

**ROSWELL-CHAVES COUNTY
EXTRATERRITORIAL ZONING AUTHORITY
CHAVES COUNTY ADMINISTRATIVE CENTER
#1 ST. MARY'S PLACE, ROSWELL, NM 88203**

PUBLIC HEARING

SEPTEMBER 19, 2024 @ 11:00 AM.

A G E N D A

I. CALL TO ORDER

II. ESTABLISH A QUORUM

III. CONSIDERATION OF MINUTES: AUGUST 22, 2024

IV. OLD BUSINESS

ARTICLE 2 (Administration), **ARTICLE 3** (Rules-Definitions), **ARTICLE 4** (General Provisions), **ARTICLE 5** (Districts), **ARTICLE 6** (R-1 Residential), **ARTICLE 7** (R-2 Residential), **ARTICLE 8** (R-3 Residential), **ARTICLE 9** (R-MS Manufactured Home Subdivision), **ARTICLE 10** (R-MP Manufactured Home Park), **ARTICLE 11** (R-S Rural Suburban), **ARTICLE 12** (O-1 Office), **ARTICLE 13** (C-1 Commercial), **ARTICLE 14** (I-1 Industrial), **ARTICLE 15** (PUD) & **ARTICLE 16** (F-1 Floodplain District).

V. NEW BUSINESS

ARTICLE 17 (F-2 Flight Zone), **ARTICLE 18** (L-1 Arterial District), **ARTICLE 19** (S-1 Outdoor Advertising District); **ARTICLE 20** (Area and Setback Requirements); **ARTICLE 21** (Additional Height, Area and Use Regulation)

VI. ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Chaves County Planning & Zoning Department at 624-6606 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda, proposed amendments and minutes can be provided in various assessable formats. Please contact the Planning & Zoning Department at 624-6606 if a summary or other type of accessible format is needed.

CHAVES COUNTY		Roswell-Chaves County ETZ Authority
August 22,2024	Public Hearing Minutes	Created by Adina Conde

Member present:

Richard Taylor- Chaves County Commissioner
Edward Heldenbrand-Roswell City Councilor
Calder Ezzell-Chairperson-Chaves County Commissioner
Jeff Billberry-Chaves County Commissioner
Will Cavin-Roswell City Councilor

Staff Present:

Louis Jaramillo
Richard Gutierrez
Adina Conde

A public hearing before the Roswell-Chaves County ETZ Authority was called to order in the Commission Chambers at the Chaves County Administrative Center, on August 22, 2024, at 5:30 PM by **Chairman Calder Ezzell**.

Minutes:

Commissioner Billberry made a motion to approve the minutes from the August 4, 2022, meeting, seconded by **Commissioner Taylor**. The motion passed unanimously.

New Business:

The Authority members discussed the annual requirement for a Notice of Public Hearing document, noting that the last one posted was in 2022.

Councilor Cavin made a motion to approve Resolution ETZA 2024-1 Notice of Public Hearing, **Commissioner Bilberry** seconded the motion. The motion carried unanimously.

Mr. Jaramillo advised the Authority members about agenda item number 2, the election of officers, which is typically conducted in August. However, noting that two Authority members would be stepping down at the end of December, he suggested postponing the election until January.

Chairman Ezzell agreed, pointing out that the ordinance requires an organizational meeting at the beginning of every calendar year, which would make January the logical time for the election.

Councilor Cavin made a motion to keep the current officer positions as is until 2025, and **Commissioner Taylor** seconded the motion. Motion passed unanimously.

Mr. Jaramillo provided a brief overview of the proposed amendments, Articles 2 through 16. He noted that the ETZ Commission and staff have been diligently working on them since January. Throughout this

period, the Articles have undergone multiple rounds of review and approval. He explained that significant updates included adjustments for solar and battery energy systems and relocating specific definitions (e.g., sexually oriented businesses, RVs, workforce camps, and cannabis) into the designated definition area. This reorganization aimed to tailor the ETZ ordinance specifically for the ETZ district area.

Mr. Jaramillo noted the changes in Article 2. Some of the changes include the Authority's appeal process, reducing the time to appeal a decision from 30 days to 15 days, requiring a recommendation from the Commission on all new amendments, penalties for illegal dumping of trash or hazardous waste, code enforcement responsibilities, and clarification on requirements for any new zoning cases.

Chairman Ezzell noted Section 2.15 should just state the statute as a title.

Chairman Ezzell noted Section 2.67, pointing out the definition with a question mark, and highlighted that the ordinance defines hazardous material while also referring to NFPA 400 for the hazardous material list. He inquired how this reference differs from the list under the Hazardous Material Act in the statute and who would be the one enforcing this new regulation.

Mr. Jaramillo responded, stating that the list referenced in the ordinance should be exactly the same as the one under the Hazardous Material Act in the statute. **Mr. Jaramillo** stated **Mr. Gutierrez** would be handling all violations.

Chairman Ezzell informed the group that there is specific authority for deputy sheriffs.

Mr. Jaramillo highlighted a number of changes in Article 3, Definitions and Regulations. He noted the introduction of battery energy storage facilities and solar facilities; amendments to existing definitions like duplex, guesthouse, motel, and recreational vehicle parks; moving definition from other articles to Article 3 and eliminating some words. Mr. Jaramillo went on to address each word in this article.

Commissioner Bilberry inquired if the new "guesthouse" regulation would apply to Airbnbs.

Mr. Jaramillo stated guesthouses are not to be rented out. mentioned that the Board of Commissioners and City Council would need to address short-term and long-term rental policies in the future

Chairman Ezzell inquired about the removal of the term "cabana," which referred to a standalone structure used for additional living or storage space adjacent to a manufactured home.

Mr. Jaramillo responded that the term "cabana" was removed because its function overlaps with existing categories such as guesthouses and bunk houses.

Chairman Ezzell suggested clarifying the definition of a dwelling by adding that it does not include hotels, motels, and other similar establishments. He also raised a question about the term "ground cover," suggesting that regulations should specify that it be kept in bins no wider than two front-end loader scoops.

Mr. Jaramillo acknowledged missing this particular restriction and agreed "ground cover" should be revised.

Chairman Ezzell then asked if the current ordinances could be seen as encouraging property owners to use their land for additional income through short-term rentals.

Mr. Jaramillo stated no because of the 5-acre lot size requirement.

Chairman Ezzell pointed out that the definition of a hotel specifies that ingress and egress to all rooms must go through an inside lobby or office, but “motel” does not specify ingress and egress from the parking lot.

Mr. Jaramillo noted the correction.

Chairman Ezzell noted that the definition of a recreational vehicle park includes "travel trailers."

Mr. Jaramillo noted the correction.

Commissioner Cavin noted that RV parks may become more prevalent and present challenges that need to be addressed.

Mr. Jaramillo stated the definition should state two or more RVs on a property is an RV park.

Commissioner Heldenbrand inquired whether placing four RVs on his land without charging for them would classify the land as an RV park.

Mr. Jaramillo initially responded that, under the current definition, it would not be considered an RV park if the RVs are not connected to utilities and not used for lodging purposes.

Councilor Heldenbrand then clarified his scenario: if he allowed four RVs on his property with occupants using generators and not charging them, it wouldn't be considered an RV park.

Mr. Jaramillo acknowledged that this scenario presents a challenge under the current regulations and the definition would need some work.

Councilor Heldenbrand suggested expanding the definition to include RVs on a property whether paid or unpaid, questioning if that change would address such loopholes.

Mr. Jaramillo confirmed that such an expansion would indeed cover these situations.

Mr. Jaramillo asked **Chairman Ezzell**, to review the definition of "solar facility decommissioning and reclamation plan" and inquired if there was anything more, he would like to add or modify in that definition.

Chairman Ezzell suggested adding “should include provisions to disconnect the facility, among other specific actions, and reclaim the site with adequate financial assurance or bonding in favor of the county.”

Mr. Jaramillo noted the correction.

Ms. Hildreth suggested definitions for telecommunication towers and tiny homes.

Mr. Jaramillo continued with Article 4, General Provisions and Supplement Regulations. He noted that there were a few things removed in this article like Study Districts and conflicting setback requirements. He highlighted the additional restrictions added in Section 8 and the Development Plan Standards in Section 9.

Mr. Jaramillo explained the changes to Article 6 with no questions.

Mr. Jaramillo noted the changes to Articles 7 and 8, explaining the idea of allowing multigeneration families to construct duplex and triplex structures that would be limited to a 6 bedrooms septic system.

Discussion ensued.

Mr. Jaramillo explained the reason for eliminating Manufactured Home Subdivision and Parks but keeping Articles 9 and 10 in reserve. He stated that manufactured homes are allowed in all zoning districts and that ETZ regulations don't support Manufactured Home Parks.

Mr. Jaramillo highlighted the small changes made in Articles 11 and 12 with no questions.

Mr. Jaramillo explained the numerous changes to Article 13, C-1 Commercial District.

Commissioner Cavin inquired whether there are any retail cannabis shops currently operating in the ETZ district.

Mr. Jaramillo responded that there are none at this time.

Mr. Jaramillo noted the few changes made in Articles 14 and 15 with no questions.

Mrs. Jaramillo concluded his presentation by explaining the removal of the F-1 Floodplain District and keeping Article 16 in reserve. He stated the County and City each have their own separate flood prevention regulations in a separate ordinance.

Chairman Ezzell raised a concern about the absence of cemeteries in the current definitions and allowed uses.

Mr. Jaramillo acknowledged the existing cemetery but was unsure of its zoning.

Councilor Cavin agreed with **Chairman Ezzell's** concern, pointing out that this issue has arisen before and is likely to occur again. He advised **Mr. Jaramillo** to research the matter further and report back with his findings and recommendations.

The Authority inquired with **Mr. Jaramillo** about changing the time for the upcoming meeting to an earlier slot, suggesting 11:00 a.m. The decision was unanimous in favor of the change.

Commissioner Bilberry made a motion to adjourn the meeting, **Councilor Cavin** seconded the motion. The motion passed unanimously.

Approved this _____ day of _____, 2024.

Chairman

Attest

ARTICLE 2 ADMINISTRATION

Section 2.1 ETZ AUTHORITY

- 1 The ETZ Authority (Authority) shall consist of three Chaves County Commissioners and two Roswell City Councilors appointed by their respective boards for terms determined by those boards. The Authority shall approve all amendments to this Ordinance and hear all appeals of decisions made by the ETZ Commission (Commission) or an administrative officer.
- 2 Meeting dates and times shall be determined by Resolution at the beginning of each calendar year pursuant to the New Mexico Open Meetings Act. The Authority shall keep public records of its proceedings and official actions.
- 3 Members of the Authority shall abstain from voting on any matter which in any way could be construed as a conflict of interest.
- 4 Any person aggrieved by a decision of the Commission or an administrative officer may appeal to the Authority. Appeals must shall be filed within fifteen thirty (15) days of the date of the decision of the Commission or an administrative officer. All appeals shall be directed to the County Planning Director. An appeal shall stay all proceedings in furtherance of the appealed unless facts indicate that a stay would cause imminent peril to life or property. The Authority shall schedule a public hearing at which the appeal will be heard at a public hearing. and may uphold the decision of the Commission or administrative officer, decide in favor of the appellant, or modify the appealed decision with special conditions which are not contrary to the public interest and which would be within the intent and purpose of this Ordinance.
- 5 Per State Statute 3-21-8.C.2 The Authority may, by a majority vote of all of its members (4):
 - a. Reverse any order, requirement, decision, or determination of an administrative officer or Commission.
 - b. Decide in favor of the appellant; or
 - c. Make any change in any order, requirement, decision, or determination of an administrative officer or Commission.
- 6 Any person aggrieved by the decision of the Authority may file an appeal with District Court within thirty (30) days of the date of the decision of the Authority, pursuant to the provisions of Section 39-1-1.1 NMSA.

Section 2.2 ETZ COMMISSION

- 1 The ETZ Commission (Commission) shall consist of seven members serving terms of one year. Three members are appointed by the City of Roswell, three members by the Board of Chaves County Commissioners, and the seventh member, who must live in Chaves County outside of the City of Roswell and outside the limits of the ETZ area, shall be elected by the six appointed members. Three of the six appointed members shall reside within the ETZ jurisdiction area. The Commission shall administer this Ordinance, establish the boundaries of the zoning districts, approve requests for changes of zoning, special uses, and variances, and consider requests for proposed amendments to this Ordinance.
- 2 Meeting date, time and place shall be determined by Resolution at the beginning of each calendar year pursuant to the New Mexico Open Meetings Act. The Commission shall keep public records of its proceedings and official actions.

3 Members of the Commission shall abstain from voting on any matter which, in any way, could be construed as a conflict of interest.

4 Any person aggrieved by a decision made by the Commission may appeal to the Authority in accordance with Section 2.1.4.

Section 2.3 CODES ENFORCEMENT OFFICER

1 The Codes Enforcement Officer (CEO) shall interpret the meaning of the provisions of this Ordinance and shall enforce those provisions. The County Planning and Zoning Department shall maintain an office from which to supply the public with information about the various regulations and ordinances, provide applications for zone changes, special uses, variances, **change of uses** and proposed amendments to this Ordinance, and keep the records of the Commission and the Authority. The County Planning Director shall be responsible for providing factual information to the Commission and the Authority concerning applications for proposed changes.

2 The CEO may adopt procedures for carrying into effect the provisions of this Ordinance which must be consistent with this Ordinance and are subject to review and approval by the Commission and the Authority.

3 The County Codes Enforcement Officer(s) (CEO), ~~County Planning~~ Director, the County Attorney, other Chaves County **Sheriff's Department Law Enforcement Officers**, and the Roswell City Attorney are designated by this Ordinance as enforcement officers.

4 The CEO, or authorized representative, shall have the authority to enter upon property for the purposes of inspection, provided that no building shall be entered without the consent of the owner or occupant unless properly authorized.

5 Any person aggrieved by a decision made by the **CEO or the** ~~County Planning~~ Director may appeal **the decision** to the Authority in accordance with Section 2.1.4.

Section 2.4 AMENDMENT

1 Final determination of amendments to this Ordinance shall be made by the Authority.

2 The Authority shall not act on any proposed amendment without a recommendation from the Commission.

3 Requests to amend this Ordinance may be initiated by the Authority, the Commission, an administrative officer **or by an owner(s) of real property in the ETZ area**. Amendments may become effective only after a public hearing before both the Commission and the Authority ~~following the guidelines described in Sections 2.5.3, 2.5.4, and 2.5.8.~~

4 Notice of the date, time, place and agenda of the public hearing along with a general summary of the proposed amendment shall be mailed to the applicant and published in a newspaper with general circulation in Chaves County at least fifteen (15) days prior to the date of the public hearing.

5 Amendments shall require approval from a majority vote of all of the Authority members.

Section 2.5 APPLICATION PROCEDURES

1. Final determinations of zone changes, special use **permits, change of use in the I-1 Industrial District** and variances shall be made by the Commission.
2. Requests for zone changes, special use **permits, change of use** and variances (applications) may be initiated by the Authority, the Commission, or by an owner of real property in the area to be included in the application. Applications shall be signed by the applicant and submitted to the Planning and Zoning office on official forms at least thirty (30) calendar days before a regularly scheduled Commission meeting. The application shall include: an accurate site plan showing location and dimensions of all existing and proposed improvements to the property; a copy of the properly recorded deed for the property or a contract to purchase the property; the appropriate fee; a copy of the Assessor's map and a list of owners of property within **six one** hundred (600) feet of the property included in the proposed amendment; and any other related information required by the County Planning Director or authorized representative.
3. After receipt of an application, a public hearing shall be scheduled for the next regular meeting of the Commission. Notice of the date, time, place and agenda of the public hearing shall be mailed to the applicant and published in a newspaper with general circulation in Chaves County at least fifteen (15) days prior to the date of the hearing. Notice of public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor, of lots or land within the area proposed to be changed and within **six one** hundred (600) feet, excluding public right-of-way, of the area of the proposed amendments, zone changes, special uses, or variances.
4. The County Planning Director or authorized representative shall present a statement of facts concerning the submitted application to the Commission prior to the public hearing at which all concerned persons shall have the opportunity to speak. The County Planning Director or Commission may request an opinion from any person or agency to consider factors which bear on the public interest.
5. When considering applications, the Commission shall consider the characteristics of the proposed development; the nature of surrounding land use and zoning; existing public access; existing and proposed surface water drainage; proposed improvement of off-site facilities, such as access roads or surface water drainage facilities; ability to be serviced from and annexed by the City of Roswell; compatibility with the official Land Use Plan; and the distance to residential structures if a commercial or industrial zoning district is proposed.
6. The Commission shall make a decision to approve, to deny, or to approve with conditions any application for a zone change, special use, or variance. Conclusions of Law and Findings of Fact which are sufficient for meaningful review shall be made a part of the decision. All decisions made by the Commission may be appealed per Section 2.1.4 of this article.
7. If the owners of twenty percent (20%) or more of the property included in the application or within one hundred (100) feet, excluding public right-of-way, of the property protest in writing, approval of the request shall require a minimum of 5 votes of the Commission in favor of the request. If less than 5 members are present, the request shall be postponed until the next regularly scheduled Commission meeting.

~~8. After receipt of the recommendation from the Commission, notice of the date, time, place and agenda of the public hearing along with a general summary of the proposed amendment shall be mailed to the applicant and published in a newspaper with general circulation in Chaves County at least fifteen (15) days prior to the date of the public hearing with the Authority.~~

~~9 Approval of the amendment shall require a minimum of four (4) votes of the Authority in favor of the request. If less than four (4) members are present, the request shall be postponed until the next regularly scheduled meeting.~~

8.10 The ETZ Map shall be located in the Planning and Zoning Department. All ~~amendments and~~ changes in zoning district boundaries and/or classifications that are approved by the Commission or Authority shall be promptly noted on the Map.

Section 2.6 ENFORCEMENT

1. No land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, enlarged, altered, moved, or used in any district, as shown on the Map or described in this Ordinance, except in conformity with the regulations established by this Ordinance for the district or zone in which it is located.
2. No building shall be erected, constructed, enlarged, or altered to exceed the height, number of stories, size, or density of population, occupy a greater percentage of land area, or have smaller front, rear, or side yards or open space, than is specified for the district or zone in which it is located.
3. If any building or structure is placed, erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this Ordinance, the Authority, the Commission, or the Code Enforcement Officer (CEO) may institute any appropriate action or proceedings to prevent the unlawful placement, erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate the violation; prevent the occupancy of the building, structure, or land; or prevent any illegal act, conduct, business, or use.
4. This Ordinance may be enforced by prosecution of violations in any court of competent jurisdiction in Chaves County.
5. **Except as otherwise provided**, after ten (10) days written notice of violation mailed to the last known address of the property owner, any person, **business**, firm, or corporation continuing **convicted of a violation of** ~~to violate any of the provisions of~~ this Ordinance **may shall** be punished by a fine not to exceed ~~ing~~ three hundred dollars (\$300), imprisonment **for a term** not to exceed ninety (90) days, or both such fine and imprisonment Each day's violation **of this ordinance** shall **constitute be** a separate offense.
6. **Any person, business, firm or corporation that is convicted of illegally discarding or disposing of trash, rubbish, refuse, debris, wreckage, and/or other solid waste on private or public property in any manner other than by disposing it in an authorized landfill shall be punished by a fine not to exceed one thousand (\$1,000) dollars imprisonment of a term not to exceed 90 days, or by both such fine and imprisonment. Each day's violation of this ordinance shall constitute a separate offense.**
7. **Any person, business, firm or corporation that is convicted of illegally discarding or disposing of hazardous material and/or waste on private or public property in any manner other than by disposing it in an authorized facility or landfill shall be punished by a fine not to exceed five thousand (\$5,000) dollars imprisonment of a term not to exceed 90 days, or by both such fine and imprisonment Each day's violation of this ordinance shall constitute a separate offense.**

8. Prosecution of a violation may commence by the issuance of a citation charging the violation. Citations may be issued by the Code Enforcement Officer, or an employee of the County authorized by the Board of County Commissioners to issue such citations.
9. Violations of this ordinance that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty or fine does not prevent the granting of equitable relief. (NMSA 4-37-3)
10. Abstract companies, title companies, engineering firms, and surveying firms performing services in Chaves County shall inform persons who divide property into any parcel that is less than five (5) acres in size that they may not be in conformance with this Ordinance. Such companies shall also notify the CEO of the proposed land division. ~~It shall also be required that all building moving companies obtain a zoning clearance from Chaves County prior to the placement of buildings or manufactured homes on property.~~

Section 2.7 VARIANCE

1. Every property owner within the ETZ area shall have the right to apply to the Commission for a variance from this Ordinance when the property owner can show an exceptional situation or condition relating to the property such that the strict enforcement of this Ordinance would constitute an unnecessary hardship or practical difficulty upon the property owner.
2. Prior to granting any variance, the Commission shall hold a public hearing and shall determine that:
 - a. the granting of the variance will not be injurious to the public health, safety, morals, and general welfare of the community; and
 - b. the use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - c. the need for the variance arises from some condition peculiar to the property involved and such condition is not due to the general conditions of the neighborhood; and
 - d. the strict application of the terms of this Ordinance for which the variance is sought would result in unnecessary hardship upon the owner of such property; and
 - e. that the granting of the variance would be within the spirit, intent, purpose, and general plan of this Ordinance.
3. Absent showing of unnecessary hardship, practical difficulty, or a complete loss of any financial benefit in the property the Commission shall not approve a request for a variance where the applicant purchased the property after the effective date of this Ordinance and the condition requiring the variance was in existence at the time of the purchase. Following the denial of any application for a variance, the applicant shall not reapply to the Commission for the same variance on the same property for a period of one year.

Section 2.8 SPECIAL USE

1. The designation of zoning districts is made in an effort to create areas within which the uses are similar or substantially uniform. There are uses that, because of their unique character or special or unusual impact upon the use of adjacent property, require special consideration.
2. ~~Special Uses and~~ Special Use Permits are further described in Article 26.

ARTICLE 3 RULES OF CONSTRUCTION AND DEFINITIONS

Section 3.1 RULES OF CONSTRUCTION

1. In the construction of this Ordinance, the following rules shall be observed unless the construction would be inconsistent with the intent of this Ordinance.
2. Words and phrases shall be ~~construed~~ interpreted according to the context and the approved use of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed according to such meaning.
3. Words importing the singular number may be extended to several persons or things, words importing the plural number may be applied to one person or thing, and words importing the masculine gender only may be extended to females.
4. In computing time, the first day shall be excluded and the last included, unless the last falls on a Saturday, Sunday, or a legal holiday, in which case the time prescribed shall be extended to include the whole of the following business day.
5. The words "shall" and "will" are mandatory and "may" and "should" are permissive or directory.
6. Words not defined in this section shall retain their plain meaning.

Section 3.2 DEFINITIONS

The following definitions have been adopted for use with this Ordinance.

ABANDONMENT: When a structure or use has been inactive for a six-month period or more.

ACCESSORY BUILDING, STRUCTURE OR USE: A subordinate detached 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 the principal building or use.

ADULT ARCADE: An enterprise where, for any forms of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT CABARET: A nightclub, bar, restaurant, or similar commercial enterprise, whether or not alcoholic beverages are served, which features: (a) persons who appear nude or semi-nude; or (b) live performances which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

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

ADULT ENTERTAINMENT EMPLOYEE: Any and all persons, including managers, entertainers, and independent contractors who work in, render services to, and have direct interaction with clientele of the sexually oriented business or adult entertainment enterprise.

ADULT ENTERTAINMENT ENTERPRISE: Any commercial or retail enterprise which (a) offers entertainment or services, including rooms, readily available for purchase, rental, viewing, or use by patrons of the establishment; and (b) is represented to be or is primarily in the business of offering services which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas and exclude minors by virtue of age. "Adult entertainment enterprises" shall include, but not be limited to, the following: adult arcade, adult cabaret, adult mini theater, adult motel, adult motion picture theater, adult panorama establishment, adult theater, live adult entertainment enterprise, massage parlor, nude or semi-nude model studio, sexual encounter center, and sexual encounter establishment.

ADULT MINI THEATER: An enclosed building with a capacity of less than 50 persons, a portion of an enclosed building with a capacity of less than 50 persons, or an outdoor theater with a capacity of less than 50 persons used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this chapter for observations by patrons therein.

ADULT MOTEL: A hotel, motel, or similar commercial enterprise which:

- a. Offers accommodations to the public for any form of consideration and provides patrons with (1) closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and (2) which has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- b. Offers sleeping rooms for rent on an hourly basis; or
- c. Allows tenant(s) or occupant(s) of a sleeping room to sub-rent on an hourly basis.

ADULT MOTION PICTURE: An enclosed building with a capacity of 50 or more persons, a portion of an enclosed building with a capacity of 50 or more persons, or an outdoor theater with a capacity of 50 or more persons used for presenting motion picture films, video cassettes, cable television, or any other such visual media distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined therein for observation by patrons therein.

ADULT PANORAM EXTABLISHMENT: Any building or portion of a building which contains device(s) which for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined therein.

ADULT THEATER: A concert hall, theater, auditorium, or similar commercial enterprise which, for any form of consideration, regularly features persons who appear nude or semi-nude, or live performances which are distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this chapter for observation by patrons therein.

AGRICULTURE: The use of land and/or structures for the commercial growing of farm crops such as plants, crops, trees, forest products, orchard crops, livestock, poultry, and fish – includes ranching and farming.

AIRPORT: Any area which is used or is intended to be used for the landing or taking off of aircraft and which is approved by the federal Aviation Administration. The use as an airport includes any appurtenant areas which are used, or intended to be used, for airport buildings, other airport facilities, or rights-of-way.

ALLEY: A passage or way open to public travel which generally affords a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

APARTMENT: Any building or portion thereof which contains three or more dwelling units – does not include a townhouse or condominium.

AMATEUR RADIO TOWER: An antenna structure operated by a federally licensed amateur radio operator for amateur radio activities and does not mean citizens band or commercial antennas. Maximum height shall be fifty-five (55) ft. measured from natural ground and shall be setback from property lines the same distance as the height of the tower.

ANIMAL, DOMESTIC: An animal of a species of vertebrates that has been domesticated by humans so as to live and breed in a tame condition and depend on humankind for survival.

AUTOMOBILE GRAVEYARD: Any property which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles or motor vehicle parts – may include repair facilities as an ancillary use.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

BATTERY ENERGY STORAGE FACILITIES: One or more battery cells for storing electrical energy in a Battery Energy Storage System (“BESS”) with a Battery Management System (“BMS”).

BATTERY ENERGY STORAGE SYSTEM (BESS): One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

- A. Tier 1 BESS has an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consists of only a single energy storage system technology.
- B. Tier 2 BESS has an aggregate energy capacity greater than 600kWh or is comprised of more than one storage battery technology in a room or enclosed area.

BATTERY MANAGEMENT SYSTEM (BMS): An electronic regulator that manages a Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

BROWNFIELD: A former industrial or commercial site containing environmental pollution such as hazardous waste or industrial byproducts.

BED AND BREAKFAST: A limited commercial activity, conducted within a structure, which includes dining and bathroom facilities and sleeping rooms for short term guest lodging (a bed and breakfast requires a special use permit in any zoning district).

BOARD: The Chaves County Board of Commissioners

BOARDING HOUSE: A building other than a hotel, where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for at least three (3) but not more than ~~twenty (20)~~ twelve (12) people persons.

BODY SHOP: A shop where vehicle exteriors, or bodies, are replaced and/or reconditioned.

BUILDING: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, having a roof supported by columns or walls.

BUILDING HEIGHT: The height of a building measured from the ground surface level to the highest point of the building.

BUNK HOUSE: An accessory structure used as a dwelling unit, being less than one thousand-six hundred (1600) square feet in size, occupied by a person(s) working on the property or for the property owners on which the structure is located and is not for rent, lease, or sale. Bunk houses are not assigned rural addresses separate from the principal residence on the property ~~and utilities are provided through the principle residence.~~

BUSINESS: Any occupation, employment, or enterprise which occupies time, attention, labor, and materials, or where merchandise is exhibited or sold, or where services are offered.

~~**CABANA:** A structure that is constructed as an independent building adjacent to and not supported by a manufactured home for the purpose of adding additional living or storage space to the permitted use.~~

CANNABIS: All parts of the plant genus Cannabis containing a delta-9- tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin

extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include: the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

CANNABIS CONSUMPTION AREA: An indoor area where cannabis products may be served and consumed.

CANNABIS COURIER: A person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

CANNABIS ESTABLISHMENT: A cannabis testing laboratory; a cannabis manufacturer; a cannabis retailer; a cannabis research laboratory; a vertically integrated cannabis establishment; a cannabis producer microbusiness; an integrated cannabis microbusiness; or a cannabis consumption area.

CANNABIS EXTRACT: A product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction method approved by the Cannabis Control Division; and does not include the weight of any ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product.

CANNABIS FACILITY: A building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

CANNABIS GROWTH AND EDUCATIONAL STORE: A retail facility that sales items used to assist in the growth and cultivation of cannabis and/or the production of cannabis integrated product but shall not possess cannabis of any kind.

CANNABIS INTEGRATED PRODUCT: A product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

CANNABIS MANUFACTURER: A person or facility that: manufactures cannabis products; packages cannabis products; has cannabis products tested by a cannabis testing laboratory; or purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

CANNABIS PRODUCER: A person or facility that: cultivates cannabis plants; has unprocessed cannabis products tested by a cannabis testing laboratory; transports unprocessed or processed cannabis products only to other cannabis establishments; or sells cannabis products wholesale.

CANNABIS PRODUCER MICROBUSINESS: A cannabis producer at a single licensed premise that possesses no more than two hundred (200) total mature cannabis plants at any one time.

CANNABIS RESEARCH LABORATORY: A facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

CANNABIS RETAILER: A person or facility that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

CANNABIS TESTING LABORATORY: A person or facility that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

CARPOR: A roofed structure with two (2) or more open sides under which vehicles are stored.

CEMETERY: A burial ground.

CHANNEL: The geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water.

CLINIC: An establishment where human patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

CLOSURE, DECOMMISSIONING AND RECLAMATION PLAN: A document that outlines the activities and objectives for the reclamation and restoration of a site after it has been used for a specific purpose. The plan shall include a total cost estimate for completion and a financial bond of an equal amount, made payable to Chaves County. The Authority shall have the right to review and require corrections to the cost estimate and financial bond every five (5) years.

CLUB or LODGE: A building and/or facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily operated as a business.

COMMERCIAL CANNABIS ACTIVITY: The cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

COMMERCIAL USE: A use operated for profit or compensation.

~~**CONDOMINIUM:** An individually owned dwelling unit in a multiple family dwelling, the common areas of which are held in common by all tenants.~~

COMMUNITY CENTER: A place where people from a particular community can meet for social, educational, or recreational activities.

CONSUMER: A person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

COUNTY: The area lies within the corporate boundaries of Chaves County and outside the boundaries of any incorporated municipality. Chaves County, New Mexico.

CULTIVATION OF CANNABIS: Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

DAIRY: An establishment that is engaged in the production, sale, and distribution of milk and milk products.

DAY CARE CENTER: A commercial childcare facility, licensed by the State of New Mexico, that provides care, services, and supervision for children in a 24-hour period.

DAY CARE HOME, FAMILY: An occupied residential dwelling, licensed by the State of New Mexico, in which care, services, and supervision are provided by individuals residing in the dwelling for three (3) to six (6) children on a regular basis for less than 24 hours per day. The care giver's own children, grandchildren, nieces, or nephews shall be counted towards the permitted number of children.

DAY CARE HOME, GROUP: An occupied dwelling in which care, services, and supervision are provided by individuals residing in the dwelling for seven (7) to twelve (12) children on a regular basis for less than 24 hours per day. The care giver's own children, grandchildren, nieces, or nephews shall be counted towards the permitted number of children.

DEBRIS: The remains of something broken or destroyed.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DEVELOPMENT PLAN: A set of documents containing detailed information of the development, including but not limited to, the project area; lifespan of the project; building locations, elevations and sizes; roads and driveways; flood and environment impact: off-street parking areas; stormwater and erosion control; utility services; landscaping and open space areas; and a traffic and construction management plan.

DEPARTMENT: The Chaves County Planning and Zoning Department.

DIRECTOR: The Director of the Chaves County Department of Planning and Zoning or designee.

DISTRICT: A designated portion] of the Extraterritorial zone for which the regulations governing the use of buildings, or land, or the height, area, and density of buildings are uniform.

DRIVEWAY APRON: Is the section where a private driveway connects to the public roadway, usually extending from the edge of pavement of the public road to the property line.

DNL: Yearly day-night sound level used by the Federal Aviation Administration as a standard metric that accounts for the noise levels of all individual aircraft events, the number of times those events occur and the period of day/night in which they occur over a complete 24-hour period measured in decibel (dB).

DUPLEX: A two-family dwelling arranged, intended, or designed to be occupied by two families dwelling living independently of each other, having separate cooking facilities in each dwelling unit and constructed to NM Residential Building Code standards or engineered by a license New Mexico engineer.

DWELLING: A building or portion thereof, designed or used exclusively for residential purposes but does not include hotels, motels, boarding houses, nursing homes, group care residences, workforce camps or recreational vehicles.

DWELLING, SINGLE FAMILY: A single building designated for occupancy by one family.

DWELLING, TWO-FAMILY: A single building designated for occupancy by two families.

DWELLING, MULT-FAMILY: A single residential building with more than one dwelling unit, such as but not limited, duplex, triplex or fourplex designed for occupancy by three or more families.

DWELLING UNIT: A single residential unit providing complete, independent living facilities for one or more persons, including permanent provisions for one family with facilities for living, sleeping, cooking, and eating that is built to NM Residential Building Code or Manufactured Home-HUD Standards.

FAMILY: One or more persons related by blood or marriage, or a group of not more than five persons not related by blood or marriage living together in a dwelling unit.

FARM: Land which is used for the commercial growing, producing, and/or storage of agricultural crops such as, vegetables, fruit, nuts, cotton, grain, and similar products. A farm shall have a valid decreed water right in excess of three-acre feet per annum. The term farm includes treatment and storage of produce as a secondary function, sale and distribution of farm products other than agricultural machinery, roadside stands for sale of farm products, and residences of those conducting and engaged in the operation. A farm shall not include feed lots, dairying, poultry production, hog farms, commercial sanitary landfills, or similar type uses.

FEED LOT: A place of confinement for livestock where feeding is by a method other than grazing, and which is operated as a commercial enterprise.

FLOOR AREA, GROSS: Is the total square footage of a structure, measured from the outside of its exterior walls.

GARAGE, COMMERCIAL: A building or portion of a building other than a private garage designed or used for parking, servicing, repairing, equipping, hiring, selling, or storing motor vehicles.

GARAGE, PRIVATE: An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles owned and used by the occupants of the building to which the garage is accessory. Only one of the vehicles may be a commercial vehicle of no more than two-ton maximum gross cargo weight.

GOVERNMENT FACILITY: A facility, agency or area used for public purposes, and owned or operated by an instrumentality or agency of federal, state or local government.

GRAZING: The commercial raising of domestic livestock on open grassland, rangeland, or fenced pasture.

GROUND COVER: Stored quantities of organic material such as enriched soil, bark chips, wood chips, manure, or sludge or inorganic material such as sized gravel, rock, broken brick, or sand material which would be customarily incidental to the growth or final landscaping of the plants. ~~This ground cover shall be kept in bins no wider than two (2) front end loader scoops wide of a design approved by the CEO, but not to exceed 12 feet wide. The amount of ground cover shall meet the fifteen percent (15%) control factor as defined under nursery.~~

GREENHOUSE: A structure used for the commercial growing of plants.

GUEST: Any person occupying a room for lodging purposes ~~A temporary, non-paying visitor.~~

GUEST HOUSE: An accessory structure used as a dwelling unit, being less than seven not to exceed eight hundred (800) square feet in size and constructed to NM Residential Building Code or Manufactured Home

~~HUD standards. intended for temporary lodging of no more than two hundred (200) days in a calendar year, by a guest. Guest houses shall not be for rent, lease, or sale and are not assigned rural addresses separate from the principal residence on the property. and utilities are provided through the principal residence.~~

GUEST ROOM: Any room or rooms used or intended to be used by a guest for sleeping purposes.

HARDSHIP – UNNECESSARY: A situation where no reasonable use can otherwise be made of the land.

HARDSHIP – PRACTICAL DIFFICULTY: When the affected property or structure cannot, because of physical limitations or other “practical difficulties”, be used for a permitted use under the applicable zoning classification.

HAZARDOUS MATERIAL: A chemical or substance that is classified as a physical hazard material or a health hazard material, whether the chemical or substance is in usable or waste condition. (See NFPA 400 for hazardous material list)

HEMP: The plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths percent of a dry weight basis.

HOME BURIAL SITE: A human burial site for a family member of the current or past property owner that is located on a lot.

HOME OCCUPATION: A business, trade, or occupation operated within a dwelling unit, accessory structure, or on the property with a residential dwelling unit, that meets the following criteria: the activity is clearly an incidental and secondary use of the residential use structure; only members of the residing family are engaged in the business, trade or occupation; all activities are conducted entirely off-site of the property or within the dwelling unit or accessory structure and there is no external evidence of the activity, such as commercial vehicles, outside storage, signs, noise, dust, odors, noxious fumes, or other nuisances which would change the residential character of the property or neighborhood. ~~Home occupation includes consultation and emergency treatment by physicians, surgeons, dentists, lawyers, and clergymen, but does not include the general practice of these occupations.~~

HOMEGROWN OR HOMEMADE: Grown or made for purposes that are not dependent on or conditioned upon the provision or receipt of financial consideration.

HOTEL: Any building in which lodging or boarding and lodging are provided for more than six (6) persons and offered to the public for compensation and in which the main ingress and egress to and from all rooms are made through an inside lobby or office.

HOUSEHOLD: A dwelling unit, including any place in or around the dwelling unit at which an occupant of the dwelling unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products.

IMMATURE CANNABIS PLANT: A cannabis plant that has no observable flowers or buds.

INOPERABLE VEHICLE: Any motor vehicle, not to include agricultural equipment, which by reason of dismantling, disrepair or other cause, is incapable of being propelled under its own power.

INSTITUTION: A public or non-profit organization having a social, educational, or religious purpose as a school, church, hospital, reformatory, etc.

INTEGRATED CANNABIS MICROBUSINESS: A person that is authorized to conduct one or more of the following: production of cannabis at a single licensed premise; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time; manufacture of cannabis products at a single licensed premise; sales and transportation of only cannabis products produced or manufactured by that person; operation of only one retail establishment; and couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste; junked, dismantled, wrecked, or inoperable motor vehicles, or parts thereof; iron, steel, and other old or scrap ferrous or non-ferrous material.

JUNKYARD: The use of a lot(s), or portion thereof, or any establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk. A junkyard may include a lot or parcel of land containing three (3) or more inoperable vehicles.

KENNEL: Any property on which dogs and/or cats are being kept for the business of buying, selling, breeding, training, or boarding but does not include veterinary hospitals, humane societies, or animal shelters/pounds approved by a governmental agency.

LANDSCAPING: The planting and maintenance of live plants including trees, shrubs, flowers, vines, grasses, or other low-growing plants that are native or adaptable to the climatic conditions of the Chaves County area. In addition, the landscape design may include some natural and manufactured materials including but not limited to rocks, fountains, reflecting pools, works of art, screens, walls, fences, benches, and other types of outdoor furniture, subject to approval by the Commission.

LAUNDROMAT: A building in which domestic type washing machines and/or dryers are provided on a rental basis for use by individuals doing their own laundry.

LICENSED PREMISES: A location that includes all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms; all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy.

LIQUOR ESTABLISHMENT: Premises which may be open to the general public, where alcoholic liquor is sold by the individual drink or package.

LIVE ADULT ENTERTAINMENT ENTERPRISE: Any building or portion of a building which contains any exhibition or dance wherein any employee or entertainer is unclothed or in such attire, costume, or clothing so as to expose to view any portion of the female breast below the areola, or male or female genitals, vulva, anus, and/or buttocks, or any portion of the pubic hair and which exhibition or dance is for the benefit of member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated, or maintained for profit, direct or indirect.

LOADING, OFF STREET: An area of a lot that is reserved for loading and unloading items that are essential to the use of the property. Specific requirements are listed elsewhere in this Ordinance.

LODGING: A place in which someone lives or stays temporarily.

LODGING HOUSE: A building where lodging is provided for compensation for three or more **guests**, but not to exceed **more than twelve (12) ~~twenty (20)~~, persons** **guests per night**.

LOT: A parcel of land adequate for occupancy by a use permitted by this Ordinance, providing required yards, building area, and off-street parking. This parcel of land, which is a part of a legal subdivision or described by metes and bounds or other accepted means, shall have a map or other legal description which is recorded in the office of the Chaves County Clerk.

LOT, CORNER: A lot located at the intersection of and having frontage on two or more streets.

LOT, DEPTH: The mean horizontal distance between the front and rear lot boundary lines.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE, FRONT: The legal boundary of a lot that borders on a street or road right-of-way, and in case of a corner lot may be either frontage.

LOT LINE, REAR: The legal boundary of a lot which is most distant from and more or less parallel to the front lot line.

LOT OF RECORD: A lot which is part of a legal subdivision, the plat of which has been recorded in the office of the Chaves County Clerk, or a parcel or tract of land, the deed to which has been recorded in the office of the Chaves County Clerk.

LOT, THROUGH: A lot having frontage on two (2) non-intersecting, more or less parallel streets – not a corner lot.

LOT, WIDTH: The horizontal distance between the side lot lines.

MANUFACTURE-CANNABIS: To compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

MANUFACTURED HOME: A structure built on a permanent chassis with a body width exceeding eight (8) feet and body length exceeding forty (40) feet designed to be used as a dwelling unit **that is constructed to HUD Manufactured Home Construction and Safety Standards, with or without a permanent foundation**, when connected to the required utilities, plumbing, heating, cooling, and electrical systems.

~~**MANUFACTURED HOME PARK:** A property designated and developed for long term residential use and intended for rent or lease exclusively for manufactured homes.~~

~~**MANUFACTURED HOME SUBDIVISION:** A subdivision designated and developed for long term residential use and intended for sale exclusively for manufactured homes.~~

~~**MARIJUANA:** All parts of the plant cannabis, including any and all varieties, species, and subspecies of the genus Cannabis, whether growing or not, the seeds, thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant this incapable of germination; or the plant Cannabis sativa L. and any part of the plant, whether growing or not, containing a delta 9 tetrahydrocannabinol concentration of more than three tenths percent of a dry weight basis.~~

MASSAGE PARLOR: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or a licensed massage practitioner operating pursuant to Chapter 61 Article 12C NMSA. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MEDICAL FACILITY. A place where sick or injured people are given care or treatment.

MOBILE, PORTABLE OR TEMPORARY CANNABIS UNIT: Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which items are ordinarily vended, served, or offered for sale.

MOTEL: Any building in which lodging ~~or boarding and lodging~~ is provided for more than six (6) persons and offered to the public for compensation ~~and in which the rooms are usually accessible from an outdoor parking area.~~

MOTOR VEHICLE: Any wheeled vehicle which is self-propelled or intended to be self-propelled.

MOTOR VEHICLE, INOPERABLE: Any motor vehicle which for any reason is incapable of being propelled under its own power.

MOTOR VEHICLE, DISMANTLED: Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

MULCH: Material such as bark or wood chips, sized gravel or rock, or approved alternative material, installed over a plastic barrier of at least 6 mil thickness, to be used as ground cover in those portions of required landscaped areas not covered by vegetative matter.

MULTIGENERATIONAL HOUSING: A temporary accessory dwelling unit located on the same lot or parcel as the main dwelling unit that is used by family members who are related by blood, common ancestry, marriage, guardianship or adoption. Multigenerational housing requires a Special Use Permit and is not to be rented or leased to non-family members and is not to be included in the sale or purchase of the property and shall not be larger than the principal structure.

NIGHT CLUB: Any establishment, including a private club, which typically allows or provides on-site consumption of food and/or drink (alcoholic or non-alcoholic), music, and/or dancing after 10:00 PM on any given night.

NON-CONFORMING ADULT ENTERTAINMENT USE: A sexually oriented business or an adult entertainment enterprise which lawfully existed prior to the enactment of **Article 26 this chapter** and is maintained after the effective date of **Article 26 this chapter** although it does not comply with the sexually oriented business and adult entertainment enterprise land use regulations set forth in **Article 26 this chapter**.

NON-CONFORMING LOT: is a parcel of land that, at the time of its establishment, met the minimum lots size requirements for the zone in which it is located but which, because of subsequent changes to the minimum lot size applicable to that zone, is now smaller than the minimum lot size required by this ordinance.

NON-CONFORMING STRUCTURE: a structure that complied with zoning and development regulations at the time it was constructed but because of subsequent changes to the zoning and/or development regulations, it no longer fully complies with this ordinance.

NON-CONFORMING USE: The use of a structure or land which is not in conformance with this Ordinance for the **zoning** district in which it is located.

NON-CONFORMING USE, LEGAL: The use of a structure or land which was in existence prior to the current zoning standards of the area in which the property is located when the current standards exclude or prohibit the use. Such nonconforming uses are legal subject to the provisions of this Ordinance and are known as "grandfathered uses".

~~**NON-CONFORMING USE, UNLAWFUL:** A non-conforming use which does not conform to the provisions of this Ordinance required for a legal non-conforming use.~~

NUDE OR SEMI NUDE MODEL STUDIO: Any building or portion of a building where person(s) appear nude or semi-nude or displays specified anatomical areas, for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

NUDITY: The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areolae, or the depiction of covered male genitals in a discernibly turgid state

NURSERY: Any land on which nursery stock is propagated, grown, or cultivated and from which source nursery stock is offered for distribution or sale. Mulch may be stored and sold at a nursery but may not exceed 15% of the gross annual sales of the nursery.

NURSERY STOCK: Any plant grown, propagated, or collected for planting, or any plant propagated for landscaping or decorative purposes – does not include field, vegetable, or flower seeds.

NURSING HOME: A home for the aged or infirm in which three or more persons **but not to exceed more than twelve (12) people**, are received, kept, or provided with shelter and/or care for compensation – does not include hospitals, clinics or similar institutions.

OBSCENE: An act or expression which:

- a. The average person, applying contemporary community standards, would find when considered as a whole, appeals to the prurient interest; and

- b. Explicitly depicts or describes patently offensive representations or descriptions of:
 - i. Ultimate sexual acts, normal or perverted, actual or simulated, or
 - ii. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area, or
 - iii. Violent or destructive sexual acts including but not limited to human or animal mutilation, dismemberment, rape or torture; and
- c. When considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.

OFFICE: A place where consulting, record keeping, or the work of a professional person such as a physician or lawyer is done, or a headquarters of an enterprise or organization – does not include the sale of commodities.

OPEN SPACE: Land area unoccupied by buildings, driveways, parking areas, roads, streets or structures. Open space includes parks, areas used for farms or forestry, and certain areas within planned development.

OVERLAY ZONES: A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

PARKING, OFF STREET: An area of a lot that is reserved for the storing of operable vehicles used on a daily basis by the occupants or customers of the buildings on the lot. Specific requirements are listed elsewhere in this Ordinance.

PERSON: An individual, corporation, governmental agency, estate, business, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

PHOTOVOLTAICS (PV): Materials and devices, including photovoltaic panels, that absorb sunlight and convert it directly into electricity. The terms “Photovoltaics” and “PV” shall be considered to be interchangeable.

PHOTOVOLTAICS (PV), INTEGRATED: Photovoltaics incorporated into building materials, such as shingles. The terms “Integrated Photovoltaics” and “Integrated PV” shall be considered to be interchangeable.

PLANNED UNIT DEVELOPMENT (PUD): A land use planning technique which permits flexibility and innovation in design, placement of buildings, use of open spaces, and off-street parking areas and encourages a more creative approach to the utilization of the land while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage of the surrounding area. PUDs may be proposed for any use or combination of uses allowed in the zoning districts established by this Ordinance.

PRACTICAL DIFFICULTY: When the affected property or structure cannot, because of physical limitations or other “practical difficulties”, be used for a permitted use under the applicable zoning classification.

PROCESSED CANNABIS: Having been subject to a special process or treatment

PUBLIC PLACE OR EVENT: A place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection with public passenger transportation.

QUALIFIED PATIENT: A resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act.

RATED CAPACITY: The maximum capacity of a Solar Facility based on the sum of each photovoltaic system's nameplate capacity reported as Watts Direct Current (WDC) or Watts Alternating Current (WAC).

RANCH: Property used to commercially graze livestock.

RECIPROCAL CANNABIS PARTICIPANT: A person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program.

RECREATIONAL VEHICLES: A self-contained driven or towed portable unit, being four hundred (400) square feet or less when measured at the largest horizontal projection, designed or constructed to provide temporary or readily movable living quarters for recreation, camping, travel or other uses. RVs shall also include, but not be limited to, pickup campers, chassis mounted motor homes, mini-motor homes, recreational vans, pop up tent/hardtop trailers, converted buses, camping trailers, recreational travel trailers, fifth wheel trailers, park models or any other vehicles which are constructed to include a chassis, integral wheels and a towing hitch. A recreational vehicle may be referred to anywhere in this ordinance as RV.

RECREATIONAL VEHICLES (RV) PARK: A parcel of land under the control of any person, organization or governmental entity upon which two or more recreational vehicles are occupied for lodging purposes. ~~Any lot, tract, or parcel of land with three (3) or more travel trailers, whether connected to utilities or not which are occupied for lodging purposes~~

RELIGIOUS INSTITUTION: A place or structure that is used primarily for religious worship, which may include onsite housing, as permitted in this ordinance, for religious leaders and similar staff, and which may include accessory facilities and structures.

RIGHT-OF-WAY: The total area of land that is deeded, reserved by plat, or otherwise acquired by a governing body that is dedicated for the public movement of vehicles, people, and goods.

RUBBISH: Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

RESIDENCE: A place where someone lives.

RUINS: The remains of a structure that is in disrepair, decayed or has been destroyed.

SEMI-NUDE: A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

SENSITIVE LAND USES: Those land uses which are particularly sensitive to the negative secondary impacts associated with sexually oriented businesses and adult entertainment enterprises, and include the following:

- a. Residences,
- b. Residentially zoned areas located either in the county or the ETZ,
- c. Public and private schools and day care institutions,
- d. Public parks and playgrounds and commercial recreational uses,
- e. Churches or other religious facilities or institutions.
- f. Nightclubs, private clubs and similar business enterprises where the percentage of sales of alcohol **or cannabis** comprise more than 50 percent of the enterprise's income revenue

SERVICE STATION: Any land, building, structures or premises used for the retail sale of motor vehicle fuels, oils, accessories or for servicing or lubricating motor vehicles or installing and repairing parts and accessories. This does not include the repairing or replacing of bodies or fenders of motor vehicles, painting motor vehicles, or commercial garages.

SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration specified sexual activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SEXUAL ENCOUNTER ESTABLISHMENT: An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort to perform specified sexual activities. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

SEXUALLY ORIENTED BUSINESS: The same as an ADULT ENTERTAINMENT ENTERPRISE.

SIGN: Any surface and/or supporting structure, visible from a roadway or public access, used or intended to be used to advertise or inform. This may be a display, light, device, figure, painting, drawing, message, plaque, structure, or similar object. If multiple surfaces are being supported by a structure, each surface shall be considered a separate sign. Any structure used or intended to be used to support a sign surface shall be considered a sign.

SIGN – ABANDONED: A sign which no longer is serviceable to advertise an existing business or organization, a service performed, or a product sold; a sign that has not been maintained (kept free of rust, rot, insect infestation, bird nests, and other deterioration); a sign which is structurally damaged, unsecured, or in severe disrepair; or a sign with a peeling, faded, or unreadable message.

SIGN – BILLBOARD: A sign which is used to advertise a function, business, or activity that is not related to the use of the property on which the sign is located. ~~Also known as an outdoor advertisement sign and/or off-premise sign. The maximum size for a billboard shall be 700 square feet for each face (maximum 48 feet long and 17 feet wide, including border, trim, and extensions, but not including any ornamental base or apron support) and maximum height of 40 feet above the centerline of the road.~~

SIGN – DIRECTIONAL: A sign containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately-owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. ~~Directional signs, other than billboards, are limited to a maximum area of 150 square feet.~~

SIGN - ON-PREMISE: A sign which is used to advertise a function, business, or activity that is active on the property on which the sign is located.

SIGN – ON-PREMISE, BUILDING MOUNTED: A sign which is attached parallel to or painted on and supported by an outside wall of a building and is used to advertise a function, business, or activity that is active on the property on which the sign is located. ~~On premises building mounted signs shall be a maximum size of 96 square feet and shall not extend above the wall or roof of the building upon which the sign is mounted.~~

SIGN – ON-PREMISE, FREE STANDING: A sign wholly supported by a sign structure in the ground which is used to advertise a function, business, or activity that is active on the property on which the sign is located. ~~On premise free-standing signs shall be a maximum size of 96 square feet and shall not exceed 20 feet in height from natural grade.~~

SIGN – TEMPORARY: Any sign intended to be displayed for a limited period of time and not permanently mounted to the ground.

SLAUGHTERHOUSE: A building maintained for the purpose of slaughtering any animals to be held, exposed for sale, or offered for sale for human consumption.

SMOKE: To inhale, exhale, burn or carry any lighted or heated device or pipe or any other lighted or heated cannabis or tobacco products intended for inhalation, whether natural or synthetic, in any manner or in any form.

SOLAR FACILITY: An area of land used for converting sunlight into electricity including the necessary equipment for generating electricity, which shall include Photovoltaics, and may also include charge regulators; inverters; associated fencing, landscaping, parking lots, and PV support structures (which may include buildings); and, where permitted by these regulations, electrical substations and Battery Energy Storage Facilities.

SOLAR FACILITY AREA: The total area of land (calculated in acres) encompassed by a Solar Facility. For Small-Scale Solar Facilities, the Solar Facility Area shall be the total area encompassed by Photovoltaics and associated battery cells and equipment cabinets. For Medium-Scale and Utility-Scale Solar Facilities, the Solar Facility Area shall be the sum total of the area designated within the associated special use permit application or development plan provided by the developer.

SOLAR FACILITY, SMALL-SCALE: A Solar Facility located on a Solar Facility Area of less than one acre. A facility of this size is typically equivalent to a rated capacity of ten kilowatts (kW) to less than 250 kW alternating current. Such facilities are used to reduce onsite consumption of utility power.

SOLAR FACILITY, MEDIUM-SCALE: A Solar Facility with a Solar Facility Area of between one to ten acres. A facility of this size is typically equivalent to a rated capacity of 250 kW to less than two megawatts (MW) alternating current. Such facilities are primarily used to reduce onsite consumption of utility power for commercial and industrial applications but may also be used to provide electricity to a utility provider.

SOLAR PANELS: A device that collects energy from the sun and converts it to produce electricity or other forms of energy

SOLAR FACILITY, UTILITY-SCALE: A Solar Facility located on a Solar Facility Area of more than ten acres. A facility of this size is typically equivalent to a rated capacity of two megawatts (MW) alternating current or greater. Such facilities are used to provide electricity to a utility provider.

SOLAR PHOTOVOLTAICS PANEL COVERAGE: The total acres covered by groupings of photovoltaic panels (referred to as “PV pods”) including spaces between panels but excluding driveways, wildlife corridors, required setbacks, wetlands, and the like. The phrase “Solar Photovoltaics Panel Coverage” shall be interchangeable with “Solar PV Panel Coverage”.

SPECIAL USE: A land use permitted that allows a property or parcel of land to be used in a manner that deviates from the permitted uses allowed in that zoning district. See Article 26. ~~in one or more districts as defined by this Ordinance, but which, because of characteristics peculiar to it, or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zoning district, and to assure that such use shall not be in conflict with the public interest. Approval of Special Use Permits may contain certain conditions that assure that the use will conform to the Chaves County Comprehensive Plan and this Ordinance.~~

SPECIAL USE PERMIT: ~~A permit of documented evidence of authority granted by the ETZ Commission to locate a special land use at a particular location.~~

SPECIFIED ANATOMICAL AREAS: Includes any of the following:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, vulva, or female breasts below a point immediately above the top of areolae; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Includes any of the following:

- a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, vulva, or female breasts; or
- b. Sex acts, actual or simulated including sexual intercourse, oral copulation, or sodomy; or
- c. Human masturbation, actual or simulated; or

- d. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- e. Excretory functions as part of or in connection with any of the activities set forth in this subsection.

STABLE: A building in which domesticated animals are sheltered or fed.

STORAGE UNITS: A building or buildings which are commercially rented or leased to the general public for the purpose of storing personal property.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the next floor 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.

STREET: That portion of a public right-of-way or private thoroughfare intended for vehicular use.

STRUCTURAL ALTERATION: Any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or exterior walls.

STRUCTURE: Anything constructed or erected which requires permanent location on the ground or which is attached to something having a permanent location on the ground – includes manufactured homes, advertising signs, and billboards but does not include travel trailers, tents, or motor vehicles.

TEMPORARY USE: ~~A specific and permitted use established for a specific period of time.~~

TOWNHOUSE: ~~A single family dwelling unit which is part of a group of dwelling units attached by common walls. Each unit is designed for occupancy by a separate family, with separate entrances and exits, and is sold as a separate dwelling unit.~~

TRAVEL TRAILER: (see recreational vehicle)

TRAVEL TRAILER PARK: (see recreational vehicle park)

UNPROCESSED CANNABIS: Unaltered from an original, raw or natural state.

USE: The purpose or activity for which a parcel of land and/or a building are intended to be used based on the zoning district.

USE, ACCESSORY: A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal use or building.

USE, PERMITTED: The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building or premises is located.

USE, PRINCIPAL: The primary use of a building or the parcel of land as permitted in that zoning district.

USE, TEMPORARY: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

VALUE, APPRAISAL: Is an evaluation of a property's value based on a given point in time by a professional appraiser.

VALUE, LAND: Is the value of a piece of property including both the value of the land itself as well as improvements that have been made to it.

VALUE, MARKET: Is the price that a willing buyer would pay a willing seller for the home in an open market.

VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT: A person that is authorized to act as any of the following: a cannabis courier; a cannabis manufacturer, a cannabis producer; and a cannabis retailer.

WAREHOUSE: A building used for the temporary storage of merchandise or commodities.

WIND ENERGY CONVERSION SYSTEMS (WECS): An electricity generating facility consisting of one or more Commercial Wind Turbines under common ownership, operation, or control, and includes related on-site structures such as substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers(s), but does not include the High-Voltage Transmission Line(s) (electrical lines of 230 kV or greater) used for the transmission and distribution of the generated electricity or Private Wind Turbines.

WIRELESS COMMUNICATIONS FACILITY: (WCF) Is unstaffed facility that transmits and receives radio frequency, microwave, or other signals for commercial communications purposes, including and typically consisting of antennas, equipment shelters or cabinet, transmission cables, a support structure required to achieve the necessary elevation, and reception and transmission devices and antennas.

WIRELESS TOWER: "Telecommunication Tower" is a structure, including but not limited to a freestanding mast, pole, monopole, guyed tower, lattice tower, freestanding tower or other structure, designed and constructed for the primary purpose of supporting any Federal Communications Commission licensed or authorized wireless telecommunications facility antennas and their associated facilities.

WORKFORCE CAMP: Lodging in a barracks or dormitory style setting, where the entire facility is designed, constructed and managed by an entity, and is established for a specified period of time and subject to specific operational and other requirements.

YARD: An open space that is unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided by this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the mean distance between the lot line and the main building shall be used.

YARD, FRONT: The open space of a lot that lies between the side lot lines and between the front property line and the main building on the lot.

YARD, REAR: The open space that lies between the side lot lines and between the rear property line and the main building on the lot.

YARD, SIDE: The open space that lies between the side lot line and the main building on the lot.

YURT: A type of round structure with a wooden frame.

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ARTICLE 4
GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS

Section 4.1 EFFECT OF ESTABLISHMENT OF DISTRICTS

1. All property except that property owned or controlled by the Federal Government, the State of New Mexico, the County of Chaves, and the City of Roswell, and their subdivisions or agencies, is governed according to the zone in which it is located. Any use not designated a permissive or special use in a zone is specifically prohibited from that zone, except as otherwise provided herein.
2. No land shall be used, or occupied, and no building, structure, or part thereof, shall be erected, constructed, enlarged, altered, moved, or used in any district, as shown on the zoning maps or described in this Ordinance, except in conformity with the regulations established by this Ordinance for the district or zone in which it is located.
3. No building shall be erected, constructed, enlarged, or altered to exceed the height, number of stories, or size, or density of population, occupy a greater percentage of land area, have smaller front, rear or side yards, or open space, than is specified for the district or zone. Such building, structure, or land for trade, industry, residential, or other purposes shall be in conformity with the regulations of the district or zone in which the land, building, or structure is located.
4. **Zoning and District Boundaries** The boundaries of the zoning districts, as described in this Ordinance, are shown on the Zoning Maps which are hereby designated as an integral part of this Ordinance and have the same force and effect as if fully described herein. Said maps are properly attested and are on file with the County Clerk of Chaves County, New Mexico.
 - a. Where district boundaries are indicated as approximately following street or alley centerlines or right-of-way lines, such lines shall be construed to be district boundaries.
 - b. Where district boundaries are indicated as approximately parallel to street or alley centerlines or right-of-way lines, such boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Maps. In the absence of a dimension, scale of the Zoning Maps shall determine.
 - c. Where district boundaries are indicated as approximately following lot lines, section lines, or other legal subdivision lines, such lines shall be construed to be said boundaries.
 - d. Where a district boundary is indicated as an extension of any street or alley or lot line the boundary shall be construed to be of the same course and bearing as the line extended.
 - e. Any area indicated on the Zoning Maps as school, park, cemetery, right-of-way, or watercourse shall be subject to the applicable regulations of the zone in which it is located, or if it is not in a district, regulations of the most restricted adjoining district shall apply.
 - f. Whenever any street or alley is vacated in the manner authorized by law, the zoning district adjoining on each side of such street or alley shall be automatically extended to the center of such vacation, or as the vacation directs, if different.
 - g. Any design for subdivision of zoned land shall reflect the zoning for the district in which it is located or be accompanied by an application for a change of zoning to reflect the intended use of the land.

- h. Any application for change of zoning of un-platted land shall be accompanied by a plat delineating the boundaries of each tract included in the area subject to the proposed change of zoning.

~~4.1.2 Study District When land in the F-L (Federal Land) or S-L (State Land) Districts is to be transferred into any other ownership, such land shall either be subject to a Zone District Map amendment prior to transfer of ownership of such land or automatically be placed in an interim Study District at the time of transfer of ownerships, wherein no change in land use or additional construction is permitted while the land is so classified. The owner of such land, the Authority, or the Commission may initiate a Zone District Map amendment either prior to transfer of ownership or to replace the Study District classification following regular procedures for amending this Ordinance. The Commission shall act to replace the Study District classification of such land with Zone District regulations within one (1) year of its classification as Study District.~~

Section 4.2 SUPPLEMENTAL REGULATIONS

1. Floodways and Flood Control Structures

- a. In order to protect persons and property from periodic flooding and to preserve the location, character, and extent of natural drainage courses, as well as existing or proposed flood control structures, floodways, etc., land subject to flooding and land deemed to be topographically unsuitable for building or for other reasons uninhabitable shall not be used for residential occupancy, nor for such other uses as may increase danger to health, safety or the general welfare or aggravate erosion or flood hazard.
- b. **Development** ~~The building of residences or other permanent structures~~ shall not be permitted on the site of existing or proposed flood control structures and floodways, or otherwise interfere with flood control plans as set forth in the "Master Plan for Flood Control and Storm Drainage in Chaves County and the City of Roswell, New Mexico," and other flood control plans set forth by the Chaves County Flood Commissioner and approved by the Board of Chaves County Commissioners. These flood control structures and floodways include but are not limited to reservoirs, dams, diversions ditches or channels, dikes, spillway channels, and flood plains subject to the runoff generated by a one hundred (100) year return period storm.
- c. Landfills are not allowed in **Special Flood Hazard Area floodplains, as determined by the latest FIRM maps**, unless the New Mexico Environment Department (NMED) approves.

2. Contamination of Ground Waters Prohibited All uses in all areas are prohibited from any activities which cause pollution or contamination of ground waters, unless authorized by the Authority **and the NMED**.

3. Waste Disposal

- a. The disposal of hazardous materials **and/or waste** is strictly prohibited in all zones, except as authorized by the New Mexico Environmental Department and the Authority.
- b. Solid waste **such as but not limited to** shall be disposed of only in a NMED permitted landfill or County approved transfer stations Disposal of solid waste along road rights-of-way, water courses, personal landfills or other unauthorized areas is strictly prohibited.

4. Zoning District or Land Use Areas: Proposed subdivisions in the Extraterritorial Zone shall have their zoning district or land use areas assigned by the Commission during a public hearing prior to any final approval of the plat by the Roswell Planning and Zoning Commission and/or the Chaves County Planning

and Zoning Commission. After the Commission approves the zoning, the Roswell City Council and/or the Board of Chaves County Commissioners may then take action on the final plat of the proposed subdivision.

5. Road Setback Requirements-All Zones In order to make adequate provision for transportation, water, sewerage, and other utilities, and to assure that land be available, when required, for widening of county roads.

- ~~a. Except for utility lines and appurtenances, the construction or placement of permanent structures is prohibited nearer than forty (40) feet from a line that is fifty (50) feet from the section line, on section line roads; forty (40) feet from the half section line on half section line roads; thirty (30) feet from the center line on other roads, even if the existing county road has a narrower right-of-way, and was acquired by deed, dedication, prescription, condemnation, declaration or other means.~~
- b. Utility companies who wish to place their lines or other facilities within existing County road right-of-way, shall first obtain a permit from the Chaves County Board of Commissioners which shall contain, among other things, a statement that if the Board finds it necessary to widen a county road, the applicant agrees to move their lines and equipment as required, at their own expense, after receiving a ninety (90) day advance notice.
- ~~e. Subdividers in the Extraterritorial Zone shall dedicate public road and utility rights-of-way in accordance with the alignments and right-of-way dimensions for arterial roads established in the Roswell Comprehensive Master Plan.~~

6. Minimum Lot Sizes: Minimum lots size shall be five (5) acres, except in the Flight Zone Overlay District area where the minimum lot size shall be ten (10) acres.

7. Lot Sizes in ETZ: Minimum lot sizes in the Extraterritorial Zone are five (5) acres unless at the time of adoption of this Ordinance in 1980, a parcel contained at least five and three quarters (5 3/4) but not more than ten (10) acres. These parcels may be divided, one time only, to create one five (5) acre parcel and one parcel of less than 5 acres as long as the smallest parcel meets the minimum land area requirement set by New Mexico Environment D for an individual septic system.

8. Restrictions

- a. There shall be no commercial swine operations or wind energy conversion systems within the Extraterritorial area. ~~except where otherwise provided.~~
- b. In all residential zoning districts ~~R-1, R-2, R-3, R-MS, R-MP, and R-S~~, a principal use shall be established prior to an accessory structure or use being permitted, excepting when a building permit is issued for both the principal and accessory structure, on the same application. Building permit fees shall be required for all structures listed on the application.
- c. The use of recreational vehicles as a residential dwelling unit shall not be permit, except where otherwise provided in this ordinance. Violation of this restriction shall result in the property owner and/or the recreational vehicle occupant being cited.
- d. Guesthouses and bunk houses shall not be permitted on a parcel of land or group of lots when combined, that are less than one and half (1½) acres in size.
- e. Guesthouses are intended for temporary lodging of family members or guests for no more than two hundred (200) days in a calendar year. Guesthouses shall not be for rent, lease, or sale and will not be assigned a separate rural address from the principal residence dwelling.

- f. A zoning permit from the Department shall be required for home burial sites. The site shall be a minimum of fifty (50') feet from a known water source, twenty-five (25') from any property line, one hundred (100') feet from any dwelling unit and shall be accessible from a maintained road. The burial site shall be recorded as an addendum to the deed of the property, in the Chaves County Clerk's office. The gravel shall be six feet deep, four feet wide and nine feet long.

9. Development Plan Standards for Office-Professional, Commercial and Industrial Districts

- a. All construction shall comply with the latest New Mexico Commercial Building Code, NM Electrical Code and NM Plumbing and Mechanical Codes.
- b. All development shall comply with New Mexico Environmental Department and the Office of the State Engineer regulations.
- c. Address signs, being 4 inches or greater in size, shall be located on the building and shall be visible from the road.
- d. Driveways along State, County or City maintained roads shall require an Access Permit from said government agency. All driveways shall be constructed as required by the government agency.
- e. Setback and lot size requirements- See Article 17, 20 & 21
- f. Off-Street Parking requirements - See Article 23
- g. Landscaping requirements- See Article 18
- h. Flood Hazard requirements- See Article 16
- i. On-premises signs. No more than two (2) signs shall be permitted for each use and may be either a free standing or a building mounted sign. Signs shall not be located so as to create or potentially create a traffic or safety hazard as determined by the Code Enforcement Officer.
- j. Six-foot screen fence enclosure shall be required for all outdoor storage of equipment, supplies or machinery.
- k. All lighting on the property shall comply the New Mexico Night Sky Act and shall be enforced as part of the electrical permit.
- l. Properties shall not be a public nuisance to the community with rubbish, debris, waste and abandoned vehicles and/or structures.

ARTICLE 5

Section 5.1 ESTABLISHMENT OF ZONING DISTRICTS

1. For the purpose of this Ordinance, the Roswell-Chaves County Extraterritorial Zone, which is the area within the two-mile Extraterritorial limits of the City of Roswell, is divided into the following districts:

R-1	SINGLE FAMILY RESIDENTIAL
R-2	TWO FAMILY (DUPLEX) RESIDENTIAL
R-3	MULTIPLE FAMILY RESIDENTIAL
R-MS	RESIDENTIAL MANUFACTURED/HOME SUBDIVISION
R-MP	RESIDENTIAL MANUFACTURED HOME PARKS
R-S	RURAL-SUBURBAN
O-1	OFFICES-PROFESSIONAL
C-1	COMMERCIAL
I-1	INDUSTRIAL
PUD	PLANNED UNIT DEVELOPMENT

2. OVERLAY ZONING DISTRICTS

F-1	FLOODPLAIN
F-2	FLIGHT ZONE
L-1	ARTERIAL OVERLAY (LANDSCAPING)
S-1	OUTDOOR ADVERTISING (SIGNS)

ARTICLE 6

R-1 SINGLE FAMILY RESIDENTIAL DWELLING DISTRICT

Section 6.1 The regulations set forth in this article are "R-1" Single Family Residential District regulations. **One primary residential dwelling unit per lot, parcel or tract of land.**

Section 6.2 Permitted Uses:

1. Principal Use

- a. Single family dwelling unit including a manufactured home
- b. ~~Churches~~ **Religious Institutions**
- c. Publicly owned or operated parks or playgrounds
- d. Public schools, elementary and secondary, and educational institutions having a curriculum the same as ordinarily given in public schools
- e. Golf courses, except commercially run miniature courses, driving ranges, and putting greens
- f. Temporary real estate sales offices for use in conjunction with the development of a residential subdivision in any residential district; provided use of the sales office shall be discontinued upon completion of the development in which the office is located or upon discontinuance of the development activity for a period of one (1) year.
- g. **Farming and Ranching (a parcel or adjoining lots with a subdivision, combined, shall be no less than two (2) acres in size)**

2. Accessory Structures or Use

- a. Home occupations
- b. Day care homes, Family
- c. Accessory structures for ~~non-commercial uses and~~ use customarily incidental to the above uses. ~~such as: personal garages, personal storage, recreation, hobbies, personal greenhouses, or for the keeping or housing of domestic animals, but not involving the conduct of a business.~~ Any accessory structure that is not a part of the main structure shall be in compliance with yard restrictions provided herein.
- d. Accessory structure for use as a guest house or bunk house that are constructed to either NM Residential Building Code or HUD Code standards. **(See Section 4.2.8)**
- e. **Storage (shipping) containers with a Placement Permit. (Modifications to a container shall require stamped plans from a licensed NM Engineer- per NMCID)**
- f. **Solar Facility-Small Scale** ~~Temporary buildings exceeding ten (10) square feet in area which are incidental to construction work. These buildings shall be removed upon the completion or abandonment of the construction work.~~
- g. Temporary signs not exceeding six (6) square feet in area. ~~pertaining to the lease, hire, or sale of a building or premises provided, however, that there shall be no more than one such sign on any lot except a corner lot where two (2) such signs may be located.~~
- h. Accessory use- Storage of RV, boat, and utility trailers. ~~(Shall not be occupied)~~ Temporary occupation of no more than one RV, having a maximum stay of thirty (30) days within a calendar year.

ARTICLE 7

R-2 TWO FAMILY (DUPLEX) RESIDENTIAL DWELLING DISTRICT

Section 7.1 The regulations set forth in this article are the "R-2" Two Family Dwelling District regulations. A duplex structure shall be limited to a total of six bedrooms and shall have only one septic unit per lot, tract or parcel of land. The modification and/or attachment of two manufactured houses together shall not be permitted.

Section 7.2 Permitted Uses:

1. Principal Use

- a. Any use permitted in the R-1 Single Family Residential Dwelling district
- b. ~~Two family dwellings~~ or A duplexes *

2. Accessory Structure or Use

- a. Any accessory structure or use permitted in the "R-1" District

Area, height, and setback requirements are set forth in Articles 20 and 21.

ARTICLE 8

R-3 MULTIPLE FAMILY RESIDENTIAL DWELLING DISTRICT

Section 8.1 The regulations set forth in this article are the "R-3" Multiple Family Residential Dwelling District regulations. **A multi-family dwelling structure shall be limited to a total of six bedrooms and shall have only one septic unit per lot, tract or parcel of land. The modification and/or attachment of two or more manufactured houses together shall not be permitted.**

Section 8.2 Permitted Uses:

1. Principal Use

- a. Any use permitted in the "R-2" Two Family (Duplex) Residential Dwelling district
- b. Boarding and lodging houses
- ~~3. Condominiums*~~
- ~~4. Hospitals and clinics*, but not animal hospitals or mental treatment facilities~~
- c. Multiple family dwellings ~~or apartment house complexes~~
- d. Non-profit religious, educational, and philanthropic institutions, excluding penal, or alcoholic treatment centers
- e. Nursing homes
- f. Townhouses

2. Accessory Structure or Use

- a. Any accessory structure or use permitted in the "R-2" District
- b. Day Care; Group

Area, height, and setback requirements are set forth in Articles 20 and 21.

ARTICLE 9**RESERVED****~~R-MS RESIDENTIAL MANUFACTURED HOME SUBDIVISION DISTRICT~~**

~~Section 9.1~~ The regulations set forth in this article are the "R-MS" Residential Manufactured Home Subdivision District regulations.

~~Section 9.2~~ Permitted Uses:

~~A. Principal Use~~

- ~~1. Any use permitted in "R-1" Single Family Residential Dwelling District~~
- ~~2. Manufactured homes* for single family occupancy~~

~~B. Accessory Structures or Use~~

- ~~1. Any accessory structure or use permitted in "R-1" District~~

~~Area, height, and setback requirements are set forth in Articles 20 and 21~~

~~* defined in Article 3.2, Definitions.~~

ARTICLE 10

RESERVED

~~R-MP RESIDENTIAL MANUFACTURED HOME PARK DISTRICT~~

~~Section 10.1~~ The regulations set forth in this article are the "R-MP" Residential Manufactured Home Park District regulations.

~~Section 10.2~~ Permitted Uses:

~~A. Principal Use~~

- ~~1. Manufactured home parks*~~

~~B. Accessory Structures or Use~~

- ~~1. Accessory structures or uses related to a manufactured home park, such as be not limited to, an office, maintenance sheds, swimming pool, recreational or commons facility.~~

~~Area, height, and setback requirements are set forth in Articles 20 and 21.~~

~~* defined in Article 3.2, Definitions~~

ARTICLE 11

R-S RURAL SUBURBAN DISTRICT

Section 11.1 The regulations set forth in this article are the "R-S" Rural Suburban District regulations. The R-S Rural Suburban District or Land Use is intended to accommodate single family dwellings and is designed to protect and maintain a character of development with lots having a minimum area of five acres, and with no more than one dwelling unit and permitted accessory buildings on one lot.

Section 11.2 Permitted Uses:

1. Principal Use

- a. Single family dwelling, including manufactured homes
- b. ~~Structures or facilities related to~~ Farming and ranching
- c. Parks, playgrounds, golf courses, and recreational uses, except miniature golf courses or commercial practice driving tees
- d. Religious Institutions.
- e. Public elementary and high schools, or private schools with curriculum the same as ordinarily given in public elementary and high schools
- g. State-licensed or state-operated community residences for the mentally ill or developmentally disabled serving ten (10) or fewer persons. (3-21-1.C. NMSA)

2. Accessory Structure or Use

- a. Home occupations
- b. Accessory buildings or structures for use for personal garage or storage, recreation, or for farming and ranching. ~~livestock, poultry, and other incidental uses.~~
- c. Adult Day Care Home
- d. Accessory structure for use as guest house or bunk house that are constructed to either NM Residential Building Code or HUD Code standards. (See Section 4.2.8)
- e. Day care homes, Family
- f. Directional signs and temporary signs Temporary signs are limited to 32 square feet in size. No more than one (1) sign is permitted for every one-quarter mile of roadway frontage. Signs shall not be located so as to create or potentially create a traffic or safety hazard.
- g. Temporary occupation of no more than one RV, having a maximum stay of thirty (30) days within a single calendar year.
- h. Nurseries, truck gardening, greenhouses
- i. Storage (shipping) containers with a Placement Permit. (Modifications to a container shall require stamped plans signed by a NM engineer-per NMCID)
- j. Solar Facility-Small Scale

ARTICLE 12
O-1 OFFICES-PROFESSIONAL DISTRICT

Section 12.1 The regulations set forth in this article are the "O-1" Office-Professional District regulations.

Section 12.2 Permitted Uses:

1. Principal Use

- a. Accounting
 1. accountants, auditors, tax experts
 2. credit services
- b. Engineering
 1. geologists, geophysicists, architects, engineers, surveyors
- c. Insurance offices
- d. Lawyers
- e. Medical **Clinics**
 1. doctors, nurses, dentists, optometrists, chiropractors, oculists
 2. laboratory technicians and laboratories but excluding outdoor living facilities for animals
- f. **Animal Grooming; No overnight boarding of animals.** ~~Messenger or telegraph services~~
- g. Music and art
 1. musicians, dancing studios, dramatic studios
 2. artists, authors, poets
- h. Photography studios
- i. Public typists, ~~stenographers~~, consulting services, ~~answering services~~, clergymen
- j. Real estate offices
 1. salesman, appraisers, brokers
 2. **escrow and/or title company office**

2. Accessory Structure

- a. **Accessory structure for storage or parking; not to exceed six (600) hundred square feet in area.**
- b. **Solar Facility-Small or Medium Scale** ~~On-premise signs* with the following restrictions: no more than two (2) signs are permitted for each use, free standing or building mounted, with a maximum combined size of no more than 96 square feet. Individual offices within an office complex may have one additional sign, free standing or building mounted, not to exceed 6 square feet. Signs must be permitted and constructed in accordance with latest New Mexico Commercial Building Code. Signs shall not be located so as to create or potentially create a traffic or safety hazard. Abandoned signs must be repaired or removed by the property owner.~~

Area, height, and setback requirements are set forth in Articles 20 and 21.

*** defined in Article 3.2, Definitions**

ARTICLE 13

C-1 COMMERCIAL DISTRICT

Section 13.1 The regulations set forth in this article are "C-1" Commercial District regulations.

Section 13.2 Permitted Uses:

1. Any use permitted in "O-1" Offices - Professional District
2. Automobile sales and service/repair and filling stations
3. Bakeries, Catering, Restaurants, - retail
4. Banks and financial institutions
5. Barber and beauty shops
6. Billboards- only in the S-1 Outdoor Advertising Overlay District
7. Business and commercial schools ~~Catering~~
8. Cannabis Establishments
9. Cemetery
10. Clothing repair, tailors, shoe repair, millinery, cleaners
11. Cold storage lockers, meat processing being incidental thereto
12. Commercial parking lots and garages
13. Commercial recreation facilities; pool, bowling, theaters, games, miniature golf
14. Commercial service companies; plumbing, electrical, HVAC, septic
15. Commercial mobile food vendors
16. Day care centers
17. Florists
18. Hotels, motels, boarding house
19. Hospitals
20. Kennels veterinary hospitals, and animal clinics
21. Mortuaries and crematories
22. Paint and decorator stores
23. Photography and artists supply stores
24. Plumbing shops
25. Recreational vehicle parks ~~Restaurants~~
26. Retail sales
27. Small appliance repair shops
28. Sign shops, excluding construction and storage of billboards
29. Sheet metal shops
30. Tattoo parlors, piercing shops, massage parlors (adult content activity, licensed by the State of NM with limited operational times of 9:00 am to 9:00 pm.)
31. Adult Day Care Center
32. Wireless Communication Facility
33. Similar type uses as indicated above as approved by the Commission.
34. ~~Accessory living quarters~~ Dwelling unit, as an accessory use, for only one family may be allowed on each lot and may not be for sale or lease separated from the principal use or for use involving the conduct of a business
35. On-premises signs, as an accessory use, no more than two (2) signs are permitted for each use, free standing or building mounted. ~~Signs must be permitted and constructed in accordance with the latest New Mexico Commercial Building Code.~~ Signs shall not be located so as to create or potentially create a traffic or safety hazard. Abandoned signs must be repaired or removed by the property owner.

~~**Section 13.3** Shops for custom work manufacture to be sold at retail only on the premises, provided that in such manufacture the total mechanical power shall not exceed ten (10) horsepower for the operation in any one shop, and provided that the space occupied by the manufacturing use permitted herein shall not exceed fifty percent (50%) of the total floor area thereof, and provided further that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, or dust as to be a nuisance or unsanitary.~~

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ARTICLE 14

I-1 INDUSTRIAL DISTRICT

Section 14.1 The regulations set forth in this article are the "I-1" Industrial District regulations. A building or premises shall only be used for the following purposes as approved by the Commission and is subject to such conditions and restrictions as the Commission may impose. The Planning Director may administratively approve and amend an approved change of use, including conditions of approval, upon determining a proposed change of use is of equal or lesser impact. Uses determined to not meet said criteria shall be subject to a Change of Use application and review and approval by the Commission.

Section 14.2 Permitted Uses:

1. Any use permitted in C-1 Commercial District
2. Bottling works
3. Billboards, only in the S-1 Outdoor Advertising Overlay District
4. **Battery Energy Storage System (BESS facility)**
5. Food processing and canning
6. Foundry of lightweight nonferrous metal, excluding brass, manganese, bronze, zinc
7. Grain elevators, cotton gins, compressors, feed processing, and storage
8. Heavy vehicle temporary parking/storage
9. Iron works
10. Junkyards, automobile graveyards, scrap metal yards, and recycling operations
11. Lumber yards and construction yards
12. Machinery sales and service:
 - a. farm equipment; b. oil well drilling equipment; c. diesel tractor and trailer.
 - d. water well drilling
13. Manufacture and assembly
14. Paint mixing and treatment
15. Parcel delivery services
16. Sales and service of gas/oil mineral related equipment
17. Sanitary landfills, solid waste disposal
18. **Sexually Oriented Businesses**
19. **Solar Facility- Medium or Utility Scale**
20. Storage of gas/oil mineral production related materials
21. Storage of petroleum products
22. Tire retreading or rebuilding
23. Warehouses and outside storage
24. Wholesale distribution centers
25. **Workforce Camps**
- ~~26. Dwelling unit for only one family may be allowed on each lot and may not be for sale or lease separated from the principle use or for use involving the conduct of a business.~~
- ~~27. Similar type uses as indicated above as approved by the Commission~~
- ~~24. On premise signs*. No more than two (2) signs are permitted for each use, free standing or building mounted. Signs must be permitted and constructed in accordance with the latest New Mexico Commercial Building Code. Signs shall not be located so as to create or~~

ARTICLE 15

PUD- PLANNED UNIT DEVELOPMENT DISTRICT

Section 15.1 PURPOSE

1 To provide a more creative and imaginative design of land developments than is possible under district zoning regulations while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage as the surrounding area.

Section 15.2 PERMITTED USES

1. Any use or combination of uses allowed in the zoning districts established by this Ordinance in accordance with the procedures, requirements, and standards set forth in this article.
2. Residential PUDs may be allowed in any residential zoning district provided that the ultimate development density is not more than the development density of the respective residential zone.
3. Commercial and Industrial PUDs may be allowed in any commercial or industrial zoning district.

Section 15.3 APPLICATION PROCEDURE

1. All PUDs shall be preceded by an informal pre-application conference. The pre-application conference is intended to provide general advice to the applicant about the procedures and data requirements for PUD review and approval in the County. Documents required for the pre-application conference include:
 - a. a sketch of the proposed plan of development.
 - b. name of owner or owners of land within the PUD.
 - c. a description of surrounding land uses.
 - d. location of existing utilities, roads, and water courses within 300 feet of the boundaries of the PUD.
2. All requests for planned unit developments shall follow the same application procedures as any other zoning request.

Section 15.4 APPEAL

Appeals must follow the guidelines of Section 2.1 of this Ordinance.

Section 15.5 REQUIRED DOCUMENTS

A survey map and supporting documentation shall be submitted with the application for a zoning change to PUD.

1. A survey map shall have **all of** the following minimum information:
 - a. vicinity map.
 - b. title, scale, north arrow, and date.
 - c. all property boundary lines, with bearings and distances.
 - d. proposed lot lines, with dimensions and lot and block numbers, and acreage of each lot.
 - e. the location, dimensions, and purpose of existing and proposed easements.

- f. names and right-of-way widths of existing and proposed roads on and adjacent to the land within the PUD.
 - g. existing and proposed utilities on and adjacent to the site.
 - h. locations, dimensions, and purpose of any land to be dedicated to public use, including any improvements to be made to that land.
 - i. delineation, if applicable, of any 100-year flood plain as designated by the Federal Emergency Management Agency.
 - j. legal description of record including the section, township, and range within which the subdivision is located.
 - k. names and addresses of all persons owning property within 100 feet of the boundaries of the proposed PUD.
2. Supporting documentation, at a minimum, shall include:
- a. site plan showing building footprints and pad elevations.
 - b. water supply plan.
 - c. liquid waste disposal plan and soils report.
 - d. solid waste disposal plan.
 - e. traffic plan.
 - f. terrain management plan.
 - g. applicant's policies regarding open spaces.
 - h. any proposed commercial or industrial areas and the criteria used to determine the size and location of these areas.
 - i. any proposed covenants, conditions, or restrictions to be used within the PUD.
3. Additional information may sometimes be required by County Staff when deemed necessary to properly assess the request for a PUD.

Section 15.6 DEVELOPMENT STANDARDS

1. Construction of structures, facilities, and infrastructure within an approved PUD shall comply with the following standards:
- a. **Ownership:** The tract shall be under unified ownership or control at the time of application and shall be planned as a whole. If the tract is not to be developed as a whole, a phasing schedule shall be provided showing the chronological order in which portions of the tract are to be developed.
 - b. **Chaves County Comprehensive Plan:** The proposed PUD shall be consistent with the County Comprehensive Plan in terms of land use and density.
 - c. **Lot Area Regulations:** A proposed residential PUD or a residential PUD mixed with commercial and/or industrial uses shall be at least five (5) acres in size. A proposed commercial and/or industrial PUD shall be at least two (2) acres in size.
 - d. **Density:** For residential PUDs, the total number of dwelling units shall be determined by either the density standard of the original zoning district or the density standard recommended by the County Comprehensive Plan and shall apply to the project as a whole rather than to its individual lots. Densities are calculated on a project-wide basis, permitting, among other things, the clustering of houses with provisions for common open space.

- e. **Setback Regulations:** Building setbacks may vary from those of the zoning district in which the PUD is planned as long as the proposed PUD does not adversely affect surrounding property values and will blend well with adjacent developments.
 - f. **Height Regulations:** Heights of buildings and structures shall match the height requirements of the original zoning district within which the PUD is being proposed.
 - g. **Open Space:** Sufficient open space shall be provided to meet requirements for zoning district density. The open space shall be commonly available to all uses within the PUD and be landscaped to present an aesthetically pleasing environment consistent with the original zoning district.
 - h. **Streets, Utilities, Services:** The specifications and standards for streets, utilities, and services may vary from those normally required in this Ordinance as long as modifications will not adversely affect surrounding property values or the public health and welfare.
 - i. **Off-Street Parking:** All PUDs shall provide off-street parking areas according to the zoning district within which the PUD is being proposed.
 - j. **Water supply:** The water supply system for the PUD must comply with State Engineer regulations.
 - k. **Liquid waste:** Liquid waste disposal systems must comply with New Mexico Environment Department regulations.
 - l. **Drainage:** Drainage plans must protect against flooding, inadequate drainage, and erosion. Post-development stormwater runoff velocities and locations must not differ from pre-development conditions.
 - m. **Buffers:** When commercial and/or industrial PUDs are proposed, solid fences and **fifteen (15)** foot buffer setbacks are required in accordance with the additional height, area, and use regulations established by this Ordinance.
 - n. **Traffic:** Roads, driveways, and parking areas developed within the PUD must be adequate to service the lots within the development and provide safe ingress and egress to County roads. The County will determine what improvements, if any, to the existing County Road system will be necessary to properly serve the PUD.
2. Development standards may vary if it can be demonstrated by the applicant that such modification of specifications and standards will not adversely affect the interests of the general public or the County.

Section 15.7 CONSTRUCTION

1. Prior to any construction, building permits must be obtained from the County Building Inspector.
2. Any deviation from the approved PUD submittal must be resubmitted to the **ETZC Commission** for approval.

ARTICLE 16

~~RESERVED F-1 FLOODPLAIN DISTRICT~~

~~Section 16.1 SEE THE LATEST CHAVES COUNTY FLOOD DAMAGE PREVENTION ORDINANCE PURPOSE AND INTERPRETATION~~

- ~~1. The purpose of this article is to establish minimum standards for location and use within the floodplain/Special Flood Hazard Area. A Special Flood Hazard Area (SFHA) is an area as defined and made a part of the Flood Insurance Rate Maps (FIRMs), Flood Insurance Study report and/or Floodway Maps for Unincorporated Chaves County. The floodplain district shall overlay the existing use zones and these areas will be governed by both.~~
- ~~2. USE REGULATION: No Development shall be permitted in the Floodway, as determined by the latest FIRM Maps.~~

~~Section 16.2 OBSTRUCTIONS~~

- ~~1. Any obstruction in a floodplain NOT excepted under and by virtue of the permitted uses of this article is hereby declared a public nuisance unless a permit for such obstruction has been obtained from the County Certified Floodplain Administrator (CFM).~~
- ~~2. It shall be unlawful for any person, firm, or corporation to locate an obstruction within or upon an established floodplain without first having obtained a permit therefore, from the CFM. This article shall have no application to an obstruction located in a floodplain prior to the effective date of this Ordinance, provided further that no person shall make nor shall any owner permit alteration of an obstruction of whatever nature within an established floodplain, irrespective of whether or not such obstruction be located in the floodplain before or after the effective date of this Ordinance, except upon express written approval and consent of from the CFM first hand and obtained.~~

~~Section 16.3 APPLICATION FOR PERMITS, REQUIREMENTS~~

- ~~1. Upon application made, the CFM is authorized to approve or deny permits for the construction, alteration, or location of residential and non-residential structures or obstructions within the SFHA, provided, the required Base Flood Elevation (BFE) is not encroached upon, including basements or crawl spaces~~
- ~~2. The application shall be signed by the landowner or his authorized agent and shall contain such information as the CFM shall require, including but not limited to, comprehensive maps, site plans, profiles, and specifications.~~
- ~~3. In evaluating the application, the CFM shall give due consideration to factors as follows:

 - ~~a. Potential danger to life and property occasioned by water which may become backed up or diverted by any such obstruction;~~
 - ~~b. Inherent danger that the obstruction could be swept downstream to the injury or damage of others;~~
 - ~~c. Making mandatory the construction or alteration of any such obstruction in a manner which minimizes potential danger;~~
 - ~~d. The solidity and permanence factors of the proposed obstruction;~~~~

- e. ~~Overview of the anticipated development of the area within the foreseeable future, which could be affected by the obstruction;~~
 - f. ~~Construction of streets, alleys, parking lots, or other facilities which potentially increase flooding downstream; and~~
 - g. ~~Any and all other factors as shall be judged in harmony with the intent and purpose of this Ordinance.~~
4. ~~Permitted uses within floodplains shall be the same as those permitted uses for lands lying immediately adjacent thereto, but shall be subject to the following requirements:~~
- a. ~~Substructure foundations shall be so designed and constructed to withstand flood conditions at the proposed construction site;~~
 - b. ~~Construction materials shall be of a type and kind not subject to appreciable deterioration by water. Windows, doorways, and other openings in the structure in design and configuration shall incorporate adequate flood proofing up to and including the first floor elevations;~~
 - c. ~~All electrical equipment, circuits, and conduits shall be so located, constructed, and elevated to the required BFE.;~~
 - d. ~~When approving permits within the SFHA and, in order to assure that the proposed construction (including prefabricated and manufactured homes) are adequately protected from flooding, the CFM or his authorized agent will ascertain:~~
 - 1. ~~That the proposed construction is so designed or otherwise modified as will prevent flotation, collapse, or lateral movement induced by flood waters;~~
 - 2. ~~That the construction materials and utility equipment employed are resistant to flood damage;~~
 - 3. ~~That the construction methods and practices utilized will minimize flood damage.~~
 - 4. ~~Manufactured homes placed in the SFHA shall be placed on permanent foundation and tied down to prevent flotation.~~
 - e. ~~The CFM will require new or replacement water supply systems and/or sanitary sewage systems to be of such design as will minimize or eliminate infiltration of flood waters into the systems, as well as to prevent discharges from the systems into flood water. The CFM will further require the location of on-site waste disposal systems in such manner as will avoid their impairment or contamination or contribute to the spread of contamination originating from them in times of flooding~~
 - f. ~~The CFM will review all subdivisions proposals to ensure that:~~
 - 1. ~~All such proposals are adequate for and consistent with the to the required BFE;~~
 - 2. ~~All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed as will minimize flood damage;~~
 - 3. ~~Adequate drainage and storm water prevention is provided to reduce exposure to flooding;~~
 - 4. ~~The increased run-off from any such development does not and will not increase Floodplain elevations in such manner as will adversely affect downstream development; and~~
 - 5. ~~BFE data shall be submitted for subdivision proposals greater than fifty (50) lots or five (5) acres.~~

ARTICLE 17

F-2 FLIGHT ZONE **OVERLAY** DISTRICT

Section 17.1 PURPOSE

1. Recognizing the economic importance of the Roswell International Air Center (RIAC) to the citizens of Chaves County, the purpose and intent of the regulations adopted pursuant to this Ordinance shall be to encourage land use patterns for local needs that will separate uncontrollable noise sources from noise sensitive areas and to facilitate the orderly development of areas around airports, while protecting their continued existence, by establishing regulations that must be met before such development will be permitted.

Section 17.2 USE REGULATIONS

The DNL Flight Zone areas are determined by the latest City of Roswell's Industrial Air Center Comprehensive Master Plan.

1. Use regulations within the "Flight Zone District" - a building or premises shall be used only for the following purposes:
 - a. " **DNL Zone 4**" is a designated area within which the noise rating includes 75 DNL **or greater** and is **to be** designated ~~as indicated~~ on the official zoning maps following legal subdivision lines. The following are designated compatible uses in " DNL Zone 4";
 1. Open spaces.
 2. Agriculture, except dairy, and poultry production, and no new residences shall be built after the effective date of this Ordinance.
 3. Uses in existence at the time of the adoption of this Ordinance meeting the requirements set forth in Article 25.
 - b. " **DNL Zone 3**" is a designated area within which the noise rating includes 70 and 75 DNL and " **DNL Zone 2**" is a designated area within which the noise rating includes 65 and 70 DNL " DNL zones 3 and 2" are combined and **is to be** designated on the official zoning maps, following legal subdivision lines. The following are designated as compatible uses in "DNL Zones 3 and 2":
 1. Any use permitted in R-S Rural Suburban Zone.
 2. All uses designated in "DNL Zone 4".
 3. C-1 Commercial permitted uses compatible with the DNL Zone **as determined by the Director**.
 4. I-1 Industrial permitted uses compatible with the DNL Zone **as determined by the Director**.
2. The use of land owned by an individual, partnership, corporation, or other legal entity that lies in more than one zone shall be limited to the uses authorized in the most restrictive zone except where the amount of land, lying in the less restrictive zone or zones is of sufficient size to meet the requirements of the zone in which it lies, in which case it shall meet the requirements of that zone.
3. Height Restrictions:
 - a. Maximum height for structures within seven hundred and fifty (750) feet from the airport runway shall be twenty-five (25) feet.
 - b. Maximum height for all other structures shall be forty (40) feet.

4. Minimum lot size in the DNL zones is ten (10) acres.

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ARTICLE 18

L-1 ARTERIAL OVERLAY DISTRICT

Section 18.1 PURPOSE

- 1** To promote and preserve visually attractive and pleasing surroundings, reduce water erosion and runoff, and improve the overall development and environment.
- 2** To provide a landscaping and paved parking standard for all new construction of buildings, structures, or parking lots hereinafter erected or constructed, and for all changes of use or zoning hereinafter applied for in the Arterial Overlay District.

Section 18.2 DISTRICT REGULATIONS

- 1** Minimum site landscaping and required planting areas shall be installed in accordance with the standards and requirements of this article, which shall apply to all projects including construction, exterior alteration, and site improvements in the ~~R-3~~, O-1, C-1, ~~C-P~~, and I-1 zoning districts which fall within the Arterial Overlay District.
- 2** Requirements of the Arterial Overlay District shall apply to any land that lies outside the City of Roswell, ~~and~~ within the district of the Roswell-Chaves County Extraterritorial Zone ~~and that is located within 250 feet of adjacent to~~ the right-of-way of the following roads: US 70, US 285, US 380, South Main, Sunset Ave., ~~State Road 2-~~ Yakima, or the Roswell US 285-West Relief Route.

Section 18.3 GENERAL REQUIREMENTS

1 Permitting

- a.** Applications for building permits ~~special use permits~~ and zoning changes shall include plans and written material showing how applicable site landscaping or planting area requirements are to be met and shall be approved by the Planning and Zoning Department prior to the issuance of building permits.
- b.** All required landscaping shall be ~~maintained and~~ irrigated by either an underground sprinkler or drip system or by a hose attachment within 100 feet of any part of the landscaped area.
- c.** Any significant or substantive changes to an approved landscape or irrigation plan shall be approved by the Planning and Zoning Department prior to the issuance of occupancy permits.
- ~~4. A Landscape Certification must be completed by the Planning and Zoning Department within 90 days of the issuance of occupancy permit or use of the site, building, or structure.~~

2 Size and Location

~~All parking and loading areas provided in compliance with this Ordinance shall be surfaced with a durable concrete or bituminous concrete surface and shall be maintained in a usable, dustproof condition and graded and drained to dispose of all surface water.~~

Landscaping shall be provided by buffer strips located adjacent to the street and between the street and the parking lot, structure, or use (see sketches), in accordance with the following minimum requirements:

- ~~a. The landscaped area shall be the greater of: 10 % of the required parking area, or A buffer landscaping strip being which averages 5 seven (7) feet in width. For purposes of this section, the parking area shall include all driveways, access ways, loading and unloading areas, and other hard surface activity areas within the sites property lines.~~
- ~~b. Buffer strips shall be clearly visible from the adjacent streets.~~
- ~~c. Uses with up to 25 parking spaces shall have a buffer strip of landscaped area which is an average of 5 feet wide.~~
- ~~d. Uses with more than 25 parking spaces shall have a buffer strip of landscaped area which is an average of 10 feet wide.~~
- ~~e. Up to 1/2 of the required landscaped area may locate within the public right of way providing that plans are approved by all affected public utility companies and government agencies.~~
- c. Landscaping materials shall not be located such that, at maturity, they interfere with safe-sight distances for vehicular traffic or conflict with overhead utility lines or overhead lights.

3 Materials

- ~~a. All planting materials shall be taken from the list of approved landscaping planting materials which is on file in the office of the Commission.~~ Plant materials shall be selected for: energy efficiency and drought tolerance; adaptability and relationship to the Chaves County environment; color, form, and pattern; ability to provide shade; soil retention; etc.
- b. Trees shall be included in each landscaping scheme and shall be planted a maximum of 40 feet apart. Deciduous trees shall be at least ~~8~~ five (5) feet in height and 1 1/2" in caliper and coniferous trees at least four (4) feet in height, at the time of planting. All lots shall have at least two (2) trees in the landscaped area.
- c. Shrubs shall be not less than one foot in height at the time of planting. Where shrubs, low-level vegetation, or desert landscaping plants are used, vegetative matter shall cover, at the time of planting, at least 30% of the required planting area. Any area not covered by vegetation shall be mulched.
- d. Where grasses are used, vegetative matter shall cover, at the time of planting, 50% of the planting area.
- e. Where vines are used, vegetative matter shall cover, at time of planting, 50% of the planting area.
- f. Non-turf areas, such as shrub beds, shall be top dressed in a bark chip mulch or approved alternative.
- g. Crushed rock or gravel may be used as mulch where planting materials are exclusively desert type plants.

4 Maintenance

- a. Required planting areas shall be permanently maintained, which includes watering, weeding, pruning, insect control, and replacement of plant materials and irrigation equipment as needed to preserve the health and appearance of plant materials.
- b. It shall be the responsibility of the owner to replace dead plant material, mulch, gravel, and faulty irrigation systems whether or not the negligence to or damage of the landscaped area was the cause of the owner. This replacement shall occur within 6 months of written notice to perform such replacement.

(See APPENDIX B for sample plot plans)

ARTICLE 19

S-1 OUTDOOR ADVERTISING OVERLAY DISTRICT

Section 19.1 PURPOSE

To encourage the effective use of billboards as a means of communication while maintaining the aesthetic environment; to attract sources of economic development and growth; to minimize the possible adverse effect of billboards on nearby public and private property; and to enable fair and consistent enforcement of this Ordinance.

Section 19.2 ESTABLISHMENT OF DISTRICT

Standards of the Outdoor Advertising Overlay District shall apply to land that lies outside the city limits of Roswell, within the limits of the Roswell-Chaves County Extraterritorial Zone, and within 100 feet of the right-of-way of the following roads: N. Main Street; ~~S. Main Street; U.S.70; U.S. 285; State Road 2; U.S. 380 and Clovis Highway~~ Roswell Relief Route ~~between N. Main St and ½ mile south of Pine Lodge Road;~~ Roswell Relief Route ~~between W. Poe Street and 1 mile north of W. Second Street;~~ Roswell Relief Route ~~between SE Main Street and ½ mile west of Sunset Avenue;~~ ~~SE Main Street between Brasher Road and Omaha Road;~~ ~~W. Second Street between Brown Road and Avenida de Vista;~~ and ~~E. Second Street between Red Bridge Road and Bosque Road.~~ No billboards shall be constructed **along any other roads other than the roads within the ETZ outside the district boundary** described above.

Section 19.3 PERMITTING

1. All billboards along state or federal highways must be permitted by the New Mexico Department of Transportation ~~and obtain a zoning clearance from Chaves County Planning and Zoning Department.~~
2. All billboards within the district boundary described above shall obtain a building and electrical permit from the Chaves County Building Official. Signs shall be permitted and constructed in accordance with the latest New Mexico Commercial Building Code and New Mexico Electrical Code.

Section 19.4 LOCATION

~~A maximum of 6 billboards may be located on each side of the highway within any mile of the Outdoor Advertising Overlay District.~~ Billboards shall be located a minimum of **one thousand (1,000')** ~~500~~ feet from any other billboard on the same side of the road and a minimum of five hundred (500) feet from any intersection **of two roads.**

Section 19.5 MAINTENANCE

Signs shall be built and maintained in good working order. Any sign determined to be abandoned in accordance with this Ordinance **shall be declared a public nuisance. The owner must make arrangements for** ~~be repaired~~ or removal **of the sign** within thirty (30) days of **notification by staff. Notice of abandonment.**

Section 19.6 RESTRICTIONS

1 Zoning.

Billboard signs shall be permitted on property zoned C-1 Commercial and/or I-1 Industrial districts.

2 Height.

The maximum height of a billboard sign shall be forty-five (45) feet. Measured from the surrounding natural ground.

3 Size-Area

The maximum display area on a billboard sign shall be seven hundred (700) square feet. Cutouts and/or extensions shall not be permitted in excess of the display area permitted.

4. Placement

Billboard signs shall not be permitted to overhang any structure nor encroach into the public right-of-way.

Section 19.7 LEGAL NON-CONFORMING

Billboard signs that are not in compliance with this Article and existed prior to the date stated for Revision No.21 of this Ordinance, may be recognized as a legal non-conforming use. See Article 24.

ARTICLE 20
AREA AND SETBACK REQUIREMENTS

ZONING District	MINIMUM LOT SIZE (AREA)	FRONT YARD SETBACK	REAR YARD SETBACK	SIDE YARD SETBACK	HEIGHT
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See article 21 for additional height and area requirements

R-1 Single Family Residential	Less than 1.0 acre 1 acre to 5 acres or more	25 ft 30 ft.	30 ft. 40 ft.	5 ft 10 ft.	35 ft or 2 stories
R-2 Two Family Residential (duplex)	1 to 5 acres or more	50 25 ft	40 30 ft	10 5 ft	35 ft or 2 stories
R-3 Multi Family Residential Townhouse Type Residential	1 to 5 acres or more	50 25 ft 10 ft between buildings	40 30 ft	10. 5 ft 0 ft party walls 5 ft	35 ft or 2 stories
R-MS Residential- Manufactured Home Subdivision	1.0 acres**	25 ft	20 ft	8 ft	35 ft
R-MP Residential- Manufactured Home Park	5 acres	25 ft	20 ft	20 ft	35 ft
O-1 Office – Professional *	2 5 acres	20 ft*	20 10 ft – abutting an alley	0 ft*	35 ft
C-1 Commercial *	2 5 acres	20 ft*	20 ft*.	0 ft*	
I-1 Industrial *	2 5 acres	20 ft*	20 ft.*	0 ft*	
R-S Rural Suburban	5 acres	50 ft	50 ft	20 ft	35 ft. (Home)*
PUD Planned Unit Development	Residential or mixed-5 ac Commercial or Ind-2 ac	See Article 15	See Article 15	See Article 15	See Article 15

* See article 21 for additional height and area requirements

ARTICLE 21

ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS

The following development standards shall be required, with the exception of height restrictions in the Flight Zone Overlay District, which may be found in Article 17.

Section 21.1 Height

1. Public, semi-public, or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet. ~~and Steeples or architectural features of religious institutions, amateur radio towers, chimneys, and lofts~~ ~~churches and temples~~ may be erected to a height not exceeding seventy five (75) feet if that part of the ~~structure~~ ~~building~~ exceeding the height limit is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. ~~Unless otherwise restricted in this ordinance, or as defined in Article 3 or by other ordinances, structures associated with farming and ranching located in the "R-S" Zone are not restricted. Single family dwellings, two family dwellings, and multiple family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards respectively, are increased by not less than five (5) feet over and above the yard requirements prescribed for the zoning district in which they are located, provided, however, that any such structure shall not exceed three (3) stories in height.~~
3. ~~Chimneys, fire, stage, water, ornamental, or amateur radio towers, elevator bulkheads, monuments, stacks, scenery lofts, spires, steeples, and necessary mechanical appurtenances thereto, may be erected to a height in accordance with existing or thereafter ordinances. Unless otherwise restricted herein, or defined in Article 3, or by other ordinance, height of farm buildings in the "R-S" Zone are not restricted.~~
3. Fences and walls ~~shall~~ ~~may be constructed~~ not to exceed eight (8) feet in height. Corner lots located on the intersection of two (2) or more streets, shall not have walls exceeding three (3) feet in height within thirty (30) feet of the intersection, or as otherwise approved by the Commission, in order to maintain an unobstructed view for traffic.

Section 21.2 Area

1. ~~Detached accessory structures~~ ~~buildings~~ in residential districts ~~may be built or placed in the required rear yard but such accessory building shall be located not less than sixty (60) feet from the front lot line;~~ shall not be nearer than ten (10) feet to the main building; nearer than five (5) feet to any interior side or rear lot line; nearer than twenty (20) feet from any street side lot line; nor shall any such accessory ~~structure~~ ~~building~~(s) occupy more than thirty (30) percent of the rear yard ~~area~~.
2. ~~For subdivision lots that are one-quarter (1/4) of an acre or less in size; a detached accessory structure for storage or parking purposes~~ ~~buildings which are to~~ may be constructed or placed on an adjacent lot that is under the same ownership as the lot(s) for which the principal use or structure is located when the lots are combined as one use in the owner's deed. Said lot(s) and accessory structure may not be sold separately from the principal use or structure associated with the accessory structure.
3. ~~Accessory buildings and uses not attached to the main building or structure in a residential district,~~
3. In a commercial or industrial district, display of products for rent or sale may occupy not more than seventy-five (75%) percent of the required front yard. Manufactured homes and Recreational Vehicles shall be ten (10) feet apart from one another.

5. Every part of the required yard shall be open except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features which may project not more than twelve (12) inches.
6. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers may project into the rear yard not more than five (5) feet, and the ordinary projections of chimneys and flues may be permitted by the Code Enforcement Officer.
7. An open, **attached**, unenclosed porch, **carport**, or paved terrace may project into the required front or rear yard a distance of ten (10) feet in residential districts.
8. For the purpose of the side yard regulations, a two-family or a multiple family dwelling shall be considered as one (1) building occupying one (1) lot.

9. Corner Lots

- a. Corner lots shall have a minimum side yard of twenty (20) feet on the street side of the lot in all residential districts for all structures.
- b. Corner lots in an industrial or a commercial district shall have a minimum side yard of **twenty-five (25)** feet for all structures.

10. Front Yard

- a. Where the structures within a single block in a residential area have observed a variation in the front yard line, but not more than ten (10) feet, a building may not project into the front setback more than the average of forty percent (40%) of the buildings in that block.
- b. In a commercial, industrial, or office district where the frontage on one side of the street between two intersecting streets is located partially in a residential district, the front yard **setback** requirement shall be twenty-five (25) feet. for all structures.
- c. Residential Planned Unit Development shall **comply with** ~~not be required to have side or rear yard setbacks except those required for fire zones indicated in~~ the latest New Mexico Commercial or Residential Building Code and parking and subdivision criteria.

11. Side Yard

In a commercial or industrial district, on the side of a lot adjoining a residential district, ~~shall be a~~ **the interior** side yard ~~shall~~ **not be** less than twenty (20) feet for all structures.

~~12. Rear Yard~~

~~In a commercial or industrial district there shall be a rear yard minimum of twenty (20) feet for all structures.~~

~~13. Buffer an industrial, commercial, or office district which abuts a residential district at the rear or side yard shall be required to provide a maintained and landscaped buffer setback of fifteen (15) feet and a solid fence of brick, masonry, stone, or wood.~~

Section 21.3 Use

1. The use and height of buildings hereafter erected, converted, enlarged, or structurally altered, and the use of any land shall be in compliance with the regulations established herein for the zoning district in which such land or building is located.
2. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this Ordinance.
3. No part of a yard or other open space provided about any building for the purpose of complying with the provision of this Ordinance shall be included as a part of a yard or other open space required for another building.
4. Every building hereafter erected, converted, enlarged, or structurally altered shall be located on a lot of record, and in no case shall there be more than one main building on one lot, except as may be further regulated in this Ordinance.
5. When two (2) or more lots in a duly recorded subdivision, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the zoning district in which it is located, are contiguous and are held in one (1) ownership, they may be used as one (1) zoning lot for such permitted use.
6. Unobstructed vision clearance for traffic safety shall be maintained by the property owner or occupant on all lots regardless of the zoning district. This includes, but not limited to, any buildings, sign, fence, ornament, hedge, shrub, tree, display, or other obstruction, but not including existing buildings.