

SAN JUAN COUNTY  
ORDINANCE NO. 29

AN ORDINANCE PROHIBITING THE SALE OR DISTRIBUTION OF TOBACCO PRODUCTS (EXCLUDING SMOKELESS TOBACCO) TO A MINOR, AND PROVIDING A PENALTY FOR VIOLATION.

WHEREAS, the Surgeon General of the United States has determined that smoking is the leading cause of preventable death in this country; and

WHEREAS, the nicotine found in tobacco has been determined by the Surgeon General to be a very powerful addictive drug which is of particular danger to minors, who are most susceptible to the industry's advertising; and

WHEREAS, the governing body of San Juan County does find and determine that an ordinance should be adopted which helps to improve the health of the citizens of this County by controlling the distribution of tobacco products to minors.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF SAN JUAN COUNTY, NEW MEXICO:

SECTION 1. DEFINITIONS.

A. Distribute shall mean to give, deliver, sell, offer to give, deliver, sell or barter.

B. Establishment not generally accessible to or frequented by minors includes those establishments from which unaccompanied minors are generally excluded by custom or law, including, but not limited to, bars, cocktail lounges and private clubhouses for members of fraternal or civic organizations.

C. Photographic identification shall mean any officially issued card which includes a photograph of the person seeking to purchase tobacco products and is accepted as proof of age for the sale of alcoholic beverages under state law.

D. Public Place shall mean any area to which the general public is invited or permitted, including but not limited to all buildings and property owned by San Juan County.

E. Tobacco Product shall mean any substance that contains tobacco, including but not limited to cigarettes, cigars, pipes, smoking tobacco, but excluding all forms of smokeless tobacco.

F. Vending Machine shall mean any mechanical, electronic or other similar device which automatically dispenses tobacco products, usually upon the insertion of a coin, token or slug.

## **SECTION 2. GENERAL PROVISIONS.**

### **A. Distribution to Minors.**

(1) It shall be unlawful for any person to distribute tobacco products to any individual under eighteen (18) years of age or to sell tobacco products to any individual who is under eighteen (18) years of age. This section does not apply to the parent or guardian or adult spouse of any minor, or adult person into whose custody any court has committed the minor for the time.

(2) It shall be an affirmative defense that the seller of a tobacco product to an individual under eighteen (18) years of age in violation of Section 2.A.(1) above has requested and examined photographic identification from such person establishing their age as over eighteen (18) years of age prior to the selling of such person a tobacco product. The failure of a seller to request and examine photographic identification from a person under eighteen (18) years of age before the sale of a tobacco product to such person, shall be a rebuttable presumption of the seller's guilt under this section.

### **B. Distribution through Vending Machines.**

No person shall distribute or permit the distribution of tobacco products through the operation of a vending machine in a public place, except at an establishment not generally accessible to or frequented by minors.

### **C. Distribution in Sealed Packages Only.**

No person shall distribute tobacco products for commercial purposes other than in the sealed package provided by the manufacturer, with the required health warning and state tax stamp.

### **D. Penalties and Enforcement.**

Any person convicted of violating any provisions of this ordinance shall be fined not to exceed Three Hundred Dollars (\$300.00) or imprisoned for not more than ninety (90) days, or both such fine and imprisonment. The prosecution of the violations of this ordinance shall be by the District Attorney or the County Attorney, as the case may be, in the Magistrate Court.

## **SECTION 3. SEVERABILITY.**

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such phrases, clauses, sentences, paragraphs and sections of this ordinance shall not affect the validity of the remaining portions of this ordinance, since the same would have been enacted without such unconstitutional phrase,

clause, sentence, paragraph or section, and said valid remainder of the ordinance shall be construed and entered as if such illegal or invalid provision had not been contained herein.

PASSED, SIGNED, APPROVED AND ADOPTED this 17<sup>th</sup> day of September, 1992.

BOARD OF COUNTY COMMISSIONERS  
OF SAN JUAN COUNTY

*Ervin Chavez*  
ERVIN CHAVEZ, CHAIRMAN

SHERRY L. GALLOWAY, PRO TEM  
*Sherry L. Galloway*  
GORDON CRANE, MEMBER

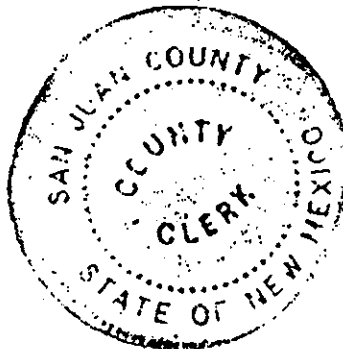
*John A. Dean, Jr.*  
JOHN A. DEAN, JR., MEMBER

*Billy F. Hillgartner*  
BILLY F. HILLGARTNER, MEMBER



ATTEST:

*Carol Bandy*  
Carol Bandy, County Clerk  
*Babbie Cornwall*  
Babbie Cornwall, Deputy



FILED OR RECORDED  
BOOK 1152 PAGE 348  
SAN JUAN COUNTY, NEW MEXICO

SEP 18 1992  
2:30 O'CLOCK P  
*Carol Bandy*  
COUNTY CLERK  
DEPUTY *Babbie Cornwall*  
REC # 110 FEES