

ORDINANCE NO. 1140

AN ORDINANCE AMENDING TITLE V (PUBLIC WORKS), CHAPTER 50 (GARBAGE AND REFUSE), §50.01 ET SEQ. OF THE TOWN OF SILVER CITY MUNICIPAL CODE, HEREINAFTER REFERRED TO AS “THE TOWN OF SILVER CITY COMPREHENSIVE SANITATION ORDINANCE”

INTRODUCED BY: COUNCILMAN SIMON WHEATON-SMITH

WHEREAS, the Town Council of the Town of Silver City, after due consideration and consultation with the Town Manager, has made the determination that the former system of solid waste and garbage collection and transport in the Town was inefficient and uneconomical; and

WHEREAS, after lengthy research, consideration and consultation with the Town Manager, the Town Council concluded that an automated solid waste and garbage collection system would be more efficient and economical for the Town; and

WHEREAS, the Town Council directed the Town Manager to institute such automated service, and to make recommendations as to management policies and service fees to be charged for such automated service; and

WHEREAS, the Town Council, after due consideration, has concluded that modification of the current Municipal Code provisions dealing with the collection of solid waste and garbage is required to reflect the new service, and to provide for the health, safety and welfare of the Town; and

WHEREAS, the Town Council finds that the proper regulation of littering and transporting refuse is of great importance to the health, safety and welfare of the Town, and that the current provisions of the Municipal Code require clarification and other modification;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

§50.01 DEFINITIONS is hereby deleted in its entirety, and replaced with:

§50.01 DEFINITIONS

Appliances means large household appliances such as refrigerators, stoves, washing machines, air conditioners, swamp coolers, and the like over 1.5 cubic feet, that are received as waste by the Town.

Ashes means residue from the burning of wood, coal, coke, or other combustible materials.

Backyard composting means composting household solid waste in a confined space within personal property boundaries.

Burning means any form of incineration of solid waste in the open air except as otherwise provided by State law.

Town means the Town of Silver City, New Mexico.

Collection means the systematic and regular removal of solid waste from property and its transport to a designated solid waste facility for disposal or for transfer and transport to a solid waste facility for final disposal.

Compost means organic matter produced from solid waste which has undergone a controlled process of decomposition and pathogen reduction, and has been stabilized to a degree which is potentially beneficial to plant growth and which is used as a soil amendment, growing medium amendment or other similar uses.

Composting means the process by which biological decomposition of organic solid waste occurs 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.

Construction and demolition debris means materials generally considered not to be water soluble 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 land clearing. Construction and demolition debris does not include asbestos or liquids including but not limited to waste paints, solvents, sealers, adhesives or potentially hazardous materials.

Container means authorized public or private receptacles designed for intermediate storage of solid waste until such time refuse is collected. This term shall also mean “dumpster” provided by the Town as well as containers designated for the intermediate storage of recyclable materials.

Customer means a property owner whose property receives solid waste disposal service from the Town of Silver City. (See also _user._)

Day means calendar day unless otherwise described.

Debris means the unwanted or unusable remains of something broken down or destroyed.

Dumping means:

- A. Disposing of solid waste or any other discarded material on property within the Town which is private, including but not limited to, privately owned or controlled dumpsters, residential refuse containers, parking lots and vacant lots;
- B. Disposing of solid waste or discarding any other items on a public place or on public property or facility; which shall include, but is not limited to, the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel;
- C. Allowing refuse to collect or accumulate on any privately owned lot or other premises within the Town.

Dumpster means a large solid waste receptacle having a capacity greater than 95 gallons, capable of being lifted and dumped by a Town operated automated system.

Facility means real estate or buildings used for a particular function.

Garbage means unwanted or unusable waste products or unused materials to include, but not limited to, food, offal, ashes, waste paper, trash, rubbish, and waste or unwholesome materials generated during the consumption of resources.

Governing body means the governing body of the Town of Silver City.

Green waste, including yard waste, means vegetative or green organic matter resulting from landscaping, land maintenance and land clearing operations, but does not include dirt, rocks, asphalt, cactus or concrete chips.

Hazardous waste means waste which because of its concentration or physical, chemical or infectious characteristics, may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Hot waste means any waste which is on fire, smoldering or in excess of 180 degrees Fahrenheit.

Infectious waste means waste containing pathogens or biologically active material which because of its type, concentration or quantity, is capable of transmitting disease to persons exposed to the waste.

Littering means the depositing, strewing or permitting to be deposited or strewn, rubbish, refuse, garbage, or any other solid waste upon public or private land.

Multi-family residential means residential apartment or condominium dwelling units, consisting of four (4) or more separate units.

Nonresidential recyclables means recyclables generated by stores, offices, restaurants, hotels or motels, warehouses, and other manufacturing and non-manufacturing activities.

Nonresidential solid waste means all types of solid waste generated by, but not limited to stores, offices, restaurants, hotels or motels, warehouses, and other manufacturing and nonmanufacturing activities, excluding household and hazardous solid wastes.

Ordinance means Ordinance number 1140.

Person means any individual, partnership, limited partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

Processing means techniques to change the physical, chemical or biological character or components of solid waste, which does not include composting.

Putrescible means organic material subject to decomposition by microorganisms.

Recyclable materials means items which can be reused, or reprocessed for reuse. Such items may include, but are not limited to, corrugated cardboard, paper, aluminum, steel, metals, glass, wood, plastic, and cloth.

Recycling means any process by which recyclable materials are collected, separated and processed and reused or returned to use in the form of raw materials or products.

Refuse (see _solid waste_).

Refuse Rate and Fee Schedule means the listing of fees and charges for solid waste collection, transfer, transport and disposal services provided by the Town and which is incorporated as part of this chapter as Exhibit "A".

Residential solid waste means any solid waste or garbage derived from households including single and multiple residents, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

Residential unit means a dwelling unit.

Scavenging means the removal of any solid waste or recyclables from a transfer facility or from private or public containers in a manner not authorized by the Town.

Service area means that area within the corporate limits of the Town of Silver City and any additional area beyond those limits within which the governing body authorizes the collection of solid waste.

Shall expresses mandatory compliance.

Should means “shall, to the maximum extent possible”.

Solid waste means garbage, refuse, litter, yard waste, construction and demolition debris and other discarded solid materials, including those from industrial, commercial and agricultural operations and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flow nor hazardous, infectious, radioactive materials which the Town is prohibited by law from accepting.

Solid waste facility means any real estate or structure or group of structures designated to facilitate the collection, processing, treatment, handling, transfer, transport and disposal of municipal solid waste.

Transfer facility means a facility in which various types of solid waste are received and then placed in other vehicles for transport to another solid waste facility for disposal.

Trash (see _solid waste_).

User (see _customer_).

CHAPTER 50, §50.02 is deleted in its entirety.

CHAPTER 50, §50.03 (A) is deleted and replaced with the following:

(A) Except for pedestrian use of Town supplied receptacles located in public places, it shall be unlawful for any person to throw, drop, cast, strew or deposit, or allowed to be cast, strewn or deposited upon any street, alley, sidewalk, or any yard or premises, public or private, within Town limits, any filth, refuse, garbage of any kind, or cans, paper, trash, paper containers, rubbish, bottles,

or any other form of litter or waste matter. A commercial establishment shall take reasonable precautions to insure that flyers, plastic bags, or other products furnished by that commercial establishment do not cause littering upon public or private property.

CHAPTER 50, §50.03 (B) is deleted in its entirety and replaced with:

(B) It shall be unlawful for any person to drive upon any street, roadway, alley, or right-of-way located within Town limits with an uncovered and unsecured load of solid waste, refuse, or garbage.

CHAPTER 50, §50.04 is deleted in its entirety.

CHAPTER 50, §50.20 through §50.27 (COLLECTIONS) are deleted in their entirety and replaced with:

§50.20 AUTHORITY

1. The Town of Silver City and its duly authorized agents or employees shall have the exclusive right within the service area to collect or gather solid waste, with the exception of non-residential recyclables, commercially compacted items, dead animals, construction and demolition debris, hazardous wastes and other such materials which the Town is prohibited by law from collecting or disposing. No person or organization may sell within the service area any services for the systematic and routine collection, transportation or disposal of garbage, trash or refuse except for residential recyclables, commercially compacted items, dead animals, construction and demolition debris, hazardous wastes and other such materials which the Town is prohibited by law from collecting or disposing.

2. The Council, by resolution, may provide for the collection, removal and disposal of all garbage by one or more of the following methods:

(A) By the designation, appointment or employment of a suitable person as collector, in which event the charges therein provided for, when collected, shall be paid into the Town Treasury,

and such collection, removal and disposal of garbage shall be done under the management, supervision, regulation and control of the Council.

(B) In addition to providing garbage collection, transport, and transfer, the Town may contract with any person for the collection, removal or disposal of garbage upon such terms and conditions not in conflict herewith as the Council may deem best and most advantageous for the Town and the health and safety of the inhabitants thereof; and in such event such contract may provide that the amounts so charged may be collected by the Town and paid on the contract to the contractor for the collections. Any such contract may provide for the collection and removal of all or any part of such garbage by the contractors to such place or places as the Town Manager may designate for the disposal thereof. Any such contract may be canceled and revoked at any time by the Council for noncompliance with the terms and provisions of said contract or of this chapter after 30 days notice and opportunity to be heard by the Council. Every such person who shall enter into any such contract with the Town shall furnish a surety bond in such amount as may be provided for in the contract, conditioned for the faithful performance of the contract by such person and indemnifying and holding harmless, free and clear, the Town from any and all damages whatsoever, on account of any injury or damage to person or property caused by the contractor, his, her, their or its agents or employees.

(C) By licensing one or more persons to engage in the business of collecting, removing and disposing of garbage in accordance with the provisions of this chapter and in such event each licensee, before any such license is issued, shall pay a license fee of \$500 per annum for each truck, vehicle or trailer used in the collection and removal of the garbage and the vehicles shall comply with reasonable standards for sanitation. All such licenses shall expire on December 31 in each year in which the same are issued. The person so licensed shall receive no compensation from the Town for any garbage removed under the license. The license shall be subject to revocation for failure of

the licensee to comply with the reasonable sanitary standards prescribed by the Town Manager for the removal of garbage.

(D) The Town and its duly authorized agents shall have the exclusive right to collect or gather residential curbside recyclables, except that the Town may contract with an authority or other public entity for such services.

(E) The Town reserves the right at any time to refuse to collect or receive waste, if, in the judgment of the Town Manager, such collection is deemed to be harmful, hazardous or in violation of city and state regulations governing type of waste, weight or waste constituents. The Town shall inform the person responsible for such waste and shall require compliance with this chapter.

§50.21 ADDITIONAL PROHIBITED PRACTICES

The following actions with regard to solid waste are hereby prohibited:

- A. Burning.
- B. Dumping.
- C. Placing solid waste in any container or areas other than those specifically designated or approved by the Town for collection or disposal.
- D. Scavenging.
- E. Depositing of hot waste in excess of 180 degrees Fahrenheit into any container or enclosure designated for refuse collection.
- F. Presenting to the Town for disposal infectious waste, hazardous waste, flammable or explosive refuse, radioactive waste or other contaminated materials which by law or regulation must be properly disposed by a specially licensed or equipped person or requires a solid waste facility specifically authorized for this purpose.
- G. Placing furniture, mattresses, large tree limbs, tires, engine parts, appliances, or other large items at the curbside or in waste containers for routine weekly collection.

H. Depositing, dumping or burying dead animals, or any substance condemned by the State or Town of Silver City, or any other deleterious or offensive substances, except as provided for herein this Chapter, EXCEPT that dead rodents, fish, and birds, which shall be double-bagged and sealed.

I. Willfully destroying or damaging Town-owned garbage receptacles.

J. Willfully parking or placing obstacles so as to interfere with or prevent the automated collection of garbage receptacles.

§50.22 ADMINISTRATION OF SERVICE

The Town shall attend to all requests for new or additional collection service, cancellation or reduction of service and cause to be conveyed to the Town Manager all complaints or recommendations received about the service. Each customer shall be entitled to choose a receptacle size which in his or her judgment will meet the needs of the household or business. The customer or occupant shall be permitted one change of receptacle size per twelve months. Additional requests for a change of receptacle size shall be accompanied by a five dollar (\$5.00) administrative fee, provided however, that the replaced receptacle shall be in a state of reasonable wear and tear.

§50.23 STORAGE AND TREATMENT OF GARBAGE

No person owning or occupying any building, lot or premises in the Town shall suffer, allow or permit to remain upon the lot or premises any garbage or trash, except during intervals between regular collections as hereinafter provided; provided, however, that this provision shall not be construed as preventing the deposit and spreading of rotten manure upon any lawn or garden provided the same shall be reasonably free from offensive odors and is not so deposited or spread as to constitute a nuisance. Except as provided for herein, garbage or trash, whether in containers or not, shall not be placed in the Town's rights-of-ways, in any alley, upon any street, or curbside

during intervals between regular collections. Failure to observe this prohibition shall constitute a public nuisance and be subject to all remedies at law and in equity.

§50.24 RESIDENTIAL COLLECTION

A. All single-family dwellings and multiple-family dwellings of four or fewer dwellings on a single site shall be required to deposit garbage in Town-supplied containers. Garbage and refuse not enclosed in a Town-supplied container will not be collected, unless otherwise provided for herein. Such uncollected garbage and refuse shall not be permitted by the owner or occupant of the premises to remain in the Town's rights-of-ways, in any alley, upon any street, or curbside for more than twelve hours after refusal of the Town to collect such garbage and refuse.

B. Customers shall keep all refuse and garbage within his/her private premises until the time when receptacles are placed for Town collection. Residential garbage shall be placed out for collection no earlier than 5:00 p.m. on the day prior to the regularly scheduled day for collection. No resident may leave a receptacle after collection for more than 24 hours after that collection in the right-of-way.

C. Residential garbage shall be placed as close to the front curb as possible but shall not be placed on the sidewalk and shall be clear of pedestrian and vehicular traffic. Where a curb does not exist, the refuse receptacle(s) shall be placed on the property side, outside the traffic boundaries of the road. The garbage receptacle shall be clearly visible and accessible to collection crews and free from any obstructions including but not limited to trees, power poles, mail boxes, shrubbery, walls, fences and vehicles. Town personnel will not enter upon private land in order to make collections and pickups. The Town Manager shall have the authority to designate the collection site where required by special circumstances. The garbage receptacle shall be placed "forward facing" the street or alley, with the hinge-top being located on the side immediately adjacent to the owner's property.

D. Garbage and refuse should not be stacked so that it rises above the rim of the receptacle, nor shall garbage and refuse be stacked on top of the closed container. Refuse spills around the receptacle shall be cleaned by the customer within 24 hours of the spill.

E. All garbage receptacles shall be kept in a clean and sanitary condition by the owner or person using the same, and all receptacles shall be tightly covered at all times except when garbage is being deposited therein or removed therefrom, and shall at all times be proof against access by flies to the contents thereof. Garbage shall be “bagged” prior to depositing into the receptacle. If a receptacle becomes so damaged so as not to provide a seal against flies, or be able to properly contain the refuse and garbage deposited therein, the owner or occupant of the premises shall apply to the Town Manager for a replacement receptacle within seven (7) days of discovery of such condition(s). Such replacement receptacle(s) shall be provided at no cost to the customer when it is determined that the need for replacement has been caused by normal wear and tear, all at the discretion of the Town Manager. If the Town Manager finds that the damage to the receptacle was due to the negligence or willful act of the customer, the cost shall be borne by the customer.

F. All garbage receptacles provided by the Town shall remain Town-owned property and shall not be removed, sold, modified, or otherwise used for purposes not originally intended.

G. Special residential curbside collection services shall be provided to customers with disabilities. Special service may include the entry onto the property to remove the garbage receptacle for placement at curbside for collection. Eligible persons are those having disabilities which restrict mobility or otherwise affect the ability to transport the garbage receptacle to the place of collection. Persons requiring this service shall make, prior to obtaining this service, application to the Town Manager, who shall verify the disability. Annual renewal of the application shall be required. Such special residential curbside collection is personal to the applicant and not transferable.

§50.25 COMMERCIAL COLLECTION

A. Apartment houses, sites where there are more than four (4) residential units on a single parcel, business houses or other non-residential premises, shall be required to use Town-supplied containers and dumpsters. Dumpsters presently in use may be modified so as to be compatible with the Town's automated collection system, subject to approval by the Town Manager. The Town Manager shall determine the need and specifications for containers based on the volume and type of garbage or trash produced by the particular establishment. It is the duty of the owner or occupant of the premises to provide containers that are compatible with the Town's automated equipment and meet all other specifications established by the Town Manager. The costs of those modifications shall be borne by the customer.

B. The Town Manager is authorized to designate the location of all containers for commercial collection, taking into consideration convenience to collection crews and to customers, traffic hazards and other hazardous conditions.

C. All garbage receptacles shall be kept in a clean and sanitary condition by the owner or person using the same, and all garbage receptacles shall be tightly covered at all times except when garbage is being deposited therein or removed therefrom, and shall at all times be proof against access by flies to the contents thereof. Garbage shall be "bagged" prior to depositing into the receptacle or dumpster. If a Town-owned receptacle becomes so damaged so as not to provide a seal against flies, or be able to properly contain the refuse and garbage deposited therein, the owner or occupant of the premises shall apply to the Town Manager for a replacement receptacle within seven (7) days of discovery of such condition(s). The cost of replacement shall be borne by the Town, except that if the Town Manager finds that the damage to the receptacle was due to the negligence or willful act of the customer, the cost shall be borne by the customer. FURTHER, under any circumstance, the cost-free replacement of a receptacle due to normal wear and tear shall be limited to once per year;

and further, the Town shall owe no duty of replacement for modified containers or dumpsters provided by the customer.

§50.26 SPECIAL AND BULK COLLECTIONS

A. At intervals to be determined by the Town Manager, the Town shall provide for scheduled special and bulk collections of refuse, garbage, lawn and tree clippings, appliances, and other items not collected during normally scheduled pick-up service, BUT NOT construction debris. Items for such collection shall be placed at curbside no earlier than 24 hours prior to the scheduled pick-up, unless otherwise coordinated with the Town Manager, and in no event will Town personnel enter upon private lands without the customer's permission to collect or pick-up special or bulk items. The items for collection shall be placed so as not to interfere with traffic or pedestrians, clearly visible to the collector, and in the following manner:

1. No cardboard, corrugated paper, fiber or wooden boxes, cases, tubs, barrels or other nonmetallic containers having a cubic capacity equivalent to ten fluid gallons or more, shall be put out for removal, as garbage for collection as such, in the Town without first being broken up and collapsed as flat as possible and tied in bundles, and no such bundles shall exceed 50 pounds in weight or 48 inches in length.

2. Tree limbs or other vegetation of any kind shall be cut in lengths of not over 48 inches and tied in bundles not exceeding two feet in diameter or 50 pounds in weight. All such material when so prepared shall be stacked by the regular garbage containers, but not so close as to interfere with the automated pick-up of the refuse container.

3. Every owner, lessee, tenant or occupant of any premises upon which any stable, barn, stall, pen or apartment in which are kept any animals or fowl which may be lawfully kept within the Town or of any place where manure or urine from the animals accumulate shall at all times keep, or cause to be kept, such stable, barn, stall, pen, apartment or place, and the appurtenances thereof, in a

sanitary and wholesome condition, and shall provide for the removal or composting of such manure. Manure and urine receptacles shall be proofed against access to the contents thereof by flies, rodents, or other scavengers. Such waste shall not be collected by the Town, and it shall be the responsibility of the owner or occupant of the premises where such waste is created to timely dispose thereof, EXCEPT that waste from pets shall be collected by the Town, and the customer shall double-bag and seal such waste.

4. Appliances shall be secured in a closed position to avoid the entrance of persons or animals. Jagged edges shall be covered or removed.

5. All garbage and refuse of any type placed for collection should be contained so as not to attract flies, and should be secured to prevent the disturbance by animals.

§ 50.27 SCOPE; FREQUENCY OF COLLECTION

A. Residential and apartment collections from containers shall be at least once weekly or as otherwise determined by the Town Council.

B. Commercial collections shall be at least once weekly, but not more often than five (5) days a week.

C. Other collections may be made as deemed necessary by the Town Manager. In the case of “special, unscheduled pick-ups” the charge, *if any*, to the requesting party shall be determined by the appropriate commercial fee schedule.

§50.28 REMOVAL TO DESIGNATED PLACE

All garbage removed from any premises within the Town, unless otherwise directed by the Council, shall be taken to a place designated by the Council, and for the preservation of the public health and general welfare it is hereby declared to be unlawful for any person, including public employees, to gather, remove, dump or dispose of garbage in any other place. All scavenging in and removal of all

classes of garbage, trash, refuse and debris from garbage and trash disposal areas provided and maintained by the Town is prohibited.

§50.29 FEES IMPOSED

A. Residential. The rates that shall apply to residential garbage collection are established administratively, effective with the date of this ordinance, except after July 2008 the fees shall be established by resolution.

B. Commercial. The rates that shall apply to commercial garbage collection are established administratively, effective with the date of this ordinance, except after July 2008 the fees shall be established by resolution.

C. An annual automatic fee increase, beginning on July 1, 2009 and annually thereafter until June 30, 2014, of three percent of the total monthly sanitation bill (including both monthly garbage collection fee and landfill fee) will be applied to the monthly bill. For good cause, the Town Council may, in its sole discretion, modify the percentage of the automatic fee increase by amendment.

D. All rates established herein shall go into effect with the first billing cycle after the adoption of Ordinance No. 1140.

E. All ordinances and parts of ordinances in conflict with the terms of this section are hereby repealed.

§ 50.30 LIEN

Failure to pay for garbage collection services provided herein shall result in a debt owed to the Town, and service may be terminated at the direction of the Town Manager. Thereafter, such debt shall become a lien upon the property, and the Town Attorney is authorized to take whatever steps necessary to perfect and foreclose upon said lien. Likewise, in the event any premises shall become subject or liable to any lien under the provisions of the statutes of the state relative to garbage

collection, the proper officials are authorized to take such steps as may be proper or necessary for the perfection and foreclosure of such lien.

§ 50.31 PENALTY

For violations of any provision of this Chapter, there shall be a fine of not more than \$500 or imprisonment for no more than 90 days, or both.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 12th day of February, 2008.

(Seal)

TOWN OF SILVER CITY

/s/

James R. Marshall, Mayor

ATTEST:

/s/

Ann L. Mackie, Town Clerk