

DOÑA ANA COUNTY ORDINANCE NO. 316-2020

AN ORDINANCE REGULATING SHORT-TERM RENTAL PROPERTY

WHEREAS, there has been a recent influx and popularity of short-term rental properties within Doña Ana County; and

WHEREAS, it is necessary to regulate these businesses and promulgate rules for the safety and security of property owners, short-term renters, and the communities in which the rentals are located.

NOW THEREFORE be it enacted by the Board of County Commissioners of Doña Ana County as follows:

CHAPTER ____

REGULATION OF SHORT-TERM RENTAL PROPERTY

Section 1 Title

This ordinance may be cited as the “Regulation of Short-term Rentals”.

Section 2 Purpose

Due to the recent influx and popularity of short-term rental properties in Doña Ana County, it is necessary to regulate these businesses and promulgate rules for the safety and security of property owners, short-term renters, and the communities in which the rentals are located. This ordinance is adopted to implement procedures, processes and standards for the regulation and operation of short-term rental properties in Doña Ana County’s jurisdiction.

Section 3 Definitions

- A. Adequate Insurance:** Property insurance to cover both the building and personal belongs and a minimum of \$1 Million liability insurance.
- B. Business registration:** The authority granted by the County to a person, authorizing the person to engage in a business activity or engage in business in a listed licensed activity.



- C. **Engaging in business:** Carrying on or causing to be carried on any trade with the purpose of direct or indirect benefit.
- D. **Good cause:** The enforcement standard applicable to any activity or inaction by a person engaging in a short-term rental in the county, and includes, but is not limited to:
1. Failure to pay all license fees, plus late fees;
 2. Failure to file required county forms;
 3. Failure to perform the terms, conditions or requirements as set forth on the license; or,
 4. Other actions of the applicant that violate this ordinance or any other county ordinances.
- E. **Person:** Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.
- F. **Place of business:** For the purpose of this ordinance, any premises to which the public is invited for the purpose of engaging in a short-term rental.
- G. **Property owner:** Any person owning a short-term lodging rental property.
- H. **Short-term rental property:** Any real property that is rented to a member of the public by a property owner where the renter has not manifested an intent to make the dwelling unit a residence or household. Short-term rental property does not include owner/management occupied property where all meals are prepared for guests and provided for them, also known as a Bed and Breakfast (BnB), and does not include hotels and motels.

Section 3 General Provisions

- A. All persons owning real property within Doña Ana County with the intent of using that property as a short-term rental must obtain a business registration certificate from the Doña Ana County Clerk pursuant to Chapter 154 of the Code of Doña Ana County, and obtain a permit from the Doña Ana County Community Development Department (hereinafter "CDD") prior to establishing that service.

- B. CDD shall periodically (quarterly at a minimum) monitor all relevant short term rental related web sites or advertising media for the purpose of identifying any short-term rental property not licensed by the County and take appropriate action to bring such property into compliance.
- C. Any person operating such short-term rental property prior to the effective date of this ordinance must obtain the required business registration certificate and permit within thirty (30) days of the effective date of this ordinance.
- D. The permit obtained from CDD must be posted in a prominent window facing the road in front of property and be visible from the road at all times.
- E. The property owner must maintain adequate property insurance and liability insurance for the short-term rental. Proof of insurance shall be required at the time of registration of the property with CDD and at any other time as requested by the County. Adequate insurance shall be in the form of a traditional homeowner's policy with a specific rider for the short-term rental property, or a separate policy regarding the short-term rental property in addition to the traditional homeowner's policy or a liability policy provided by the marketing company which markets the property.
- F. Short-term rentals must provide off-street parking onsite via garages, parking shelters, or driveway space. If off-street parking is not possible, the property owner shall advise the renters of appropriate parking locations that do not affect traffic, roadways, or the peaceful enjoyment of the area by adjacent residents. The property owner has the right to restrict the number of vehicles allowed at the rental premise. On street parking must conform to the other parking regulations and provide priority to adjacent residents when there is a conflict.
- G. All applicable residential building and fire life safety codes shall be met, including but not limited to smoke detector installations and appropriate entrance/egress identification (via a map on the wall or the back of the door at each egress). Smoke detectors must be maintained

and batteries replaced at least once per year. One currently serviced fire extinguisher must be placed within 10 feet of any kitchen or indoor cooking area. The Doña Ana County Fire Chief, or appointee, shall have access to inspect compliance with fire codes upon a twenty-four (24) hours notice.

- H. Short-term renters may park recreational vehicles onsite, for a period not to exceed seven days, but not on the street.
- I. The total number of persons occupying a short-term rental unit may not be more than twice the number of beds plus sleeping sofas on the premises. Person under the age of eighteen (18) must be accompanied by an adult at all times.
- J. Noise or other disturbance in or outside the short-term rental is prohibited according to the County Noise Ordinance, Chapter 261 of the Code of Doña Ana County.
- K. Any owner of a short-term rental convicted of a felony related to any illegal activity committed at a short-term rental will be grounds for permanent closure of the short-term rental and loss of the right to manage any such other property in Doña Ana County.
- L. The short-term rental property owner has the right to limit or impose conditions on parties and gatherings at the site, as well as imposing conditions that limit disturbance to the neighborhood and the community.
- M. Short-term rental properties shall not be used for gatherings of more than ten (10) additional persons above the allowed number of renter (including children) or be a venue for large gatherings of more than twice the limit of the number of renters allowed, whichever is less.
- N. The property owner is expected to pay all applicable local, state, and federal taxes, including but not limited to gross receipts tax and income tax. Upon obtaining a business registration certificate and permit from CDD, the owner must provide the New Mexico State Tax ID number associated with the short-term rental business.

Section 4 Fees

In addition to any other fees required under Chapter 179, the fee to obtain a short-term rental permit from CDD shall be a one-time fee of \$50.00.

Section 5 Community Notification

- A. Within ten (10) days of the issuance the short-term rental permit, the property owner shall, for informational purposes only, mail to all other property owners within 200 feet of the property notice of the issuance of a short-term rental property license. CDD shall provide the property owner a list of all property owners within 200 feet of the property to facilitate this notice. The short-term rental property owner shall also provide in this notice the name and phone number of the owner/operator/agent who will be available twenty-four (24) hours a day/seven (7) days a week to respond to any complaints regarding the operation or occupancy of the short-term rental. If there is a change in the contact information, the property owner will send an updated notice per this section within thirty (30) days.
- B. Within ten (10) days of the mailing, the property owner shall provide CDD with a copy of the notice and a statement that includes a list of the property owners to whom the notice was mailed. The property owner shall to notify CDD of any changes in the status or contact information for the short-term rental within thirty (30) days.
- C. Failure of the property owner to comply with these provisions shall result in a temporary suspension of the short-term rental permit until such requirements are met.
- D. Failure to comply with these notification requirements constitutes good cause for the suspension of the short-term rental permit.


Section 6. Violations and Penalties

- A. CDD, Codes Enforcement Officers and the Doña Ana County Sheriff’s Department shall have authority to document, cite, and prosecute all alleged violations of this ordinance and to pursue enforcement through any court of competent jurisdiction.
- B. Upon a first conviction, a property owner shall be subject to a fine of \$50 to \$300. A sentence upon a first violation may be suspended, deferred or taken under advisement. Upon conviction of a second or subsequent offense, a property owner shall be subject to a fine of \$300 which shall not be suspended, deferred or taken under advisement.
- C. Upon conviction of a third offense, in addition to the penalties set forth above, CDD shall revoke the short-term rental permit associated with the property, and all operation of the short-term rental shall cease within seven (7) days.
- D. Each day a property owner operates a short-term rental without obtaining the required business registration or without registering with DCC or otherwise violates this ordinance shall constitute a separate offense as provided under section 1-20 of the Code of Doña Ana County.
- E. This ordinance does not affect any other law enforcement or codes enforcement officer’s ability and duty to enforce any state laws or other county ordinances that are alleged to have occurred inside the short-term rental unit or on the premises of the short-term rental property.


ADOPTED this 8th day of December 2020.

**BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO**





 Lynn J. Ellins, Chairperson, District 1 For/Against



 Manuel A. Sanchez, Vice Chairperson, District 5, For/Against

Ramon S. Gonzalez
Ramon S. Gonzalez, District 2 For/Against

Shannon Reynolds
Shannon Reynolds, District 3 For/Against

Isabella A. Solis
Isabella A. Solis, District 4, For/Against

ATTEST:
Amanda López Askin
Amanda López Askin, Ph.D.
County Clerk

By: Brandi B. Delgado
Brandi B. Delgado
Deputy Clerk



Las Cruces Sun News.

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Affidavit of Publication

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DAC FINANCE DEPT.

DONA ANA COUNTY LEGAL LS
845 N. MOTEL BLVD.

LAS CRUCES, NM 88007

I, a legal clerk of the Las Cruces Sun News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

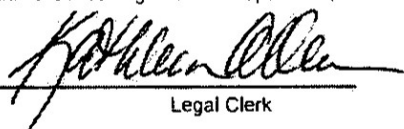
11/22/2020

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

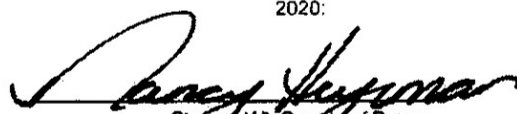
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DEC 08 2020

DAC FINANCE DEPT.


Legal Clerk

Subscribed and sworn before me this December 2, 2020:


State of WI, County of Brown
NOTARY PUBLIC
9.15.23
My commission expires

NANCY HEYRMAN
Notary Public
State of Wisconsin

Ad # 0004471893
PO #:
of Affidavits: 1

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NOTICE OF PUBLIC HEARING

On November 13, 2020, the Board of County Commissioners of Doña Ana County (BOCC) directed that a public hearing be conducted at their Regular Meeting on December 8, 2020 at 9:00 a.m. on the question of whether to approve an ordinance adopting a regulation for short-term rental properties. The Public hearing will be held at the Doña Ana County Government Center located at 845 N. Motel Blvd., Las Cruces, New Mexico.

The title of the Ordinance is as follows: **AN ORDINANCE REGULATING SHORT-TERM RENTAL PROPERTY**

GENERAL SUMMARY: Due to the recent influx and popularity of short-term rental properties within Doña Ana County, it is necessary to regulate these businesses and promulgate rules for the safety and security of property owners, short-term renters, and the communities in which the rentals are located. This ordinance defines requirements to implement procedures, processes and standards for the regulation and operation of short-term rental properties within Doña Ana County's jurisdiction.

A copy of the proposed ordinance is available for inspection at the Office of the County Clerk, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico, during regular business hours commencing on the first business day after the date of publication and continuing through the date of the public hearing. A copy of the proposed ordinance may be purchased from the County Clerk.

Due to the COVID-19 pandemic and the subsequent Declarations of Emergency declared by United States President Donald Trump and New Mexico Governor Michelle Lujan Grisham, and the several Public Health Orders issued by the New Mexico Department of Health Cabinet Secretary, being necessary to minimize the further spread of COVID-19, access to BOCC Chambers are limited to no more than five (5) members of the public at any given time. The public may attend the Doña Ana County Board of County Commissioners meeting via livestream on <https://www.donaanacounty.org/bocc/video/streaming>. Prior to and during the meeting, for the duration of public input, please use the following email to submit your input: publicinput@donaanacounty.org. The information will be provided to the Commission.

Should you require special accommodations as a result of a disability, please contact the County ADA Coordinator at 525-5884 (voice), 525-5951 (TTY), or 1-877-877-7000 (Toll Free).

027-1200 (on fee), or write to ADA Coordinator, 84S N. Motel Blvd. , Las Cruces, new Mexico 88007. Spanish language interpretation services are available upon request. Please contact the Community & Constituent Services Office at 525-6163, at least 48 hours prior to the event. Servicios de interpretación será disponible por petición. Por favor contacte la Oficina de Servicio a la Comunidad y Constituyentes al 525-6163 por lo menos 48 horas adelantado para pedir este servicio.

Publish: Las Cruces Sun News no later than Sunday, November 22, 2020.
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