

RE-RECORDED TO INCLUDE SEALS

**ORDINANCE NO: 267-2014**

**AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF DOÑA ANA, Chapter 300, Subdivision of Land, Article II, "Definitions", § 300-8 thereof, entitled "Terms Defined" Article VII: "Special Procedures", § 300-28 "Exemptions" and § 300, Attachment 1, Appendix, Sample Forms.**

**Section 1.**

Chapter 300, Subdivision of Land, § 300-8 Terms Defined, of the Code of Doña Ana County is hereby amended to add and to amend definitions as follows:

**SUBDIVISION** - Division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance; or for building or private road development, whether immediate or future; however, "subdivision" does not include:

- (1) The sale, lease, or other conveyance of any single parcel that is thirty-five acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978 § 7-36-20 for the preceding three years; or
- (2) The sale or lease of apartments, offices, stores or similar space within a building; or
- (3) The division of land within the boundaries of a municipality; or
- (4) The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land; or
- (5) The division of land created by court order where the order creates no more than one parcel per party; or
- (6) The division of land for grazing or farming activities, provided that a deed restriction ensures that the land continues to be used for grazing or farming activities; or
- (7) The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased; or
- (8) The division of land to create burial plots in a cemetery; or
- (9) The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the

- seller or donor to sell or give no more than one parcel per tract of land per immediate family member; or
- (10) The division of land created to provide security for mortgages, liens or deeds of trust provided that the division of land is not the result of a seller-financed transaction, or
  - (11) The sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty acres; or
  - (12) The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity; or
  - (13) The division of a tract of land into two parcels that conform with applicable zoning ordinances; provided that a second or subsequent division of either of the two parcels within five years of the date of the division of the original tract of land shall be subject to the provisions of the New Mexico Subdivision Act and these regulations; provided further that a survey, and a deed if a parcel is subsequently conveyed, shall be filed with the county clerk indicating that the parcel shall be subject to the provisions of the New Mexico Subdivision Act and these regulations if the parcel is further divided within five years of the date of the division of the original tract of land; or
  - (14) The purchase of land by a government entity for the purpose of constructing a public works project.

## **Section 2.**

Chapter 300, Subdivision of Land, § 300-28, Special Procedures - Exemptions, of the Code of Doña Ana County is hereby amended to add and to amend as follows:

### **B. Verification of Exemption**

- 1) ...
- 2) The County Community Development Department shall review the claim of exemption and supporting documents and shall return the completed exemption claim form to the applicant by either personal notification or first class mail, with a copy to the Planning and Zoning Commission within thirty (30) calendar days

after receipt by the department of the completed claim of exemption; provided, however, that the thirty (30) calendar day period shall not begin to run until the person claiming the exemption has delivered a completed claim of exemption including all supporting documents, to the County Community Development Department. The date of notification is either the date of mailing or the personal notification.

- (a) A claim of exemption shall be approved by the Community Development Director unless the request does not qualify for an exemption as stated within the definition of a subdivision contained within Article II of these regulations, or because of lot size and access requirements as stated in Chapter 250, Land Use and Zoning, of the Doña Ana County Code. If the claim of exemption is approved, or if the County Community Development Director fails to mail written notice to the claimant within 30 calendar days after receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land in the manner provided by the exemption under which the application was made without complying with the provisions of this section. If approved, the claim of exemption form shall be filed along with the conveyance documents in the office of the County Clerk.
- (b) In denying a claim of exemption, the Community Development Director shall cite the reason the request does not qualify for an exemption as stated within the definition of a subdivision contained within Article II of these regulations, or because of lot size and access requirements as stated in Chapter 250, Land Use and Zoning. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article X, or request an interpretation of the requirements of these regulations as provided in Article I, § 300-6, or submit an application for a subdivision as provided in these regulations.
- (c) In computing a period of time prescribed or allowed by this section, the following rules apply: 1) If the period is expressed in days, the first day of the period is excluded and the last day is included; 2) If the last day of the period is a Saturday, Sunday, or legal holiday, the period ends on the next day that is not a Saturday, Sunday or legal holiday.

### **Section 3.**

Chapter 300, Subdivision of Land, § 300 of the Code of Doña Ana County is hereby amended to revise the Form in the Appendix entitled "Claim of Exemption Application" as follows:

## CLAIM OF EXEMPTION

I, \_\_\_\_\_, owner(s) of property in Book \_\_\_\_\_, Page(s) \_\_\_\_\_, claim an exemption from the requirements of the New Mexico Subdivision Act and the Dona Ana County Code, Section 300, "Subdivision of Land", as amended, for the following reason:

1. The sale, lease or other conveyance of any single parcel that is thirty-five acres or larger in size within any twelve month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978 §7-36-20, for the preceding three years.  
**ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PARCEL.**
2. The sale or lease of apartments, offices, stores or similar space within a building.
3. The division of land within the boundaries of a municipality.
4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.
5. The division of land created by court order where the order creates no more than one parcel per party. **ATTACH CERTIFIED COPY OF COURT ORDER.**
6. The division of land for grazing or farming activities, provided a deed restriction ensures that the land continues to be used for grazing or farming activities.  
**ATTACH COPY OF PROPOSED CONVEYANCE DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES. SUCH DOCUMENTS MUST CONTAIN A DEED RESTRICTION RUNNING WITH THE LAND THAT THE DIVIDED LAND WILL BE USED FOR GRAZING OR FARMING ACTIVITIES.**
7. The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased.  
**ATTACH CERTIFIED SURVEYS SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATION.**
8. The division of land to create burial plots in a cemetery.  
**ATTACH CERTIFIED SURVEYS AND DOCUMENTS CREATING OR VERIFYING THE EXISTENCE OF A CEMETERY.**
9. The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;  
**ATTACH COPY OF PROPOSED CONVEYANCE DOCUMENT(S) AND BIRTH CERTIFICATE(S), ADOPTION CERTIFICATE(S) OR OTHER DOCUMENT(S) DEMONSTRATING FAMILY RELATIONSHIP CLAIMED. BAPTISMAL CERTIFICATES ARE NOT ACCEPTABLE DOCUMENTATION.**
10. The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction.  
**ATTACH COPIES OF ALL FINANCING DOCUMENTS, WHICH MUST INCLUDE A DEED RESTRICTION IDENTIFYING THAT THE DIVISION IS FOR FINANCING PURPOSES ONLY TO PROVIDE SECURITY FOR MORTGAGES, LIENS OR DEEDS OF TRUST, PROVIDED THAT THE DIVISION OF LAND IS NOT A RESULT OF A SELLER-FINANCED TRANSACTION.**
11. The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty acres. **ATTACH CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL(S).**
12. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in §501 (c) (3) of the United State Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity.  
**ATTACH COPIES OF I.R.S. EXEMPTION LETTER, AND/OR DOCUMENTS DEMONSTRATING ENTITLEMENT TO EXEMPTION AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONATED.**

- 13. The division of a tract of land into two parcels that conform with applicable zoning ordinances; provided that a second or subsequent division of either of the two parcels within five years of the date of the division of the original tract of land shall be subject to the provisions of the New Mexico Subdivision Act and these regulations; provided further that a survey, and a deed if a parcel is subsequently conveyed, shall be filed with the county clerk indicating that the parcel shall be subject to the provisions of the New Mexico Subdivision Act and these regulations if the parcel is further divided within five years of the date of the division of the original tract of land. **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PARCEL(S) PROPOSED TO BE DIVIDED, AND PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL PARCEL AND DATES OF ALL DIVISIONS, ALONG WITH THE PROPOSED CONVEYANCE DOCUMENT(S).**
- 14. The purchase of land by a government entity for the purpose of constructing a public works project. **ATTACH CERTIFIED SURVEY OF PROJECT SHOWING LOCATION AND SIZE OF TRACT.**

Printed Name: \_\_\_\_\_

Physical Address of Property: \_\_\_\_\_

Mailing Address of Applicant: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Email: \_\_\_\_\_

I certify that I am the owner of the property subject to this application and that the information provided by me in this application is true and correct and that all the documents attached to this application are originals or true, complete and correct copies of the originals.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF NEW MEXICO)  
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

by \_\_\_\_\_

Notary Public \_\_\_\_\_

My Commission expires: \_\_\_\_\_ {Seal}

Application Fee	Receipt #	APPROVED	DENIED
-----------------	-----------	----------	--------

If denied, reason: \_\_\_\_\_

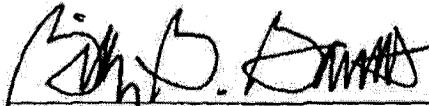
County Planner: \_\_\_\_\_ Date: \_\_\_\_\_

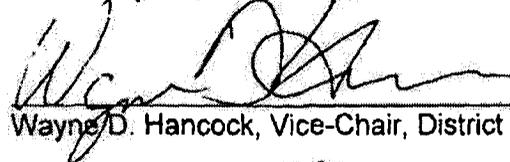
**Section 4. Effective Date**

This ordinance shall become effective thirty days after the ordinance has been recorded in the office of the Doña Ana County Clerk.

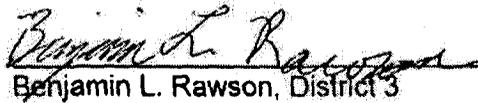
**ENACTED** this 28th day of January, 2014

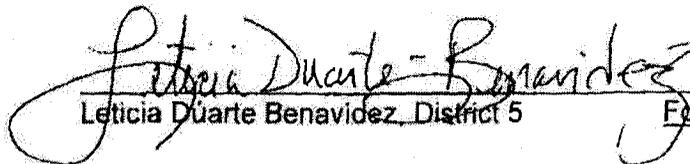
**BOARD OF COUNTY COMMISSIONERS OF  
DOÑA ANA COUNTY, NEW MEXICO**

  
Billy G. Garrett, Chair, District 1  For /  Against

  
Wayne D. Hancock, Vice-Chair, District 4  For /  Against

  
Dr. David J. Garcia, District 2  For /  Against

  
Benjamin L. Rawson, District 3  For /  Against

  
Leticia Duarte Benavidez, District 5  For /  Against



ATTEST:

  
Lynn J. Ellins  
County Clerk



  
COUNTY OF DONA ANA )  
STATE OF NEW MEXICO ) ss      ORDINANCE/DAC  
PAGES: 6

I Herby Certify That This Instrument Was Filed for  
Record On JAN 28, 2014 03:00:21 PM  
And Was Duly Recorded as Instrument # 1401834  
Of The Records Of Dona Ana County



Witness My Hand And Seal Of Office,  
Lynn J. Ellins, County Clerk, Dona Ana, NM

Deputy      Cynthia Chavez



COUNTY OF DONA ANA )  
STATE OF NEW MEXICO ) ss

ORDINANCE/DAC  
PAGES: 7

I Hereby Certify That This Instrument Was Filed for  
Record On JAN 30, 2014 10:03:09 AM  
And Was Duly Recorded as Instrument # 1402003  
Of The Records Of Dona Ana County



Witness My Hand And Seal Of Office,  
Lynn J. Elline, County Clerk, Dona Ana, NM

Deputy Rafael Garcia