

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-292

A CODE ORDINANCE REPEALING ARTICLE VII, SAFETY IN PUBLIC PLACES, OF CHAPTER 28, OFFENSES AND MISCELLANEOUS PROVISIONS

WHEREAS, the Incorporated County of Los Alamos ("County"), is a political subdivision of the State of New Mexico and has been granted county and municipal health, safety, and welfare powers under the State Constitution and statutes; and

WHEREAS, on October 27, 2015, the County Council enacted, in Code Ordinance No. 02-258, the County's "Safety in Public Places" ordinances ("Ordinance"); and

WHEREAS, the Ordinance was enacted to protect the County's residents and public from abusive solicitation and panhandling practices with the imposition of reasonable time, place and manner restrictions on solicitation and panhandling; and

WHEREAS, as adopted, aggressive panhandling included the approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian or vehicular traffic; and

WHEREAS, the presence of individuals who solicit or panhandle for money from persons at or near banks or automated teller machines, or panhandle from people in places where it is impossible or difficult for them to exercise their own right to decline or to avoid solicitation or panhandling from others, was considered especially threatening and dangerous; and

WHEREAS, since its enactment, the County has not enforced any provisions of the Ordinance; and

WHEREAS, on or about August 28, 2018, the County Council Chair, as well as other cities throughout the State, received correspondence from the New Mexico American Civil Liberties Union ("NM ACLU") raising various constitutional concerns regarding Chapter 28, Article VII, Safety in Public Places of the Los Alamos County Code of Ordinances; and

WHEREAS, based on that review, the County Attorney's office concluded that the constitutional concerns raised in the August 28, 2018 NM ACLU correspondence warranted review of the Ordinance for potential revision or repeal; and

WHEREAS, on September 25, 2018, the County Council enacted, via Resolution No. 18-22, a 180-day moratorium on the enforcement of the Ordinance; and

WHEREAS, due to recent U.S. and State Supreme Court decisions related to free speech rights, the Council now determines that other laws, ordinances, and statutes will sufficiently protect the public from such abusive practices; and

WHEREAS, the County Council, after further consideration finds that the Ordinance should be repealed in its entirety.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, as follows:

Section 1. Article VII of Chapter 28, is hereby repealed in its entirety.

Section 2. Effective Date. This Ordinance shall become effective thirty (30) days after notice is published following its adoption.

Section 3. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 27th day of November, 2018.

**COUNCIL OF THE INCORPORATED COUNTY
OF LOS ALAMOS**

**David Izraelevitz,
Council Chair**

ATTEST: (Seal)

**Naomi D. Maestas,
Los Alamos County Clerk**