

SIERRA COUNTY

SOLID WASTE MANAGEMENT ORDINANCE NO. 16-007

PASSED: January 12, 2016

EFFECTIVE: February 12, 2016

**SIERRA COUNTY
ORDINANCE 16-007**

AN ORDINANCE PROVIDING FOR THE EFFICIENT AND SANITARY DISPOSAL AND COLLECTION OF SOLID WASTE IN SIERRA COUNTY; REGULATING SOLID WASTE, LITTER AND C & D DEBRIS; ESTABLISHING A SOLID WASTE DISPOSAL AND SANITATION FEE; CREATING AN APPEAL PROCESS FOR A WAIVER OF THE FEE; PROVIDING A PENALTY; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the Sierra County Board of Commissioners finds that it is necessary to provide for the efficient and sanitary collection, recycling, transportation and disposal of solid waste, construction and demolition debris; to control litter in Sierra County, and to protect the health, welfare and safety of the citizens of Sierra County; and,

WHEREAS, the Sierra County Board of Commissioners has determined that it is necessary to adopt the powers in NMSA 1978 Sections 4-56-1 through 4-56-3 (1971) for the storage, recycling, collection and disposal of solid waste; and,

WHEREAS, the Sierra County Board of Commissioners finds that it is necessary to provide a coordinated county-wide program of management of solid waste and construction and demolition debris in cooperation with Federal and State Agencies, and that it is necessary that a solid waste management program be implemented in order to protect the environment and the health, safety and welfare of the citizens of Sierra County and promote order, comfort, and convenience of the citizens of the County; and,

WHEREAS, the Sierra County Board of Commissioners finds that a system of solid waste collection is necessary in order to protect Sierra County from illegal dumping, and to protect the environment and promote the preservation of the natural beauty of Sierra County lands; and,

WHEREAS, the Sierra County Board of Commissioners finds it necessary to assess a fee to pay for the solid waste collection and disposal system described herein.

NOW, THEREFORE, BE IT ORDAINED by the Sierra County Board of Commissioners as follows:

**SECTION I
SHORT TITLE**

This Ordinance shall be known as the "SOLID WASTE MANAGEMENT ORDINANCE", and shall be referred to herein as "this Ordinance".

SECTION II AUTHORITY

2.1 This Ordinance is enacted pursuant to the authority granted to counties to provide for the safety and to preserve the health of the residents of the county as set forth in NMSA 1978 4-37-1 (1975); the authority provided in NMSA 1978 Sections 4-56-1 through 4-56-3 (1971), which authorizes the county to establish and maintain, manage and supervise a system of storage, collection and disposal of all refuse; and the authority provided in NMSA 1978 Sections 3-36-1 through 3-35-7 (1981), which enables the County to attach liens.

SECTION III INTERPRETATION, CONFLICT AND WORD CONSTRUCTION

3.1 INTERPRETATION & CONFLICT. The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid Ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other County Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other County ordinances or resolutions, the provisions of this Ordinance shall be controlling.

3.2 WORD CONSTRUCTION. The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.

SECTION IV DEFINITIONS

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

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

4.3 CONSTRUCTION AND DEMOLITION (C & D) DEBRIS - material generally considered to be water insoluble and non-hazardous 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 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 type of solid waste, it loses its

classification as construction and demolition debris. Construction and demolition debris does not include liquids, including, but not limited to, waste paints, solvents, sealers, adhesives; asbestos or potentially hazardous materials.

- 4.4 COUNTY COMMISSION - the Board of County Commissioners of Sierra County, the duly constituted governing body of Sierra County.
- 4.5 COUNTY MANAGER - the Chief Administrative Assistant to the Board of County Commissioners of Sierra County.
- 4.6 COUNTY SOLID WASTE DIRECTOR - the Sierra County employee who serves as the Solid Waste Department Head responsible for the administration of the Sierra County Solid Waste Program.
- 4.7 COUNTY TRANSFER STATION - a facility maintained and operated by the County, for the benefit of the citizens of Sierra County, which handles solid waste in large containers or vehicles for transfer to a State and Federally authorized landfill.
- 4.8 GARBAGE - includes all waste food, swill, carrion, slops and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and the carcasses of animals..
- 4.9 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 his residential premises for the purpose of disposing of it in a solid waste facility.
- 4.10 LITTER - solid waste or debris found in public areas or generated while traveling in a motor vehicle.
- 4.11 OWNER - the property owner, whether residing on said property or not, the property being located within Sierra County and outside the corporate boundaries of the municipalities of Truth or Consequences, Williamsburg, and Elephant Butte.
- 4.12 PERSON - any individual, partnership, company, corporation, firm, association, trust, estate, state and federal agency, institution, county, city, town village, or municipality or other legal entity, however organized.
- 4.13 PREMISES - a structure, whether designed for residential or commercial use, located on any property within Sierra County and outside the corporate limits of the municipalities of Truth or Consequences, Williamsburg, and Elephant Butte.
- 4.14 RESPONSIBLE PARTY- the owner of any premises, whether vacant, improved or unimproved, used primarily for either a private residence or for a business purpose, who is responsible for payment of the mandatory fee for collection and/or disposal of solid waste.

4.15 REFUSE - includes garbage and rubbish.

4.16 RUBBISH - includes all junked parts or bodies of automobiles, tires, waste paper, paper cartons, tree branches, yard trimmings, discarded furniture, tin cans, dirt, ashes, bottles and all other unwholesome material of every kind not included as garbage.

4.17 SOLID WASTE - means 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:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) agricultural waste, including, but not limited to, manures and crop residues returned to the soil as fertilizer or soil conditioner;
- (5) cement kiln dust waste;
- (6) sand and gravel;
- (7) 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.;
- (8) densified-refuse-derived fuel; or
- (9) any material regulated by Subtitle C of the federal Resource Conservation and Recovery Act of 1976, substances regulated by the Federal Toxic Substances Control Act or low-level radioactive waste.

4.18 SOLID WASTE FACILITY - any public or private system, facility, location, improvements on the land, structures or other appurtenances or methods used for processing, transforming, recycling, or disposing of solid waste, including landfill disposal facilities, transfer stations, convenience centers, resource recovery facilities, and incinerators, or any facility that processes, recycles, transforms, transfers, or otherwise handles low level or high level radioactive waste or transuranic waste, and

other facilities not specified. A "Solid Waste Facility" does not include a residential "backyard" composting pile that composts organic solid waste generated on-site, or any facility or person accepting, stockpiling, or using clean fill material as long as:

- A. the clean fill material does not create a public nuisance or adversely affect the environment;
- B. the material is not placed in a watercourse or in any other manner inconsistent with the Water Quality Control Commission Regulation 20.6.2 et. Seq. "Disposal of Refuse".

**SECTION V
ACCUMULATION OF SOLID WASTE, LITTER AND C & D DEBRIS;
REMOVAL; PENALTY**

5.1 No person shall throw, place, dump, or dispose of any solid waste, litter, or C & D debris on any road, street, gutter, sidewalk or alley, or on any public property or another's private property.

5.2 No person (whether owner, tenant, lessee, manager or other person) shall permit any solid waste, litter or C & D debris or any composition or residue thereof which is in an unsanitary condition or hazardous to public health to remain upon the property under the person's control.

5.3 No person shall cast, place, sweep or deposit any solid waste, litter, or C & D 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 public place or private property within the County.

5.4 Subject to any limitations or otherwise provided by law, the Sheriff is authorized, upon issuance of a warrant, to inspect any property where he has probable cause to suspect that unlawful accumulations of solid waste, litter or C & D debris may exist.

A. If, upon the basis of such inspection, the Sheriff finds that a violation of Subsections 5.1 through 5.3 of this Section exists, he 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 ten (10) days up to thirty (30) days.

B. Upon the failure, neglect or refusal of any person, owner, tenant, lessee, manager or occupant of the property to correct any such violations within the time prescribed (or within five [5] days of the return of such prescribed notice as undeliverable if the notice is served by mail), the Board of County Commissioners may contract for the correction by the County, at the expense of the person, owner, tenant, lessee, manager or occupant in charge of the property.

5.5 If the Sheriff finds that the unlawful accumulation of solid waste, litter or C & D 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 ten (10) day notification period.

5.6 Costs for correction of an unlawful accumulation of solid waste, litter, or C & D debris shall be determined on the basis of labor hours worked, equipment utilized in the clean-up at a customary rental rate per day, plus any direct cost paid by the County to correct the violation.

5.7 The County Sheriff and 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 and the files shall be open for public review during normal business hours.

**SECTION VI
SOLID WASTE, LITTER AND C & D DEBRIS PRE-COLLECTION
PRACTICES**

6.1 Solid waste, if not stored in a manner consistent with the requirements of this Ordinance, shall be maintained in County solid waste containers, Sierra County Solid Waste Transfer Stations, or other solid waste management facilities registered or permitted in conformance with applicable federal or state laws and regulations.

6.2 All persons shall dismantle and/or flatten all boxes or packing crates regardless of construction and to bundle all such materials before placing the same in County solid waste containers or County Transfer Stations.

6.3 Solid waste deposited in County solid waste containers or County Transfer Stations shall be sealed in bags, and shall be disposed of at a cost of \$2.00 per 13 gallon bag, \$4.00 per 32 gallon bag, and \$6.00 per 50 gallon bag.

6.4 Construction and Demolition Debris shall be disposed of at a cost of \$20.00 per yard at a weight of 4 yards per ton. Construction and Demolition Debris shall be disposed of at a cost of \$10.00 per half yard, at a weight of 4 yards per ton. There shall be a minimum cost of \$6.00 for disposal of Construction and Demolition Debris.

6.5 Toxic and hazardous waste, liquid petroleum, distillates and similar liquid materials shall not be disposed of in County solid waste containers or County Transfer Stations. Disposal of such waste shall be in accordance with Section 9 of this Ordinance.

6.6 Wood ash shall not be deposited in County solid waste containers or County Transfer Stations.

SOLID WASTE CONTAINERS

- 7.1 Haulers are expressly prohibited from using County waste containers for the disposal of solid waste and C & D debris.
- 7.2 The owner of every mobile home park shall provide a means for the collection of not less than one half (.5) cubic yard of solid waste weekly per mobile home space. If the County Solid Waste Director determines that additional containers are necessary, the owner of the mobile home park shall provide additional containers as are required to prevent the accumulation of solid waste or litter.
- 7.3 The owner of every multi-family residential development consisting of five (5) or more units shall provide a means for the collection of not less than one half (.5) cubic yard of solid waste weekly per unit. If the County Solid Waste Director determines that additional containers are necessary, he may order such additional containers as may be required to prevent accumulation of solid waste or litter.
- 7.4 Any person using a County solid waste container shall comply with the rules and regulations established from time to time by the County Commission and/or the Solid Waste Director 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.
- 7.5 Any solid waste or litter deposited in the County solid waste containers shall be reduced in size, so that it shall not extend beyond the storage capacity of the container.
- 7.6 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 or station.
- 7.7 No person shall impede access to a County solid waste container other than when necessary to deposit solid waste.

**SECTION VIII
DAMAGE TO SOLID WASTE CONTAINERS**

- 8.1 No person, including children, shall be on or in the County solid waste containers.
- 8.2 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 Section 16 of this Ordinance.

**SECTION IX
TOXIC, CORROSIVE, IGNITABLE, FLAMMABLE, EXPLOSIVE OR OTHER
PROHIBITED SOLID WASTE**

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

9.2 Yard waste, including grass and tree clippings, pine needles, leaves and cut weeds, animal carcasses, all junked parts or bodies of automobiles, tires, waste paper, discarded furniture, ashes, and all other unwholesome material of every kind not included as garbage shall not be placed in County solid waste containers or deposited at County Transfer Stations. Such waste shall be disposed of on the site on which it is generated or in an approved solid waste facility, or in accordance with any applicable county, state and federal laws or regulations, at the expense of the person accumulating such waste.

SECTION X CONSTRUCTION SITES AND TRANSPORTATION OF MATERIALS

10.1 Any person who has secured a state building permit shall, prior to commencement of any construction activity in the County, furnish or place on that property a container or fenced area of suitable size and design to contain all solid waste, litter, or C & D debris which may be distributed or removed from the premises or property by the wind or elements.

10.2 No person generating solid waste or C & D debris shall allow solid waste or litter of any kind to be blown or be carried by the elements from the premises or property at which the building permit was secured.

10.3 Any person engaged in construction or demolition shall remove the solid waste, litter, and C & D debris, including structural parts, from the construction site and contain their elements from scattering in the same manner as set out in section 10.2. C & D debris or solid waste shall be removed and disposed of within five (5) days of completion to an approved solid waste or C & D debris facility.

10.4 Any person hauling solid waste, litter or C & D debris shall do so only in a covered or enclosed vehicle.

SECTION XI SCAVENGING PROHIBITED

11.1 No person shall remove, collect, or disturb solid waste stored in or disposed of in a solid waste facility or solid waste container unless authorized by the County.

11.2 No person shall remove any solid waste from a solid waste container and scatter the same upon any public or private property.

**SECTION XII
OWNERSHIP OF SOLID WASTE**

12.1 All solid waste generated within or brought into the county is owned by and is the responsibility of the generator, until such time as the waste is deposited 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. 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 landfill.

**SECTION XIII
SOLID WASTE MANAGEMENT FEE**

13.1 Payment of the solid waste management fee shall be the obligation of the responsible party for each premises located in the unincorporated area of Sierra County.

13.2 The County Commission shall set fees for management based on the actual or projected costs to collect, transport, recycle or dispose of such solid waste.

13.3 The solid waste management fee shall be comprised of a disposal fee of \$2.00 per 15 gallon bag, \$4.00 per 32 gallon bag, and \$6.00 per 50 gallon bag. Construction and Demolition Debris shall be disposed of at a cost of \$20.00 per yard at a weight of 4 yards per ton. Construction and Demolition Debris shall be disposed of at a cost of \$10.00 per half yard, at a weight of 4 yards per ton. There shall be a minimum cost of \$6.00 for disposal of Construction and Demolition Debris.

13.4 The Board of County Commissioners will undertake a review of the solid waste management fee on an as needed basis and, where necessary, revise the solid waste management fee by Resolution in accordance with the requirements of NMSA 1978, Section 4-56-3. The Board of County Commissioners may call upon the Sierra County Advisory Board to review whether the solid waste management fee will generate sufficient revenue to fund the solid waste program, and recommend any necessary revisions to the solid waste management fee.

**SECTION XIV
ON-SITE DISPOSAL OF DOMESTIC SOLID WASTE**

14.1 A responsible party may seek permitting for on-site disposal of domestic solid waste and, if permitted by NMED, dispose of the solid waste produced on the premises on said property in accordance with any regulations of the Solid Waste Bureau or the New Mexico Water Quality Control Commission as determined by the New Mexico Environment Department.

SECTION XV

POWERS OF THE COUNTY

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

- A. Execute contracts on behalf of the County with any municipality, county or other unit in government, including any Solid Waste Authority, or any private entity for the collection, transportation and recycling or disposal of solid waste generated in the unincorporated areas of Sierra County.
- B. Regulate the collection, transportation and recycling or disposal of solid waste and C & D debris by any person within the unincorporated areas of Sierra County.
- C. Establish, assess and collect fees directly or through its authorized agent in amounts designated herein.
- D. Coordinate the collection, transportation and recycling or disposal of solid waste and C & D debris in consultation with the New Mexico Environment Department.

SECTION XVI PENALTIES

16.1 Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed THREE HUNDRED DOLLARS (\$300.00) and/or NINETY (90) days in jail for each separate offense, except as set forth in Paragraphs 6.2 and 6.3 below.

16.2 Persons violating this Ordinance by discarding or disposing of solid waste or litter on public or private property in any manner other than disposing it in an authorized container, convenience center, transfer station, landfill, or as otherwise prescribed by this Ordinance, shall, upon conviction, be subject to a fine not to exceed ONE THOUSAND DOLLARS (\$1,000.00) and/or NINETY (90) days in jail for each separate offense.

16.3 Persons violating this Ordinance by illegally disposing of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act and this Ordinance, shall, upon conviction, be subject to a fine not to exceed; FIVE THOUSAND DOLLARS (\$5,000.00) and/or NINETY (90) days in jail for each separate offense

SECTION XVII SEVERABILITY

17.1 If any article, section, subsection, paragraph, sentence, clause, phrase, provision or portion of any article, section, subsection, paragraph, sentence, clause, phrase or provision in this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portion shall not be affected since it is the express intention of the Sierra County Board of County Commissioners to pass such article, section, subsection,

paragraph, sentence, clause, phrase or provision and every part thereof separately and independently from every other part.

**SECTION XVIII
REPEAL OF FORMER WASTE DISPOSAL ORDINANCES**

18.1 Sierra County Ordinances NO. 11-012 are hereby repealed, as well as all other Sierra County Ordinances or Resolutions relating to Solid Waste Disposal and Disposal fees which are in conflict with the above provisions, by the effective date of this Ordinance.


**SECTION XIX
EFFECTIVE DATE**


19.1 This Ordinance shall be recorded and authenticated by the Sierra County Clerk following adoption by the Board of County commissioners. The effective date of this Ordinance shall be thirty days after the Ordinance has been recorded.

APPROVED, ADOPTED, AND PASSED on this 12th day of January, 2016.

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SIERRA**


KEN LYON, CHAIR


FRANCES LUNA, VICE-CHAIR


SHERRY FLETCHER, COMMISSIONER


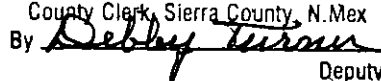
ATTEST BY:


CONNIE GREER, COUNTY CLERK



STATE OF NEW MEXICO } SS
County of Sierra

I HEREBY CERTIFY that this instrument was filed for record on the 12th day of Jan A.D., 20 16 at 1:53 o'clock P M. and duly recorded in book 2 page 526-537
Fee \$ 0.00


County Clerk, Sierra County, N.Mex
By 
Deputy