

ARTICLE 2. SOLID WASTE

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§ 13.2.1 DEFINITIONS

(A) **CONTRACTOR** is a private firm authorized to do business in the state for the collection and disposal of solid waste and authorized by a contract with the Village to provide solid waste collection and disposal.

(B) **DISPOSAL SITE** means the location of land area where the final disposition of solid waste occurs.

(C) **PREMISES** means any property within the municipal corporate limits adaptable for human occupancy, and shall also mean, but not be limited to, residences, apartments, apartment complexes, mobile homes, mobile home parks, business places, offices, theaters, hotels, eating and drinking establishments, tourist facilities, hospitals, schools, vacant lots, and any other places or location within the Village of Los Ranchos de Albuquerque which is occupied or has previously been occupied.

(D) **RECYCLABLE MATERIAL** means solid waste identified by the governing body of the Village of Los Ranchos de Albuquerque as reusable and subject to special separation, collection, storage and disposition from other solid waste.

(E) **SOLID WASTE** means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 U.S.C. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 U.S.C. 923).

§ 13.2.2 DEPOSITING SOLID WASTE FOR COLLECTION

(A) Any person owning, controlling or occupying any premises within the Village shall be responsible for the sanitary conditions of the premises, and it shall be unlawful for any person to keep in or about such premises any solid waste as herein defined unless it is kept in authorized containers.



(B) It is unlawful for any person to bury, dump or deposit, or to allow or permit or cause to be buried, dumped or deposited upon any street, alley or private or public property any solid waste of any kind whatsoever. However, composting and mulching of yard wastes, manure and other biodegradable materials is not unlawful and is encouraged if done in a safe and sanitary manner.

(C) The removal of clothing, bedding or other waste from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of a health sanitation officer, and such waste shall not be placed in containers for regular collection.

(D) It shall be a violation of this Article to place or to cause to be placed in any container, box or bundle or otherwise for collection, any hazardous waste of any kind except upon specific prior arrangement with the Village.

(E) All bulky and large solid waste, including but not limited to furniture and appliances, shall be collected and disposed of by special arrangements between the owner or occupier of the premises and the Village contractor. A reasonable additional charge may be assessed for such collection based on the average hourly cost of equipment and labor for the additional time required.

(F) Ownership of solid waste material set out for collection shall be vested in the Village.

§ 13.2.3 COLLECTION OF SOLID WASTE

(A) The Village shall cause to be provided and maintained suitable equipment and personnel sufficient to collect and dispose of solid waste from the Village and shall provide adequate areas for the disposal of solid waste. To achieve such purposes, the Governing Body of the Village may:

- (1)** Provide for the collection and disposal of solid waste by the Village; or
- (2)** Enter into a contract with any contractor for the collection of solid waste, and/or the disposal thereof; or
- (3)** Provide for the collection and disposal of solid waste in any other manner deemed suitable by the Village.

(B) Should the Village contract for the collection and/or disposal of solid waste, the contract term shall be for not less than one (1) year, nor more than five (5) years, with an option to renew exercisable by the Village, and the contractor or licensee shall:

(1) Provide minimum insurance coverage of five hundred thousand dollars/one million dollars (\$500,000/\$1,000,000) commercial liability insurance and property damage insurance of twenty-five thousand dollars (\$25,000). Said insurance coverage shall be with carriers acceptable to the Village, and the Village shall be named on the policy as an additional insured.

(2) Agree to indemnify and completely hold harmless the Village for any liability the Village may incur as a result of the actions or omissions of the Contractor in the exercise of the agreement.

(3) Either:

(a) Pay to the Village as a franchise fee an amount to be determined by the Board not to exceed 25 percent (25%) of the gross revenues it receives for its services in consideration for the Village:



1. Granting the contract to the Contractor, and
 2. Allowing the Contractor to use the Village rights-of-way; or
- (b) Collect and pay to the Village an administrative fee as determined by the Board. Such fee shall be used to defray costs of solid waste and recycling programs.

(4) Collect and dispose of solid waste in vehicles that are at least of the minimum quality and design acceptable in the industry, which do not leak, are designed and maintained to prevent solid waste from blowing, spilling or otherwise leaking out of the vehicles, and which are cleaned at such times and in such manner to prevent offensive odors and unsightliness.

(5) Collect and dispose of, in an amount to be determined by the Board, all residential and commercial solid waste no less than once per week, but as often as necessary to comply with the requirements of federal, state, and Village law.

(6) Provide a performance bond in an amount to be determined by the Board of at least fifty thousand dollars (\$50,000).

§ 13.2.4 COLLECTION AUTHORIZATION

(A) Except as otherwise provided in this Article, solid waste accumulated in the Village shall be collected, conveyed and disposed of by the Village or its Contractors. No other person shall collect, convey over any of the streets, alleys or ways of the Village, or dispose of any solid waste accumulated in the Village, except that the actual producer of solid waste, or the owner or occupant of a premises where solid waste has accumulated, may collect, convey and dispose of such refuse providing it is done in a sanitary manner which will prevent any waste from slipping, blowing or in any other manner being deposited on any public street, alley or way.

(B) Notwithstanding the terms of this Section, all persons must arrange for regular refuse collection and disposal per the terms of this Article, and must pay for such service, per the terms of this Article, whether or not the service is utilized.

§ 13.2.5 ACCUMULATION OF SOLID WASTE

(A) No person shall allow any solid waste to accumulate upon premises or real property owned, leased or occupied by such person during intervals between collection except in the manner provided by this Article.

(B) It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters or vacant land within the Village except in the receptacles or containers as specified herein.

§ 13.2.6 DISPOSAL OF SOLID WASTE

Disposal of solid waste collected in the Village shall be at disposal sites operated in accordance with federal and state laws and rules and regulations of the New Mexico Environmental Improvement Division. The Village Board may designate specific disposal sites where solid waste shall be deposited.

§ 13.2.7 FREQUENCY OF COLLECTION

Solid waste shall be collected from residential premises and commercial establishments at least once per week.



§ 13.2.8 FEES FOR PUBLIC COLLECTION AND DISPOSAL

(A) There is hereby assessed against every person owning, controlling, occupying or operating any premises, or owning or controlling real property within the Village, a solid waste collection fee in amounts to be established by the Board, whether or not that person uses the solid waste collection. However, said fees shall only be charged against premises or real property which is occupied or has been previously occupied. The fee shall be reasonably related to the actual cost of collection, disposal and administration of the solid waste program, or determined through procurement bids or proposals should the Village contract for such services.

(B) The Governing Body of the Village shall review fees every year upon written request of the Contractor or a vote of the Board.

(C) The Village may remove or cause to be removed solid waste from premises or real property and make a charge against the real property specially benefited by the removal of the solid waste, if:

(1) Any person owning or controlling real property allows solid waste to be deposited upon that property other than in the proper receptacle and solid waste still remains forty-eight hours after the solid waste is deposited on the real property; or

(2) The owner owning or controlling the premises or real property fails or refuses to use the solid waste collection services provided by the Village.

(D) It shall be a violation of this Article for any person owning, controlling, or operating any premises or real property to fail or refuse to pay the fees imposed for the collection of solid waste and recyclables.

(E) Service charges in accordance with § 13.2.8(A) are assessed against both the owner and the occupant of premises or real property served, jointly and severally, but collecting from one shall relieve the other from liability to the Village.

(F) The governing body of the Village shall determine the method for collecting fees.

§ 13.2.9 RECYCLING

The Village may implement a recycling program as part of its service for the collection and disposal of solid waste under the terms of this Article. The Village may collect recyclable materials in any manner it deems appropriate, including in the same fashion as provided for the collection of solid waste under the terms of this Article, and may require separation of materials into specific receptacles.

Recyclable materials shall become the property of the Village to be sold or to be disposed of at a facility specifically dedicated to recycling such materials. Proceeds derived from the sale of recyclable materials shall be apportioned between the Village and the Recycling Contractor in a ratio to be approved by the Board. The Board shall determine how such proceeds should be allocated.

§ 13.2.10 EXEMPTIONS

This ordinance shall not apply to:

(A) A property holder who, on his/her own property for fill purposes, disposes of construction/demolition waste or yard waste generated on his/her property, if he/she disposes of it in a manner that does not violate any Village, state, or federal law, or create a nuisance or a hazard to health.



(B) Agricultural wastes, including manures and crop residues, returned to the soils as fertilizers or soil conditioners.

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

(D) Hazardous wastes which are subject to regulation 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, §§ 70-2-1 through 70-2-36, NMSA 1978; the New Mexico Water Quality Act, §§ 74-6-1 through 74-16-17, NMSA 1978; or the New Mexico Geothermal Resources Conservation Act, §§ 71-5-1 through 71-5-24, NMSA 1978.

(G) Bulk liquids.

§ 13.2.11 VIOLATIONS

(A) It shall be a violation of this Article to remove solid waste or recyclable material deposited for collection from public or private property except as provided herein.

(B) Any containers provided by the Village or Village contractor shall only be utilized for the purposes intended as provided in this Article. Any theft, destruction or unauthorized use of such containers shall be a violation of this Article.

§ 13.2.12 PENALTIES AND ENFORCEMENT

(A) Any person, firm or corporation violating any provision of this Article shall, upon conviction, be punished by fines or imprisonment up to the maximum allowed by New Mexico law for each offense except that the failure or refusal to pay collection fees will not be punishable by imprisonment. Each day's violation will be considered a separate offense. The failure or refusal to pay collection fees for each billing cycle will be considered a separate offense. These penalties shall not limit the right of the Village to pursue injunctive relief or other remedies authorized by law.

(B) The Board may adopt as penalties specific fines for specific violations of this Article.

(C) If any person owning, controlling, occupying or operating any premises or real property fails or refuses to pay the charge imposed for the collection of solid waste and recyclables, or the charge made against the real property specially benefitted by the removal of solid waste, the Village may take any of the following actions:

(1) The Village may make an assessment against the real property, and if it is not paid, the Village may file a notice of lien and institute lien proceedings against the real property as provided by § 3-36-1, *et seq.*, NMSA 1978.

(2) The Village may institute criminal proceedings in Municipal Court for violation of the provisions of this Article. The Village is empowered to commission the Contractor to file criminal complaints and to present evidence concerning any delinquency. The Municipal Court has authority to order payment of the delinquent fees directly to the Contractor.

(3) The Village may take any other actions that are not prohibited by state law including filing civil actions for recovery of delinquent fees in a court of competent jurisdiction.



§ 13.2.13 DELINQUENT CHARGE COLLECTIONS

The provisions of this Article shall not be construed in any way to limit the right of the Contractor to collect delinquent charges for its services, provided that collection by the Village or the Contractor shall relieve the obligation to the other to the extent of the recovery.

Ordinance and State Law References regarding Chapter 13, Article 2 (f/k/a chapter 24):

Ordinance #104, August 14, 1991;

Ordinance #117, March 9, 1994, amending Ordinance 104;

Ordinance #134, enacted Feb. 14, 1996, codified ORD #104 as amended into Chapter 23, with modifications;

Ordinance #156, February 24, 1999;

Ordinance #157, March 10, 1999;

Refuse collection & disposal § 3-48-1, *et seq.*, NMSA 1978;

Municipal Liens § 3-36-1 *et seq.*, NMSA 1978;

Section 402 of the Federal Water Pollution Control Act, as amended (86 U.S.C. 880);

Atomic Energy Act of 1954, as amended (68 U.S.C. 923);

Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*;

Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3007 *et seq.*;

NM Oil and Gas Act §§ 70-2-1 through 70-2-36 NMSA 1978;

NM Water Quality Act §§ 74-6-1 through 74-6-17 NMSA 1978;

NM Geothermal Resources Conservation Act §§ 71-5-1 through 71-5-24 NMSA 1978.

