

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

**AN ORDINANCE DEFINING JUNKED VEHICLES, JUNKED MOBILE HOMES, JUNKYARD/RECYCLING CENTERS, AND RELATED TERMS; REQUIRING LICENSING OF JUNKYARD/RECYCLING CENTERS NOT LICENSED BY THE STATE PURSUANT TO THE HIGHWAY BEAUTIFICATION ACT; 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 JUNKYARD/RECYCLING CENTERS; PROVIDING PENALTIES FOR VIOLATIONS; AND PROVIDING THE MANNER OF ENFORCEMENT.**

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**ARTICLE 1. GENERAL PROVISIONS**

**Section 1.1 Short Title**

This Ordinance may be referred to as the “Junkyard/Recycling Center, 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 may reduce 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/recycling centers, junked vehicles, junked mobile homes, trailers, and other portable dwelling units; it seeks an appropriate balance between the conflicting perspectives on these issues.

  
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**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, occupied 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 Commentary**

Whenever a provision of this Ordinance requires additional explanation to clarify its intent or to provide guidance for administration, a “commentary” is included. Commentaries have no regulatory effect, but rather are intended solely as a guide for decision-making bodies and officials and the public to use in understanding and interpreting the Ordinance.

*Commentary:* When commentaries are provided they will appear in this format.

**Section 1.7 Graphics and Illustrations**

Where graphics or illustrations included in this Ordinance conflict with the text of the regulations, the text shall control. Otherwise, compliance with graphics and illustrations is required.

**Section 1.8 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.

**Commentary:** This definition is taken from N.M.C.A. Section 7-36-20.B.

**ANTIQUÉ 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.

**COMMUNITY DEVELOPMENT ADMINISTRATOR (ADMINISTRATOR)** means the staff person, designated by the County Executive Officer, responsible for administration, interpretation, and enforcement of this Ordinance. The definition also includes any other agent or employee of the County to whom the Administrator reasonably determines to delegate such responsibilities.

**COUNTY-MAINTAINED ROAD** means a road that has been accepted for County maintenance in accordance with the San Juan County Road Policy, including roads accepted for full County maintenance and lesser County-maintained roads.

**HOBBY STOCK VEHICLE** means a licensed or unlicensed stock, race, and drag car capable of being operated in accordance with established hobby stock race policies or requirements.



**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 and highways, or water bodies and ways 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, or water bodies and ways, of New Mexico. This definition includes boats, motorcycles, cars, trucks, recreational vehicles, and other motor vehicles.

*Commentary:* This definition excludes antique and special-interest vehicles, as defined. We could write a whole section providing "exceptions for those," but simply addressing the issue in the definitions keeps the ordinance shorter and simpler.

**JUNKYARD/RECYCLING CENTER** 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/RECYCLING CENTER, PRE-EXISTING** means any junkyard/recycling center lawfully operated as a business prior to the adoption date of this Ordinance (February 1, 2011). Evidence of the lawful operation of a junkyard/recycling center prior to this date may be provided by: 1) a copy of a current State junkyard or recycling center license for such establishment under NMSA 1978, Section 67-12-9 or NMSA 1978, Section 66-3-401; and/or 2) a copy of gross receipts tax returns filed with the State of New Mexico for such establishment for the two prior years.

**MANUFACTURED HOME** means a structure constructed after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 32 feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle, as that term is defined by 24 C.F.R. Section 3282.8(g).

**MANUFACTURED HOME, UNANCHORED** means a manufactured home that is not occupied and is not anchored or installed consistent with the Manufactured Housing Act. This definition does not include new or used 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 structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

**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/recycling center 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; camping bodies; other portable dwelling units; and semi-trailers.

**RESIDENTIAL LOT OR PARCEL** means a legal lot or parcel that is primarily used for residential purposes.



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**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.

**TRACK-OPERABLE CONDITION** means mechanically capable of being safely operated on an established race track in accordance with applicable racing policies and requirements.

**YARD ART** means an outdoor display of antique cars, farm equipment, or other manufactured metal materials that is verified by the Community Development Administrator to be produced or assembled as an artistic effort or for decorative purpose. The definition does not include expansive collections or displays of vehicles without specimen or relatively unique aesthetic value, or displays not verified to constitute "yard art" by the Administrator.

### **ARTICLE 3. JUNKYARD/RECYCLING CENTER BUSINESSES**

*Commentary:* Article 3 applies only to junkyard/recycling center businesses.

#### **Section 3.1 General**

No person shall operate a junkyard/recycling center without holding either a current license issued by the Highway Commission under NMSA 1978, Section 67-12-9 or NMSA 1978, Section 66-3-401, or a current license issued by the County Clerk.

##### **3.1.1 State Licensed Establishments**

Any person operating a junkyard/recycling center requiring a license under NMSA 1978, Section 67-9-12 or NMSA 1978, Section 66-3-401 shall provide a copy of such license to the County Clerk annually within 60 days after receipt of a license renewal from the State.

*Commentary:* The purpose of licensing is to identify the locations and ownership of junkyard/recycling centers; because licensing with the State and providing a copy of the State license to the County accomplished that purpose, there is no reason to require a County license for those junkyard/recycling centers.

#### **Section 3.2 County Licenses**

Any person operating a junkyard/recycling center not requiring a license under NMSA 1978, Section 67-9-12 or NMSA 1978, Section 66-3-401 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/recycling center, the residential address of the operator (if a natural

person), the address of the junkyard/recycling center, legal description for the site that is the subject of the license, 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 \$50.00.
- 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 for review as follows:
1. The Community Development Administrator shall inspect the site to determine whether it conforms to the screening requirements of Section 3.3 and shall submit a report on the Administrator's findings to the County Clerk within 30 days of receiving the application from the Clerk.
  2. The Fire Marshall or the 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 Marshall's findings to the County Clerk within 30 days of receiving the application from the Clerk.
  3. If the Fire Marshall or the Marshall's designee or the Community Development Administrator 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 has determined, or has been deemed to have determined, that the junkyard/recycling center 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/recycling center has filed with the County a plan for the screening of the junkyard/recycling center 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.



- F. Obtaining a County license shall not eliminate the Licensee from obtaining any required state or federal license.

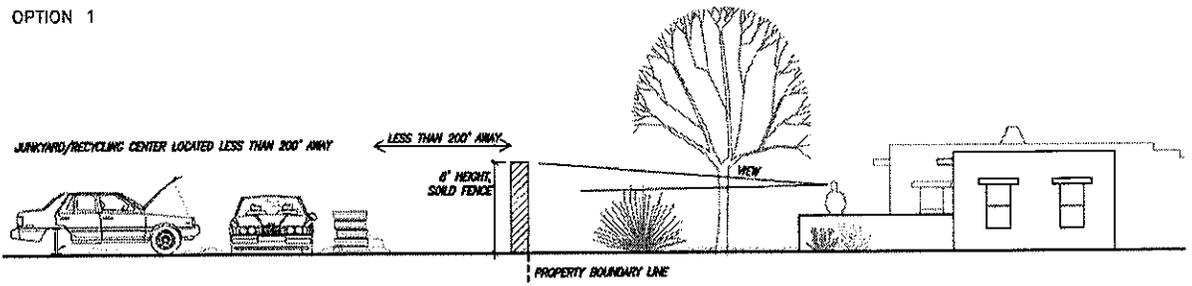
**Section 3.3 Screening Required (for Businesses)**

Any junkyard/recycling center operated in the County, whether licensed by the State under NMSA 1978, Section 67-9-12 or NMSA 1978, Section 66-3-401 or by the County, shall be subject to the following screening requirements:

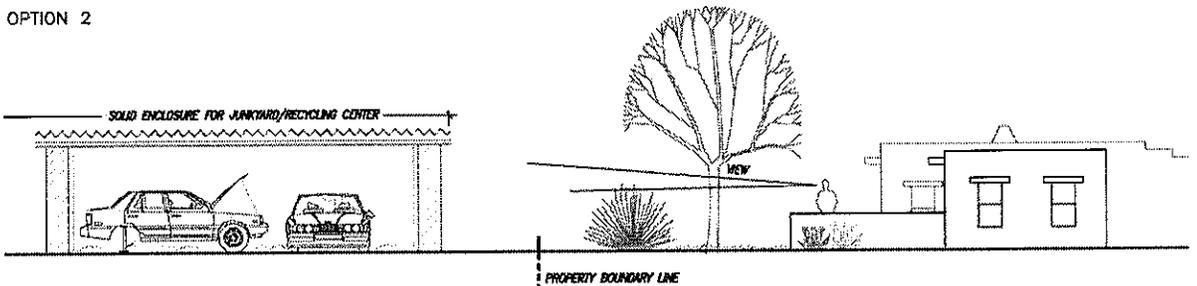
- A. Junkyard/recycling centers shall be screened from view along federal-, state-, or county-maintained roads, and from off-site dwelling unit(s) not owned by the operator of the junkyard/recycling center; provided that:
  1. Screening from view of property or lot containing an off-site dwelling unit(s) on the same side of such roads shall not be required where junkyard/recycling centers and all portions thereof, are located at least 200 feet from such property or the lot's nearest boundary line.
  2. Screening from federal, state, or county-maintained roads shall not be required where the junkyard/recycling center is located at least 1,000 feet from the nearest road right-of-way line.
  3. Screening from such roads shall not be required where the Community Development Administrator determines that such screening would be ineffective due to topography.

**JUNKYARD/RECYCLING CENTER SCREENING, PROFILE VIEW**

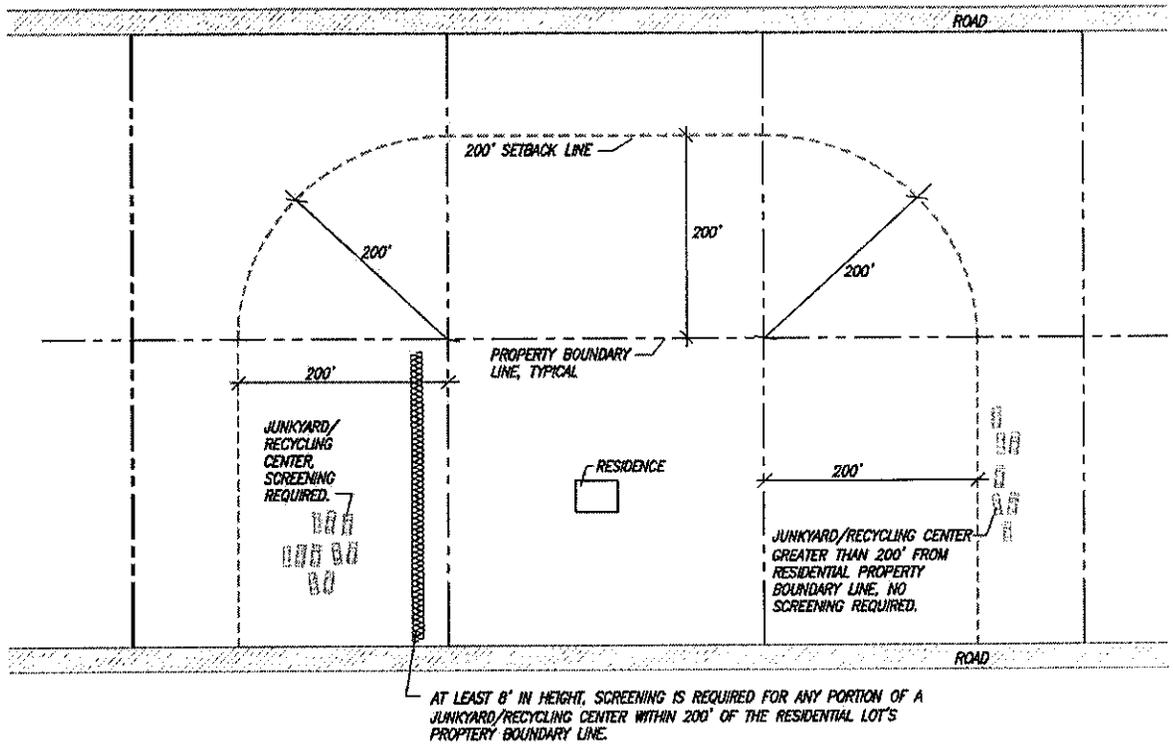
OPTION 1



OPTION 2



**JUNKYARD/RECYCLING CENTER SCREENING, PLAN VIEW**



- B. The screening required by this Section 3.3 shall be at least eight (8) 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; chain link fences with opaque slats; stone or masonry walls; solid steel fences; or any combination thereof.

**Commentary:** State law provides that a junkyard/recycling center must be "screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the interstate or primary systems." The above language is less restrictive than State law in that it does not require everything to be completely hidden from view. Instead the County standard establishes eight feet as the (minimum and maximum) requirement, and it requires use of standard fencing materials. No fence is required where all material is set back 200 feet or more from off-site dwellings on the same side of adjacent roads.

- 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 used shall be a non-glare, non-reflective, non-chalking color of (choose one):



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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)
15. Other similar color(s) approved in writing by the Community Development Administrator.

**Commentary:** According to the Munsell Color System, which is the authority on color, "white" is the brightest color and has the highest "light reflective value." The above specific color recommendations, which are taken from BLM regulations for fencing around well heads, are selected as examples of acceptable colors because they all have relatively low light reflective values. As drafted, colors with similar characteristics may also be used with the approval of the Community Development Administrator.

- E. The screening shall be maintained in good condition so that it continues to fulfill the purpose of this section.

**Commentary:** This provision is very important. People sometimes establish screenings but then fail to maintain the screening materials effectively eliminating the required screening. Fences and walls must be maintained to be effective.

- F. For any junkyard/recycling center established after adoption of this Ordinance (February 1, 2011), the screening shall be established before any junked vehicle, accessory, or other item is placed in the junkyard/recycling center.

### **Section 3.4 Transitional Period/Phased Implementation (for Businesses)**

#### **3.4.1 Licensing Required**

The licensing requirements of this ARTICLE 3 shall be effective June 1, 2012.

#### **3.4.2 Screening Required**

The operator of any pre-existing junkyard/recycling center shall provide to the County Clerk a proposed plan for the screening required by Section 3.3. Such plan shall be submitted with its application for a license for 2012 or with the copy of the State license submitted for 2012 and shall include a commitment to implement the required screening on or before June 1, 2013.

**Commentary:** Junkyard/recycling center licenses will not be issued without an appropriate plan and commitment to implement required screening.

## **ARTICLE 4. JUNK, JUNKED VEHICLES AND HOMES GENERALLY**

### **Section 4.1 General**

No person shall abandon or maintain junk, junked vehicles, junked regulated portable dwellings, and trailers outside a licensed junkyard/recycling center except in accordance with the requirements of this section as determined by the Community Development Administrator.

### **Section 4.2 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 4.3 Exceptions**

The following shall be excepted from the effect of this Ordinance, provided storage site areas are kept free of weeds, trash, and other objectionable materials:

**Commentary:** Junked vehicles, camping trailer, camping body, mobile home or manufactured home, or other junk are allowed on a lot or parcel where one or more of the following conditions are met:

#### **4.3.1 Hidden From View**

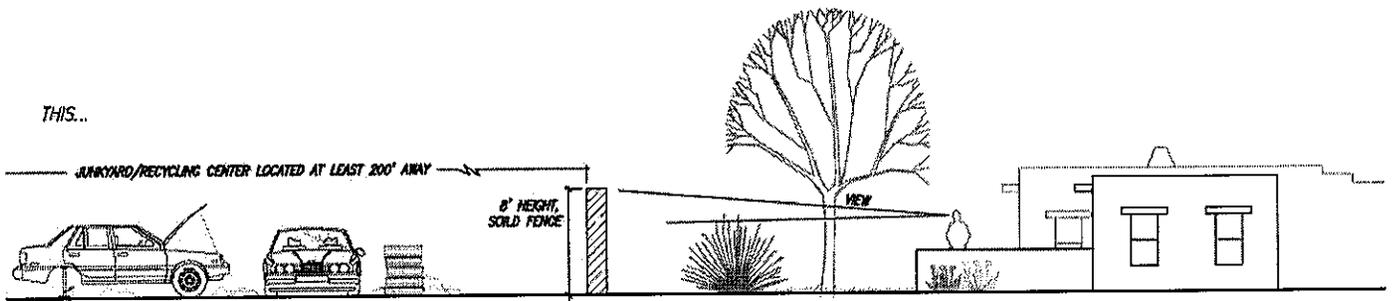
Any junked vehicle, camping trailer, camping body, mobile home or manufactured home, or junk that is stored indoors or effectively screened from ordinary off-site view, including but not limited to, from any and all off-site dwellings, by means of a solid fence or other appropriate means as may be determined to be adequate by the Community Development Administrator so as to not be reasonably visible from any off-site location.



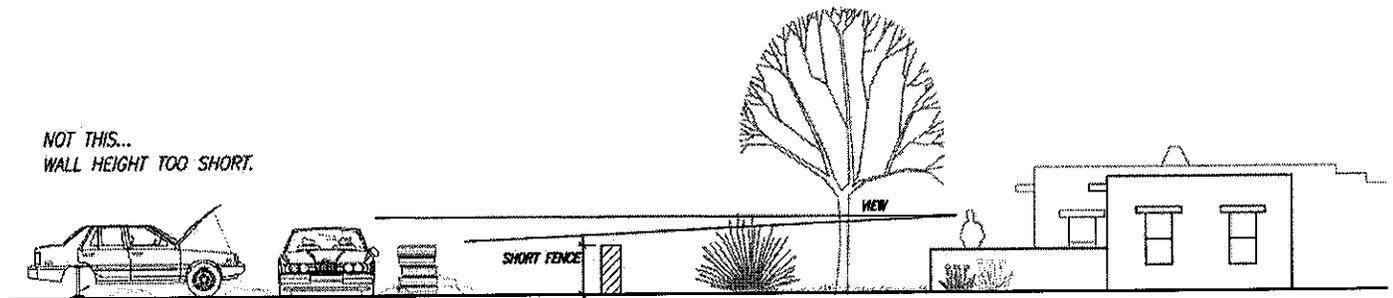
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**HIDDEN FROM VIEW**

THIS...



NOT THIS...  
WALL HEIGHT TOO SHORT.



**Commentary:** Where a junked vehicle, camping trailer, camping body, mobile home or manufactured home, or other junk (junk) is stored in a garage, behind a house, under a car cover, under a tarp, behind very thick vegetation, behind a fence, over a hill or in any other way so as to not be reasonable viewable from any off-site location, such junk will be considered to be "hidden from view". Exactly how this is best accomplished on each site is intentionally left open to the creativity of the individual and is very much site specific.

**4.3.2 Personal Use**

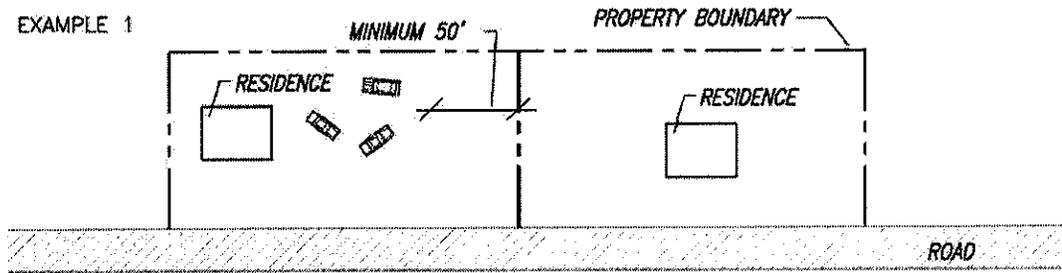
- A. Up to three (3) junked vehicles may be stored or maintained on each residential lot or parcel in open view, provided that each such vehicle(s) shall be at least 50 feet from the nearest property or lot line, or screened from view of any off-site dwelling;



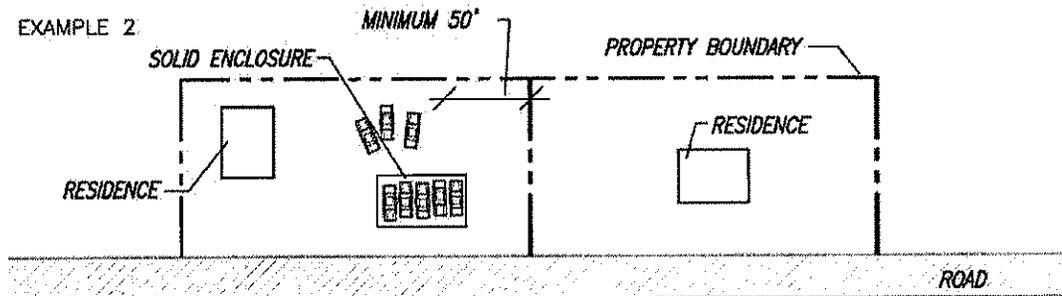
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**PERSONAL USE EXCEPTION**

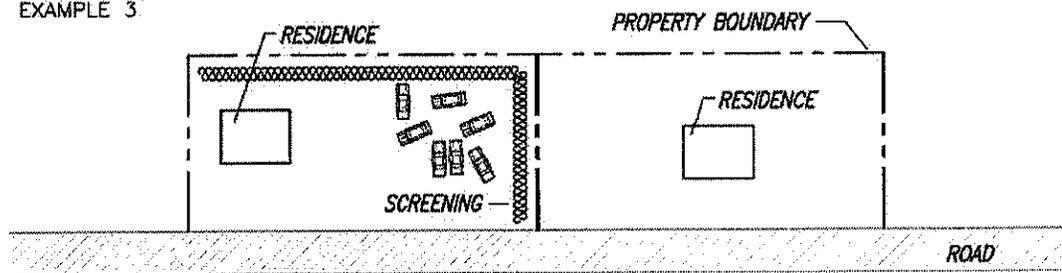
EXAMPLE 1



EXAMPLE 2



EXAMPLE 3



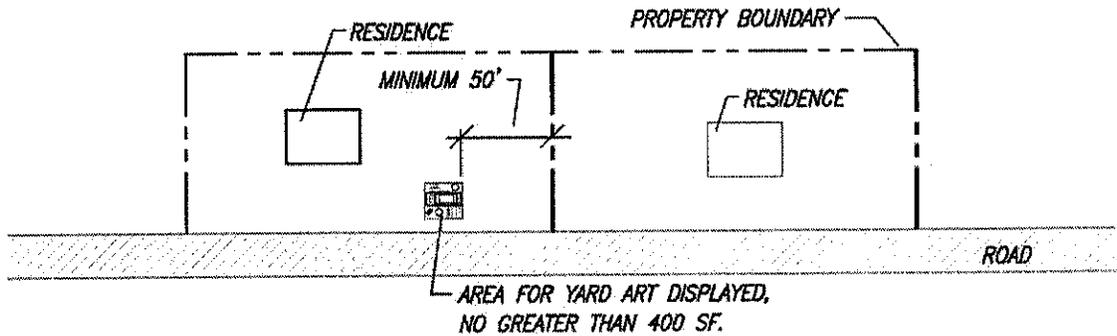
**Commentary:** In addition to any junked vehicles that are hidden from view per Section 4.3.1, up to three junked vehicles are allowed on each lot or parcel. These three vehicles do not have to be hidden from view or screened.

- 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.** Yard art displays occupying no more than 400 square feet and where all parts of any such display is located at least 50 feet from the nearest property boundary that is not adjacent to a public road;



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**YARD ART, ACCEPTABLE**



- E. Any hobby stock vehicle maintained in track-operable condition or regularly used for racing purposes; and
- F. Any vehicle that is undergoing active restoration and is hidden from view at all other times.

**Commentary:** The above personal use exceptions are cumulative. Thus, a lot or parcel may have up to three unlicensed vehicles and any number of hobby stock vehicles in track-operable condition or regularly used for racing purposes, all unscreened, in open view. In addition, a lot or parcel may have any number of vehicles undergoing active restoration, provided that such vehicles must be covered or otherwise hidden from view when not being worked on. Such covering can be as simple as a tarp or similar cover thrown over the vehicle(s) when not being worked on.

Clearly these regulations are not an effort to make the county look "perfect" or to prevent hobby restorers from enjoying their hobby; rather these regulations are an effort to balance the legitimate rights of all members of the community and to make sure that everyone has the opportunity to the use and enjoyment of their property without unreasonable interference.

**4.3.3 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.

**4.3.4 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.

**4.3.5 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.



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- 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.

#### **Section 4.4 Abandonment or Disposal**

The abandonment of any junk, junked vehicles, junked regulated portable dwellings and trailers 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 junk, junked vehicles, junked regulated portable dwellings and trailers 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 junk, junked vehicles, or junked regulated portable dwellings and trailers was abandoned by the owner thereof.

*Commentary:* Some junk, junked vehicles, junked regulated portable dwellings and trailers are just abandoned. It is important to establish a criterion by which the fact of "abandonment" is determined so that the County can act to deal with such junk, junked vehicles, junked regulated portable dwellings and trailers.

#### **Section 4.5 Notice to Property Owners**

The maintenance of junked vehicles or junked regulated portable dwellings or trailers on a premises not licensed as a junkyard/recycling center or excepted by Section 4.3 shall be a violation of this Ordinance by the occupant and, if the owner has actual notice of such maintenance, by the property owner. The County may provide the property 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.

*Commentary:* Some properties are rented or leased. Owners who do not live in the area or who do not check their properties regularly may not know that a tenant is violating the Ordinance; sometimes an owner seems to choose not to know such things. This section provides a procedure by which the County can put the owner on notice of such a violation and then hold the owner accountable. In many cases, owners are more likely to have the financial resources necessary to cure a violation than are tenants; thus, it is important to be able to include owners in both the voluntary compliance process, and, if necessary, in the formal enforcement procedures.

#### **Section 4.6 Transitional Period/Phased Implementation**

##### **4.6.1 Further Disposal Prohibited**

Section 4.4 shall be effective upon adoption. Section 4.5 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.



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#### 4.6.2 Removal Required

Junk, junked vehicles, junked regulated portable dwellings, and trailers located on any premises not licensed as a junkyard/recycling center and not subject to one of the exceptions from this Ordinance shall be removed from the premises no later than June 1, 2013.

### ARTICLE 5. ENFORCEMENT

#### Section 5.1 Procedures for Voluntary Compliance

- A. Where a violation of this Ordinance involves 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:
1. the County may file a complaint in a court of competent jurisdiction alleging a violation of this section; or
  2. the County may abate the nuisance for such person.
- B. 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).
- C. The County may bring an action at law or use other lawful means to recover the costs of abatement.
- D. The Board of County Commissioners may establish a fee for abatement costs annually by resolution.

**Commentary:** One of the questions that was received on an earlier draft of this Ordinance was how a citizen complaint process would work. The County has the sole authority to enforce County ordinances. Many local governments establish hotlines or other systems to accept citizen complaints. Those are typically not written into the Ordinance. The County has limited resources and it is important that elected officials have the ability to establish enforcement priorities. Citizen complaints are typically one factor in setting enforcement priorities, but other factors – such as immediate threats to the public health and safety or repeated violations – sometimes take a higher priority.

#### 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.

**Commentary:** The statutory language is "Penalties for violations of any county ordinances shall not exceed a fine of \$300 or imprisonment for 90 days or both the fine and imprisonment." NMSA 1978, Section 4-37-3.A. Note that the statute allows the fine to be as high as \$1,000 for a violation related to trash or refuse.

### **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 (a person as opposed to an artificial person such as an LLC, corporation, or public entity) 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 is required. Income limits shall be established from time to time by resolution;
  - 3. Proof of liquid assets/resources demonstrating total (aggregate) household assets/resource limits of an amount established from time to time by resolution.
- C.** Following submission of a complete application, including all required information, the application for hardship relief shall be considered by the Community Development Administrator.
- D.** If the Community Development Administrator determines that the applicant has demonstrated a hardship situation, then the applicant shall be eligible to enter into an Agreement for Abatement, which will include the following provisions:
  - 1. The applicant will be relieved of the obligation to abate the nuisance;
  - 2. The County will agree to apply for dismissal of any complaint filed against the applicant in regard to the existing violation(s) or alleged violation(s) and will agree not to file any future complaint against the applicant in regard to the existing violations or alleged violations;



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3. The applicant will agree to cease and desist from the unlawful disposal or abandonment of additional junked vehicles, junked regulated portable dwelling units, or other junk in violation of this Ordinance and will acknowledge that the County may pursue all available remedies under this Ordinance for future violations, without regard to need; and
  4. The County will place the abatement of the nuisance on the site on a list of projects for County abatement, to be completed by the County at its discretion, as funds are available for such purpose.
- E. A grant of hardship relief to an owner shall not relieve the occupant of possible penalties or abatement under this Ordinance.
  - F. A grant of hardship relief to an occupant shall not relieve the owner of possible penalties or abatement under this Ordinance.
  - G. A complete hardship application must be filed before a judgment in any action in Magistrate Court. No hardship application will be accepted or considered after a judgment in Magistrate Court involving the same property and the same party(ies).
  - H. If, in the discretion of the Community Development Administrator, an extension of time to comply is warranted by facts and circumstances particular to a situation, a single extension of time shall be granted.

**Commentary:** The "hardship" process in this Ordinance is modeled on the hardship process that the County has in place for County-assisted medical care.

## ARTICLE 6. APPEALS

Any final decision of the Community Development Administrator may be appealed to the Board of County Commissioners within 30 days of the final decision.

## ARTICLE 7. 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.

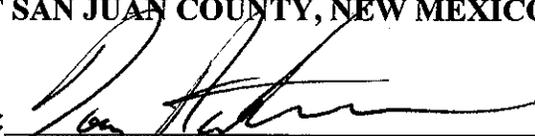


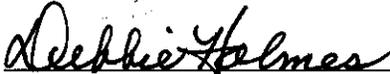
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PASSED, APPROVED AND ADOPTED this 1<sup>st</sup> day of February, 2011.

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



By:   
Tony Atkinson, Chairman

  
Debbie Holmes, County Clerk



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