

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION NO. 2024 - 156

**A RESOLUTION ESTABLISHING RULES OF PROCEDURE FOR CLEAN AND LIEN
ORDINANCE ENFORCEMENT HEARINGS PURSUANT TO SANTA FE COUNTY
ORDINANCE NO. 2023-04**

WHEREAS, on July 25, 2023, the Board of County Commissioners of Santa Fe County (BCC) adopted Ordinance No. 2023-04, An Ordinance Repealing and Replacing Ordinance Nos. 1989-2 and 1993-6 and Amending No 2009-11 to Update and Define Property Nuisance Abatement and Provide for a Clean and Lien Enforcement Process, establishing the Property Nuisance Abatement Ordinance (“Ordinance”); and

WHEREAS, the Ordinance establishes a framework to enforce the County’s statutory authority to abate, correct, remove and remedy nuisances in the County to protect the public health, welfare and safety, and to recover the costs of abatement, removal and remediation from those responsible for creating or failing to correct and abate the conditions which constitute such nuisance; and

WHEREAS, an administrative enforcement process is set forth in Section 10 of the Ordinance which allows for an evidentiary hearing held by a Nuisance Hearing Officer; and

WHEREAS, pursuant to 10(B) of the Ordinance, the BCC adopted Resolution No. 2024-118 appointing John Ziegler as a Nuisance Hearing Officer; and

WHEREAS, Section 10(C)(2) states that the “Nuisance Hearing Officer shall promulgate rules of procedure for their hearings, which shall be approved by Board of County Commissioners;” and

WHEREAS, Nuisance Hearing Officer John Ziegler, has promulgated rules of procedure for administrative enforcement for the Ordinance attached hereto as “Exhibit A.”

NOW, THEREFORE, BE IT RESOLVED by the Santa Fe County Board of County Commissioners that pursuant to Section 10(C)(2) of the Ordinance, approves of the rules of procedure for administrative enforcement of the Ordinance attached hereto as “Exhibit A.”

PASSED, APPROVED, AND ADOPTED ON THIS 26TH DAY OF NOVEMBER, 2024.

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

By: 
Hank Hughes, Chair

SFC CLERK RECORDED 11/27/2024

ATTEST:

Katharine E. Clark

Katharine E. Clark
Santa Fe County Clerk

Date: 11/27/24

Approved as to form:

Peter Valencia for

Jeff Young
Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 27TH Day Of November, 2024 at 04:07:44 PM
And Was Duly Recorded as Instrument # 2047775
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark

Deputy *[Signature]* County Clerk, Santa Fe, NM

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Exhibit A:

Rules of Procedure for Administrative Enforcement of Section 10 of Santa Fe County Ordinance 2023-04

- I. The hearing is intended to be informal in nature. Formal rules of evidence and discovery do not apply. Relevant and material evidence shall be admissible. Irrelevant, immaterial, unreliable, or unduly repetitious evidence may be excluded. The Hearing Officer shall consider and give appropriate weight to all relevant and material evidence admitted in rendering a final decision on the merits of a matter.
- II. All hearings shall be in person, at a location determined by the Hearing Officer, unless otherwise ordered by the Hearing Officer.
- III. The Hearing Officer will notify the parties to the hearing by either email, physical mail, or both of the date, time and place scheduled for the hearing. Notice will be sent out at least fourteen days prior to the scheduled hearing.
- IV. At the request of a party, a witness, or upon the hearing officer's own determination, a hearing may be continued for good cause.
- V. The parties for these enforcement hearings shall be limited to Santa Fe County represented by a Code Enforcement Officer and the owner/occupant of the notice property. The Hearing Officer shall also have discretion to hear argument or evidence from any other interested or potentially affected person or entity.
- VI. The order of proceedings shall be as follows:
 - a. The parties may each present short opening statements of 20 minutes or less, unless otherwise ordered by the Hearing Officer. The Code Enforcement Officer will go first.
 - b. The Code Enforcement Officer shall present the County's case. The Code Enforcement Officer may offer the testimony of experts, consultants or lay witnesses and documentary evidence, subject to cross-examination by the owner or occupant or their representative.
 - c. The owner/occupant shall present their case. The owner/occupant may offer the testimony of experts, consultants or lay witnesses and documentary evidence, subject to cross-examination by the Code Enforcement Officer.
 - d. The Hearing Officer may allow rebuttal testimony and evidence if determined appropriate.
 - e. The parties may each present short closing statements of 20 minutes or less unless otherwise ordered by the Hearing Officer. The Code Enforcement Officer will go first.
- VII. The Hearing Officer shall be allowed to question any person testifying.

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- VIII. All persons testifying shall be under oath.
- IX. The hearing shall be recorded.
- X. The Hearing Officer has discretion to deviate from the above as necessary but should provide a fair and impartial process.
- XI. The Hearing Officer has the discretion to have a pre-hearing conference to facilitate matters, including the exchange of information pre-hearing.
- XII. The Code Enforcement Officer bears the burden of proving a violation of the Santa Fe County Ordinance 2023-04 by a preponderance of evidence.
- XIII. If a person or entity subject to administrative enforcement fails to appear, either in person or through a permissible representative, to a duly noticed hearing, the person or entity waives his, her, or their right to protest or challenge that proposed administrative enforcement, the matter shall go on the record for the limited purpose of addressing notice and non-appearance, and a decision against them may be entered based on the waiver of the hearing by failing to appear. If a person or entity subject to administrative enforcement fails to appear, the Hearing Officer will still determine if the evidence meets the requirements of Section XII.
- XIV. The Hearing Officer, within five (5) business days, shall issue a decision if the existence of a nuisance and attaching a draft resolution for a clean and lien of the property as provided in Section 11 of Santa Fe County Ordinance 2023-04 or issue a finding that the conditions do not constitute a nuisance. Any decision of the Nuisance Hearing Officer shall be supported by findings of fact and conclusions of law.
- XV. If the Hearing Officer determines that the Code Enforcement officer has proven a violation, the Hearing Officer shall prepare a resolution for consideration and potential action by the Board of County Commissioners ordering the cleaning of the property, the placement of a lien, and an allowance for the foreclosure of the lien and sale of the property.