

CHAPTER 50: SOLID WASTE ORDINANCE

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Cross-references:

Solid waste as a public nuisance, see § [92.24](#)

Solid waste disposal facilities, see § [154.170](#)

§ 50.01 SHORT TITLE.

This chapter shall be known as the Solid Waste Ordinance, and shall be referred to herein as “this chapter”.

§ 50.02 AUTHORITY.

This chapter is enacted pursuant to the authority granted to counties to provide for the safety and preserve the health of the residents of the county as set forth in NMSA § 4-37-1; and the authority provided in NMSA §§ 4-56-1 through 4-56-3, which authorizes the county to establish and maintain, manage and supervise a system of storage, collection and disposal of all refuse.

§ 50.03 PURPOSE AND INTENT.

(A) The purpose of this chapter is to preserve the health, safety, welfare and convenience of the inhabitants of the county, and to preserve and improve the environmental quality of the county through proper and comprehensive solid waste disposition practices and by promoting source reduction and recycling efforts. The county hereby recognizes that the owner of any property within the county is physically and financially responsible for any solid waste generated or held or deposited on such owned property, and hereby authorizes a comprehensive program for the collection and proper disposal of solid waste.

(B) The chapter provides for residential and commercial solid waste collection; defining types of services, providing authority for establishing collectors fees, establishing the procedure for selecting residential and commercial haulers; defining the minimum standards for collecting and disposing of solid waste; establishing the responsibilities of property owners, businesses, contractors and the county; defining violations and penalties; and defining the status of current and future contractors .

§ 50.04 INTERPRETATION AND CONFLICT.

The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this chapter. This chapter is not intended to interfere with, abrogate or annul any covenants or other agreement between the parties, or any other valid ordinances. Where the provisions of this chapter conflict with other rules, regulations, agreements or other county ordinances or resolutions, the provisions of this chapter shall be controlling. Where this chapter imposes greater restrictions than those imposed by other rules, regulations, easements, covenants, agreements or other county ordinances or resolutions, the provisions of this chapter shall be controlling.

§ 50.05 DEFINITIONS.

(A) *Word construction.* Words used in the present tense include the future; words in the masculine include the feminine; and words in the singular include the plural.

(B) *Definitions.* For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. The residue from the burning of wood, coal, coke or other combustible materials.

BOARD OF COUNTY COMMISSIONERS. The Board of Commissioners of Valencia County, New Mexico.

CLEAN FILL. Broken concrete, brick, rock, stone, glass, reclaimed asphalt pavement, or uncontaminated soil generated from construction and demolition activities. Reinforcement materials that are an integral part, such as rebar, are included. Clean fill must be free of other solid waste or hazardous waste.

CODE ENFORCEMENT OFFICER. The person designated by the County Manager and duly commissioned to enforce portions of this chapter.

COMPOSTING. The process by which biological decomposition of organic solid waste is carried out under controlled conditions. The process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner.

CONSTRUCTION AND DEMOLITION (C and D) DEBRIS. Material generally considered to be water insoluble and nonhazardous in nature, including but not limited to, steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure project, and includes rocks, soil, tree remains, trees and other vegetative matter that normally results from land clearing. If construction and demolition debris is mixed with any other types of solid waste, it loses its classification as construction and demolition debris. ***CONSTRUCTION AND DEMOLITION DEBRIS*** does not include asbestos or liquids, including but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.

COMMERCIAL SOLID WASTE. All types of solid waste generated by hotels, stores, offices, restaurants, warehouses, mobile home parks, multiple-unit dwellings and other non-manufacturing activities, excluding residential, household and industrial wastes.

COMMERCIAL SOLID WASTE COLLECTION. All solid waste collection from business establishments, mobile home parks, and multiple-family dwellings, and any collection in a front-end loader container or dumpster.

COMMERCIAL SOLID WASTE CONTRACTOR. Any person transporting solid waste for hire, by whatever approved means, for the purpose of transfer, processing, storing or disposing of the solid waste in a solid waste facility. The term does not include an individual transporting solid waste generated on or from one's residential premises for the purpose of disposing of it in a solid waste facility.

COMMERCIAL HAULER. Any person transporting solid waste, by whatever means, for the purpose of disposing of the solid waste in a solid waste facility, except that the term does not include an individual transporting solid waste generated on or from one's residential premises for the purpose of disposing of it in a solid waste facility.

CONTRACT AGREEMENT. A binding agreement between the county and any contractor/hauler engaged in the business of collection of solid waste and/or recyclables, setting forth terms, conditions and duration of the contract.

CONTRACTOR or HAULER. A person or company permitted by the state that has entered into a contract agreement, and has been granted a permit to engage in the business of collection of solid waste and disposal services within the county. A contractor may also be known as a commercial hauler.

CONVENIENCE CENTER. See **TRANSFER STATION.**

COUNTY. The area within the boundaries of the county, including privately owned lands or lands owned by the United States or the State of New Mexico, except the areas within the limits of any incorporated municipality or tribal lands.

COUNTY MANAGER. The chief administrator of the Valencia County Board of Commissioners or designee.

COUNTY SOLID WASTE CONTAINER. Any solid waste container in use for the collection of solid waste for disposal by any solid waste hauler operating in Valencia County.

CUSTOMER. Any person directly benefitting from solid waste collection services as provided by this chapter.

DISPOSE or DISPOSAL. Refers to the causing, allowing or maintaining the abandonment, discharge, deposit, placement, injection, dumping, spilling or leaking of any solid waste into or on any land or water.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HAZARDOUS WASTE. Any garbage, solid waste, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining or agricultural operations, or from community activities, as regulated under Subtitle C of Resource Conservation and Recovery Act (RCRA), which because of its quantity,

concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality, or an increase in serious irreversible illness, or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment, when improperly treated, stored, transported, disposed of or otherwise managed.

HEARING EXAMINER. The County Manager.

HOT WASTE. Any waste that is on fire or smoldering when delivered to the solid waste facility, placed in a collection container, or set out for collection.

HOUSEHOLD WASTE. Any solid waste, including garbage and trash derived from households, including single and multiple residences, domiciles, campgrounds, picnic grounds and day-use recreation areas.

INDUSTRIAL SOLID WASTE. Solid waste generated by manufacturing or industrial processes that is not hazardous waste regulated under Subtitle C of Resource Conservation and Recovery Act (RCRA). Such waste may include, but is not limited to, waste resulting from the following processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals, plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

INFECTIOUS WASTE. A limited class of substances that carry a probable risk of transmitting disease to humans, including but not limited to:

(a) Microbiological laboratory wastes, including cultures and stocks of infectious agents from clinical research and industrial laboratories, and disposable culture dishes and devices used to transfer, inoculate and mix cultures;

(b) Pathological wastes, including human or animal tissues, organs and body parts removed during surgery, autopsy or biopsy;

(c) Disposable equipment, instruments, utensils, and other disposable materials that require special precautions because of contamination by highly contagious diseases;

(d) Human blood and blood products, including waste blood, blood serum, and plasma;

(e) Used sharps, including used hypodermic needles, syringes, scalpel blades, Pasteur pipettes and broken glass; and

(f) Contaminated animal carcasses, body parts and bedding, especially those intentionally exposed to pathogens in research, in the production of biologicals or the “in vivo” testing of pharmaceuticals.

LANDFILL. A solid waste facility, designed and operating in compliance with all federal, state, tribal and local requirements, that receives solid waste for disposal and includes, but is not limited to, surface, impoundment, injection well or waste pile, as these terms are defined in 40 C.F.R. 257.2 or subsequent requirements.

(a) **MUNICIPAL LANDFILL.** A discrete area of land or an excavation that receives household waste, and that is not a land application unit; **MUNICIPAL LANDFILL** may also receive other types of RCRA Subtitle D waste, such as commercial solid waste, nonhazardous sludge, small quantity generator waste, industrial solid waste, construction and demolition debris, and other special wastes as defined in the New Mexico Solid Waste Management Regulations. A **MUNICIPAL LANDFILL** may be publicly or privately owned, and may be existing, new or a lateral expansion; and

(b) **SPECIAL WASTE LANDFILL.** A landfill that receives solid waste other than household waste; this includes, but is not limited to, commercial wastes or special wastes. A construction and demolition landfill is not a **SPECIAL WASTE LANDFILL**.

LITTER. Solid waste or debris found on public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible governmental authorities, or otherwise in accordance with lawful direction or on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof.

MOBILE HOME PARK. A community of 5 or more mobile homes located on 1 parcel of land owned by an individual or company, where individual lots are leased by the park owner, which waste is classified as commercial solid waste for the purposes of this Ordinance.

MUNICIPALITY. Any incorporated city, town or village, whether incorporated under general act, special act or special charter, and incorporated counties.

NUISANCE. Notwithstanding any criteria otherwise provided by this chapter, a nuisance is an unreasonable and significant interference with another's interest in the use and enjoyment of land. The location, character and habits of the particular community within the county are to be taken into account in determining what is unreasonable and significant to an individual living in it. If persons living in the community would regard the invasion as definitely offensive, seriously annoying or intolerable, it is significant. If most persons in the locality would not be substantially annoyed or disturbed, the invasion is not significant, even though the idiosyncrasies of the particular complainant may make it unendurable to him.

OPERATOR. The person(s) responsible for the overall operation of all or any portion of a solid waste facility.

OWNER. The property owner, whether residing on the property or not, the property being located within Valencia County and outside the corporate boundaries of municipalities.

PERSON. Any natural person or any firm, partnership, association, corporation, company or organization of any kind.

PREMISES. A structure, whether designed for residential or commercial use, located on any property within the county and outside the corporate limits of municipalities.

PROCESSING. Techniques to change the physical, chemical or biological character or component of solid waste, excluding composting or transformation.

PUBLIC PLACE. Any land open to common use such as streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, spaces, grounds and buildings.

RECYCLABLE MATERIALS. Materials that would otherwise become solid waste if not recycled, and that can be collected, separated or processed and placed in use in the form of raw materials, products or densified, solid waste-derived fuels.

RECYCLING. Any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products.

REFUSE. Includes, but is not limited to, all putrescible and non-putrescible solid wastes (except body wastes) such as garbage, rejected or waste food, swill, carrion, ashes, dirt, slop, waste paper, trash, rubbish, waste and street clearings.

RESIDENTIAL COLLECTION. Refuse from a single dwelling collected individually and not otherwise classified as commercial collection.

RESPONSIBLE PARTY. Owner of any premises, whether vacant, improved or unimproved, used primarily for either residential or commercial purposes.

RUBBISH. Includes, but is not limited to, all non-putrescible solid wastes (excluding ashes), both combustible and noncombustible, such as paper, cardboard, cans, wood, yard clippings, leaves, dirt, glass, bedding, crockery, and similar materials.

SCAVENGING. The uncontrolled removal of solid waste from a solid waste facility or container.

SOLID WASTE. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities. "Solid waste" does not include:

- (a) drilling fluids, produced waters and other non-domestic wastes associated with the exploration, development or production, transportation, storage, treatment or refinement of crude oil, natural gas, carbon dioxide gas or geothermal energy;
- (b) fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels and wastes produced in conjunction with the combustion of fossil fuels that are necessarily associated with the production of energy and that traditionally have been and actually are mixed with and are disposed of or treated at the same time with fly ash, bottom ash, boiler slag or flue gas emission control wastes from coal combustion;
- (c) waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore, coal, copper, molybdenum and other ores and minerals;
- (d) agricultural waste, including, but not limited to, manures and crop residues returned to the soil as fertilizer or soil conditioner;
- (e) cement kiln dust waste;

(f) sand and gravel;

(g) solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, [33 U.S.C. Section 1342](#) or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, [42 U.S.C. Section 2011 et seq.](#);

(h) densified-refuse-derived fuel; or

(i) any material regulated by Subtitle C of the federal Resource Conservation and Recovery Act of 1976,¹ substances regulated by the federal Toxic Substances Control Act² or low-level radioactive waste;

SOLID WASTE FACILITY. A facility that is designed and operating in compliance with all federal, state, tribal and local requirements to accept solid waste from the public. Solid waste facilities include convenience centers, transfer stations and landfills.

STORAGE. The accumulation of solid waste for the purpose of processing or disposal.

SUBCONTRACTOR. A business or person that carries out work for a company as part of a larger project.

TRANSFER. The handling and storage of solid waste for reshipment, resale or disposal, or for waste reduction or resource conservation.

TRANSFER STATION. A facility, permitted or registered by the state pursuant to the Solid Waste Act, NMSA § 74-9-1 et seq.; and pursuant to the New Mexico Solid Waste Management regulations, and constructed and managed for transferring solid waste from collection trucks into long-haul trucks for transportation to disposal facilities. **TRANSFER STATION** may also include convenience centers.

WHITE GOODS. Items such as inoperative refrigerators, ranges, washers, dryers, water heaters, freezers, and other large domestic and commercial appliances.

YARD WASTE. Grass clippings, leaves, pruning and other discarded materials generated from yards, farms, gardens, parks and similar facilities.

§ 50.06 ADMINISTRATION.

(A) The County Manager is responsible for the administration of this chapter. The Board of County Commissioners shall adopt rules and regulations necessary to carry out the intent and purpose of this chapter, including but not limited to policies and procedures for billing and collection of service fees, and grievance policies and procedures.

(B) A contracted solid waste hauler, after 120 days of service, shall have the authority to delay collection services for failure to comply with this chapter and the rules and regulations prescribed, or to take legal action to collect fees owed to the contractor pursuant to this chapter.

(C) This chapter does not indicate a specific site for final disposal, provided the disposal site complies with all federal, state and local requirements.

§ 50.07 ACCUMULATION OF SOLID WASTE, LITTER, AND CONSTRUCTION AND DEMOLITION DEBRIS; REMOVAL; PENALTY.

(A) No person shall throw, place, dump or dispose of any solid waste, litter, or construction and demolition debris on any road, street, gutter, sidewalk or alley, or on any public property or another's private property.

(B) No person (whether owner, tenant, lessee, manager or other person) shall permit any solid waste, litter, or construction and demolition debris, or any composition or residue thereof, which is in an unsanitary condition or hazardous, to public health to remain upon the property.

(C) No person shall cast, place, sweep or deposit any solid waste, litter, or construction and demolition debris in such a manner that it may be carried or deposited by the elements upon any road, street, sidewalk, alley, sewer, parkway or other parkway or other public place or private property within the county.

(D) Any accumulation of solid waste, litter, or construction and demolition debris in violation of the terms of this chapter is hereby declared to be a nuisance and is unlawful.

(E) Subject to any limitations or otherwise provided by law, the County Manager, the County Code Enforcement Officers, and/or the County Sheriff's Department Deputies are authorized, upon issuance of a warrant, to inspect and enter any property where they have reasonable cause to suspect that unlawful accumulations of solid waste, refuse, litter, or construction and demolition debris may exist.

(1) If, upon the basis of such inspection, the County Manager, a County Code Enforcement Officer or a County Sheriff's Department Deputy finds that a violation of a divisions (A) through (D) of this section exists, they shall notify, in writing, the person in control of the property (whether owner, tenant, lessee, manager or other person) to correct such violation within a designated period of time, from a minimum of 3 days up to a maximum of 30 days from the day of notification.

(2) Upon the failure, neglect or refusal of any person, owner, tenant, lessee, manager or occupant to properly correct any such violations within the time prescribed (or within 3 days of the return of such prescribed notice as undeliverable if the notice is served by mail), the County Manager may contract for the correction of the unlawful accumulation, or order its correction by the county, at the expense of the person, owner, tenant, lessee, manager or occupant in charge of the property.

(F) If the County Manager, the County Code Enforcement Officer or a Sheriff's Department Deputy finds that the unlawful accumulation of solid waste, litter, or construction and demolition debris presents a clear and present danger to the public health, safety and welfare, and immediate measures are required to alleviate this clear and present danger, the County Manager may waive the 3-day notification period.

(G) Costs for correction of an unlawful accumulation of solid waste, litter, or construction and demolition debris shall be determined on the basis of man-hours worked, equipment utilized in the clean-up at a customary rental rate per day, plus any direct costs paid by the county to correct the violation.

(H) The County Manager shall maintain files of the inspections, notices and actions taken pursuant to this section. Costs incurred by the county in undertaking corrective actions shall be documented sufficiently to justify the expense. The files shall be open for public review during the county's normal business hours.

(I) Transportation of solid waste shall be accomplished through the use of a vehicle that is tightly secured, leak-proof and covered. Such vehicles shall be operated to prevent offensive odors escaping therefrom, and solid waste from being blown, dropped or spilled or otherwise permitted to escape from the vehicle during transport. Persons transporting solid waste without a tightly secured and leak-proof cover will be subject to additional fees as established by resolution.

§ 50.08 SOLID WASTE, LITTER AND CONSTRUCTION AND DEMOLITION DEBRIS PRE-COLLECTION PRACTICES.

(A) Solid waste and recyclables are to be properly stored on the premises where they are generated, shall be placed and maintained in county-approved containers at a Valencia County Convenience Station, or other refuse and solid waste disposal facility(ies) franchised, licensed and/or permitted in conformance with applicable state law, state regulations, and this chapter.

(B) All persons shall dismantle and/or flatten all boxes or packing crates, regardless of construction, and bundle all such materials before placing the same in county solid waste containers.

(C) Solid waste deposited in county solid waste containers shall first be sealed in bagged or closed containers.

(D) Toxic and hazardous waste, liquid petroleum, distillates and similar liquid materials shall not be disposed of in county solid waste containers. Disposal of such waste shall be in accordance with § [50.22](#).

(E) Wood ash that has not cooled or that may otherwise be capable of rekindling or igniting a fire if brought in contact with combustible materials shall not be deposited in county solid waste containers.

(F) No garbage, solid waste, or debris shall be burned within the county. The County Fire Chief may issue a permit for certain types of yard refuse.

§ 50.09 SOLID WASTE CONTAINERS.

(A) Haulers are expressly prohibited from using county solid waste containers for the disposal of solid waste and construction and demolition debris.

(B) The owner of every mobile home park shall provide for the collection of not less than 0.5 cubic yards of solid waste weekly per mobile home space. If the County Manager determines that additional containers are necessary, they may order such additional containers as may be required to prevent the accumulation of solid waste or litter.

(C) The owner of every multi-family residential development consisting of 5 or more units shall provide for the collection of not less than 0.5 cubic yards of solid waste weekly per residential unit. If the County Manager determines that additional containers are necessary, he or

she may order such additional containers as may be required to prevent accumulation of solid waste or litter.

(D) Any person using a contractor or hauler-provided or county solid waste container shall comply with all rules and regulations established by the Board of County Commissioners for the use, care and location of such containers, and shall keep the lids and covers furnished for such containers closed at all times except when they are being filled or emptied.

(E) Any solid waste, litter or construction and demolition debris deposited in the county solid waste containers shall be reduced in size to not more than 4 feet in length.

(F) In the event that the county solid waste container is full, solid waste shall not be placed on the ground or in proximity to the containers so as to constitute a litter or health hazard, or become blown and scattered.

(G) No person shall impede access to a solid waste container other than when necessary to remove and deposit solid waste.

§ 50.10 DAMAGE TO SOLID WASTE CONTAINERS.

(A) No person shall be on or in the county solid waste containers.

(B) No person shall intentionally damage any county solid waste container.

(C) Any person who damages a county solid waste container shall be liable to the county for the cost, repair or replacement of such container, in addition to the penalties provided in [§50.99](#).

§ 50.11 TOXIC, CORROSIVE, IGNITABLE, FLAMMABLE, EXPLOSIVE OR OTHER PROHIBITED SOLID WASTE.

No poisons, acids, caustics, chemicals, waste contaminated by infectious diseases, radioactive waste, dead animals, live pests, rocks, sand, dirt, construction and demolition debris, toxic, highly flammable or explosive materials shall be placed in county solid waste containers. Such waste shall be disposed of in accordance with any applicable county, state and federal laws or regulations, at the expense of the person accumulation such waste.

§ 50.12 CONSTRUCTION SITES AND TRANSPORTATION OF MATERIALS.

(A) Any person who has secured a county building permit shall, prior to commencement of any construction activity in the county, furnish or place on that property a container, from a county-approved hauler, or fenced area of suitable size and design to contain all solid waste, litter, or construction and demolition debris that may be disturbed or removed from the premises or property by the wind or elements.

(B) No person generating solid waste or construction and demolition debris shall allow solid waste or litter of any kind to be blown or be carried by the elements from the premises or property for which the building permit was secured.

(C) Any person engaged in construction or demolition shall remove the solid waste, litter, and construction and demolition debris, including structural parts, from the construction site and contain their elements from scattering in the same manner as set out above. Construction and

demolition debris or solid waste shall be removed and disposed of within 5 days of completion to an approved construction and demolition debris facility.

§ 50.13 SCAVENGING PROHIBITED.

(A) No person shall remove, collect or disturb solid waste or construction and demolition debris stored or disposed in a solid waste facility or solid waste container unless authorized by the County Manager.

(B) No person shall remove any solid waste or construction and demolition debris from a solid waste container and scatter the same upon any public or private property.

§ 50.14 REGULATIONS ADOPTED.

The laws of the State of New Mexico dealing with solid waste management and all regulations promulgated and published pursuant to those laws for the New Mexico Environment Department, or any division thereof (or any successor department, agency or division), along with any subsequent revisions or amendments to such laws or regulations, are hereby adopted and incorporated herein by reference and made a part of this chapter; provided, however, the penalty provisions herein shall apply to violations prosecuted under this chapter.

§ 50.15 SOLID WASTE DISPOSITION FEE.

(A) The Board of County Commissioners shall adopt a solid waste disposition fee. Payment of the solid waste disposition fee shall be the obligation of the property owner. Such fee shall be collected by the contracted solid waste hauler.

(B) Any owner of property containing one or more vacant premises may be entitled to a reduction of the solid waste disposition fee, by submitting to the contracted solid waste hauler a notarized affidavit certifying that the residence is vacant. Any property owner falsely certifying that a residence is vacant is in violation of this chapter, and is subject to penalties set forth in [§50.99](#).

(F) The contractor or hauler who is awarded the contract for collection and disposal of solid waste shall be the exclusive contractor to provide such services for the stated duration of the contract period, as long as all aspects of the contract remain in proper standing.

§ 50.16 RESPONSIBILITY.

All fees arising under this chapter shall be billed to the owner of the property.

§ 50.17 POWERS OF THE COUNTY.

In connection with the operation of a solid waste collection system, the Board of County Commissioners may:

(A) Execute contracts on behalf of the county, with any municipality, county or other unit of government, or any private entity for the collection, transportation and recycling or disposal of solid waste generated in the county;

(B) Regulate the collection, transportation and recycling or disposal of solid waste and construction and demolition debris by any person within the county;

(C) Establish, assess and collect fees directly or through its authorized agent from responsible parties in amounts designated herein;

(D) Coordinate the collection, transportation and recycling or disposal of solid waste and construction and demolition debris in consultation with the New Mexico Department of Environment;

(E) Develop operating policies and procedures for the implementation of the provisions of this chapter.

§ 50.18 SOLID WASTE COLLECTION AUTHORIZATION.

(A) *Implementation of solid waste regulation.* Except as otherwise provided herein, all solid waste accumulated in the county shall be collected, conveyed and disposed of by the county, or its authorized contractor, in accordance with this chapter and state and federal regulations. No person shall collect, convey on any of the streets or alleys of the county, or dispose of any solid waste accumulated in the county, except as herein provided. The Board of County Commissioners or its designee shall have the authority to establish procedures concerning the days of collections, type and location of collection, conveyance and disposal as necessary, and to change and revoke same.

(B) *Handling of solid waste by others.* Division (A) of this section shall not prohibit the actual producers of solid waste, or the owners of premises upon which solid waste has accumulated, from personally collecting, conveying and disposing of such solid waste. The producers or owners shall comply with the provisions herein, and with any other governing law or articles, that regulate the disposal of solid waste, and shall pay all applicable collection fees, whether the solid waste collection service is utilized or not.

(C) *License to transport solid waste.* The Board of County Commissioners may implement a licensing requirement and licensing fee to transport solid waste as part of the rules and regulations identified in this chapter.

(D) *Interference with collection.* It shall be unlawful for any person to interfere with county employees or authorized county contracted collection service employees, while in the performance of their duties, as authorized by county ordinances and regulations.

§ 50.19 SOLID WASTE PRE-COLLECTION PRACTICES.

(A) *Separation of solid waste.* Garbage, ashes, recyclable materials, and other materials as directed, shall each be placed and maintained in separate containers, if the County Manager, upon recommendation of the contracted solid waste hauler, so requires.

(B) *Preparation of solid waste.* All garbage shall be free of liquids before being placed in garbage containers for collection.

(C) *Duty to maintain containers in sanitary condition.* Solid waste containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter shall be promptly remediated or replaced at the cost of the property owner.

(D) *Collection of ashes and hot waste.* For at least 24 hours prior to the scheduled time of collection, ashes shall be cold. Ashes may then be placed at the collection point at the specified

time and in appropriate containers as determined by the County Manager, based upon the recommendation of the solid waste hauler. Under no conditions may hot ashes be placed at a collection point.

(E) *Commercial solid waste containers.*

(1) Commercial establishments, multiple-family dwellings and multiple single-family residential units utilizing a single container shall be furnished appropriate containers by the contracted solid waste hauler, based upon volume of solid waste generated.

(2) No person shall deposit ashes, hot waste or other materials susceptible to spontaneous ignition into any combustible receptacle, or place the same within 10 feet of any combustible materials, except in metal or other noncombustible receptacles. Placement of receptacles shall comply with the Uniform Fire Code or other applicable codes.

(F) *Residential solid waste containers.*

(1) Solid waste shall be enclosed in plastic bags or containers for residential collection. Plastic bags shall be of sufficient strength so as not to tear with normal handling at maximum capacity. All containers must be tightly secured so as to prevent solid waste from being scattered, blown or spilled. Sharp or extremely heavy materials will be placed in disposable containers other than plastic bags. Tree trimmings and similar solid waste suitable for bundling will be tied in bundles, not to exceed 4 feet in length and 2 feet in diameter.

(2) Residential solid waste shall be placed out for collection no later than 7:00 a.m. on the regularly scheduled day, but no sooner than 5:00 p.m. the evening prior to collection.

(3) Residential solid waste shall be placed as close to the roadway as possible and in a location clear from vehicular traffic, and shall not prohibit pedestrian movement. Solid waste shall be clearly visible and accessible for collection, and free from any obstructions (including but not limited to trees, shrubbery, walls, fences and vehicles). The County Manager upon recommendation by the contracted solid waste hauler, shall have the authority to designate the solid waste collection site.

(4) Property owners who fail to comply with these requirements shall be responsible for storing their solid waste until their next regular collection day, or disposing of it at an approved disposal facility.

 **§ 50.20 OWNERSHIP OF SOLID WASTE.**

All solid waste generated within or brought into the county is owned by and is the responsibility of the property owner, until such time as the waste is removed by a licensed private contractor, except where state or federal requirements prohibit transfer of ownership. A licensed private contractor registered by NMED, who removes solid waste from a property, shall take ownership of the waste until it is taken to a convenience center, transfer station or landfill. The owner of any property where solid waste is generated or held shall be equally responsible for the lawful handling and deposition of such solid waste in a landfill or approved solid waste facility, or removed by a licensed private contractor, except where state or federal requirements prohibit transfer of ownership.

 **§ 50.21 STORAGE OF SOLID WASTE FOR COMMERCIAL COLLECTION.**

Commercial Solid Waste Containers. Solid waste containers shall be properly maintained and must meet the minimum requirements of the contracted solid waste hauler.

§ 50.22 SOLID WASTE COLLECTION PRACTICES.

(A) *Mandatory collection services.* The Board of County Commissioners requires mandatory roadside solid waste collection services for the county. Collection site arrangements with the contracted solid waste hauler are required for non-refuse collection truck accessible roads.

(B) *Frequency of solid waste collection.*

(1) *Residential solid waste collection.* Solid waste accumulated at residences shall be collected once per week.

(2) *Commercial solid waste collection.* Hotels, restaurants, other establishments and businesses, institutions, mobile home parks, multiple-unit dwellings and multiple single-family dwellings receiving commercial solid waste collection service, as deemed necessary, may enter into an agreement for greater frequency of collection, with a minimum of collection frequency of once per week.

(a) The County Manager shall have the authority to require that more frequent collections be made where necessary to protect the public health.

(b) All commercial solid waste containers are to be accessible between the hours of 4:00 a.m. and 8:00 p.m., or as otherwise designated by the County Manager.

(3) No solid waste collection vehicles shall collect solid waste within 200 feet of a school site within a half hour of school opening or closing for the day.

(C) *Limitations of quantity.*

(1) *Residential solid waste collection.* The county shall collect the solid waste of each residence during a collection period for the standard charge. Any excessive accumulation of solid waste, as determined by the contracted solid waste hauler may require a special collection at an additional fee pursuant to the contract.

(2) *Commercial solid waste collection.* Any excess accumulation outside designated contracted container shall be prohibited. The solid waste must not exceed the container capacity and the solid waste container lid must be closed at all times except when disposal is occurring.

(D) *Special and hazardous waste.*

(1) *Infectious waste.* Wearing apparel, bedding, solid waste or other infectious or contagious material from homes, hospitals nursing homes, or other places where highly infectious or contagious diseases have prevailed shall not be placed in containers for regular collection. The producers of such solid waste shall immediately notify the contracted solid waste hauler, who shall provide technical assistance on proper collection and disposal of such material, at the expense of the owner or possessor thereof.

(2) *Hazardous waste.* Hazardous waste shall not be collected, transported or disposed of unless in full compliance with local, state and federal regulations regarding transportation and disposal. Hazardous waste material shall not be placed in containers for regular collection and

disposal. The producers or possessors of such material shall immediately notify the contracted solid waste hauler, who shall provide technical assistance on the proper collection and disposal of such material, at the expense of the owner or possessor thereof. The county further reserves the right to prohibit the disposal of hazardous waste within the county.


(E) *Collection by commercial haulers.*

(1) *Requirements for vehicles.* The commercial producers of solid waste, the owners of premises upon which such solid waste is accumulated, licensed transporters of solid waste, or persons who desire to dispose of waste material not included in the definition of solid waste shall do so only in compliance with the provisions of this chapter. Such collection shall be accomplished through the use of a vehicle with a tightly secured, leak-proof cover. Such vehicles shall be operated to prevent offensive odors escaping therefrom, and solid waste from being blown, dropped or spilled.

(2) *Disposal.* Disposal of solid waste by persons so permitted shall be made at a solid waste facility site. If disposal of solid waste occurs in the county, compliance with county zoning ordinances and regulations, and other local land use policies shall occur. If disposal of solid waste occurs outside of the county, other zoning ordinances and regulations and other land use policies shall apply.

(3) *Applicable fees.* Nothing herein shall be construed to exempt such producers or owners from the fees required through mandatory solid waste collection.

 **§ 50.23 FEES; REMEDIES.**

 (A) *Mandatory service in the county.*

(1) Service fees for collection of solid waste in designated mandatory service areas shall be established and adopted by the Board of County Commissioners pursuant to the negotiated contract with the solid waste contractor. The property owner shall be responsible for payment of fees for collection services within designated mandatory service areas. The solid waste contractor is responsible for collection of fees for services rendered.

(2) Upon collection of franchise fees for collection and disposal of solid waste, the County Manager is authorized to use those funds for enforcement, development and delivery of educational programs relating to solid waste disposition, development and support of recycling and waste minimization programs, development of a county solid waste department, or other uses that enhance the disposition of solid waste in the county.

(3) The county authorizes a low income credit available to qualified residences in designated mandatory service areas. Qualified residents must have an annualized gross income that is within the most recent State of New Mexico Section VIII extremely low or very low income thresholds by household size for Valencia County. The solid waste contractor shall fund and administer the low income credit program and establish procedures and program guidelines.

(B) *Commercial service fees.* Hotels, restaurants, other establishments and businesses, institutions, mobile home parks and multiple-unit dwellings and multiple single-family dwellings receiving commercial solid waste collection service in a designated service area shall have service fees based on the type and frequency of service, and the volume of the solid waste container. The service fees will be established through contract with the solid waste contractor.

(C) *Starting and stopping service; credit.* All premises included in designated mandatory collection areas shall be charged solid waste collection fees, except as provided herein:

(1) *Previously unoccupied residences.* New homes will begin receiving billing for services upon issuance of a certificate of occupancy.

(2) *Vacant premises.* Premises that become vacant shall continue to receive charges unless it meets the following conditions:

(a) Premises will be unoccupied for a period of 60 consecutive days or more;

(b) The customer's premises must be vacant of all occupants for the entire period of suspension;

(c) Written/Electronic request for service suspension is received by the solid waste contractor ten (10) days prior to the beginning of suspension. The request shall include date of departure and expected return date.

(3) *False statements.* Any false statement made within any application or request pursuant to this chapter constitutes a violation of this chapter.

(D) *Payment.* All charges for solid waste collection services shall be payable to the solid waste contractor, and will become delinquent thirty (30) calendar days following the due by date on the customer's statement.

(E) *Penalty.* A penalty of 8% per annum may be imposed on all delinquent accounts and assessed on a monthly basis.

(F) *Responsibility of payment and deposits.*

The charges provided for herein are the personal responsibility of the owner of the property served.

(G) *Legal remedy.* The solid waste contractor shall have a right to proceed for collection of such unpaid charges in any manner allowed by law.

(H) *Convenience Centers or Transfer Stations Fees.*

(1) Any producer of solid waste, may dispose of acceptable solid waste at any county convenience center or transfer station. Fees for use of the convenience center or transfer station will be established by the solid waste contractor.

(2) Any uncovered or unsecured load will be charged an additional fee by the solid waste contractor. Fees for use of any convenience center or transfer station will be established by solid waste contract.

(3) Salvaging and scavenging is prohibited at the county convenience centers or transfer stations at all times without the written permission of the solid waste contractor.

(I) *Franchise Fee.* An approved solid waste contractor who provides solid waste collection services within the county shall pay to the county an amount equal to 10% of all fees collected by the contractor, exclusive of gross receipts tax. Each contractor shall allow the county to inspect its revenue collected in its operation in the county, including but not limited to, its books

and equipment upon three (3) days' notice. All gross receipts taxes shall be added to the approved fees. The county shall have a right to proceed for collection of such unpaid fees in any manner allowed by law.

§ 50.24 INJUNCTIVE RELIEF.

The placement of solid waste that causes a nuisance, or creates a potential or actual health hazard, shall be deemed, or declared to be, a public nuisance, and may be subject to a county abatement action.

§ 50.25 CONFLICT.

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, plumbing, fire, safety or health ordinance or code effective in the county, the provisions that establish the higher standard for the promotion and protection of the health and safety of the people shall prevail.

§ 50.26 CONSTRUCTION AND DEMOLITION DEBRIS (ROLL-OFF) HAULER PERMIT.

(A) *Application.* Any person can apply for authorization to the County Manager to provide roll-off services in the county.

(B) *Selection.* The County Manager shall screen applications on factors such as, but not limited to financial strength, past experience, present fleet, fleet maintenance capability, past service for county residents, past compliance with county ordinances, and ability to comply with relevant provisions of this chapter.

(C) *Issuance of permit.*

(1) No person may engage in the business of collection of Construction and Demolition Debris (Roll-Off), except as provided below

(a) The submission of a completed application form provided by the county, with required documentation and processing fees as determined by the County Manager; and

(b) Execution of a written agreement between such businesses or persons and the county for the collection of C & D debris and in conformance with this chapter.

(c) Upon completion of the requirements of divisions (a) and (b), and the applicant meeting the requirements of as set out below, the County Manager shall issue a C & D collection permit to the applicant.

(2) Any contractor/hauler or person licensed and permitted by the state to provide C & D debris collection service, may apply with the county for a permit to provide such service .

(D) *Duration of permit.* Permits may be for a period up to 1 year.

(E). *Permit fee.* Each C & D debris hauler shall pay an annual permit fee as established by the county to file an application with the county.

(F) *Suspension or revocation.* The County Manager has the right to suspend or revoke any permit, subject to the terms and conditions of the permit.

(G) *Assignments*. The permit provided for herein shall not be assigned, except with prior written consent of the Board of County Commissioners. T

§ 50.27 DISPOSAL OF SOLID WASTE.

Solid waste collected in the county shall be disposed of in a properly permitted landfill. Any such landfill must be operating in compliance with New Mexico Solid Waste Management regulations or such other landfill or facility operating in compliance with New Mexico Solid Waste Management Regulations, New Mexico Environmental Department regulations, and any and all federal, state and local rules and regulations in effect at the location where the final disposition of solid waste will occur.

§ 50.28 FREQUENCY OF COLLECTION.

Solid waste shall be collected or removed from residential premises by the contractor/hauler and commercial establishments at least once per week. No resident shall be refused service by the solid waste contractor except as otherwise provided in this Ordinance.

§ 50.29 EXEMPTIONS.

This chapter shall not apply to:

(A) A property holder who disposes of construction/demolition debris or yard waste generated on their property for fill purposes if disposed of in a manner that does not violate any county, state or federal law, or create a nuisance or a hazard to public health, safety and welfare,

(B) Agricultural wastes, including manure and crop residues, returned to the soil as fertilizers or soil conditioners.

(C) Sludge, domestic sewage, treated domestic sewage, and septage.

(D) Hazardous wastes subject to regulations under Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

(E) Disposal of solid waste by underground well injection, subject to Regulations for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. §§ 3007 et seq.

(F) Waste or activities regulated by the Oil Conservation Division under the New Mexico Oil and Gas Act, NMSA §§ 70-2-1 through 70-2-36; the New Mexico Water Quality Act, NMSA §§ 74-6-1 through 74-6-14; or the New Mexico Geothermal Resources Conservation Act, NMSA §§ 71-5-1 through 71-5-24.

(G) Bulk liquids. Liquid that undergoes commercial transportation in large volumes.

§ 50.30 AUTHORITY OF COUNTY MANAGER, COUNTY CODE ENFORCEMENT OFFICERS AND DEPUTIES TO ENTER PREMISES.

(A) The County Manager, the County Code Enforcement Officers, and the Sheriff's Department Deputies are hereby authorized and directed to enforce this chapter.

(B) In the event the owner or occupant of property objects to the entrance of County Manager, the County Code Enforcement Officer, or the Sheriff's Department Deputies upon the property

that is the object of the complaint or violation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection.

§ 50.31 COMPLIANCE WITH LAWS AND REGULATIONS.

Each solid waste contractor shall comply with all applicable federal and state laws, county ordinances, rules and regulations, and all amendments thereto. Throughout the duration of their contract or permit, the solid waste contractor shall indemnify, defend and hold harmless the county from and against any claim, demand, judgment, settlement, costs or expenses, including, without limitation, court costs and attorneys' fees, arising from or in connection with any violation of any such law, rule and regulation, whether by himself or herself, his or her employee, or his or her agent, and in connection with the service to be provided under the contract.

§ 50.32 PROOF OF INSURANCE BY THE RESIDENTIAL/COMMERCIAL CONTRACTOR (HAULER).

(A) All contractors/haulers shall provide the county with a certificate of insurance naming the county as an additional insured. The contractor shall provide workers compensation insurance for its employees, unless exempted by state or other prevailing statute. The contractor shall also hold general public liability insurance coverage in the amount of \$5,000,000 per occurrence and \$6,000,000 in the aggregate, at minimum. The insurance coverage shall be for accidents or occurrences that cause bodily injury, death, or property damage to any member or citizen of the general public resulting from any of the collection activities under this chapter, or any activities contemplated in any contract or agreement for the collection of solid waste and/or recyclables. Failure to maintain insurance in the amount detailed herein, and/or failure to provide the county with a certificate of insurance naming the county as an additional insured, shall be grounds for termination of a contract.

(B) Any business or person engaged in the collection of solid waste and/or recyclables in the county shall file with the County Clerk a copy of its certificate of insurance, as mandated in division (A) of this section, and shall file with the County Clerk an affidavit, indicating that adequate arrangements have been made to notify the County Manager, in writing, not less than 30 days prior to cancellation of any such policies thereof.

(C) Any business or person engaged in the collection of solid waste and/or recyclables in the county shall file with the County Clerk a copy of its certificate of insurance, as mandated in division (A) above, and shall file with the County Clerk an affidavit, indicating that adequate arrangements have been made to notify the County Manager, in writing, not less than 30 days prior to cancellation of any such policies thereof.

§ 50.33 PERFORMANCE BONDS BY CONTRACTORS (HAULERS).

(A) The Board of County Commissioners shall require the exclusive residential/commercial solid waste contractor to post with the county a performance bond in an amount of not less than \$2,000,000, and shall require a performance bond in an amount of not less than \$25,000 for construction/demolition franchised haulers. Performance bonds shall be furnished by a surety satisfactory to the county. All bonds shall be payable to the county and shall be conditioned upon the full and faithful performance by the solid waste contractor of its obligations under this chapter, and shall be kept in full force and effect by the solid waste contractor throughout the

period of the contract. Failure to post or maintain the required bond shall be grounds for termination of the contract.

(B) Notwithstanding any provision to the contrary of this chapter or of any agreement, the county shall initiate and accomplish all necessary actions to maintain solid waste collection services in the county in the event of failure of a contractor to provide collection services as per the contract. The county shall use the solid waste contractor's performance bond to pay for such service, except if the delay or failure to provide the service is caused by acts of God or other circumstances beyond the control of the contractor, and which could not reasonably have been anticipated or prevented. For purposes of this chapter, ***ACTS OF GOD AND OTHER CIRCUMSTANCES*** include unusual weather, floods, epidemics, war, riots, strikes, lockouts and other industrial disturbances, protest demonstrations, unanticipated site conditions, or inability, despite reasonable diligence, to provide service.

§ 50.34 to § 50.98 INTENTIONALLY LEFT BLANK

§ 50.99 PENALTY.

(A) Any person convicted of a violation of the provisions of this chapter, or any regulation promulgated thereunder, shall be guilty of a petty misdemeanor and shall be subject to a penalty up to the maximum penalty allowed by state statute. Each day such violation is committed or permitted to continue shall be considered a separate offense and shall be punished as such.

(B) It shall be a violation of this chapter to remove solid waste or recyclable material deposited for collection from public or private property except as provided herein. Any containers provided by the contractor shall be utilized for the purpose intended as provided in this chapter.

(C) It shall be a violation of this chapter for any person, firm or corporation to neglect, refuse to comply with, or resist the enforcement of any provision thereof. Violators of any provision of this chapter shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be punished by 90 days in jail for each separate offense and/or a fine as follows:

(1) Not exceeding \$1,000 for discarding or disposing of solid waste, litter or garbage on public or private property in any manner other than by disposing it in accordance with this chapter; or

(2) Not exceeding \$5,000 for the improper or illegal disposal of hazardous waste in any manner other than as provided in this chapter; or

(3) Not exceeding \$300 for violation of any other provision of this chapter. Each day that such violation exists shall constitute a separate offense.

(D) The County Manager may pursue, in addition to criminal prosecution, any lawful civil remedy and penalty in a court of competent jurisdiction for violations of this Chapter. The County Manager may bring suit to collect any sums due and owing and/or to restrain, enjoin or otherwise prevent the violation of this chapter; or to compel compliance, and shall be entitled to reasonable attorney's fees and costs in the suit.