

STATE OF NEW MEXICO  
**CATRON COUNTY**  
RESERVE, NEW MEXICO 87830

**ORDINANCE NO. 003-91**

**ORDINANCE OF THE CATRON COUNTY COMMISSION, STATE OF NEW MEXICO, (1) ADOPTING AN EMERGENCY ORDINANCE TO PROTECT THE PUBLIC PEASE, GENERAL WELFARE, HEALTH, AND SAFETY OF THE CITIZENS OF CATRON COUNTY FROM VIOLATIONS OF THE CONSTITUTIONAL RIGHTS OF THE CITIZENS, (2) REAFFIRMING THE PROTECTIONS FOR PRIVATE PROPERTY AS PROVIDED IN THE FIFTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION AND THE CIVIL RIGHTS ACT, (3) REESTABLISHING THE DEFINITION OF PRIVATE PROPERTY PROTECTED BY THE CONSTITUTION AND THE CIVIL RIGHTS ACT AS DEFINED IN CURRENT FEDERAL CASE LAW AND REGULATION, (4) REQUESTING THAT THE LEGISLATURE OF THE STATE OF NEW MEXICO ENACT SIMILAR LEGISLATION TO CODIFY WITHIN STATE LAW SUCH STATUTES AND REGULATIONS AS ENACTED BY THIS COUNTY ORDINANCE.**

**THE COMMISSION FINDS:**

1. That the fifth and Fourteenth Amendments to the United States Constitution provides that private property shall not be taken for a public use without payment of just compensation and without due process.
2. That the Supreme Court of the United States has also examined those constitutional protections and affirmed that such taking shall not occur. (See First Evangelical Lutheran Church of Glendale v. County of Las Angeles. 107 S.Ct. 2378 (1987) (Reaffirming the Constitutional right granting compensation to a private property owner for a governmental regulation that deprived that owner of the reasonable economic use of his property, even though the deprivation or taking was only temporary) and Nollan v. California Coastal Commission. 107 S.Ct. 3141 (1987) (Requiring that governmental land use decisions or regulations be narrowly focused on the public benefit as compared to the necessity of taking private property).
3. That on march 18, 1988, Presidential Executive Order 12630 was enacted and requires all federal agencies to analyze the economic effects or takings implications of their proposed policies, decisions, rules, and regulations on the private property, private property rights and investment backed expectations of individual citizens.
4. That pursuant to this Executive Order and Supreme Court cases, the Attorney General for the United States has promulgated guidelines that define private property and property rights and establish a procedure for federal agencies and departments to utilize in analyzing the effects of heir proposed rules, action, and decisions on private property.

5. That the Commissioners of Catron County endorse the private property protections guaranteed by the U.S. Constitution and desire to ensure that those protections and rights are afforded to the citizens of Catron County.

**BE IT DECREED BY THE CATRON COUNTY COMMISSION,  
STATE OF NEW MEXICO**

**THE COMMISSION DECLARES:**

1. That to provide for the general welfare, public peace, health and safety of the citizens of Catron County, emergency passage of this Ordinance is required to protect the citizens of Catron County from current or potential violations of their Constitutionally protected property rights.

2. That the following definition of private property as taken from the Attorney General's Guidelines for the Evaluation of Risk and Avoidance of unanticipated Takings, dated June 30, 1988 (Guidelines adopted pursuant to Executive order 12630) shall be adopted within Catron County:

a. Private property includes all property protected by the Fifth and Fourteenth Amendments to the United States Constitution, including but not limited to, real and personal property and tangible and intangible property.

b. Private property protections shall also include protection for "investment backed expectations."

3. That all private property and private property rights within Catron County as herein defined shall be fully protected under the Fifth and Fourteenth Amendments of the U.S. Constitution and under the Civil Rights Act.

4. That violations of this Ordinance by the state and federal agencies shall be deemed to be a violation of Catron County Ordinance number 003-91. Liability under this Ordinance shall be placed upon the federal official or officials responsible for making and implementing any decision which fails to comply with this Ordinance.

5. That if any provision of this Ordinance or the application thereof is held invalid, 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.

**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.

**PASSED, ADOPTED, AND SIGNED** by the Catron County Board of County Commissioners as Catron County Ordinance No. 003-91 and recorded with the Catron County Clerk this 25<sup>th</sup> day of September, 1990.

**BOARD OF COUNTY COMMISSIONERS  
CATRON COUNTY, NEW MEXICO**

**ATTEST:**

/s/ \_\_\_\_\_  
Rufus Choate

/s/ \_\_\_\_\_  
J. V. Blancq, Clerk

/s/ \_\_\_\_\_  
G. V. Allred, Jr.

/s/ \_\_\_\_\_  
Phillip W. Swapp