

**CIBOLA COUNTY
ORDINANCE 16-04
WASTE, LITTERING & REFUSE**

AN ORDINANCE PROHIBITING THE ACCUMULATION OF REFUSE, SOLID WASTE & LITTER AND PROVIDING FOR PENALTIES, CIVIL REMEDIES, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the Cibola County Board of Commissioners finds that the unsightly and unhealthy conditions caused by littering, the improper disposal and dumping of refuse, the dumping of refuse upon public rights of way and public lands, the poor maintenance and repair of property, and the proliferation of unscreened salvage yards result in a significant detriment to the health, safety, and prosperity of Cibola County and its residents; and

WHEREAS, the Cibola County Board of Commissioners deems it necessary and desirable to prescribe standards to help maintain property values and the property tax base in Cibola County, and to provide an aesthetically pleasing community; those are necessary to supplement voluntary anti-litter and beautification measures to abate unsightly and unhealthy accumulations of debris and trash; and

WHEREAS, the Cibola County Board of Commissioners finds it necessary and desirable to prescribe regulation to guide the future growth and development of the County and to protect natural resources in accordance with the Cibola County Comprehensive Plan.

ARTICLE 1: GENERAL PROVISIONS

1.1 Short Title

This ordinance shall be known and may be cited as the “Cibola County Solid Waste Ordinance” and shall be referred to elsewhere as “this Ordinance”.

1.2 Jurisdiction

This Ordinance shall be enforceable in the unincorporated areas of the County.

1.3 Purpose

A. The Board of County Commissioners has determined, pursuant to NMSA 1978, § 4-37-1 et seq., and NMSA 1978, § 4-56-3(C), that it is in the interest of public health, safety, and welfare that the subject matter of this chapter be regulated as provided herein.

B. The purpose of this chapter is to preserve and protect the health, safety, and quality of life of the inhabitants of Cibola County and to preserve and improve the environmental quality of the County.

1.3 Interpretation and Conflict

The regulations provided herein are held to be the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, or abrogate or annul any other valid

ordinance or statute. In the event the provisions of this Ordinance conflict with other County rules, regulations or ordinances pertaining to the subject matter herein, the provisions of this Ordinance shall prevail.

ARTICLE 2: DEFINITIONS

For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meanings stated herein:

ACCUMULATION

To gather or collect into a mound, heap, mass, or coverage; forming a steadily increasing quantity.

ARROYO

Includes any canyon, draw or wash or any other earthen channel with visible evidence of the occasional flow of water.

ASHES

Fire residue of any kind, including, but not limited to, fireplace ashes, barbecue grill briquettes, wood chips, wood stove ashes, campfire ashes, hot waste or other material susceptible to spontaneous combustion.

CONSTRUCTION OR DEMOLITION DEBRIS

Materials generally considered 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, and includes rocks, soil, tree remains, trees, and other vegetative matter that normally results from land clearing. If such debris is mixed with any other type of solid waste, it loses its classification as construction and demolition debris.

COUNTY MANAGER

The chief administrative assistant to the Board of County Commissioners of Cibola County.

DEBRIS

All waste building material, including, but not limited to, bricks, concrete blocks, shingles, roofing material, lumber, pipe, commercial construction wastes, and any other matter that is commonly known as "debris."

DISMANTLED OR PARTIALLY DISMANTLED VEHICLE

Any motor vehicle or trailer from which some parts or parts which are ordinarily a component thereof have been removed or are missing.

FLOODPLAIN

The relatively flat area or low land adjoining the channel of a watercourse or a body of standing water which has been or may be covered by floodwaters, and which has a one-percent chance of occurring in a given number of years, the limits of which are shown on a National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM).

GARBAGE



Includes all waste food, swill, carrion, slops, and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and the carcasses of animals.

GROUNDWATER

Interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

HAULER

Any person who collects refuse or debris from any property not owned by that person.

INOPERATIVE OR INOPERABLE MOTOR VEHICLE

A motor vehicle from or on which the engine or motor, the transmission or transaxle, drive shaft, differential, steering mechanism, axles, wheels, body, doors, windshield, headlights, taillights, or any other part of the vehicle is removed, damaged, wrecked, partially dismantled, or in such a state of disrepair that the vehicle cannot be either moved under its own power, driven, licensed or operated on a public road, street, highway, or any other public thoroughfare.

LANDFILL

A facility designed for the disposal of refuse and solid waste permitted in accordance with EID Regulation EID/SWMR-2 and this chapter.

LITTER

Any quantity of improperly discarded solid waste, decaying or nondecaying solid or semisolid waste, including but not limited to discarded furniture and appliances, overflowing residential and commercial trash cans, construction debris, fast-food packages, candy wrappers, cigarette butts, and/or plastic, glass, trash, debris, rubbish, refuse, garbage, or junk parts and scrap materials found in public areas or generated while traveling in a motor vehicle.

MOTOR VEHICLE

Any wheeled vehicle which is self-propelled or intended to be self-propelled.

PERSON

Any individual, partnership, company, corporation, firm, association, trust, estate, state and federal agency, government instrumentality or agency, institution, county, city, town, village, or municipality or other legal entity, however organized.

PUBLIC AREA

Any land owned by the community or open to common use, such as streets, roads, sidewalks, alleys, arroyos, or other public ways, and any and all public parks, spaces, grounds, and buildings.

REFUSE

Includes garbage and rubbish.

RUBBISH

Includes, but is not limited to, all dismantled or partially dismantled motor vehicles, inoperable motor vehicles, dismantled or partially dismantled mobile homes or trailers, waste paper, metal, paper



cartons, cardboard, tree branches, yard waste, wood, glass, plastic, discarded furniture, signs, and appliances or parts thereof, tin cans, dirt, ashes, bottles, liquid petroleum waste, such as motor oil and similar items, and all other unwholesome material of every kind, not including garbage.

SOLID WASTE

Means, but is not limited to, any garbage, litter, refuse, debris, rubbish, yard waste, appliances, inoperable vehicles, construction and demolition debris, or other discarded material originating from residential, industrial, or commercial sources.

WATER TABLE

The surface in unconfined groundwater at which the pressure is atmospheric and which is defined by the levels at which water stands in wells that penetrate the water just far enough to hold standing water.

WELL

A bored, drilled or driven shaft or a dug hole whose depth is greater than the largest surface dimension of the hole.

YARD WASTE

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

ARTICLE 3: ACCUMULATION OF REFUSE, SOLID WASTE & LITTER; REMOVAL; PENALTY

- A. No person shall be permitted to accumulate any solid waste, litter or C & D debris on property owned, leased or occupied by that person within two-hundred (200) feet of another occupied premises, except in covered water-tight containers made of metal or plastic.
- B. No person shall throw, place, dump, or dispose of any solid waste, litter, or C & D debris on any road, street, gutter, sidewalk or alley, or on any public property or another's private property.
- C. No person (whether owner, tenant, lessee, manager or other person) shall permit any solid waste, litter or C & D debris or any composition or residue thereof which is in an unsanitary condition or hazardous to public health to remain upon the property under the person's control.
- D. No person shall cast, place, sweep or deposit any solid waste, litter, or C & D debris in such a manner that it may be carried or deposited by the elements upon any road, street, sidewalk, alley, sewer, parkway or other public place or private property within the County.
- E. Any accumulation of solid waste, litter, or D & D debris is a violation of the terms of this Ordinance and is hereby declared to be a nuisance and is unlawful.
- F. Subject to any limitations or otherwise provided by law, the Sheriff or County Code Enforcement Officer is authorized, upon issuance of a warrant, to inspect any property where he has probable cause to suspect that unlawful accumulations of solid waste, litter or C & D debris may exist, and to enforce this chapter.



(1) If, upon the basis of such inspections, the Sheriff or County Code Enforcement Officer finds that any of Subsections A through E of this section have not been complied with or that a violation exists, he/she shall notify the person in charge of the premises (whether owner, tenant, lessee, manager, or other person), where the unlawful refuse, solid waste, or litter accumulations exist, to properly correct such conditions within a designated period of time from 10 days up to 30 days.

(2) Upon the failure, neglect, or refusal of any person, owner, tenant, lessee, manager, or occupant to properly correct any such conditions as set forth herein within the time prescribed (or within five days of the return of such prescribed notice undeliverable if the notice is served by mail), the Board of County Commissioners may contract for the correction of 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.

(3) The cost for correction shall be a lien upon the property and shall remain in full force and effect for the amount due plus interest at the legal rate from the date of filing of the lien until paid, and all other costs, including attorneys' fees.

G. Costs for correction of unlawful accumulation of refuse, solid waste, or litter shall be determined on the basis of man-worked hours, equipment at a customary rental rate per day, plus any direct cost paid by the County to correct the accumulation.

H. Nothing in Subsection F of this section shall be construed to require any notice before the filing of a Magistrate Court action for a civil or criminal violation of this section.

I. If the Sheriff finds that the unlawful accumulation of solid waste, litter or C & D debris presents a clear and present danger to the public health, safety and welfare, and immediate measures are required to alleviate this clear and present danger, the County Manager may waive the ten (10) day notification period.

J. The County Sheriff and the County Manager shall maintain files of the inspections, notices and actions taken pursuant to this Section. Costs incurred by the County in undertaking corrective actions shall be documented and the files shall be open for public review during normal business hours.

I. Penalty. Violation of this section, in addition to any other cost assessed for the cleanup of illegal stored or deposited refuse, solid waste, or litter, shall be punished under the provisions of Article 6 of this chapter.

ARTICLE 4: 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. Any person 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.

ARTICLE 5: COLLECTION OF SOLID WASTE

A. Dumping. No person shall discard solid waste, rubbish, or refuse anywhere outdoors within the boundaries of the County except at a time and place approved for collection of that person's solid waste under the terms of this chapter and regulations authorized by said sections or other provisions of this Code or ordinances of the County. No person shall place solid waste in the solid waste receptacle of another person, business or institution without permission.

B. Unauthorized accumulation. It shall be unlawful to allow any solid waste, rubbish, or refuse to collect or accumulate on any property or other premises within the County. Any such unauthorized accumulation is hereby declared to be a nuisance and is prohibited.

C. Accumulation of construction and demolition debris. Debris resulting from construction or demolition of structures may be collected within an active construction site only if the solid waste is contained in such a manner that it will not be carried or deposited by the elements upon any road, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, private property, or into any premises within the County.

D. Illegal use of convenience centers. No person shall place solid waste, rubbish, or refuse on the premises of a Cibola County convenience center or landfill except during the regular posted operating hours.

E. Hazardous accumulations and conditions. It shall be unlawful for any person to allow the following conditions to exist on any premises he owns, rents or occupies:

(1) The existence of three or more or any combination of nonoperational motor scooters, motorcycles, cars, trucks, buses or other vehicles regulated by the New Mexico Department of Motor Vehicles, unless the vehicle owner, property owner, or property lessee can show substantial progress in restoration or repairs to the nonoperational vehicle in the last 30 days or purchase orders, invoices or estimates for repair work to be done in the next 30 days; provided, however, that this section shall have no application where:

(a) A person is engaged in a New Mexico Department of Motor Vehicles licensed vehicle dismantling business and any nonoperational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven feet in height above the level of the ground and maintained in a slightly, safe and secure condition; or

(b) Any inoperable vehicles are not visible to the public from any road or street abutting such property, or, if visible, any nonoperational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven feet in height above the level of the ground and maintained in a slightly, safe, and secure condition.

(2) The existence of nonoperational refrigerators or freezers or any other type of appliance, furniture, vehicle or other container that has a space large enough for a person of any age to enter into with a door, hatch, lid, or cover of any kind capable of closing or sealing which could prevent the escape of any person, not within a licensed sanitary landfill or a licensed commercial salvage business registered with the State of New Mexico.

(3) The existence of piles of rubbish, refuse, household trash, debris, grass, weeds, tree limbs, or any other type of material(s) which are or may be susceptible to infestation by rodents, reptiles, insects, or



noxious weeds or any other type of animal or plant that is or can be injurious to people, animals or the environment, not within a licensed sanitary landfill or New Mexico Environment Department or other regulatory agency regulated facility.

ARTICLE 6: PENALTIES AND REMEDIES

Any person violating or failing, or refusing to comply with the provisions of this Ordinance and the Codes adopted may be prosecuted in any court of competent jurisdiction within the County, and shall be punished by (1) a fine of not more than three hundred dollars (\$300) or imprisonment for not more than ninety (90) days, or both; (2) no more than one thousand dollars (\$1,000) for discarding or disposing of refuse, litter or garbage on public or private property in any manner other than by disposing it in an authorized landfill; (3) no more than five thousand dollars (\$5,000) for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act [Chapter 74, Article 4, NMSA 1978]; and in accordance with Section 4.37-3 NMSA 1978. Each violation shall constitute a separate offense. Each day an offense continues shall also constitute a separate offense. The Board of County Commissioners may apply to the District Court for appropriate injunctive relief to compel compliance by any person within the provisions of this Ordinance. After the effective date of this Ordinance, all violations are subject to issuance of a citation.

ARTICLE 7: SEVERABILITY


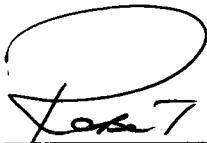
If any article, section, subsection, paragraph, sentence, clause, phrase, provision, standard or any portion thereof of this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portions shall not be affected since it is the express intention of the Board of County Commissioners to pass such article, section, subsection, paragraph, sentence, clause, phrase, provision, standard and every part thereof separately and independently from every other part.

ARTICLE 8: EFFECTIVE DATE AND REPEAL

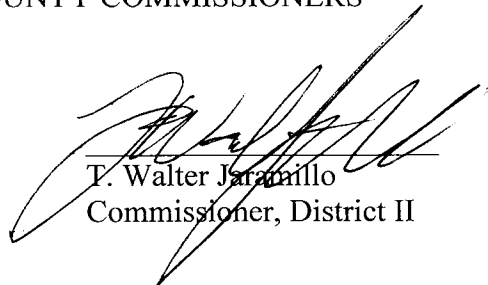
This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the Board of County Commissioners. The effective date of this Ordinance shall be thirty (30) days after the Ordinance has been recorded.

PASSED, APPROVED AND ADOPTED THIS 27th DAY OF July, 2016.

BOARD OF COUNTY COMMISSIONERS



Robert Armijo
Commissioner, District I



T. Walter Jaramillo
Commissioner, District II



Jack Moler
Jack Moler
Commissioner, District III

Patrick Simpson
Patrick Simpson
Commissioner, District IV



VOTED NO

Lloyd F. Felipe
Commissioner, District V

Attest:

Elisa Bro
Elisa Bro
Cibola County Clerk

201601424 Page 8 of 88: 024 P: 06116 07/29/2016 03:07 PM
Elisa Bro, Cibola County, NM Clerk and Recorder

