

Public Comment for Upcoming Commission Meeting

**Name**

Ramona Goolsby

**Address**

210 Hope Ct NE  
RIO RANCHO, New Mexico 87124  
United States  
[Map It](#)

**Email**

[ramonaclawson@yahoo.com](mailto:ramonaclawson@yahoo.com)

**Comments:**

Good Evening,  
At the end of the last Sandoval County Commission meeting, Chair Heil read a statement composed by the county attorney about why the Chair would not present the Enabling Act Ordinance for consideration. On October 6, the Governor renewed and expanded aspects of her "Public Health Emergency" relating to the peoples second amendment rights. This is the best time to present and discuss the Enabling Act. I am copying a reply Larry Marker composed for you to consider.

To: Citizens of Sandoval County  
RE: Response to Sandoval County Attorney  
the matter of the proposed Enabling Act Ordinance

Counsel ends the first paragraph of his analysis with a statement that is not supported by fact or law. The County Commission does in fact have the authority to enact and enforce an ordinance that simply mirrors the Constitution of the United States as a matter of fact each Commissioner affirmed by oath to do just that, please see Article XX Section 1 of the Constitution of the State of New Mexico'

Section 1. [Oath of officer.]  
Every person elected or appointed to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the constitution of the United States and the constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

Further supporting the authority of the Commission to pass ordinances is a set of statutes, Please see below:

Section 4-37-1.NMSA Counties; powers; ordinances. (1975)  
All counties are granted the same powers that are granted municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties. Included in this grant of powers to the counties are those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants. The board of county commissioners may make and publish any ordinance to discharge these powers not inconsistent with statutory or constitutional limitations placed on counties.

Section 4-37-2.NMSA Areas in which county ordinances are effective. (1975)  
County ordinances are effective within the boundaries of the county, including privately owned land or land owned by the United States. However, ordinances are not effective within the limits of any incorporated municipality.

Section 4-37-3.NMSA Enforcing county ordinances; jurisdiction. (1993)  
Statute text  
A. County ordinances may be enforced by prosecution for violations of those ordinances in any court of competent jurisdiction of the county. Penalties for violations of any county ordinances shall not exceed a fine of three hundred dollars (\$300) or imprisonment for ninety days or both the fine and imprisonment; except that a county may enact and enforce ordinances that impose the following penalties in addition to any other penalty provided by law:  
(1) no more than one thousand dollars (\$1,000) for discarding or disposing of refuse, litter or garbage on public or private property in any manner other than by disposing it in an authorized landfill;  
(2) no more than five thousand dollars (\$5,000) for the improper or illegal disposal of hazardous materials or waste in any

manner other than as provided in the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]; and (3) no more than imprisonment for three hundred sixty-four days or a fine of one thousand dollars (\$1,000), or both, for violation of an ordinance regarding driving while under the influence of intoxicating liquor or drugs.

B. Prosecution of violations under this section may be commenced by the issuance of a citation charging the violation. Citations may be issued by the code enforcement officer of the county or an employee or employees of the county authorized by the board of county commissioners to issue such citations.

#### Section 4-37-11. NMSA Validation. (1987)

All amendments adopted under color of law to a county charter adopted under the provisions of Article 10, Section 5 of the constitution of New Mexico allowing or purporting to allow the county to exercise all legislative powers and perform all functions not expressly denied by general law or charter as provided in Article 10, Section 6 of the constitution of New Mexico and all acts and proceedings heretofore taken under such charter amendments are hereby validated, ratified, approved and confirmed, as of the date of adoption or attempted adoption of such amendments, notwithstanding any lack of power, authority or otherwise, and notwithstanding any defects and irregularities in such acts and proceedings.

#### Section 4-37-12. NMSA Effect and limitations. (1987)

The Home Rule County Validation Act [4-37-10 through 4-37-13 NMSA 1978] shall operate to supply such legislative authority as may be necessary to validate any amendments to a county charter adopted under Article 10, Section 5 of the constitution of New Mexico allowing the county to exercise the powers provided for in Article 10, Section 6 of the constitution of New Mexico and any acts and proceedings heretofore taken under such charter amendments which the legislature could have supplied or provided for or can now supply or provide for in the law under which such amendments were adopted and such acts and proceedings were taken. The Home Rule County Validation Act, however, shall be limited to the validation of charter amendments, acts and proceedings to the extent to which such validation can be effectuated under the state and federal constitutions. The Home Rule County Validation Act shall not operate to validate, ratify, approve, confirm or legalize any charter amendment, act, proceeding or other matter which has heretofore been determined in any legal proceeding to be illegal, void or ineffective.

#### Section 4-37-13. NMSA Construction. (1987)

The Home Rule County Validation Act [4-37-10 through 4-37-13 NMSA 1978], being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to carry out its purposes.

The authority to adopt the specific ordinance as proposed is enumerated in Article 10 Section 6 parts D and E of the Constitution of the State of New Mexico.

Counsel begins the second paragraph of his analysis with an incorrect statement based on an assumption. The proposed Ordinance is in response to the current Governors administrations previous continuing and possible future abuse of authority and practice of issuing mandates and orders that are an invasion of the protected rights of the citizens of the state of New Mexico. The proposed Ordinance will also prevent subsequent administrations from engaging in the same illegal activities.

The specific measures related to the second amendment and the temporary injunction that was issued, then rescinded by the federal court is not germane to this matter. Counsel decided to add an equally useless statement on how our system is supposed to work. Counsel has provided a short sighted, largely unsupported opinion on a matter he obviously knows very little about.

Response to page 4 specifically the heading of Statutes is presumed constitutional.

Yes, statutes are presumed to be constitutional, as are ordinances. Please revisit the authority granted to the county commissioners under the constitution of the State of New Mexico.

The subject ordinance is NOT intended to challenge State Statutes. The proposed ordinance is intended to prevent the enforcement of mandates and orders that violate the constitutionally protected rights of the citizens of that particular county or municipality. Mandates that are made outside of the expressed and specific authority of the law are the target of the proposed ordinance.

Counsel's assumption that this proposed ordinance challenges state laws has caused him to provide information unrelated to the issue. Page 5 Counties have limited powers, yes we know that, we also know the state has limited authority as well.

Counsel on page 6 is again out in the weeds, it is common knowledge that the separation of powers places interpretation of laws within the authority of the Judiciary. Which further strengthens the argument to pass the proposed ordinance. Should the Governor or any other official attempt to enforce an illegal mandate or order they will be forced to go through the judiciary to show how and why the mandate or order is legal and enforceable.

The arguments on Page 7 are not applicable to the instant matter or issue. Again the proposed ordinance does not challenge state statutes or laws.

In response to Counsels conclusion, the proposed ordinance does not have the County Commission perform any duty other than to codify the Enabling Act as an ordinance. Counsel has provided an argument that supports the passing of the proposed ordinance.

The points argued by Counsel that support passage of the ordinance are:

#State laws and municipal ordinances are presumed to be constitutional.

#Mandates and executive orders are NOT state laws.

#The Constitution of the United States is the supreme law of the Land

#State laws that violate to the Constitution of the United States are illegal

#Mandates or executive orders that violate the Constitution of the United States are illegal even when they are made under the authority of state laws

#Proposed ordinance is aligned with established state and federal law in that any enforceable law, mandate or order is to be filtered or reviewed by standards of the Constitution of the United States

Counsel has cited Marbury v Madison which ironically is the case law the proposed ordinance is grounded on. The abuse of authority under the guise of a public health emergency violates the constitution of the United States. We can run down every legal rabbit hole counsel wishes to take us down but the fact remains the authority of the Governor or any other official is and always will be limited by the Constitution of the United States. THAT'S HOW OUR SYSTEM IS SUPPOSED TO WORK!

Thank You  
Larry Marker