

**TAOS COUNTY ORDINANCE NO. 2010-5  
(REPLACING TAOS COUNTY ORDINANCE NO. 2004-2)**

**AN ORDINANCE PROVIDING A SYSTEM FOR THE EFFICIENT AND SANITARY COLLECTION AND DISPOSAL OF SOLID WASTE; REGULATING SOLID WASTE, LITTER, AND CONSTRUCTION AND DEMOLITION DEBRIS; ESTABLISHING SOLID WASTE DISPOSAL FEES; PROVIDING STANDARD FEES AND CONTRACTUAL TERMS FOR NONEXCLUSIVE FRANCHISE AGREEMENTS WITH PRIVATE HAULERS FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE; ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS FOR VIOLATIONS; AND, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, the Taos County Board of Commissioners finds that the efficient and sanitary collection, recycling, transportation and disposal of solid waste and construction and demolition debris and control of litter in Taos County is necessary for the protection of the health, welfare and safety of the citizens of Taos County; and

**WHEREAS**, the Taos County Board of Commissioners finds that a system of solid waste collection is necessary in order to protect the environs of Taos County from illegal dumping occasioned by the lack of a countywide system of solid waste collection, and to protect the environment and promote the preservation of the natural beauty of Taos County lands; and

**WHEREAS**, the Taos County Board of Commissioners finds it necessary to assess fees to pay for a countywide system of solid waste collection and disposal as described herein;

**NOW, THEREFORE, BE IT ORDAINED** by the Taos County Board of Commissioners as follows:

**SECTION 1: SHORT TITLE**

This Ordinance shall be known as the "SOLID WASTE MANAGEMENT ORDINANCE," and shall be referred to herein as "this Ordinance."

**SECTION 2: AUTHORITY**

This Ordinance is enacted in accordance with the authority granted to counties under state law to:

- A. Enact ordinances to provide for the safety, preserve the health and promote order, comfort and convenience of county residents pursuant to NMSA 1978, § 4-37-1.
- B. Establish, maintain, manage and supervise a system of collection and disposal of refuse, and to establish, assess and collect fees from any person who uses the system, pursuant to NMSA 1978, §§ 4-56-1 through 4-56-3.
- C. Provide by ordinance for the filing of a notice of lien for non-payment of a charge or assessment imposed by the county pursuant to NMSA 1978, §§ 3-36-1 through 3-36-7.

**SECTION 3: INTERPRETATION AND CONFLICT**

The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other current Taos County ordinance, resolution, order, policy or procedure. However,

the provisions of this Ordinance shall be controlling in the event this Ordinance imposes greater restrictions than those imposed by another Taos County ordinance, resolution, order, policy or procedure.

**SECTION 4: APPLICABILITY**

The terms of this Ordinance are effective within the boundaries of Taos County, including privately owned land and land owned by the United States. However, the terms of this Ordinance are not effective within the boundaries of any incorporated municipality.

**SECTION 5: DEFINITIONS:**

The following definitions apply to this Ordinance:

- A. "Clean fill" is broken concrete, brick, rock, stone, glass, reclaimed asphalt pavement, or uncontaminated soil generated from construction and demolition activities. Reinforcement materials that form an integral part of such materials, such as rebar, are included. Clean Fill must be free of other solid waste and any other materials expressly deemed not to be solid waste under this Section 5(Y) of this Ordinance.
- B. "Code Enforcement Officer" is the Director of the Taos County Solid Waste Department and any other Taos County employee designated as such by Executive Order of the County Manager. The Code Enforcement Officer is charged with enforcement of this Ordinance as set forth in Section 16, herein.
- C. "Commercial hauler" means any person transporting solid waste for hire by whatever means for the purpose of transferring, processing, storing or disposing of the solid waste at a solid waste facility. The term does not include an individual transporting solid waste generated by his own residential or business premises for the purpose of disposing of it at an approved solid waste facility.
- D. "Composting" is the process by which biological decomposition of organic material is carried out under controlled conditions. The process stabilizes the organic fraction into a material which can be easily and safely stored, handled and used in an environmentally acceptable manner.
- E. "Composting facility" means a facility that is capable of providing biological stabilization of organic material.
- F. "Construction and demolition debris" is material generally considered to be water insoluble and nonhazardous 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 project and includes rocks, soil, tree remains, trees and other vegetative matter that normally results from the clearing of land for construction or commercial landscaping. Construction and demolition debris does not include asbestos or liquids including, but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.
- G. "County Attorney" is the Taos County Attorney, Assistant County Attorney or other contracted attorney, who shall be permitted upon request of the County Commission or

County Manager to enter an appearance on behalf of Taos County in any action for enforcement of this Ordinance brought in any state district or magistrate court.

- H. "County Commission" is the Taos County Board of Commissioners, the duly constituted governing body of Taos County.
- I. "County Manager" is the person appointed by the County Commission as its chief administrative assistant.
- J. "Garbage" includes all waste food, swill, carrion, slops and all waste from the preparation, cooking or consumption of food and from the handling, storage or sale of food products and the carcasses of animals.
- K. "Homeowners association" is any organization whose membership is comprised of more than one owner of property located within a single subdivision, condominium, cooperative or other multi-residence development that contracts with a commercial hauler for the disposal of solid waste generated within the development.
- L. "Landfill" refers to the Taos Regional Landfill.
- M. "Littering" means to intentionally discard any solid waste or debris upon the private property of another without his permission or at any public place other than an area authorized to receive the disposal of solid waste or debris under this Ordinance.
- N. "Occupied Residence" is any residence at which the activities of an owner, lessee or other occupant, whether full-time or periodic, may generate any solid waste during the course of the year for which solid waste fees are being assessed.
- O. "Owner" is the property owner, whether residing on said property or not, the property being located within Taos County and outside the corporate boundaries of the municipalities of Taos.
- P. "Person" is any individual, partnership, company, corporation, firm, association, trust, estate, state and federal agency, institution, county, city, town, village, or municipality or other legal entity, however organized.
- Q. "Premise" is defined as a structure, whether designed for residential or commercial use, located on any property within Taos County and outside the limits of any incorporated municipality.
- R. "Public place" means any property owned, operated or maintained by any governmental entity or open to the public's common use, including all public rights of way, sidewalks, trails, parking lots, rest areas, parks, and public buildings and grounds.
- S. "Recyclable materials" means materials that would otherwise become solid waste if not recycled and that can be collected, separated, processed, reclaimed or composted and placed in use in the form of raw materials, products or densified-refuse-derived fuels.
- T. "Recycling" means any process by which recyclable materials are collected, separated, processed, reclaimed or composted and reused or returned to use in the form of raw materials or products.

- U. "Recycling facility" means a facility that collects, transfers, or processes recyclable materials for recycling, but does not include a composting facility.
- V. "Residence" is any habitable dwelling or each single unit of a multi-unit habitable dwelling.
- W. "Responsible party" is defined as the owner of a given residence.
- X. "Rubbish" includes all inoperable automobiles and automobile parts the value of which are limited to salvage for materials, waste paper, paper cartons, tree branches, yard trimmings, discarded furniture and household appliances, tin cans, dirt, ashes, bottles and all other unusable or unwholesome material of every kind not included as garbage.
- Y. "Solid waste" is any garbage, rubbish and other discarded material. "Solid Waste" does not include:
- (1) solid, liquid, semisolid or gaseous material resulting from industrial, commercial, mining, or agricultural operations;
  - (2) sludge or other by-product from any septic system, waste or water treatment plant or air pollution control facility;
  - (3) waste from the extraction, beneficiation and processing of ores and waste materials, including phosphate rock and overburden from the mining of uranium ore, coal, copper, molybdenum and other ores and minerals;
  - (4) cement kiln waste;
  - (5) sand and gravel;
  - (6) highly flammable or explosive materials, including but not limited to explosives, ammunition and volatile chemicals;
  - (7) wood ash that has not cooled or may otherwise be capable of rekindling or igniting a fire if brought into contact with combustible materials;
  - (8) solid or dissolved material in domestic sewage or solid, or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1342;
  - (9) source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, 42 U.S.C. Section 2011, et seq.;
  - (10) densified refuse-derived fuel;
  - (11) any hazardous waste or material regulated by Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA), or substances regulated by the federal Toxic Substance Control Act;
  - (12) radioactive waste;

- (13) any infectious waste as defined pursuant to New Mexico Environmental Improvement Board Regulations, 20 NMAC 9.2.7(I)(5); and,
  - (14) any carcass of a dead animal.
  - (15) Agricultural waste, including, but not limited to, crop residues and animal manure and other organic by-products created by or associated with livestock.
- Z. "Solid waste facility" means any lawful public or private system, facility, location, improvements on the land, structures or other appurtenances or methods used for processing, transforming, recycling, or disposing of solid waste, including landfill disposal facilities, transfer stations, convenience centers, resource recovery facilities, and incinerators, or any facility that processes, recycles, transforms, transfers, or otherwise handles low level or high level radioactive waste or transuranic wastes, and other facilities not specified.
- AA. "Transfer station" means those solid waste facilities operated by Taos County for the convenience of its residents at which solid waste may be disposed in accordance with the provisions of this Ordinance.

**SECTION 6: APPROVED SOLID WASTE CONTAINERS**

- A. Solid waste and recyclables shall be stored on the premise where they are generated in a container that is durable, water-tight, non-absorbent, protected from infiltration by vermin and not to exceed a capacity of 100 gallons.
- B. Containers with capacity in excess of 100 gallons may only be used for a residential property, other than as set forth below, for temporary storage and disposal of large quantities of solid waste due to moving, construction or other infrequent activities.
- C. Homeowners associations, multi-family residential developments and mobile home parks may use containers such as dumpsters or roll-off boxes with capacity in excess of 100 gallons for use by their members. The number of such containers shall be adequate to store all solid waste deposited by the persons using them and shall be kept clean so that no odor or other condition constituting a public nuisance exists.
- D. Commercial properties may use containers such as dumpsters or roll-off boxes with capacity in excess of 100 gallons for the operation of their business. The number of such containers shall be adequate to store all solid waste deposited by the business using them and shall be kept clean so that no odor or other condition constituting a public nuisance exists.
- E. The owner of every mobile home park consisting of five (5) or more mobile homes shall provide for the collection of not less than .5 cubic yards of solid waste weekly per mobile home space.
- F. The owner of every multi-family residential development consisting of five (5) or more units shall provide for the collection of not less than .5 cubic yards of solid waste weekly per residential unit.

**SECTION 7: AUTHORIZED DISPOSAL OF SOLID WASTE**

- A. Residential solid waste, other than that being disposed of by a commercial hauler, may be disposed of in accordance with the provisions of this Ordinance at any Taos County transfer station upon payment of the appropriate fee. Unless it is disposed at a Taos County transfer station, residential solid waste must be recycled or deposited at another solid waste facility.
- B. Each residential household may dispose of no more than four (4) motor vehicle tires in any 12-month period at any of Taos County's transfer stations.
- C. The following items may not be disposed of at any Taos County transfer station, but shall be disposed of in accordance with Section 9 of this Ordinance:
  - (1) construction and demolition debris;
  - (2) solid waste generated by the operation of any business or other commercial enterprise;
  - (3) residential solid waste being disposed of by a commercial hauler.
  - (4) any materials expressly deemed not to be solid waste under this Section 5(Y) of this Ordinance.
- D. Solid waste deposited at any Taos County transfer station shall first be sealed in bagged or closed containers.
- E. Large household appliances (such as ovens, refrigerators, washers, dryers, freezers and water heaters), scrap metal and wire may be deposited in open-top bins located at Taos County's transfer stations.

**SECTION 8: UNLAWFUL ACCUMULATION AND DISPOSAL OF SOLID WASTE AND CONSTRUCTION AND DEMOLITION DEBRIS; LITTERING**

- A. No person shall accumulate any solid waste on premises owned, leased or occupied by that person except in an approved solid waste container, except that a person may use a residential "backyard" composting pile that composts organic solid waste generated the premises and any person shall be permitted to accept, stockpile, or use clean fill material as long as:
  - (1) the clean fill material does not create a public nuisance or adversely affect the environment; and
  - (2) the material is not placed in a watercourse or in any other manner contrary to law.
- B. No person shall commit littering.
- C. No person shall cast, place, sweep or deposit any solid waste or construction and demolition debris in such a manner that it may be carried or deposited by the elements upon any road, street, sidewalk, alley, sewer, parkway or other public place or private property within Taos County.

- D. No person shall transport any solid waste or recyclable materials in any vehicle without covering, tarping or adequately securing the load in order to prevent littering and/or road hazards.
- E. No solid waste, construction and demolition debris or other materials regulated by this Ordinance shall be burned within Taos County, except that fire permits may be obtained from the Taos County Office of Emergency Management for the open burning of certain types of materials in accordance with the Taos County Burn/No Burn Ordinance, No. 2006-6, Section 7.
- F. No person shall dispose of any solid waste by leaving it outside a transfer station during off-hours.
- G. No person may climb on, set fire to, or willfully damage any solid waste container at any Taos County transfer station.

**SECTION 9: HAZARDOUS, INFECTIOUS, COMMERCIAL AND OTHER PROHIBITED MATERIALS**

- A. No hazardous or infectious waste or any other materials expressly deemed not to be solid waste under this Section 5(Y) of this Ordinance shall be placed in any Taos County solid waste container. Such waste shall be disposed of in accordance with any applicable county, state and federal laws or regulations, at the expense of the person accumulating such waste.
- B. No construction and demolition debris shall be placed in any Taos County solid waste container. Such waste may be disposed of at the landfill or otherwise shall be disposed of in accordance with any applicable county, state and federal laws or regulations, at the expense of the person accumulating such waste.
- C. No solid waste by the operation of any business or other commercial enterprise shall be placed in any Taos County solid waste container. Such waste may be disposed of at the landfill or otherwise shall be disposed of in accordance with any applicable county, state and federal laws or regulations, at the expense of the business or commercial enterprise accumulating such waste.
- D. No residential solid waste being disposed of by a commercial hauler shall be placed in any Taos County solid waste container absent an agreement providing terms under which such disposal may occur. Such waste may be disposed of at the landfill or otherwise shall be disposed of in accordance with any applicable county, state and federal laws or regulations, at the expense of the business or commercial enterprise accumulating such waste.

**SECTION 10: CONSTRUCTION SITES AND TRANSPORTATION OF MATERIALS**

- A. Any person who has secured a state or local building or demolition permit shall, prior to commencement of any construction or demolition activity, furnish or place on that property a container or fenced area of suitable size and design to contain all solid waste and construction or demolition debris generated during the project.

- B. No person generating solid waste or construction and demolition debris shall allow it to be blown or be carried by the elements from the premises or property for which the building or demolition permit was secured.
- C. Any person engaged in construction or demolition shall remove the solid waste and construction and demolition debris from the construction site and contain their elements from scattering in the same manner as set out above. All solid waste and construction and demolition debris shall be removed from a construction site and disposed of within five (5) days of completion of the project to an approved solid waste facility.

**SECTION 11: SCAVENGING PROHIBITED**

- A. No person other than an authorized Taos County employee or agent shall remove, collect, or disturb any item from a solid waste container at any Taos County transfer station.
- B. No person shall remove any solid waste or other material from a private solid waste container owned by another person without his permission.

**SECTION 12: RECYCLING PROGRAM**

- A. Recycling of all recyclable materials is encouraged, and collection of recyclable materials will be made available at Taos County transfer stations and other solid waste facilities without charge to all Taos County residents in accordance with the following:
  - (1) Recyclable materials will only be accepted at those locations identified by the Solid Waste Department as recycling centers but only for designated materials.
  - (2) Residents who choose to recycle must deliver recyclable materials cleaned of any food or beverage residue, separated by type of material (e.g., glass, cardboard, aluminum), and bagged or bundled.
- B. Taos County shall be deemed owner of any recyclable materials disposed of at any Taos County transfer station or other solid waste facility.

**SECTION 13: SOLID WASTE MANAGEMENT FEES**

- A. Payment of an annual solid waste management fee shall be the mandatory obligation of the responsible party for each occupied residence located in the unincorporated areas of Taos County except as otherwise set forth herein.
- B. The County Commission shall set fees for solid waste management based on the actual or projected cost for Taos County to collect, transport and recycle or dispose of solid waste.
- C. If there are multiple residences on a given property, the solid waste management fee shall be assessed on each such residence.
- D. The solid waste management fee shall be assessed and payable as follows:
  - (1) The annual solid waste management fee shall be \$100.00, which includes all applicable taxes.

- (2) Solid Waste Billing shall assess the full annual fee in equal installments of \$50.00 on or about January 1 and July 1 each year. Each installment payment shall entitle the responsible party to one (1) punch-card that is valid for 24 punches for a period of one (1) year.

E. The following discounts to the fee set forth in paragraph (D) are hereby made available:

- (1) Any responsible party who contracts with, or uses the services of, a commercial hauler recognized by Taos County pursuant to Section 14 of this Ordinance shall be required to pay an annual fee in the amount of \$25.00, including all applicable taxes, to Taos County so long as the responsible party maintains continuous service with a private hauler, which shall be assessed on or about January 1 each year. Payment of this discounted fee shall entitle the responsible party to one (1) punch-card that is valid for six (6) punches for a period of one (1) year.
- (2) Any member of a homeowners association that contracts with a commercial hauler to provide solid waste collection and disposal for its members shall be required to pay an annual fee in the amount of \$25.00, including all applicable taxes, to Taos County so long as the homeowners association maintains continuous service with a private hauler, which shall be assessed on or about January 1 each year. Payment of this discounted fee shall entitle the responsible party to one (1) punch-card that is valid for six (6) punches for a period of one (1) year.
- (3) Any resident of a multi-family residential development or mobile home park whose owner contracts with a commercial hauler to provide solid waste collection and disposal for its residents shall be required to pay an annual fee in the amount of \$25.00, including all applicable taxes, to Taos County so long as the owner maintains continuous service with a private hauler, which shall be assessed on or about January 1 each year. Payment of this discounted fee shall entitle the responsible party to one (1) punch-card that is valid for six (6) punches for a period of one (1) year.
- (4) Any person who qualifies for total (100%) permanent disability in accordance with the policies and procedures adopted pursuant to the provisions of this Ordinance shall pay a discounted annual fee in the amount of \$25.00, including all applicable taxes, which shall be assessed on or about January 1 each year. Payment of this discounted fee shall entitle the responsible party to two (2) punch-cards that are each valid for 24 punches through June 30 of the following year.

F. Any Taos County solid waste punch-card issued pursuant to Section 13(D) or (E) of this Ordinance that is lost or destroyed may be replaced for a fee of \$12.00, plus applicable taxes.

G. Each punch on a Taos County solid waste punch-card shall allow the card-holder to dispose of up to 80 pounds for each punch at any Taos County transfer station or up to one twenty-fourth (1/24) of a ton for each punch at the landfill. Each equivalent to the load of a standard full-size pickup truck filled to the top of its bed (for a total of 3.5 cubic yards) shall require two (2) punches on a Taos County solid waste punch card at any Taos County transfer station.

- H. Taos County may establish, assess and collect fees directly or through its authorized agent from responsible parties in amounts designated herein.
- I. The Commission shall review the fees imposed pursuant to this Ordinance at an open meeting during the first quarter of each fiscal year to determine whether an adjustment of said fees is necessary commencing with the following January's billing cycle in light of Taos County's cost to maintain, manage and supervise a system of solid waste collection and disposal.
- J. Any change to the fees imposed pursuant to this Ordinance shall be made only upon a resolution of the Commission made within 60 days after the open meeting described in the preceding paragraph.

**SECTION 14: FRANCHISE FEES AND AGREEMENTS**

- A. Taos County may enter into an agreement to grant a commercial franchise to a commercial hauler for the collection and disposal of solid waste. Any such franchise may be granted only upon the following terms:
  - (1) The commercial haulers must comply with this Ordinance, including any amendments thereto, and all other applicable federal, state and local laws and regulations.
  - (2) The commercial hauler must possess the proper licenses to conduct its business, including, but not limited to, a Taos County business license.
  - (3) Any franchise granted by Taos County is nonexclusive and Taos County may at any time enter into franchise agreements with additional qualified commercial haulers for solid waste collection and disposal or elect to operate its own service for the collection and disposal of solid waste.
  - (4) The commercial hauler shall have the privilege to use the landfill at the established tipping fee rates and all streets, alleys, bridges, and public ways within Taos County for the purposes of solid waste collection and disposal.
  - (5) The commercial hauler shall demonstrate evidence in writing of liability insurance in an amount deemed adequate by the County Manager, and workman's compensation insurance, if applicable, in an amount and type as required by state law.
  - (6) The commercial hauler shall indemnify and completely hold harmless Taos County for any liability the county may incur as a result of the actions or omissions of the commercial hauler pursuant to its work in Taos County or performance of the franchise agreement.
  - (7) The commercial hauler shall provide a list of its customers for the purpose of verifying the identify of those responsible parties entitled to a commercial hauler discount as set forth in Section 13(E)(1)-(4) of this Ordinance, which shall be updated monthly to include the name of any new customers it has obtained and the names of any customers to whom it no longer provides service.

- (8) In consideration of an award of a commercial franchise agreement and in exchange for all other consideration granted to a commercial hauler thereby, each commercial hauler shall pay to Taos County a franchise fee based on a percentage of its quarterly gross receipts for the solid waste collection and disposal services it provides under the terms of its franchise. The franchise fee shall be negotiable based upon the impact of the commercial hauler's operations on county facilities and infrastructure, the commercial hauler's number of customers and service area, and any impact of the commercial hauler's operations on county revenues under the terms of this Ordinance. The fee provided under this subsection shall not be less than 4% or more than 8% of a commercial hauler's quarterly gross receipts.
  - (9) The commercial hauler will state in writing the fees it will charge its customers during the term of the commercial franchise agreement, including the means by which any fees may be adjusted or recalculated during said term; and,
  - (10) Such other terms and conditions as the County Manager, on the advice of the County Attorney or otherwise, may require to ensure compliance with the provisions and intent of this Ordinance.
- B. Any commercial franchise agreement between Taos County and a commercial hauler that is valid and binding on the effective date of this Ordinance shall remain in full force and effect until its expiration or termination in accordance with its terms, whichever shall occur first, except that in no event shall the term of any such agreement be extended unless the agreement meets all requirements of this Ordinance.

#### SECTION 15: LIENS

- A. All fees arising under this Ordinance shall be payable by the responsible party of a given residence at the time the rate or charge accrues and becomes due. Taos County shall be entitled to a lien upon the property for which the solid waste fees were charged for failure to pay such fees pursuant to the authority granted under NMSA 1978, §§ 3-36-1 through 3-36-7.
- B. The lien provided for in this section shall be enforced in the manner prescribed under state law.

#### SECTION 16: ADMINISTRATION OF THIS ORDINANCE

- A. The County Manager is hereby authorized to formulate such policies and procedures as will aid in the application and administration of this Ordinance by the Taos County Solid Waste Department and other county departments in any way involved in the administration of this Ordinance. Any such policy or procedure must be approved by the County Commission before it becomes effective.
- B. Taos County reserves to itself the right to execute any contract consistent with the terms of this Ordinance with any local, state or federal governmental entity to further the establishment, maintenance, management or supervision of its system to collect and dispose of solid waste generated in the unincorporated areas of Taos County.

**SECTION 17: ENFORCEMENT PROVISIONS**

- A. A Code Enforcement Officer shall have the authority to receive and investigate complaints concerning any alleged violation of this Ordinance.
- B. A Code Enforcement Officer may enter upon the premises of another with his permission or with the permission of another person authorized to grant entry for the purpose of conducting an inspection regarding any alleged violation of this ordinance.
- C. A Code Enforcement Officer may request the assistance of the Taos County Sheriff to obtain a warrant upon a showing of adequate legal grounds for the search of the premises regarding any alleged violation of this ordinance.
- D. A Code Enforcement Officer may issue citations on a standardized form promulgated for that purpose for any designated violation of this Ordinance pursuant to NMSA 1978, § 4-37-3.
- E. A Code Enforcement Officer may prosecute actions on behalf of Taos County in any enforcement action brought in the Magistrate Court pursuant to Rule 6-108(B) NMRA.
- F. Whenever any premise becomes covered with solid waste, construction and demolition debris or any material expressly deemed not to be solid waste under this Section 5(Y) of this Ordinance, the County Commission may by resolution find that the premise is a menace to the public comfort, health, peace or safety and require the removal of the solid waste, construction and demolition debris or other material in accordance with the provisions of NMSA 1978, § 3-18-5.

**SECTION 18: PENALTIES**

- A. Any person who violates any provision of Section 8, Section 9, Section 10 or Section 11 of this Ordinance shall, upon conviction, be subject to a maximum of 90 days in jail or a fine not to exceed \$300.00, or both, for each separate offense, except:
  - (1) any person who commits litter contrary to Section 8(B) shall be subject to a fine not to exceed \$1,000.00 for each separate offense, in addition to the penalties set forth above;
  - (2) any person who disposes of hazardous waste in any manner other than the Hazardous Waste Act, NMSA 1978, § 74-4-1, et seq., shall be subject to a fine not to exceed \$5,000.00 for each separate offense, in addition to the penalties set forth above; and
  - (3) any person who commits a second or subsequent offense under the provisions of this Ordinance shall be fined a minimum of \$100.00 in addition to the other penalties set forth above.
- B. Each violation shall constitute a separate offense. Each day an offense continues shall also constitute a separate offense.

SECTION 19: SEVERABILITY

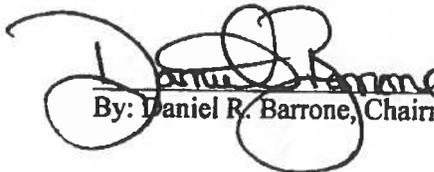
If any provision of this Ordinance or its application to any person is held invalid, the remainder of this Ordinance and its application to other persons or circumstances shall not be affected unless there is a binding ruling by a court of law to the contrary. Remaining sections of the Ordinance shall be interpreted to give effect to the spirit of the Ordinance prior to removal of the portions declared invalid.

SECTION 20: EFFECTIVE DATE

This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the County Commission. The effective date of this Ordinance shall be 30 days after the Ordinance has been recorded.

PASSED, APPROVED AND ADOPTED THIS 21<sup>st</sup> DAY OF DECEMBER, 2010.

THE BOARD OF COUNTY COMMISSIONERS  
COUNTY OF TAOS, NEW MEXICO

  
By: Daniel R. Barrone, Chairman

[SEAL]

ATTEST:

By:   
Elaine S. Montano, County Clerk



Commissioner AC then moved adoption of the foregoing Ordinance, duly seconded by Commissioner Jmb.

The motion to adopt such Ordinance, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: DANIEL R. BARRONE CHAIRMAN DIST. I  
LARRY SANCHEZ DIST. II  
ANDREW CHAVEZ DIST. III  
JOE MIKE DURAN DIST. V

Those Voting Nay: NICKLOS E. JARAMILLO DIST. IV

Those Abstaining: \_\_\_\_\_

Those Absent: \_\_\_\_\_

5 (4) members of the Governing Body having voted in favor of said motion, the Chairman declared the motion carried and the Ordinance adopted, whereupon the Chairman and the County Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

