



VILLAGE OF MOSQUERO

ORDINANCE 2026-03

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 2007-03; DEFINING PUBLIC NUISANCES; ESTABLISHING ENFORCEMENT AUTHORITY; PROVIDING PROCEDURES FOR NOTICE, ABATEMENT, AND CONDEMNATION; AUTHORIZING THE USE OF THIRD-PARTY CONTRACTORS; PROVIDING FOR COST RECOVERY AND LIENS; AND ESTABLISHING PENALTIES

WHEREAS, the Village of Mosquero is responsible for protecting the public health, safety, and welfare of its residents; and

WHEREAS, unsafe, unsanitary, abandoned, or dilapidated properties create fire hazards, attract vermin, endanger children, reduce neighboring property values, and threaten the general welfare of the community; and

WHEREAS, the Village has experienced an increase in abandoned structures, unsheltered junk, overgrown, vegetation, and other nuisance conditions that require clear and enforceable standard; and

WHEREAS, the Village of Mosquero does not operate a municipal court or maintain a municipal police department, and therefore relies on the Harding County Sheriff's Office and the Harding County Magistrate Court for enforcement of Village ordinances; and

WHEREAS, the Village does not maintain an impound facility or employ a code enforcement officer, making it necessary to authorize inspections, enforcement actions, and nuisance abatement through qualified professionals, contracted service providers, and law enforcement officers with jurisdiction; and

WHEREAS, the Village must have the ability to recover the costs of nuisance abatement, including through liens, utility billing, and reasonable payment plans to ensure fairness and financial feasibility for property owners; and

WHEREAS, the Village Council finds it necessary to repeal and replace the outdated provisions of Ordinance 2007-03 in order to modernize enforcement procedures, clarify responsibilities, and reflect current operational realities; and

WHEREAS, the village Council desires to adopt a comprehensive and enforceable Clean-Up and Nuisance Abatement Ordinance to promote community safety, preserve property values, and maintain the appearance and liability of the Village of Mosquero.

BE IT ENACTED BY THE GOVERNING BODY OF THE VILLAGE OF MOSQUERO:

Section 1. SHORT TITLE. —This ordinance may be sited as the “2026 Clean-up Ordinance”.

Section 2. PURPOSES. —The purpose of this ordinance is to protect the public health, safety, and welfare of the residents of the Village of Mosquero by defining and prohibiting public nuisance; establishing enforcement authority; and providing procedures for abatement, condemnation, and cost recovery.

Section 3. DEFINITIONS. —

As used by the 2026 Clean-Up Ordinance of the Village of Mosquero.

ABANDONED VEHICLE – Any vehicle left upon a street, alley, or right-of-way for more than **ninety-six (96) hours**, or on private property for more than **thirty (30) days**, and which is:

- Incapable of moving under its own power;
- not bearing current registration;
- having one or more flat tires;
- partially dismantled; or
- otherwise appearing abandoned.

DANGEROUS CONTAINER – Any refrigerator, freezer, icebox, or similar device with an automatic locking mechanism large enough to enclose a human being, and from which the door has not been removed.

JUNK – Discarded, worn-out, or abandoned materials including but not limited to: scrap metal, appliances, vehicle part, machinery, lumber, rags, paper, glass, tires, or any material having only salvage value.

UNSHELTERED JUNK – Junk stored outdoors for more than **thirty (30) days** on property not licensed as a junkyard and not fully screened from public view by a solid fence or building. Tarps are not acceptable for screening.

NUISANCE – Any act, condition, or thing that:

1. Endangers the health, safety, comfort, or welfare of the public;
2. Creates a fire hazard;
3. Harbors vermin;
4. Obstructs public ways;
5. Creates an unsightly or unsafe condition; or
6. Is otherwise declared a nuisance under this ordinance.

PERSON – Any individual, firm, partnership, corporation, association, or entity.

PROPERTY – Any real property within the Village limits, excluding streets and alleys.

VEHICLE – Any device propelled by power other than human power, designed to travel on the ground, including automobiles, trucks, trailers, motorcycles, tractors, and similar equipment.

Section 4. ENFORCEMENT AUTHORITY. —

Because the Village of Mosquero does not employ a designated code enforcement officer or municipal police department, enforcement of this ordinance shall be carried out by:

1. Any Village employee or contractor authorized in writing by the Village Council;
2. The Harding County Sheriff’s Office or any deputy with jurisdiction by the Village; and
3. Any third-party code enforcement provider contracted by the Village.

4. It is unlawful for any person to interfere with, obstruct, or hinder any Village employee, contractor, law enforcement officer, or authorized representative engaged in inspection, enforcement, abatement, or condemnation activities under this ordinance.

Interference includes, but is not limited to:

- Blocking access to property;
- Threatening or intimidating personnel;
- Removing posted notices;
- Preventing contractors from performing authorized work.

Violation of this section constitutes a separate offense and may be cited in Magistrate Court. These individuals are authorized to inspect properties, document conditions, issue notices of violation, and initiate abatement or citation proceedings under this ordinance.

A. RIGHT OF ENTRY FOR INSPECTION

Authorized personnel may enter upon any property at a reasonable time to inspect for violations of this ordinance, consistent with constitutional requirements. If entry is refused, the Village may seek an administrative inspection warrant or other lawful remedy.

Section 5. GENERAL PROHIBITION. —

It is unlawful for any person to create, maintain, or permit a nuisance as defined in this ordinance.

Section 6. SPECIFIC NUISANCES. —

The following conditions are declared nuisance, without limitation:

A. WEEDS AND VEGETATION

1. Weeds or plant growth exceeding twelve (12) inches in height;
2. Vegetation creating a fire hazard;
3. Failure to maintain vegetation from the property line to the edge of the roadway or ditch;
4. Trees or shrubs obstructing sidewalks, roadways, or visibility.

B. JUNK AND DEBRIS

1. Accumulation of trash, refuse, litter, junk, or abandoned materials
2. Unsheltered junk

C. ABANDONED VEHICLES

D. DANGEROUS CONTAINERS

E. VERMIN HARBORAGE

1. Vermin including but not limited to rats, mice, snakes, and other wildlife

F. DANGEROUS OR DILAPIDATED STRUCTURES

G. STAGNANT WATER

H. DEAD ANIMALS

1. Carcasses not disposed of within twenty-four (24) hours

I. OBSTRUCTIONS IN PUBLIC WAYS

J. STRUCTURAL MAINTENANCE FAILURES

1. Roofs with missing shingles or metal, holes, sagging, or structural failure.
2. Broken, missing, or boarded windows not repaired within **thirty (30) days** of initial damage.
3. Fences that are fully or partially collapsed, leaning, or structurally unsound.
4. Damaged or unstable overhangs, porch coverings, or awning structures.
5. Carports or accessory structures that are deteriorated, collapsing, or unsafe.

6. Exterior walls with missing siding, exposed framing, or significant deterioration.
7. Any exterior condition that allows water intrusion, mold, or structural decay.

Section 7. ABANDONED VEHICLES – REMOVAL. —

Because the Village does not operate an impound facility or police department:

1. The Harding County Sheriff’s Office is authorized to tag, remove, or order the removal of abandoned vehicles.
2. Vehicles may be removed by a licensed towing or storage provider.
3. All towing and storage fees are the responsibility of the vehicle owner.
4. The Village assumes no custody or liability for removed vehicles.

Section 8. NOTICE AND ABATEMENT PROCEDURE. —

A. LOCAL NOTICE AND ABATEMENT PROCEDURE

1. When a nuisance is found, the Village Administrator/Clerk or designee shall issue written notice containing:
 - Description of the nuisance;
 - The property location;
 - Required corrective action;
 - Deadline for **fifteen (15) days** to abate or request a hearing;
 - Statement that failure to comply may result in Village abatement and assessment of costs.
2. Notice may be served by:
 - Personal Service;
 - Certified mail to the address on county tax records; or
 - Posting on the property for **fifteen (15) days** if the owner cannot be located.

Returned mail does not invalidate notice.

3. If requested within the **fifteen (15) days** abatement timeframe, a local hearing shall be held before the Village Council. Timeframes are stayed pending the Council’s decision.
4. If the nuisance is not abated within **thirty (30) days** after notice:
 - The Village may abate the nuisance using Village staff or third-party contractors.
 - A statement of cost shall be prepared.
5. If an immediate threat to health or safety exists, the Village may take necessary action without waiting **fifteen (15) days**.

B. DOCUMENTATION AND RECORD KEEPING

1. All inspections, nuisance conditions, and abatement actions should be documented through photographs, written reports, and other reliable means. Such documentation may be used for hearings, cost recovery, and court proceedings.
2. The Village shall maintain records of notices, photographs, inspection reports, hearings, abatement actions, and cost statements in accordance with the village’s currently adopted Records Retention Schedule.

C. REPEAT OFFENDER CLAUSE

If a property has been cited for the same or substantially similar nuisance within the previous **twelve (12) months**, the Village may issue an abbreviated notice of violation.

For repeated offenders:

- The compliance period may be reduced to **seven (7) days**;
- The Village is not required to provide additional extensions; and
- Continued violations may be referred directly to Magistrate Court.

A repeat violation shall constitute a separate offense and may be subject to enhanced penalties.

D. STATE-MANDATED RESOLUTION PROCEDURE FOR COST RECOVERY AND LIENS (NMSA 1978 §3-18-5)

When the Village intends to enter private property and perform abatement at the owner's expense and assess the cost as a lien, the following state-mandated procedure shall apply:

1. The Governing Body shall adopt a Resolution declaring that the condition of the property is a menace to public comfort, health, safety, or welfare.

The Resolution shall identify the property and describe the nuisance conditions.

2. A copy of the Resolution shall be served upon the property owner by:

- Personal Service;
- Certified mail to the address listed in the county tax records; or
- Posting on the property if the owner cannot be located.

3. The property owner shall have **ten (10) days** from the date of service to:

- Begin the abatement of the nuisance; or
- File a written objection with the Village Clerk

4. If a written objection is filed, the Governing Body shall fix a date for a hearing as required by state law. At the hearing, the Governing body shall determine whether the condition constitutes a nuisance and whether Village-performed abatement is warranted.

All deadlines are stayed pending Governing Body's decision.

5. If no objection is filed within the **ten (10) days**, or if the Governing Body upholds the Resolution after the hearing, the Village may:

- Enter the property;
- Remove weeds, rubbish, debris, or other nuisance conditions; and
- Use Village staff or third-party contractors to complete the abatement.

6. If a condition presents an immediate danger to life, health, or safety, the Village may take necessary action without prior resolution or hearing.

Notice shall be provided to the owner as soon as practicable.

7. All costs incurred by the Village shall be recovered pursuant to Section 10 of this Ordinance.

Section 9. DANGEROUS OR DILAPIDATED STRUCTURES; CONDEMNATION

A. DEFINITION

A structure is dangerous or dilapidated if it exhibits any of the following conditions:

- Unsafe or unsanitary;
- A fire hazard;
- Roof failure, including holes, sagging, or structurally unsound;
- Broken or missing windows that expose the interior to weather, trespass, or vermin accessibility;
- Fences or retaining walls that are collapsing or pose a safety hazard
- Overhangs, awning, porch covering, or carports that are unstable, deteriorated, or at risk of collapse;

- Exterior structural components that are rotted, rusted, or otherwise failing;
- Open and accessible to unauthorized persons;
- Unfit for human habitation; or
- Any condition that exposes the structure to weather, accelerates deterioration, or creates a risk of injury or a threat to public health and safety.

B. INSPECTION

A structure reasonably believed to be dangerous or dilapidated may be inspected by:

1. A qualified building inspector;
2. A licensed structural engineer;
3. The State Fire Marshall or designee;
4. The Harding County Sheriff or any deputy with jurisdiction;
5. The Village Utility Operator or other specified person designated by the Village Council; or
6. Any third-party professional contracted by the Village who is trained and certified to evaluate building safety.

The Village Administrator/Clerk may initiate the inspection process but shall not be responsible for making technical determinations regarding structural integrity, safety, or habitability.

C. NOTICE OF CONDEMNATION

If a structure is determined to be dangerous, the Village shall issue written notice to the owner stating:

1. The conditions rendering the structure dangerous;
2. Required corrective actions;
3. A deadline of **fifteen (15) days** to request a hearing before the Village Council;
4. A deadline of **thirty (30) days** to repair, secure, or demolish the structure; and
5. That failure to comply may result in Village-ordered demolition and assessment of costs.

D. HEARING

If requested within **fifteen (15) days**, a hearing shall be held before the Village Council. The Council may affirm, modify, or rescind the condemnation order.

E. FAILURE TO COMPLY

If the owner fails to act, the Village may:

- Secure the structure;
- Board openings;
- Remove hazards;
- Demolish the structure.

F. COSTS AND LIENS

All costs incurred by the Village shall be assessed to the property owner and may be collected as:

- A lien recorded with the County Clerk's office; or
- A charge added to the municipal utility bill.

G. EMERGENCY ACTION

If a structure presents an immediate danger to life or property, the Village may take necessary action without prior notice.

Notice shall be provided as soon as practicable. All costs incurred by the Village shall be recovered pursuant to Section 10 of this Ordinance.

A. COSTS DEFINED

Costs Include but are not limited to:

- Contractor fees;
- Labor;
- Equipment usage and/or rental fees;
- Administrative fees;
- Inspection or professional service fees;
- Legal costs;

B. UTILITY BILL ASSESSMENT

The Village may add the unpaid costs as a line item to the property's municipal utility bill.

1. Nonpayment of the utility bill may result in enforcement under the Village's utility ordinances.
2. Costs added to the utility bill may still be subject to payment plan if approved by the Village.

C. PAYMENT PLAN OPTION

The Village may, at its discretion, allow the property owner to enter into a written payment plan agreement for the prepayment of the abatement costs.

1. Payment plans shall be approved by the Village Clerk or their designee.
2. Payment plans may include monthly installments, not to exceed **twelve (12) months**, unless otherwise approved by the Village Council.
3. Failure to comply with the terms of a payment plan shall result in the full remaining balance becoming immediately due and subject to lien or utility billing procedures.
4. Entering into a payment plan does not waive the Village's authority to pursue additional enforcement actions if violations continue.

D. LIEN FOR UNPAID COSTS

Any unpaid costs not satisfied within the time specified in the notice, or under an approved payment plan, shall constitute a lien against the property.

1. The lien may be recorded with the Harding County Clerk.
2. The lien shall accrue interest at the legal rate until paid.
3. The Lien shall remain in effect until satisfied in full.

E. SEVERABILITY OF COSTS

If any individual cost, fee, or charge assessed under this ordinance is determined to be invalid or unenforceable, such a determination shall not affect the validity of the remaining costs. All remaining costs shall continue to be enforceable, and collectible as provided in Section 10.

Section 11. ENFORCEMENT THROUGH MAGISTRATE COURT

Because the Village does not operate a municipal court:

1. Violations may be cited in Harding County Magistrate Court.
2. Each day a violation continues constitutes a separate offense.
3. Penalties shall not exceed **\$100 per day** unless state law provides otherwise.
4. The Village may also seek injunctive relief or civil abatement.
5. In addition to any criminal penalties authorized by law, the Village may impose civil penalties not to exceed one hundred (\$100) per day for each day a violation continues after notice has been provided.

Section 12. SAVING CLAUSE. —This 2026 Clean-up Ordinance of the Village of Mosquero does not apply to any other local municipality.

Section 13. REPEAL. —Ordinance No. 2007-03, enacted January 8th, 2008, and Ordinance 2017-001, enacted February 14, 2017, both Village of Mosquero, are hereby repealed.


Section 14. SEVERABILITY. —If any part or application of the 2026 Clean-Up Ordinance of the Village of Mosquero is held invalid by the court or competent jurisdiction, the remainder, or its application to other situations or persons, shall not be affected.

Section 15. EFFECTIVE DATE. —The 2026 Clean-Up Ordinance of the Village of Mosquero shall become effective and be in full force and effect 5 days from and after passage, publication, and posting, as provided by law.


PASSED, APPROVED, AND ADOPTED by the Governing Body of the Village of Mosquero, New Mexico, this 12th day of May 2026.

(SEAL)

ATTEST:


Dallas Baker

Dallas Baker, Village Clerk


Victor Vigil, Mayor