

LUNA COUNTY, NEW MEXICO

ORDINANCE 104



LUNA COUNTY FACILITY USAGE ORDINANCE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY:

SECTION 1.0 PURPOSE.

1.1 The purpose of the Luna County Facility Usage Ordinance is to address non-governmental and public utilization and scheduling of space owned by the citizens of Luna County which are controlled and operated by the Board of County Commissioners of Luna County (“BOCC”).

1.2 Certain Luna County Spaces designated by the BOCC as available for public use may be used by members of the public or organizations as provided by this rule and other applicable public safety rules.

1.3 Luna County is a political subdivision of the State of New Mexico formed for the purpose of governing the territory and inhabitants therein and public usage of Luna County Space is subordinate to that purpose and all costs related to public usage of Luna County Space shall be paid by the user.

SECTION 2.0 POLICY

2.1 **APPLICABILITY.** This Ordinance does not apply to the County, its elected officials, employees, agents or contractors within the regular course and scope of their duties.

2.2 Users who have separate agreements, such as leases, for County facilities shall be permitted to operate under said agreements notwithstanding any provision in the Ordinance to the contrary.

2.3 **FEES.** Usage fees shall be established separately by the BOCC and shall be calculated to cover the County’s costs associated with the public use of the facility as well as appropriate security or cleaning deposits.

SECTION 3.0 CONFLICTS.

3.1 In the event of conflict with other Luna County Ordinances or Resolutions, the provisions of this Luna County Facility Usage Ordinance shall supersede other previously enacted ordinances and resolutions unless otherwise stated herein.

SECTION 4.0 DEFINITIONS.

4.1 “Application Fee” refers to the non-refundable fee set by the BOCC that must be submitted along with the Facility Use Application for consideration and approval of a Public and/or Non-governmental use of Space.

4.2 “Facility Use Application” refers to the document that must be completed and submitted, along with the Application Fee, requesting permission and scheduling the use of Space.

4.3 “Indemnity Cost” refers to any additional costs incurred by Luna County to insure against or obtain indemnification by Users, when necessary.

4.4 “Liability Cost” refers to the cost of obtaining insurance coverage to cover approved Users and their use of Space incurred by the BOCC and which is paid by the User.

4.5 “Non-Governmental Usage” refers to the use of space by anyone for a purpose not related to the governance of Luna County, as determined by the BOCC, but does not include exclusive rental or lease agreements between the BOCC and any third-party.

4.6 “Public Event” refers to any planned, organized, promoted or encouraged gathering or activity for a specific purpose held on, in or at Luna County Space by any User or persons or entities not affiliated with the BOCC.

4.7 “Public Space” or “Luna County Public Space” refers to a specific type of Space owned, operated or controlled by the BOCC and generally open for public use, such as Courthouse Park and the Luna County Skate Park.

4.8 “Public Usage” refers to use of Space by members of the public, external entities and other usage not by Luna County, it’s elected officials, employees and agents, but does not include exclusive rental or lease agreements between the BOCC and any third-party.

4.9 “Public Use Permit” refers to a permit issued by or on behalf of the BOCC for the exclusive use of Luna County Space for a specified date and time.

4.10 “Refundable Deposit” refers the to amount paid by an approved User to ensure compliance with applicable terms and conditions of use, including post-use cleaning and which is subject to forfeiture for material non-compliance with and term or condition of use.

4.11 “Site Fee” refers to the cost assessed and paid in advance by an approved User of Space.

4.12 “Space” or “Luna County Space” refers to areas, both inside and out, property, buildings and structures owned, operated or controlled by the Board of County Commissioners of Luna County.

4.13 “TULIP” refers to Tenant Users Liability Insurance Coverage offered by Luna County’s insurer to Users covering their usage of Space.

4.14 “Usage Fee” refers to all fees assessed for the approved use of Space and may include an Application Fee, Site Fee, Refundable Deposit, Liability Cost and Indemnification Cost.

4.15 “User” refers to the person or entity approved for use of Space.

SECTION 5.0 LUNA COUNTY SPACES DESIGNATED FOR PUBLIC AND NON-GOVERNMENTAL USAGE

Subject to use by Luna County for governance purposes and BOCC approved governmental uses, the following Space is designated for Public Usage and Non-Governmental Usage:

5.1 Mimbres Valley Special Events Center with or without kitchen access

5.2 Luna County Courthouse Park

5.2.1 Pavilion

5.2.2 Gazebo

5.2.3 Outdoor Restrooms

5.2.3 Duck Downs (SE park area)

5.3 Old Train Depot

5.4 Starmax Family Entertainment Center

5.5 MVLC Columbus

5.6 Courthouse Office Space

5.7 Park Plaza Office Space

5.8 VFD – Substations

5.7.1 Florida Mountain

5.7.2 Sunshine

5.7.3 Cooke’s Peak

5.9 Luna County Skate Park

5.10 Other facilities designated by the BOCC from time to time

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SECTION 6.0 PERMITTING PROCESS

6.1 Public Use Permits may vary greatly from facility to facility and will be issued by the Luna County Community Development and Planning Department Monday through Friday during regular business hours.

6.2 In order to obtain a Public Use Permit, Users must first complete and submit a Facility Use Application along with any fees and supporting documentation. The Application is available from the Luna County Community Development and Planning Office or online at the Luna County website.

6.3 Public Use Permits are issued on a first come/first served basis but are subject to priority County use and will be issued no later than 2 working days after receipt of a complete Public Use Application.

6.4 Prior to issuance of the Public Use Permit the User will be required to perform a walk-through of the facility to be used and an inventory and damage notice signed by the User upon completion.

SECTION 7.0 TERMS AND CONDITIONS

7.1 No Space or Luna County property may be used for any Public Event or exclusive use without advance issuance of a Public Use Permit by or on behalf of the BOCC.

7.2 All usage of Space must comply with applicable laws, rules, regulations, ordinances and standards, including all those imposed by the BOCC, and must be permitted as required by any agency or entity with jurisdiction.

7.3 Users, as identified on the Public Use Application, will be responsible for any damage to County facilities, equipment or property occurring during the use of the facility.

7.4 Public Events or other large-scale events on, in or at Luna County Space will be subject to additional requirements, as determined by the BOCC or their designee, which may include security personnel, liability insurance, dram shop liability coverage, set-up fees, cleaning fees, trash/disposal services and other considerations for the protection of public health, safety and welfare while on County property and for the protection of County personnel and property.

7.5 Public Events will require security measures, as dictated by the BOCC, which may include law enforcement presence, private security personnel, controlled access, secure or restricted areas.

7.6 Public Usage may also require additional measures, such as waste disposal, parking plan/arrangements.

7.7 BASIC CRITERIA

7.7.1 Alcohol Sales: In addition to compliance with all applicable statutes, regulations and the rules of the New Mexico Alcohol and Gaming Commission, Public Events where licensed alcohol service or sales are allowed will require controlled access to each alcohol sales/dispensing locations, and designated security personnel at each sales/dispensing locations and each access point.

7.7.2 Public Events in excess of 50 persons: Public Events that may be attended by 50 or more persons, based on venue size, ticketing or reservations, will require the presence of at least one security officer.

7.7.3 Public Events in excess of 100 persons: Public Events that may be attended by 100 or more persons, based on venue size, ticketing or reservations, may require fenced enclosures for outdoor events, security guards manned access control/entry points, pre-entry screening, bag searches, medical personnel, traffic control and parking lot patrol.

7.8 ADDITIONAL RELEVANT FACTORS:

7.8.1 Venue location and proximity to sensitive locations, such as residences, schools, churches, daycares, etc.

- 7.8.2 Venue amenities in use, such as kitchen, restrooms, multiple rooms, etc.
- 7.8.3 Number and location of access points to the venue.
- 7.8.4 Ticketed admission, open to the public admission and reserved seating.
- 7.8.5 Time of day/night of the Public Event.
- 7.8.6 Length of Public Event.
- 7.8.7 Presence of food or beverages, whether sold, served or allowed in.
- 7.8.8 Set-up and take-down time necessary.
- 7.8.9 Presence of unattended minors or children.
- 7.8.10 Necessity for traffic control and parking management.
- 7.8.11 Affiliated or related events such as a parade, carnival, race or rally.
- 7.8.12 Anticipated presence of dangerous materials or weapons as part of the event, such as firearms, cannons, explosives, fireworks, hazardous chemicals and livestock or other animals.

7.9 INSURANCE. Insurance shall be generally required for all facility Users and alcohol dispensers but may be waived on a case-by-case basis based on a determination that potential risks do not warrant requiring insurance.

SECTION 8.0 PROHIBITIONS ON USES

8.1 Luna County Public Spaces, namely Courthouse Park and Duck Downs and the Luna County Skate Park are closed from 10:30 p.m. until 6:00 a.m. daily and, absent a Public Use Permit issued pursuant to this Ordinance, it shall be illegal (trespassing) for any person to enter or remain in these properties during closed hours.

8.2 No Space, including but not limited to Courthouse Park, may be used as a residence, a shelter, for camping, overnight parking or other occupancy at any time and water, electricity, trash receptacles and other amenities are provided for Users during permit hours and general public use during regular County business hours.

8.3 Loitering is also prohibited.

8.4 All refuse must be placed in trash receptacles or packed out, including animal feces.

8.5 Use of Luna County Spaces without a Public Use Permit is non-exclusive and on a first come, first serve basis. Except for Public Use Permit holders or Users, no person or entity may claim or assert exclusive use or possession of any Luna County Space and any attempt to exclude others from use or enjoyment of any Luna County Space, except with a valid Public Use Permit, will be deemed a violation of this Ordinance and results in the automatic revocation of the right or privilege to be on, in or at that Luna County Space for a period of twenty-four (24) hours and subjects such violators to prosecution for trespass.

8.6 Disorderly conduct, inappropriate behavior, illegal conduct, abuse of the facility or damage to property may result in the immediate termination of the Public Use Permit and the activity or event occurring thereunder, without refund and with loss of any deposits.

8.7 The BOCC or their designee, namely the County Manager and his/her staff, have the unilateral discretion regarding interpretation and enforcement of the terms and conditions of Public Use Permits and in the violation of this Ordinance and propriety or necessity of terminating a Public Use Permit and the activity or event occurring thereunder.

8.8 County buildings and facilities are not generally available for commercial purposes to avoid unfairly undercutting existing private businesses in Luna County. However, commercial use may be permitted when such use is limited in duration and provides sufficient community benefit. Examples of such allowable commercial use are the Deming Duck Races, Salsa Fest, Klobase Barbeque.

8.9 Golf, archery and shooting are not allowed at County facilities.

8.10 Pets must be under the physical control of the person bringing the pet into the park and aggressive or menacing pets must be immediately removed from the County facility.

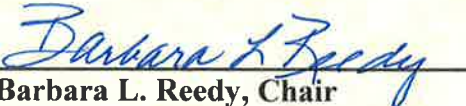
8.11 Tobacco, cannabis, unlicensed liquor and illegal or illicit drugs are prohibited at County facilities.

8.12 All persons present at any Public Event or other activity at a County facility must be appropriately attired at all times.


APPROVED AND ADOPTED THIS 8th DAY OF JULY, 2021.

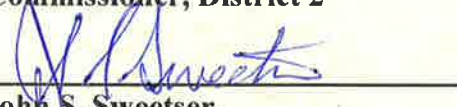
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