

RESOLUTION NO. R-07-50

WHEREAS, the Board of County Commissioners (the "Board") of Grant County, New Mexico (the "County") has adopted an ordinance dealing with solid waste; and

WHEREAS, the Board wishes to consider the approval of a new ordinance that will augment the current solid waste ordinance, which will institute administrative procedures to effectively manage solid waste in the unincorporated areas of the County and to define and establish the responsibilities of individuals and businesses; and

WHEREAS, in order to consider an ordinance, the Commission must publish notice of its intention to do so at least 14 days before the meeting at which the ordinance will be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, NEW MEXICO:

Section 1. An ordinance (the "Ordinance") with respect to the administrative procedures to effectively manage solid waste in the unincorporated areas of the County and to define and establish the responsibilities of individuals and businesses, to be introduced before the Commission shall be filed with the County Clerk, and shall be considered by the Commission at a regular meeting of the Commission on Thursday, December 13th, 2007 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board.

Section 2. The following notice shall be published one time in the Silver City Daily Press, a newspaper of general circulation in the County, as soon as is practicable following the adoption of this resolution:

(Form of Notice)

NOTICE OF CONSIDERATION OF ORDINANCE

GRANT COUNTY, NEW MEXICO

NOTICE IS GIVEN that the Board of County Commissioners (the "Board"), constituting the governing body of the Grant County, New Mexico (the "County"), will consider the adoption of an ordinance (the "Ordinance") that outlines administrative procedures to effectively manage solid waste in the unincorporated areas of the County and to define and establish the responsibilities of individuals and businesses adopted by the Board in the County's Ordinance No. O-07-04.

The Ordinance will be considered at a regular meeting of the Commission on Thursday, December 13th, 2007 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board. The title and subject matter of the Ordinance are as follows:

GRANT COUNTY PROPERTY MAINTENANCE ORDINANCE.

A copy of the Ordinance in draft form is on file and available for inspection during normal business hours at the office of the County Clerk at the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, New Mexico.

DATED: November 8, 2007.

/s/ Rodolpho Martinez
Chairman, Board of County
Commissioners
Grant County, New Mexico

(End of Form of Notice)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 8th DAY OF NOVEMBER 2007.



(SEAL)

Attest:

Henry (Houie) Morales

Henry Morales, County Clerk

By Robert J. Garriga

Deputy Clerk

Rodolfo S. Martinez

Rodolfo Martinez, Chairman
Board of County Commissioners

ORDINANCE 07- 04

**GRANT COUNTY
PROPERTY MAINTENANCE ORDINANCE**

WHEREAS, the Grant County Board of Commissioners finds the following Ordinance necessary to provide for the efficient and sanitary collection, transportation, and disposal of solid waste in Grant County; and

WHEREAS, the Grant County Board of Commissioners finds the following Ordinance necessary to provide for a mandatory system of solid waste collection and disposal in order to protect the environment of Grant County; and

WHEREAS, the Grant County Board of Commissioners finds the following Ordinance necessary to provide for a mandatory system of solid waste collection and disposal in order to eliminate illegal disposal and illegal accumulation of solid waste on private and public land in Grant County; and

WHEREAS, it is necessary that an ordinance be implemented that establishes and defines the administrative process to reduce the number, and risks related to, Unoccupied, uninhabitable, and dilapidated buildings in Grant County; and

WHEREAS, it is necessary that a mandatory solid waste collection program be implemented in order to protect the health, welfare and safety of the citizens of Grant County; and

WHEREAS, it is necessary that an ordinance be implemented that establishes and defines the authority of the county and establishes the responsibilities of individuals and businesses; and

WHEREAS, the Grant County Board of Commissioners is delegated the authority pursuant to 4-56-1 *et seq* N.M.S.A. 1978 "...establish and maintain, manage and supervise a system of storage, collection and disposal of all refuse."

**NOW THEREFORE, BE IT RESOLVED BY THE GRANT COUNTY
BOARD OF COMMISSIONERS AS FOLLOWS:**

SECTION 1: GOVERNING POWER

All persons and real estate, residential and commercial, within Grant County, excluding those within the territorial boundaries of the Town of Silver City, City of Bayard, Villages of Hurley and Santa Clara, New Mexico, are governed by this Ordinance.

SECTION 2. SHORT TITLE

This Ordinance shall be referred to as the Property Maintenance Ordinance of the County of Grant, New Mexico.

SECTION 3. PURPOSE

The purpose of this ordinance 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 ordinance is intended to eliminate illegal disposal and illegal accumulation of solid waste and institute administrative procedures to effectively manage solid waste generated in the unincorporated areas of the county. This ordinance establishes and defines the authority of the county, establishes the responsibilities of individuals and businesses.

SECTION 4. DEFINITIONS

For the purpose of this ordinance 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. The Board of County Commissioners of Grant County, New Mexico.

Clear sight. The required unobstructed view from a vehicle about to enter a road from driveway, alley or another street, of oncoming traffic, as defined by the American Association of State Highway and Traffic Officials (AASHTO), or the New Mexico State Highway and Transportation Department.

Code Enforcement Officer. Person appointed by the Grant County Board of Commissioners to enforce portions of this Ordinance.

Commercial. Entities operating as a business and not defined as residential.

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.

Composting. The process by which biological decomposition of organic solid waste is carried out under controlled conditions so it can be used in an environmentally acceptable manner. Materials are trees, tree branches, yard trimmings or clippings, leaves and pine needles.

Construction and demolition (C&D) debris. Materials generally considered water insoluble and non-hazardous 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. A facility for handling and storage of solid waste which accepts solid waste from the general public.

County. The area within the boundaries of the County of Grant, 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.

County Manager. The Chief administrative assistant to the Grant County Board of Commissioners or his/her designated representative.

Debris. All waste building material, bricks, concrete blocks, shingles, roofing material, lumber, metal or plastic piping, commercial construction wastes and any other matter that is commonly known as debris.

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. All waste food, swill, carrion, slops and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and the carcasses of animals, also tin cans, bottle, ashes and all such similar items.

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, 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 may cause or significantly contribute to an increase in mortality or an increase in 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 or designee.

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 contaminated by highly contagious diseases;
- (4) Human blood and blood products, including waste blood, blood serum, and plasma;
- (5) Used sharps, including used hypodermic needles, syringes, scalpel blades, Pasteur pipettes and broken glass; and
- (6) Contaminated animal carcasses, body parts and bedding.

Landfill. A solid waste facility, designed and operating in compliance with all federal, state, 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, non-hazardous 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.

Litter. Refuse or debris found in public areas or generated while traveling in/on a vehicle.

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

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 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 residing in said premises or not, the property on which premises occupies being outside the corporate boundaries of the municipalities of Silver City, Bayard, Hurley, and Santa Clara, within the County of Grant.

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

Premises. An improved or unimproved structure, whether designed for private or commercial use, located on any property outside the corporate limits of the municipalities of Silver City, Bayard, Hurley, and Santa Clara in the County of Grant.

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 roads, 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 road clearings.

Residential. Single family dwelling.

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, public residential 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.

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

Solid waste. Garbage, refuse and/or debris of any kind generated by an individual, household or commercial establishment.

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) Sludge;
- (6) Industrial solid waste;
- (7) Spill of a chemical substance or commercial product;
- (8) Dry chemicals, which, when wetted, become characteristically hazardous; and
- (9) Petroleum contaminated soils.

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

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 to transfer to another facility and includes, but is not limited to, a convenience center.

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

SECTION 5. AUTHORITY OF THE COUNTY MANAGER

Powers delegated to the County Manager may be delegated by the County Manager to other appropriate county employees and contractors as deemed necessary to carry out the requirements of this ordinance.

The County Manager shall establish rules and regulations to carry out the intent and purpose of this ordinance to present to the Board of County Commissioners for approval.

SECTION 6. 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. In the event any persons name or other identification is affixed or found on any illegally disposed of

solid waste, rubbish, or refuse, such evidence shall constitute ownership of solid waste, rubbish, or refuse.

SECTION 7. SOLID WASTE COLLECTION PRACTICES

Special and hazardous waste.

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.

- (1) 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.

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 ordinance. 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 Grant County, compliance with Grant County ordinances and regulations shall apply.

Use of county convenience centers or transfer stations.

- (1) Any residential producer of solid waste, to include county residents, may dispose of said waste at any county convenience center or transfer station. Fees for use of the convenience center or transfer station will be established by resolution.

SECTION 7. PROHIBITED ACTS

Dumping, accumulating and scattering of solid waste, rubbish, refuse.

- (1) Dumping. No person shall discard solid waste, rubbish, or refuse anywhere outdoors within the boundaries of the county except at a time and place approved for collection of that person's solid waste under the terms of this ordinance and regulations authorized by said sections or other provisions of this ordinance of the county. No person

shall place solid waste in the solid waste receptacle of another person, business or institution.

- (2) Scattering of solid waste, rubbish or refuse. No person shall cast, place, sweep, or deposit anywhere in the county any solid waste, rubbish or refuse in such a manner that it may be carried or deposited by the elements upon any road, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any other premises within the county.
- (3) 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 road, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, or into any premises within the county.
- (4) Illegal use of convenience centers. No business or institution may use any Grant County convenience center or for any individual to place commercial solid waste, rubbish or refuse in a Grant County convenience center. No person shall place solid waste, rubbish, or refuse on the premises of a Grant County convenience center except during the regular posted operating hours.

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

- (1) The existence of three (3) or more, or any combination of, non-operational motor scooters, motorcycles, cars, trucks, buses or other vehicles regulated by the New Mexico Department of Motor Vehicles unless the vehicle owner, property owner, or property lessee can show substantial progress in restoration or repairs to non-operational vehicle in the last 30 days or purchase orders, invoices or estimates for repair work to be done in the next 30 days. Provided, however, that this section shall have no application where:
 - (a) A person is engaged in a New Mexico Department of Motor Vehicle licensed vehicle dismantling business and any non-operational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven (7) feet in height above the level of the ground and maintained in a sightly, safe and secure condition; or
 - (b) Any inoperable vehicles are not visible to the public from any road or street abutting such property, or if visible any non-operational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven (7) feet in height above the level of the ground and maintained in a sightly, safe and secure condition.

- (c) For the purpose of this section, a non-operational vehicle is one in which; the engine or motor, the transmission or transaxle, drive shaft, differential, steering mechanism, axles, wheels, body, doors, windshield, headlights, taillights, or any other part of the vehicle is removed, damaged, wrecked, partially dismantled, or in such a state of disrepair that the vehicle cannot be either moved under its own power, driven, licensed or operated on a public road, street, highway, or any other public thoroughfare.
- (2) The existence of non-operational refrigerators or freezers or any other type of appliance, furniture, vehicle or other container that has a space large enough for a person of any age to enter into with a door, hatch, lid, or cover of any kind capable of closing or sealing which could prevent the escape of any person, not within a licensed sanitary landfill or a licensed commercial salvage business registered with the State of New Mexico.
- (3) The existence of pile of rubbish, refuse, household trash, tires, debris, grass, weeds, tree limbs, or any other type of material(s) not within a licensed sanitary landfill or New Mexico Environment Department, or other regulatory agency regulated facility.
- (4) The existence of any condition that constitutes a fire hazard.

SECTION 8. UNOCCUPIED, UNINHABITABLE AND DILAPIDATED BUILDINGS PROHIBITED.

Any building inspector of the Grant County Planning Office, and any electrical inspector of the State of New Mexico, any plumbing inspector of the State of New Mexico, any inspector of the State of New Mexico Environmental Department, any inspector of the New Mexico Manufactured Housing Division, any engineer or technician or technological or water resource specialist of the New Mexico Engineer's Office, and any other qualified person maybe authorized by the Code Enforcement Officer to help enforce the standards set out in this Ordinance, or may be requested by the Code Enforcement Officer to give a written report, or other advice to aid in the administration of this Ordinance.

Any condition or situation that violates any provision of this Ordinance shall be deemed a nuisance. In addition to the criminal penalties provided for in this Ordinance, any such nuisance, after reasonable efforts to secure voluntary compliance with this Ordinance have failed, shall be subject to abatement as follows:

- (1) Notice of Nuisance. If, after inspection, as the result of a written and signed complaint by a member of the public, or the observation of any County or State employee, the Officer is satisfied a property, building or improvement thereon does not conform to any of the standards prescribed in this Ordinance, the Officer shall serve, or cause to be served by personal service, or send by prepaid registered mail to the

owner of record of the property, or to the occupant or tenant of the property, or both, a Notice of Nuisance setting out the particulars of the violation(s). The Notice shall establish a reasonable time limit for the abatement of the violation(s) by the owner, or occupant or tenant, or both, which limit shall be not less than ten (10) days nor more than ninety (90) days after service of the Notice. The Notice shall be served at the owner's or occupant's or tenant's last known address. In the event of a violation of this Ordinance constitutes an immediate danger to the public health and safety, the notice provisions of this subsection shall not apply, and the violation may be prosecuted and abated immediately.

- (2) Placard. If the Officer is unable to achieve service under above provision, he/she may place a placard containing the terms of the Notice in a conspicuous place on the property or building, and the placing of the placard shall be deemed to be sufficient service of the Notice on the owner or other persons.
- (3) Extension of Time Frame For Abatement. Where the Officer is satisfied that there is good and sufficient reason to extend the time frame for abatement of the violation(s), he/she may extend the time frame set out above for a period of time not to exceed forty-five (45) days beyond the time period set out in the original Notice.
- (4) Failure to Abate. In the event the owner, occupant or tenant of the property where the nuisance violation exists, has failed to abate the nuisance violation(s) within the prescribed period of time, then the Officer shall file a complaint charging violation of this Ordinance with the Magistrate Court requiring that the owner of the property, or the occupant, or both, be held responsible for the violation.

Removal of Dangerous Buildings or Debris.

- (1) In addition to the provisions above, whenever any building or structure is ruined, damaged or dilapidated, the County Commission may, by resolution, find that the ruined, damaged or dilapidated structure or premise is a menace to the public comfort, health, peace or safety and require the removal from the county of the building, structure, wreckage or debris.
- (2) A copy of the resolution adopted pursuant to this chapter shall be served on the owner, occupant or agent in charge of the building, structure or premise. If the owner, as shown by real estate records of the county clerk, occupant, or agent in charge of the building, structure or premises cannot be served within the county, a copy of the resolution shall be posted on the building, structure or premises, and a copy shall be published one (1) time in a newspaper of general circulation in Grant County.
- (3) A Within ten (10) days of the receipt or of the posting and publishing of a copy of the resolution adopted pursuant to this chapter, the owner, occupant or agent in charge of the building, structure or premises shall

commence removing the building, structure, wreckage or debris or file a written objection with the County Clerk asking for a hearing before the County Commission.

- (4) If a written objection is filed, the County Commission shall:
 - (a) Set a date for a hearing on the objection.
 - (b) Consider all evidence for and against the removal resolution at the hearing.
 - (c) Determine if its resolution should be enforced or rescinded.
- (5) Any person aggrieved by the County Commissions determination may appeal to the district court by:
 - (a) Giving notice of appeal to the County Commission within (5) days after the determination made by the County Commission; and
 - (b) Filing a petition in the district court within twenty (20) days after the determination made by the County Commission. The district court shall hear the matter de novo and enter a judgment in accordance with its findings.
- (6) If the owner, occupant or agent in charge of the building, structure or premises fails to commence removing the building, wreckage or debris:
 - (a) Within ten (10) days of being served a copy of the resolution or of the posting and the publishing of the resolution; or,
 - (b) Within five (5) days of the determination by the governing body that the resolution shall be enforced; or,
 - (c) After the district court enters a judgment sustaining the determination of the County Commission, the County may remove the building, structure, ruins, rubbish, refuse, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, ruins, rubbish, refuse, wreckage or debris so removed and against the lot or parcel of land from which it was removed. The lien shall be foreclosed in the manner provided in Sections 3-36-1 of the New Mexico Statutes Annotated 1978 Compilation.
- (7) The County may pay for the costs of removal of any condemned building, structure, ruins, rubbish, refuse, wreckage or debris by granting to the person removing such materials, the legal right to all salvageable materials in lieu of all other compensation.
- (8) Any person or firm removing any condemned building, structure, ruins, rubbish, refuse, wreckage or debris shall leave the property from which the material has been removed in a clean, level and safe condition for further occupancy or construction and with all excavations filled.

SECTION 9. ENFORCEMENT AND PROCEDURES

This Ordinance shall be enforced by the Grant County Code Enforcement Officer or other official designated by the Grant County Board of Commissioners.

- (1) where the County receives a written, signed complaint alleging a violation of any provision of this Ordinance, or where the County discovers that any provision of this ordinance is being violated, the Code Enforcement Officer shall send a written notice to the owner of the subject property stating the nature of the violation and ordering the action necessary to correct it. The notice shall provide that action must be taken in no less than ten (10) days and no more than ninety (90) days from the date of the notice.
- (2) Extension of Time. Where the Code Enforcement Officer is satisfied that there is good and sufficient reason to extend the time period for correction of the violation, he/she may extend the time frame provided above for an additional period of time not to exceed sixty (60) days beyond the time frame set out in the original notice.
- (3) Where the Code Enforcement Officer finds that circumstances exist such that they pose an eminent danger to the public health, welfare, and safety due to any violation of this Ordinance, and the Officer determines that immediate measures are necessary to alleviate such danger, the Code Enforcement Officer may waive the above notification period.

SECTION 10. PENALTIES.

Penalties for violations of this ordinance shall not exceed a fine of three hundred dollars (\$300.00) or imprisonment for ninety days, or both the fine and imprisonment, except that the following fines may be imposed in appropriate circumstances:

- (1) no more than one thousand dollars (\$1,000) for discarding or disposing of refuse, litter or garbage on public or private property in any manner other than by disposing it in an authorized landfill;
- (2) no more than five thousand dollars (\$5,000.00) for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act.

Each day such violation is permitted to continue by the responsible party shall be considered a separate offense and shall be punished as such.

SECTION 11. 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.

SECTION 12. CONFLICT

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

SECTION 13. SEVERABILITY

If any section, subsection, clause, phrase or portion of these regulations is, for any reason, held invalid or unconstitutional by any government agency or 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 thereof.

SECTION 14. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after being enacted by the Board of County Commissioners of Grant County and published in the manner in which County ordinances are recorded by the Clerk of Grant County

GRANT COUNTY BOARD OF COMMISSIONERS:

Rodolpho (Rudy) Martinez, Chairman

Mary Ann Sedillo, Member

Henry Torres, Member

Henry (Howie) Morales, County Clerk