

**LUNA COUNTY ORDINANCE # 50  
SOLID WASTE ORDINANCE**

THIS IS AN ORDINANCE PROVIDING FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL AND IMPOSING FEES FOR CITIZENS LIVING OUTSIDE THE UNINCORPORATED LIMITS OF THE CITY OF DEMING AND THE VILLAGE OF COLUMBUS.

**I. Purposes and Authority.** This ordinance is enacted pursuant to the authority granted to the Board of County Commissioners of Luna County, New Mexico hereinafter "the Board" under the laws of the State, including but not limited to NMSA 1978, Sections 4-37-1, 3-48-1 et seq., and 4-56-1 et seq. This Ordinance is enacted to protect and promote the health, safety, and general welfare of the inhabitants of Luna County, hereinafter "the County", by establishing a system for collection and disposal of solid waste throughout the unincorporated areas of the County.

**II. Solid Waste System Established.**

**A. Definitions.** The words, terms, and phrases used in this Ordinance shall generally be interpreted consistent with NMSA 1978, Section 4-37-1 et seq. and 4-56-1 et seq., applicable solid waste management regulations, promulgated by the State of New Mexico, its departments, and agencies.

1. "Commercial user" means any person generating solid waste from any use other than a single-family dwelling unit.
2. "Convenience station" means a small solid waste transfer station operated by the County for disposal of solid waste produced incidental to the normal residential use of a single-family dwelling unit.
3. "Disposal facility" means a permitted sanitary landfill or other acceptable method of solid waste disposal, including a convenience or transfer station, which operates in compliance with all state or other applicable waste management regulation, owned and operated by the City of Deming and/or Luna County.
4. "Hazardous waste" means substances defined as hazardous or toxic by the United States Environmental Protection Agency, the United States Resource Conservation and Recovery Act, the Federal Toxic Substances Control Act, the New Mexico Hazardous Waste Act, other State or local law, and specifically includes radioactive, volatile, highly flammable, explosive, biomedical, infectious, and liquid waste, sludge, waste, or residue from industrial processes or pollution control processes,



STATE OF NEW MEXICO } SS.  
County of Luna  
I certify that this instrument was filed  
for record at 11:54 A.M.

OCT 21 2002

Reception No. 2007-05016  
Richard [Signature] Deputy

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contaminated soil, anything contaminated with polychlorinated biphenyls (PBCs) or asbestos, outdated or contaminated or banned chemicals or commercial products, animal waste or body parts, grease trap residues, closed cartridge filters from dry-cleaning establishments, and other similar wastes.

5. **“Multiple family dwelling unit”** means any structure designed for residential use by two or more families.
6. **“Person”** means and includes every person, form, partnership, public or private corporation, association, trust, estate, or any other legal entity subject to the County’s jurisdiction.
7. **“Premises”** means any real property, whether public, private, or commercial, including vacant lots or lots with any type of structure, and includes realty and personal property on the property and within structures on the property.
8. **“Private Sanitation Company”** means any business registered with the New Mexico Environment Department as a “commercial hauler” and operates in compliance with all state, county, or other applicable solid waste management regulations, and which is also registered to do business in the County and not accepting out-of-county trash in Luna County.
9. **“Single-family dwelling unit”** means a dwelling unit for one family.
10. **“Solid waste”** means and includes but is not limited to any garbage, rubbish, or refuse, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, wastewater, trash, weeds, briars, brush, junk automobiles or automobile parts, waste or unwholesome material of any kind, except sewage, and including residential, commercial, institutional, industrial, and recreational waste.

#### **A. Accumulation and Disposition of Solid Waste**

1. **Prohibited Accumulations.** No person shall allow any solid waste to accumulate upon premises which that person owns, rents, leases, or otherwise occupies or controls, except in the manner provided by this Ordinance.
2. **Acceptable Accumulations.** Building materials, pipes, lumber, or boxes may be stored on the premises if the accumulation is evenly piled and stacks, and is for business purposes, or for a construction project for which a valid and

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current building permit has been issued, or for a construction or improvement project for which a permit is not legally required; any otherwise permissible accumulation shall not be allowed to become a feeding or breeding place for flies, insects, or rodents, or to otherwise become unsanitary, unsafe, or similarly injurious to public health and safety.

3. **Prohibited Acts.** It shall be unlawful for any person to scatter or distribute solid waste or to disturb the contents of any solid waste receptacles other than to dispose of it in conformity with this Ordinance. It shall be unlawful for any person to sweep, place, throw, or deposit solid waste upon any street, alley, sidewalk, gutter, storm sewer, parkway, river, stream, lake, pond, arroyo, or other premises within the County, except in receptacles or containers consistent with the provisions of the Ordinance. It shall be unlawful to transport solid waste in such a manner as to cause it or allow it to be distributed onto such premises.
4. **Disposal Facilities.** All solid waste other than hazardous waste shall be conveyed to a disposal facility through a method authorized by and consistent with all provisions of this Ordinance. The authorized use of transfer and convenience stations will be governed by administrative procedures authorized by the City of Deming and Luna County.
5. **Hazardous Waste.** Hazardous solid waste shall be disposed of at a facility, which has been issued a permit by New Mexico Environment Department (or comparable agency with jurisdiction in the location of the facility) for the disposal of hazardous waste.

#### **B. Collection and Disposal of Solid Waste.**

1. **Disposal Facilities.** The County shall provide at least one disposal facility in order to allow County residents and property owners to comply with the provisions of this Ordinance.
2. **Convenience Disposal Stations.** As needed to adequately accommodate storage and orderly collection of solid waste, the County may develop convenience stations as a temporary and intermediate disposal of waste. Only residential solid waste or refuse will be accepted at convenience stations. Any persons who pays the disposal facility assessment may utilize any convenience station provided by the County for the

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disposal of small amounts of solid waste produced incidental to the normal residential use of a dingle-family swelling unit. Private sanitation companies and commercial users may not use the convenience stations.

3. **Transfer Station.** A solid waste transfer station will be provided by the City of Deming and Luna County for the disposal of solid waste refuse. All residents of Luna County will be allowed access and use of the transfer station. Commercial users and/or large residential items, such as furniture and appliances, may be disposed of at the transfer station or may be directed to the landfill. Any person paying the disposal assessment fee may use the transfer station without charge, except for tires and dead animals where a charge is applicable. Persons who do not pay the disposal fee assessment may use the transfer stations and pay the appropriate tipping fees. Private sanitation companies licensed by Luna County may use transfer stations or landfill as directed by the County.
4. **Tipping Fees.** Private sanitation companies, except for commercial users, construction, and demolition companies shall pay any and all tipping fees that may be required for use of a particular disposal facility.
5. **Location.** Location of convenience stations is to be determined by the County.
6. **Private Sanitation Pick-up Service.** All private sanitation companies doing business with Luna County must have a franchise agreement with Luna County, must register with the County Planning Department, and pay an annual licensing fee. The fee will be set annually by resolution by the Luna County Commission. Private haulers must comply with all State Environmental Department regulations, provisions of the franchise agreement, and the provisions of this Ordinance. Private haulers may set their own rates and may use the County transfer station only for waste originating in and picked up in Luna County.
7. **Containers.** Containers utilized for storage of solid waste on the premises, and for transportation of solid waste to a disposal facility, must be designed and secured so as to fully enclose and contain the solid waste and must be leak-proof for storage or transport. All containers (brands and types) must be approved by Luna County.

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**8. Multiple-family dwelling units.** Multiple-family dwelling units shall be considered a commercial user; any owner of a multiple-family dwelling unit who fails to or refuses to comply with the commercial user requirements of this Ordinance shall be subject to the full disposal facility assessment for each dwelling unit, and shall also be subject to prosecution for violation of the Ordinance and to all other penalties allowed by law.

**C. Disposal Facility Assessment.** The owner of any residential and commercial property or premises (or which could be used for residential or commercial purposes) within the County, shall be assessed an annual fee of \$12.00 for each tax bill assessed by the County Treasurer. The assessed amount shall be included in the tax bill mailing and shall be due and payable concurrently with all assessed taxes. In the event the fee is not timely paid, a fixed penalty of \$5.00 shall be added to the annual fee. In addition to the penalty, an interest charge of 1.0% per month shall accrue. Collection of delinquent fees provided above be as allowed by law.

**D. Regulations for Private Collection and Containers.**

**1. Frequency of service.** Solid waste collection services by private sanitation companies must be provided on at least a weekly basis, or more frequently if necessary, to keep the premises free of solid waste consistent with the provisions of this Ordinance.

**2. Containers.** Containers utilized for storage of solid waste on the premises between collections must be designed so as to fully enclose and contain the solid waste and must be leak-proof for storage of any liquid solid waste. The county must approve all containers used by private sanitation companies.

**3. Vehicle Requirement.** Private sanitation company vehicles shall be covered and meet all State and federal vehicle safety requirements and all county requirements that may be developed subsequent to this ordinance.

**E. County Collections.** The County may provide pick-up and disposal services as needed to ensure competition, affordability, and compliance with this ordinance. The fees for County pick-up services shall be based on the costs of operations, depreciation, capital improvements, and administrative and all other necessary business costs.

**F. Construction and Demolition Debris/Solid Waste Disposal.** Commercial users in construction and demolition industries shall not be required to meet the requirements applicable for other commercial users for construction and

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demolition debris or solid waste produced incidental to construction and demolition operations, but shall instead comply with the provisions of Section B of this Ordinance. Construction and demolition debris or other forms of solid waste produced by a commercial user incidental to construction and demolition operations shall no be disposed of at convenience stations.

### **III. Billing and Collection of Assessments.**

**A. Disposal Facility Assessments.** The County shall bill disposal facility assessments in the tax bill mailings issued by the County Treasurer. Non-payment of any assessment will be subject to collection as allowed by law, including but not limited to the provisions NMSA 1978, Sections 3-48-4 et seq. allowing for a lien on the property subject to the assessment.

### **IV. Construction and Demolition Debris/Solid Waste Provisions.**

**A. Solid Waste Containment Required.** At all site where streets, sidewalks, buildings, or structures are being constructed, remodeled, repaired, demolished, or maintained, the construction site shall be kept free from uncontained accumulations of solid waste debris, including but not limited to scrap or discarded pieces of concrete, cinderblock asphalt concrete, and other building or construction products. Accumulations shall be deemed contained when placed in solid waste or debris containers. Any accumulation otherwise permissible under this section shall not be allowed to become a feeding or breeding place for flies, insects, or rodents, or to otherwise become unsanitary, unsafe, or similarly injurious to the public health and safety. The following types of solid waste accumulations shall not be required to be placed in approved storage containers if the specified conditions are met.

**1. Major Building Demolition Waste.** Solid waste produced by a major building demolition which is so large in scope or scale that it cannot reasonably be placed in approved containers shall be an exception to this section, provided all loose, readily windborne matter is contained and the remainder is either not an immediate hazard to the public because of its nature or because of security measures on site. Immediately following completion of the demolition project, all solid waste on the site must be removed to an approved disposal facility.

**2. Major Street Construction And Maintenance Project Waste.** Solid waste from street construction, reconstruction, or maintenance projects and street-pavement cuts which are so large in scope or scale that they cannot reasonably be placed in approved containers shall be an exception to this section, provided all loose, readily windborne

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matter is contained and the remainder is not an immediate hazard to the public. Immediately following completion of the demolition project, all solid waste on the site must be removed to an approved disposal facility.

3. **Masonry Solid Waste.** Rock, concrete, mortar, brick, and cinderblock solid waste does not have to be placed in an approved container and may be collected into a pile on the ground, but must be removed to permitted disposal site immediately upon completion of the construction from which the waste was generated or within 30 days after the work is abandoned. Extra concrete from cleaning delivery trucks must be placed on site and not on developed roads or sidewalks. This concrete must subsequently be removed to a permitted disposal site.
  4. **Roofing Materials Solid Waste.** Shingles, tarpaper, and other solid waste from roofing jobs that are capable of readily becoming windborne do not have to be placed into an approved container, provided such waste is placed directly into a dump truck or similar truck for hauling to an approved disposal facility and is removed on a daily basis.
  5. **Windborne Solid Waste.** Solid waste capable of being windborne shall be contained daily, except on windy days when it shall be contained immediately. Windy days shall be those days when solid waste is observed becoming windborne.
- B. Storage Containers.** Unless granted a specific exception within this article, solid waste materials from construction shall be deposited and stored within approved waste containers as follows:
1. **Sanitation Department Containers.** The following mechanically transported containers may be used for construction waste:
  2. **Open-top Containers,** commonly referred to as roll-off containers, to be used for construction waste not capable of readily becoming windborne and acceptable for limited amounts of heavy items, such as earth, bricks, concrete, and shingles.
  3. **Overhead-dump Containers,** having lids and at least three cubic yards capacity, to be used for lightweight construction waste only, including that capable of readily becoming windborne, and for earth, bricks, concrete, shingles, and other heavy materials.

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4. **Other Containers**, including but not limited to dump trucks and fenced enclosures, may be used for waste control, provided a request is submitted and approved with the building permit.
  5. **Containers** having lids shall be kept closed at all times, except when containers are being filled or emptied.
  6. **The number** of containers at a construction site shall be sufficient to ensure compliance with this Ordinance.
  7. **Required containers** shall be located not more than 200 feet from the construction site, and may be shared by more than one construction site.
- C. Disposal.** Construction and demolition debris or other forms of solid waste produced by a commercial user incidental to construction and demolition operations shall be disposed facility or as directed.
- D. Responsibility.** It shall be the duty of any person holding a building permit to provide acceptable containers and to have all solid waste placed therein, and to have such containers emptied often enough to prevent their overflow. It shall further be the duty of the person holding a building permit and the property owner wither to remove or cause to be removed all construction solid waste from the site to a disposal facility or to contract for the services of a private sanitation company to transport such waste to a disposal facility or approved fill site.

**V. Enforcement Provisions.**

- A. Disposal.** Construction and demolition debris or other forms of solid waste produced by a commercial user incidental to construction and demolition operations shall be disposed of at a disposal facility or as directed.
- B. Violations Subject to Prosecution.** In addition to any other penalty or remedy, including injunctive relief, any person who violates any provision of this Ordinance shall be subject to prosecution consistent with State and local law, including but not limited to NMSA 1978, Section 403703. Each violation of this Ordinance shall be subject to a fine of up to Three Hundred Dollars (\$300.00), up to 90 days imprisonment, or both, except that:
1. A fine of up to One Thousand Dollars (\$1000.00) may be assessed against any person who discards private property in any manner other than by disposing of it in an authorized landfill or other disposal facility; and

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2. A fine of up to Five Thousand Dollars (\$5000.00) may be assessed against any person for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act, NMSA 1978, 74-4-1 et seq.
3. **Enforcement Authority Procedures.** This Ordinance shall be enforced by the Luna County Sheriff's Department and/or the Luna County Code Enforcement unit or other authorized County personnel.

**VI. Administration.** Under the supervision of the County Manager, County staff is authorized to implement, manage, and enforce this Ordinance. Policies and procedures to be developed and implemented pursuant to this authority may include determination of the frequency and method of billing for disposal facilities assessments, imposition of late fees for non-payment, offering discounts for advance payments, establishing documentation requirements and any other matters necessary to administer the Ordinance.

**VII. Conflicting Provisions.** Should any provision of this Ordinance be in conflict with a provision of any other applicable Ordinance, the stricter provision shall apply. Should any provision of this Ordinance be in conflict with a provision of any applicable State or Federal law, the stricter provision shall apply, unless application of this Ordinance is preempted.


**VIII. Exemption for Agriculture.** Agriculture waste is exempt from the provisions of this Ordinance.

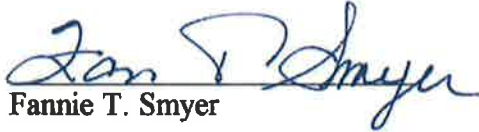
**IX. Severability.** The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, subsection, phrase, or any part thereof is found to be illegal, invalid, unenforceable, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall no affect or impair any remaining provision, sentence, clause, section, subsection, phrase, of part of the Ordinance, or its application to any other person or circumstance. It is hereby declared to be the intent of the Board of Commissioners of Luna County that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, subsection, phrase, or part thereof is held inapplicable have been specifically exempted.


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Adopted this 21st day of October, 2002

BOARD OF COUNTY COMMISSIONERS  
OF LUNA COUNTY

  
Dennis Armijo, Chairperson

  
Fannie T. Smyer

 (ABSENT)  
Marilyn S. Offutt



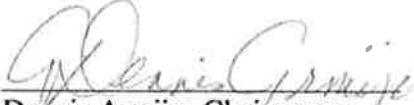
ATTEST:


  
Natalie Pacheco, County Clerk


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Adopted this 21st day of October, 2002

**BOARD OF COUNTY COMMISSIONERS  
OF LUNA COUNTY**

  
Dennis Armijo, Chairperson

  
Fannie T. Smyer

  
Marilyn S. Offutt (ABSENT)



ATTEST:

  
Natalie Pacheco, County Clerk

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