

SANTA FE COUNTY

Ordinance No. 1991-10

AN ORDINANCE PERMITTING THE REGULATION OF RECREATIONAL
USES ON IRRIGATION DISTRICT LAKES AND DAMS,
AND TO DECLARE AN EMERGENCY

WHEREAS, NMSA Sec 73-13-47 (1978, as amended) permits irrigation districts to adopt regulations to provide for public safety, environmental protection, and restricted use relating to the use of the surface waters for recreational purposes, and,

WHEREAS, it is found that irrigation districts may require County authorization for the enforcement of regulations for the recreational uses and activities taking place on their lakes and dams, and,

WHEREAS, the Board of County Commissioners recognizes that, in order for the irrigation districts within the County to enforce their regulations promulgated pursuant to the above statute, it is necessary that the regulations carry a criminal penalty and be enforceable by the Sheriff's Department of the County of Santa Fe, and,

WHEREAS, it is necessary to enact an Ordinance setting forth those regulations which should govern recreational activities on the surface waters of impounded irrigation district waters and surrounding land, and

WHEREAS, it is determined that recreational uses of impounded water substantially affects the health, safety and welfare of the residents of Santa Fe County, so as to require the Board of County Commissioners to declare an emergency in the passage of this Ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SEC. 1. Title and Intent

This Ordinance shall be known and may be cited as "Irrigation Districts Recreational Use Ordinance." The intent of this Ordinance is set forth above.

SEC. 2. Definitions

For the purpose of this Ordinance, the following terms, phrases, words, and derivations shall have the meaning given herein. "Shall" is always mandatory and not merely directory. The masculine includes the feminine. The singular includes the plural, where appropriate.

- A. "Board" or "Board of Commissioners" means the Santa Fe County Board of Commissioners.

1 B. "Boating Act" means that statutory law known
2 as Chapter 66, Article 12 NMSA 1978, as
3 amended.

4 C. "Boating Regulations" means those
5 regulations promulgated by the New Mexico
6 Energy, Minerals and Natural Resources
7 Department, State Park and Recreation
8 Division, which regulate the use of boats
9 and other flotation devices on water on
10 which the Boating Act has jurisdiction.

11 D. "Impounded water" means any aggregation of
12 water collected and kept by an irrigation
13 district for irrigation purposes, and
14 includes any water kept in a lake, whether
15 it is a natural or man-made lake, regardless
16 whether such water level is maintained by a
17 dam.

18 E. "Irrigation district" means any corporation,
19 organization, association or other entity
20 organized pursuant to NMSA Sec. 73-9-1
21 (1978, as amended), et seq., for the purpose
22 of providing for the irrigation of lands in
23 the district of the organizers.

24 F. "Launching fee" means an amount of money
25 charged by an irrigation district to an
individual for the privilege of placing a
boat on its impounded water.

G. "Property" means any right, title or
interest in any real property, which
includes fee simple ownership, leasehold
interest, title to or interest in a
right-of-way or easement, or similar present
interest in real property.

H. "Recreational use" means any activity
commonly associated with enjoyment of and
physical activity on, in, or immediately
around the impounded water of an irrigation
district.

23 SEC. 3. ⁶ Swimming

24 No person shall swim or otherwise enter the
25 impounded water of an irrigation district,
unless such activity is directly and solely
related to boating or fishing activities, unless
the irrigation district has promulgated
regulations for swimming, which may include
designating a certain portion of the impounded
water for swimming. The irrigation district

1 shall be permitted to erect signs, order
2 individuals out of the impounded water,
3 institute a lawsuit for trespass, and take other
4 related and necessary measures to prohibit
5 swimming in impounded water.

6 SEC. 4. Boating

7 An irrigation district may regulate boating on
8 its impounded waters, provided that such
9 regulation does not preempt or otherwise
10 interfere with the Boating Act or the Boating
11 Regulations. Such regulation may include
12 prohibiting certain vessels from being on the
13 impounded waters, where such vessels are
14 reasonably deemed to be unsafe or otherwise
15 create a hazard on the impounded water. The
16 irrigation district may also limit the number of
17 vessels, or the numbers of a particular type of
18 vessel from being on the impounded waters.

19 SEC 5. Ice Skating and Ice Fishing

20 An irrigation district may prohibit or limit ice
21 skating and ice fishing on its impounded waters,
22 and may take measures as set forth in Section 7
23 of this Ordinance to insure compliance by the
24 general public.

25 SEC. 6. Hours of Use

An irrigation district may set and limit the
hours of recreational use of its impounded
water, so long as there is a reasonable use
permitted of the water during daylight hours.

SEC. 7. Compliance measures

To ensure compliance with the regulations
permitted by this Ordinance, an irrigation
district is permitted to post signs setting
forth the restrictions permitted by this
Ordinance; to print and disseminate pamphlets or
similar literature for the benefit of alerting
the public of the restrictions imposed on the
impounded water; to utilize its agents,
designated volunteers or officers to direct any
individual to cease doing any activity which is
prohibited by this Ordinance; to institute a
trespass cause of action against any individual
who violates any regulation authorized or set
forth by this Ordinance; to request any duly
deputized agent of any law enforcement
department of any governmental agency to issue
criminal citations against any individual who
violates this Ordinance or any regulation
promulgated hereunder.

1 SEC. 8. Fees

2 An irrigation district is permitted to charge
3 boat launching fees, either on a per-day or a
4 per-season rate, such rate to be determined by
5 the irrigation district and subject to review
6 and revision by the Board of County
7 Commissioners.

8 SEC. 9. Role of the Board of County
9 Commissioners

10 The Santa Fe Board of County Commissioners may
11 at any time enact any regulation affecting an
12 irrigation district's recreational use of its
13 impounded water, or may repeal or amend any such
14 regulation, upon the Board's own motion. The
15 Board may also amend the launching fees charged
16 to individuals by an irrigation district.

17 SEC. 10. Concession Sales

18 An irrigation district may erect a temporary or
19 permanent concession stand on its property for
20 the sale of food, firewood, fishing and boating
21 appurtenances, and similar items. The irrigation
22 district may set the hours of operation of said
23 concession stand, and may set the prices for all
24 items sold therein. The irrigation district may
25 petition the Board of Commissioners for
26 permission to sell other items not specifically
27 set forth in this Ordinance. The concession
28 stand may also be used as a rest area for any
29 security volunteer used by the irrigation
30 district to maintain compliance with this
31 Ordinance.

32 SEC. 11. Use of Security

33 An irrigation district may use volunteers,
34 employees or other agents to patrol the impounded
35 water and any property of the irrigation district
36 to monitor such property and individuals found
37 thereon, to ensure compliance with this
38 Ordinance, pursuant to Section 7, above.
39 However, no person who is not a deputy of a
40 municipal, state or federal law enforcement
41 department may arrest or otherwise enforce the
42 provisions of this Ordinance. However, such
43 volunteer or agent may patrol the property and
44 the impounded water of the irrigation district,
45 inform individuals of any violation of this or
46 any other relevant Ordinance and contact a law
47 enforcement agent for issuance of a criminal
48 citation to the offending individual.

49 SEC. 12. Irrigation District Property

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1 An irrigation district may prohibit any and all
2 uses on its property, and may charge reasonable
3 fees for any use by an individual of its
4 property, which fees are subject to review and
5 amendment by the Board of County Commissioners.

6 SEC. 13. Penalty Clause

7 Any person who violates any provision of this
8 Ordinance shall be deemed guilty of a
9 misdemeanor, and upon conviction of violating
10 this Ordinance, shall be punished by a fine not
11 exceeding \$500.00 and/or imprisonment for a
12 period not exceeding six (6) months.

13 SEC. 14. Severability

14 The provisions of this Ordinance are separable,
15 and the invalidity of any part of this Ordinance
16 shall not affect the validity of the rest of the
17 Ordinance.

18 SEC. 15. Effective Date

19 This Ordinance will take effect on July 21, 1991.

20 PASSED, APPROVED AND ADOPTED ON THIS 21st DAY OF JUNE, 1991.

21 SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

22 Raymond M. Chavez
23 Raymond M. Chavez, Chairman

24 Jona G. Armijo
25 Jona G. Armijo, County Clerk

26 Terrence Brennan
27 Approved as to form:
28 Terrence Brennan
29 County Attorney

740.784
COUNTY OF SANTA FE
STATE OF NEW MEXICO

30 I hereby certify that this instrument was filed
31 for record on the 25 day of June A.D.
32 19 91 at 9:44 o'clock A m.
33 and was duly recorded in book 733
34 page 979-943 of the records of
35 Santa Fe County.

36 Witness my Hand and Seal of Office
37 Jona G. Armijo
38 County Clerk, Santa Fe County, N.M.

Maria Sanchez
Deputy

39 CERTIFICATE OF FILING

40 I, Jona G. Armijo, County Clerk, do hereby certify that
41 the above ordinance was filed in my office on the 25th day
42 of June, 1991.

43 SANTA FE COUNTY CLERK

44 Jona G. Armijo
45 Jona G. Armijo

