

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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April 28, 2020

*Via email*

Mayor Martin Hicks  
City of Grants  
600 W. Santa Fe Ave.  
Grants, NM 87020  
[mayor@grantsnm.gov](mailto:mayor@grantsnm.gov)

Dear Mayor Hicks:

As the State's chief law enforcement officer, I am writing to demand that you immediately cease and desist any violation of or interference (including soliciting the interference) with the State's current executive and public health emergency orders. I am aware that as of April 27, 2020, you opened City of Grants facilities, including a golf course, in direct violation of Governor Lujan Grisham and Department of Health Secretary Kathy Kunkel's orders. Further, you proclaim to "re-open" the City of Grants with explicit intent of violating the orders, and encourage businesses to do the same based on your authority. Your actions not only directly violate state law and undermine the rule of law, but directly imperil the health and safety of your constituents and greatly expose local businesses to significant penalties.

The Governor's executive and public health emergency orders are effective statewide, holding the full force of law as enacted by the Legislature. Your individual views on the public health response are within your rights, but as Mayor you must follow the rule of law. In fact, Section 12-10-10 of the All Hazards Emergency Management Act, which was invoked when a Public Health Emergency was declared on March 11, 2020, states that "it is the duty of all political subdivisions of the state ... to comply with and enforce all executive orders and rules made by the governor or under the governor's authority pursuant to law."

Respectfully, I encourage you to act in the best interests of the safety of your community and neighboring communities, particularly your sovereign tribal neighbors. The most recent data show that tribal communities are overwhelmingly and disproportionately affected by the COVID-19 virus, with indigenous peoples representing nearly 50% of the cases in New Mexico. The danger to tribal communities cannot be overstated, and with Grants' proximity to the Pueblo of Acoma, Navajo Nation, and other tribal communities, any premature re-opening of your community will inevitably harm your tribal neighbors.

Furthermore, your directives to city employees and encouragement to local businesses to violate the public health orders threatens the State's unified effort to combat COVID-19. Because the virus does not respect municipal boundaries, your attempts to permit mass gatherings and allow people to interact at non-essential businesses risks not only the health of your constituents but the entire State. By ordering city employees to work in violation of the State's orders, you put them in the impossible position of choosing between complying with the directives of their employer or violating state law and risking their own health. There is no clearer example of this than your alleged firing of the City Manager for voicing her concern about violating the public health orders. Moreover, city businesses are confusingly faced with contradictory messages from the State and the city as to whether or not they should open.

In an effort to compel you to reason and to protect the health and safety of your city and our State, I demand that you immediately cease and desist from any official action that directly interferes with the current executive and public health orders, and I strongly discourage any further attempt to undermine them. If you do not meet this demand, I will take appropriate legal action to protect the health and safety of Grants residents, nearby tribes and pueblos, and New Mexicans throughout the State.

If you have any questions about this demand, please do not hesitate to contact my office. In the meantime, I encourage you and the city council to work with state health officials on an effective transition plan to safely bring local businesses online as things progress; and I look forward to working with your community to ensure public health and safety and adherence to the rule of law.

Respectfully,



**Hector Balderas**  
Attorney General