

NAVAJO COUNTY ORDINANCE NO. **01-91**

AN ORDINANCE RELATING TO SOLID WASTE which defines unlawful disposal of solid waste, how responsibility for waste is determined and sets penalties for unlawful disposal.

PURPOSE: To preserve the beauty and value of the land and secure the health, comfort, welfare and safety of the general public by regulating the uncontrolled disposal of solid waste within the unincorporated areas of Navajo County.

DEFINITIONS: For the purpose of this ordinance the following definitions shall apply:

1. "Approved site" means a site permitted and approved by the Arizona Department of Environmental Quality and verified by the Navajo County Health Department as a site for the disposal of solid waste.

2. "Director" means the director of Navajo County Health Department.

3. "Permitted contractor" is a person who has a valid permit from the Arizona Department of Environmental Quality or the Navajo County Health Department to recover and transport solid waste for profit.

4. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, or entity, including governmental entities or landowner of any type; as well as a natural person.

5. "Solid waste" means all putrescible and non-putrescible solid and semi-solid waste, including any garbage, trash, rubbish, refuse, sludge, ashes, dead animals, abandoned vehicles, tires, infectious waste, household hazardous waste, manure, street and parking lot cleanings, industrial waste, and other discarded material, but not including domestic sewage.

I. RESPONSIBILITY FOR STORAGE, TRANSPORTATION AND DISPOSAL OF SOLID WASTE:

A. The person generating, producing, storing, transporting, or receiving any solid waste shall be responsible for the proper storage, removal, transport and disposal of that solid waste.

B. Where solid waste is generated, produced, stored, or received upon a leased premises, both the landlord and the tenant are responsible for compliance with the provisions of this ordinance regardless of the provisions of the tenancy.

C. In addition to other persons who may be responsible as set forth in this section,

for the purposes of this ordinance, a person generating solid waste is responsible for the lawful storage, removal, transport and disposal of that solid waste until it is legally deposited in an approved site or collected by a permitted contractor.

D. When solid waste is transported by generator or by permitted contractor it is the responsibility of the transporter to contain the waste by whatever means necessary to ensure that it will not fall or blow off the transport vehicle.

E. When solid waste is dumped or deposited in violation of this ordinance and three or more items in the solid waste identify the same person as the owner or recipient of that item there shall be a rebuttable presumption that the person so identified is responsible for the unlawful dumping of that solid waste.

F. The owner of the real property upon which solid waste is located is responsible for complying with the provisions of this ordinance even if the solid waste was placed on said property without the owners knowledge or consent. The Navajo County Board of Supervisors may, in its discretion, extend or waive any time limits imposed herein if it is established to said Board's satisfaction that the aggrieved property owner was without knowledge and did not consent to the placement of solid waste on the property in question.

G. Any person who by contact, agreement, or otherwise arranges for the recovery, transport, disposal, or dumping of solid waste is responsible for complying with the provisions of this ordinance regarding that solid waste.

II. UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE:

A. It is unlawful to store or accumulate solid waste in a manner that is a hazard to the public health and safety, as determined by the director and continues to be stored or accumulated in such a manner for more than 30 days after receipt of written notice from the director of the hazardous condition. The time limits imposed herein may be extended for up to 90 days for nonresident property owners.

B. It is unlawful to collect and transport solid waste unless the person is responsible for that waste pursuant to the provisions of Part I or the person is a permitted contractor.

C. It is unlawful to transport solid waste unless it is secured or contained so that it cannot fall or blow off a transport vehicle.

D. It is unlawful for a person to dump, deposit or dispose of solid waste any place within Navajo County other than an approved site.

III. RECOVERY OF DISPOSAL COSTS:

A. If a person violates Section II and Navajo County arranges for or executes the lawful disposal of the solid waste, that person shall be responsible to Navajo County for all reasonable costs and expenses associated with the transforation and disposal of the solid waste, including five (5) per cent for additional inspection and other incidental costs in connection with the removal or abatement.

B. The cost of removal of the solid waste from property shall be assessed as a lien upon the property until paid. The assessment may be recorded in the office of the Navajo County Recorder, and shall be a lien upon said property, until paid, subject to the provisions of A.R.S. Section 11-268(D).

C. If a person violates Section II(D) the owner of the property in which the solid waste was unlawfully dumped, deposited or disposed of arranges for or executes the lawful disposal of the solid waste, the person violating this ordinance shall be responsible to the property owner for a reasonable cost and expenses associated with the transforation and disposal of the solid waste.

D. If Navajo County or a property owner files suit to collect the reasonable costs and expenses as provided in subsections A and B of this section, the court may award a reasonable amount as attorney's fees to the prevailing party.

IV. PROCEDURE:

A. Written notice of a hazardous condition requiring the removal of solid waste from property shall specify the nature, extent and location of the solid waste, and shall include the estimated cost to the county for the removal.

B. The notice shall be either personally served or mailed by certified mail to the owner, occupant or lessee at his last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

C. A person may appeal the director's written notice of a hazardous condition and the assessment contained therein to the Navajo County Board of Supervisors. An appeal shall be taken by filing a written notice of appeal with the Clerk of the Board of Supervisors and serving a copy upon the director. The notice of appeal shall be filed with the Clerk of the Board not later than ten (10) days after the notice of hazardous condition is personally served or mailed by certified mail to the owner, occupant or lessee as provided in Section IV(B).

D. The appealing party may obtain a stay of compliance with the notice of hazardous condition by filing a bond with the Clerk of the Board in an amount equal to the amount of the

estimated cost of removal. The bond shall be conditioned that the appealing party prosecute his appeal.

V. PENALTY:

A. Any person who violates subsections A or B of section II shall be guilty of a class 3 misdemeanor and in addition, shall be subject to a civil penalty in an amount not less than \$500.00.

B. Any person who violates subsections C or D of section II shall be guilty of a criminal violation and may be prosecuted pursuant to the provisions of Section 13-707 of the Arizona Revised Statutes, or alternatively, shall be guilty of a class 2 misdemeanor, and in addition, shall be subject to a civil penalty in an amount not to exceed \$1,000.00 as provided in A.R.S. §49-791, but not less than \$500.00.

C. The fine and penalty provided for in this section is in addition to any costs which may be assessed pursuant to this ordinance for the removal of solid waste.

VI. EFFECTIVE DATE:

The provisions of this ordinance will be effective on March 4, 1991.

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12-10-90

PROCEDURES FOR IMPLEMENTING AND ENFORCING
THE NAVAJO COUNTY SOLID WASTE DISPOSAL ORDINANCE

The intent of the Navajo County Solid Waste Disposal Ordinance and these implementing procedures are to (1) curtail wildcat dumping in Navajo County, and (2) clean up existing wildcat dump sites at no or little cost to Navajo County. Individuals actually dumping in wildcat dumps and the land owners on which wildcat dumping is taking place will be considered to have the primary responsibility for cleaning up wildcat dump sites.

SPECIFIC PROCEDURES ARE AS FOLLOWS:

1. Since the Sheriff's Department already receives most wildcat dumping complaints and they operate 7 day a week 24 hour a day; they will be designated the point of first contact. A wildcat dumping complaint form will be filled out on each complaint. The form will be assigned a Sheriff's Department DR Number (case number) and will be forwarded to the Health Department for investigation. Administration, The Planning and Zoning Division, and The Health Department will also fill out Wildcat Dumping Complaint forms on all complaints received by them. These departments will call the Sheriff's Department for a Sheriff's DR number to place on the complaint form. The Wildcat Dumping Complaint Form will be copied and distributed so that the Sheriff's Department, Health Department, County Attorney, Planning and Zoning Director, and The County Manager have a copy.

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2. The Health Department will investigate all complaints with the aid of the Sheriff's Department and Planning and Zoning Division as appropriate. The Health Department will be the primary investigative unit since most of the statutes dealing with solid waste disposal are health related statutes. The Health Department has the power to issue citations if necessary.

3. The Planning and Zoning Division will assist in identifying land owners on who's property wildcat dumping is taking place. They will also identify zoning violations and post wildcat dump sites. Planning and Zoning inspectors will aid in monitoring cleaned up wildcat dump sites and identifying new sites since their duties continually take them throughout the county.

4. The Sheriff's Department will monitor cleaned up wildcat dump sites to ensure that no further dumping takes place. They will also be on the lookout for new wildcat dump sites. The Sheriff's Department can issue citations when wildcat dumpers are caught in the act or when they are acting on a complaint filed by a property owner where wildcat dumping is taking place.

5. The Engineering Department will assist in the clean up of wildcat dump sites if authorized by the Board of Supervisors.

