



September 2, 2015

Agenda

3:00 P.M. – 5:00 P.M. Workshop
Valencia County Commission Chambers
444 Luna Ave.
Los Lunas, NM 87031

Board of County Commissioners

Charles D. Eaton, Chair	District IV
Jhonathan Aragon, Vice-Chair	District V
Helen Y. Cole	District I
Alicia Aguilar	District II
David A. Hyder	District III

Please Silence all Electronic Devices

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda

Two handwritten signatures in black ink, likely of Charles D. Eaton and Jhonathan Aragon.

Sponsorship does not indicate endorsement of a given topic

WORKSHOP ITEM(S)

- 4) Solid Waste Planning. Presenter: *Paul Alexander*; Sponsor: *Commissioner Helen Cole*

PUBLIC COMMENT

Please sign up on the sheet located just outside the Commission Chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission.

NEXT COMMISSION MEETINGS

September 2, 2015 – Business Meeting @ 5:00 P.M.

Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031

September 9, 2015 – Public Hearing/Special Business Meeting @ 5:00 P.M.

Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031

September 16, 2015 – Business Meeting @ 5:00 P.M.

Valencia County Commission Chambers, 444 Luna Ave., Los Lunas, NM 87031

ADJOURN

B: 84 P: 628



If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Administration Building, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office if a summary or other type of accessible format is needed.

VALENCIA COUNTY BOARD OF COMMISSIONERS

WORKSHOP

SEPTEMBER 2, 2015

PRESENT		
Charles D. Eaton, Chairman		
Jhonathan Aragon, Vice-Chair		
David A. Hyder, Member		
Alicia Aguilar, Member		
Helen Y. Cole, Member		
Adrienne Kozacek, Interim County Manager		
Adren Nance & Dave Pato, County Attorneys		
Peggy Carabajal, County Clerk		
Press and Public		

1) The meeting was called to order by Commissioner Aragon at 3:05 P.M.

2) Mr. Schueller led the Pledge of Allegiance.

Commissioner Aragon announced that Chairman Eaton was running late for the meeting.

3) Approval of Agenda

Commissioner Cole moved for approval. Seconded by Commissioner Aragon. Roll call vote. Commissioner Cole voted yes. Commissioner Aguilar voted yes. Commissioner Hyder voted yes. Commissioner Aragon voted yes. Motion carried 4-0.

WORKSHOP ITEM(S)

4) Solid Waste Planning. Presenter: *Paul Alexander*, Spouse: *Commissioner Helen Cole*

Mr. Alexander stated that he was placed under contract to move the solid waste program forward. He would like to see Valencia County have a comprehensive solid waste plan, he also believes that the 2 major reasons people don't utilize proper trash disposal are cost and convenience. In Valencia County we have not made it as accessible enough for the residents of the county. Currently there is around 17,000 homes in the county, 58% of them have trash service offered to them while 42% have no trash service offered.

In regards to Conejo Transfer station there are dangerous conditions out there, it is outdated, the design is inefficient, and there are multiple shutdowns. Even the new equipment that the county purchased for Conejo will not be a solution to the problems out there.

Mr. Alexander mentioned several items that he sees as financial impacts to the county as solid waste is currently handled. He then listed a few solutions to the problems with the conclusion being lower prices to residents for trash disposal, reduced wait time at convenience center, financial relief to the county and addressing public health and safety. He also mentioned the possibility of raising the haulers franchise fees to 10% from the 4% that it is currently at. Mr. Alexander would like to see the hauler responsible for providing containers and collection services, the hauler would also be responsible for billing and collections while notifying the county of code enforcement violations. Mr. Alexander stated that he is requesting that the commission approve his revisions to the solid waste ordinance, he would also like to be involved in the solicitations of RFPs also he would like to be involved on an advisory basis for the evaluation, award and implementation of the contract.

Chairman Eaton stated that there are several steps that need to be done before an ordinance can be approved, he also stated that in Mr. Alexander's proposed ordinance he can't see what changes were made to the original ordinance. Mr. Alexander replied that there is a version for comparison that shows the original wording and the changes that were made. Mr. Pato explained the process of coming up with a version to compare the original and proposed revisions to the ordinance. He believes the most valuable document to the board would be the document that shows the original and the proposed revisions as well as the comments that were made regarding the changes that needed to be made. Chairman Eaton stated that he still has a problem with a hauler having to go down a private easement and the liability that the county might have. Mr. Alexander stated that contractor would need to work that out with the property owner; he is only proposing service for county maintained roads.

Minutes of September 2, 2015 Workshop

Mr. Pato stated that there are several changes that still need to be addressed and made when going through the process of revising the ordinance. Commissioner Aguilar stated that she feels that the wheel is being reinvented, Mr. Martinez and the trash committee had already put a lot of work into this and it doesn't feel that anything new is being presented by Mr. Alexander that staff couldn't provide. Mr. Alexander stated that illegally dumped trash can be dealt with all day long but until the source of it can be stopped it's going to continue. Commissioner Aguilar mentioned that in the proposed ordinance the county is still tied to the enforcement, but it's not that simple there needs to be a budget and a plan in place. She stated that the county needs a total comprehensive plan; the county has staff on hand that are very skilled and competent to come up with a plan. Commissioner Aguilar mentioned that after reviewing Mr. Alexander's bill for service she wants to see GRT included on there as well as an update/explanation on what was discussed in the meeting mentioned on the bill with 2 commissioners, she would like more than just a summary.

Chairman Eaton thanked Mr. Alexander for his professionalism and for the work that he has done. He went on to ask Mr. Martinez if his committee was just addressing illegal dumping and not a solution for solid waste. Mr. Martinez replied that the committee was formed around illegal dumping but was discussing larger policies towards a solid waste program but was never given direction from the board. Chairman Eaton stated that he just wanted to make it clear that direction from the board was not given to the committee to take that initiative. Commissioner Cole stated that the solid waste issue has been going on for at least 16 years and nothing has been done about it yet, every year we can say we are almost there but nothing has been done. She went on to say that the county needs to enforce a solid waste program where residents have to roll out their trash weekly. She also mentioned that she has received calls complaining about the wait times at Conejo and asking for other places to dump trash. She thanked Mr. Alexander for his work and involvement; no one is trying to reinvent the wheel we are just trying to make it better.

Commissioner Cole stated that she and Commissioner Aragon had met with Mr. Alexander to talk about the issues in their districts and how important it was to get a solid waste plan in place. Commissioner Aguilar stated that while she agrees that we do need a solid waste plan she doesn't think it can be done effectively by just one person. Chairman Eaton stated that its time as a governing body to come to a consensus on an agreement with a plan for solid waste. Hopefully, the board can put aside their differences and come together to move the county forward and address the issue. There are many resources that can be used such as EID and county employees, the more the merrier; also when everyone comes together it allows the board to make a better informed decision. Commissioner Hyder mentioned that the county already has a solid waste plan, yes it is extremely outdated but it is still there. Commissioner Hyder went on to ask Mr. Alexander several questions including why he hadn't shown up to any meetings since May, he also mentioned that he had no luck finding information about Mr. Alexander, his background and accomplishments. He asked if Mr. Alexander had any business relationship with any potential bidder on the contract as well as what municipality his business license was in. Commissioner Hyder asked several more questions of Mr. Alexander which he answered. Commissioner Hyder then stated that he has several more questions that he would like answered, he will send them to Mr. Alexander via email.

Commissioner Aragon stated that he and Commissioner Cole had met with Mr. Alexander and they had checked with county legal and they were within the parameters of the Open Meetings Act. (See Exhibit A)

PUBLIC COMMENT:

Tom Mraz- Mr. Mraz commented that he served on the trash task force with Mr. Martinez and they were working on illegal dumping, solid waste and a number of other things. The committee was working on stuff but yet we are starting all over again. Mr. Mraz went on to say that he is getting tired of paying taxes and getting nothing out of it, the county is just throwing money away with Mr. Alexander's contract.

NEXT COMMISSION MEETING:

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Minutes of September 2, 2015 Workshop

5) Adjournment

Commissioner Aragon moved for adjournment. Seconded by Commissioner Cole. Roll call vote. Commissioner Aguilar voted yes. Commissioner Hyder voted yes. Commissioner Cole voted yes. Commissioner Aragon voted yes. Chairman Eaton voted yes. Motion carried 5-0. TIME: 4:45 P.M.

NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the September 2, 2015 Workshop (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

VALENCIA COUNTY BOARD OF COMMISSIONERS



CHARLES D. EATON, CHAIRMAN

JHONATHAN ARAGON, VICE-CHAIR

DAVID A. HYDER, MEMBER

ALICIA AGUILAR, MEMBER

HELEN Y. COLE, MEMBER

REGGY CARABAJAL, COUNTY CLERK9-16-2015
DATE

B: 84 P: 631

August 19, 2015

TO: Valencia County Board of Commissioners, et al.

FROM: Paul Alexander

SUBJECT: Request for inclusion of Action Item to Agenda for 8/19/2015 Meeting

Attached is my proposed Valencia County Solid Waste Ordinance and Management Plan. This document addresses all the issues and concerns which were made evident to me by the County Commissioners. Further, it is compatible with a modern and contemporary mandatory collection system. It also addresses a number of deficiencies and issues which have developed since its last update, and brings it conceptually up to current industry standards.

I present this document to you for approval as replacement of the current Solid Waste Ordinance. This document is also inclusive of the proposed Solid Waste Management Plan, which as combined, would complete approximately 1/2 to 2/3 of the process I originally outlined to the County Commission. Additionally, I am requesting that my contract scope of services be expanded sufficient to move this process on to the next level(s).

Your careful consideration is sincerely appreciated.

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Exhibit A

County Overview

WM Landfill ●

Caneja Convenience Center

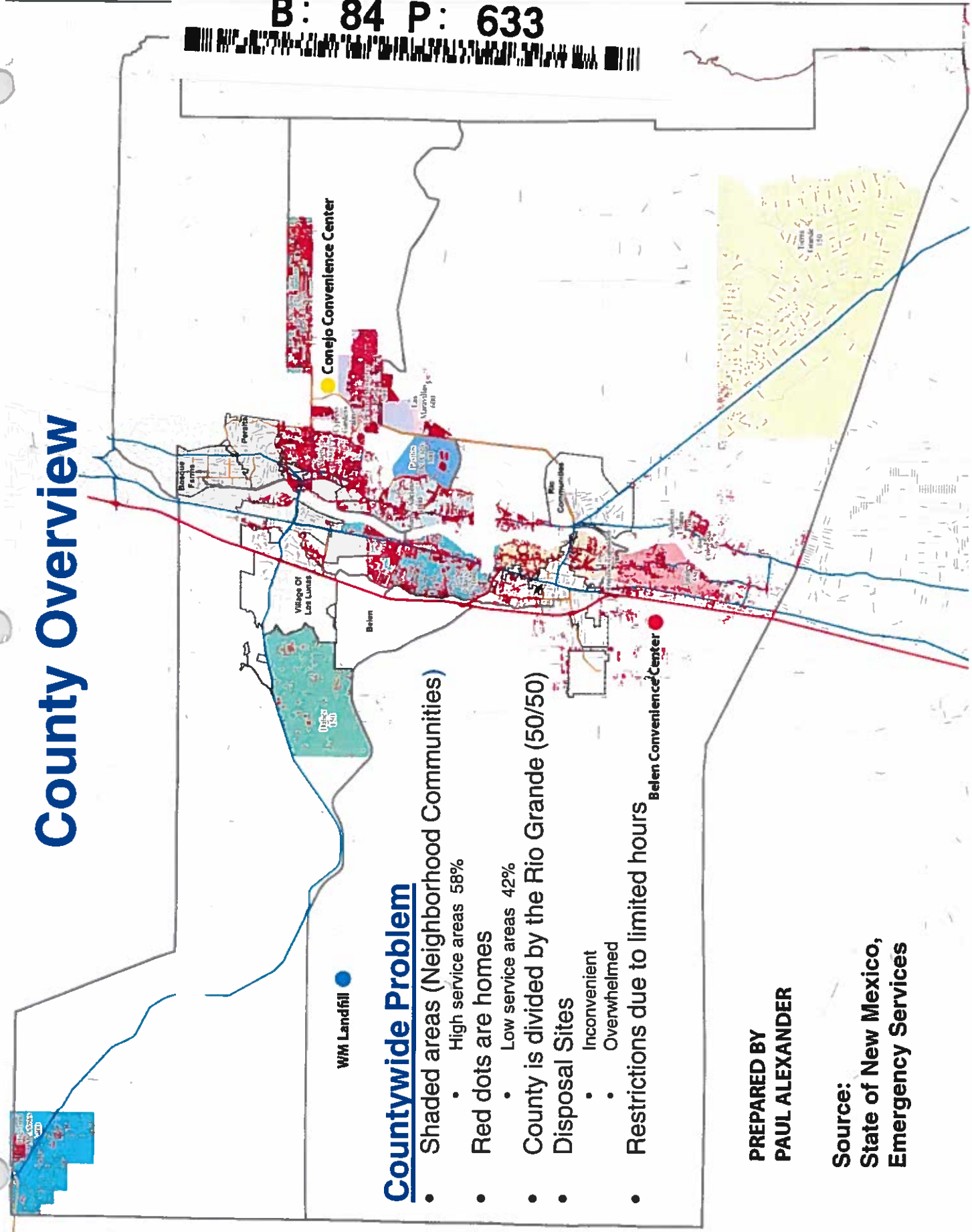
Belen Convenience Center ●

Countywide Problem

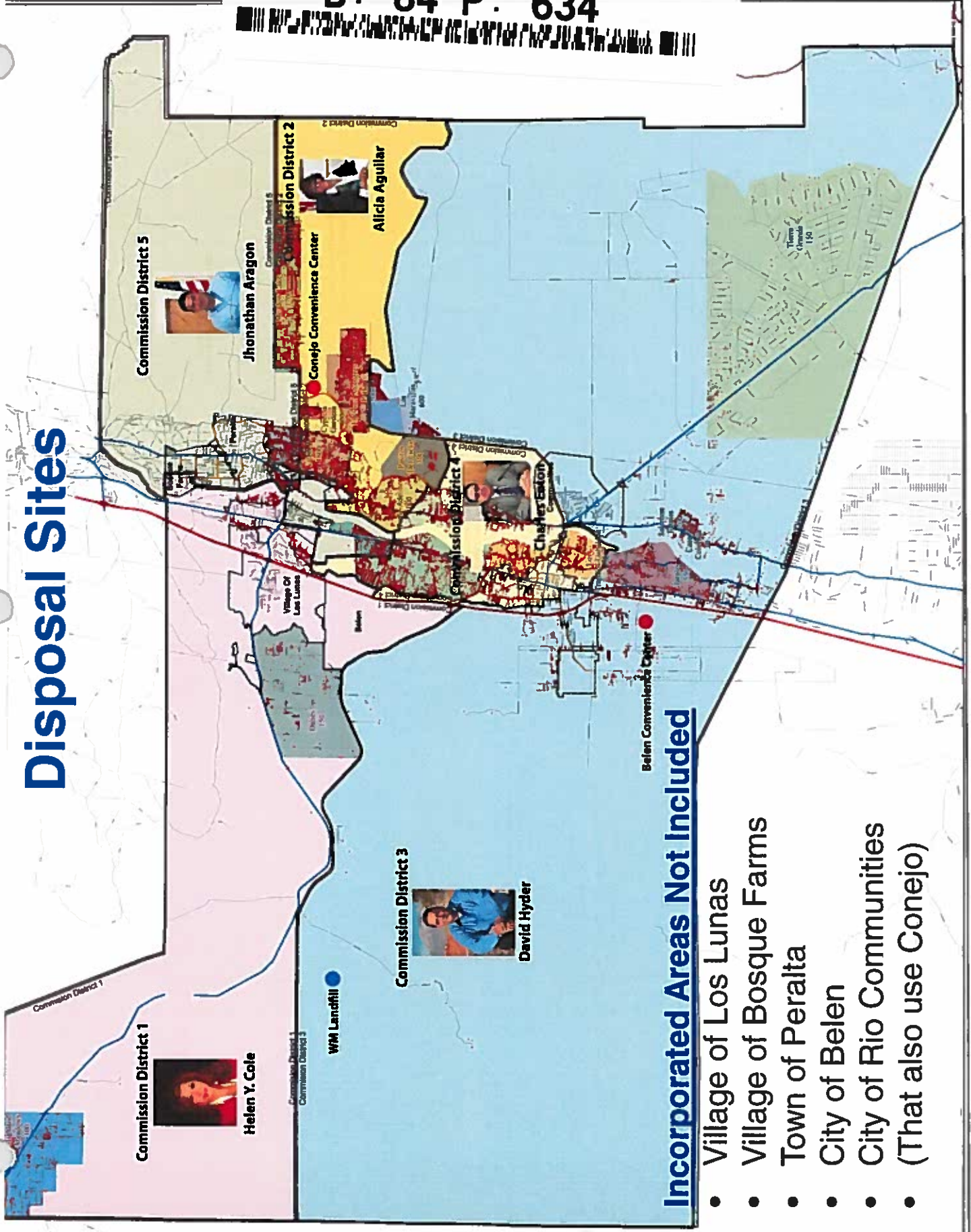
- Shaded areas (Neighborhood Communities)
 - High service areas 58%
 - Low service areas 42%
- Red dots are homes
- County is divided by the Rio Grande (50/50)
- Disposal Sites
 - Inconvenient
 - Overwhelmed
- Restrictions due to limited hours

PREPARED BY
PAUL ALEXANDER

Source:
State of New Mexico,
Emergency Services



Disposal Sites



Incorporated Areas Not Included

- Village of Los Lunas
- Village of Bosque Farms
- Town of Peralta
- City of Belen
- City of Rio Communities
- (That also use Conejo)



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Hauler Provided Reports

Franchise Fee Collection Schedule for Valencia County

	Amount	YTD	Average	% of Market
AC Disposal Services: Residential Roll-Off 50%				
July 2014	\$670.33			
August 2014	\$670.33			
September 2014	\$670.33			
October 2014	\$797.02			
November 2014	\$522.63			
December 2014	\$1,263.05			
January 2015	\$1,263.05			
February 2015	\$916.65			
March 2015	\$472.46			
YTD Total		\$7,246	\$805	6%

Valley Disposal Services: Residential Roll-Off 50%				
July 2014	\$175.80			
August 2014	\$97.88			
September 2014	\$133.78			
October 2014	\$156.97			
November 2014	\$140.76			
December 2014	\$189.52			
January 2015	\$210.17			
February 2015	\$125.12			
March 2015	\$139.64			
YTD Total		\$1,370	\$152	2%

Minimal Impact to Local Haulers

AC - Valley Disposal 8% Total including Roll-Off Service

	Amount	YTD	Average	% of Market
Waste Management: Residential 100%				
July 2014	\$8,329.12			
August 2014	\$3,476.50			
September 2014	\$7,847.78			
October 2014	\$9,484.50			
November 2014	\$2,825.70			
December 2014	\$8,130.20			
January 2015	\$8,561.12			
February 2015	\$3,004.89			
March 2015	\$8,715.34			
YTD Total		60,375	\$6,708	49%

Western Disposal: Roll-Off 100%				
July 2014	\$265.20			
August 2014				
September 2014				
October 2014				
November 2014				
December 2014	\$258.50			
January 2015				
February 2015				
March 2015	\$228.50			
YTD Total		752	\$84	1%

YTD Total for 9 months

100% of homes at 4%
\$17,000 x 20 = \$340,000 x 4% = \$13,260

\$13,620

58% Reported with curbside collection service

9,860 homes

\$7,749

42% Not provided curbside collection

7,140 homes

(\$5,871)

"Conejo Collection Center
will be **closed on**
Sundays and Mondays,
and
open Tuesday through
Saturday,
8 am to 3:45 pm.
Call the site directly for
current status at
565-2256." Per
Valencia County website.



Valencia County Waste Generation: Unincorporated

- Registered facility capacity 250 cubic yards per day
 - Less than half the needed capacity
- 544 cubic yards per day of other (yard waste, garage, bulk items, etc.)
(in addition, volumes from incorporated areas)
- 102 tons per day of municipal solid waste generated
- Being collected 56 tons per day
- Self haul 46 tons per day
- Inefficient design

"Conejo Collection Center is experiencing multiple equipment breakdowns, and must shut down at different times each day. Until our equipment is safely and completely fixed, we can only take about half of the usual amount of trash every open day." Per Valencia County website.

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Valencia County Financial Impacts

- Residents paying \$23.00 plus per month (on average)
- County cost for operations of Conejo Convenience Center \$700,000 annually
 - Added Cost
- Equipment cost for replacement and maintenance Cost for illegal dumping clean-up
- Cost for road repair and maintenance (impact from duplication of trucks going down same road) Facility repair and maintenance

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Valencia County Solution

Solution

- Countywide mandatory curbside collection
- Added-Value services such as: recycling, bulk item pick up, neighborhood clean-up events
- Upgrade to Conejo Convenience Center
- Additional convenience center on Westside of river (strategically located)

Conclusion

- Lower prices to residents
- Reduced volume and weight time at convenience center(s)
- Financial relief to County
- Address public health and safety with gained quality of life

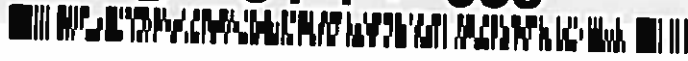
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Valencia County Solid Waste Plan/Ordinance

- 1. Adopt Solid Waste Plan/Ordinance**
- 2. Solicit RFP Proposals with
Board of Commissioners Approval**
- 3. Presentation to
Board of Commissioners**
- 4. Contract Award**
- 5. Implementation**

B: 84 P: 639



CHAPTER 50: SOLID WASTE MANAGEMENT PLAN AND ORDINANCE

- 50.01 Short title
- 50.02 Authority
- 50.03 Purpose and intent
- 50.04 Interpretation and conflict
- 50.05 Definitions
- 50.06 Administration
- 50.07 Accumulation of solid waste, litter and construction and demolition debris; removal; penalty
- 50.08 Solid waste, litter and construction and demolition debris pre-collection practices
- 50.09 Solid waste containers
- 50.10 Damage to solid waste containers
- 50.11 Toxic, corrosive, ignitable, flammable, explosive or other prohibited solid waste
- 50.12 Construction sites and transportation of materials
- 50.13 Scavenging prohibited
- 50.14 Regulations adopted
- 50.15 Solid waste management fee
- 50.16 Liens
- 50.17 Powers of the county
- 50.18 Solid waste collection authorization
- 50.19 Solid waste pre-collection practices
- 50.20 Ownership of solid waste
- 50.21 Storage of solid waste for commercial collection
- 50.22 Solid waste collection practices
- 50.23 Service fees
- 50.24 Injunctive relief
- 50.25 Conflict
- 50.26 Commercial/residential hauler permit
- 50.27 Disposal of solid waste
- 50.28 Frequency of collection
- 50.29 Fees for public collection and disposal
- 50.30 Exemptions
- 50.31 Authority of County Code Enforcement Officers and Deputies to enter premises
- 50.32 Compliance with laws and regulations
- 50.33 Proof of insurance by the residential/commercial contractor (hauler)
- 50.34 Performance bonds by contractors (haulers)

50.99 Penalty

Cross-references:

Solid waste as a public nuisance, see § 92.24

Solid waste disposal facilities, see § 154.170

B: 84 P: 640



§ 50.01 SHORT TITLE.

This chapter shall be known as the Solid Waste Management Plan and Ordinance, and shall be referred to herein as “this chapter”.
(Ord.2015-01, passed 8-19-2015)

§ 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 collection, storage 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.
(Ord.2015-01, passed 8-19-2015)

§ 50.03 PURPOSE AND INTENT.

(A) The purpose of this chapter is to preserve the health, safety, welfare and convenience of the inhabitants of the county, and to preserve and improve the environmental quality of the county through proper and comprehensive solid waste management practices. The county hereby recognizes that the owner(s) of any property within Valencia County is (are) physically and financially responsible for any solid waste generated or held or deposited on such owned property, and hereby authorizes a comprehensive program for the collection and proper disposal of solid waste, and to achieve current State of New Mexico mandated goals for solid waste diversion through recycling and other possible means.

(B) This chapter provides for residential and commercial solid waste collection; defining types of services, providing authority for establishing collectors fees, establishing the procedure for selecting residential and commercial haulers, defining the minimum standards for collecting and disposing of solid waste; establishing the responsibilities of residents, property owners, businesses, contractors and the County; defining violations and penalties; and defining the status of current and future contractors.
(Ord.2015-01, passed 8-19-2015)

§ 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.
(Ord.2015-01, passed 8-19-2015)

§ 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.

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

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

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

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

CODE ENFORCEMENT OFFICER. The person 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.

COUNTY. When used in this chapter, means the County of Valencia, State of New Mexico, United States of America.

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

COUNTY SOLID WASTE CONTAINERS. An enclosed fixture that leak-proof with a lid and that conforms to industry standards, as accepted by the Board of County Commissioners or designee of the Board.

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

COMMERCIAL SOLID WASTE COLLECTION. All solid waste collection from business establishments and multiple-family dwellings, or any solid waste collection utilizing a front-end loader container or container generally known as a "dumpster", such container having a greater capacity than 1/2 (one half cubic yard) or .5 cubic yard.

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

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

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

CONVENIENCE CENTER. See **TRANSFER STATION OR REGISTERED FACILITY.**

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.

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

HAULER. Any person or 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:

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

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

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

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

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

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

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

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

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

LITTER. Solid waste or debris found 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.

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

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

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

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

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

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YARD WASTE. Grass clippings, leaves, pruning and other discarded materials generated from yards, farms, gardens, parks and similar facilities.
(Ord.2015-01, passed 8-19-2015)

§ 50.06 ADMINISTRATION.

The County Manager is responsible for the administration of this chapter in accordance with direction received from the Board of Commissioners.

(A) Powers delegated to the County Manager may be delegated by the County Manager to other appropriate County divisions and departments, or appointee/contractor/consultant, 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.

(C) The County Manager shall recommend fees as defined in an approved contract, based upon the successfully negotiated contract with a solid waste contract hauler, to the Board of County Commissioners.

(D) The County Manager shall establish policies and procedures for billing and collection of service fees, as defined in an approved solid waste mandatory collection contract, to present to the Board of County Commissioners for approval.

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

(F) The County Manager shall establish grievance policies and procedures, as defined in the successfully negotiated solid waste contract, to be presented to the Board of County Commissioners for approval.

(G) The County Manager may consider recommendations by a contracted solid waste hauler 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. Such recommendations may be presented to the Board of County Commissioners for approval.

(H) This chapter does not indicate any specific site(s) for final disposal, as long as the disposal site is in full compliance with all federal, state, and local requirements, nor does it intend to affect incorporated or sovereign entities within the county. This chapter directs the County Board of Commissioners to develop a mandatory county-wide solid waste collection service contract.

(Ord.2015-01, passed 8-19-2015)

§ 50.07 ACCUMULATION OF SOLID WASTE, LITTER, 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, litter, or construction and demolition debris, or any composition or residue thereof, which

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is in an unsanitary condition or otherwise 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 any of 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 authorized by the property owner) to correct such violation within a designated period of time, from a minimum of 3 days, up to a maximum of 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 3 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. If any aforementioned person (other than the property owner) does not accept and pay such expense, the expense shall be the responsibility of the property owner per division H of this section.

(G) If the County Manager or his or her designee, the County Code Enforcement Officer or a Sheriff's Department Deputy or other authorized official 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 minimum 3-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 any other costs and attorney fees necessary to collect it, until paid in full.

(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 sufficiently to justify the expense. Such files shall be available for public review during normal County offices business hours.

(J) Transportation of solid waste shall be accomplished through the use of a vehicle which is tightly secured, leak-proof and covered. Such vehicles shall be operated to prevent offensive odors escaping therefrom, and to prevent solid waste from being blown, dropped, spilled, or

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otherwise caused to escape from the vehicle during transport. Persons transporting solid waste using a vehicle without a tightly secured and leak-proof cover will be subject to additional fees as established by resolution.

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 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 containment at a County Convenience Station, or other refuse and/or solid waste disposal facility(ies) franchised, licensed and/or permitted in accordance with applicable federal or state laws and/or regulations, and this chapter.

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

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

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

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

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

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.09 SOLID WASTE CONTAINERS.

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

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

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

(E) Any solid waste, litter or construction and demolition debris deposited in a hauler-provided solid waste container shall be reduced in size to not more than 4 feet in length.

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(F) In the event that any contractor or hauler-provided solid waste container is full, solid waste shall not be placed on the ground or in proximity to the container nor atop the container so as to constitute a litter or health hazard, or become blown and/or scattered.

(G) No person shall impede access to a hauler-provided solid waste container other than when necessary to remove solid waste from it, and to deposit solid waste into it.
(Ord.2015-01, passed 8-19-2015)

§ 50.10 DAMAGE TO SOLID WASTE CONTAINERS.

(A) No person, including children, shall be on or in the contractor or hauler-provided solid waste containers.

(B) No person shall intentionally damage any hauler-provided solid waste container.

(C) Any person who damages a hauler-provided solid waste container shall be liable to the contracted solid waste hauler for the cost, repair or replacement of such container, in addition to the penalties provided in § 50.99.
(Ord.2015-01, passed 8-19-2015)

§ 50.11 TOXIC, CORROSIVE, IGNITABLE, FLAMMABLE, 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 hauler-provided solid waste containers. Such waste shall be disposed of in accordance with all applicable county, state and federal laws or regulations, at the expense of the person(s) accumulating such waste.

(B) No yard waste, including grass and tree clippings, pine needles, leaves and cut weeds, shall be placed in hauler-provided solid waste containers. Such waste shall be disposed of on the site upon which it is generated, or in an approved solid waste facility, or in accordance with all applicable county, state and federal laws or regulations, at the expense of the person accumulating such waste.

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.12 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 a county-approved hauler, or fenced area of suitable size and design to contain all solid waste, litter, or construction and demolition debris that may be disturbed or removed from the premises or property by the wind or elements.

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

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

(Ord.2015-01, passed 8-19-2015)

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§ 50.13 SCAVENGING PROHIBITED.

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

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

(Ord.2015-01, passed 8-19-2015)

§ 50.14 REGULATIONS ADOPTED.

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

(Ord.2015-01, passed 8-19-2015)

§ 50.15 SOLID WASTE MANAGEMENT FEE.

(A) Payment of the solid waste management fee shall be the obligation of the property owner for each residence, multi-family dwelling, and/or commercial business located in any unincorporated area of the county. Such fee shall be collected by the contracted solid waste hauler.

(B) If there are multiple residences on a property, the solid waste management fee shall be assessed on each of such premises, based upon the number and size of hauler-provided containers required by the volume of solid waste generated upon the premises.

(C) The County Commission will establish fees, based upon the successfully negotiated contract with the solid waste hauler, and designate any necessary funding sources for the implementation of this chapter.

(D) Any responsible party, as herein defined, who is the owner of more than 160 contiguous acres and who qualifies for the exemption provided in 20 NMAC 9.1 Part 108, may make application to the county for exemption from the monthly solid waste management fee set out herein. Exemptions are subject to review by the County and the New Mexico Environment Department.

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

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

(Ord.2015-01, passed 8-19-2015)

§ 50.16 LIENS.

(A) All fees arising under this chapter shall be billed to the resident of record of the residence being served at the time the rate or charge accrues and becomes due, but are ultimately the

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responsibility of the owner of the property, if unpaid by the resident. The County shall be entitled to a lien upon the premises and upon the tract or parcel of land being served for failure to pay such fees pursuant to the authority granted under NMSA §§ 3-36-1 et seq., which lien shall be a first and prior lien on the property coequal with municipal liens pursuant to NMSA § 3-36-2, but subject only to the lien of general state and county taxes.

(B) The lien provided for in this section shall be enforced in the manner prescribed in NMSA § 3-36-7. For purposes of this section, such action shall be taken by the County Clerk. In any proceedings where pleadings are required, it shall be sufficient to declare generally for the service supplied for the collection, transportation and disposal of solid waste.

(C) The charges and fees imposed herein are the obligation of the responsible party of the premises, regardless of whether occupied by an owner, tenants or others, and the County/solid waste hauler may file a lien against the property for such charges, penalties, collection costs and attorney's fees incurred in the cost of filing the lien.

(Ord.2015-01, passed 8-19-2015)

§ 50.17 POWERS OF THE COUNTY.

In connection with the contracting or 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 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 as needed, for the implementation of the provisions of this chapter.

(Ord.2015-01, passed 8-19-2015)

§ 50.18 SOLID WASTE COLLECTION AUTHORIZATION.

(A) *Implementation of solid waste regulation.* Except as otherwise provided herein, all solid waste generated and 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 all applicable 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, upon recommendation of the contracted solid waste hauler, 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. Such procedures may be subject to the approval of the Board of Commissioners.

(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

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or articles, that regulate the disposal of solid waste, and shall pay all applicable collection fees, whether the solid waste collection service is utilized or not.

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

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

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.19 SOLID WASTE PRE-COLLECTION PRACTICES.

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

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

(C) *Duty to maintain containers in sanitary condition.* Solid waste containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter shall be promptly remediated or replaced at the cost of the responsible party 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, based upon the recommendation of the solid waste hauler. Under no conditions may hot ashes be placed at a collection point.

(E) *Commercial solid waste containers.*

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

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

(F) *Residential solid waste containers.*

(1) Solid waste shall be enclosed in plastic bags or containers for residential collection. These containers or bags must conform to contractor collection specifications, as approved by the County Manager, or to procedures promulgated by the County Manager, based upon the recommendations of the contracted solid waste hauler. All containers must be tightly secured so as to prevent solid waste from being scattered, blown or spilled. Sharp or extremely heavy materials will be placed in disposable containers other than plastic bags. Tree trimmings and similar solid waste suitable for bundling will be tied in bundles, not to exceed 4 feet in length and 2 feet in diameter. 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 5:00 p.m.

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the evening prior to collection, unless otherwise specified by the County Manager, based upon recommendation of the contracted solid waste hauler.

(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, upon recommendation by the contracted solid waste hauler, shall have the authority to designate the solid waste collection site, if necessary.

(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.

(Ord.2015-01, passed 8-19-2015)

§ 50.20 OWNERSHIP OF SOLID WASTE.

All solid waste generated within or brought into the county is owned by and is the responsibility of the 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. The owner of any property where solid waste is generated or held shall be equally responsible for the lawful handling and deposition of such solid waste in a landfill or approved solid waste facility, or removed by a licensed private contractor, except where state or federal requirements prohibit transfer of ownership.

(Ord.2015-01, passed 8-19-2015)

Penalty, see § 50.99

§ 50.21 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. Collection points must meet the minimum requirements of the contracted solid waste hauler.

(B) *Selection and design of collection points.* Specific points for commercial collection and solid waste storage shall be designated by the County Manager, and shall meet the minimum requirements of the contracted solid waste hauler, 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 35 feet of the premises.

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(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, in concurrence with the contracted solid waste hauler, 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, in concurrence with the contracted solid waste hauler, 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, August 19, 2015, 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 and the contracted solid waste hauler 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, after consideration, recommendation, and approval contracted solid waste hauler, 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 plans; shielding collection points and removal of illegal containers; and any other factors which may materially affect*

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(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, following review and recommendation by the contracted solid waste hauler.

(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.

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.22 SOLID WASTE COLLECTION PRACTICES.

(A) *Mandatory collection services.*

(1) The Board of County Commissioners shall require mandatory roadside solid waste collection services for occupied residential and/or commercial structures on dedicated, county-maintained roads. Responsible parties residing or operating commercial businesses on non-county-maintained roads must request special collection services from the contracted solid waste hauler, and shall receive services and pricing based upon actual physical location, accessibility, and any other factors which may materially affect the proper and lawful collection of solid waste. Commercial businesses shall be included in the mandatory collection system.

(B) *Frequency of solid waste collection.*

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

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

(a) The County Manager, upon recommendation of the contracted solid waste hauler, 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, upon recommendation of the contracted solid waste hauler.

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

(C) *Limitations of quantity.*

(1) *Residential solid waste collection.* Within the unincorporated areas of the county receiving mandatory collection services, the contracted solid waste hauler shall collect the solid waste of each residence during a collection period for the standard charge. Any excessive

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accumulation of solid waste, as determined by the contracted solid waste hauler, and authorized by the County, may require a special collection at an additional fee, as per contract.

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

(D) *Special and hazardous waste.*

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

(2) *Hazardous waste.* Hazardous waste shall not be collected, transported or disposed of unless in full compliance with local, state and federal regulations regarding transportation and disposal. Hazardous waste material shall not be placed in containers for regular collection and disposal. The producers or possessors of such material shall immediately notify the contracted solid waste hauler who shall provide technical assistance on the proper collection and disposal of such material, at the expense of the owner or possessor thereof. The County further reserves the right to prohibit the disposal of hazardous waste within the unincorporated areas of the county.

(E) *Collection by commercial haulers.*

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

(2) *Disposal.* Disposal of solid waste, exempt from mandatory collections, 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, upon recommendation by the contracted solid waste hauler, shall develop rules and regulations concerning individual collection or disposal for approval by the Board of County Commissioners.

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

(F) *Change between residential and commercial collection service.* The County Manager shall establish guidelines for determining and allowing a change between residential and commercial solid waste collection service 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, pursuant to review and recommendation by the contracted solid waste hauler. (Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.23 SERVICE FEES.

(A) *Mandatory service in unincorporated areas in the county.*

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

The contracted solid waste hauler is responsible for collection of fees for services rendered.

(2) The Board of County Commissioners may authorize by resolution a low income credit available to qualified residences. Qualified residents must have an annualized gross income that is no greater than 80% of the area median family income for the county, as determined by the most recent report by the U.S. Department of Housing and Urban Development. The County Manager shall establish eligibility procedures and guidelines for the low income credit. The contracted solid waste hauler shall administer the low income credit program.

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

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

(1) *Previously unoccupied residences.* New homes will begin receiving billing for services upon issuance of a certificate of occupancy. It shall be the duty of the builder, contractor or agent to notify the county, in writing, at the time of the sale or occupancy.

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

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

(b) Premises was receiving residential (and not commercial) collection services;

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

(d) Written request for service suspension is received by the contracted solid waste hauler 10 days prior to the beginning of suspension. The request shall include date of departure and expected return date.

1. Written request should be mailed to the contracted solid waste hauler as provided by the rules and regulations established by the contract with the successful solid waste hauler service provider.

2. Requests by telephone shall not be honored.

3. If solid waste is found at the premises during temporary suspension of service and it is determined the solid waste was generated by lawful occupants of the premises, the customer may be billed in arrears for the entire suspension period. All charges shall be on a full month basis and shall not be prorated.

(3) *Vacant commercial premises.* Commercial premises included in the unincorporated mandatory service area, that become vacant, shall continue to receive charges until proper written application to stop charges is approved by the contracted solid waste hauler. The owner, tenant, lessee, manager or occupant shall make such written application to the contracted solid waste hauler.

(4) *Credit or back charge adjustments.* Credit or back charge adjustments may be made retroactive; however, such adjustments shall not exceed a period of one (1) years.

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

(D) *Payment.* All charges for solid waste collection services within the unincorporated mandatory collection areas shall be payable to the contracted solid waste hauler, and will become delinquent 15 days following the "due by" date on the customer's statement.

(E) *Penalty.* A penalty of 18% per annum may be imposed on all delinquent accounts and assessed on a monthly or quarterly basis.

(F) *Responsibility of payment, liens and deposits.*

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

(2) The contracted solid waste hauler, in conjunction with the County, may file a lien on such property for such unpaid charges, including any interest or penalties accruing on same.

(3) In the event the property is sold, the original owner shall notify the County and the contracted solid waste hauler, 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 contracted solid waste hauler deems it appropriate.

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

(H) *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 the County for County-operated convenience centers and transfer stations, and will be established by the contracted solid waste hauler for contract hauler-operated convenience centers and transfer stations.

(2) Any business or institution may dispose of solid waste at any county convenience center or transfer station. Any uncovered or unsecured load as covered elsewhere in this chapter, will be charged an additional fee. Fees for use of the convenience center or transfer station will be established by the County for County-operated convenience centers and transfer stations, and will be established by the contracted solid waste hauler for contract hauler-operated convenience centers and transfer stations.

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

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.24 INJUNCTIVE RELIEF.

Any 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.

(Ord.2015-01, passed 8-19-2015)

§ 50.25 CONFLICT.

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

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

(A) *Application.* Any person can apply for authorization to the County Manager, or his/her designee, for application and information to provide commercial (roll-off) services in unincorporated areas of Valencia County.

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

(C) *Mandatory service areas excluded.* No permits shall be granted to any applicant and no person shall provide commercial/residential hauler services for any area(s) of service where mandatory collection has been implemented pursuant to §50.22. This exclusion shall not apply to C and D collection and hauling services.

(D) *Issuance of permit.*

(1) No person may engage in the business of collection of solid waste and/or recyclables in unincorporated Valencia County other than the contracted solid waste hauler.

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

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

(c) Upon completion of the requirements of divisions (A) and (B), and the applicant meeting the requirements of as set out below, the County Manager, or his or her designee, shall issue a construction and demolition debris collection permit to the applicant

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

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

(F). *Permit fee.* Each commercial hauler shall pay \$250 to file an application with the county.

(G) *CPI adjustment.* The county shall implement an adjustment of solid waste collection rates utilizing the Consumer Price Index (CPI). The rates set forth in the service rate schedules, as adjusted hereunder, shall be adjusted by administrative action by a percentage equal to the average annual percentage change in the CPI for All Urban Consumers (1982-1984=100), as published by the Bureau of Statistics. The CPI amount shall be determined by the County Manager through appropriate verification prior to August 19, 2015, and each and every year thereafter, and implemented on July 1, 2016, and each and every year thereafter, until the expiration of the contractual agreement and permit.

(H) *Enforcement fee.* Any contractor/hauler who provides solid waste collection services within Valencia County shall pay to the County an amount equal to 10% of all fees collected per customer for residential and/or commercial solid waste services. Each contractor/hauler shall provide a complete list of the number of clients the contractor serves, on a quarterly basis. Each contractor/hauler shall allow the County to inspect its revenues collected in its operation in the County, including, but not limited to, its books and equipment, on at least a bi-annual basis. A 30-day delinquency of fee payment will be brought before the County Manager for action.

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

(J) *Appeal.* Any contractor/hauler shall have the right to submit a written request for a hearing if he or she is not satisfied with the decision rendered by the designee of the County Manager. Such a request must be made within 15 days of the mailing of the County Manager's decision. The open public hearing shall be conducted within 30 days of receipt of the request before the County Manager.

(K) *Records required.* Upon termination, suspension or revocation of a contractor/hauler permit, the contractor/hauler may submit to the County Manager, within 10 calendar days, those records necessary for the purpose of resuming or continuing service to the contractor/hauler's Valencia County customers. A contractor/hauler may of his or her own volition relinquish his or her agreement or permit, provided the County Manager is provided written notice not less than 90 days prior to relinquishment so as to assure maintenance of service.

(L) *Changes in ownership.*

(1) *Notice and approval.* In the event there is to be a change in the ownership for any contractor 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 agreement and commercial hauler permit 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.

(M) *Independent contractors.* It is expressly agreed and understood that contractor/hauler(s) are in all respects independent operators as to the work, and are 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 each contractor/hauler.

(N) *Truck identification.* All contractor/hauler(s) shall have identification on all vehicles. Haulers may not use a firm name containing the words "County" or "Valencia County". (Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.27 DISPOSAL OF SOLID WASTE.

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

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

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§ 50.28 FREQUENCY OF COLLECTION.

Solid waste shall be collected or removed from residential premises by the contractor/hauler and commercial establishments at least once per week. No resident shall be refused service by a contractor/hauler (except for nonpayment). Refusal to provide service shall be documented by the contract hauler and the resident or property owner, and submitted to the County Manager or designee within 5 days of service request by the resident, and 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 contractor/ hauler shall agree to abide by the County Manager's decision.

(Ord.2015-01, passed 8-19-2015) Penalty, see § 50.99

§ 50.29 FEES FOR PUBLIC COLLECTION AND DISPOSAL.

(A) The County shall enter into an exclusive franchise contract for residential and commercial mandatory solid waste collection in the unincorporated area.

(B) Franchise fees shall be 10% of the gross sales for residential collection, and 10% of gross sales for commercial and roll-off services. All gross sales or receipt taxes shall be added to the fees approved.

(Ord.2015-01, passed 8-19-2015)

§ 50.30 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 conditioners.

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

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

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

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

(G) Bulk liquids.

(Ord.2015-01, passed 8-19-2015)

§ 50.31 AUTHORITY OF COUNTY CODE ENFORCEMENT OFFICERS AND DEPUTIES TO ENTER PREMISES.

(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.

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(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.
(Ord.2015-01, passed 8-19-2015)

§ 50.32 COMPLIANCE WITH LAWS AND REGULATIONS.

Each 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, each 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.
(Ord.2015-01, passed 8-19-2015)

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

(A) All contractors/haulers shall provide the county with a certificate of insurance naming the county as an additional insured. The contractor shall provide workers compensation insurance for its employees, unless exempted by state or other prevailing statute. The contractor shall also hold general public liability insurance coverage in the amount of \$1,000,000, 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 policies thereof.

(C) 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) above, and shall file with the County Clerk an affidavit, indicating that adequate arrangements have been made to notify the County Manager, in writing, not less than 30 days prior to cancellation of any such policies thereof.
(Ord. 2015-01, passed 8-19-2015)

§ 50.34 PERFORMANCE BONDS BY CONTRACTORS (HAULERS).

(A) The County Manager shall require each contractor/hauler to post with the county a bank guarantee, surety or performance bond in an amount of not less than \$2,000,000. 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.

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(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. For purposes of this chapter, **ACTS OF GOD AND OTHER CIRCUMSTANCES** include unusual weather, floods, epidemics, war, riots, strikes, lockouts and other industrial disturbances, protest demonstrations, unanticipated site conditions, or inability, despite reasonable diligence, to provide service.
(Ord.2015-01, passed 8-19-2015)

§ 50.99 PENALTY.

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

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

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

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

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

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

(D) In addition, the County Manager, or his or her designee, may pursue, in addition to criminal prosecution, 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.

(Ord.2015-01, passed 8-19-2015)

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