

**ITINERANT AND TEMPORARY VENDORS LICENSING ORDINANCE**

**WHEREAS**, the Board of County Commissioners of Dona Ana County, New Mexico, acting through the powers vested in it by Sections 3-38-1 and 4-37-1 N.M.S.A. 1978 as amended, and the Opinion of the Attorney General of the State of New Mexico, No. 79-9, dated February 23, 1979; and

**WHEREAS**, the Board of County Commissioners deems it to be in the best interests of the public health and general welfare to regulate businesses;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DONA ANA COUNTY, NEW MEXICO:**

That this ordinance adopted by the Board of County Commissioners of Dona Ana County, New Mexico be enacted as follows:

**SECTION 1. TITLE.** This ordinance may be cited as the "Itinerant and Temporary Vendors Licensing Ordinance."

**SECTION 2. COVERING LAW.** It is presumed that all itinerant vendors and temporary site-specific vendors engaging in business within the geographical boundaries of Dona Ana County, New Mexico, excluding areas within the jurisdictional limits of any incorporated municipality, are subject to the provisions of this Ordinance unless exempt by law.

**SECTION 3. DEFINITIONS.** The following words, as used in this Ordinance, are defined as follows:

- a) **CLEAR SIGHT TRIANGLE** - Area thirty (30) inches above the finished grade of a road at the corner of an intersection, thirty (30) feet from the corner to each side of the property, forming a triangle.
- b) **CLERK** - The County Clerk of Dona Ana County, New Mexico, or his duly authorized representative.
- c) **COMMISSION** - The Board of County Commissioners of Dona Ana County, New Mexico.
- d) **COUNTY** - Dona Ana County, New Mexico.
- e) **ENGAGING IN BUSINESS** - carrying on or causing to be carried on any trade or commerce with the purpose of direct or indirect benefit.
- f) **ENVIRONMENTAL IMPROVEMENT DIVISION (EID)** - A division of the State of New Mexico Health and Environment Department.
- g) **PERSON** - A corporation, firm or other body corporate, partnership, association or individual, including an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, but excluding the United States of America, the State of New Mexico, any corporation, department, instrumentality, or agency of the federal government or the state government, or any political subdivision of the state.
- h) **PLANNING DIRECTOR** - The Dona Ana County Planning Director or his duly authorized representative.

- i) **SERVICE AREA** - The geographical boundaries of Dona Ana County, New Mexico, including privately owned land or land owned by the United States, excluding areas within the jurisdictional limits of any incorporated municipality.
- j) **VENDOR, ITINERANT** - A person who sells, offers to sell, displays for sale, solicits or takes orders for such items as food, merchandise, or services of any character from non-specified locations including, but not limited to ice cream trucks, snack wagons, food carts, traveling salesmen and all other mobile vendors.
- k) **VENDOR, TEMPORARY SITE-SPECIFIC** - A person who sells, offers to sell, displays for sale, solicits or takes orders for such items as food, merchandise, or services of any character at a specific location for a period not exceeding one hundred twenty (120) days.

**SECTION 4. ISSUING AGENT.** The Clerk, acting on behalf of the County, is the issuing agent of licenses under the terms of this Ordinance.

**SECTION 5. PLANNING REVIEW.** Before any application for a Vendor's License is approved by the Clerk under this Ordinance, the applicant shall submit the application to the Planning Director for review. The Planning Director shall review each application for consistency with applicable planning laws and regulations. An approval or disapproval shall be indicated on the application form and signed by the Planning Director. Approval by the Planning Director is necessary before the Clerk may issue any Vendor's License.

**SECTION 6. LICENSE FEES.** Itinerant Vendors engaging in business in the Service Area shall pay an annual license fee of thirty five dollars (\$35.00). Temporary Site-Specific Vendors shall pay a license fee at the rate of five dollars (\$5.00) per day up to and not exceeding twenty five dollars (\$25.00) for the entire one hundred twenty (120) day maximum allowable period for each site.

**SECTION 7. COMPLIANCE WITH APPLICABLE LAWS.** Itinerant Vendors and Temporary Site-Specific Vendors shall comply with all applicable local, state, and federal laws and regulations.

**SECTION 8. GENERAL REQUIREMENTS.** Vendors are responsible for complying with the following requirements:

- a) All food vendors must comply with New Mexico Environmental Improvement Division (EID) Food Service Regulations. An EID Food Service Permit must be obtained prior to approval of a Vendor's License.
- b) All display stands or structures must comply with any applicable regulations of the Dona Ana County Building Inspection Office.
- c) Vendors engaging in business within the Las Cruces Extra-Territorial Zone must comply with the regulations of the ETZ Ordinances.
- d) Vendors shall not obstruct any public road or right-of-way while engaging in business.
- e) Vendors shall not occupy or obstruct the Clear Sight Triangle at the intersection of any public road or right-of-way while engaging in business.
- f) A minimum twenty (20) square foot area is required for each display stand.

- g) Each display stand must have a setback of at least twenty five (25) feet from any public road or right-of-way.
- h) Each display stand must have at least one trash can receptacle with a minimum height of three (3) feet.
- i) All display signs must be placed in areas that do not obstruct traffic or the public view.
- j) Two (2) customer parking spaces must be provided for each display stand and one (1) space for every two hundred (200) square feet or portion thereof of the designated display area.
- k) Every vendor covered by this Ordinance shall at all times prominently display the "Vendor's License" issued by the County Clerk's office.

**SECTION 9. PENALTY.** Any person found guilty of violating any of the provisions of this Ordinance shall be fined not more than three hundred dollars (\$300.00) or imprisoned not to exceed ninety (90) days, or both the fine and imprisonment. Each day of violation shall be deemed a separate offense.

**SECTION 10. SEVERABILITY.** If any of the provisions, or part thereof, of this Ordinance or the application thereof to any person or circumstance are held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

**SECTION 11. EFFECTIVE DATE.** This Itinerant and Temporary Vendors Licensing Ordinance shall become effective as provided by law.

PASSED, APPROVED AND ADOPTED this 27th day of February 1990.

State of N. Mex., Co. of Dona Ana; ss  
 RECEPTION NO. 5494 I hereby  
 certify that this instrument was filed  
 for record and duly recorded on

BOARD OF COUNTY COMMISSIONERS  
 OF DONA ANA COUNTY, NEW MEXICO

MAR 26 1990

Jamie A. Stull  
 Jamie A. Stull, Chairman

at 9:28 a.m. Ordinance  
 Book 1 Page 615 of 17  
 Records of said County, Ruben Ceballos,  
 County Clerk  
 BY Ray B. Luchini DEPUTY

Everardo L. Chavez  
 Everardo L. Chavez, Vice

Enrique S. Gonzalez  
 Enrique S. Gonzalez, Member

Ray B. Luchini  
 Ray B. Luchini, Member

Ruben Ceballos  
 Ruben Ceballos, County Clerk

William R. Spaulding  
 William R. Spaulding, Member

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