

County of Grant
hereby certify that this instrument
was filed for record on the 5
ay of April, A.D., 1989
at 4:10 o'clock P.M. and duly
co in book 204 of the records
County Ordinances
586-0592

ORDINANCE #89-11-30

COUNTY OF GRANT, NEW MEXICO

GRANT COUNTY ANTI-LITTER CONTROL ORDINANCE

Witness my hand and seal of office

County Clerk, Grant Co., N.M.
Deputy
An Ordinance establishing a County system for the regulation, concerning litter; regulating the distribution of handbills within the County of Grant providing penalties for the violation thereof; and repealing and superceding all previous Ordinances and/or parts of Ordinances dealing with the same subjects:

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Grant County, New Mexico:

SECTION I - AUTHORITY

- A. This Ordinance shall be known and cited as the Grant County Anti-Litter Ordinance.
- B. This Ordinance applies to all residents, businesses, visitors and transients with Grant County, New Mexico, and does not exclude any individual, group, organization, agency, business, visitor, transient or other person not residing within the County which may be in violation of this Ordinance within the County.
- C. The Board of County Commissioners has determined pursuant to Section 4-56-3(C), N.M.S.A. 1978 that in the interest of public health, safety and welfare, litter within Grant County should be regulated as provided in this Ordinance.
- D. This Ordinance hereby repeals and supercedes all previous Ordinances and/or parts of Ordinances dealing with the same subject matter included herein.

SECTION II - DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words, and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "AIRCRAFT" is an contrivance now known or hereafter invented, used or designed for navigation or for flight in the air. The word "Aircraft" shall include helicopters, and lighter-than-air-dirigibles and balloons.

B. "COMMERCIAL HANDBILL" is a printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet or any other printed or otherwise reproduced original or copies of any matter of literature (and of any nature as also defined below at Item "E"):

- (1) which advertises for any sale any merchandise, product, or commodity or thing, or
- (2) which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales, or
- (3) which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit,
- (4) which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for private benefit and gain of any person so engaged as advertiser or distributor.
- (5) Newspaper as defined herein is not to be construed to be included within the definition of "commercial handbill."

C. "NON-COMMERCIAL HANDBILL" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of commercial handbill or newspaper.

D. "COUNTY" shall include the area within the boundaries of the County of Grant, including privately-owned land or land owned by the United States, except the area within the limits of any incorporated municipality.

E. "COUNTY MANAGER" is the County Manager of Grant County or his designated representative.

F. "LITTER" is garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

G. "NEWSPAPER" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulations, and any newspaper filed and recorded by any recording officer as provided by general law, and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

H. "PARK" is a park, reservation, playground, beach, recreation center, zoo, golf course, or any other public area in the

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County owned or used by the County and devoted to active or passive recreation.

- I. "PERSON" is any person, firm, association, partnership, corporation, company or organization of any kind.
- J. "PRIVATE PREMISES" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.
- K. "PUBLIC PLACES" is any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, sources, spaces, grounds, or building.
- L. "RUBBISH" is non-putrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, dirt, wood, glass, bedding, crockery, and similar materials.
- M. "VEHICLE" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

SECTION III - LITTER

- A. LITTER IN PUBLIC PLACES - No person shall throw or deposit litter in or upon any street, sidewalk, or other public or privately-owned place within the County except in public receptacles or in authorized private receptacles for collection or in any official County sanitary landfill
- B. PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING - Persons placing litter in public receptacles shall do so in such a manner as to prevent it for being carried or deposited by the elements upon any street or other public or private place.
- C. SWEEPING LITTER INTO GUTTERS PROHIBITED - No person shall sweep into or deposit in any gutter, or other public or private place within the County, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their business premises clean and free of litter.
- D. LITTER THROWN BY PERSONS IN VEHICLES - No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any private property, any street, road or other public place within the County.
- E. TRUCK LOADS CAUSING LITTER - No person shall drive or move any truck or other vehicle with refuse of any type within the

County unless such vehicle is so constructed or loaded as to prevent any load or contents from being blown or deposited upon any street, road, alley or other private or public place.

F. LITTER IN PARKS - No person shall throw litter in any parks within the County except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence who will see to its proper disposal.

G. DROPPING LITTER FROM AIRCRAFT - No person in an aircraft shall throw out, drop or deposit within the County any letter, handbill or any other object.

H. LITTER ON OCCUPIED PRIVATE PROPERTY - No person shall throw or deposit litter on any occupied private property within the County, whether owned by such person or not, except that the owner or person in control of private property may maintain private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, road, sidewalk, or public place, or upon any private property.

I. OWNER TO MAINTAIN PREMISES FREE OF LITTER - The owner or person in control of any private property shall at all times maintain the premises free of litter, provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection.

J. LITTER ON VACANT LOTS - No person shall throw or deposit litter on any open or vacant private property within the County whether owned by such person or not.

K. CLEARING OF LITTER FROM PRIVATE PROPERTY BY COUNTY

(1) Notice to Remove - The County Manager is hereby authorized and empowered to notify the owner of any open or vacant private property within the County or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by certified mail, addressed to said owner or agent at his last known address, or by personal delivery.

(2) Action Upon Noncompliance - Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of such litter within five (5) days after receipt of written notice provided for in subsection (1) above, or within ten (10) days after the date of such notice in the event the certified letter is returned to the County Manager's Office because of the inability to make delivery thereof, provided the same has been properly addressed to such owner or agent, the County Manager is hereby authorized and empowered to pay for the disposing

of such litter or to order its disposal by the County, and to charge the owner or agent for reimbursement of said cost.

(3) Method of Charging Costs of Disposal - In the event the County is required to arrange for the disposal of litter upon noncompliance by the owner with subsection (2) above, the Owner or agent shall be billed and pay the costs of removal within thirty (30) days. Upon failure or refusal of the owner or agent to pay the costs, the County shall establish a lien against the property in question for costs of removal as provided by Section 3-36-1 to 6, N.M.S.A. 1978.

(4) Removal in Emergency Situations - In the event the County Manager, upon consultation with representatives from the Public Health Office or the Environmental Improvement Division, determines the existence of litter located on private property creates a substantial threat to the health of the citizens of Grant County, the notice requirements of Section IV(K) may be dispensed with. The litter creating the health hazard may be moved immediately by the County, and the costs of removal charged to the owner as provided in subsection (3).

L. LITTER IN LAKES AND FOUNTAINS - No person shall throw or deposit litter in any fountain, pond, lake, streams, or any other body of water in a park or elsewhere in the County.

SECTION IV - HANDBILLS

A. THROWING OR DISTRIBUTING COMMERCIAL AND NON-COMMERCIAL HANDBILLS IN PUBLIC PLACES - No person shall throw or deposit any commercial or non-commercial handbills in or upon any sidewalk, street, or other public place within the County. Nor shall any person hand out or distribute or sell any commercial or non-commercial handbill in any public place, provided, however, it shall not be a violation of this Ordinance for any person to hand out or distribute without charge to the receiver thereof any handbill to any person willing to accept it in such public places.

B. PLACING COMMERCIAL OR NON-COMMERCIAL HANDBILLS ON VEHICLES - No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle.

C. DEPOSITING COMMERCIAL AND NON-COMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES - No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

D. PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERTY POSTED - No person shall throw, deposit or distribute any commercial or non-commercial handbill upon or to any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing", "No Peddlers", "No Agents", "No Advertisement", or any similar

notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

E. DISTRIBUTING COMMERCIAL AND NON-COMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES - No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted as provided in the Ordinance, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drafted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be used when so prohibited by Federal post law or regulations.

(1) Exemption for Mail and Newspaper - The provisions of this paragraph E shall not apply to the distribution of mail by the United States nor to newspapers as defined herein.

F. EXEMPTION FOR RELIGIOUS ORGANIZATIONS - The provisions of Section V regulating the distribution of handbills shall not apply to religious organizations, provided however, the County Manager may establish regulations governing the time and manner of distribution by such religious organizations.

(1) A religious organization shall be a group which espouses any form of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments.

SECTION V - PENALTIES, ENFORCEMENT, VALIDITY

A. PENALTY CLAUSE - Any person who shall violate any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment in the County Jail for a period not exceeding ninety (90) days or both such fine and imprisonment.

B. ENFORCEMENT - It shall be the duty of the Sheriff's Department or any other duty law enforcement officer within the County to enforce the provisions of this Ordinance upon proper information.

C. SAVING CLAUSE - If any of the sections, subsections, sentences, clauses or phrases of the Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected since it is the express intent of the County Commission to pass each section, phrase, paragraph and word separately.

DATED this 30 day of Nov., 1989.

ATTEST:

Mary Ann Caryillo
Mary Ann Caryillo, Co. Clerk

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

District Attorney

GRANT COUNTY BOARD
OF COMMISSIONERS

Armando D. Galindo
Armando D. Galindo,
Chairman

Conn Brown
Conn Brown, Member

Zeke Santa Maria
Zeke Santa Maria, Member