

ORDINANCE NO. 1995-17
UNION COUNTY INTERIM LAND USE PLAN ORDINANCE

Comes now the Union County Board of County Commissioners and hereby enacts the "Union County Interim Land Use Plan Ordinance."

WHEREAS, the people of Union County, State of New Mexico, accept, support and sustain the Constitutions of the United States and the State of New Mexico, and have demanded through our elected legislature and governor that the Federal government comply with the Constitution of the United States, Article One, Section Eight, which limits the authority of the Federal government to specific lands, and

WHEREAS, we hereby reaffirm our demand that all lands in Union County not so specifically designated be relinquished to the citizens thereof, and

WHEREAS, we reaffirm the fundamental rights of mankind as enumerated in the Declaration of Independence and acknowledge the limited nature of government as intended by the nation's founding fathers, and therefore, based on these cherished traditions, we declare that all natural resource and land use planning decisions affecting Union County shall be guided by the principles of protecting private property rights, protecting and sustaining valuable natural resources, protecting local custom and culture, maintaining traditional economic structures through self-determination, and opening new economic opportunities through reliance on free markets, in the firm belief that resource decisions made in this manner will sustain or enhance the environmental quality of the County.

THEREFORE, BE IT RESOLVED AND ENACTED;

Section I. Name

This ordinance shall be known as the Union County Interim Land Use Plan Ordinance.

Section II. Purpose of the Interim Land Use Plan

The Union County Interim Land Use Plan is the county land use plan developed by the Union County government to guide the use of public lands and public resources in Union County, and to protect the rights of private landowners.

Federal and State land constitutes a portion of Union County. Income derived from these Federal and State lands is an integral part of Union County's economy. The nature and intent of Union County government land use plan is to protect the custom and culture of County citizens through the protection of private property rights, the facilitation of a free market economy, and the

establishment of a process to ensure self-determination by local communities and individuals, It is therefore necessary to develop and implement land use planning mechanisms that focus on Federal and State land regulation, uses and activities. The Interim Land Use Plan contains an interim set of policies that shall provide a general planning framework to remain in effect until a permanent Union County Comprehensive Land Use Plan is developed and approved by the Union County Commission.

The Interim Plan addresses Federal and State land use management issues directly and is intended to be used as a positive guide for Federal and State land management agencies in their development and implementation of land regulations, use plans and management actions.

The County and its citizens support the continued multiple use of Federal and State lands and resources in Union County. Therefore, it is the policy of Union County that Federal and State agencies shall inform local governments of those pending actions affecting local communities and citizens economically, and coordinate with local governments in the planning and implementing these actions.

In compliance with Federal and State law, including but not limited to the Federal Land Management and Policy Act of 1976, the Bankhead Jones Farm Tenant Act of 1937, the National Forest Management Act of 1973, the Threatened and Endangered Species Act, and the National Environmental Policy Act; Federal and State Agencies shall use as a guide the Union County Interim Land Use Plan and coordinate with the County Commission for the purpose of planning, managing, and/or regulating lands within the geographic boundaries of Union County, New Mexico.

Federal and State agencies proposing actions that will impact the Union County Land Use Plan or economy, or the customs and culture of Union County citizens, shall prepare and submit in writing, and in a timely manner, report(s) on the purposes, objectives and estimated impacts of such actions to the Union County Commission. These report(s) shall be provided to the Union County Commission for review, coordination and response no less than 60 days prior to Federal or State initiation of action.

Section III. Land Disposition

Recognizing that land is essential to local industry and residents, it shall be the policy of this County that the design and development of all Federal and State land transactions, including land adjustments, purchases, disposal and exchanges, be carried out to the benefit of the citizens of Union County.

Section IV. Policies

1. Increase opportunities for local economic development by increasing the amount of patented and Non-Federal land within the County.

2. Except in instances where given expressed rights by the Constitution, Federal land agencies shall not acquire any private lands or rights in private lands within Union County without first ensuring:

a. That as a minimum, parity in land value by status is maintained in each school district in the county ; and

b. That private property interests are protected and enhanced.

3. Federally managed lands that have conflicting use, particularly those which lie in isolated tracts, shall be targeted for disposal.

4. The general public, the State of New Mexico and local communities will be notified of, consulted about, and otherwise involved in all Federal and State land adjustments in Union County. Union County Commission concurrence will be required prior to any such land adjustments. Further, Union County shall be the lead planning agency in all Federal and State land adjustments occurring within the County's political boundaries.

5. Union County, in conjunction with any appropriate land agency, shall determine land to be used for commercial or public hazardous and non-hazardous waste disposal and/or storage, as well as type and point of origin of such waste.

6. Before Federal and State land agencies can change land use, adverse impact studies on uses shall be conducted and mitigation measures adopted with concurrence from the Union County Commission. Adverse impact studies on uses shall address community stability, local custom and culture, grazing rights, flood prone areas, access, effects on private property, and private property rights - the investment backed expectations of private citizens.

Section V. Water Resources

Union County recognizes that the protection and development of its water resources are essential to its short and long term economic, recreational and cultural viability.

Section VI. Policies

1. The protection of existing water rights and water users within the County is of primary importance to the County's economic and cultural well being. Therefore, transfers in water use should be carefully considered in relationship to the history, traditions and culture of Union County. Any Federally proposed designation of Wild and Scenic Rivers and all Federal policies regarding riparian management in Union County shall be coordinated with the County Commission and Water users groups in the County and shall take into consideration all County Water use plans. In addition, Union County, at its option, shall approve plans for the protection and management of all aquatic threatened and endangered species within its boundaries. Federal agencies managing waterways and wetlands containing such species shall coordinate their management activities and plans with County Commission.

2. Union County shall coordinate the development of water markets for existing as well as future water rights for agricultural, municipal, industrial, and domestic purposes. In addition, Union County shall explore and promote alternative uses of water, including, but not limited to, recreation and hydro-electric power.

3. Union County will promote and actively engage in providing opportunity for the development of water-based recreation with the County.

4. Union County, if deemed necessary and financially feasible, shall initiate a process for establishing a geologic, hydrologic and biologic data base within the County. The County will acquire, develop, and synthesize, alone or in coordination with other government agencies, drilling information, water well testing information, flood prone information, riparian vegetation information and all other information deemed necessary for the County.

5. The Union County government shall be notified of all State, interstate and Federal actions that have any impact on the water of the County prior to such actions being initiated. In addition, such proposed actions, including federally proposed Wild and Scenic River designations, shall only be made after consultation and prior approval of the Union County Commission, which shall take into consideration applicable local water use groups and County water and land use plans. It is the intent of the County to guide Federal and State agencies in the planning and management of the County's natural, cultural and economic resources.

6. Union County recognizes the principles contained in the

State Water Law as they exist at this time.

7. Federal Agencies shall respect the intent of local government efforts in the acceptance and enforcement of such designations. In addition, the County shall, at its option, develop riparian management plans and coordinate with landowners, ranchers, and the appropriate State and Federal agencies.

8. Union County water resources, at this time, are uncontrolled. The Union County Commission will appoint a seven-person water board. The purpose of this Board is to control the quantity and quality of both surface and subsurface water not already adjudicated by the New Mexico State Engineer.

Section VII. Agriculture

The custom and culture associated with agricultural production in Union County is necessary to the livelihood and well-being of its citizens. Therefore, it is the policy of Union County to protect agricultural land and promote the continuation of agricultural pursuits by protecting private property rights, relying on self-determination, and ensuring open market conditions. It will not support those unsound agricultural practices that cause watershed damage, soil erosion and reductions in water quality.

Section VIII. Policies

1. Opportunities for grazing livestock on Federal and State lands shall be continued at levels consistent with the science of proper range management, custom, culture and the protection of equitable property rights.
2. Federal and State governments shall not obstruct sound agricultural opportunities on their respective lands.
3. Union County shall establish an Agriculture Advisory Board. Federal and State land managing agencies shall coordinate with the Board on all disputed matters affecting agricultural use on Federal and State lands.
4. Union County encourages keeping private lands private and on the tax roles.
5. All monies collected in Union County through the Federal Government will be retained in Union County at the maximum level possible as prescribed by law, including but not limited to grazing fees.
6. Incentives for improving grazing lands and promoting good land stewardship on Federal and State lands will be developed

through:

- a. Encouraging permittee ownership of range improvements;
- b. Appropriate fee schedules;
- c. Allowing subleasing of equitable property rights;
- d. Allotment management plan flexibility; and
- e. Increasing agricultural grazing use and allowing other economic benefits to accrue to permittees making investments in range betterment.

7. Union County will strongly encourage agencies to reduce administrative cost on Federal and State lands.

8. Union County will request the responsible agency to manage wildlife in Union County in such a way as to limit damage on private or public property. Union County will also hold responsible agencies accountable for economic damage caused by the wildlife they own.

9. Union County will encourage Congress to promote a wetlands policy to include only those areas that actually function as wetlands. All actions concerning wetlands will be reviewed by the County Commission or its designee prior to initiating action. Wetlands are defined as lands that: 1) have a predominance of hydric (wet) soil; 2) are covered or saturated by surfacewater or groundwater at a frequency or duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and 3) under normal natural circumstances do support a prevalence of hydrophytic vegetation. All three criteria must be met for an area to be identified as a wetland.

Section IX. Timber and Wood Products

The custom and culture associated with timber and wood products production in Union County potentially improve the livelihood and well-being of its citizens. Therefore, it is the policy of Union County to protect timber resources and promote a sustainable wood products industry by providing economic opportunity, relying on self-determination, and ensuring open market conditions.

Section X. Policies

1. Opportunities for a sustainable wood products industry will be continued at levels consistent with custom and culture

as affected by prevailing market conditions.

2. Union County will encourage continued private use of wood products consistent with multiple uses and employing good silvacultural practices.

Section XI. Cultural Resources, Recreation, Wildlife, Wilderness and Threatened and Endangered Species

Union County will promote and facilitate public and private recreational, cultural, wilderness, and wildlife opportunities compatible with local custom and culture and within the constraints of private property rights and local self-determination.

Section XII Policies

1. Union County will, at its option, initiate and oversee the formulation of plans for the recovery of all Federal and State listed threatened, endangered or sensitive species. The County will work with the agencies on any recovery plans. State and Federal agencies must prove a species is endangered, threatened or sensitive with full counts showing a definite decline in occurrence when compared to historical data prior to any species being listed.

2. Union County shall establish a Union County Wildlife Board. Federal and State land and wildlife management and enforcement agencies will coordinate with that board on all matters regarding wildlife (including the introduction of any plant or animal species).

3. No additional Federal Wilderness, Park or Monument areas, or special designated areas shall be designated in Union County without prior approval of the Union County Commission. Public lands will be managed under the multiple use theory to provide opportunities for all users of public lands.

4. Cultural Resources will be reviewed by the County Commission or their designee to determine their value as a resource in the customs and cultures of the people of Union County.

Section XIII. Mineral Resources

Union County recognizes that the development of its oil, gas and mineral resources is desirable and necessary to the State and nation. Therefore, it is the policy of Union County to develop procedures and site specific plans that provide the long term availability and responsible development of its oil, gas and mineral resources. Union County also recognizes the importance of

mineral resources including, but not limited to, native stone, carbon dioxide, caliche, sandstone and stones of igneous origin to its custom, culture and economic stability.

Section XIV Policies

1. Support retention of and compliance with the 1872 Mining Law.
2. Promote the exploration of and enhance the development of Union County's oil, gas and mineral resources.
3. All decisions made by Federal and State agencies concerning the extractive industries that have an impact on the custom, culture and economic stability of the citizens of Union County must be reviewed by the County Commission or their designee prior to implementation.
4. Union County shall require restitution to the surface interest, and reclamation of the land following mineral exploration or extraction activities.

Section XV. Historical Sites, Landmarks and Trails

Access to, use of, or designation of historical landmarks or trails should not entail encumbrances or restrictions of private property rights without consent of the affected landowner(s). Designation of historic landmarks or trails will only be made after presentation to, consultation with, and prior approval by the Union County Commission.

Section XVI. Access and Transportation

Union County recognizes the need and their responsibility for an adequate transportation system within the County. Union County intends to maintain and improve its valid existing rights-of-way across public and private lands accepted pursuant to the grant under Federal Revised Statute 2477, in accordance with appropriate safety standards. The County shall develop and maintain a transportation network that optimizes accessibility within the County. Costs and environmental degradation from movement between communities and across public lands are intended to be kept to a minimum. Conscientious effort shall be made not to entail new encumbrances or restrictions on existing private property rights for access to or across public lands.

Section XVII. Monitoring and Compliance

Union County shall develop monitoring and compliance standards to evaluate the Interim Land Use Plan and to ensure consistency between Federal and State actions and activities and the land use requirements enumerated within.

Section XVIII. Policies

1. Union County shall monitor, as needed, through the appropriate land user or agency, the condition of grazing lands, woodlands, wildlife, and wetlands. Federal and State agencies shall coordinate with the County and provide, upon request from the County, any and all resource data and the subsequent analysis of all resource conditions.
2. Union County shall seek compliance with this Interim Land Use Plan and shall monitor consistency between Federal and State actions and activities and the land use requirements enumerated herein.
3. The Union County Sheriff shall be responsible for the enforcement of the Interim Land Use Plan within Union County, but only after consultation with and instruction from the Union County Commission.

Section XIX. Miscellaneous Provisions

- A. Should any provision of this ordinance be deemed to be invalid under New Mexico law or unconstitutional under the United States or New Mexico Constitution, or both, that provision shall be deemed void and the remainder of the ordinance shall remain in full force and effect.
- B. The Union County Commission may from time to time, as it deems appropriate and/or necessary amend this ordinance.
- C. The Union County Commission from time to time may take such further and additional actions as permitted and provided by law.
- D. The effective date of this ordinance shall be May 11, 1995.

E. Upon the effective date of this ordinance, all previous Union County rules, regulations, and ordinances involving land use and land use planning which conflict with this ordinance are deemed void and are repealed.

Witness our hands and seals this 11th day of April, 1995.

ATTEST

Union County Clerk

Freida J. Birdwell
Freida J. Birdwell

By: D. E. Carter
D. E. Carter, Chairman

By: Eugene Podzemny
Eugene Podzemny, Member

By: Fred Miller
Fred Miller, Member

REAL ESTATE RECORDS BOOK 9
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FREIDA J. BIRDWELL, CLERK
Freida J. Birdwell

