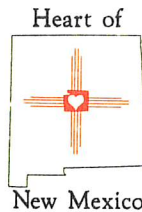


#1495
BOARD OF
COUNTY COMMISSIONERS

District I
BILL R. WILLIAMS

District II
BILL L. CARTER

District III
ROY B. SPENCER



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P. 2481- Steve Jones
2485 County Manager
PAT MARCIANO
Administrative Assistant

Torrance County

OFFICE OF THE COUNTY COMMISSION

P.O. BOX 48
ESTANCIA, NEW MEXICO 87016
Phone 384-2418 OR 384-2254
FAX# 384-5294

TORRANCE COUNTY ORDINANCE # 93-3

AN ORDINANCE PROHIBITING UTILITY SERVICE TO LAND
WITHIN UNAPPROVED SUBDIVISIONS.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TORRANCE
COUNTY, NEW MEXICO.

Section 1. FINDINGS AND PURPOSE.-- The Commission finds, determines and declares that County regulations of utility installation on lands within subdivisions not approved by the County Commission is in the interest of the health, safety, welfare, comfort and convenience of the citizens of the County. The purpose of this ordinance is to preserve the health, provide for the safety, and promote the order, comfort and convenience of the inhabitants of the County by prohibiting the installation of utility service on lands within subdivisions which have not been approved by the County Commission pursuant to the powers granted the Commission by the New Mexico Subdivision Act and the Torrance County Subdivision Regulations.

The Commission finds it is necessary to insure that development of land in Torrance County is well planned, in conformity with the New Mexico Subdivision Act and the Torrance County Subdivision Regulations, giving consideration to population density in the area. The Commission further finds that it is necessary to adopt formal procedures relating to variance and appeal, and to further specify land affected by the Ordinance.

Section 2. DEFINITIONS



A. As used in this Ordinance:

(1) "person" means any individual, estate, trust, receiver, co-operative association, club corporation, firm, partnership, joint venture, syndicate or other entity;

(2) "plat" means a map, chart, survey, plan or replat certified by a licensed, registered land surveyor containing a description of the subdivided land with ties to permanent monuments.

(3) "subdivision" means an area of land within New Mexico, the surface of which has been divided by a subdivider into five (5) or more parcels for the purpose of sale or lease. Subdivision does not include:

(a) any land retained by the subdivider after subdivision but which has not been divided for a subdivision;

(b) the sale or lease of apartments, offices, stores, or similar space within a building;

(c) subdivisions within the boundaries of a municipality or which are annexed by a municipality at the time of approval of the subdivision by the municipality;

(d) any division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;

(e) any division of land created by court order, except court orders involving land grant adjudications;

(f) the leasing of land for grazing or farming activities; or

(g) the alteration of parcel boundaries within a previously approved subdivision where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased nor the type of the subdivision changed.

(4) "subdivider" means any person creating a subdivision, or any person engaged in the sale or lease of subdivided land which is being sold or leased by the owner in the ordinary course of business.

(5) "utility" means any person or any entity providing water, electric, gas (including but not limited to butane, propane, or natural) or telephone service to property with Torrance County not owned by such person or entity.

Section 3. UTILITY SERVICE OR CONNECTION TO LAND WITHIN SUBDIVISIONS NOT APPROVED BY TORRANCE COUNTY COMMISSION PROHIBITED.

A. No person or utility shall serve or connect the land within the subdivision with utility service unless a

subdivision plat has been approved by the Board of County Commissioners and is on file with the Clerk of Torrance County.

B. Upon written request of a person or utility desiring to furnish utility service, the County of Torrance will determine if:

- (1) a parcel of land within the County constitutes land within a subdivision as defined by this Ordinance; and
- (2) whether such subdivision has been approved by the County Commission and filed with the County Clerk.

C. This determination will be made by the County Manager or his designee within 90 days of the date the written request is received. A determination that a parcel of land is not within a subdivision, or is within an approved subdivision filed with the County Clerk shall be a complete defense, absent a showing of fraud or misrepresentation, to any prosecution under the provisions of this Ordinance of any person or utility providing utility service or connection to a parcel of land which is the subject of such a determination.

D. The existence of a valid building permit for a structure on a parcel of land shall also be a complete defense, absent a showing of fraud or misrepresentation, to any prosecution under the provisions of this Ordinance.

Section (3) 1. VARIANCE.-- Any person may request in writing a variance from a determination made pursuant to Section 3 of this Ordinance. A variance may be granted if it is determined that strict compliance with the terms of this Ordinance would result in extraordinary hardship to a person seeking utility service, as a result of non-self-inflicted conditions and granting the variance would not have serious adverse effects on the health and welfare of the residents of the County of Torrance. In making this determination, the County Manager or his designee shall consider whether or not the person requesting the variance knew or should have known that the property he purchased for which he is seeking service was located in an unapproved subdivision. Conditions may be imposed on the granting of any variance to insure that the health and welfare of the residents of the County of Torrance are protected and that development is well planned. Such conditions may include, but are not limited to, limitation on redivision of property by a land owner.

Section (3) 2. APPEAL.-- Any person aggrieved by a determination of the County Manager or his designee pursuant to

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Sections 3, 3.1, or 4 of this Ordinance may appeal that determination by requesting in writing a review of the determination by the Board of County Commissioners. The request for review must be received in the Office of the Board of County Commissioners within 30 days of the date of the determination.

Section 4. DISCONNECTION.-- The Board of County Commissioners may require any utility connected in violation of Section 3 of this Ordinance to be disconnected.

Section 5. APPLICATION.-- This Ordinance shall apply to any utility connection made, construction commenced, or any service begun on land within the Subdivision jurisdiction of the County of Torrance which has been sold or leased on or after January 1, 1979.

Section 6. PENALTIES.-- Any person found by any court of competent jurisdiction to be in violation of any regulation, requirements or other provision of this Ordinance shall be punished by a fine of not less than \$50.00, nor more than \$300.00, or by imprisonment for not more than 90 days, or by both fine and imprisonment, for each such offense.

Section 7. SEVERABILITY.-- If any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder and the application to other persons or circumstances shall not be affected thereby.

Section 8. EFFECTIVE DATE.-- The effective date of the Subdivision Ordinance shall be 30 days after the Ordinance has been recorded in the County Ordinance Book.

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PASSED, ADOPTED AND APPROVED by the Board of County Commissioners of Torrance County, New Mexico as Ordinance No. 93-3, this 2 day of August 1993

BOARD OF COUNTY COMMISSIONERS
OF TORRANCE COUNTY

BY Bill Carter
Chairman

This Ordinance was recorded in the Torrance County Ordinance Book on _____

ATTEST:

Carlo Clayton
Torrance County Clerk

Repealed 10-12-93

~~STATE OF NEW MEXICO
County of Torrance
I hereby certify that this instrument was
filed for record on the 2 day
of August, D. 19 93
at 4:09 o'clock P. M. and duly
recorded in book 206 at page 2481-2485
Witness my hand and Seal of office
Carlo Clayton
County Clerk, Torrance Co., N.M.
Tracy Seiler Deputy~~

