



**SIERRA COUNTY, NEW MEXICO
ORDINANCE NO. 2025-005**

AN ORDINANCE AMENDING AND RESTATING THE SIERRA COUNTY SOLID WASTE ORDINANCE, ORDINANCE NO. 23-02, TO CLARIFY PROHIBITIONS AGAINST THE ACCUMULATION AND DISPOSAL OF REFUSE AND HOUSEHOLD WASTE, AND TO REMOVE REFERENCES TO TERMS NOT DEFINED IN THE SOLID WASTE ACT; AND PROVIDING FOR PENALTIES AND ENFORCEMENT.

WHEREAS, the Sierra County Commission has the responsibility to protect the health, safety and welfare of the citizens of Sierra County, New Mexico; and,

WHEREAS, the Commission desires to additionally prevent the spread of disease, prevent the creation of nuisances, conserve the natural resources and maintain the natural beauty of the County's environment; and,

WHEREAS, the Sierra County Commission desires to provide for the efficient, economical, and environmentally sound disposal and regulation of Solid Waste within the 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 is delegated the authority pursuant to NMSA 1978, Section 4-56-1, et seq., to "establish and maintain, manage and supervise a system of storage, **collection** and disposal of all refuse"; and,

WHEREAS, NMSA 1978, Section 4-56-3 (E) (1971) provides that "[i]f the board of county commissioners has acted under this section to establish one or more sanitary landfill sites and is regulating the disposal of refuse in the county, it may establish, assess and collect fees from persons using the refuse disposal sites."; and,

WHEREAS, 20.9.2.9 (B) NMAC states that "[t]he state, and each municipality, county, or cooperative association shall provide a means to dispose of solid waste generated within its respective jurisdiction that has been approved by the secretary [];" and,

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 Commission has found and determined that control and regulation of the use of the County Solid Waste disposal methods is necessary for the protection of the public health and that it is necessary to conserve available solid waste disposal capacity as a public resource; and

WHEREAS, the Sierra County Commission has found and determined that Solid Waste Management and Disposal procedures as established and practiced to date in the County have proven economically unviable.

WHEREAS, the Sierra County Board of Commissioners previously adopted Ordinance No. 23-02, the Sierra County Solid Waste Ordinance, to regulate the collection, storage, and disposal of solid waste; and

WHEREAS, the Board has determined that clarification is needed to expressly prohibit the accumulation and disposal of refuse and household waste, and to remove references to terms not defined in state law; and

WHEREAS, the Board intends by this Ordinance to amend and restate Ordinance No. 23-02, such that the Ordinance remains in full force as amended, and that this document serves as the integrated version for enforcement purposes;

NOW THEREFORE BE IT APPROVED, ADOPTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF SIERRA COUNTY, NEW MEXICO THAT:

Section I. Short Title.

This Ordinance may be cited as the "Solid Waste Management Ordinance," and shall be referred to herein as the "Ordinance."

Section II. Solid Waste Disposal Fee.

A Solid Waste Disposal Fee is hereby established and imposed on all Solid Waste generated in Sierra County.

Section III. Authority.

This Ordinance 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 Section 4-37-1 NMSA 1978; the authority provided in Sections 4-56-1 through 4-56-3 NMSA 1978, 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 Sections 3-36-1 through 3-36-7 NMSA 1978, which enables the county to attach liens.

Section IV. Definitions.

As used in this Ordinance:

- A. 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.
- B. Commercial Property Owner- the owner of property assessed by the Sierra County Assessor as commercial.
- C. 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.
- D. Construction & 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.
- E. County Commission - the Sierra County Board of Commissioners, the duly constituted governing body of Sierra County.
- F. County Manager - the chief administrative assistant to the Sierra County Board of Commissioners.
- G. County Road Superintendent - the Sierra County employee is responsible for the administration of the Sierra County Solid Waste Program.
- H. 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. NOTE: locations of Transfer Stations may be changed from time to time as determined by the Board of Commissioners for Sierra County.
- I. Disposal Unit-means one cubic yard of Solid Waste.
- J. Franchise- the authorization granted by the County to a single person enabling the franchisee to operate a solid waste disposal business in the unincorporated area of the County.
- K. 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.
- L. Household Waste- any solid waste including garbage and trash, derived from household including single and multiple residences, residential property with trailer hookups, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas.

- M. 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.
- N. Property Owner or Owner – the person or persons identified as the owner of real property, as described on a real property deed or as listed as the owner of record in the Assessor's Office, whether residing on said property or not, the property being located within Sierra County and outside the corporate boundaries of the municipalities of any incorporated municipality within the County.
- O. 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.
- P. Premises - a structure, whether designed for residential or commercial use, located on any real property within Sierra County and outside the corporate limits of any municipality within the County.
- Q. Resident-an individual identified as residing within the boundaries of Sierra County.
- R. Residential Property Owner- the owner of property assessed by the Sierra County Assessor as residential.
- S. 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 collection and/or disposal of solid waste on that premises.
- T. Refuse - includes garbage and rubbish.
- U. 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.
- V. 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;
- W. Solid Waste Electronic Card- means an electronic card on which a dollar value for the disposal solid waste has been loaded. The electronic card will be debited per established disposal fee schedule when the solid waste is delivered to, measured and accepted by any convenience center in Sierra County.
- X. Solid Waste Disposal Fee- means fee charged by Sierra County or Solid Waste Contractor per the solid waste disposal fee schedule for the disposal of solid waste in Sierra County.
- Y. Solid Waste Contractor- means a person or company selected by the County through a competitive process to operate the County's solid waste program.
- Z. Solid Waste Facility - means any public or private system, facility, location, improvements on the land, structures or other appurtenances or methods used for processing, transformation, recycling or disposal of solid waste, including landfill disposal facilities, transfer stations, resource recovery facilities, incinerators and other similar facilities not specified, but does not include equipment specifically approved by order of the director to render medical waste noninfectious or a facility which is permitted pursuant to the provisions of the Hazardous Waste Act and does not apply to a facility fueled by a densified-refuse-derived fuel that accepts no other solid waste.

Section V. Accumulation of Solid Waste, Litter and C & D Debris; Removal; Penalty

- A. No person shall permit to accumulate any solid waste, refuse, household waste, or C & D debris on property owned, leased or occupied by that person within two-hundred (200) feet of another occupied premises, except in covered water-tight containers made of metal or plastic.
- B. No person shall throw, place, dump, or dispose of any solid waste, refuse, household waste, or C & D debris on any road, street, gutter, sidewalk or alley, or on any public property or another's private property.
- C. No person (whether owner, tenant, lessee, manager or other person) shall permit any solid waste, refuse, household waste, 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.
- D. No person shall cast, place, sweep or deposit any solid waste, refuse, household waste, 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.

- E. Any accumulation of solid waste, refuse, household waste, or C & D debris is a violation of the terms of this Ordinance and is hereby declared to be a nuisance and is unlawful.
- F. Subject to any limitations or otherwise provided by law, the Sheriff or a County Code Enforcement Officer or designated employee is authorized, upon issuance of a warrant, to inspect any property where he has probable cause to suspect that unlawful accumulations of solid waste, refuse, household waste, or C & D debris may exist.
- G. If, upon the basis of such inspection, the Sheriff or a County Code Enforcement Officer or designated employee finds that a violation of Subsections (A) through (E) 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.
- H. 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 County Commission shall contract for the correction by the County, at the expense of the person, owner, tenant, lessee, manager or occupant in charge of the property.
- I. If the Sheriff or designated employee finds that the unlawful accumulation of solid waste, refuse, household waste, 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.
- J. Costs for correction of an unlawful accumulation of solid waste, refuse, household waste, 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.
- K. 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. Illegal Disposal.

It shall be unlawful for any person to dispose of Solid Waste or C & D debris in any manner other than disposal in a County Transfer Station, Landfill or as otherwise authorized by New Mexico law as described in NMSA 1978, Section 74-9-31 (B) (1995) relating to solid waste generated the property.

Section VII. Prohibited Materials and Acts.

No person shall:

- A. Dispose of petroleum waste, sludge, domestic sewage, treated domestic sewage (which does not meet the analytical criteria of Section 704 of the Solid Waste Management Regulations; SWMR-4), septage, hazardous wastes, radioactive waste, lead-acid batteries, and infectious waste or any materials regulated under the Federal Toxic Substances Control Act, including PCB's in County facilities.
- B. Dispose of bulk or non-containerized liquid waste unless; 1) liquid waste is household waste other than septic waste; or, 2) the container holding liquid waste is a small container similar in size to that normally found in household waste and the container is designed to hold liquids for use other than storage, and the waste is household waste.
- C. Place in County maintained solid waste facilities, any poisons, acids, caustics, chemicals, waste contaminated by infectious diseases, radioactive waste, toxic, highly flammable or explosive materials. Waste of these types shall be disposed of in accordance with any applicable state and federal laws or regulations, at the expense of the person accumulating the waste. [SEMR-4(107)]
- D. Dispose of any junk parts or bodies of automobiles, tires, trees, or appliances containing cooling units in County facilities except in areas expressly designated for the type of disposal.
- E. Dispose of solid waste within Sierra County except in containers designated for waste disposal or solid waste disposal facilities. Discarding of solid waste on the ground or premises not designated for disposal will be considered a violation of this Ordinance.
- F. Throw, dispose, or allow by any other manner any solid waste or litter on any road, street, gutter, sidewalk, alley, or open space.
- G. Dispose of any materials other than household type waste in dumpsters for regular collection.
- H. Dispose of live animals in County maintained solid waste facilities.
- I. Dispose of dead animals in any County maintained solid waste facility except in areas which have been designated for their disposal.
- J. Dispose of solid waste in County maintained facilities without having first paid the proper assessment fee or obtained a non-resident or bulky waste permit.

Section VIII. Solid Waste Disposal at County Transfer Stations.

After the effective date hereof a person in Sierra County:

- A. Shall not enter the area designated as a Solid Waste Transfer Station before the hour of its opening or after the hour of its closing or at any time on any day when said area is not open to the public.
- B. Shall not deposit, dump, or release garbage, refuse or waste materials of any kind in any area within a Transfer Station or adjacent to a Transfer Station at any time that the Transfer Station is not open to the public.
- C. Shall abide by the lawful instructions of any attendant as to the dumping of demolition, construction or other bulky materials including hazardous materials, toxic and radioactive wastes, motor vehicles, and appliances.
- D. Shall not deposit C & D waste, hazardous waste or tires (unless specifically authorized) at County Transfer Stations
- E. Solid waste deposited at any County Transfer Station shall be sealed in bags or closed containers
- F. waste, dead animals, live pests, rocks, sand, dirt, C & D debris, 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.
- G. No yard waste, including grass and tree clippings, pine needles, leaves and cut weeds shall be placed in County solid waste containers or deposited at County Transfer Stations (unless specifically authorized on County clean-up days). 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 IX. Solid Waste Disposal Fees.

- A. A cardholder will be allowed to dispose of solid waste per the Solid Waste Disposal Fee schedule adopted by Resolution by the Board of County Commissioners of Sierra County, and subject to a governmental GRT if the system is administered by the County or will be subject to County GRT/. The fees established by Resolution will also be subject to an annual increase based on the Consumer Price Index for All Urban Consumers (garbage and trash sub index) (CPI-U)". Mileage for Commercial Roll Offs will be subject to a fuel surcharge calculated on the U.S. Energy Information Administration's U.S. On-Highway Diesel Fuel Prices on the 15th of each month with a baseline of \$1.25, July 15, 2021.

Section X. Uncovered or Unsealed Solid Waste Civil Penalty Fee.

Any solid waste delivered to a Transfer Station that is uncovered or not secured in bags shall result in a \$12 civil penalty fee to be assessed by the attendant.

Section XI. Transfer Station Availability.

The County Manager is hereby authorized to set the hours and days of operation for County Transfer Stations.

Section XII. Administration of this Ordinance.

- A. The County Manager, County Solid Waste Director or the Solid Waste Franchisee application and administration of this Ordinance by the Sierra County Solid Waste Department in any way involved in the administration of this Ordinance.
- B. Sierra County reserves to itself the right to execute any contract consistent with the terms of this Ordinance with any private, local, state or federal governmental entity to further the establishment, maintenance, management or supervision of its system to collect and dispose of solid waste generated in the unincorporated areas of the County.

Section XIV. Construction Sites & Transportation of Materials.

- A. Any person who has secured a state building permit for work that will generate solid waste or construction or demolition debris shall, before beginning any construction activity in the County, enter into a contract with the County to furnish and place a container on the property. If the permit or the nature of the work indicates that construction or demolition debris will be generated, a dumpster or similar container shall be required. A person may alternatively provide a fenced area of suitable size and design that is capable of containing all solid waste and C & D debris so that none can be distributed or removed from the premises or property by wind or the elements.
- B. 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.
- C. Any person engaged in construction or demolition shall remove the solid waste, refuse, household waste, 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.
- D. Any person hauling solid waste, refuse, household waste, or C & D debris shall do so only in a covered or enclosed vehicle.

Section XV. Scavenging Prohibited.

- A. No person shall remove, collect, or disturb solid waste or C & D debris stored in or disposed of in a solid waste facility or solid waste container unless authorized by the County.
- B. No person shall remove any solid waste or C & D debris from a solid waste container and scatter the same upon any public or private property.

Section XVI. Ownership of Solid Waste.

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 Solid Waste Franchisee except where state or federal requirements prohibit transfer of ownership. A licensed Solid Waste 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 XVII. Powers of the County.

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 responsible 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.
- E. Enter into an agreement with a Solid Waste Contractor to provide county solid waste disposal services.

Section XVIII. Penalties.

- A. 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 14.2 and 14.3 below.
- B. 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 Law, 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.

- C. 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 XIX. Prosecution.

Prosecution of violations of this Ordinance may be commenced by the filing of a criminal complaint or issuance of a citation charging the violation. Criminal Complaints or citations may be filed/ issued by the Sheriff, a code enforcement officer of the county or an employee or employees of the county authorized by the board of county commissioners to issue such citations. NMSA 1978, Section 4-37-3 (1993).

Section XX. Franchise Required.

It shall be a violation of this Ordinance for any Person to engage in the business of residential or commercial solid waste disposal without a franchise from the County. In addition to the criminal penalties set forth in the Ordinance the County may seek an injunction to require the Person to cease operations and to seek damages.

Section XXI. Repeal of Previous Ordinances and Resolutions.

Sierra County Ordinance 16-007 is hereby repealed, as well as all other County Ordinances or Resolutions relating to Solid Waste Disposal which are in conflict with the above provisions, by the adoption of this Ordinance.

Section XXII. Savings Clause.

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

Section XXIII. Effective Date.

This Ordinance shall be effective thirty (30) days from the date it is filed with the County Clerk after adoption by the Board of County Commissioners.

PASSED, APPROVED AND ORDAINED this 21st day of November, 2025 in the County of Sierra, in the City of Truth or Consequences, New Mexico.

James Paxon

James Paxon (Nov 22, 2025 11:53:28 MST)

James Paxon, Chair

Hank Hopkins

Hank Hopkins (Nov 24, 2025 12:54:28 MST)

Hank Hopkins, Vice-Chair

Sandy R Jones

Sandy R Jones, Commissioner

Attest:

Amy Whitehead

Amy K. Whitehead

Sierra County Clerk

