

LUNA COUNTY ORDINANCE NO. 63
AN ORDINANCE PROHIBITING DISPOSAL OF UNTREATED SEPTIC AND
HUMAN WASTE IN LUNA COUNTY AND DECLARING AN EMERGENCY

WHEREAS, Luna County is granted authority under NMSA § 4-37-1 et seq. to enact ordinances for the purpose of providing for health and safety of the County and its inhabitants; and

WHEREAS, Luna County desires to safeguard, protect and preserve its environment, lands, wildlife and resources from pollution, contamination, and or the risks thereof; and

WHEREAS, unsafe and unhealthy conditions would result from large scale disposal of septage in Luna County; and

WHEREAS, Luna County's Interim Land Use Policy (Ordinance No. 17) sets protection of ground water in the county as an approved policy;

THEREFORE, BE IT ORDAINED by the Board of Commissioners of Luna County that the following prohibitions shall apply to the disposal of septic waste in Luna County by all persons.

Section 1.0 AUTHORITY AND SCOPE

1.1 This Ordinance is adopted pursuant to the authority granted Luna County by the State of New Mexico, including NMSA 1978, § 4-37-1 et seq.

1.2 This Ordinance shall apply to the disposal of waste in Luna County by all persons.

Section 2.0 DEFINITIONS

2.1 "Waste" shall include:

- a. "liquid waste" shall include all liquid waste from any industrial, manufacturing or mechanical process including motor oil and lubricants, wastewater including sewerage from septic tanks or other sources and any contaminated or hazardous liquids as defined by state and deferral law, specifically including the New Mexico Hazardous Waste Act, Federal Toxic Substances Control Act and substances defined as hazardous by the United States Environmental Protection Agency.
- b. "septage" means the residual wastes including human waste, water or grease removed from septic tanks, from a holding tank or other on site waste water treatment system.
- c. "sludge" means solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility that is associated with the treatment of these wastes.

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- 2.2 "Person" shall mean any person, individual, firm partnership, corporation, company, society, association, cooperative and every officer, agent or employee thereof.
- 2.3 "Premises" means any real property in Luna County- improved or unimproved- located outside the municipal boundaries of Deming and Columbus, New Mexico.

Section 3.0 DISPOSAL OF WASTE

- 3.1 No person shall dispose of any waste as defined in Section 2.0 of this ordinance on any premises located in Luna County. This includes the discharge (land application) of septage by any collector or other disposal entity.
- 3.2 This ordinance shall apply to all liquid waste including that waste approved by the New Mexico Environment Department, which may not be discharged on County premises.
- 3.3 This ordinance shall not apply to disposal of waste into a municipal sewer system or treatment facility operated by the City of Deming or the Village of Columbus.

Section 4.0 VIOLATIONS AND ENFORCEMENT

- 4.1 Any failure to comply with a requirement or regulation of this Ordinance shall constitute a violation of this Ordinance.
- 4.2 Pursuant to §4-37-3 and §4-37-4 NMSA 1978, this Ordinance may be enforced by the County Sheriff and deputies or County Code Enforcement Officers.
- 4.3 Pursuant to NMSA 1978 § 4-37-3 NMSA, violation of this Ordinance may be prosecuted in any court of competent jurisdiction within the County, and shall be punishable by a fine of \$300.00 or imprisonment for 90 days or both, except that where the violation involves the disposal or discarding of refuse, litter or garbage on public or private property in any manner other than by disposing of it in an authorized landfill the fine may be no more than one thousand dollars (\$1,000) and except that where the violation involves the improper or illegal disposal of hazardous materials or waste in any manner other than that as provided for in the Hazardous Waste Act the fine may be more than \$5,000.
- 4.4 In addition to the penalties set forth above, the County may seek injunctive relief against a violator requiring the violator to perform or prohibiting the violator from performing certain conduct related to this Ordinance.

Section 5.0 REPEALER This ordinance shall supersede and repeal any provisions of any ordinance previously adopted which are inconsistent or with conflict herewith and specifically shall supersede ordinance number 51 and sections thereof governing the disposal of septic or human waste.

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Section 6.0 EFFECTIVE DATE

Pursuant to NMSA 1978, §4-37-7, the Board of County Commissioners hereby declares an emergency, which constitutes as immediate danger to the public peace health, safety, and welfare of the County and its residents. The ordinance shall effect upon adoption by the Board of County Commissioners and recordation by the County Clerk.

ADOPTED, SIGNED AND APPROVED this 6th day of October, 2005.

**Luna County
Board of County Commissioners**

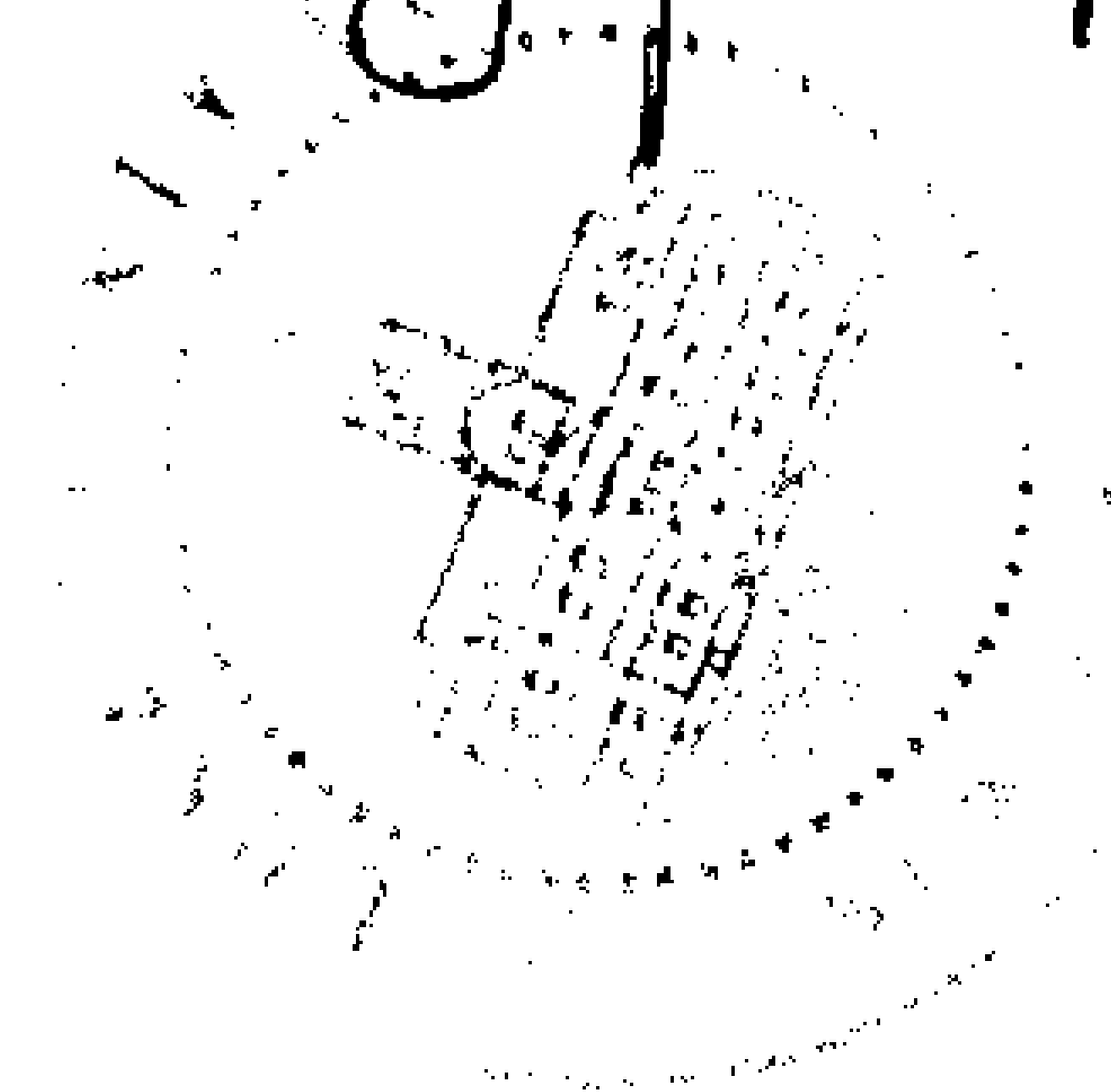
By Dennis Armijo
Dennis Armijo, Chairman

Tom P. Smyer
Member

Neil
Member

Attest: Karen Smyer
Karen Smyer, County Clerk

Andrea Rodriguez, Deputy



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