

SANTA FE COUNTY

ORDINANCE NO. 1982- 9

Introduced By

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SAMUEL J. GARCIA

AN ORDINANCE

RELATING TO THE ISSUANCE OF BUSINESS LICENSES FOR SPECIFIC AND ENUMERATED
BUSINESSES, AND REPEALING SANTA FE COUNTY ORDINANCE NO. 1980-3, ALL
PURSUANT TO THE PROVISIONS OF SECTION 3-38-1 THROUGH 3-38-6, N.M.S.A.,
1978 COMP., AS AMENDED, AND 4-37-1, N.M.S.A., 1978 COMP.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

SECTION 1. SHORT TITLE.--The Ordinance may be cited as the "Business
License Ordinance."

SECTION 2. DEFINITIONS.--For the purpose of the business license ordinance:

A. "Person" means any individual, male or female, estate trust,
receiver, cooperative association, club, corporation, company, firm, part-
nership, joint venture, syndicate, or other entity engaging or wishing to
engage in a business, profession, occupation, trade or pursuit in Santa Fe
County and outside any municipality.

B. "Business Transacted Outside the County" means all business

451491

1 transactions in which the contract was made and the goods were delivered
2 or where services were performed outside of the County of Santa Fe and
3 within the incorporated limits of any municipality.

4 C. "Engaging in Business or Doing Business" means operating, con-
5 ducting, doing, carrying on, causing to be carried on, or pursuing any busi-
6 ness, profession, occupation, trade, or pursuit for the purposes of profit
7 in Santa Fe County and outside any municipality.

8 D. "Board" means the Board of County Commissioners of Santa Fe County.

9 E. "County" means County of Santa Fe, State of New Mexico.

10 F. "County Manager" means the County Manager for Santa Fe County or
11 his or her designee.

12 G. "Code Administrator" means the Santa Fe County Land Development
13 Code Administrator or his or her designee.

14 **SECTION 3. LICENSING OF BUSINESS ACTIVITIES AND SETTING FEES.--**

15 A. Pursuant to the provisions of Section 3-38-1 through 3-38-6,
16 N.M.S.A , 1978 Comp., as amended, and 4-37-1, N.M.S.A. 1978 Comp., it is
17 hereby declared by the Board of County Commissioners of the County of
18 Santa Fe, that the licensing of business, not otherwise exempt by law, is
19 conducive to the promotion of the health and general welfare of the County
20 and of the citizens of Santa Fe County and for the purpose of licensing
21 enumerated business in the public interest, a separate license for each
22 place of business or person doing business in the County and a separate
23 license for each place of business conducted by the same person, firm,
24 corporation or association, is hereby required for each of the following:

- 25 (1) Auctions, one hundred dollars (\$100.00) per day;
26 (2) Carnivals, one hundred fifty (\$150.00) dollars per day;
27 (3) Circuses, one hundred fifty (\$150.00) dollars per day;
28 (4) Itinerant vendors who bring into the County, stocks or

451492

1 samples of any goods, wares or other merchandise and offers the same for
2 sale, fifty (\$50.00) dollars per year or any portion of a year;

3 (5) Itinerant vendors who offer services to the public,
4 fifty (\$50.00) dollars per year or any portion of a year;

5 (6) Salvage yard dealers, fifty (\$50.00) dollars per year;

6 (7) Itinerant musical, theatrical exhibitions, twenty five
7 (\$25.00) per day;

8 (8) Mobile home parks as defined in Article X, Section 1,
9 Subsection 1.65 of the Santa Fe Land Development Code, being Ordinance No.
10 (1980-6), two (\$2.00) dollars per space with a minimum charge of fifty
11 (\$50.00) dollars per park;

12 (9) Itinerant salesperson, magazine and newspaper solicitors
13 or individuals soliciting business of any kind, fifty (\$50.00) dollars per
14 day, excluding newspaper carriers.

15 (10) Dealers in secondhand goods of any kind, and pawnbrokers
16 fifty (\$50.00) per year;

17 (11) Firework stands whereby contrivances of inflammable and
18 explosive material combined of various proportions for purposes of pro-
19 ducing combustion light or noise, three hundred (\$300.00) dollars per
20 day;

21 (12) Any other business activity to which the public at large is
22 invited which is not specifically enumerated above, including but not limited to,
23 festivals, musical, concerts, kite flying contests, rodeos and animal shows
24 fifty (\$50.00) dollars per day.

25 B. Before a license is granted, the Code Administrator shall review
26 the license application and shall inform the applicant of any further
27 requirements.

28 If after review of the business license application, it is determined that

1 a development permit, as defined in the Santa Fe County Land Development Code,
2 is also required, the payment of the license fee pursuant to the provisions
3 of this Ordinance shall be received by the County in lieu of any separate
4 development fee.

5 C. If the Code Administrator determines that restrictions or limi-
6 tations should be placed on the licensed activity in order to protect the
7 health, safety or welfare of the citizens, he or she may impose conditions
8 on the issuance of the license, which conditions shall reasonable be
9 related to the concerns for the health, safety or welfare of the citizens.
10 An applicant aggrieved by the conditions may seek review pursuant to
11 Section 6 of this Ordinance.

12 D. It is unlawful for any person to engage in the businesses,
13 professions or trades defined in the Business License Ordinance as
14 requiring a license within the County of Santa Fe without first obtaining
15 a license as prescribed by this Ordinance and pursuant to the provisions
16 of Section 3-38-1, N.M.S.A., 1978 Comp., as amended.

17 E. The license fees established in this Ordinance are hereby
18 declared to have been reviewed by the Board on a case by case basis prior
19 to the adoption of this Ordinance, and each is hereby found to bear a reason-
20 able relationship to the costs of the regulation of the business by the
21 County.

22 F. In the event that the license fee is paid after the beginning
23 of any calendar year for which a fee has been ascribed on a yearly basis,
24 the fee shall not be pro-rated.

25 G. Any person filing an application for the issuance or renewal
26 of any business license shall include on the application his current reve-
27 nue division taxpayer identification number or evidence of application for
28 a current revenue division taxpayer identification number. No license shall

1 be issued unless such number or application has been furnished as required
2 by Section 3-38-4(C), N.M.S.A., 1978 Comp., as amended.

3 **Section 4. LICENSE APPLICATION INFORMATION**

4 A. Applicants for licenses under this Ordinance must file with the
5 County Code Administrator or his or her designee, a sworn application in
6 writing on a form to be furnished by the County which shall include, but
7 is not limited to the following:

8 (1) Name;

9 (2) Address;

10 (3) Current State revenue division taxpayer identification
11 number or evidence of application for a current state revenue division
12 taxpayer identification number;

13 (4) A brief description of the nature of business to be
14 conducted;

15 (5) Proof of insurance coverage or a bond where applicable; and

16 (6) Any other information specifically requested by the County
17 and reasonably related to the County's regulation of the proposed business.

18 B. In addition to the information required hereinabove, the appli-
19 cant must provide information indicating that he or she has obtained formal
20 approval of the business activity by obtaining a development permit for
21 the commercial enterprise as set forth in the Santa Fe County Land
22 Development Code, (being Ordinance No. 1980-6).

23 **SECTION 5. ASSESSMENTS, BUSINESS LICENSE FEE, PROTESTS.--**

24 A. On or before March 16, of each year all businesses engaging in
25 a type of business enumerated as required business licenses under the terms
26 and conditions of this Ordinance, shall apply for a business license for
27 that year. Those businesses applying shall include full payment with the
28 application.

1 B. Upon payment of the business license fee and compliance with
2 the terms and conditions of this Ordinance and those terms and conditions
3 set forth in any license or permit originally issued, the County shall
4 issue a business license to the applicant unless such license is refused
5 pursuant to the provisions of Section 3-38-2, N.M.S.A., 1978 Comp.

6 C. Any business may protest the amount of the business license fee
7 assessment by filing a written protest with the County Clerk with a copy
8 to the County Manager on or before March 16. The Board shall give the pro-
9 testing business or his agent no less than five (5) days notice of any
10 hearing at which the protestant shall be heard by the Board.

11 D. Any business which must have a business license as enumerated
12 in this ordinance which begins operation after March 16, shall apply to the
13 County for a business license prior to engaging in the business and comply
14 with the terms and conditions set forth in this Ordinance and those appli-
15 cable provisions of the Santa Fe County Development Code, (being Ordinance
16 No. 1980-6).

17 **SECTION 6. DENIAL OR REVOCATION OF LICENSE - HEARING.--**

18 A. Pursuant to the provisions of Section 3-38-2, N.M.S.A., 1978
19 Comp., as amended, when it is deemed by the Board in the public interest,
20 the Board may refuse to grant a license provided, however, that no license
21 shall be refused until the person or business seeking the license has been
22 given an opportunity to be heard by the Board. After such hearing, a
23 majority of the Board may still refuse to grant a license. The person or
24 business who is applying for a license shall be given not less than five
25 (5) days notice of the hearing before the Board.

26 B. When any person has violated the provisions of the business
27 license ordinance or a condition under which the license or development
28 permit was issued, or when in the judgement of the Board, the public

451496

1 health, safety or welfare requires that a license be revoked, the Board may
2 revoke the license. For purpose of revocation, the procedures set forth in
3 Section 7 shall govern.

4 **SECTION 7. NONITERANT BUSINESSES - NOTICE OF VIOLATION - PENALTY.--**

5 A. If a person required to secure a business license and pay a
6 business license fee is in violation of the business license ordinance or
7 any provisions of the Santa Fe County Land Development Code, or any terms
8 or conditions of any permit which was issued to the business, or if the
9 business is operating in a manner contrary to the public health, safety or
10 welfare of the citizens of Santa Fe County, the County shall:

11 (1) Send or deliver to the person a notice of violation speci-
12 fically stating the nature of the violation along with specific facts
13 giving rise to the belief that a violation exists; or

14 (2) If there are past due fees, ordering the past due fees
15 plus a penalty which shall be double the amount then due, be paid
16 immediately.

17 B. The notice may further state that if the fee and penalty are
18 not paid and if the provisions of this Ordinance or those of the Santa Fe
19 County Land Development Code, or those conditions of any permit which has
20 been granted are not complied with or that the operation of the business is
21 contrary to the public health, safety or welfare, the notice shall further
22 state that if the violation is not satisfied or cleared up within fifteen
23 (15) days after the receipt of the notice, the person shall appear before
24 the Board to show cause why the business should not be closed. The notice
25 shall set the date, time and place of the hearing of the Board.

26 **SECTION 8. ENFORCEMENT, CEASE AND DESIST ORDERS AND HEARING.--**

27 A. If, at the hearing before the Board, the person or business
28 fails to show cause why the business should not be closed, the governing

451497

1 body shall issue a cease and desist order closing the business. Such order
2 shall be served by the Sheriff or any Deputy Sheriff. Such cease and
3 desist order shall prevent the owner or operation of the business from con-
4 ducting any business in the building, structure or on the land on which the
5 building or structure is located until the terms and conditions of this
6 Ordinance and those noted violations in the notice of violation have been
7 complied with.

8 B. The hearing before the Board shall not be less than thirty (30)
9 days after the notice provided in Section 7 of this Ordinance is mailed.

10 C. Any appearance may be made by counsel and the person charged
11 with violating the business license ordinance may present evidence and call
12 witnesses to show cause why his license should not be denied or revoked.

13 D. If after the hearing the Board determines that the license
14 should be denied or revoked and the person, owner or operator of the busi-
15 ness continues in operation, the County may proceed to a Court of competent
16 jurisdiction and pursuant to the provisions of Section 3-38-5, N.M.S.A.,
17 1978 Comp., as amended, institute any appropriate action or proceeding to
18 prevent the conduct of business; restrain, correct or abate the violation;
19 or prevent the occupancy of the building, structure or land on which the
20 business is located.

21 **SECTION 9. PENALTY.--**

22 A. In addition to any of the remedies provided by law and in this
23 Ordinance, any person who violates the provisions of this Ordinance or
24 fails to comply with any of the requirements either set forth in this
25 Ordinance or issued as a condition of any permit or previous license, shall
26 be liable for the amount of the license fee, in addition to a penalty which
27 will be double the amount due and shall be subject to denial or revocation
28 as set forth above.

1 **SECTION 10. ITINERANT BUSINESSES - NOTICE OF VIOLATION - PENALTY.--**

2 Persons operating itinerant businesses as set forth in Section 3(A) who
3 are required to pay a license fee, and who are in violation of this
4 Ordinance may be served a written notice of the violation by a uniformed
5 and full-time sheriff or deputy sheriff, which shall specifically
6 state the nature of the violation and orders the past due fees, plus
7 the appropriate penalty, be paid immediately. Unless the itinerant
8 business operator can provide proof of payment, the Sheriff under
9 the authority of this Ordinance shall order the itinerant business
10 operator to discontinue operation until his operation is in compliance
11 with this Ordinance.

12 **SECTION 11. LIEN CREATED - ENFORCEMENT OF LIEN.--**Pursuant to
13 the provisions of Section 4-37-1 and 3-38-6, N.M.S.A., 1978 Comp., as
14 amended, there is hereby created a lien on the personal property of each
15 business which is licensed, which lien shall be enforced as provided in
16 sections 3-38-1 through 3-38-6, N.M.S.A. 1978, as amended.

17 **SECTION 12.** The Code Administrator in conjunction with the County
18 Clerk or his or her designee his designee shall keep a record of all
19 business licenses issued, including the names of the license holders,
20 the date issued, the amount paid and any other information which is rele-
21 vant to the regulation of any business under this Ordinance.

22 **SECTION 13. SEVERABILITY CLAUSE.--**If any part of application of this
23 Ordinance is held invalid, the remainder or its application to other
24 situations shall not be affected.

25 **SECTION 14. CONFLICTING PROVISIONS.--**Should there exist any conflict
26 between any limitation or requirement in this ordinance and any other
27 ordinance of Santa Fe County, including the Santa Fe County Land
28 Development Code, or any other applicable limitation or requirement

451499

1 contained elsewhere in State law, the more restrictive limitation or
2 requirement shall prevail.

3 SECTION 15. REPEAL CLAUSE.-- Santa Fe County Ordinance No. 1980-3
4 is hereby repealed.

5 PASSED, APPROVED AND ADOPTED THIS 5th DAY OF *November*, 1982

SANTA FE COUNTY

Samuel J. Garcia
Samuel J. Garcia, Chairman
BOARD OF COUNTY COMMISSIONERS

10 This Ordinance was recorded in the Santa Fe County Ordinance Book on
11 the 12th day of *November*, 1982 in Book No. 451
12 Pages 490 through 499. This Ordinance shall take effect
13 thirty (30) days after the date of recording.

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APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
Montoya, Murphy, & Kauffman

BY:

W. Lecher
County Attorney



STATE OF NEW MEXICO)
COUNTY OF SANTA FE) SS
Witness my Hand and Seal of Office
CAROLIN T. LEATHERMAN
County Clerk, Santa Fe County, N.M.

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I hereby certify that this instrument was filed for
record on the 12 day of *Nov* A.D.,
1982 at 4:22 o'clock *P*.m.,
and was duly recorded in book 451
page 490-499 of the records of Santa Fe County.

Ornela Vigil
Deputy

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