

XOMERA "97"

**SOLID WASTE ORDINANCE
OF
THE COUNTY OF RIO ARRIBA, NEW MEXICO**

**ORDINANCE #
97-04**

RIO ARRIBA COUNTY

NEW MEXICO

SOLID WASTE ORDINANCE

97-04

BOARD OF COUNTY COMMISSIONERS

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LORENZO VALDEZ – COUNTY MANAGER

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RIO ARRIBA COUNTY
SOLID WASTE MANAGEMENT ORDINANCE

Section 1. Authority

These regulations are created pursuant to the enabling authority set forth in SS4-56-2 et seq. NMSA 1978.

Section 2. Purpose

This ordinance is intended to eliminate illegal dumping and accumulation of solid waste, to preserve and to protect public health and the environment, and institute administration procedures to effectively manage solid waste generated in the unincorporated areas of Rio Arriba County.

This ordinance directs collection practices, establishes the responsibilities of individuals and businesses and defines the authority of the public agency.

This ordinance does not dictate a specific site for final disposal, nor intend to affect, incorporated or sovereign entities within the county. This ordinance directs Public Works to develop county-wide collection services operated through contract and to direct Environmental Health to manage special wastes, recycling and waste minimization, maintain quality standards and educational support.

Finally, the purpose of this ordinance is to preserve the health, safety, and convenience of the inhabitants of the county and to preserve and improve the environmental quality of the County.

Section 3. Definitions

For purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Ashes. The residue from the burning of wood, coal, or other combustible material.

Clean Fill - Implies broken concrete, brick, rock, stone, glass, reclaimed asphalt pavement, or uncontaminated soil generated from construction and demolition (C & D) activities. Reinforcement materials which are an integral part, such as rebar, are included. Clean fill will be free of other solid waste and hazardous waste.

Clear Sight - The required unobstructed view from a vehicle about to enter a street from a driveway, alley or another street, and on-coming traffic, as defined by the American Association of State Highway and traffic Officials (AASHTO), or the New Mexico State Highway & Transportation Department Driveway Manual.

Commercial Collection - all collection not otherwise defined as residential collection,

Commercial Hauler - Any person transporting solid waste for hire by whatever means for the purpose of transferring, processing, storing or 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.

Commercial Solid Waste - All types of solid waste generated by hotels, stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential, household and industrial waste.

Construction and Demolition (C&D) Debris. Materials generally not considered water soluble and are 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 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 C&D debris. Construction and demolition debris does not include asbestos or liquids including but not limited to waste paint, solvents, sealers, adhesives or potentially hazardous materials.

Convenience Center - A permitted facility which handles solid waste from the general public, making use of large containers in order to transport to landfills.

County of Rio Arriba or County - The area within the boundaries of the County of Rio Arriba, including privately owned land or land owned by the United States, except the areas within the limits of any incorporated municipality or tribes.

County Commission - Board of Commissioners of Rio Arriba County.

County Manager - The County Manager or his designated representative.

Debris - All waste building material, bricks, concrete blocks, shingles, roofing materials, lumber, metal or plastic piping, commercial construction wastes and any other matter that is commonly known as debris.

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 animals and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

Hazardous Waste. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility or other discarded material, including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, commercial, mining or agricultural operations or from community activities, which because of its quality, concentration or physical chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible 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 Rio Arriba County Manager or designated representative.

Hot Waste - any waste which 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, with eight or less units, 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. Such waste may include, but not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemical; 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:

1. 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.
2. Pathological wastes, including human and animal tissues, organs and body parts, removed during surgery, autopsy or biopsy;
3. Disposable equipment, instruments, utensils, and other disposable materials which require special precautions because of contamination by highly contagious diseases.
4. Human blood and blood products, including waste blood, blood serum and plasma.
5. Used sharps, including used hypodermic needles, syringes, scalpels blades, pasture pipettes and broken glass.
6. Contaminated animal carcasses body parts and bedding, especially those intentionally exposed to pathogens in research, in the production of biological or the "in vivo" testing of pharmaceuticals.

Landfills - A solid waste facility, permitted by NMED and appropriately zoned that receives solid waste for disposal and includes the following classification:

1. Municipal landfill means 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 waste, such as but not limited to, sludge, small quantity generator waste, industrial solid waste, construction and demolition debris; a municipal landfill may be publicly or privately owned and may be existing, new or a lateral expansion.
2. Special waste landfill means a landfill which 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.

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

Owner - The property owner, whether residing in said premises or not.

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

Premises - An improved or unimproved structure which can be designed for private or commercial use.

Public Place - Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, spaces, grounds and buildings.

Recyclable Materials - Some 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-refuse-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, offal, swill, carrion, ashes, dirt, slop, waste paper, trash, rubbish, waste, street clearings, and industrial wastes.

Residential Collection - All collection from two or more dwelling units on a single site, and single dwellings, used as a residence or providing living accommodations.

Responsible Party - Owner of any premise, whether vacant, improved or unimproved, used primarily for either private or business purpose.

Reuse - The return of commodity into the economic stream for use in the same kind of application as before without change in its identity.

Rubbish - Includes but is not limited to all non-putrescible solid wastes (excluding ashes), both combustible and non-combustible, 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.

Site - A lot or combination of lots held in single ownership and requiring refuse collection service. If several adjacent lots are owned by a developer at the time of building permit issuance, they will be considered separate sites.

Solid Waste - Any garbage, refuse and other discarded materials including solid, liquid, semisolid, or contained gaseous materials resulting from industrial commercial, mining, and agricultural operations and from community activities, but does not include, drilling fluids, fly ash waste, waste from extraction of ores and minerals, cement kiln dust waste, sand and gravel, solid or dissolved materials in domestic sewage, or densified-refuse-derived fuel.

Solid Waste Facility - A facility that is permitted by the NMED to accept solid waste from the public, which includes convenience centers, transfer stations, and landfills.

Special Wastes - The following types of solid waste that have unique handling, transportation, or disposal requirements to assure protection of the environment and the public health, welfare and safety:

1. Treated formerly characteristic hazardous wastes (TFCH).
2. Packing house and killing plant offal.
3. Asbestos waste.
4. Ash.
5. Infectious waste
6. Sludge
7. Industrial solid waste
8. Spill of a chemical substance or commercial product
9. Dry chemicals, which, when wetted, become characteristically hazardous
10. Petroleum contamination soils.

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

Transfer Station - A facility which handles solid waste in large containers or vehicles for transfers to another facility and includes, but is not limited to, a "convenience center" which accepts solid waste from the general public.

Yard Refuse - Vegetative matter resulting from landscaping, land maintenance and land clearing operations.

Section 4. Administration

- A. The County Manager is responsible for the administration of this ordinance.
- B. Powers delegated to the County Manager may be delegated by the County Manager to other appropriate County divisions and departments as deemed necessary to carry out the requirements of this ordinance.
- C. County Manager may recommend rules and regulations to Rio Arriba county Commission to carry out the intent and purpose of this ordinance. County Manager may establish policies and procedures.
- D. The County Manager shall recommend fees to the County Commission through resolution and to establish reasonable fees for services for which fees are not otherwise provided herein.
- E. The County Manager shall have the authority to delay collection services for failure to comply with this ordinance and the rules and regulations prescribed, or to take legal action to collect fees owed to the County pursuant to this Ordinance.
- F. It shall be unlawful for any person to interfere with any County employee or authorized County contracted collection service employee while in the performance of their duties as authorized by county Ordinances and Regulations.

Section 5. Collection Authorization

- A. *Handling of Refuse Regulation* - Except as otherwise provided herein, all refuse accumulated in the county shall be collected, conveyed, and disposed of in accordance with this ordinance and State and Federal Regulations. No person shall collect, convey over any of the streets or roads of the county, or dispose of any refuse accumulated in the county except as herein provided. The County Manager shall have the authority to establish procedures concerning the days of collections, type and location of pick-up, conveyance and disposal as he should find necessary and to change and revoke same.
- B. *Handling of Refuse by Others* - Section 4.A of this ordinance shall not prohibit the actual producers of refuse or the owners of premises upon which refuse has accumulated personally collecting, conveying and disposing of such refuse, provided producers or owners comply with the provisions herein and with any other governing law or ordinances

which regulates the disposal of solid waste and that they pay all applicable collection fees, whether the collection service is utilized or not.

C. *License to Transport Refuse* - The County Manager may implement a licensing requirement to transport, by persons other than actual producers or owners of premises, certain types of refuse, and impose a licensing fee as approved by the County Commission. Revenues from this fee shall be used to support the solid waste program, develop and operate recycling programs, waste minimization efforts, education programs or other purposes within the scope of solid waste management. The county Manager may develop regulations for approval by the County Commission regarding requirement for licensing, including but not limited to minimum standards of service, insurance requirements, bonding requirements, vehicle capacity and size and reporting requirement.

D. *Regional Resource Recovery Program* - The County Manager is authorized to initiate studies for the need, location, and operation of facilities to recover materials or energy resources from solid waste, and to implement program to achieve resource recovery.

Section 6. Pre-Collection Practices

A. *Separation of Refuse* - Garbage, ashes, and recyclable material shall each be placed and maintained in separate containers if the County Manager so requires.

B. *Preparation of Refuse* - All garbage before being placed in garbage containers for collection shall have been drained of all free liquids.

C. *Duty to Maintain Containers in Sanitary Condition* - Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this ordinance or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replace.

D. Commercial Refuse Containers

1. Commercial/or business establishments, may be required to furnish metal bins built according to specifications as set forth by the County Manager. They shall be kept in a clean, neat, and sanitary condition at all times. This shall include a requirement that the bins be kept painted as necessary to maintain the clean and neat condition. Specifications shall be based on the volume and type of refuse produced by the particular commercial or business

establishment or multiple family dwelling. It may be the duty of the service recipient to provide containers that are compatible with the collection equipment and meet all other specifications established by the County Manager.

2. Containers for Hot Ashes and Other Materials.

- a. No person shall deposit hot ashes or cinders, smoldering coals, or greasy or oily substances susceptible to spontaneous ignition; into any combustible receptacle, or place the same within ten feet of any combustible materials, except in metal or other non combustible receptacles. Such receptacles, unless resting on a non combustible floor or on ground outside the building, shall be placed on non combustible stands, and in every case shall be kept at least two feet away from any combustible wall or partition or exterior window opening.
- b. For at least 24 hours prior to the scheduled time of collection, ashes or cinders shall be cold and shall be placed at the collection point in containers of disposable cardboard or similar material. The containers shall have a capacity of not more than 20 gallons and when loaded shall weigh not more than 50 pounds.

E. Residential Refuse Containers

1. Single family dwellings and multiple family dwellings of two or more dwellings on a single site, and mobile homes of two or more mobile homes on a single site shall be required to enclose refuse in plastic bags or containers. These containers or bags must conform to hauler pick-up specifications, as approved by the county Manager, or to procedures promulgated by the County Manager. All containers must be tightly secured so as to prevent refuse 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 refuse suitable for the bundling will be tied in bundles not to exceed four feet in length and two feet in diameter. Plastic bags shall be of sufficient strength so as not to tear with normal handling at maximum capacity.
2. Residential refuse, when served by roadside collection, shall be placed out for pick up no later than 7:00 a.m., on the regularly scheduled day but no earlier than 7:00 p.m. the evening prior to pick up unless otherwise specified by the County Manager or his designated representative. Residents who put their refuse out after the collection truck has been there, or have had their refuse blocked or hidden from view by any object, such as a vehicle, shall be responsible for storing their refuse until their

next regular day of pick up, or disposing of it at an approved disposal facility.

3. Residential refuse, when served by roadside collections, shall be placed as close to the roadway as possible and shall be clear of vehicular traffic, and shall not prohibit pedestrian movement. Such refuse shall be clearly visible and accessible to refuse collection, and free from any obstructions including but not limited to trees, shrubbery, walls, fences, and vehicles. Residents who fail to comply with these requirements, shall be responsible for storing their refuse until their next regular pick up day, or disposing of it at an approved disposal facility. The County Manager or his designated representative shall have the authority to designate the collection site where required by special circumstances based on standards and regulations authorized by this ordinance.
4. For at least 24 hours prior to the scheduled time of collection, ashes or cinders shall be cold. They shall be placed at the collection point in containers of disposable cardboard or similar material.

Section 7. Ownership of 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 an approved solid waste disposal facility, or removed by a licensed private hauler. A licensed private hauler who removes solid waste from a property shall take ownership of waste until it is taken to a convenience center or approved landfill.

Section 8. Storage of Refuse for Collection

- a. *Appearance of Collection Points* - At every collection point which is within 80 feet of a public street, refuse containers shall be properly maintained and may require to be shielded from view from such public street by wall, fence, earth burn, or evergreen trees or shrubs forming an essentially opaque, attractive sight barrier, which shall be termed a sight shield. No commercial collection point shall be on public street right of way unless an appropriate variance is granted
- b. *Selection and Design of Collection Points* - Specific points for collection, refuse storage, and pickup shall be designated by the County Manager, using the following procedure and criteria.
 1. *Site Plan Submission* - A property owner or his agent, whose site plan of the whole site for which service is desired. The plan shall be drawn accurately, at a scale adequate to clearly show all the following required

data:

- a. Lot lines
- b. Existing and planned buildings.
- c. Proposed collection points and sight shields.
- d. On the premises or on public right-of-way within 15 feet of the premises - existing and planned sidewalks, curb cuts, drives, parking spaces, landscaping, recreation areas, free-standing signs, poles (e.g., street lights), and other structures, provided that these items may be omitted where not within 15 feet of a street, private drive, or refuse collection point.
- e. On the premises or adjacent to the premises of public right-of-way - fire plugs and bus stops.
- f. Neighboring structures within 100 feet.

2. Sight Shield Plan Submission - A property owner or his agent, whose property will require collection, may be required to submit a site plan of the proposed refuse container sight shield when the site plan is submitted.

3. Site Plan Review and Approval

- a. The county Manger may approve requested locations for collection and sight shields or may require alternative locations. Such alternative locations shall be drawn on the relevant site plan prior to final approval.
- b. The county Manager shall evaluate and select locations for collection according to the following criteria:
 1. Collection from public alleys shall be maximized, to the extent that it is consistent with efficient collection routes.
 2. Ready, safe access by Collection vehicles and crews shall be available.
 3. View from public street shall be minimized.
 4. Distance from residences and outdoor recreation or relaxation areas shall be maximized.
 5. Distance from bus stops shall be maximized.
- c. No site plan shall be approved if it is contrary to the provisions of the Zoning Ordinance. No site plan shall be approved if it would place a container which is over three feet high in a required front, side, or rear

zoning setback area unless such a container was approved prior to effective date of ordinance.

D. No site plan shall be approved if it locates a container on public street right-of-way, or in a location in conflict with clear sight requirements for driveways or intersections, unless an appropriate variance is granted.

E. At the time the site plan is submitted, the County Manager shall confirm that collection service is appropriated as provided for herein.

4. Sight Shield Plan Review and Approval. The County Manager shall approve plans for design of sight shields for collection points according to the following criteria:

(a) The site shall provide an attractive sight shield between public streets and refuse containers.

1. While a straight sight shield will usually be sufficient, the County Manager may require up to four sides with a movable gate or door if it is determined that this is necessary to sufficiently diminish the view of the refuse container from public streets.

2. The height of the sight shield shall be not less than the height of the container which is or will be utilized on the site. This height shall in no event be less than 36 inches.

3. The location, design, color, and material of the sight shield shall be compatible with the principal building, the use of the site, and the landscaping thereof.

(b) The sight shield shall not interfere with reasonable refuse collection.

(c) The sight shield shall be so constructed that reasonable wear and tear from refuse collection should not damage it. If applicable, the sight shield's inside width shall be no less than the width of the designated container plus two feet additional clearance allowance for each side from inside of protective poles. The site shield have inside protective steel poles, with a four inch outside diameter set in concrete, no less than 36 inches high on sides and back in sufficient number to protect the shield from refuse containers.

(d) The site shield plan approved under this section may be revoked in the event the type, size, or number of containers used at the site changes or that the sight shield is improperly installed or maintained, so that it does not attractively screen the collection site as intended

- (a) Would result in a condition injurious to public health or safety;
or
- (b) Is not justified by a weighing of the relative interests of the applicant and general public.

(4) Variances granted shall be based on specified findings, and a written record of such findings and decisions shall be preserved.

(5) More detailed guidelines for granting variances may be developed by the County Manager as part of the rules and procedures developed pursuant to this ordinance.

(6) The County may adopt fees to pay the County costs for processing site plan approvals, variance requests, and appeals, by resolution submitted to and approved by Rio Arriba County Commission.

Section 9. Collection Practices

(A) Mandatory Collection Services

(1) The County Manager may designate areas of the county to be served by mandatory collection services. The services may include roadside collection, area collection or other types of collection procedures deemed appropriate for the area by the County Manager for residential collection. Residential or businesses – located within the area and included in the service designated by the County Manager shall pay the applicable service fee whether or not the services are utilized.

(B) Frequency of Collection.

(1) Residential. Refuse accumulated by residence shall be collected at such times and frequently as deemed necessary by the County Manager.

(2) Commercial. Hotels, restaurants, and other such businesses and institutions as deemed necessary may enter into an agreement for greater frequency of collection.

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

(b) Where commercial establishments are included in a County contracted service area, the County Manager shall have the authority to determine when inaccessible containers will be serviced, provided, however, the County Manager has the authority

to charge additional fee for such collection, established by resolution.

(C) All commercial 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 pick-up solid waste within 200 feet of a school site within one-half hour of school opening or closing for the day.

(C) Limitations on Quantity.

(1) Residential. In areas designated for mandatory collection services, the County shall collect the refuse of each residence during collection period for the standard charge. Any excessive accumulation as determined by the County Manager may require a special collection at an additional fee.

(2) Commercial. Any excess accumulation outside the designated contracted container shall be prohibited. The refuse must not exceed the container capacity and the refuse container lid must be closed at all times.

(D) Special Refuse Problems.

(1) Infectious Refuse. Wearing apparel, bedding, refuse or other infectious or contagious material from homes, hospitals, doctors offices 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 refuse shall immediately notify the New Mexico Environmental Improvement Division who shall provide technical assistance on proper collection and disposal of such materials, at the expense of the Owner or possessor thereof.

(2) Flammable or Explosive Refuse. Flammable or explosive material shall not be placed in containers for regular collection and disposal. The producers of such refuse shall immediately notify the Rio Arriba County Fire Marshall Office who shall provide technical assistance on the proper collection and disposal of such material at the expense of the owner or possessor thereof.

(3) 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 New Mexico Environmental Improvement Division Environmental Health 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 unincorporated areas of Rio Arriba County.

(E) Collection by actual commercial producers.

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

(2) Disposal. Disposal of refuse, and construction and demolition debris, by persons so permitted shall be made at a site, fully permitted by the New Mexico Environment Department and in compliance with regulations, and in compliance with zoning regulations, and in compliance with the County of Rio Arriba County Ground-Water Protection Policy and Action Plan and other local land use policies.

(3) Rules and Regulations. The County Manager shall have the authority to make other such reasonable regulations concerning individual collection or disposal.

(4) Applicable Fees. Nothing herein shall be construed to exempt such procedures or owners from the fees required within mandatory service areas.

(F) Change Between Residential and Commercial Collection Service.

Notwithstanding any other provisions in this ordinance, the County Manager may require the person in control of real property to receive a type of collection service other than as defined in this ordinance, according to the following standards.

(1) Criteria for change between residential and commercial collection service shall be as follows:

(a) One or more of the following circumstances exist as to existing service:

1. The site serviced is unable to comply with requirements of this ordinance, unless the type of collection is changed;

2. The existing collection service cannot conform with all other applicable County ordinances;

3. Use of the existing collection service creates a health or safety hazard:

4. There have been frequent, substantial amounts of loose refuse around the collection container; or

5. The customer requests the change in service.

(b) In addition, the new class of service would meet all of the following criteria:

1. The site serviced will be able to comply with the requirements of this ordinance.

2. The new collection location conforms with all other applicable County ordinances; and

3. The new service would not be likely to create a health or safety hazard.

(2) The owner or person in control of the real property shall be notified in writing of the County's intended change of service at least 14 days in advance of its effective date.

(3) The owner or person in control of real property may appeal in writing the proposed collection service change to the County's Hearing Examiner. The County Commission may, by resolution, adopt a fee to recover the County costs of such an appeal.

(G) Holidays - The County will observe the following Holidays as non-collection days : New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas. Collection shall occur on an alternate day approved by the County Manager. Commercial collections on such holidays shall be performed on the day either prior or after the holiday at the opinion of the County Manager.

Section 10. Collection Fees

(A) Mandatory Collection Areas

(1) Fees for collection and disposal of waste in areas designated as mandatory collection areas by the County Manager shall be established by and adopted through resolution by the County Commission. Fees for collection service within mandatory service areas shall be the responsibility of the property owner.

(2) Upon collection of service fees for collection and disposal of waste the County Manager is authorized to use those fees to pay any contractual obligation to contract waste collection companies for services rendered, and may use any remaining funds for development and delivery of educational programs relating to solid waste management, development and support recycling and waste minimization programs, development of a County Solid Waste Department, or other uses which enhance the management of solid waste in the County.

(B) Commercial Collection. Hotels, restaurants, other establishments and businesses, institutions, and receiving commercial type service in designated mandatory collection areas and included in a County service contract shall have fees based on the type and frequency of service and the volume of the refuse container required to collect such refuse. The fees will be established where applicable, and adopted by the County through resolution.

(C) Starting Service; All premises included in designated mandatory collection areas, shall be charged refuse 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. It shall be the duty of the builder, contractor, agent, or owner to notify the County in writing at the time of the sale.

(2) Vacant commercial premises, including single-family dwellings Commercial premises, and single family dwellings, included in a County Controlled service area, which become vacant shall continue to receive charges until proper written application to stop charges is approved by the County. The owner, tenant, lessee, manager, or occupant shall make such written application to the County Solid Waste Management Program. Charges will be stopped upon notification to the County Solid Waste Management Program.

a. If refuse is found at the premises during temporary suspension of services and it is determined said refuse was generated by lawful occupants of the premises, the customer may be back billed for entire suspension period. All charges are on a full month basis and shall not be prorated.

b. Written request should be mailed to:

Rio Arriba County
c/o Public Works
P. O. Box 1256
Española, New Mexico 87532

c. Request by telephone cannot be honored

(3) Credit or back charge adjustments may be made retroactive, however, such adjustments shall not exceed a period of four years.

(4) Any false statement made within any application or request pursuant to this ordinance constitutes a violation of this ordinance.

(D) Payment. All charges for solid waste collection services within mandatory collection areas shall be payable to Rio Arriba County at locations as designated by the County Manager and will become delinquent 30 days following the "due by" date on the customer's utility statement.

(E) Penalty. A penalty of 12% per annum may be imposed on all delinquent accounts, and assessed on a monthly or quarterly basis.

(F) Responsibility of Payments, Liens, and Deposits.

(1) The charges provided for herein are the personal responsibility of the owner of the property served:

(2) The County may file a lien on such property for such unpaid charges including any interest or penalties accruing.

(3) In the event the property is sold, the original owner shall notify the County as provided herein, the date of the transfer of title and the name and address of the new owner.

(4) Reasonable deposits may be required of any customer, when the County Manager deems it appropriate. Such deposits shall draw reasonable interest as determined by the County Manager

(G) Delinquency & Lien. The County shall have a right to proceed for collection of such unpaid charges in any manner allowed by law, including all claims, court cost prior to lien.

(H) Delinquency Notice; Hearing; Lien

(1) On or before May 1 of each year, the County Manager or his designee shall send notice to every person still owing garbage assessments billed the previous fiscal year. Each notice shall state the assessment and penalty amounts owed and shall provide notice that a lien in the amounts owed shall be placed on the property if payment is not received by June 1. On or before June 10 of each year, the County Manager's Office shall prepare an assessment

roll showing all delinquent assessments billed in the previous fiscal year. The assessment roll shall list, in columns:

- a. The name of the owner, if known, of the parcel of real estate being assessed.
- b. A description of the parcel of real estate being assessed;
- c. The amount assessed against each parcel of real estate; and
- d. A description, in general terms, of the removal and what was removed.

(2) The County Clerk shall publish notice stating that the assessment roll for delinquent garbage collection charges due is on file in the office of the County Clerk and the time and place when the Governing Body will hear appeals or protests by any person aggrieved by the assessment. The notice shall be published once, not less than ten (10), nor more than twenty (20) days before the day of the protest hearing. If the address of the owner of the real property is known, a copy of the notice shall be mailed by certified mail, return receipt requested, to the known address of the owner of the real property being assessed.

(3) At the protest hearing required herein, any interested person may protest to the Governing Body:

- a. The Regularity of the proceedings;
- b. The amount assessed against the real estate; or
- c. The correctness of the amount of the assessment.

4. The Governing Body shall:

- a. Determine the regularity of the proceedings;
- b. Correct any errors found in the assessment; and
- c. By resolution, confirm the proceedings and the assessments. The proceedings and assessments so confirmed shall be deemed to be the final determination as to the regularity, validity and correctness of the assessment.

5. On or before July 1 of each year, the County Manager shall certify to the Governing Body a list containing any delinquent assessment with penalty added for nonpayment of the assessment at the rate of one percent (1%) per month of any assessment confirmed by resolution as provided in Paragraph D

of this subsection, and describe the parcel of real estate to which the assessment is applicable. After the certified list is accepted by the Governing Body, the assessment shall be a lien, when processed against the parcel of real estate and shall be processed as provided in Sections 3-36-1 through 3-36-5 NMSA 1978. any such lien shall be a lien superior to all other liens except general property taxes upon the property so charged and a personal liability of the owner of the property so charged and shall bear interest at the rate of one percent (1%) per month.

(I) Notice of Lien; Charge for release of lien

1. Within sixty (60) days from the date of the filing for record of the claim for lien, the County Manager's Office shall mail to each delinquent property owner, as shown by his records, addressed to such owner at the same address for the mailing of statement, a notice of delinquency, notifying such owner that a claim of lien on the property affected has been filed, of the amount required to secure the release thereof and that the lien may be foreclosed as provided in Section 3-36-4 or 3-36-5 NMSA 1978.

2. There shall be assessed by the County a fifteen-dollar (\$15.00) fee for the processing of a release of lien for delinquent service fees. The lien processing fee shall be added to the delinquent service fees. The lien processing fee shall be added to the balance due the County and shall be treated as a fee due the County. This charge shall be collected, whether release is sought prior to or after the commencement of the foreclosure proceedings to enforce the lien for delinquent garbage assessments.

3. In the event a suit to foreclose the lien has been instituted, such suit shall be dismissed at any time before foreclosure sale upon receipt of all fees, penalties and interest provided for herein, in addition to payment of all costs of the foreclosure proceeding attributable to the property sought to be released, including reasonable attorney's fees to be fixed by the court in which such foreclosure proceeding has been instituted.

(J) Grievance, Procedure; No withholding of payment

1. If a person served by the County has a grievance, that person shall file a written complaint with the County Manager. The County Manager shall schedule a hearing on the complaint within fifteen (15) days and send notice of the hearing to all parties by registered or certified mail no less than fifteen (15) days prior to the scheduled hearing date. The County Manager shall hear the evidence and grant the appropriate relief, including, ordering the County to change its practices, ordering adjustment of amounts paid to the County, or any other remedy that is appropriate.

2. Persons shall not withhold payments owed the County. Failure to pay

appropriate statements or to bring current his/her delinquent account will entitle the County to pursue its legal remedies under the applicable laws.

(K) Use of County Convenience Centers

(a) Any Residential producer of refuse, to include county residents, may dispose of said refuse at any County Convenience Center. Fees for use of the convenience center shall be established by resolution.

(B) Any business or institution may dispose of refuse, at any County Convenience Center. Any uncovered or unsecured load will be charged an additional fee. Fees for use of the convenience center will be established by resolution.

(C) Any vehicle transporting material to any County Convenience Center is limited to a rated capacity of two tons or under.

(D) Salvaging and scavenging is prohibited at the County Convenience Centers or Transfer Stations at all times.

Section 11. Educational Programs

The County may provide educational programs relating to solid waste management and waste minimization. These programs may include, but are not limited to, development of collection programs, recycling programs, proper handling of special waste, and the understanding for the need for waste minimization and pollution prevention. Funding for these programs include revenues from collection services, licensing fees, environmental gross receipts tax or other revenues which can legally be used for this purpose. The County may appropriate funds annually for these educational programs.

Section 12. Dumping, Accumulating, and Scattering of Refuse

(A) *Dumping.* No person shall discard refuse anywhere outdoors within the boundaries of the County except at a time and place approved for collections of that person's refuse under the terms of this ordinance and regulations authorized by said section or other provisions of this code or ordinances of the County. No person shall place refuse in a receptacle of another person.

(B) *Unauthorized Accumulation.* It shall be unlawful for any person to allow any refuse to collect or accumulate on any lot or other premises within the County of which they are the owner, tenant, lessee, manager, or occupant. Any such unauthorized accumulation or collection is hereby declared to be a nuisance and is prohibited. In the event such person fails or refuses to remove such accumulation or collection of refuse, the County shall cause same to be removed at the expense

of such person, and charge a lien upon the property.

(C) *Scattering of Refuse.* No person shall cast, place, sweep, or deposit anywhere in the County any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any premises within the County.

(D) *Accumulation of Construction Debris.* Debris resulting from construction of structures may be collected within an active construction site if, and only if, the refuse is contained in such a manner that it will not be carried or deposited by the elements upon any street, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any premises within the County.

(E) *Burden of Proof.* In the event any person(s) name or other identification is affixed or found on any illegally disposed of refuse or rubbish on three or more separate items such evidence shall constitute prima facie evidence and presumptive proof of a violation of this ordinance; the burden of proof to establish a non-violation of this ordinance shall be on such person(s).

(F) *Accumulation of Recycling.* Nonwithstanding other provisions of this ordinance, for any person may accumulate and collect rubbish for the purpose of recycling it, provided that any collection point;

- (1) Conforms to the Zoning Requirements;
- (2) Is not on public right of way;
- (3) Is constructed so that the rubbish is contained at the collection point in compliance with Section 12.C above, and
- (4) Is shielded from public view.

(G) *Notice of Violation.* Any such person who violates the provisions of Section 12 shall be issued a Notice of Violation. If the person fails to remedy due violation within the specified time, then the County will require the work be started at the site immediately at the expense of the owner, and charge a lien on the property.

(H) *Urgent Work.* If, in the judgment of the County Manager, safety or public health is at risk, or the public interest require that site be cleaned rapidly, the County Manager may require the owner to employ sufficient manpower supplied by the owner to clean the site within 24 hours. If the person fails to remedy due violation within the specified time, then the County will require the work be started at the site immediately, at the expense of the owner, and charge a lien of the property.

(I) *Inspection.*

The County Manager may make such inspections as are reasonably necessary in the enforcement of this ordinance.

(J) *Littering*

- A. littering consists of discarding refuse:
 - (1) 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
 - (2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof.
- B. Whoever commits littering is guilty of a petty misdemeanor. The use of uniform traffic citations is authorized for the enforcement of this section. The court may to the extent permitted by law, as a condition to suspension of any other penalty provided by law, require a person who commits littering to pick up and remove from any public place or any private property, with prior permission of the legal owner, any litter deposited thereon.
- C. Any jail sentence imposed pursuant to Subsection B of this section may be suspended, in the discretion of the magistrate or judge, upon conditions that the offender assist in litter clean-up in the jurisdiction for a period not to exceed the length of the suspended sentence.

Section 13. Burning of Garbage

No garbage, refuse, or debris shall be burned within the County. Yard waste may only be burned when properly permitted by the County Fire Marshall Office.

As per State Statue 30-17-1 IMPROPER HANDLING OF FIRE

Improper handling of fire consists of:

- a. setting fire, or causing or procuring a fire to be set to any inflammable vegetation or forest material, growing or being on the land of another person and without the permission of the owner thereof;
- b. allowing fire to escape or spread from the control of the person having charge thereof without using reasonable or proper precautions to prevent such fire from escaping or spreading;
- c. burning any inflammable vegetation or forest material, whether upon his own land or that of another person, without using proper and reasonable precaution at all times to prevent the escape of such fire;
- d. leaving any campfire burning and unattended upon the lands of another person; or
- e. causing a fire to be started in any flammable vegetation or material, growing or being upon the lands of another person, by means of lighted cigar, cigarette, match or other manner, and leaving such fire unquenched.

Provided, nothing herein shall constitute improper handling of fire where the fire is a backfire set for the purpose of stopping the progress of a fire when actually burning. Whoever commits improper handling of fire is guilty of a petty misdemeanor.

Section 14. Enforcement and Penalty

Any person convicted of a violation of the provisions of this ordinance or any regulation promulgated hereunder shall be guilty of a 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. The Rio Arriba County Commission may designate trained employees of the commission vested with police powers to enforce the provisions of Section 30-8-4 NMSA 1978. In addition, members of the state police officers and those employees of the County Commission [county division of the energy, minerals, and natural resources department] vested with police powers shall enforce the provisions of that section.

Section 15. Injunctive Relief

The placement of any fill material which 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 abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Section 16. Conflict of Ordinances

In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning/building, plumbing, fire, safety, or health ordinance or code effective in Rio Arriba County, the provision, which reasonably establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

Section 17. Severability

The provisions of this ordinance are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to the persons or circumstances.

Section 18. Amended and Effective Date

This ordinance shall take effect 30 days after final adoption by the Board of County Commissioners of the County of Rio Arriba.

PASSED, APPROVED, ADOPTED, and SIGNED this 16 day of June, 1999.

APPROVED AS TO FORM:

BOARD OF COUNTY
COMMISSIONERS

Seamus Tuckett
County Attorney

Alfredo Montoya
Alfredo Montoya, Chairman
Dist. 2

RECOMMENDED BY:

Ray R. Tafoya
Ray R. Tafoya,
Dist. 1

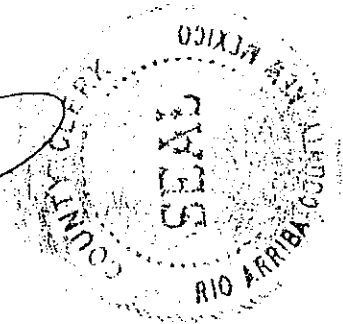
Lorenzo Valdez *ACTING*
Lorenzo Valdez, County Manager
Rio Arriba County

Moises A. Morales Jr.
Moises A. Morales, Jr.,
Dist. 3

James V. Lujan
James V. Lujan, Director of
Public Works - Rio Arriba County

ATTEST:

Fred Vigil
Fred Vigil, County Clerk



Revised April 7, 1999
Renee Martinez,
Public Works Secretary

AMENDING THE RIO ARRIBA COUNTY SOLID WASTE ORDINANCE, AS ADOPTED AUGUST 28, 1997.

BE IT ORDAINED BY THE RIO ARRIBA BOARD OF COUNTY COMMISSIONERS ON THIS 16 DAY OF June, 1999 THAT THE SOLID WASTE ORDINANCE, REGULATIONS SHALL BECOME EFFECTIVE THIRTY (30) DAYS SUBSEQUENT TO DATE OF APPROVAL.

BOARD OF COUNTY COMMISSIONERS

Alfredo L. Montoya

Alfredo L. Montoya Chairman County Commissioner

Moises Morales
Moises Morales, County Commissioner

Ray Tafoya
Ray Tafoya, County Commissioner



Lorenzo Valdez ACTING
Lorenzo Valdez, County Manager

James V. Lujan
James V. Lujan, Public Works Director

159160
FILED IN THE COUNTY
CLERK'S OFFICE
AT 4:47 O'CLOCK P.M.
Book 1 Page 1309-1338

JUN 30 1999

Fred Vigil
County Clerk RA County
New Mexico
By Loren Casas Deputy

ATTEST:
Fred Vigil
Fred Vigil, County Clerk