



## ORDINANCE NO. 6-18-20.12B

### AMENDMENT TO ORDINANCE NO. 10-11-18.7A SANDOVAL COUNTY COMPREHENSIVE ZONING ORDINANCE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANDOVAL COUNTY THAT THE FOLLOWING AMENDMENT IS HEREBY MADE TO ORDINANCE 10-11-18.7A, SANDOVAL COUNTY COMPREHENSIVE ZONING ORDINANCE, SECTION 6, DEFINITIONS, AND SECTION 9. RURAL DISTRICTS/SECTION 9 (1). RRA – RURAL RESIDENTIAL AGRICULTURAL DISTRICT, AS FOLLOWS:

#### **SECTION 6. DEFINITIONS:**

**“Bed and Breakfast”** means a single family residence, including guest houses or accessory buildings located on the same lot as the primary residence, that are rented for a short term overnight lodging where food service is provided to the guests.

**“Dwelling Unit”** means a structure, part of a structure, mobile home, modular home, or manufactured home that is designed for residential occupancy that contains one or more connected rooms and a kitchen and bathroom(s). The term dwelling unit does not include recreational vehicles.

**“Dwelling Unit, Singular”** means a dwelling unit that is not physically connected to any other dwelling unit as part of a single structure, which contains a kitchen and bathroom(s).

**“Dwelling Unit, Multiple”** means a type of housing where 2 or more separate units for residential inhabitants, which contains a kitchen and bathroom(s), are contained within a building or several buildings within one complex.

**“Guest House”** means a detached dwelling unit, without a kitchen, which is on the same lot with and is accessory to a primary singular dwelling unit

**“Hotel / Motel”** means a building or group buildings, located on a non-residentially zoned property, where food service may or may not be provided..

**“In-Laws Quarters”** means an attached building with a kitchen similar to the primary dwelling unit.

**“Short Term Rental”** means a leased or rented single family residence, or a residence within a multifamily residential building, in its entirety or a portion thereof, for twenty-nine (29) days or less per lease or rental period, where no food service is provided to the guest(s); includes Guest House and In Law Quarters.

#### **SECTION 9. RURAL DISTRICTS:**

##### **SECTION 9 (1). RRA - RURAL RESIDENTIAL/AGRICULTURAL DISTRICT.**

- A. **Intent.** This zone district maintains a rural character of land use with low-density residential and agricultural development, ideally on large lots that do not rely on or require connections to centralized water and sewer systems. Certain other uses are allowed, provided they are compatible with the rural residential and/or agricultural nature of the district.

**Permissive Uses.** Any of the following uses are allowed in this zone district:

1. One singular dwelling unit per lot;
2. One Guest House per lot, provided that:
  - a. All applicable requirements of the New Mexico Environment Department are met prior to construction of a Guest House.
  - b. All other applicable requirements of this Ordinance are met.
3. Accessory uses and structures;
4. Agricultural activities, including wineries as defined by this Ordinance, provided that any areas devoted to livestock shall be constructed and maintained to discourage the concentration and breeding of insects and rodents that may be detrimental to human habitation, and provided that animal excrement shall not be allowed to accumulate in excessive amounts;
5. Home occupations; and
6. Public parks, open space, and accessory uses customarily incidental to such uses;
7. Exploratory water wells related to the development of water resources by governmental entities;
8. Permissive group homes;
9. Short Term Rentals;
10. In-Law Quarters.

**Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. Family Cluster Developments
2. Public and private schools and related facilities;
3. Churches and related facilities;
4. Recreational facilities;
5. Day-care and child-care facilities as regulated by the State of New Mexico;
6. Residential group training homes for developmentally or physically handicapped persons, and residential nursing homes that have, no more than ten (10) residents at any one time;
7. Bed and Breakfast;
8. Real estate offices;
9. Essential public utility structures;
10. Commercial stables, rodeo arenas, polo grounds, and riding academies;
11. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance; and
12. Communications Towers as authorized by Sandoval County Ordinance #03-10-16.11A.
13. A Building or Structure that would otherwise be defined as an "Accessory Structure" to a dwelling unit under the terms of Section 6 of this Ordinance but that is not physically located on the same lot with a dwelling unit. Periodic inspections by the Zoning Officer will be required to verify compliance with the provisions of this section.
14. Exploratory water wells related to the development of water resources by non-governmental entities.
15. Conditional group homes.

- D. **District Standards.** The following standards apply to all land uses within the zone district:
1. All residential and residential-related buildings and structures shall be located with a front setback of no less than twenty (20) feet, side setbacks of no less than ten (10) feet and rear setback of no less than ten (10) feet;
  2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

THE ABOVE REFERENCED AMENDMENTS WERE MADE SUBJECT TO THE FOLLOWING FINDINGS OF FACT:

### **FINDINGS OF FACT**

- (1) In December 2019, NM Governor Michelle Lujan Grisham signed SB 106, which amends existing regulations on lodging related to NM Lodger's Tax (Lodgers Tax Act, NMSA 1978 3-38-13 *et seq*). This amendment removed previous exemptions on lodging establishments providing three (3) or fewer rooms for short-term rental purposes. Following this, the Sandoval County Board of Commissioners passed County Ordinance No. 11-7-19.10, an amendment to Ordinance No. 96-09-19.3J (Lodger's Tax Ordinance) to comply with the new State regulations.
- (2) County Ordinance No. 11-7-19.10 amends the definition of Taxable Premises from Ordinance No. 96-09-19.3J (Article V, Section 36-96, Definitions) to include the following (new language bold and underlined):  
  
"TAXABLE PREMISES means a hotel, apartment, apartment hotel, apartment house, lodge, lodging housing, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort. Mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, RV park, tourist camp, cabin, short term rental provider, or other premises used for lodging".
- (3) SB 106 also amends Section 3-38-16 NMSA 1978 (being Laws 1969, Chapter 199, Section 4) to include the following:  
  
"3-38-16. EXEMPTIONS.—The occupancy tax shall not apply:  
  
A. if a vendee:
  - (1) has been a permanent resident of the taxable premises for a period of at least thirty consecutive days; or
  - (2) enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty consecutive days;...
- (4) The current definitions for "Boarding, Rooming, or Lodger's House", and "Hotel/Motel" are in conflict with new State Legislation and recent actions taken by the Board of County Commissioners. There is a legal basis for the amendment of existing definitions, and the creation of new definitions, to provide consistency with current State law.

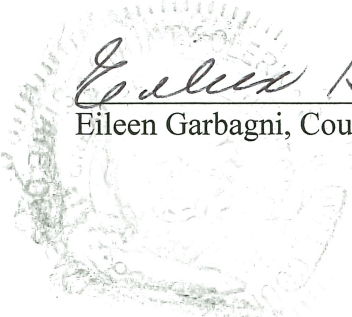


- (5) It is the determination of the Planning and Zoning Division that short term rentals, as proposed, will not be detrimental to the health, safety, and general welfare of County residents in that no food service will be provided with these uses, and said short term rentals reflect a level of residential use that is consistent with the County's rural residential agricultural zoning standards.

PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF JUNE, 2020,

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SANDOVAL COUNTY



Eileen Garbagni

Eileen Garbagni, County Clerk

David J. Heil

David J. Heil, Chairman

Jay C. Block

Jay C. Block, Vice Chairman

Katherine A. Bruch

Katherine A. Bruch, Member

APPROVED AS TO FORM:

Robin Hammer

Robin Hammer, County Attorney

F. Kenneth Eichwald

F. Kenneth Eichwald, Member

Michael Meek

Michael Meek, Member