

Bernalillo County Code

Chapter 70 SOLID WASTE

**ARTICLE I. IN GENERAL**

**Secs. 70-1--70-30. Reserved.**

**ARTICLE II. SOLID WASTE MANAGEMENT\***

**Sec. 70-31. Authority.**

These regulations are created pursuant to the enabling authority set forth in § 4-56-2 et seq. NMSA 1978.  
(Ord. No. 96-22, § 1, 9-24-96)

**Sec. 70-32. Purpose.**

The purpose of this article is to preserve and protect the health, safety, and quality of life of the inhabitants of the county and to preserve and improve the environmental quality of the county.

This article is intended to eliminate illegal dumping and accumulation of solid waste and institute administrative procedures to effectively manage solid waste generated in the unincorporated areas of the county.

This article establishes and defines the authority of the public agency, establishes the responsibilities of individuals and businesses, directs mandatory collection practices, and initiates a solid waste management advisory committee.  
(Ord. No. 96-22, § 2, 9-24-96)

**Sec. 70-33. Definitions.**

For the purpose of this article 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 adjustment.* The county planning commission of Bernalillo County, New Mexico.

*Board of county commissioners.* The board of commissioners of Bernalillo County.

*Clear sight.* The required unobstructed view from a vehicle about to enter a street from a driveway, alley or another street, of oncoming traffic, as defined by the American

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Association of State Highway and Traffic Officials (AASHTO), or the New Mexico State Highway and Transportation Department Driveway.

*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, multiple family dwellings and any collection in a front-end loader container or dumpster.

*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.

*Committee.* The solid waste management advisory committee.

*Construction and demolition (C&D) 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 debris is mixed with any other types of solid waste, it loses its classification as C&D debris. Construction and demolition debris does not include asbestos or liquids, including, but not limited to waste paints, solvents, sealers, adhesives or potentially hazardous materials.

*Convenience center.* See "Transfer station."

*County.* The area within the boundaries of the County of Bernalillo, New Mexico, 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.

*County manager.* The county manager or designated representative.

*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.

*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,

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including solid, liquid, semisolid or containing 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.

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

*Household waste.* Any solid waste, including garbage and trash derived from households, including single and multiple residences, 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:

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

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

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

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

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

(6) 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 CFR (Code of Federal Regulations) 257.2 or subsequent requirements.

(1) *Municipal landfill* means a discrete area of land or an excavation that receives household waste and that is not a land application unit; municipal landfill may also receive other types of 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

(2) *Special waste landfill* means a landfill which receives solid waste other than household waste; this includes, but is not limited to, commercial wastes or special wastes; a construction and demolition landfill is not a special waste landfill.

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

*Open burning.* The combustion of solid waste without:

(1) Control of combustion air to maintain adequate temperature for efficient combustion;

(2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(3) Control of the emission of the combustion products.

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

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

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

*Premises.* An improved or unimproved structure, designed for private or commercial use.

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

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

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

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

*Refuse.* Includes, but is not limited to, all putrescible and nonputrescible 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.

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

*Rubbish.* Includes but is not limited to all nonputrescible 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.

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

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*Sludge.* Any solid, semisolid, or liquid waste, excluding treated effluent generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control device.

*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. Section 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. Section 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.

*Special wastes.* The following types of solid wastes that have unique handling, transportation, or disposal requirements to ensure protection of the environment and the public health, welfare and safety:

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

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

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

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

*Yard refuse.* Vegetative matter resulting from landscaping, land maintenance and land clearing operations.

*Zoning ordinance.* Current Bernalillo County Zoning Ordinances.  
(Ord. No. 96-22, § 3, 9-24-96)

**Sec. 70-34. Administration.**

The county manager is responsible for the administration of this article.

- (1) Powers delegated to the county manager may be delegated by the county manager to other appropriate county divisions and departments as deemed necessary to carry out the requirements of this article.
- (2) The county manager shall establish rules and regulations to carry out the intent and purpose of this article to present to the board of county commissioners for approval.
- (3) The county manager shall recommend fees to the board of county commissioners for adoption by resolution.
- (4) The county manager shall establish policies and procedures for billing and collection of service fees to present to the board of county commissioners for approval.
- (5) The county manager shall have the authority to delay collection services for failure to comply with this article and the rules and regulations prescribed, or to take legal action to collect fees owed to the county pursuant to this article.
- (6) The county manager shall establish grievance policies and procedures to be presented to the board of county commissioners for approval.
- (7) The county manager may initiate studies for the need, location, and operation of facilities to recover material or energy from solid waste, to implement programs to achieve resource recovery and other studies which will benefit management of solid waste in the county.
- (8) This article does not indicate a specific site for final disposal, nor intend to affect incorporated or sovereign entities within the county. This article directs the

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county manager to develop mandatory county-wide collection service operated through contract.

(9) This article empowers the county manager to address special wastes, recycling and waste minimization, maintain quality standards and educational support of comprehensive solid waste management.

(Ord. No. 96-22, § 4, 9-24-96)

**Sec. 70-35. Solid waste collection authorization.**

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

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

(c) *License to transport solid waste.* The county manager may implement a licensing requirement and licensing fee to transport solid waste as part of the rules and regulations identified in section 70-34.

(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. No. 96-22, § 5, 9-24-96)

**Sec. 70-36. Solid waste precollection practices.**

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

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

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(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 article shall be promptly replaced or collection may be denied.

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

(e) *Commercial solid waste containers.*

(1) Commercial establishments, multiple-family dwellings and multiple single family residential units utilizing a single container shall be required to furnish appropriate containers as specified by the county manager.

(2) No person shall deposit ashes, hot waste or other materials susceptible to spontaneous ignition into any combustible receptacle, or place the same within ten 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. 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 four feet in length and two feet in diameter. Plastic bags shall be of sufficient strength so as not to tear with normal handling at maximum capacity.

(2) Residential 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. the evening prior to collection, unless otherwise specified by the county manager.

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

(4) Residents who fail to comply with these requirements shall be responsible for storing their solid waste until their next regular collection day, or disposing of it at an approved disposal facility.  
(Ord. No. 96-22, § 6, 9-24-96)

**Sec. 70-37. 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.  
(Ord. No. 96-22, § 7, 9-24-96)

**Sec. 70-38. Storage of solid waste for commercial collection.**

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

(b) *Selection and design of collection points.* Specific points for commercial collection and solid waste storage shall be designated by the county manager, using the following procedure and criteria:

(1) *Site plan submission.* A property owner or his 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, free-standing signs, poles (e.g., street lights), and other structures on the premises, and within 35 feet of the premises.
- e. Public right-of-way, fire hydrants and bus stops on the premises or adjacent to the premises.

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- f. Neighboring structures within 100 feet.
- g. Other information required by the county manager.

(2) *Site plan review and approval.*

- a. The county manager may approve requested locations for commercial collection and sight shields or may require alternative locations. Such alternative locations shall be drawn on the relevant site plan prior to final approval.
- b. The county manager shall evaluate and select locations for commercial solid waste collection according to the following criteria:
  - 1. Collection from public alleys shall be maximized, to the extent that it is consistent with efficient collection routes.
  - 2. Safe access by collection vehicles and crews shall be available.
  - 3. View from public street shall be minimized.
  - 4. Distance from residences and outdoor recreation or relaxation areas shall be maximized.
  - 5. Distance from bus stops shall be maximized.
- c. No site plan shall be approved if it is contrary to provisions of county zoning ordinances or regulations.
- d. No site plan shall be approved if it locates a container within public street right-of-way, or in a location in conflict with clear sight requirements for driveways or intersections, unless a variance is granted (subsection (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 article [October 24, 1996], which sites were paved in a way which met the off-street parking requirements of county zoning ordinances and regulations prior to the effective date, are exempt from the concrete-paving requirement if the owner of the property agrees in writing to maintain the paving and hold the county harmless for any damage to the pavement resulting from solid waste collection.

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

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

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

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

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

(c) *Effective date for requirement for conformance to site plans; shielding collection points and removal of illegal containers.*

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

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

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

(d) *Variations.* 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 article. The guidelines shall be approved by the board of county commissioners.

(e) *Fees.* Fees shall be adopted by resolution submitted to and approved by the board of county commissioners to pay the county costs for processing site plan approvals, variance requests, and appeals.

(Ord. No. 96-22, § 8, 9-24-96)

**Sec. 70-39. Solid waste collection practices.**

(a) *Mandatory collection services.*

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(1) The board of county commissioners shall designate areas of the county for phased-in service by mandatory solid waste collection services. The services may include roadside collection, area solid waste collection or other types of collection procedures deemed appropriate for the area by the county manager for residential collection. The board of county commissioners may include commercial businesses in the mandatory collection system.

(2) Where established community, development or subdivision solid waste programs existed prior to January 1, 1995, with collection by a commercial hauler that services only residences within the community and no other, and which will attain 100 percent participation, those community, development or subdivisions may request a variance from mandatory collection by the county. Those subdivision solid waste programs must meet all requirements and criteria of this article and be subject to periodic inspection by the county manager to insure compliance. Noncompliance may result in suspension of their variance and inclusion in the mandatory solid waste collection program by the county.

(3) Where an established commercial business exists and can verify service by a solid waste commercial hauler, that commercial business may request a variance from mandatory collection by the county. That commercial solid waste program must meet all requirements and criteria of this article and be subject to periodic inspection by the county manager to insure compliance. Noncompliance may result in rejection of their variance and inclusion in the mandatory solid waste collection program by the county.

(b) *Frequency of solid waste collection.*

(1) Residential solid waste collection. Solid waste accumulated by residences shall be collected at such times and frequency as deemed necessary by the county manager.

(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 for greater frequency of collection.

a. The county manager shall have the authority to require that more frequent collections be made where necessary to protect the public health.

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

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

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(c) *Limitations on quantity.*

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

(2) *Commercial 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 county manager who shall provide technical assistance on proper collection and disposal of such material, at the expense of the owner or possessor thereof.

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

(e) *Collection by commercial producers.*

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

(2) *Disposal.* Disposal of solid waste by persons so permitted shall be made at a solid waste facility site. If disposal of solid waste occurs in Bernalillo County,

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compliance with Bernalillo County zoning ordinances and regulations, the Albuquerque/Bernalillo County Ground-Water Protection Policy and Action Plan, and other local land use policies shall occur. If disposal of solid waste occurs outside of Bernalillo County, other zoning ordinances and regulations and other land use policies shall apply.

(3) *Rules and regulations.* The county manager shall develop rules and regulations concerning individual collection or disposal for approval by the board of county commissioners.

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

(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 article. The guidelines shall be approved by the board of county commissioners.

(Ord. No. 96-22, § 9, 9-24-96)

### **Sec. 70-40. Service fees.**

(a) *Mandatory service areas.*

(1) Service fees for collection of solid waste in designated mandatory service areas shall be established and adopted through resolution by the board of county commissioners. The property owner shall be responsible for payment of fees for collection services within designated mandatory service areas.

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

(3) The board of county commissioners may authorize by resolution a low income credit available to qualified residences in designated mandatory service areas. Qualified residents must have an annualized gross income that is no greater than 80 percent of the area median family income for the county as determined from time to time by the U.S. Department of Housing and Urban Development. The county manager shall establish eligibility, procedures, and guidelines for the low income credit.

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(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 a designated 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 where applicable, and adopted by the board of county commissioners through resolution.

(c) *Starting and stopping service; credit.* All premises included in designated mandatory collection areas 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.

(2) *Vacant residential premises.* Residential premises which become vacant shall continue to receive charges unless said unoccupied premises meet 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 county solid waste management program ten 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 county as provided by the rules and regulations established by the county manager.
  2. Request by telephone cannot be honored.
  3. If solid waste is found at the premises during temporary suspension of service and it is determined said solid waste was generated by lawful occupants of the premises, the customer may be billed in arrears for the entire suspension period. All charges are on a full month basis and shall not be prorated.

(3) *Vacant commercial premises.* Commercial premises, included in a county controlled service area, which become vacant shall continue to receive charges until proper written application to stop charges is approved by the county. The

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owner, tenant, lessee, manager, or occupant shall make such written application to the county solid waste management program.

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

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

(d) *Payment.* All charges for solid waste collection services within mandatory collection areas shall be payable to Bernalillo County at locations as designated by the county manager and will become delinquent 15 days following the "due by" date on the customer's utility statement.

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

(f) *Responsibility of payments, liens and deposits.*

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

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

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

(4) Reasonable deposits may be required of any customer when the county manager deems it appropriate.

(g) *Legal remedy.* The county 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, to include county residents, may dispose of said solid waste at any county convenience center or transfer station. Fees for use of the convenience center or transfer station will be established by resolution.

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

(3) Salvaging and scavenging is prohibited at the county convenience centers or transfer stations at all times without the written permission of the county manager.  
(Ord. No. 96-22, § 10, 9-24-96)

**Sec. 70-41. Educational programs.**

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

(Ord. No. 96-22, § 11, 9-24-96)

**Sec. 70-42. Dumping, accumulating and scattering of solid waste.**

(a) *Dumping.* No person shall discard solid waste 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 article 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 without permission.

(b) *Unauthorized accumulation.* It shall be unlawful to allow any solid waste to collect or accumulate on any lot or other premises within the county. Any such unauthorized accumulation or collection is hereby declared to be a nuisance and is prohibited.

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

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

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

Bernalillo County Code Chapter 70 Solid Waste (cont.)

(f) *Accumulation for recycling.* Notwithstanding other provisions of this article, any person may accumulate and collect recyclable materials for the purpose of recycling it, provided that any collection point:

- (1) Conforms to zoning articles and regulations;
- (2) Is not on public right-of-way;
- (3) Is constructed so that the rubbish is contained at the collection point in compliance with subsection (c) above;
- (4) Is shielded from public view; and
- (5) Is registered with or permitted by NMED as a recycling facility.

(g) *Notice of violation.* Any such person who violates any provisions of this article shall be issued a notice of violation. If the person fails to remedy violation within the specified time, then the county will require corrective action be started at the site immediately at the expense of the owner, and charge a lien on the property if payment is not received within 30 days of receipt of billing.

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

(i) *Inspection.* The county manager may make such inspections as are reasonably necessary in the enforcement of this article.  
(Ord. No. 96-22, § 12, 9-24-96)

**Sec. 70-43. Burning of garbage.**

No garbage, solid waste, or debris shall be burned within the county. Fire permits may be obtained by the county fire marshal's office for certain types of yard refuse.  
(Ord. No. 96-22, § 13, 9-24-96)

**Sec. 70-44. Penalty.**

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

(Ord. No. 96-22, § 14, 9-24-96)

**Sec. 70-45. Injunctive relief.**

The placement of solid waste which causes a nuisance or creates a potential or actual health hazard, shall be deemed, or declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 96-22, § 15, 9-24-96)

**Sec. 70-46. Solid waste management advisory committee.**

(a) *Purpose.* The solid waste management advisory committee, hereinafter referred to as the "committee," is established for the following purposes:

- (1) To pursue the development of and improvement to the comprehensive county-wide solid waste management program, hereinafter referred to as the "program";
- (2) To serve as a focal point for community input and discussion regarding the need for and development of waste management reduction and recycling; and
- (3) To encourage initial usage and maintain ongoing community support for activities for the program.

(b) *Membership.*

- (1) The committee shall consist of nine members.
- (2) The terms of the members of the committee shall be for three-year terms; provided that, of the members first appointed, three shall serve a one-year term, three shall serve two-year terms and three shall serve three-year terms, as determined by the county manager.
- (3) The members of the committee shall be appointed by the board of county commissioners. The composition of the committee shall include: five members at large representing each of the commission districts; a representative of the business community; a representative of the solid waste recycling industry; an environmental specialist/professional; and a representative of a nonprofit public interest group.
- (4) Members shall not serve more than two consecutive terms and may not be an employee of the County of Bernalillo.
- (4) At the first meeting of the committee and every year thereafter, the committee shall elect one of its members to act as chair.

Bernalillo County Code Chapter 70 Solid Waste (cont.)

(c) *Powers and duties.*

(1) The committee shall:

a. Recommend to the county manager and the board of county commissioners, plans and proposals for the development and improvement of the county comprehensive solid waste management program;

b. Promote activities within the community and region to assist in the development, implementation and public participation in the program;

c. Meet at least quarterly, and may hold additional meetings at its discretion; and

d. Prepare and submit an annual report of its activities to the county manager, for presentation to the board of county commissioners.

(2) Staff support for the committee will be provided by the county manager.

(d) *General provisions.*

(1) Any member of the committee having a private interest in matters before the committee shall disqualify himself or herself from discussion and voting on those matters.

(2) This committee shall be subject to the provisions of this article.

(Ord. No. 96-22, § 16, 9-24-96)

**Sec. 70-47. Conflict.**

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

(Ord. No. 96-22, § 17, 9-24-96)