

**VALENCIA COUNTY, NEW MEXICO**  
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**LOS LUNAS, NEW MEXICO 87031**

# **VALENCIA COUNTY**

## **VALENCIA COUNTY SOLID WASTE ORDINANCE**

**PASSED: \_\_\_\_\_, 2023**

**EFFECTIVE: \_\_\_\_\_, 2023**

## **PREAMBLE**

**WHEREAS**, the Valencia County Board of Commissioners met upon notice of a Business Meeting, duly published, at the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031 on Wednesday, May 7, 2023, at 5:00 PM as required by law; and,

**WHEREAS**, NMSA 1978, Section 3-18-1 provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1, have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 *et seq.* provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and

**WHEREAS**, NMSA 1978, Section 4-56-3 (1971) expressly authorizes the Board of County Commissioners to establish a system of collection and disposal of refuse; and

**WHEREAS**, the Board of County Commissioners has provided at least twenty days' notice of the meeting at which final action to establish a system of fees is to be taken and published such notice once in a newspaper of general circulation in the county at least fifteen days prior to the meeting as required by NMSA 1978 § 4-56-3 (1971); and,

**WHEREAS**, the Board of County Commissioners here seeks to preserve the health, safety, welfare and convenience of the inhabitants of the county, and to preserve and improve the environmental quality of the county by providing for residential and commercial solid waste collection; defining types of services, providing authority for establishing fees, defining the minimum standards for collecting and & disposing of solid waste; establishing the responsibilities of residents, businesses, contractors and the county; and defining violations and penalties and the status of existing contractor(s).

**NOW, THEREFORE, BE IT ORDAINED** by the Valencia County Board of Commissioners that the following provisions shall be enacted to provide for the handling and disposition of Solid Waste in the County of Valencia and, by adoption of this Ordinance, hereby expressly repeal Ordinance 2010-01 and 2017-02, as well as all other Valencia County Ordinances relating to solid waste that conflict with the provisions outlined below.

## **CHAPTER 50: SOLID WASTE**

### **MANAGEMENT**

**50.1 Short title**

**50.2 Authority**

**50.3 Purpose and intent**

**50.4 Interpretation and conflict**

**50.5 Definitions**

**50.6 Administration**

**50.7 Accumulation of solid waste, litter and construction and demolition debris; removal; penalty**

**50.8 Solid waste, litter and construction and demolition debris pre-collection practices**

**50.9 Solid waste containers**

**50.10 Toxic, corrosive, ignitable, flammable, explosive or other prohibited solid waste**

**50.11 Construction sites and transportation of materials**

**50.12 Scavenging prohibited**

**50.13 Regulations adopted**

**50.14 Powers of the county**

**50.15 Solid waste collection authorization**

**50.16 Solid waste pre-collection practices**

**50.17 Ownership of solid waste**

**50.18 Storage of solid waste for commercial collection**

**50.19 Solid waste collection practices**

**50.20 Service fees**

**50.21 Injunctive relief**

**50.22 Conflict**

**50.23 Commercial hauler permit**

**50.24 Disposal of solid waste**

**50.25. Frequency of collection**

**50.26 Exemptions**

**50.27 Authority of County Code Enforcement Officers and Deputies to enter premises**

**50.28 Compliance with laws and regulations**

**50.29 Proof of insurance by the residential/commercial contractor (hauler)**

**50.30 Performance bonds by contractors (haulers)**

**50.99 Penalty**

**§ 50.01 SHORT TITLE.**

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

**§ 50.02 AUTHORITY,**

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

**§ 50.03 PURPOSE AND INTENT.**

(A) The purpose of this chapter is to preserve the health, safety, welfare and convenience of the inhabitants of the county, and to preserve and improve the environmental quality of the county. The county hereby authorizes a program for the collection of solid waste.

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

**§ 50.04 INTERPRETATION AND CONFLICT.**

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

agreements or other county ordinances or resolutions, the provisions of this chapter shall be controlling.

## **§ 50.05 DEFINITIONS**

(A) Word construction. Words used in the present tense include the future; words in the masculine

include the feminine; and words in the singular include the plural.

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

**ACTS OF GOD AND OTHER CIRCUMSTANCES** include unusual weather, floods, epidemics, war, riots, strikes, lockouts and other industrial disturbances, or protest demonstrations.

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

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

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

**CODE ENFORCEMENT OFFICER.** The person appointed by the County Commission and duly commissioned by the County Manager's office to enforce portions of this chapter.

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

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

**CONSTRUCTION AND DEMOLITION DEBRIS** does not include asbestos or liquids, including but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials. Construction and demolition debris is classified as commercial solid waste.

**COUNTY MANAGER.** The chief administrator to the Valencia County Board of Commissioners, or his or her designee.

**COMMERCIAL SOLID WASTE.** All types of solid waste generated by hotels, stores, offices, restaurants, warehouses, construction and demolition, and other non-manufacturing activities, excluding residential, household and industrial wastes.

**COMMERCIAL SOLID WASTE COLLECTION.** All solid waste collection from business establishments and multiple-family dwellings with containers that are 3 cubic yards or larger, and any collection in a front-end loader container or dumpster.

**EXCLUSIVE COMMERCIAL FRANCHISE HAULER.** The Company to whom the County has granted an exclusive franchise to transfer, process, store, and dispose of commercial solid waste in the unincorporated part of Valencia County. The term does not include an individual transporting solid waste generated on or from one's residential premises for the purpose of disposing of it in a solid waste facility.

**CONTRACT AGREEMENT.** A binding agreement between the county and any the franchised contractor/ hauler engaged in the business of collection of solid waste and/or recyclables, setting forth terms, conditions and duration of the contract as defined in § 50.27 herein.

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

**CONVENIENCE CENTER. See TRANSFER STATION.**

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

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

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

**EXCLUSIVE RESIDENTIAL FRANCHISE HAULER.** Refers to the company contracted by the County of Valencia who has been afforded an exclusive franchise for residential solid waste collection services in the unincorporated areas of Valencia County.

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

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

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

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

**HEARING EXAMINER.** The County Manager or his or her designee.

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

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

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

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

- (a) Microbiological laboratory wastes, including cultures and stocks of infectious agents from. Clinical research and industrial laboratories, and disposable culture dishes and devices used to transfer, inoculate and mix cultures;
- (b) Pathological wastes, including human or animal tissues, organs and body parts removed during surgery, autopsy or biopsy;
- (c) Disposable equipment, instruments, utensils, and other disposable materials that require special precautions because of contamination by highly contagious diseases;
- (d) Human blood and blood products, including waste blood, blood serum, and plasma;
- (e) Used sharps, including used hypodermic needles, syringes, scalpel blades, Pasteur pipettes and broken glass; and

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

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

(a) **MUNICIPAL LANDFILL** A discrete area of land or an excavation that receives household waste, and that is not a land application unit; MUNICIPAL LANDFILL may also receive other types of RCRA Subtitle D waste, such as 11B commercial solid waste, nonhazardous sludge, small quantity generator waste, industrial solid waste, construction and demolition debris, and other special wastes as defined in the New Mexico Solid Waste Management Regulations. A MUNICIPAL LANDFILL may be publicly or privately owned, and may be existing, new or a lateral expansion; and

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

**LITTER.** Solid waste or debris found in public areas or generated while traveling in a motor vehicle.

**MOBILE HOME PARK.** A community of 5 or more mobile homes located on 1 parcel of land owned by an individual or company, where individual lots are leased by the park owner.

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

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

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

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

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

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

**PUBLIC PLACE.** Any land owned by the community (or open to common use) such as streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, spaces, grounds and buildings.

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

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

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

**RESIDENTIAL COLLECTION.** Refuse from a single dwelling or mobile home park not otherwise classified as commercial collection.

**RESPONSIBLE PARTY.** Owner of any premises, whether vacant, improved or unimproved, used primarily for either private or business purposes.

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

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

**SOLID WASTE.** Any garbage, solid waste and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial residential, mining and

agricultural operations, and from community activities, but does not include

(a) Drilling fluids;

(b) Fly ash waste;

(c) Waste from the extraction of ores and minerals;

(d) Agricultural waste;

(e) Cement kiln dust waste;

(f) Sand and gravel;

(g) Solid or dissolved material in domestic sewage; or

(h) Densified, solid waste-derived fuel or any material regulated by Subtitle C or Subtitle I, 42 U.S.C. §§ 6901 et seq., except petroleum-contaminated soils, of the Federal Resource Conservation and Recovery Act of 1976, substances regulated by the Federal Toxic Substance Control Act, 7 U.S.C. §§ 136 et seq., or low-level radioactive waste.

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

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

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

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

**WHITE GOODS.** Items such as inoperative refrigerators, ranges, washers, dryers, water heaters,

freezers, and other large domestic and commercial appliances.

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

#### **§ 50.06 ADMINISTRATION.**

The County Manager is responsible for the administration of this chapter. (A) 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 chapter.

(B) The County Manager shall establish rules and regulations to carry out the intent and purpose of this chapter to present to the Board of County Commissioners for approval.

(E) The County Manager shall have the authority to take legal action •to collect franchise fees owed to the county pursuant to this chapter.

(F) The County Manager shall establish grievance policies and procedures to be presented to the Board of County Commissioners for approval.

(G) The County Manager may initiate studies for the need, location and operation of facilities to recover material or energy from solid waste, to implement programs to achieve resource recovery and other studies that will benefit management of solid waste in the county.

(H) This chapter does not indicate a specific site for final disposal, nor intend to affect incorporated or sovereign entities within the county.

#### **§ 50.07 ACCUMULATION OF SOLID WASTE, UTIER, AND CONSTRUCTION AND DEMOLITION DEBRIS; REMOVAL; PENALTY,**

(A) No person shall permit any solid waste to accumulate on property owned, leased or occupied by that person within 200 feet of another occupied premises, except in covered, watertight containers made of metal or plastic.

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

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

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

(E) Any accumulation of solid waste, litter, or construction and demolition debris in violation of the

terms of this chapter is hereby declared to be a nuisance and is unlawful.

(F) Subject to any limitations or otherwise provided by law, the County Manager or his or her designee, the County Code Enforcement Officer, and/or the County Sheriff's Department Deputies, or his or her designated Code Enforcement Officer, is authorized, upon issuance of a warrant, to inspect and enter any property where he or she has reasonable cause to suspect that unlawful accumulations of solid waste, refuse, litter, or construction and demolition debris may exist.

(1) If, upon the basis of such inspection, the County Manager or his or her designee, a County Code Enforcement Officer or a County Sheriff's Department Deputy finds that a violation of a divisions (A) through (E) of this section exists, he or she 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 10 days up to 30 days.

(2) Upon the failure, neglect or refusal of any person, owner, tenant, lessee, manager or occupant to properly correct any such violations within the time prescribed (or within 5 days of the return of such prescribed notice as undeliverable if the notice is served by mail), the County Commission may contract for the correction of the unlawful accumulation, or order its correction by the county, at the expense of the person, owner, tenant, lessee, manager or occupant in charge of the property.

(G) If the County Manager or his or her designee, the County Code Enforcement Officer or a Sheriff's Department Deputy finds that the unlawful accumulation of solid waste, litter, or construction and demolition debris presents a clear and present danger to the public health, safety

and welfare, and immediate measures are required to alleviate this clear and present danger, the County Manager may waive the 10-day notification period.

(H) Costs for correction of an unlawful accumulation of solid waste, litter, or construction and demolition debris shall be determined on the basis of man-hours worked, equipment utilized in the clean-up at a customary rental rate per day, plus any direct costs paid by the county to correct the violation. The cost of correction shall be a lien upon the property and shall remain in full force and effect for the amount due plus other costs and attorney fees.

(I) The County Manager, or designee, 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. The files shall be open for public review during normal business hours.

(J) Transportation of solid waste 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 solid waste from being blown, dropped or spilled. Persons transporting solid waste without a tightly secured cover will be subject to additional fees as established by resolution.

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

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

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

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

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

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

(F) No garbage, solid waste, or debris shall be burned within the county. Fire permits may be obtained from the County Fire Marshal's office for certain types of yard refuse.

**§ 50.09 SOLID WASTE CONTAINERS.**

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

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

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

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

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

**§ 50.10 TOXIC, CORROSIVE, IGNITABLE, PLAMMABLE, EXPLOSIVE OR OTHER PROHIBITED SOLID WASTE.**

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

(B) No yard waste, including grass and tree clippings, pine needles, leaves and cut weeds, shall be placed in solid waste containers. Such waste shall be disposed 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.

**§ 50.11 CONSTRUCTION SITES AND TRANSPORTATION OF MATERIALS.**

(A) 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 from the exclusive franchised county hauler, or fenced area of suitable size and design to contain all solid waste, litter, or construction and demolition debris that may be disturbed or removed from the premises or property by the wind or elements.

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

(C) Any person engaged in construction or demolition shall remove the solid waste, litter, and construction and demolition debris, including structural parts, from the construction site and

contain their elements from scattering in the same manner as set out above. Construction and demolition debris or solid waste shall be removed and disposed on within 5 days of completion to an approved solid waste or construction and demolition debris facility.

**§ 50.12 SCAVENGING PROHIBITED.**

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

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

**§ 50.13 REGULATIONS ADOPTED.**

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

**§ 50.14 POWERS OF THE COUNTY,**

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

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

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

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

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

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

**§ 50.15 SOLID WASTE COLLECTION AUTHORIZATION.**

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

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

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

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

#### **§ 50.16 SOLID WASTE PRE-COLLECTION PRACTICES.**

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

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

(C) Duty to maintain containers in sanitary condition. Solid waste containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter shall be promptly replaced or collection may be denied.

(D) Collection of ashes and hot waste. For at least 24 hours prior to the scheduled time of collection, ashes shall be cold. Ashes may then be placed at the collection point at the specified time and in appropriate containers as determined by the County Manager.

(E) Commercial solid waste containers.

(1) Commercial establishments, and multiple-family dwellings, excluding mobile home parks, shall be required to furnish appropriate commercial solid waste containers as specified by the County Manager.

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

(F) Residential solid waste containers.

(1) Solid waste shall be enclosed in plastic bags in the containers for residential collection. These containers or bags must conform to contractor collection 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 solid waste from being scattered, blown or spilled. Sharp or extremely heavy materials will be placed in disposable containers other than plastic bags. Plastic bags shall be of sufficient strength so as not to tear with normal handling at maximum capacity.

(2) Residential solid waste, when served by roadside collection, shall be placed out for collection no later than 7:00 a.m. on the regularly scheduled day, but no sooner than 6:00 p.m. the evening prior to collection, unless otherwise specified by the County Manager.

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

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

#### **§ 50.17 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 licensed private contractor, except where state or federal requirements prohibit transfer of ownership. A licensed private contractor registered by NMED, who removes solid waste from a property, shall take ownership of the waste until it is taken to a convenience center, transfer station or landfill.

#### **§ 50.18 STORAGE OF SOLID WASTE FOR COMMERCIAL COLLECTION.**

(A) Appearance of collection points. At every commercial collection point within 80 feet of a public street, solid waste containers shall be properly maintained and largely shielded from view from such public street by wall, fence, earth berm, or evergreen trees or shrubs forming an appropriate sight barrier, which shall be termed a sight shield, as approved by the County Manager.

(B) Section and design of collection points. Specific points for commercial collection and solid waste storage shall be designated by the County Manager, using the following procedure and criteria:

(1) Site plan submission. A property owner or his or her agent, whose site will require commercial collection, shall submit an accurate site plan of the entire site for which service is desired. The plan shall be drawn accurately, at a scale that clearly illustrates the following required data:

(a) Lot lines.

(b) Existing and planned buildings.

(c) Proposed solid waste collection point(s) and sight shields.

(d) Existing and planned sidewalks, curb cuts, drives, parking spaces, landscaping, recreation areas, freestanding signs, poles (e.g., street lights), and other structures on the premises, and within feet of the premises.

(e) Public right-of-way, fire hydrants and bus stops on the premises or adjacent to the premises.

(f) Neighboring structures within 100 feet.

(g) Other information required by the County Manager.

(2) Site plan review and approval.

(a) The County Manager may approve requested locations for commercial 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 commercial solid waste 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. 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 provisions of county zoning ordinances or regulations.

(d) No site plan shall be approved if it locates a container within a public street right-of-way, or in a location in conflict with clear sight requirements for driveways or intersections, unless a variance is granted (division (D) of this section, Variances).

(e) Commercial solid waste collection sites shall be paved with a concrete apron meeting specifications for the designated container with maximum loading. However, commercial solid waste collection sites approved prior to the effective date of this chapter, June 18, 2010, which sites were paved in a way that met the off-street parking requirements of county zoning ordinances and regulations prior to the effective date, are exempt from the concrete paving requirement if the owner of the property agrees, in writing; to maintain the paving and hold the county harmless for any damage to the pavement resulting from solid waste collection.

(3) Sight shield plan submission. A property owner or his or her agent, who requires commercial solid waste collection, shall submit a site plan of the proposed solid waste container sight shield when the site plan is submitted.

(4) Sight shield plan review and approval. The County Manager shall establish criteria and approve plans for design of sight shields for commercial solid waste collection points.

(a) The sight shield shall not interfere with solid waste collection.

(b) The sight shield shall be constructed so as not to be damaged by normal collection practices.

(c) The sight shield plan may be revoked in the event that the type, size or number of containers used at the site changes, or the sight shield is improperly installed or maintained, or does not screen the collection site as intended.

(C) Effective date for requirement for conformance to site plan; shielding collection points and removal of illegal containers.

(1) The owner of any proposed development site requiring commercial solid waste collection for which a building permit has not been issued, or the use begun by the effective date of this chapter, shall conform to this chapter.

(2) The owner of commercial property requiring solid waste collection shall meet the sight shield requirements of this section within 1 year of the effective date of this chapter.

(3) The requirement for removing illegal solid waste collection points on a public street right-of-way shall be met within 1 year of the effective date of this chapter.

(D) Variances. The County Manager shall establish guidelines for which a variance may be granted as part of the rules and regulations to be developed pursuant to this chapter. The guidelines shall be approved by the Board of County Commissioners.

(E) Fees. Fees shall be adopted by resolution submitted to and approved by the Board of County Commissioners to pay the county costs for processing site plan approvals, variance requests and appeals.

## **§ 50.19 SOLID WASTE COLLECTION PRACTICES.**

(A) Commercial, residential, and construction & debris (C & D) roll off collection services.

(1) The Board of County Commissioners shall execute an exclusive franchise agreement for commercial, roll off, and curbside residential solid waste with a hauler. The County Manager

retains discretion to grant additional franchises for commercial and residential solid waste collection as may be necessary to ensure the availability of collection services in the event the exclusive franchisee is unable or unwilling to satisfy its contractual commitments, or if otherwise necessary to protect the health, safety, and welfare of the residents of the County

(B) Changes in ownership.

(1) Notice and approval. In the event there is to be a change in the ownership for the exclusive franchise hauler to whom a contract is issued, the contractor/hauler shall notify the County Manager, in writing, of such a change no later than 30 days prior thereto. The proposed owner shall assume and be liable for all actions of the prior owner, and shall comply with this chapter and the agreement. The Board of County Commissioners shall have the right to approve or disapprove the change in ownership and assignment of the agreement. The above shall apply to changes in controlling stock ownership in the corporation, changes in partnerships or limited partnerships, or percentage participation therein. (2) Assignments. The exclusive franchise agreement provided for herein shall not be assignable, except with prior written consent of the County Commission, which shall not be unreasonably withheld. However, any and all assignments shall be without release of the obligations under the agent or conditions of the permit; the residential/commercial haulers, together with the assignee(s), shall remain fully liable under the terms of the contract agreement or permit.

(C) Independent contractors. It is expressly agreed and understood that the exclusive franchised contractor/hauler(s) is in all respects an independent operator as to the work, and is in no way an agent, servant or employee of the County. This chapter specifies the work to be done by the contractor/hauler(s), but the method, manner and means to be employed to accomplish this work shall be the responsibility of the franchised contractor/hauler and in compliance with the terms of the Contract between the County and the Hauler.

{D} Truck identification. The exclusive franchised contractor/hauler(s) shall have identification on all vehicles. Haulers may not use a firm name containing the words "County"; or "Valencia County"

(E) Frequency of solid waste collection.

(1) Residential solid waste collection. Participants in the residential curbside collection program shall have their solid waste collected at such times and frequency as deemed necessary by the County Manager and as provided in the collection schedule submitted to the County Manager by the residential hauler.

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

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

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

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

(F) Limitations of quantity.

(1) Residential solid waste collection. The residential franchise hauler shall collect the solid waste of each residence during a collection period for a standard charge. Any excessive accumulation, as determined by the Contractor, may require a special collection at an additional fee or the provision of an additional contractor-provided solid waste container.

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

(G) Special and hazardous waste.

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

(2) Hazardous waste. Hazardous waste shall not be collected, transported or disposed of unless in full compliance with local, state and federal regulations regarding transportation and disposal. Hazardous waste material shall not be placed in containers for regular collection and disposal. The producers or possessors of such material shall immediately notify the County Manager, 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 the county.

(H) Collection by commercial franchisees.

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

(2) Disposal. Disposal of solid waste by persons so permitted shall be made at a solid waste facility site. If disposal of solid waste occurs in the county, compliance with county zoning ordinances and regulations,

and other local land use policies shall occur. If disposal of solid waste occurs outside of the county, other zoning ordinances and regulations and other land use policies shall apply.

(3) Rules and regulations. The County Manager shall develop rules and regulations concerning individual collection or disposal for approval by the Board of County Commissioners.

**§ 50.20 SERVICE AND FRANCHISE FEES.**

(A) Residential Collection Service and Franchise Fees.

(1) Service fees for collection of residential solid waste in the unincorporated areas of Valencia County shall be established and adopted by resolution of the Board of County Commissioners and the residential franchise hauler. The Board of County Commissioners designates a 10% franchise fee to be added to the base price service fee to be paid on a quarterly basis for franchise supervision and compliance.

(2) Upon collection of franchise fees for collection and disposal of waste, the County Manager is authorized to use those fees for any legal purpose or activity, (B) Commercial service fees. Service fees for collection of commercial and C & D collection shall be established and adopted by resolution of the Board of County Commissioners. Hotels, restaurants, other establishments and businesses, institutions, and multiple-unit dwellings, excluding mobile home parks receiving commercial solid waste collection service, including construction and demolition collection in a designated service area shall have service fees determined by resolution and based on the type and frequency of service, and the volume of the solid waste container. The Board of County Commissioners designates a 10% franchise fee to be added to the base price service fee to be paid to Valencia County on a quarterly basis for franchise supervision and compliance.

(C) Use of county convenience centers or transfer stations.

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

(2) Any business or institution may dispose of solid waste at any county convenience center or transfer station. Any uncovered or unsecured load will be charged an additional fee. Fees for use of the convenience center or transfer station will be established by resolution.

(3) Salvaging and scavenging is prohibited at the county convenience centers or transfer stations at all times.

**§ 50.21 INJUNCTIVE RELIEF.**

The placement of solid waste that causes a nuisance, or creates a potential or actual health hazard, shall be deemed, or declared to be, a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. The collection of solid waste and disposal services within the unincorporated areas of the County without a franchise constitutes a public nuisance and may be subject to a restraining order or

injunction issued by a court of competent jurisdiction to restrain such activity. The exclusive residential or commercial franchisee is expressly authorized to seek to restrain an unfranchised hauler's collection of solid waste and disposal within the unincorporated areas of the County, and shall be entitled to reasonable attorney's fees and costs in the suit.

**§ 50.22 CONFLICT.**

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

**§ 50.23 DISPOSAL OF SOLID WASTE.**

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

**§ 50.24 FREQUENCY OF COLLECTION.**

Solid waste shall be collected or removed from residential premises by the exclusive franchised contractor/hauler and commercial establishments at least once per week. No resident shall be refused service by the franchised contractor/hauler (except for nonpayment). Refusal to provide service shall be documented and submitted to the County Manager's designee within 5 days of service request by the resident, along with reason for denial by the contractor/hauler. The County Manager will review all requests at a public hearing and may approve or disapprove the request. The franchised contractor/hauler shall agree to abide by the County Manager's decision.

**§ 50.25 EXEMPTIONS.**

This chapter shall not apply to:

- (A) A property holder who, on his or her property for fill purposes, disposes of construction/demolition debris or yard waste generated on his or her property, if he or she disposes of it in a manner that does not violate any county, state or federal law, or create a nuisance or a hazard to public health, safety and welfare,
- (B) Agricultural wastes, including manure and crop residues, returned to the soil as fertilizers or soil conditions.
- (C) Sludge, domestic sewage, treated domestic sewage, and septic.
- (D) Hazardous wastes subject to regulations under Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901I seq.

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

seq.

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

(G) Bulk liquids.

### **§ 50.26 AUTHORITY OF COUNTY CODE ENFORCEMENT OFFICERS AND DEPUTIES TO ENTEEMISES.**

(A) For the purpose of enforcing the provisions of this chapter, County Code Enforcement Officers, the County Manager or his or her designee, and/or County Sheriff's Department Deputies are hereby authorized and directed to enforce this chapter.

(B) In the event the owner or occupant of property objects to the entrance of County Code Enforcement Officers upon the property that is the object of the complaint or violation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection.

### **§ 50.27 COMPLIANCE WITH LAWS AND REGULATIONS.**

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

### **§ 50.28 PROOF OF INSURANCE BY THE RESIDENTIAL/COMMERCIAL CONTRACTOR(AULER).**

(A) The exclusive franchised contractor/hauler shall provide the county with a certificate of insurance naming the county as an additional insured. -The contractor shall provide workers compensation insurance for its employees, unless exempted by state or other prevailing statute. The contractor shall also hold general public liability insurance coverage in the amount of \$1,000,000.00, at minimum. The insurance coverage shall be for accidents or occurrences that cause bodily injury, death, or property damage to any member or citizen of the general public resulting from any, of the collection activities under this chapter, or any activities contemplated in any contract or agreement for the collection of solid waste and/or recyclables.

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

**§ 50.29 PERFORMANCE BONDS BY CONTRACT(HAULERS).**

(A) The County Manager shall require the franchised contractor/hauler to post with the county a bank guarantee, surety or performance bond in an amount determined by contract. The amount of such guarantee, surety or performance bond shall be based upon the number of customers of the contractor at the time of application each year, multiplied by the appropriate rate for services, multiplied by the three months service that the contractor/hauler receives in advance from the customer. If a surety or performance bond is used, it shall be furnished by a surety satisfactory to the county. All bonds shall be payable to the county and shall be conditioned upon the full and faithful performance by the contractor/hauler of his or her obligations under this chapter, and shall be kept in full force and effect by the contractor/hauler throughout the period of the agreement. Failure to post or keep the required bond shall be grounds for revocation or denial of an agreement.

(B) As a condition of the County Manager approving an agreement, the contractor/hauler shall agree to the terms of this chapter and any regulations enacted pursuant hereto.

(C) Notwithstanding any provision to the contrary of this chapter or of any agreement. the county shall initiate and accomplish all necessary actions to maintain solid waste collection services in unincorporated areas of the county in the event of failure of a contractor to provide collection services as per the contract The county shall use the contractor/hauler's performance bond to pay for such service, except if the delay or failure to provide the service is caused by acts of God or other circumstances beyond the control of the contractor, and which could not reasonably have been anticipated or prevented.

**§50.99 PENALTY.**

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

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

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

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

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

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

(D) The exclusive residential or commercial franchisee is expressly authorized to seek to restrain an unfranchised hauler's collection of solid waste and disposal within the unincorporated areas of the County, and shall be entitled to reasonable attorney's fees and costs in the suit. In addition to criminal prosecution, the County Manager, or his or her designee, may pursue any lawful civil remedy and penalty in a court of competent jurisdiction. The County Manager or his/her designee may bring suit to collect any sums due and owing and/or to restrain, enjoin or otherwise prevent the violation of this chapter; or to compel compliance, and shall be entitled to reasonable attorney's fees and costs in the suit.

**ADOPTED, APPROVED AND ORDAINED** on this \_\_\_\_ day of \_\_\_\_\_ 2023.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Gerard Saiz  
Chairman, District I

\_\_\_\_\_  
Jhonathan Aragon  
Vice-Chair, District V

\_\_\_\_\_  
Troy Richardson  
Commissioner, District II

\_\_\_\_\_  
Morris Sparkman  
Commissioner, District III

\_\_\_\_\_  
Joseph Bizzell  
Commissioner, District IV

Attest:

\_\_\_\_\_  
Michael Milam, County Clerk

