

1 **BERNALILLO COUNTY**

2
3 **BOARD OF COUNTY COMMISSIONERS**

4
5 **ORDINANCE NO. ____1999-9____**

6
7 **AN ORDINANCE PROVIDING FOR REGULATION OF MOBILE FOOD UNITS AND**
8 **ADDING CERTAIN PUBLIC SAFETY REQUIREMENTS THAT PERTAIN TO**
9 **SOLICITATIONS BY ICE CREAM VENDORS**

10
11 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**, the
12 Governing Body of the County of Bernalillo, that a new Ordinance is hereby enacted to read as
13 follows:

14
15 1. Purpose. The purpose of this Ordinance is to adequately protect and preserve the
16 public peace, safety, health and general welfare. This Ordinance is being enacted because of the
17 numerous reports received from public and parochial school authorities, persons residing in the
18 vicinity of such schools and other residents of the County to the effect that:

19
20 A. Mobile food units serving food and food products at or near such schools
21 create a safety and traffic hazard for students of the schools and other persons in the area;

22
23 B. The operation of the mobile food units also causes littering of the public
24 and parochial school grounds, residential property and the public streets in the vicinity of the
25 schools;

26 C. They also create a gathering place for the students and other persons all of
27 which is dangerous to the public peace, safety, health and general welfare; and

28
29 D. Ice Cream Vendors create a danger to young patrons who congregate
30 around the vendors on the streets where they could be injured by traffic. This danger is greatly
31 increased after sunset.

32
33 E. Ice Cream Vendors can also create a public nuisance in that they may be
34 playing amplified music which is disturbing to some individuals who reside in the County of
35 Bernalillo and therefore contrary to the Bernalillo County Noise Ordinance, Article IV, Sections
36 30-111 through 30-127 of the Bernalillo County Code.

37
38 2. Definitions. For the purposes of this Ordinance, the following definitions shall
39 apply unless the context clearly indicates or requires a different meaning.

40
41 **ICE CREAM VENDORS**. Persons or entities who sell frozen desserts in or upon
42 any public street, alley, sidewalk or thoroughfare.

43
44 **MOBILE FOOD UNIT**. Any wagon, truck, push cart, or vehicle self-propelled or
45 otherwise movable from place to place from which any person sells, offers for sale, or gives
46 away, beverages, food or any food product for human consumption.

CONTINUATION PAGE 2, AN ORDINANCE PROVIDING FOR REGULATION OF MOBILE FOOD UNITS AND ADDING CERTAIN PUBLIC SAFETY REQUIREMENTS THAT PERTAIN TO SOLICITATIONS BY ICE CREAM VENDORS

1 PUBLIC, PAROCHIAL or PRIVATE SCHOOL. A school where children are
2 given a general education equivalent to any of the first eight grades of the public schools.

3
4 PERSON. Includes singular and plural and shall also mean and include any
5 person, firm, partnership, joint venture, association, corporation, club, society or similar
6 organization.

7
8 3. Prohibited Acts.

9
10 A. The vending or serving of food or food products to students of public,
11 private or parochial schools from a mobile food unit on a public street, thoroughfare, boulevard
12 or alley or other public way in the County is prohibited within 900 feet from the outermost
13 boundary of the grounds of any public, private, or parochial school between the hours of 7:30
14 a.m. and 9:00 a.m., 11:00 a.m. to 1:00 p.m., and 2:00 p.m. to 3:30 p.m., Mountain Standard Time
15 or Mountain Daylight Savings Time, whichever may be in effect, on days when any such school
16 is in session.

17
18 The 900 feet is to be measured by the most direct traveled route from the
19 nearest boundary of the school grounds to the mobile food unit.

20
21 B. Ice Cream Vendors may not conduct business before 10:00 a.m. or half-
22 hour after sunset.

23
24 If Ice Cream Vendors stop or park along a roadway, highway, street or
25 other thoroughfare where there are adjacent curbs, the Ice Cream Vendor must park the vending
26 vehicle with the right-hand wheels of such vehicle parallel to and within eighteen inches of the
27 right hand curb.

28
29 Ice Cream Vendors shall not solicit their products on the same residential
30 street more than once before noon and once after noon in any twenty-four hour day.

31
32 C. This section shall not prohibit the sales and delivery of food or any food
33 product to a house, a business, a manufacturing plant, a construction site or an institution or any
34 place of like nature.

35
36 4. Penalty. Any person who violates any of the provisions of this Ordinance, is
37 subject to the general penalty provisions set forth in Section 1-6 of the Bernalillo County Code
38 which are a fine of up to \$300.00, imprisonment up to 90 days, or both.

39
40 5. Enforcement. The Bernalillo County Environmental Health Department and
41 Bernalillo County Sheriff's Department shall be responsible for enforcement of this Ordinance.

42 6. Severability. If any section, paragraph, sentence, clause, word or phrase of this
43 Ordinance is for any reason held to be invalid or unenforceable by any court of competent
44 jurisdiction, such decision shall not affect the validity of the remaining provisions of this
45 Ordinance. The Commission hereby declares that it would have passed this Ordinance and each

CONTINUATION PAGE 3, AN ORDINANCE PROVIDING FOR REGULATION OF MOBILE FOOD UNITS AND ADDING CERTAIN PUBLIC SAFETY REQUIREMENTS THAT PERTAIN TO SOLICITATIONS BY ICE CREAM VENDORS

1 section, paragraph, sentence, clause, word or phrase of this Ordinance irrespective of any
2 provision being declared unconstitutional or otherwise invalid.

3
4 7. Compilation. This Ordinance shall be incorporated in and compiled as part of the
5 Ordinances of Bernalillo County, New Mexico.

6
7 8. Effective Date. This ordinance shall take effect 30 days from the date of its
8 adoption by the Bernalillo County Commission.

9
10 **DONE** this _____ day of _____, 1999.

11 **BOARD OF COUNTY COMMISSIONERS**

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14 _____
15 TOM RUTHERFORD, Chair

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18 _____
19 BARBARA J. SEWARD, Vice Chair

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22 _____
23 KEN SANCHEZ, Member

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26 _____
27 STEVE D. GALLEGOS, Member

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30 _____
31 LES HOUSTON, Member

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40 **APPROVED AS TO FORM:**

41 _____
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44 TITO D. CHAVEZ, County Legal

**CONTINUATION PAGE 4, AN ORDINANCE PROVIDING FOR REGULATION OF
MOBILE FOOD UNITS AND ADDING CERTAIN PUBLIC SAFETY REQUIREMENTS
THAT PERTAIN TO SOLICITATIONS BY ICE CREAM VENDORS**

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Dated: _____

ATTEST:

JUDY D. WOODWARD, Clerk

Dated: _____