

DOÑA ANA COUNTY ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF DOÑA ANA, by deleting and repealing Chapter 142 thereof, Building Code, and replacing it with a new Chapter 142, to be entitled Building Code, which chapter provides for the adoption of the 2015 International Building Code, 2015 International Residential Code, 2015 International Existing Building Code, 2009 International Energy Conservation Code, 2015 Uniform Mechanical Code, 2015 Uniform Plumbing Code, 2017 National Electrical Code, 2015 New Mexico Commercial Building Code, 2015 New Mexico Residential Building Code, 2015 New Mexico Earthen Building Materials Construction Code, 2015 New Mexico Existing Building Code, 2015 New Mexico Historic Earthen Buildings, 2009 New Mexico Energy Conservation Code, 2015 New Mexico Plumbing Code, 2012 New Mexico Swimming Pool, Spa and Hot Tub Code, 2015 New Mexico Mechanical Code, the 2012 New Mexico Solar Energy Code, the 2017 New Mexico Electrical Code, and the 2012 New Mexico Electrical Safety Code; the adoption of local amendments; the adoption of requirements for the issuance of permits; conflict resolution; fees; copies; and penalties.

Section 1.

The Code of the County of Doña Ana is hereby amended by deleting and repealing Chapter 142, Building Code.

Section 2.

The Code of the County of Doña Ana is hereby amended by adding thereto a new chapter, to replace Chapter 142 hereinabove repealed, to be Chapter 142, Building Code, to read as follows:

BUILDING CODE

- § 142-1. Applicability.**
- § 142-2. Adoption of International and National Codes.**
- § 142-3. Adoption of New Mexico codes.**
- § 142-4. Local amendments to code.**
- § 142-5. Issuance of plumbing, mechanical, and electrical permits.**
- § 142-6. Issuance of foundation/grading permits.**
- § 142-7. Conflict resolution.**
- § 142-8. Building permit fees.**
- § 142-9. Availability of copies.**
- § 142-10. Enforcement; penalty.**

§ 142-1. Applicability.

The provisions of this chapter and the codes, supplements, and construction standards adopted herein shall be controlling in the construction, alteration, and repair of all buildings and structures, including electrical, plumbing and mechanical systems, within the unincorporated areas of Doña Ana County, New Mexico.

§ 142-2. Adoption of International and National Codes.

The Board hereby adopts the following International and National Codes, the provisions of which are fully incorporated as part of this chapter as if fully set forth herein, except to the extent modified or amended by the New Mexico standards set forth in § 142-3, below:

- 2015 International Building Code
- 2015 International Residential Code
- 2015 International Existing Building Code
- 2009 International Energy Conservation Code
- 2015 Uniform Mechanical Code
- 2015 Uniform Plumbing Code
- 2017 National Electrical Code

§ 142-3. Adoption of the New Mexico Codes.

The Board hereby adopts the following New Mexico Codes, the provisions of which are fully incorporated as part of this chapter as if fully set forth herein:

- 2015 New Mexico Commercial Building Code
- 2015 New Mexico Residential Building Code
- 2015 New Mexico Earthen Building Materials Construction Code
- 2015 New Mexico Existing Building Code
- 2015 New Mexico Historic Earthen Buildings
- 2009 New Mexico Energy Conservation Code
- 2015 New Mexico Plumbing Code
- 2012 New Mexico Swimming Pool, Spa and Hot Tub Code
- 2015 New Mexico Mechanical Code
- 2012 New Mexico Solar Energy Code
- 2017 New Mexico Electrical Code
- 2012 New Mexico Electrical Safety Code

§ 142-4. Local amendments to code.

The following sections of the 2015 International Building Code are hereby revised and changed as follows:

- A. Pursuant to 14.5.1.10 NMAC, Section [A] 104.1 General. The Certified Building Official (CBO) is responsible for enforcing the state and local codes in an AHJ. The interpretations and procedures established by a CBO must be pursuant to the New Mexico Construction Industries Division (CID) statutes and rules:

Section 3302 CONSTRUCTION SAFEGUARDS:

B. New Section 3302.2.1, is added as follows: **3302.2.1 Waste Containment.** At all sites where streets, buildings or structures are being constructed, remodeled, repaired, demolished or maintained, the construction site shall be kept free from uncontained accumulations of waste materials, new or used, including but not limited to scrap or discarded pieces of wood, brick, sheetrock, shingles, tarpaper, cement, concrete, cinderblock, asphaltic concrete, and other building or construction products used at that site, as well as any containers and wrappers of such products. Accumulations shall be deemed contained when placed in approved storage containers appropriate for that type of waste. However, certain accumulations of waste shall be exempt from being placed in approved storage containers as follows:

1. *Major building demolition waste.* Waste produced by a major building demolition which is so large in scope or scale that it cannot reasonably be placed in approved containers shall be an exception to this section, provided all loose, readily windborne matter is contained and the remainder is, in the opinion of the building official, either not an immediate hazard to the public because of its nature or because of further security measures required on site by the building official.
2. *Masonry wastes.* Rock, concrete, mortar, brick and cinderblock wastes do not have to be placed in an approved container and may be collected into a pile on the ground, but must be removed to a disposal site designated by the building official or designee. Extra concrete from cleaning delivery trucks must be placed on site, and not on developed roads or sidewalks. This concrete must subsequently be removed to a disposal site designated by the Building Official or designee.
3. *Roofing materials wastes.* Shingles, tarpaper and other waste from roofing jobs that are capable of readily becoming windborne do not have to be placed into an approved container, provided such waste is placed directly into a dump truck or similar truck for hauling to a disposal site designated by the building official or designee.
4. *Windborne waste.* Waste capable of being windborne shall be contained daily, except on windy days when it shall be contained immediately. Windy days shall be those days when waste is observed becoming windborne.

C. New Section 3302.2.2 is added as follows: **3302.2.2 Waste Storage Containers.** Waste materials, unless granted a specific exception within this chapter, shall be deposited and stored within approved waste containers as follows:

1. *Sanitation department containers.* The following mechanically transported containers may be used for construction waste:

- a. Open-top containers commonly referred to as roll-off containers, to be used for construction waste not capable of readily becoming windborne and acceptable for limited amounts of heavy items such as earth, bricks, concrete and shingles.
 - b. Overhead dump containers, having lids and at least three cubic yards capacity, to be used for lightweight construction waste only, including that capable of readily becoming windborne, and for earth, bricks, concrete, shingles and other heavy materials.
2. *Other containers.* Other containers, including, but not limited to, dump trucks and fenced enclosures, may be used for waste control.
- D. New Section 3302.2.3 is added as follows: **3302.2.3 Containment and Disposal.** All waste or debris generated at sites governed by this chapter shall be contained and disposed of on a regular basis, except as follows:
- 1. *Roofing materials.* Roofing materials shall be disposed of on a daily basis.
 - 2. *Closing of container lids.* Containers having lids shall be kept closed at all times except when containers are being filled or emptied.
 - 3. *Distance requirements.* Required containers shall be located not more than 200 feet from the construction site. Containers may be shared by more than one construction site provided they meet the 200-foot distance requirement.
- E. New Section 3302.2.4 is added as follows: **3302.2.4 Responsibility.** It shall be the duty of any person holding a building permit to provide acceptable containers and to have all such waste placed therein and to have such containers emptied often enough to prevent their overflow. It shall further be the duty of the person holding the permit and the property owner to remove such waste to a disposal site designated by the county building official or designee.

Section 3305 SANITARY

- F. New Section 3305.2 is amended to read: **3305.2 Sanitation.** New construction and additions/alterations shall have on-site portable bathroom facilities for each project. If owners and/or contractors wish to share facilities, a request in writing, submitted for approval by the Building Official, is required. Exception: Whenever arrangements have been made with the property owner, persons working on additions/alterations may use existing on-site facilities.

Section 107 and R106 SUBMITTAL DOCUMENTS

- G. New Sections [A] 107.3.3 and R106.3.3 and amended to read: **[A] 107.3.3; R106 Phased Approval.** The *building official* is authorized to issue a *permit* for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been field complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed

at the holder's own risk with the building operation and without assurance that permit for the entire structure will be granted. The following additional requirements shall also apply:

- A. All permit requests for a "foundation only" or for "grading only" are to be routed for review by all routine reviewers, and such permits shall not be issued until the requirements of all outstanding reviewer comments are satisfied, including, but not limited to, zoning, drainage, SWPPP, or fire code requirements.
- B. Permit requests for a "foundation only" or for "grading only" shall describe what the foundation or grading is intended for. Additionally, a "foundation only" request shall include a site plan and a cross section of the proposed foundation. "Grading only" permit requests shall include a grading and drainage plan. Both permit requests shall also include a detailed description of erosion control measures and applicable SWPPP requirements.
- C. If any outstanding issue and/or condition exists, including, but not limited to, an issue and/or condition related to zoning, drainage, SWPPP or the fire code, that would prohibit the issuance of a building permit, then a "foundation only" or "grading only" permit shall not be issued.

§ 142-5. Issuance of plumbing, mechanical, and electrical permits

- A. No permit for plumbing, mechanical, or electrical work shall be issued unless in conjunction with a validly issued building permit, or in conjunction with an existing remodel not requiring a building permit. Plumbing, mechanical or electrical permits for new construction shall not be issued unless in conjunction with a valid building permit or mobile home installation permit.
- B. A permit for plumbing, mechanical, and/or electrical work may be issued without a building permit or mobile home installation permit when the work is limited to:
 - 1. A service change for an existing building or mobile home.
 - 2. Agricultural irrigation or well service only. No other buildings may be attached, included or connected.
 - 3. A remodel where no building permit is required. For example, only plumbing, mechanical or electrical work is necessary for the remodel.
 - 4. Gas yard lines and gas test for existing services.
 - 5. The installation of an irrigation system for landscaping of an existing home or building.
 - 6. Retrofitting services to existing homes or buildings such as upgrading evaporative cooling to refrigerated cooling.

7. An accessory building with an area of 200 square feet or less.

§ 142-6. Conflict resolution.

It is hereby declared to be the intent of the Board that in the event any conflict shall arise between any provisions contained in any of the New Mexico codes or County construction standards adopted herein, and the International or National Codes adopted herein, that the provisions of the New Mexico codes and County construction standards shall control.

§ 142-7. Building permit fees.

The Board has established, by Chapter 179, Article VI, a schedule of building permit fees to partially defray the costs of administering and enforcing a building code ordinance. Building permit fees shall be set by resolution until modified or amended by the Board. Valuation will be determined by the Building Services Department using the most current Building Valuation Data Table as provided by the International Code Council Building Safety Journal.

§ 142-8. Availability of copies.

Copies of this chapter and the International, National, and New Mexico codes, and Doña Ana County construction standards adopted herein shall be available and subject to inspection during regular working hours in the County Building Services Department.

§ 142-9. Enforcement; penalty.

It shall be the duty of the Building Services Department to enforce the provisions of this chapter and the provisions of the International, National, and New Mexico codes, and Doña Ana County construction standards adopted herein. In addition to any and all remedial action or abatement procedures contained in the International, National, or New Mexico codes, and Doña Ana County construction standards adopted herein, any person violating any provision of this chapter may be punished as set forth in Chapter 1, General Provisions, Article III, General Penalty. These provisions for enforcement are not meant to be exclusive and the provisions of this chapter may be enforced through any other means allowed by law.

Section 3. Severability.

The provisions of this Ordinance and of the International, National, New Mexico and Doña Ana County codes adopted herein, are severable, and if any provision, sentence, clause, section, subsection, phrase or any part thereof is found to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any remaining provision, sentence, clause, section, subsection, phrase, or part of this ordinance, or of the International, National, New Mexico or Doña Ana County codes.

Section 4. Effective Date.

Pursuant to NMSA 1978, § 4-37-9(B), this Ordinance shall be effective thirty (30) days after being recorded in the Doña Ana County Clerk's Office.

ENACTED this _____ day of _____, 2020.

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

Lynn J. Ellins, District 1, Chairman **For/Against**

Manuel A. Sanchez, District 5, Vice Chairman **For/Against**

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

Shannon Reynolds, District 3 **For/Against**

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

ATTEST:

Amanda López Askin, Ph.D.
County Clerk