

ROOSEVELT COUNTY

ORDINANCE #93- 5

AN ORDINANCE ADOPTING THE CIVIL AND CRIMINAL PROVISIONS OF TITLE 18 § 241, 245 U.S.C. and Title 42, § 1983, U.S.C., as amended.

ORDINANCE OF THE ROOSEVELT COUNTY COMMISSION, State of New Mexico, (I) adopting an Ordinance to protect the public peace, general welfare, health and safety of the citizens of Roosevelt County from violations of the Constitutional and Civil Rights of the citizens, (II) providing penalties for violations of the Ordinance and (III) requesting that the Legislature of the State of New Mexico enact similar legislation to codify within state law such statutes as enacted by County Ordinance and by the United States Congress.

RECITALS:

A. That the purpose of the Civil Rights Act, 18 U.S.C. §§ 241 et. seq. is to protect the citizens of the United States from acts which "injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States."

B. That as part of the Civil Rights Act, 18 U.S.C. § 245(a)(1) allows state and local law enforcement authorities the authority and responsibility for prosecuting acts that may be in violation of the Civil Rights Act and that violate state or local law.

C. That the Commissioners of Roosevelt County endorse the protections, rights or privileges afforded by the U.S. Constitution and the Civil Rights Act and desire to ensure that those protections, rights or privileges are afforded to the citizens of Roosevelt County.

D. That an additional purpose of the Civil Rights Act, 42 U.S.C. § 1983, based upon the Act of April 20, 1871, ch. 22 § 1, 17 Stat. 13, is to protect citizens of the United States from acts which deprive them from enjoying their constitutionally protected rights, privileges, and immunities. Should such deprivation occur, such offender shall be liable to the injured party in a suit in equity, or action at law. The Civil Rights Act of 1871 states:

That any person who, under color of law of any law, statutes, ordinance, regulations, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress. 17 Stat. 13 (1871).

E. That the Civil Rights Act at 18 U.S.C. §§ 241, 245, states:

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States...They shall be fined not more than \$10,000.00 or imprisoned not more than ten (10) years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life. 18 U.S.C. § 241. Nothing in this section shall be construed as indicating an intent on the

part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. 18 U.S.C. § 245(a)(1).

F. That the U.S. Supreme Court ruled that rights in property are basic civil rights. The Supreme Court states:

Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal property right. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized. (Citations omitted) Congress recognized these rights in 1871 when it enacted the predecessor of §§ 1983 and 1343(3). We do no more than reaffirm the judgement of Congress today. Lynch vs. Household Finance Corp., 405 U.S. 538 (1972).

BE IT DECREED BY THE ROOSEVELT COUNTY COMMISSION, STATE OF NEW MEXICO:

I. DECLARATION:

A. That to provide for the general welfare, public peace, health and safety of the citizens of Roosevelt County, passage of this Ordinance is required to protect the citizens of Roosevelt County from current or potential violations of their rights or privileges as guaranteed by the U.S. Constitution, federal statutes and local ordinances.

B. That the Civil Rights Act, 18 U.S.C. §§ 241 et. seq. shall be incorporated, in full, herein.

C. That all violations of this County Ordinance and the rights or privileges that this Ordinance protects, shall be filed with the county, district or prosecuting attorney or with the district court judge for submission to a grand jury. Once a petition regarding such violation of a right or privilege protected by this County Ordinance is filed with the county, district or prosecuting attorney or the grand jury, an investigation of such violation may occur, including a determination of the identification of the person(s), including but not limited to any employee of the federal, state or county government responsible for such violation.

D. That nothing in this County Ordinance shall be construed to prohibit the county officers or the grand jury from investigating any potential violation of this Ordinance.

II. PENALTIES:

A. That all violations of this County Ordinance shall be considered a criminal matter, therefore the punishment imposed upon the determination of a guilty verdict shall be the maximum punishment allowed by the state law of New Mexico.

B. That in addition to any criminal actions that may occur through the enforcement of this statute, that every person, who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (This language has been taken from 42 U.S.C. §§ 1983.) In any such action at law, suit in equity, or other proceeding, the injured party may include a request for and offer evidence that punitive and/or other monetary damages should be assessed upon the offending party.

III. PROMULGATION:

THE COMMISSION DIRECTS that a copy of this Ordinance be forwarded to the Legislature for the State of New Mexico and respectfully requests that similar legislation be passed by the State.

IV. 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 this Ordinance are severable.

PASSED, ADOPTED AND SIGNED by the Roosevelt County Board of County Commissioners as Roosevelt County Ordinance No. 93-5 and recorded with the Roosevelt County Clerk this 16th day of

August, 1993.



BOARD OF ROOSEVELT COUNTY COMMISSIONERS

By: Blonnie Rea
Blonnie Rea, Chairman

Maudene Haragan
Maudene Haragan
ROOSEVELT COUNTY CLERK



ROOSEVELT CO. NM

BK. 8 PG. 291

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MAUDENE HARAGAN-CLERK

BY Joyce Lee Lutz

2

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TITLE AND GENERAL SUMMARY

ROOSEVELT COUNTY

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AN ORDINANCE ADOPTING THE CIVIL AND CRIMINAL PROVISIONS OF TITLE 18 §§ 241, 245 U.S.C. AND TITLE 42, § 1983, U.S.C., AS AMENDED.

1. Recitals
2. Declaration
3. Promulgation
4. Severability

This Ordinance shall be considered for adoption on Monday, August 16, 1993 9:30am, MDT, in the County Commission Meeting, County Commission Room, Roosevelt County Courthouse, Portales, New Mexico.

Copies of the Ordinance are available to interested persons during regular business hours of the County Clerk, Roosevelt County Courthouse.