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THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

ORDINANCE NO. 2016-04

AN ORDINANCE ESTABLISHING THE SOLID WASTE COLLECTION DISTRICT; REQUIRING COMMERCIAL SOLID WASTE HAULERS OPERATING WITHIN COLLECTION DISTRICT TO PROVIDE BUNDLED REFUSE AND RECYCLING COLLECTION SERVICES AND TO DELIVER COLLECTED MATERIALS TO IDENTIFIED DISPOSAL SITES; ESTABLISHING LICENSING AND REPORTING REQUIREMENTS FOR COMMERCIAL SOLID WASTE HAULERS; GRANTING ENFORCEMENT AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS; AND AMENDING ORDINANCE NO. 1992-3.

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

1. **SHORT TITLE.** This Ordinance shall be cited as the "Residential Solid Waste and Recycling Collection and Reporting Ordinance" and is referred to herein as "the Ordinance" or "this Ordinance."

2. **AUTHORITY.** This Ordinance is enacted pursuant to NMSA 1978, § 4-37-1 (1975), § 4-37-3, §§ 4-56-1 through 4-56-3 (1967), and the County Solid Waste and Recycling Management Ordinance, No. 2014-10.

3. **DEFINITIONS.**

The definitions set out in Ordinance No. 2014-10 shall apply to this Ordinance. In addition:

"Board" means the Santa Fe County Board of County Commissioners.

"Collection District" means the County Solid Waste Collection District established by this Ordinance.

"County-Identified Disposal Sites" means the Caja del Rio Landfill, Buckman Road Recycling and Transfer Station, and such additional disposal sites as may be identified by the Director and posted on the County Public Works Department's website.

"Director" means the County Public Works Department Director.

"Recyclables" means recyclable materials other than glass.

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"SW Hauler" or "Hauler" means a Commercial Solid Waste Hauler, as defined in Ordinance No. 2014-10.

"Unincorporated County Area" means everywhere within the County, including the Collection District, located outside the boundaries of an incorporated municipality.

4. FINDINGS.

A. Except for new developments as provided in the County Sustainable Land Development Code, Ordinance No. 2015-11, it is neither necessary nor appropriate at this time to impose upon County residents mandatory Solid Waste collection by the County or County contractors. Residents of the County should be able to continue use their preferred SW Haulers or to dispose of the non-hazardous Solid Waste they generate at Solid Waste Facilities.

B. SW Haulers providing curbside collection of Solid Waste to residences within the County Solid Waste Collection District established by this Ordinance can also reasonably provide curbside collection of Recyclables.

C. Solid waste and Recyclables should be delivered to Solid Waste Facilities.

D. SW Haulers engaged in business within the Unincorporated County Area should be registered and licensed by the County in accordance County Ordinance No. 1992-3, as amended.

E. SW Haulers should report certain information, data and statistics to the Director to assure that the County has accurate information regarding Solid Waste collection and disposal within the County and to aid in the enforcement of all County ordinances governing Solid Waste.

F. The Director should be authorized to enforce this Ordinance and Ordinance No. 2014-10 through the issuance of citations.

5. COUNTY SOLID WASTE COLLECTION DISTRICT. There is hereby established a County Solid Waste Collection District within the Unincorporated County Area, as shown on Exhibit A to this Ordinance.

6. CURBSIDE COLLECTION OF RECYCLABLES.

A. Beginning 120 days after the Effective Date of this Ordinance, SW Haulers who provide curbside residential refuse collection services to customers within the Collection District shall also, as part of such service, collect Recyclables in containers separate from refuse containers. The following requirements shall apply to the collection of Recyclables by SW Haulers:

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(1) SW Haulers shall collect refuse and Recyclables from their customers in separate containers as part of a single bundled service for a single price. Refuse collection services shall not be offered, provided, or priced separately from collection of Recyclables. For residential service, SW Haulers are strongly encouraged to offer at least two different-sized refuse containers with corresponding different rates to encourage waste minimization and recycling. Different-sized and different-priced refuse containers will also act as an incentive for customers to keep their monthly collection costs as low as possible by utilizing the lower-priced, smaller refuse container.

(2) SW Haulers shall provide their customers with one or more containers for their Recyclables. The containers shall have a minimum total volume of 60 gallons.

(3) SW Haulers shall collect Recyclables from their curbside customers at least once every other week and deliver the Recyclables to the Buckman Road Recycling and Transfer Station in accordance with Section 8 of this Ordinance.

(4) SW Haulers shall provide customers with clear, uniform instructions regarding the Hauler's requirements for curbside Recyclable collection, which shall not be unreasonably burdensome. Upon determining that a Hauler's instructions are unreasonable, the Director may require the Hauler to modify the instructions.

B. The Director may provide written guidance to SW Haulers regarding the collection of Recyclables, not inconsistent with this Ordinance, which shall be mailed to SW Haulers and posted on the County Public Works Department website. SW Haulers shall comply with the Director's written guidance.

C. SW Haulers that use a front-loading truck and a single refuse collection container having a minimum volume of 1.5 cubic yards are exempt from Section 6 of this Ordinance.

7. REPORTING REQUIREMENTS.

A. The Director is authorized to require any SW Hauler to provide information, data, and documents to the Director regarding the Hauler's operations and services within the unincorporated County area, including but not limited to the following:

(1) Number of customers.

(2) Number of employees.

(3) Map(s) of service territories.

(4) Rates.

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(5) Methods of collection.

(6) Types of collection containers.

(7) Disposal tonnages regarding refuse and recyclable materials.

(8) Identification of solid waste facilities to which refuse and recyclables were delivered.

(9) Compliance with federal, state, and local laws.

B. SW Haulers shall provide the Director with requested information, data, and documents within sixty (60) days of receiving the request from the Director.

C. The Director may establish semiannual reporting requirements for all SW Haulers, not inconsistent with this Ordinance, which the Director shall mail to all SW Haulers and post on the Public Works Department's website.

8. FLOW CONTROL. SW Haulers shall deliver all refuse that they collect within the Collection District to a County-Identified Disposal Site. SW Haulers shall deliver all Recyclables that they collect from their customers in containers separate from customers' refuse containers to the Buckman Road Recycling and Transfer Station. All Recyclables delivered to the Buckman Road Recycling and Transfer Station shall be disposed of in the appropriate recycling area at the Station. No SW Hauler shall dispose of refuse or Recyclables collected within the Collection District except in accordance with this Ordinance.

9. BUSINESS REGISTRATION AND LICENSE REQUIRED.

A. An SW Hauler shall be deemed to be "engaging in business" within the meaning of Ordinance No. 1992-3, as amended, if the Hauler collects Solid Waste within the Unincorporated County Area, regardless of whether the SW Hauler maintains an office within the Unincorporated County Area.

B. All SW Haulers engaging in business within the Unincorporated County Area must have a valid, existing business registration permit issued by the County Treasurer in accordance with Ordinance No. 1992-3, as amended.

C. Beginning on October 1, 2016, no SW Hauler shall engage in business within the Unincorporated County Area except in accordance with a valid, existing business license issued to the SW Hauler by the County Treasurer in accordance with Ordinance No. 1992-3, as amended.

10. AMENDMENT OF ORDINANCE NO. 1992-3. Ordinance No. 1992-3 is amended as follows:

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A. Section 2(G), "Licensed activity," is amended to add: "*10. Commercial Solid Waste Haulers, as defined in Ordinance No. 2014-10.*"

B. Section 3(B)(4), "Fees," is amended to add: "*n. Commercial Solid Waste Haulers, fifty dollars ($50.00) per year.*"

C. Section 9, "Licensed Activities," is amended to add the following new provision:

"*G. Commercial Solid Waste Haulers.*

1. *No Commercial Solid Waste Hauler shall engage in business within the unincorporated County area without first obtaining a business license. Applications for licenses shall be made to the County Treasurer, on forms provided by the Treasurer.*

2. *Commercial Solid Waste Haulers shall comply with all applicable federal, state, and local laws, including but not limited to the New Mexico Solid Waste Act, NMSA 1978, §§ 74-9-1 through -.43, the County Solid Waste and Recycling Management Act, Ordinance No. 2014-10, and the Residential Solid Waste and Recycling Collection and Reporting Ordinance."*

11. PENALTIES AND CITATIONS.

A. Violations of this Ordinance or Ordinance No. 2014-10 shall be punishable by a fine of three hundred dollars ($300.00) per violation, as allowed under NMSA 1978, Section 4-37-3(A).

B. Prosecutions of violations of this Ordinance or Ordinance No. 2014-10 may be commenced by the issuance of a citation charging the violation, which may be issued by the Director pursuant to NMSA 1978, Section 4-37-3(B).

12. SEVERABILITY. If a provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

13. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after it is recorded in the office of the County Clerk.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THIS ___ DAY OF _____, 2016.

BOARD OF COUNTY COMMISSIONERS

OF SANTA FE COUNTY

By: Miguel M. Chavez
Miguel M. Chavez, Chair

ATTEST:

Geraldine Salazar
Geraldine Salazar, Santa Fe County Clerk

Date: 5/31/16

APPROVED AS TO FORM:

for
Gregory S. Shaffer, Santa Fe County Attorney

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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for Record On The 1ST Day Of June, 2016 at 10:36:10 AM And Was Duly Recorded as Instrument # 1795150 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

Deputy Laura Hernandez