

**INCORPORATED COUNTY OF LOS ALAMOS RESOLUTION NO. 18-22**

**A RESOLUTION DECLARING A MORATORIUM OF ONE HUNDRED EIGHTY (180) DAYS ON THE ENFORCEMENT OF CHAPTER 28, ARTICLE VII, SAFETY IN PUBLIC PLACES, OF THE LOS ALAMOS COUNTY CODE OF ORDINANCES**

**WHEREAS**, on November 27, 2015 the Incorporated County of Los Alamos ("County") adopted Code Ordinance No. 02-258 ("Ordinance") seeking to improve the quality of life and economic vitality of the County by protecting the public and the solicitors from certain dangerous and abusive solicitation practices; and

**WHEREAS**, in adopting the Ordinance, County attempted to narrowly tailor the Code to apply to designated locations where solicitation creates the greatest risks due to generally higher pedestrian or vehicular traffic volume and congestion; and

**WHEREAS**, in adopting the Ordinance, County attempted to narrowly tailor the Code to also address aggressive panhandling which includes approaching or following pedestrians, the use of abusive language, unwanted physical contact or the intentional blocking of pedestrian or vehicular traffic; and

**WHEREAS**, in adopting the Ordinance, County attempted to narrowly tailor the Code to protect the citizenry from the presence of individuals who solicit money from persons at or near banks or automated teller machines, or solicit from people in places where it is impossible or difficult for citizens to exercise their own common law right to be left alone and decline, or to avoid solicitation from others; and

**WHEREAS**, County continues to recognize that the above represents a significant governmental interest, namely, public safety and pedestrian and vehicular safety interests, including the safety of the solicitors as well as the citizens of the County; and

**WHEREAS**, County also recognizes that current United States First Amendment jurisprudence, in particular the progeny of *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), have cast warranted doubt over the constitutionality of the current Ordinance; and

**WHEREAS**, the Council of the Incorporated County of Los Alamos finds that the moratorium is necessary to allow Council time to address potentially substantial legal issues regarding the Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Incorporated County of Los Alamos, that:

**Section 1. Moratorium.** That upon the effective date of this Resolution and for a period of one hundred eighty (180) calendar days, Chapter 28, Article VII, Sections 28-212 and 28-213, (Safety in Public Places) shall not be enforced.

**Section 2.** This Resolution shall not in any manner limit County's enforcement of all other ordinances in order to protect public safety through other properly adopted ordinances or by powers provided under State law.

  
R-18-22                      09/25/2018                      12:00 AM  
Page(s): 2                      Naomi D Maestas - County Clerk  
Los Alamos County, NM                      Victoria L Martinez - Deputy



**Section 3. Severability.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

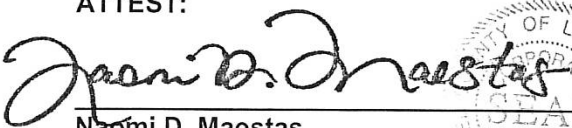
**Section 4. Effective Date.** This Resolution shall become effective upon adoption.

**PASSED AND ADOPTED** this 25<sup>th</sup> day of September, 2018.

INCORPORATED COUNTY OF LOS ALAMOS

  
\_\_\_\_\_  
David Izraelevitz,  
Council Chair

ATTEST:

  
\_\_\_\_\_  
Naomi D. Maestas,  
Los Alamos County Clerk

