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SANTA FE COUNTY ORDINANCE NO. 1993-6
JUNKED AND HAZARDOUS VEHICLE ORDINANCE

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, HEREBY ADOPTS THIS ORDINANCE DEFINING JUNKED VEHICLES AND ACCESSORIES, AND DECLARING SUCH TO BE A NUISANCE; PROVIDING FOR NOTICE OF VIOLATION TO THE OWNER OF THE VEHICLE AND THE OCCUPANT OF THE PROPERTY ON WHICH A JUNKED VEHICLE IS FOUND; PROVIDING FOR REMOVAL OF JUNKED VEHICLES; PROVIDING FOR THE REMOVAL OF VEHICLES WHICH CAUSE TRAFFIC HAZARDS FROM COUNTY ROADS; AND PROVIDING PENALTIES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

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Section 1. SHORT TITLE.

This Ordinance may be referred to as the "Junked and Hazardous Vehicle Ordinance."

Section 2. JUNKED VEHICLES DECLARED PUBLIC NUISANCE.

Pursuant to N.M.S.A. Sections 4-37-1 and 3-18-17(A) (1978, as amended), the Board of County Commissioners finds and declares that junked vehicles which are located within the County on any public premises or private property, or parcel

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of land, or portion thereof, occupied or unoccupied, improved or unimproved, and which are visible from any public premises are detrimental to the safety and welfare of the general public. Such junked vehicles reduce the value of private property, invite vandalism and rodents, constitute fire hazards, and are attractive nuisances which pose a threat to the health and safety of children. Junked vehicles are detrimental to the economic welfare of the County by producing urban blight which is adverse to the continuing economic development of the County.

In view of these findings and determinations, the Board of County Commissioners of Santa Fe County hereby declares the above described junked vehicles to be public nuisances.

Section 3. DEFINITIONS: For the purpose of this Ordinance, the following terms, phrases, words, and derivations shall have the meanings given herein. "Shall" is always mandatory and not merely directory. The masculine includes the feminine. The singular includes the plural, where appropriate.

- A. Accessory - includes any part or portion of a motor vehicle.
- B. Antique Vehicle - means a motor vehicle which is at least twenty-five (25) years old and which is being preserved or restored by a collector.
- C. Collector - means a person who acquires, maintains, shows, restores, or sells antique or special interest vehicles in a manner which demonstrates active and regular efforts to make said motor vehicles able to meet

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minimum safety standards for operation on public streets in New Mexico.

- D. Hazardous Vehicle - means any motor vehicle which is parked or located on a public road on which the County is not prohibited from enforcing this Ordinance, in such a way as to be reasonably and likely to cause damage or risk of damage to a moving motor vehicle.
- E. Junked Vehicle - any motor vehicle, other than an antique or special interest vehicle which has not been moved or had active and regular efforts to make the motor vehicle able to meet minimum safety standards for operation on public streets in New Mexico, for thirty (30) days and includes motor vehicles which have been wrecked, dismantled, partially dismantled, or abandoned or left on a public premises or on private property, without the permission of the owner of the property; and either:
- 1) does not bear a valid, unexpired license plate; or
 - 2) cannot be safely or legally operated on the public streets and highways of New Mexico.
- F. Motor Vehicle - every device upon or by which any person or property is or may be transported or drawn upon a highway, including any frame, chassis or body of any vehicle, and which is self-propelled.
- G. Occupant - the person in possession of the premises where a junked vehicle or accessory is located.

- H. Person - means an individual, firm, association, corporation, partnership or other entity.
- I. Preserve - means the action taken by a collector to protect an antique vehicle or special interest vehicle from the adverse and corrosive effects of the weather.
- J. Private Property - means any real property which is not public premises, and includes inhabited, developed, undeveloped, commercial, and residential property.
- K. Public Premises - means any and all streets, alleys, or other public ways and all public parks, spaces, grounds, and buildings.
- L. Remove or Removal - means the physical relocation of a motor vehicle to an authorized location or to a location which will not violate the provisions of this Ordinance.
- M. Restore - means the action taken by the owner of a collector to actively replace and/or repair parts of an antique vehicle or a special interest vehicle.
- N. Special Interest Vehicle - means a motor vehicle not less than twenty-five (25) years old and which is owned by a collector and which the collector can demonstrate has special collector or historic value.

Section 4. PROHIBITED STORAGE.

A. Junked Vehicle or Accessories.

It is unlawful for any person owning or having custody of any junked vehicle or accessory to store or permit any such vehicle or accessory to remain on any private property or public premises within the County for a period of more than fifteen

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(15) days after the receipt of a notice issued by Santa Fe County requiring such removal, and it is further unlawful for any person owning any private property in the County to store, to permit to remain, or to fail to remove any junked vehicle or accessory on his property for more than fifteen (15) days after the receipt of a notice issued by Santa Fe County. Such storage is declared to be a public nuisance and shall be abated or removed.

B. Prohibited Removal.

It shall be unlawful for any person, after notification has been given pursuant to Section 4A and Section 5 of this Ordinance to remove any junked vehicle or accessory to any other private property or public premises upon which such storage would constitute a violation of this Ordinance, if such junked vehicle or accessory were to remain for thirty (30) days.

Section 5. NOTICE.

The Santa Fe County Land Use Administrator shall have served or mailed written notice to the occupant of the private property upon which the motor vehicle or accessory is located, and to the owner of the motor vehicle, if the owner of the motor vehicle or accessory can be ascertained by the exercise of reasonable diligence. Written notice shall be served in accordance with New Mexico Rule of Civil Procedure 1-004. The notice shall, at a minimum, contain the following:

- a) a statement of the nature of the nuisance, with reference to this Ordinance;

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- b) a description and location of the motor vehicle or accessory;
- c) a demand that the motor vehicle or accessory be removed within fifteen (15) days of the receipt of the notice;
- d) a statement that if there is noncompliance with the directives of the notice, that the County may file criminal charges against the owner of the motor vehicle or accessory and/or occupant in Magistrate Court, and/or seek an order in a court of competent jurisdiction permitting the County to have the motor vehicle or accessory removed at the owner's or occupant's expense;
- e) a statement that failure to remove the motor vehicle or accessory within fifteen (15) days of receipt of the notice may expose the occupant and/or owner of the motor vehicle or accessory to incarceration for up to ninety (90) days per vehicle or accessory, per day of violation, and/or a fine not to exceed \$300.00 per day for every day the motor vehicle or accessory remains unremoved after the fifteenth day following the owner's/occupant's receipt of the notice;
- f) a statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited

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and shall subject the owner and/or occupant to additional penalties; and

- g) a statement that if removal is made within the time limits specified, notification shall be given in writing to the Land Use Administrator by the owner and/or occupant of the motor vehicle or accessory.

If any notice is returned as undeliverable, or if neither the occupant nor the owner of the motor vehicle or accessory can be found, the Land Use Administrator shall cause notice to be published two (2) times within a fourteen (14) day period pursuant to New Mexico Rule of Civil Procedure 1-004.

Section 6. REMOVAL BY OWNER; DISMISSAL OF ACTION.

If within fifteen (15) days of receipt of notice of violation of this Ordinance the motor vehicle or accessory is removed in compliance with this Ordinance, or is stored in a manner set forth in Section 12 of this Ordinance, the Land Use Administrator shall dismiss any criminal and/or civil complaint against the occupant or owner of the motor vehicle arising from the illegal presence of the motor vehicle.

Section 7. REMOVAL BY COUNTY WITH OWNER'S PERMISSION.

If within fifteen (15) days of the receipt of notice of violation of this Ordinance the motor vehicle owner and/or the occupant, as applicable, give written permission to the County to remove the junked vehicle or accessory, the Land Use Administrator shall have the junked vehicle or accessory removed. The occupant and/or owner shall be liable to the County for the costs of the removal incurred by the County,

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and any proceeds from the motor vehicle or accessory shall be retained by the County.

Section 8. REMOVAL BY COUNTY WITHOUT PERMISSION OF OWNER OR OCCUPANT.

Within fifteen (15) days of receipt of notice of violation of this Ordinance or publication of such notice, if neither the occupant nor owner of a motor vehicle or accessory gives permission to the County to remove the motor vehicle or accessory or fails to cause it to be removed or stored pursuant to Section 12, the Land Use Administrator may file a criminal complaint in a court of competent jurisdiction pursuant to this Ordinance against the occupant and/or the owner of the motor vehicle or accessory. The court shall, upon conviction of the defendant, impose sentence as herein provided. The court may order the defendant to remove the junked vehicle and dispose of it as provided herein or pursuant to Section 30-8-8 N.M.S.A. (1978, as amended). The court may also order that the defendant pay the County for the costs of removal, disposition, court costs, reasonable attorney's fees and fines, and forfeit all proceeds of the motor vehicle or accessory to the County of Santa Fe.

Section 9. DISPOSAL.

The Land Use Administrator may dispose of junked vehicles by sale or retention of a junked vehicle. A licensed dismantler receiving any junked vehicle shall notify the Motor Vehicle Division as required by N.M.S.A Section 66-3-115 (1978, as amended). In no event shall a junked vehicle be reconstruct-

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ed or rendered operable following removal except as provided by N.M.S.A Section 66-3-21 (1978, as amended).

Section 10. OBSTRUCTION TO TRAFFIC AND HAZARDOUS CONDITIONS.

A. General.

Nothing in this Ordinance shall affect laws that permit immediate removal of a motor vehicle left on private property or public premises which constitutes an immediate danger or obstruction to traffic. In addition, the Sheriff of Santa Fe County and/or the Land Use Administrator can have any motor vehicle removed from public premises, including any road or highway within the County, when the motor vehicle is either a junked vehicle or left on such location for more than five (5) days.

B. Vehicles Causing Hazardous Driving Conditions.

Any hazardous vehicle can be immediately removed by the County without prior or subsequent notice to the owner of such vehicle. The County may also designate portions of any County road as areas where parking will not be permitted. Any motor vehicle found violating this section of this Ordinance may be removed by the County, and all removal and storage costs shall be paid by the owner of the motor vehicle before such vehicle is released to the owner.

Section 11. AUTHORITY TO ENFORCE.

The Land Use Administrator or his agents may enter upon private property, unannounced, with or without the permission of the owner, to the extent the law allows. No search warrant or permission is required to remove or cause the removal of a

junked vehicle or accessory adjudged to be in violation of this Ordinance.

Section 12. APPLICATION OF ORDINANCE.

This Ordinance shall not apply to (1) a motor vehicle or accessory which is completely enclosed within a building and which is not visible from a street, public premises or private property (excluding the property on which the vehicle is located); (2) a motor vehicle or accessory which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; (3) a motor vehicle or accessory stored in such a way that the motor vehicle or accessory, and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by a fence or a wall approved and permitted by the Land Use Administrator, so as not to be visible from any public premises or private property (excluding that on which the vehicle or accessory located); or (4) any motor vehicle stored at the property of a member of the armed forces of the United States who is on active duty assignment.

Section 13. SAVINGS CLAUSE.

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remainder of this Ordinance.

Section 14. PENALTY.

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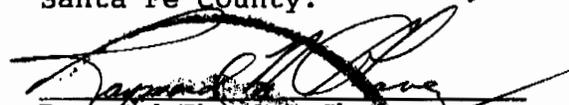
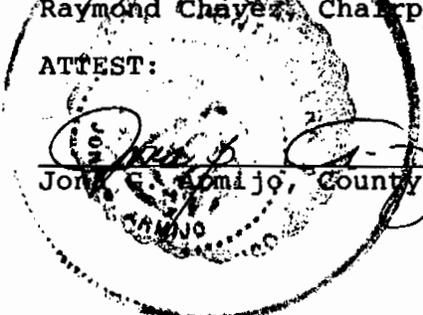
Any person violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine up to three hundred dollars (\$300) or imprisonment for up to ninety (90) days or both a fine and imprisonment for each day that a violation occurs, and for each junked vehicle or accessory which violates this Ordinance, as provided in N.M.S.A. Section 4-37-3 (1978, as amended.)

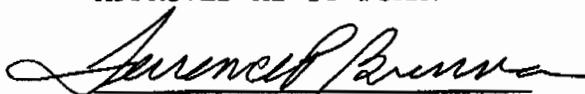
Section 15. REPEAL.

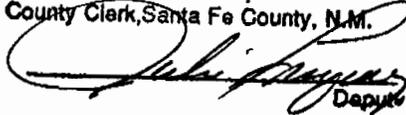
This Ordinance repeals Santa Fe County Ordinance 1989-2.

Section 16. This Ordinance shall be effective after June 11, 1993.

APPROVED THIS 11th of May, 1993.
Santa Fe County:


Raymond Chavez, Chairperson
ATTEST:

Jona G. Armijo, County Clerk

APPROVED AS TO FORM:

Terrence P. Brennan,
County Attorney

813, 738)SS
COUNTY OF SANTA FE)
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 12 day of May A.D.
19 93 at 10:31 o'clock AM.
and was duly recorded in book 923
page 521-533 of the records of
Santa Fe County.
Witness my Hand and Seal of Office
Jona G. Armijo
County Clerk, Santa Fe County, N.M.

Deputy

