

NOTICE OF PROPOSED ADOPTION OF SAN MIGUEL COUNTY ORDINANCE
NO. SMC-06-12-18-ORD-1.2.

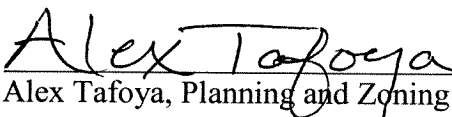
PUBLIC NOTICE is hereby given that on Tuesday, June 12, 2018, beginning at 2:00 p.m., or as soon thereafter as the matter can be heard, in the San Miguel County Commission Chambers, 2nd Floor, San Miguel County Administration Building, 500 W. National Avenue, Las Vegas, New Mexico, the Board of County Commissioners of San Miguel County will hold and conduct a public hearing on the proposed adoption of San Miguel County Ordinance No. SMC-06-12-18-ORD-1.2, the title and general summary which as follows:

Title: An ordinance repealing Ordinance No. SMC-04-08-08-ORD-1, Business License and Regulations and adding a new Paragraph 1-1-10.1 to Section 1-1-10-Certain Businesses Require Supervision.

- 1-1-1. License Required.
- 1-1-2. Fee.
- 1-1-3. Application – License.
- 1-1-4. County Manager to Provide License.
- 1-1-5. License Shall Provide Information.
- 1-1-6. License May be Refused or Revoked.
- 1-1-7. Appeal Process of License Refusal or Revocation.
- 1-1-8. False Statement, Penalty.
- 1-1-9. County Manager to Make Inspections.
- 1-1-10. Certain Businesses Require Supervision.
- 1-1-11. Licensing Conducive to General Welfare.
- 1-1-12. Separate Ordinance May be Declared for New Businesses.
- 1-1-13. Transfer of License.
- 1-1-14. No License Fees Refunded.
- 1-1-15. Collection of Fee.
- 1-1-16. Lien and Priority.
- 1-1-17. Cease and Desist.
- 1-1-18. Distraint Warrant May be Issued.
- 1-1-19. Penalty.
- 1-1-20. Effective Date.

Board of San Miguel County Commissioners:

Chris A. Najar, Chairman
Janice C. Varela, Vice-Chair
Rock G. Ulibarri, Member
Arthur J. Padilla, Member
Maria L. Martinez, Member

Signed: 
Alex Tafuya, Planning and Zoning Supervisor

Publish: Las Vegas Optic, May 23, 2018

COUNTY OF SAN MIGUEL
ORDINANCE NO. SMC-06-12-18-ORD-1.2

BUSINESS LICENSE REGISTRATION AND REGULATIONS

TITLE: AN ORDINANCE REPEALING ORDINANCE NO. SMC-04-08-08-ORD-1, BUSINESS LICENSE AND REGULATIONS, ENACTING A NEW BUSINESS LICENSE REGULATIONS ORDINANCE AND ADDING A NEW PARAGRAPH 1-1-10.1 TO SECTION 1-1-10 CERTAIN BUSINESSES REQUIRE SUPERVISION.

1-1-1 LICENSE REQUIRED. All persons, firms, corporations or associations of any character engaged in any of the various pursuits, businesses and occupations within the unincorporated area of San Miguel, including any recognized Extra-territorial Zone, and hereinafter mentioned, shall before commencing business, and annually thereafter, before the fifteenth day of March, secure a business registration license from the County of San Miguel under the procedures hereinafter set forth, and shall pay at the rate set herein in connection with each pursuit, business or occupation. In the event that any license fee due hereunder shall not be paid by the fifteenth day of March, a penalty in the amount of 10% of the license fee due shall be added for late filing; provided however, that such penalty shall not be added if such license fee is not then due and payable. Separate license fees may be imposed upon each place of business conducted by the same person, firm, association or corporation.

1-1-2 FEE. The business registration fee for all businesses or occupations shall be thirty-five dollars (\$35.00) per year and shall not be prorated for businesses or occupations conducted for a portion of the year.

1-1-3 APPLICATION – LICENSE PROCEDURE. It shall be the duty of all persons prior to engaging in any business or occupation, to obtain an application therefore from the County Manager or his/her designee. The application shall contain information concerning the name of the person, firm, corporation or association undertaking the business, a complete address to include physical and mailing address, both in the County and in any municipality and incorporated villages within the County and elsewhere, of such person, firm, corporation or association, together with a description of the nature of the business to be conducted, which application shall also comply with Section 1-1-8 hereof, and contain information sufficient to show compliance with all other ordinances of the County and municipality and incorporated villages within the County, such information constituting the provisions under which approval of a County license is issued and return said application with all information and payment of the fee imposed in Section 1-1-2 herein.

1-1-4 COUNTY MANAGER TO PROVIDE LICENSE. It shall be the duty of the County Manager or his/her designee to provide the appropriate business license and

receipt for payment for said license as shall be issued by the County Treasurer or his/her designee.

1-1-5 LICENSE SHALL PROVIDE INFORMATION. No license shall be issued hereunder unless the applicant for the license shall furnish to the County Manager or his/her designee a current New Mexico Taxpayer Identification Number and comply with the provisions of Section 1-1-3 herein.

1-1-6 LICENSE MAY BE REFUSED OR REVOKED. No license shall be issued without a properly completed application as hereinbefore set forth. Any license issued may be revoked upon a finding by the County Manager or his/her designee upon written determination that it is in the public interest that license be revoked or refused.

1-1-7 APPEAL PROCESS OF LICENSE REFUSAL OR REVOCATION. If pursuant to Section 1-1-6, the County Manager or his/her designee refuses to issue licenses when he/she may deem it in the best interest of the public or because such business license registration is incomplete, any person aggrieved by the decision of the County Manager or his/her designee may, within ten (10) days of the decision appeal such decision in writing to the governing body of the County, stating the specific reasons such action should be modified or reversed. The governing body shall, within thirty (30) days from receipt of such appeal, set a time and date for the appeal to be heard at a public hearing.

The governing body may appoint a hearing officer to conduct a public hearing and to recommend findings of fact to the governing body. If upon such hearing before the governing body of the County or upon receipt of findings from the hearing officer, a majority of the governing body present and voting be of the opinion that such decision is in the best interest of the public, the decision shall be affirmed; otherwise a license shall be issued.

Failure to file a notice of appeal to the governing body in the manner and within the time specified in this section shall operate as a waiver of the right to appeal, and the decision of the County Manager or his/her designee shall become final.

1-1-8 FALSE STATEMENT, PENALTY. If any person, firm, agent or corporation, shall file a materially false statement of the nature of the business to be conducted or of the interested parties therein, where required hereunder, or as to any other inquiry upon the application, as hereinbefore required, the County Manager or his/her designee on ascertaining such fact, may immediately revoke such license.

1-1-9 COUNTY MANAGER TO MAKE INSPECTIONS. The County Manager or his/her designee is hereby directed and authorized to make periodic inspections of all businesses licensed hereunder, to determine whether all laws of the State of New Mexico and the ordinances of the County are being observed.

1-1-10 CERTAIN BUSINESSES REQUIRE SUPERVISION. It is recognized by the governing body of the County that certain businesses affect the health, safety and general welfare of the citizens more than others, and that certain businesses require supervision by the County authorities to a larger degree than others; that businesses tending to attract crowds or children are among these; that businesses operated temporarily or for short periods of time by persons not permanent residents of the County may result in complaints to the County authorities, which complaints must be investigated; and that vending machines and other coin-operated devices, being operated without human sales personnel require additional supervision because of the temptation of theft presented thereby.

1-1-10.1. It shall be the duty of all persons, firms, corporations or associations to return said business license application with copies of all current and appropriate license, certificate or permit issued by the relevant agency, division or department of the State of New Mexico, which authorizes such person, firm, corporation or association to conduct business and operate within the State of New Mexico.

1-1-11 LICENSING CONDUCIVE TO GENERAL WELFARE. It is hereby declared that the licensing and regulation of the businesses herein is conducive to the health and general welfare of the citizens of the County.

1-1-12 SEPARATE ORDINANCE MAY BE DECLARED FOR NEW BUSINESSES. The governing body of the County may at any time adopt a separate ordinance declaring and fixing the requirement of a license upon any business or occupation, and also fixing the amount of the license or licenses to be charged when the public's health or welfare so require.

1-1-13 TRANSFER OF LICENSE. Licenses issued under this ordinance shall not be transferable without the consent of the County Manager or his/her designee and shall not be transferable in any event unless the stock of merchandise covered thereby shall remain intact and in the same location within the County.

1-1-14 NO LICENSE FEES REFUNDED. No license fees paid hereunder shall be refunded and a license fee may not be prorated for business conducted for a portion of a year.

1-1-15 COLLECTION OF FEE. The license fee herein provided for shall be collected by the County Manager or his/her designee, and shall be paid to the County Treasurer by each person, firm or corporation owing such license fee, and before engaging in any business subject to such license fee.

1-1-16 LIEN AND PRIORITY. The license fee fixed as hereinbefore provided shall be and constitute a lien in favor of the County upon the personal property of the person,

firm, corporation or business used in connection with said business, from the time that such license fee is fixed. Such lien shall have priority over any lien or encumbrance whatsoever, except the lien of state, federal and county taxes, and may be enforced in the manner provided by law.

1-1-17 CEASE AND DESIST. Any business in violation of these provisions and any provisions under which such business license is issued, may be sent a notice of violation by certified mail which shall specifically state that the business registration fee or license fee provisions are being violated, and the fee plus a ten (10) percent penalty must be paid within ten (10) days, or the County will order the business to discontinue operation until all fees are paid.

If the fees are not paid within the specified time, the County may issue a cease and desist order stating the business cannot operate until a business registration license application is submitted and the past due fees and penalty are paid.

If the cease and desist order is not obeyed, the County may institute proceedings in District Court, asking the Court to prevent the conduct of business or prevent occupancy of the building, structure or land on which the business is located until the past due fee and any penalty are paid and until a business registration license application is submitted to the County and approved.

In the event of any civil suite for collection of any license fee past due, the County shall be entitled to recover the fee, with interest and costs, and a reasonable attorney's fee, to be fixed by the Court trying the case.

1-1-18 DISTRAINT WARRANT MAY BE ISSUED – PROCEDURE. The lien provided for may be foreclosed either by a suit in the District Court in the manner as chattel mortgages are foreclosed, or the County Manager or his/her designee under his/her hand and seal of the County, issue a distraint warrant against one or more persons who are delinquent in the payment of such fees. Such warrant shall be directed to the County Sheriff and shall order him to seize and sell such property of such persons in an amount sufficient to pay the delinquent license fee.

Such warrant when issued shall be delivered to the County Sheriff who shall execute the same within five days of its receipt by him, by seizing the personal property used in the business of such person named therein in such an amount that the proceeds of the sale thereof shall be sufficient to pay such license fee as may be named in said warrant, together with all costs of levy, seizure, preservation of the property, and sale, unless the person whose property is to be seized shall pay the sums named in said warrant and all expenses and costs incurred before the time of sale.

Property seized under such distraint warrant shall be sold at public auction to the highest and best bidder for cash, after advertising the time and place for such sale, the property

to be sold and the amount to be realized from said sale in six (6) conspicuous places in the County for a period of ten days before said license fee shall be paid, together with the cost of levying said warrant, preserving the property, advertising and conducting the said sale, and the surplus, if any, shall be paid over to the person, firm, corporation or business owing such license fee.

1-1-19 PENALTY. Any person found guilty of violating the provisions of this ordinance may be fined up to \$300.00 and/or sentenced to ninety (90) days in jail. Each day this ordinance is violated shall constitute a separate offense.

1-1-20 EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its recording in the Office of the San Miguel County Clerk.

MOVED, SECONDED AND ADOPTED this _____ day of _____, 2018 by the BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW MEXICO.

Chris A. Najar, Chairman

Janice C. Varela, Vice-Chair

Arthur J. Padilla, Member

Rock G. Ulibarri, Member

Maria L. Martinez, Member

Dr. Vidal Martinez, County Manager

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Geraldine E. Gutierrez
San Miguel County Clerk

Dave Romero, Jr.
San Miguel County Attorney