

ORDINANCE 104
SOLID WASTE REGULATION
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE

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ORDINANCE NO. 104

AN ORDINANCE ESTABLISHING A MUNICIPAL SERVICE FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE; PRESCRIBING REGULATIONS FOR THE STORAGE AND COLLECTION OF SOLID WASTE; PROVIDING FOR THE MAINTENANCE OF SANITARY CONDITIONS ON PUBLIC AND PRIVATE PREMISES WITHIN THE VILLAGE; PROVIDING FOR THE IMPOSITION AND COLLECTION OF FEES FOR SOLID WASTE COLLECTION AND DISPOSAL; AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

Statement of Purpose and Goals.

State law requires a municipality to provide solid waste collection at least once a week when its population exceeds 3000. The law also requires that measures be taken to reduce the solid waste stream significantly over the next five years through methods such as source reduction, recycling and composting.

This ordinance is designed to comply with the letter of the state law by instituting a mandatory curbside trash collection service. It responds to the spirit of both the law and the concerns of village residents by providing for curbside recycling programs and encouraging home composting.

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO:

Section 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 deposition of solid waste occurs.
- C. "person", means any individual, firm, partnership, corporation, cooperative, association, or any other entity.
- D. "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, trailers, trailer parks, business places, offices, theaters, hotels, eating and drinking establishments, tourist facilities, hospitals, schools, vacant lots, and any other places or locations within the Village of Los Ranchos de Albuquerque which is occupied or has previously been occupied.
- 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 Stat. 880), or source, special nuclear, or by product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

- F. "Village" means the Village of Los Ranchos de Albuquerque, its duly authorized agents, contractors, licensees or employees.
- G. "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.

Section 2: Containers for Solid Waste.

- A. Any person owning or controlling any occupied real property or who generates solid waste within the boundaries of the Village shall provide leak proof containers for solid waste of not more than 32 gallons capacity each and constructed of metal, rubber, or plastic, with a tight fitting lid or cover of the same material, and having safe, usable handles. If mechanically handled, containers may be of any size and shape compatible with collection vehicles. All containers shall be kept reasonably clean and sanitary.
- B. Disposable paper or plastic bags of a type, size and material designed for solid waste disposal may be used to contain solid waste for storage and collection, provided they are unbroken, sealed, and loaded in such manner that normal handling will not cause the bag to open. However the use of plastic bags will be discouraged in the future.
- C. Solid waste containers shall be provided by the owner or occupant of each premises sufficient in number to accommodate such waste generated by the premises between collections. Containers failing to comply with these provisions or which have defects causing them to scatter waste upon the ground during collection or causing them to hamper or to injure the persons collecting waste shall be promptly replaced.

Section 3: 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 the same 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 ordinance 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.

Section 4: 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 year, nor more than 5 years, with an option to renew

exercisable by the Village, and the contractor or licensee shall:

- (1) provide minimum insurance coverage of \$500,000/\$1,000,000 commercial liability insurance and property damage insurance of \$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 of Trustees not to exceed 25% of the gross revenues it receives for its services in consideration for the Village:
 - (i) granting the contract to the Contractor, and
 - (ii) 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 of Trustees. 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 of Trustees 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 Trustees of at least \$50,000.

Section 5: Collection Authorization.

Except as otherwise provided in this ordinance, 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.

Notwithstanding the terms of this section, all persons must arrange for regular refuse collection and disposal per the terms of this ordinance, and must pay for such service, per the terms of this ordinance, whether or not the service is utilized.

Section 6: 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 ordinance.
- 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.

Section 7: 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 of Trustees may designate specific disposal sites where solid waste shall be deposited.

Section 8: Frequency of Collection.

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

Section 9: 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 of Trustees, whether or not the solid waste collection service is used by such person. 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 of Trustees.
- 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 benefitted by the removal of the solid waste, if:
 - (1) any person owning or controlling real property allows solid waste to be deposited upon such 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. If any person owning, controlling, or operating any premises or real property, fails or refuses to pay the charge imposed for the collection and disposal of solid waste, or the charge made against the real property specially benefitted by the removal of solid waste, the Village may make an assessment against the real property, and if said assessment is not paid, the Village may institute lien proceedings against the real property as provided by Sections 3-36-1 to 3-36-5 N.M.S.A. 1978.
- E. Service charges in accordance with Section 9.A are levied against both the owner and the occupant of premises or real property served, jointly and severally, but collecting from one shall relieve the other.
- F. The governing body of the Village shall determine the method for collecting fees.

Section 10: 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 ordinance. 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 ordinance, and may require separation of materials into specific receptacles for such collection.

Recyclable materials shall become the property of the Village, to be sold to or disposed of at a facility specifically dedicated to recycling such materials. All proceeds derived from the sale of recyclable materials shall accrue to the Village. The Board of Trustees shall determine how such proceeds should be allocated.

Section 11: Exemptions.

This ordinance shall not apply to:

- A. A property holder who, on his/her own property for fill purposes, disposes 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. Overburden and tailings resulting from mining and milling operations.
- D. Sludge, domestic sewage, treated domestic sewage, or septage.
- E. Hazardous wastes which are subject to regulation under Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq.
- F. 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.
- G. Waste or activities regulated by the Oil Conservation Division under the New Mexico Oil and Gas Act, Sections 70-2-1 through 70-2-36 NMSA 1978; the New Mexico Water Quality Act, Sections 74-6-1 through 74-6-14 NMSA 1978; or the New Mexico Geothermal Resources Conservation Act, Sections 71-5-1 through 71-5-24 NMSA 1978.
- H. Bulk liquids.

Section 12: Penalties.

- A. Any person, firm, or corporation violating any provision of this ordinance shall, upon conviction, be punished by fines or imprisonment up to the maximum allowed by New Mexico law for each offense and a separate offense shall be deemed committed each day during or on which a violation occurs or continues, provided that the maximum combined sentence of imprisonment that may be imposed for all offenses shall not exceed 179

days. Any such penalties shall not affect the right of the Village to pursue injunctive relief or other remedies authorized by law.

B. In addition to subsection A of this section,

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

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

(C) The Board of Trustees may adopt as penalties specific fines for specific violations of this ordinance.

Section 12: Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

Approved this 14TH day of August, 1991, by the Village of Los Ranchos de Albuquerque.


Mayor

ATTEST:


Village Clerk