

COPY
ORDINANCE NO. 2003-09

AN ORDINANCE CONTROLLING THE IMPORTATION OF PRAIRIE DOGS AND OTHER RODENT PESTS INTO LINCOLN COUNTY, NEW MEXICO; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, finds and determines that the establishment and existence of prairie dogs and other rodent pests within Lincoln County is injurious, detrimental, and damaging to the County and its inhabitants, both because of injury and damage to crops, lands, and environment, and because of the significant risk to public health posed by prairie dogs and other rodents as a proven disease vector; and

WHEREAS, the control of prairie dogs and other rodent pests within Lincoln County is matter of strictly local concern; and,

WHEREAS, the existence of prairie dogs and other imported rodent pests within Lincoln County constitutes a public nuisance; and

WHEREAS, the State of New Mexico has recognized the risk factors and destructive potential of prairie dogs and has provided, by statute (NMSA 1978, §77-15-5), for the destruction of prairie dogs and other rodent pests, including on private land; and

WHEREAS, pursuant to Section 4-37-1, NMSA 1978, the Board of County Commissioners of the County of Lincoln is empowered to enact an ordinance which would prohibit the importation of prairie dogs and other rodent pests, as such an ordinance will serve a valid public purpose and will otherwise serve to promote the prosperity, public health, safety, and welfare of the residents of the County of Lincoln.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF LINCOLN, NEW MEXICO:

Section 1. *Unlawful to import prairie dogs/rodents.*

It shall be unlawful for any person, firm, or entity to import prairie dogs or other rodent pests into Lincoln County, New Mexico, from any place without Lincoln County, New Mexico, and to allow said prairie dogs or rodents to run at-large upon public or private lands belonging to any person or entity other than the importer or owner thereof unless any person so desiring to import prairie dogs or other rodents into

Lincoln County shall have each animal inoculated against any zoonotic disease, permanently identified, and sterilized.

Section 2. *Failure to confine.*

In case any importer or owner of prairie dogs or rodent pests shall fail to contain the prairie dogs or rodents upon his own land, a written notice from the County shall be served upon such importer or owner in person or mailed to his last known postal address, instructing the owner to destroy the prairie dogs or rodents in the release areas. If the owner or importer fails to comply with the notice to contain, the County or its designated agent may enter upon said lands and destroy the prairie dogs or rodent pests in the release areas therein at the expense of the owner of said lands. The expense thereof shall be a lien upon the lands; provided that such expense chargeable to the owner or against lands of unknown owners shall not exceed the cost of destruction

Section 3. *Duty to eradicate.*

Should the imported prairie dogs or rodent pests escape confinement to adjacent properties, it shall be the duty of their owner to cause those prairie dogs or rodent pests to be destroyed. If not paid by the owner of the prairie dogs or rodent pests, the expense thereof, not exceeding the cost of destruction, shall be levied and assessed upon the owner of the designated release lands of the importer, and collected and paid into the County treasury.

Section 4. *Penalties.*

Any person, firm, or entity convicted of a violation of Section 1 of this Ordinance shall be deemed guilty of a petty misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars (\$300.00) for each offense.

Section 5. *Interference with discharge of duties.*

Any person, firm, or entity who shall interfere with the County in the discharge of its duties herein provided shall be deemed guilty of a petty misdemeanor and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) for each offense.

Section 6. *Severability.*

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

Section 7. *Conflict Clause.*

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. *Emergency Provision and Effective Date.*

It is deemed necessary for the public health, safety, and welfare of the citizens of the County of Lincoln that this Ordinance shall take effect immediately after recording in the Public Records of Lincoln County.

PASSED, APPROVED, and ADOPTED this 17th day of June, 2003.

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