

SANTA FE COUNTY

Ordinance No. 1992-3

BUSINESS REGISTRATION AND LICENSING ORDINANCE

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AN ORDINANCE WHICH REQUIRES PERSONS ENGAGING IN BUSINESS IN SANTA FE COUNTY, TO REGISTER OR LICENSE SUCH BUSINESS ACTIVITIES WITH THE COUNTY CLERK; SETS FEES, PENALTIES AND FORMS; LISTS LICENSE ACTIVITIES WITH REGULATIONS; ALLOWS LICENSE AND BUSINESS REVOCATION; AND REPEALS SANTA FE COUNTY ORDINANCES 1982-9 AND 1989-11.

Be it ordained and deemed by the Board of County Commissioners of the County of Santa Fe, New Mexico:

WHEREAS, the Board of County Commissions of Santa Fe County, acting through the powers vested in it by NMSA Sec. 4-37-1 and Sec. 3-38-3 (1978, as amended), and acting through its police powers deems it to be in the public interest and in the interest of the health, safety, welfare and morals of the residents of Santa Fe County that this Ordinance be enacted in order to regulate Business Registrations and Licenses within the County of Santa Fe.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Santa Fe County, New Mexico:

SECTIONS

1. Short Title
2. Definitions
3. Application to Engage in Business
4. Land Use Administrator
5. Renewal
6. Late Fee
7. Business Registration or License Revocation
8. Engaging in Business Without Registration and/or License
9. Licensed Activities
10. Enforcement
11. Penalty Clause
12. Severability
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14. Effective Date

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the Business Registration and Licensing Ordinance.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following phrases and words, and their derivations all have the following mean-

ings. Where appropriate, the masculine includes the feminine; the singular includes the plural. The word "shall" is always mandatory and not merely directory.

- A. "Business License" or "Business License Permit" means the authority granted by the County to a person, authorizing said person to:
1. engage in business in a temporary business activity, or
 2. engage in business in a listed licensed activity.
- B. "Business Registration" means the authority granted by the County to a person to engage in business, after such person completes a County Business Registration Form and pays the required Business Registration fees. Business registration is required for any person who engages in any permanent business activity in the County.
- C. "Clerk" is the County Clerk for the County of Santa Fe, New Mexico.
- D. "County" includes the area within the boundaries of Santa Fe County, including privately owned land and land owned by the United States, except the area within the limits of any incorporated municipality or Indian Reservation.
- E. "Engaging in business" means the activity of persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit or support, when such work or activity occupies a

person's time or attention on a regular basis, including the keeping of books and accounts, maintaining an office mailing address or telephone line inside the County.

"Engaging in business" does not include a minimum connection between the County, including its residents, and the person or the business transaction, and does not include incidentals contacts within the County, such as conducting a meeting or placing a phone call, when such contacts are not part of a common or routine business or profit-making activity, or do not result in more than a nominal profit to a person.

- F. "Good Cause" means any activity or inaction by a person engaging in business in the County, and includes but is not limited to failure to pay all required registration and license fees, plus late fees; failure to file required County Forms; failure to perform the terms, conditions, or requirements as set forth on the license; or other actions of the applicant that violates state or county laws.
- G. "Licensed activity" means the engaging in business in the County which requires a County Business License and includes the following activities:
1. junk yard dealers; salvage yard dealers;
 2. traveling or itinerant theater productions;
 3. persons who regularly deal in second hand goods of any kind, excluding automobiles, but including pawnbrokers;
 4. fireworks vendors;
 5. circuses and carnivals;
 6. amusement rides;
 7. kennels;

8. commercial motion picture, photographing or filming activities; and
 9. any other business to which the public at large is invited which is not specifically enumerated above, including but not limited to, flea markets, festivals, athletic events, motor vehicle races, musical events, concerts, contests, rodeos and animal shows, but not including single family garage sales.
- H. "Permanent business" means the engaging in business in the County for sixty (60) days or more in any twelve (12) month period.
- I. "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit or activity.
- J. "Place of business" means any tract, lot, premises, or other location, whether it be a personal residence, main business location, office, or an outlet, branch or other location thereof, temporary or otherwise:
1. to which the public is expressly or impliedly invited for the purpose of engaging in business, or
 2. at which a person engages in business.

In the event there is no such location, but the business is transacted at the location of the buyer, then the general sales area shall be considered a "place of business." Unless a construction contractor has at least one permanent location within the County, "place of business" includes a construction site, located therein.

- K. "Temporary business" means the engaging in business in the County, which business is conducted for less than sixty (60) days in any twelve (12) month period.

SECTION 3. APPLICATION TO ENGAGE IN BUSINESS.

Any person proposing to engage in business within the County shall apply for a Business Registration Permit and/or a Business License, on a form provided by the County Clerk, and shall pay the appropriate fee, all as set forth below:

- A. Business Registration and Fee. Any person engaging in a permanent business must complete a County Business Registration Form prior to March 15 of each year. For a person commencing such business after March 15 of any year the Business Registration Form and fee are due thirty (30) days after the day such person commences engaging in business in the County.

The Business Registration fee is \$35 per calendar year, is chargeable for each place of business, may not be prorated for business conducted for a portion of a year, and is due and payable on March 15 of each year to the County Clerk.

- B. Business License and Fee. Any person engaging in a temporary business or in a licensed activity must complete a County Business License Form before a license will be issued and must comply with any license requirements set forth in this Ordinance.
1. Person subject to license. Whenever in this Ordinance a license is required for engaging in busi-

ness, any person shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in such business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the County.

2. **Investigation.** Before issuing a Business License Permit, the County may make inspections and investigations of the person applying for the license and the properties on which the licensed activities will take place, and will make its findings available to the applicant within ten (10) business days of the applicant's license application submittal to the County. The purpose for the inspection may include but is not limited to the prevention of nuisance conditions and protection of health, safety and welfare of County residents and patrons to the proposed licensed business. The Clerk may refuse to issue a License to an applicant when the investigation reports conditions which are unfavorable to such issuance. The decision of the Clerk may be appealed by an interested party to the Board of County Commissioners. The Clerk may impose a reasonable fee on the applicant to cover the cost of the investigation.

3. **Issuance.** The Clerk may issue a license to an applicant with certain terms, conditions and/or requirements, and may require that any or all of the requirements be satisfied before the license is issued.
4. **Fees.** The following fees shall be imposed on persons applying for a Business License:
 - a. Auctions, one hundred (\$100.00) dollars per day;
 - b. Carnivals, one hundred fifty (\$150.00) dollars per day;
 - c. Circuses, one hundred fifty (\$150.00) dollars per day;
 - d. Itinerant vendors who bring into the County stocks or samples of any goods, wares or other merchandise and offers the same for sale, fifty (\$50.00) dollars per year or any portion of a year;
 - e. Itinerant vendors who offer services to the public, fifty (\$50.00) dollars per year or any portion of a year;
 - f. Salvage yard dealers, fifty (\$50.00) dollars per year;
 - g. Itinerant musical or theatrical exhibitions, twenty five (\$25.00) dollars per day;
 - h. Mobile home parks as defined in the Santa Fe Land Development Code, being Ordinance No. (1992-1), two (\$2.00) dollars per space with a minimum charge of fifty (\$50.00) dollars per park per year;
 - i. Itinerant salespersons, magazine and newspaper solicitors or individuals soliciting business of any kind, fifty (\$50.00) dollars per year, excluding newspaper carriers.
 - j. Dealers in secondhand goods of any kind, including flea-markets, and pawnbrokers, fifty (\$50.00) dollars per year;
 - k. Firework stands, which sell contrivances of flammable and explosive material combined in various proportions for purposes of producing combustion, light, or noise, three hundred (\$300.00) dollars per day; also, applicants must comply with the Santa Fe County Ordinance 1988-3, as amended, and 1989-8, as amended and/or replaced from time to time;

1. Kennel fees and additional requirements are set forth in the Santa Fe County Ordinance 1991-7, as amended.
- m. any other temporary business: up to ten (\$10.00) dollars per month.

C. Any person who had validly engaged in business in the County and who is not engaging in business in the County for one or more calendar years must reapply for business registration and/or business license, pursuant to Section 3 of this Ordinance.

SECTION 4. LAND USE ADMINISTRATOR.

Before a business license is granted, the County Land Use Administrator may review the license application and shall inform the applicant of any further requirements pursuant to life, health, welfare, and safety considerations. If after review of the business registration or license application, it is determined that a development permit, as defined in the Santa Fe County Land Development Code (1992-1, as amended from time to time), is also required, the registration or license shall not be issued until the development permit is obtained. If the Land Use Administrator determines that restrictions or limitations should be placed on the licensed activity in order to protect the health, safety or welfare of the citizens, he may impose requirements or conditions on the issuance of the registration or license, which shall reasonably be related to the concerns for the health, safety or welfare of the citizens of the County. An applicant aggrieved by the decision of the Land Use Administrator

may seek review pursuant to Section 7 of this Ordinance.

SECTION 5. RENEWAL.

Prior to March 15 of each year, a person engaging in business in the County and subject to this Ordinance shall submit the Business Registration Form and shall pay the fee for renewal of Business Registration and/or Business License with the County Clerk.

SECTION 6. LATE FEE.

Any person who does not pay the registration fee prior to March 15 of each year, or the license fee and any renewal fees thereto within seven (7) days of the due date will be assessed a late fee in the amount of ten (\$10.00) dollars, which must be paid before the Business Registration or Business License will be reissued.

SECTION 7. BUSINESS REGISTRATION OR LICENSE REVOCATION.

The Clerk may refuse to grant or renew a Business Registration or License to a person, based upon good cause. Upon request from such person whose registration or license has been or has been threatened to be denied, the reasons for such denial shall be written and given to such person within seven (7) days of such denial or revocation. The written decision shall state that such person shall be given the opportunity to appeal the denial or revocation at a hearing held before the Board of County Commissioners of Santa Fe County. Such hearing shall be held at a regularly scheduled meeting of the Board of County Commissioners, if the person denied a Business Registration or a License requests such a

hearing, in writing, delivered to the County Manager, fourteen (14) calendar days before such meeting of the Board of County Commissioners. The request for hearing must be made within thirty (30) calendar days of the denial or revocation decision of the County Clerk. The decision of the Board of County Commissioners can then be appealed to the First Judicial District Court within fifteen (15) calendar days of such decision.

SECTION 8. ENGAGING IN BUSINESS WITHOUT REGISTRATION AND/OR LICENSE.

Any person engaging in business in Santa Fe County without a Business Registration and/or without a Business License, when required to have such by Ordinance, is in violation of this Ordinance. Any person who does not cease engaging in business in Santa Fe County when a letter is delivered to the place of business of such person, or to a person who owns, manages, or otherwise directs operation of such business, ordering that all business operating without the required County license and/or registration shall cease within three (3) business days of the receipt of such letter, unless the person operating such business corrects all violations of County Ordinances within three (3) business days of such receipt of said letter, and obtains a valid registration and/or license from the County of Santa Fe, shall be in further violation of this Ordinance with penalties as set forth below.

SECTION 9. LICENSED ACTIVITIES.A. Exhibitions and carnivals.

1. **License required.** It shall be unlawful for any person to conduct or operate within the County any exhibitions or carnivals which are open to the public without first securing a license therefor; provided that this Section shall not apply to those amusements or exhibitions which are specifically licensed in other sections of this Ordinance.
2. **Definitions.** The term "exhibitions" as used in this article shall be held to mean and include circuses, menageries, carnivals, side shows and other similar amusement enterprises which are open to the public and to which a fee for admission is charged.

The term "carnival" as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities and side shows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or such other activities.

3. **Condition of license.** In addition to other requirements set forth herein, the applicant shall furnish suitable evidence of his intention and ability to comply with the following conditions: the operator

and sponsor of the carnival or exhibition shall each be wholly responsible for maintaining order, and for keeping the site clean, free of trash, papers and other debris; and trash containers in adequate number shall be placed in convenient locations for the use of the public, and the contents shall be properly disposed.

No ride shall be placed in operation for public use until the applicant has certified that the same has been inspected for mechanical, structural, electrical and other hazards, by a licensed electrical or mechanical engineer. The licensed engineer shall also set forth adequate safeguards which the applicant shall install to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches and other possible or potential hazards.

4. **Insurance.** No license shall be issued for conducting an exhibition or carnival until the applicant has placed on file with the County Clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount of

one million (\$1,000,000.00) dollars for each person, and three million (\$3,000,000.00) dollars for each accident. 808466

B. Races; Athletic Exhibitions. It shall be unlawful to conduct, operate or exhibit any race between persons, animals or vehicles, including bog races, boxing or wrestling matches, or any other athletic contest or exhibition for admittance to which a fee is charged, without having first secured a license therefor; provided that the applicant shall furnish substantial evidence of this intention and ability to conduct such event to assure the health, safety and welfare of the residents of the County, and in particular, shall furnish proof of his ability to maintain traffic and crowd control, and to maintain the site clean and free of trash, papers and other debris. No license shall be required for baseball, soccer, or football games, or for any exhibition given under the auspices or for the benefit of any religious, educational, charitable, social or fraternal organization.

C. Auctioneers.

1. License required. It shall be unlawful for any person to conduct an auction in the County or to be engaging in business as an auctioneer, whether the goods sold are owned by the auctioneer or not, without having first obtained a license as is herein provided.

2. **Applications.** Applications for auctioneers' licenses, or for a single auction, shall state thereon the place of business intended to be occupied, if any, or the place of such auction; and such application shall give the names of any employees, not to exceed two (2) who are to be authorized to conduct auctions under the authority of the license.
 3. **Character of applicant.** No license shall be issued to any but a person of good character; the County Sheriff may investigate the character of each applicant before the license is issued.
 4. **Employees.** Every person licensed as an auctioneer may designate not to exceed two (2) employees who may be authorized by him to conduct auctions. The employer shall be liable for any violation of the County Ordinances committed by such employee in conducting an auction.
 5. **Exemptions.** Nothing in this Section shall be held to apply to any public auction or sale made or conducted by a public officer or person by virtue of any judicial order or process or by virtue of any power or authority contained in a mortgage or trust deed.
- D. **Flea markets.**
1. **Definitions.** As used in this Section, the following terms shall have the following meanings, unless

the context clearly indicates that a different meaning is intended:

- a. Flea market: a market, indoors or out-of-doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.
 - b. Flea market seller: a person, selling items or offering items for sale at a flea market.
 - c. Market: a place where goods are sold to the public.
2. License required. No person shall operate the business of a flea market or of renting space or allocating space to flea market sellers without first obtaining a license. Applications for licenses shall be made to the Clerk, on forms provided by the Clerk. Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this section.
 3. Records to be kept by licensee. Each person required by this Ordinance to obtain a license shall keep accurate records of the names and addresses of each flea market seller together with a brief de-

scription of the type or types of merchandise offered for sale by that seller.

4. **Secondhand stores excepted.** No person having a license as a secondhand store shall be required to obtain a license under this Ordinance for the same business location.
5. **More than one market.** Any person renting or allocating space to flea market sellers in more than one market or place of business shall be required to obtain a license for each place of business, provided that one license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.
6. **Unlawful transactions.** No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.
7. **Purchases from children.** No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen (18) years, unless such person is accompanied by the person's parent or guardian.

E. Automobile salvage yards.

1. **Definition.** As used in this Ordinance, the term "automobile salvage yard" shall mean any lot or place which is exposed to the weather, upon which more than five (5) motor vehicles of any kind,

incapable of being operated on the roads of the County, are placed.

2. **Fences required.** An automobile salvage yard shall be entirely enclosed by a fence eight (8) feet in height, which shall be kept neatly painted and in good repair at all times, and which shall be constructed of plank, board, or coyote fence, so as to exclude such yard from public view. A period of sixty (60) days from the date of the passage of this Ordinance is allowed the operators of such yards to construct the fence or fences required by this Ordinance.
3. **Advertisements on fences.** The fence enclosing an automobile salvage yard shall not be used for bill postings or other advertising purposes, except that a space not larger than six (6) feet by twelve (12) feet may be used for the advertisement of the business of the owner thereof. Where such yard fronts on more than one street, the use of space for advertisement herein permitted shall extend to each street on which the yard abuts.
4. **Contents not to extend above height of fences.** The contents of an automobile salvage yard shall not be placed or deposited to a height greater than the height of the fence surrounding it.
5. **Time for demolishing and wrecking cars.** Work in connection with the demolishing or wrecking of cars

is permitted only on weekdays between the hours of seven a.m. and six p.m.

6. **Open fire.** No open fire for the burning of rubbish, trash, automobiles, or any parts thereof, or other waste matters, is permitted.
7. **Rubbish and waste matter.** An automobile salvage yard shall, as far as practicable, be kept clear and clean of all rubbish or waste matter.
8. **Gasoline to be drained from vehicles.** All tanks and engines shall be kept thoroughly drained of gasoline.
9. **Police officers to have access for inspection.** All automobile salvage yards, together with the books required by this Section shall be at all times open for inspection to all officers of the County having police power, and the County Land Use Administrator or his designee.
10. **Time when purchases by operator permitted.** No purchaser operating or maintaining an automobile salvage yard shall purchase any vehicles, or parts or accessories thereof, except between the hours of sunrise and ten p.m.
11. **Records.** Any person maintaining or operating an automobile salvage yard shall keep at his place of business a book in which a record shall be kept of the day and time of day of each purchase, the name, residence, and description of the person selling

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and actually delivering the vehicle, parts, or accessories purchased, the amount of the purchase price, the make, state license number, motor number, body number, style, seating capacity of the vehicle purchase; the make and identifying number of the radiator, speedometer, and magnetos purchased, together with any other information concerning said property as may be necessary to prove ownership or identity of such vehicles or of such automobile parts or accessories purchased.

12. **Buying, selling vehicles or parts from which identification marks have been removed; notice to Sheriff.** No automobile salvage yard operator shall knowingly buy, sell, receive, dispose of, conceal or have in his possession any motor vehicle, part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle, part or accessory. Every person to whom is offered for sale any motor vehicle, part, or accessory from which has been removed, defaced, covered, altered or destroyed the manufacture's serial number or any number or identification mark shall immediately notify the County Sheriff.

13. **Sales to minors.** No automobile salvage yard operator shall purchase any automobile or automobile part or any article whatsoever from any minor without the written consent of the minor's parent or guardian.
 14. **License required.** No person shall maintain or operate an automobile salvage yard without first having obtained a license.
 15. **Fire extinguishers.** Each automobile salvage yard shall have on hand at least one fire extinguisher of any type recommended by the manufacturer to put out gasoline fires and fires in automobiles. Such fire extinguisher shall be in plain sight in an easily accessible location, and shall be kept charged. Each employee shall be informed of the location of the fire extinguisher and of the manufacturer's instructions for using it.
 16. **Grace period.** All owners or operators of automobile salvage yards are hereby given a one hundred and twenty (120) day grace period to perform all construction and improvements, including the construction of fences as required by this Ordinance.
- F. Motion Picture/Television Production/Photography Activities.
1. **Permit Required.** It is unlawful for any person to film or photograph any commercial, motion picture, or advertisement in the County of Santa Fe without

having first obtained a permit as is herein provided.

2. **Applications.** Applicants for Motion Pictures/Television/Photography Permits shall complete the required permit form, as provided by the Land Use Administrator, and shall abide by any conditions, as well as the policies and procedures, which are promulgated by County Land Use Administrator.
3. **Exemptions.** The provisions of this Ordinance shall not apply to:
 - (a) the filming of news events concerning those persons, scenes, or occurrences which are in the news and of general public interest; and
 - (b) a motion picture or television production studio operating at an established or fixed place of business in the County of Santa Fe.
4. **Rules.** The County Manager is hereby authorized and directed to promulgate rules, policies, procedures, and conditions which govern the form, time, and location of any activity described in this Section of this Ordinance. The County Manager may also set a permit fee pursuant to this Section. Bonds and insurances may be required pursuant to the policies, procedures, and conditions promulgated by the County Manager.

G. Kennels. Kennel requirements are contained in the County Animal Control Ordinance (1991-6), as amended or replaced from time to time, and is incorporated herein by reference.

SECTION 10. ENFORCEMENT.

This Ordinance may be enforced by misdemeanor citations to or through the institution of a criminal action brought in the First Judicial District Court or Magistrate Court, and appropriate legal or administrative action brought to prevent the conduct of business; to restrain, correct, or abate the violation of the Ordinance; to prevent the occupancy of a building, structure, or land on which the business is located; to withhold the issuance of permits; or to require inspections. The County may institute any appropriate action or proceeding as provided for herein any time up to four (4) years after the violation.

SECTION 11. PENALTY CLAUSE.

Any person convicted of a violation of any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred (\$300.00) dollars or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 12. SEVERABILITY.

If any of these sections, subsections, sentences, clauses, or phases of this Ordinance are for any reason found to

be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not thereby be affected since it is the express intent of the Board of County Commissioners to pass each section, phrase, paragraph, and word separately.

SECTION 13. REPEAL.

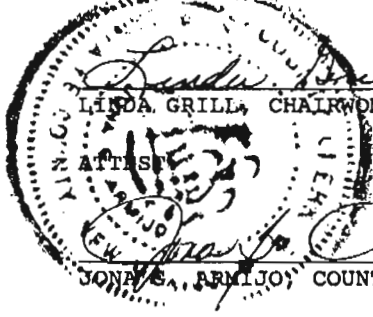
Santa Fe County Ordinances 1982-9 and 1989-11 are hereby repealed.

SECTION 14. EFFECTIVE DATE.

This Ordinance shall become effective May 13, 1992.

PASSED, APPROVED AND ADOPTED, THIS 14th DAY OF April, 1992.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS


Linda Grill
LINDA GRILL, CHAIRWOMAN
Jon G. Armijo
JON G. ARMILLO, COUNTY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY
TERRENCE P. BRENNAN,

Terrence P. Brennan
SANTA FE COUNTY ATTORNEY

COUNTY OF SANTA FE
STATE OF NEW MEXICO 770 210
I hereby certify that this instrument was filed
for record on the 16 day of April A.D.
19 92 at 1:50 o'clock P.
and was duly recorded in book 808
page 454-476 of the records of

Santa Fe County.
Witness my Hand and Seal of Office
Jon G. Armijo
County Clerk Santa Fe County, N.M.
John Frey
Deputy