

**LUNA COUNTY
ORDINANCE NO. 91**

**AN ORDINANCE REQUIRING MOVEMENT CERTIFICATE AND TAX RELEASE
PRIOR TO MOVING A MANUFACTURED HOME WITHIN LUNA COUNTY, AND
PROVIDING FOR PENALTIES AND ENFORCEMENT FOR FAILURE TO COMPLY**

WHEREAS, under the New Mexico Tax Code, manufactured homes are subject to valuation and taxation pursuant to NMSA (1978) §§ 7-36-8 and 7-36-26; and

WHEREAS, the "county treasurer has the responsibility and authority for collection of taxes and any penalties or interest due under the Property Tax Code [7-35-1 NMSA 1978] except for the collection of delinquent taxes, penalties and interest authorized to be collected by the department under Section 7-38-62 NMSA 1978"; and

WHEREAS, the Board of Luna County Commissioners ("Board") finds that it is necessary to make certain requirements of persons who wish to install or relocate a manufactured home within the unincorporated areas of the Luna County to insure that all manufactured homes are properly registered on the County's tax rolls and that all property taxes have been paid and no tax liability exists for property taxes on a manufactured home prior to relocation of the same; and

WHEREAS, pursuant to NMSA (1978) § 4-37-1, the Board is empowered to enact such regulations regarding manufactured homes within the unincorporated areas of Luna County; and

WHEREAS, NMSA (1978) § 66-7-9 provides that the Motor Vehicle Code shall not be deemed to prevent local authorities from reasonable use of police power with respect to streets and highways under their jurisdiction; and

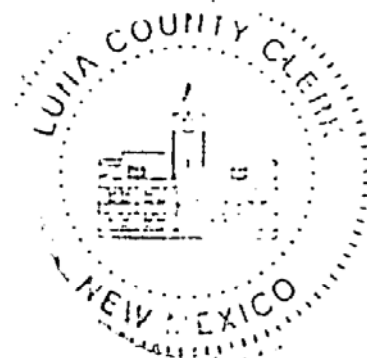
WHEREAS, the Board finds that an ordinance that creates a system for insuring manufactured homes are properly included on the County's tax rolls and that all property taxes have been paid is necessary and will serve to promote the public welfare of the residents of Luna County.

NOW THEREFORE BE IT ORDAINED that the Board of Luna County Commissioners establish a Luna County Manufactured Home Movement Ordinance for Luna County as follows:

ARTICLE 1. TITLE

This ordinance may be cited as the "Luna County Manufactured Home Movement Ordinance" (hereinafter "Ordinance").

ARTICLE 2. PURPOSE AND SCOPE



The general purpose of this Ordinance is to provide authorized County Officials with a method to facilitate the collection of property taxes on manufactured homes within the jurisdiction and authority of the County. This Ordinance applies to all streets, highways, county roads and public roads within the geographic boundaries of Luna County, but shall not be effective within the limits of any incorporated municipality.

ARTICLE 3. DEFINITIONS

Manufactured Home: a movable or portable housing structure, including structures referred to as mobile homes, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. Manufactured or mobile home does not include recreational vehicles, modular or pre-manufactured homes built to Uniform Building Code standards and designed to be permanently affixed to real property.

Owner: means any person, association, partnership or corporation that has dominion over, control of, or title to real or personal property, either directly or through its authorized agent or representative.

Person: an individual, partnership, joint venture, corporation, association, social club, fraternal organization, trust, estate, receiver, or any other legal entity.

Responsible person: any owner, user, seller, purchaser, lessee, lessor, renter or agent or employee thereof, or other person in control of a manufactured home.

ARTICLE 4. MOVEMENT OF MANUFACTURED HOME THROUGH COUNTY WITHOUT TAX RELEASE AND MOVEMENT CERTIFICATE PROHIBITED

Section 4.1 Tax Release: Except as provided in Section 4.3 of this ordinance, no movement of a manufactured home which originates in this County shall be permitted until the owner of such manufactured home or his authorized agent obtains and presents to the Motor Transportation Division a Tax Release Issued by the Luna County Treasurer through the Luna County Assessor's Office showing that either:

- (a) All property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or
- (b) No liability for property taxes on the manufactured home exists for the current tax year or any past tax years, except for manufactured homes located on an Indian reservation.

Section 4.2 Movement Certificate: Except as provided in Section 4.3 of this ordinance, no responsible person shall permit or conduct the movement of a manufactured home through Luna County unless and until the owner of such manufactured home or his authorized agent obtains and

attaches a Movement Certificate, as described below, to the rear of the manufactured home in a location that is conspicuous. Said certificate shall be affixed to the manufactured home during all times the manufactured home is being mobilized over the public streets, highways, county roads and public roads within Luna County. Attachment of a bona fide certificate similar to the certificate described in Article 5 of this Ordinance that is issued by the Treasurer of another County within the State of New Mexico, and which is attached and described herein, shall constitute compliance with the requirements of this section.

Section 4.3 Exception: The movement of a manufactured home from the lot or business of a manufactured home dealer to its destination designated by an owner-purchaser is subject to the requirements of Luna County Ordinance 77 and shall be exempt from this Ordinance if the movement originated from the lot or business location of the dealer and the manufactured home was part of his inventory prior to the sale to the owner-purchaser. The movement of a manufactured home by a dealer or his authorized agent as a result of a purchase or trade-in from a non-dealer owner is subject to the requirements of this ordinance regardless of the destination.

ARTICLE 5. MOVEMENT CERTIFICATE

Section 5.1 Movement Certificate Fees: The Luna County Treasurer is hereby authorized to impose a fee for the issuance and re-issuance of the certificate(s). If original certificate expires prior to movement of manufactured home, a new certificate will be required. A new application shall be filled out and a re-issuance fee shall be imposed by the Treasurer's Office. The fees will be set, and may be adjusted from time to time by County Resolution, as approved by the Board of County Commissioners.

Section 5.2 Form of Certificate: The certificate from the County Treasurer shall be of a size and color as determined by the Treasurer and shall contain an expiration date that shall be no later than thirty (30) days from the date of issuance.

Section 5.3 Application Form: No certificate shall be issued unless an application has been completed, upon a form approved by the County Treasurer. The form shall specify the name of the owner of the manufactured home, the identification and registration numbers of the manufactured home, and the municipal address or county address from which the manufactured home is being moved. The form shall also specify the municipal address or county address to which the manufactured home is being moved; provided that if the destination is a location for which an address is not available, then the person requesting the certificate shall give a physical description of the destination sufficient to enable a designated County Official to identify the actual site or location to which the manufactured home is being moved. In the event the manufactured home is being moved to a location outside Luna County, the County Treasurer shall forward a copy of said application to the Treasurer of the County to which the manufactured home is being moved, if such County is within the State of New Mexico. In the event the manufactured home is being moved from a location outside Luna County, the County Treasurer shall acknowledge receipt of the appropriate application form from the Treasurer of the County from which the manufactured home is being moved, if such County is within the State of New Mexico.

Section 5.4 Removal of Certificate: It is unlawful for anyone other than the designated County Official to remove a Movement Certificate. Upon arrival of the manufactured home to its designated destination within Luna County, and/or no later than five (5) days after expiration of Movement Certificate, the owner shall notify the County Treasurer's Office that the manufactured home is at its destination and/or that the Movement Certificate has expired. This section does not apply when a manufactured home is being moved to a location outside of Luna County.

ARTICLE 6. ENFORCEMENT

Section 6.1 Enforcing Entities: The Manufactured Home Tax Recovery Specialists within the Luna County Treasurer's Office, Luna County Code Enforcement Officers, Sheriff's Department Officers, or any other duly authorized law enforcement officer shall have authority to enforce the provisions of this Ordinance.

Section 6.2 Burden of Proof: Unless otherwise provided herein, the burden of establishing a violation of this Ordinance has occurred is on the enforcing entity, who shall establish that the individual charged has violated this Ordinance beyond a reasonable doubt.

Section 6.3 Reporting Alleged Violations: Any person may report an alleged violation of this Ordinance to the Treasurer's Office, the designated Code Enforcement Officer or the Sheriff's Department. Upon receipt of such report, the enforcing entity shall ascertain the location, date, time and specific nature of the alleged violation.

Section 6.4 Authority of Enforcing Entity: If an investigation determines that a violation of this Ordinance exists or has occurred, the enforcing entity shall have the authority to issue a written citation for violation of this Ordinance.

Section 6.5 Penalty for Violation: Each violation of this Ordinance shall be punishable by a fine of no more than three hundred dollars (\$300), and/or imprisonment for no more than ninety (90) days, or both.

Section 6.6 Other Remedies Not Affected: Other remedies as may be provided by law, for any conditions described in this Ordinance, are not affected by the terms of this Ordinance. Prosecution or conviction under this ordinance shall not discharge the obligation for the payment of any taxes due under the laws of the State of New Mexico.

ARTICLE 7. SAVINGS CLAUSE

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

ARTICLE 8. REPEALER

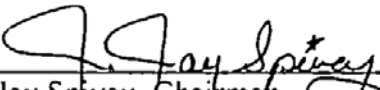
Any and all other prior ordinances directly contradicted by this Ordinance are hereby repealed.

ARTICLE 9. EFFECTIVE DATE

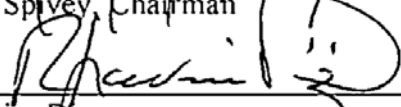
This Ordinance shall take effect thirty days after the recording date.

APPROVED, ADOPTED, AND PASSED on this 16th day of December 2014.

BOARD OF LUNA COUNTY COMMISSIONERS:



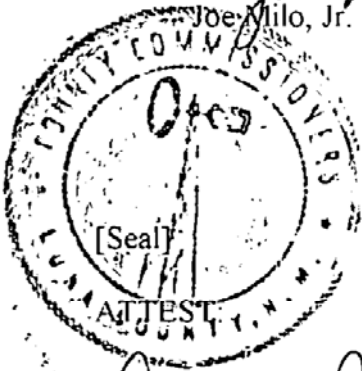
J. Jay Spivey, Chairman



R. Javier Diaz



Joe Milo, Jr.





Andrea Rodriguez, County Clerk