the City of Bayard and its inhabitants, it is necessary to establish a process whereby the City can identify neglected vacant structures and impose a fee upon the owners thereof in order to monitor compliance with applicable laws.

PASSED, ADOPTED, AND APPROVED by vote of the City Council of the Bayard, Grant County, New Mexico, this 12th day of September 2022.

Chon Fierro, Mayor
City of Bayard

Attest:

Kristy Ortiz, Clerk / Treasurer
City of Bayard

ORDINANCE

CREATING AND MAINTAINING PUBLIC NUISANCE UNLAWFUL

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ORDINANCE

CREATING AND MAINTAINING PUBLIC NUISANCE UNLAWFUL

SECTION 1

GENERAL PROVISIONS; DEFINITIONS

1.01 Authority, Purpose, Scope, Applicability, Enforcement.

- A. The City of Bayard, a municipal corporation organized under the laws of New Mexico, is authorized by Section 3-17-1 NMSA 1978 to enact ordinances “providing for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants.” In addition, the City of Bayard is authorized by Section 3-18-17 to “define a nuisance, abate a nuisance, and impose penalties upon a person who creates or allows a nuisance to exist.”
- B. The purpose of this ordinance is to promote the health, safety, and general welfare of the citizens of the City of Bayard, including preservation of economic and aesthetic value of properties and protection of neighborhoods against nuisances, blight, and deterioration. To accomplish this purpose, this ordinance establishes requirements for (i) maintenance of the exterior of all buildings, whether residential or non-residential; structures of whatever kind; and of all land, whether improved or vacant; (ii) use of public places and roadways; and (iii) use of private roadways.
- C. The provisions of this ordinance shall apply to all buildings, structures, and land within the City of Bayard without regard to the use and the date of construction or alteration.
- D. If any provision of this ordinance conflicts with any provision of an earlier ordinance or any regulation or policy of the City of Bayard, this ordinance shall apply.
- E. The Code Enforcement Officer of the City of Bayard and any law enforcement officer shall enforce the provisions of this ordinance.

1.02 Definitions.

Unless otherwise specified, for purposes of this ordinance, certain terms, phrases, words, and their derivatives shall be construed as follows and as defined in subsequent sections of this ordinance.

As used in this ordinance, the singular shall include the plural and the plural the singular.

Where terms, phrases, and words are not defined within this ordinance, they shall have their ordinary accepted meaning within the context in which they are used.

ABANDONED OR JUNK VEHICLE means any motor vehicle or major portion thereof that is

1. Wrecked, dismantled, or partially dismantled, including, but not limited to, any motor vehicle from which the wheels, engine, transmission, or other substantial part has been removed; or
2. Inoperative or incapable of movement under its own power; or
3. Apparently inoperative, which means that conditions and circumstances are such to show that the vehicle is not currently operable, including, but not limited to, a vehicle having its passenger compartment filled with trash or debris; vegetation growing inside, around, or on the vehicle; or other evidence that the vehicle has not been moved for an extended period of time.

ABATE means to repair, replace, remove, destroy, or otherwise remedy a condition that constitutes a violation of this ordinance by such means and in such a manner and to such an extent as the Code Enforcement Officer or other public official authorized to enforce this ordinance determines is necessary in the interest of the public health, safety, and welfare of the community.

ADJACENT PUBLIC RIGHT-OF-WAY means that (i) area of any curbs or sidewalks that may be located on the property, (ii) the area located between the property line and curb, (iii) the area located from the property line to the edge of the pavement or other surface where there is no curb, and (iv) the area located between the property line and the middle of the alley adjacent to the property.

ATTRACTIVE NUISANCE means the maintaining of a condition, instrumentality, item, machine, or conducting other activity that is dangerous to children because of their inability to appreciate peril and to which children may reasonably be attracted.

AUTHORIZED PRIVATE RECEPTACLE means a litter storage and collection receptacle as required and authorized in this ordinance.

BLIGHT OR BLIGHTED means unsightly conditions including, but not limited to, the accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is dead, damaged, characterized by uncontrolled growth or lack of maintenance; and any other similar conditions of disrepair and deterioration that contribute to the depreciation of neighborhood property values or affect the health, safety, economic, aesthetic, or general welfare of citizens.

BUILDING means any structure, above and below ground, used or intended to support or shelter any use or occupancy, including, but not limited to, residential, business, and storage, and further, shall include any part thereof such as basements, porches, decks, and roofed open areas.

CODE ENFORCEMENT OFFICER means an employee of the City of Bayard within the Police Department, or his designee, authorized to enforce the provisions of this ordinance.

CULTIVATED PLANTINGS means plants that are nurtured, encouraged to grow, supported, and tended by a person.

DEBRIS means, but is not limited to the following: junk; tires; broken stone or cement; inoperable bicycles or bicycle parts; rags; cans of any material; glass of whatever constituency and whether whole items or broken; ashes; wastepaper; plastic materials, including bottles and packing substances; scrap iron, wire, and other such metal articles; discarded and abandoned furniture and furniture parts, including, but not limited to, mattresses and bedding; appliances such as stoves, sinks, and refrigerators; lumber, scrap wood, pallets, crates, and packing cases; parts of buildings and fences of whatever material; household fixtures such as electrical lighting parts and cabinets; vehicle parts; discarded, broken, or neglected equipment; tree and vegetation trimmings, abandoned inflammable materials; and the scattered remains of something of little or no apparent economic value.

DETERIORATED OR DETERIORATION means a lowering in quality of the condition or appearance of a building or part thereof. The fact or process of decay or degeneration is characterized by physical decay, neglect, excessive use, or lack of maintenance including, but not limited to, evidence of holes, breaks, rot, crumbling, cracking, peeling, rusting, vermin infestation, and unsafe or insanitary conditions.

DETRITUS means the excrement of animals, including human beings.

EXTERIOR SURFACES means building exterior surfaces and attachments to the building, including, but not limited to, walls, roofs, doors, windows, gutters, down spouts, overhangs, antennae, porches, patios, and chimneys.

FRONT YARD means an expanse of land extending across the full width of the front property boundary and having a depth of the distance between the nearest point of the main building and the front property line, measured at a right angle to the front property boundary. The primary function of yards on residential premises is to provide access to light and air and to provide circulation, recreation, and landscaping around the dwelling building, which are beneficial to the general health and welfare of the community.

GARBAGE means any spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking, or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition. Garbage does not include bodily wastes of human beings or other animals (see, definition of detritus). Garbage includes the bones, meats, hides, skins, or any part of any dead animal.

IMMINENT HAZARD means a condition that presents an immediate likelihood of causing serious personal harm or jeopardizing the health or safety of the public due to a condition of deterioration; being incomplete, damaged, or broken; experiencing leaking; being subject to exposure; or being scattered with debris, litter, garbage, or other filth, including bodily wastes of human beings or other species of animals.

IMPROVED PARKING AREA means an area covered by an all-weather surface including, but not limited to, concrete, asphalt, gravel, permeable paving materials, or other materials that limit dust, and that is properly drained to prevent impoundment of surface water.

LAND means all land in the City of Bayard whether improved or unimproved, occupied or unoccupied.

LITTER means and includes garbage, refuse, rubbish, debris, detritus, and all other filth and waste material that tend to create a danger or an injury to public health, safety, and welfare when thrown or deposited in a manner prohibited by this ordinance.

LITTERING means the act of depositing litter anywhere within the corporate limits of the City of Bayard.

MAJOR REPAIR means the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan.

MOTOR VEHICLE means any vehicle that is self-propelled and designed to travel along the ground, which is required to be registered and licensed with the New Mexico Division of Motor Vehicles, including, but not limited to, automobiles, motor homes, motor bikes, motorcycles, motor scooters, and trucks of all sizes. As used in this ordinance, a motor vehicle does not include a recreational vehicle.

OWNER means the owner of record based on the public records of the Grant County Clerk and Office of the Grant County Assessor and any person with legal, financial, or equitable interest in the building, land, or premises at the time of the alleged violation of the provisions of this ordinance.

PERSON means a human being, enterprise, corporation, company, partnership, joint venture, business trust, association, firm, club, society, or any other legal entity.

PERSONAL PROPERTY means any movable or intangible thing that is subject to ownership and not classified as real property.

PREMISES means the land and anything growing on, attached to, or erected on it such as structures thereon, including, but not limited to, fences, walls, poles, and buildings, as that term is defined above, and, in addition, shall include the "adjacent public right-of-way" as defined in this ordinance.

PREPONDERANCE OF EVIDENCE means the greater weight of the evidence; evidence that has the most convincing force; evidence sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

PRIVATE PROPERTY means any building, premises, and/or land not owned by the federal government, state, county, or political subdivision of the federal government or the state.

PROPERTY means the same as "premises" and may be used in this ordinance interchangeably with the term premises. Also, property is sometimes referenced as "real property."

PUBLIC PLACE means any street, sidewalk, boulevard, alley, or other way permitted for use by the public, and any park, square, space, ground, or building accessible for use by the public.

PUBLIC RIGHT-OF-WAY means the area of land, the right of possession of which is secured by the Village for right-of-way purposes; a public right-of-way includes the traveled portion of the public streets and alleys as well as the border area, which includes, but is not limited to, any sidewalks, driveway approaches, planting strips, traffic circles, parkways or medians, or that area between the sidewalk and the curb or, if no curb, the paved or hardened surface of the roadway. (See also, definition of "Adjacent Public Right-of-Way.")

REASONABLE CAUSE TO BELIEVE means a reasonable basis to support issuance of an administrative search warrant based on specific evidence of an existing violation of this ordinance.

RECREATIONAL VEHICLE means a vehicular type portable structure without permanent foundation that can be towed, hauled, or driven, and which is primarily designed as a temporary living accommodation for recreational, camping, and travel use, and further includes, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

REFUSE means all solid wastes, except bodily wastes, and includes but is not limited to, abandoned, wrecked, or junked vehicles or parts thereof; solid wastes from business and industry; food market non-perishable solid wastes; garbage; rubbish; ashes; waste oil; street cleanings; and dead animals.

RESPONSIBLE PERSON means, as to any occupied or unoccupied building, premises, or land located within the corporate limits of the City of Bayard, the following: owner, as that term is defined herein; occupant or person in possession; lessee; manager; agent; lien holder; and any other person who has any other legal interest in or has charge or control of said property.

RUBBISH means solid waste consisting of both combustible and noncombustible waste, such as paper wrappings; cigarettes; cardboard; cans and objects of any type metal; cut and pulled vegetation such as yard clippings and leaves; wood and wooden objects; glass; bedding; crockery; construction materials; and other similar items and materials.

SCREENING means structures or plantings capable of concealing storage from sight by standing individuals at or near the property lines, which screening must be at least six feet in height, and shall include, but not be limited to, solid rock, stone, cement block, adobe, or other like material walls; solid wood fencing; chain link fencing with slates; and/or solid landscaping.

UNCULTIVATED PLANTINGS means vegetation that is not planted by, tended to, or supported by a person but grows wild and is overgrown, unkempt, or potentially hazardous.

UTILITY TRAILER means a vehicle without motor power designed for carrying property and for being drawn by a motor vehicle.

VERMIN means animals, including insects and parasitic animals, that are obnoxious to man.

VILLAGE means the City of Bayard, Grant County, New Mexico.

WATERCRAFT means any craft or vehicle specifically designed for use on water including, but not limited to, a boat, canoe, Jet Ski, pontoon, and other similar type craft.

WEED or WEEDS mean poison oak, poison ivy, or any noxious weed identified by the Noxious Weed Management Act, N.M.S.A. 1978 §§76-7D-1 through 76-7D-6 (1998), as a plant species not indigenous to New Mexico and targeted for management or control

because of its negative impact on the economy or the environment. In addition, for the purpose of this ordinance, weeds include uncultivated grasses and other herbaceous plants with a growth higher than twelve (12) inches or which present a fire hazard; provided however, that such plants are not a protected native New Mexico plant listed in N.M.S.A. 1978 §76-8-1 (1933), said list with identifying pictures are available from the Code Enforcement Officer and the Office of the Clerk of the City of Bayard.

1.03 Responsible Parties.

- A. Any person who causes, permits, facilitates, aids, or abets any violation of this ordinance or who fails to perform any act or duty required by this ordinance is subject to the enforcement provisions herein.
- B. Any responsible person, as that term is defined in this ordinance, shall be jointly and severally responsible for the violation, the prescribed sanctions, and the abatement of any violation of this ordinance.
- C. The owner shall be presumed to be the person having lawful control over the building, premises, or land. If there is more than one person as the record owner of the property, each such owner shall be presumed to be the person having lawful control over the building, premises, or land. This presumption shall not prevent the enforcement of the provisions of this ordinance against any person specified in subsection (A) or (B) above.

SECTION 2
PUBLIC NUISANCES

2.01 Public Nuisance Defined.

A public nuisance consists of doing an unlawful act, or omitting to perform a duty, or permitting an action or condition to occur or exist that:

- A. Endangers or is injurious to the health, safety, or welfare of the public or has caused any discomfort, damage, or injury to the public; or
- B. Interferes with the exercise and enjoyment of public rights, including the right to use public property; or
- C. Is offensive to the sensibilities of reasonable persons; or
- D. By its perpetuation can reasonably be said to have a detrimental effect on any premises or person; or
- E. Creates an insanitary condition; or
- F. Creates a fire hazard; or
- G. Depreciates the enjoyment and use of property in the immediate vicinity to such an extent that is harmful to the welfare of the City of Bayard or the neighborhood community in which such condition exists; or
- H. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public park, highway, street, alley, or public right-of-way in the Village; or
- I. In any way renders other persons insecure in life or the use of property; or
- J. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property; or
- K. Results in an attractive nuisance; or
- L. Creates or permits the existence or continuance of any of the specific nuisances identified in this Ordinance.

2.02 Specific Public Nuisances Declared.

The specific acts, omissions, places, and conditions provided in the following sections 2.03 through 2.21 of this ordinance are declared to be public nuisances, and a person is liable for violating any provision thereof by the following acts or omissions including, but not limited to, creating, erecting, maintaining, using, placing, depositing, causing, allowing, leaving, abandoning, or permitting to be or remain in or upon any private property, building, premises, land, or adjacent public

right-of-way or in or upon any public right-of-way, park, or other public place in the City.

2.03 Excessive Growth of Uncultivated Weeds, Grass, and Shrubs Prohibited.

It shall be unlawful to create or maintain an environment favorable to the harboring of vermin, creating a fire hazard, or harboring transient activity by allowing the growth of uncultivated weeds or grass in excess of twelve (12) inches in height, or uncultivated shrubs with a density of less than three (3) feet on center from each other on any premises, vacant land, or adjacent public right-of-way.

- A. Uncultivated natural growths in areas designated by the supervisor of the maintenance department as “natural area” are exempt from this provision.
- B. Provided further, the following are exempt from this prohibition and the person claiming the exemption has the burden of showing by the preponderance of evidence that the exemption applies:
 - (1) The use of native plant species for aesthetic reasons or to attract and aid wildlife.
 - (2) The use of various plant species for the enrichment and eventual stabilization of soil fertility or to offset and control any soil loss problems, either occurring or predicted.
 - (3) The planting of a particular plant species or group of species that will effectively out compete and replace a noxious or troublesome weed species without additional soil disturbance or application of herbicides.
 - (4) The planting of uncultivated plant species or group of plant species that are native or introduced and which are grown for consumption or business reasons.

2.04 Accumulation of Weeds or Other Vegetation Prohibited.

It shall be unlawful to collect, store, or accumulate any weeds or cut vegetation in or upon any building, premises, land, or adjacent public right-of-way., except as contained in a compost pile not to exceed two cubic yards or orderly stacked firewood cut in lengths of four feet or less.

2.05 Littering on Private Property Prohibited.

It shall be unlawful for any person to throw or deposit litter or detritus on any occupied or unoccupied premises, on any vacant land, and upon any adjacent public

right-of-way, notwithstanding such person may own or have some other interest in the premises or land; except that the responsible person may maintain authorized private receptacles for collection in such a manner that the litter will be prevented from being carried or deposited by the forces of the weather.

2.06 Littered Premises, Vacant Land, Adjacent Public Right-of-Way Prohibited.

It shall be unlawful to maintain a filthy, littered premises, vacant land, or adjacent public right-of-way, including, but not limited to: (i) storing any poisonous or hazardous material or thing, so as to allow access to it by any animal or person; (ii) storing of flammable material including, but not limited to, old rags, rope, cordage, rubber, boxes, or paper, including by properly licensed persons or businesses trading in such articles, unless such are in a building of fireproof construction; or (iii) storing outside a completely enclosed building items that constitute a threat to the public health, safety, or welfare, including, but not limited to, the following: medications, medical supplies, or medical devices; batteries; garbage; litter; debris; and detritus.

2.07 Littering in Public Places and Buildings Prohibited; Use of Receptacles.

It shall be unlawful to throw or deposit litter in or upon any public place or building except in available receptacles or when carried away, as provided below.

- A. Litter must be placed in public receptacles or in authorized private receptacles.
- B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent the litter from being carried or deposited by the weather upon any public place or private property.
- C. Where public receptacles are not provided, all litter shall be carried away from the public place or building by the person responsible for its presence and properly disposed of as provided in this ordinance.

2.08 Depositing Accumulated Litter onto Public or Private Right-of Ways and Gutters or Any Public Place Prohibited.

It shall be unlawful to sweep into or deposit on a public or private right-of-way, the gutter of any public or private right-of-way, or any public place the accumulation of litter from any public or private sidewalk, driveway, building, premises, or land.

2.09 Abandoned Personal Property in Public Right-of-Way Prohibited; Personal Property Not Properly Contained on Premises or Vacant Land Deemed Abandoned and Prohibited.

- A. Personal property, except for motor vehicles and recreational vehicles, left for any length of time on a public right-of-way, including the adjacent public right-of-way, shall be deemed abandoned and shall constitute a violation of this ordinance, unless placed in a container preapproved by the Code Enforcement Officer.
- B. Personal property, except for motor vehicles and recreational vehicles, left for any length of time on the public right-of-way, including the adjacent public right-of-way, as a result of an eviction or a forcible entry and detainer or unlawful detainer action shall be deemed abandoned and shall constitute a violation of this ordinance, unless placed in a container preapproved by the Code Enforcement Officer.
- C. Personal property, unless placed in a container preapproved by the Code Enforcement Officer, left on occupied or unoccupied premises for a period of twenty-four (24) hours shall be deemed abandoned and shall constitute a violation of this ordinance.
- D. Personal property, unless placed in a container preapproved by the Code Enforcement Officer, left for any length of time on vacant land shall be deemed abandoned and shall constitute a violation of this ordinance
- E. Persons leaving personal property, not placed in a container preapproved by the Code Enforcement Officer, shall contact the Code Enforcement Officer of the scheduled removal of said personal property. Removal must occur within twelve (12) hours of placement of the personal property for removal, after which the personal property shall be deemed abandoned and shall constitute a violation of this ordinance. It shall not be a defense to the violation of this ordinance that the responsible person did not notify the Code Enforcement Officer of the scheduled removal.
- F. The costs of abatement by the Village of the nuisance caused by abandoned personal property may be assessed against the owner of the property abutting the public right-of-way, including the adjacent public right-of-way, and/or against any responsible person.

2.10 Accumulation of Litter on Construction/Demolition Site Prohibited.

It shall be unlawful for the responsible person or contractor in charge of any construction or demolition site to cause, maintain, permit, or allow the accumulation of any litter on the site before, during, or after completion of a construction / demolition project unless the litter is in a container preapproved by the Code Enforcement Officer.

2.11 Throwing Litter from Vehicles Prohibited.

It shall be unlawful for any person to throw or deposit litter while a driver or passenger in a vehicle, motorized or not. Each separate incident, even if occurring on the same day, shall constitute a separate violation.

2.12 Transporting Litter or Debris Without Being Securely Covered Prohibited.

Any person transporting any type of litter or other waste shall securely cover such litter and other waste to prevent any litter or waste from falling or blowing out of the transporting vehicle. Each incident of transporting a not securely covered load of litter or other waste, even if on the same day, is a separate violation.

2.13 Blighted, Deteriorated, Dangerous Premises Prohibited.

- A. It shall be unlawful to retain a blighted, dilapidated, deteriorated and/or dangerous premises, including any building, screening, or other manmade structure thereon, which by reason of age, fire, faulty construction, lack of proper repair, or any other cause is in such a condition that it constitutes an attractive nuisance or its condition endangers the life, health, safety, property, or welfare of the public because (i) its strength or stability is less than required by current state building codes, as determined by the state building inspector, or (ii) it is likely to burn or collapse in whole or in part.
- B. It shall be unlawful to leave any building, whether occupied or unoccupied, with a damaged and/or open door, window, or other opening that is not secured to prevent entry by persons and animals, including birds and vermin.
- C. It shall be unlawful to leave or permit to remain any unguarded, uncovered, unprotected, or abandoned excavation or naturally occurring holes, including, but not limited to, privies, vaults, sumps, pits, wells, or any other similar

conditions, which are not secure and which constitute a concealed danger or other attractive nuisance.

2.14 Unsecured Unfinished Buildings and Buildings Constructed Without Required Permit Prohibited.

- A. It shall be unlawful to leave unprotected and unsecure any building or structure where construction was commenced and the building is not yet complete or was left unfinished.
- B. It shall be unlawful to construct or modify any building without the required permits. This shall include any unauthorized work or non-compliant work taking place on private property or in the adjacent public right-of-way.

2.15 Certain Storage of Vehicle and Other Items Prohibited.

It shall be unlawful to maintain the unsheltered storage for seven (7) consecutive days or more of junk motor vehicles, apparently inoperable vehicles, and other objects such as appliances, machinery, implements, and/or equipment that can no longer be used or safely used for the purposes for which manufactured (hereinafter collectively referenced as “inoperable personal property objects”).

- A. Inoperable personal property objects shall not include personal objects in a storage area, repair shop, or other business enterprise where such objects are necessary to the operation of the business and the business is operated in a lawful place and manner, and in compliance with all applicable laws.
- B. The provisions of this section shall not apply to any junk motor vehicle in: (i) an enclosed building or an area in a backyard that is completely screened from view, provided the trunk locking mechanism is completely removed, or (ii) the premises of a business enterprise that is legally operated in the appropriate business zone pursuant to the zoning laws of the City of Bayard.
- C. The provisions of this section shall not apply to a motor vehicle that is forty (40) years old or older, that is intact, and is completely concealed with a weather-proof cover specifically made for that type of vehicle; provided, however, that the truck locking mechanism is completely removed.

2.16 Maintaining Unattended or Discarded Refrigerator or Container with Airtight Locking Device Prohibited.

It shall be unlawful to leave or permit to remain outside of any building, within any unoccupied or abandoned building, within any unsecured building, or any place exposed or accessible to children any unattended or discarded ice box, refrigerator, or other container, including that part of a motor vehicle with an intact trunk, that is, the locking mechanism has not been completely removed, any of which of the foregoing has an airtight door or lid, snap lock, or other locking device.

2.17 Parking Certain Vehicles in Front Yard Prohibited.

It shall be unlawful to park or store any recreational vehicle, utility trailer, or watercraft within the front yard of a single or multi-family dwelling, except as provided below.

- A. The City Council may grant an exemption (i) where there is no back yard access available and the side yard length or width does not allow parking in the side yard or does not allow parking in the side yard without the recreational vehicle, utility trailer, or watercraft protruding into the front yard; and (ii) when the said vehicle is parked only on the improved parking area of the front yard.
- B. This section of the ordinance does not prohibit the parking of a motor vehicle, as that term is defined in this ordinance, in the front yard, provided that the improved parking area does not exceed a maximum of fifty percent (50%) of the area of the front yard.

2.18 Parking Certain Vehicles on Public Right-of-Way for More than 72 Hours Prohibited.

- A. It shall be unlawful for the owner or any person having control of a recreational vehicle, utility trailer, and/or watercraft to allow the vehicle, or parts thereof, to remain parked or located upon the paved or unpaved portion of any public right-of-way within the City for a period of time in excess of seventy-two (72) hours; provided however, that traffic is not detoured or the parking of such recreational vehicle, utility trailer, and/or watercraft is not injurious to the public safety.

- B. It shall be unlawful for the owner or any person having control of a motor vehicle, as that term is defined in this ordinance, to allow the vehicle to remain parked or located upon the paved or unpaved portion of any public right-of-way within the Village for a period of time in excess of seven (7) days, provided however, that traffic is not detoured or the parking of such motor vehicle is not injurious to the public safety.
- C. Where the parking of a recreational vehicle, utility trailer, watercraft, or motor vehicle causes the detour of traffic or is otherwise injurious to the public safety, the Code Enforcement Officer or any law enforcement officer may immediately issue a citation as a Public Nuisance Vehicle and shall provide for the immediate removal of said Public Nuisance Vehicle..
- D. Where the parked vehicle does not cause the detour of traffic or is not otherwise injurious to the public safety, the Code Enforcement Officer or any law enforcement officer discovering an unauthorized parked recreational vehicle, utility trailer, watercraft, or motor vehicle or parts thereof shall attach to the vehicle a readily visible notification sticker, which shall contain the following information: (i) the date and time the sticker was attached; (ii) the identity of the officer; (iii) a statement that if the vehicle is not removed within twenty-four (24) hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; (iv) a statement that if the vehicle is not redeemed, the vehicle will be disposed of in accordance with state law; and (v) the address and telephone number where additional information may be obtained.
 - 1. If the vehicle has current New Mexico registration plates, the Code Enforcement Officer or any law enforcement officer shall check the records to learn the identity of the last owner of record. That official shall make a reasonable effort to contract the owner by telephone in order to give the owner the information on the notification sticker.
 - 2. If the vehicle is not removed within 24 hours from the time the notification sticker is attached, the Code Enforcement Officer or any law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. For the purposes of this section, a place of safety includes the business location of a registered tow truck operator.

2.19 Discharge of Sewage Not Through Approved Systems Prohibited.

It shall be unlawful to discharge sewage, human excrement, or other detritus and wastes in any location or manner except through systems approved for the conveyance of such to approved public or private disposal systems, and which are constructed and maintained in accordance with the New Mexico Department of Environment regulations.

2.20 Maintaining Improperly Stored Manure Prohibited.

It shall be unlawful to store for any length of time animal waste, manure, or excreta in sufficient quantity that is not securely protected from flies and the elements, and which is likely to become putrid, offensive, and injurious to the public health, or which is kept or handled in violation of any City ordinance or New Mexico statute or regulation.

2.21 Premises Destroyed by Natural Causes; Efforts to Repair or Remove Required.

Any premises that has been destroyed or damaged because of natural disaster or disaster beyond the owner's control (e.g., fire, flood), within six (6) months after notice from the Code Enforcement Officer or a law enforcement officer, the owner shall be required to make substantial efforts to demolish, clean, remove, or make improvements to such premises to bring it within compliance with this ordinance.

SECTION 3
ENFORCEMENT, PENALTIES

3.01 Enforcement Authority.

- A. The Code Enforcement Officer or any law enforcement officer shall enforce the provisions of this ordinance. Enforcement may be facilitated by, but shall not be dependent upon, a complaint by a resident of the Village or other person to the Code Enforcement Officer or a law enforcement officer.
- B. For the purpose of this section, hereinafter the Code Enforcement Officer of the City of Bayard and any law enforcement officer shall be referenced either collectively or singularly as “enforcing officer.”

3.02 Rights of Entry by Enforcing Officer.

- A. The enforcing officer shall be and is hereby authorized to enter upon any premises within the corporate limits of the City of Bayard for the purpose of making necessary inspections and issuing notices, instructions, or citations for any suspected violations of the provisions of this ordinance.
 - 1. If the building or premises to be inspected is occupied, the enforcing officer shall first present proper credentials and request entry; if such building or premises is unoccupied, the enforcing officer shall first make a reasonable effort to locate the owner and request permission to enter.
 - 2. If the owner or occupant of any building or premises does not give consent to enter or the owner cannot be located after reasonable effort, the enforcing officer shall obtain an administrative search warrant from a court of qualified jurisdiction prior to entry, unless exigent circumstances exist as provided in subsection (B) below.
- B. Where exigent circumstances or an emergency exists on any private premises that might endanger the general health, safety, or welfare of the community, the enforcing officer shall have the right to enter such premises and thoroughly investigate the same immediately without permission, without making reasonable effort to locate the owner, and without obtaining an administrative search warrant.

3.03 Right of Enforcing Officer to Demand Evidence of Identity; Failure to Provide.

It shall be unlawful for a person to fail or refuse to provide evidence of his or her identity to the enforcing officer upon request, when such officer has reasonable cause to believe the person has committed a violation of this ordinance. Sufficient evidence of identity shall consist of a picture identification containing the person's full legal name, address, and date of birth.

3.04 Duty of Enforcing Officer to Maintain Record of Nuisances Investigated and Notify State Building Inspector.

- A. Where the enforcing officer investigates a suspected public nuisance, photographs and the report of the findings of inspection shall be made and filed with the Bayard Police Department and provided to the City Council of the City of Bayard.
- B. The enforcing officer shall request an inspection by the state building inspector if the public nuisance involves a building that appears structurally unsafe. The report of the state building inspector shall be a public record and shall be maintained with the report of the enforcing officer.

3.05 Citation – Authority to Issue.

The enforcing officer shall be empowered to issue citations and commence proceedings in the municipal court for any violation of this ordinance.

3.06 Each Day or Incident is a Separate Violation.

Each day in which a violation of this ordinance continues or each incident, as specified but not limited to violations for littering from a vehicle or transporting unsecured litter, shall constitute a separate violation of this ordinance.

3.07 Civil Penalty for Violation.

- A. Any person whom the court finds to be in violation of any provision of this ordinance shall be deemed responsible for the violation.
- B. Upon the court finding a person responsible for a violation of this ordinance the court shall impose a fine in an amount not less than twenty-five dollars (\$25.00) nor more than three-hundred dollars (\$300.00) for each violation. Each day a violation continues shall be a separate offense. Each incident, as specified in section 3.06, shall be a separate offense.

3.08 Alternative Enforcement Measures Authorized.

Nothing in this ordinance shall preclude the Code Enforcement Officer from seeking voluntary compliance with the provisions of this ordinance or from enforcing this ordinance through notices of violation, warnings, or other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances.

3.09 Remedies Not Exclusive.

- A. Violations of this ordinance are in addition to any other violation established by law, and this ordinance shall not be interpreted as limiting the penalties, actions, or abatement procedures that may be taken by the Village of Santa Clara under existing laws, ordinances, or rules.
- B. Violations of this ordinance may be abated by injunctive or other equitable relief and the Mayor of the Village or the Code Enforcement Officer may maintain a civil complaint in the name of the Village to enjoin all persons from maintaining or permitting the nuisance and to abate the same. The imposition of a penalty does not prevent the simultaneous granting of this equitable relief.

SECTION 4
ABATEMENT

4.01 Abatement; Notices.

- A. The Code Enforcement Officer may compel any responsible person by order to abate any violations of this ordinance. Such abatement shall proceed independently of any citation authorized by this ordinance.
- B. All required written notices under this section shall be served on the owner and any lien holder of record by personal service or by mailing, United States Postal Service, certified mail, return receipt requested.

4.02 Responsible Person.

The person who is the record owner of the building, premises, or land at the time an order pursuant to this ordinance is issued and served, shall be responsible for complying with that order, and liable for any costs incurred by the City of Bayard therewith, notwithstanding the owner conveyed his interest in the property to another after such order was issued and served.

4.03 Emergency Abatement Findings and Procedure.

Where the Code Enforcement Officer determines that the nuisance requires immediate abatement, the Code Enforcement Officer shall notify, orally or in writing, the Mayor of the City of Bayard of such decision. Should the Mayor, upon referral and advice of the Code Enforcement Officer, concur with the Code Enforcement Officer that a public nuisance exists that violates a provision of this ordinance and that the public health, safety, or welfare may be in immediate danger, the Mayor shall order the nuisance abated, under one of the emergency abatement procedures below, and the Code Enforcement Officer shall at once take appropriate action to abate the nuisance.

- A. Notice to the responsible person is not required. However, following the abatement of the emergency, the Code Enforcement Officer shall immediately post on the building, premises, or land, whichever is applicable, a notice describing the action taken to abate the nuisance and shall, within a reasonable time send written notice to the responsible person, as provided in section 4.01, describing the emergency abatement action and the cost thereof, demanding payment. The cost of the emergency abatement shall be a lien upon the property.

- B. Where the Mayor finds that the situation reported does not present an imminent hazard to life or public safety but requires abatement in a shorter period than provided by this ordinance for a non-emergency abatement, the Code Enforcement Officer shall issue a written notice to the responsible person as provided in Section 4.01(B) with an order to abate the nuisance by taking a specified action and said notice shall clearly specify the limited time in which the nuisance must be abated.
1. The contents of said notice shall be as provided below in section 4.05.
 2. In the event the Code Enforcement Officer is unable to contact the responsible person within the limited response time set in the written notice, the Code Enforcement Officer may proceed to abate the nuisance under the provisions of subsection A above

4.04 Non-Emergency Abatement Findings and Procedure.

Where the Code Enforcement Officer determines that the public nuisance does not require immediate abatement, the Code Enforcement Officer shall provide notice of the finding of a public nuisance and required abatement to responsible persons as follows.

- A. The Code Enforcement Officer shall determine the identity of the owner of the premises or vacant land and any lien holder from the records in the Office of the Grant County Clerk.
- B. The Code Enforcement Officer shall cause written notice to be served on the owner and any lien holder of record as provided in section 4.01(B). If service of such written notice is unable to be perfected by any of the methods described in section 4.01(B), the Code Enforcement Officer shall (i) publish the abatement notice in a newspaper of general circulation in Grant County, once a week for two consecutive weeks, and (ii) leave a copy of the abatement notice with the occupant, if any, on the premises, upon which the Code Enforcement Officer determined existed a public nuisance, or if there is no occupant, the Code Enforcement Officer shall post a copy of the notice on such building or land in a prominent place.

4.05 Abatement Notice: Contents and Recording with Grant County Clerk.

- A. The abatement notice to the owner and lien holder, if any, shall contain the following information:
1. The legal description of the property and by street address or if none, by location to the nearest public way so as to be readily identified by the public
 3. A concise description of the problem and findings of the Code Enforcement Officer supporting the conclusion that a public nuisance exists.
 4. The required abatement action.
 5. A date for compliance, which shall be no less than fifteen (15) calendar days after the date notice to abate was served. Service shall be complete upon hand delivery or mailing.
 6. Notice that unless the owner abates the public nuisance as ordered by the Code Enforcement Officer, the Village of Santa Clara will abate the public nuisance and the owner shall be responsible for reimbursing the Village for its abatement costs.
 7. The estimated cost of such removal to the Village of Santa Clara if the owner or other responsible party does not comply with the abatement order.
- B. The Code Enforcement Officer may record the abatement notice in the Office of the Grant County Clerk. Upon compliance, the Code Enforcement Officer shall record a release thereof.

4.06 Abatement by Owner; Extension of Time.

- A. Within the time specified in the abatement notice, the owner shall cause the abatement of such public nuisance or be subject to the Village filing in municipal court a complaint charging violation of this ordinance as provided in section 5.
- B. The Code Enforcement Officer with the concurrence of the Mayor, upon written application by the owner within fifteen (15) days after the notice was served, may grant in writing additional time for the owner to abate the public nuisance, provided that such extension is limited to a specific time period not to exceed thirty (30) days.

- C. Upon good cause shown, the Code Enforcement Officer with the concurrence of the Mayor may grant one additional extension beyond the initial extension, but said extension shall be limited to an additional thirty (30) days, unless otherwise approved by the Board of Trustees for a longer period.

4.07 Abatement by City of Bayard Upon Failure of Another to Abate.

Upon failure of the duly notified owner or lien holder or other responsible person to abate a public nuisance within compliance time set in the written abatement notice, the City of Bayard may remove, abate, enjoin, or cause removal of the public nuisance.

4.08 Assessment of Costs of Abatement by City of Bayard.

- A. Should the City abate the nuisance, whether an emergency abatement or otherwise, the Clerk of the City of Bayard shall prepare a verified statement and account of the actual cost of the abatement action, legal fees, additional inspection, and other incidental costs.
- B. The amount in the verified statement and account shall be a lien upon the property where the violation of this ordinance occurred until paid. Said lien shall be recorded in the Office of the Grant County Clerk.
- C. A copy of the statement and account shall be served as provided in section 4.01(B).

4.09 Satisfaction of Assessment for Abatement.

- A. Sale of the property to satisfy an assessment obtained under the provisions of this section shall be made upon judgment of foreclosure and offer for sale.
- B. The Village may institute an action to enforce the lien in a competent court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity.
- C. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.
- D. A prior assessment or lien for the purposes provided in this section shall not be a bar to a subsequent assessment or lien for such purposes.

4.10 Assessment Runs with the Land and Accrues Interest; Personal Liability of Owner.

- A. An assessment imposed under this ordinance runs with the land until paid and is due and payable in equal annual installments.
- B. An assessment that is past due accrues interest at the rate by Federal Interest Index. The City of Bayard may foreclose after four (4) years.
- C. The person who is the owner of the property at the time the notice required under section 4 of this ordinance shall be personally liable for the amount of the assessment including all interest and other charges.

SECTION 5
COMPLAINT AND PENALTIES

5.01 Complaint in Municipal Court

In the event the owner, occupant, or any responsible person fails within the prescribed time to abate the nuisance, then the Code Enforcement Officer and any law enforcement officer shall file a complaint in the municipal court charging a violation of this ordinance. This complaint shall demand that the owner of the property, occupant of the premises, and/or any responsible person be held to answer to the court for the violation of this ordinance.

5.02 Penalty

Upon conviction by the municipal court of violating this ordinance, the owner shall be subject to civil penalty as provided in section 3.07. These penalties shall be in addition to payment of any Village costs for abatement.

SECTION 6
APPLICATION; CONSTRUCTION

6.01 Grace Period for Non-Compliance with Ordinance on Effective Date.

From the date of the effective date of this ordinance, buildings, premises, and land not then in compliance with this ordinance, shall have sixty (60) days to come into compliance. As to buildings, lands, and premises, all violations issued during the 60-day grace period will be taken under advisement and the responsible persons shall have the opportunity to abate the public nuisance by the end of the 60 days, at which time this ordinance shall be in full effect as to that particular building, premises, or land.

- A. The grace period shall not apply to emergency abatement orders.
- B. The grace period shall not apply to any other violations of this ordinance.

6.02 Repeal of Conflicting Ordinances, Resolutions.

Any ordinances previously issued by the City of Bayard or resolutions passed, and all parts thereof, that are in conflict with this ordinance are hereby repealed to the extent that such ordinances or resolutions conflict with this ordinance.

6.03 Severability of Provisions.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining provisions of this ordinance.