

**ROSWELL-CHAVES COUNTY
EXTRATERRITORIAL ZONING AUTHORITY
CHAVES COUNTY ADMINISTRATIVE CENTER
COMMISSION CHAMBERS ROOM 100
#1 ST. MARY'S PLACE, ROSWELL, NM**

PUBLIC HEARING

SEPTEMBER 17, 2020 AT 6:00 P.M.

A G E N D A

I. CALL TO ORDER

II. CONSIDERATION OF MINUTES: August 27, 2020

III. OLD BUSINESS

Text Amendments to the Roswell-Chaves County Extraterritorial Zoning Ordinance No.80-1:


Article 6	R-1 Single Family Residential Dwelling District
Article 7	R-2 Two Family (Duplex) Residential Dwelling District
Article 8	R-3 Multiple Family Residential Dwelling District
Article 9	R-MS Residential Manufactured Home Subdivision District
Article 10	R-MP Residential Manufactured Home Park District
Article 11	R-S Rural Suburban District
Article 12	O-1 Office-Professional District
Article 13	C-1 Commercial District
Article 14	I-1 Industrial District
Article 16	F-1 Floodplain Overlay District
Article 25	Special Use Permits

IV. OTHER BUSINESS

V. 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 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.

Per CDC guidelines social distancing of six (6) feet will be enforced. Masked should be worn at all times. Space is limited in the Chamber Room; however, Staff will make all necessary accommodations to comply with the New Mexico Open Meeting Act and CDC guidelines.

<p>CHAVES COUNTY ETZ Authority</p>		
<p>Date: August 27, 2020</p>	<p><i>Public Hearing Minutes</i></p>	<p>Created By: Julia A. Torres</p>

Members Present:

Commissioners:

Dara Dana
Robert Corn
William E. Cavin

Councilors:

Jeanine Best

Absent:

Councilor Margaret Kennard

Staff Present:

Louis Jaramillo
Melissa Brink
Julia A. Torres

A public hearing before the Chaves County Extraterritorial Zoning Authority was held at the Chaves County Administrative Center, in the Commission Chambers, on August 27, 2020 beginning at 6:00PM.

Councilor Best led the Pledge of Allegiance and Commissioner Dana led in prayer.

I. Minutes

The minutes of the March 10, 2020 public hearing were approved unanimously as submitted.

II. New Business

1. Text Amendment to the Roswell-Chaves County Extraterritorial Zoning Ordinance No.80-1:

- Article 17: F-2 FLIGHT ZONE DISTRICT
- Article 19: S-1 OUTDOOR ADVERTISING OVERLAY DISTRICT
- Article 20: AREA AND SETBACK REQUIREMENTS
- Article 21: ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS
- Article 25: OFF STREET PARKING AND LOADING REQUIREMENTS

Commissioner Cavin made a motion to pull Articles 17, 19, 20 and 21 off the Table but leave Article 25 on the Table. Commissioner Dana seconded the motion. Motion carried by a 4-0 vote.

Louis Jaramillo presented the changes to Article 17: F-2 Flight Zone District, including a map showing the DNL Zones that he would like to include as Appendix D. Discussion ensued.

Councilor Best stated she would like to remove “mink” from Article 17.

Mr. Jaramillo stated that staff is in support of removing “mink” from Article 17, Section 17.2.1.a.2. *Commissioner Cavin made a motion to accept the amendments to Article 17 including removing the word “mink”. Commissioner Dana seconded the motion. Motion carried by a 4-0 vote.*

Mr. Jaramillo presented the amendments to Article 19: S-1 Outdoor Advertising Overlay District as shown on Staff’s report. Discussion Ensued.

Commissioner Dana made a motion to accept the amendments to Article 19 as presented. Commissioner Cavin seconded the motion. Motion carried by a 4-0 vote.

Mr. Jaramillo presented the amendments to Article 20: Area and Setback Requirements. These changes will apply to new construction projects or manufactured home placements. Discussion Ensued.

Commissioner Dana made a motion to accept the amendments to Article 20 as presented. Councilor Best seconded the motion. Motion carried by a 4-0 vote.

Mr. Jaramillo indicated that Article 21: Additional Height, Area, and Use Regulations was too vague and open to interpretation by Staff and the public. For this reason, staff is recommending that Article 21 be sent back to the ETZ Commission for further review and brought back to the ETZ Authority with new recommendations at a later time.

Commissioner Cavin made a motion to oppose the proposed changes to Article 21 as presented and that it be sent back to the ETZ Commission for further review in October. Commissioner Dana seconded the motion. Motion carried by a 4-0 vote.

2. Resolution ETZ 2020-2: To amend the Fee Schedule of the Roswell-Chaves County Extraterritorial Zoning Ordinance No.80-1

Louis Jaramillo stated that staff would like to increase the fees associated with the presentation of public hearing cases. Discussion ensued about costs.

Commissioner Dana made a motion to accept Resolution ETZ 2020-02: To Remove and Replace the Fee Schedule Known as “Appendix A” in the Roswell-Chaves County Extraterritorial Zoning Ordinance No. 80-1, Revision No. 18 as presented. Councilor Best seconded the motion. Motion carried by a 4-0 vote.

III. Other Business (Unscheduled Communications, limited to three minutes per visitor, fifteen minutes total, no formal action taken by the Authority.)

Mr. Jaramillo stated there may be a need of further public hearings to discuss additional amendments to the ETZ Ordinance and asked the Authority for suggestions for dates and times.

The Authority proposed meeting on September 17th, October 15th and if need, November 19th at 6:00 p.m.

There being no other business listed on the agenda or to come before the ETZ Authority, the meeting adjourned at 6:26PM.

Approved this 17th day of September, 2020

Chairman

Attest

Note: The recorded minutes of this meeting are on file in the Chaves County Planning and Zoning office for review.

STAFF REPORT

The following is a general description of the proposed amendments to the Roswell-Chaves County Extraterritorial Zoning Ordinance No. 80-1.

Article 6.

1. A variance required to the 5-acre minimum requirement with city services.
2. Permitted Uses- Remove personal bathhouses and accessory living quarter and Add guest house and bunk house.
3. Correct - Day care homes- Family
4. Clarify Principal and Accessory Uses.
5. Add temporary use of an RV.

Article 7-10

1. A variance required to the 5-acre minimum requirement with city services.
2. Article 8- Removed “kindergartens” as it is a permitted use starting in R-1.
2. Add a permitted use in Article 8 and 10
3. Clarify Principal and Accessory Uses.

Article 11.

1. Removed repetition statements, domestic servant quarters & churches.
2. Add- Adult day care home, Disabled housing, Religious institution & accessory use.
3. Clarify Principal and Accessory Uses.

Article 12.

1. Remove and replace - Uniform Building Code with New Mexico Commercial Building Code

Article 13.

1. Add to Permitted Uses- RV parks, Workforce Camps, & Adult Day Care Centers.
2. Remove and replace - Uniform Building Code with New Mexico Commercial Building Code.

Article 14.

1. Remove and replace - Uniform Building Code with New Mexico Commercial Building Code

Article 16.

1. Remove references to old FIRM maps, clarify no building in the Floodway, authority to the Certified Floodplain Administrator-per State Statute, and update terms and words.

Article 25. (pg.59)

1. Clarify “communications transmitter” as “commercial communications transmitter”
2. Special Use Permit Add- Multigenerational housing, Day Care Home-Group & Workforce Camps.
3. Adding a Statement clarifying that Special Use Permits are nontransferable both in ownership and location.

TEXT IN BLUE AND MARKED OUT ARE PROPOSED TO BE DELETED

TEXT IN RED ARE PROPOSED ADDITIONS.

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. For parcels that are smaller than the required five (5) acre minimum, this zoning district shall require city water and sewer services and shall require an approved variance.

Section 6.2 Permitted Uses:

A. Principal Use

1. Single family dwelling unit including a manufactured home
2. Churches
3. Publicly owned or operated parks or playgrounds
4. Public schools, elementary and secondary, and educational institutions having a curriculum the same as ordinarily given in public schools
5. Golf courses, except commercially run miniature courses, driving ranges, and putting greens
6. 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.

B. Accessory Structures or Use

1. Home occupations*
2. Day care homes, Family*
3. Accessory structures for non-commercial uses and uses customarily incidental to the above uses such as: personal garages, personal storage, recreation, hobbies, personal greenhouses, personal bathhouses, accessory living quarters, 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.
4. Accessory structure for use as a guest house or bunk house that is constructed to either NM Residential Building Code or HUD Code standards.
5. 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.
6. 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.
7. Accessory use- Storage of RV, boat, and utility trailers. (Shall not be occupied)
8. Accessory use- 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. For parcels that are smaller than the required five (5) acre minimum, this zoning district shall require city water and sewer services and shall require an approved variance.

Section 7.2 Permitted Uses:

A. Principal Use

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

B. Accessory Structure or Use

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

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

* defined in Article 3.2, Definitions.

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. For parcels that are smaller than the required five (5) acre minimum, this zoning district shall require city water and sewer services and shall require an approved variance.

Section 8.2 Permitted Uses:

A. Principal Use

1. Any use permitted in the "R-2" Two Family (Duplex) Residential Dwelling district
2. Boarding and lodging houses*
3. Condominiums*
4. Hospitals and clinics*, but not animal hospitals or mental treatment facilities
- ~~5. Kindergartens~~
5. Multiple family dwellings* or apartment house complexes
6. Non-profit religious, educational, and philanthropic institutions, excluding penal, or alcoholic treatment centers
7. Nursing homes*
8. Townhouses*

B. Accessory Structure or Use

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

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

* defined in Article 3.2, Definitions.

ARTICLE 9

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. For parcels that are smaller than the required five (5) acre minimum, this zoning district shall require city water and sewer services and shall require an approved variance.

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

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:

A. Principal Use

1. Single family dwellings*, including manufactured homes*, ~~on five (5) acre minimum lots~~
2. Structures or facilities related to farms* and ranches*
3. Parks, playgrounds, golf courses, and recreational uses, except miniature golf courses or commercial practice driving tees
4. Religious Institutions ~~Churches, Sunday school buildings, and parish houses.~~
5. Public elementary and high schools, or private schools with curriculum the same as ordinarily given in public elementary and high schools
6. 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)

B. Accessory Structure or Use

1. Home occupations*
2. Accessory buildings or structures for use for personal garage or storage, recreation, or for livestock, poultry, and other incidental uses.
3. Adult Day Care Home ~~Open spaces*~~
4. Accessory structure ~~living quarters~~ for use as a guest house or bunk house that is constructed to either NM Residential Building Code or HUD Code standards. ~~domestic servant quarters (dwelling units* for only one family may be provided on each lot, and may not be for rent, or for lease, or for sale separate from the principal use, or for use involving the conduct of a business)~~
5. Day care homes, Family*
6. Directional signs* and temporary ~~on-premise~~ signs* ~~pertaining to the lease or sale of the property on which the signs are located and ranch/farm, service club, and religious notices*~~. Temporary ~~on-premise~~ 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. ~~Abandoned signs must be repaired or removed by the property owner.~~
7. Temporary occupation of no more than one RV, having a maximum stay of thirty (30) days within a single calendar year.
8. Nurseries*, truck gardening, greenhouses*

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. Accounting
 - a. accountants, auditors, tax experts
 - b. credit services
2. Engineering
 - a. geologists, geophysicists, architects, engineers, surveyors
3. Insurance offices
4. Lawyers
5. Medical
 - a. doctors, nurses, dentists, optometrists, chiropractors, oculists
 - b. laboratory technicians and laboratories but excluding outdoor living facilities for animals
6. Messenger or telegraph services
7. Music and art
 - a. musicians, dancing studios, dramatic studios
 - b. artists, authors, poets
8. Photography studios
9. Public typists, stenographers, consulting services, answering services, clergymen
10. Real estate offices
 - a. salesman, appraisers, brokers
11. 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](#). ~~Uniform Sign 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 and filling stations
3. Bakeries - retail
4. Banks
5. Barber and beauty shops
6. Business and commercial schools
7. Catering
8. Clothing repair, tailors, shoe repair, millinery, cleaners
9. Cold storage lockers, meat processing being incidental thereto
10. Commercial parking lots and garages*
11. Commercial recreation facilities; pool, bowling, theaters, games, miniature golf
12. Day care centers*
13. Florists
14. Hotels*, motels*
15. Kennels* veterinary hospitals, and animal clinics
16. Mortuaries and crematories
17. Paint and decorator stores
18. Photography and artists supply stores
19. Plumbing shops
20. Restaurants
21. Retail sales
22. Small appliance repair shops
23. Sign shops, excluding construction and storage of billboards
24. Sheet metal shops
25. ~~Travel trailer~~ Recreational Vehicle parks*
26. Adult Day Care Center
2726. Accessory living quarters 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
2827. Similar type uses as indicated above as approved by the Commission
2928. 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 ~~Uniform Sign 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.

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. Food processing and canning
5. Foundry of lightweight nonferrous metal, excluding brass, manganese, bronze, zinc
6. Grain elevators, cotton gins, compressors, feed processing, and storage
7. Heavy vehicle temporary parking/storage
8. Iron works
9. Junkyards*, automobile grave yards*, scrap metal yards, and recycling operations
10. Lumber yards and construction yards
11. Machinery sales and service:
 - a. farm equipment;
 - b. oil well drilling equipment;
 - c. diesel tractor and trailer;
 - d. water well drilling
12. Manufacture and assembly
13. Paint mixing and treatment
14. Parcel delivery services
15. Sales and service of gas/oil mineral related equipment
16. Sanitary landfills, solid waste disposal
17. Storage of gas/oil mineral production related materials
18. Storage of petroleum products
19. Tire retreading or rebuilding
20. Warehouses* and outside storage
21. Wholesale distribution centers
22. Accessory living quarters 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.
23. 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 Uniform Sign 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.

ARTICLE 16

F-1 FLOODPLAIN OVERLAY DISTRICT

Section 16.1 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, ~~dated February 2, 1983 or whatever plans and/or maps are currently available for the purpose of defining flood hazard areas e.g. the Master Plan for Flood Control and Storm Drainage in Chaves County and the City of Roswell, New Mexico, June 1970.~~ The floodplain zone ~~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.** ~~S Allowed or ermitted uses within the Floodplain Overlay District are as follows:~~
 - a. ~~Cultivation and harvesting of crops (including so-called Victory Gardens) consistent with recognized soil conservation practices.~~
 - b. ~~Wildlife sanctuaries, woodland preserves, or established wilderness areas.~~
 - c. ~~Grazing of livestock.~~
 - d. ~~Recreational facilities such as parks, picnic groves, golf courses, and tennis clubs.~~
 - e. ~~Commercial and general utility or convenience uses such as parking lots, railroads, streets, utility lines, or conduits, storage yards for equipment and material not subject to major damage or displacement by flood waters, provided, however, that such use is accessory to a use permitted in a district of which the flood district overlays.~~

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 (CFA) Flood Commissioner.~~
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 ~~CFA. Flood Commissioner.~~ 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 ~~CFA-Flood Commissioner~~ first hand and obtained.

Section 16.3 APPLICATION FOR PERMITS, REQUIREMENTS

1. Upon application made, the ~~CFA Flood Commissioner~~ is authorized to approve or deny permits for the construction, alteration, or location of residential and non- residential structures or obstructions within the ~~SFHA flood hazard area~~, provided, ~~the required Base Flood Elevation (BEF) is not encroached upon, including basements or crawl spaces.~~ ~~however, that if, as and when 100-year water surface elevation criteria within the flood~~

~~hazard area shall be and become established by the Administrator for the National Flood Insurance Program, and permit approved shall not embody a lower floor (including basement) than the established 100-year water surface elevation.~~

2. The application shall be signed by the landowner or his authorized agent and shall contain such information as the ~~CFA Flood Commissioner~~ shall require, including **but not limited to**, comprehensive maps, **site** plans, profiles, and specifications.
3. In **evaluating the** ~~passing upon any such~~ application, the ~~CFA Flood Commissioner~~ 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.** ~~so as to minimize or eliminate flood damage;~~
 - d. When approving permits within the ~~SFHA flood hazard area~~ and, in order to assure that the proposed construction (including prefabricated and manufactured homes) are adequately protected from flooding ~~damage~~, the ~~CFA Flood Commissioner~~ 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 place in the SFHA shall be placed on permanent foundation and tied down to prevent flotation.**
 - e. The ~~CFA Flood Commissioner~~ 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 ~~CFA Flood Commissioner~~ 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 ~~CFA Flood Commissioners~~ will review all subdivisions proposals to insure that:
1. All such proposals are adequate for and consistent with the ~~to the required BFE necessity to minimize flood damage~~;
 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 as will~~ reduce exposure to flooding ~~hazards~~;
 4. The increased run-off from any such development does not and will not increase ~~Floodway run-off~~ elevations in such manner as will adversely affect downstream development; and
 5. ~~Base flood evaluation~~ **BFE** data shall be submitted for subdivision proposals greater than fifty (50) lots or five (5) acres.

~~Section 16.4 AGENT FOR THE FLOOD COMMISSIONER~~

- ~~1. The Flood Commissioner may appoint an agent who will obtain and maintain all elevations from permitted structures and such other related data as the Flood Commissioner may specify.~~
- ~~2. The Flood Commissioner, his agents, surveyors, or other employees may make reasonable entry in and upon any lands and waters within the flood hazard area for the purpose of making any investigation, survey, removal, or repair contemplated by this article. An investigation of any natural or artificial obstruction shall be made by the Flood Commissioner, either on his own initiative or upon the written request of any three titleholders of land abutting the watercourse involved.~~

ARTICLE 25
SPECIAL USE PERMITS

Section 25.1 Granting Special Use Permits

A Special Use Permit shall be bound and limited to the parcel(s) of land described in the application and to the land owner/petitioner of the property stated in the application and as stated in the Certificate of Zoning. A Special Use Permit is nontransferable in location or ownership including the name change of a company, LLC, corporation, trust, and/or partnership. So as not to misperceive, confuse and misapprehend prospective owners, a real estate contract shall be construed as a change in ownership and as such shall require a new Special Use Permit application and process.

1. It is the purpose of this article to establish criteria for those uses listed as special uses in Section 25.2 of this Ordinance, and similar uses, as determined by the Planning Director, and to specify the expiration date as appropriate for approval of such uses. It is recognized that these uses which, because of their unique characteristics, cannot be properly addressed without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Special uses shall require issuance of a Zoning Certificate by the ETZ Commission.

Each zoning district lists special uses that, because of their special impact or unique characteristics, can have a substantial adverse impact upon or be incompatible with other uses of land. This impact often cannot be determined in advance of the use being proposed for a particular location. Such uses may be allowed to locate within given districts only through the review process of the special use permit and under the controls, limitations and regulations of such permits. This article establishes general and specific development standards for special uses and provides for a review process which will evaluate the location, scale, compatibility with rural character and development characteristics of such uses and their impact on adjacent properties and the county as a whole, to the end that such uses may be approved, modified, or disapproved fairly and objectively.

Upon the filing of a complete application for a Special Use Permit per the requirements contained in Article 2, Section 2.5 of this Ordinance, the application shall be scheduled for a public hearing before the ETZ Commission. Public notice of the hearing shall be issued as provided for in Article 2, Section 2.5 of this Ordinance. The ETZ Commission may grant approval of special use permits, grant approval with conditions of approval, or deny an application if the characteristics of the intended use would create an incompatible or hazardous condition. The ETZ Commission shall not use a Special Use Permit to alter or reduce the zoning requirements of the zone in which the proposed land use is to locate.

2. Prior to granting any Special Use Permit, the Commission shall hold a public hearing and shall determine that:
 - a. The granting of the Special Use Permit will not be injurious to the public health, safety, morals, and general welfare of the community.
 - b. The use or value of the area adjacent to the property included in the Special Use Permit will not be affected in a substantially adverse manner.
 - c. The site for the proposed Special Use Permit is suitable for that use, and the surrounding properties are compatible with that use.

- d. That the grant of the Special Use Permit would be within the spirit, intent, purpose, and general plan of this Ordinance.
3. The ETZ Commission, upon receiving a properly filed application or petition, may permit and authorize a Special Use Permit when the following requirements have been met:
 - a. The proposed use will not endanger the public health or safety;
 - b. The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county, and that it will not create excessive public cost for facilities and services by finding that:
 - i. The proposed use will be adequately serviced by adequate existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers/septic systems, and schools; or
 - ii. The applicant shall provide such facilities; or
 - iii. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment;
 - c. The proposed use will not generate significant nuisance conditions such as noise, dust, glare, vibration;
 - d. The proposed use meets all required conditions and standards set forth in the zoning district where it proposes to locate;
 - e. The location and character of the proposed use is compatible and consistent with the character of the area in which it is to be located, and will ensure compatibility with existing neighboring land uses; and
 - f. The proposed use is in conformance with the Chaves County Comprehensive Plan.
 4. In permitting such uses the ETZ Commission may impose, in addition to the regulations specified herein, such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county as a whole. These conditions may include, but are not limited to, the following:
 - a. Increasing the required lot size, setback or yard dimensions;
 - b. Limiting the height of buildings or structures;
 - c. Controlling the number and location of vehicular access points;
 - d. Requiring the dedication of additional rights-of-way for future public roadway improvements;
 - e. Requiring the designation of public use easements;
 - f. Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area;
 - g. Limiting the number, size, height, shape, location and lighting of signs;

- h. Requiring or limiting view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties;
- i. Designating sites for and/or the size of open space or recreational areas;
- j. Requiring site reclamation upon discontinuance of the use and/or expiration or revocation of the Special Use Permit;
- k. Limiting hours and size of operation;
- l. Controlling the siting of the use and/or structures on the property;
- a. Requiring mitigation measures to effectively reduce the potential for land use conflicts with agricultural lands and adjacent residential lands, such as: landscape buffers, special setbacks, screening, and/or site design criteria using physical features, such as rock outcrops, ravines, and roads.

A Special Use Permit shall become void one (1) years after approval or such other time period as established by the ETZ Commission if the use is not completely developed. Failure to begin such action within the time limit specified shall void approval of the Zoning Certificate for the special use.

- 5. A Special Use Permit may be revoked or limited by the ETZ Commission if any one (1) of the following findings can be made:
 - a. That one or more of the conditions of approval of the Special Use Permit have not been met;
 - b. That the Special Use Permit was obtained by misrepresentation or fraud;
 - c. That the use for which the Special Use Permit was granted has ceased or was suspended for twelve (12) or more consecutive calendar months;
 - d. That the actual or permitted use is in violation of any statute, ordinance, law, or regulation; or
 - e. That the use permitted by the Special Use Permit is detrimental to the public health, safety or welfare, or constitutes a nuisance.
 - f. **Change in property ownership or site location.**

The ETZ Commission's decision is subject to appeal in accordance with the provisions of Article 2 of ~~the ETZ~~ **this** Ordinance.

Section 25.2 Use Regulations A special use permit **shall be required** for the following uses:

- 1. Airports* or landing fields.
- 2. Cemeteries and mausoleums
- 3. **Commercial** communications transmitter antennas or towers provided they are at least 100 feet from any public way.
- 4. Community buildings or recreation fields.
- 5. Electric substations, gas regulator or pump/booster stations, and well and water pumping stations in any district, provided that in any residential district or commercial district, the site shall be developed and maintained in conformance with the general character and

appearance of the district. Such development shall include landscaping and suitable screening in the form of a wall, or solid fence and compact evergreen shrub.

6. Extraction of gravel, sand or other raw materials, provided that a satisfactory guarantee be posted with the Commission assuring that the land be left in such a condition that all faces, slopes, edges, or spoil piles have a maximum slope 2½ feet horizontal to one (1) foot vertical.
7. Hospitals, clinics*, and institutions
8. Night clubs*
9. Nursery schools, day nurseries, child care centers, pre-kindergartens, and other special and similar private schools in an Industrial District as an accessory or function for employees, provided that adequate safety from loud noises and other industrial dangers are supplied and there is at least 100 square feet of open play for each child enrolled. Each play area shall be screened with a suitable wall, fence, or evergreen shrub.
10. Parking lots adjacent to, across the street from, or across the alley from the Commercial District, or a Business District.
11. Penal institutions
12. Poultry hatcheries, poultry production, dairying and any similar activities.
13. Private clubs or lodges
14. Railroad tracks, yards, and similar railroad facilities
15. State licensed or state operated family or group care residences for homeless ~~or abused children, the mentally ill or retarded~~, the criminal offender, or alcohol or drug abusers that function as a transition from institution to community.
16. Substance abuse treatment facilities.
17. Temporary commercial amusements or recreational developments
18. **Multigenerational housing as a second dwelling unit in a residential district.**
19. **Day Care Home-Group in a residential district.**
20. **Workforce Camps**

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

*** defined in Article 3.2, Definitions**