

ETZ

Las Cruces Extra-territorial Zoning Ordinance



Ordinance No. 88-02

Effective February 1, 1989

A Five-Mile Zone Around the City of Las Cruces, Serving in the Best Interest of the Community
by Ensuring the Public Health, Safety and General Welfare

Zoning: Doña Ana County Planning Division – 845 N. Motel Blvd. – Las Cruces, NM 88007
Subdivision: City of Las Cruces Planning Department – 700 N. Main St. – Las Cruces, NM 88004

***** IMPORTANT NOTICE *****

The Las Cruces Extraterritorial Zoning Ordinance became effective February 1, 1989.
However, it is subject to amendment from time to time as needed.

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As amended by the following ordinances:

No. 89-002	March 15, 1989
No. 89-004	July 19, 1989
No. 89-005	August 16, 1989
No. 89-008	September 20, 1989
No. 89-012	December 20, 1989
No. 90-004	January 17, 1990
No. 90-005	March 7, 1990
No. 90-009	August 1, 1990
No. 2002-001	May 31, 2002
No. 2006-01	April 25, 2006
No. 2006-02	April 25, 2006
No. 2006-03	November 20, 2006
No. 2008-001	September 17, 2008
No. 2010-001	October 20, 2010
No. 2012-001	July 18, 2012

Please check with the Doña Ana County Planning Division,
ETZ Department for revisions and amendments.

Edited 4-2013

Las Cruces Extra-Territorial Zoning Code

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ARTICLE I. PURPOSE, AUTHORITY AND SCOPE OF THE ZONING CODE

Section 1.1 TITLE

This Ordinance, including the official map, shall be entitled the 'Las Cruces Extra-Territorial Zoning Code' and is referred to elsewhere as the 'Code'.

Section 1.2 PURPOSE AND INTENT

The purpose of this Code is to encourage appropriate use of land and to promote the health, safety, and general welfare of the community within the County Service Area (CSA). The regulations within the Code are deemed necessary to regulate and restrict the following:

1.2.A

1.2.A.1 -- height, number of stories and size of buildings and other structures;

1.2.A.2 -- percentage of a lot that may be occupied;

1.2.A.3 -- size of yards, courts and other open space;

1.2.A.4 -- density of population;

1.2.A.5 -- location and use of buildings, structures, signs and land for trade, industry, residence or other purposes

1.2.B For said purposes, the Extra-Territorial Authority shall:

1.2.B.1 -- divide the territory under its jurisdiction into districts of such number, shape, area and form as is necessary to carry out the purposes of Sections 3-12-1 through 3-21-4 NMSA 1978;

1.2.B.2 -- regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each district. All such regulations shall be uniform for each class or kinds of buildings within each district but regulation in one district may differ from regulation in another district;

1.2.B.3 -- provide for the administration and interpretation of such regulations;

1.2.B.4 -- provide for the manner in which zoning regulations, restrictions and boundaries of districts are determined, established and enforced and are amended supplemented or repealed.

Section 1.3 STATUTORY AUTHORITY AND JURISDICTION

This Code is created and adopted pursuant to the authority set forth in the New Mexico State Statutes 1978, Section 3-21-3 and 3-21-4, as amended, and shall be applicable to all property with the limits of the Las Cruces Extra-Territorial Zone jurisdiction, referred to as the 'ETZ' elsewhere herein, except for State and Federal land being used for public purposes. All fees

related to the Zoning Ordinance shall be adopted by resolution of the Doña Ana County Board of County Commissioners.

Section 1.4 SEVERABILITY

If any article, section, paragraph, sentence, phrase or part hereof is declared unconstitutional or invalid, the remaining portions shall not be affected.

Section 1.5 INTERPRETATION AND CONFLICT

1.5.A INTERPRETATION OF DISTRICT BOUNDARIES Where uncertainty exists concerning boundaries of any district shown on the official Zoning District Map, the following rules shall apply:

1. Boundaries shall be construed as the centerline of existing, future or vacated streets, highways, railroads, alleys, drainage, or irrigation canals or other public right-of-way.
2. Where property has been subdivided into block and lot, the boundaries shall be construed to be the lot line.
3. Where property is not otherwise designated, divided or subdivided, the boundary line shall be determined by the scaled distance shown on the official Zoning District Map.

1.5.B INTERPRETATION OF MEANING The Planning Director shall interpret the meaning of the provisions of the Code. Disagreement with an interpretation may be appealed to the Extra-Territorial Zoning Commission. A disagreement with an interpretation made by the Extra-Territorial Zoning Commission may be appealed to the Extra-Territorial Zoning Authority.

1.5.C MINIMUM REQUIREMENTS The provisions of this Code shall be considered the minimum requirements to meet the purpose and intent expressed in Section 1.2 of this Article.

1.5.D LOCAL CONFLICT Where the provisions of any local ordinance, regulation or covenant imposes greater restrictions than those of this Code, the provisions of such document shall prevail.

1.5.E FEDERAL AND STATE CONFLICT Any provisions of U.S. or New Mexico State Law, which impose a greater duty, standard or requirement than those contained herein shall supersede the provisions of this Code.

1.5.F CONFLICT WITHIN THIS ZONING CODE When two or more provisions of this Code are conflicting, the most restrictive provision shall apply.

Section 1.6 DEFINITIONS

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used in this Code.

1.6.A DEFINITIONS 'A'

1. **ABUTTING** – Touching.
2. **ACCESSORY BUILDING OR USE** – A subordinate building or use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.
3. **ACCESSORY LIVING QUARTERS** – A subordinate structure used or capable of being used as living quarters which is incidental to but located on the same lot or parcel as the primary structure and not used for the conduct of business or for commercial sheltering of individuals.
4. **ACRE** – A section of land consisting of 43,560 square feet.
5. **ADULT AMUSEMENT ESTABLISHMENT** – A establishment that (a) provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas; (b) features topless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment; or (c) upon payment of a fee provides an escort or partner to its patrons.
6. **ADULT BOOKSTORE** – An establishment having a substantial or significant portion of its stock in film, video tapes, trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.
7. **ADULT FOSTER CARE HOME/PRIVATE CARE HOME** – A personal care facility operated in a home which cares for no more than three (3) personal care recipients unrelated to the provider.
8. **ADULT PHOTO STUDIO** – An establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.
9. **ADULT THEATER** – A theater used for presenting material distinguished or characterized by an emphasis or matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
10. **AGRICULTURE** – The tilling of the soil. raising of crops, horticulture, animal husbandry, aquatic resources and uses customarily incidental thereto, but not including commercial slaughter houses, stockyards, meat packing plants, fertilizer yards, bone yards, or plants for the reduction of animal matter.
11. **AIRPORT, COMMERCIAL** – An airport, landing strip or landing field used by or available to commercial carriers, flight training or flying schools, private pilots or owners of noncommercial aircraft on a commercial basis.
12. **AIRPORT, PRIVATE** – An airport, landing strip or landing field owned and used by owners of noncommercial aircraft, including private bona fide flying clubs, on a noncommercial basis.

13. **ALLEY** – A minor public way with a minimum of ten (10) feet in width which is used primarily for vehicular service access to a back or side of property otherwise abutting a street.
14. **ALLOWABLE TOWER HEIGHT** – The height of a tower that is allowed by Ordinance or approval of a Special Use Permit.
15. **AMENDMENT** – A change in the wording, context or substance of this Code, and addition or deletion, or a change in the zoning district boundaries or classifications upon the official Zoning Map, which imposes any regulation not heretofore imposed or modifies any such regulation therefore imposed.
16. **AMUSEMENT ENTERPRISE, MINI** – A temporary amusement enterprise designed exclusively to accommodate children under the age of twelve (12) and having no more than five (5) games, booths, attractions or displays.
17. **AMUSEMENT ENTERPRISE, PERMANENT** – A circus, carnival or similar enterprise of a permanent character that operates in one location for a period exceeding fourteen (14) consecutive days.
18. **AMUSEMENT ENTERPRISE, TEMPORARY** – A circus, carnival or similar enterprise that operates in one location for a period not exceeding fourteen (14) days.
19. **ANIMAL** – Any live, vertebrate creature, domestic or wild, excluding man.
20. **ANIMAL HUSBANDRY** – The care, production and management of livestock.
21. **ANIMAL SHELTER** – Any premises designated by the county for the purpose of impounding and caring for animals coming into the county's custody.
22. **ANTENNA** – A structure designed to radiate and/or receive radio frequency (RF) emissions. An antenna design includes, but is not limited to, the following:
 - A. monopole, dipole, discone
 - B. horizontally and vertically polarized TV and FM, yagi
 - C. mesh or solid parabolic
 - D. array, phased array and others protected by a radome.
 - E. shaped-element
23. **APARTMENT HOUSE** – Any building or portion thereof which contains three or more dwelling units. The term does not include a townhouse or condominium.
24. **APIARY** – A place where bees are kept and permitted to propagate or produce honey.
25. **AREA, GROSS** – The total horizontal area within a lot or parcel of land before public streets, easements, or other areas to be dedicated or reserved for public use such as stormwater detention and retention facilities and irrigation canals and facilities are deducted from such lot or parcel.
26. **AREA, NET** – The total horizontal area of a lot or parcel, excluding all public streets or alleys, easements, or other publicly reserved or

dedicated improvements such as stormwater detention and retention facilities and irrigation canals and facilities.

27. **ARROYO** – A watercourse which conducts an intermittent or ephemeral flow, providing primary drainage for an area of land of forty (40) acres or larger; or a watercourse which would be expected to flow in excess of one hundred (100) cubic feet per second as the result of a 100 year storm event.
28. **ATTACHED** – Any structure or building having a common wall with another structure or building.
29. **AVERAGE FINISHED GRADE** – The mean average elevation of ground intervals.

1.6.B DEFINITIONS 'B'

1. **BAR (TAVERN)** – An establishment where alcoholic beverages and sometimes food can be bought and consumed.
2. **BASE FLOOD** – The flood having a one-percent chance of being equaled or exceeded in any given year. Also known as the 100 year flood.
3. **BASEMENT** – Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement, unless such floor level qualifies as a first story as defined under Section 1.6.F of this Article.
4. **BATHROOM** – A room containing a wash basin and water closet. Rooms referred to as one-half or three-quarter baths are one bath for the purpose of this Code.
5. **BILLBOARD** – A freestanding pole sign eight (8) feet above the ground surface which advertises or directs attention to a business, product, service or event, not appurtenant to the use(s) of the property on which it is located.
6. **BLOCK** — Land surrounded on all sides by streets or other transportation or utility rights-of-way, or by physical barriers such as bodies of water or public open spaces.
7. **BOARDING HOUSE** – A residential use consisting of at least one (1) dwelling unit together with more than two (2) rooms, designed or intended to be rented to five (5) or more persons unrelated by blood or marriage, but which rooms, individually or collectively, do not constitute separate dwelling units.
8. **BOARDING OR BREEDING STABLE** – A stable used for the boarding, breeding or raising of horses not legally owned by the occupants of the premises.
9. **BODY SHOP** – A shop where vehicle exteriors are replaced and reconditioned. Waxing, pre-fabrication, stripping or similar activity shall not be considered body work.
10. **BUFFER ZONE** – A strip of land established to protect one type of land use from another with which it is incompatible.

11. **BUILDABLE AREA** – The net portion of the lot remaining after deducting all required yards from the gross area of a lot or building site.
12. **BUILDABLE DEPTH** – The depth of the lot remaining to be built upon after the required front and rear yards are provided.
13. **BUILDABLE WIDTH** – The width of the lot remaining to be built upon after the required side yards are provided.
14. **BUILDING** – Any structures used or intended for supporting or sheltering any use or occupancy.
15. **BUILDING, ACCESSORY** – A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.
16. **BUILDING HEIGHT** – The height of a building measured from the ground surface level to the highest point of the building.
17. **BUILDING INSPECTOR** – The Director of Codes Compliance for the County of Dona Ana, New Mexico or his duly authorized representative.
18. **BUILDING, PRINCIPAL** – The primary building on a lot or a building that houses a principal use.
19. **BUILDING SITE** – The ground area of a building or buildings together with all open spaces adjacent thereto as required by the Code.

1.6.C DEFINITIONS 'C'

1. **CENTERLINE** – The center line of a right-of-way.
2. **CHILD CARE CENTER** – A commercial or public-sponsored establishment for the day or night care of more than seven (7) individuals under the age of eighteen (18) years, not to include a halfway house as defined under Section 1.6.H of this Article.
3. **CHURCH** – A building or group of buildings used primarily as a place of communion or worship, including convents, religious educational buildings and parish houses, but not parochial schools.
4. **CIRCULATION AREA** – That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.
5. **CITY** – The City of Las Cruces, New Mexico.
6. **CITY COUNCIL** – The City Council of the City of Las Cruces, New Mexico.
7. **CLEAR-SIGHT TRIANGLE** – A triangular space at the street corner of a corner lot, which is bounded by the street right-of-way lines and a line connecting points located thirty (30) feet distant from the intersection, or projected intersection, of the street right-of-way lines, within which no obstruction to view between three (3) feet and eight (8) feet above the street level shall be placed or maintained.
8. **CLINIC** – An establishment where patients are not lodged overnight, but are admitted for examination or treatment by a physician,

- chiropractor, dentist, optometrist or group that is practicing together. As used in this Code, *clinic* does not refer to a veterinarian clinic
9. **CLUB OR LODGE** – Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
 10. **CLUSTER DEVELOPMENT** – A residential development designed to allow continuance or agricultural lands, conservation of natural land forms and creation of open space areas. Clustering will permit the size of residential lots to be reduced below the minimum lot size required by the zoning district within which the property is located, provided that the average dwelling density of the entire development does not exceed the density permitted by the applicable zoning classification.
 11. **COMMERCIAL TOWER** – A vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of providing a commercial service to the public. Commercial tower uses include, but are not restricted to, cellular communications, paging stations, TV stations, AM and FM radio stations, two-way radio base stations, communication mobile services, common carrier wireless services and communications used for intra-business and inter-business purposes.
 12. **COMMUNITY CENTER** – A building or buildings managed and operated by local residents as a private, non-profit corporation in the interest of community development.
 13. **COMMUNITY LIQUID WASTE TREATMENT SYSTEM** – A system which is designed to receive liquid waste and includes the disposal system, the liquid waste treatment unit and the enclosed system separately or in combination.
 14. **COMPREHENSIVE PLAN** – A compilation of policy statements, goals and objectives, standards, maps and statistical data for the physical, social and economic development, both public and private, of the County of Dona Ana.
 15. **CONDOMINIUM** – A residential, professional, commercial, official or industrial development, in which each unit is owned individually, where the unit includes air space, walls, floors, or any combination thereof, and in which other areas and facilities within the development, ground beneath each unit is owned in common by the group, association or corporate entity.
 16. **CONTIGUOUS** – Touching or separated only by a street, alley, channels, canals or other public rights-of-way or railroad rights-of-way.
 17. **CONVALESCENT, NURSING OR REST HOME** – A personal care facility which provides nursing and convalescent care under the direction and supervision of licensed medical personnel for four (4) or more unrelated recipients. Nursing and convalescent care may include care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages and the carrying

out of treatments as prescribed by a duly licensed practitioner of medicine.

18. **CONVENIENCE STORE** – A retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depend upon a large volume of stop-and-go traffic.
19. **CONVENTIONAL ON-SITE WASTEWATER TREATMENT SYSTEMS** – A system such as a septic tank with absorption system, which treats liquid wastes (toilet flushing, laundry and bath water, etc.)
20. **COUNTY** – The County of Doña Ana, New Mexico.
21. **COUNTY CLERK** – The County Clerk of the County of Doña Ana, New Mexico.
22. **COUNTY COMMISSION** – The Board of County Commissioners of the County of Doña Ana, New Mexico.
23. **COUNTY P & Z COMMISSION** – The Planning and Zoning Commission of Doña Ana County, New Mexico.
24. **COUNTY SERVICE AREA (CSA)** – The geographical boundaries of the County of Doña Ana, New Mexico, excluding areas within the jurisdictional limits of any incorporated municipality.
25. **COURT** – A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three (3) or more sides by walls of a building.

1.6.D DEFINITIONS 'D'

1. **DAY CARE CENTER** – Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than seven (7) children of preschool age.
2. **DEDICATED EASEMENT** – A public easement that is dedicated for public use and is recorded as such in the office of the County Clerk.
3. **DETACHED** – A unit, building or structure that is apart or separate from another.
4. **DEVELOPER** – A person who is responsible for any undertaking that requires a Certificate of Zoning Compliance or Special Use Permit.
5. **DEVELOPMENT** – That which is to be done pursuant to a Certificate of Zoning Compliance or Special Use Permit.
6. **DIMENSIONAL NONCONFORMITY** – A nonconforming situation that occurs when the height, size or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines do not conform to the regulations applicable to the district in which the property is located.
7. **DISTRICT, ZONING** – Any section of the County Service Area (CSA) zoned by this Code, for which the regulations governing the use of buildings and premises or the height and area are uniform.

8. **DUPLEX** – A building arranged, intended or designed to be occupied by two families living independently of each other and having separate cooking facilities in each dwelling unit.
9. **DWELLING UNIT** – Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family.
10. **DWELLING UNIT, EFFICIENCY** – A dwelling unit containing only one habitable room.

1.6.E DEFINITIONS 'E'

1. **EASEMENT** – A non-possessory interest held by one person, party or entity in land of another, whereby that person is accorded partial use of such land for specific purposes. An easement restricts but does not abridge the right of the fee owner to the use and enjoyment of this land.
2. **ENGINEER** – A person who is engaged in the practice of engineering and is qualified to so practice as attested by his legal registration as a Professional Engineer in the State of New Mexico.
3. **EXOTIC ANIMALS** – Animals such as monkeys, llamas, boa constrictors and such, which are not indigenous to the Southwest.

1.6.F DEFINITIONS 'F'

1. **FAMILY** – One or more persons occupying a single dwelling unit provided that unless all members are related by blood or marriage, or court order providing for foster care or legal adoption.
2. **FARM** – An area of land (with house, barns, etc.) on which crops or animals are raised for commercial purposes.
3. **FARM WORKER (SEASONAL)** – A person who, during the preceding twelve (12) months, worked at least an aggregate of twenty-five (25) or more days in which work was performed in farm work and was not employed in farm work for the whole year by the same employer. For the purposes of this Code, a farm labor contractor is not considered to be an employer. Non-migrant individuals who are full-time students are excluded.
4. **FEEDLOT** – A short term facility to fatten animals prior to market sales.
5. **FILLING STATION OR SERVICE STATION** – Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, not including major repair or replacing of motors, bodies, transmissions, differentials, fenders, motor vehicles or painting of motor vehicles, excluding public garages.
6. **FLAG LOT** – The width of a front lot line serving as the driveway shall be a minimum of twenty-five feet (25') and shall not exceed one hundred fifty feet (150') in length without an approved turnaround, unless approved by the Fire Marshal, and shall access only one (1) lot.

7. **FLEA OR OPEN MARKET** – A market in which spaces are rented or leased for the purpose of selling new, used or reconditioned articles and home crafts.
8. **FLOOD FRINGE** – Any area that could be flooded by high water from a 50-year frequency storm.
9. **FLOODPLAIN** – Any land area susceptible to be inundated by water from the base flood. As used in this Code, the term refers to that area designated as subject to flooding from the base flood (100-year flood) on the 'Flood Boundary and Flooding Map' prepared by the U.S. Department of Housing and Urban Development (HUD) or similar maps prepared by the Army Corps of Engineers, Federal Emergency Management Agency (FEMA) or a similar Federal Agency.
10. **FLOODWAY** – Any area that could be flooded by high water from a 25-year frequency storm.
11. **FLOOR AREA** – The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. The area shall include basements, elevator shafts, stairwells, space used for mechanical equipment, penthouse, attic space whether or not a floor has been actually laid and having headroom of seven (7) feet or more, interior balconies and mezzanines and roofed porches, but not space devoted to parking or to loading and unloading.
12. **FLOOR AREA RATIO** – The relationship of the floor area to the lot area computed by dividing the floor area by the lot area.
13. **FOWL** – Any winged creature.
14. **FRATERNITY OR SORORITY** – A dwelling with sleeping rooms or a dormitory used for occupancy by individuals in a recognized organization and in which kitchen facilities are for the common use of all occupants.
15. **FREEWAY** – A divided multi-lane highway for through traffic with all cross roads separated in grade and with full control of access.
16. **FRONTAGE** – The distance along a street line from one intersecting street to another or from one intersection to the dead end of a dead-end street.
17. **FRONTAGE ROAD** – A street which is parallel to and adjacent to another street, normally a highway or a freeway.

1.6.G DEFINITIONS 'G'

1. **GARAGE, PRIVATE** – A building or a portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.
2. **GARAGE, PUBLIC** – A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, stopping or parking motor-driven vehicles where the service and sale of gasoline and oil are incidental to the principal building uses. The term 'repairing' shall not include the dismantling or storage of wrecked or junked vehicles.

3. **GRADE** – The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
4. **GRANDFATHERING** – The legal acceptance of a non-conforming use whose use was legal under the applicable zoning in effect prior to adoption of the ETZ Ordinance. This definition excludes any use that was illegal under any applicable law, ordinance or regulation prior to the enactment of this Ordinance.
5. **GRAZING** – The feeding of domestic livestock on an open range or fenced pasture for commercial purposes and uses customarily incidental thereto, but not including commercial slaughter houses, stockyards, fertilizer yards, bone yards or plants for the reduction of animal matter.
6. **GROUND SURFACE LEVEL** – The surface of a yard which directly abuts a wall, fence, building, structure, or the average grade level, whichever is most appropriate.
7. **GUEST** – A temporary, non-paying visitor.
8. **GUEST ROOM** – Any room or rooms used or intended to be used by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory shall be considered to be a guest room.
9. **GUYED TOWER** – A vertical structure that gains its support from tension wires attached at various locations to the structure and converging to one or more anchors at ground level.

1.6.H DEFINITIONS 'H'

1. **HABITABLE FLOOR AREA** – Any floor usable for living purposes, which includes working, sleeping, eating, cooking, recreation or any combination thereof. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas, are not considered habitable areas.
2. **HALFWAY HOUSE** – A residential facility located in a structure or dwelling or any living unit thereof designed, used or intended to be used as human habitation, the principal use or goal of which is to serve as a place for persons seeking rehabilitation, recovery or counseling from any physical, mental, emotional, penal or legal infirmity, in a family setting, as part of a group rehabilitation or recovery program.
3. **HEIGHT OF BUILDING** – The vertical above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:
 - A. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest grade.

- B. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Item 1.6.H.3.A above is more than ten (10) feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building.
4. **HELIPORT** – An area of land or water or a structural surface which is used or intended for use for the landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use, for heliport buildings and other heliport facilities.
 5. **HELISTOP** – The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.
 6. **HOME OCCUPATION** – An occupation conducted in a dwelling unit, which is clearly incidental and secondary to the use of the dwelling for residential purposes, as regulated in Section 3.4 of this Code.
 7. **HOTEL** – A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all times.

1.6.I DEFINITIONS 'I'

1. **IMPROVEMENT DISTRICT** – One or more streets or one or more public grounds wherein the improvement is to be constructed and one or more tracts or parcels of land to be assessed for the cost of the improvement.
2. **IMPROVEMENTS** – Includes infrastructure such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bicycle paths, trails and water, sewer and gas systems or parts thereof.
3. **INDIVIDUAL LIQUID WASTE DISPOSAL SYSTEM** – A disposal system which receives waste from one parcel and includes, but is not limited to, septic tank systems, aerobic disposal systems and evapotranspiration systems.
4. **INSTITUTION** – A public or non-profit organization having a social, educational or religious purpose, such as a school, church, hospital, reformatory, etc.

1.6.J DEFINITIONS 'J'

1. **JUNK AND/OR ABANDONED CARS, TRUCKS, TRAILERS OR OTHER VEHICLES** – A vehicle which cannot move under its own power or is not licensed, is missing tires or wheels, is missing essential engine parts or in the case of a trailer/mobile home, cannot be pulled on a public highway.
2. **JUNK YARD** – A place of any size where scrap, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, handled or stored, including auto grave yards and yards for the storage of salvaged house wrecking and structural steel materials and equipment.

1.6.K DEFINITIONS 'K'

1. **KENNEL, COMMERCIAL** – Any premises on which eight (8) or more dogs and/or eight (8) or more cats, four (4) months of age or older, are kept and/or where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted, does not include veterinary hospitals, or the humane societies or animal shelters or pounds approved by a government agency.
2. **KENNEL, PRIVATE RESIDENTIAL** – Any premises on which more than two (2) dogs or two (2) cats, or any combination thereof in excess of two (2) but not more than seven (7) in number, four (4) months of age or older, are kept and on which premises the business of buying, selling, breeding, training or boarding of either dogs or cats is not carried on with the exception that the sale of not more than two (2) litters per year shall be permitted.

1.6.L DEFINITIONS 'L'

1. **LANDFILL** – A site for the disposal of solid waste that is approved by the County and the Environmental Improvement Division of the State of New Mexico.
2. **LAND SURVEYOR** – A person who engages in the practice of land surveying and is qualified to so practice as attested by his legal registration as a Land Surveyor in the State of New Mexico.
3. **LARGE ANIMALS** – Includes equine, bovine, swine, and other such animals described and assumed by their size, weight and/or appearance to be large animals.
4. **LATTICE (FREESTANDING) TOWER** – A vertical structure that is composed of individual components, where each vertical leg of the structure is connected by criss-crossed members that create a hollow structure.
5. **LIQUID WASTE** – Domestic wastewater containing human excreta or other water-carried waste.
6. **LODGING HOUSE** – Any building portion thereof containing not more than five (5) guest rooms where rent is paid in money, goods, labor or otherwise.
7. **LONG TERM LEASE** – Any lease of real property for a period of twenty (20) years or longer which includes all options to renew granted at the time of the original lease.
8. **LOT** – A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development. It also is a tract of land described by metes and bounds, land held in separate ownership, as shown on the records of the County Assessor.
9. **LOT AREA** – The total area circumscribed by the boundaries of a lot, except that:
 - (a) then the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line,

- or if the right-of-way line cannot be determined, a line parallel to and thirty feet from the center of the traveled portion of the street, and
- (b) in a residential district, where a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the boundary of the traveled portion of that road.
10. **LOT, CORNER** – A lot abutting two (2) or more streets at their intersection.
 11. **LOT DEPTH** – The average distance between the front and rear lot lines measured in the mean direction of the side lot lines.
 12. **LOT, DOUBLE FRONTAGE** – An interior lot fronting on two (2) streets. Both frontages shall be constructed in front yards.
 13. **LOT, INTERIOR** – A lot other than a corner lot with only one (1) frontage of a street other than an alley.
 14. **LOT LINE, FRONT** – The boundary of a lot bordering on a street. For the purpose of determining setback requirements on corner lot and double frontage lots, all sides bordering on a street shall be considered the front.
 15. **LOT LINE, REAR** – The boundary of a lot which is most distant from, and is, or is most nearly, parallel to the front lot line; except that in the absence of a rear lot line as in the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.
 16. **LOT LINE, SIDE** – The boundary of a lot which is not a front lot line or a rear lot line.
 17. **LOT, TRIPLE FRONTAGE** – A lot containing on three (3) streets.
 18. **LOT WIDTH** – The distance between side lot lines measured across the rear of the required front yard, parallel to the street or street corner.

1.6.M DEFINITIONS 'M'

1. **MAJOR RECREATIONAL EQUIPMENT** – Includes boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.
2. **MANUFACTURED HOUSING** – A manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six (36) feet by twenty-four (24) feet in dimension and at least eight hundred sixty-four (864) in floor area, constructed in a factory to the standards of the United States Department of Housing and Urban Development (HUD), the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et. seq.) and the Housing and Urban Development Zone Code 2 or the Uniform Building Code (UBC) as amended to the date of the units construction, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978) and with the regulations made pursuant thereto relating to ground level installation and ground anchors.

3. **MINI-STORAGE UNIT** – A mini storage unit shall be constructed as small storage units, each used for the sole purpose of domestic storage for individuals and strictly prohibiting the use for a business activity.
4. **MOBILE HOME** – A movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes but does not include structures built to the standards of any municipal building code and other technical codes. Any mobile home that meets the requirements of the definition of 'manufactured housing' as defined in Section 1.6.M.2 'Manufactured Housing' shall be considered to be manufactured housing and not a 'mobile home'.
5. **MOBILE HOME LOT (MHL)** – A privately owned parcel of land within a Mobile Home Subdivision, including required yards, parking area, attached and/or detached accessory buildings and open spaces, used or intended to be used for setting up one (1) mobile home. MHL's are the subdivided parcels of Mobile Home Subdivisions and can be sold, fee simple, to the prospective owners.
6. **MOBILE HOME PARK** – A privately owned tract of land, at least five (5) acres in size in which mobile home spaces may be rented or leased for long-term residential use. It is also known as a Mobile Home Court or a Trailer Court.
7. **MOBILE HOME SPACE (MHSP)** – A parcel of land within a Mobile Home Park rented or intended to be rented to prospective renters by the owner. MHSP's include required yards, parking yards, parking areas, attached and/or detached accessory buildings, open spaces and utilities.
8. **MOBILE HOME SUBDIVISIONS (MHS)** – A tract of land at least five (5) acres in size, subdivided into mobile home lots designed for long-term residential use, with public streets and utilities for mobile homes.
9. **MODULAR HOME** – A dwelling unit constructed in accordance with the standards set forth in the city or county building code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the city or county building code applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.
10. **MONOPOLE (FREESTANDING) TOWER** – A single vertical pole that has no guywires for support and serves as a mounting platform for RF antennas.
11. **MOTEL (MOTOR COURT, MOTOR HOTEL, MOTOR LODGE)** – A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with a garage or parking space conveniently

located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

1.6.N DEFINITIONS 'N'

1. **NONCONFORMING LOT** – A lot existing at the effective date of this Code (and not created for the purposes of evading the restrictions of this Code) that does not meet the minimum area requirements of the district in which the lot is located.
2. **NONCONFORMING LOT, LEGAL** – A nonconforming lot properly registered with the County Planning Director in accordance with the requirements of this Code.
3. **NONCONFORMING USE** – A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of this property. (For example, all the activity associated with operating a retail clothing store in an area zoned residential constitutes a nonconforming use.)
4. **NUISANCE** – The use of property or land which creates unusual, unnecessary or undue problems or situations for persons in the vicinity that would not have normally occurred otherwise.
5. **NURSERY** – A place where young trees or other plants are used for transplanting or for sale, excluding commercial fertilizer yards or processing plants.

1.6.O DEFINITIONS 'O'

1. **ON-SITE WASTEWATER TREATMENT SYSTEM** – A wastewater treatment system located on the property where the wastewater is generated.
2. **OPEN SPACE** – That area of a lot, tract or parcel not devoted to any building or structure.
3. **OPEN STORAGE** – Storage of any material, equipment or item outside an enclosed building.
4. **OWNER** – Any person having a legal or equitable interest in a given property.

1.6.P DEFINITIONS 'P'

1. **PARKING LOT** – A parcel of land, other than a street or alley, used by vehicles for access, circulation, parking loading and unloading.
2. **PARKING SPACE** – An area, enclosed or open, sufficient in size to store one (1) motor vehicle, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of a motor vehicle.
3. **PEDDLER** – Shall include every person who sells, offers to sell, displays for sale, solicits or takes orders for any merchandise or service, distributes free samples of merchandise or who solicits

- contributions of anything of value, unless otherwise exempt by local, state or federal law.
4. **PERFORMING ANIMAL EXHIBITION** – Any spectacle, display, act or event other than circuses, in which performing animals are used.
 5. **PERMANENT ACCESSORY BUILDING** – A building or structure which is permanently attached to a slab or foundation, the use of which is clearly incidental to the principal building and which is located on the same lot. An accessory building shall not be used for a business or dwelling.
 6. **PERMIT** – An official document or certificate issued by a governmental official authorizing performance of a specified activity.
 7. **PERMITTED USE** – A land use specifically allowed or use analogous to those specifically allowed.
 8. **PERSON** – Individual, estate, trust, receiver, cooperative, association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.
 9. **PERSONAL CARE FACILITY (RESIDENTIAL OR COMMERCIAL)** – A facility which is not a family home, where room, board and personal care services are furnished for twenty-four (24) hours a day to any personal needs without such assistance, whether or not the facility charges for the services it provides.
 10. **PERSONAL CARE HOME** – A personal care facility operated in a home which cares for four or more personal care recipients unrelated to the provider.
 11. **PERSONAL (PRIVATE) TOWER** – A vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of radio communications without the intent of commercial service. Personal tower uses include, but are not restricted to, amateur radio stations, AM and FM radio signal reception and citizen band (CB) base stations.
 12. **PET** – Any dog, cat, turtle, small caged bird, aquarium, fish, caged rodent or caged ferret.
 13. **PLANNED UNIT DEVELOPMENT (PUD)** – RESERVED
 14. **PLAT OR REPLAT** – A map, chart, survey, or plan certified by a land surveyor and/or registered engineer which contains a description of subdivided or resubdivided land with ties to permanent survey monuments.
 15. **PORCH** – A roofed patio entrance or exit area, open on at least one (1) side.
 16. **PREMISES** – A lot or combination of contiguous lots held in single ownership, together with all development thereon.
 17. **PRIVATE WATER SUPPLY** – A non-public domestic water supply.
 18. **PROFESSIONAL** -- Includes accountants, architects, chiropractors, chiropractors, dentists, engineers, lawyers, naturopaths, osteopaths, physicians, surgeons, surveyors and veterinarians.

19. **PROPERTY LINE** – The official boundary of a parcel, lot or tract of land as designated by either metes and bounds description or subdivision plat filed in the records and maps of the County Clerk.
20. **PUBLIC RIGHT-OF-WAY** – Land area, property or interest therein, usually in a strip, acquired for or devoted to transportation and/or utility purposes which are acquired by the city, county, state or federal government for public use.
21. **PUBLIC WATER SUPPLY SOURCE** – A water supply source such as a well, spring or infiltration gallery used for the provision to the public of piped water for human consumption if the system served has at least fifteen (15) service connections or regularly services an average of twenty-five (25) individuals at least sixty (60) days out of the year.

1.6.Q DEFINITIONS 'Q' *RESERVED*****

1.6.R DEFINITIONS 'R'

1. **RAILROAD** – includes the land used for general railroad purposes, including mainline and switching tracks, repair shops, stations, communications equipment, roundhouses and storage facilities, but does not include railroad equipment (miniature or otherwise) operated by its owner as a hobby or as part of the equipment of an amusement resort.
2. **RECREATIONAL VEHICLE (RV)** – The following shall be known as recreational vehicles:
 - A. Travel trailers, camping trailers, fifth-wheel trailers and all other vehicles that are constructed to include a chassis, integral wheels and a towing hitch, and are primarily designed or constructed to provide temporary, readily moveable living quarters for recreation, camping or travel uses.
 - B. Pickup campers, either mounted or non-mounted, or any structure designed to be mounted in the bed of a truck and providing living quarters for recreation, camping or travel uses.
 - C. Chassis mount, motor home, mini-motor home or other recreational structure or vehicles constructed integrally with a truck or motor van chassis and incapable of being separated therefrom, and designed to be used for moveable living quarters for recreational, camping or travel uses.
 - D. Recreation vans or converted and chopped vans or other vehicles which are either initially constructed or converted to contain living quarters for recreational, camping or travel uses.
3. **RECREATIONAL VEHICLE PARK (RVP)** – A tract of land at least two and one half (2 1/2) acres in size, on which recreational vehicles are parked temporarily in rental spaces. Recreational vehicles may not be stored in RVP's.
4. **RECREATIONAL VEHICLE STORAGE AREA (RVSA)** – A parcel of land on which recreational vehicles are stored while not in use.
5. **RESIDENCE, MULTI-FAMILY** – A residential use consisting of three or more dwelling units. For the purposes of this definition, a building

- includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).
6. **RESIDENCE, MULTI-FAMILY APARTMENTS** – A multi-family residential use other than a multi-family conversion.
 7. **RESIDENCE, MULTI-FAMILY CONVERSION** – A multi-family residence containing not more than four (4) dwelling units and results from the conversion of a single building that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.
 8. **RESIDENCE, PRIMARY AND ACCESSORY APARTMENT** – A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five (25) percent of the gross floor area of the building not more than a total of seven hundred fifty (750) square feet.
 9. **RESIDENCE, SINGLE-FAMILY DETACHED, MORE THAN ONE DWELLING PER LOT** – A residential use consisting of two or more single-family detached dwelling units on a single lot.
 10. **RESIDENCE, TWO-FAMILY DETACHED, ONE DWELLING PER LOT** – A residential use consisting of a single detached building containing one (1) dwelling unit and located on a lot containing no other dwelling units.
 11. **RESIDENCE, TWO-FAMILY CONVERSION** – A building converted into a two (2) family residence that was in existence prior to the effective date of this Code and that was originally designed, constructed and occupied as a single dwelling unit.
 12. **RESTAURANT** – An establishment where meals can be bought and consumed and where alcoholic or non-alcoholic beverages may be served.
 13. **RIDING SCHOOL OR STABLE** – Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro.
 14. **ROOF** – An overhead structure used for protection or shielding from the sun, rain or other elements of weather.

1.6.S DEFINITIONS 'S'

1. **SCHOOL, COMMERCIAL** – A school, conservatory or business operated for a profit which is not approved by the State as a kindergarten, elementary or secondary school, and where the primary function is instruction or teaching.
2. **SCHOOL, PRIVATE** – A school approved by the State with a curriculum the same as that ordinarily given in a public kindergarten, elementary, junior high or high school.
3. **SCREENING AND BUFFERING** – The use of walls, thick shrubbery or similar materials to minimize the potentially adverse impact of one land use to another.

4. **SEDIMENT** – Any matter that settles to the bottom of water or other liquid.
5. **SEPTIC TANK SYSTEM** – A tank which is designed and constructed to separate solids from the liquid and digest organic matter through a period of detention, together with an absorption field.
6. **SETBACK** – The shortest distance between the property line and the foundation, wall or main frame of a building or structure. Where a site abuts a road or highway having only a portion of its required right-of-way width dedicated or reserved for roadway purposes, setbacks shall be measured from the line establishing the additional width required for R.O.W. purposes. Where a site abuts an easement for access or a private access road is located within the boundary lines of the site, the setback shall be measured from the easement or from the private road. On a site which is not rectangular or approximately rectangular in shape, the required setbacks shall be measured in a manner prescribed the Planning Director.
7. **SHOPPING CENTER** – A complex of stores, restaurants and other service oriented establishments grouped together with a common parking area (does not open into a central covered walkway).
8. **SHOPPING MALL** – A shopping center with stores facing an enclosed walkway for pedestrians.
9. **SMALL ANIMALS** – Includes goats, sheep, fowl, rabbits, miniature horses and other such comparably sized animals distinguished from those described as large animals. This definition specifically excludes domestic animals.
10. **SOCIAL DEVELOPMENT** – As applied to the Comprehensive Plan, social development includes the gathering and presentation of data on trends, needs and resources that pertain to community standards of living and education.
11. **SOLID WASTE** – Any solid or semi-solid discarded material, which results from household, commercial, industrial or other operations, but does not include water-born waste in a sewage system.
12. **SPECIAL USE** – A specific land use of unusual character or potentially incompatible in an area and which requires Extra-territorial Authority approval for its use on one (1) specific parcel of land, such use being subject to a particular set of conditions as approved in accordance with the provisions of the Code, and not permitted by right in a zoning district.
13. **SPECIFIED ANATOMICAL AREAS** – Less than completely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
14. **SPECIFIED SEXUAL ACTIVITIES** – Includes: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; and, (c) fondling or other erotic touching of human genitals, public region, buttock or female breast.
15. **SPOT ZONING** – An amendment to a zoning ordinance that is not compatible with a comprehensive scheme of zoning, whether one lot,

several lots or a large area. Spot zoning can also be created through variances, when granted without regard for impact on the surrounding area.

16. **STOCKYARD** – A temporary facility for holding purposes only.
17. **STORY** – Is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such usable or unused under floor space shall be considered as a story.
18. **STORY, FIRST** – Is the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) percent of the total perimeter, or not more than eight (8) feet below grade, as defined herein, at any point.
19. **STRAY OR ESTUARY ANIMAL** – Any licensed or unlicensed animal running at large unattended and not under restraint on any public street, alley or private property of another private citizen.
20. **STREET** – A public way, which has been dedicated or reserved by plat, other than an alley, which affords the principal means of access to abutting property.
21. **STREET CLASSIFICATION** – A system of dividing streets into categories based on the amount of traffic and function of the street and incorporates varied requirements for right-of-way width. Specific classifications are defined by the Las Cruces Metropolitan Planning Organization and incorporated by reference herein.
22. **STREET, CUL-DE-SAC** – A street that terminates in a vehicular turnaround.
23. **STREET, CURB LEVEL** – A level measured from the street surface to the top of an abutting curb.
24. **STREET LINE** – The outermost boundary or property line of a street right-of-way that is the mutual property line of abutting properties.
25. **STREET, PRIVATE** – All private ways used to provide motor vehicles access to (a) two or more lots or (b) two or more distinct areas or buildings in unsubdivided developments.
26. **STRUCTURE** – Is that which is build or constructed, an edifice or building of any kind, or any piece of work artificially build up or composed of parts joined together in some definite manner.
27. **SUBDIVIDER** – Any person creating or who has created a subdivision, individually or as part of a common promotional plan or any person engaged in the sale or lease of subdivided land which is being sold or leased by the owner in the ordinary course of business.

28. **SUBDIVISION** – The division of land into two (2) or more parts by platting or by metes and bounds description into tracts for the purposes of:
- A. Sale for future building purposes
 - B. Laying out a municipality or any part thereof
 - C. Adding to a municipality
 - D. Laying out suburban lots
 - E. Resubdivision
 - F. Long-term lease

1.6.T DEFINITIONS 'T'

1. **TEMPORARY EMERGENCY, CONSTRUCTION, OR REPAIR RESIDENCE** – A residence (which may be a mobile home) that is:
(a) Located on the same lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by such disaster, or (b) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or (c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.
2. **TOTAL HEIGHT** – The distance between the ground surface level of a building or structure and the highest point of the structure.
3. **TOTAL TOWER HEIGHT** – The total height of the tower shall be measured from ground level to the topmost structure placed on the tower. Total tower height shall include all mounting standards, antennae and lighting.
4. **TOWER** – Any structure whose principal function is to support an antenna.
5. **TOWNHOUSE** – Any single-family dwelling unit, including the land underneath, designed to be sold (fee simple) as a unit, but forming one (1) group or series of two (2) or more attached dwellings separated from one another by common property lines, but limited to a maximum of ten (10) attached units in one (1) group.
6. **TRAILS** – A narrow path designed for use by horseback riders and pedestrians.
7. **TRAVEL TRAILER** – A structure that (a) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (b) is designed for temporary use as sleeping quarters but does not satisfy one or more of the defined criteria of a mobile home.

1.6.U DEFINITIONS 'U'

1. **USE** – The activity or function that actually takes place or is intended to take place on a lot. If a use is similar in size, scope and intensity for a specific zoning land use classification and is not on the list of permitted uses, uses with conditions or a Special Use Permit, the

Director may administratively classify that use for that particular land use classification providing the appropriate procedures are followed for that land use.

2. **UTILITY FACILITIES** – Any above-ground structures or facilities (other than buildings unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, nonprofit organization, corporation or any entity defined as a nonprofit organization, corporation or entity defined as a public utility for any purpose by and used in connection with the production, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

1.6.V DEFINITIONS 'V'

1. **VARIANCE** – A grant of permission by the Extra-territorial Commission that authorizes the recipient to do that which, according to the strict letter of this Code, he could not otherwise legally do.
2. **VICIOUS ANIMAL** – Any animal that constitutes a physical threat to human beings or to other animals.
3. **VINEYARD** – An agricultural use of land for the commercial cultivation of grapes for winemaking, table grapes, raisins and non-alcoholic grape juice.

1.6.W DEFINITIONS 'W'

1. **WALL, BEARING** – Any wall meeting either of the following classifications:
 - A. Any metal or wood stud wall which supports more than one hundred (100) pounds per lineal foot of superimposed load.
 - B. Any masonry or concrete wall which supports more than two hundred (200) pounds per lineal foot superimposed load, or any such wall supporting its own weight for more than one story.
2. **WALL, EXTERIOR** – Any wall or element of a wall, or any member or group of members, which defines the exterior boundaries or courts of a building and which has a slope of sixty (60) degrees or greater with the horizontal plane.
3. **WALL, FACED** – A wall in which the masonry facing and backing are so bonded as to exert a common action under load.
4. **WALL, NONBEARING** – Any wall that is not a bearing wall.
5. **WALL, PARAPET** – That part of any wall entirely above the roof line.
6. **WALL, RETAINING** – A wall designed to resist the lateral displacement of soil or other materials.
7. **WAREHOUSE** – A building used primarily for storage of products or wares, in conjunction with retail stores, not including accessory uses, such as storerooms or stockrooms. Mini storage or self-storage of household goods and similar uses shall not be construed as a warehouse use.
8. **WATER CONTROL STRUCTURE** – Any man-made device for containing or channeling water.

9. **WATERCOURSE** – Any river, creek, spring, stream or any other like body having definite banks and evidencing the occasional flow of water.
10. **WHOLESALE SALES** – On-premises sale of goods primarily to customers engaged in the business of reselling the goods.
11. **WILD ANIMALS** – Any live raccoon, skunk, fox, coyote, snake and any other animal which can normally be found in the wild state.
12. **WINERY** – A building or portion thereof, used for the crushing of grapes, fermenting and/or processing of grape juice, aging, processing, storage and bottling of wine or warehousing and shipping of wine.
13. **WINE TASTING ROOM** – A facility that is located on the same property in which wine products are grown or processed and may be tasted and sold on the premises, provided that the property is assessed by the County Assessor's Office as agricultural land.

1.6.X DEFINITIONS 'X' *RESERVED*****

1.6.Y DEFINITIONS 'Y'

1. **YARD** – An open space, other than a court, on a lot unobstructed by buildings from the ground to the sky, including sidewalks, driveways, patios and other ground level surfaces.
2. **YARD, FRONT** – An open area, extending across the full width of a lot, the depth of which is the shortest distance between the front lot line and the front wall of the main building.
3. **YARD, REAR** – An open area, extending across the full width of a lot, the depth of which is the shortest distance between the rear wall of the main building and the rear lot line.
4. **YARD, SIDE** – An open area between the side lot line and the side of the main building, extending from the front yard to the rear yard.

1.6.Z DEFINITIONS 'Z'

1. **ZERO-LOT LINE** – The construction of a building upon one (1) side of a property line, leaving a zero (0) setback or distance from the property line to the structure or building.
2. **ZONING DIRECTOR** – The Director of Planning for the County of Doña Ana, New Mexico or his duly authorized representative.
3. **ZOOLOGICAL PARK** – Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals operated by a person, partnership, corporation or governmental agency.

ARTICLE II. ADMINISTRATION OF THE ZONING CODE

Section 2.1 ZONING COMMISSION AND AUTHORITY, DUTIES AND PROCEDURES

2.1.A PURPOSE

The Las Cruces Extra-territorial Zoning Commission is hereby established for the purpose of preparation and updating of Zoning and Subdivision Ordinances. The Extra-territorial Zoning Commission shall have final authority on all Subdivisions and Special Use Permits, unless appealed to the Extra-territorial Authority in accordance with Section 2.4 of this Article.

The Extra-territorial Zoning Commission shall hold a public hearing on all requests for zone changes and initial zoning and shall submit a report of the hearing along with its recommendations to the Extra-territorial Authority for final action. An Extra-territorial Zoning Commission recommendation for approval of a requested zone change or initial zoning shall be placed on the consent agenda of the Extra-territorial Authority.

After receiving the recommendation of the Extra-territorial Zoning Commission, the Extra-territorial Authority shall conduct a public hearing on such rezoning or initial zoning applications, and shall publish a legal notice in accordance with Subsection 2.1.G of this Article.

2.1.B ZONING DISTRICT CHANGES: REZONING

A zoning district change or rezoning is a change in classification of the zoning district map and shall be recorded and shown on the Official Zoning District Map. Zoning district changes shall not include initial zoning whenever ETZ boundaries are realigned.

CONDITIONAL ZONING

2.1.B.1 Conditional Zoning may be initiated by the Planning Director, the Zoning Commission or by the applicant and shall limit and/or restrict those uses within the zoning district which would otherwise be permitted by right. A rezoning subject to condition is appropriate to allow certain uses that are compatible with the surrounding uses and environment.

2.1.B.2 A condition attached to a zoning district may:

- a.** Limit the use of property affected so that one or more of the uses which would otherwise be permitted in the district being adopted shall not be permitted in the specific district as conditioned.
- b.** Require traditional design standards, time limitations relating to the construction of buildings, landscaping, streets, roadways, pathways, utilities, drainageways and other site design features as may be necessary to protect the community or the environment from the impact of development.

2.1.B.3 It shall be unlawful to utilize, sell or lease property rezoned with conditions without first providing to any prospective buyer or lessee a

disclosure statement stipulating the conditions of the rezone, and without filing a copy of said disclosure with the County Planning Division.

2.1.B.4 Conditional zoning shall be revoked and revert to the previous zoning district if the property within said district is not used or developed in accordance with the new district regulations within two (2) years from the date of the ETZ Authority.

2.1.B.5 Any use or structure allowed by a Special Use Permit under the specified zoning district shall not be permitted by Conditional Zoning.

2.1.B.6 Zone change procedures prescribed by this Code shall be applicable to Conditional Zoning.

2.1.B.7 Amendments to the Official Zoning Map shall be reflected by the lowercase 'c' following the zone designation.

2.1.C APPLICATION PROCEDURES

Applications for all certificates of zoning compliance, zoning district changes, Special Use Permits, initial zonings and variances shall be submitted to the Planning Director. Applications will be accepted only from persons having the legal authority to take action in accordance with the certificate or permit approval. Applications shall be made by the owners or lessees of the subject property, their agents or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Code or the agents of such persons who may make applications in the name of such owners, lessees or contract vendors.

The Planning Director may require an applicant to submit evidence of his authority to submit the application in accordance with this Section whenever there appears to be a reasonable basis for questioning this authority. All applications must be complete before the Planning Director is required to consider the application. The Planning Director, in preparing his report to the Extra-territorial Zoning Commission, shall obtain comments on the application from the City's Planning Director and appropriate City and County departments. These comments, along with the Planning Directors' comments, shall become a part of the permanent case records of the application.

The Extra-territorial Zoning Commission may, on its own motion, reconsider the zoning for any portion of land within its jurisdiction. Appropriate notice of consideration at a meeting of the Extra-territorial Zoning Commission, if necessary, shall be given to all interested parties as provided by Section 2.1.G of this Article. The Extra-territorial Zoning Commission shall reconsider the zoning of a parcel of land upon the receipt of a petition signed by persons representing fifty (50) percent of the property affected or twenty-five (25) percent of the property owners affected. 'Property affected' means property whose owners, as defined by Section 2.1.G, are entitled to notice under that Section.

2.1.D EVALUATION CRITERIA

The Planning Director and the ETZ Commission may use the following general criteria when reviewing Special Use Permits and Zoning applications. The ETZ Commission shall have the authority to require additional specific information on any of the following criteria.

Unless additional justification is presented, the fact that there is an existing legal nonconforming use shall not be considered sufficient grounds for a zone change in order to bring that use into conformity.

2.1.D.1 Determination of potential number of homes, population and population demographics.

2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system.

2.1.D.3 Determination of need for new commercial activity.

2.1.D.4 Determination of potential water and sewage needs.

2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development.

2.1.D.6 The difference between capacity and impact should be stated. Those areas which are appropriate for the developer to underwrite should be negotiated between local government and developer.

2.1.D.7 The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance or areas which contain endangered or rare species of animal or plant life.

2.1.D.8 Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission.

2.1.D.9 Determination of impact of a proposed zone change on surrounding properties.

2.1.E SPECIAL USE PERMITS, VARIANCES AND SUBDIVISIONS

Special Use Permits, Variances, Conditional Uses and Subdivisions shall not be considered a zoning district change.

2.1.F COMPOSITION, ORGANIZATION AND POWERS OF EXTRA-TERRITORIAL ZONING COMMISSION AND EXTRA-TERRITORIAL AUTHORITY

Extra-territorial Zoning Commission members shall serve for a two (2) year term provided that the first members shall be appointed for initial terms that are staggered so as to provide continuity. The Extra-territorial Zoning Commission shall consist of seven (7) commissioners, three (3) of whom will be appointed by the Mayor of Las Cruces with the advice and consent of the City Council, and three (3) of whom shall be appointed by the County Commission. The six (6) appointees shall then appoint one (1) appointee who shall be a resident of the County, but is not a resident of the area of the County that lies within the municipality or the Extra-territorial area.

The Extra-territorial Authority shall consist of two (2) member of the City Council and three (3) members of the County Commission. The members are appointed by and serve at the pleasure of the governmental body they represent.

The organization and powers of the Extra-territorial Zoning Commission and Extra-territorial Authority shall be in accordance with the Bylaws heretofore established and adopted by the Extra-territorial Zoning Commission, Extra-territorial Authority and the Joint Powers Agreement.

2.1.G PUBLIC HEARING AND NOTICE REQUIREMENTS

Pursuant to Section 3-21-6, NMSA, 1978, as amended, and the Amended Joint Powers Agreement, a public hearing is required for all requests for initial zoning, zone changes, zoning ordinance amendments, Special Use Permits, and Variances.

When Special Use Permits, or Variances are proposed, notice of the public hearing shall be sent by first-class mail to all property owners, as shown by the records of the County Treasurer, within the proposed area of the change and within three hundred (300) feet to a total of at least fifteen (15) property owners, whichever is the greater area to be affected by the proposed zoning action, excluding public right-of-ways (to include but not limited to roadways, alleys, channels, canals or other public right-of-ways and railroad right-of-ways).

When a zone change request, or initial zoning request is proposed, for an area of one block or less, notice of the public hearing shall be sent by certified mail, return receipt requested, to all property owners, for any final decision before the ETA, or if the proposed area is greater than one block, notice of the public hearing shall be sent by first class mail. In all zone change or initial zoning requests public notice shall be sent to all property owners, as shown by the records of the County Treasurer, within proposed area of change and within three hundred (300) feet to a total of at least fifteen (15) property owners, whichever is the greater area to be affected by the proposed zoning action, excluding public right-of-ways, (roadways, alleys, channels, canals or other public right-of-ways and railroad right-of-ways). Notice of the time and place of the meeting shall be published in a newspaper of general circulation in the Las Cruces area, and signs, which will be provided by the Dona Ana County Planning Division, shall be posted and maintained by the applicant on the property to be affected for at least fifteen (15) days prior to the public hearing and verified by County Staff.

Signs shall be securely fastened to an appropriately sized, sturdy backing and be wind and weather resistant. Four (4) signs shall be posted in locations on the perimeter of the affected property, visible to adjacent landowners and passersby, and visible from the roadway that serves as access to the proposed request. Total number of signs can be reduced/increased by the Planning Director, or designee, on a case-by-case basis.

When a zoning ordinance text amendment is proposed, notice of the time and place of the meeting shall be published, at least fifteen (15) days prior to the public hearing, in a newspaper of general circulation in the Las Cruces area.

2.1.H WRITTEN RECOMMENDATIONS TO THE EXTRA-TERRITORIAL AUTHORITY

Recommendations and decisions rendered by the Extra-territorial Zoning Commission that are to be submitted to the Extra-territorial Authority shall be in writing and incorporated in the minutes of the Extra-territorial Zoning Commission proceedings.

2.1.I EXTRA-TERRITORIAL AUTHORITY VOTING REQUIREMENTS ON APPEALS OF EXTRA-TERRITORIAL ZONING COMMISSION DECISIONS

The Extra-territorial Authority by a majority vote of its total membership may:

1. Reverse any order, requirement, decision or determination of an administrative official, commission or committee

2. Decide in favor of the appellant
3. Make any change in any order, requirement, decision or determination of an administrative official, commission or committee.

2.1.J VALID PROTESTS

All protests will be heard by the Extra-territorial Zoning Commission and Extra-territorial Authority.

2.1.K RESUBMISSION OF APPLICATION FOR A ZONING CHANGE OR SPECIAL USE PERMIT

Application for a Zoning Change, Variance, or Special Use Permit on a parcel of land shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon at a public hearing of the Extra-territorial Zoning Authority or Extra-territorial Zoning Commission, except that an application may be made for a substantially different Zoning Change, Variance, or Special Use Permit on a parcel of land after such previous action has been taken.

2.1.L CHANGE AND RECONSIDERATION OF PETITIONED ZONING PROPOSALS

A zoning district change request may be amended by the Extra-territorial Authority to a more restrictive classification if all petitioners agree to such amendment in writing. Such amendment and reconsideration shall require readvertisement or notice to surrounding property owners and shall be considered by the Authority at a public hearing scheduled for the purpose of considering the zoning reclassification.

2.1.M PROMULGATION OF REGULATIONS

The Extra-territorial Authority may promulgate such regulation, as it deems necessary in order to:

1. Interpret this Ordinance
2. Issue policy directives to Staff
3. Make such other regulations as it deems appropriate for the proper enforcement of this Ordinance

Such regulation may be adopted as specified in the Bylaws. Prior to the consideration of any proposed regulation by the Extra-territorial Authority, notice of the time and place of the Authority meeting at which such regulation will be considered, shall be published in a newspaper in the Las Cruces area, together with the title and general summary of such proposed regulation. Copies of the proposed regulation shall be made available to the public no less than seventy-two (72) hours prior to such meeting upon payment of a reasonable fee. Copies shall be available at the Doña Ana County Planning Division.

At the meeting, the Extra-territorial Authority may accept, reject or amend such proposed regulation. Copies of the adopted resolution shall be available at the Doña Ana County Planning Division and shall be effective thirty (30) days after adoption unless a later date is specified within the regulations themselves.

Section 2.2 ENFORCEMENT PROVISIONS AND PENALTIES

2.2.A VIOLATION OF THE ZONING CODE

It shall be a violation of this Code for any persons, firm or corporation to neglect, refuse to comply with or resist the enforcement of any provision of this Code or any requirement pursuant thereto, or in any way use, change or construct a building or structure in non-conformance with zoning approval.

Violations of this Code shall be brought into compliance, abated, removed or taken to District Court for judgment. In all such cases that the Court rules to allow a structure to remain in nonconformance with this Code, there shall be a pro forma action by the Extra-territorial Authority permitting such use. Such action shall be consistent with the Courts' ruling and thereafter said use shall be considered as a legal non-conforming use and be subject to the provisions thereof.

Code violations not pardoned by the Court constitute misdemeanors and are punishable by a fine not exceeding three hundred (300) dollars, imprisonment in the County jail for a period not exceeding ninety (90) days, or both.

2.2.B DUTY TO ENFORCE

It shall be the duty of the Code Compliance Director and/or some other official designated by the County Manager of Doña Ana County to enforce this Code.

2.2.C BUILDING PERMITS AND PLANS

No building or other structure shall be erected, moved, added to or structurally altered, or any other type of construction activity initiated, such as utilities and grading without a permit issued by the Building Inspector therefore. No building permit shall be issued by the Building Inspector except in conformity with the provisions of this Code, unless the Building Inspector receives a written order from the Planning Director in the form of an administrative decision, Special Use Permit or variance as provided by this Code. Administrative decisions rendered by the Planning Director shall be factual and based on an interpretation of this Code or other applicable local, state or federal law or regulation; an interpretation of a specific item(s) in the applicant's zoning application; an interpretation of the actions(s) taken by the Extra-territorial Zoning Commission and/or Extra-territorial Authority regarding the applicant's zoning request. A building permit or certificate of occupancy may be refused until complete compliance with all applicable codes, ordinances and subdivision regulations is demonstrated and there are no code violations on the property.

2.2.D CERTIFICATE OF ZONING COMPLIANCE FOR NEW, ALTERED OR NON-CONFORMING USES

It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter erected, changed or converted, in whole or in part, in its use or structure, until a Certificate of Zoning Compliance has been issued therefore by the Planning Director stating that the proposed use of the building or land conforms to the requirements of this Code.

No non-conforming structure or use shall be maintained, changed or extended until a Certificate of Zoning Compliance has been issued by the Planning Director. The Certificate of Zoning Compliance shall state specifically how the non-conforming use differs from the provisions of this Code, provided that upon enactment of this Code, an owner or occupant of a non-conforming use or structure shall have three (3) months to apply for a Certificate of Zoning Compliance. Failure to make such application within three (3) months shall be presumptive evidence that the property was a non-conforming use at the time of enactment or amendment of this Code.

No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a Certificate of Zoning Compliance and shall be issued in conformity with the provisions of this Code upon completion of the work.

The Planning Director shall maintain a record of all Certificates of Zoning Compliance and copies shall be furnished upon request to any person.

2.2.E EXPIRATION OF BUILDING PERMIT

Every permit issued by the Building Inspector shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained, and the fee therefore shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

Any permittee holding a valid permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required under this subsection for good and satisfactory reasons. The Building Inspector may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

2.2.F HOME OCCUPATION PERMIT

A Home Occupation Permit shall be required for those uses outlined in Section 3.4. The Home Occupation Permit is to be issued by the County Planning Division. Any violation of the provisions of the Home Occupation Permit shall result in the revocation or non-renewal of the permit.

2.2.G LEGAL DOCUMENTS TO ENSURE COMPLIANCE

The Planning Director may, at his discretion, require affidavits, disclosure statements, deed restrictions or other legal documents to assure compliance with the provisions of this Code. Such documents may be approved for uses in specific cases by the County or District Attorney.

Section 2.3 PROCEDURES FOR GRANTING VARIANCES

2.3.A APPLICATION

An application for a variance shall be submitted to the Extra-territorial Authority by filing a copy of the application with the Doña Ana Planning Director. Application shall be processed in accordance with Subsection 2.1.C of this Article (see 2.6.D, Administrative Variances).

2.3.B GRANTING VARIANCES

A variance may be granted by the Extra-territorial Authority if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary physical hardships for the applicant resulting from size, shape or existing structures thereon, or from topographic or physical conditions on the site or in the immediate vicinity, and that by granting the variance, the spirit of this Code will be observed, public safety and welfare secured and substantial justice done. Cost and inconvenience to the applicant of strict or literal compliance with the regulation may be given consideration, but shall not be the sole reason for granting a variance. Variances will be considered in the following cases:

1. Height, yard, setback, lot area, site coverage and gross floor area requirements of this Code;
2. Parking and loading requirements of this Code;
3. Sign and fence requirements of this Code;
4. Limitations stated for minimum distances permitted;
5. Strict application of the terms of this Code relating to the use, construction or alteration of buildings and/or signs.

2.3.C REQUIRED FINDINGS

Before recommending or granting a variance, the ETZ Authority shall make the following findings:

1. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties with three hundred fifty (350) feet and also in the same land use district.
2. Granting of the variance will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
3. Strict or literal interpretation and enforcement of the specified performance standard or regulation would result in unnecessary physical hardship inconsistent with the purposes of this Code.

2.3.D SURROUNDING PROPERTIES

In granting variances, the Extra-territorial Authority may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable and will not adversely affect surrounding properties.

2.3.E DURATION OF VARIANCE

A variance may be issued for either an indefinite duration or for a specified duration only.

2.3.F NATURE OF VARIANCES SPECIFIED

The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of the Code.

2.3.G HEARING VARIANCE REQUESTS

The Extra-territorial Authority shall hear and decide all variance requests as expeditiously as possible. Public notification of the proposed action should be accomplished in accordance with Subsection 2.1.G of this Article.

2.3.H VOTING OF VARIANCE REQUESTS

Decisions on any requests for variances of this Code shall be approved by simple majority of the total membership of the Extra-territorial Authority.

Section 2.4 APPEALS PROCEDURE

2.4.A APPEALS

An appeal from any order or decision of the Extra-territorial Zoning Commission may be taken to the Extra-territorial Authority by any person aggrieved. An appeal is taken by filing with the Planning Director and the Extra-territorial Authority written notice stating the nature of the appeal and specific reasons thereof. A notice of appeal shall be considered filed with the Planning Director and the Extra-territorial Authority when delivered to the County Planning and Zoning Division and the date and time of filing shall be entered on the notice by the County Planning Staff. Within ten (10) days after receiving the notice of appeal the Planning Director shall transmit to the Extra-territorial Authority all the documents constituting the record relating to the action being appealed. In addition the Planning Director may transmit to the Extra-territorial Authority such supplementary report as he may deem necessary to present clearly the facts and circumstances of the case. Upon receipt of the documents the Extra-territorial Authority shall set the matter for hearing and instruct the Planning Director to mail a notice of the time, place and purpose of the hearing to the appellant and to fulfill the public notification requirements set forth in Subsection 2.1.G of this Article.

2.4.B APPEAL PERIOD

An appeal must be filed no later than thirty (30) days after the date the decision or order of the Extra-territorial Zoning Commission was rendered.

2.4.C BURDEN OF PROOF

When an appeal is taken to the Extra-territorial Authority, the Planning Director, on behalf of the Extra-territorial Zoning Commission, shall have the initial burden of presenting to the Extra-territorial Authority sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

The burden of presenting evidence sufficient to allow the Extra-territorial Authority to reach a conclusion on the appeal, as well as the burden of persuasion on the issues set forth, remains with the appellant.

2.4.D STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed unless the appellant certifies that by reasons therein stated, a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of a District Court after a notice is provided to the appellant.

2.4.E ACTION OF EXTRA-TERRITORIAL AUTHORITY

Upon hearing the appeal, the Extra-territorial Authority by a majority vote of the total membership, may reverse or affirm (in whole or part) or may modify the order, requirement or decision or determination that in its opinion ought to be made in the case before it.

2.4.F APPEALS TO DISTRICT COURT

Any person aggrieved by a decision of the Extra-territorial Authority may present to the District Court a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the decision is entered in the records of the Extra-territorial Authority.

Upon presentation of the petition, the court shall allow a writ of certiorari directed to the Extra-territorial Authority to review its decision and shall prescribe the time in which a return must be made which shall not be less than ten (10) days and may be extended by the court and shall be served upon the appellants' attorney. The allowance of the writ shall not stay proceedings upon the decision appealed from but the court may, on application, on notice and on due cause shown, grant a restraining order.

In answering said writ it shall be necessary to return the original papers acted upon, but it shall be sufficient to return certified or sworn copies thereof or if such portions thereof as may be called for by such writ. The return shall concisely set forth such further facts as may be pertinent or material to show the grounds of the decision appealed from and shall be verified.

If at the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse, affirm or modify the decision brought up for review.

2.4.G INTERPRETATIONS

The Extra-territorial Authority is authorized to interpret the Zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions that are unable to be settled by the Extra-territorial Zoning Commission.

2.4.H APPLICATION FOR INTERPRETATIONS

An application for a map interpretation by the Extra-territorial Authority shall be processed in the same manner as other types of appeals are processed under this Section.

2.4.I INTERPRETATIONS OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, arroyos or railroads shall be constructed to follow such centerlines.
2. Boundaries indicated as approximately following lot lines, city limits or extra-territorial boundary lines shall be construed as following such lines, limits or boundaries.
3. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement using the scale of the Official Zoning Map.
4. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

Section 2.5 AMENDMENT, REPEAL AND REVIEW OF ZONING CODE

2.5.A CHANGES AND ADDITIONS TO THE CODE

Any portion or all of this Code can be amended, supplemented or repealed. However, all proposed changes and additions to the Code must first be presented to the Extra-territorial Zoning Commission. The Extra-territorial Zoning Commission shall then make recommendations to the Extra-territorial Authority who has the final authority over the recommended actions. The Extra-territorial Authority shall not adopt any changes or additions to this Code unless they have been so recommended by the Extra-territorial Zoning Commission. Before the Extra-territorial Zoning Commission and the Extra-territorial Authority can act on any proposed changes or supplements to this Code, each respective body must conduct a public hearing. Notice of the time and place of the Public Hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation in the ETZ area.

2.5.B SYSTEMATIC AND CONTINUAL EVALUATION OF THE CODE

The Extra-territorial Zoning Commission shall review and evaluate the provisions of this Code on a continuing basis and recommend appropriate action the Extra-territorial Authority. At a minimum, this Code shall be reviewed and evaluated every three (3) years beginning from the effective date of this Code.

2.5.C ADMINISTRATIVE CORRECTION OF CLERICAL ERRORS

Upon identification by administrative staff of any clerical error, typographical error, error in map boundary lines or any other error that clearly reflects a compilation error as opposed to a purported erroneous decision, staff may correct such error

administratively and shall report such correction immediately to the Extra-territorial Zoning Commission and to the Extra-territorial Authority.

2.5.D CORRECTION OF PATENT ERRORS OR OBVIOUS OMISSIONS

Upon identification by administrative staff of any obvious omission of material or patent error in any zoning designation or administrative determination previously made, staff may correct such errors provisionally, but shall notify all parties who would be entitled to notice if the proposed change were being proposed as a new matter in the manner required in Section 2.1.G. Staff shall further notify the ETZ Commission members. The proposed change/error/correction shall become final thirty (30) days after the date of notice, provided that no written objections are made to staff. The notices shall contain adequate information about this right to object and the requirements for perfecting such objection.

In the event that such objection is filed, the matter shall be set for regular hearing by the ETZ Commission, and shall be treated as a Commission-initiated proposal for change. The matter shall in like manner be set for full hearing if any one member of the ETZ Commission requests such hearing within the thirty (30) day time period. A matter will be considered a patent error or obvious omission if it appears that the original decision or determination has no reasonable basis.

Section 2.6 ADMINISTRATIVE PROCEDURES

Administrative procedures may be performed at the discretion of the Planning Director or under direction of the Extra-territorial Authority or ETZ Commissioners for the purposes listed in this Section. Such procedures will not be applicable to all cases described in this Section and at staff discretion, cases may be required to be heard by the ETZ Commission or ETZ Authority.

In the event staff denies such request, the applicant may apply under any other applicable provision of this Code.

2.6.A TEMPORARY USE PERMITS

A temporary use permit may be granted by the Planning Director as outlined in Section 3.3.A.

2.6.B ADMINISTRATIVE ZONING ADJUSTMENT

A temporary relief from development requirements may be permitted by the Planning Director at his discretion for a period of time not to exceed one hundred eighty (180) days. The relief may be granted upon determination by the Planning Director that the hardship to the applicant significantly outweighs the benefit to the ETZ of strict enforcement and that the hardship will terminate within the duration of the temporary relief granted.

The Planning Director shall make specific findings as to the reasons for granting the temporary relief including the hardship to the applicant and the detriment to other parties who would otherwise have been legally entitled to notice.

Upon good cause shown, the Planning Director may extend the temporary relief time period, but in no event shall the total time exceed one hundred eighty (180) days.

Staff may refer the to the ETZ Commission for consideration of additional temporary relief.

2.6.C ADMINISTRATIVE SPECIAL USE PERMITS

The Planning Director may approve a Special Use Permit administratively for accessory dwellings that meet all of the following requirements:

1. Permits for accessory dwellings shall be granted for family members based on hardship. Determination of hardship shall be based on a need for the occupant(s) or the accessory dwelling to be in proximity to the occupant(s) of the primary dwelling due to illness, handicap or elderly family member requiring care.
2. A notarized statement of family relationship with a statement of hardship from a health official shall be provided by the applicant.
3. The accessory dwelling shall be subordinate and incidental to the primary dwelling on the property. Subordinate and incidental shall mean that the accessory structure is secondary in importance to the principle dwelling on the property as well as being subsidiary in nature to the principle structure. Indications that an accessory dwelling is subordinate and incidental to the primary dwelling are that the accessory dwelling is smaller than the primary dwelling, the owner of the property occupies the primary dwelling and the occupant(s) of the accessory dwelling are dependent in some manner upon the occupant(s) of the primary dwelling.
4. The accessory living quarters shall be limited to 1,600 sq. ft. or less. Mobile homes used as accessory dwellings shall be limited to one thousand six hundred (1,600) square feet in size or less.
5. Approval of an accessory dwelling shall not result in an increase to the density of development allowed by the zoning on the property.
6. If the Planning Division receives any written or electronic correspondence in opposition to a Special Use Permit application by the deadline specified on the public notice, then the case shall go to a public hearing before the ETZ Commission.

Only one accessory dwelling shall be permitted per property, regardless of the size of the property.

A time limit of five (5) years shall be placed on all mobile homes that are approved administratively for use as accessory dwellings.

Any requests for an accessory dwelling not meeting these requirements shall be required to obtain a Special Use Permit as set forth in Section 3.3 and Section 7.2 of the ETZ Zoning Ordinance.

2.6.D ADMINISTRATIVE VARIANCES

An administrative variance may be granted by the Planning Director under the following circumstances:

1. For numerical requirements of the Zoning Code of twenty (20) percent or less, and;

2. When no negative responses are received from certified letters mailed to adjacent landowners as required by Section 2.1.G, and;
3. Criteria listed in Section 2.3.B and Section 2.3.C shall be considered.

ARTICLE III. ZONING DISTRICTS AND SPECIAL USE PERMITS

Section 3.01 SETUP AND PLACEMENT OF MOBILE HOMES

3.01.A PERMANENT SETUP OF MOBILE HOMES

Mobile homes shall be installed consistent with the Manufactured Housing Act (Chapter 60, Article 15, N.M.S.A. 1978, and State of New Mexico Manufactured Housing Division Rules and Regulations). Tongue and wheels shall be removed. Mobile Home undercarriages shall be concealed by either:

1. An appropriate, non-flammable skirting developed for the particular mobile home by the manufacturer, or its equal, and meeting the requirements of Doña Ana County and the State of New Mexico Manufactured Housing Division Rules and Regulations on the installation of skirting; or
2. Entrenching the mobile home to a depth equal to the height of the undercarriage. Any such entrenching shall have provisions for drainage approved by the County Engineer and shall be constructed in conformance with the State of New Mexico Manufactured Housing Division Rules and Regulations.

3.01.B TEMPORARY USE OF AN EXISTING MOBILE HOME OR RECREATIONAL VEHICLE (RV) DURING RESIDENTIAL CONSTRUCTION OF A SITE-BUILT DWELLING

The temporary use of a recreational vehicle (RV) or existing mobile home may be permitted on a lot within any residential zoning district during residential construction of a site-built dwelling. Upon the expiration or termination of the Temporary MHIP (mobile home installation permit) the mobile home will be removed or the RV disconnected and parked. A temporary MHIP shall be valid for a period of six (6) months and may be permitted provided that:

1. A valid Building Permit has been issued for the construction of said dwelling.
2. Any RV placed on a lot or existing mobile home shall require a Temporary MHIP and, except for RV's, shall meet the same setup requirements as for permanent setup of mobile homes.
3. All liquid waste must be disposed of in accordance with the New Mexico Environmental Department.
4. An extension of up to six (6) months may be granted administratively for the continued temporary use of a mobile home or RV on a construction site provided that the construction has substantially progressed to the point of being weather tight (roof, all doors, windows and walls are installed). If substantial progress has not been achieved within the initial six month time period, the bond or other form of guarantee shall be forfeited and the mobile home shall be removed and the RV disconnected and parked.
5. A certificate of occupancy shall not be issued by Doña Ana County until the mobile home or RV is removed.

Section 3.02 USE OF ON-SITE WASTEWATER TREATMENT SYSTEMS

On-site wastewater treatment systems shall comply with currently enforced EID regulations and State plumbing code.

Section 3.03 PROHIBITED USES

Junk cars, trucks, trailers or other vehicles shall not be permitted to remain on any property for a period in excess of ten (10) days, except in area designated as junk yards/salvage yards or within an enclosed structure such as a garage. A car, truck or other vehicle is considered to be junk if it cannot move under its own power or is elevated on blocks, missing wheels and/or tires, missing essential operating parts or engine, not licensed or, in the case of a trailer or mobile home, cannot be towed on a public highway.

Section 3.1 GENERAL DISTRICTS: PURPOSES AND USES

General districts are the residential, commercial and industrial zoning districts. This Article outlines the intended purpose of each general district and states the permitted use and special uses for each district. Refer to the Official Zoning Map and to Section 1.5 for interpretation and conflict guidelines elsewhere in this Ordinance.

PERMITTED USE DEFINED

A permitted use is a use which is listed as permitted by right in a zoning district. Non-specified uses which are similar to those specified are also permitted by right except as otherwise restricted within this Ordinance.

SPECIAL USE DEFINED

A special use is a use which is of an unusual or unique character and which may be offensive or incompatible in some cases within a zoning district. A special use requires review and approval by the ETZ Commission to determine impacts of the use on the surrounding area. Special Use Permits for accessory dwellings shall follow Article 7, Section 7.2 of this Ordinance.

CONDITIONAL ZONE

Refer to Article 2, Section 2.1.B.1 of this Ordinance.

3.1.A.1 ER1M RESIDENTIAL DISTRICT

3.1.A.1.a PURPOSE

The ER1M zoning district is intended as a residential district of single-family, site-built homes and mobile homes on very large lots specifically designed for keeping of certain livestock with not more than one (1) dwelling unit and customary accessory buildings upon one (1) lot. It is intended that the ER1M district meet the demand for those lifestyles that include the raising and keeping of animals such as horses, ponies, mules, cows, pigs, sheep, goats and fowl in a rural atmosphere where the impact of such activities on those who do not share their lifestyle is negligible.

3.1.A.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size:	5 acres (except cluster development)
Minimum lot frontage	100 feet
Average lot width	300 feet

Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	15 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.A.1.c ER1M PERMITTED USES

The following uses are permitted by right in the ER1M district:

1. All type of agriculture
2. Barb wire fencing
3. Barns and other structures normally used in connection with farming and ranching
4. Christmas tree farms
5. Cluster Development in accordance with the Subdivision Regulations adopted by the ETZ Authority
6. Detached single-family site-built home and mobile homes
7. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address, and each sale shall be limited to three (3) consecutive days.
8. Greenhouses (non-commercial), garden and tool sheds, if detached from the main dwelling, are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
9. Home Occupation, subject to Section 3.4 of this Ordinance.
10. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to insure overhead safety.
11. Raising large and small animals in accordance with Article VIII of this Ordinance.
12. Recreational courts, such as tennis and basketball courts, and other similar uses.
13. Recreational vehicles, such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
14. Residential type satellite dishes, television or receiving antennae, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.
15. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID)
16. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is

discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner.

17. The sale of agricultural and farm products, such as nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees, if produced or raised on the premises.
18. Windmills built to withstand a 75 MPH wind and meet the latest adopted version of the Uniform Building Code.
19. Agricultural uses and agriculture related uses not specifically listed under Sections 3.1.A.1.d or 3.1.N.4 of this Article are permitted by right in the ER1M district.

3.1.A.1.d ER1M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Airports and heliports
2. Boarding houses and rest homes
3. Cemeteries
4. Commercial stables and riding academies
5. Commercial kennels
6. Community and publicly owned recreation centers, clubhouses and similar buildings and structures open to the public
7. Day care center or child care center for seven (7) or more children
8. Guest ranches
9. Parks, golf courses, churches, schools and other public or semi-public and open recreational use.
10. Public utility installations and substations
11. Keeping of wild or exotic animals or fowl
12. Professional offices
13. Veterinary clinics and treatment centers
14. Wineries and/or wine tasting rooms

Section 3.1.A.2 ER1 RESIDENTIAL DISTRICT

3.1.A.2.a PURPOSE

The ER1 zoning district is intended as a residential district of single-family site-built homes on very large lots specifically designed for keeping of certain livestock with not more than one (1) dwelling unit and customary accessory buildings on one (1) lot. It is intended that the ER1 district meet the demand for those lifestyles that include the raising and keeping of animals such as horses, ponies, mules, cows, swine, sheep, goats and

fowl in a rural atmosphere and in area where the impact of such activities on those who do not share this lifestyle is negligible.

3.1.A.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER1M district as outlined in Section 3.1.A.1 of this Ordinance are applicable to the ER1 district.

3.1.A.2.c ER1 PERMITTED USES

The permitted uses set for the ER1M district as outlined in Section 3.1.A.1.c of this Article are applicable to the ER1 district, EXCEPT that mobile homes are not allowed in the ER1 district.

3.1.A.2.d SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER1M district as outlined in Section 3.1.A.1.d of this Article are applicable to the ER1 district.

Section 3.1.B.1 ER2M RESIDENTIAL DISTRICT

3.1.B.1.a PURPOSE

The ER2M zoning district is intended as a residential district of single-family site-built homes and mobile homes on large size lots specifically designed for keeping of certain livestock with not more than one (1) dwelling and customary accessory buildings upon one (1) lot. It is intended that the ER2M district meet the demand for those lifestyles that include the raising and keeping of animals in a rural atmosphere in areas where the impact of such activities on those who do not share this lifestyle is negligible.

3.1.B.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	2 acres (except cluster development)
Minimum lot width	120 feet
Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	15 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.B.1.c PERMITTED USES

The permitted uses set for the ER1M district as outlined in Section 3.1.A.1.c of this Article are applicable to the ER2M district.

3.1.B.1.d SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER1M district as outlined in Section 3.1.A.1.d of this Ordinance are applicable to the ER2M district.

Section 3.1.B.2 ER2 RESIDENTIAL DISTRICT

3.1.B.2.a PURPOSE

The ER2 zoning district is intended as a residential district of single-family site-built homes on large size lots specifically designed for keeping certain livestock with not more than one (1) dwelling unit and customary accessory building upon one (1) lot. It is intended that the ER2 district meet the demand for those lifestyles that include the raising and keeping of animals in a rural atmosphere in areas where the impact of such activities on those who do not share this lifestyle is negligible.

3.1.B.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER2M district are outlined in Section 3.1.B.1.b of this Article and are applicable to the ER2 district.

3.1.B.2.c ER2 PERMITTED USES

The permitted uses set for the ER1M district as outlined in Section 3.1.A.1.c of this Article are applicable to the ER2 district, EXCEPT that mobile homes are not allowed in the ER2 district.

3.1.B.2.d ER2 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER1M district as outlined in Section 3.1.A.1.d of this Article are applicable to the ER2 district.

Section 3.1.C.1 ER3M RESIDENTIAL DISTRICT

3.1.C.1.a PURPOSE

The purpose of the ER3M zoning district is to establish residential district is to establish residential districts of single-family site-built homes and mobile homes on moderate to large size lots, specifically designed to meet the demand for those persons whose lifestyles include raising and keeping of large and small animals in a semi-rural atmosphere.

3.1.C.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	1 acre (except cluster development)
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	15 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.C.1.c ER3M PERMITTED USES

The following uses are permitted by right in the ER3M district:

1. All types of agriculture.
2. Barbed wire fences.

3. Barns and other structures normally used in connection with farming and ranching.
4. Christmas tree farms.
5. Cluster developments in accordance with Subdivision Regulations adopted by the ETZ Authority.
6. Detached single-family site-built homes and mobile homes.
7. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address, and each sale shall be limited to three (3) consecutive days.
8. Greenhouses (non-commercial) garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of the Ordinance.
9. Home Occupations subject to Section 3.4 of this Article.
10. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
11. Raising large and small animals in accordance with Article VIII of the Ordinance.
12. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front and side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
13. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point of the roof.
14. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID) and Section 3.02 of this Article.
15. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit was issued, whichever is sooner.
16. The sale of agricultural and farm products such as nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees, if produced or raised on the premises.
17. Windmills built to withstand a 75 MPH wind and meet the Uniform Building Code.
18. Agriculture uses and agriculture related uses not specifically listed under Sections 3.1.A.1.c and 3.1.A.1.d of this Article are permitted by right in the ER3M district.

3.1.C.1.d ER3M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Boarding houses and rest homes
2. Cemeteries
3. Commercial stable and riding academies
4. Commercial kennels
5. Community and publicly owned recreational centers, clubhouses and similar buildings and structures open to the public
6. Day care center or child care center for seven (7) or more children
7. Guest ranches
8. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
9. Public utility installations, substations and water wells
10. Keeping of wild or exotic animals or fowl
11. Time-rental riding facilities
12. Veterinary clinics and treatment centers
13. Wineries and/or wine tasting rooms

Section 3.1.C.2 ER3 RESIDENTIAL DISTRICT

3.1.C.2.a PURPOSE

The purpose of the ER3 zoning district is to establish residential districts of single-family site-built homes on moderate to large size lots, specifically designed to meet the demand for those persons whose lifestyles include raising and keeping of large and small animals in a semi-rural atmosphere.

3.1.C.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER3M district as outlined in Section 3.1.C.1.b of this Article are applicable to the ER3 district.

3.1.C.2.c ER3 PERMITTED USES

The permitted uses set for the ER3M district as outlined in Section 3.1.C.1.c of this Article are applicable to the ER3 district, EXCEPT that mobile homes are not allowed in the ER3 district.

3.1.C.2.d ER3 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER3M district as outlined in Section 3.1.C.1.d of this Article are applicable to the ER3 district.

Section 3.1.C.3 ER3H RESIDENTIAL DISTRICT

3.1.C.3.a PURPOSE

The purpose of the ER3H zoning district is to establish a residential district of single-family site-built homes on moderate to large size lots, specifically to meet the demand of those persons whose lifestyles include the raising and keeping of horses in a semi-rural atmosphere. No large animals, except horses, are allowed in this district. Small animals are permitted subject to the provisions of Section 8.2 of this Ordinance.

3.1.C.3.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER3M district as outlined in Section 3.1.C.1.b of this Article are applicable to the ER3H district.

3.1.C.3.c ER3H PERMITTED USES

The following uses are permitted by right in the ER3H district:

1. All types of agriculture
2. Barbed-wire fencing
3. Barns and other structures normally used in connection with farming and ranching
4. Cluster developments in accordance with the Subdivision Regulations adopted by the ETZ Authority
5. Detached single-family site-built homes only
6. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address and each sale shall be limited to three (3) consecutive days.
7. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
8. Home occupations subject to Section 3.4 of this Ordinance
9. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
10. Raising of horses in accordance with Section 8.1 of this Ordinance
11. Raising of small animals in accordance with Section 8.2 of this Ordinance
12. Recreational vehicles such as boats, trailers or similar uses limited to a maximum of one (1) per dwelling unit in the front or side yard and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.

13. Residential type satellite dishes, television or receiving antenna, roof mounted and not exceeding twenty (20) feet in height at the highest point on the roof.
14. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID) and Section 3.02 of this Article.
15. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit was issued, whichever is sooner.
16. The sale of agricultural and farm products such as nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees, if produced or raised on the premises.
17. Agriculture uses and agriculture related uses not specifically listed under Section 3.1.A.1.c and 3.1.A.d of this Article and no explicitly prohibited in the ER3H district under Section 3.1.C.1 of this Article are permitted by right in the ER3H district.

3.1.C.3.d ER3H SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Boarding houses and rest homes
2. Commercial stables and riding academies
3. Community and publicly owned recreational centers, clubhouses and similar buildings and structures open to the public
4. Day care center or child care center for seven (7) or more children
5. Guest ranches
6. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses.
7. Public utility installations, substations and water wells
8. Keeping of wild or exotic animals or fowl except large animals
9. Time-rental riding facilities
10. Veterinary clinics and treatment centers
11. Wineries and/or wine tasting rooms

Section 3.1.D.1 ER3/4M RESIDENTIAL DISTRICT

3.1.D.1.a PURPOSE

The purpose of the ER3/4M district is to provide for single-family site-built homes and mobile homes in low densities together with such recreational

facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.D.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	3/4 acre (except cluster development)
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	10 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.D.1.c ER3/4M PERMITTED USES

The following uses are permitted by right in the ER3/4M district:

1. Cluster developments in accordance with the Subdivision Regulations adopted by the ETZ Authority
2. Detached single-family site-built homes and mobile homes
3. Garage and yard sales or similar uses limited to three (3) sales in a one (1) year period at a single address and each sale shall be limited to three (3) consecutive days.
4. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
5. Home occupations subject to Section 3.4 of this Article
6. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
7. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
8. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.
9. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID) and Section 3.02 of this Article.
10. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner.

11. Keeping small animals subject to Article VIII of this Ordinance
12. Keeping large animals on lots of one (1) acre or greater size subject to Article VIII of this Ordinance

3.1.D.1.d ER3/4M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. All types of agriculture
2. Boarding houses and rest homes
3. Cemeteries
4. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public
5. Day care center or child care center for seven (7) or more children
6. Guest ranches
7. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
8. Public utility installations, substations and water wells
9. Keeping large animals on lots of less than one (1) acre in size
10. Keeping wild or exotic animals and fowl
11. Sale of farm produce provided it is raised on the premises
12. Veterinary facilities
13. Wineries and/or wine tasting rooms

Section 3.1.D.2 ER3/4 RESIDENTIAL DISTRICT

3.1.D.2.a PURPOSE

The purpose of the ER3/4 district is to provide for single-family site-built homes in low densities together with such recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.D.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER3/4M district as outlined in Section 3.1.D.1.b of this Article are applicable to the ER3/4 district.

3.1.D.2.c ER3/4 PERMITTED USES

The permitted uses set for the ER3/4M district as outlined in Section 3.1.D.1.c of this Article are applicable to the ER3/4 district, EXCEPT that mobile homes are not allowed in the ER3/4 district.

3.1.D.2.d ER3/4 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER3/4M district as outlined in Section 3.1.D.1.d of this Article are applicable to the ER3/4 district.

Section 3.1.E.1 ER4M RESIDENTIAL DISTRICT

3.1.E.1.a PURPOSE

The purpose of the ER4M district is to provide for single-family site-built and mobile homes in low densities together with such recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.E.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	1/2 acre (except cluster development)
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	10 feet
Minimum rear setback	25 feet
Minimum building height	35 feet

3.1.E.1.c ER4M PERMITTED USES

The following uses are permitted by right in the ER4M district:

1. Cluster developments in accordance with the Subdivision Regulations adopted by the ETZ Authority
2. Detached single-family site-built homes and mobile homes
3. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address and each sale shall be limited to three (3) consecutive days
4. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
5. Home occupations subject to Section 3.4 of this Article
6. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
7. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line
8. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof

9. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID) and Section 3.02 of this Article
10. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner
11. Keeping small animals subject to Article VIII of this Ordinance
12. Keeping large animals on lots of one (1) acre or greater size subject to Article VIII of this Ordinance

3.1.E.1.d ER4M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. All types of agriculture
2. Boarding houses and rest homes
3. Cemeteries
4. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public
5. Day care center or child care center for seven (7) or more children
6. Guest ranches
7. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
8. Public utility installations, substations and water wells
9. Keeping large animals and fowl on lots of less than one (1) acre in size
10. Keeping wild or exotic animals and fowl
11. Sale of farm produce provided it is raised on the premises
12. Veterinary facilities
13. Wineries and/or wine tasting rooms

Section 3.1.E.2 ER4 RESIDENTIAL DISTRICT

3.1.E.2.a PURPOSE

The purpose of the ER4 district is to provide for single-family site-built homes in low densities together with such recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.E.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER4M district as outlined in Section 3.1.E.1.b of this Article are applicable to the ER4 district.

3.1.E.2.c ER4 PERMITTED USES

The permitted uses set for the ER4M district as outlined in Section 3.1.E.1.c of this Article are applicable to the ER4 district, EXCEPT that mobile homes are not allowed in the ER4 district.

3.1.E.2.d ER4 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER4M district as outlined in Section 3.1.E.1.d of this Article are applicable to the ER4 district.

Section 3.1.F.1 ER5M RESIDENTIAL DISTRICT

3.1.F.1.a PURPOSE

The purpose of the ER5M district is to provide for single-family site-built and mobile homes in moderately low densities together with such recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.F.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	1/3 acre (except cluster development)
Minimum lot width	80 feet
Minimum lot depth	80 feet
Minimum front setback	20 feet
Minimum side setback	10 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.F.1.c ER5M PERMITTED USES

The following uses are permitted by right in the ER5M district:

1. Cluster developments in accordance with the Subdivision Regulations adopted by the ETZ Authority.
2. Detached single-family site-built homes and mobile homes.
3. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address and each sale shall be limited to three (3) consecutive days.
4. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
5. Home occupations subject to Section 3.4 of this Article.
6. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.

7. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
8. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.
9. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner.
10. Keeping small animals subject to Article VIII of this Ordinance.

3.1.F.1.d ER5M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. All types of agriculture
2. Boarding houses and rest homes
3. Cemeteries
4. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public
5. Day care center or child care center for seven (7) or more children
6. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
7. Public utility installations, substations and water wells
8. Keeping small, wild or exotic animals and fowl on lots of less than one (1) acre in size
9. Sale of farm produce provided it is raised on the premises
10. Veterinary facilities
11. Wineries and/or wine tasting rooms

Section 3.1.F.2 ER5 RESIDENTIAL DISTRICT

3.1.F.2.a PURPOSE

The purpose of the ER5 district is to provide for single-family site-built homes in moderately low densities together with such recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.

3.1.F.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER5M district as outlined in Section 3.1.F.1.b of this Article are applicable to the ER5 district.

3.1.F.2.c ER5 PERMITTED USES

The permitted uses set for the ER5M district as outlined in Section 3.1.F.1.c of this Article are applicable to the ER5 district, EXCEPT that mobile homes are not allowed in the ER5 district.

3.1.F.2.d ER5 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER5M district as outlined in Section 3.1.F.1.d of this Article are applicable to the ER5 district.

Section 3.1.G.1 ER6 RESIDENTIAL DISTRICT

3.1.G.1.a PURPOSE

The purpose of the ER6 district is to provide for single-family site-built homes within a medium density residential environment that is protected and maintained.

3.1.G.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	5000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	20 feet
Minimum side setback	7 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.G.1.c ER6 PERMITTED USES

The following uses are permitted by right in the ER6 district:

1. Detached single-family site-built homes.
2. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address and each sale shall be limited to three (3) consecutive days.
3. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of this Ordinance.
4. Homes for handicapped, disabled, retarded or retired persons, subject to the requirements of the New Mexico Municipal Code, Section 3-21-1, Para. C, as amended. There shall be no more than five (5) persons in one (1) home and a minimum of three (3) parking spaces must be provided.
5. Home occupations subject to Section 3.4 of this Article.

6. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
7. Public parks, playgrounds or ball fields.
8. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
9. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.
10. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner.
11. Keeping small animals subject to Article VIII of this Ordinance.

3.1.G.1.d ER6 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Boarding houses and rest homes
2. Cemeteries
3. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public
4. Day care center or child care center for seven (7) or more children
5. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
6. Public utility installations, substations and water wells
7. Keeping small, wild or exotic animals and fowl
8. Sale of farm produce provided it is raised on the premises
9. Veterinary facilities
10. Nursing homes, provided there are no more than ten (10) person in one (1) home and a minimum of two (2) parking spaces must be provided in addition to one (1) space for each five (5) persons
11. Wineries and/or wine tasting rooms

Section 3.1.G.2 ER6M RESIDENTIAL DISTRICT

3.1.G.2.a PURPOSE

The purpose of the ER6M zoning district is to provide for single-family site-built homes and mobile homes within a medium density residential environment that is protected and maintained.

3.1.G.2.b DEVELOPMENT REQUIREMENTS

Minimum lot size	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	20 feet
Minimum side setback	7 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.G.2.c PERMITTED USES

The following uses are permitted by right in the ER6M district:

- 1.** Detached single-family site-built homes and mobile homes.
- 2.** Garage and yard sales or similar uses, limited to three (3) sales in one (1) year period at a single address and each sale shall be limited to three (3) consecutive days.
- 3.** Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions for Accessory Buildings under Article VII of this Ordinance.
- 4.** Homes for handicapped, disabled, retarded or retired persons, subject to the requirements of the New Mexico Municipal Code, Section 3-21-1, Para. C, as amended. There shall be no more than five (5) persons in one (1) home, and a minimum of three (3) parking spaces must be provided.
- 5.** Home occupations in accordance with Section 3.4 of this Ordinance.
- 6.** Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
- 7.** Public parks, playgrounds or ball fields
- 8.** Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front or side yard and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
- 9.** Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.

10. Temporary real estate offices when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit is issued, whichever is sooner.
11. Keeping small animals, subject to Article VIII of this Ordinance.

3.1.G.2.d ER6M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Boarding houses and rest homes.
2. Cemeteries.
3. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public.
4. Day care center or child care center for seven (7) or more children.
5. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses.
6. Public utility installations, substations and water wells.
7. Keeping small, wild or exotic animals or fowl.
8. The sale of farm produce provided it is raised on the premises.
9. Veterinary facilities.
10. Nursing homes, provided there shall be no more than ten (10) persons in one (1) home and a minimum of two (2) parking spaces must be provided in addition to one (1) space for each five (5) persons.
11. Wineries and/or wine tasting rooms

Section 3.1.H.1 ER7M RESIDENTIAL DISTRICT

3.1.H.1.a PURPOSE

The purpose of the ER7M zoning district is to provide for needed, properly planned and well-designed mobile home parks in areas where public utilities are available and to establish basic standards for character of the use and to mitigate any adverse effect on surrounding properties. Septic tanks are not allowed in this district.

3.1.H.1.b DEVELOPMENT REQUIREMENTS

Minimum MH Park size	5 acres
Maximum density	10 MH units per acre
Minimum area per MH space	3500 square feet
Minimum width per MH space	35 feet
Minimum depth per MH space	100 feet

Other mobile home park standards as outlined in Section 3.5 of this Article.

3.1.H.1.c ER7M PERMITTED USES

The following uses are permitted by right in the ER7M district:

1. Accessory buildings in accordance with Article VII of this Ordinance.
2. Home occupations in accordance with Section 3.4 of this Article.
3. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.

3.1.H.1.d ER7M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval of the ETZ Commission:

1. All mobile home park developments
2. Convenience establishments of a commercial nature, including laundries, stores, beauty shops and barber shops in accordance with Section 3.5.C.3 of this Article.

Section 3.1.I.1 ER7 RESIDENTIAL DISTRICT

3.1.I.1.a PURPOSE

The purpose of the ER7 zoning district is to encourage variety in housing types at moderately high densities together with appropriate community facilities. Mobile homes and septic tanks are not allowed in this district. The ER7 district is intended to accommodate an overall maximum density of fifteen (15) dwelling units per acre. This district is intended for single-family, duplex or apartment units in which a medium density residential character is protected and maintained.

3.1.I.1.b DEVELOPMENT REQUIREMENTS

The following uses are permitted by right in the ER7 district:

1. Accessory buildings in accordance with Article VII of this Ordinance.
2. Attached and detached single-family dwellings.
3. Garage and yard sales or similar uses, limited to three (3) sales in one (1) year period at a single address, and each sale shall be limited to three (3) consecutive days.
4. Greenhouses (non-commercial), garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Building under Article VII of this Ordinance.
5. Homes for handicapped, disabled, retarded or retired persons, subject to the requirements of the New Mexico

Municipal Code, 3-21-1, Para. C, as amended. There shall be no more than five (5) persons in one (1) home and a minimum of three (3) parking spaces must be provided.

6. Home occupations in accordance with Section 3.4 of this Article.
7. Multi-family dwellings and apartments, including apartments for the elderly and the office of the manager.
8. Private clubs for use of members only, except a club wherein the chief activity is a service customarily carried on as a business
9. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
10. Public parks, playgrounds or ball fields.
11. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point on the roof.
12. Single-family attached dwellings including townhouses or condominiums, patio houses and atrium houses.
13. Accessory dwelling units as described in Article VIII of this Ordinance.
14. Temporary real estate offices, when used in conjunction with a residential subdivision.
15. Keeping small animals subject to Article VIII of this Ordinance.
16. Multi-family dwellings with a maximum of eight (8) attached units and not to exceed fifteen (15) dwellings units per acre.

3.1.I.1.d ER7 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Amusement parks
2. Boarding houses and rest homes
3. Community and publicly owned recreational centers, clubhouses and similarly used buildings and structures open to the public
4. Day care center or child care center for seven (7) or more children
5. Flea markets
6. Halfway houses and quasi-institutional houses
7. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
8. Public utility installations, substations and water wells

9. Keeping small, wild or exotic animals and fowl
10. Veterinary facilities

Section 3.1.J EC1 NEIGHBORHOOD COMMERCIAL DISTRICT

3.1.J.1 PURPOSE

The EC1 district is intended to accommodate limited retail and service establishments as a convenience to nearby residential neighborhoods. This zone is designed to be compatible and consistent with the needs and character of a residential neighborhood. Uses such as the sale of vehicles, engines, mobile homes, body shops, pet shops and similar uses are not permitted in the EC1 district. No uses which exceed ten thousand (10,000) square feet of gross floor area per business are permitted in order to avoid creation of undue traffic congestion, noise or other problems that would be detrimental to the residential character of the neighborhood.

3.1.J.2 DEVELOPMENT REQUIREMENTS

Maximum lot area	5 acres
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	35 feet

Total district area shall not exceed five (5) acres.

Residences in the EC1 district shall comply with the development requirements for the ER5 district as outlined in Section 3.1.F.1 of this Article.

Landscape buffering may be required between commercial and residential uses.

3.1.J.3 PERMITTED USES IN EC1 DISTRICT

The following uses are permitted by right in an EC1 district provided the gross floor area of each business does not exceed ten thousand (10,000) square feet.

3.1.J.3.a PERMITTED USES - NO CONDITIONS

1. Arts and crafts studios
2. Banks and other similar financial institutions with no drive-up services
3. Barber shops
4. Beauty parlors
5. Bicycle (non-motorized) sales and service
6. Bookstores, newsstands and stationary shops
7. Cigarette and cigar shops
8. Coffee shops and snack bars
9. Community buildings (publicly or privately owned)

10. Dealers in coins, stamps or similar collectors' items
11. Delicatessens
12. Dental and medical laboratories
13. Dressmaking shops
14. Drug stores
15. Dry goods or notion stores
16. Florist shops
17. Furniture stores
18. Gift shops
19. Grocery stores
20. Hardware stores
21. Health gymnasiums
22. Hobby shops
23. Jewelry stores
24. Knitting and yarn shops
25. Libraries
26. Meat and seafood markets
27. Messenger and telegraph services
28. Office equipment sales and service
29. Package liquor stores
30. Photography studios
31. Photostatic copying services
32. Post offices
33. Private clubs and lodges
34. Professional and business offices
35. Public parks, playgrounds and other similar recreational facilities
36. Real estate offices
37. Restaurants without drive-in service
38. Schools for teaching art, dance, music and other similar activities
39. Self-service laundromats
40. Shoe and boot repair shops
41. Small appliance sales and service
42. Tailor shops
43. Theaters, excluding open-air or drive-in theaters
44. Private towers

3.1.J.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EC1 in accordance with stated conditions:

1. Automotive accessories, parts and supplies. There shall be no installation, repair, rebuilding, modification or outside storage of parts on the premises.
2. Automotive, truck, motorcycle and motor bicycles (mopeds) repair service. Repair work shall be done within a completely enclosed building at least twenty (20) feet from any residential zone. Storage of not more than five (5) vehicles awaiting repair shall be permitted, provided that the outdoor area in which such vehicles are stored shall be enclosed by a solid wall or fence at least six (6) feet high.
3. Bakeries. All products produced on the premises shall be sold at retail on the premises.
4. Child care centers, nurseries or similar uses. Play area shall be in accordance with state licensing requirements and enclosed by a solid wall or fence five (5) feet high. A stacking lane for access shall be provided at least twenty-seven (27) feet long and fifteen (15) feet wide for each ten (10) children served.
5. Christmas tree sales. Temporary, not prior to 15 NOV and provided that lots are removed by 31 DEC.
6. Churches. Permitted when on a site of two (2) acres or larger.
7. Construction yard or building (temporary use). Permitted only during construction, provided the use or building is removed upon the completion of construction or within three (3) years from the date of the building permit, whichever is sooner. Construction yards and buildings shall be enclosed by a solid fence for a minimum of five (5) feet in height, however, there shall be no fence or wall more than three (3) feet in total height above street-curb level within thirty (30) feet of an intersection.
8. Drive-up banks and other similar financial institutions. Must have at least one (1) stacking lane the (10) feet in width and one hundred twenty (120) feet in length for each drive-up window that is designed to ensure no business traffic backs onto the street giving access.
9. Drive-in restaurant. Must have at least one (1) stacking land ten (10) feet in width and two hundred (200) feet in length for each drive-in window that is designed to ensure no business traffic backs on the street giving access.
10. Dry cleaning, commercial laundry and clothes pressing services. Permitted, provided only non-flammable or non-combustible materials are used in the cleaning process, the number of employees does not exceed five (5) and the portion of the structure in which any cleaning process is done is at least fifty (50) feet from a residential district.

- 11.** Feed stores for retail sales. All outside storage must be enclosed by a solid wall or fence six (6) feet high on all sides abutting residential districts.
- 12.** Firewood sales. A maximum of twenty (20) cords per business can be stored on site.
 - (a) must be enclosed by a six (6) foot opaque fence on all sides abutting residential districts
 - (b) wood may not be stacked above the fence
 - (c) no wood may be stored closer than ten (10) feet to any property line or within ten (10) feet of any structure
 - (d) ingress/egress and fire lanes within the lot area must be maintained and unobstructed to a width of fifteen (15) feet
 - (e) cutting of firewood is prohibited
- 13.** Mini storage units. Units shall not be used for commercial sales of products, merchandise, service or repair. Buildings shall be separated by a twenty-five (25) foot aisle.
- 14.** Nursery or greenhouse. All outside storage, other than plant material, shall be enclosed by a six (6) foot high solid wall or fence on all sides.
- 15.** Pet shops for retail sales of animals, including grooming services. All workrooms and cages must be maintained within a completely enclosed soundproof building and the shop must be operated in such a way as to provide no objectionable noise or odors.
- 16.** Public utility installation, substations and water wells. Sites shall be developed and maintained in conformance with the general character and appearance of the zoning district and shall include landscaping and suitable screening in the form of a solid wall, fence or compact shrubbery around the perimeter of the lot or tract.
- 17.** Storage - incidental to primary use. Storage shall be permitted only for merchandise incidental to the primary use of the business. Such storage shall be totally enclosed within the building of primary use and at least ten (10) percent of the gross floor area shall be used for retail sales or service.
- 18.** Swimming pools. Permitted only when a protective fence six (6) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than six (6) feet from any property line and approval from all utilities is required to ensure overhead safety.
- 19.** Trailer rentals. There shall be no outside storage of automobiles or parts and no body or fender work, painting or upholstery work done on the site.

- 20. Veterinary clinic for small animals. There shall be no boarding of animals and no overnight confinement facilities. Clinic treatment shall be limited to five (5) animals.
- 21. Commercial tower uses. Refer to Section 4.2.E.2 of this Ordinance for conditions

3.1.J.3.c EC1 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

- 1. Auto and truck washing services
- 2. Bars and lounges
- 3. Gasoline pumps (accessory to grocery stores)
- 4. Golf courses and country clubs
- 5. Halfway houses and quasi-institutional uses
- 6. Hospitals and overnight health clinics
- 7. Institutions- public, educational, religious and philanthropic
- 8. Satellite parking areas
- 9. Service stations
- 10. Mobile homes on a temporary basis during construction for the purpose of housing security guards, pursuant to Section 3.1 of this Article. Conditions shall be attached regarding unobtrusive siting and screening.
- 11. Wineries and/or wine tasting rooms

Section 3.1.K EC2 COMMUNITY COMMERCIAL DISTRICT

3.1.K.1 PURPOSE

The purpose of the EC2 district is to provide sufficient space in appropriate locations for retail and personal service uses and some commercial recreational uses, generally serving an area of several neighborhoods in a given community.

3.1.K.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	45 feet

Residences in the EC2 district shall comply with the development requirements for the ER5 district as outlined in Section 3.1.F.1 of this Article.

3.1.K.3 PERMITTED USES IN EC2 DISTRICT

The following uses are permitted by right in the EC2 district.

3.1.K.3.a PERMITTED USES - NO CONDITIONS

1. All uses permitted under Section 3.1.J.3.a of this Article
2. Ambulance services
3. Apparel shops
4. Automobile service stations
5. Billiard or pool halls
6. Bowling alleys
7. Burglar alarm services
8. Data processing centers
9. Department stores
10. Electrical shops
11. Frozen food lockers
12. Glass cutting and finishing shops
13. Hospital equipment and supplies, sales, rentals and service
14. Hotels and motels
15. Household appliances sales and service
16. Juke box and coin machine sales, rentals and service
17. Lawn and garden equipment sales, rentals and service
18. Locksmith services
19. Medical outpatient clinics
20. Miniature golf courses
21. Mortuaries
22. Motion picture theaters
23. Musical instrument supplies, sales, rental and service
24. Newspaper establishments, including distribution offices
25. Pawn shops
26. Painting equipment and supplies, sales and rentals
27. Residences
28. Retail sales of accessories, antiques, art, art supplies, jewelry, music records and tapes, sporting goods and similar stores and shops
29. Second-hand goods – retail sales
30. Taxicab stands
31. Upholstery shops
32. Weight reduction salons

3.1.K.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EC2 in accordance with stated conditions:

1. All permitted uses with conditions allowed under Section 3.1.J.3.b of this Article

2. Amusement parks or enterprises. Temporary amusement enterprises are prohibited within three hundred (300) feet of any residential zoning district. Permanent amusement enterprises are prohibited within five hundred (500) feet of any residential zoning district. Go-cart tracks and other similar facilities must be located at least one thousand (1000) feet from any residence and at least one hundred (100) feet from any public way. The spectator areas shall be protected from the vehicular area by suitable fencing, bumpers or other protective devices.
3. Auction yard, structure or flea market. The off-street parking area must be clearly separated from the sales area. A minimum of one (1) off-street parking space is required for each display stand or area and one (1) space for every two hundred (200) square feet designated as an entire display area. Each display stand requires a minimum of twenty (20) square feet and a minimum of one (1) chemical or standard toilet is required for every twenty (20) display stands or fraction thereof.
4. Automobile, mobile home, trailer or truck sales, rentals and storage. The vehicle area must be graded and surfaced with asphalt, concrete or other materials that will provide equivalent protection against potholes, erosion, or dust and a solid wall or fence six (6) feet high shall be maintained along any side of such area abutting any residential zone
5. Heavy equipment repair service (accessory use). Permitted only as an incidental or accessory use to heavy equipment sales or rentals. Floor area for repair shall not exceed three thousand (3000) square feet and not exceed thirty (30) percent of the total gross floor area. Welding is permitted only in conjunction with repairs and shall not be used for the purpose of heavy equipment assembly.
6. Mini storage units. Units shall not be used for commercial sales of products, merchandise, service or repair
7. Welding (accessory use). Welding shall be permitted only as an incidental or accessory use necessary for the repair of vehicles or equipment. Welding for the purpose of assembly is prohibited. Welding uses shall be approved by the County Codes Compliance Division.

3.1.K.4 EC2 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Adult entertainment uses. Uses such as adult bookstores, adult photo studios, adult theaters and adult news racks as defined under Section 1.6 of this Ordinance, shall be permitted provided such use is located a minimum of one thousand (1,000) feet from a property line of any school, church, public park or recreational

Minimum lot size	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	45 feet

Residences in the EC3 district shall comply with the development requirements for the ER5 district as outlined in Section 3.1.F.1 of this Article.

3.1.L.3 OWNERSHIP CONTROL

The land in the PCD shall be under such unified control as to ensure that the entire district will be developed as a unified whole. All owners shall be included as joint applicants and all approvals shall bind all owners. An applicant for a PCD involving an association, joint venture, partnership or some other legal entity shall submit to the zoning commission the legal documents authorizing the entity and, if applicable, its bylaws. The zoning commission may require any provisions necessary to ensure that the intent of this Ordinance is met.

3.1.L.4 PERMITTED USES

A PCD may be allowed on property already having the EC3 designation or property zoned EC1 or EC2 may be rezoned to the EC3 designation. A PCD may include those uses permitted with or without conditions and uses requiring a Special Use Permit in the EC1 or EC2 districts, including residential uses, provided that no use involving outdoor storage of inventory or wholesale uses shall be permitted where it would not otherwise be permitted in the EC1 or EC2 district.

3.1.L.5 GENERAL PROCEDURES - PLANS REQUIRED

Establishment of a PCD where a zone change is required must follow the procedures for changes and amendments outlined in Section 2.1.A-C, 2.1.G and 2.6.A of this Ordinance. All applications for a PCD must meet the public hearing and notification requirements stated in Section 2.1.G of this Ordinance. A site development plan must be submitted to the ETZ Commission.

If the project is to be accomplished as a series of development units, a detailed site development plan for a proposed unit shall be submitted with a general set plan and a schedule of phasing provided. The proposed development shall follow all applicable procedures, standards and requirements of this Ordinance and the Subdivision Regulations adopted by the ETZ Authority, as well as other applicable regulations.

3.1.L.6 GENERAL DEVELOPMENT STANDARDS FOR PCD'S

In addition to meeting the development requirements stated in Section 3.1.L.2 of this Article, the following minimum general development standards must be complied with:

- a. Parking lots must be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust

- b. Any part of the project area not used for buildings or other structures, loading and access ways shall be landscaped in accord with an approved landscaping plan
- c. The PCD must be separated from adjacent residential areas by a heavily landscaped buffer
- d. The PCD must be designed to promote harmonious relationships with surrounding adjacent and nearby properties, developed or undeveloped, including location of building orientation, spacing and setback of buildings, location of access points, size and location of signs, open spaces and parking areas, grading, landscaping and screening
- e. The principle means of access shall be from arterial or collector streets. In no case shall the principle means of access be from a minor residential street.
- f. The design for internal circulation shall be appropriately related to access points and provide for safe and efficient movement of vehicles and pedestrians with special attention to reduction of crossing conflicts, improvements of visibility, convenience of pickup areas, traffic signs and speed controls.
- g. Refuse containers or refuse storage areas shall be hidden from general public view, whether from within or outside the center, by means of fences, walls or landscaping.
- h. The PCD must be adequately served by essential utilities and public services such as water, sanitary sewer, storm drainage, police, fire and other similar services.

Section 3.1.M E11 LIGHT INDUSTRIAL DISTRICT

3.1.M.1 PURPOSE

The purpose of the E11 district is to provide a wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses appropriately located relative to major transportation facilities. The major portion of the business activity is conducted within enclosed buildings. Land use in this district shall be constructed and operated to ensure there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which it is located. Excessive is defined as a degree exceeding that caused in their customary manner of operation by users permitted in the E11 district, a degree injurious to the public health, safety, welfare or to a degree to which it is a nuisance by reason of excessiveness. Residential uses shall not be permitted except for a residential watchman, caretaker or proprietor of a commercial use.

3.1.M.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet

Maximum building height

50 feet

3.1.M.3 EI1 PERMITTED USES

The following uses are permitted by right in the EI1 district:

3.1.M.3.a PERMITTED USES - NO CONDITIONS

1. Automobile and truck parking garages and lots
2. Automobile and truck service stations
3. Business offices
4. Commercial or trade schools
5. Dwelling for resident watchmen and caretakers employed on the premises, and business proprietors, provided they are located on the same property as the business.
6. Electrical shops
7. Engraving shops
8. Fence and wall sales and storage
9. Glass cutting and finishing
10. Hardware stores
11. Laboratories – research, experimental or testing
12. Lumber yards
13. Newspaper establishments, distribution centers
14. Paint supplies, sales and distribution
15. Rental and sales of contractor equipment
16. Restaurants with no drive-in service
17. Service establishments for repair and maintenance of home and business appliances, building maintenance and repair, including pest control, tree and lawn services
18. Sign construction and sales
19. Storage building and warehouses
20. Telephone exchange stations
21. Tire sales and service establishments
22. Welding and light fabrication

3.1.M.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EI1 in accordance with stated conditions:

1. Automobile, mobile home, trailer and truck sales, rentals and storage. The vehicle area must be graded and surfaced with asphalt, concrete or other materials that will provide equivalent protection against potholes, erosion, dust, and a solid wall or fence six (6) feet high shall be maintained along any side of such area abutting or contiguous to any residential zone.

2. Construction or contractor's yard. Yard shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence of a minimum six (6) feet in height. However there shall be no fence or wall more than three (3) feet of a street intersection.
3. Garages for repair of passenger motor vehicles, light trucks, vans and motorcycles, including body work. All work must be performed in a completely enclosed building. There shall be no storage of junk automobiles for salvage purposes. Only those motor vehicles awaiting repairs can be parked on the premises behind a solid wall or fence so that such vehicles will not be visible from surrounding properties.
4. Heavy equipment repair service (accessory use). Permitted only as an incidental or accessory use to heavy equipment sales or rentals. Floor area for repair shall not exceed three thousand (3,000) square feet and not exceed thirty (30) percent of the total gross floor area. Welding is permitted only in conjunction and shall not be used for the purpose of heavy equipment assembly.
5. Open or exterior storage and display of merchandise, materials. Storage or display of materials on the exterior of a building shall be completely enclosed by a fence or wall of solid construction, no less than six (6) feet in height, except for mobile homes, cars, trucks or motorcycles.
6. Paint shop, mixing, treatment and spraying. Buildings shall be located on hundred (100) feet from any residential zoning district and obtain approval from the County Fire Prevention Inspector.
7. Public utility installations, substations and water wells. The site shall be developed and maintained in conformance with the general character and appearance of the zoning district, and shall include landscaping and suitable screening in the form of a solid wall, fence or compact shrubbery around the perimeter of the lot or tract.
8. Restaurants with drive-in service. Must have at least one (1) stacking lane ten (10) feet in width and two hundred (200) feet in length for each drive-in window that is designed to ensure that no business traffic backs onto the street giving access.
9. Storage of wrecked or dismantled vehicles and parts (accessory use). The storage of wrecked and dismantled vehicles and parts thereof shall be permitted only as an incidental or accessory use to a vehicle repair establishment or body shop permitted in the E11 district. Such use shall be in accordance with the following.

- a. Storage shall be within an enclosed building or within a site obscuring fence at least six (6) feet in height above adjacent road grades
- b. Vehicles and parts stored at the exterior of a building shall be owned by customers of the business and such storage shall be only for the purpose of repair and return to customers
- c. Exterior storage of vehicles shall not remain on the premises for a period exceeding three (3) months
- d. There shall be a maximum of twenty (20) wrecked vehicles stored at the building exterior during any one time
- e. Exterior storage shall be a minimum of one hundred (100) feet from a residential zoning district

3.1.M.4 EI1 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

- 1. Airports or heliports
- 2. Bus passenger terminals, including storage of buses
- 3. Major facilities for generation of energy, water treatment plants, sewer treatment plants, commercial and public radio and television broadcasting and microwave broadcasting and receiving facilities, storage yards for public utilities and similar uses.
- 4. Recycling centers
- 5. Satellite parking areas
- 6. Wind driven electrical generators or wind driven pumps
- 7. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01 of this Article. Conditions shall be attached regarding unobtrusive sitting and screening.
- 8. Wineries and/or wine tasting rooms

Section 3.1.N EI2 GENERAL INDUSTRIAL DISTRICT

3.1.N.1 PURPOSE

The purpose of the EI2 district is to provide for a wide variety of industrial operations, but to restrict or prohibit those industries which do not meet reasonable performance standards. Some or all of the business activity is conducted within screened open space yards. All uses shall be constructed and operated to ensure that there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which it is located. Excessive is defined as a degree exceeding that caused in their customary manner of operation by users permitted in the EI1 district, a degree injurious to the public health, safety, welfare or to a degree to which it is a nuisance by reason of excessiveness.

Residential uses shall not be permitted except for a residential watchman, caretaker or proprietor of a commercial use.

3.1.N.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	50 feet

3.1.N.3 EI2 PERMITTED USES

The following uses are permitted by right in the EI2 district:

3.1.N.3.a PERMITTED USES - NO CONDITIONS

1. All uses permitted under Section 3.1.M.3a of this Article.
2. Beverages blending or bottling, baking products, candy manufacturing, tobacco, products, dairy products and ice cream, fruit and vegetable processing and canning.
3. Compounding of cosmetics, toiletries, drugs and pharmaceutical products
4. Cotton ginning and baling, cotton seed products, manufacturing, flour milling, grain elevators.
5. Ice and cold storage plants.
6. Manufacturing or assemble of bolts, nuts, screws and rivets, photographic and metering equipment, electrical appliances, tools, machinery, and hardware products, sheet metal products, heating, cooling and ventilation equipment.
7. Manufacturing of boxes, furniture, cabinets, baskets and other wood products of similar nature.
8. Manufacturing or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus and communication equipment.
9. Manufacturing of pottery or other similar ceramic products from previously pulverized clay in kilns fired only by smoke fan furnaces
10. Manufacturing of rugs, mattresses, pillows, quilts, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.
11. Storage in bulk of, or warehouse for, such material as contractor's equipment and supplies, clothing, cotton, drugs, dry goods, films, furniture, feed, fertilizer, grain, glass, groceries, hardware, hay, lumber, machinery, rope and shop supplies.

3.1.N.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EI2 in accordance with the stated conditions:

- 1. All uses permitted uses with conditions under Section 3.1.M.3.b of this Article.
- 2. Commercial, industrial laundries and dry cleaning establishments. Only nonflammable or noncombustible materials are to be used in the cleaning process and that portion of the structure on which a cleaning process is done is at least fifty (50) feet from a residential zone
- 3. Garages for repair of diesel trucks, semi trucks, buses and other heavy vehicles and equipment. All work must be performed in a completely enclosed building or in an area fully enclosed by a solid fence of a minimum six (6) feet in height. There shall be no open storage of parts, salvage materials or vehicle bodies, junk vehicles or equipment for salvage purposes. Only those vehicles awaiting repairs can be parked on the premises behind a solid wall or fence so that such vehicles will not be visible from surrounding properties.

3.1.N.4 EI2 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

- a. All uses requiring a Special Use Permit under Section 3.1.M.4 of this Ordinance.
- b. Railroad rights-of-way including a strip of land with tracks and auxiliary facilities for track operation, passenger stations, switching yards and terminals, repair shops, roundhouses, powerhouses, interlocking towers and fueling, sanding and water stations.
- c. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01 of this Article shall be attached regarding unobtrusive sitting and screening.

Section 3.1.O EI3 SPECIAL INDUSTRIAL DISTRICT

3.1.O.1 PURPOSE

The purpose of the EI3 district is to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution.

3.1.O.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet

Minimum rear setback	15 feet
Maximum building height	50 feet

3.1.O.3 EI3 PERMITTED USES

The following uses are permitted by right in the EI3 district:

3.1.O.3.a PERMITTED USES - NO CONDITIONS

All uses permitted under Section 3.1.N.3.a of this Article are allowed under this Section.

3.1.O.3.b PERMITTED USES - WITH CONDITIONS

All uses permitted conditional uses under Section 3.1.N.3.b of this Article are allowed under this Section.

3.1.O.4 EI3 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. All uses requiring a SUP under Section 3.1.N.4 of this Article
2. Asphalt and concrete batching plants
3. Auction yards for livestock sales
4. Breweries
5. Curing, tanning, dressing, dyeing and storage of animal hair, hides and raw fur
6. Dairies
7. Distilleries
8. Drilling of oil, gas, wells or other similar types of shaft mining
9. Facilities for killing processing poultry
10. Fat rendering plants
11. Gravel, sand or dirt removal
12. Iron and steel foundries or fabrication plants, forging, rolling or heavy weight casting
13. Manufacturing of disinfectants, insecticides, dyes, ink, tar roofing or waterproofing
14. Manufacturing of fertilizers
15. Manufacturing of firearms
16. Manufacturing of meat and poultry products
17. Manufacturing paint, varnish, turpentine and other similar types of material
18. Manufacturing or storage of explosive materials
19. Petroleum refineries
20. Pulp goods, molded or pressed, paper products, including the manufacturing of paper
21. Sanitary landfills

- 22. Scrap iron or junk storage, scrap paper or rag storage or bailing, automobile wrecking yards and storage of junk or wrecked motor vehicles
- 23. Stockyards or slaughterhouses
- 24. Stone milling or processing plants
- 25. Storage of bulk, or warehouse for, materials such as asphalt, brick, cement, gasoline, grease, oil, iron, steel, lead, lime, liquefied petroleum gas, paint, plaster and roofing
- 26. Storage or disposal sites for hazardous materials
- 27. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01. Conditions shall be attached regarding unobtrusive siting and screening.

Section 3.1.P E14 PLANNED INDUSTRIAL DISTRICT (PID)

3.1.P.1 PURPOSE

The purpose of the E14 district is to establish an industrial environment for certain types of manufacturing, business or industrial uses which are compatible with any adjacent land use by performance, appearance and general operating characteristics. It is intended that all operations and activities specifically including, but not limited to, the storage of materials of all kinds be conducted within a building or be appropriately screened.

3.1.P.2 DEVELOPMENT REQUIREMENTS

Minimum district area	10 acres
Minimum lot size	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	45 feet

3.1.P.3 OWNERSHIP CONTROL

The land in a PID shall be under such unified control as to ensure that the entire district will be developed as a unified whole. All owners shall be included as joint applicants and all approvals shall bind all owners. An applicant for a PID involving an association, joint venture, partnership or some other legal entity shall submit to the ETZ Commission the legal documents and bylaws authorizing the entity, if applicable. The ETZ Commission may require any provisions necessary to ensure the intent of this Ordinance is met.

3.1.P.4 PERMITTED USES

A PID may include those uses permitted with or without conditions and uses requiring a SUP in the E11, E12 or E13 districts, provided that uses involving outdoor storage of inventory retain the same limitations and restrictions as provided in the E11, E12 or E13 districts

3.1.P.5 GENERAL PROCEDURES - PLANS REQUIRED

Establishment of a PID where a zone change is required must follow the procedures for changes and amendments outlined in Section 2.1.A-C, 2.1.G and 2.6.A of this Ordinance. All applications for a PID must meet the public hearing and notification requirements stated in Section 2.1.G of this Ordinance. A site development plan must be submitted to the ETZ Commission.

If the project is to be accomplished as a series of development units, a detailed site development plan of a proposed unit shall be submitted with a general site plan and a schedule of phasing provided. The proposed development shall follow all applicable procedures, standards and requirements of this Ordinance, the Subdivision Regulations adopted by the ETZ Authority and any other applicable regulations.

3.1.P.6 GENERAL DEVELOPMENT STANDARDS FOR PID'S

In addition to meeting the development requirements stated in Section 3.1.P.2 of this Article, the following minimum general development standards must be complied with:

- a.** Parking lots must be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust.
- b.** Any part of the project area not used for buildings or other structures, storage, work area, loading and accessories shall be landscaped in accordance with an approved landscaping plan.
- c.** The PID must be separated from adjacent residential areas by a heavily landscaped buffer.
- d.** Where an industrial tract abuts railroad property containing a spur track on the rear or side property line, railroad loading docks or the building itself may extend to the property line for the purpose of receiving service from the railroad spur track.
- e.** The industrial development shall be designed to promote harmonious relationships with surrounding adjacent and nearby properties developed or undeveloped, and to this end may employ such design techniques as may be appropriate to a particular case, including location of permitted elements, orientation, spacing and setback of buildings, maintenance of natural vegetation, location of access points, size and location of signs, open spaces and parking areas, grading landscaping and services.
- f.** All uses shall be conducted within a completely enclosed building of permanent and durable construction with no open storage of raw, in process or finished materials and supplies or waste material. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from the street or other abutting property by a solid masonry wall not less than six (6) feet or more than eight (8) feet in height. This screening must be located behind any required landscaping. Screening may be waived by the zoning commission where it is found that the

screening will not serve the purpose of blocking the view from a street or from a more restrictive zoning district.

- g.** The principle means of access shall be from arterial or collector thoroughfares. In no case shall the principle means of access be from a minor residential street. Access points shall be designed to minimize traffic hazards and congestion in accord with accepted principles of traffic engineering.
- h.** The design for internal circulation shall be appropriately related to access ways, location of major traffic generators and shall provide for safe and efficient movement of the vehicles and pedestrians with special attention to reduction of crossing conflicts, limiting numbers of internal and external access points and improvements of visibility.
- i.** The right-of-way and pavement widths for internal ways, streets and alleys service the uses shall be determined from standards in conformity with the estimated need of the full development proposed and the traffic to be generated thereby, and shall be adequate and sufficient in size, location and design to accommodate the maximum traffic parking, loading needs and the access of firefighting equipment and police vehicles.
- j.** Service drives or other areas shall be provided for off-street loading or unloading. No truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public, private or street used for traffic circulation. The drives, parking area, loading areas and walks shall be paved with hard, all-weather surface material.
- k.** Every PID shall be adequately served by essential utilities and public services such as water, sanitary sewer, storm drainage, police, fire and other similar services.

Section 3.2 SPECIAL DISTRICTS: PURPOSE AND USES

Special districts are zones which have a set of unique provisions or unusual characteristics and have a special purpose other than a general residential, commercial or industrial district.

3.2.A EA1 FLOODWAY DISTRICT

3.2.A.1 PURPOSE

The purpose of the EA1 district is to preserve and protect the channels of rivers and other watercourses and the adjacent land areas that must be kept open to provide for discharge of water of the base flood (100 Year Flood). The EA1 district is established as an 'overlay' district, meaning that this district is overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if, and to the extent, such use is also permitted in the applicable overlay district.

3.2.A.2 FLOODWAY BOUNDARY IDENTIFICATION

The boundaries of the floodways shall be those designated on the 'Flood Boundary and Floodway Map' prepared by the U.S. Department of Housing and Urban Development (HUD), as amended, or similar maps prepared by the U.S.

Army Corps of Engineers, Federal Emergency Management Agency or a similar Federal agency, a copy of which is on file with the Planning Director. This area shall comprise the flooding overlay zone and shall be designated as such on the official zoning map.

3.2.A.3 ARTIFICIAL OBSTRUCTIONS WITHIN FLOODWAYS PROHIBITED

No artificial obstruction may be located within any floodway except as provided under Section 3.2.A.4 of this Section. An artificial obstruction is an obstruction, other than a natural obstruction, that is capable of reducing the flood carrying capacity of a watercourse. A natural obstruction includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the flood zone by a nonhuman cause.

3.2.A.4 PERMISSIBLE USES WITHIN FLOODWAYS

No permit to make use of land within a floodway shall be issued unless the proposed use is listed as permissible both in the applicable regular zoning district and in the following list:

- a. General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm and other similar agricultural, wildlife and related uses.
- b. Archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.
- c. Residential use

3.2.A.5 CONSTRUCTION WITHIN FLOODWAYS RESTRICTED

No zoning or Special Use Permits may be issued for any development within a floodway until a development permit has been issued by the County Engineer in accordance with the County's Flood Damage Prevention Ordinance No. 76-1, as amended.

Section 3.2.B EFP FLOODPLAIN DISTRICT

3.2.B.1 PURPOSE

The purpose of the EFP district is to preserve and protect the land areas susceptible to being inundated by water from the base flood (100 Year Flood). The EFP district is established as an 'overlay' district, meaning that this district is overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if, and to the extent, such use is also permitted in the applicable overlay district.

3.2.B.2 FLOODPLAIN BOUNDARY IDENTIFICATION

The boundaries of the floodways shall be those designated on the 'Flood Boundary and Floodway Map' prepared by the U.S. Department of Housing and Urban Development (HUD), as amended, or similar maps prepared by the U.S. Army Corps of Engineers, Federal Emergency Management Agency or similar federal agency. Copies of these maps are on file with the Planning Director.

This area shall comprise the flooding overlay zone and shall be designated as such on the Official Zoning Map.

3.2.B.2.a ARROYOS

For the purpose of this Ordinance, an arroyo is defined as a watercourse which conduct an intermittent or ephemeral flow, providing primary drainage for an area of land of forty (40) acres or larger, or a watercourse which would be expected to flow in excess of one hundred (100) cubic feet per second as a result of a 100 year storm event.

1. There shall be no development permitted which would impair the hydraulic capacity of an arroyo to convey the runoff produced by a 100 year storm event.
2. Arroyo location shall be honored. The point where an arroyo enters the property and where an arroyo leaves the property shall not be changed.
3. Arroyos shall not be filled or obstructed in a manner which would increase the naturally occurring volume, velocity and/or direction of flow of runoff water from or through the subject property or;
 - 3a. cause artificial ponding or accumulation of water on the property of another.

3.2.B.3 ARTIFICIAL OBSTRUCTIONS WITHIN FLOODW PROHIBITED

The restrictions on artificial obstructions outlined for floodways under Section 3.2.A.3 of this Article are applicable to the EFP district.

3.2.B.4 PERMISSIBLE USES WITHIN FLOODPLAINS

The permissible uses and conditions outlined for floodways under Section 3.2.A.4 of this Article are applicable to the EFP district.

Section 3.2.C ECN1 PUBLIC CONSERVATION DISTRICT

3.2.C.1 PURPOSE

The purpose of the ECN1 district is to identify those lands owned by a local, state or federal governmental entity. Land uses are governed by the regulations of the respective governmental entities and not by this Ordinance, unless the governmental entity so requests. All such governmental land shall be zoned ECN1 automatically upon transfer to private ownership and the County Planning Division shall be responsible for initiating subsequent zoning for lands transferred into private ownership. A private owner of such land may request the County Planning Division to consider another zoning district. Upon the request of the governmental entity owning any land in this classification, the ETZ Commission may place such land in any zoning category it deems appropriate and such zoning will remain in effect if that land is subsequently transferred to private ownership.

3.2.C.2 DEVELOPMENT REQUIREMENTS

The development requirements set for the ER1 Residential District as outlined in Section 3.1.A.2.b of this Code are applicable to the ECN1 Public Conservation District.

3.2.C.3 PERMITTED USES WITHIN PUBLIC CONSERVATION DISTRICT

The following uses are permitted by right in the ECN1 district:

- a.** The permitted uses set for the EA1 Floodway District as outlined Section 3.2.A.4 of this Code are applicable in the ECN1 Public Conservation District, except as noted below.
- b.** Residential uses are limited to only one site built home (primary dwelling unit) per property.

Section 3.2.D ECN2 PRIVATE CONSERVATION DISTRICT

3.2.D.1 PURPOSE

The purpose of the ECN2 district is to provide an opportunity for property owners to reserve and protect certain natural environmental features of their lands such as arroyos, streams, mountains, greenlands and others by placing the land in a conservation status. An ECN2 district designation can be assigned in lieu of the regular zoning district classification given the property. The ECN2 district designation can be made by the initiative of the property owner only.

3.2.D.2 GENERAL CONDITIONS

- a.** Only open space lands qualify for the ECN2 district designation
- b.** The property owner requesting the ECN2 district designation must specify in his application the natural environmental feature to be conserved
- c.** Applications for ECN2 district designations are to be submitted to the ETZ Commission and must be approved by the Commission and ETZ Authority
- d.** The property owner, through mutual agreement of the ETZ Commission and ETZ Authority, can prohibit any development on the land designated ECN2 or specify permissible land uses.
- e.** There shall be no period of time set for the purpose of the ECN2 district designation. Once designated by the ETZ Commission and ETZ Authority, the property becomes part of an irrevocable trust. The ECN2 zoning designation will run with the land in perpetuity except that the land may be converted to a public use upon acceptance by the governing body.
- f.** All applications for ECN2 district designation are subject to Sections 2.1.B - C, 2.1.G and 2.1.J

Section 3.2.E EV VILLAGE ZONE

3.2.E.1 PURPOSE

The purpose of the Village Zone (EV) is to allow the existing unincorporated name places to continue to develop in the same manner as they have in the past within the context of district zoning. The Village Zone is defined as unincorporated places that have fairly dense residential areas mixed with commercial activities, have been established for a long time with possible historical significance and have a sense of community and self identity.

3.2.E.2 CRITERIA

With the adoption of this Ordinance, the following places are designated and assigned Village Zone status: Organ, Doña Ana, Picacho, Tortugas and Brazito.

- a.** One of the following must be met for initial consideration:
 - 1.** Village is listed on the National Register of Historical Places or;
 - 2.** Village currently has or had a U.S. Post Office or;
 - 3.** Village contains a minimum of ten (10) individually owned and operated commercial activities which are licensed by Doña Ana County or;
 - 4.** Village has an active community center
- b.** Establishing the village boundary shall outline all of the contiguous parcels which had existing structures (buildings) located on said parcels at the time of the adoption of this Ordinance.
- c.** A petition representing seventy-five (75) percent of the property owners within the proposed village boundary must be submitted to the ETZ Commission requesting a zone change to EV.

3.2.E.3 EV PERMITTED USES

The following uses are permitted in the EV district and are subject to the stated criteria.

3.2.E.3.a PERMITTED USES - NO CONDITIONS

Permitted uses and provisions in the EV district are the same as those found in ER5M, ER6, ER7 and EC1 districts as defined in this Article.

3.2.E.3.b EV SPECIAL USE PERMITS

Uses allowed under the SUP provision within the EV district are the same as those listed as Permitted Uses - No Conditions in the EC2, EC3 and E11 districts.

Section 3.2.F ER RESERVE DISTRICT

3.2.F.1 PURPOSE

The purpose of the ER district is to provide an opportunity to owners of large parcels of land not located within areas considered 'imminent urbanization'. These land owners may place their land in reserve until such time as they can submit a future development plan for the property in lieu of the regular zoning district classification originally assigned to the given property. A request for ER designation shall be made by the property owner only.

3.2.F.2 GENERAL CONDITIONS

- a.** The minimum size parcel of land that can be considered for designation as ER is twenty (20) acres.
- b.** All applications for ER district designation are subject to the provisions of Sections 2.1.B-C, 2.1.G and 2.1.J of this Ordinance.

- c. Land within an ER district can be used for agricultural uses and those land uses that existed prior to submitting the application for the ER district designation. Buildings related to the agricultural use of the land are permitted.
- d. When submitting a development plan each landowner shall:
 1. Negotiate a timetable with the Commission for completing the development plan.
 2. Assume full financial responsibility for the preparation of the development plan.
 3. Should the property owner fail to complete the timetable agreed upon with the Commission after approval of an ER development plan, the affected property will be rezoned as agreed to by the owner and the Commission unless an extension or restructured agreement has been granted.
 4. After an analysis is prepared in the development plan on the capacity and impact of the proposed development, the ETZ Commission and property owner will negotiate on what impact needs the owner will underwrite.
 5. The ETZ Commission reserves the right regarding the project area to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance or on areas which contain endangered or rare species of animal or plant life.

3.2.F.3 DEVELOPMENT PLAN CRITERIA

In preparing the development plan the property owner shall address the following criteria:

- a. The potential number of homes and population demographics of the proposed development.
- b. An analysis of the potential traffic flows (average daily traffic) and where they will impact the transportation system.
- c. The need for new commercial activity that may be created by the proposed development.
- d. The potential water and sewage needs that may be created by the proposed development.
- e. An evaluation of existing infrastructure capacities and an analysis of the ability of the ability of the existing system to accommodate the proposed development.
- f. An analysis of the difference between capacity and impact needs of the proposed development.
- g. A determination of the potential impact on adjacent lands.

Section 3.2.G EH HOLDING DISTRICT

The purpose of the EH district is to provide a holding zone for vacant land not assigned a regular zoning district classification. No development of any kind may take place in the district until such time that it is properly zoned. A zone change in the EH district can be

made by either the ETZ Commission or the property owner. The zone change must comply with the public hearing requirements outlined in Section 2.1.G of this Ordinance.

Section 3.2.H EAO AIRPORT OPERATIONS DISTRICT

3.2.H.1 PURPOSE

The purpose of the EAO district is to protect the operations of the Las Cruces International Airport from encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth of the airport. Since the boundaries associated with this district are dependent upon the physical boundaries of specific airport features, the boundaries shall change as necessary with respect to any changes in these features.

3.2.H.2 AIRPORT OPERATIONS DISTRICT BOUNDARY

The boundaries of this district shall be defined as follows:

a. Precision Instrument Runway Approach Zone

The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide at a point two hundred (200) feet from the end of each runway. The primary surface is a surface longitudinally centered on a runway, ending at each end of the runway when it has no specially prepared hard surface and two hundred (200) feet beyond each end of the runway when it has a specially prepared hard surface.

The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the horizontal surface. The zone's centerline is a continuation of the centerline of the runway.

The height limit for this zone is defined by a slope extending upward and outward one (1) foot of vertical elevation for each fifty (50) feet of horizontal distance for the first ten thousand (10,000) feet beginning at the end of and at the same elevation as the primary surface. From ten thousand (10,000) to forty thousand (40,000) feet, this slope extends at a rate of one (1) foot of vertical elevation for each forty (40) feet of horizontal distance.

b. Horizontal Zone

This zone is established by swinging arcs of ten thousand (10,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones. The horizontal zone extends for ten thousand (10,000) feet as described above to the boundary of the conical zone.

The height limit of structures in the horizontal zone is established at one hundred fifty (150) feet above the airport elevation of four thousand four hundred fifty-six (4456) feet for a total height limit of four thousand six hundred two (4602) feet above mean sea level (MSL).

c. Conical Zone

The conical zone is the area that commences at the periphery of the horizontal zone and extends to a horizontal distance of four thousand (4,000) feet.

The height limit for this area is defined as a slope extending upward and outward one (1) foot of vertical elevation for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone and extending to a height of three hundred fifty (350) feet above the airport elevation.

d. Transitional Zones

These are the areas that extend outward at ninety (90) degree angles to the runway centerline and extended at a slope of one (1) foot of vertical elevation for each seven (7) feet of horizontal distance from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

The height limit for these areas is defined as the slope described above, extending to one hundred fifty (150) feet above the airport elevation.

e. 2.5-mile Area of Disclosure

This is an area that extends 2.5 miles from the edge of the transitional zones within which the land's proximity to an Operational Airport shall be disclosed by any person or entity subdividing land within this 2.5-mile area. The 2.5-mile disclosure boundary is on file at the Doña Ana County Community Development Department.

3.2.H.3 RESTRICTIONS

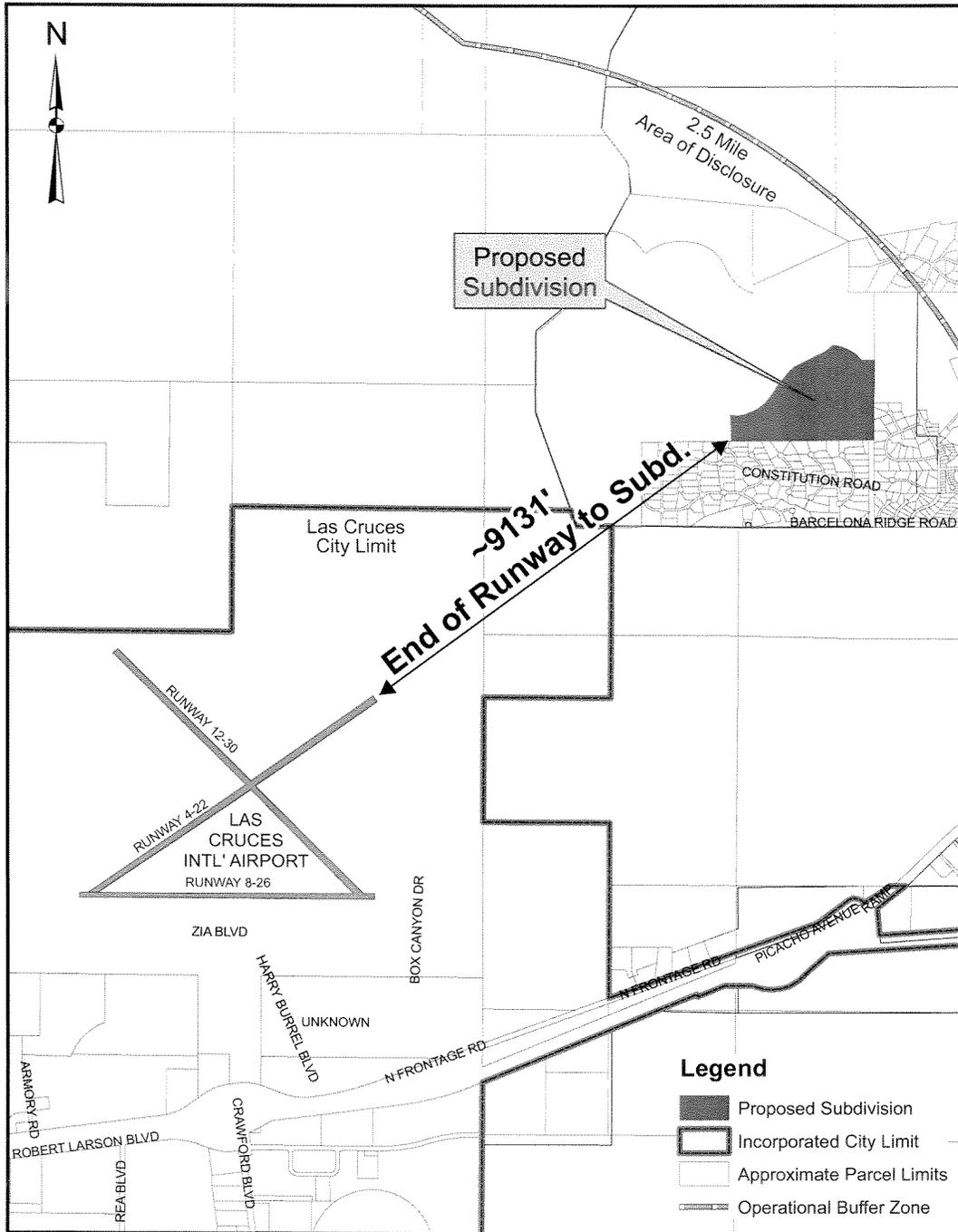
No residential uses shall be allowed with the 2.5-mile Area of Disclosure unless the following requirements necessary to mitigate the encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth of the airport are followed.

- a.** No use may be made of land, water, or electrical power within any zone (includes approach, horizontal, conical, and transitional zones) in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.
- b.** No structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone to a height in excess of applicable height limits established by that zone (includes approach, horizontal, conical, and transitional zones).
- c.** Effective March 15, 2006, all land subdivisions within the 2.5-mile Area of Disclosure shall require disclosure of the land's proximity to an Operational Airport by any person or entity subdividing land

within this 2.5-mile area. Disclosure of this information shall be required in the following documents.

- 1) Filed Plat
 - 2) Disclosure Statement (*Must include minimum required language and a detailed graphic indicating location of subject property and airport with the following minimum criteria: drawn on 8.5"x11", north arrow, location of airport runways, location of proposed subdivision, location of 2.5-mile Area of Disclosure, and approximate distance from the end of closest runway to closest point of the proposed subdivision.*) As shown in the manner set forth in Exhibit A.
- d.** Effective March 15, 2006, the developer/owner of a subdivision within the 2.5-mile Area of Disclosure shall grant an easement covering portions of said subdivision that are within the 2.5-mile Area of Disclosure, that easement to grant to all persons lawfully using the Las Cruces International Airport the right and easement to use the airspace above the 2.5 mile Area of Disclosure for the operation of aircraft for aviation purposes, and to create noise normally associated with the routine operation of aircraft. The grant of easement shall limit the exercise by the grantees of such rights to be only in the manner consistent with safe and proper flying procedures promulgated by agencies of the United States government and the State of New Mexico, specifically consistent with applicable Federal Aviation Regulations. The Aviation Easement shall be created and filed of record prior to the recordation of the subdivision plat. Each Aviation Easement shall be signed by the grantor(s). Reference to the Aviation Easement shall be included in the following:
- a. Disclosure Statement
 - b. Final Plat Notes (Note indicating existence of Aviation Easement)
- e.** Development within the 2.5-mile Area of Disclosure shall adhere to all applicable restrictions stated and outlined in F.A.R. Part 77 (Height Restrictions) and F.A.R. Part 150 (Noise and Land Use Compatibility).

Exhibit A



Section 3.3 TEMPORARY AND SPECIAL USE PERMITS

3.3.A TEMPORARY USE PERMITS

A temporary use is a use which may be permitted by right, with conditions or by Special Use Permit within a zoning district of a temporary nature. Such temporary uses may include, but are not limited to, outdoor concerts, tent revivals, circuses, carnivals, as well as similar and other uses listed in the Ordinance.

A temporary use shall not be located within three hundred (300) feet of a developed residential lot unless said residential owner(s) are notified as specified in Section 2.1.G.

3.3.A.1 APPLICATION PROCEDURE

Applications for a temporary use permit shall be obtained from the Doña Ana County Planning Division. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and use of the property and a site plan including the following:

3.3.A.1.a SITE PLAN

1. Location of property
2. Vehicular access and circulation
3. Area designated for off street parking
4. Area(s) designated to be used for temporary structures (30 feet minimum setback from all property lines)
5. Location of portable toilets
6. Location of trash receptacles
7. Any additional information required by the Planning Director

3.3.A.1.b ADDITIONAL INFORMATION SHALL BE REQUIRED AS FOLLOWS

1. Written approval of the property owner.
2. Proof of sufficient liability insurance (\$500,000 minimum).
3. Valid Doña Ana County Business Registration.
4. Proof of necessary inspections (building, fire, etc.) deemed necessary by the Planning Director.
5. Execution of an appropriate indemnification and hold harmless agreement sufficient to protect the county from claims arising from the conduct of the event, but not from negligence on the part of the county.

3.3.A.1.c THE APPLICANT SHALL ALSO BE RESPONSIBLE FOR:

1. Notification of Las Cruces Police Department and the County Sheriff's Department to ensure adequate traffic control
2. Location of all mechanical and electrical machinery away from publicly accessible areas

3. Make arrangements to have any graveled portions of the property, parking area and access watered down prior to any event and/or periodically during the duration of the temporary use permit (to be specified at the time of application approval).
4. Any other mitigation deemed necessary by the Planning Director

3.3.A.2 REVIEW AND APPROVAL PROCEDURES

A temporary use permit shall be reviewed and approved or denied by the Planning Director after receiving comments from reviewing agencies. Applications which are denied may be appealed to the ETZ Commission. If a single protest from an adjacent property owner is received, the applicant must be heard by the ETZ Commission at a public hearing which has been advertised as specified in Section 2.1.G of this Ordinance.

3.3.A.3 TIME LIMITATIONS AND REVOCATIONS

A temporary use permit may be issued for a period not to exceed fourteen (14) consecutive days. Additional temporary use permits may not be issued for uses occurring on the same parcel of land within a thirty (30) day period of time.

Non-compliance with any provision of this Section shall be cause for immediate revocation of the permit and vacation of the premises.

Section 3.3.B SPECIAL USE PERMITS (SUP's)

3.3.B.1 GENERAL PROVISIONS AND PROCEDURES

A special use is a use which is not permitted by right in a zoning district. A special use requires review and approval by the ETZ Commission to determine impacts on the surrounding area. The procedures for such approval are as follows:

3.3.B.2 APPLICATION PROCEDURE

Applications for a Special Use Permit shall be obtained from the Doña Ana County Planning Division. There shall be a comprehensive statement included with each application indicating, in detail, the reason for the request, the purpose and use of the property, all improvements to be made and a site plan including the following:

- a. location of existing and proposed structures, including dimensions and setbacks
- b. existing and proposed vehicular circulation systems, including parking area, storage areas, service areas, loading areas and major points of access, including street pavement width and right-of-way
- c. location and treatment of open spaces including landscaping plan and schedule
- d. lighting

- e. signs

A drainage facilities plan or environmental impact statement may be required by the ETZ Commission.

3.3.B.3 PUBLIC HEARING AND NOTICE PROCEDURE

A public hearing shall be held by the ETZ Commission for all Special Use Permits in accordance with the provisions of Section 2.1.G of this Ordinance.

3.3.B.4 REVIEW AND APPROVAL PROCEDURE

The ETZ Commission may deny such SUP's or may grant final approval in accordance with certain conditions, with right of appeal to the ETZ Authority in accordance with the provisions of Section 3.1. Approval may also be granted with additional conditions imposed which are deemed necessary to insure that the purpose and intent of this Ordinance is met and to protect and provide safeguards for persons and property in the vicinity. Variances in the dimensional requirements for a special use may be granted by the ETZ Commission in accordance with the criteria in Section 2.3.B of this Ordinance.

3.3.B.5 TIME LIMITATIONS, REVOCATIONS AND DEVELOPMENT STANDARDS

In addition to the imposition of conditions, the ETZ Commission may impose a time limitation on the SUP. If a special use is discontinued for a period of one (1) year, said permit shall automatically expire. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the SUP. There shall be no major revisions in the site plan of the original approved special use except as approved by the ETZ Commission. Minor revisions to a site plan, following final approval, may be subsequently approved by the planning staff without a public hearing. Major revisions to the plan are subject to a regular public hearing with the same requirements as an original application.

3.3.B.5.a Major revisions shall include, but are not limited to, the following:

1. any change in land use or intensity
2. modifications of vehicular traffic volumes or circulation
3. increase in size of property or change in location or configuration of structures

3.3.B.5.b Minor changes that planning staff may approve are as follows:

1. provision of additional parking or landscaping
2. minor adjustment to parking, landscaping, lighting or signs
3. superficial changes to structures or slight variations in dimensions

Special Use Permits shall be eligible for renewal when limitations expire.

3.3.B.6 RECORDING OF THE SPECIAL USE PERMIT

After approval, the Special Use Permit shall be issued by the Planning Director or his/her designee and shall include all information, conditions, reference to site plans and other provisions of the special use. The special uses, as granted, shall be shown on a Special Use Permit map indicating its location with a designation of 'SU' and the year of expiration. Special uses shall not be considered a zone change.

Section 3.4 HOME OCCUPATION PERMITS

- A.** The purpose of a home occupation permit is to allow limited commercial endeavors involving the manufacturing, purchase, sale, lease, or exchange of goods, and/or the provision of services, within a residential dwelling, or accessory building associated with a residential dwelling, in circumstances where the home occupation is secondary and incidental to the primary residential use of the residential dwelling, or accessory building associated with a residential dwelling, provided the home occupation does not alter the exterior of the property or materially affect the residential nature of the neighborhood. For purposes of this section, the term "residential dwelling" shall include any accessory building associated with a residential dwelling.
- B.** It is a violation of this ordinance for any person or entity having legal or equitable ownership, or physical custody of, or control over, a residential dwelling, to operate, or to allow the operation of, a home occupation within such residential dwelling, regardless of zoning district, without first obtaining a home occupation permit in compliance with the requirements of this ordinance. In addition to the home occupation permit itself, the applicant for such permit must obtain a business registration in compliance with the Business Registration Fee provisions of Doña Ana County Code Chapter 154 and must comply with all other codes and ordinances, including, but not limited to, those relating to parking, landscaping, drainage and building requirements.
- C.** A home occupation may be permitted in any residential dwelling, subject to the following requirements and limitations.
 - 1.** No more than two (2) people, in addition to the permanent occupants residing on the premises, shall be engaged, whether paid or not, in the home occupation. Additional people may be engaged in the home occupation only upon approval of a Special Use Permit, as provided for in Section 3.3.B.
 - 2.** The home occupation use of a residential dwelling or accessory building associated with the residential dwelling must be clearly incidental and subordinate to the primary residential use of the property, except for day care or child care services.
 - 3.** Any storage associated with the home occupation shall be completely enclosed within the residential dwelling, and such storage shall not exceed 600 square feet in area.
 - 4.** As a result of the home occupation, there must be no change in the outside appearance of the residential dwelling, or the premises, except as to signage described in the paragraph below, and there must be no other evidence of the conduct of a home occupation visible to the public.

5. Only one sign, one square foot in size, non-illuminated, free-standing or mounted flush against the residential dwelling, shall be permitted which refers to the home occupation.
 6. No equipment, material, or process shall be used in a home occupation that creates noise, glare, vibration, dust, fumes, odor or electrical interference detectable at the property line, or creates visual or audible interference with any radio, television receiver or computer on or near the premises, or that exceeds that which is normally found in a residential area.
 7. There shall be no hazardous, explosive, highly flammable, combustible, corrosive, radioactive or other restricted materials used or stored on the premises of a home occupation beyond the amount normally kept at a residential dwelling for residential use. The use or storage of all such materials must comply with the Doña Ana County Fire Code.
 8. The utility use associated with the home occupation must comply with the public utility rules and regulations applicable to residential dwellings.
 9. Home occupation parking requirements:
 - a. On-street parking for customers or clients in connection with a home occupation shall be permitted only if the residential nature of the neighborhood remains unaffected.
 - b. No more than two customer or client vehicles shall be parked at or near a home occupation at any one time, except for instructional service, day care or child care services.
 - c. Vehicles larger than one ton in carrying capacity that are used in connection with a home occupation shall be stored or parked in a structure or other enclosure out of public view. Semi-trailer trucks, cabs and trailers with weight limitations shall not be used or stored in conjunction with a home occupation.
 - d. A home occupation shall not cause the elimination of any off-street parking required by law for the occupants of the dwelling unit.
- D.** Home occupation permits may be approved for the following activity categories: Professional Office, Professional Service, Instructional Service, Home Artisan Business, Small Item Repair Service, and Day Care/Child Care Service.
1. Professional Office includes offices for accountants, appraisers, architects, attorneys, contractors, engineers, financial planners, insurance agents, consulting services, real estate sales and similar office uses.
 2. Professional Service includes home occupations involving computer programming and internet/website development, bed and breakfast establishments, beautician/hairdresser/barber services, direct distribution (Amway, Avon, Tupperware, etc.), maid services, mail order, massage therapy, ironing, pet grooming, telephone/fax answering, word processing and similar service uses. Beauticians/hairdressers/barbers and massage therapists licensed by the State of New Mexico shall be limited to one customer station per residential property for the home occupation.
 3. Instructional Service includes educational tutoring, music instruction and similar instructional services. A maximum of five students may be at the dwelling at any one time.

4. Home Artisan Business shall include business related artist studios, cabinet making, dress making, engraving, furniture making, crafting, jewelry making, sewing, tailoring, writing studios, small scale pickling/canning activity and similar uses.
 5. Small Item Repair Service includes bicycle, computer, television, vacuum cleaner, locksmith, watch, tool, shoe and similar repair services.
 6. Day Care/Child Care Service must be in compliance with state licensing regulations. Any Day Care/Child Care Service home occupation involving more than six children being at the residential dwelling at the same time shall be allowed only upon approval of a Special Use Permit, as provided for in Section 3.3.B.
- E.** The following activities shall be prohibited as home occupations: adult bookstores/video stores, adult amusement establishments, health and exercise facilities, motor vehicle repair services, tattoo/body piercing parlors, auto or truck repair, motorcycle repair, lawn mower repair, large appliance repair, internal combustion engine repair, and similar activities.
- F.** An activity not specifically enumerated under the activity categories listed above may be permitted by the Doña Ana County Community Development Director or designee if the applicant for a home occupation permit can establish that the proposed activity is reasonably similar in size, scope, use, and intensity as an enumerated home occupation activity.
- G.** Home Occupation Permit Approval
1. Application. Application for a home occupation permit must be submitted to the Doña Ana Community Development Department on an official form developed for that purpose along with payment of any application fee as established by resolution of the Extra-Territorial Zoning Authority. The proposed home occupation activity shall be reviewed for compliance with all applicable statutes, ordinances, and regulations.
 2. Review and Scope. As part of the review and approval process, the applicant for a home occupation permit shall provide a site plan, which at a minimum shall consist of a scaled drawing showing lot line dimensions, the location, dimensions and setbacks of all structures, driveway access, parking areas, and proposed signage. In addition, the County may require an applicant for a home occupation permit to submit additional documentation describing in detail the equipment, materials or processes to be used in connection with the home occupation, and to allow inspection of the premises proposed for home occupation in order to determine compliance with all applicable statutes, ordinances, and regulations. Applications for home occupation permits that do not meet the requirements of this section nor the requirements of all other applicable statutes, ordinances or regulations shall be denied.
 3. Business Registration. A home occupation permit, although approved, shall not be effective until the applicant obtains a Tax Identification Number from the State of New Mexico and a Doña Ana County business registration approved by the Doña Ana Community Development Department.
 4. Renewal. The business registration associated with a home occupation permit must be renewed on an annual basis on an official form developed by the Doña Ana County Clerk's Office for that purpose. A home

occupation permit need not be renewed unless there is a material change in the home occupation activity, or its location, or there is a material increase in the permitted activity's size, scope, or intensity from that originally permitted.

5. Expiration. The home occupation permit shall remain in effect until such time as the home occupation activity is no longer in operation as originally approved, the annual business registration is not renewed or approved, or it is determined that a violation of the home occupation provisions of this ordinance or the provisions any other applicable statute, ordinance, or regulation has occurred, and the home occupation permit or business registration is revoked.

H. Revocation of home occupation permit; enforcement.

1. A home occupation permit may be revoked for the violation of, or noncompliance with, the provisions of this ordinance, or any other statute, ordinance, or regulation relevant to the home occupation activity. In addition, a home occupation permit may be revoked upon;
 - a. A non-permitted material change in home occupation activity, or a change in location, or a material increase in the permitted activity's size, scope, or intensity from that originally permitted.
 - b. A failure by the applicant to maintain a valid business registration or other license required for the home occupation.
 - c. A failure by the applicant to allow reasonable inspection of the approved premises at reasonable times for the purpose of determining compliance with the home occupation provisions of this ordinance.
 - d. The submission of false or materially misleading information on a home occupation permit application.
2. Any home occupation permit shall, upon revocation, become null and void, and any use of the property approved under such home occupation permit shall immediately cease.
3. Home occupation inspections. As a condition of approval of a home occupation permit, an applicant shall be deemed to consent to reasonable inspection of the approved premises at reasonable times by County officials, including Community Development staff, law enforcement, and codes enforcement officers, for the purpose of determining compliance with the provisions of this ordinance.
4. Prior to revoking a home occupation permit or taking other enforcement action for a violation of the home occupation provisions of this ordinance, the County shall notify the applicant listed on the home occupation permit of such violation by certified mail, to the address listed on the home occupation permit application. Enforcement action may include, but is not limited to, revocation of a home occupation permit and prosecution in Magistrate or District Court. The notification shall include:
 - a. A specific description of the violation.
 - b. The specific actions to be taken by the applicant that are necessary to correct the violation.
 - c. A demand that the violation be corrected within a specific period of time not to exceed 30 calendar days from the date of the notice.

The demand may specify a reasonable period of time less than 30 calendar days for violations having a material adverse impact upon public health or safety.

- d. A description of further action the County may take if the violation is not corrected within the specified time period.
5. If the violation is not corrected within the time period stated in the demand notice, the County shall send notice of the revocation of the home occupation permit by certified mail, return receipt requested, to the address provided on the home occupation permit application, at least five (5) calendar days prior to the effective date of the revocation and the initiation of any other enforcement action, including, but not limited to, prosecution in court.
6. Any person aggrieved by the revocation of a home occupation permit may, within ten (10) business days from the effective date of the revocation, appeal to the Extra-Territorial Zoning Commission by filing with the County Planning Director written notice stating the nature of the appeal and the specific reasons therefore. The Extra-Territorial Zoning Commission shall hold a quasi-judicial public hearing to receive evidence on the appeal, and by majority vote of the total membership of the Commission, may reverse or affirm (in whole or in part), or may modify, the revocation of the home occupation permit.
7. The notice, demand, and revocation procedures set forth above, shall not be required when home occupation activities are being conducted without a home occupation permit in violation of this ordinance. Such violations may be enforced as any other violation of this ordinance may be enforced.

Section 3.5 MOBILE HOME AND RECREATIONAL VEHICLE PARKS

3.5.A MOBILE HOME PARKS (MHP's)

A Special Use Permit is required for all MHP developments and is intended to provide for the development of mobile home parks at standards consistent with the health, safety and welfare of the community. Mobile home park lots are for lease purposes only and are not permitted to be sold.

3.5.B APPLICATION AND ACTION

Application for a Special Use Permit to build or enlarge an MHP shall be made to the Planning Division for administrative approval by the Planning Director. If the Planning Division receives any written or electronic correspondence in opposition to a Special Use Permit application by the deadline specified on the public notice, then the case shall go to a public hearing before the ETZ Commission.

3.5.C PERMITTED USES IN A MOBILE HOME PARK

1. Stationing of residential mobile homes with complete hookup to utilities
2. Accessory buildings, swimming pools, home occupations and recreation areas and buildings

3. Convenience establishments of a commercial nature, including laundries, stores, beauty and barber shops may be permitted in mobile home parks subject to the following restrictions:
 - a. Such establishments and parking areas primarily related to their operations shall not occupy more than seven (7) percent of the area of the park;
 - b. Shall be subordinate to the residential use and character of the park;
 - c. Shall be located, designed and intended to serve frequent trade or service needs only of persons residing in the park and;
 - d. Shall present no visible evidence of their commercial character from any portion of any zoning district outside the park. Such convenience areas shall be considered accessory uses to the principal use of mobile homes, may be permitted only as part of a Special Use Permit in a mobile home park and shall be discontinued if the mobile home park is discontinued. Such uses require a public hearing and approval of the ETZ Commission at the time of the mobile home park approval or subsequent to said approval.

3.5.D MOBILE HOME PARK STANDARDS

Spacing (minimum of mobile homes)

Side to Side	20 feet
Back to Back	20 feet
Boundary to Mobile Home (MH)	10 feet
MH to any bldg.	20 feet
MH to any accessory bldg.	10 feet
Minimum MH park size	5 acres

Minimum Space Size and Density

Area	3500 sq. feet
Width	35 feet
Depth	100 feet
Density Per Space	1 unit
Density Per Acre	10 MH units

Maximum Height and Site Coverage

Stories	2
Height	35 feet

Site Coverage

Minimum Open Space	40%
Maximum Impervious Material	40%

3.5.E DESIGN STANDARDS

1. Swimming pools are permitted only when a protective fence six (6) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line or mobile home space boundary and approval from all utilities is required to ensure overhead safety. All gates within fences shall be self-closing and equipped with self-latching devices.
2. All mobile home parks shall have perimeter walls or berms at least five (5) feet in height as approved by the ETZ Commission.
3. Walls, fences, hedges and signs shall conform to applicable county ordinances.
4. A clear sight triangle of twenty (20) feet in both directions on a mobile home space from the corner of the internal streets is required. A clear sight triangle of thirty (30) feet is required at all park entrances and exits.

5. Utility placement shall be approved by the Engineering Division.

3.5.F STREETS AND ACCESS STANDARDS

1. All MHP's shall have vehicular access from a dedicated right-of-way.
2. Each mobile home space when occupied shall have direct access to an internal street. Direct access to exterior public streets shall be prohibited.
3. Street layout shall be designed for preservation of natural features, to follow topography to the greatest extent possible and to encourage the orientation of mobile homes in such a manner as to permit the use of solar energy systems.
4. All streets within a mobile home park shall be surfaced with asphalt or concrete to a minimum width of thirty-seven (37) feet.
5. No street within a mobile home park shall dead end except for cul-de-sac streets, which shall have a minimum turning radius of fifty (50) feet at the termination point.
6. There shall be a network of pedestrian walks connecting mobile home spaces with each other and with MHP facilities.
7. Private driveways shall be designed to increase ease of access, increase privacy and provide safety.
8. All spaces and streets shall be designed to ensure proper drainage. A complete drainage plan shall be approved by the County Engineer.
9. Two (2) off street parking spaces per lot shall be required.

3.5.G REFUSE

The management of a mobile home park shall provide adequate refuse collection facilities. These collection facilities shall be constructed and maintained in accordance with all county health regulations, be properly screened and shall be designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.

3.5.H STORAGE

MHP's shall have a storage yard for recreational vehicles. Such storage yards shall have a minimum of sixty (60) square feet of storage area per mobile home space in the development and shall be located so as not to detract from surrounding properties. All recreational vehicles shall be parked in the yard.

Each mobile home space shall have a personal storage unit provided by the mobile home park owner. Such storage unit shall be six (6) feet high with a storage capacity of at least three hundred (300) cubic feet. Each storage unit shall be anchored permanently to the ground.

3.5.I NON-EXPOSURE OF UNDERCARRIAGE

Mobile home undercarriages shall be concealed by either:

1. An appropriate, non-flammable skirting developed for the particular mobile home by the manufacturer, or its equal, and meet the

requirements of Doña Ana County and the State of New Mexico Mobile Housing Division Rules and Regulations on the installation of skirting.

2. Entrenching the mobile home to a depth equal to the height of the undercarriage. Any such entrenching shall have provisions for drainage approved by the County Engineer and shall be constructed in conformance with the State of New Mexico Mobile Housing Division Rules and Regulations.

3.5.J EXPANSION OR ALTERATION

Any existing MHP desiring to expand its area shall do so in accordance with the provisions of this Ordinance.

3.5.K RECREATIONAL VEHICLE PARKS (RVP)

A Special Use Permit is required for all RVP developments and is intended to provide for the development of recreational vehicle parks at standards consistent with the health, safety and welfare of the community. RVP's are permitted by Special Use Permit in EC2 and E11 districts. Recreational vehicles, when used for temporary or permanent living purposes, shall be located solely in RVP's.

3.5.K.1 GENERAL REQUIREMENTS

- a. Recreational vehicle parks shall abut and have access from one of the following:
 1. Freeway
 2. Major Arterial Street
 3. Minor Arterial Street
 4. Major Collector
- b. Water, sewer, electricity, telephone and other necessary utilities shall be available at the RVP and placement shall be approved by the ETZ Commission.
- c. Driveways shall be designed to increase ease of access, increase privacy and provide safety. Placement shall be approved by the ETZ Commission.
- d. The density of spaces in any recreational vehicle park shall not exceed twenty (20) spaces per acre.

3.5.K.2 DEVELOPMENT STANDARDS

- a. There shall be fourteen (14) feet between the sides of all recreational vehicles and eight (8) feet between the backs of all recreational vehicles.
- b. No recreational vehicles shall be closer than eight (8) feet to any private access way.
- c. Spaces for recreational vehicles shall be a minimum of one thousand two hundred (1,200) square feet.
- d. No recreational vehicles shall be closer than twenty (20) feet to any building.

- e. No structure shall exceed thirty-five (35) feet in height.
- f. Screening the perimeter of a recreational vehicle park by a wall and/or other approved landscaping and/or berm material shall be required.
- g. Private access ways and individual space arrangements shall be designed to accommodate the frequent movement of recreational vehicles.
- h. Interior streets shall be a minimum of thirty-seven (37) feet in width and paved with asphalt.

Section 3.6 COTTAGE INDUSTRY PROVISIONS

All legal Cottage Industries that were otherwise lawful on the effective date of the amendment of this Ordinance may be continued regardless of ownership until the current use changes. Cottage Industries existing prior to the effective date of the amendment of this Ordinance and verified with valid, continuous Doña Ana County Business Registrations shall be considered legal nonconforming uses. See Article IX Nonconforming Uses, Buildings, and Lots. Existing Cottage Industries shall be regulated by the Ordinance in effect at the time of initial operation.

ARTICLE IV. DEVELOPMENT STANDARDS AND EXCEPTIONS

Section 4.1 DEVELOPMENT STANDARDS

	<i>Minimum Front Setback</i>	<i>Minimum Rear Setback</i>	<i>Minimum Side Setback</i>	<i>Minimum Area</i>	<i>Minimum Width</i>	<i>Minimum Depth</i>	<i>Maximum Building Height</i>
ER1M ER1	25 feet	25 feet	15 feet	5 acres (Max)	300 feet	100 feet	35 feet
ER2M ER2	25 feet	25 feet	15 feet	2 acres	120 feet	100 feet	35 feet
ER3M ER3H ER3	25 feet	25 feet	15 feet	1 acre	100 feet	100 feet	35 feet
ER3/4M ER3/4	25 feet	25 feet	10 feet	3/4 acre	100 feet	100 feet	35 feet
ER4M ER4	25 feet	25 feet	10 feet	1/2 acre	100 feet	100 feet	35 feet
ER5M ER5	20 feet	25 feet	10 feet	1/3 acre	80 feet	80 feet	35 feet
ER6M ER6	20 feet	25 feet	7 feet	5000 sq. feet	60 feet	70 feet	35 feet
ER7	20 feet	20 feet	7 feet	5000 sq. feet	60 feet	70 feet	45 feet
EC1	25 feet	15 feet	7 feet	5 acres	60 feet	70 feet	35 feet
EC2, EC3	25 feet	15 feet	7 feet	5000 sq. feet	60 feet	70 feet	45 feet
EI1, EI2, EI3, EI4	25 feet	15 feet	7 feet	5000 sq. feet	60 feet	70 feet	50 feet

ER7M SEE SECTION 3.5 FOR MOBILE HOME PARK STANDARDS

***Cluster Subdivision development standards are provided in the Las Cruces Extra-territorial Subdivision Regulations

Section 4.1.A SITE PLAN REQUIREMENTS, REVIEW, AND APPROVAL

Purpose and Intent. For the purpose of ensuring that land uses or construction projects that are considered during the term of this Ordinance are compatible with this Ordinance, no persons shall commence any use or construction without first obtaining approval of a detailed site plan as set forth below. Site plans for multi-family dwellings, commercial, industrial, and institutional uses shall be prepared by a professional engineer, architect, or surveyor licensed in New Mexico.

- 1. Principles and Standards of Review.** The Planning Director shall approve said site plan only after determining the following:
 - a. The proposed use is permitted as required by this Ordinance.
 - b. The dimensional arrangement of the buildings and structures within the lot for which the site plan is prepared, conform to the development standards of this Ordinance.
 - c. The lot that is the requested location for the proposed use has been created in compliance with State Statutes and local Ordinance governing the division of land.
- 2. Detailed Site Plan Requirements.** A detailed site plan shall consist of a scale drawing at a scale of not less than 1": 100' containing the following information:
 - a. Location and dimensions of the affected property including legal description.
 - b. Location of all existing and proposed utility easements, including septic and well where applicable.
 - c. Location, arrangements, numbers and dimensions of all existing and proposed parking facilities, turning spaces, driveways, aisles and pedestrian walkways and truck loading facilities within the property.
 - d. The name and location of all streets adjacent to the property and all proposed points of ingress and egress; traffic volumes and number of lanes on adjacent streets.
 - e. Size, location and setbacks of all existing and proposed structures within the property and abutting the property.
 - f. The location, dimensions and capacity of all proposed and existing drainage structures or easements.
 - g. The location and dimensions (height, width, area of face of sign) of all proposed signs.
 - h. The location, dimensions and intensity in lumens of all proposed exterior lighting; to assure that light will not project glare onto adjacent property and will comply with the New Mexico Night Sky Protection Act (§74-12 NMSA 1978).
 - i. Indicate grade differences (spot elevations, contours, etc.) and show actual elevations and reference benchmarks used.
 - j. The location, dimension and capacity of any watercourse(s) that has an intermittent or ephemeral flow.
 - k. Location, dimensions and materials used for proposed landscaping and buffering.

- I. Additional data in report form may be required for uses with a potential to impact residential development abutting the property or within a three hundred foot (300') radius of the property with noise, odor, vibration or concussion, smoke fumes, chemical usage or emissions, dust glare or increased fire danger.
 - 1. In order to determine impact, the applicant shall submit a summary of commercial or industrial operations that will generate noise, vibration, odor, smoke, dust, or chemical usage at levels above residential standards or safety levels specified in State or Federal environmental regulations. The applicant shall disclose what State and Federal environmental regulations and standards apply to the proposed use. The applicant shall demonstrate how the development will comply with applicable State and Federal environmental regulations.
 - 2. All wholesalers and manufacturers shall submit a hazardous materials impact analysis, and shall make available upon request copies of all Material Safety Data Sheets and Tier One reports, and other similar safety forms and data, which will be required to be prepared or maintained in connection with the proposed operation. At the request of the County Fire Marshal or the Director of the Office of Emergency Management, a hazardous materials impact analysis prepared by an independent consultant shall be submitted. The Traffic Impact Analysis (TIA) shall be in compliance with the requirements outlined in the Dona Ana County Design Standards. The level and extent of the required TIA shall be determined by the County Engineering Services Department based on the review of the Site Threshold Analysis (STA).
- m. A grading and drainage plan shall be required for multi-family developments, and commercial, industrial, and institutional uses. A grading plan shall also be required for single family residential uses providing the:
 - 1. Entire development or a portion thereof, lies within a FEMA Special or Flood Hazard area or other flood hazard area as determined by the DAC Office of the Flood Commission.
 - 2. Grades within the area to be developed are in excess of four percent (4%); or
 - 3. A major arroyo, stream or channel exists within the area to be developed.
- 3. **Review and Approval Procedures.** Upon receipt of a complete site plan, the Planning Director shall follow these procedures:
 - a. For multi-family uses:
 - 1. Route copies of the site plan to Building Inspection, County Engineering and Flood Commission, if appropriate, for review and comment.

2. Determine that the site plan meets the development standards required by this Ordinance.
 3. Mark the site plan approved, or approved with conditions and transmit to Building Inspection for use in issuing building permit or mobile home permit.
 4. Mark the site plan denied if it does not meet requirements of this Ordinance.
- b. For commercial, industrial, and institutional uses:
1. Route copies of the site plan to affected local, County, and State agencies for review and comment.
 2. Grant approval of the site plan, with conditions as required to meet the standards and policies of this Ordinance and the Extra-territorial Zone Comprehensive Plan.
 3. Deny the site plan if it does not meet requirements of this Ordinance and the Extra-territorial Zone Comprehensive Plan.
4. **Effective Date and Term of Approval**
- a. Approval of site plans for Single-family Residential uses become effective as of the date signed by the Planning Director. Such approvals shall remain valid until a building permit is issued or until a revised site plan is approved.
 - b. Approvals of site plans for Multi-family Residential uses and all Commercial, Industrial, and Institutional uses shall become effective on the date that it is signed by the Planning Director.
 - c. Approvals of site plans for multi-family, Commercial, Industrial, and Institutional uses shall remain valid for one (1) year after the effective and approved date. If no building permit is issued within one (1) year, the approval shall be void.
 - d. Certificates of Occupancy will not be issued until all requirements including but not limited to the structure, parking, buffering and landscaping comply with the approved site plan. Once a Certificate of Occupancy is issued, a Business Registration shall be obtained for Commercial and Industrial uses.
5. **Revisions of Site Plans**
- a. The Planning Director may approve minor revisions to an approved Site plan. Minor revisions include rearrangement of buildings, parking areas, walkways, or landscaping that does not affect access, circulation, drainage or grading. Changes in land use to include similar uses to those originally proposed shall be deemed minor revisions.
 - b. Major revisions will require a new administrative approval and new agency review. Major revisions include: a zone change increase in number of buildings or number of parking spaces; changes in access, internal or external circulation; change in drainage facilities or grading plans.

SECTION 4.1.B ACCESS TO PUBLIC WAY AND PRIVATE ROADWAY EASEMENTS

1. No new development or construction that requires a permit under the International Building Code, as adopted by Ordinance, shall be allowed on any lot unless it has legal access.
2. A Site Threshold Assessment (STA) application shall be required for all development excluding a single-family residential dwelling on an existing lot. Attached to the STA shall be a sketch showing traffic counts for pre- and post-development and traffic count data from the Institute of Transportation Engineers (ITE) Trip Generation Manual. The County Engineering Services Department will determine the level of TIA required based upon the review of the STA. Acceptable sources of traffic count data may be obtained from: the County Engineering Services Department, NMDOT, City of Las Cruces, the Metropolitan Planning Organization, the Regional Planning Organization or any other previously approved study. A Registered Professional Engineer, licensed to practice in the State of New Mexico, demonstrating expertise in traffic engineering shall prepare the TIA.
3. Driveways shall be spaced a minimum of one hundred fifty feet (150') from an intersection or a driveway used for off-street parking. For lots where this is not possible, driveways shall be spaced as far from the intersection or adjacent driveway as practical. Conflicts with adjoining driveways, exits, and entrances will be spaced to create the safest possible conditions for traffic movement and shall be justified by engineering analysis. Driveways linking residential development to a County or State maintained road or private easement shall meet the following standards: the drivable width shall be twenty five feet (25') wide for two-way traffic and twenty feet (20') for one-way traffic, the maximum length shall not exceed one hundred fifty feet (150') and shall serve not more than 1 driveway and/or four (4) dwelling units unless the site plan is approved by County Fire Marshal.
4. Private roadway easements shall not be maintained by Dona Ana County. Adjacent property owners and/or Homeowner's Association shall maintain private roadway easements. New private roadway easements shall include a statement that specifies that property owners that utilize the easement shall be responsible for maintenance. Such road maintenance agreements must be filed when a building permit or mobile home permit is issued.
5. Existing substandard road easements in designated "Colonias" are subject to the requirements for maintenance as outlined in the preceding paragraph.
6. All development shall provide for a clear sight triangle at all intersections with or between all public and private roads and off-street multiple parking area entrances, exits, driveways to and from public and private roads, and at any unique geometrical situations involving horizontal, vertical, and skewed intersections or driveways (see example in Appendix A-2). The County Transportation Department may rely upon the American Association of State Highway and Transportation Officials (AASHTO), publication, *Policy on Geometric Design of Highways and Streets*, dated

1990 (and amendments thereto), in determining the appropriate design requirements for the particular intersection at issue.

- a. A clear sight triangle (as shown in Appendix A-2) shall be an area of unobstructed vision, beginning at a point three feet (3') above the finished grade of the road at the lowest adjacent point on the edge of the pavement and bounded by one of the following:
 - 1. The front and side property lines of a corner lot and a line connecting points thirty feet (30') from the intersections of the property or roadway easement lines of the lot;
 - 2. The front and side lines of a private driveway, exit, or entrance and a line connecting points fifteen feet (15') from the intersection of the corner of the lines of the private driveway, exit or entrance;
 - 3. The front and side lines of a public or off-street multiple parking area driveway, exit or entrance and a line connecting points thirty feet (30') from the intersection of the corners of the lines of the public or off-street multiple parking area driveway, exit, or entrance.
- b. Within the clear sight triangle, no structure, including but not limited to signs or walls, shall be constructed or erected higher than three feet (3') from the edge of the pavement, except that barbed wire or other fences that do not obstruct the view of the roadway shall be allowed. No trees, shrubs, or other vegetation that would normally grow to a height of three feet (3') from the edge of the pavement shall be planted within the clear sight triangle.

Section 4.2 EXCEPTIONS AND MODIFICATIONS

4.2.A YARD REQUIREMENTS AND EXCEPTIONS: RESIDENTIAL DISTRICTS

The following provisions shall apply to all developments in residential zoning district.

4.2.A.1 SETBACK EXCEPTIONS

- a. A fifteen (15) foot street setback shall be permitted on one (1) front yard of corner lots and double frontage lots and on two (2) front yards of triple frontage lots (see Appendix A for illustrations).
- b. New dwellings may be erected as close to a front property line as the average distance established by the existing dwellings, provided the lots on the same side of the block are at least forty (40) percent developed (see Appendix A for illustrations).
- c. An addition to a main dwelling, no larger than twenty (20) percent of the floor area of the main dwelling, shall be permitted as an extension of existing building lines which have non-conforming setbacks. Setbacks for such an addition shall be at least equal to the main dwelling setback (see Appendix A for illustrations).

- d. On platted lots of record, a minimum setback of five (5) feet shall be permitted on the side yard of lots having a front lot line width of less than fifty-one (51) feet.
- e. There shall be a minimum setback of one (1) foot for each foot in height of any building, other than one-family/two-family structures, abutting a residential zone.
- f. Setbacks for odd-shaped lots shall be determined by the Planning Director or his/her designee in accordance with Appendix A.

4.2.A.2 FRONT YARD PARKING

Parking areas shall not cover over one-third (1/3) of any open area between the front of a building or structure and the front property line in a one-family/two-family development. In the case of cul-de-sac lots, two-thirds (2/3) of a front yard can be used and on existing lots fifty-one (51) feet in width or less, a twenty (20) foot parking area width is permitted. Townhouse lots may be three-fourths (3/4) of the front yard for parking areas.

4.2.A.3 BUILDING PROJECTIONS

There shall be no dwelling, covered porch or other structure in a required yard except 1) as permitted elsewhere in this Ordinance and 2) the ordinary projection of sills, cornices, ornamental features and roof overhangs shall not exceed two (2) feet.

4.2.A.4 MINIMUM DISTANCE BETWEEN STRUCTURES

There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract or parcel.

4.2.A.5 EASEMENT ENCROACHMENTS

There shall be no permanent structures located on easements without written approval of the County Planning Division.

4.2.A.6 PRIVATE ACCESS

Non-dedicated streets or private drives within a lot, tract or parcel shall be a minimum of twenty-five (25) feet in width for two way and eighteen (18) feet in width for one way when used for access to apartments, townhouses or condominiums.

4.2.B YARD REQUIREMENTS AND EXCEPTIONS: COMMERCIAL AND INDUSTRIAL DISTRICTS

The following provisions shall apply to all developments in an office, commercial or industrial zoning district.

4.2.B.1 A zero (0) foot side yard shall be permitted only when:

- 1. an existing building on the abutting side is at least five (5) feet from the property line or:
- 2. an existing building on the abutting side is on the property line or;
- 3. when the abutting property is undeveloped

4.2.B.2 There shall be a minimum setback of one (1) foot for each foot in height of any building abutting a residential zoning district. There shall be a minimum distance of thirty (30) feet maintained between any residential dwelling and any structure within the EC1, EC2 or EC3 districts. There shall be a minimum distance of sixty (60) feet maintained between any residential dwelling and any structure within the E11 district. There shall be a minimum distance of one hundred (100) feet between any residential dwelling and any structure within the E12, E13 and E14 districts.

4.2.B.3 There shall be a minimum of ten (10) feet between all detached buildings and structures.

4.2.B.4 A fifteen (15) foot street setback shall be permitted on one (1) front yard of corner lots and double frontage lots and on two (2) front yards of triple frontage lots.

4.2.B.5 Industrial or commercial developments that abut railroad tracks shall not be required to set back from such tracks if designed to have docking facilities for railroad cargo or passengers.

4.2.B.6 All non-dedicated streets or private drives accessing a single lot, tract or parcel shall be twenty-five (25) feet in width.

4.2.C LANDSCAPING AND BUFFERING REQUIREMENTS

Unless left in its natural vegetative state, there shall be vegetation or other erosion control measures outlined in Doña Ana County Erosion Control Regulations Ordinance No. 194-2000, as amended, to control water or wind erosion on all pervious areas of development and constructed lots, tracts or parcels in all Zoning Districts.

All Multi-Family Residential uses and Non-Residential uses (commercial uses, industrial uses, and institutional uses) shall require landscaping and buffering as outlined below.

1. **Purpose of Landscape Buffer:** Buffer plantings are intended to provide transition between contrasting land uses and architectural styles, to reduce the impact of building scale and generally mitigate incompatible or undesirable views. They are used to soften rather than block viewing and where required, a mix of plant materials shall be used to achieve the desired effect. Screening is used where unsightly views or visual conflicts must be obscured or blocked and where privacy and security are desired. Fences and walls for screening may be constructed of wood, concrete, stone, brick, and wrought iron, or other commonly used fencing/wall materials. Acoustically designed fences and walls are also used where noise pollution requires mitigation.
2. **Landscaping and Buffers:** The buffer yard is a designated unit of yard or open area together with any plant materials, barriers, or fences required thereon. Both the amount of land and the type and amount of landscaping specified are designated to lessen impacts between adjoining land uses. By using both distance and landscaping, potential nuisances such as noise, glare, activity, dirt, unsightly parking areas, and so forth will be minimized. Where a Non-Residential use that is hereafter developed abuts a Residential (even if vacant, or Agricultural land use, buffer landscaping is required to minimize noise, lighting and sight impact of the Non-Residential activities in the residential are. Where a Multi-Family Residential use is hereafter developed next to and abutting Single-

Family Residential use, or Agricultural land use, buffer landscaping is required.

- a.** Landscaping and buffer landscaping will be required within the following districts:
 1. ER7
 2. ER7M
 3. EC1
 4. EC2
 5. EC3
 6. EI1
 7. EI2
 8. EI3
 9. EI4
- b.** Single Family Residential (ER1, ER1M, ER2, ER2M, ER3, ER3M, ER3/4, ER3/4M, ER4, ER4M, ER5, ER5M, ER6, ER6M) land uses are exempt from this section
- c.** Unless otherwise indicated, landscaping will consist of a minimum of fifteen-percent (15%) of the total area of the proposed developed portion of the lot.
- d.** Buffers shall be provided and maintained as set forth below in the Landscaping/Buffer Matrix.
- e.** For Non-Residential uses, a solid wall or a solid fence at least six-feet (6') high shall be erected on sides abutting or adjacent to Residential uses, except for those sides abutting public right-of-way or private roads.
 1. In order to allow for unobstructed vision, such wall or fence shall be three-feet (3') high in the area within eleven-feet (11') of a public way or planned public way.
 2. If the wall plus retaining wall have an effective height of over eight-feet (8') on the residential side, the Planning Director or their designee shall decide the acceptable height.
- f.** Lighting shall be placed to reflect the light away from adjacent residential districts (for additional Outdoor Lighting Requirements see Article XII).
- g.** No noise, odor, or vibration shall be emitted by uses outside the boundaries of a Non-Residential use. Such determination shall be made at the boundary of the Non-Residential use.
- h.** Parking lot landscaping is intended to break up large expanse of pavement, create shade, buffer views of parking lots from adjacent streets and developments and enhance the overall appearance of each project. Landscaping of the parking area shall consist of a minimum of 15% of the total landscape area and shall include a minimum of one (1) tree per five (5) parking spaces. All parking lots and repaving projects of existing parking lots consisting of ten (10) or more required spaces shall be subject to these requirements.

- i. Trees, shrubs and other drought tolerant plant species that require minimal water should be used.
- j. The trees and/or shrubs shall form a largely opaque screen, however within a clear sight triangle the trees and shrubs shall be maintained to a height of no higher than three-feet (3').
- k. The landscape buffer between any Residential and Non-Residential use shall not eliminate the applicable requirements for a fence or wall if parking is adjacent to the landscaping strip.
- l. A landscape plan indicating the type, size and location of landscaping along with topography and an irrigation plan showing the type and size of pipes and heads shall be submitted in conjunction with application for the building permit.
- m. The irrigation system and the landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy the Planning Director has approved a written agreement.
- n. The owner of the landscaped property shall be responsible to maintain it in a healthy, clean, trimmed, weed-free and litter-free condition. Dead plant material shall be replaced with new plant material immediately. All plant growth in required landscaped areas shall be controlled by pruning or trimming so that it will not interfere with the installation, maintenance or repair of any public utility, nor restrict pedestrian or vehicular traffic, nor constitute a traffic hazard.
- o. The Planning Director or his/her designee may approve an alternative landscaping plan that locates the buffer landscaping away from the site plan boundary line if they find that all of the following apply:
 - 1. Noise, lighting and sight buffering of the residential district can be accomplished at least as well with the alternate plan.
 - 2. The alternate landscaping plan does not result in less landscaped area than would have been required with the normal buffer landscaping strip specified in Landscaping/Buffer Matrix.
 - 3. A solid wall or solid fence at least six-feet (6') high is provided along all segments of the site plan boundary line that does not have the standard buffer landscaping strip.

3. Landscaping and Buffer Requirements and Substitutions

- a. "Trees" mean deciduous or conifer having a 2" to 2 ¼" caliper at the time of planting located throughout the required landscaped area. A multi-trunk tree shall have no less than 3-1" caliper trunks. A minimum of one (1) live tree shall be provided for every one thousand (1000) square feet of required landscaped area.
- b. "Shrubs" mean five-gallon size, to follow nurseryman standard, which are approximately one foot (1') in height and one foot (1') in width at the time of planting located throughout the required landscaped area. A minimum of twenty (20) live shrubs shall be

provided for every one thousand square feet of required landscaped area.

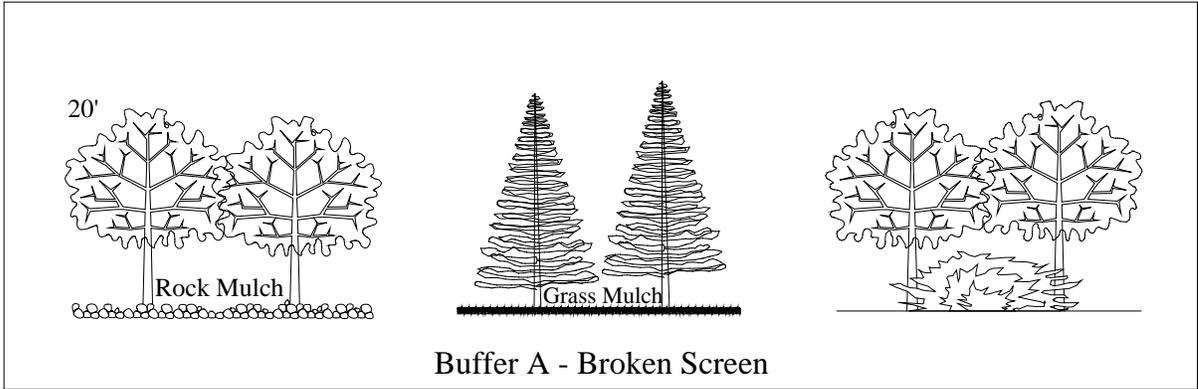
- c. "Ground Cover" means grass, low shrubs or flowers but does not include asphalt, concrete or soil that is exposed and untreated located throughout the required setback area. One hundred (100) square feet of ground cover or ten (10) one-gallon size plants shall be provided for every one thousand (1000) square feet of required landscaped area. Gravel and/or decorative stone shall be considered additional ground cover if used with the required plant material as specified in this section.
- d. Substitution of plant materials may be made according to the following ratio:
 - 1. For every one (1) – two inch (2") tree required = ten (10) – five (5) gallon shrubs
 - 2. For every five (5) – gallon shrub required = five (5) one (1) gallon shrubs
 - 3. For every one (1) – two inch (2") tree required = 30 – 1 gallon shrubs
- e. Irrigation systems shall consist of an underground system, automatic or manual that includes a reduced principal backflow preventer, pipes, valves, and heads and be of an adequate size to properly irrigate proposed planting.

4. Location Criteria

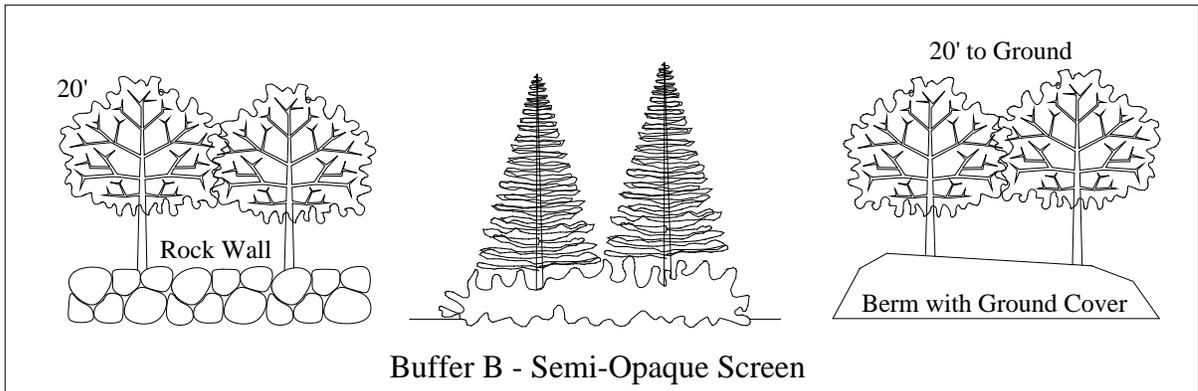
- a. If the total area required to be landscaped, one-half (1/2) shall be located within the front yard setback area. For purposes of this Ordinance, the front of the property shall be defined as the area between the street curb and principal structure.
- b. Where buildings occupy corner lots, double fronting lots or triple fronting lots, the owner shall locate a minimum of one-fourth (1/4) of required landscape percentage within each front.

5. Buffer/Screen Type Required

- a. **Buffer A:** A screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20'). The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a combination wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Landscaping consisting of low water consumption plants is required. Trees and shrubs shall be located so that their outermost limbs touch at the time of maturity. Suggested planting patterns that will achieve this standard are included below. A six-foot (6') fence may be substituted for the above requirements.

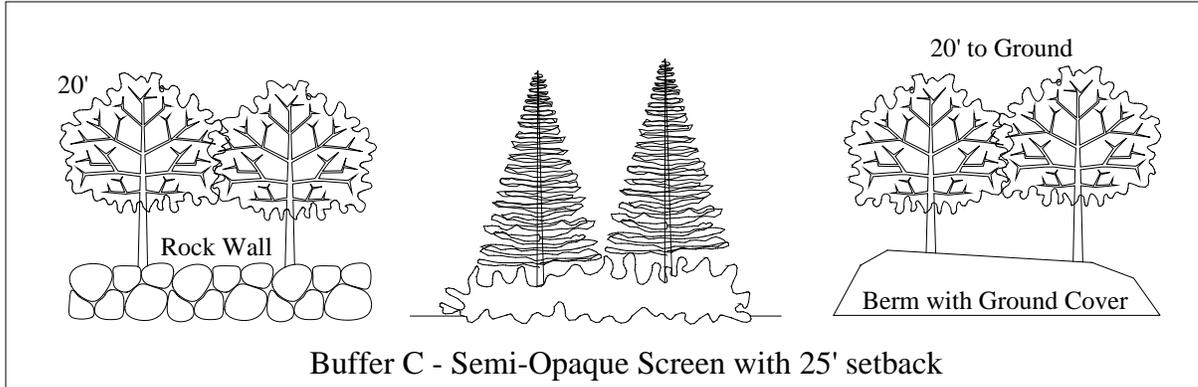


- b. Buffer B: Semi-Opaque Screen:** A screen that is opaque from the ground to a height of three-feet (3'), with intermittent visual openings from above the opaque portion to a height of at least twenty-feet (20'). The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a combination wall, fence, landscaped earth berm, planted and/or existing vegetation. All landscaping must be composed of low water consumption plants. Trees and shrubs shall be located so that their outermost limbs touch at the time of maturity. Suggested planting patterns that will achieve this standard are included below.

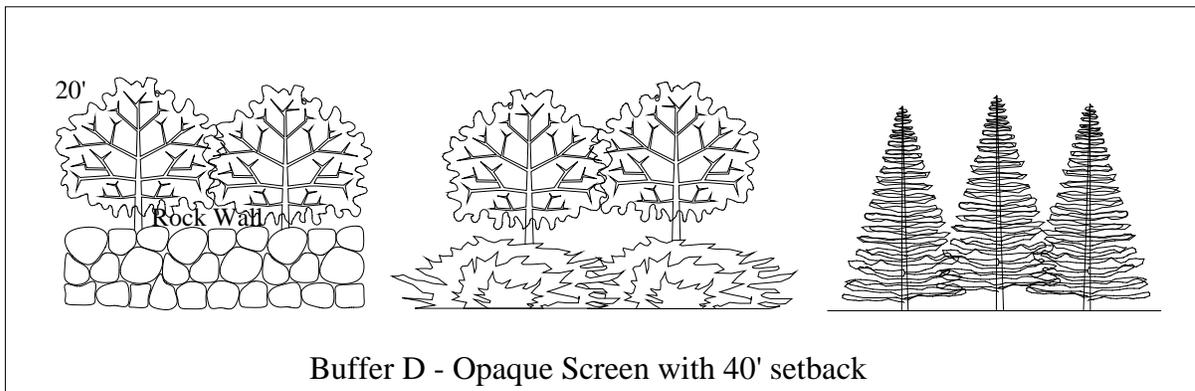


- c. Buffer C: Semi-Opaque Screen with a setback of not less than twenty five-feet (25'):** A screen that is opaque from the ground to a height of three-feet (3'), with intermittent visual openings from above the opaque portion to a height of at least twenty-feet (20') and a setback of not less than twenty five-feet (25'). The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a combination wall, fence, landscaped earth berm, planted and/or

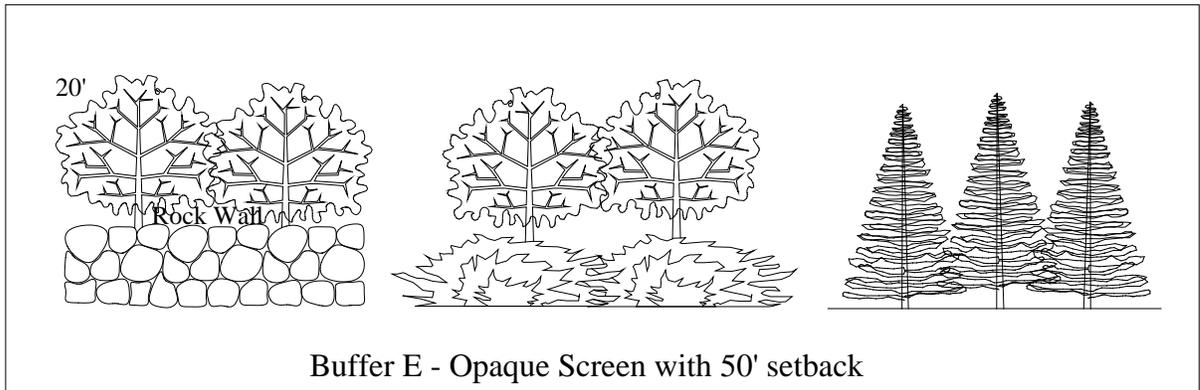
existing vegetation. All landscaping must be composed of low water consumption plants. Trees and shrubs shall be located so that their outermost limbs touch at the time of maturity. Suggested planting patterns that will achieve this standard are included below.



- d. Buffer D: Opaque Screen with a set back of not less than forty-feet (40'):** A screen that is opaque from the ground to a height of six-feet (6'), with intermittent visual openings from above the opaque portion to a height of at least twenty-feet (20'). An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of special separation. The opaque screen may be composed of a combination wall, fence, landscaped earth berm, planted and/or existing vegetation. All landscaping must be composed of low water consumption plants. Trees and shrubs shall be located so that their outermost limbs touch at the time of maturity. Suggested planting patterns that will achieve this standard are included below.



- e. **Buffer E:** Opaque screen with a setback of not less than fifty-feet (50'): A screen that is opaque from the ground to a height of six-feet (6'), with intermittent visual openings from above the opaque portion to a height of at least twenty-feet (20'). An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of special separation. The opaque screen may be composed of a combination wall, fence, landscaped earth berm, planted and/ or existing vegetation. All landscaping must be composed of low water consumption plants. Trees and shrubs shall be located so that their outermost limbs touch at the time of maturity. Suggested planting patterns that will achieve this standard are included below:



6. Landscaping/Buffer Matrix						
New Use →	Single-Family Residential ↓	Multi-Family Residential, Duplex, Triplex, Fourplex	Mobile home parks and Apt. Complexes	EC 1	EC 2	EC 3 EI 1,2, 3
Existing Use						
Single-Family Residential	Required Setbacks (Article III)	Buffer B	Buffer C	Buffer C	Buffer D	Buffer E
Multi-Family Residential, Duplex, Triplex, Fourplex	Required Setbacks (Article III)	Required Setbacks (Section 5)	Buffer B	Buffer C	Buffer D	Buffer E
Mobile home parks and Apt. Complexes	Required Setbacks (Article III)	Buffer C	Buffer A	Buffer C	Buffer D	Buffer E
EC1	Buffer B	Buffer C	Buffer C	Buffer A	Buffer B	Buffer D
EC2	Buffer B	Buffer D	Buffer C	Buffer A	Buffer A	Buffer D
EC3 EI 1,2, 3	Buffer C	Buffer D	Buffer D	Buffer B	Buffer B	Buffer A
Vacant Land Ag., or Govt.	N/A	N/A	N/A	N/A	N/A	N/A

7. Recommended Plant Species

(Amendment 2006-03 Effective 11-20-06)

Trees for commercial, manufacturing and industrial site developments (i.e. parking lots, streets):

Common Name	Botanical Species/Name
Honey Locust	Glenditsia Triacamhos Inermis
Red Oak	Quercus Species
Chinese Pistachio	Pistacia chinesis
Brandford Pear	Pyrus Species

Trees for residential, commercial uses, wide landscaped area uses:

Common Name	Botanical Species/Name
Afghan Pine	Pinus 'Afghan'
Arizona Ash	Faxinus velutina
Arizona Sycamore	Platanus Wrightii
Arizona Cypress	Cupresus arizonica

Arizona Walnut	Juglans major
Black Locust	Robinia pseudoacacia
Bradford Pear	Pyrus species
Bur Oak	Quercus macrocarpa
California Sycamore	Platanus racemosa
Corkscrew Willow	Salix matsudana 'Tortuosa'
Coyote Willow	Salix exigua
Creosote Tree	Larrea Species
Deodar Cedar	Cedrus deodara
Desert Willow	Chilopsis Linearis
Flowering Peach	Prunus persica
Flowering Crab	Prunus armeniaca
Flowering Cherry	Prunus serrulata et al
Gambel Oak	Quercus gambeli
Globe Navajo Willow	Salix matsudana 'Navajo'
Golden Rain Tree	Koelreuteria species
Green Ash	Fraxinus Pennsylvania lanceolata
Mesquite	Prosopis glandulosa torreyana
Mexican Elder	Sambucus mexicana
Mimosa	Albizzia julibrissin
Modesto Ash	Fraxinus velutina 'Modesto'
Mountain Mohogany	Cerocarpus species
Netleaf Hackberry	Celtis reticulate
New Mexico Locust	Robinia neo-mexicana
New Mexico Olive	Forestiera Neomexicana
Single-Seed Juniper	Juniperus Monosperma

Shrubs for Residential and Non-Residential Uses:

Common Name	Botanical Species/Name
Abelia (Glossy)	Abelia grandiflora
Acacia	Acacia species
Agave	Agave species
Apache Plume	Fallugia paradoxa
Bar Harbor Juniper	Juniperus horizontalis "Bar Harbor"
Barrel Cactus	Ferocactus species
Big Sage	Artemisia Tridentata
Blue Point Juniper	Juniperus Chinensis "Blue Point"
Blue Chip Juniper	Juniperus horizontalis "Blue Chip"
Broadmoor Juniper	Juniperus Sabina "Broadmoor"
Buffalo Juniper	Juniperus Sabina "Buffalo"
Burning Bush	Euonymous alata
Cherry Sage	Larrea species
Creosote Bush	Lagerstroemia Indica
Crepe Myrtle	Lagerstroemia indica
Desert Broom	Baccharis sarothroides
Forsythia	Frosythia species
Four Wing Saltbush	Atriplex canescens
Fraser's Photinia	Phontinia Fraseri
Gold Tip Pftizer	Juniper chinensis "Pfitzerana Aurea"
Green Euonymous	Euonymous Japonica
Holly	Ilex species

India Hawthorn
 Lilac
 Nandina (Heavenly Bamboo)
 Oregon Grape Holly
 Pampas Grass
 Pfitzer Juniper
 Pyracantha (Firethorn)
 Red-Leaf Barberry
 Rock Cotoneaster
 Sea Green Juniper
 Silverberry
 Sotol
 Spanish Broom
 Spartan Juniper
 Tam Juniper
 Texas Sage
 Three Leaf Sumac
 Torulosa Juniper
 Turpentine Bush
 Yucca

Raphiolepis indica
 Syringa persica
 Nandina Domestica
 Mahonia Aquifolium
 Cortaderia selloana
 Juniper chinensis "Pfitzerana"
 Pyracantha Lalandei
 Berberis thunbergii "Atropurpurea"
 Cotoneaster horizontalis
 Juniper chinensis "Sea Green"
 Eleagnus pungens "Gruitlandii"
 Dasylirion Wheeleri
 Spartium junceum
 Juniperus Chinensis "Spartan"
 Juniperus Sabina "Tam"
 Artemisia species
 Rhus Trilobata
 Juniperus Chinensis "Torulosa"
 Happpappus Laricifolis
 Yucca pendula

Ground Covers:

Common Name
 Creeping Mahonia
 English Ivy
 Green Santolina
 Grey Santolina
 Vinca Major
 Vinca Minor
 Virginia Creeper

Botanical Species/Name
 Mahonia repens
 Hedera Helix
 Santolina Chamaecyparissus
 Santolina virens
 Creeping Myrtle (Periwinkle)
 Dwarf Periwinkle
 Parthenocissus quinquefolia

Vines:

Common Name
 Banks Rose
 Canyon Grape
 English Ivy
 Trumpet Vine
 Virginia Creeper
 Wisteria

Botanical Species/Name
 Rosa banksiae
 Vitis arizonica
 Hedera Helix
 Campsis radicans
 Parthenocissus quinquefolia
 Wisteria species

Grasses:

Turf Lawn Species
Common Name
 Bermuda
 Kentucky Blue Grass
 Manhattan Rye
 Perennial Rye
 Fescue

Botanical Species/Name
 Cynodon dactylon
 Poa Prantensis
 Lolium "Manhattan"
 Lolium Perenne
 Festuca species

**General Use Species: Low Water Consumption and Erosion Control
Grasses**

Common Name	Botanical Species/Name
Alkali Sacaton	Sporobolus airoides
Blue Grama Grass	Bouteloua gracilis
Buffalo Grass	Buchlow dactyloides
Indian Ricegrass	Oryopsis hymenoides
Needle and Thread Grass	Stipa comata
Sand Dropseed	Sporobolus cryptandrus

Ornamental Grasses:

Common Name	Botanical Species/Name
Big Bluestem	Andropogon gerardii
Purple Threeawn	Aristida purpurea
Sacaton	Sporobolus wrightii
Threadgrass	Stipa tenuis

4.2.D LOT MODIFICATIONS AND EXCEPTIONS: ALL DISTRICTS

4.2.D.1 TOWNHOUSE LOTS AND AREA. The minimum front and rear yard lot lines for townhouses may be reduced to twenty-five (25) feet, provided that no lot shall be less than three thousand, five hundred (3500) square feet in area. In addition, end units must meet side yard requirements of the zoning district in which they are located.

4.2.D.2 CUL-DE-SACS. The minimum width of a front lot line on a cul-de-sac shall be forty (40) feet, provided there shall be a minimum width of sixty (60) feet at the front building line (see Appendix B for illustration).

Lots with a road frontage of less than forty (40) feet may be permitted on cul-de-sacs, with a minimum lot width along road frontage of at least twenty-five (25) feet, under the following conditions:

- a. The created lot(s) will meet the minimum lot width at the front building setback line required by the zoning district.
- b. Development on the created lot(s) provides adequate off-street parking and drainage as required in the zoning district and ETZ design standards.
- c. The cul-de-sac is a paved street with curb and gutter.

4.2.D.3 PARKING IN FRONT YARD FOR TOWNHOUSES

Up to seventy-five (75) percent of the required front yard may be used for parking on townhouse lots.

4.2.E HEIGHT EXCEPTIONS

4.2.E.1 SPIRES, BELFRIES, TOWERS AND SIMILAR STRUCTURES

Such uses may be constructed in any district to a height ten (10) feet above that normally permitted by right.

4.2.E.2 ANTENNAS AND ANTENNA SUPPORTING STRUCTURES FOR TRANSMISSION OR RECEPTION OF RADIO SIGNALS

4.2.E.2.a Free-Standing or Guyed Commercial Towers- Commercial towers shall be allowed in all commercial and industrial zones except EC1. For EC1, refer to Section 4.2.E.2.b. All towers to be erected shall

have a site plan review completed by the Doña Ana County Planning Department.

If the site for the tower is to be leased from another property owner, there shall be a restriction in the lease that neither party may build or place any structure within the required setback.

Allowable height of the tower shall be determined as follows:

1. Tower height shall be limited to that height which is determined by a one-to-one setback plus ten (10) percent from all property lines on the parcel up to a maximum total height of ninety (90) feet.
2. If co-location of two or more communications companies will occur on one tower, an additional 20 feet for each additional company may be added to the total height of the tower to a maximum total height of one hundred thirty (130') feet to allow for added antenna arrays and reduce/eliminate interference. A one-to-one setback plus ten (10) percent is required.

Proof of co-location (shared tower agreement, rental/lease contract or similar) shall be required and must be submitted to Doña Ana County Planning prior to the issuance of a building permit. The required setback may be waived for monopole towers that are located directly adjacent to buildings thirty (30) feet or taller. This waiver must be approved by the County Planning Director.

All structures shall be located out of falling distance of any overhead power lines. Structures shall be constructed to meet the requirements of the Uniform Building Code and shall withstand a ninety (90) mile per hour wind.

An eight (8) foot fence or anti-climb device shall be required for structures which can be freely climbed. Additional height may be allowed by Special Use Permit approval. Conditions may be attached to the SUP. A commercial tower located in any zone shall have landscaping as provided elsewhere in this Ordinance.

Commercial towers that are to be located adjacent to residential zones shall meet a two-to-one setback ratio from all property lines, unless flush mounted on existing structures or mounted on rooftops (refer to Section 4.2.E.2.c for mounting antennae on existing structures).

4.2.E.2.b Commercial Towers in Residential Zones- Any commercial tower to be located in residential zones shall only be allowed in ER1, ER1M, ER2, ER2M, ER3, ER3M, ER3H and EC1 zoning districts through approval of a Special Use Permit. Commercial towers in residential districts and neighborhood commercial districts shall meet the following criteria:

- monopole type only
- height shall be limited to that height which is determined by a two-to-one setback from all property lines up to a maximum total tower height of seventy-five (75) feet
- approval of a site plan by the Doña Ana County Planning Department prior to new construction or modification of an existing structure.

If height in excess of seventy-five (75) feet is required, approval of a Special Use Permit is needed. All other requirements of Section 4.2.E.2.a shall apply to this Section.

4.2.E.2.c Personal (Private), Free Standing or Guyed Towers- Personal towers shall be allowed by right in all zones and must meet the following criteria:

- height shall be limited to a maximum total tower height of seventy-five (75) feet
- a site plan must be approved by the Doña Ana County Planning Department prior to new construction or modification of an existing tower. All engineering data for the tower must be submitted at this time.
- Structures shall be constructed to meet the Uniform Building Code and shall withstand an eighty (80) mile per hour wind. If the structure cannot meet the wind loading requirements, a one-to-one setback will be required.
- A minimum setback of ten (10) feet shall be required.

One tower per parcel is allowed. One additional tower may be allowed by Special Use Permit approval.

4.2.E.2.d Commercial Antennas Mounted to Existing Structures

Commercial antennas may be mounted on or attached to any existing structure in commercial and industrial zones, providing that written permission by the owner of the structure is provided. A copy of this permission must be provided and a site plan review must be completed by Doña Ana County Planning prior to issuance of a building permit.

Any additional superstructure that will be added to accommodate any and all antenna arrays, such as top hats, vertical and horizontal mounting standards and the like, must meet Uniform Building Codes. Any height that will be added as a result of this construction that exceeds the height limitations in section 4.2.E.1 must have the approval of a Special Use Permit. Antennas or antenna arrays that are to be added to existing towers must comply with the regulations set forth in Section 4.2.E.2.a.

4.2.E.2.e Private Antennas Mounted to Existing Structures- Private antennas may be mounted to existing buildings in residential, commercial and industrial zones, providing the total tower height meets a one-to-one setback and does not exceed seventy-five (75) feet. Existing buildings shall meet all applicable Uniform Building Codes.

4.2.E.2.f Commercial Tower Density- Each commercial tower site shall have a one (1) mile buffer zone around it. No other commercial tower of the same use may be placed or erected within this buffer zone. On-site business communications are exempt from this clause.

4.2.F DRAINAGE PLANS REQUIRED FOR DEVELOPMENT OVER ONE (1) ACRE

Grading or drainage plans or other pertinent engineering information shall be required by the County Engineer for all developments over one (1) acre. The County Engineer may require that the plans or information be prepared by a registered engineer in appropriate cases.

ARTICLE V. WALL AND FENCE REQUIREMENTS

Section 5.1 RESIDENTIAL FENCE AND WALL REQUIREMENTS

5.1.A HEIGHT (see illustrations in Appendix C)

5.1.A.1 An eight (8) foot maximum height above ground surface level shall be permitted on any part of the lot provided such wall is in accord with Subsection 5.1.A.2 below.

5.1.A.2 There shall be no fence, wall or obstruction more than three (3) feet above street curb level within the clear sight triangle, measured thirty (30) feet in both directions on the property line from the corner, or in the clear sight triangle for entry and exit of off-street parking areas. A wall retaining four (4) or more feet of soil must be designed and stamped (signed) by a professional engineer who is registered in the State of New Mexico.

5.1.B EXCLUSION FROM PUBLIC RIGHT-OF-WAY

No wall or fence will be permitted in a public right-of-way.

5.1.C WALLS AND FENCES FOR RESIDENTIAL SWIMMING POOLS

All swimming pools or yards in which swimming pools are located shall be completely enclosed by a wall or fence at least six (6) feet in height with self closing devices on gates or protected by an equivalent barrier as approved by the Doña Ana County Chief Building Official. No object or structure shall be placed adjacent to the wall or fence that allows access over said wall or fence. An automatic safety cover meeting ASTM F 1346 Standard Performance Specifications or other comparable safety device may be used as an alternative to the approved wall or fence to satisfy the requirements for barriers surrounding swimming pools, on premises of Group R Division 3 Occupancies (single family residential) with a Variance is obtained as outlined in Section 2.3 of this Ordinance. All hot tubs and spas shall have an approved safety cover.

Section 5.2 COMMERCIAL, OFFICE AND MANUFACTURING FENCE AND WALL REQUIREMENTS

5.2.A HEIGHT (see illustrations in Appendix C)

5.2.A.1 An eight (8) foot maximum height above ground surface level shall be permitted on any part of the lot provided such wall is in accord with Subsection 5.1.A.3 below.

5.2.A.2 There shall be no fence, wall or obstruction more than three (3) feet above street curb level within the clear sight triangle, measured thirty (30) feet in both directions on the property line from the corner, or in the clear sight triangle for entry and exit of off-street parking areas. A wall retaining four (4) or more feet of soil must be designed and stamped (signed) by a professional engineer who is registered in the State of New Mexico.

5.2.B EXCLUSION FROM PUBLIC RIGHT-OF-WAY

No wall or fence shall be permitted in public right-of-way.

5.2.C WALLS AND FENCES FOR PUBLIC OR COMMERCIAL SWIMMING POOLS

All swimming pools or yards in which swimming pools are located shall be completely enclosed by a wall or fence at least six (6) feet in height with self closing devices on all gates or protected by an equivalent barrier as approved by the Doña Ana County Chief Building Official. No object or structure shall be placed adjacent to the wall or fence that allows access over said wall or fence. All hot tubs and spas shall have an approved safety cover.

Section 5.3 EXCEPTIONS

5.3.A Tennis courts may have walls or fences a maximum of sixteen (16) feet in height provided they shall be located in the side or rear yard and shall be seven (7) feet from the property line.

ARTICLE VI. OFF STREET PARKING AND LOADING REQUIREMENTS

Section 6.1 GENERAL PROVISIONS

Parking requirements shall be based on the use or type of residence, facility or business. Uses not specified herein shall follow the parking requirements within the category most appropriate to that use. Off street parking is permissible in all front yards except as otherwise specified. Number of spaces shall be rounded to the nearest whole number. All parking shall be provided on the same lot as the structure served except as otherwise allowed in this Ordinance.

6.1.A LOCATION AND CONTROL OF PARKING FACILITIES

The off street parking facilities shall be located on the same lot or parcel of land as the building they are intended to serve, except that in cases of practical difficulty for uses other than dwellings, the ETZ Commission may consider a special use permit for a satellite lot meeting the following conditions:

1. All or part of a satellite lot must be adjacent to or within two hundred (200) feet from the main building or use measured along the shortest available pedestrian route of access.
2. The satellite lot must be in the same ownership or control as the building or use it is intended to serve and must be maintained as long as the building or use exists. Such ownership or control may be by deed or by a long-term lease which runs concurrently with the building or use. Where a satellite lot is to be used for off street parking, the applicant for a building permit shall submit with his application an instrument, duly executed and acknowledged, which subjects the satellite lot to parking in connection with the principal building or use. If a building permit is authorized, the building inspector shall cause the same instrument to be recorded in the office of the County Recorder. The recording fee shall be paid by the applicant.
3. No more than twenty-five (25) percent of the required off street parking spaces shall be located in a satellite parking area.

6.1.B ACCESS TO PARKING FACILITIES

Access driveways shall be provided for ingress and egress from all parking and loading facilities and shall be designed in a manner which will not interfere with the movements of vehicular and pedestrian traffic. Forward travel from a dedicated street shall be required for all uses except for parking in connection with one (1) or two (2) family dwellings.

6.1.C COMPUTATION OF REQUIRED PARKING SPACES

For the purpose of computing off street parking spaces which are required by the Ordinance, the following rules shall apply:

1. Floor areas shall mean gross floor area, unless otherwise specified for a particular use.
2. In auditoriums, sports areas, churches and other places of assembly in which benches or pews are used in place of seats, each eighteen (18) inches of length shall be counted as one (1) seat.

Section 6.2 OFF STREET PARKING SPACES REQUIRED

6.2.A RESIDENTIAL

1. One and two family dwellings - two (2) spaces per unit.
2. Multiple-family dwelling, three or more dwelling units:
 - a. dwelling units for elderly- seven-tenths (7/10) spaces per unit
 - b. efficiency units- one (1) space per unit
 - c. single bedroom units- one and one half (1 1/2) spaces per unit
 - d. two or more bedroom units- two (2) spaces per unit

6.2.B MISCELLANEOUS SITUATIONS (ROOMS FOR RENT, ETC.)

1. Rooming, boarding or lodging house - one (1) space per sleeping room
2. Private clubs, fraternities, sororities and lodges with sleeping rooms - one (1) space for every two (2) residents
3. Motel, motor hotel, motor lodge, hotel or tourist court - one (1) space for each sleeping room plus any additional spaces required for auxiliary uses, such as restaurants, lounges and shops

6.2.C HOMES EMPHASIZING SPECIAL SERVICES, TREATMENT OR SUPERVISION

1. Adult foster care home, private care or personal care home/facility - one (1) space for every seven (7) residents or portion thereof or one (1) space for each employee or portion thereof, whichever is greater
2. Registered home, group day care center, residential day care center or child care center - two (2) spaces plus a stacking lane twenty-seven (27) feet long and fifteen (15) feet wide per ten (10) students

6.2.D OFFICES AND PERSONAL SERVICE ESTABLISHMENTS

1. Professional services such as medical and dental offices, barbers, beauticians and other similar uses - one (1) space for each one hundred (100) square feet of gross floor area
2. Small office establishments such as law, accounting, engineering, real estate offices and other similar uses - two (2) spaces plus one (1) space for each three hundred (300) square feet of gross floor area
3. Large business offices such as banks, telephone and electric companies and other similar offices - one (1) space for each company-owned vehicle plus one (1) space for each three hundred (300) square feet of gross floor area
4. Low volume service establishments such as dry cleaning, equipment rentals, small and large item repair shops and similar uses - one (1) space for each three hundred (300) square feet of floor area
5. High volume service establishments such as a coin-operated laundry and other similar uses - one (1) space for each two hundred fifty (250) square feet of floor area
6. Banks with drive-up service - one (1) space per two hundred (200) square feet of floor area within the main building plus one (1) stacking lane fifteen (15) feet in width and two hundred (200) feet in length for each drive-up window

7. Funeral home- one (1) space per fifty (50) square feet of floor area in funeral service areas plus one (1) space for each two hundred fifty (250) square feet of office space. Parking lane(s) shall be provided fifteen (15) wide and one hundred (100) feet long.
8. Drive-up window service establishments- one (1) space per two hundred (200) square feet of floor area plus one (1) stacking lane fifteen (15) feet in width and two hundred (200) feet in length for each drive-up window

6.2.E RETAIL ESTABLISHMENTS

1. Large volume retail sales of small domestic products, groceries and shopping centers - one (1) space for each two hundred (200) feet of gross floor area
2. Small volume retail sales of domestic and specialized products such as plumbing, electrical and hardware stores, furniture stores, parts stores, cabinet stores, carpet stores, clothing and shoe stores and similar businesses - three (3) spaces plus one (1) space for each three hundred (300) square feet of gross floor area
3. Retail sales of vehicles, heavy equipment and other large products such as automobiles, mobile homes, recreational vehicles, farm equipment and similar businesses - one (1) space for each company vehicle plus one (1) space for each three hundred fifty (350) square feet of gross interior floor area, or five (5) spaces plus one (1) space for each employee, whichever is greater
4. Open air markets such as farm, craft, flea and produce markets and other similar businesses - one (1) space for each display stand or area and one (1) space for every two hundred (200) square feet designated as the entire display area
5. Storage areas in retail businesses - when a building used for retail sales has an area larger than twenty (20) percent of its gross floor area used specifically for storage of products sold within the store, eighty (80) percent of the total storage area may be subtracted from the gross floor area uses for off-street parking computations

6.2.F RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

1. Food and beverage establishments such as restaurants, cafes, bars and lounges, coffee shops, doughnut shops and similar uses - one (1) space for each one hundred (100) square feet of gross floor area plus one (1) space for each two (2) employees on the maximum shift. One (1) space for each two hundred (200) square feet of outdoor patio area. Drive up window establishments are required to provide a stacking lane at least fifteen (15) feet wide and two hundred (200) feet long.
2. Entertainment and amusement enterprises such as auditoriums, theaters, sports arenas, dance halls, private clubs and lodges, meeting halls, skating rinks and similar uses - one (1) space for each one hundred (100) square feet of gross floor area plus one (1) space for each employee on the maximum shift
3. Court or alley entertainment uses such as tennis, handball and basketball courts, bowling alleys and similar uses - four (4) spaces for each court or bowling lane plus one (1) space for each employee on the maximum shift

4. Golf courses - one (1) space for each ten (10) linear feet of practice tees and four (4) spaces for each green, in addition to parking requirements for auxiliary uses such as restaurants, bars and clubs

6.2.G SCHOOLS, CHURCHES, COMMUNITY CENTERS AND HOSPITALS

1. College or high school - one (1) space per five (5) seats or bench seating spaces (seats in the main auditorium or field house only) or one (1) for each four (4) students, whichever is greater, plus one (1) space for each administrator and faculty member
2. Elementary or junior high school - one (1) space per ten (10) seats in the main assembly room or two (2) spaces per classroom, whichever is greater, plus one (1) space for each administrator and faculty member
3. Community buildings, libraries, museums, administration buildings, art galleries and centers - one (1) space per two hundred fifty (250) square feet of floor area
4. Churches - one (1) space for every four (4) seats in the primary assembly room
5. Hospitals and nursing homes - one (1) space for each two (2) beds plus one (1) space for each employee on the maximum shift

6.2.H INDUSTRY, MANUFACTURING, WAREHOUSE AND WHOLESALE ESTABLISHMENTS

1. Production line industries employing large numbers of office and production workers - one (1) space per maximum number of employees per shift plus one (1) space for each company-owned truck/vehicle in addition to one (1) visitor space for each one thousand (1000) square feet of floor area, up to twenty thousand (20,000) square feet
2. Warehouse which primary use is storage and require few employees - one (1) space per employee plus one (1) space per two thousand (2,000) square feet of floor area up to thirty thousand (30,000) square feet, plus one (1) space each for all company-owned trucks/vehicles
3. Wholesale establishments which primary use is wholesale - one (1) space for each five hundred (500) square feet of floor area
4. Storage areas - one (1) space for each one thousand (1,000) square feet of floor area. In cases of wholesale establishments where more than thirty (30) percent of the total floor area is used for storage, seventy (70) percent of the given storage area shall be used for parking computations.

6.2.I PARKING SPACES FOR THE HANDICAPPED

The minimum number of designated handicapped parking spaces are as follows:

Total Spaces in Parking Lot	Minimum Designated Parking Spaces
0 - 25	1
26 - 35	2
36 - 50	3
51 - 100	4
101 - 300	8
301 - 500	12
501 - 800	16
801 - 1000	20
More than 1000	20 + 3 for each additional 1000 spaces

The designated parking spaces shall be located so as to provide the most convenient access to entryways or to the nearest curb.

Section 6.3 FLEXIBILITY IN ADMINISTRATION REQUIRED

6.3.A The unique needs of any given development and the inflexible application of the parking standards set forth in Section 6.2 of this Article may result in a development either with inadequate parking space or parking space far in excess of its needs. Therefore, the ETZ Commission may permit deviations from the requirements of Section 6.2 or may require more or less parking whenever it finds that such deviations are more likely to satisfy the standards set forth in this Article.

6.3.B The ETZ Commission may allow deviations from the parking requirements set forth in Section 6.2 when it finds that:

1. A residential development is primarily oriented toward the elderly
2. A business is primarily oriented to walk in trade

6.3.C Whenever the ETZ Commission allows or requires a deviation from the parking requirements set forth in Section 6.2 it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

Section 6.4 SIZE OF PARKING SPACES AND AISLE

6.4.A Parking stalls and aisles shall be provided according to the following requirements in all zoning districts:

Parking Angle	Stall Width	Stall Base	Stall Depth	Width of Aisle	
				1 way	2 way
30°	9 feet	20 feet	18.2 feet	11 feet	24 feet
45°	9 feet	14 feet	20.5 feet	13 feet	24 feet
60°	9 feet	11.5 feet	21.5 feet	18 feet	24 feet
90°	9 feet	9 feet	19 feet	25 feet	25 feet
Parallel Parking	9 feet	9 feet	22 feet	12 feet	24 feet

Section 6.5 GENERAL DESIGN REQUIREMENTS

6.5.A Parking areas shall be designed so that vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one (1) or two (2) dwelling units.

6.5.B Parking areas of all developments shall be designed so that sanitation, emergency and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

6.5.C Every parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or other obstruction.

6.5.D Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

Section 6.6 PARKING AREA SURFACES

6.6.A Parking areas for businesses with gross floor area exceeding two thousand (2,000) square feet shall be graded and paved with at least one (1) inch of hot-mix pavement.

6.6.B Parking areas for businesses requiring ten (10) or fewer parking spaces under this Article can be graded and surfaced with surface material other than hot-mix pavement provided that protection against potholes, erosion and dust can be assured.

6.6.C Parking spaces shall be appropriately demarcated with painted lines or other markings.

6.6.D Parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 6.7 EXTERIOR LIGHTING IN PARKING AREAS

6.7.A All exterior lighting in parking areas shall be shielded to ensure that neighboring properties and traffic in public rights-of-way are not adversely affected.

Section 6.8 JOINT USE OF REQUIRED PARKING SPACES

6.8.A One (1) parking area may contain required spaces for several different uses. Except as otherwise provided in this Section, the required spaces assigned to one use may not be credited to any other use.

6.8.B To the extent that developments agreeing to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building Monday through Friday but is generally ninety (90) percent vacant on weekends, another development that operates only on weekends could be credited with ninety (90) percent of the spaces on that lot. If a church parking lot is generally occupied only fifty (50) percent of capacity on days other than Sunday, another development could make use of fifty (50) percent of the church lots' spaces on those other days.

6.8.C If the joint use of the same parking spaces by two (2) or more principal uses involves satellite parking spaces, then the provisions of Section 6.9 are also applicable.

6.8.D A written agreement between the affected property owners is required from all joint uses of parking areas thereby assuring retention for such purposes and stating hours of operation. The agreement is to be approved as to content and form by the County Attorney and Planning Director and filed with the building permit application if one is to be issued.

Section 6.9 ENLARGEMENT OF ORIGINAL BUSINESS OR USE

6.9.A Whenever an original building or use is enlarged thirty (30) percent or more of the original floor area, the entire building shall then and thereafter comply with the parking requirements set forth in this Article. Whenever a building is enlarged in floor area less than thirty (30) percent of the original floor area, additional spaces shall be provided on the basis of the addition only.

Section 6.10 LOADING SPACE REQUIREMENTS

6.10.A Off-street loading space shall be provided and maintained for every building or part thereof occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale, market, hotel, mortuary, hospital, laundry, dry cleaning or other similar uses requiring the receipt or distribution by vehicles of materials or merchandise. Spaces to be provided shall be in accordance with the following requirements:

1. One (1) space for the first ten thousand (10,000) square feet or less of gross floor area
2. One (1) additional loading space for each ten thousand (10,000) square feet of gross floor area in excess of the first ten thousand (10,000) square feet.
3. Minimum dimensions for each loading space is twelve (12) feet by forty-five (45) feet and overhead clearance of fourteen (14) feet from the street grade.
4. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way or any parking space or parking lot aisle.
5. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off street parking, nor shall any portion be used to satisfy the area requirements for loading and unloading facilities.

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ARTICLE VII ACCESSORY BUILDINGS

Section 7.1 ACCESSORY BUILDINGS FOR AGRICULTURAL USES

Accessory buildings for agricultural uses as defined in Section 1.6.A are exempt from the provisions of this Article provided the parcel has an agricultural assessment per the County Assessor's Office.

7.1.A HEIGHT AND SETBACK REQUIREMENTS FOR ALL RESIDENTIAL DISTRICTS

1. A minimum distance of ten (10) feet, measured eave to eave, from the primary structure.
2. A minimum distance of five (5) feet from side and rear property lines for any accessory building of six hundred (600) square feet or less gross floor area.
3. Accessory buildings larger than six hundred (600) square feet or taller than fifteen (15) feet shall meet all minimum setback requirements outlined in Article 4 of this Ordinance for the applicable zoning district.
4. A maximum height up to the height of the primary structure, not to exceed twenty-five (25) feet.
5. No accessory building shall project beyond the front of the primary dwelling unit or front yard setback for all lots that are one-half (1/2) acre or less, except as herein provided.

7.1.B SIZE REQUIREMENTS

1. The maximum accessory building footprints for all accessory buildings combined shall be limited to ten percent (10%) of the total (gross) lot area and shall not exceed three thousand (3,000) square feet, except where a variance has been issued. Applicants wishing to exceed the standards of this Article may apply to the Planning Director for a Variance following the procedures in Section 2.3 of this Ordinance, along with a non-refundable application fee.

7.1.C EXCEPTIONS

1. Accessory buildings which are used as stables, barns or for the housing of animals shall maintain thirty-five (35) feet between structures and shall not be located in front, rear or side setbacks of the primary structure. These uses must meet the requirements set forth in Article 8 pertaining to the keeping of animals.
2. All accessory buildings located within any commercial or industrial district shall meet all requirements set forth by the International Building Code and shall meet all setback requirements set forth in Article 3 of this Ordinance for the applicable zoning district.

3. Any lot with more than one frontage (rear or side yard street frontage) shall meet setback requirements for frontage required within the applicable zoning district.

7.1.D WATER RUNOFF

There shall be no water runoff on an adjacent property caused by an accessory building or structure. Side gutters may be required by the County Engineer.

7.1.E PROHIBITED USES

1. An accessory building shall not be used for residential living purposes unless converted to accessory living quarters.
2. No lot shall be divided through a subdivision if an existing accessory building or structure on the lot would exceed the standards under this section if so divided, unless said building is modified or removed to comply with the standards.

Section 7.2 DEFINITION: ACCESSORY LIVING QUARTERS

A subordinate structure used or capable of being used as living quarter which is incidental to but located on the same lot or parcel as the primary structure and not used for the conduct of business or commercial sheltering of individuals. Accessory dwellings may be permitted by an administrative Special Use Permit provided that all requirements of Section 2.6.C of the Ordinance are met.

Accessory dwellings such as maid's quarters, guest houses and other types of accessory dwellings that do not meet the requirements of Section 2.6.C of this Ordinance shall meet the requirements of this Section.

7.2.A All height, size and setback requirements listed in Section 7.1 shall apply except that accessory living quarters shall be limited to one thousand six hundred (1,600) square feet in size or less.

7.2.B All requirements set forth by the Uniform Building Code shall be met except in residential zones that allow mobile homes, a mobile home may be allowed as accessory living quarters, provided all other provisions of this Ordinance are met.

7.2.C All standards and requirements of the New Mexico Environmental Improvement Division shall be met for liquid waste disposal.

7.2.D Accessory living quarters shall not be used for the conduct of business or commercial sheltering of individuals.

7.2.E Accessory living quarters are limited to one (1) per primary dwelling unit.

7.2.F Accessory living quarters shall require a Special Use Permit application submitted to the Planning Division for administrative approval by the Planning Director. If the Planning Division receives any written or electronic correspondence in opposition to a Special Use Permit application by the deadline specified on the public notice, then the case shall go to a public hearing before the ETZ Commission, per Section 2.1.G of the Ordinance.

ARTICLE VIII. KEEPING OF ANIMALS

Section 8.1 KEEPING OF LARGE ANIMALS

The following regulations are established for the keeping of large animals in ER1M, ER1, ER2M, ER2, ER3M, ER3 and ER3H zoning districts. The keeping of large animals within the ER3/4M, ER3/4, ER4M and ER4 districts shall be permitted by Special Use Permit only. Youths participating in 4H or FFA sanctioned projects/programs shall be granted a 4H/FFA Exemption provided they meet the requirements of Section 8.4 below.

8.1.A All lots shall have a minimum of forty-three thousand five hundred sixty (43,560) square feet (one acre) for the keeping of large animals.

8.1.B Density per acre limitation for livestock is not applicable to young animals born on the property to existing animals and below weaning age or six (6) months of age, whichever is greater.

8.1.C One (1) acre or more- horses, mules, donkeys, swine, llamas, bovines and peacocks: minimum open lot area (not including dwelling unit) shall be one thousand (1,000) square feet for each animal, provided the total number of such animals shall:

- not exceed a density of two (2) animals per acre on lots of less than two acres in size.
- not exceed a density of three (3) animals per acre on lots of two (2) acres and larger.

8.1.D Mature stallions, bulls, buffalo and beefalo shall be prohibited from lots containing less than two (2) acres. Additional large animals will require a Special Use Permit. For animals not mentioned here, the density per acre limitation shall be determined by the Planning Director after consultation with relevant agencies.

8.1.E No animal shall be kept closer than thirty-five (35) feet to a dwelling on an adjacent parcel.

8.1.F Keeping of animals shall not be permitted in the required front, side and street-side yard setbacks.

8.1.G No animal dwelling unit shall be kept closer than one hundred (100) feet to a private water well or two hundred (200) feet from a public water well.

8.1.H The keeping of large animals shall be subject to the following development standards:

1. **Corral size** - every corral to be provided shall have a minimum width or length of not less than twelve (12) feet and shall contain not less than two hundred forty (240) square feet of area.
2. **Box stall** - every box stall to be provided shall have a minimum of twelve (12) feet of length and width.

3. **Fencing** - fencing to be provided shall be subject to the following:
 - a. **Materials and construction** - fencing may be constructed of wood, chain link, masonry, metal and materials with the structural integrity sufficient to contain animals.
 - b. **Fence posts** - fence posts may be constructed of wood, metal, concrete or materials with the structural integrity sufficient to contain animals.
 - c. **Fence height** - fences to be provided for enclosure shall be maintained not less than four and one half (4 1/2) feet in height. For use in conjunction with stud stalls, such fence shall be maintained not less than six (6) feet in height.
4. **Shade** - corrals containing less than four hundred fifty (450) square feet of area shall have at least fifty-four (54) square feet of shade, provided by either roof, trees or other means.
5. **Water facilities** - running water facilities shall be provided within fifty (50) feet of each stall and/or corral and each animal shall have access to fresh water.
6. **Maintenance** - all stall and corrals shall be continuously maintained with preservatives, fasteners and other materials so as to maintain appearance and prevent deterioration and animal escape.
7. **Containment devices** - substantial and acceptable locking or latching devices shall be provided and installed on all gates and doors to animal areas located thereon in such a manner so as to be inaccessible to animals and small children. This will prevent unauthorized entry and animal escape.
8. **Dust control** - all areas used as arenas for exercising, training or exhibition of animals shall be maintained to abate dust by dampening (spraying water) or other acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
9. **Compliance with health regulations** - the keeping and maintenance of large animals, as provided for in this Section, shall comply with all regulations and provisions of the Health and Sanitation laws of the state Environment Improvement Department and the County. All premises and facilities upon which animals, poultry or fowl are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread at least once a week so as not to constitute a nuisance and all premises and facilities shall be treated weekly with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents which in any way can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace and/or tranquility of the general public.

Section 8.2 KEEPING OF SMALL ANIMALS IN LOWER DENSITY DISTRICTS

The following regulations are established for the keeping of small animals such as goats, sheep, miniature horses and the like and very small animals such as rabbits, poultry and fowl in the ER1M, ER1, ER2M, ER2, ER3M, ER3, ER3H, ER3/4M, ER3/4, ER4M and ER4 zoning

districts. For animals not listed here, the density per acre limitations shall be determined by the Planning Director after consultation with relevant agencies.

8.2.A The following are the minimum areas required and the maximum density of very small and small animals allowed on a single lot.

1. Very small animals - minimum area of open lot area (not including front and side setbacks or dwelling unit) shall be six (6) square feet for each very small animal, providing that the total number of animals does not exceed the number calculated by this formula:
 - multiply the size of the lot or parcel, expressed numerically in acres carried to two decimal places, by a factor of eighty (80) [ex. 2.5 acres * 80 = 200 very small animals]
2. Small animals - minimum area of open lot area (not including front and side setbacks or dwelling unit) shall be one hundred (100) square feet for each small animal, providing that the total number of animals does not exceed the number calculated by this formula:
 - multiply the size of the lot or parcel, expressed numerically in acres carried to two decimal places, by a factor of eight (8) [ex. 0.65 acres * 8 = 5.2, or 5 small animals]

8.2.B No animal shall be kept closer than thirty-five (35) feet to a dwelling on an adjacent parcel.

8.2.C Keeping of animals shall not be permitted in the required front, side and street-side yard setbacks.

8.2.D All small animals shall be provided with adequate enclosures to contain them within the boundaries of the owner's property.

8.2.E No animal dwelling unit shall be kept closer than one hundred (100) feet to a private water well or two hundred (200) feet from a public water well.

8.2.F All premises and facilities upon which animals, poultry or fowl are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread at least once each week so as not to constitute a nuisance. All premises and facilities shall be treated weekly with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents which in any way can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace and/or tranquility of the general public.

8.2.G The keeping and maintenance of small animals, as provided for in this Section, shall comply with all regulations and provisions of the health and sanitation laws of the State Environmental Improvement Division and the County.

Section 8.3 KEEPING OF SMALL ANIMALS IN HIGHER DENSITY DISTRICTS

In the ER5M, ER5, ER6M, ER6, ER7M and ER7 zoning districts, only small domestic animals, such as dogs, cats or birds may be kept as per county ordinances.

Section 8.4 REQUIREMENTS FOR 4H AND FFA PROJECTS/PROGRAMS

When the youth are involved in a sanctioned 4H or FFA project/program and the livestock are housed on the property on a temporary basis, they shall maintain proof of their involvement along with a beginning and ending date of each project/program.

8.4. A Exemptions

1. Youths who reside within the ER1M, ER1, ER2M, ER2, ER3M, ER3, ER3H, ER3/4M, ER3/4, ER4M and ER4 zoning districts, and are actively participating in 4-H or FFA, shall not be required to obtain a Special Use Permit so long as the parcel is at least one acre in size. Youths shall be exempt also from the open lot area and density (8.1.C), corral size (8.1.H.1) and box stall size (8.1.H.2) requirements of this Article.
2. All other zoning districts not listed or properties with a parcel size of less than one acre shall be required to obtain a Special Use Permit.

8.4.B Nothing in this section shall be construed to allow the violation of any other code, ordinance or statute.

ARTICLE IX. NONCONFORMING USES, BUILDINGS AND LOTS

Section 9.1 CONTINUITY OF NONCONFORMING USES AND COMPLETION OF NONCONFORMING PROJECTS

9.1.A Unless otherwise specifically provided for in this Ordinance, legal nonconforming uses that were otherwise lawful on the effective date of this Ordinance may be continued regardless of ownership until the current use changes. This shall include all legal nonconforming uses recognized up to 28 NOV 1979 and all Special Use Permits issued after 28 NOV 1979 up to the effective date of this Ordinance.

9.1.B A letter of legal nonconforming use will be issued by the Planning Director and shall be required for all nonconforming uses of land, buildings or mobile homes created by the adoption of this Ordinance. It is the responsibility of the property owners to furnish affidavits or other legal documents to the Planning Director establishing the legal nonconforming use status of the land, buildings or mobile homes.

Section 9.2 MAINTENANCE PERMITTED

A legal nonconforming building or structure may be maintained and the occupancy of such building or structure may be continued, however, the nonconforming use shall not be changed or expanded. A building permit shall be countersigned by the Planning Director to ensure compliance.

Section 9.3 REPAIRS AND ALTERATIONS

Repairs and structural alterations may be made to a nonconforming mobile home, building or to a building housing a nonconforming use, however, the nonconforming use shall not be expanded or changed.

Section 9.4 RESTORATION OF DAMAGED BUILDINGS

A legal nonconforming building, mobile home or a building housing a nonconforming use which is damaged or destroyed by fire, flood or other calamity or act of nature may be restored and the building, structure or use of such building, structure or part thereof may be continued or resumed, provided that such restoration is started within a period of one (1) year from the date of destruction and is diligently followed to completion. Such restoration shall not increase the floor space devoted to the nonconforming use over that which existed at the time the building came into nonconforming status. A building permit or mobile home installation permit shall be obtained and countersigned by the Planning Director noting any restrictions and/or requirements to enable the nonconforming use to continue without violation of this Ordinance.

Section 9.5 DISCONTINUANCE OR ABANDONMENT

A legal nonconforming use, building, mobile home or structure or portion thereof or a lot occupied by a nonconforming use which is, or hereafter becomes abandoned or which is discontinued for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the regulations of the zone in which it is located.

Section 9.6 TRANSFER OF USE

If a legal nonconforming use is sold, leased or otherwise transferred, the use may continue with no change or expansion of use, unless the change is to a conforming use.

Section 9.7 CHANGE OF USE

The legal nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

Section 9.8 EXPANSION OF USE PERMITTED

A legal nonconforming use may be extended throughout any portion of a completed building, subject to administrative approval, when the use was made nonconforming by this Article and when it was manifestly designed or arranged to accommodate such use.

Section 9.9 NONCONFORMING USE OF LAND

The legal nonconforming use of land, existing at the time this Ordinance became effective, may be continued, provided that no such nonconforming land use shall in any way be expanded, extended or increased in intensity of use, either on the same or adjoining property, and provided that if such nonconforming use of land or any portion thereof, is abandoned for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of this Ordinance.

Section 9.10 NONCONFORMING LOTS

9.10.A When a legal nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum set forth in Article 3 of this Ordinance, the lot may be used as zoned as if it were conforming.

9.10.B If an undeveloped nonconforming lot is less than 0.33 acres and adjoins one or more undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this Section and must aggregate the lots.

Section 9.11 PERMITS GRANTED PRIOR TO PASSAGE OF CODE

Authorization granted by the County to construct a building or structure shall not be denied or abridged in the event that a building permit has been issued and such permit is still valid.

In the case of a Special Use Permit issued prior to the effective date of this Ordinance, the use may be continued as a nonconforming use and shall not be expanded or changed in use. A Special Use Permit granted prior to enactment on this Ordinance which has not begun or does not comply with conditions may not be extended beyond the one hundred eighty (180) day period from issuance of the permit.

Section 9.12 SUBDIVISION APPROVED PRIOR TO PASSAGE OF CODE

A subdivision on which an application was submitted to the County Planning and Zoning Commission prior to the adoption of this Ordinance shall be allowed in any zone, regardless of zone requirements of lot size, if the requirements for final approval have been met and the plat approved within fifteen (15) months of the adoption of this Ordinance.

Section 9.13 REPLACEMENT OF LEGAL NONCONFORMING MOBILE HOMES WITH SITE BUILT DWELLINGS

Legal nonconforming mobile homes may be replaced with site built dwelling, including duplexes, provided that neither the total number of dwellings or bedrooms is not increased.

ARTICLE X. SIGNS

Section 10.1 PURPOSE

The purpose of this Section is to encourage the most appropriate use of signs, promote and protect the health, safety, general welfare and aesthetics of the Extra-territorial Zone.

Section 10.2 SIGN DEFINITION

A sign shall mean any outdoor display, design, pictorial or other representation which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner so that the same shall be used for advertising. The term 'sign' shall include the sign structure. Every sign shall be classified and conform to the requirements of each such classification set forth in the Article.

Section 10.3 ASSOCIATED SIGN DEFINITIONS

For the purpose of this Section, the following definitions shall apply for interpreting the provisions of this Section.

10.3.A ATTACHED SIGN - any sign which is fastened, attached, connected or supported in whole or in part by a building, or in part by a building or structure other than a sign structure which is supported wholly by the ground. Attached signs include wall signs, marquee signs, projecting signs and roof signs.

10.3.B BILLBOARD SIGN - a freestanding pole sign with at least seventy-two (72) square feet of face area which advertises or directs attention to a business, product, service or event not appurtenant to the use(s) of the property on which it is located.

10.3.C DISPLAY SURFACE - the entire surface area of a sign, used for the purpose of displaying the advertising message, excluding the sign frame and incidental supports.

10.3.D GROUND SIGN - signs, which are not attached or supported by any part of a building. All ground signs, which have a total height of twenty (20) feet or greater shall require an Engineers' seal, certified in the state of New Mexico and such certified construction shall meet all requirements of the New Mexico UBC.

10.3.E OFF-PREMISE SIGN - any sign identifying or advertising the business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained, or which directs persons to any location not on the premises. The only off-premise sign permitted by this Ordinance are billboards as defined in this Article.

10.3.F ON-PREMISE SIGN - any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premise is used for business purposes.

10.3.G PORTABLE SIGN - any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or as a designed mobile structure. A portable sign which has its wheels removed shall still be considered a portable sign for the purposes of this Ordinance.

10.3.H SHOPPING CENTER - a group of three or more commercial establishments planned, constructed, owned and managed independently or as a total entity.

10.3.I SIGN STRUCTURE - any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and may or may not be an integral part of the building.

10.3.J SPECTACULAR SIGN - any sign which has automatically changing advertising or which is equipped with glaring or rotating strobe or spotlights which oscillates, rotates, flashes, animates or varies intensity or color.

10.3.K TEMPORARY SIGN - any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials. A portable sign shall not be considered a temporary sign.

10.3.L TOTAL FACE AREA - the entire surface area of a sign used for the purpose of displaying the advertising message, including the sign frame. The total face area is the entire area within a single continuous perimeter composed of squares or rectangles which enclose the extreme limits of the advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space of a similar nature, together with any frame or other material, color or condition which forms an integral part of the display and is used to differentiate such sign from the wall or background against which it is placed.

Section 10.4 ON PREMISE SIGN PROVISIONS

Zone Maximum	Types Permitted	Area	Number	Maximum Height	Maximum Setback
All ER Zones	1. Residence Name	4 sq.ft.	1 per dwelling	6'	3' front & side
	2. Real Estate Sale Sign	6 sq.ft.	1 per dwelling	6'	3' front & side
	3. Contractor or Developer Construction Sign (duration of construction only)	32 sq.ft.	2 per project	10'	10' front & side
	4. Subdivision	48 sq.ft.	1 per subdivision	10'	10' front & side
EC1 Zone	Business Name and/or Advertising Sign	40 sq.ft. attached 40 sq.ft. ground sign	No limit 1 per business	10' 18'	10' front & side 15' front & side
	EC2, EI1, EI2, EI3	Business Name and/or Advertising Sign	No limit 1 per business	20' 30'	N/A 15' front & side
Notes:		<ol style="list-style-type: none"> Square footage for attached listed above represents the total permitted for the area. Square footage for ground sign listed above represents one side of a ground sign. 			
Section 10.4.A Shopping Center Sign Provisions					
EC1	1. Shopping Center Name and/or Businesses	175 sq.ft. ground sign	1 per street frontage		
	Advertising Sign	40 sq.ft. attached sign			
EC2, EI1, EI2, EI3	1. Shopping Center Name and/or Businesses	250.ft. ground sign	1 per street frontage		
	Advertising Sign	8 sq.ft. attached sign	1 per business		

Section 10.5 OFF PREMISES SIGN PROVISIONS

The provisions of this Section shall apply only to off premises signs as defined in this Article.

10.5.A General location - all off premises signs shall be located in EC2, EI1, EI2, EI3 and EI4 zoning districts along interstate highways or major arterials.

10.5.B Total face area, spacing and height - all billboards located on interstate highways and major arterials shall be subject to the following requirements:

1. Billboards located along interstate highways shall not exceed six hundred seventy-two (672) square feet of total face area, be spaced a minimum of one thousand (1,000) feet apart, measured radially, and shall not exceed forty (40) feet in height measured from ground level.
2. Billboards located along major arterials shall not exceed three hundred (300) square feet of total face area, not exceed two hundred thirty-five (235) square feet of display area, be spaced a minimum of one thousand (1,000) feet apart, measured radially, and shall not exceed thirty (30) feet in height measured from the ground elevation. Major arterials shall be defined by the Metropolitan Planning Organization Official Thoroughfare Map.
3. Billboards shall not be located along minor arterials, collectors or local streets. Minor arterials and collectors shall be defined by the Metropolitan Planning Organization Official Thoroughfare Map.
4. Billboards shall be supported by a maximum of two (2) upright poles.
5. Billboards shall be set back a minimum of fifteen (15) feet from the property line along major arterials and thirty (30) feet from the property line along interstate highway rights-of-way.

Section 10.6 PORTABLE SIGNS

10.6.A Portable signs transported on trailers shall meet all applicable state and local laws regulating hitch and safety devices.

10.6.B Every portable sign not in transit shall be securely anchored to the ground by ground supports to prevent overturning in high winds.

10.6.C Portable signs shall, for the purposes of this Section, be considered non-mobile, non-portable ground signs and thereby are subject to all provisions of this Article, including the structural requirements, spacing requirements, permitting and fee requirements, on and off premises provisions and all other provisions of this Article applicable to ground signs unless a provision which applies by its terms to portable signs is in conflict with a provision applying to ground signs, in which case the provisions applying specifically to portable signs would control.

10.6.D Portable signs shall be placed on level ground only or leveled during set up.

10.6.E Portable signs shall be setback a minimum of fifteen (15) feet from the edge of pavement unless the right-of-way extends fifteen (15) feet beyond the edge of pavement, in which case a portable sign may be placed on the property line.

10.6.F In no case shall a portable sign be placed in a clear sight triangle.

10.6.G Portable signs shall be considered as part of the maximum number of permitted ground signs and therefore shall be limited to one portable sign per commercial business or one (1) per shopping center street front.

Section 10.7 PROHIBITED SIGNS

All signs listed in this Section shall be prohibited in all zoning districts. Any sign found in violation of this Section shall be subject to the provisions of this Ordinance.

10.7.A Signs on public rights-of-way. With the exception of signs lawfully permitted or erected prior to the passage of this Ordinance, it shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds, on any public bridge or part

of same or on any public building or structure of any kind belonging to the County or in any public place or on any public improvement unless express consent thereof shall have been first granted by the County Commission.

10.7.B Signs resembling official signs. No sign shall be constructed which resembles any official marker erected by the County, State or any governmental agency or which by reason of position, shape or color would conflict with the proper functioning of any traffic sign, signal or which by its shape or color would conflict with or be confused with emergency vehicle lights, especially blinking lights. Use of words such as 'stop', 'danger' or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic is prohibited.

10.7.C Signs employing motion picture machines. No sign shall employ a stereopticon or motion picture machine.

10.7.D Spectacular signs. Spectacular signs shall be prohibited, with the exception that moving or intermittent lights may be used to give time, date and temperature only.

10.7.E Stacked billboards. The stacking of billboard vertically or horizontal shall be prohibited regardless of total face area permitted.

10.7.F Signs located within any clear-sight triangle. Other than those signs required for the direction and control of traffic placed by local, state or other governmental agency, signs shall be prohibited from placement in any clear-sight triangle at any intersection.

Section 10.8 GENERAL SIGN PROVISIONS

10.8.A Height limitations. Maximum height of a sign shall conform to heights established in Section 10.4 of this Article and shall include cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the ground surface in which the sign supports are placed. These height limitations shall not apply to on premises signs lawfully permitted or lawfully erected prior to the date of passage of this Ordinance.

10.8.B Minimum setbacks. All minimum setbacks shall conform to the standards established in Section 10.4 of this Article.

10.8.C Size limitations. All size limits shall conform to the standards established in Section 10.4 of this Article.

10.8.D Lighting reflectors. Lighting reflectors on ground signs may not project beyond the face of the sign.

10.8.E Proper shielding of lighted signs and interference with vehicular or pedestrian traffic. Signs containing lights which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and which are of such intensity of brilliance as to cause glare or to impair the vision of vehicle or pedestrian traffic or which otherwise interferes with vehicular or pedestrian traffic are prohibited.

10.8.F Political signs. No permit shall be required under this Article for a sign erected solely for and related to public election for a period commencing ninety (90) days prior to and for seven (7) days following such public election provided that such sign shall be located on private property only, be constructed of lightweight material and shall not exceed thirty-two (32) square feet in size and not exceed an overall height of eight (8) feet from finished grade of surrounding ground. Further, the political sign should meet minimum setbacks as set forth in Section 10.4 of this Article.

10.8.G Signs not to create easements. No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a

permanent easement and every such permit shall be revocable at any time by the County Code Compliance Division. Doña Ana County shall not be liable for any damages to the owner by reason of such revocation.

10.8.H Signs obscuring or interfering with view. Signs may not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles within a clear sight triangle of thirty (30) feet or greater based on traffic safety regulations.

Section 10.9 EXCEPTIONS

No permit shall be required under this Section for on premises signs of the following descriptions unless any such sign is a spectacular sign or a portable sign. Any sign listed hereafter shall be erected and maintained in a safe condition in conformity with this Section of this Article.

10.9.A Signs painted on glass surfaces or windows or doors; or

10.9.B Restaurant menu boards used in conjunction with drive up windows. Such menu boards shall not exceed twenty (20) square feet. One menu board per restaurant shall be allowed; or

10.9.C Signs erected by the city, state (including its political subdivisions, such as counties and school districts) or the federal government and the lessees of such governmental entities; or

10.9.D Railroad signs; or

10.9.E Legal notices and house numbers; or

10.9.F Signs otherwise required by federal, state or local law; or

10.9.G On premises signs setting forth the location of or directions to parking or buildings located on the premises or regulating the flow of on premise traffic shall be a maximum of twenty-four (24) inches high and one hundred forty-four (144) square inches of face area; or

10.9.H A sign not over thirty-two (32) square feet in area setting forth information concerning a building or other structure under repair or construction during the time of construction or repair. Signs for sale or rental of residential property shall not exceed six (6) square feet; or

10.9.I Temporary signs shall be six (6) square feet on commercial and residential premises, provided the number of such signs does not exceed one (1) in number, such signs are displayed on consecutive days for a maximum of seven (7) days in any ninety (90) day period; or

10.9.J Temporary signs, balloons, banners and flags for fiestas and holiday decorations.

ARTICLE XI. EFFECTIVE DATE AND TRANSITION RULES

Section 11.1 EFFECTIVE DATE

This Ordinance shall become effective 1 February 1989, or thirty (30) days after its enactment, whichever shall occur later. Throughout this Article, the term 'transitional period' shall mean the two year period immediately following the effective date of this Ordinance.

Section 11.2 RECONSIDERATION OF PRIOR ZONING DECISIONS

During the transition period, any zoning decision made or adopted by the ETZ Commission during the period prior to 31 December 1988 (and officially adopted by the ETZ Authority concurrently with this Ordinance) may be submitted to the ETZ Commission for reconsideration by any interested party. A party is considered 'interested' for the purposes of this Section if he/she/it has an ownership interest or leasehold interest with three (3) years or more remaining (including options) in any part of a previously zoned area the zoning decision of which is submitted for reconsideration, or is otherwise entitled to notice pursuant to Section 2.1.G of this Ordinance. Any decision of the ETZ Commission under this Section may be appealed as provided in Section 2.4 of this Ordinance. No application fee shall be charged for a request for reconsideration under this provision. Only one such reconsideration for any one (1) parcel of property within the ETZ jurisdiction may be made.

Section 11.3 ZONE CHANGES

During the transitional period, any person/entity entitled to file an application under Section 2.1.C for a zoning change is entitled to do so one (1) time for any parcel of land within the ETZ jurisdictional area. No application fee shall be charged during the transitional period for such an application for a zoning change during the transitional period.

Section 11.4 NOTICE REQUIRED

Notice as required in Section 2.1.G shall apply to all changes and reconsiderations made under this Article.

Section 11.5 LIMITED PERIOD OF ARTICLE

This Article shall become null and void after the transitional period is complete.

ARTICLE XII. OUTDOOR LIGHTING

Section 12.1 PURPOSE AND APPLICABILITY

12.1.A The purpose of these outdoor lighting standards are to restrict undesirable luminescence or the emission of light rays into the night sky which may be detrimental to traffic safety, aviation, and astronomical observations, and which may promote light trespass into adjoining properties. These standards, further, are to promote energy conservation.

12.1.B These standards apply to all outdoor lighting devices used for illumination or advertisement.

12.1.C These standards do not apply to incandescent lamps of 150 watts or less; glass tubes filled with neon, argon or krypton; outdoor advertising signs constructed of translucent material wholly illuminated from within, and fossil fuel light sources.

Section 12.2 SHIELDING

12.2.A Except as otherwise provided in Section 12.2.B, all lighting devices or fixtures shall be shielded in such a manner that light rays emitted by the device or fixture, whether directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

12.2.B Low pressure sodium lamps shall be shielded in such a manner that the lowermost edge of the shield is below the plane of the centerline of the light source or lamp so that light emission is limited to twenty degrees below the horizontal plane.

Section 12.3 HEIGHT RESTRICTIONS

12.3.A All lighting devices or fixtures must follow height restrictions as outlined in the development standards of the respective zoning districts in Section 4.1.

12.3.B No lighting device shall be of greater height than the tallest existing structure on subject property.

Section 12.4 LIGHT POLLUTION, GENERAL REQUIREMENTS

12.4.A Outdoor light fixtures installed for security purpose or for illumination of commercial/industrial establishments must be shielded.

12.4.B Only shielded, high or low pressure sodium outdoor light fixtures may be installed to provide illumination for public streets or for any purpose other than that specifically listed in Section 12.4.A.

12.4.C All outdoor light fixtures maintained on public or private property, whether installed before or after the effective date of this ordinance, shall be turned off between 11:00 p.m. and sunrise except when used for:

12.4.C.1 Commercial and industrial uses where business is conducted after 11:00 p.m., but only during periods when such activity is occurring.

12.4.C.2 Illuminated advertising sign on the premises of a business while it is open to the public.

12.4.C.3 Lighting necessary for security purposes or to illuminate doorways, walkways, roadways, equipment yards and parking lots.

12.4.C.4 Recreational uses that continue after 11:00 p.m., but only during periods when such activity is occurring.

12.4.D The operation of searchlights for advertising or commercial purposes is prohibited.

Section 12.5 FLASHING LIGHTS

12.5.1 The use of flashing, rotating or pulsating lights in/on any outdoor sign or other lighting device is prohibited.

12.5.2 Such outdoor lighting devices existing and legally installed and operative before the effective date of this ordinance are exempt from the provision of Section 12.5.1 for a period of one year. At such date, all flashing, rotating or pulsating lights must come into compliance with these standards.

12.5.3 This provision shall not apply to flashing, rotating or pulsating lights intended to warn of hazards and danger.

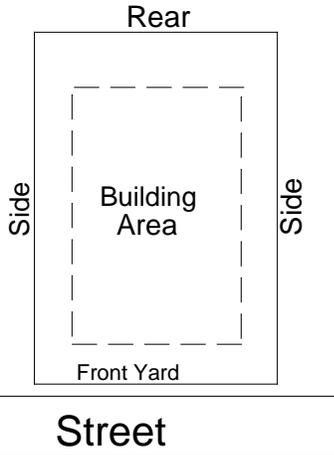
Section 12.6 RESIDENTIAL SPILL-OVER

Off-street lighting shall be shielded and/or directed in such a manner that it only illuminates the user's premises, and does not spill-over into neighboring residential areas, so as to interfere with the peaceful enjoyment of residential properties.

Section 12.7 NONCONFORMING FIXTURES

12.7.A Except as provided in Section 12.5.2, all outdoor lighting fixtures existing and legally installed and operative before the effective date of this ordinance, and all outdoor recreational facilities designed for specific sporting events are exempt from the shielding requirements of this code for a period of five years. At such date, all lighting fixtures shall come into compliance with these standards.

12.7.B If a nonconforming fixture is replaced during its respective exemption period, the replacement will be required to meet these standards.



INTERIOR LOT

SECTION 4.1

Interior lots require one (1) front yard, one (1) rear yard, and two (2) side yards.

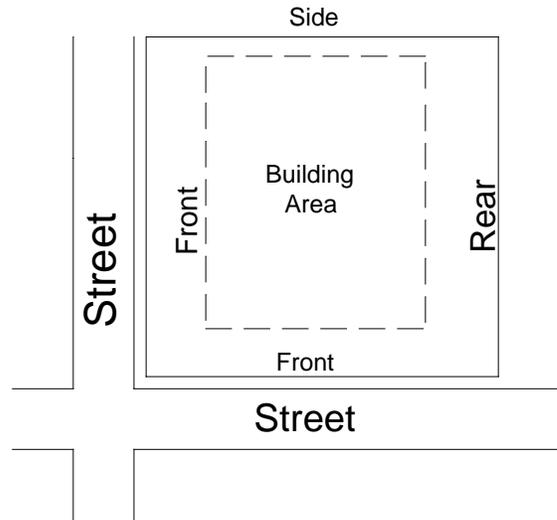
Building area is that area of a lot which is or may be occupied by buildings or structures pursuant to the requirements of this code.

CORNER LOT

SECTION 4.2.A1 [a]

Corner lots require two (2) front yards, (1) rear yard, and one (1) side yard.

Home owner has option of location of rear and side yard.



DOUBLE FRONTAGE LOT

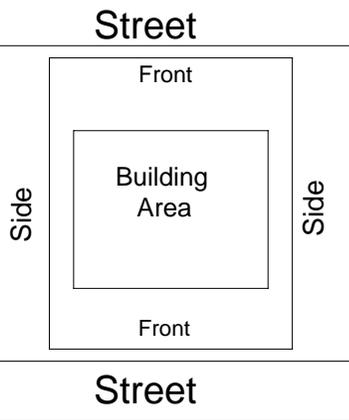
SECTION 4.2.A1 [a]

Double frontage lots require two (2) front yards and two (2) side yards.

TRIPLE FRONTAGE LOT

SECTION 4.2.A1 [a]

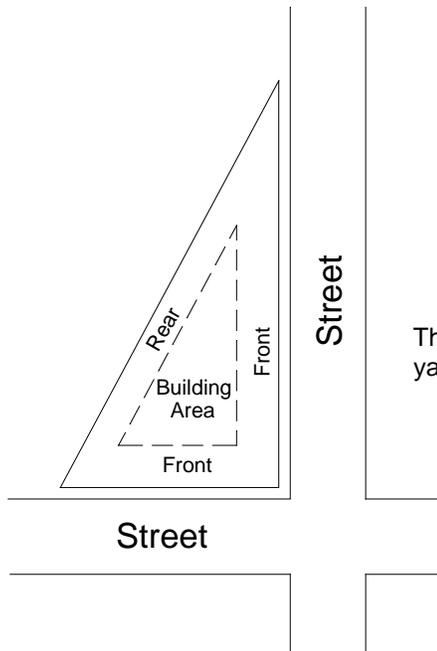
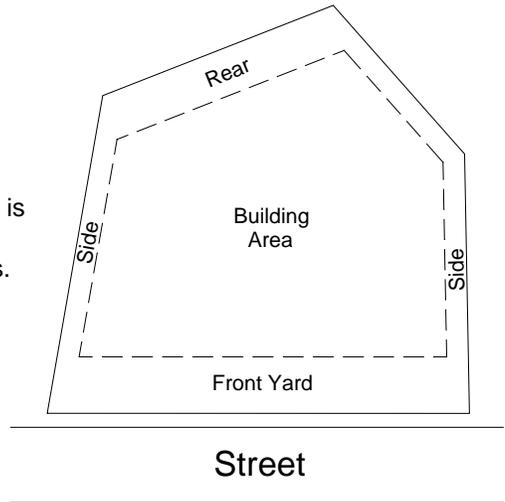
Triple frontage lot requires three (3) front yards and one (1) side yard.



YARD REQUIREMENTS FOR ODD SHAPED LOTS

PENTAGONAL LOT

On odd shaped lots the rear yard is determined by the rear line that is most parallel to the front yard. This pentagonal shaped lot would require one (1) front yard, one (1) rear yard and three (3) side yards.

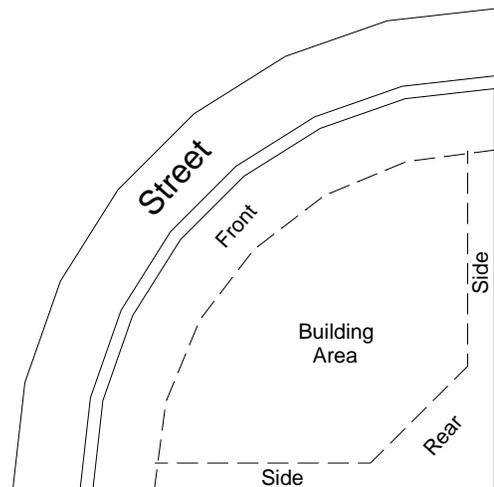


TRIANGULAR LOT

This triangular lot would require two (2) front yards and one (1) rear yard.

PIE-SHAPED LOT

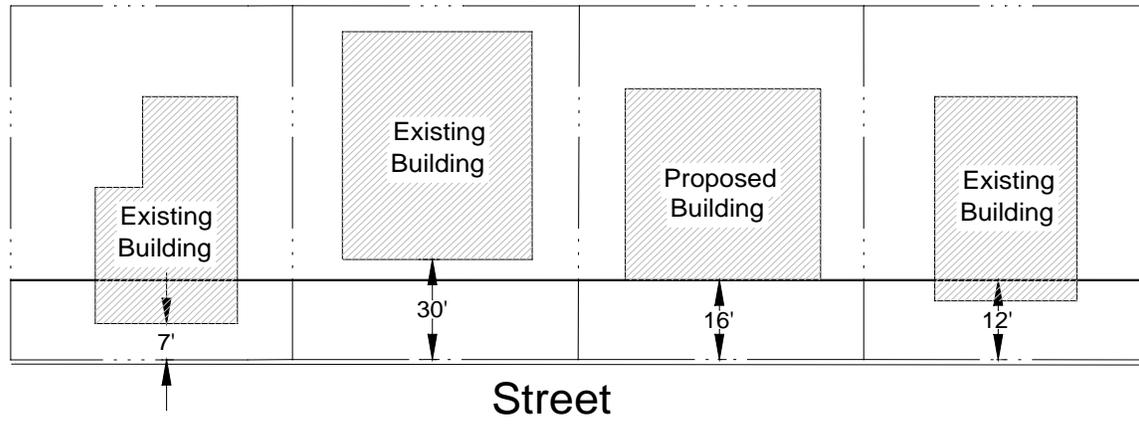
This pie-shaped lot requires calculation of the rear yard at a line measured from the corner a distance of the required rear yard, mid-point between the two side property lines.



AVERAGE SETBACKS

SECTION 4.2 A 1 (b)

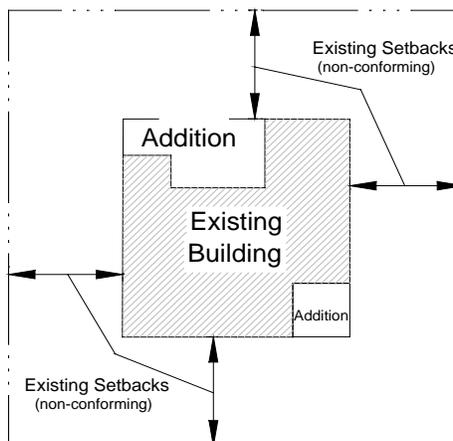
YARD MODIFICATIONS



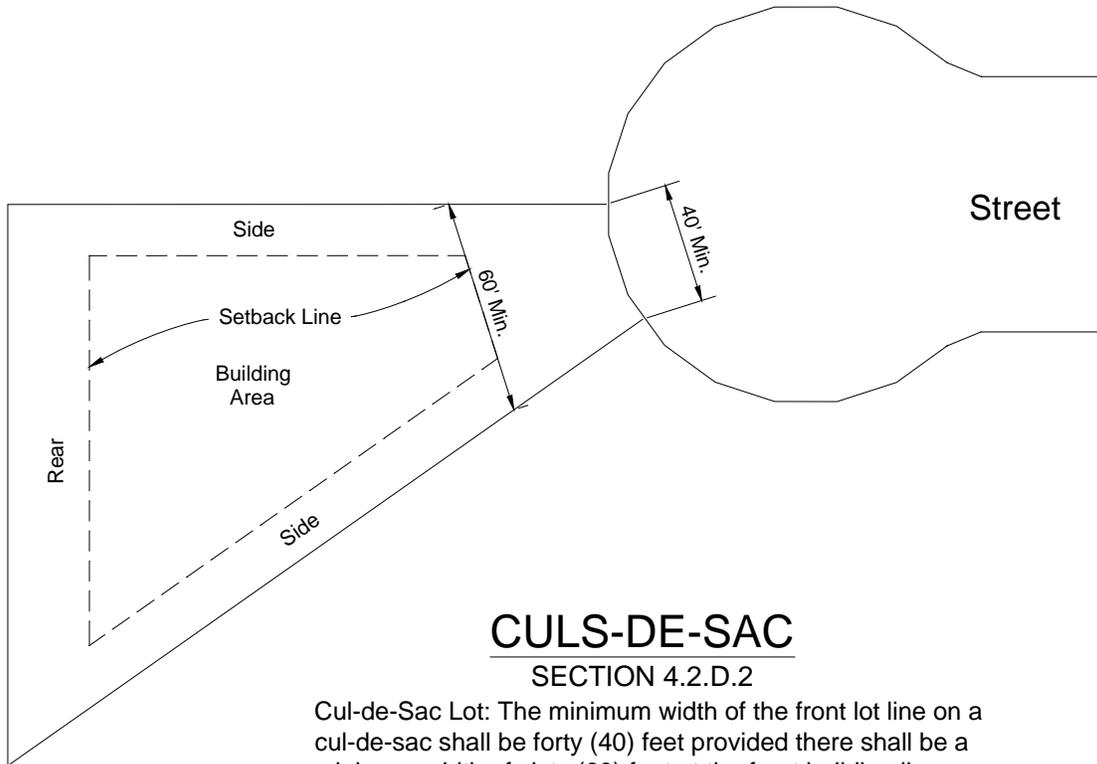
A proposed front yard setback that is an average of all of the front yard setbacks existing on the entire side of a block is permitted on lots of record. 40% (forty) or more of the lots on the same side of the street must be developed.

NON-CONFORMING SETBACKS AND DWELLING ADDITIONS

SECTION 4.2 A 1 (b)



LOT SIZE MODIFICATIONS



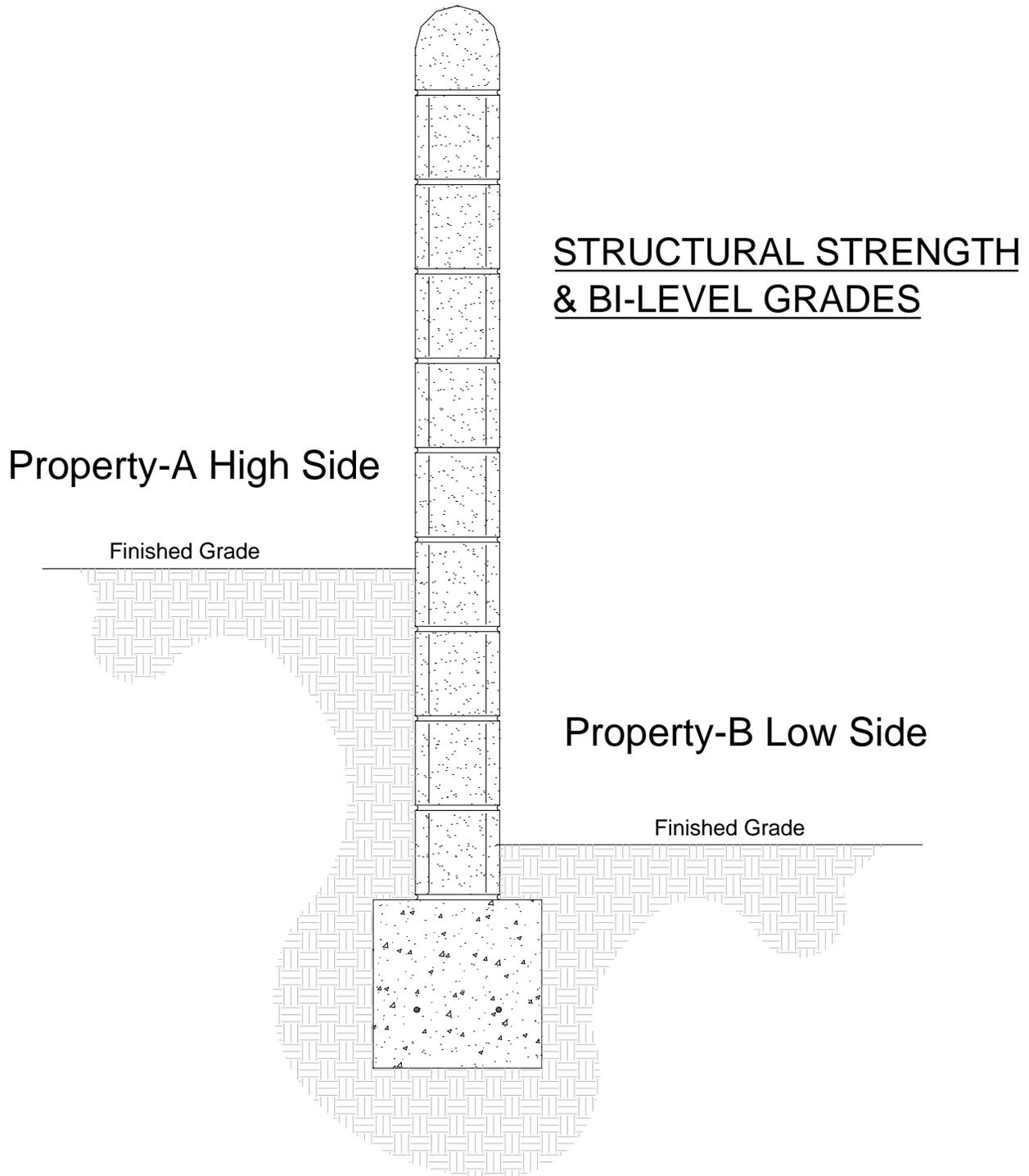
CULS-DE-SAC

SECTION 4.2.D.2

Cul-de-Sac Lot: The minimum width of the front lot line on a cul-de-sac shall be forty (40) feet provided there shall be a minimum width of sixty (60) feet at the front building line.

FENCES & WALLS

SECTION 8.1

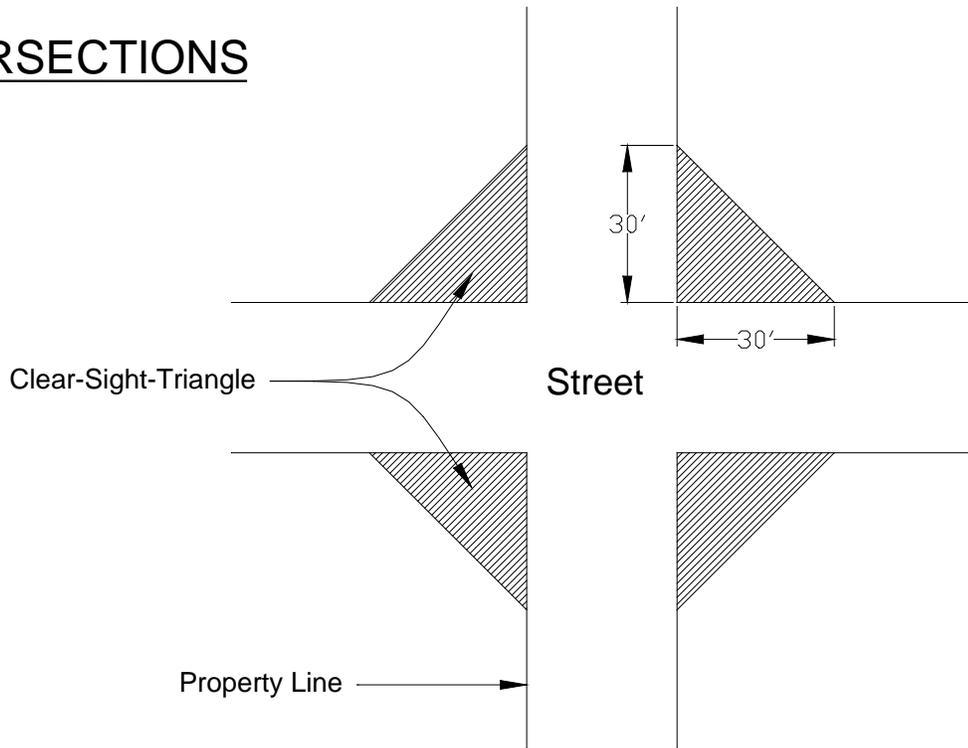


NOTE: FINISHED GRADE LEVEL IS DEFINED AS THE LEVEL OF GROUND ABUTTING THE FENCE OR WALL.

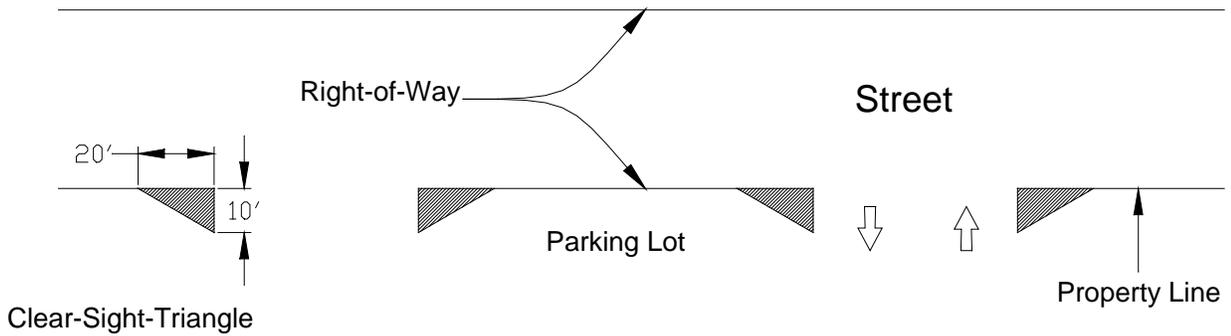
NOT TO SCALE

CLEAR SIGHT TRIANGLE

INTERSECTIONS



OFF STREET MULTIPLE PARKING AREAS



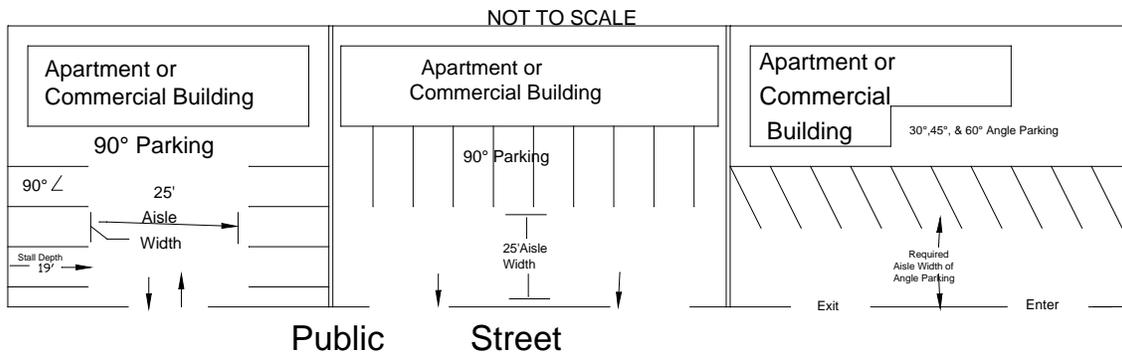
NOT TO SCALE

PARKING LAYOUTS & OFFSTREET TRAFFIC FLOW ILLUSTRATIONS

Section 6.4

Dimensions shown below are for illustration purposes only and are subject to changes that may be required during review and approval.

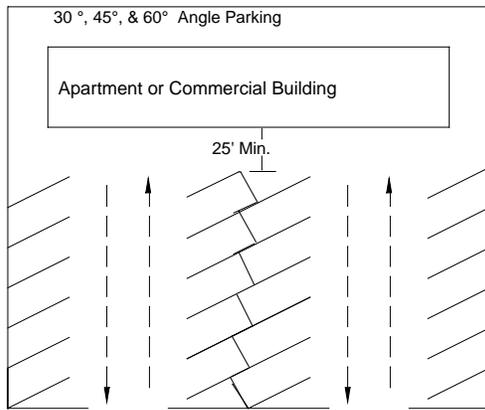
DESIGN STANDARDS



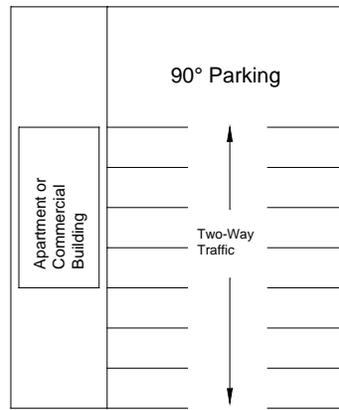
Two-way traffic with forward entry and exit to a public street.

Two-way traffic from 90° parking stalls.

One-way traffic only in this design with entry giving forward access to stalls and exit giving forward access in one direction.

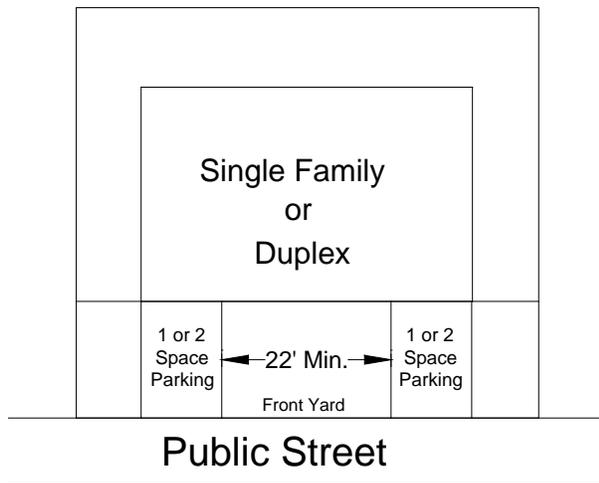


Two-way traffic and angle parking is shown above where there is entry and exit from stalls in one forward direction.

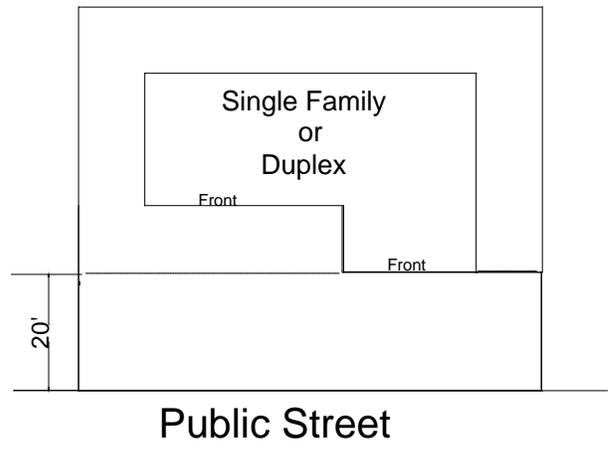


Two-way traffic is where there is forward entry and exit to a public street.

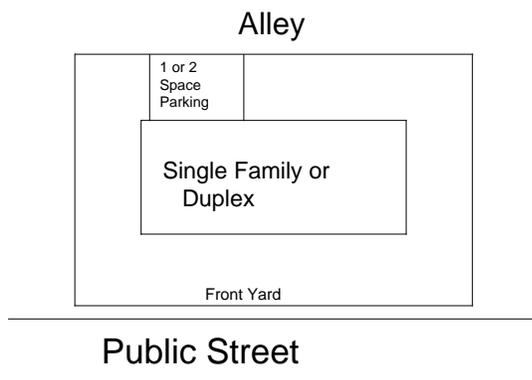
SECTION 4.2 A 1 (b)



Backout parking is permitted for a single-family or duplex unit provided the required distance between curb cuts is maintained.



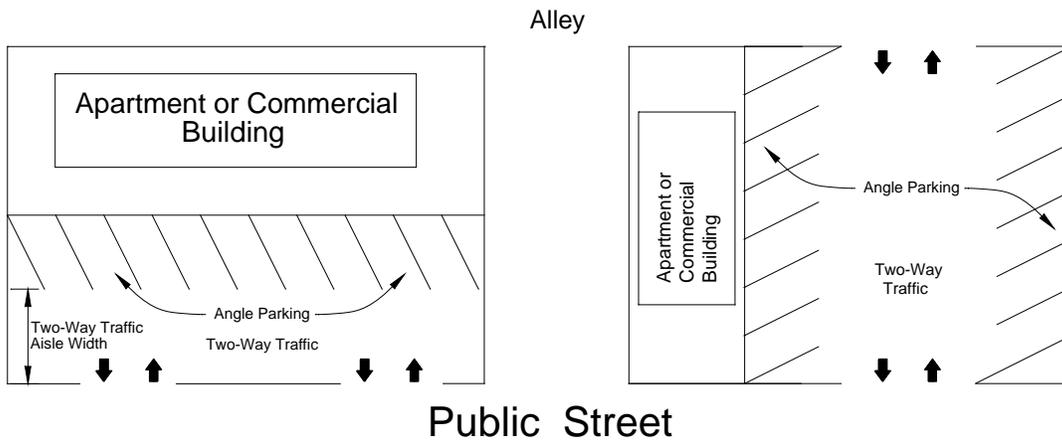
No more than 1/3 of any part of a yard to the front of a dwelling may be used for parking.



A maximum of a double parking space is permitted with access to alley.

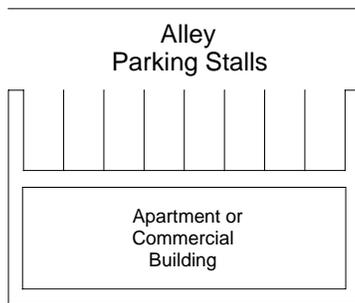
APPENDIX E-3

No Scale

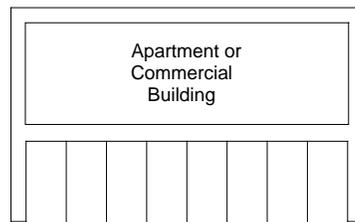


A two-way traffic aisle is not designed for entry into angle parking stalls in both directions. This design requires one-way traffic and one-way aisles only.

Two-way or one-way traffic is not permissible with access to an alley or when there is not both entry and exit in one forward direction to a public street.



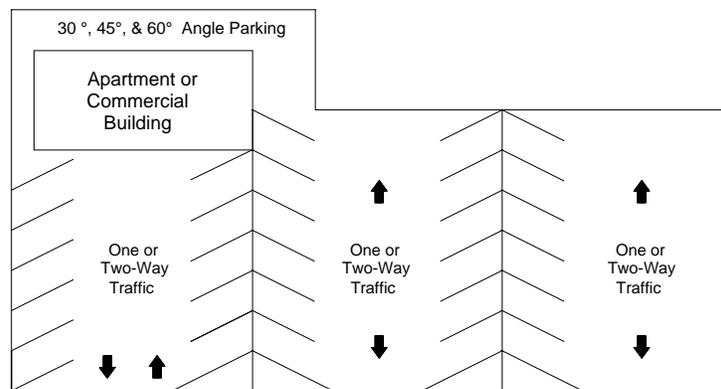
Public Street



Public Street

Parking is not permitted with exit or entry to an alley.

Parking is not permitted with out a required aisle and curb-cuts to prevent backout parking except for single-family or duplexes.



Public Street

Designs shown above are not permissible because there are not adequate aisles or spaces.