

**SAN JUAN COUNTY, NEW MEXICO
JUNKYARD, JUNKED VEHICLE, AND JUNKED MOBILE HOME ORDINANCE
ORDINANCE NO. 72**

AN ORDINANCE DEFINING JUNKED VEHICLES, JUNKED MOBILE HOMES, JUNKYARDS, AND RELATED TERMS; REQUIRING LICENSING OF JUNKYARDS NOT LICENSED BY THE STATE; REQUIRING FILING WITH THE COUNTY CLERK OF STATE LICENSES FOR JUNKYARDS; REQUIRING SCREENING OF JUNKYARDS; PROHIBITING THE ABANDONMENT OF JUNKED VEHICLES; PROVIDING TRANSITIONAL PROVISIONS FOR EXISTING JUNKYARDS; PROVIDING PENALTIES FOR VIOLATIONS; AND PROVIDING THE MANNER OF ENFORCEMENT.

ARTICLE 1. GENERAL PROVISIONS

Section 1.1 Short Title

This Ordinance may be referred to as the “Junkyard, Junked Vehicle, and Junked Mobile Home Ordinance.”

Section 1.2 Purpose

In the summer of 2009, the Board of County Commissioners, with the assistance of outside consultants, began a major study of land-use issues in the County as recommended by the Growth Management Plan. The issues of junked vehicles, junked mobile homes, trailers, and other portable dwelling units, and random disposal of trash and refuse were identified as having a very high priority for the County. Such junk reduces the value of private property; invites vandalism, snakes, and rodents; constitutes fire hazards; and are attractive nuisances which pose a threat to the health and safety of children. This Ordinance addresses junk, including junkyards, junked vehicles, junked mobile homes, trailer, and other portable dwelling units.

Section 1.3 Intent

Although this Ordinance contains penalties as provided under New Mexico law, it is the intent of the Board of County Commissioners in adopting this Ordinance to obtain the maximum possible compliance with the Ordinance rather than to impose penalties. This Ordinance shall be enforced and construed in such a way that it will encourage compliance.

Section 1.4 Findings

The Board of County Commissioners finds that junked vehicles and junked mobile homes, trailers, and other portable dwelling units which are located within the County on any public premises or private property, or parcel of land, or portion thereof, occupies or unoccupied, improved or unimproved, and which are visible from any public premises or from other private property, are detrimental to the safety and welfare of the general public.

Section 1.5 Authority

This Ordinance is adopted under the authority of the following provisions of New Mexico law: NMSA 1978, Section 4-37-1 (County Ordinances); NMSA 1978, Section 4-37-3.A (Enforcing County Ordinances); NMSA 1978, Section 3-18-17 (Nuisances and Offenses; Regulation or Prohibition); and NMSA 1978, Section 3-38-1 (Licensing; Business Activities).

Section 1.6 Relationship to Highway Beautification

The Board of County Commissioners adopts this Ordinance to supplement provisions of the Highway Beautification Act (codified as Article 12 of Chapter 67 of the New Mexico statutes) by: 1) deferring to the State criteria for junkyards located within 1,000 feet of the primary highway system; 2) by exercising the County's authority to regulate those junkyards which are not subject to the Highway Beautification Act; and 3) by applying the same standards used by the State in its regulation of junkyards to other junkyards in the County, thus maintaining a consistent pattern of regulation and appearance.

ARTICLE 2. DEFINITIONS AND CONSTRUCTION

Section 2.1 General

Words not defined in this section shall be given their common, ordinary meanings unless the context clearly requires otherwise. "Shall" is always mandatory and not merely directory. The masculine includes the feminine. The singular includes the plural, where appropriate.

Section 2.2 Definitions of Specific Words

For the purpose of this Ordinance, the following terms, phrases, words, and derivations shall have the meanings given herein.

ACCESSORY means any part or portion of a motor vehicle.

AGRICULTURAL USE means the use of land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish. The term also includes the use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

ANTIQUE MOTOR VEHICLE means an operable motor vehicle, more than 25 years old, currently insured and licensed.

CAMPING BODY means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping, or travel activities excluding recreational vehicles unless used in commerce.

CAMPING TRAILER means a camping body, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite.

JUNK means abandoned or unused vehicles, equipment, vehicle parts, or equipment parts. This definition generally includes manufactured items or parts thereof made partly or wholly of metal and with the potential for reuse or for recycling by melting and recovering the metal. This definition does not include refuse and yard waste as defined in NMSA 1978, Section 3-48-1.

JUNKED VEHICLE means 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 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.

JUNKYARD means any establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junked vehicles, junked regulated portable dwellings or trailers, or other junk, or for the maintenance or operation of an automobile graveyard.

JUNKYARD, PRE-EXISTING means any junkyard lawfully operated prior to April 1, 2010. Evidence of the lawful operation of a junkyard prior to that date may be provided by: 1) a copy of a current junkyard license for such establishment issued by the New Mexico State Transportation Department (if the junkyard is located within 1,000 feet of the primary highway system); and 2) a copy of gross receipts tax returns filed with the State of New Mexico for such establishment for 2008 and 2009.

MANUFACTURED HOME, UNANCHORED means a manufactured home or modular home that is constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974, or the International Building Code, as amended to the date of the unit's construction, which home is not occupied and is not anchored or installed consistent with the Manufactured Housing Act. This definition does not include new manufactured homes that are displayed on a sales lot.

MERCHANTABLE means open for business, with at least one (1) employee on-site at least eight (8) hours per day or forty (40) hours per week keeping regular business hours.

MOBILE HOME means a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width, or eleven (11) feet in overall height, designed for occupancy by no more than one family for living and sleeping purposes.

MOTOR VEHICLE means any 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.

OCCUPANT means the person in possession of the premises where a junked vehicle or accessory or a junkyard is located.

PERSON means an individual, firm, association, corporation, partnership, or other entity.

PORTABLE DWELLING OR CAMPING UNIT means a vehicle, trailer, or similar unit designed or adapted for temporary, long-term, or permanent human sleeping quarters and related use, which unit is mounted on wheels or is designed to be placed on a vehicle or trailer mounted on wheels.

PORTABLE DWELLING OR CAMPING UNIT, OTHER means any portable dwelling or camping unit other than a camping trailer, camping body, mobile home, or unanchored manufactured home.

PREMISES as applied to private property shall be construed as follows: any tract or parcel of land shown on a single tax schedule or subject to a single property tax bill shall be considered a single “premises,” regardless of whether the legal description may refer to multiple lots, parcels, or tracts.

PRIVATE PROPERTY means any real property which is not public premises, and includes inhabited, developed, undeveloped, commercial, and residential property.

PUBLIC PREMISES means any and all streets, alleys, or other public ways, and all public parks, spaces, grounds, and buildings.

REGULATED PORTABLE DWELLINGS AND TRAILERS for purposes of this Ordinance includes abandoned or junked: mobile homes; unanchored manufactured homes; camping trailers; other portable dwelling units; and semi-trailers.

SPECIAL INTEREST VEHICLE means an operable motor vehicle, currently insured and licensed, and not less than 25 years old and which is owned by a collector and which the collector can demonstrate has special collector or historic value.

ARTICLE 3. JUNKYARD LICENSING

Section 3.1 General

No person shall operate a junkyard without holding either a current license issued by the State Transportation Department under NMSA 1978, Section 67-12-9, or a current license issued by the County Clerk.

3.1.1 State Licensed Establishments

Any person operating a junkyard requiring a license under NMSA 1978, Section 67-9-12 shall provide a copy of such license to the County Clerk annually within 30 days after receipt of a license renewal from the State.

Section 3.2 County Licenses

Any person operating a junkyard not requiring a license under NMSA 1978, Section 67-9-12 shall obtain and maintain a license from the County Clerk, subject to the following provisions:

- A.** The applicant shall submit three complete copies of the application, together with the required fee.
- B.** The license application shall state the name of the operator of the junkyard, the residential address of the operator (if a natural person), the address of the junkyard, the registered agent of the operator (if not a natural person), and the New Mexico tax identification number for the operator.
- C.** The annual licensing fee shall be \$50.
- D.** Upon receiving a completed application and application fee, the Clerk shall forward copies of the application to the Fire Marshall or the Fire Marshall's designee and to the Community Development Administrator or the Community Development Administrator's designee for review as follows:
 - 1.** The Community Development Administrator or the Community Development Administrator's designee shall inspect the site to determine whether it conforms to the screening requirements of Section 3.3 and shall submit a report on the Community Development Administrator's findings to the County Clerk within 30 days of receiving the application from the Clerk.
 - 2.** The Fire Marshall or the Fire Marshall's designee shall inspect the site to ensure that there are no violations of applicable provisions of the New Mexico Fire Code then in effect and shall submit a report on the Fire Marshall's findings to the County Clerk within 30 days of receiving the application from the Clerk.
 - 3.** If the Fire Marshall or the Fire Marshall's designee or the Community Development Administrator or the Community Development Administrator's designee fails to submit findings to the County Clerk within the prescribed 30-day period, such officer shall be deemed to have determined that the site is in full conformance with the applicable law, and the Clerk shall proceed accordingly.

- E.** The County Clerk shall issue the license if the Clerk finds that:
- 1.** The information provided on the application is complete and accurate;
 - 2.** The fee has been paid;
 - 3.** The Fire Marshall or the Marshall's designee has determined, or has been deemed to have determined, that there are no violations of applicable provisions of the Fire Code on the site; and
 - 4.** The Community Development Administrator or the Community Development Administrator's designee, has determined, or has been deemed to have determined, that the junkyard currently conforms to the screening requirements of Section 3.3 or, if the license application is filed during the transitional period described in Section 3.4, that the operator of the junkyard has filed with the County a plan for the screening of the junkyard in accordance with the requirements of Section 3.3 with a specified date for completion of the screening before the expiration of the transitional period.

Section 3.3 Screening Required

Any junkyard operated in the County, whether licensed by the Highway Commission or by the County, shall be subject to the following screening requirements:

- A.** Junkyards shall be screened from view along federal-, state-, or county-maintained roads, and from off-site dwelling unit(s) not owned by the operator of the junkyard; provided that, screening from dwelling unit(s) shall not be required where junkyards and all portions thereof, are setback at least 200 feet from such dwelling unit(s).
- B.** The screening shall be at least six (6) feet in height.
- C.** Permitted screening materials shall be uniform in color and appearance, be without signs or messages, and consist of standard materials commonly used for fencing, including: wooden fences; vinyl fences; stone or masonry walls; solid steel fences; or any combination thereof.
- D.** Within 90 days of installation, all required screening shall be painted to blend with the natural color of the landscape, provided that wood fences and stone or masonry walls may be left unpainted; i.e., natural in color. A reflective material may be used to reduce hazards that may occur when such structures are near roads. Otherwise, the paint use shall be a non-glare, non-reflective, non-chalking color of (choose one):

1. Federal 595a-34127 (Juniper Green)
2. Munsell Soil Color 5Y 6/1 (Slate Gray)
3. Munsell Soil Color 2.5Y 6/2 (Carlsbad Canyon Brown)
4. Munsell Soil Color 10YR 6/3 (Desert Brown)
5. 19-0622TPX (Military Olive)
6. 18-0430TPX (Avocado)
7. 18-0622TPX (Olive Drab)
8. 17-6323TPX (Hedge Green)
9. 17-0115TPX (Oil Green)
10. 19-0312TPX (Beetle)
11. 16-1126TPX (Antelope)
12. 16-0726TPX (Khaki)
13. 18-0617TPX (Covert Green)
14. 17-1009TPX (Dune)

- E.** The screening shall be maintained in good condition so that it continues to fulfill the purpose of this section.
- F.** For any junkyard established after January 2, 2011, the screening shall be established before any junked car, accessory, or other item is placed in the junkyard.

Section 3.4 Transitional Period

Any pre-existing junkyard shall establish the required screening on or before January 1, 2012. The operator of such a junkyard shall provide to the County Clerk a proposed plan for the required screening (see Section 3.3). Such plan shall be submitted with its application for a license for 2011 or with the copy of the State license submitted for 2011.

ARTICLE 4. JUNKED VEHICLES AND HOMES GENERALLY

Section 4.1 Public Nuisance

In the context of the findings and the purposes set forth in ARTICLE 1 of this Ordinance, the Board of County Commissioners of San Juan County hereby declares any junk, junked vehicles, junked regulated portable dwellings, and trailers, abandoned or maintained, except in accordance with the requirements of this Ordinance, to be a public nuisance.

Section 4.2 Exceptions

The following shall be excepted from the effect of this Ordinance:

4.2.1 Personal Use

- A.** Not more than three (3) junked vehicles stored or maintained at the location where such person resides, provided that:
 - 1.** The total number of such vehicles shall not be more than one for each 0.75 acres of lot area or tract area of the site on which the vehicle(s) is stored; provided that each platted lot of 0.5 acres or more may store or maintain at least one (1) such vehicle on-site.
 - 2.** Each such vehicle shall be stored at least 200 feet from the nearest dwelling unit.
- B.** Any camping trailer or camping body on a vehicle with current license plates, parked at an occupied premises or a storage facility; not more than two (2) camper bodies stored on a premises occupied as a residence by the owner(s) of the camper bodies.
- C.** Mobile homes or manufactured homes which are connected to utilities, even if temporarily vacant.
- D.** Any antique farm equipment at least 50 years old that is set back from side and rear property lines, all property boundaries not adjacent to a public road, at least 100 feet.

4.2.2 Dealers

Any camping trailer, camping body, mobile home, manufactured home, other portable dwelling unit in habitable condition, or semi-trailer, located on the merchantable premises of a licensed dealer.

4.2.3 Business Use

Any trailer or other vehicle or unit used regularly in the ordinary course of the operation of a business, licensed to operate on the roads (if a license is required for the type of unit), and parked on a premises regularly used by that business.

4.2.4 Agricultural Use

- A.** Any vehicle, trailer, or unit used regularly in the ordinary course of the operation of an agricultural use. Units subject to this exception must be in operable condition.
- B.** One or more semi-trailers used for storage as part of the operation of an agricultural use. Units subject to this exception must be stored at least 300

feet from the nearest dwelling unit not located on the property on which the subject agricultural use is conducted.

4.2.5 Hidden from View

Any junked vehicles, camping trailer, camping body, mobile home or manufactured home, or junk that is screened or stored indoors so as to not be visible from any off-site location.

Section 4.3 Abandonment or Disposal

The abandonment of any motor vehicle on public or private property not owned or occupied by the vehicle owner shall be a violation of this Ordinance. For purposes of this Ordinance, leaving any motor vehicle in the same place for more than ten (10) days without the written permission of the owner or occupant of that property shall be deemed to constitute abandonment. There shall be a rebuttable presumption that any abandoned vehicle was abandoned by the owner thereof.

Section 4.4 Maintenance

The maintenance of junked vehicles or junked regulated portable dwellings or trailers on a premises not licensed as a junkyard shall be a violation of this Ordinance by the occupant and, if the owner has actual notice of such maintenance, by the owner. The County may provide the owner with actual notice by sending a letter to that effect with documented delivery (no signature required) to the most recent address to which property tax bills have been sent.

Section 4.5 Phased Implementation

4.5.1 Further Disposal Prohibited

Section 4.2 shall be effective upon adoption. Section 4.3 shall be effective immediately as to any junk, junked vehicles, or junked regulated portable dwellings or trailers not located on a property on the date of adoption of this Ordinance.

4.5.2 Licensing Required

The licensing requirements of ARTICLE 3 shall be effective January 1, 2011.

4.5.3 Removal Required

Junk, junked vehicles, junked regulated portable dwellings, and trailers located on any premises not licensed as a junkyard and not subject to one of the exceptions from this Ordinance shall be removed from the premises no later than January 1, 2012.

ARTICLE 5. ENFORCEMENT

Section 5.1 Procedures for Voluntary Compliance

In case of a violation of this Ordinance involving the maintenance of junked vehicles on private premises, the County shall send a notice of violation to the occupant of the premises (if any) and to the owner of the property, as determined from the property tax records. Such notice shall specify what steps must be taken to effect abatement of the stated conditions. If the person or persons to whom the notice is sent fail(s) to take the specified action within a period of 30 days from receipt of notice, the County may file a complaint in a court of competent jurisdiction alleging a violation of this section. If the person(s) fails to take the required action within the specified time, the County may abate the nuisance for such person. If the County so acts after proper notice, the costs of abatement shall be a liability of the occupant of the property; and, if the owner was given notice in accordance with this Section 5.1, the costs of abatement shall be a liability of the owner, jointly and severally with the occupant(s). The County may bring an action at law or use other lawful means to recover the costs of abatement. The Board of County Commissioners may establish a fee for abatement costs annually by resolution.

Section 5.2 Penalties

Any occupant of a property is subject to penalties under this Ordinance. Any owner of a property is subject to penalties if the County has given the owner notice of the violation in accordance with Section 5.1. Any person found guilty of a violation of this Ordinance shall be subject to a penalty not to exceed \$300. Separate penalties may be imposed for each violation.

Section 5.3 Hardship Relief

Upon receipt of a notice of violation, an owner or occupant of property may file a hardship appeal with the County in accordance with the following provisions:

- A.** The applicant must be a natural person and a San Juan County resident for a minimum of 90 days (three months) immediately prior to the date of the hardship appeal.
- B.** The application for hardship appeal shall be made on a form provided in the County Clerk's office and shall include any and all information required by the Community Development Administrator, including, but not limited to:
 - 1.** Statement of need.
 - 2.** Proof of income for twelve (12) months immediately prior to date of service. Income limits shall be established from time to time by resolution.

ARTICLE 6. SEVERABILITY

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or its application to other persons or circumstances. It is hereby declared to be the intent of the County that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which this Ordinance or any part hereof are inapplicable, had been specifically exempted therefrom.

PASSED, APPROVED AND ADOPTED this 17th day of August, 2010.

**BOARD OF COUNTY COMMISSIONERS
OF SAN JUAN COUNTY, NEW MEXICO**

By: _____
Ervin Chavez, Chairman

ATTEST:

Debbie Holmes, County Clerk