

ROOSEVELT COUNTY

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ORDINANCE #93-7

AN ORDINANCE DECLARING ROOSEVELT COUNTY'S CUSTOM, CULTURE, AND ECONOMY AND REQUIRING ALL STATE AND FEDERAL ENTITIES IMPACTING THE SAME, WITH REGARDS TO LAND, TO CONSULT WITH THE ROOSEVELT COUNTY LAND MANAGEMENT AGENCY IN ADVANCE OF IMPLEMENTING SUCH A DECISION. THIS ORDINANCE SHALL BE KNOWN AS THE ROOSEVELT COUNTY LAND USE POLICY PLAN.

RECITALS:

WHEREAS, the Roosevelt County Commission has appointed a committee to develop a Roosevelt County Land Use Policy Plan to protect the customs, culture and economy of Roosevelt County and her citizens, and

WHEREAS, the Committee has diligently sought information pertinent to Roosevelt County's customs, culture and economy, has sought the opinions and input of the community on these topics, has met with the Commission regularly and discussed its findings and ultimately, has utilized all gathered information in drafting this Plan, and

WHEREAS, this Plan shall govern all land use planning in Roosevelt County and does mandate cooperation between the Roosevelt County Land Management Agency and any state or federal entity whose plan or decision impacts Roosevelt County land use or in other words, the County's custom, culture and economy.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF ROOSEVELT COUNTY

I. DECLARATIONS

SECTION A:

The Board of Commissioners of Roosevelt County hereby declares that the following comprises a description of the custom, culture, and economy of Roosevelt County.

SECTION B:

That no state or federal entity shall implement any decision impacting the County's custom, culture, and/or economy, as to land, without first consulting with the Roosevelt County Land Management Agency pursuant to Roosevelt County Ordinance #93-4.

SECTION C:

Further, the people of Roosevelt County, State of New Mexico, accept, support and sustain the Constitutions of the United States and of the State of New Mexico. We, the people of Roosevelt County, 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. We hereby reaffirm our demand that all lands in Roosevelt County not so specifically designated be relinquished to the citizens hereof.

Further, 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. Based on these cherished traditions, we declare that all natural resource decisions affecting Roosevelt County shall be guided by the principles of protecting the private property rights, protecting local custom and culture, and maintaining traditional economic structures. Such shall be and maintained through self-determination and opening new economic opportunities through reliance on free markets. Resource decisions made in this manner will enhance environmental quality.

II. PURPOSE OF THE ROOSEVELT COUNTY LAND USE POLICY PLAN

The Roosevelt County Land Use Policy Plan is the County land use plan developed by the Roosevelt County Commission and its designees. It mandates participation between Roosevelt County and state and federal entities in the decision making for the use of public lands and public resources in Roosevelt County. Also, the Plan protects the rights of private landowners in Roosevelt County.

The nature and intent of Roosevelt County governmental land use planning is to protect the custom, culture, and economy, within which County citizens operate, 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.

The Land Use Policy Plan is a set of policies that shall provide a general planning framework to address governmental land use planning in Roosevelt County. It is the policy of Roosevelt County that state and federal agencies shall inform local governments of all pending actions affecting the public land in local communities and the private land belonging to private citizens and coordinate with the Roosevelt County Land Management Agency in the planning and implementation of those actions.

The Roosevelt County Land Management Agency, when the County's citizens, the local economy, and/or lands within the County are affected by such actions, shall be consulted and coordinated with in accordance with the Ordinances of Roosevelt County, the laws of the State of New Mexico, and the laws of the United States.

Finally, in compliance, with local ordinances, state and federal law, all state and federal agencies shall comply with the Roosevelt County Land Use Policy Plan and coordinate with the County Land Management Agency for the purpose of planning and managing any governmental plan affecting private or public lands within Roosevelt County. State and federal agencies proposing actions that will impact the Roosevelt County Land Use Policy Plan shall prepare and submit in writing, reports on the purposes, objectives and estimated impacts of such actions, including custom, cultural and economic impacts to the Roosevelt County Land Management Agency. These reports shall be provided to the Roosevelt County Land Management Agency for review and coordination prior to state or federal initiation of any such action.

Establishing Roosevelt County's basic custom, culture and economic bases are of importance to the County and its citizens. Therefore a brief history of the development of Roosevelt County together with its custom, culture and economic bases is acknowledged in the following and defined as such.

III. CUSTOM, CULTURE, AND ECONOMY OF ROOSEVELT COUNTY-HISTORY

SECTION A: DEFINITIONS

Culture, as used in NEPA, is defined as:

The body of customary beliefs, social forms, and material traits constituting a distinct complex of tradition of a racial, religious or social groups, that complex whole that includes knowledge, belief, morals, law, customs, opinions, religion, superstition, and art. (Webster's Ninth New Collegiate Dictionary, p. 314, 1991).

As stated in the above definition, culture includes customs. Custom is defined by Black's Law Dictionary as:

A usage or practice of the people, which by common adoption and acquiescence, and by long and unvarying habit, has become compulsory, and has acquired the force of a law with respect to the place or subject matter to which it relates...An habitual of customary practice, more or less widespread, which prevails within a geographic or psychological area. (Black's Law Dictionary, 5th Edition, p. 348, 1978).

Custom refers to land usages and practices that have "acquired the force of a tacit and common consent." Such land uses and practices, livestock grazing, dairying, farming (dry land and irrigation), development of mineral resources (oil and gas), private business, public schools, to mention just a few, are well established, readily identifiable, and are the foundation of Roosevelt County's economy. (Catron County Comprehensive Plan, pgs. 2-1, 2-2, October 1991).

SECTION B: HISTORY-CUSTOM-CULTURE-ECONOMY

Roosevelt County was formed in the territory of New Mexico in 1903. It is composed of approximately 84% deeded (fee), 15% state and 3% federal lands. The County is located in east central New Mexico along the Texas border.

The Native American roots of culture and custom are the oldest in New Mexico. In 1846, General Kearny took possession of New Mexico, imposed martial law and established a code of conduct which became known as Kearny's Code. Within the context of this Code, he recognized the existing culture and customs of the area and pledged to the inhabitants, as citizens of a Territory of the United States, that the army would protect and defend these customs and cultures. Kearny's Code remains part of the statutory law of the State of New Mexico today. (Catron County Comprehensive Plan, pgs. 2-3, October 1992).

With the signing of the Guadalupe-Hildalgo Treaty, which ended the Mexican-American War in 1848, the New Mexico Territory was formally ceded to the American government. The terms of the treaty explicitly specified that any property rights, culture and custom which had been recognized by the Spanish or Mexican governments before the lands were ceded to the United States, would continue intact and be honored and protected by the United States. With the ceding of New Mexico to the United States and the establishment of Kearny's Code, a third dominant culture was introduced to New Mexico with the immigration of merchants, miners, ranchers, farmers, skilled workers and freighters coming to the territory. (Catron County Comprehensive Plan, pgs. 2-4, October 1992).

The Homestead Act of 1862 facilitated the settlement of this area of the New Mexico Territory by farmers and small ranchers. Cultivation was one of the requirements to prove your claim. In 1879 the first ranch was established in this area, which later was to become Roosevelt County. Through the 1880's several other ranches were established in the area, supporting large

herds of cattle. Such ranches were dependent upon springs and lake water for water. Sheep ranches were in the area as early as 1882.

In 1898, the coming of the railroad was very instrumental in the development of Roosevelt County as well as the founding of towns, churches and schools. With the coming of the railroad came growth and development to the County.

The finding of irrigation water in 1903 led to the development of major farming industry. Prior to the finding of irrigation water, the County's farming industry was supported by a great number of dry land farms. Several varieties of crops were produced in the County. Dairying became a major industry in this area between 1910 and 1915. Roosevelt County became known as the "dairy county of the state."

The County's development continued, unimpeded, as oil and gas were discovered in the 1940's and 1950's. They have contributed significantly to the economic base of Roosevelt County. Another vital asset has been and is Eastern New Mexico University which was founded in 1934. (History and Heritage of Roosevelt County, Burroughs, Jean, 1975).

Thus, Roosevelt County's customs and culture are well established. Their roots date back to the Mexican-American War (1846-1848) in the areas of ranching, farming, dairying, irrigation, oil and gas, local communities, schools, churches and private business. Citizens of Roosevelt County have a strong belief and pride in their "private property and individual rights", which were guaranteed each citizen by the Constitution of the United States. We citizens are strong believers and supporters of our communities, schools, churches and their social activities as well as the industries and businesses of the County.

Roosevelt County is a classic example of rural America and the harmony that exists among its citizens. As citizens of the County, we respect each individual's constitutional rights and particularly those rights as they pertain to private real property ownership and use.

In Roosevelt County, culture, in a very down to earth sense, comprises the shared values and beliefs that give guidance and meaning to the lives of local residents. These shared values and beliefs, including such firmly ingrained traits as independence, "egalite", self-sufficiency and devotion to family, work, and the land,

have their origins in religion, folk traditions and in the shaping influence of environment on the individual and community. Moreover, culture in Roosevelt County includes an array of social standards and social institutions, ranging from family ties, to kindly neighbors, to high school sports, to the County rodeo and fair. These are but a few things that hold together and give common purpose and meaning to community life. (Catron County Comprehensive Plan, pgs. 2-1, 2-2, October 1991).

IV. LAND/RESOURCE PLANS-REQUIREMENTS/PROCEDURES

SECTION A: LAND

Recognizing that land is essential to local industry and residence, it shall be the policy of this County that any governmental land planning be carried out to the benefit of the citizens of Roosevelt County.

1. Where governmental plans involve the use or control of any land within Roosevelt County, the governmental entity shall conduct adverse impact studies and after meeting with the County Land Management Agency shall adopt mitigation measures mutually agreed upon. Adverse impact studies shall address, at a minimum, community stability, local customs and culture, grazing rights (public and private), farming, any other economic issues and private property rights.
2. The Roosevelt County Land Management Agency, the State of New Mexico, the general public, and local communities and/or any other affected party shall be notified in writing of, consulted about, and otherwise involved in all state and federal land adjustments in Roosevelt County.
3. Federal land agencies shall not acquire any private lands or rights in private lands within Roosevelt County without first ensuring that private property interests are protected and enhanced.
4. The New Mexico State Land Office shall assist the Roosevelt County Land Management Agency in coordinating land exchanges so as to maximize patented fee simple lands.
5. The Roosevelt County Land Management Agency shall determine land withdrawals for hazardous and non-hazardous waste storage as well as the types and points of origin of such waste.

6. Any governmental rights decisions regarding endangered species, riparian matters, and/or wetlands in Roosevelt County shall be implemented only when the same do not violate any local, state and/or federal laws pertaining to private property rights.

SECTION B: WATER

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

Policy

1. The protection of existing water rights and water uses within the County is of primary importance to the County's economic and cultural well-being. Therefore, any transfers in water use shall be carefully considered in relationship to the history, traditions, culture, custom, and economy of Roosevelt County.
2. The Roosevelt County Land Management Agency shall promote and pursue development of water markets for existing as well as future water rights for the utilization in agriculture, municipal, industrial, and domestic development.
3. The Roosevelt County Land Management Agency shall be notified of all intrastate, state and federal actions that have any impact on the water of the County prior to such actions being initiated. In addition, such proposed actions shall be discussed and coordinated with the Roosevelt County Land Management Agency prior to adoption and implementation. It is the intent of the Agency to assist state and federal agencies in the planning and management of the County's natural, cultural, and economic resources. Failure to notify the Agency as to actions impacting water shall constitute a violation of this Ordinance. Any and all decisions made without prior notification to the Land Management Agency shall be considered null and void.
4. Roosevelt County recognizes and will adhere to the principles contained in the state water law as they exist at this time and accepts U.S. vs. State of New Mexico, 438 US 696, 57 L Ed 2d 1052, 1978, both which will form a basis for water use planning. Private rights for the necessary use of water for domestic and livestock use on private property

shall not be interfered with by any governmental agency. All surface water developed and retained by any means including but not limited to man-made means by a private party on private or leased public lands shall be considered as belonging to the private individual by the Roosevelt County Land Management Agency.

SECTION C: AGRICULTURE

The custom, culture, and economy associated with agricultural production in Roosevelt County are necessary to the livelihood and well-being of its citizens. Therefore, it is the policy of Roosevelt County to protect all lands used for agriculture. Further, the County promotes the continuation of agricultural pursuits by protecting private property rights, relying on self-determination, and ensuring free and open market and production conditions.

Policy

1. Opportunity for crop production shall not be adversely impacted by state or federal production rules or regulations unless the grower so agrees. No state or federal agency shall implement rules and/or regulations that adversely affect the culture, custom, or economic stability of crop production unless and until consultation, cooperation, and coordination with the Roosevelt County Land Management Agency, as set forth in Ordinance #93-4. Before implementation of any such plan, the agency shall hold a public hearing within the County.
2. Opportunities for grazing livestock on state and federal lands should be continued at levels consistent with custom and culture and the protection of equitable property rights.
3. State and federal governments should not obstruct agricultural opportunities on their respective leased lands nor on private (fee simple) lands unless the fee owner or lessee agrees to the same, in writing.

SECTION D: PRIVATE BUSINESS

Roosevelt County recognizes that private business is a vital part of Roosevelt County's custom, culture, and economic stability and believes that any land planning by a government agency shall consider all impacts on County businesses.

Policy

1. Roosevelt County believes in the spirit of the free enterprise system and promotes local and private entrepreneurship.

SECTION E: MINERAL RESOURCES

Roosevelt County recognizes that the development of its mineral resources is desirable and necessary to the state and the nation. Therefore, it is the policy of Roosevelt County to encourage the development and production of all mineral resources. The County further recognizes the right to develop and produce these minerals are federally protected constitutional rights.

V. MONITORING/COMPLIANCE

Policy

1. State and federal agencies shall coordinate and cooperate with the County, through the Roosevelt County Land Management Agency, in the collection of all monitoring data and in the analysis of all resource conditions of grazing lands, croplands and wet lands.
2. Roosevelt County, through the Roosevelt County Land Management Agency, shall demand and enforce compliance with this Land Use Plan.

VI. PENALTIES

1. Violations of this Land Use Policy Plan by a state or federal agency shall be deemed to be a violation of Roosevelt County Ordinance Number 93-7. Liability under this Ordinance shall be placed upon the state or federal official or officials as well as the agency itself, responsible for making and implementing any decision which fails to comply with this Ordinance.
2. All violations of this Ordinance shall be considered a criminal matter. The penalties assessed for such violation shall be the maximum allowed under the state law of New Mexico.

VII. SEVERABILITY

That if any provision of this County Ordinance or the application thereof is held invalid, such invalidity does not affect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to those ends the provisions of the Ordinance are severable.

PASSED, ADOPTED AND SIGNED by the Roosevelt County Board of County Commissioners as Roosevelt County Ordinance No. 93-7 and recorded with the Roosevelt County Clerk this 15th day of November, 1993.

Board of Roosevelt County Commission

By: Blonnie Rea
Blonnie Rea, Chairman

A T T E S T

Jeffer Lee Graze, Dep.
Maudene Haragan
Roosevelt County Clerk

BR/vjc



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MAUDENE HARAGAN-CLERK

BY Dina Gilcherry

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