

Be it remembered that at a Regular meeting of the Luna County Board of County Commissioners in Deming New Mexico, on the 14th day of November 2022, the following proceedings were had and entered of record.

**LUNA COUNTY, NEW MEXICO
ORDINANCE 101; FIRST AMENDMENT**

WHEREAS, pursuant to NMSA 1978 Section 4-38-1 (1884) the powers of a county as a body politic and corporate shall be exercised by a Board of County Commissioners; and,

WHEREAS, NMSA 1978, Section 4-38-13 (1953) provides that Board of County Commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, Article 9 Section 14 of the New Mexico Constitution, referred to as the anti donation clause, which provides "[n]either the state, nor any county, school district, or municipality ... shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association, or public or private corporation"; and,

WHEREAS, the ownership of real property and the management of such real property has the potential of imposing unacceptable risks and liabilities on the County of Luna if the property is remote, contains environmental hazards or has a clouded chain of title; and,

WHEREAS, the Board of County Commissioners of Luna County has determined that it is in the best interest of the County to adopt a resolution that embodies the policies and procedures to be employed by the County regarding the acceptance of gifts of real property in order to safeguard the County against accepting gifts of real property that are difficult to sell or are encumbered with defects that could put the County at risk once it is in the chain of title; and,

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Luna County that this Ordinance be enacted pursuant to New Mexico law and codified and to read as follows:

Title 9: Land Use Regulations

Chapter 5: Procedure to Accept Real Property Gifts

9.05.010 General

Luna County shall consider accepting title to real property as a gift if the donated real property can be sold to realize its cash value, if it can be held for future sale or if the property is located in an area where the real property may be used to meet the operational needs of the County Government.

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9.05.020 Procedure to Accept Real Property Gifts.

9.05.020.001 Establishing County Interest:

The process of establishing Luna County interest in accepting a gift of real estate shall begin once the following information is provided to the Planning Department

The name, address, telephone number, e-mail address and signature of the proposed donor submitted on the Application & Checklist for Accepting Property Donations.

A statement of the reasons for the donor's desire to make the gift.

A general description of the property including the exact location, any structures (above and below ground), past uses of the property, location characteristics and/or pictures.

Proof of donor's ownership of the property in the form of a copy of the donor's deed to the real property. If the owner of record of the real property is deceased, a copy of the Court's Appointment of the donor/applicant as Personal Representative/ Executor of the estate will be required.

A statement as to whether the contribution is of the donor's complete or partial interest in the property. Luna County will not accept as a gift a partial, fractional or minority interest in real property.

A list of any personal property to be included with the gift.

Copies of current property tax bills and special assessment bills. Applicants will be required to satisfy the tax debt on the real property. NMSA 1978 Section 7-38-37(1973) provides that taxes owed remain the personal obligation of the owner even after the owner sells or donates the property.

9.05.020.002 Review By County Departments

If based on the information obtained in Control 1 it is determined by the Planning Department that

the County will not benefit from the real property, the Planning Department shall inform the donor, in writing, that the County rejects the donation.

If the Planning Department determines, based on the information obtained in Control 1 that the County may potentially benefit from this donation of real property, the following additional steps will be followed by County Departments before the donation is finalized:

A recent legal description and survey of the property showing any easements and right of-ways, an up to date appraisal report, and a chain of title report, if necessary, will be provided by the Assessor's Office. A ten-year tax search will be provided by the Treasurer's Office.

A site inspection for potential environmental hazards by Code Enforcement Department.

The Planning Department reserves the right to request additional information from the donor

as determined necessary for the Administrative Review.

9.05.020.003 Administrative Review & Initial Acceptance

If after review, the Planning Department finds that accepting the property would be in the County's best interest, the Planning Department may, at their discretion, accept the real property on behalf of the Board.

9.05.030 Final Acceptance

9.05.030.001 If the Planning Department accepts property, the donor must transfer the real property, by Warranty Deed to County of Luna within 90 days of the vote or the acceptance will be considered null and void. Luna County will not accept a Quit Claim Deed.

9.05.030.002 The executed final deed will be recorded in the Clerk's Office, thus finalizing the transaction. If the Planning Department elects not to accept the donation, the Planning Department shall inform the donor, in writing, that the County rejects the donation.

The donor is subject to and required to pay the taxes for the current year in which the transfer was completed. County of Luna will be responsible for the taxes for subsequent years. No real property shall be considered accepted or owned by the County of Luna unless it is formally accepted pursuant to this resolution or by other formal acceptance by the Board of County Commissioners.

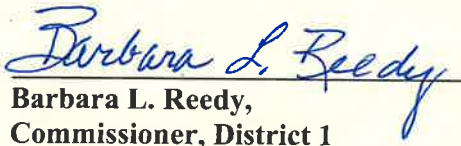
9.05.040 Appeal

Upon the receipt of a letter of denial a potential donor may request the denial to be re-considered at a regular meeting of the Board of County Commissioners.


DONE THIS 14TH DAY OF NOVEMBER, 2022

**BY THE BOARD OF COUNTY COMMISSIONERS OF
LUNA COUNTY, STATE OF NEW MEXICO**


ATTEST:


Barbara L. Reedy,
Commissioner, District 1


Berenda McWright, County Clerk


Linda M. Smrkovsky, Chairperson
Commissioner, District 2

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John S. Sweetser,
Commissioner, District 3

