

City of Carlsbad Zoning Ordinance

(Adopted 10/11/11

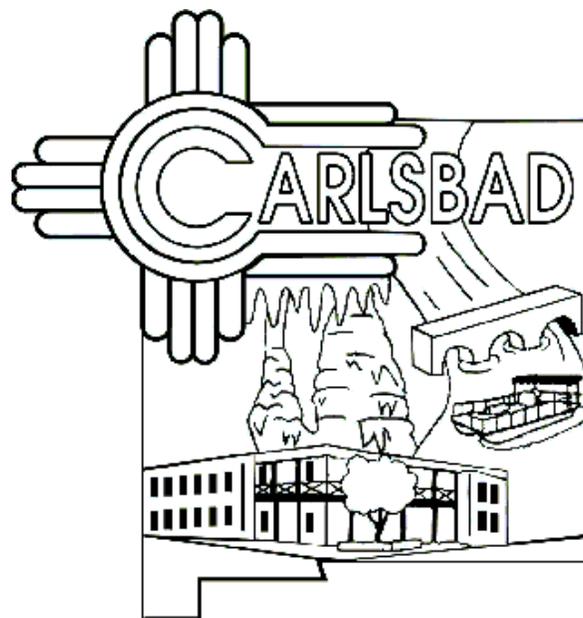
Ord. 2011-15

Amended 9/13/16

Ord. 2016 - 18

Amended 8/8/17

Ord. 2017 - 19)



AWP

ORDINANCE NO. 2011- 15

**AN ORDINANCE REPEALING
CHAPTER 30 – MANUFACTURED
HOMES AND TRAILERS AND
REPEALING CHAPTER 56 – ZONING
– ARTICLES I, II, III, IV, V, VI, VII,
VIII, IX, X, XI, XII, XIII, XIV, XVI,
XVII, XVIII AND XIX AND
REPLACING WITH NEW CHAPTER
56 – ZONING ARTICLES I, II, III, IV,
V, VI AND VII**

WHEREAS, the current Zoning Ordinance was adopted in 1974 and has in many respects become outdated; and

WHEREAS, this new Zoning Ordinance supports the goals and policies of the Greater Carlsbad Comprehensive Plan adopted June 2, 2003; and

WHEREAS, a Zoning Ordinance Committee had met for many years to develop and refine this Zoning Ordinance; and

WHEREAS, many public meetings have been held to elicit public comment; and

WHEREAS, the City wishes to adopt a unified set of regulations which govern the development and use of land; and

WHEREAS, the City wishes to promote orderly, harmonious and economically sound development to protect the public health, safety, peace, comfort, convenience and general welfare; and

WHEREAS, in order to implement the goals and policies of the Comprehensive Plan as well as other goals and policies adopted by the City Council related to growth and development; and

WHEREAS, in order to protect and improve the established community character of the City of Carlsbad and the social and economic stability of the existing residential, commercial and other land uses within the City; and

WHEREAS, in order to promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the City; and

WHEREAS, in order to prevent the adverse impacts of development on the availability of water, water quality, waste water disposal, infrastructure, roads and transportation, erosion, floodplains and steep slopes in critical areas of the City; and

WHEREAS, in order to encourage a more efficient use of land, infrastructure and public services and to reflect changes in technology of land development and;

WHEREAS, in order to restrict development that is injurious or detrimental and;

WHEREAS, in order to reduce sprawling development that results in the inefficient use of existing infrastructure and irreplaceable natural resources and;

WHEREAS, in order to encourage the development or redevelopment of lots within the City and to support the efficient use of land, existing infrastructure, city services and other resources and;

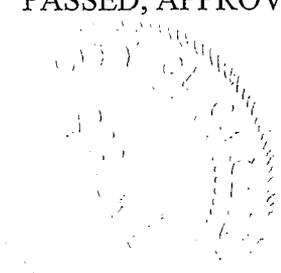
WHEREAS, Chapter 30 – Manufactured Homes and Trailers has been incorporated into this new Zoning Ordinance; and

WHEREAS, a copy of this code is on file and available for inspection during normal and regular hours of the City Clerk;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD THAT the City of Carlsbad's Municipal Code of Ordinances is hereby amended to adopt the new Zoning Ordinance.

PASSED, APPROVED, AND ADOPTED this 11th day of October, 2011.

ATTEST:


Amanda McDougall
CITY CLERK


DALE JANWAY, MAYOR

ORDINANCE NO. 2016-18

**AN ORDINANCE ADOPTING AMENDMENTS
TO THE CARLSBAD CODE OF ORDINANCES,
CHAPTER 56 – ZONING ORDINANCE
PURSUANT TO CODE OF ORDINANCES
SECTION 56-150 AND SECTION 3-17-1 AND 3-
18-1 NMSA 1978.**

WHEREAS, in Section 3, Article 17 NMSA 1978, the State of New Mexico enables municipalities to adopt ordinances and resolutions not inconsistent with the laws of New Mexico for the purpose of providing for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants. Section 3, Article 18 NMSA 1978 states that a municipality may protect generally the property of its municipality and its inhabitants; and

WHEREAS, in 2011, the City of Carlsbad adopted Ordinance No. 2011-15, known as the Zoning Ordinance, and incorporated into the Code of Ordinances as Chapter 56, to govern the zoning of land within the City limits and use regulations regarding residential and commercial activity; and

WHEREAS, Chapter 56, Section 150 of the Zoning Ordinance, provides a process for amending the text of this Zoning Ordinance; and

WHEREAS, the Planning Department, along with City Staff and with input from the public, had compiled suggested changes and prepared a revised version of Chapter 56, the Zoning Ordinance, containing proposed amendments to the text of this Ordinance; and

WHEREAS, on May 2, 2016, the Planning and Zoning Commission considered the proposed amendments and after discussion and listening to public comments, voted to recommend approval of the proposed amendments to Chapter 56, the Zoning Ordinance, as presented, to the City Council by a vote of five (5) in favor and none (0) opposed; and

WHEREAS, on July 26, 2016, the Carlsbad City Council considered the proposed amendments during a public hearing; and

WHEREAS, during the public hearing, the City Council voted to Table the proposed amendments; and

WHEREAS, after voting to bring the proposed amendments off the Table, the Council voted to approve and adopt the proposed amendments to Section 56 of the Carlsbad Code of Ordinances, the Zoning Ordinance; and

WHEREAS, legal notification of the adoption of this ordinance has been provided in accordance with Code of Ordinances Section 56-150(b)(1)(c);

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that Code of Ordinances Chapter 56, Zoning Ordinance, is hereby amended as stated above.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 13th day of September, 2016.




DALE JANWAY, MAYOR


CITY CLERK

8/

ORDINANCE NO. 2017-19

**AN ORDINANCE ADOPTING AMENDMENTS
TO THE CARLSBAD CODE OF ORDINANCES,
CHAPTER 56 – ZONING ORDINANCE
PURSUANT TO CODE OF ORDINANCES
SECTION 56-150 AND SECTION 3-17-1 AND 3-
18-1 NMSA 1978.**

WHEREAS, in Section 3, Article 17 NMSA 1978, the State of New Mexico enables municipalities to adopt ordinances and resolutions not inconsistent with the laws of New Mexico for the purpose of providing for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants. Section 3, Article 18 NMSA 1978 states that a municipality may protect generally the property of its municipality and its inhabitants; and

WHEREAS, in 2011, the City of Carlsbad adopted Ordinance No. 2011-15, known as the Zoning Ordinance, and incorporated into the Code of Ordinances as Chapter 56, to govern the zoning of land within the City limits and use regulations regarding residential and commercial activity; and

WHEREAS, Chapter 56, Section 150 of the Zoning Ordinance, provides a process for amending the text of this Zoning Ordinance; and

WHEREAS, the Planning Department, along with City Staff and with input from the public, had compiled suggested changes and prepared a revised version of Chapter 56, the Zoning Ordinance, containing proposed amendments to the text of this Ordinance; and

WHEREAS, on August 8, 2017, the Carlsbad City Council considered the proposed amendments during a public hearing; and

WHEREAS, the Council voted to approve and adopt the proposed amendments to Section 56 of the Carlsbad Code of Ordinances, the Zoning Ordinance; and

WHEREAS, legal notification of the adoption of this ordinance has been provided in accordance with Code of Ordinances Section 56-150(b)(1)(c);

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that Code of Ordinances Chapter 56, Zoning Ordinance, is hereby amended as stated above.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 8th day of August, 2017.



ATTEST:

Annette Barrow
CITY CLERK

Dale Janway
DALE JANWAY, MAYOR

CITY OF CARLSBAD

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ARTICLE I: GENERAL PROVISIONS

SEC. 56-1. SHORT TITLE.

The regulations of this Zoning Ordinance shall be officially known and cited as the "Zoning Ordinance of the City of Carlsbad, New Mexico," although it may also be referred to as the "Zoning Ordinance," or "this Code."

SEC. 56-2. AUTHORITY.

(a) Enabling Authority

This Code is adopted pursuant to the enabling authority contained in New Mexico Statutes Annotated, 1978, including, but not limited to NMSA 1978, §3-17-1, et seq.; NMSA 1978, §3-18-7; NMSA 1978, §3-19-1, et seq.; NMSA 1978, § 3-20-1, et seq.; NMSA 1978, §3-21-1, et seq.; NMSA 1978, §3-21A-1, et seq.; NMSA 1978, §3-22-1, et seq.; and NMSA 1978, §3-41-1, et seq. In enacting this Code, the City intends to follow the provisions of existing state law on the same subject so far as possible for the convenience of the public and for the better administration of the law.

(b) Changes to Enabling Authority

Whenever any provision of this Code refers to or cites a section of the New Mexico Statutes Annotated and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

SEC. 56-3. PURPOSE.

The Zoning Ordinance of the City of Carlsbad, New Mexico is a comprehensive, unified set of regulations which govern the development of land and the use of land. Its purpose is to create orderly, harmonious, and economically sound development and to promote and protect the public health, safety, peace, comfort, convenience and the general welfare. The Zoning Ordinance of the City of Carlsbad, New Mexico is also, adopted for the following particular purposes:

(a) Implement Comprehensive Plan

To implement the goals and policies of the Comprehensive Plan of the City of Carlsbad, as amended from time to time, as well as other goals and policies adopted by the City Council related to growth and development.

(b) Community Enhancement

To protect and improve the established community character of the City of Carlsbad and the social and economic stability of the existing residential, commercial and other land uses within the City.

(c) Community Development

To promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the City.

(d) Mitigate Adverse Impacts

To prevent the adverse impacts of development on the availability of water, water quality, waste water disposal, infrastructure, roads and transportation, erosion, floodplains and steep slopes in critical areas of the City.

(e) Improve Efficiency

To encourage a more efficient use of land, infrastructure and public services and to reflect changes in technology of land development.

(f) Community Welfare

To promote land development practices that will otherwise promote the public health, safety, peace, comfort, convenience and the general welfare and to restrict development that is injurious or detrimental.

(g) Reduce Sprawl

To reduce sprawling development that results in the inefficient use of existing infrastructure and irreplaceable natural resources.

(h) Encourage Infill

To encourage the development or redevelopment of lots within the City and to support the efficient use of land, existing infrastructure, city services and other resources.

SEC. 56-4. RELATIONSHIP TO THE COMPREHENSIVE PLAN.

It is the intention of the City Council that this Code implements the planning policies as reflected in the Comprehensive Plan and other planning documents. While the Council reaffirms its commitment that this Code and any amendments should be in conformity with adopted planning policies, the Council also, expresses its intent that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning documents.

SEC. 56-5. JURISDICTION.

This Code applies to all land, structures and buildings within the incorporated limits of the City of Carlsbad. This Code may not be applicable to federal activities on federally owned lands, where either the federal government has retained from the time of statehood or subsequently obtained the right to legislate in relation to such lands or the State of New Mexico has ceded such jurisdiction to legislate back to the United States on such lands. This Code also, may not be applicable to state activities or development on state-owned lands. However, private activities or development for private purposes on such lands shall be subject to this Code.

SEC. 56-6. OFFICIAL ZONING MAP.

(a) Location of Zoning Districts

The Official Zoning Map designates the location and boundaries of the various zoning districts within the City of Carlsbad and is incorporated herein by reference. The Official Zoning Map shall be kept on file in the office of the City Clerk and available for public inspection during normal business hours.

(b) Delineation of Changes

The City Administrator or his or her designee shall delineate all amendments and changes to the Official Zoning Map on the Official Zoning Map.

(c) Availability of Copies

Copies of the Official Zoning Map and this Code shall be available for purchase for a reasonable copying fee established by the City Council.

SEC. 56-7. INTERPRETATION AND CONFLICT.

The regulations of this Code are held to include the minimum standards necessary to carry out the purposes of this Code. More stringent provisions may be required if it is demonstrated that different standards are necessary to protect the public health, safety and general welfare. This Code is not intended to interfere with, abrogate or annul any valid ordinance or covenant, easement or other agreement. All structures and uses shall comply with all applicable ordinances, laws, rules, regulations, codes, and policies. Where the provisions of this Code impose greater restrictions, the provisions of this Code shall control.

SEC. 56-8. COMPLIANCE WITH THE ZONING ORDINANCE OF THE CITY OF CARLSBAD, NEW MEXICO.

(a) Conformance

Except as described in Article VI (Non-conformities), no person may use or occupy any land or structures, or authorize or permit the use or occupancy of land or structures under his or her control except in conformance with all of the applicable provisions of this Code. The burden of proof shall rest with the applicant in all proceedings required by this Code. For purposes of this Section, the "use" or "occupancy" of a structure or land relates to anything and everything that is done to, on, or in a structure and/or land.

(b) Prior Approval

No structure shall be erected, reconstructed, structurally altered, enlarged, moved, used, or designated to be used, in a zone district for any use other than those permitted in the zone district in which such structure is located, without securing all permits and licenses required by applicable ordinances, laws, rules, regulations, codes, and policies.

(c) Grandfather Provision

Uses, structures, or lots, existing at the time of the adoption of this Code, but which are non-conforming with this Code, may continue as permitted in Article VI, below.

SEC. 56-9. COMPUTATION OF TIME.

Unless otherwise specifically provided, in computing any period of time prescribed or allowed by this Code, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a City holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or City holiday.

SEC. 56-10. SAVING PROVISION.

This Code shall not be construed as abating any action now pending under prior regulations. This Code shall not be construed as abating, altering, discontinuing or modifying any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this Code. This Code shall not be construed as vacating or annulling any rights obtained by any person by lawful action of the municipality except as shall be expressly provided for in this Code.

SEC. 56-11. RESERVATIONS AND REPEALS.

Upon the adoption of this Code according to law, Chapter 56, Zoning, of the Code of Ordinances of the City of Carlsbad, is repealed, except as to those sections expressly retained in this Code.

SEC. 56-12. SEVERABILITY.

It is the legislative intent of the City Council in adopting this Code that all provisions shall be liberally construed to protect and preserve the public peace, health, safety, comfort, convenience and the general welfare of the inhabitants of the City. If any section, subsection, sentence, clause or phrase of this Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Code.

SEC. 56-13. EFFECTIVE DATE.

The provisions of this Code were originally passed, adopted and approved by the City Council on October 11, 2011 (Ord. 2011-15) and became effective on October 21, 2011, 5 days after it was published as required by law and as amended from time to time.

SECS. 56-14 – 56-29. RESERVED.

ARTICLE II: DEFINITIONS

SEC. 56-30. WORD CONSTRUCTION.

Unless a contrary intention clearly applies, for the purposes of this Code:

- (a) Words used in the present tense include the future, and words used in the future tense include the present tense.
- (b) Words used in the masculine include the feminine and the neuter.
- (c) Words used in the singular include the plural, and the plural includes the singular.

- (d) The word “may” is permissive; the words "shall" and “will” are mandatory, subject to specific exceptions allowed by this Code.
- (e) Words not defined herein but which are defined in the Building Code or other codes adopted by the City are to be construed as defined therein.
- (f) Where words, terms or phrases are not defined through the methods authorized above, the City Administrator shall have the authority to interpret such words, terms or phrases.
- (g) Whenever the City Administrator or any other City official is named, the reference to such official shall include his or her designee, and the named official shall not be required to take the specified action personally if the action has been delegated to another individual within the City administration.

SEC. 56-31. DEFINITIONS.

Unless a contrary intention clearly applies, the following terms, phrases, words, and their derivations, when used in this Code, shall be interpreted as follows:

Abut/Abutting/Adjacent/Adjoining/Contiguous. Lots or parcels separated by common property lines, lot lines, or an alley, street or other public right-of-way.

Accessory building or structure. A building or structure detached from and ancillary to the main structure on the same lot. The use of an accessory building or structure shall be appropriate, subordinate, and customarily incidental to the main use of the lot.

Accessory living quarters. Living quarters within an accessory building or structure having no kitchen facilities and not being rented or otherwise used as a separate residence.

Accessory structure. A structure on a lot which is appropriate, subordinate, and customarily incidental to the main structure on the lot.

Adult amusement establishment. A commercial establishment including, but not limited to, an auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment that supports legal activity only and provides amusement or entertainment featuring one or more of the following:

- (a) Amusement, entertainment, live performance, act or escort service that is distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities;
- (b) Audio or video displays, computer displays, DVD’s, films, motion pictures, slides, videos, or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or
- (c) Exotic dancers, topless dancers, strippers, or similar entertainment.

Adult business. Any adult amusement establishment or adult store.

Adult day care center. A facility licensed by the state as an adult day care center or as an adult respite facility which provides care, services and supervision for less than twenty-four hours (24 hr.) a day to three (3) or more adults, who because of diminished mental or physical capacity find it difficult to care for themselves in their own residence during the day. Adult day care does not include public or private school facilities or senior recreation centers.

Adult day care home. A private dwelling in which a resident of the dwelling has been licensed by the state to provide and provides adult day care home services or adult respite home services and who provides care, services and supervision for less than twenty-four (24) hours a day to a least three (3) adults but not more than five (5) adults who because of diminished mental or physical capacity find it difficult to care for themselves in their own residence during the day. The use as an adult day care home or adult respite home shall be an accessory use. The primary use shall be as a private residence.

Adult material. Items consisting of one or more of the following:

- (a) Digital, electronic, or printed books, magazines, periodicals, audio or video displays, computer displays, DVD's, films, motion pictures, slides, videos, or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities, as defined herein; or
- (b) Devices, instruments, novelties or paraphernalia designed for use in connection with specified sexual activities or which depict or describe specified anatomical areas, as defined herein.

Adult store. An establishment having twenty percent (20%) or more of its shelf space or floor space devoted to the display, rental, sale, or viewing of adult material for any form or consideration.

Agriculture. Farm, ranch, dairy, pasturage, apiaries, horticulture, floriculture, viticulture and animal or poultry husbandry, but not including slaughterhouses, processing facilities, or commercial stockyards or feed lots.

Airport. Any area of land or water that is used or intended for the use of the landing and taking off of aircraft and any appurtenant areas which are used or intended for airport structures or other airport facilities or rights-of-way, together with all airport structures and facilities located thereon.

Amateur radio facilities. A facility with one or more antennas connected to radio equipment operated by a federally licensed amateur radio operator in accordance with applicable Federal Communications Commission laws and regulations. This term shall not include citizens band or commercial facilities.

Ambulatory surgical center. Outpatient surgery center.

Americans with Disabilities Act (ADA). A civil rights bill passed in 1990 which gives people with disabilities the same protection from discrimination as other minority groups. Title I of the Act prohibits discrimination against qualified applicants and employees on the basis of disability and Title II of the Act prohibits local and state governments from discriminating based on an individual with disabilities.

Amusement park. A permanent group or aggregation of rides, shows, games, concessions, animal exhibits, or any combination thereof.

Animal, domestic fowl. Domesticated birds commonly associated with farms and used for eggs and/or meat.

Animal care/boarding/sales. The use of any property or structure or portion thereof for animal boarding, breeding, care, grooming, medical services, sales or training for commercial gain, but not including animal confinement, dairy, feedlot, livestock, or pasturing uses.

Appellant. A person requesting that a decision be appealed.

Appliance/small engine repair. A use consisting of the indoor storage of household appliances such as washing machines, dryers, lawn mowers, television sets, air conditioners, etc. for sale or repair. Does not include vehicle repair, storage or automotive uses.

Applicant. A person submitting an application in accordance with the procedures established in this Code.

Arroyo. A dry wash or draw which flows only occasionally and in response to rainfall or other water runoff from higher elevations.

Artisan/craftsman shop. A use and the associated buildings and structures utilized for the production and/or sale of decorative or custom products or artwork (e.g., jewelry, leather, pottery, tile, wood products) involving only the use of light trade equipment (e.g., clay pugs, kilns, rotary saws, routers, table saws, tile saws) and not meeting the definition of a manufacturing and production use.

Attached. Buildings or other structures located on a single property which are joined by a common sidewall.

Bar. A commercial establishment, where the primary use is the sale of alcohol for on-premise consumption. Food service, live music, disk jockey, or other entertainment may be provided incidental to the primary use. Includes lounge, microbrewery, night club, tavern or wine bar.

Batch or asphalt plant. A facility in which asphalt or its ingredients or products are ground up, mixed, or otherwise prepared for use on-site or for transportation to another site.

Bathroom, full. A room containing a wash basin, toilet, and a tub or shower or both.

Bathroom, half. A room containing a wash basin and a toilet, also called a powder room.

Bed and breakfast. The subordinate use of a dwelling unit, for which the main use is the owner's or operator's permanent residence, for short-term guest lodging with a morning meal provided only to overnight guests.

Beneficial use determination. A form of appeal whereby a property owner who believes all beneficial use of his property has been denied or "taken" by the application of this Code.

Birthing center. A facility, other than a hospital's maternity facilities or a physician's office, which provides a setting for labor, delivery, and immediate post-partum care as well as immediate care of newborn infants.

Boarding school. A school where students are lodged overnight and fed as well as taught.

Brewery, large. A duly licensed industrial business use for the manufacture of beer in quantities greater than two hundred thousand barrels of beer per year. Does not include sale of beer for on premises consumption.

Brewery, small (also called microbrewery or craft brewery). A duly licensed business for the manufacture of beer, but not more than two hundred thousand barrels of beer per year. May also include a bar for on-premises consumption of beer and/or food.

Buffer. A strip of land established to protect one type of land use from another. Normally, buffering is landscaped and kept as open space.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building height. The vertical distance from grade plane to (1) the top of the roof for flat roofs, (2) the deck line for mansard roofs, or (3) the average height between eaves and ridge for gable, hip, and gambrel roofs.

Building line. The line beyond which a structure shall not extend unless specifically permitted. An overhang of up to twenty-four inches (24") is permitted.

Building official. The person designated by the City Administrator, certified by the State, and charged with the administration and enforcement of the building code, as adopted, and other codes as applicable.

Building permit. A permit issued by the Building Official preceding the construction, renovation, repair, or expansion of a structure or building pursuant to the terms of this Code.

Business residence. A single-dwelling unit on the site of a non-residential use intended to house an employee or caretaker of the non-residential use.

Campground. A lot upon which two or more campsites are located, established, or maintained for occupancy by tents, up to three (3) recreational vehicles, and/or camping units as temporary living quarters for transient and/or recreational dwelling purposes.

Carport. A permanently attached or anchored, roofed accessory structure, open on at least three sides, and designed to shelter a vehicle or vehicles. Carports shall not include structures designed and built for the storage of Recreational Vehicles (RV). **See carport regulations for additional info.**

Care facility, inpatient. A facility, duly licensed by the state as a health facility, which provides inpatient medical services, including but not limited to, hospitals, nursing homes, and overnight treatment centers.

Care facility, outpatient. A facility, duly licensed by the state as a health facility, which provides outpatient medical services including, but not limited to, ambulatory surgical centers, diagnostic and treatment centers, renal dialysis facilities, rural health clinics, and infirmaries, as defined by the state.

Carnival. A traveling or transportable group or aggregation of rides, shows, games, concessions, or any combination thereof, not including animal exhibits.

Casitas. A small, detached additional structure to a residence, commonly referred to as a “mother-in-law suite”, which serves as an additional living quarters for guests or family members. These living quarters shall not be intended as a residence to be rented separately from the primary residential structure on the property.

Catering. A business which provides or prepares food for consumption at parties or similar events, which events occur at a location other than where the food is prepared.

Cemetery. Land used for the burial of the dead, whether human or animal, including a mausoleum or columbarium. “Cemetery” shall not include the interment or inurnment of human cremated remains at a church or place of religious assembly unless that use of interring or inurning is limited to an accessory use.

Channel. Any arroyo, stream, wash, swale, gully, ditch, diversion, or watercourse, including man-made facilities, that convey storm runoff.

Child care center. A type of child day care that is duly licensed by the state and is any place other than an occupied residence which receives one (1) or more children for child day care or an occupied residence which receives twelve (12) or more children for child day care.

Child day care. A use of property, duly licensed by the state, in which child care, protection, and supervision is provided on a regular basis away from the children’s primary residence for less than twenty-four hours per day (24 hrs./day). Child day care includes “child care center” and “family child care home”. Child day care does not include public or private schools, or facilities operated in connection with an employment use, shopping center, or other principal use where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

Circus. A traveling or transportable group or aggregation of rides, shows, games, concessions, or any combination thereof and including animal exhibits.

Cistern. An above-ground or under-ground reservoir or tank for catching, holding and storing rainwater.

City Administrator. The chief administrative officer of the City or his or her designee.

City Engineer. A person designated by the City Administrator and certified in the State of New Mexico as a Professional Engineer.

Clear Sight Triangle. The triangular area formed by a diagonal line, set 30’ back from the intersection of the abutting right-of-way lines, where nothing maybe erected, planted or placed, which obstructs the vision of motorists at the intersection.

Club. An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, and/or athletic purposes which are not conducted for profit. Includes “lodge”.

Code Enforcement. The person, office or department designated by the City Administrator to enforce the provisions of this code.

Columbarium. A structure with recessed niches used or intended to be used for the permanent containment of human cremated remains in urns or other approved containers. It may be part of a mausoleum.

Common area. Any portion of land or building area designed for the common usage of the development.

Communication facilities. Communication facilities involving all devices, equipment, machinery, structures, or supporting elements necessary to provide communication or transmission of information. Specific use types in this Code include, but are not limited to: amateur radio facilities, attached telecommunication facilities, radio and television transmission towers, and free-standing telecommunication towers.

Communication facilities, attached. Any equipment used to provide communication services, including but not limited to, telephone, cable, cellular, Wi-Fi, wireless television, or fiber optic services, which is not affixed to or contained within a communication tower, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose.

Communication facilities, concealed. Any equipment used to provide communication services, including but not limited to, telephone, cable, cellular, Wi-Fi, wireless television, or fiber optic services, which is

affixed to, contained within, or camouflaged by an existing building or structure and is architecturally integrated into such building or structure so as not to be readily identifiable as a communications facility.

Communication facilities, free-standing. Any equipment used to provide communication services, including but not limited to, telephone, cable, cellular, Wi-Fi, wireless television, or fiber optic services, which is affixed to or contained within a communication tower that is not affixed to or mounted on a building or structure.

Communication tower. Any freestanding, concealed or attached facility, building, pole, tower, or structure used to provide communication services, including but not limited to, telephone, cable, cellular, wifi, wireless television, fiber optic services and which may consist of antennae, equipment, and storage, and other accessory structures used to provide communication services.

Community home. A facility, duly licensed as required by the state, which operates twenty-four (24) hours a day providing full time care, supervision and support needed to not more than sixteen (16) resident children in a single residential building and which provides parenting, activities and experiences needed by a child to develop and realize their full potential.

Community living setting. A residence, duly licensed as required by the state, which is a community living situation supervised by a community agency, which: 1) provides living arrangements for persons with a developmental disability; and 2) is located in the community. Such facilities may include licensed group homes, foster homes, family living situations, supported living situations, companion homes, semi-independent living and assisted living residences and/or similar residences or innovative residential settings.

Community mental health center. A facility certified and licensed by the state as a Community Mental Health Center which provides and manages a comprehensive array of mental health services, including at a minimum the following core services: community-based crisis intervention, medication services, professional consultation, psychosocial interventions, and therapeutic interventions.

Community services. Uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community on a continuing basis, not just for special events, and generally providing on-site services or involving regular employee activity at the site. Examples include detention facilities, libraries, museums, senior, community, and youth centers, social service facilities and temporary shelters.

Compatible. Capable of integrating into the community in a harmonious, orderly and mutually-supportive fashion.

Comprehensive plan. That document or documents adopted by the City Council as the City of Carlsbad's Comprehensive Plan or portions thereof.

Conditional use. A use which, by the terms of this Code, requires special review and for which a conditional use permit is issued.

Conditional use permit. A permit which authorizes a conditional use and which may include conditions attached to the approval of such use. A conditional use permit is issued to a specific individual and for a specified location.

Congregate residence. Any building or portion thereof which contains facilities for living, sleeping and sanitation as required by all applicable ordinances, laws, rules, regulations, codes, and policies, and which may include facilities for eating and cooking for occupancy by other than a family. A congregate residence may include, but not be limited to, a convent, monastery, dormitory, shelter, sorority or fraternity house, but shall not include hospitals, hotels, jails, lodging houses, or nursing homes.

Convenience store. A retail establishment, generally less than 2,500 square feet of gross floor area, offering for sale a limited line of groceries, automotive, and household items. A convenience store may be self-supporting or ancillary to a fuel service facility. May include retail/packaged alcohol sales for off-premise consumption.

Counseling center. A facility in which non-resident human clients are provided behavioral and/or mental health therapy.

Court/court yard. An open, uncovered space, unobstructed to the sky, bounded on three or more sides by exterior building walls or other enclosing devices.

Dairy. An area of land on which no more than 20 cows or goats are kept for the purposes of producing dairy products, such as milk or cheese, in commercial quantities, as well as the ancillary buildings, structures, equipment and processes.

Depot, bus. The premises at which the parking and storage of busses, and the loading and unloading of passengers, takes place. Also called a Bus Terminal or Bus Station.

Depot, train. The premises at which the parking, storage or transfer of train cars, or the loading and unloading of passengers, takes place. Also called a Train Terminal or Train Station.

Design standards. Specific criteria and limitations placed on development, which are intended to protect the public health, safety, and welfare of the community and to enhance the aesthetic value of a development. Design standards may specify criteria for architectural, engineering, landscape and other features of a proposed development.

Detached. Buildings or other structures located on a single property which are separated from each other.

Developer. The legal or beneficial owner of a lot or of any land included in a proposed development, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

Development. A planning or construction project involving substantial property improvement and, usually, a change of land use character within the site; the act of using land for building or interactive purposes.

Deviation, minor. A deviation from this Zoning Ordinance is minor if it has no discernible impact on the neighboring properties, the general public, or those intended to occupy or use the proposed development. Minor deviations may be approved by the Planning Director.

Deviation, substantial. A deviation from this Zoning Ordinance is substantial if it has a discernible impact on the neighboring properties, the general public, or those intended to occupy or use the proposed development. Substantial deviations may only be approved by the Planning and Zoning Commission or the City Council. Also called a variance.

Discharge. Allowing, causing or maintaining the abandonment, depositing, dumping, emitting, emptying, injecting, leaching, leaking, migrating, pouring, pumping or spilling of wastes, leachate, oil or any other water contaminant.

Distillery, large. A duly licensed industrial business for the manufacture of spirituous liquors in quantities of greater than one hundred fifty “proof gallons” per license year (a “proof gallon” is a gallon of liquid at sixty degrees Fahrenheit that contains fifty percent ethyl alcohol by volume or its equivalent, according to Chapter 60-6A-22, NMSA 1978)

Distillery, small (also called craft distillery). A duly licensed business for the manufacture of spirituous liquors that does not manufacture more than one hundred fifty “proof gallons” per license year (a “proof gallon” is a gallon of liquid at sixty degrees Fahrenheit that contains fifty percent ethyl alcohol by volume or its equivalent, according to Chapter 60-6A-22, NMSA 1978).

Downstream capacity. The ability of downstream drainage facilities to accept and safely convey runoff generated upstream.

Drainage and grading permit. A permit issued jointly by the City of Carlsbad floodplain manager and the City Engineer in accordance with federal, state, and local regulations, which allows excavating, filling, grubbing, grading or other such earth removal or relocation activity at a specified location and for a specified period of time.

Drainage way. Any path of concentrated flow or any depression, natural or man-made, into which surface water flows along a defined course. “Watercourse” is typically used for larger drainage ways. “Channel” is a more general term.

Drive-through facility. Any establishment that, by design or use, encourages or permits customers to receive a service or to obtain a product while the customer remains in an automobile.

Driveway. An area that is unobstructed and paved with an approved asphalt, concrete or gravel surface and that provides access to vehicle parking, loading, or circulation areas.

Driving range. A facility or area designed solely for practicing golf drives, which may or may not be located on a golf course.

Dwelling. A building or portion of a building designed exclusively for residential use as a dwelling unit (DU).

Dwelling Unit, multiple-family. A building or buildings designed for residential occupancy, primarily permanent in nature, by more than two families, each family constituting a single housekeeping unit. The dwelling unit for each family shall have its own kitchen. A multiple-family dwelling unit shall not include a bed and breakfast, congregate residence, hotel, motel, rooming or boarding house, or similar facility.

Dwelling Unit, multi-generational. A building designed for residential occupancy, primarily permanent in nature, with up to two kitchens for use by any number of persons related by blood, common ancestry, marriage, guardianship or adoption. A multi-generational dwelling unit shall not include a bed and breakfast, congregate residence, hotel, motel, rooming or boarding house or similar facility, or a separate structure from the principal dwelling for the purpose of renting.

Dwelling Unit, single-family attached. Two single-family dwelling units, located on individual lots but sharing a lot line, and joined by a shared, unpierced wall from basement to roof (also called a duplex, row house or double).

Dwelling Unit, single-family detached. A building designed for residential occupancy by one family constituting a single housekeeping unit but not including a bed and breakfast, congregate residence, hotel, motel, rooming or boarding house, or similar facility and located on an individual lot, which is not attached to any other dwelling unit in any way.

Dwelling units/acre (du/acre). Maximum residential density may be measured as the number of dwelling units per gross acre of land, measured by dividing the number of dwelling units on a lot or parcel by the parcel's gross area (in acres).

Easement. A right of use over the property of another.

Effective date. The date this Code becomes effective.

Employee housing. Any dwelling unit or group of dwelling units designated or restricted only for occupancy by the employees of a specific company or facility, and their families and guests. All employee housing must comply with any restrictions present for the zoning of the subject property unless otherwise approved by the Planning and Zoning Commission. All structures placed for employee housing must comply with all State and City regulations as it relates to the specific types of structures being placed.

Encroachment permit. A permit issued by the City of Carlsbad Director of Public Works, which allows the encroachment of a building, structure or use into the public right-of-way for a specified period of time and for a specified purpose related to the construction, expansion, relocation or other movement of adjacent buildings, structures or uses.

Entrance, primary. The entranceway to a structure closest to the public street or sidewalk or one that would be reasonably perceived by the public to be the entrance to the structure.

Erosion. The movement of soil due to wind or water.

Erosion control. Those best management practices utilized to prevent or reduce erosion or sedimentation and which are typically necessary when ground disturbances occur.

Excavation. Digging and removal of earth by mechanical means.

Extra-territorial zoning jurisdiction. An area within two miles of the city limits where extraterritorial zoning applies.

Family. Persons related by blood or marriage, or a group of persons who need not be related by blood or marriage, but who are living together as a single housekeeping unit in a dwelling unit.

Family child care home. A private dwelling in which a resident of the dwelling has been licensed by the state to provide and provides care for at least four (4) but not more than eleven (11) children on a regular basis for less than 24 hours per day (24 hrs/day). The children residing in the dwelling who are age six or older shall not be counted as part of the four (4) to eleven (11) children set forth in this definition. The use as a family child care home shall be an accessory use. The primary use shall be as a private residence.

Fence permit. A permit issued by the Building Inspector and required prior to construction or alteration of a fence or wall.

Farmers market. A congregation of seasonal outdoor sales of fresh produce and other items associated with the local farming and artisan industries.

Feed lot. A facility where livestock is raised and/or stored for commercial purposes prior to resale or slaughter.

Fence. A barrier constructed of chain link, wrought iron or similar material that closes, marks or borders a field, yard or lot and that does not limit visibility. Does not include chicken wire, barbed or razor wire.

Fill. The placement of material such as soil or rock to replace existing material, or to create an elevated embankment. Fill also refers to the material which is placed.

Fire Chief. The chief fire department official of the City or his or her designee

Flag lot. A lot meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.

Flea market. An open-air market in which spaces are offered for rent or lease for the retail sale of crafts and/or other items. "Flea market" also includes "swap meet".

Floodplain Administrator. The Building Inspector or other person designated by the City Administrator to interpret and implement the City's Flood Damage Prevention Ordinance.

Floodplain development permit. A permit issued by the Floodplain Administrator and required prior to any manmade change in improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or construction within the regulatory floodplain.

Floor area, gross. The floor area within the inside perimeter of the exterior walls of a building exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns, or other features. The floor area of a building, or a portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Floor area, net. The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

Floor area ratio (FAR). The numerical value obtained by dividing the gross floor area of a building or structure by the area of the lot on which the building or structure is constructed.

French drain. A ditch filled with gravel or rock that redirects surface and ground water away from an area. French drains are commonly used to prevent ground and surface water from penetrating or damaging building foundations. Alternatively, the French drain technique may be used to distribute water, such as that which flows from the outlet of a typical septic tank sewage treatment system. French drains are also used behind retaining walls to relieve ground water pressure. Also called Drain Tile, Land Drain, or Dry Well.

Frontage. The distance measured along a right-of-way, property line, or access easement.

Frontage, street. The distance between the side property lines of a lot as measured along the street property line or the street right-of-way line.

Fuel service facility. Any structure or premises or portion thereof used principally for the storage and retail sale of automotive fuels, accessories and lubricants.

Geothermal energy system. A geothermal energy collection and conversion device that produces electricity or other form of energy primarily used for heating/cooling.

Golf course. An area or tract of land designed or used for playing at least nine holes of golf. Such use may also include accessory uses such as a parking lot, clubhouse, dining facilities, practice facilities, pro shop and snack bar.

Grade plane. A reference plane representing the average of finished ground level adjoining a building at its exterior walls or adjoining a structure at its exterior. Where the finished ground level slopes away from the exterior, the reference plane shall be established by the lowest points within the area between the building or structure and the lot line or, where the lot line is more than 6 feet from the building or structure, between the building or structure and a point six feet (6 ft.) from the building or structure.

Grading. Any movement of rock, soil or vegetation by artificial means to include any or all of the following acts: clearing, excavating, leveling of land, grubbing, or placement of fill material.

Greywater. Non-industrial wastewater generated from domestic processes such as dish washing, laundry, bathing, and other household use except for the toilets.

Grocery store. A retail establishment offering for sale a complete line of food products and a limited line of household items for off-premise consumption and use. May include retail/package alcohol sales for off-premise consumption.

Group home. A residential facility, duly licensed by the state as a health facility, that provides room and board, personal care, habilitation services, for physically disabled persons or persons requiring supervision on an on-going basis.

Guest. Any person who rents or occupies a room on a temporary basis for sleeping purposes.

Guest house. An accessory building used as sleeping quarters for guests of the occupants of the main dwelling and having no cooking facilities.

Guest room. Any room occupied, or intended, arranged or designed for occupancy by one or more guests.

Guest room, rented. A guest room for which remuneration is charged or received.

Health facility. As defined in the Public Health Act, Chapter 24, Article 1, Section 2, NMSA 1978, as amended from time to time. Health facility means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a freestanding hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a free-standing hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners.

Heliport. An area that is used or intended to be used for the landing or takeoff of helicopters and any related structures and facilities thereon. "Heliport" includes the term "Helipad".

Holding tank. A watertight tank designed to receive and retain liquid waste for periodic pumping and disposal off-site.

Home occupation. A specific, permitted use for a specified duration and individual and incidental to a property's primary residential use.

Home occupation, office. A use permitted as a home occupation where limited consulting, record keeping, or the work of a professional person such as an accountant, engineer, or lawyer is done. Does not include headquarters of an enterprise or organization or the construction, manufacture or sale of on-premises goods.

Home occupation, sales and service. A use permitted as a home occupation where limited assembly or construction of items for sale off site is done or limited services such as a beauty shop, massage therapy, or photography, are provided.

Hospice facility. A facility, duly licensed as required by the state, equipped and staffed to provide hospice services to patients and their families on a twenty-four (24) hours a day basis. The term “hospice services” means a program of palliative and supportive services which provides physical, psychological, social and spiritual care for terminally ill patients and their family members.

Hospital. A facility, duly licensed as required by the state, offering in-patient services, nursing, overnight care on a 24-hour basis for diagnosing, treating, and providing medical, psychological or surgical care for three or more separate individuals who have a physical or mental illness, disease, injury, a rehabilitative condition or are pregnant; and which may include as accessory uses or buildings, pharmacies, clinical laboratories, radiology, dialysis, staff offices, and dietary services. The term “hospital” includes facilities properly licensed as acute-care hospitals, critical access hospitals, limited services hospitals, long term acute-care hospitals, psychiatric hospitals, rehabilitation hospitals, and special hospitals as defined by the state. Heliports may be included as an accessory use.

Hotel/Motel. An establishment providing, for a fee, sleeping accommodations and lodging services, including, but not limited to, maid service, furnishing and upkeep of furniture and bed linens, telephone and desk/concierge service. Related ancillary uses including, but not limited to, recreational facilities, bar, restaurant, meeting rooms, and convention center may also be available.

Intermediate Care Facility for the Mentally Retarded (“ICF/MR”). An intermediate care facility, duly licensed as required by the state, that provides food, shelter, health or rehabilitative and active treatment in the least restrictive setting including all needed services for the mentally retarded or persons with related conditions.

Interpretation. Determination or explanation regarding the meaning of a provision or provisions contained in this Code.

Junk. Any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, secondhand, unusable, worn-out or wrecked material, object, or thing or material, including but not limited to those composed in whole or in part of asphalt, brick, carbon, cement, plaster, plaster of paris, terra cotta, sand, wood, plastic or other synthetic substance, glass, paper, rubber, metal, wire, canvas, cloth, cotton, wool, or other fiber, organic matter or other substance.

Junkyard. Any premises on which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, stored or transported, regardless of whether or not such activity is done for profit.

Laboratory, medical. A facility for medical testing, including a medical facility certified to perform diagnostic and/or clinical tests independent of an institution or physicians office.

Laboratory, scientific/research. A facility for scientific research and testing that does not include living human subjects. Uses may include biotechnology, pharmaceuticals, genetics, plastics, resins, coatings, fibers/optics.

Landfill. An area of land or an excavation in which solid wastes are located or placed for disposal.

Landscaping material sales/nursery. Any facility primarily engaged in retail sale or wholesale of materials used for landscaping purposes, such as plants, trees, chemicals and fertilizer, soil, decorative items and lawn furniture.

Livestock. Animals including, but not limited to, horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, rabbits, ratitae, camelids, members of the lama genus, or farmed cervidae.

Loading space. An off-set space or berth on the same lot with a structure, or contiguous to a group of structures, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, which abuts upon a street, alley or other appropriate means of access.

Lodge. See, "Club".

Lot. A portion of a legally platted subdivision that is shown on the records of the County Clerk as a lot, tract, or parcel of land and held in separate ownership. A portion of land that was subdivided from other land in accordance with the then existing zoning and subdivision requirements.

Lot area, gross. A measurement of the total area contained within the boundaries of a lot, expressed in square feet, acres or other appropriate units, prior to the deduction of area for streets, alleys, easements, or other public spaces.

Lot area, net. A measurement of the total area contained within the boundaries of a lot, expressed in square feet, acres or other appropriate units, after the deduction of area for streets, alley, easements or other public spaces.

Majority, simple. More than fifty percent (50%) of the voting members seated for the vote.

Majority, super. More than fifty percent (50%) of the designated voting members of the decision making body.

Manufactured home. Shall be as defined in the Manufactured Housing Act, Chapter 60, Article 14, Section 2, NMSA 1978, as amended from time to time. "Manufactured home" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. "Manufactured home" does not include recreational vehicles or modular or pre-manufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property. "Manufactured home" includes any movable or portable housing structure over twelve feet in width and forty feet in length which is used for nonresidential purposes."

Manufactured home, multi-section. Shall be defined in the Manufactured Housing and Zoning Act, Article 3, Section 21A-2, NMSA 1978, as amended from time to time. "Multi-section manufactured home" means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

Manufacturing. The mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the creation of products, and the blending of materials such as liquors, lubricating oils, plastics, resins, or commercial and industrial scale welding. Also called "production".

Mausoleum. An above-ground building used or intended to be used to permanently contain the remains of deceased humans, sealed in crypts.

Miniature golf course. An area designed or used for the playing of a novelty version of golf played with a putter and golf ball on a miniature course and often featuring obstacles.

Mining operation. The process of obtaining useful minerals from the earth's crust or from previously disposed or abandoned mining wastes including, without limitation exploration, open-cut mining, and surface operation, the disposal of refuse from underground and *in situ* mining, concentration, evaporation, leaching, milling, mineral transportation and other processing.

Mobile Food Establishment. A vehicle-mounted, commercial food service establishment designed to be readily moveable and which may serve multiple locations on a daily basis. Mobile Food Establishments shall conform to all State and Local requirements for operation of a Mobile Food Business. Licensing by a State Department of Motor Vehicles and the NM Environment Department is required in addition to a City Temporary Use Permit and City Business Registration. Also called Food Truck.

Mobile home. Shall be defined in the Manufactured Housing and Zoning Act, Article 3, Section 21A-2, NMSA 1978, as amended from time to time. "Mobile home" means a movable or portable housing structure larger than forty feet in body length, eight feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code.

Mobile home park. A parcel or lot designed and developed for long-term residential use and intended for rent or lease where the residents live in mobile homes or manufactured homes exclusively.

Mobile home subdivision. A subdivision designed and developed with individual lots for long-term residential use and intended for sale where residents are in mobile homes or manufactured homes exclusively.

Motor vehicle salvage or wrecking yard. A type of junkyard at which there is the open storage of three (3) or more inoperable vehicles or on which salvaged motor vehicle bodies, motor vehicle parts, scrap or waste materials of any kind are displayed, exchanged, handled, processed, sold or stored.

Nominal or remote. Trifling or distant.

Nursing facility. A facility, duly licensed as required by the state, which primarily provides skilled nursing care and related services to residents for the rehabilitation of disabled, injured, or sick persons, or on a regular basis, health-related care services above the level of custodial care to other than mentally retarded individuals. The term "nursing facility" includes intermediate care facilities, nursing homes, and skilled nursing facilities as defined by the state.

Office. A place where consulting, record keeping, or the work of a professional person such as an accountant, engineer, lawyer, or physician is done, or a headquarters of an enterprise or organization; but the construction, manufacture or sale of on-premises goods is not included.

Office, business. A type of office which is the headquarters of a business or organization where activities such as record keeping, billing or other administrative functions are performed.

Office, professional. A type of office which is the headquarters of a business or organization where activities such as legal services, advertising, surveying, planning, consulting, chiropractic services, physician/medical doctor services, engineering or architectural services are performed. Does not include "Health Facilities" as defined herein.

Official Zoning Map. The City of Carlsbad land use designation map or maps corresponding to uses specified in this Code.

Outdoor commercial amusements. Various activities and structures that draw large numbers of people to specific events or shows including, but not limited to, amusement parks, arenas, outdoor concert areas, racetracks, shooting ranges, stadiums, or similar facilities intended to attract large crowds.

Outdoor sales, repairs, and activities. The sale, repair, display, or provision of products or services primarily outside of a building or structure.

Owner. Any person who has legal control of, or title to real property or a structure.

Parcel. An abutting area of land containing one (1) or more lots in the possession of, owned by, or recorded as the property of a person.

Parking lot. An area paved with an asphalt or cement surface and containing parking spaces reserved for the temporary parking of motor vehicles. Does not include overnight parking.

Parking lot, commercial. An area or structure used for the temporary parking of passenger vehicles including automobiles, light and medium trucks, sport utility vehicles, and motorcycles, (but not including large or commercial vehicles such as, but not limited to, busses, heavy equipment, or freight vehicles) at which a fee is charged for the use of individual parking spaces.

Parking lot sales. The sale of goods in the parking lot of a permitted structure or use.

Parking space. An area for the parking of one automobile, having a minimum width of 8 feet and a minimum length of 20 feet.

Person. Any individual, association, club, company, cooperative, corporation, estate, firm, joint venture, partnership, receiver, syndicate, trust or other entity.

Personal services. Services provided for personal or home use that do not principally support business activities. Examples include: photographic studio, hair, tanning, tattoo, and personal care services, martial arts, dance or music classes.

Planned unit development (PUD). A development and zoning district designed to accommodate varied types of residential and/or non-residential development including single, duplex and multiple-family housing, commercial or industrial uses, and related accessory uses and special uses commonly found in similar developments, in patterns or layouts not otherwise permissible in other zone districts of this Zoning Ordinance. Planned unit developments are designed and intended to provide additional amenities or benefits to the City in return for flexibility in the design, layout, and dimensions of the development.

Planning Director. The City Administrator or his or her designee.

Police and/or fire facility, full station. Central station containing offices of the chief and administrative employees, where business is conducted for police, fire, ambulance and/or other emergency service provided by a governmental agency.

Police and/or fire facility, substation. Any stations in addition to the full station located throughout the City to provide police, fire, ambulance and/or other emergency service to the surrounding community by a governmental agency.

Premises. A lot, together with all buildings and structures thereon.

Property lines. The lines bounding a lot.

Public hearing. A duly advertised hearing open to the public and conducted in accordance with the requirements of this Code and applicable state law which provides an opportunity for interested parties to present their opinions and/or evidence.

Public meeting. An informal meeting or other public gathering to discuss a topic or set of topics not requiring formal decision making.

Pushcart. A human propelled, self-contained food service cart, operating at approved locations for no more than two hours at a time, as defined and licensed by the State Environment Department.

Recreational vehicle (RV). A vehicle, which is built on a single chassis designed to be self-propelled or to be mounted or drawn by an automotive vehicle; and not designed for use as a permanent dwelling, but primarily as temporary living quarters for camping, recreational, travel, or seasonal use. It includes, but is not necessarily limited to motor homes, travel trailer, pop-up campers/tents and truck campers.

Recreational vehicle park (RV park). A use and any lot or parcel of land where space is rented to owners or users of recreational vehicles, tent campers or tents and those areas containing permitted accessory uses.

Residential care facility. Any residence for adults, duly licensed as required by the state, which provides and which has as its primary purpose to provide to the residents, either directly or through contract services, programmatic services, room, board, assistance with the activities of daily living, in accordance with the program narrative, and/or general supervision to two (2) or more adults who have difficulty living independently or managing their own affairs.

Residential facility. A facility, duly licensed as required by the state, in which twenty-four hour (24 hr.) continuous therapeutic care is provided to a group of children/adolescents.

Residential treatment center, accredited. A facility, duly licensed and accredited as required by the state, with sixteen (16) beds or less that may be attached to, or housed within, a hospital or other institution; that provides residential treatment services. The term “residential treatment services” means a program that provides twenty-four hour (24 hr.) therapeutic care to children/adolescents with severe behavioral, psychological, neurobiological, or emotional problems, who are in need of psychosocial rehabilitation in a residential facility.

Residential treatment facility. A facility, duly licensed as required by the state, that provides twenty-four hour (24 hr.) therapeutic care to children and adolescents and is licensed for no more than sixteen (16) children/adolescents. This includes residential treatment centers, group homes, residential substance abuse facilities and other similar facilities.

Restaurant, fixed. A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute the primary revenue source. May include a bar as an accessory use.

Retail sales establishment, community scale. An establishment with 5,000-30,000 square feet of gross floor area, where the sale or rental of goods for consumer or household use is the primary purpose. May include grocery sales.

Retail sales establishment, neighborhood scale. An establishment with less than 5,000 square feet of gross floor area, where the sale or rental of goods for consumer or household use is the primary purpose. May include grocery sales.

Retail sales establishment, regional scale. An establishment with greater than 30,000 square feet of gross floor area, where the sale or rental of goods for consumer or household use is the primary purpose. May include grocery sales.

Right-of-way. Land across which there is an easement or which is reserved and dedicated for use as an alley, crosswalk, street, for utilities or for other public use or access.

Roadway. That portion of a street right-of-way developed for vehicular traffic.

Rooming or boarding house. The subordinate use of a dwelling unit, for which the main use is the owner or operator’s permanent residence, containing not more than five guest rooms where lodging is provided with or without meals, for compensation.

Septic tank. A water-tight tank which meets all applicable codes, is properly permitted, and is designed and constructed to separate solids from liquid and digest organic matter through a period of detention together with a leach field.

Setbacks. Unobstructed, unoccupied, open areas, measured at its shortest distance as follows:

- (a) Street or front setback. The street or front setback shall be the distance between the front building line and the front property line or street right-of-way line, or street easement whichever is closer. If there is no street right-of-way line, then it shall be the shortest distance between the front building line and the nearest edge of the street or curb, whichever is closer.
- (b) Side setback. The side setback is the distance between the side building line and the side property line.
- (c) Rear setback. The rear setback is the distance between the rear building line and the rear property line.
- (d) City’s discretion. The City may, in its sole discretion, designate which side of the property is the front, side, and rear.
- (e) No yard, setback, or other open space provided around any structure for the purpose of complying with provisions of this Code shall be considered as providing a yard, setback, or open space for any structure on any other lot.

Sidewalk. A pedestrian walkway with permanent asphalt, brick, concrete or stone surfacing, a minimum of four-feet (4 ft.) in width and providing for Americans with Disabilities Act (ADA) compliance.

Sign. Any device that is sufficiently visible to persons not located on the lot where such device is located and is designed to attract the attention of such persons or to communicate information to them.

Sign permit. A permit issued by the City Administrator that authorizes the recipient to erect, move, enlarge, or alter a sign.

Single-family dwelling. A building designed for residential occupancy by one family constituting a single housekeeping unit having only one kitchen, but not including a bed and breakfast, congregate residence, hotel, motel, rooming or boarding house, or similar facility.

Shared access. Joint use of a curb cut or drive aisle utilized by more than one use, building, or property.

Shared parking. Joint use of a parking area by more than one building or property.

Shelter, emergency. A facility for the temporary shelter and feeding of disaster victims, operated by a public or nonprofit agency and where immediate support services may be provided.

Shelter, homeless. A facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public or nonprofit agency and where immediate support services may be provided.

Shopping center. Multiple retail sales establishments of various sizes, planned, constructed, and managed as an entity with off-street parking meant to be shared by tenants. The inclusion of an anchor such as a community scale retail sales establishment or a grocery store is common.

Skirting. A material designed and utilized to enclose a space between the lowest floor of a manufactured home, mobile home or modular home and the ground and utilized to completely conceal the undercarriage portion of such homes.

Slope. The ratio of vertical distance to horizontal distance (rise over run).

Solar Energy Conversion System/Solar Panels. A solar energy collection and conversion device that produces electricity or other form of energy primarily used for heating/cooling.

Solid waste. Any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid or contained gaseous material resulting from agricultural, commercial, industrial and mining operations and from community and residential activities, but does not include those items specifically excluded from the definition of solid waste in the Solid Waste Management Regulations of the New Mexico Environmental Department, as such definition may be amended from time to time.

Specified anatomical areas. Includes:

- (a) Less than completely and opaquely covered human:
 - (1) Genitals, pubic region;
 - (2) Buttock or anus;
 - (3) Female breast below a point immediately above the top of the areola to and including the bottom of the breast; covering of only the nipple and areola of the breast shall not constitute such covering.
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
- (c) A covering or device that, when worn, gives the appearance of or simulates the above-listed specified anatomical areas.

Specified sexual activities. Includes:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Actual or simulated sex acts of human masturbation, sexual intercourse, sodomy, or similar acts; and
- (c) Fondling or other erotic touching of human genitals, public region, buttock, anus, or female breast.

Spot zone. An arbitrary zoning or rezoning of a small tract of land, which is surrounded by other zoning categories that are of a different intensity, and which is not consistent with the land use goals of the city's comprehensive plan.

Stormwater, detention. The collection and storage of surface water for subsequent, gradual discharge.

Stormwater, retention. The collection and permanent storage of surface water.

Street, arterial. Those streets so designated and designed to carry high traffic volumes or function as major thoroughfares.

Street, collector. Those streets so designated and designed to carry moderate traffic volumes and function as connections between residential streets and arterial streets.

Street, residential. Those streets so designated and designed to carry low traffic volumes primarily through residential areas and neighborhoods.

Structure. Anything constructed or erected which requires location on the ground or attached to something having a location on the ground. "Structure" includes "building" but does not include a tent, camper or recreational vehicle, vegetation, vehicle, or public utility pole or line.

Structure height. The vertical distance from grade plane to the highest point on the structure.

Temporary use. A specific, permitted use established for a specified period of time. Temporary uses do not involve the construction or alteration of any permanent structure.

Tent. Any structure, enclosure or shelter constructed of fabric or other pliable material, supported by any manner except air or the contents protected by the material.

Theater/Dance Hall. A building or part of a building used to show motion pictures or for drama, dance, musical, or other live performances.

Traffic Impact Analysis (TIA). A technical study performed by a qualified engineer, which assesses the impact of a proposed facility or development on existing and proposed rights-of-way. It may analyze the impact on safety, intersections, circulation patterns, ingress/egress, traffic loads, parking and loading areas, on-site circulation and vehicles per day and may set forth mitigation measures to eliminate or substantially reduce such impacts. Also referred to as a "traffic study."

Trailer. A vehicle without motive power, designed to be towed by an automobile or truck but not designed for human occupancy and which may include a utility trailer, boat or watercraft trailer, horse trailer, or equipment trailer.

Transfer station. Any facility, including containers, vehicles, structures or buildings constructed, used and managed for the intermediate storage and/or processing and placement of solid waste for a limited period of time prior to transfer to a sanitary landfill, incinerator, or other solid waste disposal facility.

Travel trailer. Any vehicular or similar portable structure designed as a temporary dwelling for travel, recreational and vacation uses, including, but not necessarily limited to recreational travel trailers and camping trailers. A form of recreational vehicle that may operate under its own power or be towed by a vehicle.

Truck. A commercial vehicle such as, but not limited to, freight vehicles, solid or liquid hauling vehicles, tractors, busses or heavy equipment.

Trucking business. Any business with the primary function of freight movement, water hauling, oil/gas hauling or providing or storing service vehicles.

Truck stop/travel plaza. An area or structure designed or used for the temporary parking of large or commercial vehicles such as, but not limited to, freight vehicles, busses, or heavy equipment. In addition to parking, the area or structure may include ancillary services, such as, but not limited to, fuel, food, vehicle repair, and overnight rest facilities.

Use. The activity or function that actually takes place or is intended to take place on a parcel.

Utility, basic. Infrastructure services that need to be located in or near the area where the service is provided. Examples include individual customer service lines, storm water retention and detention facilities, telephone exchanges and water and sewage pump stations, but shall not include telecommunication towers. Service may be public or privately provided. Accessory uses may include control, monitoring, support and transmission or data equipment.

Utility corridor. Public or private passageways, including easements, for the express purpose of transmitting or transporting communication signals, electricity, gas, oil, sewage, water, or other similar services on a regional level.

Utility, intermediate. Infrastructure services that need to be located in or near the area where the service is provided, but which provide services on a larger scale than basic utility services. Examples include electrical substations, park and ride facilities for mass transit, public and private water treatment facilities, recycling drop-off stations and water towers and reservoirs, but shall not include telecommunication towers. Service may be public or privately provided. Accessory uses may include control, monitoring, support and transmission or data equipment.

Variance. Any substantial deviation from the requirements of this Code.

Vehicle repair. The servicing or cleaning of passenger vehicles, light and medium trucks, and other consumer motor vehicles such as boats, motorcycles and recreational vehicles. Generally, the consumer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, sales of parts, and vehicle storage. Specific vehicle repair use types in this Code include: auto mechanical repair, body shop, light and medium truck repair, and tire recapping and storage.

Vehicle repair, trucks. The servicing and repair of semi-trucks. Generally, the consumer does not wait at the site while the service or repair is being performed.

Vehicle service, limited. Limited vehicle service uses provide direct services to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as boats, motorcycles and recreational vehicles where the driver or passengers generally wait in the car or nearby while the service is performed. Accessory uses may include minor auto repair, offices, sales of parts and tires. Specific limited vehicle service use types in this Code include: car wash, fuel service facility, and quick lubrication facilities.

Veterinary clinic/office. Buildings and accessory structures or uses, where animals receive medical treatment and may be boarded during convalescence, operated by a veterinarian licensed in the State of New Mexico.

Vocational/technical/trade school. A school that offers specialized training in skilled trades or occupations, such as building trades, mechanics or office skills.

Wall. A solid barrier constructed of concrete, stone, brick, tile, wood or similar material that closes, marks, or borders a field, yard, or lot and that limits visibility.

[+**Warehouse/warehousing.** The use and/or facility for the indoor or outdoor storage and/or distribution of manufactured products, raw materials, liquids or solids.+]

Waste, hazardous. Waste, which, because of its quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality, serious incapacitation, or illness; or pose a substantial presence of potential hazard to human health or the environment when improperly disposed of, stored, transported or treated, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation Recovery Act of 1976; P.L. 94-580.

Waste, medical. Hospital and laboratory waste, including pathological specimens (i.e., all tissues, specimens, excreta and secretions obtained from patients and laboratory animals) and disposal fomites (any substance which may harbor or transmit pathological organisms) attendant thereto. Also, surgical operating room pathogenic specimens and disposal fomites attendant thereto and similar disposable materials from outpatient areas and emergency rooms. Also, equipment, fomites, instruments and utensils of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease.

Watercourse. Any arroyo, channel, creek, lake, river, stream or other body of water having banks and bed through which water flows at least periodically.

Water harvesting. The gathering, or accumulating and storing, of rainwater. Traditionally practiced in arid and semi-arid areas to provide drinking water, domestic water, water for livestock and irrigation. Also used as a way to replenish ground water levels.

Water supply system. A system to provide water for domestic use or human consumption.

Wholesale establishment. An establishment or place of business primarily engaged in selling merchandise to other businesses or other wholesalers, or acting as an agent or broker by buying merchandise for, or selling merchandise to, such businesses or wholesalers.

Wind Energy Conversion System/Wind Turbine. A wind energy conversion device that produces electricity; typically three blades rotating about a horizontal axis.

Windmill. A wind energy device with rotating blades and with a maximum height of thirty-five feet (35'), that is decorative or pumps groundwater for agricultural use.

Wine. Means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar, or any such alcoholic beverage to which is added grape brandy, fruit brandy or spirits of wine that is distilled from the particular agricultural products of which the wine is made, and other rectified wine products by whatever name that do not contain more than fifteen percent added flavoring, coloring and blending material and that contain not more than twenty-four percent alcohol by volume, and includes vermouth; .+]

Winery. A facility in which a winegrower manufactures and stores wine.

Wine Blender. A person authorized to operate a bonded wine cellar pursuant to a permit issued for that purpose under the internal revenue laws of the United States but who does not have facilities or equipment for the conversion of grapes, berries or other fruit into wine and does not engage in the production of wine in commercial quantities; provided that any person who produces or blends not to exceed three hundred gallons of wine per year shall not, because of such production or blending, be considered a wine blender;

Wine Bottler. A New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale.

Wine grower. A person who owns or operates a business for the manufacture of wine. Also referred to as "Winer"

Xeriscaping. Landscaping characterized by the use of vegetation that is drought-tolerant or of low water use in character.

Yard. An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by structures. No yard, setback, or other open space provided around any structure for the purpose of complying with provisions of this Code shall be considered as providing a yard, setback, or open space for any structure on any other lot.

Yard, front. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front building line.

Yard, rear. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the rear building line.

Yard, side. An open, unoccupied space on the same lot as the building and between the side building line and the side lot line.

Zoning permit. A permit issued by the Planning Director that authorizes the recipient to make use of property in accordance with the requirements of this Zoning Ordinance.

SEC. 56-32- 56-39. RESERVED.

ARTICLE III: DISTRICT REGULATIONS

SEC. 56-40. INTENT AND PURPOSE OF ZONING DISTRICTS.

(a) Rural Residential (R-R) District.

The Rural Residential District is intended to provide for areas that will accommodate agricultural, ranching, and natural resource uses and very low-density residential uses, until such time as other development is appropriate. There shall be a maximum of one primary residence per lot for R-R Rural Residential District Zoning

(b) Residential 1 (R-1) District.

The Residential 1 District is intended to accommodate moderate density single-family residential development and to provide land-use protection for areas that develop in such a manner. There shall be a maximum of one primary residence per lot for R-1 Residential District Zoning

(c) Residential 2 (R-2) District.

The Residential 2 District is intended to accommodate higher density single-family, duplex, multiple-family, and mobile home parks and subdivisions and to provide land-use protection for areas that develop in such a manner.

(d) Commercial 1 (C-1) District.

The Commercial 1 District is intended to accommodate neighborhood-scale retail, office, and customer service uses. Such uses are regulated in order to reduce adverse impacts on surrounding residential development.

(e) Commercial 2 (C-2) District.

The Commercial 2 District is intended to accommodate community and regional-scale retail and commercial uses. Such uses are regulated in order to be compatible with surrounding uses and existing infrastructure.

(f) Industrial (I) District.

The Industrial District is intended to accommodate heavy and/or concentrated fabrication, production, research, manufacturing, and industrial uses.

(g) Planned Unit Development (PUD) District.

The Planned Unit Development District is intended to accommodate only uses that are allowed in other zoning districts, but to allow more innovative design, massing, orientation, and clustering in development patterns. The district is not intended to reduce design and quality standards below those required by this Code and other regulations of the City.

SEC. 56-41. USE TABLE.

(a) Use Categories and Specific Uses.

If a specific use is listed in the table, that use is allowed only within the districts indicated, not within the districts that allow the broader Use Category. Most of the Specific Uses listed in Use Table 56-41(g) are defined in Article II.

(b) Allowed Uses.

An "A" indicates that the listed use is allowed by right within that zoning district. Allowed uses must comply with all applicable standards of this Zoning Ordinance and require a Zoning Permit.

(c) Conditional Uses.

A "C" indicates that the listed use is allowed within that zoning district only after review and approval of a Conditional Use Permit, pursuant to the review procedures of Section 56-150(f). Conditional Uses are subject to all applicable standards of this Zoning Ordinance.

(d) PUD Uses.

A "P" indicates that the use may be included in a PUD zoning district only after review and approval pursuant to the review procedures of Section 56-150(k). PUD uses are subject to all applicable standards of this Zoning Ordinance, unless these standards are modified by the terms of the approved PUD.

(e) Prohibited Uses.

A blank cell, one without an "A", "C" or "P", indicates that the listed use type is not allowed within that zoning district.

(f) Uses Subject to Specific Regulation.

Many uses are subject to use-specific regulations, in addition to general regulations that apply to all development. Uses followed by an asterisk (*) are allowed by right but additional regulations apply. See Section 56-42 for regulations.

(g) Use Tables

**FOR FURTHER ASSISTANCE USING TABLES 1 - 6, SEE ALSO:
DEFINITIONS, ARTICLE II
USE REGULATIONS, SECTION 56-42**

TABLE 1 – PERMITTED RESIDENTIAL USES

RESIDENTIAL USES										
GENERAL USE CATEGORY		SPECIFIC USE TYPE		R-R	R-1	R-2	C-1	C-2	I	PUD
1.	Household Living	a.	Business Residence	A			A	A	C	P
		b.	Employee Housing	A	A	A	A	C		P
		c.	Manufactured Home/Multi-Section*	A	A	A	A			
		d.	Mobile Home (1/lot)*	A						P
		e.	Mobile Home Park*	A		A	C	C		P
		f.	Mobile Home Subdivision (1/lot)*	A		C	C			P
		g.	Multi-Generational Dwelling	A	A	A	A			
		h.	Multiple-Family Dwelling	C		A	A	C		P
		i.	Rooming/Boarding House	A	C	A	A			P
		j.	Single-Family Attached Dwelling, including Condominiums and	C	A	A	A			P

			Duplexes							
		k.	Single-Family Detached Dwelling	A	A	A	A			P
		l.	All Other Household Living	C	C	C	C	C	C	P
2.	Group Living	a.	Community Home	A	A	A	A	A		P
		b.	Community Living Setting	A	A	A	A	C		P
		c.	Congregate Residence	C	C	A	A	A		P
		d.	Residential Care Facility	A	C	A	A	A		P
		e.	All Other Group Living	C	C	C	C	C	C	P
3.	Other	a.	Carport*	A	A	A	A	A	C	P

TABLE 2 – PERMITTED INSTITUTIONAL AND CIVIC USES

INSTITUTIONAL AND CIVIC USES										
GENERAL USE CATEGORY		SPECIFIC USE TYPE		R-R	R-1	R-2	C-1	C-2	I	PUD
1.	Care Facility, Inpatient	a.	Hospice Facility	C			A	A		P
		b.	Hospital	C			C	A		P
		c.	ICF/MR	A			A	A		P
		d.	Physical and Mental Rehabilitation Facility	C			A	A		P
		e.	Nursing Facility	C			A	A		P
		f.	Residential Facility	C		C	A	A		P
		g.	Residential Treatment Center, Accredited	C		C	A	A		P

		h.	Residential Treatment Facility	C		C	A	A		P
		i.	All Other Inpatient Care Facilities	C		C	C	C	C	P
2.	Care Facility, Outpatient	a.	Adult Day Care Center	C	C	C	A	A		P
		b.	Adult Day Care Home	A	A	A	A	C		P
		c.	Ambulatory Surgical Center	C			A	A		P
		d.	Birth Center	C	C	C	A	A		P
		e.	Child Day Care*	A	A	A	A	A		P
		f.	Community Living Setting	A	A	A	A	C		P
		g.	Community Mental Health Center	C			A	A		P
		h.	Counseling Center	C			A	A		P
		i.	Family Child Care Home	A	A	A	A	C		P
		j.	Health Facility	C			A	A	C	P
		k.	Renal Dialysis Facility	C			A	A		P
l.	All Other Outpatient Care Facilities	C			C	C	C	P		
3.	Church / Religious Assembly	a.	Church / Religious Assembly	A	A	A	A	A	C	P
4.	Community Services	a.	Detention Facility / Temporary Shelter	C			C	C	C	P
		b.	Shelter, Emergency	A	A	A	A	A	A	A
		c.	Shelter, Homeless	A			A	A		P
		d.	All Other Community Services	C	C	C	C	C		P
5.	Park and Open Space	a.	Cemetery*	C			C	C		P
		b.	Golf Course/Golf Driving Range	A	A	A	A	A		P
		c.	Miniature Golf Course	C			A	A		P
		d.	Park/Lake/ Reservoir/Open Space	A	A	A	A	A	A	P
		e.	Playing Field or Court	A	A	A	A	A		P
		f.	Shooting Range, Indoor	C			C	C	C	P
		g.	Shooting Range, Outdoor	C				C	C	P
		h.	Swimming Pool	A	A	A	A	A		P
		i.	All Other Parks and Open Spaces	C	C	C	C	C	C	P
6.	Police, Ambulance, & Fire Services	a.	Police, Ambulance, & Fire Services	A	A	A	A	A	A	P
7.	Private Recreation and Entertainment	a.	Club / Lodge	A			A	A		P
		b.	All Other Private Recreation and Entertainment	C			C	C		P
8.	School*	a.	Boarding School	A	C	C	A	A		P
		b.	Elementary / Secondary School	A	A	A	A	A		P
		c.	University / College	A	C	C	A	A		P
		d.	Vocational / Technical / Trade School	C	C	C	A	A	A	P
		e.	All Other Schools	C	C	C	C	C	C	P
9.	Utility	a.	Basic Utility	A	A	A	A	A	A	P
		b.	Intermediate Utility	C	C	C	A	A	A	P
		c.	Utility Corridor	C	C	C	C	C	C	P
		d.	All Other Utilities	C	C	C	C	C	C	P

TABLE 3 – PERMITTED COMMERCIAL USES

COMMERCIAL USES										
USE CATEGORY		SPECIFIC USE TYPE		R-R	R-1	R-2	C-1	C-2	I	PUD
1.	Office	a.	Business Office	A		A	A	A	A	P
		b.	Professional Office	C		A	A	A	C	P
		c.	Home Occupation, Office	C	C	C	C			P
		d.	All Other Offices	C		C	C	C	C	P
2.	Parking, Commercial	a.	Parking Structure or Lot	C			A	A	A	P
3.	Recreation , Private Golf Courses and Commercial Amusements*	a.	Amusement Park	C				C		P
		b.	Campground*	A				A		P
		c.	Golf Course/ Golf Driving Range	A	A	A	A	A		P
		d.	Miniature Golf Course	C			A	A		P
		e.	Playing Field or Court	A	C	C	A	A		P
		f.	Pool Hall / Bowling Alley					A		P
		g.	Recreational Vehicle (RV) Park*	A				A		P
		h.	Swimming Pool/Water Park	A			A	A		P
		i.	Shooting Range, Indoor	C			C	C	C	P
		j.	Shooting Range, Outdoor	C				C	C	P
		k.	Theater / Dance Hall	C			A	A	C	P
		l.	All Other Recreation and Entertainment	C	C	C	C	C	C	P
4.	Retail Sales and Service	a.	Adult Business Uses*					C	A	P
		b.	Animal Care / Boarding / Sales*	A			C	A	C	P
		c.	Appliance and/or Small Engine Repair and Service				A	A	A	P
		d.	Artisan/Craftsman Shop*	A	C	C	A	A	A	P
		e.	Bar*	A			A	A		P
		f.	Brewery, Small/Craft/Micro*	A			A	A		P
		g.	Catering	C	C	C	A	A		P
		h.	Convenience Store	A			A	A	A	P
		i.	Delivery and Dispatch Service					A	A	P
		j.	Distillery, Small/Craft/Micro*	A			A	A		P
		k.	Drive-Through Facility*				C	A	A	P
		l.	Farmers' Market / Flea Market	A			A	A	C	P
		m.	Feed Store	A			A	A	C	P
		n.	Financial Services	C			A	A		P
		o.	Grocery Store	A			C	A	C	P
		p.	Home Occupation, Bed and Breakfast*	C	C	C	C			P

TABLE 3 – PERMITTED COMMERCIAL USES (Continued)

USE CATEGORY		SPECIFIC USE TYPE		R-R	R-1	R-2	C-1	C-2	I	PUD
5.	Retail Sales and Service (Continued)	q.	Home Occupation, Sales and Service	C	C	C	C			P
		r.	Hotel / Motel*	C			C	A		P
		s.	Industrial Equipment and Supplies					A	A	P
		t.	Laboratory, Medical				A	A	A	P
		u.	Laboratory, Scientific/Research					A	A	P
		v.	Landscaping Material Sales / Nursery	A				A	A	P
		w.	Manufactured Homes and Buildings / Mobile Homes, Sales and Service	A				A	A	P
		x.	Outdoor Sales, Repairs and Activities*				A	A	A	P
		y.	Personal Service	C	C	C	A	A	C	P
		z.	Rentals and Sales of Farm Implements, Equipment and Vehicles	A				A	A	P
		aa.	Restaurant ,Fixed	A			A	A		P
		bb.	Retail Sales Establishment, Community Scale*					A	A	P
		cc.	Retail Sales Establishment, Neighborhood Scale*	C			A	A	C	P
		dd.	Retail Sales Establishment, Regional Scale*					A		
		ee.	Shopping Center					A		P
		ff.	Self Service Storage / RV Storage	A		C	A	A	A	P
		gg.	Veterinary Clinic / Office	A			A	A	C	P
		hh.	Winery	A				A	C	
		ii.	Wine Blender	A				A	C	
		jj.	Wine Grower	A				A	C	
kk.	All Other Retail Sales and Services	C			C	C	C	P		
6.	Temporary Uses* (Temporary Use Permit is Required, (see Section 56-80))	a.	Carnivals, Fairs and Other Public Gatherings	A	A	A	A	A	A	P
		b.	Garage, Estate and Yard Sales	A	A	A	A	A	A	A
		c.	Parking Lot Sales				A	A	A	
		d.	Pushcart	A			A	A	A	P
		e.	Real Estate Sales Office	A	A	A	A	A	A	A
		f.	Recreational Vehicle for Dwelling	A	A	A	A			
		g.	Recreational Vehicle for Office				A	A	A	P
		h.	Recreational Vehicle for Night Watchmen or On-Site Security Dwelling	A				A	A	P
		i.	Restaurant, Mobile	A			A	A	A	P
		j.	Temporary Housing, RV Park	A				A		
		k.	All Other Temporary uses	C	C	C	C	C	C	P
7.	Vehicle Uses Repairs, Sales, Service*	a.	Auto Mechanical Repair	C				A	A	P
		b.	Body Shop	C				A	A	P
		c.	Car Wash					A	A	P
		d.	Fuel Service Facility					A	A	P
		e.	Oil Change/Quick Lubrication					A	A	P
		f.	Tire Recapping and Storage					A	A	P
		g.	Truck Repair	C				A	A	P
		h.	Truck Stop/Travel Plaza	C				A	A	P
		i.	Vehicle Sales, New and Used					A	A	P

		j.	All Other Vehicle Repairs, Sales and Service	C				C	A	P
8.	Wholesale Sales Establishment	a.	Wholesale Sales Establishment					A	A	P

TABLE 4 – PERMITTED INDUSTRIAL USES

INDUSTRIAL USES											
<i>USE CATEGORY</i>		<i>SPECIFIC USE TYPE</i>		<i>R-R</i>	<i>R-1</i>	<i>R-2</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>	<i>PUD</i>	
1.	Manufacturing, Production, Warehousing, Trucking, and Freight Movement	a.	Brewery, Large*						A		
		b.	Distillery, Large*						A		
		c.	Indoor Operations with Indoor Storage and Loading Only					A	A	P	
		d.	Indoor and Outdoor Operations with Indoor/Outdoor Storage/Loading					C	A	P	
		e.	Trucking Business and Truck Storage and/or Parking					A	A		
		f.	Wine Bottler	C				C	A		
		g.	All Other						C	P	
2.	Natural Resource Production and Storage and Mining and Extractive Uses*	a.	Batch or Asphalt Plant*						C		
		b.	Oil/Gas Extraction	A					A		
		c.	Petroleum Products Refining or Wholesale Storage	C					A	P	
		d.	Refining or Smelting						C		
		e.	Sand, Gravel and Caliche Mining and Storage	C					C	P	
		f.	Solar Energy Conversion System/Solar Panels	A	A	A	A	A	A	A	P
		g.	Wind Energy Conversion System/Wind Turbine	C				C	C	P	
		h.	Windmill	A	A	A	A	A	A	A	P
		i.	All Other	C					C	P	
3.	Waste-Related Storage or Use	a.	Junkyard or Motor Vehicle Salvage/Wrecking Yard						C		
		b.	Hazardous Materials treatment, storage, or disposal facility						C		
		c.	Transfer Station	C					A		
		d.	Solid Waste Disposal Site	C					C		
		e.	All Other	C				C	C		

TABLE 5 – PERMITTED OTHER USES

USE CATEGORY		SPECIFIC USE TYPE		R-R	R-1	R-2	C-1	C-2	I	P U D	
1.	Agriculture and Livestock *	a.	Dairy	C							
		b.	Feed Lot								
		c.	Livestock/Poultry/Fowl /Rabbits*	A	A						P
		d.	Pasture	A							P
		e.	All Other	C							P
2.	Aviation or Surface Passenger Terminal	a.	Airport/Heliport					C	A	P	
		b.	Bus/Commuter Stop	A	A	A	A	A	A	P	
		c.	Bus/Railroad Depot	A				A	A	A	P
			Carpool Lot	A			A	A	A	P	
		e.	All Other	C				C	C	P	
3.	Communication Facilities*	a.	Amateur Radio Facilities	C	C	C	C	C	C	P	
		b.	Communications Facilities, Attached	C		C	C	C	C	P	
		c.	Communications Facilities, Free-standing	C			C	C	C	P	
		d.	Communications Facilities, Concealed	C	C	C	C	C	C	P	
		e.	All Other	C			C	C	C	P	

SEC. 56-42. USE REGULATIONS.

(a) Adult Business Uses.

1. Adult business uses shall not be established, operated, or maintained within one thousand feet (1,000 ft.) of any boundary of any residentially zoned district, structure used for residential purposes, outdoor recreation facility, place of worship, public or private school, child day care, or another adult business use.
2. Any adult business use lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of any use listed in subsection (a)(1) above.
3. Advertisements, displays, or other promotional materials displaying or depicting adult material shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks, or walkways, or from other areas outside the establishment.
4. All building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent the interior of such premises from being viewed from outside the establishment.

(b) Agriculture and Livestock Uses.

1. In the R-1 Residential District, a maximum of 3 chickens (hens only, no roosters) shall be permitted for egg laying but not for butchering. Three (3) rabbits may be kept as pets but not for butchering. Chickens and rabbits shall be housed in proper coops or cages and shall not be allowed to roam freely outside of the property. Excrement shall be cleaned up and properly disposed of daily so as not to create a nuisance. A Conditional Use Permit shall be obtained by the property owner before any chickens or rabbits are brought to the property. All other Livestock uses shall be limited to the Rural Residence District on lots that contain a minimum of three-quarters of an acre (3/4 ac.) or as otherwise regulated below. Livestock shall include, but not be limited to, horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, rabbits, ratitae, camelids, members of the lama genus, or farmed cervidae.
2. For a property containing a minimum of three-quarters of an acre (3/4 ac), horses, asses, mules, cattle, sheep, goats, bison, ratitae, camelids, members of the lama genus, or farmed cervidae, may be raised or kept, but not to exceed:
 - a. One (1) sheep, goat, ratitae, or member of the lama genus but not to exceed one (1) animal for each four thousand square feet (4,000 sq ft.) of land on which the animal will be maintained; or
 - b. One (1) horse, ass, mule, cow, bull, steer, bison, camelid, or farmed cervidae, but not to exceed one (1) animal for each ten thousand square feet (10,000 sq ft.) of land on which the animal will be maintained.
 - c. Swine may not be raised or kept.
3. For property containing an area of one acre (1 ac.) or more:
 - a. Sheep, goats, ratitae, or members of the lama genus may be raised or kept, but not to exceed one (1) animal for each four thousand square feet (4,000 sq. ft.) of land on which the animals will be maintained.
 - b. Horses, asses, mules, cattle, bison, camelids, or farmed cervidae may be raised or kept, or trained, but not to exceed one (1) animal for each ten thousand square feet (10,000 sq. ft.) of land on which the animals will be maintained.
 - c. Poultry and rabbits may be raised or kept, but not to exceed a total of twenty-four (24) animals on any property.

- (i) Poultry or rabbits produced or raised on the property may be sold, but retail stands or structures are not permitted.
 - (ii) The killing or dressing of livestock for commercial purposes is not permitted.
 - (iii) A maximum of 1 crowing fowl may be kept per acre of land.
- d. Swine may be raised or kept, but not to exceed one (1) swine for each twenty thousand square feet (20,000 sq. ft.) of land on which the animals will be maintained.
- e. Stands for display or sale of agricultural products, including poultry or rabbits, raised or grown on the premises are permitted, provided that:
- (i) The number of stands is limited to one for each property; and
 - (ii) The size of the stand does not exceed four hundred square feet (400 sq. ft.) of floor space.
- f. All livestock shall be maintained in permanently fenced fields, corrals or other permanent enclosures of sufficient durability and rigidity to prevent release. A supply of potable water in reasonable quantity shall be readily available for all animals at all times. Sufficient shade shall be provided for all livestock animals maintained within each enclosure. Animal waste shall not be permitted to accumulate and shall be properly disposed of every 24 hours. A minimum of forty square feet (40 sq. ft.) of shade shall be provided for each animal.

(c) Animal Care, Boarding, Sales.

No outdoor overnight boarding of animals is allowed in a C-1 zone.

(d) Artisan/Craftsman Shop.

Building size in the R zone is limited to one thousand five hundred square feet (1,500 sq. ft.). Building size is unlimited in the C-1, C-2, and I zones.

(e) Bar/Brewery (large and small)/Distillery (large and small).

All facilities selling or serving alcohol must comply with state and local licensing requirements and all other applicable ordinances, laws, rules, regulations, codes, and policies

(f) Batch or Asphalt Plants.

A site and rehabilitation plan shall be submitted to the Planning Director, and shall contain the following information.

1. The locations of all structures, the location of processing equipment, and adequate fencing and buffering of the site to prevent adverse impacts on neighboring properties, as required by the provisions of this Section.
2. The hours of the day and the number of months or years that the plant will be operating.
3. How the project site will be rehabilitated upon conclusion of the excavation or upon lapse of any required Conditional Use Permit, whichever occurs first, including finish contours, grading, sloping, and the location and amounts of vegetation.
4. An access road plan and a traffic impact analysis.
5. Additional information requested by the Planning Director and related to the impacts of the project on the surrounding area or the certainty that the site will be rehabilitated.
6. Where the operation is adjacent to subdivided residential or developed residential or commercial property, fencing or buffering may be required by the Planning Director to minimize dust, noise and other impacts to neighboring properties.
7. Where the access road plan or traffic impact analysis indicates potential health or safety concerns on the project site or in the surrounding vicinity, the Planning Director may place reasonable

restrictions on the use of public rights-of-way, or may require the use of alternative access roads to minimize those impacts.

8. Batching or loading operations shall not be permitted within one thousand feet (1,000 ft.) of a dwelling unit unless the owner and occupant of the residence have consented in writing to such operation.
9. Batching and asphalt equipment shall be set back at least one hundred feet (100 ft.) from all road rights-of-way and watercourses. Existing trees and ground cover along street frontage and watercourses shall be preserved, maintained, and supplemented, if necessary, to reduce dust, erosion and noise impacts to neighboring properties.
10. Operation shall be limited to the hours of 6:00 a.m. to 10:00 p.m. unless longer or shorter hours of operation are approved as part of the Conditional Use Permit.
11. The operation shall comply with the plan, as modified by the Planning Director pursuant to this Section, and the provisions of the plan and all other conditions set forth in this Section become part of the Conditional Use Permit for the operation.
12. If either the use is not operated within one year of obtaining the Conditional Use Permit or if the use ceases for a period of one year and a request for extension has not been received and approved by the Planning and Zoning Commission, the Conditional Use Permit will expire. Extension requests shall explain the reasons for the delay in operations and why those reasons will not apply during the extension period.
13. The City shall have all rights of access to the project site for purposes of verifying compliance with the provisions of this Code.

(g) Bed and Breakfast.

1. Guests shall not be permitted to stay in a recreational vehicle.
2. Guests shall not be permitted to stay longer than two consecutive weeks.
3. The residential character of the structure shall be maintained.
4. Permanent, full-time staff shall be limited to permanent residents; occasional staff, generally associated with large residences are permitted.
5. All required food preparation and handling permits shall be obtained and remain current.
6. Business shall be registered with the City as a Bed and Breakfast.

Campground/Camp.

1. Drainage, ground water level, soil and topography shall not create hazards to the property or the health and safety of the occupants or be injurious or detrimental to properties and persons near the proposed location of the activity.
2. Each campground shall contain space for a minimum of 3 tent spaces and a maximum of 3 Recreational Vehicle (RV) spaces, as defined below, and contain no less than 1acre/s (1 ac.). Tents shall be located in a space designated for such use.
3. The primary entrance shall be from a platted street and from a designated driveway. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the campground. Internal drive aisles shall be a minimum of 12' in width and shall be adequately marked with appropriate directional signage. Paving is not required.
4. Adherence to the setbacks in the underlying zoning district is required. Tents and RVs are not allowed within the required setbacks. A six-foot (6 ft.), solid wall or fence shall be required along the side and rear property lines and a three-foot (3 ft.) solid wall or fence shall be required along the front property line where the campground abuts a residential zone or public right-of-way. The

wall or fence shall be located so as not to interfere with the clear sight triangle at intersections or obstruct the view of traffic. Chain link fencing with slats shall not be considered a solid fence.

5. In order to encourage connectivity and pedestrian activity, gates may be provided where necessary and convenient for pedestrian access to internal and external sidewalks, walkways and public rights-of-way. A perimeter wall or fence is not required where the campground abuts the river or other natural amenity but is required otherwise.
6. Fresh water shall be provided on-site and all garbage, sewage, trash or waste water shall be disposed of in approved facilities provided by the management for that purpose. A public sanitation station for RVs is located at 302 Plaza Street.
7. Not less than five percent (5%) of the gross site area shall be devoted to open space for recreational purposes, and at least fifty percent (50%) of the required open space shall be located in one contiguous area.
8. Bathroom facilities shall be provided for both male and female campground patrons according to the following table:

Number of Tent and RV Spaces	Toilet	Sink	Shower
24-30	4	3	3
30-40	5	4	4
40-50	6	5	5

9. Barbeque grills, cooking shelters and fire pits shall be constructed, located, maintained and used so as to minimize fire hazards and smoke nuisance both on site and on abutting property. No open fire shall be permitted except in designated barbeque grills, cooking shelters or fire pits.
10. Management headquarters, recreational facilities, laundry facilities, bathrooms and other uses and structures customarily incidental to operation of a campground are permitted as accessory uses.
11. Tent camping is prohibited on public property, unless otherwise posted.
12. Tent spaces shall be a minimum of twenty-seven feet (27 ft.) in width by twenty feet (20 ft.) in length.
13. No more than three (3) RVs are allowed in a campground and shall be parked in a space designed for occupancy by such vehicle.
 - (b) The wheels of an RV shall not be removed except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the RV to prevent movement of the springs while the RV is parked and occupied.
 - (d) The minimum spacing between an RV with all slide outs fully extended+] and another RV with all slide outs fully extended shall not be less than ten feet (10 ft.). The distance between an RV and any building or structure shall not be less than fifteen feet (15 ft.).
 - (e) The minimum width for an RV space shall be twenty-seven feet (27 ft.) and the minimum length shall be enough to accommodate both the RV and the vehicle towing it.

(h) Care Facility, Group Living.

1. No kitchen facilities shall be located in any bedroom.

2. If located in an existing structure and designed to house more than five (5) clients, such use shall meet the requirements of all applicable ordinances, laws, rules, regulations, codes, and policies.
3. Adequate provisions shall be made for access by emergency medical and fire vehicles.

(i) Carport.

Carports shall be open on at least three sides and designed to shelter no more than two vehicles. A carport may be attached on one side to a garage, dwelling unit, or commercial building. A carport may not be placed or built within the required side or rear setback without the granting of a Variance from the Planning and Zoning Commission. A carport shall not encroach into the public right-of-way. There shall be no storage of any tools, materials, containers, or other similar items within a carport. Carports shall not include structures designed and built for the storage of Recreational Vehicles (RV). A Building Permit shall be required for any and all carports, whether site built or prefabricated, in addition to engineered plans from the manufacturer for all prefabricated or metal structures. A carport may be placed within the front setback without an approved Variance from the Planning and Zoning Commission, but must fully comply with all other regulations concerning carports found within this ordinance. **See Sec. 56-70(d)(4) for further regulations.**

(j) Cemeteries.

1. A cemetery for the burial of human remains shall contain no less than fifteen acres (15 ac). A cemetery for the burial of animal remains shall contain no less than five acres (5 ac).
2. Gravesites shall be set back at least twenty feet (20 ft.) from exterior property lines and/or public rights-of-way.
3. Outside storage areas shall be screened from public view by means of a solid fence, trees, shrubbery or other appropriate means. Such storage areas shall be kept free of weeds, trash and other objectionable items.
4. Perimeter fencing consisting of wrought iron, chain link or a solid wall, not less than six feet (6 ft.) high, and not more than ten feet (10 ft.) high, shall be required.
5. Cemeteries shall not be located in a designated flood hazard area.
6. Cemeteries shall be kept mowed and maintained at all times.

(k) Communication Facilities.

1. General
 - (a) Facilities may be self-supporting, guyed, or mounted on poles, other structures, light posts, power poles, or structures. Facilities may also include intertie and interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission systems.
 - (b) All attached telecommunication facilities, communication facilities, and telecommunication towers shall comply with the standards of this Zoning Ordinance, all applicable standards of the Federal Telecommunications Act of 1996, and all applicable requirements of the Federal Communications Commission (FCC) and the Federal Aviation Administration, as such may be amended from time to time. Copies of any applicable FCC approvals shall be provided to the City.
 - (c) No such facility or tower shall exceed a height of fifty feet (50 ft.) above grade plane, unless the applicant provides a report by a New Mexico registered professional engineer certifying that adequate service to the Carlsbad area cannot be provided from a facility or tower of such height, in which case the facility or tower shall not exceed the minimum height deemed necessary by such engineer, or one hundred feet (100 ft.), whichever is less.

- (d) Every such facility or tower shall be constructed and installed according to the manufacturer's specifications. The designs and plans for every tower twenty feet (20 ft.) or more in height shall bear the seal of a structural engineer registered with the State of New Mexico.
 - (e) Every such facility or tower shall be constructed with a setback of the fall radius as shown on the site plan, plus a five percent (5%) safety factor. This requirement shall apply to property lines and all public and private roads.
 - (f) All facilities and towers shall be enclosed with a chain link fence, six feet high, properly built and thereafter maintained so as to ordinarily keep persons and animals out of the enclosure. The City Administrator may, in appropriate circumstances, designate a different type or height of fence to be erected and maintained. All gates thereto are to be kept locked when the operator or its employees or agents are not within the enclosure.
 - (g) The site shall be kept at all times in a clean and sanitary condition. Such maintenance shall include, but not be limited to, removal of all debris, high grass, trash and weeds. All waste shall be disposed of properly.
 - (h) All owners and/or operators of telecommunication facilities or towers shall place and maintain a sign at each entrance to each telecommunication facility, tower or site stating the:
 - (i) Names and addresses of the owner and operator; and
 - (ii) Emergency contact information.
 - (i) Should the facility or tower cease to be used for its permitted use for a period of twelve (12) consecutive months, then the facility or tower shall be dismantled and properly removed, by the tower facility owner, from the site and the site shall be restored to its original condition. Such dismantling, removal and restoration shall be completed no more than sixty (60) days after such determination. The site shall be cleaned, leveled and left in a safe condition.
2. Amateur Radio Facilities. Any amateur radio attached facility or tower shall not be placed in the front or side setback. The design and plan for every tower over twenty feet (20') in height shall bear the seal of a structural engineer registered with the State of New Mexico.
 3. Attached Telecommunication Facilities. Attached telecommunication facilities shall be allowed by right in the districts referenced in the Use Table provided that they comply with all applicable standards of the underlying zoned district, including any maximum height standards.
 4. Disputes. If an applicant for a communication facility claims that one or more standards of this Zoning Ordinance are inconsistent with the Federal Telecommunications Act of 1996 or would prohibit the effective provision of wireless communications within the Carlsbad area, the City Administrator may require that the application be reviewed by a qualified engineer, selected by the City, for a determination of whether compliance with one or more standards of this Code would prohibit effective service. If the consultant finds that a standard prohibits effective service, the applicant shall be granted the minimum variance necessary to allow such service. Any costs of such review shall be borne by the applicant.

(l) Congregate Residence.

1. If active and continuous operations are begun, and later discontinued for a period of twelve (12) consecutive months, in a facility that was approved pursuant to this Code, the congregate residence shall be considered to be abandoned. The use may be reinstated only after obtaining a new Conditional Use or Zoning Permit.
2. No kitchen facilities shall be located in any bedroom.
3. Adequate provisions shall be made for access by emergency medical and fire vehicles.

(m) Child Day Care Facility.

1. The applicant shall submit evidence of a valid application for a certificate or license from the appropriate New Mexico State agency, including, but not limited to the New Mexico Department of Children, Youth, and Families, or its successor agency. After agency approval, a copy of the continuing certification or licensing shall be submitted to the City Administrator in January of each year.
2. Adequate provisions shall be made for access by emergency medical and fire vehicles.
3. Any outdoor play area shall be enclosed with a fence at least four feet (4 ft.) high and with at least one latched gate available for an emergency exit.
4. Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets.

(n) Drive-Through Facilities.

1. Adequate stacking area for at least eight (8) cars or 144' (each space shall be calculated at eighteen-feet (18') in length) shall be provided before the first pull-up window and six (6) stacking spaces for each additional window. The window space shall count as one (1) stacking space. Such stacking area shall not interfere with vehicle or pedestrian circulation in any parking lot or the free flow of traffic on any public right-of-way.
2. The stacking area shall be at least twenty-five feet (25 ft.) away from adjacent properties used for residential purposes.
3. The amplified ordering or signaling device shall not be audible beyond the property lines of the drive-through facility.

(o) Fuel Service Facilities.

1. Automotive fuel dispensers shall be located at least thirty feet (30 ft.) from the property line.
2. Fuel, grease, oil, waste oils or similar substances shall be fully enclosed in containers and stored and disposed of in compliance with all applicable ordinances, laws, rules, regulations, and policies. All such storage shall be at least twenty-five feet (25 ft.) from any property line.
3. All discarded materials including, but not limited to, cans, drums, and tires shall be stored in an enclosed area and under cover so as not to accumulate water, mosquitoes, or other insects.
4. A canopy over the fuel dispensers that is detached from the principal structure may be erected provided that such structure is located at least ten feet (10 ft.) from the property line.
5. All fuel service facilities that have public bathrooms shall contain separate bathrooms for men and women.
6. Adequate provisions shall be made for access by emergency medical and fire vehicles.

(p) Golf Courses and Outdoor Commercial Amusements.

1. Based on the size or level of anticipated use, a traffic impact analysis may be required.
2. For facilities containing a minimum of ten acres (10 ac.), one (1) dwelling unit may be maintained on the property to accommodate a manager or a caretaker of the facility and his or her immediate family.
3. Golf courses and other outdoor commercial amusements shall utilize water conservation methods, including, but not limited to using non-potable water instead of potable or fresh water for all watering.
4. Adequate provisions shall be made for access by emergency medical and fire vehicles.
5. Operation of outdoor activities shall be limited to the hours of 6:00 a.m. to 10:00 p.m.

(q) Hotel and Motel Facilities.

1. Based on the size or anticipated extent of the use, a traffic impact analysis may be required.

2. If the use requires a Conditional Use Permit, and if active and continuous operations are discontinued for a period of at least twelve (12) consecutive months, the use shall be considered to have been abandoned. The use may be reinstated only after obtaining a new Conditional Use Permit. Requests for reinstatement shall provide information concerning the factors and reasons for the request. The Planning and Zoning Commission will consider these factors and reasons as well as the extent conditions have changed in the area, if any, in granting reinstatement.
3. Adequate provisions shall be made for access by emergency medical and fire vehicles.

(r) Mining and Extractive Uses.

1. Mining and extractive uses within the City shall be limited to obtaining caliche, gravel, sand, oil and gas.
2. Where a Conditional Use Permit is required, approval of the permit is subject to the following regulations and information being submitted by the applicant to the Planning Director prior to approval:
 - (a) A detailed description of the method of operation of extraction and rehabilitation to be employed, including any necessary accessory uses such as, but not limited to, asphalt plants, batch plants, crushers and other processing plants.
 - (b) A traffic impact analysis. In addition, the operator shall submit a haul road plan and receive permission to use for haulage any public right-of-way not designated for such haulage by reason of dust, load limit, right-of-way or pavement width or other relevant factors. Reasonable restrictions may be placed on such right-of-way use. Alternative haul routes shall be developed where haul route impacts the health, safety and welfare of the local area.
 - (c) Copies of all state and federal permitting application forms, supplementary materials and approvals shall be provided to the Planning Director.
 - (d) A development schedule describing the life span of the mine in years or a range of years and, if applicable, the years included in each phase. Diligence in meeting this schedule is required.
3. Excavation or deposit of overburden shall not be permitted within thirty feet (30 ft.) of a boundary of adjacent property, easement, irrigation ditch or right-of-way unless by written agreement of the owner of such property, easement, irrigation ditch or right-of-way.
4. Excavation within one hundred twenty-five feet (125 ft.) of a dwelling unit shall be prohibited unless by written agreement of the owner and occupant of the residence, and no excavation involving the use of asphalt plants, batch plants, crushers and other similar equipment shall take place within two hundred fifty feet (250 ft.) of a dwelling unit.
5. All excavation activities shall be set back at least one hundred feet (100 ft.) from all rights-of-way and watercourses. The watercourse setback may be varied, based on New Mexico Department of Game and Fish and New Mexico Environment Department comments concerning site-specific factors. Existing trees and ground cover along street frontage and drainage ways shall be preserved, maintained and supplemented, if necessary, from the depth of the setback to protect against and reduce dust, erosion and noise. The Planning Director shall be authorized to require the installation of Landscaping and Buffering (see Section 56-110) along rights-of-way and watercourses when necessary to control dust and mitigate other adverse impacts.
6. Haul roads within the premises shall be maintained in a reasonably dust-free condition and shall be contained within the pit after excavation allows to the maximum extent feasible. The maintenance may include, depending on local conditions, paving or watering.
7. Operation shall be limited to the hours of 6:00 a.m. to 10:00 p.m. for caliche, gravel and sand excavation and mining unless longer or shorter hours of operation are approved as part of the Conditional Use Permit.

8. Prior to starting excavation, where the operation is adjacent to subdivided or developed commercial, residential, or industrial property, fencing, buffering and screening may be required if deemed necessary by the Planning Director. None of these shall be removed until rehabilitation has been completed.
9. Once mining has been completed, the site shall not to be used as an area to stockpile caliche, gravel and sand resources or pipes, equipment and items no longer used in the mining operation.
10. If the use has not operated or if no material has been extracted within two years of obtaining the Conditional Use Permit and a request for extension has not been received and approved by the Planning and Zoning Commission, the Conditional Use Permit will expire. If active and continuous operations are begun, and later discontinued for a period of at least twelve (12) consecutive months, the use shall be considered to have been abandoned. The use may be reinstated only after obtaining a new Conditional Use Permit.
11. Extension requests shall provide information concerning the factors and reasons for the request. The Planning and Zoning Commission will consider these factors and reasons as well as the extent conditions have changed in the area, if any, in granting extensions.
12. Extensions and Appeal.
 - (a) Up to a two year (2 yr.) extension may be granted by the Planning Director if a written request is submitted outlining the factors and reasons for the extension. New conditions, if any, will be considered.
 - (b) Requests for extensions up to five years (5 yrs.) and appeals of the Planning Director's decision will be submitted to the Planning and Zoning Commission at a public hearing.
 - (c) The application and all relevant materials shall be considered and the proposed excavation and rehabilitation plan shall be approved, approved with conditions, or disapproved.
 - (d) Any change in the approved excavation and rehabilitation plans shall be prohibited unless approved by the Planning and Zoning Commission.

(s) **Manufactured Homes, Mobile Homes and Single Recreational Vehicle (RV).**

1. Skirting. Skirting is considered integral to the manufactured home and mobile home. All manufactured homes and mobile homes shall be fully skirted. Skirting shall be completed within thirty (30) days from the date of installation or relocation of the manufactured home or mobile home. Skirting, shall comply with the standards of the Manufactured Housing Act and Regulations as may be amended from time to time. Materials used for may include cinderblock, masonite, rock, vinyl or sheet metals such as corrugated tin and aluminum. Skirting shall enclose the space between the lowest floor and the ground, and shall completely conceal the undercarriage portion of such homes.
2. Use for Storage Prohibited. A manufactured home, mobile home, or RV may not be used for the storage of goods, equipment or materials other than those items considered to be a part of the manufactured home, mobile home, or RV or essential for its immediate use.
3. Placement or Use of Mobile Homes. It shall be unlawful for any person to occupy, place or use any mobile home on any alley, highway, street or other public place or on any land within the city, except within a properly zoned district, mobile home park or mobile home subdivision and except as provided in Subsection 4, below. A Placement Permit is required prior to moving a mobile home into, or relocated within, the City.
4. Use as a Retail Sales Office. A manufactured home or a mobile home may be used at a business engaged in the retail sales of automobiles, manufactured homes, mobile homes or RV's. The manufactured home or mobile home may be used solely as the retail sales office for products sold at that property.

5. Use of an RV. It shall be unlawful for any person to occupy, place, store or use an RV outside of a properly zoned RV park except as follows:
 - (a) Temporary Dwelling. One (1) RV may be occupied or used on a residentially zoned lot containing a dwelling provided the RV is used for temporary dwelling purposes only. The RV may be served only with electricity and water from the on-site residential dwelling unit, and no other utility connection is permitted. Such occupation or use is limited to no more than fourteen (14) days in any calendar year for any given lot. An RV may not be placed in the required front, side or rear yard setback. *A Temporary Use Permit is required.*
 - (b) On-Site Temporary Residence. One (1) RV may be used or occupied as a temporary residence for the property owner at a construction site for which a building permit has been issued and is in effect. In a residential zone, the RV may be used as a temporary residence for no longer than six (6) months. An RV may not be placed in the required front, side or rear yard setback. *A Temporary Use Permit is required.*
 - (c) On-Site Temporary Construction Office. In a commercial or industrial zone, one (1) RV may be used as a temporary construction office at a construction site for which a building permit has been issued and is in effect. No such RV shall be used for residential purposes. *A Temporary Use Permit is required.*
 - (d) Night Watchman. In an industrial zone, one (1) RV may be used to serve as quarters for a night watchman or caretaker. No such RV shall be used for residential purposes.
 - (e) Outside Storage. RV's may be stored in an enclosed building. Outside storage of an RV is permitted provided the RV is not placed in the required front or side yard setback.

(t) Mobile Home Parks.

1. In Zoning Districts C-1 and C-2, a Conditional Use Permit is required. In Zoning Districts R-R and R-2, a Conditional Use Permit is not required but compliance with the following regulations is required. Approval of the mobile home park is subject to the following regulations and information submitted by the applicant to the Planning Director prior to approval:
 - (a) Mobile Home Parks shall only be developed on a single parcel of land no less than three (3) acres in size.
 - (b) Site conditions. Condition of drainage, ground water level, soil and topography shall not create hazards to the property, health and safety of the occupants or be injurious or detrimental to properties and persons near the proposed location.
 - (c) Site Plan. The following information shall be provided on a scaled site plan and in supporting documentation prior to Conditional Use Permit approval:
 - (i) Minimum Spaces. Each mobile home park shall contain at least twenty-four (24) mobile home spaces.
 - (ii) Refuse Collection. The refuse collection location and type must be approved by the Director of Public Works prior to conditional use permit approval.
 - (iii) Access to the site. Direct vehicular access shall be provided by means of an abutting public street or improved and permanently maintained private street or easement. Access shall not be from an alley.
 - (iv) Design of entrances and exits. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the park, and to minimize conflicts with the free movement of traffic on adjacent streets. Radii of curbs and pavement at intersections shall be indicated on the site plan and designed to facilitate easy turning movements for vehicles with mobile homes attached. All traffic into and out of the park shall be through such entrances and exits.

- (v) Access locations by emergency medical and fire vehicles shall be approved by the Fire Chief prior to conditional use approval.
- (vi) Internal streets, sidewalks, parking, and driveways.
 - (a) Streets.
 1. Internal streets shall be constructed to provide safe and convenient access to all spaces and to facilities for common use by park occupants. Such streets shall be privately owned, constructed and maintained, and shall meet all of the following requirements.
 2. Street width. Two-way streets shall be a minimum of twenty-two feet (22 ft.) in width. One-way streets shall be a minimum of sixteen-feet (16 ft.) in width. If on-street parking is provided, a minimum of eight-feet (8 ft.) shall be provided in each direction in addition to the driving width.
 3. Street alignment and gradient. Street alignment and gradient shall be designed to accommodate the movement and placement of mobile homes and shall be approved by the Director of Public Works prior to conditional use permit approval.
 4. Street surfacing and maintenance. Street surfacing may be chip seal, asphalt, or concrete but shall not be dirt, caliche or chat. Street surfacing and proposed maintenance shall be approved by the Director of Public Works prior to conditional use approval.
 5. Sidewalks. ADA compliant internal sidewalks shall be provided from the entrance of each Handicap Accessible mobile home space to each of the service facilities and communal areas.
 6. Parking. A minimum of two (2) off-street parking spaces shall be provided for each mobile home space.
 7. Driveways. Driveways shall be provided for convenient access to service and refuse collection facilities and for individual mobile home spaces. Driveways shall accommodate a minimum off-street parking area for two vehicles. Off-street parking spaces shall be a minimum of eight-feet (8 ft.) in width and eighteen-feet (18 ft.) in length per space. In no instance shall there be less than eight feet (8 ft.) in width, where the driveway does not serve as a walkway, or ten feet (10 ft.) where the driveway is also used as a walkway, and 18 feet in length.
 8. Handicap Accessible Mobile Home Spaces. A minimum of one (1) Handicap Accessible Space shall be provided for every 23 spaces. If possible, this space should be located in close proximity to facilities, amenities and service areas. This addition doesn't require that this space be reserved for or filled by a handicap occupant.
- (vii) Mobile home space and setback requirements.
 - (a) No more than one mobile home shall be placed in any single space. In addition, the space shall meet the following minimum standards:

1. Size. The area established for each mobile home space shall be in conformance with the dimensions of the mobile home placed therein, including its appurtenant structures and appendages.
 2. Location. The location of each mobile home space shall be at such angle, distance and elevation in relation to the access street and the mobile home access way that placement and removal of the mobile home is practical.
 3. Gradient. Each space shall have a zero percent (0%) to five percent (5%) slope and adequate crown or cross-gradient for surface drainage.
 4. Construction. The space shall be properly compacted and graded in order to support of the maximum anticipated loads during all seasons.
 5. Mobile home space setbacks. The minimum spacing between a mobile home and another mobile home or any other building or structure shall be at least twenty feet (20 ft.). No mobile home shall be closer than ten feet (10 ft.) from the park's property lines. No mobile home shall be closer than twenty feet (20 ft.) to the public right-of-way, unless separated from the right-of-way by a six-foot solid fence or wall.
 6. Special external setback requirement. Where a mobile home park abuts a differently zoned district, without an intervening public alley or street, the setback requirement of the mobile home park shall be in accordance with the setback requirements of the more restrictive zone or twenty feet (20 ft.), whichever is greater.
- (b) Walls and fences. A six-foot (6 ft.) solid perimeter wall or fence shall be required along the front, side and rear property lines but located so as not to interfere with the clear sight triangle at intersections or obstruct the view of traffic. Chain link fencing with slats shall not be considered a solid fence. In order to encourage connectivity and pedestrian activity, gates shall be provided where necessary and convenient for pedestrian access to internal and external sidewalks, walkways and public rights-of-way.
- (c) Skirting. All mobile homes shall be fully skirted within thirty (30) days from the date of installation or relocation in accordance with Subsection S(1), above.
- (d) Construction and tie-downs. All mobile home units in a mobile home park shall meet the requirements of the State standards for mobile homes as to construction and tie-down requirements.
- (e) Recreation area. Not less than five percent (5%) of the gross lot area shall be devoted to open space for recreational purposes, and at least fifty percent (50%) of the required open space shall be located in one contiguous area.
- (f) Pedestrian circulation. The pedestrian circulation system shall be ADA compliant and designed, constructed and maintained by the owner for safe and convenient movement from each mobile home space to principal destinations within the park and, if appropriate, shall provide access to sidewalks or other pedestrian ways leading to destinations outside the park.

- (g) Exterior lighting. All exterior lights shall comply with Section 56-120.
- (h) Landscaping and Buffering. All mobile home parks must comply with Section 56-110.
- (i) Residential occupancy. No space shall be rented for any use other than residential use of a mobile home.

(u) Mobile Home Subdivisions.

1. Codes and requirements. Mobile home subdivisions shall comply with the regulations, requirements and restrictions of all applicable building, health, and safety codes of the City and the State of New Mexico. Alleys, sidewalks, streets and all other public rights-of-way shall be designed and constructed to meet the City's standards for subdivisions.
2. Minimum area of subdivision. The subdivision shall contain at least five (5) contiguous acres of land. The lot shall be used for residential use only.
3. Lot area. The minimum lot area for each mobile home shall not be less than five thousand square feet (5,000 sq ft.) or should comply with the minimum square footage requirements of the subject site zoning with a minimum width of fifty feet (50 ft.) along the front yard setback line. Front, rear and side setbacks shall be the same as those for the R-1 Zoning District.
4. Lot use. No more than one mobile home shall be placed on a single lot in a mobile home subdivision. No detached accessory building shall be used for human occupancy.
5. Subdivision procedure. Mobile home subdivisions shall be approved in accordance with the subdivision process set forth in the Subdivision Ordinance of the City of Carlsbad, except that in the event of any conflict between dimensional standards applicable to subdivisions in general and those applicable to mobile home parks, the latter shall govern.
6. Adequate provisions shall be made for access by emergency medical and fire vehicles.
7. Skirting. All mobile homes shall be fully skirted within thirty (30) days from the date of installation or relocation in accordance with Subsection S(1) above.

(v) Outdoor Sales, Repairs, and Activities.

1. Outdoor sales, repairs, and activities shall not include the outside accumulation or storage of debris, trash or waste products, including, but not limited to, grease, oils, tires, or other flammable, hazardous, toxic or unsightly materials.
2. Outdoor sales, repairs, and activities which abut a residential zone shall be set back from the property line adjacent to the residential zone a minimum distance of ten feet (10 ft.).
3. Outdoor sales, repairs, and activities shall be screened from any residential zone and the public right-of-way by a six-foot (6 ft.) solid wall or fence but located so as not to interfere with the clear sight triangle at intersections or obstruct the view of traffic. Chain link fencing with slats shall not be considered a solid fence.

(w) Retail Sales Establishment, Community Scale.

1. Building has a maximum of 30,000 square feet of gross floor area.
2. Compliance with the Lighting, Landscaping and Parking sections of this Code is required.
3. Cross-access for vehicles and pedestrians as well as shared-parking is recommended.

(x) Retail Sales Establishment, Neighborhood Scale.

1. Building has a maximum of 5,000 square feet of gross floor area.
2. Compliance with the Lighting, Landscaping and Parking sections of this Code is required.

(y) Retail Sales Establishment, Regional Scale.

1. Building has greater than 30,000 square feet of gross floor area.

2. Compliance with the Lighting, Landscaping and Parking sections of this Code is required.
3. Cross-access for vehicles and pedestrians as well as shared-parking is recommended.

(z) RV Parks.

1. Site conditions. Condition of drainage, ground water level, soil and topography shall not create hazards to the property or the health and safety of the occupants or be injurious or detrimental to properties and persons near the proposed location of the activity.
2. Minimum Spaces and Acreage. Each RV park shall contain at least twenty-four (24) spaces for RVs or tents and contain no less than three acres (3 ac.).
3. Location and access. RV Parks shall have direct access to an arterial street with a right-of-way width of at least eighty feet (80 ft.) and with sufficient street frontage to allow for safe access and vehicular turning movements into and out of the RV park. No entrance or exit from an RV park shall be through a residential district, nor require movement of traffic from the park through a residential district.
4. Design of entrances and exits. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the park. Radii of curbs and pavement at intersections shall be sufficient to facilitate easy turning movements for RV's. Entrances and exits shall be designed to ensure maximum visibility for both cross traffic and vehicles entering and leaving the park. Nothing shall be placed or maintained that obscures the view of an approaching vehicle. All traffic into and out of the park shall be through such entrances and exits.
5. Internal streets, walkways, parking and driveways. Same as for Mobile Home Parks, Section 56-42(t)(vi), except that there may be a single parking space for each tent camping site.
6. Space size and setbacks.
 - (a) No occupied RV may remain in an RV park unless parked in a space designed for occupancy by such vehicle. No occupied tent may remain unless located in a space designated for such use.
 - (b) No more than one RV shall be placed in any single space, except that a single space may be occupied by more than one tent.
 - (c) The wheels of an RV shall not be removed except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the RV to prevent movement of the springs while the RV is parked and occupied.
 - (d) The minimum spacing between an RV with all slide outs fully extended and another RV with all slide outs fully extended shall not be less than ten feet (10 ft.). The distance between an RV and any building or structure shall not be less than fifteen feet (15 ft.), provided that an accessory building serving a single RV space may be located on that RV space but shall not be located closer than 10 ft. to the RV. The spacing between two tents may be less than that set forth in this paragraph.
 - (e) The minimum width for an RV or tent space shall be twenty-seven feet (27 ft.).
 - (f) No RV shall be closer than twenty feet (20 ft.) from a public right-of-way, unless separated from the right-of-way by a six-foot (6 ft.) solid fence or wall. Chain link fencing with slats shall not be considered a solid fence. No RV shall be closer than ten feet (10 ft.) from the RV park property line.
 - (g) If a designated overflow parking area is provided, a sanitary station shall be included in such area.
 - (h) Special external setback requirements.
 - (i) Where an RV park adjoins a differently zoned district, without an intervening public alley or street, the setback requirement of the RV park will be in

accordance with the setback requirements of the more restrictive zone or twenty feet (20 ft.), whichever is greater.

- (ii) A six-foot (6 ft.), solid wall or fence shall be required along the side and rear property lines and a three-foot (3 ft.) solid wall or fence shall be required along the front property line where the RV park abuts a residential zone or public right-of-way. The wall or fence shall be located so as not to interfere with the clear sight triangle at intersections or obstruct the view of traffic. Chain link fencing with slats shall not be considered a solid fence.
7. Pedestrian Connectivity. In order to encourage connectivity and pedestrian activity, gates shall be provided where necessary and convenient for pedestrian access to internal and external sidewalks, walkways and public rights-of-way. A perimeter wall or fence is not required where the RV park abuts a non-residential zone, the river, or other natural amenity.
 8. Disposal of garbage, sewage, trash and waste water. No RV shall dispose of garbage, sewage, trash or waste water except in approved facilities provided by the park’s management for that purpose.
 9. Recreation area. Not less than five percent (5%) of the gross site area shall be devoted to open space for recreational purposes, and at least fifty percent (50%) of the required open space shall be located in one contiguous area.
 10. Total bathroom facilities. Bathroom facilities shall be for the sole use of residents or other paid-use patrons. The bathroom building shall be of permanent construction. No RV space shall be located more than three hundred feet (300 ft.) from a building containing the required bath and toilet facilities. Bathroom facilities shall be required for each gender according to the table below. In the men’s bathroom facility, one urinal may be substituted for one toilet. For RV parks with more than thirty (30) spaces, the facilities shall be increased by one for each additional ten (10) spaces, rounding down. (numbers in the table below indicate requirements for both genders).

Because most RV are now self-contained;

[+Number Of Spaces	Toilet	Sink	Shower
24-30	3	2	2
30-40	4	3	3
40-50	5	4	4+]

11. Sanitary Stations.
 - (i) Facilities shall be provided for removing and disposing of wastes from all holding tanks in a clean, convenient and efficient manner.
 - (ii) Each sanitary station shall consist of a drainage basin constructed of impervious material, containing a disposal hatch and self-closing cover, and related working facilities.
 - (iii) Sanitary stations shall be located not less than thirty feet (30 ft.) from any space or other residential area. Such facilities shall be screened from other activities by visual barriers such as fences, natural growth or walls.

- (iv) The disposal hatch of a sanitary station unit shall be connected to the park sewage disposal system. A wash down hose shall be provided at all sanitary stations to wash holding tanks and the general area of the sanitary station and shall be connected to the park water supply system with a backflow prevention valve.
 - 12. Pedestrian circulation. The pedestrian circulation system shall be designed, constructed and maintained by the owner for safe and convenient movement from all spaces to principal destinations within the park and, if appropriate, shall provide access to pedestrian ways leading to destinations outside the park.
 - 13. Barbeque grills, cooking shelters and fire pits. Barbeque grills, cooking shelters and fire pits shall be constructed, located, maintained and used so as to minimize fire hazards and smoke nuisance both on site and on abutting property. No open fire shall be permitted except in designated barbeque grills, cooking shelters or fire pits.
 - 14. Accessory Uses. Management headquarters, recreational facilities, laundry facilities, bathrooms and other uses and structures customarily incidental to operation of an RV park are permitted as accessory uses to RV parks.
 - 15. RV and tent camping is prohibited on public property, unless otherwise posted.
- (aa) Schools, public and private.**
- 1. Any outdoor play area shall be enclosed by a chain link fence that is six feet (6 ft.) in height or an opaque fence of four feet (4 ft.) in height, unless otherwise dictated by the nature of the activity.
 - 2. Safe areas for pick-up and discharge of students shall be provided that do not interfere with the free flow of traffic on adjacent streets.
 - 3. Adequate provisions shall be made for access by emergency medical and fire vehicles.
- (bb) Truck Stop or Travel Plaza.**
- A truck stop or travel plaza shall only be located on a designated truck route.
- (cc) Vehicle Repairs, Sales and Services.**
- 1. All repair work, lubrication, and installation of parts and accessories shall be performed within a building enclosed on all sides.
 - 2. All automobile parts, dismantled vehicles, and similar materials shall be stored within a building enclosed on all sides or completely screened from view by a solid wall or fence. A chain link fence with slats shall not constitute acceptable screening.
 - 3. All vehicles awaiting sale or repair shall be stored on site in clearly marked, standard size parking spaces and shall not be stored on or obstruct access to a public right-of-way.
 - 4. There shall be no outside storage or accumulation of debris, trash, waste products, and discarded materials such as, but not limited to, cans, drums, grease, oils or other flammable, hazardous, toxic or unsightly materials.
 - 5. All debris, trash, waste products, and discarded materials such as, but not limited to, cans, drums, grease, oils or other flammable, hazardous, or toxic materials shall be disposed of in accordance with all laws and regulations.

SEC. 56-61- 56-69. RESERVED.

SEC. 56-70. ACCESSORY USES AND STRUCTURES.

(a) Allowed Uses and Structures.

Permitted uses and approved conditional uses shall be deemed to include accessory uses, structures, and activities that are necessarily and customarily incidental and subordinate to the principal uses allowed in the zoning district, including those uses and structures listed in this Section, unless specifically prohibited or unless they create a nuisance to the public in general or to neighboring properties. Accessory uses, structures and activities shall be subject to the following regulations in addition to the regulations that apply to principal uses in each zoning district.

(b) Time of Establishment.

No accessory use shall be established and no accessory structures shall be allowed on the subject parcel until after all required permits and approvals for the principal use or activity have been obtained.

(c) Drainage.

Accessory buildings shall not drain roof water or other liquids onto adjacent property.

(d) Residential Accessory Uses and Structures.

1. Accessory living quarters, provided it meets all applicable ordinances, laws, rules, regulations, codes and policies.
2. Barns, provided the lot has an area of one acre or more, and provided that the height of the barn shall not exceed twenty-five feet (25 ft.) or the highest roof ridge of the principal residential structure on the lot, whichever is less.
3. Cabanas, gazebos, playhouses, porches, verandas and similar structures, provided that the height of such structures shall not exceed fifteen feet (15 ft.).
4. Carports.
 - (a) Carports shall not exceed twenty-five feet (25 ft.) in height or the highest roof ridge of the principal residential structure of the lot, whichever is less.
 - (b) A carport shall not exceed twenty feet (20 ft.) in width and shall not exceed twenty five feet (25 ft.) in length.
 - (c) A carport may be detached from or attached to the principal structure.
 - (d) There shall be only one carport structure allowed per residence.
 - (e) Carports shall comply with all applicable zoning district regulations.
 - (f) Carports shall not extend any closer than five (5) feet to the public sidewalk. In the absence of a public sidewalk, a carport shall not extend any closer than five (5) feet to the back of the curb. In the absence of a curb and public sidewalk, a carport shall not extend any closer than five (5) feet to the edge of the street pavement. Under no circumstance shall any part of a carport be built or placed within the public right-of-way.
 - (g) Any carport within the front setback shall remain open on three sides. Only the support posts for the carport shall be allowed on any open side. The roof of a carport shall not extend any lower on an open side than six (6) feet from the ground.
 - (h) Residents shall avoid placing carports over any existing City utility (water infrastructure or waste water infrastructure) and shall not be placed in a location that would interfere with Emergency Services or regular City services. A call by the home owner or contractor into 811 shall be required prior to the installation of the carport structure in order to locate any underground utilities in the area where the carport shall be placed. If a carport structure is placed over an underground utility, the structure shall be moved to a location that is clear of any underground utilities at the home owner's or contractor's expense, and the home owner or contractor shall contact the office of the City's Building Official in order to obtain any new or applicable permits.
 - (i) If the carport should need to be moved due to an increase of the existing Right-of-Way for the purposes of widening the adjacent roadway, the costs associated with moving the carport structure shall fall on the home owner.

(j) Once the carport structure is in place, the storage of any items within the carport structure other than an automotive vehicle designed for operation on a City street shall be prohibited.

5. Fences, walls and hedges.

- (a) Fences, walls and hedges shall not exceed seven-feet (7ft.) in height along the rear property line.
- (b) Fences, walls and hedges shall not exceed seven-feet (7ft.) in height along the side property line from the rear property line to the front building line of any existing dwelling or to the front yard setback line, whichever is farther from the street.
- (c) Fences, walls and hedges shall not exceed four-feet (4ft.) in height from the front property line, or right-of-way line if the front property line is the street centerline, to the front building line of any existing dwelling or front setback line, whichever is further from the street.
- (d) For corner lots, fences, walls and hedges shall not exceed four-feet (4ft.) in height along the property line abutting a street for a minimum distance of thirty-feet (30 ft.) and a clear sight triangle must be maintained.
- (e) Concertina wire, razor wire and electrified fencing shall not be permitted except when surrounding public facilities where protecting the public health, safety and welfare is critical. These facilities may include water tanks, communication towers, jails or prisons or emergency supply storage.
- (f) Barbed wire shall not be used in the construction of a fence except above six-feet (6ft.) and only in the R-R zoning district.
- (g) A permit must be applied for and obtained prior to the erection or alteration of a fence or wall.

6. Gardens, provided no sales occur at the premises.

7. Greenhouse or hothouse provided no sales occur at the premises and provided that the height of the greenhouse or hothouse shall not exceed twenty-five feet (25 ft.) or the highest roof ridge of the principal residential structure of the lot, whichever is less.

8. Guest house, provided that such guest house is used only for the occasional housing of guests of the occupants of the principal dwelling, is not used for commercial purposes, and no charge is made for the use of the premises.

9. Home Occupations.

Home Occupations shall be allowed as a conditional use in the R-R, R-1, R-2 and C-1 zoning districts in accordance with the standards of this subsection. These uses require an approved Conditional Use Permit and a Business Registration:

- (a) Office Uses (by appointment only) including:
 - (i) Accountants and tax preparers;
 - (ii) Architects;
 - (iii) Attorneys;
 - (iv) Barbers and beauticians;
 - (v) Bookkeepers;
 - (vi) Computer programmers and web designers;
 - (vii) Data processors;
 - (viii) Dressmakers and tailors;
 - (ix) Engineers;

- (x) Financial planners and advisors;
 - (xi) Insurance sales people;
 - (xii) Massage therapists and reflexologists;
 - (xiii) Music and art teachers;
 - (xiv) Realtors;
 - (xv) Surveyors;
 - (xvi) Tutors; or
 - (xvii) Other office uses as approved by the Planning and Zoning Commission.
- (b) Retail Sales and Service uses including:
- (i) Catalog and mail order services that do not maintain stock for sale on the premises;
 - (ii) Home occupations which involve hand work, such as the making of baskets, blankets, clothing, jewelry, paintings, pottery and rugs, and artist studios;
 - (iii) Bed and Breakfast; or
 - (v) Other Retail Sales and Services as approved by the Planning and Zoning Commission.
- (c) Prohibited Uses. The following uses and activities shall not be permitted or conducted as a home occupation:
- (i) Adult business uses;
 - (ii) Appliance and/or computer sales, rental or repair;
 - (iii) Funeral homes;
 - (iv) Hotels;
 - (v) Metal work and blacksmithing;
 - (vi) Restaurants;
 - (vii) Retail sales and services, except those listed above;
 - (viii) Vehicle or equipment sales, rental, repair or servicing;
 - (ix) Veterinary facilities, animal clinics, animal care, boarding or grooming facilities; or
 - (x) Any occupation involving the storage or usage of hazardous materials.
- (d) Employees. There shall be a maximum number of one (1) non-resident employee.
- (e) Operational Standards.
- (i) The premises upon which the home occupation occurs shall be the primary residence of the person operating the business.
 - (ii) The use shall comply with all applicable ordinances, laws, rules, regulations, codes and policies.
 - (viii) All required licenses, permits, and certifications shall be obtained and maintained at all times.
 - (ix) As measured at the property lines, there shall be no offensive dust, fumes, noise, odors or electromagnetic interference.
 - (x) The operation shall not result in increased on-street parking in the area.

- (vii) There shall be no usage, disposal or storage of corrosive, explosive, flammable, hazardous or toxic substances. Such substances shall not be stored or used on City rights-of-way, spilled on or soaked into the ground, nor shall they be deposited or rinsed into a sanitary or storm sewer. Items having or containing such substances shall not be placed in City solid waste receptacles.
 - (f) Outdoor Appearance
 - (i) The home occupation shall be conducted in such a manner as to maintain the residential character of all buildings and structures and in such a manner as not to give an outward appearance nor manifest any characteristic of a business;
 - (ii) No changes in the exterior appearance of the dwelling to accommodate the home occupation shall be allowed, except that one sign may be used. Such sign shall not be illuminated and shall not exceed 1 square foot in size (1 ft. by 1 ft.). The sign shall not be placed within the public right-of-way and must be maintained wholly within the property lines; and
 - (iii) There shall be no outdoor storage of equipment or materials in conjunction with the home occupation. All materials and equipment shall be stored in a fully enclosed area.
 - (g) Parking.
 - (i) A home occupation shall provide additional off-street parking adequate to accommodate all needs created by the home occupation, but in no case shall designate more than two additional, permanent off-street parking spaces; and
 - (ii) Required off-street parking to serve a home occupation shall not be permitted in the front setback of the dwelling, other than in a driveway. All parking shall be properly surfaced and maintained to be dust-free.
10. Household or domestic pets may be kept, provided such use is in compliance with all applicable ordinances, laws, rules, regulations, codes and policies.
 11. Incidental household shop and storage buildings, provided that the height of a shop or storage building shall not exceed twenty-five feet (25 ft.) or the highest roof ridge of the principal residential structure of the lot, whichever is less.
 12. Animal care and boarding provided the lot has an area of one acre or more, if boarding is provided, and complies with all applicable ordinances, laws, rules, regulations, codes and policies, including, but not limited to Chapter 6 of the Carlsbad City Code.
 13. Outdoor storage or parking of operable RV's and other operable recreational equipment, including but not limited to, boats, camping trailers, and trailers, provided minimum front and side setbacks remain unobstructed. An RV or other recreational equipment may be stored in an enclosed building but shall not be stored in the public right-of-way.
 14. Private carports, garages and off-street parking areas used to serve the residents of the property and their guests, provided that the height of a carport or garage building shall not exceed twenty-five feet (25 ft.) or the highest roof ridge of the principal residential structure of the lot, whichever is less. A private garage or carport may be detached from or attached to the principal structure, provided it complies with all applicable zoning district regulations.
 15. Private recreational facilities for use of the residents of the property and their guests, provided that:
 - (a) Outdoor lighting shall be shielded and shall not shine skyward or onto adjacent property or public right-of-way;
 - (b) The height of any recreational or play facility shall not exceed fifteen feet (15 ft.) or the highest roof ridge of the principal residential structure of the lot whichever is less; and
 - (c) All swimming pools shall be subject to the restrictions of subparagraph (r) below.

16. Repair and restoration of residents' personal residential equipment including cars, trucks, and major recreational equipment, provided that equipment use is primarily personal and not for resale or service. Number of inoperable vehicles undergoing restoration shall be limited to a total of two (2). Repair, restoration and storage of such equipment shall be done in conformity with all applicable ordinances, laws, rules, regulations, codes and policies. Equipment being restored or repaired shall not be placed in the front or side-yard setback area. Equipment being restored or repaired shall be completely stored in an enclosed building. Paint odors shall not be detectable beyond property lines.
17. Satellite dish antennas twenty-four inches (24 in.) or less in diameter, provided that such satellite dish antenna shall be located in the rear or side yard of the residential use and no higher than three feet (3 ft.) above the highest ridge of the principal residential structure on the property.
18. Solar energy conversion systems/Solar panels. Solar energy conversion systems/solar panels may be located in any zoning district provided they are placed on the building roof or on the lot but not within the front or side-yard setback area.
19. Swimming pools, hot tubs, and similar recreational equipment having a depth of 24 inches (24 in.) or more and a capacity of 5,000 gallons or more are subject to the following additional requirements:
 - (a) They may not be located in any required front or side-yard setback area;
 - (b) All must be completely surrounded by a fence or wall not less than six feet (6 ft.) in height with no openings large enough to permit children to pass through, other than gates or doors that can be fastened to protect against entry. A building may be used as part of such required enclosure; a fence shall not be required in the instance that a pool safety cover has been installed. This safety cover shall be approved and the installation inspected by the Building Inspection Department.
 - (c) All gates or doors opening through such enclosures must be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in use.
20. Wind energy conversion systems/wind turbines may be located in any zoning district provided:
 - (a) A Conditional Use Permit is required;
 - (b) The minimum lot size per each wind energy conversion system is one-acre;
 - (c) All systems shall comply with applicable codes, ordinances, and laws;
 - (d) A building permit shall be required for each unit;
 - (e) On-grid systems shall comply with all electric utility regulations. Proof of such compliance shall be provided to the City with the application materials. Off-grid systems shall be exempt from this requirement;
 - (f) Rooftop units shall be permitted however an engineer registered in the State of New Mexico must certify that the roof is structurally capable of accommodating such units and the fall radius shall be measured from the edge of the roof to a point one and one-half times the total height of the roof top unit;
 - (g) The plans for any wind energy conversion system shall be reviewed and stamped by an engineer registered in the State of New Mexico prior to city approval;
 - (h) Wind energy conversion systems may be placed on the roof or on the lot but shall not be placed within the required front or side-yard setback area;
 - (i) Ground mounted wind energy conversion systems may be constructed to any height however the fall radius shall be a minimum of one and one-half times the total height of the complete system including tower, turbine and blades at their highest point; and
 - (j) No structures shall be constructed or placed within the fall radius area.

21. Windmill for the pumping of water for household or agricultural use with a maximum height limit of thirty-five feet (35 ft.). May not be located within the front or side-yard setback area.
22. Other minimal accessory structures and uses such as clotheslines, flagpoles, fountains, mail boxes, ponds, security lamp posts, statuary and such.

(e) Non-residential Accessory Uses and Structures.

1. Automated teller machines (ATMs).
2. Bars, clubs, gift shops, lounges, newsstands and restaurants when inside the principal building containing a permitted hotel/motel use.
3. Cafeterias, dining halls and similar food services when operated primarily for the convenience of clients, customers, employees or visitors to the principal use.
4. Clubhouses, including space for the sale of sporting equipment, food, and refreshments, as accessory uses to recreational facilities only.
5. Dormitories, as an accessory use to a boarding school, college or university.
6. Housing for employees, care takers or night watchmen.
7. Fences, walls and hedges provided that:
 - (a) Fences, walls and hedges may be constructed to the building height allowed in the underlying zoning.
 - (b) Fences and walls seven feet (7 ft.) or greater in height shall be structurally engineered and the specifications shall be stamped by an engineer registered in the State of New Mexico.
 - (c) When located on a corner lot, a clear sight triangle shall be maintained at all times.
 - (d) Concertina, razor wire and electrified fencing shall not be permitted except when surrounding public facilities where protecting the public health, safety and welfare is critical. These facilities may include water tanks, communication towers, jails or prisons or emergency supply storage.
 - (e) Barbed wire may be used in the construction of a fence or wall only above six-feet (6ft.); and
 - (f) A Fence Permit must be applied for and obtained prior to the erection or alteration of a fence or wall.
8. Gates and guardhouses.
9. Outdoor and sidewalk dining or sales provided that such facilities do not block or interfere with pedestrian traffic or ADA compliance requirements. A minimum of three feet of sidewalk must remain clear of obstructions to allow for ADA compliance.
10. Parking garages and off-street parking areas for employees, customers, and guests.
11. Private recreational facilities for use by clients, employees and guests, subject to the standards set forth in Section 56-70(d)(r), above for swimming pools.
12. Retail sales of goods as part of the principal permitted use, subject to the following conditions:
 - (a) Items for sale shall either be manufactured by the principal use or part of its stock;
 - (b) Maximum gross floor area of the accessory retail use shall be either ten percent (10%) of the total gross floor area of the principal use or five thousand square feet (5,000 sq. ft.), whichever is less; and
 - (c) Parking for the retail accessory use is provided in accordance with the off-street parking and loading regulations for retail uses as set forth in Section 56-100 of this Code.

13. Satellite dish antennas that are eighty inches (80 in.) or less in diameter, provided that, to the maximum extent feasible, the satellite dish antenna is located to the rear of the principal building.
14. Other minimal accessory structures and uses which the Planning Director determines are similar in size, height, nature and impact to those listed above, and that do not create adverse impacts on adjacent properties.

(f) Dimensional and Operational Standards.

The standards of this Section shall apply to all accessory uses and structures in all districts unless otherwise expressly stated.

1. Distance from Principal Structure. Accessory structures shall not be located closer than ten-feet (10 ft.) from the primary or any other structure and shall comply with the same setback rules as the primary structure.
2. Front Setback. No accessory use or structure, except for allowed fences or walls, and off-street parking areas, shall be located or take place within a required front yard setback.
3. Side Setback. No accessory use or structure, except for allowed fences or walls, and off-street parking areas, shall be located or take place within a required side-yard setback. Accessory buildings or structures on corner lots shall be set back from the side street a distance not less than that required for the principal building.
4. Rear Setback. In Residential and Rural Zoning Districts, accessory structures that are located ten feet (10 ft.) or farther from the primary structure may be located along the rear property line provided that there is an alley or other easement of at least twenty feet (20 ft.) in width at the rear of the property and providing that no water shall drain from the accessory structure into that alley or easement and further providing that there are no openings in the wall of the structure at the rear property line. If a garage or other accessory structure is entered from the alley, the structure shall not be located closer than ten feet (10 ft.) from the rear property line.
5. Easements. No accessory structure shall be located within any platted or recorded easement or over any known utility.
6. Height. Except as otherwise expressly limited or allowed, accessory structures shall not exceed twenty-five feet (25 ft.) or the highest roof ridge of the principal structure of the lot, whichever is less.
7. Dwelling Unit Prohibited. Except as otherwise expressly allowed, no dwelling unit shall be located in any accessory structure or building.

SEC. 56-71 – 56-79. RESERVED.

SEC. 56-80. TEMPORARY USES.

(a) Allowed Uses.

Temporary uses shall be allowed in accordance with the standards of the zoning district and this subsection. These uses require written permission from the property owner and an approved Temporary Use Permit from the Planning Director and in some cases a Business Registration, unless otherwise expressly permitted or allowed.

1. Carnivals, Circuses, Fairs and Public Events. Carnivals, circuses, fairs and public events shall only be approved by the City Council on a case by case basis and shall be in accordance with all applicable regulations. Permission of the property owner is required.
2. Garage, estate and yard sales. Garage, estate and yard sales require a Temporary Use Permit but do not require a business registration and may be conducted, but shall comply with the following minimum requirements:
 - (a) There shall be no more than two such activities per residence per twelve month period;
 - (b) Each sale shall begin and end within a consecutive seventy-two hour (72 hr.) period;

- (c) Sales shall be conducted on the property of the person selling the goods. Multiple home sales must be held on the property of one or more of the participants;
 - (d) No goods purchased for resale may be offered for sale or sold and no consignment goods may be offered for sale or sold;
 - (e) Directional and advertising signs shall not be located in the public right-of-way or attached to utility poles or other structures located in the public right-of-way; and
 - (f) All directional or advertising signs shall be removed within twenty-four hours (24 hrs.) of the completion of the sale.
3. Natural Disaster and Emergency Personal Assistance Locations. Temporary uses and structures needed to provide personal services as the result of a natural disaster or other health and safety emergency are allowed for the duration of the emergency and do not require a temporary use permit or business registration.
 4. Parking Lot Sales. Permission of the property owner is required for parking lot sales. Parking lot sales may include the sale of rugs, blankets, fruits, vegetables, and other such items but does not include the sale of live animals, which is prohibited. Parking lot sales are allowed in the parking lot of a permitted structure or use in the C-1, C-2, and I zoning districts for up to thirty (30) consecutive days at a time.
 5. Real Estate Sales Offices. Sales offices are allowed on development sites in any zone until all lots or houses are sold. Use of the sales office for lots or homes outside of the project area is prohibited.
 6. Recreational Vehicle as a Temporary Dwelling. A property owner may be permitted to reside in a recreational vehicle, for up to six months (6 mos.), on a building site where a residential building permit has been issued.
 7. Recreational Vehicle as a Temporary Office. A business owner or contractor may be permitted to utilize a recreational vehicle as an office, for up to six months (6 mos.), on a building site where a commercial building permit has been issued.
 8. Recreational Vehicle for a Night Watchman or Security Guard. A business owner may be permitted to utilize a recreational vehicle as an office for a night watchman or security guard, provided it is not used as a residence.
 9. Restaurant, Mobile and Pushcarts. Prior to issuance of a Temporary Use Permit, the applicant is required to provide the City with copies of all approved State of New Mexico permits and City Fire Marshall inspections and a signed affidavit from the property owner authorizing the placement of a mobile restaurant or pushcart on their property.
 - a. Operation of a mobile restaurant or pushcart, in conjunction with a special event, is limited to the duration of the special event.
 - b. If not in conjunction with a special event, operation of a mobile restaurant or pushcart shall be limited to the R-R, C-1, C-2, and I zoning districts. If in conjunction with a special event, operation of a mobile restaurant or push cart shall be permitted any zoning district.
 10. Temporary Housing/RV Park. Temporary Housing is defined as: "Housing for individuals or families, on a temporary basis, either in pre-fabricated, self-contained modular structures with other amenities, OR individual self-contained recreational vehicles, not including tents, truck campers or camper shells. Specifically for the purpose of this definition, Temporary Housing may also be referred to as crew-camp housing, work force housing, congregate residence or employee housing. Residents living within the temporary housing may be employed solely by one company, industry or project or may be employed by a variety of employers."

Temporary Housing, self-contained is defined as: "Temporary Housing that does not require connection to city utilities, is served by an independent waste water and freshwater delivery service, and that includes sleeping, cooking, dining, toilet and shower facilities, contained within an individual RV or contained within individual or multiple modular structures."

1. Temporary Housing is permitted only on land currently (as of the date of approval of these regulations) zoned “C-2” Commercial District and “R-R” Rural Residential District, with a minimum of two acres for the temporary housing area, and where primary access to the area of Temporary Housing is from an Arterial Street, as defined in the Code of Ordinances.
2. The land on which a Temporary Housing Use is permitted shall be properly addressed for 911 purposes.
3. Temporary Housing shall be connected to city water and sewer utilities or completely self-contained, except for electrical service, which shall be obtained from the service provider. All electrical work must be conducted by a licensed electrician and City electrical permits and inspections are required. The use of generators is prohibited except in an emergency power outage situation.
4. A site plan shall be provided that identifies:
 - a. the location of all pre-fabricated modular units and/or RV spaces with required setbacks and spacing between units; and
 - b. ingress and egress locations (a minimum of 2 with a minimum width of 24’ each); and
 - c. vehicular drive aisles - minimum width of 24’ with no on-street parking, minimum chip seal or gravel paving and graded to prevent ruts, muddy and dangerous driving surfaces; and
 - d. emergency access and turn around, if necessary, (minimum 80’ diameter); and
 - e. parking spaces (1 - 9’x18’ space per sleeping unit or recreational vehicle space); and
 - f. visitor parking spaces (1 – 9’x18’ space for every 4 sleeping units) in designated visitor parking area; and
 - g. the location of amenities such as park areas, swimming pool, picnic tables and/or recreational activity areas, if provided.
 - h. a utility plan that shows the location, size and details of all lines located on the site as well as connections to temporary housing and any connections to city utilities.
5. A grading and drainage plan is not required because permanent changes to the site, including grading, are not permitted.
6. A minimum 4’ tall perimeter fence shall surround the area of the site utilized for temporary housing and parking area. The purpose of this fence is to define the temporary housing area and to prevent litter and debris from blowing onto adjacent land. A building permit for the fence is required.
7. A 20’ set back from this fence shall be maintained free of obstructions at all times.
8. A minimum 10’ clear separation between all temporary structures shall be maintained at all times.
9. A minimum 10’ clear separation between all RV spaces shall be maintained at all times.
10. A minimum 30’ set-back from the front property line shall be maintained. This area may be used for landscaping or parking but may not be used for temporary housing units or RV spaces.
11. If not connecting to City sewer facilities, a copy of a NMED approved Sanitation Plan shall be provided to the City. At a minimum, the Sanitation Plan shall indicate the type of service (storage tank, septic system, daily pick up, etc.) and the sanitary service provider’s name and contact information, type of sanitary services provided (grey water, black water, fresh water, litter control, trash collection), the schedule or frequency for

such service provision, and the responsible party for immediate clean up if a spill occurs. All temporary housing units and/or RVs must be provided sanitary service on a regular basis, as needed, and identified in the Sanitation Plan.

12. The Sanitation provider shall comply with all Federal, State, and Local regulations including obtaining a permit from the City Wastewater Department.
 13. Permission to connect to City water and/or sewer facilities is dependent upon approval from the Utilities Department Director. The Director may require detailed plans regarding the size and location of the lines and connections. The developer is responsible for costs associated with the installation of, and connection to, the City facilities, both within the public right-of-way, if applicable, and within the private property used for the temporary housing. All construction work, including connections, will require the proper City permits and inspections will be conducted by the City in order to protect the health, safety and welfare of future temporary housing residents.
 14. Temporary Housing shall not be located within a floodway as delineated on the City's Flood Insurance Rate Maps.
 15. City Code Enforcement personnel may conduct unscheduled periodic inspections of the temporary housing use to ensure regulations and conditions are met.
 16. If all of the requirements are met, staff shall forward the request to the Planning and Zoning Commission for their recommendation to the City Council. The City Council shall make the final decision regarding the issuance of a Temporary Use Permit for Temporary Housing. The City Council may approve a permit for up to five years. The Planning Director may renew a permit for up to an additional five years, if it is determined that the need for temporary housing still exists. If renewal is requested by an applicant, City staff will verify if a need still exists by contacting permitted RV Parks and mobile home parks to assess vacancy rates.
 17. A Temporary Use Permit for Temporary Housing may be revoked by the City Administrator upon finding that:
 - a. the temporary housing is unsafe
 - b. the housing or grounds are unsanitary
 - c. crime or safety issues are prevalent
 18. If approved, you are required to contact the City Clerk to obtain a lodger's tax application.
 19. Water and sewer fees will be based on the number of spaces approved by City Council, not the number of occupied spaces.
 20. An approved Temporary Use Permit for Temporary Housing runs with the land and is transferrable to the new land owner for the remainder of the permit timeframe. After expiration of the permit, the new owner may apply for a renewal, as provided for in item #16 above.
 21. The permit period begins when the first unit is placed on-site. The permit period ends as specified by the City Council and renewals expire as specified by the Planning Director.
11. Other Uses. The Planning and Zoning Commission may approve other temporary uses and activities or special events. Such uses shall not jeopardize the health, safety or general welfare, or be injurious or detrimental to properties near the proposed location of the activity. Such uses shall comply with all applicable ordinances, laws, rules, regulations, codes and policies.

(b) General Regulations.

1. All temporary uses shall comply with the provisions of this Section:
 - (a) Permanent changes to the site are prohibited;

- (b) Permanent signs are prohibited. All temporary signs associated with the temporary use shall comply with all applicable ordinances, laws, rules, regulations, codes and policies and shall be placed no more than seventy-two hours (72 hrs.) in advance of the event, and shall be removed within twenty-four hours (24 hrs.) of the end of the event;
- (c) Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site;
- (d) All other required permits and licenses, such as health department permits, shall be obtained; and
- (e) Temporary uses shall be subject to site plan review as required by the Temporary Use Permit process.

2. Approval Criteria.

The Planning Director may approve a Temporary Use Permit if it is determined that all of the following conditions are met:

- (a) That the proposed site is adequate in size and shape to accommodate the temporary use;
- (b) That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;
- (c) That adequate parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations (with an approved alternative parking plan);
- (d) That the operation of the requested use at the location proposed and within the time period specified will not endanger, jeopardize or otherwise constitute a menace to the public health, safety or general welfare; and
- (e) All other required permits have been obtained.

3. Conditions of Approval.

In approving Temporary Use Permits, conditions may be imposed as necessary to reduce or minimize any potential adverse impact upon adjacent property. Conditions shall relate to an impact created or aggravated by the proposed use and shall be roughly proportional to the impact. For example, any or all of the following conditions may be imposed:

- (a) Provision of temporary parking facilities, including vehicular access, ingress, and egress;
- (b) Control of nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, dirt, dust, gases, heat, noise, odors, smoke and vibrations;
- (c) Limits on temporary buildings, facilities and structures, including height, placement and size, and location of equipment and open spaces, including buffer areas and other setbacks;
- (d) Provision of medical and sanitary facilities;
- (e) Provision of solid waste collection and disposal;
- (f) Provision of safety and security measures;
- (g) Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested or specified in this Section;
- (h) Submission of a performance bond or other financial guarantee to ensure that any temporary buildings, facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition; and

- (i) Other conditions deemed appropriate by the City Administrator.

SEC. 56-81 – 56-89. RESERVED.

SEC. 56-90. DENSITY, SETBACK AND AREA STANDARDS.

(a) Exception.

1. Lot Area.

No building permit or development approval shall be issued for a lot that does not meet the minimum area requirements of this Code except for utilities using land or an unoccupied structure covering less than one thousand square feet (1,000 sq. ft.) of site area are exempt from minimum lot area standards.

2. Encroachments.

Setbacks and yards must be unobstructed from the ground to the sky except that the following features may encroach into the required front, rear, and/or side setback, as permitted below, but in no instance shall encroach into the public right-of-way:

- (a) Bay windows, extending into a front or rear setback or yard, but not to exceed three feet (3 ft.) in depth and twelve feet (12 ft.) in length;
- (b) Chimneys, not to exceed two feet (2 ft.) in depth;
- (c) Clothesline posts (rear setback or yard only);
- (d) Driveways, curbs, and sidewalks;
- (e) Flagpoles;
- (f) Gardening and landscaping;
- (g) Heating and cooling units, not to exceed three feet (3 ft.) in depth;
- (h) Mailboxes;
- (i) Overhanging roof, eave, gutter, cornice, or other architectural features and awnings, not to exceed thirty inches (30 in.);
- (j) Septic systems, well, and underground utilities;
- (k) Steps, stairs, or fire escapes (non-enclosed), provided that they are of non-combustible construction, may extend into a rear setback or yard, but not to exceed three and one-half feet (3.5 ft.);
- (l) Uncovered, unenclosed terraces or porches, extending into a front or rear-yard setback, but not to exceed six feet;
- (m) Yard and service lighting fixtures, and poles.

(b) Density, Setback and Area Standards.

The development of lots is subject to the following density, setback and area standards:

TABLE 6: DENSITY, SETBACK, AND AREA STANDARDS

Zone District	Minimum Lot Area (sf) (net)/DU	Minimum Street Frontage (Feet)	Minimum Setbacks			Maximum Height (Feet)
			Front/Street (Feet)	Side (Feet)	Rear (Feet)	

R-R	10,890 (with city utilities) 43,560 (without city utilities)	75 110	30/20*	**	20	40
R-1	6,000	50	30/15*	**	10	40
R-2	2,500	50	0	**	10	40
C-1	2,500	50	0	**	***	50
C-2	N/A	50	0	10	***	N/A
I	N/A	100	0	20	***	N/A or as regulated by the FAA

* Where majority of buildings on block are closer than 30' from the front property line, the lesser setback applies.

** See subsection "B" below.

*** See subsection "C" below.

A. Where a lot abuts two or more streets along two or more non-adjointing sides of the lot, the required street setback shall be provided on all streets. No accessory building shall project beyond the street-side setbacks. Where a lot abuts two streets along two adjoining sides of the lot, there shall be a street setback on one street and a side setback on the other, with the side setback having a depth of not less than ten feet (10 ft.); provided, however, where the rear lot line of the corner lot is also a side lot line of an abutting lot, then there shall be a street setback on each street side of the corner lot. No accessory building shall project beyond the street setback on either street.

B. Side setbacks are required in order to provide a buffer between uses and for safety purposes. The minimum side setbacks shall be:

Building Wall Height (ft.)	Minimum Side Setback (ft.)
0.0 – 12.0	5
12.01 – 24.0	7.5
24.01 +	10

C. Rear setbacks are required in order to provide a buffer between non-residential and residential uses. Where the rear of a lot abuts a residential zoning district, the rear setback shall be a minimum of 10'. Where the rear of a lot abuts a non-residential zoning district, public right-of-way or alley, a rear setback is not required.

D. No yard, setback, or other open space provided around any structure for the purpose of complying with provisions of this Code shall be considered as providing a yard, setback, or open space for any structure on any other lot.

(c) Alternate Residential Development Options.

Alternate residential development options are intended to allow for variety while maintaining the overall character of a single-family residential development.

1. Flag Lots.

Flag lots are discouraged, however, if allowed by the applicable subdivision laws, ordinances, rules, and regulations, they shall meet the following minimum requirements:

- (a) Frontage. Each flag lot shall have a minimum of fifty feet (50 ft.) of street frontage and twenty feet (20 ft.) of continuous width for the entire length of the driveway.
- (b) Lot Area Calculation. The area of the driveway may not be counted as part of the lot area for the purpose of establishing minimum lot size.
- (c) Driveways. Driveways shall be designed to allow vehicles to drive out forward and for two vehicles to pass one another. Common driveways may be required when two flag lots abut. Driveways shall be designed with turnarounds of sufficient size and surfacing to allow for full access by ambulance, fire and other emergency vehicles (minimum 100' diameter). Driveways shall be paved with an all-weather surface (e.g. asphalt, brick pavers, porous pavement, concrete).
- (d) Deed Restrictions. Where common driveways are required for flag lots, terms requiring the owners of the flag lots to adequately maintain the driveway and turnarounds must be recorded on the plat and on the deeds of the applicable lots as an easement. Proof that such restrictions have been recorded with the County Clerk must be submitted prior to the issuance of any building permit.

2. Single-Family Attached.

Attached single-family development shall be allowed in accordance with the Use Table of Section 56-41. No interior side setback or yard is required on the "attached" side of a lot containing an attached dwelling unit. The standard setbacks and yards must be maintained on all other sides of the lot. The standard rear, side and front/street setback and yard standards shall apply around the perimeter of an attached housing development.

3. Zero Lot Line.

In a zero lot line development, dwelling units are shifted to one side of each lot to provide for greater usable side yard space on each lot. These developments require planning and approval for all of the dwelling unit locations concurrent with the preliminary subdivision plat. The exact location of each dwelling unit is determined by the plat.

- (a) Permitted Zones. Zero lot line developments are allowed in any zoning district that allows residential uses.
- (b) Proof of Record Required. Prior to the issuance of any building permits for a dwelling unit with a zero lot line lot, proof of filing of an approved plat with the County Clerk must be provided. The plat shall:
 - (i) Show that the provided side yard setback is twice the side yard setback required in the underlying zoning district;
 - (ii) Provide restrictions limiting the maximum eave projection to twenty-four inches (24 in.) over the zero lot line side of the property line; and
 - (iii) Provide easements for eave projection, access and maintenance.

SEC. 56-91 – 56-99. RESERVED.

ARTICLE IV: DEVELOPMENT STANDARDS

SEC. 56-100. OFF-STREET PARKING AND LOADING REGULATIONS.

(a) General

1. Applicability.

The off-street parking standards of this Section apply to:

- (a) All new structures and uses; and
- (b) The expansion or enlargement of an existing structure or use where the expansion or enlargement is greater than 200 square feet. When expanding and enlarging, additional off-street parking spaces will be required only to serve the enlarged or expanded area, not the entire structure or use, provided that in all cases the number of off-street parking spaces provided for the entire use (pre-existing plus expansion) shall equal at least seventy-five percent (75%) of the minimum number of spaces established in Tables 4.1.2A through F.

2. No Reduction Below Minimums.

Existing and proposed parking spaces may not be reduced below the minimum requirements established in this Section.

3. Shared Parking and Shared Access is Required.

Where access to a structure, use or property is limited by topographical features, City or State roadway restrictions, safety or traffic concerns the City shall require and the developer shall provide shared access and/or shared parking.

4. Shared Parking and Shared Access is Encouraged.

Where access to a structure, use or property is not limited by topographical features, City or State roadway restrictions, safety or traffic concerns the developer is encouraged to provide shared access and/or shared parking.

5. All new and restriped/repaved parking spaces and areas shall comply with the requirements of the Americans with Disabilities Act (ADA) and/or the American National Standards Institute (ANSI) Standards, whichever is more restrictive.

(b) Minimum Required Off-Street Parking.

Tables 7 through 12 establish the minimum parking area requirements and number of off-street parking spaces to be provided for the various land use categories. Unless the applicable standard addresses employee parking, additional off-street parking spaces shall be provided to meet the projected demand for employee parking. Where shared parking or access is provided the total number of required off-street parking spaces may be decreased by 20%. The number of accessible parking spaces, required for ADA compliance, is in addition to the requirements below and is based on the total number of required spaces prior to a shared access or shared parking reduction.

TABLE 7: PARKING AREA REGULATIONS – RESIDENTIAL USES

GENERAL USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES (SEE SUBSECTION (E)(1)(A) MEASUREMENT RULES)
1.	Household Living	a.	Business Residence	2 for each dwelling unit
		b.	Employee Housing	2 for each dwelling unit
		c.	Manufactured Home/Multi-Section	2 for each dwelling unit

		d.	Mobile Home	2 for each mobile home space
		e.	Mobile Home Park	2 for each mobile home space, plus 1 visitor space for every 4 mobile home spaces
		f.	Mobile Home Subdivision	2 for each dwelling unit
		g.	Multi-Generational Dwelling	2 for each dwelling unit
		h.	Multiple-Family Dwelling	2 for each dwelling unit, plus 1 visitor space for every 4 dwelling units
		i.	Rooming/Boarding House	1 for every 2 beds, plus 1 for every 2 employees on largest shift
		j.	Single-Family Attached Dwelling, including Condominiums and Duplexes	2 for each dwelling unit
		k.	Single-Family Detached Dwelling	2 for each dwelling unit
		l.	All Other Household Living	2 for each dwelling unit
2.	Group Living	a.	Community Home	1 for each employee plus 1 for every 4 residents
		b.	Community Living Setting	1 for each resident bed and 1 for every 2 guest beds
		c.	Congregate Residence	1 for each resident bed and 1 for every 2 guest beds
		d.	Residential Care Facility	1 for each employee plus 1 for every 3 residents
		e.	All Other Group Living	1 for every 200 square feet of living space
3.	Other	a.	Carport	1space

TABLE 8 – PARKING AREA REGULATIONS – INSTITUTIONAL AND CIVIC USES

GENERAL USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES (SEE SUBSECTION (e)(1)(a) MEASUREMENT RULES)
1.	Care Facility, Inpatient	a.	Hospice Facility	1 for each employee plus 1 for every 2 residents
		b.	Hospital	1 for every 2 beds, plus 1 for each employee on the largest shift, plus 1 for every 5 outpatients, plus 1 for each hospital vehicle (bassinets shall not be counted as beds for the purpose of computing parking)
		c.	ICF/MR	1 for each employee plus 1 for every 4 patients
		d.	Physical and Mental Rehabilitation Facility	1 for each employee plus 1 for every 3 patients
		e.	Nursing Facility	1 for every 2 beds, plus 1 for each employee on largest shift

		f.	Residential Facility	1 for each employee plus 1 for every 4 patients
		g.	Residential Treatment Center, Accredited	1 for each employee plus 1 for every 4 patients
		h.	Residential Treatment Facility	1 for each employee plus one for every 4 residents
		i.	All Other Inpatient Care Facilities	As approved by the Planning Director
2.	Care Facility, Outpatient	a.	Adult Day Care Center	1 for each employee and 1 unobstructed pick-up/drop-off space for every 3 clients
		b.	Adult Day Care Home	1 for each employee and 1 unobstructed pick-up/drop-off space for every 3 clients
		c.	Ambulatory Surgical Center	1 for each employee plus 1 for every patient
		d.	Birthing Center	1 for each employee plus 1 for every patient
		e.	Child Day Care	1 for each employee and 1 unobstructed pick-up/drop-off space for every 3 clients
		f.	Community Living Setting	1 for each employee plus 1 for every resident
		g.	Community Mental Health Center	1 for each employee plus 1 for every 3 patients
		h.	Counseling Center	1 for each employee plus 1 for every 2 patients
		i.	Family Child Care Home	1 for each employee and 1 unobstructed pick-up/drop-off space for every 3 clients
		j.	Health Facility	1 for each employee plus 1 for every 2 patients
		k.	Renal Dialysis Facility	1 for each employee plus 1 for every 2 patients
		l.	All Other Outpatient Care Facilities	1 for each employee plus 1 for every 2 patients
3.	Church / Religious Assembly	a.	Church / Religious Assembly	1 for every 3 (4) seats or seating spaces in the main assembly room
4.	Community Services	a.	Detention Facility / Temporary Shelter	1 for each employee plus 1 for every 3 detention cells
		b.	Shelter, Emergency	As Needed
		c.	Shelter, Homeless	1 for each employee plus 1 for every 3 beds
		d.	All Other Community Services	1 for each employee on the largest shift, plus either, 1 for every 250 square feet of gross floor area, or 1 for every 4 patrons to the maximum capacity
5.	Park and Open Space	a.	Cemetery	1 for each 200 square feet of common area used for gathering
		b.	Golf Course/Golf Driving Range	1 for every 2 employees, and 3 for each hole, plus 50% of the requirements for any accessory uses
		c.	Miniature Golf Course	1 per 200 square feet of common area and 1 per hole
		d.	Park/Lake/ Reservoir/Open Space	Parking area equal to 1% of total land area
		e.	Playing Field or Court	1 per 200 square feet of common area and where recreation is observed or occurs
		f.	Shooting Range, Indoor	1 for each shooting station plus 1 for each 200 square feet of indoor common area
		g.	Shooting Range, Outdoor	1 for each shooting station plus 1 for each 200 square feet of outdoor common area
		h.	Swimming Pool	1 for each 4 persons per maximum occupant load
		i.	All Other Parks and Open Spaces	Parking area equal to 1% of total land area, plus 1 for every 2 employees
6.	Police, Ambulance, & Fire Services	a.	Police, Ambulance, & Fire Services	1 for every employee on normal shift duty, plus 1 for each emergency/police/fire vehicle, plus 1 for every 300 square feet of business office space
7.	Private Recreation and Entertainment	a.	Club / Lodge	1 for each 200 square feet of common area
		b.	All Other Private Recreation and Entertainment	33% of maximum occupancy load, plus 1 for each employee; plus a minimum of 1 loading space

8.	School	a.	Boarding School	1 for each employee plus 1 for every 8 students
		b.	Schools	
			Elementary	1 for every 25 classroom seats and 1 for each teacher, aide, employee, or administrator
			Junior High	1 for every 15 classroom seats and 1 for each teacher, aide, employee, or administrator
			High School	1 for every 8 classroom seats and 1 for each teacher, aide, employee, or administrator
		c.	University / College	1 for every 2 students and 1 for each teacher, aide, employee or administrator
		d.	Vocational / Technical / Trade School	1 for every 2 students and 1 for each teacher, aide, employee or administrator
		e.	All Other Schools	1 for every 2 students and 1 for each teacher, aide, employee or administrator
9.	Utility	a.	Basic Utility	1 for service vehicle – utility easement may count as space
		b.	Intermediate Utility	1 for service vehicle – utility easement may count as space; or 1 for each 200 feet of common area
		c.	Utility Corridor	1 for service vehicle – utility easement may count as space
		d.	All Other Utilities	1 for service vehicle – utility easement may count as space

TABLE 9 – PARKING AREA REGULATIONS – COMMERCIAL USE

USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES (SEE SUBSECTION (E)(1)(A) MEASUREMENT RULES)
1.	Office	a.	Business Office	1 for every 200 square feet of gross floor area
		b.	Professional Office	1 for every 200 square feet of gross floor area
		c.	Home Occupation, Office	No additional spaces required
		d.	All Other Offices	1 for every 200 square feet of gross floor area
2.	Parking, Commercial	a.	Parking Structure or Lot	1 for each vehicle
3.	Recreation and Entertainment	a.	Amusement Park	1 for each 3 persons in designed capacity, plus 1 for each employee on largest shift
		b.	Campground	1 for each RV space and 1 for each camp space, plus an additional 1 for every 4 RV or camp spaces
		c.	Golf Course/ Golf Driving Range	1 for every 2 employees, and 3 for each hole, plus 50% of the requirements for any accessory uses
		d.	Miniature Golf Course	1 per 200 square feet of common area and 1 per hole
		e.	Playing Field or Court	1 per 200 square feet of common area and where recreation is observed or occurs
		f.	Pool Hall / Bowling Alley	3 for every lane, plus 1 for each employee, plus 50 % of the spaces required for accessory uses
		g.	Recreational Vehicle (RV) Park	1 for each RV space and 1 for each camp space, plus an additional 1 for every 4 RV or camp spaces
		h.	Swimming Pool/Water Park	1 for each 4 persons per maximum occupant load
		i.	Shooting Range, Indoor	1 for each shooting station plus 1 for each 200 square feet of indoor common area
		j.	Shooting Range, Outdoor	1 for each shooting station plus 1 for each 200 square feet of outdoor common area
		k.	Theater / Dance Hall	1 for each 3 seats and 1 for each 200 square feet of common area
		4.	Retail Sales and Service	a.
b.	Animal Care / Boarding / Sales			1 for each 200 square feet of common area
c.	Appliance and/or Small Engine Repair and Service			1 for each employee on largest shift and 1 for each 200 square feet of common area
d.	Artisan/Craftsman Shop			1 for each employee on largest shift
e.	Bar			1 for every 4 seats, plus 1 for each employee on largest shift
f.	Brewery, Small			1 for every 4 seats, plus 1 for each employee on largest shift
g.	Catering			1 for each employee on largest shift
h.	Convenience Store			1 for every 250 square feet of gross floor area, plus 1 for each employee per shift (maximum total of 12 spaces); plus a minimum of 1 loading space for general deliveries and a minimum of 1 loading space for delivery of gasoline, if gasoline is sold on the property
i.	Delivery and Dispatch Service			1 for each delivery vehicle, plus 1 for each employee on the largest shift
j.	Distillery, Small			1 for every 4 seats, plus 1 for each employee on largest shift

		k.	Drive-Through Facility	1 for each employee, plus adequate stacking area for eight (8) cars before the first pull-up window and six (6) stacking spaces for each additional window. The window space shall count as one (1) stacking space. Plus 1 space for every four seats. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or any abutting street or alley.
		l.	Farmers' Market / Flea Market	1 for each vendor plus 1 for each 200 square feet of common area
		m.	Feed Store	1 for each 200 square feet of common area plus 1 loading space
		n.	Financial Services	1 for each employee, plus 1 for every 250 square feet of gross floor area; drive-in window requires a minimum of 6 stacking spaces for each drive-in window (window space counts as a stacking space), in addition to parking spaces.
		o.	Grocery Store	1 space per 200 square feet for the first 15,000 square feet of gross floor area; then, one space per 250 square feet for the next 45,000 square feet of gross floor area; then, one space per 300 square feet for the gross floor area that exceeds 60,000 square feet, plus a minimum of 1 loading space
		p.	Home Occupation, Bed and Breakfast	1 for each room, plus 2 for every permanent residence; plus specified requirements for any other accessory uses. Meeting room requires 33% of maximum occupancy load.

USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES <i>(SEE SUBSECTION (E)(1)(A) MEASUREMENT RULES)</i>
5.	Retail Sales and Service (Continued)	o.	Home Occupation, Sales and Service	Maximum of 2 permanent spaces in addition to requirement for dwelling
		p.	Hotel / Motel	1 for each room, plus 2 for every permanent residence; plus specified requirements for any other accessory uses. Meeting room requires 33% of maximum occupancy load.
		q.	Industrial Equipment and Supplies	1 for every 500 square feet of gross floor area; plus a minimum of 1 loading space
		r.	Laboratory, Medical	1 for each employee on the largest shift
		s.	Laboratory, Scientific/Research	1 for each employee on the largest shift
		t.	Landscaping Material Sales / Nursery	1 for each employee on the largest shift 1 for every 200 square feet of sales and display area
		u.	Manufactured Homes and Buildings / Mobile Homes, Sales and Service	1 for every 200 square feet of office space, plus 1 for each employee
		v.	Outdoor Sales, Repairs and Activities	1 for every 200 square feet of office space, plus 1 for each employee
		w.	Personal Service	2 for every personal service station (e.g. chair, table), or, if there are no personal service stations, 33% of maximum occupancy load, plus 1 for each employee

		x.	Rentals and Sales of Farm Implements, Equipment and Vehicles	1 for each employee, plus 1 for every 600 square feet of gross floor area (this shall not include the space provided for vehicles for sale or lease)
		y.	Restaurant, Fixed	1 for every 4 seats, plus 1 for each employee on largest shift
		z.	Retail Sales Establishment, Community Scale	1 space per 200 square feet for the first 15,000 square feet of gross floor area; then, one space per 250 square feet for the next 45,000 square feet of gross floor area; then, one space per 300 square feet for the gross floor area that exceeds 60,000 square feet, plus a minimum of 1 loading space
		aa.	Retail Sales Establishment, Neighborhood Scale	1 space for each employee per shift, plus 1 for each 400 square feet of gross floor area, plus 1 loading space
		bb.	Retail Sales Establishment, Regional Scale	1 space per 200 square feet for the first 15,000 square feet of gross floor area; then, one space per 250 square feet for the next 45,000 square feet of gross floor area; then, one space per 300 square feet for the gross floor area that exceeds 60,000 square feet, plus a minimum of 2 loading spaces
		cc.	Shopping Center	1 space per 200 square feet for the first 15,000 square feet of net leasable area; then, one space per 250 square feet for the next 45,000 square feet of net leasable area; then, one space per 300 square feet for the net leasable area that exceeds 60,000 square feet, plus a minimum of 1 loading space.
		dd.	Self Service Storage / RV Storage	1 for every 250 square feet of net floor area of office space associated with the use, plus 1 for each employee, and 2 for a resident manager
		ee.	Veterinary Clinic / Office	1 for every 200 square feet of common area
		ff.	All Other Retail Sales and Services	1 for each employee per shift, plus 1 for each 200 square feet of gross floor area, plus 1 loading space
6.	Temporary Uses (Temporary Use Permit is Required)	a.	Carnivals, Fairs and Other Public Gatherings	1 for each 3 person in designed capacity
		b.	Garage, Estate and Yard Sales	No parking required - right-of-way may be used for parking unless prohibited
		c.	Parking Lot Sales	1 for every 200 square feet of sales area
		d.	Pushcart	As Needed
		e.	Real Estate Sales Office	1 for each employee on largest shift and 1 for every 200 square feet of office area
		f.	Recreational Vehicle for Dwelling	1 space
		g.	Recreational Vehicle for Office	1 for each employee
		h.	Recreational Vehicle for Night Watchmen or on-site Security Dwelling	1 space
		i.	Restaurant, Mobile	As Needed
		j.	Temporary Housing/ RV Park	1 – space per sleeping unit or recreational vehicle space; and 1 – space for every 4 sleeping units as visitor parking.

		k.	All Other Temporary uses	1 for each employee on largest shift and 1 for every 200 square feet of common area
7.	Vehicle Uses Repairs, Sales, Service	a.	Auto Mechanical Repair	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
		b.	Body Shop	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
		c.	Car Wash	Manual - 1 washing bay plus 1 stacking space for each washing bay Automatic - 1 drying space plus, 1 washing bay plus 3 stacking spaces for each washing bay Vacuum/Air - 2 for each vacuum stall and 2 for each air pump
		d.	Fuel Service Facility	2 for each pumping station, plus 1 for each employee per shift, plus 1 for every 250 square feet of gross floor area; plus additional requirements for accessory uses - 2 for each vacuum stall; 2 for each air pump
		e.	Oil Change/Quick Lubrication	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
		f.	Tire Recapping and Storage	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
		g.	Truck Repair	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
		h.	Truck Stop/Travel Plaza	1 for each employee, plus 1 for each service bay, plus 1 for each 200 square feet of sales and service area
		i.	Vehicle Sales, New and Used	1 for each employee, plus 1 for each service bay, plus 1 for each 200 square feet of sales and service area

		j.	All Other Vehicle Repairs, Sales and Service	1 for each employee, plus 1 for each service bay, plus 1 for each vehicle used in the operation of the business
8.	Wholesale Sales Establishment	a.	Wholesale Sales Establishment	1 for each employee plus sufficient spaces for loading

TABLE 10 – PARKING AREA REGULATIONS – INDUSTRIAL USES

USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES (SEE SUBSECTION (E)(1)(A) MEASUREMENT RULES)
1.	Manufacturing, Production, Warehousing, Trucking and Freight Movement	a.	Brewery, Large	1 for each employee plus sufficient spaces for loading
		b.	Distillery, Large	1 for each employee plus sufficient spaces for loading
		a.	Indoor Operations with Indoor Storage/Loading Only	1 for each employee plus sufficient spaces for loading
		b.	Indoor/Outdoor Operations with Indoor/Outdoor Storage/Loading	1 for each employee plus sufficient spaces for loading
		c.	Trucking/Truck Storage	1 for each employee plus sufficient spaces for truck parking
		d.	All Other	1 for each employee plus sufficient spaces for loading
2.	Natural Resource Production and Storage and Mining and Extractive Uses	a.	Batch or Asphalt Plant	1 for each employee on largest shift plus adequate parking for all facility vehicles
		b.	Oil/Gas Extraction	1 per service vehicle
		c.	Petroleum Products Refining or Wholesale Storage	1 for each employee on largest shift plus adequate parking for all facility vehicles
		d.	Refining or Smelting	1 for each employee on largest shift plus adequate parking for all facility vehicles
		e.	Sand, Gravel and Caliche Mining and Storage	1 for each employee on largest shift plus adequate parking for all facility vehicles
		f.	Solar Energy Conversion System/Solar Panels	1 per employee or service vehicle
		g.	Wind Energy Conversion System/Wind Turbine	1 per employee or service vehicle
		h.	Windmill	1 per employee or service vehicle
		i.	All Other	1 for each employee on largest shift plus adequate parking for all facility vehicles
3.	Waste-Related Storage or Use	a.	Junkyard or Motor Vehicle Salvage/Wrecking Yard	
		b.	Hazardous Materials treatment, storage, or disposal facility	1 for each employee on largest shift plus adequate parking for all facility vehicles
		c.	Transfer Station	1 for each disposal container and 1 for each employee on largest shift
		d.	Solid Waste Disposal Site	1 for each disposal container and 1 for each employee on largest shift
		e.	All Other	1 for each employee on largest shift plus adequate parking for all facility vehicles

TABLE 11 – PARKING AREA REGULATIONS – OTHER USES

USE CATEGORY		SPECIFIC USE TYPE		MINIMUM NUMBER OF VEHICLE SPACES (SEE SUBSECTION (E)(1)(A) MEASUREMENT RULES)
1.	Agriculture and Livestock	a.	Dairy	1 for each employee on largest shift plus adequate parking for all facility vehicles
		b.	Feed Lot	Not an allowed use
		c.	Livestock/Poultry/Fowl/Rabbits	No parking required
		d.	Pasture	No parking required
		e.	All Other	1 for every 400 square feet of gross floor area
2.	Aviation or Surface Passenger Terminal	a.	Airport/Heliport	1 per employee
		b.	Bus/Commuter Stop	No parking required
		c.	Bus/Railroad Depot	1 for each employee on largest shift plus spaces adequate for anticipated passenger loads
			Carpool Lot	1 for each vehicle
		e.	All Other	1 for each employee on largest shift plus spaces adequate for anticipated passenger loads
3.	Communication Facilities	a.	Amateur Radio Facilities	1 for each employee on largest shift
		b.	Communications Facilities, Attached	1 for service vehicle
		c.	Communications Facilities, Free-standing	1 for service vehicle
		d.	Communications Facilities, Concealed	1 for service vehicle
		e.	All Other	1 for each employee or service vehicle

TABLE 12: ADDITIONAL PARKING REGULATIONS

USE CATEGORY	MINIMUM NUMBER OF PARKING SPACES		
	Accessible Parking	Total Required Off-Street Parking Spaces:	Minimum Required Accessible Spaces:
	1 to 25	1	1
	26 to 50	2	1
	51 to 75	3	1
	76 to 100	4	1
	101 to 150	5	1
	151 to 200	6	1
	201 to 300	7	2
	301 to 400	8	2
	401 to 500	9	2
	501 to 1,000	2 percent of total	1 for every 6 accessible spaces, or fraction thereof
	1,001 and over	20 plus 1 for each 100, or fraction thereof, over 1,000	
Bicycle Parking	1 space minimum plus 1 space for every 20 required parking spaces. Bicycle parking shall be provided by means of a secure and maintained bicycle rack located in close proximity to the primary building entrance.		
Motorcycle Parking	Total Required Off-Street Parking Spaces:	Minimum Designated Motorcycle Spaces:	Motorcycle spaces shall be identified by a sign and pavement striping and located in close proximity to the primary building entrance.
	1-25	1	
	26-50	2	
	51-100	3	
	100+	4	

(c) Rules for Computing Parking Requirements.

The following rules apply when computing off-street parking requirements.

1. Multiple Uses.
 Shared parking is encouraged. Lots containing more than one use shall provide parking in an amount equal to the total of the requirements for all uses however, a 20 percent (20%) reduction is allowed if parking is shared, except for shopping centers, which are required to provide parking according to the preceding table.
2. Fractions.
 When calculating parking space requirements, fractional numbers shall be rounded up to the next whole number.
3. Area Measurements.
 Unless otherwise specifically noted, all square footage-based parking standards shall be computed on the basis of gross floor area.
4. Employment and Occupancy-Based Standards.
 For the purpose of computing parking requirements based on employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single

shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

5. Unlisted Uses.

Upon receiving a development application for a use not specifically listed in Tables 56-41(1-5), the Planning Director shall apply the off-street parking standard specified for the listed use that is most similar to the proposed use. If the Planning Director determines that the proposed use is unlike any other in Tables 56-41 (1-5), in terms of its potential parking impacts, the Planning Director may require the applicant to produce a parking impact study and an alternative parking plan, at the applicant's expense, and shall consider such study/plan in determining required off-street parking.

6. Transit Access.

For uses with a primary entrance within three-hundred feet (300 ft.) of an existing transit bus stop, or uses that provide a public transit bus stop within three-hundred feet (300 ft.) of the primary entrance, a 20% reduction in the required off-street parking requirements may be taken.

7. On-street Parking.

Because the intent of uses located in a C-1 Commercial District is to provide goods and services on a neighborhood scale and in order to encourage pedestrian activity in neighborhoods, where on-street parking is available or may be accommodated, and based on the overall width of the public-right-of-way, one on-street parking space may be substituted for every two required off-street parking spaces. In such cases, an alternative parking plan that identifies the required off-street parking spaces and the proposed on-street parking spaces shall be submitted to the Planning Director for review and approval.

(d) Location of Required Parking Spaces.

Except as specifically required in this Section, or as approved by the City Administrator in an alternative parking plan, the required off-street parking area must be located on the same lot or parcel as the principal use. No off-street parking shall be allowed within the required street setback, including the public right-of-way between a public sidewalk and a public street except that parking for single-family, multi-family and duplex dwellings may be located in residential driveways.

(e) Parking Area Layout Design.

1. Parking Area Dimensions.

- (a) The minimum dimensions of required off-street parking spaces shall be nine feet (9 ft.) wide, eighteen feet (18 ft.) long and if covered, at least ten feet (10 ft.) high, and shall be contained entirely within the property lines.
- (b) The minimum dimensions of required motorcycle parking spaces shall be four and one-half feet (4.5 ft.) wide, eighteen feet (18 ft.) long and if covered, at least eight feet (8 ft.) high, and shall be contained entirely within the property lines.
- (c) The minimum dimensions of a loading space shall be ten feet (10 ft.) wide, and forty feet (40 ft.) long, and, if covered, at least fourteen feet (14 ft.) high, and shall not extend onto or over an alley, sidewalk, street or public right-of-way.
- (d) Accessible parking spaces shall meet the following minimum requirements:
 - (i) For car spaces, the minimum width shall be nine feet (9 ft.).
 - (ii) For van spaces, the minimum width shall be eleven feet (11ft.).
 - (iii) Access aisles shall be provided for each space. The minimum width of an access aisle is five feet (5 ft.). One access aisle may be shared by two spaces.

- (e) Passenger loading zones, where provided, shall be a minimum of eight feet (8 ft.) wide and twenty feet (20 ft.) long. Access aisles serving passenger loading zones shall be a minimum of five feet (5 ft.) wide. Passenger loading zones shall be marked so as to discourage parking in them.
- 2. Protective Curbing.
Parking spaces adjacent to a property line that abuts a street and where the entrance into the parking space is not from a public street, shall be provided with bumper blocks or curbing to prevent vehicle overhang into the public right-of-way, street or over any sidewalk.
- 3. Paving and Striping.
The required off-street parking areas shall be paved with an all-weather surface (e.g., asphalt, brick pavers, porous pavement, concrete), in accordance with construction specifications of the City Engineer. Alternative parking area treatments may be approved by the City Engineer if it can be demonstrated that the surface can be maintained dust free.

SEC. 56-101 – 56-109. RESERVED.

SEC. 56-110. LANDSCAPING AND BUFFERING REQUIREMENTS.

(a) Purpose.

The intent of this Section is to establish standards to protect and enhance the City’s appearance by the installation of appropriate landscaping and screening materials; to maintain and increase the value of land; and to encourage the use of native vegetation and xeriscaping techniques to conserve water usage.

(b) Landscaping and Protection of Exposed Surfaces.

To improve the visual appearance and to reduce sediment movement from a site onto neighboring properties and in addition to any other landscaping requirements, exposed soil surfaces shall be revegetated with low-water use turf or plantings or otherwise protected from erosion. Areas of land temporarily exposed due to grading or other development shall be protected from erosion and blowing dust either by covering and/or wetting the soil, or silt fencing.

(c) Requirement to Landscape.

The following types of developments are required to provide and maintain landscaping:

- 1. New single-family residential development at the point of sale and as part of an approved subdivision of greater than 5-lots;
- 2. Multiple-family residential;
- 3. Manufactured home parks and subdivisions;
- 4. Mobile home parks and subdivisions;
- 5. Office;
- 6. Commercial;

Commercial uses in the “downtown area”, which for purposes of this section is defined as Halagueno Street to the west, Main Street to the east, Greene Street to the south and Shaw Street to the north. In this case, the landscaping requirement may be met by flower baskets, public art, street furniture, or other such items;

- 7. Industrial; and
- 8. PUD.

(d) Landscaping Plan.

All applicants for building permits for new construction or for commercial additions over 500 square feet shall submit a landscape plan to the building inspector. The landscape plan shall include:

1. Scale;
2. Bar scale;
3. North arrow;
4. Property lines;
5. Total lot area;
6. Net lot area;
7. Required landscape area;
8. Adjacent and proposed right-of-way;
9. Existing and proposed utility lines;
10. Existing and proposed easements;
11. Location of all drive aisles;
12. Location of all buildings;
13. The scientific and common name of all vegetative material;
14. The size, location and number of plantings of each type of vegetative material;
15. Irrigation system description and phasing plan, if applicable
16. Topography in the form of finished contour lines at five foot minimum intervals;
17. Water conservation description; and
18. Maintenance responsibility statement.

(e) Required Landscaping.

At a minimum, twenty percent (20%) of the net lot area shall be landscaped as described herein. Net lot area means the total area of the lot minus:

1. The area of the lot covered by buildings; and
2. The area of the lot for required off-street parking.

(f) Required Buffering.

Landscape buffer areas are required to separate off-street parking and circulation areas from front, side, and rear boundaries of a parcel or lot. Landscape buffers may be crossed by driveways connecting to adjacent land. No parking is permitted within a required landscape buffer area. Landscaping approved within adjacent public right-of-way may be counted toward this requirement if there is no existing or planned public sidewalk between such landscaping and the premises, but in no case shall the width of the on-site landscape buffer be less than five feet. Specific required landscape buffer locations, minimum widths, vegetation type, size and location shall be as follows:

1. Front - Ten feet.
2. Side - Five feet. The landscape buffer may be relocated if the lot line is within a common access easement.
3. Rear - Five feet. The landscape buffer may be relocated if the lot line is within a common access easement.
4. Where a nonresidential zone is developed for a nonresidential purpose and abuts a residential zone, the minimum landscape buffer on the abutting side(s) shall be a minimum of 10 feet. The buffer landscaping is required in order to minimize noise and visual impacts of the non-residential

use on the abutting residential use. Where parking or vehicle circulation areas abut a residential zone, in addition to the landscaping buffer, a minimum 3 feet high opaque wall or fence shall also be required to visually screen the parking or circulation area from the adjacent residential zone; chain link fence with slats shall not constitute acceptable screening.

5. Buffer landscaping shall consist primarily of low water use trees, shrubs and grasses. Trees shall be at least six feet high or 2 inch caliper at time of planting and capable of reaching a height at maturity of at least 25 feet. Shrubs shall be a minimum of 1 gallon at time of planting. Where trees are utilized solely, spacing of the trees shall be a minimum of 25 feet on-center. Where trees, shrubs, and grasses are used collectively, tree spacing shall be a minimum of 35 feet on-center.
6. Where the required landscape buffering cannot be provided due to lot restrictions, an internal courtyard or landscaped area shall provide the required landscaping. Potted plants and window boxes may be used as required landscaping.

(g) Required Landscaping Materials and Practices.

1. Minimum Plantings.

For each one hundred twenty-five square feet (125 sq. ft.) or fraction thereof of net lot area, the required landscape area shall include the following trees and/or vegetation:

- (a) At least one (1) low-water-use tree or other woody plant which is a minimum of six feet in height and two inches in caliper at the time of planting; and
- (b) At least two (2) cacti, perennial flowers, shrubs or other herbaceous or woody plants a minimum of one gallon in size at time of planting and not to exceed two feet (2 ft.) in height when mature.
- (c) The remaining required landscape area shall be covered with live low water use groundcover, native grasses, or other alternative plantings and groundcovers.

2. Alternate Plantings and Groundcovers.

Where ground plantings are not feasible and upon written approval of the Planning Director, the following items may be used in place of other landscaping provided that such items shall not interfere with lines of sight, pedestrian movement or signs and shall be constructed of weather-resistant materials:

- (a) Container planters, hanging baskets and window boxes; or
- (b) Street art which may consist of inlay work within walkways, sculptures, monuments or similar artwork; or
- (c) Ground cover such as rock, stone, and mulch if appropriately designed, installed, and maintained so as to prevent invasive or nuisance plants or growth.

3. Prevention of Obstructions.

All landscaping shall be designed, installed and maintained so as to prevent the obstruction of or interference with pedestrian and vehicular traffic. At a minimum:

- (a) All artwork, bushes, trees, or other vegetation extending on or over a sidewalk or other pedestrian way shall have a clearance of no less than eight feet (8 ft.) above the sidewalk or other pedestrian way.
- (b) All bushes, trees, or other vegetation extending on or over a street or other vehicular way shall have a clearance of no less than fourteen-feet (14 ft.) above the street or other vehicular way.
- (c) All bushes, trees, or other vegetation shall be kept trimmed so that they do not obstruct any traffic control device, sign, signal, or traffic line of sight.

4. Irrigation.

An automated irrigation system sufficient to promote and sustain the growth and health of all vegetation is required for all planting areas. Irrigation water shall be retained on-site. Rain and moisture sensing devices are encouraged.

5. Maintenance.

The property owner is responsible for maintenance of landscaping and irrigation systems. Landscaped areas shall remain free of invasive or nuisance plants, junk, litter, rubbish and other nuisances or obstructions. To prevent blowing dust, erosion and invasive plant growth, areas not covered by vegetation shall be covered with bark chips, mulch, wood chips or decorative cobble or rocks or similar natural materials providing a clean, uniform appearance. Bark chips, mulch, wood chips, decorative cobble, rocks, or similar natural materials shall be replaced and supplemented as needed to maintain the landscaping. All plants shall be maintained in a live and healthy condition or replaced, as needed. Non-vegetative landscaping shall be maintained so as to present a clean and well maintained appearance as is appropriate for the item.

6. Prohibited Vegetation.

The following vegetation is prohibited in all developed areas within the City:

- (a) *Ailanthus altissima* (Tree of Heaven);
- (b) *Tamarix ramosissima* (Salt Cedar);
- (c) Any plant listed on the *New Mexico Noxious Weed List*, as amended from time to time, published by the New Mexico Department of Agriculture.

7. Storm Water Detention.

On-site detention of storm water is required where existing public drainage facilities are insufficient or non-existent, as determined by the City Engineer. The developer shall provide a drainage plan showing that on-site detention areas are sufficient to detain the difference between pre-development and post-development runoff for the 10-year storm. If on-site detention is not feasible due to topography, the developer shall provide a hydrologic study to justify off-site storm water runoff.

(h) Bonus for Use of Low-Water Use Vegetation.

Development applicants are strongly encouraged to use only trees and/or vegetation listed on the List of Approved Low-Water Use and Native Vegetation, maintained in the Licensing and Permits Department, to comply with the requirements of this Section. Applicants who use only trees and/or vegetation included on the List shall be permitted to reduce the total area to be landscaped pursuant to this Section by ten percent (10%).

(i) Alternative Landscaping Plans.

Applicants for developments that are required to install landscaping pursuant to this Section may request that the Planning Director approve an alternative landscaping plan that does not meet the dimensional or landscaping requirements set forth above. Such alternative plans may include opaque fencing, natural earth berms, or other features designed to buffer uses or improve appearance. The Planning Director shall be authorized to approve such alternative landscaping plan if the required landscaping cannot be provided due to existing topographical features of the land and if the proposed landscaping provides an equivalent buffer between adjacent land uses or an equivalent improvement in the appearance of the development as seen from the street in front of the property.

(j) Use of Existing Landscaping.

Existing landscaping may be used to meet the requirements of this Section.

(k) Use of Public Rights-of-Way.

Unless explicitly stated in this Section or approved by the Planning Director as part of an Alternative Landscaping Plan, no portion of the public right-of-way shall be used to meet landscaping requirements of this Section.

(l) Public Art.

Public art such as statutes, murals, tile work, mosaics, sculptures and other art installations are encouraged as part of new and re-development throughout the City. Art installations proposed within the public right-of-way shall be reviewed for acceptable location and appropriateness of content by the Museum/Art Director and the Public Works Director.

SEC. 56-111 – 56-119. RESERVED.

SEC. 56-120. EXTERIOR LIGHTING.

(a) Purpose.

The intent of this Section is to provide standards to minimize the actual physical effects of lighting, as well as the effect that lighting may have on the surrounding neighborhood and the night sky. The goal is to ensure that exterior lighting meets the functional and security needs of the subject development in a way that does not adversely affect the adjacent properties, neighborhood or night sky. Lighting shall further and be in compliance with the State of New Mexico Night Sky Protection Act, [74-12-1 NMSA 1978].

(b) Applicability.

All residential and non-residential development shall comply with the standards set forth in this Section. For new single-family residential developments with more than five (5) lots and all multi-family residential and non-residential developments, the developer shall submit a proposed exterior lighting plan. This plan must be submitted concurrently with the subdivision application or the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, flood lights and other exterior structure lights. The specifications shall include details of the design, fixture height, lamp type, pole, wattage, location and spacing of lights.

(c) Design Standards.

All exterior lighting, including public street lighting, if applicable, shall meet the following design standards:

1. General Standards

- (a) No flashing or flickering lights shall be permitted.
- (b) Parking areas and other open spaces shall be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and of protecting people and property. Spaces such as building entrances and outside seating areas shall utilize local lighting that defines the space without glare.
- (c) Light sources shall be concealed or shielded to minimize the potential for glare and unnecessary diffusion on to adjacent properties or into public rights-of-way. Under-canopy lighting shall be recessed and shall not extend below canopy.
- (d) Light fixtures used to illuminate flags, statues, or any other objects mounted on a pedestal, platform or pole shall be lit from above by a downward projecting light source or use a narrow cone beam of light that will not extend beyond the illuminated object.
- (e) Street lighting shall be installed by the developer with nominal spacing of one light fixture every three hundred linear feet (300 linear ft.), unless an alternative lighting plan is approved by the Planning Director.
- (f) In the R-R, R-1, R-2 and C-1 zone districts, light fixtures shall not exceed twenty feet (20 ft.) in height above ground level except for security lighting.

- (g) In the C-2, I, and PUD zone districts, light fixtures shall not exceed thirty-feet (30 ft.) in height above ground level.
- (h) The Planning Director may approve an alternative lighting plan if safety or security cannot be maintained by the exterior lighting requirements. The developer shall submit a proposed exterior lighting plan. The specifications shall include details of each fixture's design and height, lamp type, spacing and wattage.

2. Exceptions

- (a) Outdoor Recreational Uses. Because of their unique requirements for nighttime visibility and their limited hours of operation, sports playing fields, tennis courts, and other similar outdoor recreational uses are exempt from the exterior lighting standards and shall only be required to meet the following standards:
 - (i) Maximum permitted light post height: Eighty feet (80 ft.).
 - (ii) A lighting source that illuminates an outdoor recreational use may exceed a cutoff angle of ninety degrees (90 deg.), provided that the luminaries are shielded to prevent light and glare spill over on to adjacent properties.
 - (iii) Exterior lighting for an outdoor recreational use shall be extinguished no later than 11:00 p.m. unless otherwise permitted by the City Council. Routine recreation use that occurs due to unscheduled overtime play or unscheduled delays does not require a permit.
- (b) Holiday Lighting. Because of its festive nature, holiday lighting may twinkle, flash, change color or have other visual effects provided it does not interfere with traffic signs or signals or adversely impact adjacent properties. Holiday lighting may be installed 60 days prior to the holiday and must be removed within 60 days after the holiday.
- (c) Accent Lighting. Accent lighting is permitted provided it does not interfere with traffic signs or signals and does not adversely impact adjacent properties, or the night sky, by causing light and glare spill over. Flood lights are not considered accent lighting.
- (d) Security Lighting. Security lighting is permitted in all zones provided it does not interfere with traffic signs or signals and does not shine onto adjacent properties. Security lighting shall be shielded to prevent light and glare spill over on to adjacent properties and into the night sky. Security lighting shall not exceed thirty-five feet (35 ft.) in height. Flood lights are considered security lighting.
- (e) Alternative Lighting Plans. Applicants for developments that are required to install lighting pursuant to this Section may request that the Planning Director approve an alternative lighting plan that does not meet the requirements set forth above. The Planning Director shall be authorized to approve such alternative lighting plan if the required lighting cannot be provided due to existing topographical features of the land or other property irregularity, and if the proposed lighting demonstrates due diligence with respect to Night Sky Protection, public safety, and shielding.

SEC. 56-121 – 56-129. RESERVED.

ARTICLE V: ADMINISTRATION

SEC. 56-130. REVIEW AND DECISION MAKING BODIES.

(a) **Carlsbad Planning and Zoning Commission.**

In addition to the responsibilities conferred by New Mexico Statutes upon the Commission, the Commission shall have the following powers and duties under the provisions of this Zoning Ordinance:

- 1. Conflicts of Interest

A member of the Commission having a financial interest in the outcome of any policy, decision or determination before the Commission shall, as soon as possible after such interest becomes apparent, disclose to each of the other members voting on the matter the nature of his or her financial interest in the issue and shall be disqualified from participating in any discussion, decision or vote relating to that issue-

2. Prohibitions

Members of the Carlsbad Planning and Zoning Commission shall not:

- (a) Communicate, directly or indirectly, with any party or his or her representatives in connection with the merits of any issue before the Commission prior to the Commission's hearing on the issue; or
- (b) Use or rely upon any communication, reports, staff memos or other materials prepared in connection with a public hearing unless it is made part of the record; or
- (c) Inspect the site at issue with any party or his or her representative, except as part of a publicized and organized visit involving the entire Commission, the public, and any other parties. Observing the site individually and from the public-right-of-way, without accompaniment by any party to the issue or other commission member, is permitted.

3. Advisory Committee

From time to time, the City Council may appoint one or more persons to help the Commission carry out its planning responsibilities. Members of any such Advisory Committee shall not be members of the Commission and shall have no vote, but shall lend their talents, energies and expertise to the Commission. However, all formal recommendations to the City Council shall be made by the Commission.

(b) City Council.

In addition to the responsibilities conferred by New Mexico Statutes upon the City Council as the Governing Body of the City of Carlsbad, the City Council shall have the following powers and duties under the provisions of this Zoning Ordinance:

1. Planning and Zoning Commission Appeals

Consider and decide appeals taken from the final decisions of the Planning and Zoning Commission;

2. Ordinance and Map Amendments

Enact amendments to this Zoning Ordinance and the Official Zoning Map;

3. Authority Deferral

Defer authority to make decisions on specific types of items to City staff as an administrative delegation;

4. Study and Refine Additional Development Criteria

Study issues, as necessary, which may impact the future growth, development and preservation of the environment of the City, and adopt ordinances, rules, regulations, codes and policies related to such issues;

5. Establish Policy and Rules for Ordinance Administration

Establish from time to time such policies and rules not in conflict with other laws as it may deem necessary to assure the proper administration and enforcement of this Zoning Ordinance.

(c) City Administrator.

Whenever the City Administrator or any other City official is named, the reference to such official shall include his or her designee, and the named official shall not be required to take the specified action personally if the action has been delegated to another individual within the City administration.

(d) Planning Director.

The Planning Director shall have the following responsibilities and duties under this Zoning Ordinance:

1. Provide Interpretations
Review, consider and render interpretations of the text of this Zoning Ordinance;
2. Administer Zoning
Review and decide whether applications are complete and eligible for processing pursuant to the terms of this Zoning Ordinance;
3. Recommend Disposition of Applications
Review and prepare staff reports with recommendations for the disposition of applications made pursuant to the terms of this Zoning Ordinance;
4. Public Notice
Ensure that adequate public notice is provided pursuant to the terms of this Zoning Ordinance;
5. Maintain Records
Maintain the permanent files of each application and for each enforcement action undertaken pursuant to the provisions of this Zoning Ordinance. Records shall be maintained for the time period specified for such records by State law;
6. Review Submitted Documentation
Review site plans, drawings and specifications for building permits in coordination with the City's Building Official;
7. Provide Comprehensive Planning Updates
Undertake current and long-range planning responsibilities. Review, as necessary, but at least every five years, this Zoning Ordinance and recommend amendments to the Planning and Zoning Commission and the City Council;
8. Maintain Official Maps
Maintain the Official Zoning Map;
9. Serve as Liaison with other Planning and Permitting Efforts
Coordinate with other local, regional, state and federal planning organizations and permitting processes affecting the City; and
10. Conduct Examinations and Surveys
Enter upon any land which is the subject of an application or enforcement proceeding to make examinations and surveys and place and maintain necessary monuments and markers.

(e) City Attorney.

The City Attorney shall have the following responsibilities and duties under this Zoning Ordinance:

1. Review for Form and Findings
Upon request, draft or review for form written findings of fact, ordinances and resolutions, development agreements, easements, letters of credit or other such documents;
2. Initiate Legal Proceedings
Initiate legal proceedings against violators of this Zoning Ordinance as may be directed by the City Council;
3. Monitor the Conduct of Public Hearings

Ensure that the public hearings required by this Zoning Ordinance are conducted in the manner required by law; and

4. Provide Consultation on Legal Issues

Advise the Planning and Zoning Commission and the City Council in regard to legal issues which may arise during the implementation of the this Zoning Ordinance.

(f) City Engineer.

The City Engineer shall have the following responsibilities and duties under this Zoning Ordinance:

1. Public Infrastructure

Inspect the progress of construction of improvements on land designated for public use and inspect the installation of public facilities (including utilities, water, sewer, and roads) and halt construction if the City Engineer finds that the required construction or installation is not in conformance with the approved plans, specifications and drawings; and require that defects be remedied before construction or installation is resumed; and

2. Ordinance Compliance

Review and make recommendations regarding applications where required by this Zoning Ordinance or requested by the City Administrator; and

3. Establish Standards

Establish criteria, procedures, standards and specifications for design and construction of flood control, drainage control, erosion control, and utilities and street improvements, within the City; and

4. Maintain Records

Produce, approve, make and retain records, as per State requirements, of all drainage plans, drainage reports, design analyses, design drawings, as-built drawings and maintenance schedules related to all development, drainage control, flood control and erosion control facilities constructed within the City; and

5. Provide Consultations on Engineering Issues

Review and make determinations regarding applications for drainage and grading permits and other permit applications requiring engineering review.

(g) Building Official.

The City's Building Official, certified by the State of New Mexico Construction Industries Division, shall have such powers and duties as provided by all applicable ordinances, laws, rules, regulations, codes, and policies. In addition, the Building Official shall have the following responsibilities and duties under this Zoning Ordinance:

1. Private Buildings and Structures

Inspect the progress of construction for compliance with the applicable building codes and this Ordinance. Halt construction if the required construction or installation is not in conformance with the approved building plans, specifications and drawings; and require that defects be remedied before construction or installation is resumed;

2. Ordinance Compliance

Review and make recommendations regarding applications where required by this Zoning Ordinance or requested by the City Administrator;

3. Issue Permits

Issue building permits for development in conformance with all applicable building codes and this Ordinance;

4. Maintain Records
Produce, approve, make and retain records of all building permits and building inspections conducted in the City and within the City's planning and platting jurisdiction; and
5. Provide Consultations on Building
Review and make determinations regarding applications for building permits and other permit applications requiring building review.

(h) Code Enforcement Officer.

The City's Code Enforcement Officer shall have such powers and duties as provided by all applicable ordinances, laws, rules, regulations, codes, and policies. In addition, the Code Enforcement Officer shall have the following responsibilities and duties under this Zoning Ordinance:

1. Investigate Complaints and Violations of this Zoning Ordinance
2. Maintain Records
Maintain the permanent files for each enforcement action undertaken pursuant to the provisions of this Zoning Ordinance. Records shall be maintained for the time period specified for such records by State law.

SEC. 56-131 – 56-139. RESERVED.

SEC. 56-140. GENERAL ADMINISTRATIVE PROVISIONS.

(a) Pre-Application Conference.

To expedite the application review process and reduce subdivision, site design and development costs, an applicant may request an informal pre-application conference with the Planning Director. No fee shall be required at the pre-application stage.

1. Documentation.
The applicant may submit any information that he or she believes will assist the Planning Director in understanding the type and scale of the proposed development, including any available drawings of the proposed development.
2. Preliminary Determination of Procedural Requirements.
The Planning Director shall summarize the requirements of the Zoning Ordinance and the applicable goals and policies of the Comprehensive Plan. The Planning Director shall make a preliminary determination of the type of development approvals and permits required by the applicant, discuss the procedures for application submittal and review, and provide the applicant with the appropriate application and a checklist of the submittal requirements.
3. Informal Exchange of Information
The pre-application stage is for the informal exchange of information only, and neither the applicant nor the City staff, Planning and Zoning Commission nor the City Council, shall be bound by any statements or determinations made during the pre-application conference. Any time limits imposed by this Zoning Ordinance will not be applicable to the pre-application conference.

(b) Types of Permits.

The use of property may not be changed, substantial clearing, grading, or excavation may not commence, and buildings or other structures may not be constructed, erected, moved, or altered except in accordance with and pursuant to one or more of the following permits:

1. Building Permit;
2. Conditional Use Permit;

Discontinuation of a permitted conditional use for 12 consecutive months shall make null and void a conditional use permit for the specific use. Transfer to another person or address is not allowed. If another person wants to continue the use, or if the permittee wants to continue the use in another location, a separate conditional use permit must be obtained. The conditional use permit is for a specific person at a specific location.

3. Drainage & Grading Permit;
4. Encroachment Permit;
5. Home Occupation Permit;
6. Zoning Permit;
7. Temporary Use Permit; and
8. Fence Permit.

(c) Application Process.

Applications shall be made on the forms provided by the Planning Director.

1. Owner's Affidavit.

When the applicant is not the owner of record, the application shall be accompanied by an owner's affidavit approving of the application and authorizing the agent to act on the owner's behalf in processing the application. When the owner of record resides out-of-state, the affidavit shall designate a local agent capable of receiving notices.

2. Required Copies.

The number of required copies shall be indicated on the application forms provided by the Planning Director. Additional copies may be required, as needed. It is the applicant's responsibility to provide all required copies.

3. Application Submittal.

Applications shall be submitted to the Planning Director, who shall have responsibility for determining whether the submitted application is complete.

- (a) The time frames for review and action set forth in this Zoning Ordinance shall begin when the Planning Director deems the application complete.
- (b) If the Planning Director determines that the application is not complete, he or she shall notify the applicant of the deficiencies within ten (10) days of submission of the application.
- (c) Applications shall be deemed abandoned when information and/or fees identified as necessary by the Planning Director for the completion of the application are not received by the Planning Director within ninety (90) days of notification. During the ninety (90) days time period, the applicant may request an extension of up to ninety (90) days to complete the application. No review or public hearings shall be conducted on incomplete or abandoned applications.

(d) Fees.

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants. The amount of the fees shall be set forth and amended from time to time by a Fee Schedule adopted by the City Council. Reasonable fees for consultants may be charged in those cases where the proposed development is unusually complex or requires additional review beyond the expertise of the City staff. Fees shall be paid at the time the application is submitted, and shall not be refunded for applications that are withdrawn, abandoned, or denied.

(e) Applications to be Processed Expeditiously.

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs to the applicant or appellant, the City shall make every reasonable effort to process permit applications and appeals as expeditiously as possible, consistent with the need to ensure that all developments conform to the requirements of this Zoning Ordinance.

(f) Information Required

1. Written Application Form.

Every applicant shall complete a written application form containing at least the following information:

- (a) The name, address, and contact numbers of the applicant;
- (b) If the applicant is not the owner of the property in question:
 - (i) The name, address, and phone number of the owner;
 - (ii) The legal relationship of the applicant to the owner that entitles the applicant to make the application; and
 - (iii) The affidavit of the owner authorizing the applicant to act on behalf of the owner in processing the application;
- (c) The date of the application;
- (d) Identification of the particular permit, or development approval sought;
- (e) A statement describing the nature of the request; and
- (f) Identification of the property in question by street address and legal description
 - (i) The zoning district within which the property lies
 - (ii) Additional information as requested by the Planning Director.

2. Site Plans.

If a site plan is required, the requirement shall be indicated on the application form provided by the Planning Director. Generally, site plans will be required for Building Permits, Conditional Use Permits, Encroachment Permits, Drainage and Grading Permits, Home Occupation Permits, and other permits as necessary. The site plan shall:

- (a) Be stamped by an Architect or Engineer registered in the State of New Mexico, if necessary, and be drawn on paper or mylar no less than 8.5" x 11" or larger when required for legibility;
- (b) Provide on the cover page:
 - (i) A vicinity map that illustrates the location of the project in the broad context of the City; and
 - (ii) The name of the project, applicant and developer; and
 - (iii) A north arrow, legend and engineering scale and bar scale; and
 - (iv) The zoning district in which the property lies; and
 - (v) A signature block for the following, as evidence of review and approval of the site plan by the Fire Marshall, Planning Director, Public Works Director, City Engineer, Environmental Services Manager, Building Inspector and/or Utility providers, as needed.
- (c) Plans must be drawn to scale, whereby all features are readily discernible but no smaller than 1"=100', and/or drawn with accurate dimensions. For sites less than five acres the following may be included on one sheet. For sites five acres or greater in size, the site plan submittal shall include the following on separate sheets:

- (i) Site Plan (scale, bar scale, north arrow, property lines, total lot area, net lot area, existing and proposed structure locations and dimensions, ingress, egress, internal circulation, parking areas and dimensions, and right-of-way); and
- (ii) Landscaping Plan as required in Section 4.2.4; and
- (iii) Drainage and Grading Plan (scale, bar scale, north arrow, property lines, existing and proposed drainage easements, flood zone information, existing and proposed contour lines at five-foot maximum intervals, drainage ways, storm water drainage retention and/or detention facilities including dimensions and other drainage or grading information, as necessary); and
- (iv) Utilities Plan (scale, bar scale, north arrow, property lines, existing and proposed utility easements and existing and proposed water, sewer, electric, fiber optic, gas and other utility lines); and
- (v) Architectural Elevations (architectural scale, architectural bar scale, building elevations from the north, south, east and west with materials description and overall structure dimensions and dimensions of all doors, windows and framing).

(d) **Additional Information Required.**

In addition to an application form and/or site plan and when necessary for understanding the overall impact of a proposed development, the Planning Director may require the following information or documents be provided by the applicant:

- (i) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such person.
- (ii) Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided.
- (iii) Legal documentation establishing a homeowners association or other legal entity responsible for control and maintenance of required common areas and facilities.
- (iv) Bonds, letters of credit, or other surety devices.
- (v) Complete documentation justifying any requested deviation from specific requirements established by this Zoning Ordinance.
- (vi) Time schedule for completion of phases in staged development.
- (vii) A lighting plan, traffic and pedestrian circulation plan, environmental impact assessment, drainage study, historic or cultural properties survey, or other plans or studies, as needed.

(g) **Staff Report.**

For applications requiring review by the Planning and Zoning Commission or the City Council, the Planning Director shall refer the application to the appropriate review agencies and prepare a Staff Report that indicates whether the development application complies with all applicable standards of this Zoning Ordinance and other adopted plans and policies. Conditions for approval may also be recommended to eliminate any areas of existing non-compliance or mitigate any adverse impacts of the development proposal. Prior to the public hearing, the Planning Director may request appropriate City departments and public agencies to comment on the application. Comments received shall be made a part of the record of the public meeting or hearing.

(h) **Public Hearings.**

All public hearings shall follow the provisions of this Section.

1. Scheduling.

When the Planning Director determines that the application is complete and that a public hearing is required by this Zoning Ordinance, the hearing shall be scheduled for the next regular meeting according to the adopted schedule of the Planning and Zoning Commission or City Council, whichever is the decision making body, providing adequate time to ensure that the public notice requirements can be satisfied, or such later time as is mutually agreed upon by the applicant and the Planning Director.

2. Attendance by Applicant.

The applicant or designated agent shall be present at the public hearings in order for the case to be heard by the decision-making body.

3. Order of Proceedings for Planning and Zoning Commission Hearings.

The order of the proceedings shall be in accordance with Robert's Rules of Order and other accepted standard practice and as follows for individual hearings:

- (a) All parties providing testimony are sworn in and state their name and address for the record.
- (b) The Planning Director, or designated representative, shall present a written Staff Report which shall become part of the record and that includes a narrative and/or graphic description of the application and a recommendation. The Planning Director shall have ten minutes to provide a description of the application and any unresolved issues.
- (c) The applicant shall have ten minutes to provide a description of the project and address any unresolved issues.
- (d) The applicant and staff shall answer questions and present any information required by the decision-making body.
- (e) Public testimony and evidence may be taken under oath if requested by the decision making body.
- (f) Any person may appear at a public hearing to ask questions and submit testimony or evidence. If the person represents an organization, the Chairperson may request written evidence of that person's authority to speak on behalf of the organization in regard to the matter under consideration.
- (g) If requested by any member of the Commission, the applicant may respond to any person providing testimony or evidence.
- (h) The Planning Director, Planning Department staff, the City Attorney, the City Engineer, and any other City staff may respond to or clarify any statement made by the applicant or any public comment.

4. Limitation on Presentations.

The decision-making body may impose reasonable limitations on the length of testimony or comments from the parties, public, or staff.

5. Deferral.

The decision-making body may defer the public hearing of a particular item to a fixed date, time, and place announced prior to recess as permitted by law. An applicant shall have the right to request a deferral of the public hearing for their item, in which case the deferral shall be requested, in writing, to the Planning Director, within 72 hours of the scheduled hearing. Any subsequent deferrals requested by the applicant shall be granted at the discretion of the body conducting the public hearing. A fee for applicant-requested deferrals may be set and amended from time to time.

6. Continuance.

Once a public hearing on an item has begun, the decision-making body may continue the public hearing to a fixed date, time, and place announced prior to recess as permitted by law.

7. Revision of Application.

In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Planning and Zoning Commission, the applicant may agree to modify his or her application, including the plans and specifications submitted. Unless such modifications are so substantial or extensive that the decision-makers cannot reasonably understand the nature and impact of the proposed changes without revised plans before it, the decision-makers may schedule a continuance and require the applicant to provide the Commission via the Planning Director with revised plans or approve the application with the condition that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Planning Director.

8. Record of Hearing.

The Commission shall record, or cause to be recorded, the public hearing. The approved minutes, all applications, exhibits and papers submitted, the Staff Report and the decision of the decision-making body shall constitute the record.

9. Notice of Decision.

The Commission shall provide, or cause to be provided, the applicant with an Official Notice of Decision, within fifteen (15) days of the hearing. The Official Notice of Decision shall contain the date, time and location of the hearing when the decision was made, a description of the application, any findings or conditions associated with the decision, and information about appeal of the decision.

10. Inspection of Public Records.

All records of decision-making bodies shall be public records, open for inspection as required by law.

11. Transcripts.

A copy of the public hearing record may be obtained as permitted by law.

(i) Notice Required.

Notices required pursuant to this Zoning Ordinance shall conform to the requirements of State law and this Section in order to afford the applicant, the public, and interested citizens an opportunity to fully participate in the process.

1. Requirement.

Notice of public hearings shall be provided for each item below in accordance with the following requirements (2 through 6 below):

- (a) Adoption and/or amendments to the Official Zoning Map.
- (b) Adoption and/or amendments to the text of this Zoning Ordinance.
- (c) Adoption of and/or amendments to any regulations, rules, or resolutions which implement a specific provision of this Zoning Ordinance, excluding policy guides of a technical nature used for design purposes.
- (d) Appeals and variances taken pursuant to the terms of this Zoning Ordinance.
- (e) Conditional Use Permits.

2. Content.

All notices shall include the date, time and place of the hearing, a brief description of the application or matter to be considered, a physical description of the land involved and the place where copies of the application or information to be considered may be obtained.

3. Mailing of Notice.

Notice shall be provided as required by law. In conformance with State statute, the applicant shall mail notice, via certified mail, to all property owners within one-hundred feet (100') of the subject site, excluding all streets and alleys. For amendments to the official zoning map, a minimum of fifteen (15) days' notice shall be given. For variances, a minimum of five (5) days' notice shall be given.

4. Mailing of Notice to Others.

The City shall attempt to provide written notice to any person who has made a written request for notice and paid current postage fees.

5. Posting of Notice.

The applicant shall post and maintain on the property one or more signs, regarding the first scheduled public meeting or hearing, as provided by the Planning Director, at least five days prior to the date of the public meeting or hearing. One sign shall be posted along each public right-of-way abutting the subject site, if possible or in a location visible from the nearest public right-of-way. Each sign shall be at least nine square feet in area with a white background and black letters at least three inches high. The applicant shall be responsible for removing the sign(s) within five days following the final public hearing. Failure to properly post and maintain sign(s) during the posting period is grounds for deferral or denial of the application.

6. Identification of Property Owners.

The owners of real property to be notified pursuant to this Section shall be those owners identified on the latest County Assessor's ownership maps and records. The mailed notice requirement is satisfied when notice is mailed to these addresses. Any person who attends the public hearing shall be considered to be legally notified.

(j) General Considerations in Rendering Decisions.

This Zoning Ordinance is intended to protect the interests of both present and future residents, landowners, tenants, and the general public. In rendering a decision, the decision-makers shall be bound to use the standards of this Zoning Ordinance and other applicable laws, rules, regulations, codes, and policies in addition to evidence provided by parties at the hearing. The following rules shall govern decisions:

1. General Standards.

Except as provided in 2 and 3 below, all decisions shall be based on this Zoning Ordinance, and other relevant City, county, state, or federal laws, rules, regulations, codes and policies.

2. Minimum Standards.

The minimum standards of this Zoning Ordinance shall be met; however, if written findings are made regarding unusual health, safety or general welfare concerns of a particular project or a particular site, higher standards may be imposed.

3. Interpretations.

The Planning Director shall provide official interpretation of this Zoning Ordinance when needed. Where interpretation is required in rendering a decision, the Purposes set forth in Section 56-3 shall be used to guide decisions.

(k) Opportunity for Appeal.

Pursuant to this Zoning Ordinance, administrative decisions made by the Planning Director may be reviewed on appeal by the Planning and Zoning Commission. All final decisions made by the Planning and Zoning Commission may be reviewed on appeal to the City Council. Final decisions of the City Council may be appealed to District Court pursuant to Section 3-21-9 NMSA 1978. A decision made pursuant to this Zoning Ordinance is final unless an appeal is filed, within 15-days, and as required by law. Substantial deviations from this Zoning Ordinance are considered variances and are a form of appeal and may not be approved by city staff but rather shall be considered by the Planning and Zoning Commission.

(l) Compliance with Permit Conditions.

Permits are issued only when a review of the application submitted indicates that the development, if completed as proposed, will comply with the provisions of this Zoning Ordinance.

1. Issuance of Permits.

Permits shall be issued in the name of the applicant (except that applications submitted by an agent or contractor shall be issued in the name of the agent or contractor), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed.

2. Consistency with Plans and Specifications.

Approved plans and applications are incorporated into any permit issued, and all development shall occur strictly in accordance with such approved plans and applications.

(m) Effect of Permit on Successors and Assigns.

Permits issued pursuant to this Zoning Ordinance authorize the permittee to make use of land and structures in a particular way. Such permits (except Home Occupation Permits) are transferable with the title of the property to which they relate. The terms and requirements of the permit apply to all successors and assigns until such time when the use or structure is completed, modified or discontinued.

(n) Deviations from Permits and Plans.

1. Minor Deviation.

Minor deviations from this Zoning Ordinance may be approved by the Planning Director. Applications for minor deviations shall be submitted to the Planning Director on prescribed forms. No fee shall be charged, and a public hearing is not required. The Planning Director shall approve or deny all changes in writing. No request for an increase in density, an increase in structure height, a decrease in open space or required landscaping, or a reduction in any required setback may be processed as a minor deviation.

2. Substantial Deviation.

All deviations that are not considered minor shall be considered substantial and a variance to this Zoning Ordinance. Substantial deviations may not be approved by staff but rather may only be considered by the Planning and Zoning Commission.

3. Authority of Planning Director.

The Planning Director shall determine whether a request qualifies as a minor deviation or a substantial deviation under the definitions set forth in this Zoning Ordinance.

(o) Expiration of Permits.

1. Automatic Expiration.

Permits issued pursuant to the terms of this Zoning Ordinance shall expire automatically according to the following table:

Table 15: Permits

Permit Type	Expiration Date
Building Permit	180-days to begin work and two years to complete work
Conditional Use Permit	Discontinuation of use for 12 consecutive months

Drainage & Grading Permit	180-days to begin work and two years to complete work or when Flood Insurance Rate Maps are revised, whichever occurs first
Encroachment Permit	As specified on permit
Zoning Permit	1 year after issuance or if zoning changes, whichever occurs first
Temporary Use Permit	As specified on permit
Fence Permit	90-days

2. Requirement for Extension of Time.

The Planning Director may grant a total of two successive 90-day extensions if he or she concludes that:

- (a) The permit has not yet expired;
- (b) The permit recipient has proceeded with due diligence and in good faith; and
- (c) The conditions have not changed so substantially as to warrant a new application.

3. Applications Approved Prior to Ordinance Effective Date.

Notwithstanding any of the provisions of Article VI Non-Conforming Uses and Structures, this Section shall be applicable to permits issued prior to the date this Zoning Ordinance becomes effective.

(p) Reasonable Conditions.

Any conditions imposed on development shall be directly related to, and roughly proportional to, the impacts created by that development.

SEC. 56-141 – 56-149. RESERVED.

SEC. 56-150. SUBMITTAL REQUIREMENTS AND REVIEW PROCESS.

(a) Summary Table of Administrative Procedures.

Table 16 summarizes the review and approval procedures for specific types of applications.

Table 16: Administrative Procedures

Application Type	Approval Authority		
	City Administrator or Designated Staff	Planning & Zoning Commission	City Council
Beneficial Use Determination	R	R	DH
Building Permit*	D		
Conditional Use Permit	R	DH	AH
Drainage & Grading Permit	D	AH	

Encroachment Permit	D	AH	
Fence/Wall Permit	D	AH	
Interpretation	D	AH	
Planned Unit Development			
Concept Plan	R	R	DH
Final Plan	R	D	AH
Revocation of Permit	R	DH	AH
Temporary Use Permit	D	AH	
Variance	R	DH	AH
Zoning Map Amendment	R	R	DH
Zoning Ordinance Text Amendment	R	R	DH
Zoning Permit	D	AH	

R= Review and Recommendation

D= Decision-Maker, final action

H= Public Hearing

A= Considers Appeal

*Building Permits are appealed to the State of New Mexico Construction Industries Division.

** After a hearing and decision by the appellate body, an appeal may be filed in District Court, in accordance with the Court's process.

(b) Amendments to Official Zoning Map or Text of this Zoning Ordinance.

This Section provides a means for changing the boundaries of the Official Zoning Map or the text of this Zoning Ordinance. It is not intended to relieve particular hardships, or to confer special privileges or rights to any person, but only to make necessary adjustments in light of changed conditions or changes to the Comprehensive Plan or other City Master Plan.

1. Initiation of Amendments.

- (a) An amendment to the Official Zoning Map may be proposed by the City Council, the Planning and Zoning Commission, the Planning Director, or the landowner by application. At the time of application and via first-class mail, the applicant shall provide notification of the date, time and location of the first public meeting regarding the proposed amendment to all property owners of record within one-hundred feet (100ft.) of the subject site boundary. In accordance with Sec. 56-140(i), additional public notification is required prior to consideration of the amendment at a public hearing.
- (b) An amendment to the text of this Zoning Ordinance may be proposed by the City Council, the Planning and Zoning Commission, the Planning Director, or a resident by application. At the time of application and via notification in local newspapers of general circulation, the applicant shall provide notification of the date, time and location of the first public meeting regarding the proposed amendment. In accordance with Sec. 56-140(i), additional public notification is required prior to consideration of the amendment at a public hearing.

(c) An amendment shall be introduced in the form of an ordinance.

2. Review Procedures.

(a) The Planning Director shall prepare a Staff Report concerning the proposed amendment which shall include his or her recommendation to approve, modify or deny the proposed amendment.

(b) The Planning and Zoning Commission shall consider the proposed amendment during at least one public meeting and make a recommendation to the City Council to approve, modify or deny the proposed amendment.

(c) Following the recommendation by the Planning and Zoning Commission, the City Council shall, at a regularly scheduled meeting, set a date for the public hearing and publish notice of said hearing in a newspaper of general circulation not less than thirty (30) days prior to the hearing date. In addition, for a zoning map amendment of less than one block, the City shall provide notice by certified letter, or of more than one block, by first class mail, no less than fifteen (15) days prior to the hearing date, to all property owners of record within one-hundred feet (100') of the subject property. The notice shall include the date, time, and location of the hearing and a description of the request.

(d) At the conclusion of the public hearing on a proposed amendment, the City Council may proceed to vote on the proposed amendment, refer it back to the Planning and Zoning Commission for further study, or take any action consistent with its rules of procedure.

3. Protests.

If the owners of twenty percent (20%) or more of the area of the lots of land included in, or within one hundred feet (100') of, the area proposed to be changed by a zoning regulation, excluding public right-of-way, protest in writing to the proposed change, then the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all of the members of the City Council.

4. Findings Required.

A statement of fact regarding each of the following findings is required. An amendment to the Official Zoning Map or to the Text of this Zoning Ordinance must be justified by one or more of the following findings:

(a) The proposed amendment will or will not adversely impact the public health, safety or general welfare and will or will not promote the original purposes of the Zoning Ordinance; and

(b) The proposed amendment responds or does not respond to changed conditions, such as changes in public capital investments, road locations or functional classification, population trends, density, use or further studies that have been completed since adoption of the Zoning Ordinance; and

(c) The proposed amendment is or is not necessary in order to respond to State and/or Federal legislation; and

(d) The proposed amendment provides or does not provide additional flexibility in meeting the objectives of this Zoning Ordinance without lowering the standards of the Zoning Ordinance; and

- (e) The proposed amendment is or is not in substantial compliance with the City's Comprehensive Plan or other City Master Plan; and
- (f) The proposed amendment will or will not adversely affect the implementation of the goals and policies of the City's Comprehensive Plan or other City Master Plan; and
- (g) The proposed amendment is justified in order to correct a mistake in the Official Zoning Map or the text of the Zoning Ordinance; and
- (h) The proposed amendment is justified in order to respond to changes in the City's Comprehensive Plan or other City Master Plan including, but not limited to, changes in land use assumptions, surrounding uses, population forecasts, rates of land consumption, anticipated community needs or other factors.

5. Effective Date.

An amendment to the Zoning Ordinance or the Official Zoning Map shall become effective after the City has complied with public hearing, notice and publication required by law for adoption of ordinances.

6. One Year Wait on Denials.

After the denial of an amendment request, no application for the same or similar amendment may be accepted for one year following the denial. This Section shall not apply to applications denied without findings, which may be refiled within one year.

7. Moratorium.

The City Council may declare a moratorium on the acceptance and processing of applications for development and/or issuance of building permits for a specific geographical area, type of development or use, and for a specified length of time for the purposes of preparing an amendment to the text of the Zoning Ordinance or any other ordinance.

- (a) City Council shall initiate a moratorium by adopting a resolution. The Planning Director shall prepare a Staff Report with recommendations if requested to do so by the City Council.
- (b) When adopting the moratorium resolution, the City Council shall, at a minimum, make one of the following findings:
 - (i) The moratorium is necessary to promote the health, safety and welfare of the City's residents or environs;
 - (ii) The moratorium is necessary to permit the staff, Planning and Zoning Commission, the City Council, and the public to develop an amendment to the Zoning Ordinance;
 - (iii) The moratorium is necessary because continued development during the proposed moratorium period could result in development that may conflict with the amendment or undermine the possible beneficial impacts of an amendment.
- (c) The final decision to approve, modify or deny a proposed moratorium shall be made by the City Council after a public hearing.
- (d) A moratorium declared by the City Council shall be in effect for no longer than six months from the date of adoption of the moratorium. The City Council may extend the moratorium for a period not to exceed six additional months, after holding another public hearing on the matter, and confirming that substantial progress has been made toward the adoption of the proposed amendment to the Zoning Ordinance.

(c) Appeals.

1. Determination of Standing to Appeal.

A person aggrieved by a decision of the Planning Director, City Engineer, other City staff, or the Planning and Zoning Commission, may file an appeal with the City Administrator. An aggrieved person is one who has a personal or pecuniary interest or property right adversely affected by the decision. The interest must be immediate and substantial, not merely nominal or remote.

2. Submittal Requirements.

An appeal is made by filing a written notice of appeal with the City Administrator which clearly articulates the reasons for the appeal, specifically citing and explaining one or more alleged error:

- (a) In applying adopted City plans, policies and ordinances in arriving at the decision;
- (b) In the appealed action or decision, including its stated facts; and/or
- (c) In acting fraudulently, arbitrarily or capriciously.

3. Review Procedures.

- (a) An appeal must be filed with the City Administrator within fifteen (15) days after the date of the decision. Untimely appeals shall not be considered.
- (b) Upon receipt of a notice of appeal, the City Administrator shall transmit to the City Council or the Planning and Zoning Commission, whichever is the appellant body, all the papers and other documents which constitute the record relating to the action appealed. The appeal shall be heard no later than forty-five (45) days from receipt of the appeal by the City Administrator, unless a waiver is mutually agreed upon by all concerned parties.
- (c) An appeal stays all actions by the Planning Director seeking enforcement of or compliance with the decision appealed, unless the Planning Director certifies to the City Council that a stay would cause imminent peril to life or property, because of facts stated in the decision. In which case, actions shall not be stayed except by order of the City Council or a court.
- (d) After determining that the appellant has standing to appeal and reason(s) for appeal, the City Council, by a concurring vote of two-thirds of all members, or the Planning and Zoning Commission, by a simple majority, whichever the case might be, may reverse, affirm (wholly or partly), remand back or modify the requirement, decision or determination and shall make any requirement, decision or determination that, in its opinion, ought to be made in order to remedy those situations noted in the appeal. In the event of a tie, the appeal is deemed denied.

4. Criteria.

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

- (d) A hardship exists that is due to the unique shape, topography or significant variation from surrounding lots. The hardship shall neither be simply pecuniary nor a result of action, or lack thereof, taken by the applicant.

5. Judicial Review.

The final decision on any application may be appealed to District Court, pursuant to N.M.S.A. 1978, Section 3-21-9, provided all administrative remedies have been exhausted.

(d) **Beneficial Use Determination.**

The purpose and intent of this Zoning Ordinance is that every property owner in the City should enjoy a beneficial use of his or her property. It is also the intent that such use of the property not increase the potential for damaging the health, safety or welfare of current or future users or neighbors of the property.

1. Purpose.

In the event that a property owner in the City believes that all beneficial use of his or her property has been denied, or "taken," by the application of this Zoning Ordinance, then he or she shall submit an application for a beneficial use determination. A beneficial use determination is a process by which the City evaluates such an allegation, and by which the City can provide relief from the regulations by granting additional development potential. The procedures provided herein shall be used prior to seeking relief from the courts in order that any denial of beneficial use of property may be remedied through a non-judicial forum.

2. Submittal Requirements.

The nature of this beneficial use determination requires detailed financial information on the property that is not required in normal applications. The following data shall accompany all applications for a beneficial use determination:

- (a) Documentation of the date of purchase and the purchase price of the property.
- (b) A description of the physical features present on the property, the property's total acreage, the present use of the property, and the use of the property at the time of adoption of this Zoning Ordinance.
- (c) The specific regulations which are alleged to result in an elimination of all beneficial use of the property and any actions taken by the City related to the property.
- (d) All appraisals, documentation, studies, and other evidence of the alleged elimination of beneficial use.
- (e) A description of the use which the property owner believes represents the minimum beneficial use of the property and any documentation, studies and other evidence supporting that position.
- (f) Documentation that the property has been listed for sale at least six months after the adoption of this Zoning Ordinance, and originals or copies of all bids, offers-to-purchase, and other correspondence regarding the sale of such property.

3. Review Procedures.

- (a) As may be directed by the City Administrator, the Planning Director shall prepare a Staff Report concerning the application for a beneficial use determination which shall include his or her recommendation.
- (b) The Planning and Zoning Commission shall consider the application for a beneficial use determination during at least one public meeting and make a recommendation to the City Council.

- (c) Following the public meeting and recommendation by the Planning and Zoning Commission, the City Council shall conduct at least one public hearing to make the final decision.
- (d) At the conclusion of the public hearing on the application for a beneficial use determination, the City Council may proceed to vote on the application, refer it back to the Planning and Zoning Commission for further study, or take any action consistent with its rules of procedure.

4. Criteria.

In determining whether a property owner has been deprived of all beneficial use of his or her property, the City Council shall take into account the following factors:

- (a) The value of the property prior to adoption of this Zoning Ordinance or to any decision pursuant to this Zoning Ordinance which caused the property owner to apply for relief as compared to the value of the property with the regulations as applied. The value shall be determined by an appraisal performed by an independent, certified appraiser. A mere diminution in value does not deprive the property owner of a beneficial use; the diminution must be so drastic that it effectively deprives the property owner of any significant use or enjoyment of the property.
- (b) A use common to the City and/or the area of the subject site, although it may not involve further development of the land, is considered a beneficial use. Attention shall also be given to land uses that are considered to be the lowest intensity in the City or adjoining areas but which uses still provide for occupation and living by the property owner. These land uses shall be considered beneficial uses.
- (c) The City Council shall consider whether the property is being singled out for treatment different than similarly situated properties under this Zoning Ordinance.
- (d) A minimum beneficial use of the land should be one that does not have any governmental subsidy attached to the use or long-term safe occupation of the property. If such subsidy exists, then it should be reflected in considering minimum beneficial use on a valuation basis. The public costs of a subsidy should be considered as a payment to the property owner for the restriction on the property if there is an annual subsidy that enhances the economic return of the existing use to the property owner.
- (e) The extent to which the regulations protect users or neighbors from threats to health, safety or welfare shall be fully accounted. A use that seriously threatens the health, safety or welfare of neighbors or future residents, or that would constitute a nuisance, is not a beneficial use.
- (f) Subjective expectations of the owner shall, in general, not be considered. Only expectations backed by investments made prior to the adoption of this Zoning Ordinance or the restrictions or decision at issue, that are substantially above the cost of the land and normal planning investments, shall be considered.
- (g) In no case shall a use that is a nuisance per se, or a use that in that particular location constitutes a nuisance, be granted relief. Such uses are not legal uses of the land and thus no taking of beneficial use of the land can occur through denial of such uses.

5. Granting Relief.

If the City Council finds that a property owner has been denied all beneficial use of his or her property, then the following relief may be granted:

- (a) The property owner shall be given the minimum increase in development intensity or other variations from the requirements of this Zoning Ordinance in order to permit a beneficial use of the land. The highest use, or even an average reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be

used for determining the minimum beneficial use of the property and, therefore, the amount of relief to be granted a property owner:

- (i) Any limitations on development potential caused by the natural conditions of the property shall not be attributed to the regulations applied to the property. If the property is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall be taken into account in identifying the best site for development that minimizes costs of development.
- (ii) The potential for damage to either residents or property on or near the site in question shall be assessed in determining a beneficial use. Conditions shall be placed on sites where damage from building or hazardous circumstances is likely to occur. The conditions may include location restrictions, size limitation, construction practices and shall require a structure to be built so it will not be damaged, and so that it will not damage other property.
- (iii) The City Council shall make its decision by resolution. Based on the findings of the public hearing, the City Council may also direct that public hearings be held to amend this Zoning Ordinance so as to prevent a similar development of beneficial use in the future.

(e) Building Permit.

1. Review Procedures.

- (a) The Building Official shall have responsibility for reviewing applications for Building Permits and rendering a decision to grant or deny such a permit.
- (b) The decision of the Building Official may be appealed to the State of New Mexico Construction Industries Division.

2. Criteria.

The Building Permit shall be issued if the application is in conformity with this Code, the Building Code(s) as adopted by the City, any approvals granted for the parcel pursuant to this Code, and all other applicable laws, rules, regulations, policies, and codes.

(f) Conditional Use Permit

1. Purpose.

A Conditional Use Permit shall be required for those uses that are not permitted in the district 'by right', and denoted as a "C" in the Use Tables in order to ensure that the use will not be detrimental to the public health, safety, and welfare of the community and will not impair the integrity and character of the zoning district in which it is located.

2. Submittal Requirements.

Every applicant shall complete a Conditional Use Permit Application which shall include all required documentation and information.

3. Review Procedures.

- (a) The Planning Director shall prepare a Staff Report that includes his or her recommendation to approve, modify or deny the requested Conditional Use Permit.
- (b) The Planning and Zoning Commission shall conduct at least one public hearing in accordance with the notification and hearing procedures of this Code and make a determination to approve, modify or deny the Conditional Use Permit.
- (c) All conditions and restrictions shall be in writing and given to the applicant within seven days of the decision by the Planning and Zoning Commission. The applicant shall

acknowledge and agree in writing to the conditions within 14 days of receipt. If there is no signed agreement within such time, the application shall be considered denied.

- (d) The decision of the Planning and Zoning Commission shall be final unless appealed to the City Council in accordance with the procedures for appeals.

4. Criteria.

The Planning and Zoning Commission, in approving a Conditional Use Permit, shall make the following findings and may attach to the permit such reasonable conditions of approval, in addition to those specified in this Zoning Ordinance, to ensure that the development in its proposed location:

- (a) Will not endanger the public health, safety, or welfare; and
- (b) Will not adversely impact abutting or nearby properties; and
- (c) Will not impair the integrity and character of the zoning district in which it is located; and
- (d) Will be in conformity with the City's Comprehensive Plan and other plans officially adopted by the City.

5. Issuance of Permit.

- (1) If the applicant has agreed to the conditions, they shall be entered on the Conditional Use Permit and shall be enforceable in the same manner and to the same extent as any other applicable requirement of this Zoning Ordinance. If the applicant does not agree with the conditions, a conditional use permit shall not be issued. A Conditional Use Permit may be issued for a specified duration of time.
- (2) Conditional use permits issued for home occupations shall be issued to the resident of the dwelling unit in which the home occupation is to be conducted. If the resident rents the dwelling unit, the resident shall provide written permission from the dwelling unit's owner as part of the permit application.

6. Non-Transferable.

Conditional Use Permits shall not be transferable and shall not run with the land. All Conditional Use Permits shall expire upon the sale, transfer, or lease of the property to a new owner or tenant.

(g) Drainage and Grading Permit.

1. Purpose.

A Drainage and Grading Permit authorizes the applicant to undertake grading, paving, excavating, filling, dredging or other activity which is in compliance with design requirements of this Zoning Ordinance and other local, state and federal regulations. The design, construction and maintenance of all drainage control, flood control and erosion control facilities within the City shall be performed in accordance with the procedures, criteria, and standards contained in this Zoning Ordinance and Section 8-101 et. seq. of the Carlsbad Code of Ordinances. A Drainage and Grading Permit shall be required for the following:

- (a) New commercial or industrial development or that which is expanded greater than 1,000 square feet, or multi-family residential development containing five or more dwelling units;
- (b) Importation or excavation of material in excess of 500 cubic yards;
- (c) Grading of any area of one acre or more;
- (d) Any construction within a designated flood hazard area or adjacent to a major arroyo;
- (e) An increase in impermeable surface area of over 1,000 square feet; or

(f) Any development requiring off-site drainage facilities.

2. Submittal Requirements.

Every applicant shall complete a Drainage and Grading Permit Application which shall include a drainage and grading plan and all required documentation and information. The particular nature, location and scope of the proposed development will define the degree of detail required. However, at a minimum, the grading and drainage plan shall include:

- (a) Scale;
- (b) Bar scale;
- (c) North arrow;
- (d) Property lines;
- (e) Total lot area;
- (f) Net lot area;
- (g) Topography in the form of finished contour lines at five foot minimum intervals;
- (h) Adjacent and proposed right-of-way;
- (i) Existing and proposed easements;
- (j) Existing and proposed drainage ways;
- (k) Location of all drive aisles;
- (l) Location of all buildings; and
- (m) Dust and erosion abatement statement.

3. Applications for development of areas known to have been sanitary landfills shall be accompanied by a report which discusses the potential health and soil mechanics problems and their solutions. Such a report shall be prepared by a New Mexico Professional Engineer competent in soil mechanics.

4. A geotechnical report may be required by the City Engineer for cut and fill slopes which pose safety hazards. Such reports shall be prepared by a New Mexico Professional Engineer competent in soil mechanics.

5. Review Procedures.

- (a) The City Engineer and Floodplain Administrator shall have joint responsibility for reviewing and making determinations regarding applications for Drainage and Grading Permits, based on the criteria below. The determinations of the City Engineer and Flood Plain Administrator shall be in writing and state the reasons for the decisions.
- (b) The decisions of the City Engineer and Floodplain Administrator may be appealed to the Planning and Zoning Commission.

6. Criteria.

The City Engineer and Floodplain Administrator shall issue Drainage and Grading Permits if he or she finds the following:

- (a) The requested permit complies with all of the requirements of this Section; and
- (b) The proposed drainage and/or grading activity will not result in post-development discharge from the site exceeding discharge from natural conditions prior to development. On-site detention of the 10-year storm is required where feasible, as determined by the City Engineer; and
- (c) The proposed drainage and grading activity complies with Section 8-101 et. Seq. of the Carlsbad Code of Ordinances regarding Flood Damage Prevention.

(h) Encroachment Permit.

1. Purpose.

An Encroachment Permit authorizes the applicant to encroach upon the public right-of-way with a building or structure under certain conditions.

2. Submittal Requirements.

Every applicant shall complete an Encroachment Permit Application which shall include all required documentation and information.

3. Review Procedures.

(a) The Public Works Director shall have responsibility for reviewing and approving applications for Encroachment Permits. Conditions of approval may be attached to the permit.

(b) The decision of the Public Works Director shall be final unless appealed to the Planning and Zoning Commission in accordance with the procedures for appeals provided herein.

4. Criteria.

The Public Works Director may approve an Encroachment Permit if he or she finds that:

(a) The requested permit is not in conflict with the City's Comprehensive Plan or other City master plan, the Zoning Ordinance, or any relevant policies adopted by the City; and

(b) The proposed encroachment does not endanger the health, safety or general welfare of the community; and

(c) The proposed encroachment is the minimum necessary to make reasonable use of the applicant's property.

5. Removal of Encroachment.

The City may require removal of all or part of any encroaching structures or use after 90 days written notice to the property owners.

(i) Interpretation.

1. Purpose.

An interpretation may be required when the provisions of this Zoning Ordinance are not clear or when a use is proposed that is not listed in the Use Tables.

2. Submittal Requirements.

Every applicant shall complete an Interpretation Application which shall include all required documentation and information.

3. Review Procedures.

(a) The Planning Director shall have responsibility for providing interpretations of this Zoning Ordinance upon the request of any member of the public, the Planning and Zoning Commission or City staff. Such requests shall be in writing and the Planning Director shall provide his or her interpretation, in writing, within fourteen (14) days of the request.

(b) The Planning Director shall maintain records of all written interpretations to ensure consistency and to provide guidance in the implementation of this Zoning Ordinance in the future. Such records shall be public and available for public inspection.

(c) The Planning Director's interpretation may be appealed to the Planning and Zoning Commission.

4. Criteria
 - (a) Uses that are not listed in the Use Tables shall be placed in the most similar category, or the category with the most similar impacts on nearby streets and properties.
 - (b) When evaluating a provision of this Zoning Ordinance as to its meaning or application, the intent of the City's Comprehensive Plan, or other City master plan, and the purposes listed in Section 56-3 and other sections of this Zoning Ordinance shall be applied.
 - (c) Interpretations shall not reduce protection to the public, but may provide greater flexibility in meeting the objectives of this Zoning Ordinance.
 - (d) Interpretations shall protect the public health, safety, and welfare of the nearby residents and property and the City as a whole.

(j) Planned Unit Development (PUD) Review.

1. Purpose.

The purpose of the PUD review is to provide a process for reviewing applications for self-contained developments a minimum of ten (10) acres in size, with a range of residential densities and/or a mix of residential and non-residential uses, and to allow for more innovative and efficient layout and design of such projects than would be possible through strict application of other zoning districts.

2. Submittal Requirements.

Every applicant shall complete a Planned Unit Development Application which shall include all required documentation and information.

3. Review Procedures.

- (a) A PUD is approved in two steps. The first step involves review and approval of a zoning change application to the PUD zoning district with an accompanying Concept Plan. The second step involves review and approval of a Final PUD Plan for the development, and subdivision, in accordance with the City's Subdivision Regulations, if necessary. Applications for subdivision approval may be filed simultaneously with the PUD zoning change application; however, preliminary subdivision approval is contingent upon approval of the PUD zoning designation.
- (b) Sketch Plan and Pre-application Meeting. Applicants are required to attend a pre-application meeting and to present a Sketch Plan of the proposed PUD, in a format established by the Planning Director. The Planning Director and other City staff will meet with the applicant, review the Sketch Plan and discuss the goals and policies of the City's Comprehensive Plan, the requirements of the Zoning and Subdivision Ordinances and any other matters that will assist the applicant in preparing the PUD Concept Plan.
- (c) Concept Plan and PUD Rezoning. A Concept Plan is a generalized land use and development plan for the area proposed to be included within a PUD zoning district and the surrounding area. It is required as a means of allowing early review of a proposed PUD before substantial planning work has been undertaken and before substantial expenses have been incurred. A Concept Plan must be processed and approved concurrently with a rezoning application to a PUD district. A Concept Plan must cover all of the land area to be included in the PUD and identify the type, total amount, and location of all development to occur within the PUD; a proposed plan for pedestrian and vehicular circulation within and leading to the PUD; a proposed plan for landscaping within and adjacent to the PUD; and identification of all utilities, easements, public areas including schools, parks and open space, and private facilities and services.
- (d) The Concept Plan and the PUD zoning change applications, along with the required fees, shall be submitted to the Planning Director.

- (e) The Planning Director may request review and comments from other City staff. The Planning Director shall review the Concept Plan and PUD zoning change applications, along with written comments provided by staff, and prepare a Staff Report to the Planning and Zoning Commission.
 - (f) The Planning and Zoning Commission shall review the application and make a recommendation for the City Council to approve, approve with conditions, or deny the application, based on the criteria in subsection (C) below.
 - (g) After receiving the recommendation of the Planning and Zoning Commission, the City Council shall hold a public hearing on the proposed Concept Plan and PUD zoning change applications. At the close of the public hearing, the City Council shall approve, approve with conditions or deny the zoning change and PUD Concept Plan, based on the criteria provided below. The decision of the City Council shall be accompanied by written findings.
4. Final PUD Plans. Final PUD Plan approval shall be required before the issuance of any permit for construction within the PUD district.
- (a) Applications for Final PUD Plan approval shall be submitted to the Planning Director.
 - (b) The Planning Director shall review the application to determine whether the application meets all of the applicable requirements of this Zoning Ordinance; the approved Concept Plan, including any conditions imposed by the City Council, and the PUD regulations of this section and prepare a Staff Report with his or her determination.
 - (c) The Planning and Zoning Commission shall conduct a review of the final PUD plans and shall approve the final PUD plan if it meets all of the applicable requirements of this Zoning Ordinance, the approved Concept Plan and the PUD regulations. The decision of the Planning and Zoning Commission shall be accompanied by written findings.
 - (d) Criteria.
 - (i) PUD zoning changes and concept plans may be approved by the City Council and final plans may be approved by the Planning and Zoning Commission only if the following criteria are met:
 - (ii) The proposed Concept Plan is consistent with the City's Comprehensive Plan, other City master plans, Zoning Ordinance and other applicable codes and ordinances.
 - (iii) The Concept Plan is necessary to address a unique situation or represents a substantial benefit to the City, compared to what could have been accomplished through strict application of otherwise applicable zoning district standards.
 - (iv) The proposal is not significantly different from surrounding land uses in terms of density, intensity and impact, and it mitigates any potential adverse impacts to the maximum extent practical.
 - (v) The facilities and services (e.g. sewage and waste disposal, domestic and irrigation water, gas, electricity, police and fire protection, roads and transportation, and schools, as applicable) will be available to serve the subject project while maintaining adequate levels of service to existing development.
 - (vi) The same development could not be accomplished through the use of other techniques, such as zoning change to a non-PUD district, or variances.
 - (vii) The proposal contains significant public amenities such as, but not limited to, open space, civic places, additional landscaping, or recreational trails.
5. Development Agreements.
- (a) Development Agreements are required for all PUDs.

- (b) Prior to the issuance of a building permit for any building or structure in a PUD, proof of filing of the final subdivision plat, if applicable, with the County Clerk must be provided.

6. Lapse of PUD Plans

- (a) Concept Plan. Approval of a PUD Concept Plan and zoning change that is not followed by a PUD Final Plan or subdivision plat within one-year of the City Council approval date shall become null and void. In which case, the Planning Director shall initiate action to rezone the property to the original zoning classification.
- (b) Final PUD Plan. The right to develop in accordance with an approved final PUD plan shall lapse and be of no further effect if all development shown on the approved Final Plan is not completed within five years of the approval date. If approval lapses, the Planning Director may initiate action to rezone the property to the original zoning classification.

(k) Variance.

1. Purpose.

Requesting a variance is a form of appeal. A variance allows a building or structure to be built that would not be permitted if the Zoning Ordinance was strictly enforced. Under no conditions shall a variance permit a use that is not otherwise permitted in the zone district where the property is located. A variance may be granted, subject to appropriate conditions and safeguards:

- (a) Which is not contrary to the public interest;
- (b) Where, owing to special conditions in the topography, site location or access, a literal enforcement of the Zoning Ordinance will result in unnecessary hardship; and
- (c) So that the spirit of the Zoning Ordinance is observed and substantial justice done.

2. Submittal Requirements.

A variance request is initiated by filing an application with the Planning Director, which shall include all required documentation and information.

3. Review Procedures.

- (a) The Planning Director shall distribute copies of the request to the appropriate City staff for review and comment. The Planning Director shall prepare a Staff Report concerning the variance request which includes his or her recommendation to approve, modify or deny the variance, and may include comments from other City staff.
- (b) The Planning and Zoning Commission shall conduct a public hearing in accordance with the notification and hearing procedures of this Code on the request and at the close of the hearing shall render a decision to approve, approve with conditions, or deny the request.
- (c) The decision of the Planning and Zoning Commission shall be final unless appealed to the City Council in accordance with the procedures for appeals provided herein.

4. Findings Required.

The Planning and Zoning Commission shall only approve a variance if it makes the following findings:

- (a) The stated hardship is one that is unique to the applicant rather than one suffered by the neighbors or the general public, and
- (b) The hardship relates to the applicant's land, rather than personal circumstances, and
- (c) The hardship is not the result of the applicant's own actions, and
- (d) The granting of the variance is consistent with the City's Comprehensive Plan or other City master plan, and

- (e) The granting of the variance is in harmony with the purpose and intent of the Zoning Ordinance, and
- (f) The variance granted is the minimum necessary to make possible the reasonable use of the land or structure, and
- (g) The granting of the variance will not be injurious to adjacent property or the neighborhood or detrimental to the public health, safety or general welfare, and
- (h) The variance will neither result in the extension or expansion of a non-conforming structure or use in violation of Article VII nor authorize the initiation of a non-conforming use of land.

5. Issuance of a Variance.

In granting variances, the Planning and Zoning Commission may impose reasonable conditions to ensure that the use of the property does not adversely affect surrounding properties. A variance may be issued for a specified duration of time. A description of the variance and the decision rendered with any conditions shall be mailed to the applicant within fourteen (14) days of the decision date. All such conditions are enforceable in the same manner as any other applicable requirement of this Zoning Ordinance.

(I) Zoning Permit.

1. Purpose.

The purpose of the Zoning Permit is to provide a method for reviewing proposed uses of land to ensure that the use complies with the standards in this Zoning Ordinance. A Zoning Permit shall be required prior to the issuance of a Building Permit, Business License, or moving a mobile home onto a lot or parcel.

2. Submittal Requirements.

Every applicant shall complete a Zoning Permit Application which shall include all required documentation and information.

3. Review and Approval Procedures.

- (a) An application for a Zoning Permit shall be submitted to the Planning Director who shall have responsibility for reviewing the application and making a determination whether to grant or deny the Zoning Permit. If the proposed use complies with the regulations of this Code, the permit shall be granted. No hearing shall be required. However, if a Zoning Permit is related to another action which requires review by the Planning and Zoning Commission or the City Council, the Zoning Permit shall be granted or denied by the body having decision making authority.
- (b) The Planning Director may request opinions from other City departments and staff, as appropriate, to coordinate review that should occur prior to issuance of the Zoning Permit.
- (c) The decision to approve or deny the Zoning Permit request shall be in writing and be given to the applicant within five business days of the decision.
- (d) The decision of the Planning Director may be appealed to the Planning and Zoning Commission.

4. New Permit Required.

A new Zoning Permit shall be required for expansion or change in use following the same procedure required for the initial permit.

5. Expiration.

A Zoning Permit shall expire and become null and void at the time specified in the permit. The time period may be extended by the Planning Director if the request for extension is in writing and submitted prior to the expiration date. The request shall state the reason for the extension.

6. Revocation.

A Zoning Permit may be revoked by the City Council if it is found that the use in question is non-conforming to the underlying zoning or regulations.

SEC. 56-151 – 56-159. RESERVED.

ARTICLE VI: NON-CONFORMITIES

SEC. 56-160. NON-CONFORMING USES AND STRUCTURES.

(a) Non-conforming Use

Any use lawfully occupying a structure or land on the effective date of this Code or of subsequent amendments to it that does not conform to the regulations of this Code, as adopted or amended, or which is not specifically permitted by this Code, shall be deemed to be a legally non-conforming use and may be continued, and the right to engage in such use shall run with the land, subject to the provisions of this Article. No changes in the type, scale or intensity of the use are permitted, except those resulting in conformity of the use.

(b) Non-conforming Structure

Any structure lawfully existing on the effective date of this Code, or of subsequent amendments to it, that does not conform to the regulations of this Code, as adopted or amended, or which is not specifically permitted by this Code, shall be deemed to be a legally non-conforming structure and may continue to be used, and the right to use the structure shall run with the land, subject to the provisions of this Article. Any structure for which a permit has been lawfully granted as of the effective date of this Code, or of subsequent amendments to it, must be completed in accordance with the approved plans; provided that actual construction is started within 180 calendar days of the date of issuance of the permit and completed within two years, and the permit remains unrevoked and unexpired. Such structure shall thereafter be deemed to be a legally non-conforming structure.

(c) Enlargement or Extension of Legally Non-Conforming Structures.

A legally non-conforming structure may not be enlarged, expanded, extended, reconstructed or structurally altered except:

1. If the enlargement, expansion, extension, reconstruction or alteration is required by law or order.
2. If the enlargement, expansion, extension, reconstruction or alteration brings the structure into full conformance with all the provisions of this Code and all regulations of the zone in which it is located.
3. The structure may be maintained against ordinary wear and tear.
4. An existing mobile home may be replaced with a non-substandard mobile home.

(d) Damage or Destruction of Non-Conforming Structures.

Nothing in this Code shall be construed to prevent the restoration and resumption of a former use permitted under this Article or any legally non-conforming structure that is damaged or partially destroyed by fire or other calamity. Such restoration shall be commenced within six months after such damage and diligently pursued to completion and shall bring the non-conforming structure into compliance with all provisions of this Code to the greatest extent possible. A legally non-conforming structure that is completely destroyed or damaged by fire or other calamity or voluntarily razed or required by law to be razed, shall not be restored except in full conformance with all the provisions of this Code.

(e) **Abandonment or discontinuance of legally non-conforming uses.**

When a legally non-conforming use is discontinued for a consecutive period of six-months, the property involved may thereafter be used only for conforming purposes.

SEC. 56-161 – 56-169. RESERVED.

ARTICLE VII: ENFORCEMENT AND PENALTIES

SEC. 56-170. ENFORCEMENT, VIOLATIONS AND PENALTIES.

(a) **Complaints Regarding Violations.**

Whenever the Planning Director, Code Enforcement personnel or Building Official receives a written, signed complaint alleging a violation of this Code, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.

(b) **Persons Liable.**

The owner, agent, lessee, tenant, occupant, architect, building contractor or any other person who commits, takes part in, assists, directs, creates, or maintains any violation of this Code within all or a portion of a structure or premises, may be held responsible for the violation, suffer the penalties and be subject to the remedies provided herein and Section 1-6 of the Municipal Code of Ordinances.

(c) **Procedures Upon Discovery of Violation.**

1. Notice

If the City finds that any provision of this Code is being violated, the Code Enforcement Officer shall send a written notice to the person or persons responsible for such violation, indicating the nature of the violation and ordering the action and timeline necessary to correct it. Additional written notices may be sent at the Code Enforcement Officer's discretion. However, depending on the severity of the violation, as determined by the Code Enforcement Officer, the initial written notice may be the final notice.

2. Notice of Pending Action.

The final written notice shall state what action the Code Enforcement Officer intends to take if the violation is not corrected.

3. Enforcement without Prior Notice.

Notwithstanding the foregoing, in cases where delay would seriously threaten the effective enforcement of this Code or pose a danger to the public health, safety or welfare, the Code Enforcement Officer may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 1-6 of the Municipal Code of Ordinances.

(d) **Maximum Penalties.**

Violations of the provisions of this Code or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with permits shall constitute a misdemeanor, punishable by a fine up to \$500, or a maximum of ninety (90) days imprisonment, or both as provided for in Section 1-6 Municipal Code of Ordinances (§3-17-1 NMSA 1978).

(e) **Separate Offence Daily.**

Each day that any violation continues after notification by the Code Enforcement Officer that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this Section. The remedies provided herein shall be cumulative and not exclusive.

(f) **Enforcement by Equitable Action.**

This Code may be enforced by any appropriate action at law and/or at equity.

(g) Issuance of Citation or Criminal Complaint.

The Code Enforcement Officer is authorized to file criminal complaints and/or issue citations for violations of this code pursuant to applicable laws, rules and regulations. The Code Enforcement Officer may request that an Animal Control Officer enforce the “Agricultural and Livestock Uses” section of this Ordinance, if necessary.

(h) Permit Revocation.

1. Criteria

Any permit issued pursuant to this Code may be revoked by the City Council if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Code, or any additional requirements lawfully imposed by the City. No person may continue to make use of land or structures in the manner authorized by any permit after such permit has been revoked in accordance with this Section.

2. Requirement for Notice and Hearing.

Before a permit may be revoked, the City Council shall comply with all of the notice and hearing requirements of Sections 56-170(c). The notice shall inform the permit recipient of the alleged grounds for the revocation.

(a) Presentation of Evidence.

The burden of presenting evidence sufficient to authorize the City Council to conclude that a permit should be revoked shall be upon the party advocating that position.

(b) Findings of Fact.

A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.

(i) Declaration of Nuisance Abatement.

Any premise or structure constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Code and/or any use of any land, premises or structure conducted, operated or maintained contrary to the provisions of this Code shall be declared to be unlawful and a public nuisance and the City Attorney shall, upon direction of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law and shall apply to such court as may have jurisdiction to grant such relief as will abate and remove such structure and restrain and enjoin any person, firm or corporation from building, erecting, maintaining, setting up or using any such premise or structure or using any property contrary to the provisions of this Code. (§3-18-5, §3-18-17, §3-21-10 NMSA 1978).

SEC. 56-171 – 56-535. RESERVED.

Code of Ordinances Section 56 Permit Fee Schedule

Application Type	Fee Schedule (adopted 10-11-11 Ord. 2011-15)
Beneficial Use Determination	\$50.00
Building Permit*	As per building permit fee schedule
Conditional Use Permit	\$50.00
Drainage & Grading Permit	\$10.00
Encroachment Permit	\$10.00
Fence/Wall Permit	As per building permit fee schedule
Interpretation	No fee
Planned Unit Development	
Concept Plan	\$100.00
Final Plan	No fee
Temporary Use Permit	\$10.00
Variance	\$50.00
Zoning Map Amendment	\$100.00
Zoning Ordinance Text Amendment	\$100.00
Zoning Permit	No fee