

SANTA FE COUNTY ORDINANCE No. 1993-11REFUSE CONTROL AND ANTI-LITTER ORDINANCE

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA FE, NEW MEXICO hereby adopts this Ordinance establishing a County system for the regulation, collection and disposal of refuse; prohibiting the throwing or depositing of litter in the County; prescribing general controls and regulations concerning litter and prescribing penalties for violations thereof.

INDEX

SHORT TITLE	SECTION 1
DEFINITIONS	SECTION 2
LITTERING PROHIBITED	SECTION 3
PRIVATE PREMISES TO BE LITTER-FREE	SECTION 4
NO LITTERING IN PARKS OR ON COUNTY ROADS	SECTION 5
LITTER AT CONSTRUCTION SITES	SECTION 6
NO LITTER AROUND BUSINESS PREMISES	SECTION 7
STORAGE AND DISPOSAL OF LITTER: PREVENTION OF SCATTERING	SECTION 8
SALVAGING AND SCAVENGING	SECTION 9
ACTS OF NUISANCE	SECTION 10
GRAFFITI	SECTION 11
SPECIAL REFUSE PROBLEMS	SECTION 12
BURDEN OF PROOF	SECTION 13
PENALTY	SECTION 14
EFFECTIVE DATE	SECTION 15
SAVINGS CLAUSE	SECTION 16
REPEAL CLAUSE	SECTION 17

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the "ANTI-LITTER ORDINANCE."

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following phrases and words, and their derivations shall have the following meanings. Where appropriate, the masculine includes the feminine; the singular includes the plural. The word "shall" is always mandatory and not merely directory.

- A. "~~Authorized Private Receptacle~~" means a litter storage and collection receptacle designed and construct-

- ed to hold and contain litter, so as to inhibit the dissemination of the litter and odors therefrom.
- B. **Contractor**" means any person who performs or supervises the performance of building, remodeling structures, or development on private premises or public property.
- C. **"County"** means the area within the boundaries of Santa Fe County, including privately owned land and land owned by the United States, except the area within the limits of any incorporated municipality.
- D. **"Garbage"** includes wastes resulting from the handling, preparation, cooking and consumption of food, and wastes from the handling, storage, and sale of produce.
- E. **"Hazardous materials"** includes, but is not limited to: asbestos and asbestos products; household hazardous waste; radioactive materials as defined by the Atomic Energy Act of 1954, 42 U.S.C. Section 2011 et seq.; infectious materials; petroleum products; petroleum-contaminated materials; combustible materials; sludge; septage; sewerage materials; and those materials regulated by the New Mexico Hazardous Waste Act (NMSA 74-4-1, et Seq., 1978, as amended) or any other federal, state or local statute, regulation or ordinance.
- F. **"Licensed disposal facility"** means the County landfill and County transfer stations.

- G. "Litter" includes refuse and garbage, and any other material which has no reasonable domestic, commercial, industrial, or recyclable use.
- H. "Park" includes playgrounds, recreational centers; golf courses, or any other public areas in the County owned by the County or used by the public and devoted to active or passive recreation.
- I. "Person" means any natural person, firm, association, partnership, corporation, company, or organization of any kind.
- J. "Private Premises" means any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, or mail box belonging or appurtenant to such dwelling, house, building or other structure.
- K. "Public Place" means any and all streets, alleys, or other public ways and all public parks, spaces, grounds, and buildings.
- L. "Public Receptacle" means a container which is owned and maintained by the County and designated to be used for disposal of refuse.
- M. "Recyclable material" includes paper, cardboard, aluminum, yard waste (including but not limited to grass clippings, sticks, leaves, and similar

items), and white goods (large appliances such as refrigerators, stoves, washing machines, and dryers).

- N. "Refuse" includes solid waste (except body wastes) including, but not limited to, garbage, rubbish, ashes, petroleum products, dead animals, building materials, abandoned automobiles or parts thereof, solid market and industrial wastes, paper, cardboard, tin cans, dirt, wood, glass, crockery, and similar material.
- O. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails and tracks.

SECTION 3. LITTERING PROHIBITED.

(a) Use of Proper Receptacles.

No person shall deposit or cause to be deposited any litter on any public place or private premises within the County except in: 1) public receptacles, as further set forth in this Ordinance; 2) authorized private receptacles for later disposal; or 3) any duly licensed disposal facility, according to the procedures established for such disposal. No person shall upset or tamper with a public receptacle or an authorized private receptacle which is not his own, or cause its contents to be deposited or strewn in or upon any public place or private premises.

(b) Recyclable Materials.

Nothing in this Ordinance shall prohibit persons from keeping recyclable material on their property, provided that such material is kept for purposes of recycling, and provided further that recyclable material is not kept on the owner's premises for longer than 120 days.

(c) Littering from Vehicles.

No person, while the operator of or passenger in a vehicle, shall deposit or strew litter upon any public place or private premises. No person shall drive or move any vehicle within the County unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any public place or private premises.

SECTION 4. PRIVATE PREMISES TO BE LITTER-FREE.

The owner, tenant, or person in control of any private premises shall:

(a) maintain the premises free of litter at all times; and

(b) maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

SECTION 5. NO LITTERING IN PARKS OR ON COUNTY ROADS.

No person shall deposit litter in any park within the County, or on any County road, except in public receptacles, and in such a manner that the litter will be prevented from being carried, or deposited by the elements upon any part of the park or upon any other public place or private premises.

Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

SECTION 6. LITTER AT CONSTRUCTION SITES.

(a) Each contractor shall be responsible for his job site in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

(b) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public property or private premises, shall be immediately removed by the contractor or his agent.

SECTION 7. NO LITTER AROUND BUSINESS PREMISES.

The owner or person in control of any public place, including but not limited to restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, and hospitals and clinics shall at all times keep the exterior premises clean of all litter and shall take measures including daily cleanup of the premises to prevent litter from being carried by the elements to public premises or to private places. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of such exterior premises so as to permit it to accumulate litter thereon.

SECTION 8. STORAGE AND DISPOSAL OF LITTER; PREVENTION OF SCATTERING.

(a) Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

All litter on private premises that is subject to movement by the elements shall be secured by the owner or tenant of the premises before the same is allowed to be removed by the elements to private premises or to public places.

(b) Litter Collection and Storage Areas - Clean Conditions.

Every owner, occupant or tenant of a house or building used for residence, business, or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly kept in approved private receptacles. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this Ordinance.

(c) Transportation of Litter.

All litter accumulated in the County shall be collected, conveyed, and disposed of by the actual producers of litter or the owners of the private premises upon which litter has accumulated, who shall transport such litter a licensed disposal facility, pursuant to Santa Fe County Ordinance 1992-9, as it may be amended or reenacted from time to time. However, nothing in this Ordinance shall prohibit any person from recycling, reusing, or otherwise disposing of his refuse in any manner allowed by federal, state or local law.

(d) Commercial Establishments.

Hotels, restaurants, and such other businesses and institutions shall take reasonable measures to assure regular and complete disposal of litter generated by such businesses. Where necessary to protect the public health, the County Manager or his representative shall have the authority to require that more frequent disposals by any business or institution be made.

(e) Authorized Private Receptacles for Commercial Establishments.

Commercial or business establishments which generate litter shall use proper authorized private receptacles, depending upon the volume and type of litter produced. Authorized private receptacles for garbage are required to be constructed of galvanized metal, built according to specifications accepted by the County Manager.

**(f) CONSTRUCTION OR LITTER TRANSPORT VEHICLES;
LOADS.**

All vehicles used in the removal, collection, or transportation of garbage, refuse, or litter shall be constructed and operated in such a manner that will prevent any portion of such material from leaking, spilling, falling, or blowing out of said vehicles or onto any public highway or street, or on public places or private premises. Such vehicle being drawn or driven over the public ways or streets shall not be loaded above a point that will result in any portion of the contents being spilled or blown therefrom.

(g) Dumping.

No person shall place any litter in any public place (except at a licensed disposal facility when disposed according to law) or upon any private premises owned by another person. No person shall throw or deposit any litter in any stream, other body of water, or arroyo.

(h) Removal by County.

It shall be unlawful for any person to allow any litter to collect or accumulate on any private premises he owns, leases, manages, or occupies within the County. Any such unauthorized accumulation or collection is hereby declared to be a nuisance and is prohibited. In the event such person fails to remove such accumulation or collection of refuse, the County Manager may cause the same to be removed at the expense of such person.

SECTION 9. SALVAGING AND SCAVENGING.

No person shall salvage and/or scavenge for litter or any other object at any time at any licensed disposal facility.

SECTION 10. ACTS OF NUISANCE.

A public nuisance is any act or inaction of any person within the County which impairs or endangers the health, life, safety, or property of any person which:

(a) permits his private premises to become unsanitary or a fire threat by allowing any litter or unsafe matter to grow, accumulate or otherwise occupy and remain upon such premises, or

(b) allows junked vehicles, litter, or other material to accumulate and remain upon the premises as a possible

harborage for rats, snakes and other vermin, and as an attractive nuisance to children.

Any public nuisance is subject to abatement through the institution of an injunctive action or a motion for a restraining order, filed in a court of competent jurisdiction.

SECTION 11. GRAFFITI.

No person shall paint, draw, write, or otherwise mark upon walls, structures, improvements, utility support structures, sidewalks, or other similar objects on private premises or on public places without the permission of the owner of the premises or, in the case of public places, the permission of the governmental entity that controls the property or place.

SECTION 12. SPECIAL REFUSE PROBLEMS.

(a) Flammable or Explosive Refuse.

Highly flammable or explosive material shall not be placed in containers for regular collection but shall be disposed of as directed by the County Manager at the expense of the owner or possessor thereof.

(b) Hazardous or harmful materials.

Hazardous materials and industrial process waste shall only be disposed at a appropriate disposal facilities in the County in accordance with directions given by the County Manager, as provided for in federal, state and local statutes, regulations, and ordinances.

SECTION 13. BURDEN OF PROOF.

If the name of any person or other identification of a person is found on three or more pieces of litter taken on one occa-

sion from a private premises or a public place and not from an authorized private receptacle or a public receptacle, then such evidence shall constitute prima facie evidence and presumptive proof of a violation of this ordinance, and the burden of going forward to establish a non-violation of this Ordinance shall be on such person.

SECTION 14. PENALTY.

Any person violating any provision of this Ordinance shall be fined as follows:

(a) up to \$1,000.00 for discarding or disposing of litter on private premises or a public place in violation of this Ordinance; and/or

(b) up to \$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 (Ch. 24, Art. 4, NMSA 1978, as amended); and/or

(c) not less than \$50.00 nor more than \$300.00 and/or imprisonment for up to 90 days, for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 15. EFFECTIVE DATE.

This Ordinance shall take effect thirty days after its passage by the Board of County Commissioners of Santa Fe County.

SECTION 16. SAVINGS CLAUSE.

If any of the sections, subsections, sentences, clauses, or phrases, of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining


portions of this Ordinance shall not be hereby affected,
since it is the express intent of the County commission to
pass each section, phrase, paragraph and word separately.

SECTION 17. REPEAL CLAUSE.

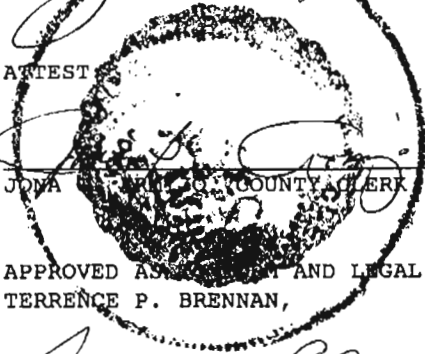
Santa Fe County Ordinance No. 1981-3 is hereby repealed.

PASSED, APPROVED AND ADOPTED, THIS 12th DAY OF
October, 1993.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS


NANCY RODRIGUEZ, CHAIRPERSON

ATTEST


JONA G. ARMILLO, COUNTY CLERK

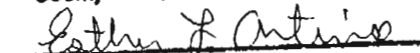
APPROVED AS TO FORM AND LEGAL SUFFICIENCY
TERRENCE P. BRENNAN,


SANTA FE COUNTY ATTORNEY

833786

COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 13 day of Oct A.D.
19 93, at 4:16 o'clock P m.
and was duly recorded in book 978
page 299-310 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

