

NOTICE OF INTENT

NOTICE IS HEREBY GIVEN to any and all interested persons that pursuant to §3-7-17 and §3-17-3 NMSA (2013), the Portales City Council, which is the governing body of, and for the City of Portales, State of New Mexico, intends to introduce and adopt at a meeting which is scheduled for Tuesday, the 15th day of March 2022 at the hour of 6:30 p.m., the following described Ordinance, to-wit:

ORDINANCE NO. 756,
ORDINANCE PROVIDING FOR SAFE AND ANONYMOUS
SURRENDER OF INFANTS
PROVIDING SAFE DEVICES FOR SURRENDER, UNDER CERTAIN
CONDITIONS OF INFANTS NOT MORE THAN NINETY (90)
DAYS OF AGE, WITHOUT CRIMINAL PROSECUTION FOR ABANDONMENT OR
ABUSE OF A CHILD AND ALLOWING THE INSTALLATION
AND OPERATION OF THE SAME

The meeting will be open to the public, and any person or persons interested in the ordinance or the subject matter thereof or any person or persons desiring to comment on the same are urged to attend and be heard. Copies of the proposed ordinance are available for review, or copies of the same can be picked up at the City Clerk's Office, at City Hall, Portales, New Mexico, during normal and regular business hours upon request and payment of a reasonable charge for copies, if any, are requested. The proposed ordinance will be available on the City's website www.portalesnm.gov.

WITNESS MY HAND this 15th day of February 2022.

SS//Joan Martinez-Terry
City Clerk

Publish in the Eastern NM News **ONLY** on February 20, 2022
Bill the City of Portales: ATTN: City Clerk's Office
Include an Affidavit of Publication

CITY OF PORTALES
ORDINANCE NO. 756

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WHEREAS, the City of Portales is committed to take action that will save the lives of children by providing mothers in crisis with a safe and anonymous plan for surrender; and,

WHEREAS, the State of New Mexico has already enacted a Safe Haven law providing the foundation for this ordinance; and,

WHEREAS, notice by publication of the summary/title of this Ordinance (a Notice of Intent) was published by the City of Portales on the 20th day of February 2022 in The Eastern New Mexico News which is a newspaper of general circulation maintaining an office in Clovis, with a copy of the publication placed on file at the City Clerk's office with this Ordinance; and,

WHEREAS, it is in the interest of the public health, welfare and safety to enact this Ordinance as a means of eliminating unsafe and unlawful surrenders of children ninety (90) days of age or younger.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTALES, NEW MEXICO, THAT:

1. A parent, subject to compliance with the provisions of this Ordinance shall not be prosecuted for child abandonment or child neglect under the provisions of any statute which makes child abandonment or child neglect a crime when the allegations of child abandonment or child neglect are based solely on the relinquishment of a child ninety (90) days of age or younger to a medical services provider or a first responder pursuant to the terms and conditions of this Ordinance.
2. The following entities shall, without a Court Order, take possession of a child ninety (90) days of age or younger (hereinafter referred to as "the Child"). If the Child is voluntarily delivered to the entity by the parent of the Child and the parent did not express an intent to return for the Child:
 - a. A medical services provider;
 - b. First responder; or
 - c. With medical staff after delivery in a hospital or other medical facility when the Child's parent notifies the medical staff that the parent is voluntarily relinquishing the Child.

3. Delivery of the Child may be effectuated by an in-person transfer of the Child to the medical services provider or first responder or by leaving the Child in a conspicuously labeled or identified as a newborn safety device which is:
 - a. Installed under the auspices of the Roosevelt/Curry Right to Life Committee; and,
 - b. Physically located inside a police station, fire station, hospital, or other medical facility that is staffed 24 hours per day 7 days per week; and,
 - c. Located in an area that is conspicuous and visible to the employees
4. The Roosevelt/Curry Right to Life Committee or its representative, in the installation of a newborn safety device shall:
 - a. Be responsible for the cost of the installation; and,
 - b. Ensure that an adequate triple alarm system is connected to the physical location of the newborn safety device that automatically will send an alarm to:
 - i. 911; and,
 - ii. The Fire Station; and,
 - iii. Local Adoption Agency.
5. The Fire Station is responsible to ensure that the alarm systems are:
 - a. Tested at least one time per week to ensure the alarm system is in working order; and
 - b. Visually checked at least two times per day to ensure the alarm system is in working order.
6. Once the Child has been relinquished to an entity identified in this Ordinance, the entity receiving the Child shall:
 - a. Perform or provide for the performance of any act necessary to protect the physical health of the Child; and,
 - b. If the facility is not a hospital or medical facility, transport the infant to the nearest appropriate medical facility.
7. Upon being made aware that a medical services provider or first responder has possession of the Child under the provisions of this Ordinance, the Department of Child Services shall immediately check with law enforcement authorities to determine if the Child has been reported missing and, if so, whether the missing child could be the relinquished child.
8. The Portales Fire Department shall display in the main office and disseminate to any interested persons:
 - a. Easily understood printed materials that give information about a parents' rights with regard to reunification with the Child including, but not limited to information on how a parent can contact the appropriate entity regarding child reunification and information on sources of counseling.
 - b. Media information, including printed material, that creates public awareness about the provisions of this Ordinance.
9. For purposes of this Ordinance:

- a. "Medical service provider" means a person authorized and licensed in New Mexico to practice the healing arts including a physician's assistant, nurse practitioner registered or practical nurse, or a nurse aide.
 - b. A "first responder" means an employee or other designated person on duty at a police station, fire station, hospital, or other medical facility.
10. A medical services provider or first responder with responsibility for performing duties pursuant to this ordinance shall be immune from any criminal liability that might otherwise result from the actions of the entity, if acting in good faith in receiving a relinquished the Child. In addition, such medical provider or first responder shall be immune from any civil liability that might otherwise result from merely receiving a relinquished the Child.
11. It is an affirmative defense to any prosecution of any action taken under or pursuant to the terms of this Ordinance that a parent's delivery of the Child under the age of ninety (90) days and left the Child with, or voluntarily arranged for another person to deliver the Child to and leave the Child with a medical service provider, or first responder.

This Ordinance shall be effective five (5) days after adoption and publication as provided by law.

PASSED, ADOPTED AND APPROVED 15TH DAY OF MARCH 2022.

ATTEST:

Ronald L. Jackson, Mayor

Joan Martinez-Terry, City Clerk

Approved as to Legal Sufficiency:

City Attorney, Doerr & Knudson, P.A.