COMPREHENSIVE CITY ZONING CODE

City of Albuquerque, Code of Ordinances, Chapter 14 – Zoning, Planning and Building

Article 16: Zoning Code

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Comprehensive City Zoning Code portion
(Chapter 14, Article 16)
REVISED & UPDATED THROUGH
April 2016

COMPREHENSIVE CITY ZONING CODE

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COMPREHENSIVE CITY ZONING CODE

PREFACE

AUTHORITY AND PURPOSE OF THE *ZONING CODE*

Albuquerque's *Comprehensive City Zoning Code* (hereafter referred to as the "*Zoning Code*") is a portion of the *Revised Ordinances of Albuquerque, New Mexico, 1994*, otherwise known as the *Code of Ordinances*. The *Zoning Code* is Article 16 within Chapter 14 of this two-volume compilation. It has been established pursuant to New Mexico State Law and the Albuquerque City Charter. The administration and enforcement of the *Zoning Code* is within the city's general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the *Zoning Code* is a regulatory instrument for controlling land use activities for general public benefit.

CONTENT AND FORMAT OF THIS DOCUMENT

This document includes the *Zoning Code* (Chapter 14, Article 16) as extracted from the city's *Code of Ordinances*. As contained herein, the *Zoning Code* constitutes a complete printing of Chapter 14, Article 16 as amended. From time to time, amendments to the *Zoning Code* are adopted by the City Council. References to amendments that have occurred since adoption of the *Zoning Code* appear at the end of each section. New amendments will be made available to the public by the Planning Department. If there are inconsistencies between this reprinted *Zoning Code* and the *Zoning Code* as contained in the city's *Code of Ordinances*, the city's *Code of Ordinances* shall control.

While the content of Chapter 14, Article 16 has not been altered with this printing, the formatting of the text is different than what appears in the *Code of Ordinances*. This version of the *Zoning Code* has been developed by the Planning Department for public distribution. It has been formatted for ease of use based on a one-column format. Other distinctive formatting elements include a serif typeface and the use of headers and footers as navigational signposts within the document. In addition to format elements, this publication includes various supplemental features. This Preface, along with the Table of Contents, several maps, Appendices A-K and the Index are included to facilitate use of the document and to provide a context for understanding the *Zoning Code* and its function within the city's land use planning system. These supplementary components are not part of Chapter 14, Article 16.

HISTORY OF THE *ZONING CODE*

The Albuquerque City Commission first proposed a zoning code to regulate land uses in 1928. This proposal was never adopted into law. The city first adopted a zoning ordinance in 1953. But the legality of the ordinance was successfully challenged in court, and the ordinance was determined to be invalid. On March 27, 1959, Albuquerque adopted its first valid zoning ordinance. The ordinance included 57 pages in a 5" x 7" booklet; the ordinance contained 14 zones. The city's official Zone Map was simultaneously adopted with the 1959 ordinance. In 1965, a new zoning ordinance was adopted that completely replaced the 1959 original. The 1965 version included Albuquerque's first parking requirements for new buildings. The title "Comprehensive City Zoning Code" dates from the mid-1970s; the term was not used before that time.

Over the years, there have been several major revisions to the *Zoning Code* along with numerous amendments to the specific provisions of the document. A significant revision occurred in 1975

(published January 1, 1976) when six new zone categories were added. In addition, signs became regulated citywide, landscaping requirements were imposed on non-single-family development and usable open space was required for all multi-family development. The most recent revision to the *Zoning Code* was in 1994. With this revision, supplementary materials were removed from the version of the *Zoning Code* published for public distribution. Prior to the revision, the version of the *Zoning Code* printed for public distribution included a Preface along with ten Appendices.

In the spring of 2001, the Planning Department initiated a reformatting of the *Zoning Code* to create a page layout that is easier to read and easier to navigate. This document is the product of that effort. No changes were made to the adopted language of the *Zoning Code*.

STRUCTURE OF THE *ZONING CODE*

The *Zoning Code* is divided into four parts. Part 1 establishes the authority and jurisdiction of the *Zoning Code*, states the intent of the ordinance and discusses how the *Zoning Code* is interpreted. This part also defines terms used throughout the document—an important aspect to understanding the *Zoning Code* because the *Zoning Code* definitions are often distinct from common usage of these terms.

Part 2 establishes the various zone categories and specifies the regulations applicable to each zone. Most zones list the uses that are allowed permissively and those allowed conditionally—that is, uses allowed only if approved by the Zoning Hearing Examiner following a public hearing. The zone categories also specify required setbacks, height limitations, lot size minimums and other regulations that affect the uses allowed in a particular zone.

Part 3 specifies the general regulations of the *Zoning Code*. Among the general regulations are those for off-street parking, nonconforming structures and uses, lighting, signs, wireless telecommunications and community residential programs.

Part 4 deals with administrative procedures and enforcement. Important components of this part specify procedures for zone changes, special exceptions, appeals, development and approval of sector development plans and procedures for amending the *Zoning Code*.

RELATIONSHIP TO OTHER PLANS AND POLICIES

The *Zoning Code* is one of several legal and administrative tools within the city's land use planning system. A companion document is the *Zone Atlas*, prepared by the Albuquerque Geographical Information System Division (AGIS) of the Planning Department. The *Zone Atlas* is a compilation of indexed maps, formatted in an 8½ x 11" sheet size, that are based on the official Zone Map. The individual map sheets within the *Zone Atlas* include an area of approximately one square mile. (The *Comprehensive Plan* map and other maps that follow this Preface include the indexing grid system used in the *Zone Atlas*; the grid cells for these maps are also approximately one square mile in size.) The official Zone Map and the reduced-scale *Zone Atlas* maps indicate streets, platted boundaries for individual properties, boundaries of sector development plans and municipal boundaries, along with zoning boundaries and designations for property that is not within street rights-of-way. The *Zone Atlas* is updated regularly and is available from the Planning Department.

The ***Albuquerque/Bernalillo County Comprehensive Plan*** (hereafter referred to as the *Comprehensive Plan*) is the long-range city policy for the development and conservation of the metropolitan area. It contains a broad array of policies to guide growth and redevelopment. The *Comprehensive Plan* maps areas suitable for development at various levels of intensity. Six development density categories and a set of urban center policies have been adopted as a guide for zoning, utility and public services planning, and for subsequent area and sector development plans. These categories are briefly defined as follows:

Development Areas

- The **Central Urban** category consists of largely developed areas within the older, central portion of the city. These areas are appropriate for development and redevelopment at mixed densities. A sizable portion of this area falls under the guidance of sector development plans that have been created to address the special needs of these older neighborhoods.

- The **Established Urban** category includes most of the city that was built, planned or platted by 1975. The intent is to allow urban densities with services to be provided on an orderly basis within the financial capability of the community. Infill development is encouraged.

- The **Developing Urban** category includes areas that have adequate resource capabilities for urbanization. A full range of urban services will be extended to these areas in an orderly manner according to policy. Some of these areas may have relatively low densities, while others, especially those in and around designated activity centers, will have higher densities. The predominant zone for the Developing Urban area is R-D, which allows a variety of residential densities and limited amount of supporting commercial activity. The emphasis is on planning for large areas or sectors so as to provide varieties of housing types and other land uses along with appropriate open space.

- The **Semi-Urban** category is so designated due to physical limitations to development or to the presence of social/cultural assets or characteristics that should be protected. Consequently, densities within Semi-Urban areas should be limited and cluster development is encouraged.

- The **Rural** category has physical limitations and/or assets that significantly limit development densities and intensities. Rural areas qualify for inclusion within planned communities as an optional form of community development. Rural areas are not usually recommended for annexation into the city.

- The **Reserve** category designates areas that are suitable for eventual development of planned communities—see the "PC zone" in the *Zoning Code*. Planned communities are designed as self-sufficient areas with a mixture of land uses that are organized to provide a more sustainable development pattern than conventional suburban subdivisions. Policies relating to planned communities are specified in the document: *Planned Communities Criteria: Policy Element, February 1991*. This document, though printed separately, is a component of the *Comprehensive Plan*. It is available on the Planning Department Web Site, or it can be purchased at the Planning Department offices.

The *Comprehensive Plan* is the Rank One plan for Albuquerque and Bernalillo County. Rank Two plans include area plans and infrastructure facility plans. These plans are more specific in focus than the *Comprehensive Plan*, yet carry out its general guidelines and policies. Rank Two plans are generally not regulatory in nature. Rank Three plans include sector development, neighborhood and corridor plans. These plans generally address smaller geographic areas, and also carry out the policies of the *Comprehensive Plan*. In many instances, Rank Three plans have regulatory elements—see sector development plans discussion below. By ordinance, lower-ranking plans should be consistent with higher-ranking plans.

Sector development plans are an important component of the land use planning and zoning program of the city. (For a more detailed discussion, see Appendix H.) There are 46 sector plans within the city, many of these plans establish zoning within their boundaries. In this respect, sector plans are regulatory; to change or amend zoning within plan boundaries requires a formal plan amendment. Several of the sector plans employ SU-2 zoning—a flexible zoning tool used to address the special needs of a given neighborhood.

ROLE OF THE CITY COUNCIL AND OTHER LAND USE BOARDS

The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the *Zoning Code*. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the **Environmental Planning Commission** (EPC). The 9-member EPC has approval authority on most zone map amendment requests and on the approval of site development plans for SU-1 zoned properties and for designated Shopping Center sites. The EPC is advisory to the Mayor and the City Council on annexations, adoption or revision of ranked plans and on proposed text amendments to the *Zoning Code*. Appeals of EPC decisions are heard by the City Council.

The **Zoning Hearing Examiner** (ZHE) is an appointed city staff member with authority to make determinations on special exception requests as provided for in the *Zoning Code*. The Examiner conducts quasi-judicial hearings that are open to public attendance and testimony. Appeals of Examiner's decisions are heard by the **Board of Appeals**, a five-member appointed board. Appeals of the Board of Appeals decisions are heard by the City Council.

The **Landmarks and Urban Conservation Commission** (LUCC) is another board that deals with regulations pursuant to the *Zoning Code*. The purpose of this 7-member appointed board is to promote the preservation of Albuquerque's historic and architectural character. The Commission is responsible for administering the development requirements for designated city landmarks as well as administering adopted historic and urban conservation overlay zones as provided for in the *Zoning Code*. The authority of the Commission lies primarily within the arena of historic character and appearance.

ENFORCEMENT OF THE *ZONING CODE*

The Zoning Enforcement Officer (ZEO) is authorized to enforce the *Zoning Code*. The ZEO is manager of the Zoning Code Enforcement Division of the Planning Department. Questions about the *Zoning Code* and complaints regarding possible zoning violations can be directed to the Zoning Code Enforcement Division.

USING THIS DOCUMENT

The formatting conventions of this reprinted version of the *Zoning Code* are as follows:

Headers (Running Heads): The headers are navigational aids that appear at the top of the page throughout most of the document; they appear within the *Zoning Code* portion (Chapter 14, Article 16) and are provided in the Appendices and in this Preface. From left to right, the headers specify the Part of the *Zoning Code* or the Appendix that appears on a given page. This more general information is followed (to the right) by citation of the specific section of the *Zoning Code* or of the Appendix that appears on the page. On the far right hand side of each header is the page number.

Page numbering within this document is applied as follows: preliminary pages, including this Preface and the following Maps, are assigned lowercase roman numerals. Page numbering within the Ordinance is sequential within each of the four Parts of the document. All pages of Part 1 are preceded by a 1-, and all pages in Part 2 are preceded by a 2-, and so on. For example, page 15 of Part 2 reads as follows: 2-15. The Appendices are numbered independent from the Ordinance, with Appendix being assigned the prefix AA- and Appendix B assigned the prefix AB-, and so on. So page 5 of Appendix B would read: AB-5. Also note that several pages within the document are left blank. Blank spaces and pages are designed to accommodate amended text without requiring significant reprinting of the document.

Footers: A standard footer appears throughout the document simply indicating that the page is part of the Albuquerque *Zoning Code*. This is provided to identify pages that have been removed from the three-ring binder. The footer also includes a notation indicating when the page was last revised. A notation at the bottom of the title page indicates the most recent update of the *Zoning Code* portion (Chapter 14, Article 16) of this document.

Editor's Note: As stated in this Preface, the *Zoning Code* (Chapter 14, Article 16) as contained herein has been extracted from the city's *Code of Ordinances*. If there are any inconsistencies between this extracted and reprinted version and Chapter 14, Article 16 as contained in the city's *Code of Ordinances*, the city's *Code of Ordinances* shall control. It is the responsibility to the user to employ the use of an accurate and updated *Zoning Code*.

This version of the *Zoning Code*, as printed on October, 2007, completely replaces previous versions.

Recent amendments to the *Zoning Code* are available from the Planning Department, Publications Desk, ground floor (west side).

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COMPREHENSIVE CITY ZONING CODE

MAPS

Index to Comprehensive Plan Areas

Index to Area Plans

Index to City Rank III Plans

Index to Design Overlay Zones

Index to Local Jurisdictions and Special Areas

Downtown Albuquerque Historic Overlay Zones
And the H-1 Historic Old Town Zone

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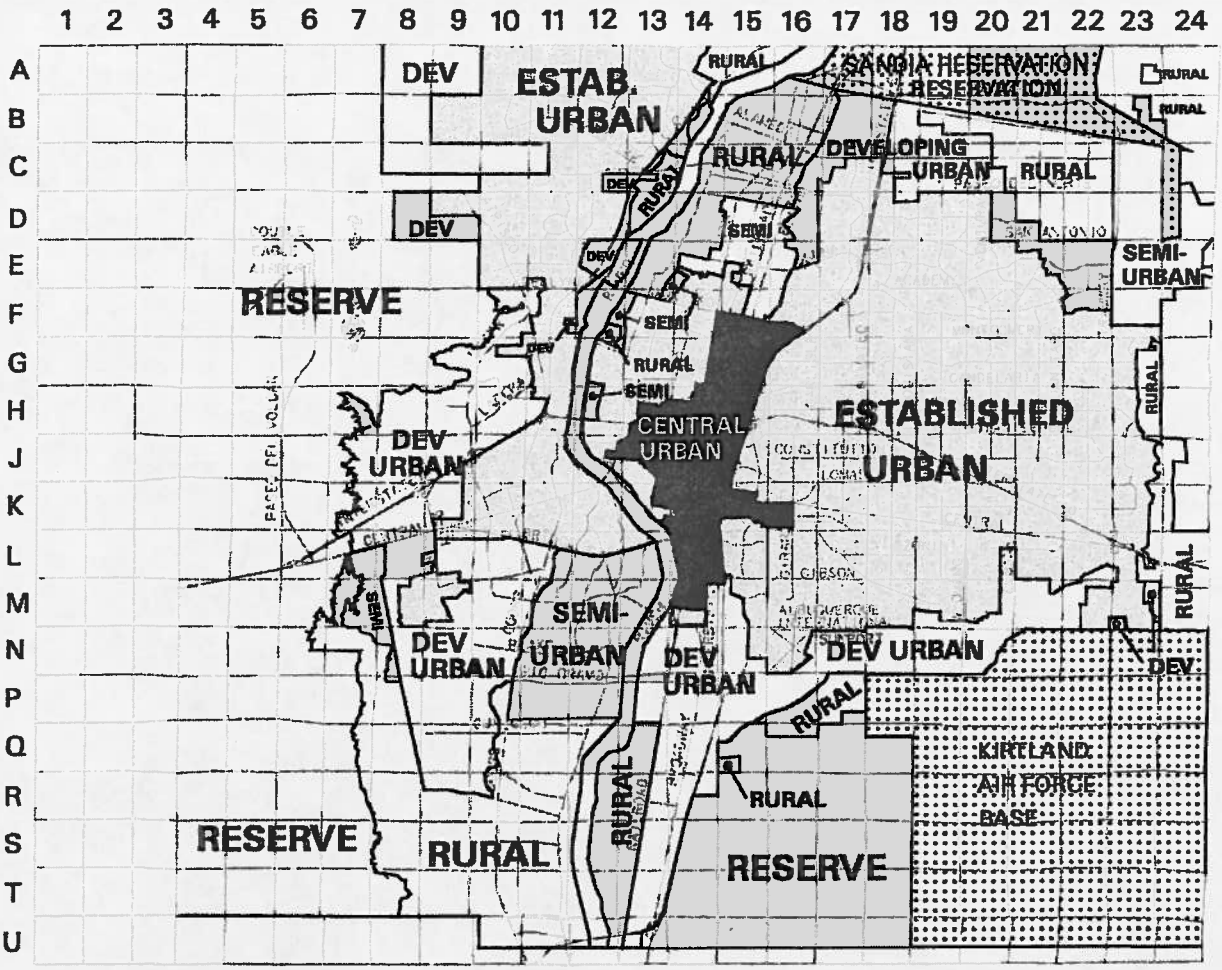
INDEX TO COMPREHENSIVE PLAN AREAS

(For detailed descriptions of Comprehensive Plan areas refer to the Albuquerque-Bernalillo Comprehensive Plan or the Preface of the Comprehensive City Zoning Code.)



Each grid cell is approximately one square mile.

CITY OF Albuquerque
Albuquerque Geographic Information System
PLANNING DEPARTMENT
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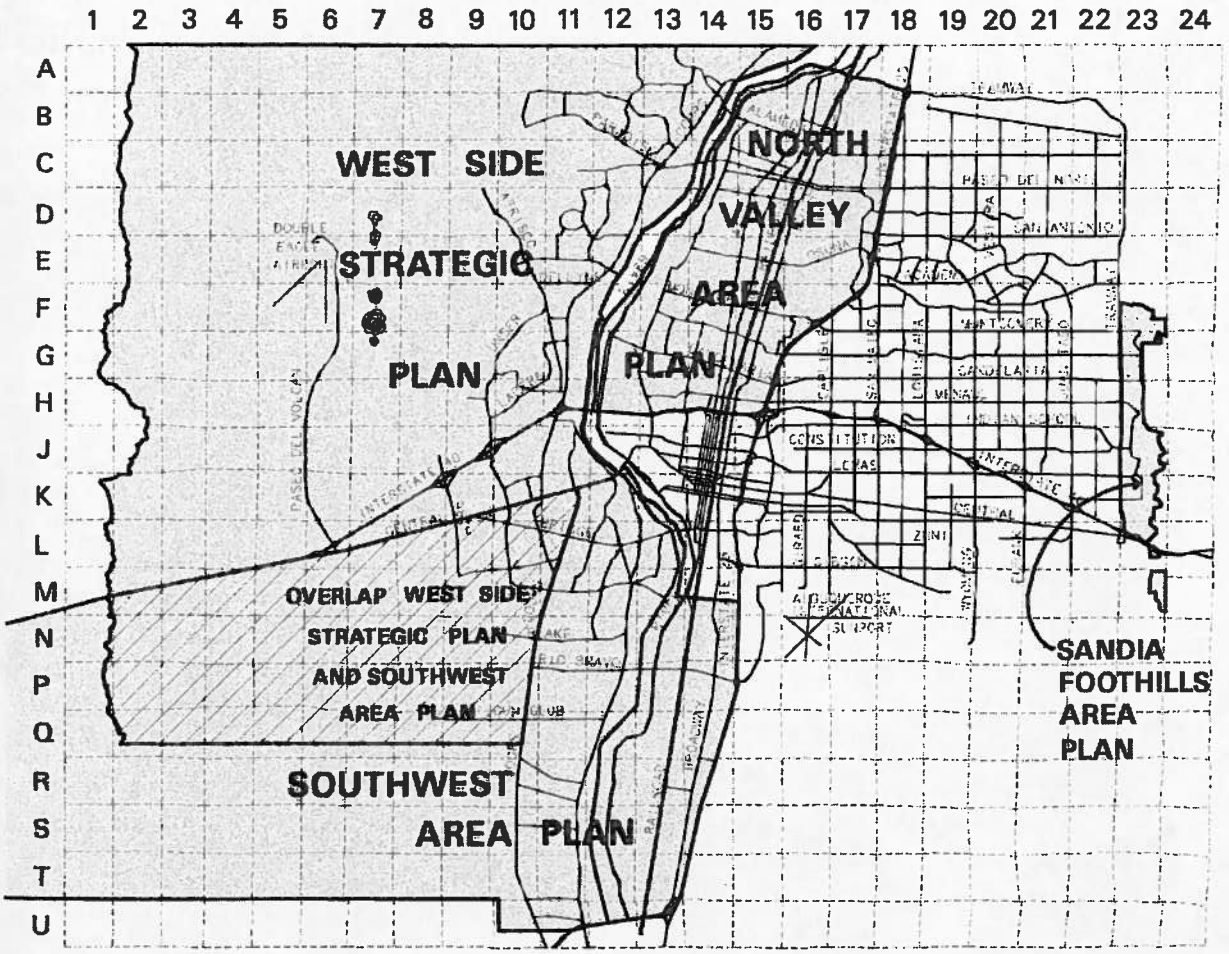
INDEX TO AREA PLANS

(For information on individual Area Plans, please contact the Planning Department.)



Each grid cell is approximately one square mile.

City of Albuquerque
Albuquerque Geographic Information System
PLANNING DEPARTMENT
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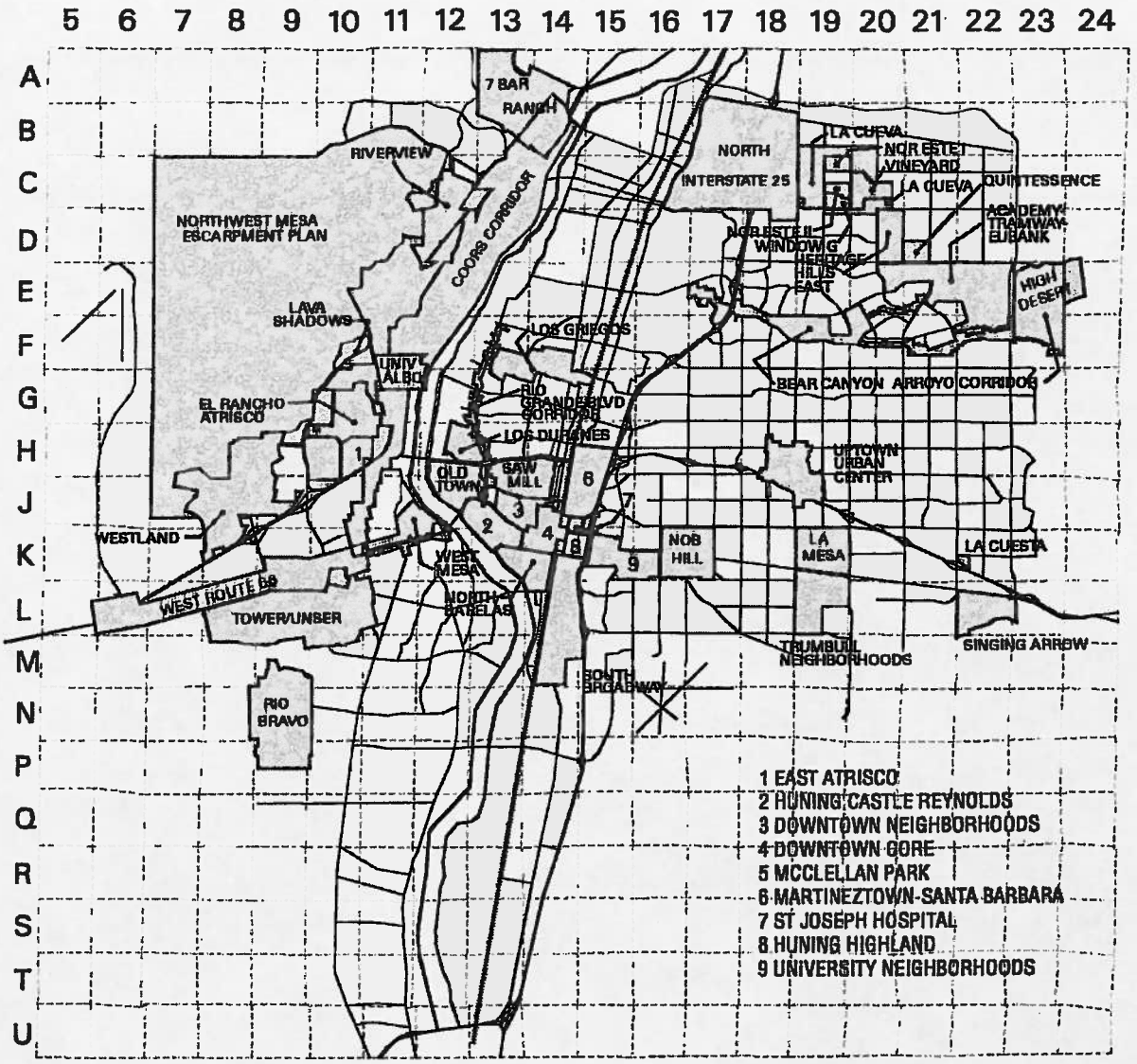
INDEX TO CITY RANK THREE PLANS

(For information on individual Rank Three Plans, including Sector Development Plans, please contact the Planning Department.)



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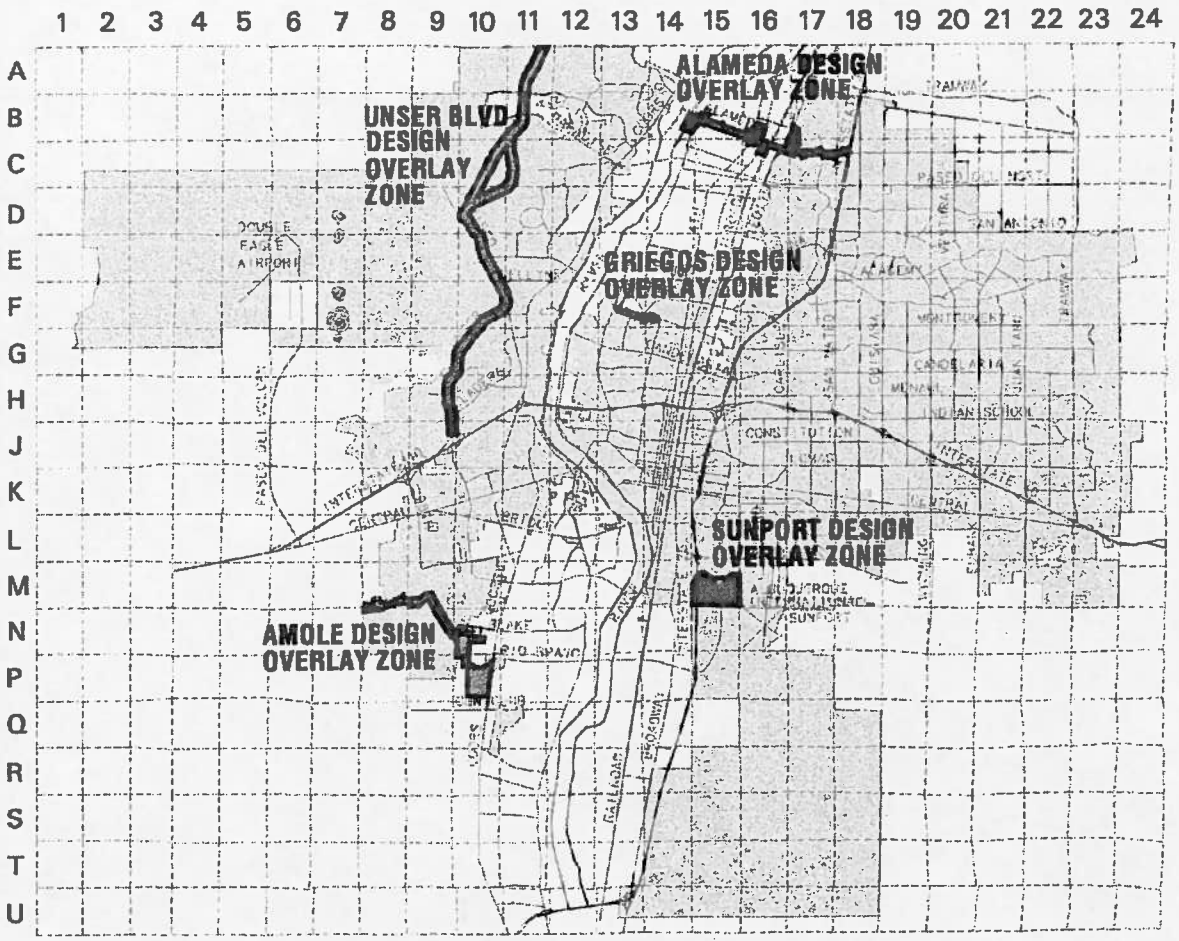
INDEX TO DESIGN OVERLAY ZONES

(For information on individual Design Overlay Zones, please contact the Planning Department.)



Each grid cell is approximately one square mile.

MUNICIPAL LIMITS

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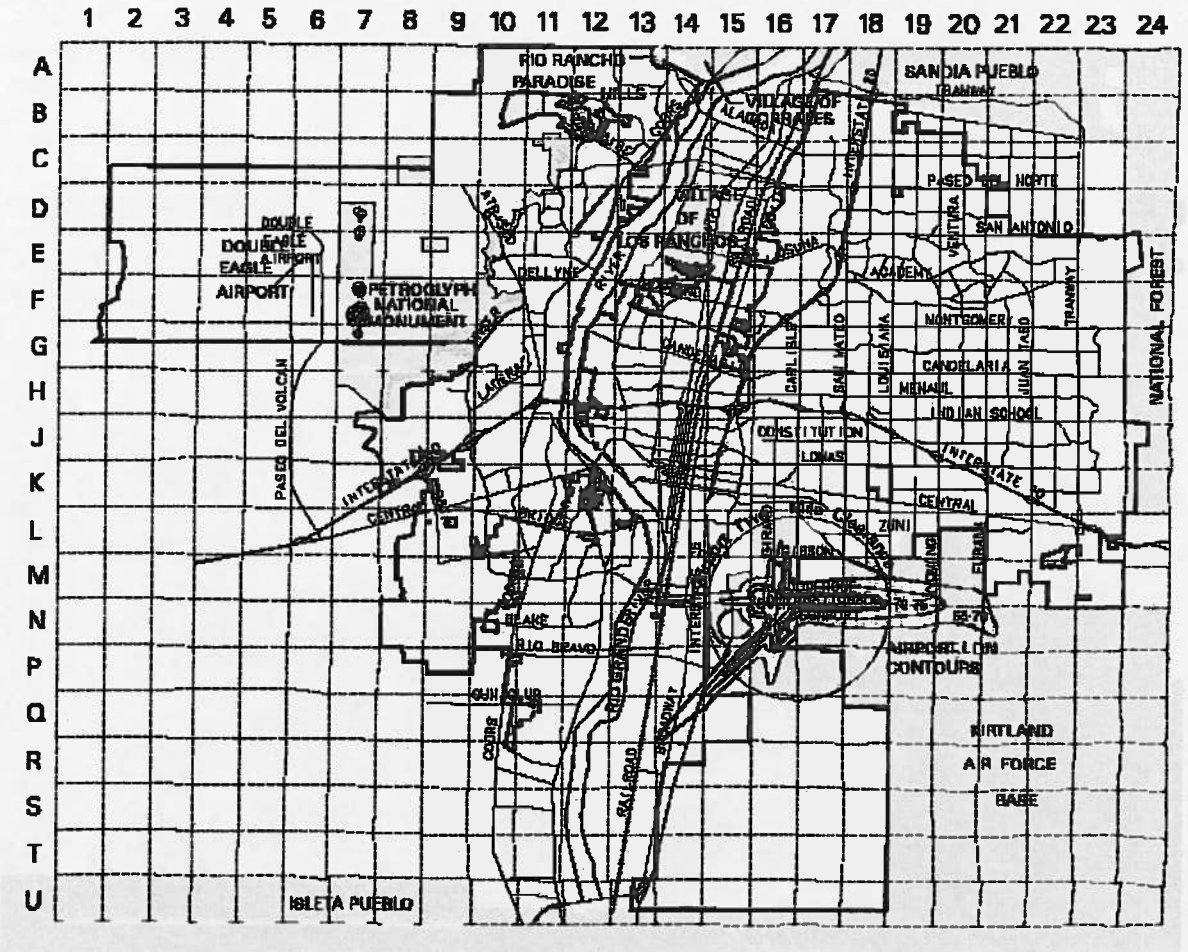
INDEX TO LOCAL JURISDICTIONS AND SPECIAL AREAS



Note: The unincorporated area of Bernalillo County is not designated on this map.

Each grid cell is approximately one square mile.

Municipal Limits

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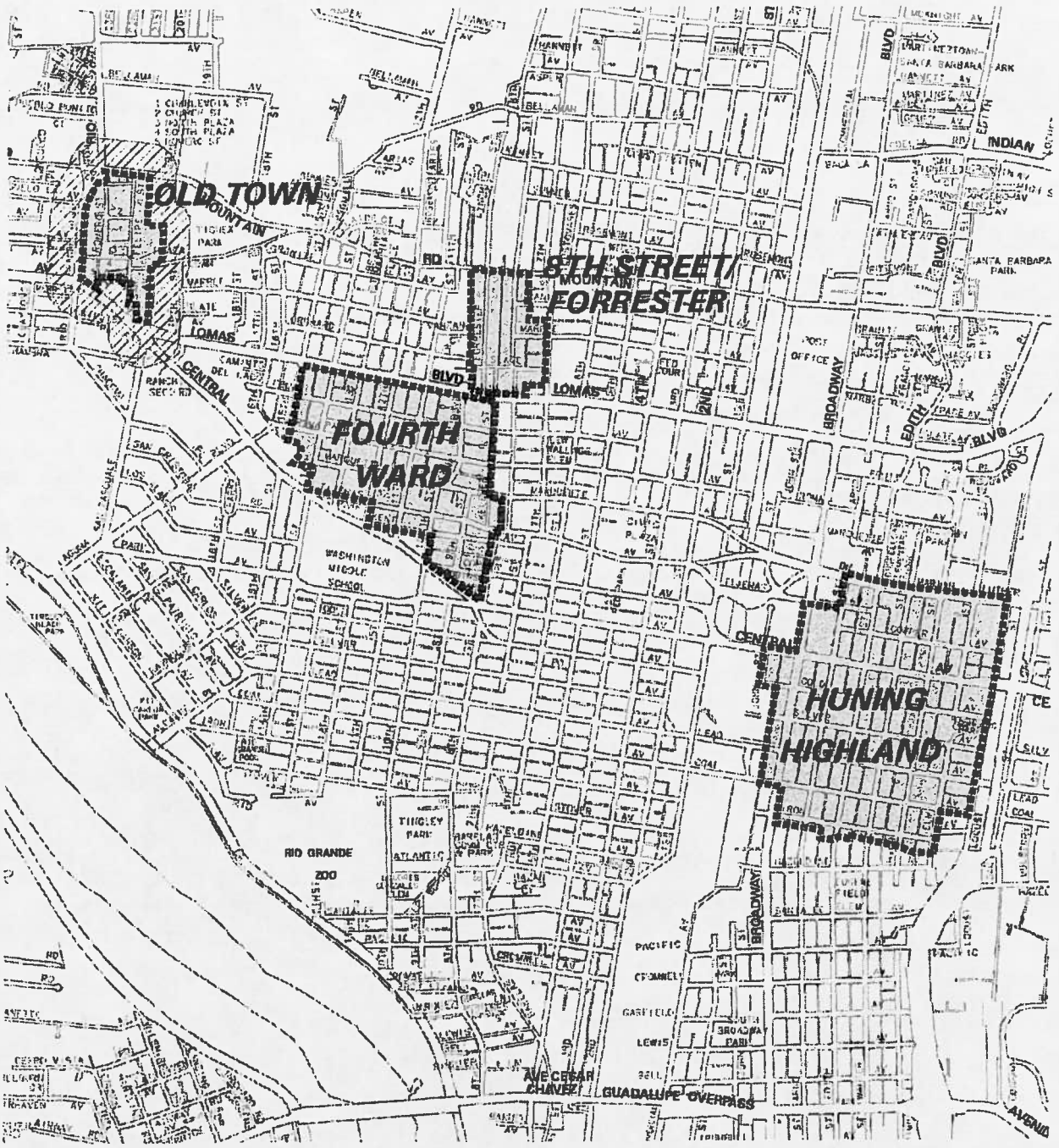
DOWNTOWN ALBUQUERQUE
HISTORIC OVERLAY ZONES AND THE H-1 HISTORIC OLD TOWN ZONE

(For more information on Historic Overlay Zones, the H-1 zone and other historic preservation information, please contact the Planning Department.)



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PART 1: GENERAL PROVISIONS

§ 14-16-1-1 SHORT TITLE.

This article, the "Comprehensive City Zoning Code," may be cited as the "Zoning Code" and is referred to elsewhere herein as "this article."

('74 Code, § 7-14-3) (Ord. 80-1975; Am. Ord. 68-1981)

§ 14-16-1-2 AUTHORITY AND JURISDICTION.

(A) This article is created pursuant to the authority set forth in Article I of the Charter of the City of Albuquerque, which was originally adopted at a special election on June 29, 1971 pursuant to Article X, Section 6, of the Constitution of the State of New Mexico. In enacting this article the city intends to follow the provisions of existing state law on the same subject so far as possible for the convenience of the public and for the better administration of the law. Uses and structures, existing at the time of adoption of this article, which do not conform to this article shall be removed or ceased according to the time schedules set forth herein; provided, however, that those uses and structures which did not conform to Commission Ordinances Nos. 1493 and 2726, as amended, shall be removed or ceased according to the time schedules set forth in Commission Ordinances Nos. 1493 and 2726, as amended.

(B) All property in the city is governed according to the zone in which it is located, except this article is not applicable to federal activities or development on federally-owned lands where either the federal government has retained from the time of statehood or subsequently obtained the right to legislate in relation to such lands or the State of New Mexico has ceded jurisdiction to legislate back to the United States in relation to such lands. However, private activities or development for private purposes on such lands shall be subject to this article.

('74 Code, § 7-14-1) (Ord. 80-1975)

§ 14-16-1-3 INTENT.

(A) This article is intended to help achieve Article IX of the Charter of the City of Albuquerque and the city's master plan; in particular the master plan documents which comprise the Albuquerque/Bernalillo County Comprehensive Plan. This article is intended to create orderly, harmonious, and economically sound development in order to promote the health, safety, convenience, and general welfare of the citizens of the city. These regulations are necessary to provide adequate open spaces for light and air including solar access; to avoid undue concentration of population, to secure safety from fire, panic, and other dangers; to help control congestion in the streets and public ways; to control and abate unsightly use of buildings or land; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewer, schools, and parks; to encourage the most appropriate use of land; to properly channel flood water runoff; to conserve and stabilize the value of property; and to enhance the appearance of the landscape.

(B) Any use not designated a permissive or conditional use in a zone is specifically prohibited from that zone, except as otherwise provided herein.

(C) Approval of a zone or a plan which is required pursuant to a zone does not commit the city to provide water or sewer service more rapidly than is programmed by the city.

('74 Code, § 7-14-2) (Ord. 80-1975; Am. Ord. 62-1980)

§ 14-16-1-4 INTERPRETATION.

(A) ***General.*** The provisions of this article shall be held to be minimum requirements to meet the intent expressed in § 14-16-1-3. Where the provisions of this article impose greater restrictions than those of any other ordinance or resolution the provisions of this article shall prevail. Where the provisions of any other ordinance, resolution, or covenant impose greater restrictions than those of this article, the provisions of such other ordinance, resolution, or covenant shall prevail.

(B) ***Uses within Structures***. Unless a different intent is indicated herein or in an adopted city plan, uses allowed under the terms of this article shall be understood to be allowed within structures only if they are constructed according to the city Building Code and other technical codes adopted in § 14-1-3, as of the date of the structure's construction.

(C) Public utility structures, as herein defined, are regulated by this Zoning Code. Other public utility installations located in public rights of way or utility easements, including but not limited to lines and poles, are not regulated by the Zoning Code; however, such installations are controlled by the city if it is the utility or if it has governing adopted plans.

('74 Code, § 7-14-4) (Ord. 80-1975; Am. Ord. 80-1986; Am. Ord. 47-1990)

§ 14-16-1-5 DEFINITIONS.

(A) Word Forms. Unless a contrary intention clearly appears, the following words have, for the purpose of this article, meanings interpreted as follows:

(1) Words used in the present tense include the future tense. Words used in the future tense include the present tense.

(2) The singular includes the plural. The plural includes the singular.

(3) The word MAY is permissive; the words SHALL and WILL are mandatory, subject to specific exceptions allowed by this article.

(4) Words not defined herein but which are defined in the Building Code of the city (adopted in § 14-1-3) are to be construed as defined therein.

(B) Definitions. The following definitions apply:

ACCESSORY BUILDING. See BUILDING, ACCESSORY.

ACCESSORY LIVING QUARTERS. See LIVING QUARTERS, ACCESSORY.

ADULT AMUSEMENT ESTABLISHMENT. An establishment such as an auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment that provides amusement or entertainment featuring one or more of the following:

(1) A live performance, act or escort service distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or

(2) Audio or video displays, computer displays, films, motion pictures, slides or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT MATERIAL. Items consisting of one or more of the following:

(1) Digital or printed books, magazines, periodicals, audio or video displays, computer displays, films, motion pictures, slides, or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or

(2) Devices, instruments, novelties or paraphernalia designed for use in connection with specified sexual activities or that depict or describe specified anatomical areas.

ADULT STORE. An establishment having 25% or more of its shelf space or square footage devoted to the display, rental, sale or viewing of adult material for any form of consideration.

APARTMENT. Structures containing two or more dwelling units each, including dwelling units which do not have a separate entrance leading directly to the outdoors at ground level.

ARCHITECTURALLY INTEGRATED WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility which is camouflaged into the structure on which it is located by means of color, texturing, architectural treatment, massing, size, design, and/or shape. An architecturally integrated wireless telecommunications facility is a concealed facility.

AUTOMOBILE DISMANTLING YARD. A premises on which is conducted the dismantling of automobiles; there may be the selling of automobile parts and the storage of inoperative automobiles awaiting dismantling or removal. There is no hammering, mechanical cutting, grinding, or blasting.

BACK TO BACK STRUCTURE. A structure that includes two rows of retail outlets placed rear of outlet to rear of outlet.

BATH. A space or suite of adjacent spaces containing a wash basin, toilet, and a bathtub and/or shower.

BED AND BREAKFAST ESTABLISHMENT. A house with a permanent resident and a subordinate use of up to eight guest rooms which may be rented for short-term overnight lodging with breakfast served to overnight guests only; some or all guest rooms may be in accessory living quarters.

BEDROOM. Any room in a dwelling which is partitioned by walls and doors, other than one kitchen, one room which may be designated as a living room, one room which may be designated as a dining room or family room, and any number of baths, foyers, corridors, and closets; however, no room greater than 100 square feet can be considered a closet for the purposes of this definition.

BLOCK. An area no larger than ten acres which is bounded by but not crossed by public streets.

BOARD OF APPEALS. A Board consisting of five members which hears appeals from the Zoning Hearing Examiner.

BOARDING OR LODGING HOUSE. A dwelling unit containing at least one but not more than five guest rooms where lodging is provided, with or without meals, for compensation; it does not include community residential program or emergency shelter.

BOAT. A vehicle for traveling in or on water, not exceeding 30 feet in body length, 8 feet in width, or 11 feet in overall height. Height includes the trailer, if the boat is mounted on a trailer.

BUILDING, ACCESSORY. A building detached from and smaller than the main building on the same lot; the use of an accessory building shall be appropriate, subordinate, and customarily incidental to the main use of the lot.

BUSINESS. A legal entity operating an enterprise in a space separate from any other enterprise.

CAMPGROUND. A lot developed or used for occupancy by tents and/or recreational vehicles for transient dwelling purposes.

CANOPY SIGN. See SIGN, CANOPY.

CARNIVAL. A travelling enterprise offering a variety of amusements which are predominantly comprised of mechanical rides, side shows, or games of chance.

CENTRAL URBAN AREA. An area designated "Central Urban" by the Albuquerque/Bernalillo County Comprehensive Plan; generally, redevelopment or rehabilitation is appropriate.

CERTIFICATE OF APPROPRIATENESS. Written authorization required for alteration, demolition, or new construction in certain zones as provided for in Chapter 14, Article 12, Landmarks and Urban Conservation.

CIRCUS. A travelling enterprise that features feats of physical skill and daring, wild animal acts, and performances by clowns.

CITY. The city of Albuquerque, New Mexico.

CITY COUNCIL. The governing body of the city.

CLEAR SIGHT TRIANGLE. An area of unobstructed vision at street intersections between three and eight feet above the gutter line and within a triangular area at the street corner, which area is bounded by:

(1) The street property lines of the corner lot and a line connecting points 25 feet distant from the intersection of the property lines of such lot; or

(2) The curb lines of an intersection and a line connecting points 35 feet distant from the corner of the intersection ¬ such corner determined by projecting the curb lines out to a specific point, whichever is the lesser.

CLINIC. See ***OFFICE***.

CLUB. An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes which are not conducted for profit; includes lodge.

COLLOCATION. The location of more than one wireless telecommunications facility on the same structure by more than one wireless telecommunications facility owner, or the location of one or more wireless telecommunications facility on a public utility structure.

COMMERCIAL SURFACE PARKING LOT. An area of land used to provide parking, as a commercial enterprise, for four or more motor vehicles for a fee. Such parking is not primarily associated with any other use. The term does not include a commercial parking garage which is a building primarily used for the provision of parking for a fee.

COMMERCIAL VEHICLE. Any vehicle that is not a noncommercial or a recreational vehicle.

COMMUNITY RESIDENTIAL CORRECTIONS PROGRAM. A community residential program for persons currently in the custody of, or recently released by, correctional authorities which is designed to offer an alternative to imprisonment and/or to facilitate ex-offender reintegration into community life.

COMMUNITY RESIDENTIAL PROGRAM. A dwelling unit(s) providing to its residents a planned program of care consisting of full-time programmatic supervision, counseling and/or therapy, and assistance in the development of daily living skills; such residence and program is provided to persons who are physically disabled, developmentally disabled, psychiatrically disabled, have drug or alcohol problems, are under the legal custody of the state, are minors with social and/or behavioral problems; or are persons who have disabilities associated with aging. A community residential program does not include skilled nursing care.

COMMUNITY RESIDENTIAL PROGRAM FOR SUBSTANCE ABUSERS. A community residential program for persons who require such services by reason of the effects of alcohol or drug abuse.

CONCEALED WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility which is architecturally integrated with existing buildings, structures,

and landscaping, including height, color, style, massing, placement, design, and shape, and which does not stand out as a wireless telecommunications facility when viewed with the naked eye.

CONDITIONAL USE. One of those uses enumerated as conditional uses in a given zone. Such uses require individual approval on a given lot.

CONTIGUOUS. Abutting or separated by nothing more than an alley.

CORNER LOT. See LOT, CORNER.

CUSTOMER SERVICE AREA. See SERVICE AREA, CUSTOMER.

DAY CARE CENTER.

(1) Any place other than an occupied residence which receives children for day care; or

(2) An occupied residence which receives more than 12 children for day care.

DAY CARE HOME. See ***FAMILY DAY CARE HOME***.

DETACHED OPEN SPACE. Required open space which is not on the same lot(s) as the dwellings for which the open space is required.

DEVELOPING AREA. The area designated "Developing Urban" on the Metropolitan Areas map of the Albuquerque/Bernalillo County Comprehensive Plan; generally it was not developed, subdivided for urban-size lots, or in an area where the city has approved a subdivision plat as of January, 1975.

DISMANTLING YARD, AUTOMOBILE. See ***AUTOMOBILE DISMANTLING YARD***.

DRIVE-IN RESTAURANT. A restaurant or refreshment stand which has one or more of the following:

(1) No inside tables or counters for customer eating, and food is served with any dishes and utensils which are customary for eating the food; or

(2) Carhop service to parked vehicles.

DRIVE-UP SERVICE WINDOW. A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

DRIVEWAY. An unobstructed paved area leading from the street to a garage or other permitted off-street parking area.

DWELLING. A dwelling unit or a mobile home.

DWELLING UNIT. One or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes, permanently installed on a permanent foundation which has received a permit from the city pursuant to Chapter 14, Article 1, and the structure is either:

(1) Constructed to the standards of the city Building Code and other technical codes adopted in § 14-1-3, as of the date of the unit's construction; or

(2) A single family detached dwelling with a heated area at least 36 by 24 feet and 864 square feet, constructed in a factory to the standards of the U.S. Department of Housing and Urban Development, National Manufactured Housing Construction and Safety Standards Act of

1974, 42 U.S.C. 5401 et seq., HUD Zone Code II, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978), regulation Sec. 1007, ground level installation, and regulation Sec. 1009, ground anchors; such dwelling shall be consistent with applicable historic or aesthetic standards which may be adopted by city ordinance.

ELECTROMAGNETIC INTERFERENCE. Disturbance caused by intruding signals or electrical current.

EMERGENCY SHELTER. A facility which provides sleeping accommodations to six or more persons for a period not normally exceeding 30 consecutive days, with no charge or a charge substantially less than market value; it may provide meals and social services.

ENVIRONMENTAL HEALTH DIRECTOR. The director of the Environmental Health Department or her/his authorized representative.

ESTABLISHED AREA. The area designated "Established Urban" on the Metropolitan Areas map of the Albuquerque/Bernalillo County Comprehensive Plan; generally it is stable and developed in urban uses or a subdivision plat for such use was approved as of January, 1975.

EXISTING VERTICAL STRUCTURE. Any tower for which a building permit has been issued, including a tower or antenna for which a permit has been issued by the city but has not been constructed so long as approval by the city has not expired, including a tower and antenna that has been given an interim approval prior to the effective date of Ordinance 9-1999 and not found by the city to be contrary to the purposes of Ordinance 9-1999, or any other vertical structure.

FACADE. Any separate external face of a building, including parapet walls and omitted wall lines. Where separate faces are oriented in the same direction, or in directions within 45° of one another, they are to be considered as part of a single facade.

FACE-MOUNTED WIRELESS TELECOMMUNICATIONS ANTENNA. An antenna attached to and covering a small portion of the surface of a building, and which is architecturally integrated into the building and supporting structure.

FAMILY.

(1) An individual;

(2) Two or more persons related by blood, marriage, legal guardianship, or adoption, plus resident domestic servants; or

(3) Any group of not more than five persons living together in a dwelling.

FAMILY CARE FACILITY. An occupied dwelling used for care for one or two residents, not a relative of the resident family and not under court ordered guardianship of a member of the resident family; it is licensed as a Family Care Home by the State of New Mexico and provides services as outlined for Adult Residential Shelter Care or Board and Care Homes in New Mexico Health and Environment Department regulations; care is provided 24 hours per day.

FAMILY DAY CARE HOME. An occupied dwelling in which a person provides, for remuneration, care for at least four but not more than 12 children on a regular basis for less than 24 hours per day. The resident provider's children who are age six or more shall not be counted for this definition.

FLOOR AREA RATIO. The heated gross floor area divided by the area of the premises.

FORECOURT. A court forming an entrance plaza for a single building or a group of buildings. Refer to § 14-16-3-2, Large Retail Facility Regulations regarding forecourt requirements.

FREE-STANDING SIGN. See ***SIGN, FREE-STANDING***.

FREE-STANDING WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility that consists of a stand-alone support structure, antennas, and associated equipment. The support structure may be a wooden pole, steel monopole, lattice tower, or similar structure. This does not include a wireless telecommunication antenna which is mounted on a public utility structure or light standard, or a Community Identity Feature.

FRONT YARD. See ***YARD, FRONT***.

FUTURE STREET LINE. A line running more or less parallel to the centerline of certain existing or proposed streets as established by ordinance for the purpose of delineating the future widths of public right-of-way.

GARAGE (PRIVATE). A portion of a dwelling or an accessory building that is designed or used to shelter permitted vehicles. Does not include a carport or open shelter.

GLAZING. The clear or translucent material through which light is transmitted into a building; usually glass but also includes acrylic and other materials. Glazing shall have a transparency that allows a pedestrian to see through the window.

GRADE.

(1) Means the average of the approved ground level immediately adjacent to each facade of a building, considered separately; where an earth embankment is placed against the side of a building or a retaining wall supporting a terrace is placed close to a building, grade shall be measured from the toe or bottom of the embankment or retaining wall; building floor level is irrelevant; and

(2) Means the elevation of the finished, approved ground level at all points along a garden wall or fence.

(3) As used herein, approved grade shall be no higher than the specified elevation on the grading plan approved by the city in conjunction with subdivision or site development plan approval; in the absence of such approved plans, original natural grade applies.

GROSS FLOOR AREA. The total floor area, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the outside surface of outside walls.

GROSS VEHICLE WEIGHT RATING. The value specified by the manufacturer as the maximum loaded weight of a vehicle or a vehicle combination, or registered weight, whichever is greater.

GROUP TRAINING HOME. A residence providing full-time supervision and training in daily living activities and homemaking skills to a small number of residents other than a family; no infant care is provided.

HEIGHT. When applied to a building, means the vertical distance above the grade at each facade of the building, considered separately, to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the average height between the plate and the ridge of a gable, hip, or gambrel roof. The height of a stepped or sloped building means the maximum height above grade of any distinct segment of the building, which segment constitutes at least 10% of the gross floor

area of the building. (This definition applies to height regulations found in a specific zone but not to regulations found in § 14-16-3-3.)

HELICOPTER. Any rotary wing aircraft or other vertical lift aircraft powered by mechanical or jet propulsion, and specifically excluding lighter-than-air craft.

HELIPAD. An area of land or structural surface created for and used for the landing and takeoff of helicopters or similar vertical lift aircraft.

HOME OCCUPATION. An activity carried on for profit or for philanthropic purposes, where all or part of the activity takes place on a residentially-used lot and the activity is not being legally conducted as another permissive or conditional principal use.

HOSPITAL FOR HUMAN BEINGS. An establishment that provides ¬ through an organized medical staff and permanent facilities that include inpatient beds, medical services, and continuous licensed professional nursing services ¬ diagnosis and treatment, both surgical and nonsurgical, for patients who have any of a variety of medical conditions, including mental illness. A facility licensed by the state as a general, limited, or special hospital is presumed to be a hospital for human beings.

HOSPITAL FOR TREATMENT OF SUBSTANCE ABUSERS. An institution or establishment that provides treatment for human beings through an organized medical staff and permanent facilities that may include inpatient beds, out-patient services, medical services and continued medical care and/or psychological counseling and treatment to those recovering from the abuse of controlled substances, drugs or alcohol. To be considered as a HOSPITAL FOR TREATMENT OF SUBSTANCE ABUSERS in the Zoning Code, a hospital that also performs general medical care will not be considered a HOSPITAL FOR TREATMENT OF SUBSTANCE ABUSERS unless over 50% of the hospital's patients are being treated for recovery from abuse of substances.

HOUSE. A single-family, detached dwelling unit; a building containing only one dwelling unit.

INCIDENTAL USE. A use which is appropriate, subordinate, and customarily incidental to the main use of the lot.

ILLUMINATED SIGN. See ***SIGN, ILLUMINATED***.

JOINT SIGN PREMISES. See ***PREMISES, JOINT SIGN***.

KENNEL. A premises on which five or more dogs or cats or aggregate thereof, over three months of age, are kept, maintained, or boarded. This definition shall not include permitted premises, as specified by this article, other than kennels.

KITCHEN. An area of a dwelling where there is a sink and a significant cooking appliance, including but not limited to a range, oven, microwave oven, or hot plate, in close proximity.

LAND USE HEARING OFFICER. The individual(s) appointed and designated by the City Council to conduct hearings on land use appeals as delegated by the City Council. The LAND USE HEARING OFFICER shall conduct hearings on appeals in accordance with rules approved by the City Council and shall provide a written decision and findings in support of that decision to the City Council within a time specified by the City Council.

LANDMARKS AND URBAN CONSERVATION COMMISSION. The city's Landmarks and Urban Conservation Commission as created by Chapter 14, Article 12, Landmarks and Urban Conservation.

LANDSCAPING. The planting and maintenance of live plants including trees, shrubs, ground cover, flowers, or other low-growing plants that are native or adaptable to the climatic conditions of the Albuquerque 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 street furniture.

LANDSCAPING PLAN. An accurate plan, typically at a scale of at least 1 inch to 50 feet, which covers at least one lot and which specifies:

(1) For Subdivision. Areas to be used for conveyance of floor waters; existing significant trees and shrubs to be preserved or to be removed; proposed perimeter trees and shrubs.

(2) For Building Permits. In addition to information required for division (1) above, the information required by § 14-16-3-10.

LARGE RETAIL FACILITY. A single tenant structure with at least 75,000 square feet of net leasable area for the purpose of retailing. A shopping center site with a main structure of 75,000 square feet or more is a LARGE RETAIL FACILITY. Refer to § 14-16-3-2 for Large Retail Facility Regulations.

LAW ENFORCEMENT HELIPAD. A helipad that is operated by a governmental agency and used exclusively for law enforcement purposes.

LDN. Day/night equivalent sound level measured over a 24-hour period; it is equivalent in terms of sound energy to the level of a continuous A-weighted sound level with 10 dB added to the nighttime levels. LDN is computed pursuant to United States Environmental Protection Agency standards and procedures.

LIVING QUARTERS, ACCESSORY. Living quarters within an accessory building having no kitchen.

LOT.

(1) A tract or parcel of land platted and placed on the County Clerk's record in accordance with laws and ordinances; or

(2) A tract or parcel of land described by metes and bounds held in separate ownership, as shown on the records of the County Assessor, prior to June 20, 1950, date of passage of Commission Ordinance No. 686, or October 2, 1950, effective date of passage of a County Resolution (both covering Subdivision); or

(3) A portion of one or more platted lots, which portion was placed on the records of the County Assessor prior to November 16, 1973, effective date of Commission Ordinance No. 97-1973, the city's Subdivision Regulations, provided such portion met all requirements of area and dimension of the zone in which it was located when created.

LOT AREA. The area of a lot exclusive of easements for a private way or thoroughfare.

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

LOT LINE, FRONT. A legal boundary of a lot bordering on a street. For the purpose of determining yard requirements on a corner lot, any one side bordering on a street may be considered the front. On a double frontage interior lot where the lots on both sides are committed to one street as the front lot line, the lot between shall use the same front lot line.

LOT LINE, REAR. A legal boundary which is opposite and more or less parallel to the front lot line. In the case of an L-shaped or other irregularly shaped lot where two or more lines are so located all are considered rear lines, except those that are within 50 feet of the front lot line or which are 20 feet or less in length. In the case of a lot which comes to a point at the rear, the rear lot line is the imaginary line parallel to the front lot line, not less than ten feet long, lying wholly within the lot, and farthest from the front lot line.

LOT WIDTH. The length of a straight line between the points on each of the side lot lines which points are 50 feet from the front lot line; except for the purposes of determining the required side yard setbacks, these points are located either at the required minimum front or rear setback distance, whichever produces the least lot width.

LUMINANCE. The brightness of an object, expressed in terms of footlamberts, determined from a point five feet above grade on another premises or the public right-of-way, but no closer than 20 horizontal feet from the object measured.

MAIN STRUCTURE. A building used for the purpose of retailing that is at least 75,000 square feet in size and dedicated to a single tenant, or a building that has one or more tenants with at least one tenant occupying at least 75,000 square feet for retail uses. A collection of smaller buildings, each less than 75,000 square feet and linked by common walls is not considered a MAIN STRUCTURE. Refer to § 14-16-3-2 for Main Structure Regulations.

MAJOR FACADE(S). Any exterior facade that contains a primary entrance(s) or that fronts a public street.

MASSING. The overall composition of the exterior of the major volumes of a building and their relationship to each other in a sequence in the overall design of the building or structure.

MASTER DEVELOPMENT PLAN. A plan meeting the requirements for a site development plan for subdivision; showing general building and parking locations; and specifying design requirements for buildings, landscaping, lighting, and signage.

MASTER PLAN. A duly adopted plan or any of its parts, for the development of the area within the planning and platting jurisdiction of the city for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development. It includes the Albuquerque/Bernalillo County Comprehensive Plan.

MEASUREMENT. In all instances where the Zoning Code requires a separation of uses, use districts, lots, or buildings, such distance shall be measured in a geometrically straight line using a scaled map, or a survey if necessary, unless otherwise specifically provided for in the Zoning Code. This line shall be measured to run from the nearest point on the nearest lot line or the lot or lots upon which the regulated use is located to either the nearest point on the nearest lot line of the lot or lots upon which a use is located from which the regulated use is required to be separated or the nearest point on the nearest boundary of the zoning district from which the regulated use is required to be separated, whichever terminal point is applicable. Such measurement shall be made without regard to any intervening structures, objects, uses, the street grid, landforms, waterways, or any other topographical features.

MEDICAL HELIPAD. A helipad that is located on the same premises as a hospital, or in close proximity to a hospital, and is used exclusively for emergency medical transport.

MOBILE FOOD UNIT. Any wagon, truck, push cart, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food, or any food product for human consumption.

MOBILE HOME. A movable or portable housing structure larger than 40 feet in body length, 8 feet in width, or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes; it does not include structures built to the standards of the Building Code and other technical codes adopted in § 14-1-3, as of the date of the unit's construction.

MOBILE HOME DEVELOPMENT. An area developed or intended to be developed for occupancy by two or more mobile homes which are used for dwelling purposes. It includes areas known as mobile home parks, where lots or spaces are rented individually to residents; mobile home subdivisions, where lots are sold individually, usually to residents of the lots; or other forms of ownership.

NEIGHBORHOOD AREA TRAFFIC STUDY. A study that is intended to respond to cut-through traffic, speeding, and problem intersections on more than one local street in a neighborhood. Neighborhood area traffic studies are more complex than single street traffic studies. The study area is larger and problems are inter-related and they require research and analysis and substantial involvement by neighborhood residents. Cut through studies that are part of a neighborhood traffic study shall be performed by the City Traffic Engineer or a qualified professional engineer using the methodologies of the City of Albuquerque Neighborhood Traffic Management Program (NTMP) to perform a cut through study.

NET LEASABLE AREA. The total floor area designed for owner or tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the centerline of encompassing walls.

NONCOMMERCIAL VEHICLE. A motor vehicle used in the conduct of normal daily activities which has a gross vehicle weight rating of not more than 10,000 pounds and can be lawfully parked in a standard 8.5 feet by 20 feet parking space. The term includes motor vehicles commonly called motorcycles, automobiles, vans, sport utility vehicles, light trucks or pick-ups.

NONCONFORMING. A structure or use of structure or land which does not conform to applicable zoning and which was in conformity with applicable zoning in effect at the time it was created.

NONCONFORMING STRUCTURE. A structure which does not conform to this Article or to the regulations of an applicable sector development plan for reasons other than the use of the structure and which structure did not violate this Article or any applicable sector development plan at the time the structure was constructed. By way of example: a nonconforming structure could be one that violates height, setback, aesthetic or form requirements.

NONCONFORMING USE. A use of a structure or land which does not conform to uses allowed under the regulations of this Article or to uses allowed under an applicable sector development plan and which was an allowed use at the time the use was first undertaken.

NORTHERN BOUNDARY. The lot line lying generally to the north side of a lot which is the most nearly perpendicular to cardinal north.

NURSERY. The commercial growing of plants, if the plants are sometimes covered with a structure which extends more than two feet above ground level.

OCCUPANCY. The purpose for which a building is used or intended to be used, or the building or portion thereof housing such use.

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

OFF-PREMISE SIGN. See ***SIGN, OFF-PREMISE.***

OFF-STREET PARKING. An area used for required temporary parking regulated by § 14-16-3-1.

ON-PREMISE SIGN. See ***SIGN, ON-PREMISE***.

OPEN SPACE, USABLE. See ***USABLE OPEN SPACE***.

OPEN SPACE. Ground area which satisfies visual and psychological needs of the community for light and air. It is covered with vegetation, game courts, non-vehicular paths, or incidental buildings provided that such incidental buildings do not cover more than five percent of the ground area.

PARCELED COMMONS AREA (PCA). The area within a Private Commons Development set aside for the purposes of agriculture, landscaping, open space or recreation; this area can either be a Private PCA with deed restrictions and a land use easement for the use and enjoyment of the PCD property owners or a Public PCA, which is land dedicated to, and accepted by, the City.

PARK-AND-RIDE JOINT-USE FACILITIES. Provision of parking for transit customers in an area which is required off-street parking, which dual use is agreed to by the transit operator and the person in control of the property; the joint use is utilized for more than 30 consecutive days.

PARK-AND-RIDE TEMPORARY FACILITIES. The temporary provisions of parking for transit customers using service provided by the municipal transit agency in conjunction with a temporary civic use, including but not limited to the New Mexico State Fair and the International Balloon Fiesta. Other temporary civic uses shall have a demonstrable public purpose and shall require the approval of the Mayor. Use of the facility shall not exceed 45 days in a calendar year. The use may include a ticket booth, portable restrooms, lighting, concession stand, and barriers contributing to traffic management. Approval of a traffic management plan shall be required.

PARKING LOT. An area or structure used for temporary parking of automobiles and pickup-size trucks, providing four or more parking spaces, not within the public right-of-way, none of which are required off-street parking.

PARKING, OFF-STREET. See ***OFF-STREET PARKING***.

PARKING SPACE, AUTOMOBILE AND LIGHT TRUCK. A suitable space for vehicular storage, at least 8.5 feet in width and 18 feet in length, that may be reduced to 16 feet in length where cars can overhang wheel stops, with access and circulation satisfactory to the Traffic Engineer; however, if a premises contains more than 20 parking spaces, one-third of the spaces may be at least 8 feet in width and 15 feet in length. Parking Spaces must be clearly identified through use of parking blocks, stripes, or other acceptable means.

PEDESTRIAN PLAZA (OUTDOOR COURTYARD). An outdoor public space that contains seating and shade and is typically privately owned and maintained.

PEDESTRIAN SCALE LIGHTING. Lighting in pedestrian areas not to exceed 16 feet in height, which allows people to see and be seen from a distance of 40 to 60 feet.

PEDESTRIAN WALKWAY. A sidewalk located on a private property.

PERMEABLE PAVEMENT OR PERMEABLE PAVEMENT SYSTEM. Pavement materials including pervious asphalt and concrete, interlocking pavers, modular pavers, and open-celled paving, or similar materials that allow the infiltration of water below the pavement surface. Gravel,

turf or other materials that are not part of a structured system designed to manage stormwater shall not be considered permeable pavement or a permeable pavement system. The structural design of the pavement shall meet the requirements of the City Engineer and/or their designee.

PERMEABLE SURFACING. Any low-dust surface that allows the absorption of water into the ground including but not limited to: a surface covered by gravel, crusher fines, brick or pavers without continuous mortar joints, or similar materials that allow water to be absorbed into the ground through its surface.

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

PETROLEUM PRODUCTS RETAIL FACILITY (FUELING PLAZA). A facility for outdoor sales of gasoline, petroleum or liquefied gas.

PLANNED COMMUNITY. A substantially self-sufficient urban development separated from the Established and Developing Urban areas by permanent open space. Such a community is located in the Reserve Area or the Rural Area, as designated by the Albuquerque/ Bernalillo County Comprehensive Plan; the community's development is guided by a series of plans.

PLANNING COMMISSION. The city's Environ-mental Planning Commission.

PLANNING DIRECTOR. The chief administrative officer of the Planning Division of the city or his authorized representative.

PORCH. A roofed structure that is open on at least two sides, one side being the street facing side, that projects from the exterior wall of a building, and is used as an outdoor living area. Porch walls are a minimum of 50% open and unenclosed except for removable screens, screen doors, storm sashes or awnings.

PREMISES. Any lot or combination of contiguous lots held in single ownership, together with the development thereon; there may be multiple occupancy.

PREMISES, JOINT SIGN. Two or more abutting premises, each with less than 100 feet of street frontage, which are combined pursuant to § 14-16-3-5(E) to create a land unit which has at least 100 feet of street frontage for the purpose of allowing a freestanding or projecting on-premise sign.

PRIMARY DRIVEWAY. The principal vehicular entrance from a public right of way into or out of a premises. Most automobile trips to and from the premises are directed to the primary driveway as identified in the site plan.

PRIVATE COMMONS AREA. The area within a Private Commons Development set aside through deed restrictions and a land use easement for the use and enjoyment of Private Commons Development property owners for the purposes of agriculture, landscaping or recreation.

PRIVATE COMMONS DEVELOPMENT (PCD). A residential development of at least one acre which meets the requirements of this article for such developments (see § 14-16-3-16); it may contain houses and townhouses on any sized lot; it must include a Private Parceled Commons Area or a Public Parceled Commons Area.

PUBLIC RIGHT-OF-WAY. The total area of land deeded, reserved by plat, or otherwise acquired by the city, the county, or the state, primarily for the use of the public for the movement of people, goods, and vehicles.

PUBLIC UTILITY STRUCTURE. A structure, owned by a unit of government or by a public utility company, which is an electric switching station; electric substation operating at voltages greater than 50 kilovolts (kV); gas transfer station or border station; city-owned lift station, odor control (or chlorine) station, water well or pump station, or water reservoir; or any other public utility structure controlled by a rank two facility plan.

READILY VISIBLE WIRELESS TELECOMMUNICATIONS FACILITY. An object which stands out of the landscape as a wireless telecommunications facility when viewed with the naked eye.

REAR YARD. See ***YARD, REAR***.

RECREATIONAL VEHICLE. A vehicular unit not exceeding 40 feet in body length, eight feet in width, or 11 feet in overall height, primarily designed as a temporary living quarters for recreational, camping, or travel use; it either has its own motive power or is designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, and camping trailer.

RECYCLING BIN. A container located outside and used for storing and sorting metal, glass, and paper products, the materials of which will be recycled for further economic uses.

REDEVELOPING AREA. An area designated "redeveloping urban" by the Metropolitan Areas Map of the Albuquerque/Bernalillo County Comprehensive Plan; generally, redevelopment or rehabilitation is appropriate.

RESIDENTIAL ZONE. See ***ZONE, RESIDENTIAL***.

RESTAURANT. An establishment that serves food and beverages which are consumed on its premises by customers seated at tables and/or counters either inside or outside the building thereon, and which may be engaged in providing customers with take-out service of food and/or non-alcoholic beverages for off-site consumption. Sale of alcoholic drink is controlled by other provisions in this code and the New Mexico State statutes regarding alcoholic drink sales.

RETAIL SUITE LINER. A retail suite connected to and extending from the front or side of a main structure for the purpose of screening.

RIGHT-OF-WAY. See ***PUBLIC RIGHT-OF-WAY***.

ROOF-MOUNTED WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility placed on a rooftop through gravity mounts or other surface attachments and integrated into the natural rooftop profile of the building so as to resemble a permissible rooftop structure, such as a ventilator, cooling equipment, solar equipment, water tank, chimney, or parapet.

ROOMING HOUSE. See ***BOARDING*** or ***LODGING HOUSE***.

SECONDARY DRIVEWAY. A vehicular entrance used to supplement a primary driveway access from a public right of way into or out of a premises. Provides vehicular access to the premises in addition to a primary driveway access.

SECTOR DEVELOPMENT PLAN. A plan that covers a large area satisfactory to the City body with the authority to approve the plan, and specifies standards for the area's and sub-area's character, allowed uses, structure height, and dwellings per acre; the plan may specify lot coverage, floor area ratio, major landscaping features, building massing, flood water management, parking,

signs, provisions for maximum feasible solar access, provisions for transportation, and other such features. Such plan constitutes a detailed part of the master plan and must be essentially consistent with the more general elements of the master plan, the Albuquerque/Bernalillo County Comprehensive Plan.

SEMI-URBAN AREA. An area so designated by the Metropolitan Areas map of the Albuquerque/ Bernalillo County Comprehensive Plan; a gross density of one to three dwelling units per acre is planned.

SERVICE AREA, CUSTOMER. That area of the lot between the principal building and any customer service structure maintained for dispensing services or products to on-premise customers, provided the structure is within 25 feet of the principal building or there is a solid canopy covering the service area.

SETBACK. The shortest distance between a structure and a lot line or future street line.

SHOPPING CENTER SITE. A premises containing five or more acres; zoned P, C-1, C-2, C-3, M-1, M-2, or a combination thereof; or a large retail facility; but excluding premises used and proposed to be used only for manufacturing, assembling, treating, repairing, rebuilding, wholesaling, and warehousing. Shopping center sites are subject to the shopping center regulations of the Zoning Code, § 14-16-3-2.

SIDE YARD. See ***YARD, SIDE***.

SIGN.

(1) Any display to public view of letters, words, numerals, figures, statues, devices, emblems, pictures, or any parts or combinations thereof designed to inform or advertise or promote merchandise, services, or activities except for the following:

(a) Non-illuminated names of buildings, dates of erection, monument citations, commemorative tablets and the like when carved into stone, concrete, metal, or any other permanent type construction and made an integral part of a permitted structure or made flush to the ground.

(b) Signs required by law or signs of a duly-constituted governmental body.

(c) Signs placed by a public utility for the safety, welfare, or convenience of the public, such as signs identifying high voltage, public telephone, or underground cables.

(d) Signs upon a vehicle, provided that any such vehicle with a sign face of over two square feet is not conspicuously parked so as to constitute a sign; nothing herein prevents such a vehicle from being used for bona fide delivery and other vehicular purposes.

(e) Temporary holiday decorations.

(2) A back-to-back sign or V-shaped sign constitutes one sign if it employs a common set of supports. A composite group of signs integrated into one framed unit or compact structure constitutes one sign.

SIGN AREA.

(1) For free-standing and projecting signs means the area of one rectangle or of two contiguous rectangles in the same plane, drawn with horizontal and vertical lines so as to include the entire sign except sign supports. The viewpoint for calculation shall be that which gives the largest dimension to that rectangular area.

(2) Sign area for building-mounted signs, except projecting signs, means the area enclosed with a sign border, or the sum of the areas of the minimum imaginary rectangles enclosing each word or non-verbal symbol if there is no sign border.

(3) Ornamental sign bases without advertising elements are not counted in sign area.

(4) Sign area for additional add-on signs to off-premise signs shall be calculated as the area of up to two rectangles in addition to the rectangle which defines the area of the basic sign.

SIGN, BUILDING-MOUNTED. A sign entirely supported by or through a building; it includes canopy sign, marquee sign, projecting sign, roof sign, and wall sign.

SIGN, CANOPY. A type of building-mounted sign mounted under and supported by a permanent canopy, arcade, or portal, the ceiling of which is no more than 14 feet above grade.

SIGN, ELECTRONIC. Electronic display panel signs and electronic message reader board signs.

SIGN, ELECTRONIC DISPLAY/BOARD PANEL. A sign which presents information that is transmitted in various visual forms and includes types such as: flat screen, active display matrix, or any electronic display capable of displaying multiple communications, images, graphics in mono, tri and/or full color. Such displays include but are not limited to current and future technology such as: Light Emitting Diodes (LED), Liquid Crystal Display (LCD), Plasma Display Panels (PDP), 3D Holography, pixel or subpixel technology, other fiber optics or illumination devices within the display area. The electronic control allows for programmable, electronic changing messages used primarily for the purpose of advertising, marketing messages, display of time-sensitive and other updatable information.

SIGN, ELECTRONIC MESSAGE READER BOARD (VARIABLE MESSAGE SIGNS, ELECTRONIC MESSAGE READER). A sign with light bulbs used to display single or multiple lines of text or graphics. The horizontal columns of light produce changing messages or text by programmable electronic or mechanical processes. The sign can also use a fixed light source to provide a message in text, graphics, photos and/or symbols appearing to move or flash. Examples of electronic message boards include but are not limited to: static monochrome price sign - displaying numbers only, (example: gas stations); changeable price sign - displays numbers and/or text, with alternating messages against a dark background (example: gas stations); monochrome message reader board - displays text and/or limited graphics, with changing messages (example: bus stops, community centers).

SIGN, FREE-STANDING. A sign attached to or supported from the ground and not attached to a building; signs on walls or fences which are not an integral part of a building are free-standing signs. A portable sign is a type of free-standing sign, but shall have no impact upon the permissibility of a free- standing sign that is not a portable sign.

SIGN HEIGHT. The vertical distance from grade to the highest point of the sign.

SIGN, ILLUMINATED. Any sign which is directly lighted by any on-premise electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than upon the sign itself, including but not limited to luminous tubing signs such as neon signs. All electronic signs are illuminated signs.

SIGN, MARQUEE. A type of projecting sign, the ceiling of which is no more than 14 feet above grade with the sign being mounted on a continuous structural band which forms the more or less vertical edge of the marquee structure.

SIGN, OFF-PREMISE. A sign, the content of which does not refer to a business or merchant doing business on the premises where the sign is displayed.

SIGN, ON-PREMISE. A sign, the content of which relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services, or activities of or on those premises, or the sale, lease, or construction of those premises.

SIGN, PORTABLE. An A-frame or sandwich board sign advertising a retail sales business with fewer than ten employees. The sign must be located within ten feet of the primary entrance of the business advertised and displayed only during the hours of operation of that business. A portable sign shall rest on the ground and shall not be supported by a person or animal.

SIGN, PROJECTING. A type of building-mounted sign, other than a wall sign or canopy sign, which projects from and is supported by a wall of a building.

SIGN, ROOF. A building-mounted sign or sign segment which is higher than the roof of the building or canopy to which it is attached.

SIGN, SPECIAL POLITICAL. A sign advocating a candidate or ballot measure for a specific election, which sign is allowed temporarily near the times of elections in addition to the permitted regular sign locations which can be used for political messages.

SIGN, TRANSIT SHELTER. A sign located on a City of Albuquerque Transit Department Shelter and placed pursuant to § 14-16-3-5(F).

SIGN TRANSITION. The visual effect and time interval between messages or images displayed on an electronic display panel or electronic message reader board.

SIGN, WALL. A sign flush to the exterior surface of a building, applied directly on the building, in a window, or a signboard attached flush to the building, projecting no more than 18 inches from the building surface and not projecting above the roof. However, light sources aimed at the wall sign may extend farther.

SITE. See ***PREMISES***.

SITE DEVELOPMENT PLAN.

(1) An accurate plan at a scale of at least 1 inch to 100 feet which covers at least one lot and specifies:

(a) For Subdivision. The site, proposed use, pedestrian and vehicular ingress and egress, any internal circulation requirements and, for each lot, maximum building height, minimum building setback, and maximum total dwelling units and/or nonresidential uses' maximum floor area ratio. (See also MASTER DEVELOPMENT PLAN.)

(b) For Building Permits. In addition to information required for Subdivision, exact structure locations, structure (including sign) elevations and dimensions, parking facilities, loading facilities, any energy conservation features of the plan (e.g., appropriate landscaping, building heights and siting for solar access, provision for non-auto transportation, or energy conservational building construction), and proposed schedule for development.

(3) Similar, related data may be required when relevant to the city's evaluation.

(4) For property with a SC Shopping Center or IP Industrial Park designation for a project of five acres or more, submission of a Certificate of No Effect or a Certificate of Approval pursuant to the Albuquerque Archaeological Ordinance is required.

SOLID WALL OR FENCE. A continuous non- transparent vertical surface kept in good repair. A fence with inserts or non-rigid or cloth-like materials attached to the fence does not constitute a solid wall or fence.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered human:

(a) Genitals, pubic region;

(b) Buttock or anus;

(c) Female breast below a point immediately above the top of the areola to and including the bottom of the breast; covering of only the nipple and areola of the breast shall not constitute such covering;

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and

(3) A covering or device that, when worn, gives the appearance of or simulates the above listed specified anatomical areas.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Actual or simulated sex acts of human masturbation, sexual intercourse, sodomy, or similar acts; and

(3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.

STATUS ESTABLISHED BUILDING. A building nonconforming as to use which is approved to maintain its nonconforming use status. Such approval shall apply only to a building for which the existing use is prohibited upon expiration of its nonconformance amortization period. Such approval shall not be available to nonconforming uses that resulted from Zoning Code text amendments. Approval of a status established building can only occur on or before the expiration of its nonconformance amortization period.

STREET. That portion of a public right-of-way or private way or thoroughfare which is primarily devoted to vehicular use. Such right-of-way or thoroughfare normally shall provide access to abutting property.

STREET FRONTAGE. The boundary between a premises and a public right-of-way, whether or not direct access is allowed from the public right-of-way segment to the premises.

STRUCTURE. Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line.

THROUGH TRAFFIC LANE. A lane which extends between two roadways both classified as at least a collector on the Long Range Major Street Plan.

TOWNHOUSE OR TOWN HOUSE. One of a group of two to eight attached dwelling units divided from each other by common walls, each having a separate entrance leading directly to the outdoors at ground level, and each having at least one-fourth of its heated and unheated floor area approximately at grade. A townhouse building is one type of an apartment.

TRAFFIC ENGINEER. The chief administrative engineer of the city's Traffic Engineering Division or his authorized representative.

TRAILER. A vehicle without motive power, designed so that it can be drawn by a motor vehicle, to be used for the carrying of persons or property or as a human habitation. However, a structure which meets the requirements of the Building Code of the city in all ways, including foundation, is not a trailer, whether or not it was once a vehicle.

TRAINING HOME, GROUP. See ***GROUP TRAINING HOME***.

TRANSIT FACILITIES. The following uses, if conducted off the public right-of-way: bus passenger terminal, bus maintenance facility, transit transfer center, and park-and-ride joint-use facilities.

TRANSIT SHELTER. A shelter erected and maintained under the direction and control of the City of Albuquerque as part of the City of Albuquerque mass transit system for the use of transit patrons.

TRUCK BAY. The freight receiving and discharging area that may include raised or depressed loading docks, loading ramps and the parking space and or parking wells for trucks when being unloaded or loaded.

TRUCK PLAZA. A site in excess of two acres providing specialized facilities for retail fueling services for large trucks; the site may include related facilities including but not limited to restaurants and overnight parking.

TRUCK TERMINAL. A property or building used primarily for the temporary parking of trucks of common or contract carriers during loading or unloading, including necessary warehouse space for storage of transitory freight.

URBAN CENTER. A concentration of activities and/or densities, the location of which is designated by the Metropolitan Areas and Urban Centers map of the Albuquerque/Bernalillo County Comprehensive Plan.

USABLE OPEN SPACE. An area on the same lot with a dwelling, in relation to which it serves to permanently provide light and air, as well as visual, psychological, and recreational needs for open space. Usable open space may include, but is not limited to, lawns, decorative plantings, native plants, open balconies, covered patios open on at least two sides, walkways, active and passive recreational areas, fountains, swimming pools, wooded areas, and water courses. Usable open space does not include public right-of-way, parking lots, off-street parking, driveways, other private vehicular surfaces, or buildings other than swimming pool rooms. Such space shall be available for entry and use by the residents involved.

VACATION RENTAL, SHORT-TERM. The rental of a house or any portion thereof for a period of less than 30 consecutive days. A rental for purposes of this definition involves money, or other consideration given in return for occupancy, possession of use of the house.

VARIANCE. Variation from the strict, literal application of this article; however, the allowable use of premises may never be changed via a variance.

WALL SIGN. See ***SIGN, WALL***.

WIRELESS TELECOMMUNICATION EQUIPMENT LEASABLE AREA. The area, which is typically enclosed with a block wall or fence, that a wireless provider leases and contains space for the telecommunications equipment building or cabinet.

WIRELESS TELECOMMUNICATIONS ANTENNA. Any exterior transmitting or receiving device which may be mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or other commercial signals. It includes, but is not limited to, a directional antenna (such as a panel, a microwave dish and satellite dish), and an omni-directional antenna (such as a whip), but not including a non-commercial antenna.

WIRELESS TELECOMMUNICATIONS EQUIPMENT BUILDING OR CABINET. A building or cabinet in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

WIRELESS TELECOMMUNICATIONS FACILITY. A facility that transmits and/or receives signals or waves radiated or captured by a wireless telecommunications antenna. It may include: antennas of all kinds including microwave dishes, horns, and other types of equipment for the transmission or reception of such signals, telecommunications tower or similar structures supporting said equipment, equipment buildings or cabinets, parking area, and/or other accessory development.

WIRELESS TELECOMMUNICATION SERVICES. The provision or offering for rent, sale, or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic, and video programming information between or among points excluding only cable services.

WIRELESS TELECOMMUNICATIONS TOWER. A structure intended to support wireless telecommunications antennas. Examples of such structures include, but are not limited to, free-standing poles (such as monopoles, masts, poles, or guyed towers) and lattice construction steel towers.

YARD, FRONT. That part of a lot between the front lot line and the front facades of the principal building on the lot, and extended to both side lot lines.

YARD, REAR. That part of a lot between the rear lot line and the rear facades of the principal building on the lot, and extended to both side lot lines.

YARD, SIDE. That part of a lot not surrounded by buildings and not in the front or rear yard.

ZONE. One of the zones established by this article and the boundaries of such zones shown on the official zone map. Zone boundaries are located as follows:

(1) The boundary of a zone is a lot line unless clearly otherwise shown on the zone map, in which case, the boundary of a zone is determined by use of the scale of measurement shown on the zone map.

(2) In the event a street, alley, drainageway, or other public way, the edge of which formed the boundary of a zone, is vacated, the zone boundary automatically becomes the former centerline of the vacated public way.

ZONE, RESIDENTIAL. The RO-1, RO-20, R-1, MH, R-T, R-LT, RG, R-2, R-3, RA-1, RA-2, RC, and RD zones; and the segments of the SU-1, SU-2, and SU-3 zones where the predominant use allowed in a subarea is residential.

ZONING ENFORCEMENT OFFICER. A city employee appointed by the Planning Director, or the Zoning Enforcement Officer's authorized representative.

ZONING HEARING EXAMINER. One or more city employees appointed by the Mayor, who have duties and powers specified for the Zoning Hearing Examiner by the Zoning Code and zoning powers delegated by rule by the Planning Commission or the Landmarks and Urban Conservation Commission.

('74 Code, § 7-14-5) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 56-1976; Am. Ord. 81-1976; Am. Ord. 86-1976; Am. Ord. 6-1977; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 32-1978; Am. Ord. 38-1978; Am. Ord. 55-1978; Am. Ord. 23-1979; Am. Ord. 65-1979; Am. Ord. 53-1980; Am. Ord. 62-1980; Am. Ord. 78-1980; Am. Ord. 23-1981; Am. Ord. 42-1981; Am. Ord. 72-1981; Am. Ord. 78-1981; Am. Ord. 20-1982; Am. Ord. 39-1983; Am. Ord. 103-1983; Am. Ord. 77-1984; Am. Ord. 3-1986; Am. Ord. 11-1986; Am. Ord. 59-1986; Am. Ord. 80-1986; Am. Ord. 5-1987; Am. Ord. 41-1987; Am. Ord. 34-1989; Am. Ord. 12-1990; Am. Ord. 19-1990; Am. Ord. 21-1990; Am. Ord. 30-1990; Am. Ord. 44-1990; Am. Ord. 47-1990; Am. Ord. 13-1991; Am. Ord. 38-1991; Am. Ord. 43-1991; Am. Ord. 44-1991; Am. Ord. 22-1992; Am. Ord. 39-1992; Am. Ord. 45-1992; Am. Ord. 51-1993; Am. Ord. 58-1993; Am. Ord. 8-1995; Am. Ord. 10-1995; Am. Ord. 33-1995; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 2-2000; Am. Ord. 8-2000; Am. Ord. 27-2001; Am. Ord. 39-2001; Am. Ord. 36-2002; Am. Ord. 44-2002; Am. Ord. 20-2003; Am. Ord. 10-2004; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 44-2005; Am. Ord. 9-2007; Am. Ord. 23-2007; Am. Ord. 25-2007; Am. Ord. 5-2008; Am. Ord. 6-2009; Am. Ord. 9-2010; Am. Ord. 31-2011; Am. Ord. 2012-036; Am. Ord. 2012-038; Am. Ord. 2013-011) (Council Bill O-13-79; O-13-62; O-15-36)

§ 14-16-1-6 REPEAL.

Article XIV of Chapter 7 of the Revised Ordinances of Albuquerque, 1974 (Commission Ordinance No. 2726, as amended) and ordinances numbers 2760, 12-1966, 15-1966, 22-1966, 50-1966, 78-1966, 86-1966, 32-1967, 7-1968, 53-1968, 152-1968, 153-1968, 157-1968, 154-1968, 158-1968, 177-1968, 7-1969, 32-1969, 34-1969, 126-1969, 163-1969, 24-1970, 35-1970, 36-1970, 81-1970, 169-1970, 48-1971, 199-1971, 28-1972, 29-1972, 30-1972, 31-1972, 144-1972, 159-1972, 183-1972, 208-1972, 231-1972, 250-1972, 26-1973, 72-1973, 22-1974, 23-1974, 34-1974, 59-1974, and 68-1975 are hereby replaced and repealed, provided however, that any regulation or condition, including time limits, imposed in connection with approvals and enforcement under Commission Ordinance Nos. 1062, 1493, and 2726, as amended, shall remain in full force and effect unless changed by or pursuant to this Zoning Code.

('74 Code, § 7-14-47) (Ord. 80-1975)

PART 2: ZONING DISTRICTS

§ 14-16-2-1 ESTABLISHMENT OF ZONES.

The area within the boundaries of the city is divided into the following basic zones and overlay zones:

(A) RO-1 Rural and Open Zone;

(B) RO-20 Rural and Open Zone;

(C) R-1 Residential Zone;

(D) R-T Residential Zone;

(E) R-LT Residential Zone;

(F) R-G Residential Zone;

(G) R-2 Residential Zone;

(H) R-3 Residential Zone;

(I) RA-1 Residential Agricultural Zone, Semi-Urban Area;

(J) RA-2 Residential Agricultural Zone;

(K) RC Residential/Commercial Zone;

(L) R-D Residential and Related Uses Zone, Developing Area;

(M) MH Residential Zone;

(N) O-1 Office and Institution Zone;

(O) C-1 Neighborhood Commercial Zone;

(P) C-2 Community Commercial Zone;

(Q) C-3 Heavy Commercial Zone;

(R) M-1 Light Manufacturing Zone;

(S) M-2 Heavy Manufacturing Zone;

(T) IP Industrial Park Zone;

(U) SU-1 Special Use Zone

(V) SU-2 Special Neighborhood Zone;

(W) SU-3 Special Center Zone;

(X) H-1 Historic Old Town Zone;

(Y) P Parking Zone;

(Z) P-R Reserve Parking Zone;

(AA) PC Planned Community Zone;

(BB) WO Wall Overlay Zone;

(CC) HO Historic Overlay Zone;

(DD) UCO Urban Conservation Overlay Zone; and

(EE) DO Design Overlay Zone.

('74 Code, § 7-14-6) (Ord. 80-1975; Am. Ord. 21-1978; Am. Ord. 42-1981; Am. Ord. 78-1981; Am. Ord. 23-1984; Am. Ord. 47-1990; Am. Ord. 58-1993)

§ 14-16-2-2 RO-1 RURAL AND OPEN ZONE.

This zone provides suitable sites for rural agricultural activities and spacious home developments in areas near the fringes of urban development.

(A) Permissive Uses.

(1) Agricultural activity, including truck gardening and nurseries, fur-bearing animal farm, the raising of poultry or rabbits, dairy farming, livestock grazing, feeding, and the raising of livestock. On lots of less than three acres, there shall be at least 10,000 square feet of lot area for each cow or horse, and/or at least 2,000 square feet of lot area for each sheep, pig, or goat; animals under four months old are not counted. Any building, pen, or corral for agricultural animals or birds shall be at least 20 feet from any existing dwelling unit. Sale of agricultural products, including poultry or rabbits, raised on the premises, but not a street-side stand. Signs not exceeding eight square feet in area pertaining to the sale of agricultural products raised on the premises provided there shall be no more than one such sign on each lot and provided further that it shall not be illuminated.

(2) House, one per lot.

(3) Accessory building, structure, or use customarily incidental to houses and not listed as a conditional use in this zone.

(4) Community residential program except not either Community residential corrections program or Community residential program for substance abusers: up to 10 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(5) Family care facility as an accessory use, provided there is no sign and only members of the residing family serve as providers of care.

(6) Family day care home as an accessory use, with any sign limited as for home occupations, provided:

(a) Only members of the residing family serve as providers of care.

(b) Group composition shall not exceed six children; this limit does not consider the resident provider's children who are age six or more.

(c) The activity is licensed by the state as a family day care home.

(7) Home occupation and sign identifying the activity, provided:

(a) The activity is clearly incidental and secondary to use of the premises for a dwelling.

(b) Only members of the residing family are employed.

(c) No stock in trade is manufactured, displayed, or sold on the premises, except a small stock of art objects and custom sewing created by a resident of the dwelling is allowed.

(d) All business activities are conducted entirely indoors.

(e) No more than 25% of the floor area of the dwelling unit is devoted to the home occupation. No more than 5% of the floor area of the dwelling unit is devoted to storing stock in trade.

(f) There is no external evidence of the activity, such as commercial vehicles, inordinate vehicular traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.

(g) Health care (including physicians, nursing homes, massage and the like) shall not be considered a permissive home occupation.

(h) One related on-premise sign is permitted provided:

1. It does not exceed one square foot in area.

2. It is a non-illuminated wall sign.

(8) Parking incidental to uses permitted in this zone, provided all vehicles which are not parked inside a building are operative and are not wholly or partially dismantled.

(9) Private Commons Development, not less than two acres in area.

(10) Public park.

(11) Public school, including caretaker's mobile home.

(12) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(B) Conditional Uses.

(1) Accessory living quarters.

(2) Animal grooming parlor.

(3) Church and incidental facilities.

(4) Construction office in connection with a specific construction project provided it is limited to a period of one year unless the time is extended through a new conditional use.

(5) Family day care home, with any sign limited as for home occupations. There shall be an outdoor play area adequately enclosed with a wall or fence. At least one member of the residing family shall serve as a provider of care. The activity shall be licensed by the state as a family day care home. (See also the permissive use provisions.)

(6) Health care, including physicians, massage, therapy, and the like (but not nursing homes), as physically limited under home occupations.

(7) Kennel or the breeding, boarding, or sale of dogs, cats and birds.

(8) Private school.

(9) Public library.

(10) Public utility structure which is not permissive.

(11) Real estate office and an incidental sign in connection with a specific development, provided it is not used as living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended through a new conditional use.

(12) Recreational facilities oriented toward outdoor activities, whether privately or commercially operated: facility for horses, riding and training, guest ranch, resort, camp, lake, swimming pool, tennis courts; incidental and internally oriented restaurants and shops for sale of personal services and convenience goods may be allowed in appropriate large recreational developments.

(13) Second kitchen within a house, provided:

(a) The kitchen is incidental to occupancy of the entire house in common by members of one family (as herein defined); that, in fact, there would not be two separate and distinct dwelling units, each exclusively occupied by some family members.

(b) If such use is approved, the Zoning Hearing Examiner shall record the terms of the action with the County Clerk, together with a signed acceptance of such terms by the owners. The terms of the city action shall run with the land.

(14) Stand and incidental signs for display or sale of agricultural products raised on the premises, provided the number of stands and signs is limited to one for each lot, and provided that the size of the stand does not exceed 400 square feet of floor area.

(15) Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year. Incidental signs may also be approved.

(C) Height. Structures shall not exceed 26 feet in height, except antennas may be up to 65 feet in height, and except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size. Minimum lot area shall be one acre. Minimum lot width shall be 150 feet.

(E) Setback.

(1) There shall be a front yard setback of not less than 20 feet.

(2) There shall be a side yard setback of not less than 10 feet.

(3) There shall be a rear yard setback of not less than 25 feet.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code**.**

('74 Code, § 7-14-7) (Ord. 80-1975; Am. Ord. 78-1981; Am. Ord. 20-1982; Am. Ord. 101-1981; Am. Ord. 5-1987; Am. Ord. 41-1987; Am. Ord. 47-1990; Am. Ord. 10-1995)

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§ 14-16-2-3 RO-20 RURAL AND OPEN AGRICULTURAL ZONE.

This zone provides suitable sites for rural activities and very spacious home developments in areas near the fringes of urban development.

(A) Permissive Uses.

(1) Uses permissive in the RO-1 zone.

(2) Stand, street-side, for the display and sale of agricultural products raised on the premises; sign incidental to the stand, not over eight square feet in area and not having oscillating or flashing illumination.

(B) Conditional uses as listed in the RO-1 zone.

(C) Heights. Structures shall not exceed 26 feet in height, except antennas may be up to 65 feet in height, and except as provided in § 14-16-3-3 this Zoning Code.

(D) Lot Size. Minimum lot area shall be 20 acres. Minimum lot width shall be 600 feet.

(E) Setback. No building shall be less than 30 feet from any lot line.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-8) (Ord. 80-1975; Am. Ord. 78-1981; Am. Ord. 101-1981; Am. Ord. 47-1990)

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§ 14-16-2-4 RA-1 RESIDENTIAL AND AGRICULTURAL ZONE, SEMI-URBAN AREA.

This zone permits low density houses and uses incidental thereto, including agriculture; clustering of houses is permitted.

(A) Permissive Uses.

(1) Uses permissive in the R-1 zone.

(2) Commercial agricultural activity, and incidental structures provided the lot has an area of at least one acre: Cattle, horses, goats, or sheep provided the number of head of cattle or horses does not exceed one for each 10,000 square feet of open lot area, or one sheep or goat for each 4,000 square feet of open lot area, or equivalent combination. Animals shall be so controlled that they cannot graze on any other premises. Animals under four months old are not counted.

(3) Private Commons Development, not less than two acres in area.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone.

(2) Animal raising, other than those animals which are permissive in this section.

(3) Kennel.

(4) Stand and incidental signs for display or sale of agricultural products, including rabbits raised on the premises, provided the number of stands is limited to one for each lot, and provided that the size of the stand does not exceed 400 square feet of floor area.

(5) Nursery.

(6) Veterinary hospital.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Open Space. Twenty thousand or more square feet of open space per dwelling unit shall be preserved. Of the total 20,000 square feet, a minimum amount of 8,000 square feet shall be on the lot with the dwelling unit. The remaining requirement may be met by the alternatives listed in § 14-16-3-8(A) of this Zoning Code.

(E) Lot Size. Minimum lot area is controlled by division (D) of this section. Minimum lot width shall be 75 feet, except in a Family Housing Development where the minimum lot width shall be 60 feet.

(F) Setback. Setbacks shall be as provided in the R-1 zone.

(G) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-9) (Ord. 80-1975; Am. Ord. 77-1984; Am. Ord. 47-1990; Am. Ord. 10-1995; Am. Ord. 15-1999)

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§ 14-16-2-5 RA-2 RESIDENTIAL AND AGRICULTURAL ZONE.

This zone provides sites for low density houses and uses incidental thereto, including agriculture. Clustering of houses is permitted.

(A) Permissive Uses.

(1) Uses permissive in the RA-1 zone.

(2) Private Commons Development, not less than two acres in area.

(B) Conditional Uses.

(1) Uses conditional in the RA-1 zone.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size. Minimum lot area shall be 10,890 square feet and minimum lot width shall be 75 feet, except cluster housing lot size shall be as provided in division (B)(2) of this section.

(1) Cluster housing lot size shall be as provided in division (B)(2) of this section;

(2) In a Family Housing Development minimum lot size shall be 8,712 square feet and minimum lot width shall be 60 feet.

(E) Setback. The same regulations apply as in the R-1 zone, except the rear-yard setback shall be at least 25 feet. Cluster housing setbacks shall be as provided in (B)(2) of this section.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-9A) (Ord. 80-1975; Am. Ord. 47-1990; Am. Ord. 10-1995; Am. Ord. 15-1999)

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§ 14-16-2-6 R-1 RESIDENTIAL ZONE.

This zone provides suitable sites for houses and uses incidental thereto in the Established and Central Urban areas.

(A) Permissive Uses.

(1) House, one per lot.

(2) Accessory use:

(a) Accessory structure (noncommercial) for garage, storage, recreation, hobby, greenhouse, bathhouse, or for the keeping or housing of domestic pets, other allowed animals or agricultural products.

(b) Agricultural animal keeping, for noncommercial purposes, as follows: rabbits and similar animals, poultry, pigeons. Cows, horses, goats or sheep, provided the number of animals does not exceed one cow or horse for each 10,000 square feet of open lot area, or one sheep or goat for each 4,000 square feet of open lot area, or equivalent combination, provided the lot has an area of at least 21,780 square feet. Animals shall be so controlled that they cannot graze on any other premises. Animals under four months old are not counted.

(c) Garage and yard sale, provided:

1. No more than one sale at a given dwelling in any 12-month period. The duration of the garage or yard sale shall not exceed three consecutive days.

2. No items shall be purchased for a garage or yard sale for the purpose of resale; items shall be of the type normally accumulated by a household.

3. One non-illuminated sign not exceeding six square feet in area shall be permitted. The sign shall pertain to the garage or yard sale only and shall be located on the premises. The sign shall be permitted for the three-day period only.

(d) Antenna (noncommercial), up to 65 feet in height.

(e) Family Care facility, provided there is no sign and only members of the residing family serve as provider of care.

(f) Family day care home, with any sign limited as for home occupations, provided:

1. Only members of the residing family serve as providers of care.

2. Group composition shall not exceed six children; this limit does not consider the resident provider's children who are age six or more.

3. The activity is licensed by the state as a family day care home.

(g) Home occupation and sign identifying the activity, provided:

1. The activity is clearly incidental and secondary to use of the premises for a dwelling.

2. Only members of the residing family are employed.

3. No stock in trade is manufactured, displayed, or sold on the premises, except a small stock of art objects and custom sewing created by a resident of the dwelling is allowed.

4. All business activities are conducted entirely indoors.

5. No more than 25% of the floor area of the dwelling is devoted to the home occupation. No more than 5% of the floor area of the dwelling is devoted to storing stock in trade.

6. There is no external evidence of the activity, including, but not limited to, the parking of commercial vehicles, inordinate vehicular traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.

7. Health care (including physicians, nursing homes, massage, and the like) shall not be considered a permissive home occupation.

8. One related on-premise sign is permitted, provided:

   a. It does not exceed one square foot in area.

   b. It is a non-illuminated wall sign.

(h) Parking of a noncommercial vehicle incidental to another use permitted in this zone, provided all motor vehicles, both noncommercial and commercial, which are not parked inside a building are operative and are not wholly or partially dismantled, and as provided elsewhere in this section. Inoperative and dismantled vehicles shall be governed by the provisions of Chapter 8, Article 5. This section shall not apply to the parking of commercial vehicles parked on a temporary basis for the sole purpose of providing a commercial service incidental to a residential use such as delivery, repair and utility installation and/or repair. The parking of a vehicle meeting the definition for recreational vehicle, except for size, is not deemed incidental to another use permitted in this zone.

(i) Recreational vehicle, boat, or boat-and-boat-trailer parking as follows:

1. Inside parking;

2. Outside parking in the side yard or the rear yard, provided no part of the unit extends over the public sidewalk; or

3. Outside parking in the front yard, provided:

   a. The unit is parked perpendicular to the front curb;

   b. The body of the recreational vehicle or boat is at least 11 feet from the face of the curb; and

   c. No part of the unit extends over the public sidewalk.

4. Parking is permitted only if the unit, while parked in this zone, is:

a. Not used for dwelling purposes, except one recreational vehicle may be used for dwelling purposes for a maximum of 14 days in any calendar year on any given lot. Cooking is not permitted in the recreational vehicle at any time. Butane or propane fuel shall not be used.

b. Not permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes if the receptacle and the connection from the recreational vehicle has been inspected and approved by the city; this connection must meet the Electrical Code of the city and a city electrical permit must be obtained for all such installations. The individual taking out the permit must call for an inspection of the electrical wiring when ready for inspection. Standard inspection fees will be charged, except no inspection shall be made for less than a $3.50 fee.

c. Not used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use.

5. Notwithstanding the provisions of divisions 3. and 4. above, a unit may be parked anywhere on the premises during active loading or unloading, and use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

6. If the dwelling unit on the lot is under construction, the provisions of division (2)(k)3. of this subsection shall control, rather than the provisions of (2)(i)1. through 4. of this division (A).

7. No recreational vehicle or boat may be parked in a clear sight triangle.

(j) Sign, provided that it meets the requirements of (2)(f)8. of this division (A) or § 14-16-3-5 of this Zoning Code.

(k) Trailer parking as follows:

1. Inside parking if all provisions of (2)(h)4. of this division (A) are met;

2. Outside parking in the side yard or the rear yard of cargo trailers of less than 2,500 pounds carrying capacity.

3. As a dwelling connected to any utilities during construction of a building on the premises, for a period of up to six months or until the construction is completed, whichever comes first. The six-month period shall begin to run from the date on which a building permit is issued for a dwelling unit on the same lot. The body of the trailer shall be set back at least five feet from any lot line and eight feet from the dwelling unit under construction.

4. Notwithstanding the other provisions of this subsection, a trailer may be parked anywhere on the premises during active loading or unloading.

(l) Hobby breeder, as defined by and under a permit pursuant to Chapter 9, Article 2, Animal Control.

(3) Community residential program except not either Community residential corrections program or Community residential program for substance abusers: up to ten client residents provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Growing plants, noncommercial.

(5) Private Commons Development, not less than two acres in area, if allowed in a Sector Development Plan or area plan governing the site.

(6) Public park.

(7) Public school, including caretaker's mobile home.

(8) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(9) Real estate office and an incidental sign in connection with a specific development, provided it is not used as living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended through approval by the Zoning Enforcement Officer. A site plan and floor plan approved by the Zoning Enforcement Officer is required prior to establishment of this activity.

(10) Wireless Telecommunications Facility which is concealed or located on a public utility structure, provided the requirements of § 14-16-3-17 of this Zoning Code are met.

(11) Family Housing Development, as defined by the Family Housing Development Ordinance, Section 4.

(B) Conditional Uses.

(1) Accessory living quarters.

(2) Animal keeping, noncommercial, the species being other than those which are permissive in this section.

(3) Carport in the required front or side setback area, provided:

a. No part is within three feet of a property line, other than a right-of-way line.

b. No building wall is ever built within a required setback area.

c. The specific carport proposed is in harmony with the building site.

(4) Construction office in connection with a specific construction project provided it is limited to a period of one year unless the time is extended through a new conditional use.

(5) Family day care home, with any sign limited as for home occupations. There shall be an outdoor play area adequately enclosed with a wall or fence. At least one member of the residing family shall serve as a provider of care. The activity shall be licensed by the state as a family day care home. (See also the permissive use provisions.)

(6) Front yard setback of not less than 15 feet if there is no front yard driveway and vehicle access is only to the rear yard from an alley or if the garage setback is not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(7) Health care, including physicians, massage, therapy, etc. (but not nursing homes), as physically limited under home occupations.

(8) Public library.

(9) Public utility structure which is not permissive.

(10) Recreational facility (non-profit), such as community center, swimming pool, tennis club.

(11) Second kitchen within a house, provided:

(a) The kitchen is incidental to occupancy of the entire house in common by members of one family (as herein defined); that, in fact, there would not be two separate and distinct dwelling units, each exclusively occupied by some family members.

(b) If such use is approved, the Zoning Hearing Examiner shall record the terms of the action with the County Clerk, together with a signed acceptance of such terms by the owners. The terms of the city action shall run with the land.

(12) Shade structure including a covered patio, a gazebo, a pergola, a ramada or similar roofed structure, either detached or attached, in the required rear yard setback area, provided:

(a) No part is within three feet of a property line.

(b) No building wall is ever built within the required setback area.

(c) No more than 50% of the required rear yard setback area is covered by a roof.

(d) The structure shall not exceed 12 feet in height nor shall it exceed the height of the principal building on the site.

(e) A second floor deck is prohibited.

(f) The specific structure proposed is in harmony with the building site and with surrounding sites.

(13) Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year. Incidental signs may also be approved.

(14) Walls, fences, and retaining walls, in a setback area where height is normally limited to three feet, up to five feet high when less than ten feet from the property line, and up to six feet high when ten or more feet from the property line, provided:

(a) It is attractive and in harmony with its site, the style of the wall or fence blending architecturally with the adjacent residences and with the general streetscape, it is consistent with the requirements of Section 14-16-3-19, and it is at least one of the following:

1. At least 11 feet from the public sidewalk or planned public sidewalk location, or 14 feet from the edge of the street pavement, whichever is more restrictive;

2. The portion of the wall or fence which is more than three feet above the adjacent curb top is essentially an open fence which permits good visibility through it; or

3. On a corner lot, the rear yard of which is contiguous to the front yard of a residentially-zoned lot, and the wall or fence is not in the required front yard setback.

(b) The Zoning Hearing Examiner shall not approve a wall or fence unless the Traffic Engineer finds that the specific plan approved would not be a hazard to traffic visibility.

(c) Wire fences over three feet high and in setback areas are not normally considered to be in harmony with a residential streetscape.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code and antenna as provided in division (A) of this section.

(D) Lot Size.

(1) Except as provided in division (2) and (3) below, minimum lot area shall be 6,000 square feet. Minimum lot width shall be 60 feet.

(2) (a) Lot standards in subdivisions for which plats are submitted after February 1, 1981, shall be:

1. Minimum lot area of 5,000 square feet.

2. Minimum lot width of 50 feet.

(b) Provided, however, that these standards rather than the standards indicated in division (1) above shall apply only where the Planning Director finds that such a lot size will not depart from a pattern of larger developed lots, which pattern constitutes the established character of the neighborhood.

(3) Lot standards for Family Housing Development subdivisions which meet the requirements set forth in the Family Housing Development Ordinance or for a lot with vehicle access only to the rear yard from an alley or for a lot with a detached garage located in the rear yard and accessed by a driveway with a maximum width of 12 feet in the front yard and in the side yard abutting the side of the dwelling, shall be:

(a) Minimum lot area of 4,000 square feet.

(b) Minimum lot width of 40 feet.

(E) Setback. The following regulations apply, except as provided in § 14-16-3-3:

(1) There shall be a front yard setback of not less than 20 feet.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 15 feet:

(a) There is no front yard driveway and vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) On a corner lot, the side-yard setback adjacent to the side of the street shall be as follows:

(a) If the rear yard abuts the front yard of a residentially-zoned lot, not less than 20 feet.

(b) If division (3)(a) does not apply, not less than ten feet.

(4) Side-yard setbacks which are interior, i.e., measured from side lot lines which are not adjacent to streets, shall be either:

(a) Not less than five feet on each side if the lot width (see definition in § 14-16-1-5) is 65 feet or less. The setback on one side shall increase one foot for every one foot incremental increase in lot width to a maximum side setback of ten feet (thus, if lot width is 70 feet or more, the minimum side setbacks are ten feet on one side and five feet on the other);

(b) There shall be one side-yard setback of not less than ten feet on one side. The other side-yard setback shall be at least five feet, except that it may be reduced or eliminated if the owner of the abutting lot agrees in writing to permanently bind his lot to not have a house closer than ten feet to the areas allowed for a house on the subject lot, and the agreement is included with the application for a building permit. The agreement shall be filed by the owners with the Planning Director after being recorded with the County Clerk. In no case shall the distance between two residential buildings be less than ten feet; or

(c) For lots where a common, interior side lot line is oriented more than 60° from due north-south, the minimum side-yard setback on the northerly side of the common lot line shall be as follows:

1. Not less than 15 feet if the immediately adjacent side yard setback is less than five feet;

2. Not less than ten feet if the immediately adjacent side yard setback is five feet or more.

3. Provided the provisions of divisions (a) and (b) above shall apply if:

i. For irregularly shaped lots, setback lines allow one side of the house on the irregularly shaped lot to be oriented 30° or more from due north-south, and which allow solar access equal to or greater than the provisions of division 1. or 2. above; or

ii. The owner of the property on the northerly side of the common lot line agrees in writing to permanently waive the requirement of the 15 foot side yard originally required to protect that property's solar access. The agreement must be included with the application for a building permit, if applicable, and shall be filed by the owners with the Planning Director after being recorded with the County Clerk.

4. Unless waived pursuant to division 3.ii above, in no case shall the distance between two residential buildings be less than 15 feet.

5. Setback lines shall be as indicated on the final plat (either by note, reference, or dimension) not inconsistent with this division (E).

(5) (a) There shall be a rear-yard setback of not less than 15 feet.

(b) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(F) Off-Street Parking.

(1) Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(2) Maximum front yard setback area that can be an improved parking and maneuvering area: 60%, but no more than 30 feet wide or the width of the front of the garage, whichever is wider.

(3) Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited.

(G) Materials. Barbed tape, razor wire, barbed wire or similar materials are prohibited except at public utility structures and Albuquerque Police Department or Transit Department facilities.

('74 Code, § 7-14-10) (Ord. 80-1975; Am. Ord. 38-1978; Am. Ord. 63-1978; Am. Ord. 7-1979; Am. Ord. 23-1979; Am. Ord. 52-1980; Am. Ord. 62-1980; Am. Ord. 23-1981; Am. Ord. 101-1981; Am. Ord. 20-1982; Am. Ord. 51-1985; Am. Ord. 5-1987; Am. Ord. 41-1987; Am. Ord. 53-1989; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 3-1991; Am. Ord. 45-1991; Am. Ord. 23-1993; Am. Ord. 10-1995; Am. Ord. 31-1996; Am. Ord. 9-1999; Am. Ord. 15-1999; Am. Ord. 27-2001; Am. Ord. 8-2002; Am. Ord. 25-2003; Am. Ord. 29-2004; Am. Ord. 44-2005; Am. Ord. 17-2007; Am. Ord. 19-2010; Am. Ord. 2012-037)

§ 14-16-2-7 MH RESIDENTIAL ZONE.

This zone provides suitable sites for mobile home developments. This zone may be located only where other types of residential development of comparable densities would be considered appropriate.

(A) Permissive Uses.

(1) Mobile homes used as residences, one per lot, provided that the mobile homes are skirted with materials compatible with the siding of the mobile home unless the unit is situated at ground level.

(2) Accessory uses permissive in the R-1 zone.

(3) Growing plants, noncommercial.

(4) Office of up to 400 square feet for managing a mobile home park which is on the same premises.

(5) Private Commons Development, not less than two acres in area, if allowed in a Sector Development Plan or area plan governing the site.

(6) Public park.

(7) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(8) Signs. Signs shall comply with § 14-16-3-5(C) of the Zoning Code. Signs advertising accessory uses shall be visible primarily within the mobile home park and shall not be displayed to the general public.

(9) Wireless Telecommunications Facility which is concealed or located on a public utility structure, provided the requirements of § 14-16-3-17 of this Zoning Code are met.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone.

(2) Uses permissive in the C-1 zone, provided that the nonresidential conditional uses are limited to types and amounts which are justified to serve the residents of the contiguous MH zone area.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size.

(1) Minimum area for a residential lot shall be 4,000 square feet.

(2) On all streets oriented north and south or within 30° of this axis, minimum residential lot width shall be 45 feet.

(3) On all streets not oriented north and south or within 30° of this axis, residential lot width shall be 40 feet.

(E) Setback (excluding hitches).

(1) There shall be a front yard setback of not less than 15 feet, except setback for a garage or carport shall not be less than 20 feet.

(2) Side yard setbacks which are interior, i.e., measured from side lot lines which are not adjacent to streets, shall be either:

(a) Not less than five feet on each side;

(b) There shall be one side yard setback of not less than ten feet on one side (on a corner lot, it shall be on the street side). The other side yard setback shall be at least five feet, except that it may be reduced or eliminated if the owner of the abutting lot agrees in writing, and the agreement is included with the application for a building permit. If the abutting lot is owned by a different person, the agreement shall be recorded with the County Clerk.

(3) There shall be a rear yard setback of not less than ten feet.

(4) There shall be a distance of not less than ten feet between residential structures; structures attached to mobile homes are considered residential structures for the purpose of this division (4).

(5) See also § 14-16-3-3(B) of the Zoning Code.

(F) Off-Street Parking. Off-street parking spaces shall be as provided in § 14-16-3-1 of the Zoning Code.

(G) Usable Open Space. Usable open space shall be provided on site at 1,200 square feet per dwelling unit.

(H) Zone Area. The contiguous area zoned MH shall be three acres or more.

('74 Code, § 7-14-11) (Ord. 80-1975; Am. Ord. 42-1981; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 10-1995; Am. Ord. 9-1999; Am. Ord. 19-2010)

§ 14-16-2-8 R-LT RESIDENTIAL ZONE.

This zone provides suitable sites for houses, limited townhouses, and uses incidental thereto in the Established and Central Urban areas.

(A) Permissive Uses.

(1) Uses permissive in the R-1 zone, except:

(a) Agricultural animal keeping (§ 14-16-2-6(A)(2)(b)) is not permitted: and

(b) Front yard parking of recreational vehicles (§ 14-16-2-6(A)(2)(h)3.) is not permitted.

(2) Townhouses, provided:

(a) There shall be only one dwelling unit per lot; and

(b) No more than two dwelling units shall be in a building.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone.

(2) Townhouses with three dwelling units per building and one dwelling unit per lot. Such townhouses existing in the R-LT zone prior to the effective date of this Zoning Code shall be considered approved conditional uses.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size.

(1) For a townhouse, except as provided in division (2) below, minimum lot area shall be 3,200 square feet; minimum lot width shall be 24 feet.

(2) For a townhouse in a Family Housing Development or for a townhouse on a lot with vehicle access only to the rear yard from an alley, minimum lot area shall be 2,560 square feet; minimum lot width shall be 20 feet.

(3) For a house, except as provided in division (4) below, minimum lot area shall be 4,000 square feet; minimum lot width shall be 40 feet.

(4) For a house in a Family Housing Development or for a house on a lot with vehicle access only to the rear yard from an alley or for a lot with a detached garage located in the rear yard and accessed by a driveway with a maximum width of 12 feet in the front yard and in the side yard abutting the side of the dwelling, minimum lot area shall be 3,200 square feet; minimum lot width shall be 32 feet.

(E) Setback.

(1) There shall be a front yard setback of not less than 15 feet, except driveways shall not be less than 20 feet long.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 10 feet:

(a) There is no front yard driveway and vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) There shall be no required side-yard setback, except:

(a) There shall be ten feet on the street side of corner lots; and

(b) There shall be five feet from a side lot line that separates the R-LT zone from another zone.

(4) There shall be a rear-yard setback of:

(a) Not less than 15 feet; or

(b) For houses with offset rear lot lines, not less than five feet, provided that the average rear yard setback is not less than 15 feet. Such reduced setbacks are allowed only when approved by the Planning Director and specified on a subdivision plat for not less than two back-to-back lots.

(c) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(5) There shall be a distance of not less than ten feet between residential buildings.

(F) Off-Street Parking.

(1) Off-street parking spaces shall be as provided in § 14-16-3-1 of this Zoning Code.

(2) Maximum front yard setback area that can be an improved parking and maneuvering area: 75%, but no more than 27 feet in width or the width of the front of the garage, whichever is wider, perpendicular to the curb.

(3) Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited.

(G) Usable Open Space. Usable open space shall be provided on-site at 800 square feet per townhouse dwelling unit or 600 square feet per townhouse dwelling unit with vehicle access only to the rear yard from an alley.

(H) Materials. Barbed tape, razor wire, barbed wire or similar materials are prohibited except at public utility structures and Albuquerque Police Department or Transit Department facilities.

('74 Code, § 7-14-12) (Ord. 80-1975; Am. Ord. 85-1978; Am. Ord. 54-1980; Am. Ord. 3-1986; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 15-1999; Am. Ord. 44-2005; Am. Ord. 17-2007; Am. Ord. 19-2010; **2013**)

§ 14-16-2-9 R-T RESIDENTIAL ZONE.

This zone provides suitable sites for houses, townhouses, and uses incidental thereto in the Established and Central Urban areas.

(A) Permissive Uses.

(1) Uses permissive in the R-1 zone, except:

(a) Agricultural animal keeping (see § 14-16-2-6(A)(2)(b)) is not permitted;

(b) Front yard parking of recreational vehicles (§ 14-16-2-6(A)(2)(h)3.) is not permitted;

(c) Hobby breeders (see § 14-16-2-6(A)(2)(k)) are not permitted; and

(d) Houses are not limited to one per lot.

(2) Townhouses.

(B) Conditional Uses. Uses conditional in the R-1 zone.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size.

(1) For a townhouse, except as provided in division (2) below, minimum lot area shall be 2,200 square feet per dwelling unit; minimum lot width shall be 22 feet per dwelling unit.

(2) For a townhouse in a Family Housing Development or for a townhouse with vehicle access only to the rear yard from an alley, minimum lot area shall be 1,760 square feet; minimum lot width shall be 18 feet.

(3) For a house, except as provided in division (4) below, minimum lot area shall be 3,600 square feet per dwelling unit; minimum lot width shall be 36 feet.

(4) For a house in a Family Housing Development or for a house with vehicle access only to the rear yard from an alley or for a lot with a detached garage located in the rear yard and accessed by a driveway with a maximum width of 12 feet in the front yard and in the side yard abutting the side of the dwelling, minimum lot area shall be 2,880 square feet; minimum lot width shall be 29 feet.

(E) Setback.

(1) There shall be a front-yard setback of not less than 15 feet except driveways shall be not less than 20 feet long.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 10 feet:

(a) Vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) There shall be no required side-yard setback except:

(a) There shall be ten feet on the street side of corner lots.

(b) There shall be five feet from a side lot line that separates the R-T zone from another zone.

(4) There shall be a rear-yard setback of:

(a) Not less than 15 feet; or

(b) For houses with offset rear lot lines, not less than five feet, provided that the average rear yard setback is not less than 15 feet. Such reduced setbacks are allowed only when approved by the Planning Director and specified on a subdivision plat for not less than two back-to-back lots.

(c) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(5) There shall be a distance of not less than ten feet between residential buildings.

(F) Off-Street Parking.

(1) Off-street parking spaces shall be as provided in § 14-16-3-1 of this Zoning Code.

(2) Maximum front yard setback area that can be an improved parking and maneuvering area: 85%, but no more than 22 feet in width or the width of the front of the garage, whichever is wider, perpendicular to the curb.

(3) Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited.

(G) Usable Open Space.

(1) Usable open space shall be provided on-site at 750 square feet per house, 650 square feet per house on a lot with vehicle access only to the rear yard from an alley or on a lot with a detached garage located in the rear yard and accessed by a driveway with a maximum width of 12 feet in the front yard and in the side yard abutting the side of the dwelling, 550 square feet per townhouse dwelling unit, and 360 square feet per townhouse dwelling unit on a lot with vehicle access only to the rear yard from an alley.

(2) Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall include landscaping of the ground-level usable open space planted and maintained according to a landscaping plan approved by the Zoning Enforcement Officer.

(H) Dwelling Units Per Building. Where the rear yard(s) of townhouse units abut the rear or side yard areas of lots zoned specifically for houses, no more than two townhouse units per residential building shall be permitted.

(I) ***Materials.*** Barbed tape, razor wire, barbed wire or similar materials are prohibited except at public utility structures and Albuquerque Police Department or Transit Department Facilities.

('74 Code, § 7-14-13) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 38-1978; Am. Ord. 23-1979; Am. Ord. 54-1980; Am. Ord. 92-1980; Am. Ord. 3-1986; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 4-1995; Am. Ord. 15-1999; Am. Ord. 44-2005; Am. Ord. 17-2007; Am. Ord. 19-2010; **2013**)

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§ 14-16-2-10 R-G RESIDENTIAL GARDEN APARTMENT ZONE.

This zone provides suitable sites for houses, townhouses, and low density apartments, in the Established and Central Urban areas.

(A) Permissive Uses.

(1) Uses permissive in the R-T zone.

(2) Accessory living quarters.

(3) Apartment.

(4) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code.

(B) Conditional Uses.

(1) Uses conditional in the R-1 Zone.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size.

(1) Minimum lot area for lots developed with apartments other than townhouses shall be 6,000 square feet. Minimum lot width for lots developed with apartments other than townhouses shall be 60 feet.

(2) Minimum lot area and width for lots developed only with houses and townhouses shall be as provided in the R-T zone.

(E) Setback.

(1) There shall be a front-yard setback of not less than 15 feet except that the length of a driveway shall be not less than 20 feet.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 10 feet:

(a) Vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) There shall be a side-yard setback of not less than five feet, except:

(a) There shall be ten feet on the street side of corner lots; and

(b) There is no required side-yard setback from internal lot lines for townhouses.

(4) (a) There shall be a rear-yard setback of not less than 15 feet.

(b) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(5) There shall be a distance of not less than ten feet between residential buildings.

(F) Density.

(1) For apartments other than townhouses, a floor area ratio of 0.5 is the maximum permitted; and

(2) Density of a lot may not exceed 20 dwelling units per acre.

(G) Off-Street Parking. Shall be as provided in § 14-16-3-1 of this Zoning Code.

(H) Usable Open Space. Usable open space shall be provided on-site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom dwelling unit, and 600 square feet for each dwelling unit containing three or more bedrooms.

('74 Code, § 7-14-14) (Ord. 80-1975; Am. Ord. 92-1980; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 44-2005)

§ 14-16-2-11 R-2 RESIDENTIAL ZONE.

This zone provides suitable sites for houses, townhouses, and medium density apartments, and uses incidental thereto in the Established and Central Urban areas.

(A) Permissive Uses.

(1) Uses permissive in the R-T zone.

(2) Accessory living quarters.

(3) Apartment.

(4) Community residential program except not either community residential corrections program or community residential program for substance abusers: up to ten client residents provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(5) Family day care home, with any sign limited as for home occupations.

(6) Sign, as provided in § 14-16-3-5 of this Zoning Code.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone.

(2) Community residential program except not either community residential corrections program or community residential program for substance abusers: 11 to 18 client residents provided that the standards of § 14-16-3-12 of the Zoning Code are met.

(3) Community residential corrections program with up to ten client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Community residential program for substance abusers with up to ten client residents, provided that the standards for § 14-16-3-12 of this Zoning Code are met.

(5) Day care center.

(6) Emergency shelter with up to 18 clients normally present, provided that the standards of § 14-16-3-13 of this Zoning Code are met.

(C) Height. Structure height up to 26 feet is permitted at any legal location. The height and width of the structure over 26 feet is permitted at any legal location. The height and width of the structure over 26 feet shall fall within 45° angle planes drawn from the horizontal at the mean grade along each internal boundary of the premises and each adjacent public right-of-way centerline, or drainageway right-of-way centerline. To protect solar access, a structure over 26 feet may not exceed the northern boundary of these 45° planes, but may be sited in any other direction within planes drawn at a 60° angle from the same boundaries or centerline. Exceptions to the above are provided in §§ 14-16-3-3 and 14-16-3-5 of this Zoning Code. Notwithstanding any of the above regulations, apartment structures shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses.

(D) Lot Size.

(1) Minimum lot area for lots developed with apartments other than townhouses shall be 6,000 square feet. Minimum lot width for lots developed with apartments other than townhouses shall be 60 feet.

(2) Minimum lot area and width for lots developed only with houses and townhouses shall be provided in the R-T zone.

(E) Setback.

(1) There shall be a front-yard setback of not less than 15 feet, except driveways shall not be less than 20 feet long.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 10 feet:

(a) Vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) There shall be a side-yard setback of not less than five feet, except:

(a) There shall be ten feet on the street side of corner lots; and

(b) There is no required side-yard setback from internal lot lines for townhouses.

(4) (a) There shall be a rear-yard setback of not less than 15 feet.

(b) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(5) There shall be a separation between apartment buildings other than townhouses, and off-street parking and vehicular circulation areas of not less than ten feet.

(F) Density.

(1) A floor area ratio of 0.5 is the maximum permitted.

(2) Density of a lot may not exceed 30 dwelling units per acre.

(G) Off-Street Parking. Off-street parking spaces shall be as provided in § 14-16-3-1 of this Zoning Code.

(H) Usable Open Space.

(1) Usable open space shall be provided on-site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom dwelling unit, and 600 square feet for each dwelling unit containing three or more bedrooms.

(2) Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall include landscaping of the ground-level usable open space, planted and maintained according to a landscaping plan approved by the Zoning Enforcement Officer.

('74 Code, § 7-14-15) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 38-1978; Am. Ord. 57-1978; Am. Ord. 50-1980; Am. Ord. 22-1981; Am. Ord. 3-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 44-2005; Am. Ord. 19-2010)

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§ 14-16-2-12 R-3 RESIDENTIAL ZONE.

This zone provides suitable sites for the highest density housing outside of urban centers. It is most appropriately mapped adjacent to commercial, office, or employment centers, where primary access to a major street is available. The R-3 zone may be mapped in the Established and Central Urban areas, where appropriate.

(A) Permissive Uses.

(1) Uses permissive in the R-2 zone, provided there are not over 30 dwelling units per net acre.

(2) Uses incidental to an apartment such as day care center, news, cigar, or candy stand, delicatessen, personal-service shop, and the like, are permitted with an apartment development, provided:

(a) The use is intended for the exclusive use of residents of the premises on which the incidental use is located.

(b) At least 100 dwelling units are on the same premises.

(c) The use is limited to a maximum of 2% of the gross leasable floor area of the apartment development.

(d) The use is not directly accessible from the outdoors.

(e) A sign or window display relating to the use is not discernible from a public right-of-way.

(f) Adult book stores and photo studios are not permitted.

(3) Boarding or lodging house.

(4) Community residential program for substance abusers with up to seven client residents, all of whom shall be under 18 years old, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(B) Conditional Uses.

(1) Uses conditional in the R-2 zone.

(2) Apartment, if there are over 30 but not over 36 dwelling units per net acre. Such development may be approved if and only if it is an appropriate transition between modest density residential areas, such as townhouses, and much more intensive development.

(3) Club, provided it has no liquor license.

(4) Fraternity or sorority house or dormitory.

(5) Nursing or rest home, provided it is conducted in a structure which has the exterior appearance of a residential structure.

(C) Height. Structure heights up to 26 feet is permitted at any legal location. The height and width of the structure over 26 feet is permitted at any legal location. The height and width of the structure over 26 feet shall fall within 45° angle planes drawn from the horizontal at the mean grade along

each internal boundary of the premises and each adjacent public right-of-way centerline, or drainageway right-of-way centerline. To protect solar access, a structure over 26 feet may not exceed the northern boundary of these 45° planes, but may be sited in any other direction within planes drawn at a 60° angle from the same boundaries or center line. Exceptions to the above are provided in §§ 14-16-3-3 and 14-16-3-5 of this Zoning Code. Notwithstanding any of the above regulations, apartment structures shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses.

(D) Lot Size.

(1) Minimum lot width and depth shall be 150 feet.

(2) Lots legally nonconforming to minimum lot width or depth may be developed governed by the R-T zone in all respects; no variance is required for such development.

(E) Setback.

(1) There shall be a front-yard setback of not less than 15 feet except driveways shall not be less than 20 feet long.

(2) There shall be a side-yard setback of not less than five feet, except:

(a) There shall be ten feet on the street side of corner lots; and

(b) There is no required side-yard setback from internal lot lines for townhouses.

(3) There shall be a rear-yard setback of not less than 15 feet.

(4) There shall be a separation between apartments other than townhouses, and off-street parking and vehicular circulation areas of not less than ten feet.

(F) Density. A floor area ratio of 1.0 is the maximum permitted.

(G) Off-Street Parking. Off-street parking spaces shall be as provided in § 14-16-3-1 of this Zoning Code.

(H) Usable Open Space.

(1) Usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one-bedroom dwelling unit, 250 square feet for each two-bedroom dwelling unit, and 300 square feet for each dwelling unit containing three or more bedrooms.

(2) Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall include landscaping of the ground-level usable open space, planted and maintained according to a landscaping plan approved by the Zoning Enforcement Officer.

('74 Code, § 7-14-16) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 92-1980; Am. Ord. 3-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 19-2010)

§ 14-16-2-13 RC RESIDENTIAL/COMMERCIAL ZONE.

This zone permits a mixture of residential and small commercial activities.

(A) Permissive Uses.

(1) Uses permissive in the R-T zone.

(2) Apartment, provided the density does not exceed 20 dwelling units per acre.

(3) Institution.

(a) Church or other place of worship, including the usual incidental facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Library.

(4) The following uses are permissive if the total nonresidential floor area does not exceed one-half of the gross floor area on the lot, and if all business activity except parking is inside a building:

(a) Office.

(b) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair, provided there is no outdoor storage or activity except parking:

1. Arts and crafts objects, supplies, plus their incidental creation.

2. Books, magazines, newspapers, stationery, except adult book store.

3. Cosmetics, notions, hobby supplies.

4. Drugs, medical supplies.

5. Flowers and plants.

6. Food and non-alcoholic drink for consumption on-premises or off but not drive-in restaurant or restaurant with drive-up facility for take-out orders.

7. Jewelry.

(c) Services, provided there is no outdoor storage or activity except parking:

1. Barber, beauty.

2. Day care center.

3. Dry cleaning station (no processing), self-service laundry.

4. Instruction in music, dance, fine arts, or crafts.

5. Interior decorating.

6. Photography, except adult photo studio.

7. Tailoring, dressmaking, shoe repairing.

(5) Sign, on-premise, as in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location. Signs shall be limited to wall signs or canopy signs, except that a portable sign shall be allowed per small business pursuant to the General Signage Regulations.

(b) Number. No limit on number of wall signs. One canopy sign per entrance or exit shall be permitted.

(c) Size. Sign area shall not exceed 7.5% of the area of the facade to which it is related.

(d) Height, Illumination, Motion. No regulations, apart from the general sign regulations.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone and not permissive in this zone.

(2) Uses permissive in the C-1 zone and not permissive in this zone.

(3) Community residential program except not either community residential corrections program or community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Community residential corrections program with up to ten client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(5) Community residential program for substance abusers with up to ten client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Retail sales and services permissive in this zone where nonresidential floor area exceeds one-half the gross floor area on the lot.

(7) Retail business in which products may be manufactured, processed, assembled, treated, or repaired, as an accessory use, provided:

(a) All activities are conducted within a completely enclosed building.

(b) The number of persons physically engaged in manufacturing, processing, assembling, treating, or repairing products is limited to five at any one time.

(c) Activities or products are not objectionable due to odor, noxious fumes, dust, smoke, noise, vibration, or similar cause.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Usable Open Space.

(1) Usable open space shall be provided on-site at 750 square feet per townhouse dwelling unit.

(2) For apartments other than townhouses, usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one-bedroom apartment, and 300 square feet for each dwelling unit containing two or more bedrooms. Where apartments other than townhouses occupy the same structure as the permissive nonresidential uses, and no apartments are located on the ground level, the required usable open space may be reduced by 50%.

(E) ***Lot Size.*** No requirements.

(F) ***Setback.*** The following regulations apply, except as provided in § 14-16-3-3 of this Zoning Code:

(1) There shall be a front and a corner side-yard setback of not less than five feet and a setback of 11 feet from the junction of a driveway and a public sidewalk or planned public sidewalk location.

(2) Where the site faces or is contiguous to a different residential zone the setback requirements of that zone apply.

(3) The clear sight triangle shall not be infringed upon.

(G) ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-17) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 86-1976; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 22-1979; Am. Ord. 92-1980; Am. Ord. 74-1985; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 6-2009; Am. Ord. 19-2010)

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§ 14-16-2-14 R-D RESIDENTIAL AND RELATED USES ZONE, DEVELOPING AREA.

This zone permits a mixture of dwelling unit types and incidental related commercial activities.

(A) Permissive Uses.

(1) Permissive uses when pursuant to a Sector Development Plan, and to a Site Development Plan and a Landscaping Plan:

(a) Uses permissive in the R-3 zone.

(b) Permissive uses in the C-1 zone, except shopping centers. Such incidental commercial uses shall not exceed 15% of the R-D zone covered by a given Sector Development Plan.

(c) Mobile home development.

(B) Permissive uses when pursuant only to a Sector Development Plan: uses permissive in the R-T zone, subject to all controls of the R-T zone.

(C) Permissive uses, in areas not covered by an adopted Sector Development Plan, but pursuant to a Site Development Plan and Landscaping Plan approved by the Planning Director: uses permissive in the R-T zone, subject to all controls of the R-T zone.

(D) Permissive uses in areas not covered by an adopted Sector Development Plan or more detailed plan: uses permissive in the R-1 zone, subject to all controls of the R-1 zone.

(E) Conditional Uses.

(1) Uses conditional in the R-1 zone when the area is not covered by an adopted Sector Development Plan.

(2) Uses conditional in the R-3 zone when the area is covered by an adopted Sector Development Plan.

(3) Uses conditional in the C-1 zone on commercial locations approved by a Sector Development Plan.

(F) Open Space.

(1) Two thousand four hundred or more square feet of open space per dwelling shall be preserved. Of the total 2,400 square feet, the following minimum amounts shall be usable open space on the lot with the dwelling: 200 square feet for each efficiency or one-bedroom dwelling; 250 square feet for each two-bedroom dwelling, and 300 square feet for each dwelling containing three or more bedrooms. The remaining requirement may be met by the alternatives listed in § 14-16-3-8(A) of this Zoning Code.

(2) When an aggregate of two or more dwelling units is constructed on any given lot, the development shall include landscaping of the ground-level usable open space planted and maintained according to a landscaping plan approved by the Zoning Enforcement Officer.

(G) Procedure. Procedure, in addition to that specified in § 14-16-4-3 of this Zoning Code, shall be as follows: An area may be zoned R-D with or without simultaneous approval of a Sector

Development Plan. However, before the first building permit may be issued one of the following shall take place:

(1) A Sector Development Plan covering the area is adopted by the City as provided in § 14-16-4-3 of this Zoning Code.

(2) Ninety days after a person applies for the first building permit in a given R-D area not covered by an approved Sector Development Plan, a building permit shall be approved as to zoning even if there is still no approved Sector Development Plan, provided the building permit is consistent with divisions (C) or (D) of this section.

(3) Ninety days after a person applies for approval of a subdivision plat (other than a boundary plat for a large area) in an area not covered by an approved Sector Development Plan, the plat shall be approved if it is consistent with divisions (C) or (D) of this section and with Chapter 14, Article 14, Subdivision Regulations. Building permits on the lots created by the plat shall be approved as to zoning even if there still is no approved Sector Development Plan, provided the plat and the building permits are consistent with divisions (C) or (D) of this section.

('74 Code, § 7-14-18) (Ord. 80-1975; Am. Ord. 38-1978; Am. Ord. 92-1980; Am. Ord. 42-1981; Am. Ord. 77-1984; Am. Ord. 12-1990; Am. Ord. 19-2010; Am. Ord. 2012-036)

§ 14-16-2-15 O-1 OFFICE AND INSTITUTION ZONE.

This zone provides sites suitable for office, service, institutional, and dwelling uses.

(A) Permissive Uses.

(1) Antenna, up to 65 feet in height.

(2) Beauty shop, barber shop.

(3) Church, or other place of worship, including the usual incidental facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(4) Club, provided there is no liquor license.

(5) Community residential program except not either Community residential corrections program or Community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Dwelling unit (house, townhouse, or apartment) constituting up to 25% of the gross floor area on the premises, provided usable open space is provided on-site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom dwelling unit, and 600 square feet for each dwelling unit containing three or more bedrooms. If located in an area designated by the master plan as "Developing" or "Semi-Urban," the total open space requirement of the R-D or RA-1 zone, respectively, shall also be met.

(7) Incidental uses within a building, most of which is occupied by offices and/or dwelling units, such as news, cigar or candy stand, restaurant, personal-service shop, and the like, provided the incidental uses comply with the following:

(a) The use is intended primarily for the use of the occupants of the structure.

(b) At least 10,000 square feet of floor area are contained in the structure.

(c) The use is limited to a maximum of 10% of the total floor area.

(d) The use is so situated within the structure that it is not directly accessible from a public right-of-way.

(e) A sign or window display relating to the use is not discernible from a public right-of-way, except that a portable sign shall be allowed per small business pursuant to the General Signage Regulations.

(8) Institution, including library, museum, nursing or rest home, school, day care center, except not hospital for human beings, sanatorium, or disciplinary or mental institutions.

(9) Medical supplies and services, such as drug prescription and supply shop, physical therapy office, or shop for fabricating and fitting prosthetic or correcting devices, or medical or dental laboratory.

(10) Office.

(11) Park-and-ride temporary facilities.

(12) Parking lot, providing it complies with the following:

(a) Paving, all of which shall be maintained level and serviceable with individual spaces clearly identified.

1. The lot must be graded and surfaced with one of the following:

a. Two inches of asphalt concrete, permeable pavement, or permeable paving system, as described in the General Parking Regulations Surface Standards, §14-16-3-1(F)(1).

b. For parking lots of 20 or fewer spaces, permeable surfacing or 3/8" to 1" crushed gravel: A layer at least two inches thick, at least ½ inch depth of which shall be maintained on the surface; gravel shall be kept off the right-of-way.

2. If street curbs and gutters exist adjacent to the parking lot property on a side where lot egress is allowed, the surfacing shall be blacktop for the width of the egress drive(s) and shall extend inward from the property line a minimum of 25 feet along all normal lines of egress traffic flow from the lot.

3. Designated disabled parking spaces and pedestrian pathways must be paved with 2" asphaltic pavement or equivalent per City of Albuquerque standards to ensure compliance with Federal Guidelines.

(b) The lot shall have barriers which prevent vehicles from extending over the sidewalk or abutting lots, or beyond the sides of a parking structure.

(c) A solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. (See also § 14-16-3-10 of this Zoning Code.) However:

1. Such wall or fence shall be three feet high in the area within 11 feet of a public sidewalk or planned public sidewalk location.

2. If the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(d) In a parking structure there shall be a six-foot solid wall on every parking level where the structure is within 19 feet of privately owned land in a residential zone.

(e) Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet, unless no reasonable alternative is available.

(f) A parking lot hereafter developed shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director; however, the Planning Commission may waive this requirement where it is found not useful to achieving the intent of this Zoning Code.

(13) Photocopy, photography studio, except adult photo studio.

(14) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(15) Radio or television studio.

(16) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Only wall signs, canopy signs, and free-standing or projecting signs are permitted.

2. A sign may not overhang into the public right-of-way, except a wall sign may protrude up to one foot into the public right-of-way. (See also § 14-16-3-5(B)(2) of this Zoning Code.)

3. Projecting signs shall not project horizontally more than four feet.

(b) Number.

1. No limit on number of wall signs.

2. One canopy sign per entrance or exit shall be permitted.

3. In the Established or Redeveloping Areas, one free-standing or projecting sign structure shall be permitted for each premises, or joint sign premises, providing the premises or joint sign premises is at least 100 feet wide.

4. In the Developing or Semi- Urban Areas:

a. Free-standing or projecting sign not permitted on premises of under five acres.

b. One free-standing or projecting sign on premises of five acres or more, provided the street frontage is at least 100 feet wide.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area of a free-standing or projecting sign shall not exceed 75 square feet.

2. Size of Building-Mounted Signs, Except Projecting Signs. Sign area of a building-mounted sign shall not exceed 15% of the area of the facade to which it is applied if there is no free-standing or projecting on-premise sign on the premises or joint sign premises, or 7.5% of the area of the facade if there is such a free-standing or projecting sign on the premises or joint sign premises.

(d) Height. Sign height shall not exceed 26 feet or the height of the walls of the tallest building on the premises, whichever is lower.

(e) Motion. Signs or sign parts shall not move; there shall be no wind devices. No sign shall automatically change its message unless it is a time or temperature sign.

(f) Lettering. No lettering on a free-standing sign shall have any character exceeding nine inches in height.

(17) Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed, or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year unless the time is extended by the Planning Director.

(18) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(B) Conditional Uses.

(1) Antenna, over 65 feet in height.

(2) Community residential corrections program: up 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(3) Community residential program for substance abusers with up to 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Dwelling units constituting more than 25% of the gross floor area on a premises, provided:

(a) No more than 60% of the gross floor area of the structures on the site shall be developed as dwelling units, and

(b) Open space is provided as specified for permissive dwelling units in this zone.

(c) A dwelling unit constructed as a conditional use in an O-1 Zone shall permanently retain its status as an approved conditional use even if the use of the property as a dwelling unit ceases for a continuous period of more than one year. The provisions of § 14-16-4-2(D)(3) shall not apply to a conditional use approved for a dwelling unit in an O-1 Zone.

(d) A dwelling unit constructed as a conditional use or a permissive use in an O-1 Zone under any former ordinance shall not become a non- conforming use based on a failure to conform with (B)(4)(a).

(e) The request for approval of a conditional use under § 14-16-2-15(B)(4) shall be accompanied by at least one copy of an accurate site development plan for building including a proposed schedule for development. The failure to demonstrate that the

non-residential uses will be developed concurrently with the residential uses is evidence that the proposal will be injurious to the neighborhood and the community.

(5) Instruction in music, dance, fine arts, or crafts.

(6) Public utility structure which is not permissive.

(7) Office machines and equipment sales and repair.

(8) Printing, copying, blueprinting incidental to office uses.

(9) Retailing of food and drink, for consumption on premises or off, but not drive-in facility and provided that alcoholic drink is not dispensed for off-premise consumption in broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a designated Metropolitan Redevelopment Area (as defined in the State Metropolitan Redevelopment Code), a city owned park or city owned major public open space:

(a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

(b) beer, as defined in the New Mexico Liquor Control Act, in any single container labeled as containing 16 or fewer ounces; and

(c) fortified wines with a volume of alcohol of more than 13.5 percent, provided that retailing alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994.

(10) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) Height.

(1) Structure height up to 26 feet is permitted at any legal location. The height and width of the structure over 26 feet shall fall within 45° angle planes drawn from the horizontal at the mean grade along each internal boundary of the premises and each adjacent public right-of-way centerline. To protect solar access, a structure over 26 feet may not exceed the northern boundary of these 45° planes, but may be sited in any other direction within planes drawn at a 60° angle from the same boundaries or centerline. Exceptions to the above are provided in § 14-16-3-3 of this Zoning Code, and for sign and antenna height, in division (A) of this section. Notwithstanding any of the above regulations, structures shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses.

(2) Exceptions to division (1) above are provided in § 14-16-3-3 of this Zoning Code, and for sign and antenna height, in division (A) of this section.

(D) Lot Size. No requirements.

(E) Setback. The following regulations apply to structures other than signs except as provided in §§ 14-16-3-1 and 14-16-3-3 of this Zoning Code:

(1) There shall be a front and a corner side yard setback of not less than five feet and a setback of 11 feet from the junction of a driveway or alley and a public sidewalk or planned public sidewalk location.

(2) Near residential zones, the following greater setback requirements shall apply:

(a) There shall be a front or corner side setback of not less than ten feet where the lot is across the street from the front lot line of a facing lot in a residential zone. This setback applies to on- and off-premise signs.

(b) There shall be a side or rear setback of not less than five feet where the site abuts the side of a lot in a residential zone.

(c) There shall be a side or rear setback of not less than 15 feet where the site abuts the rear of a lot in a residential zone.

(3) The clear sight triangle shall not be infringed upon.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-20) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 48-1980; Am. Ord. 61-1980; Am. Ord. 39-1983; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 11-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 11-2002; Am. Ord. 36-2002; Am. Ord. 4-2005; Am. Ord. 16-2005; Am. Ord. 5-2008; Am. Ord. 40-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; O-13-62)

§ 14-16-2-16 C-1 NEIGHBORHOOD COMMERCIAL ZONE.

This zone provides suitable sites for office, service, institutional, and limited commercial uses to satisfy the day-to-day needs of residential areas.

(A) ***Permissive Uses.*** Permissive uses, provided there is no outdoor storage or activity except parking and as specifically allowed below:

(1) Antenna, up to 65 feet in height.

(2) Institution:

(a) Church or other place of worship, including incidental recreational and educational facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Club, provided there is no liquor license.

(c) Library.

(d) Museum.

(e) Schools, including a private school which serves to provide basic education to children as is provided in public schools in grades K through 12, and excluding all other private schools.

(3) Office.

(4) Office machines and equipment sales and repair.

(5) Park-and-ride temporary facilities.

(6) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(7) Residential uses permissive in the R-3 Zone with the following requirements and exceptions:

(a) Relationship to Sector Development Plans.

1. Where SU-2 zones refer to the C-1 zone and specify regulations for residential uses that impose different restrictions and/or development standards than those contained in this section, the provisions of the SU-2 zones shall prevail.

2. Where SU-2 zones refer to the C-1 zone but do not specify provisions for the regulation of residential uses, residential development shall be regulated by section (B)(6) below.

(b) Site, or any portion thereof, shall be located within 660 feet from the right-of-way line of a Major or Enhanced Transit Corridor or within a Community or Major Activity Center as designated by the Comprehensive Plan, or be located within a designated Metropolitan Redevelopment Area (MRA).

(c) Houses are not allowed.

(d) Residential uses may be part of a vertical mix of uses (e.g., residential over commercial or residential over office).

(e) Where residential uses are proposed, the following regulations shall apply:

1. Area: minimum of 0.5 acres.

2. Height: Pursuant to the R-3 Zone, including mixed use buildings with a residential component, may use the R-3 height limits and are not capped by § 14-16-2-16(C).

3. Number of dwelling units: Maximum 30 dwelling units per acre; however, residential structures constructed in applicable sites located within 660 feet of the centerline of San Mateo Blvd., Central Ave. and Montgomery Blvd. may have up to 50 dwelling units per acre.

4. Density: The total square footage of all buildings shall achieve a minimum floor area ratio of 0.3.

5. Usable open space: Pursuant to the R-3 Zone. At least 50% of the required open space shall be provided in the form of shared or aggregate open space.

6. Parking requirements and allowances:

   a. One space/unit;

   b. Shared Parking: As provided in § 14-16-3-1(E)(6)(b) except that parking for residential uses is eligible for a shared parking exception.

   c. On-street parking credit: one space per available, adjacent on-street parking space.

7. Approval process: Site Development Plan for Building Permit approval by the Environmental Planning Commission for sites five acres in size and larger. Site development plan approval by the Planning Director or his/her designee for sites under five acres in size.

8. For new residential development, in addition to the applicable General Regulations in the City Zoning Code, the following regulations must also be met:

   a. Building Frontage and Articulation. The following regulations shall apply to all facades fronting a street:

      i. The design standards of § 14-16-3-18(C)(2)(a), (b), (c), (d) and (e) shall apply.

      ii. The design standards of § 14-16-3-18 (D)(2), except section (h), shall apply.

      iii. A minimum of 30% of the ground floor shall have windows. For facades with doors, the percentage of windows may be reduced to 20%.

iv. Upper floors shall have a minimum of 20% glazing.

v. The primary entry to the building shall be oriented toward the street or within 50 feet of a central courtyard.

b. Alleys: Existing alleys should remain in place to provide access to a site.

c. Building Placement:

i. Buildings shall be set back 0 to 15 feet from property lines adjacent to a street.

ii. Side and rear setbacks shall be pursuant to the underlying zone.

d. Pedestrian Access: Residential uses shall provide direct pedestrian connections from the residential building(s) to all street sidewalks and to other building(s) on the premise or project site. See § 14-16-3-1(H).

e. Landscaping:

i. Building setbacks not used for pedestrian activity shall have a minimum landscape area of 50%. Asphalt is not a permitted material within the setback area.

ii. Landscaping on roof decks may be counted toward the required area landscaping as regulated by § 14-16-3-10.

f. Parking Placement: Parking shall be located to the rear or to the side of a building, in a common parking area located interior to the block, or in a combination of the above. Parking is not permitted between a building and the street on which it fronts. Parking areas between a building and a side street are limited to 64 feet in width and shall have landscaped buffers facing the streets with a minimum depth of four feet and a screen wall with a minimum height of 36 inches. Wall material shall be as regulated by § 14-16-3-19(C).

g. Signage: Signage shall be as regulated by the O-1 zone, with the following exceptions:

i. Building-mounted signs shall be limited to 25 square feet.

ii. No more than one wall-mounted sign per building façade.

iii. Freestanding signs are not permitted on premises of under five acres.

iv. The maximum height of freestanding signs is eight feet.

9. Redevelopment of existing structures that results in a net 25% increase in square footage shall comply with the preceding regulations as determined by the Planning Director or his or her designee.

(8) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair:

(a) Arts and crafts objects, supplies, plus their incidental creation provided there is little or no reproduction of substantially identical objects.

(b) Auto parts and supply.

(c) Books, magazines, newspapers, stationery, provided that no such material is advertised to be forbidden to be sold to minors.

(d) Christmas trees, including outside sales, provided the use is limited to 45 days in one calendar year.

(e) Clothing, shoes, dry goods.

(f) Cosmetics, notions, hobby supplies.

(g) Drugs, medical supplies.

(h) Flowers and plants, including minor and incidental outdoor sales.

(i) Food and drink for consumption on premises, provided:

1. There shall be no drive-in restaurant, and

2. Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978. The sale of beer and wine under a restaurant license, however, is prohibited within 500 feet of a community residential program or hospital for treatment of substance abusers pursuant to § 14-16-3-12(A)(11) ROA 1994.

(j) Furniture, household furnishings, and appliances.

(k) Gasoline, oil, liquefied petroleum gas, including outside sales, provided:

1. Location: the site shall be located on a collector or higher-ranking street.

2. Site design.

a. Number of fueling positions. The permissive number of above-ground fuel dispenser units shall be limited to four, with up to eight vehicle fueling positions (one per side), provided the on-site vehicle stacking requirements of § 14-16-2-16 (A)(8)(k)(2)(d) are met.

b. Vehicle access points. Vehicle access points shall accommodate all vehicle types expected to enter the site. Each street that provides access to the site shall have either (a) two travel lanes in each direction, or (b) a center turn lane with access to the site. To maintain pedestrian and traffic circulation, no more than one vehicle access point shall be located along any one street for sites at the intersection of any two streets. Sites located mid-block and accessed by a single street shall have no more than two access points. Access points shall be located as far from public street intersections as possible, but no closer than 20 feet from adjacent properties unless shared with an adjacent property owner.

c. Public alleys. Site access points may open to a public alley, provided that the alley subsequently intersects with a street as described in § 14-16-2-16(A)(8)(k)(2)(a) above, and site adjacency requirements for alley access as described in § 14-16-2-16(A)(8)(k)(2)(f) below are met. Access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street, and shall be a maximum of 25 feet wide. Unimproved alleys shall be paved to meet city standards if used to access site.

d. Vehicle stacking. Sites shall be designed so that for every fueling position there is an on-site vehicle stacking space for one vehicle in addition to the vehicle parked at the fueling position. Vehicle stacking spaces shall be a minimum of 10 feet in width by 20 feet in length and shall be distinct from on-site vehicle drive aisles and parking spaces. Multiple required vehicle stacking spaces may be located behind the first fueling position in a row of fueling positions.

e. Fuel delivery. Sites shall be designed so that wholesale fuel delivery occurs away from on-site vehicle drive aisles and site access points.

f. Adjacency. Where a site is contiguous to a residential zone, the additional buffer landscape and opaque wall regulations in § 14-16-3-10(E)(4) of the Zoning Code shall apply. Where a site is separated from a residential zone by an alley which is to be used to service a vehicle access point as described in § 14-16-2-16(A)(8)(k)(2)(b), additional buffer landscaping regulations outlined in § 14-16-3-10(E)(4), subsections (a), (b) and (d) shall apply on the site side of the alley. Additionally, bollards or a wall a minimum of three feet in height shall be erected along the side of the landscape buffer which abuts the alley to protect the landscaping from vehicles turning into the site from the alley.

3. Redevelopment of existing sites. Redevelopment of existing sites is exempt from § 14-16-2-16(A)(8)(k)(1) and (2) of this section, provided that the site was used for sale of gasoline, oil or liquefied petroleum gas within the 12 months preceding the application for building permit.

(l) Hardware, building materials, provided it is in a completely enclosed building.

(m) Jewelry.

(n) Musical instruments and supplies.

(o) Pets, provided there is no outside pen. One outside exercise run is permitted, provided it is enclosed with a solid wall or fence at least six feet high, and no more than one animal is permitted in the run at any one time.

(p) Photograph equipment.

(q) Sporting goods.

(9) Radio and television station.

(10) Services:

(a) Automobile, bicycle and motorized bicycle (moped) repairing, but no body work. Repairing shall be done within a completely enclosed building at least 20 feet from any residential zone.

(b) Banking, loaning money, including pawn. Drive-in facilities permitted on the condition the vehicle movement plan is approved by the Traffic Engineer.

(c) Barber, beauty.

(d) Car washing.

(e) Day care center.

(f) Dry cleaning, laundry, clothes pressing, provided:

1. Only nonflammable or noncombustible materials are used in the cleaning process.

2. The number of persons employed in the establishment is limited to three, excluding pressers, office, clerical, or delivery personnel.

3. That portion of the structure in which any cleaning process is done is at least 50 feet from any residential zone.

(g) Games, electronic and pinball, provided:

1. They are within a completely enclosed building; and

2. If the games are within 100 feet of a residential zone there shall be no more than four game machines per business.

(h) Health Gymnasiums.

(i) Instruction in music, dance, fine arts, crafts, modeling; training of dogs which are not boarded on the premises.

(j) Interior decorating.

(k) Medical or dental laboratory.

(l) Parking lot, as regulated in the O-1 zone.

(m) Pet grooming.

(n) Photography, photocopy, except adult photo studio.

(o) Repair of shoes, household equipment.

(p) Small animal clinic.

(q) Tailoring, dressmaking.

(r) Taxidermy.

(11) Sign, off-premise, as in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Only wall signs and free-standing signs are permitted in the Established or Redeveloping Areas.

2. Only wall signs are permitted in the Developing or Semi-Urban Areas.

3. No sign shall be nearer than 300 feet to any other off-premise sign.

4. No free-standing sign erected after January 1, 1976, shall be nearer than 100 feet to any preexisting on-premise sign.

5. No sign shall be nearer than 12 feet to any public street right-of-way.

6. No sign shall be nearer than 150 feet to any conforming residential property.

(b) Size. Sign area of any sign shall not exceed 72 square feet. An additional add-on sign area of six square feet is permitted.

(c) Height. Sign height shall not exceed 15 feet, except the height of an add-on sign may be up to but shall not exceed 18 feet.

(d) Illumination. No sign shall be illuminated.

(e) Motion. Signs or sign parts shall not move.

(12) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. A sign shall not overhang into the public right-of-way, except wall signs may protrude up to one foot into the public right-of-way.

2. Building-mounted signs extending above the roof shall be permitted only if they are a continuation of the plane of a facade or of a projecting sign.

3. Projecting signs shall not project horizontally more than four feet.

(b) Number.

1. No limit on number of wall signs.

2. In the Established or Redeveloped Areas, one free-standing sign or projecting sign shall be permitted for each street frontage of each premises, or joint sign premises, provided the street frontage is at least 100 feet wide. A portable sign may also be permitted pursuant to the General Signage Regulations.

3. In the Developing Semi-Urban, or Rural and Open Areas:

a. Projecting signs as in division 2. above.

b. No free-standing signs on premises of under five acres, except a portable sign may also be permitted pursuant to the General Signage Regulations.

c. One free-standing sign shall be permitted on premises of five acres or more, provided the street frontage is at least 100 feet wide.

4. One canopy sign per entrance or exit shall be permitted.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area for a free-standing or projecting sign shall not exceed the following area:

a. 75 square feet if the most important street abutting the lot is a local street.

b. 100 square feet if the most important street abutting the lot is a collector street, arterial street, or freeway.

2. Size, Building-Mounted Signs, Except Projecting Signs:

a. A building-mounted sign on premises or joint sign premises where there is no free-standing on- or off-premise sign shall not exceed the following:

i. Twenty percent of the area of the facade to which it is applied, if the sign is not wholly visible from an abutting arterial or collector street or freeway; or

ii. Twenty-five percent of the area of the facade to which it is applied, if the sign is wholly visible from an abutting arterial or collector street or freeway.

b. A building-mounted sign, on a premises or joint sign premises where there is a free-standing or projecting on-premise sign or any off-premise sign, shall not exceed one-half the percentage of facade area listed in division a. above.

(d) Height.

1. Height of a free-standing sign shall not exceed 26 feet, except a sign that is within 200 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, may be up to but shall not exceed 26 feet above the freeway at its closest point.

2. Height of a building-mounted sign shall not exceed five feet above the height of the building, or it shall not exceed 30 feet, whichever is lower.

(e) Illumination, Motion, Lettering. No regulations, apart from the general sign regulations.

(f) Exceptions.

1. Permitted building-mounted sign area from the front and sides of the principal building of the business may be transferred from the building to a customer service area of the same business on the same premises, provided the height of

such signs shall not exceed 15 feet and setback shall be at least ten feet; such signing shall not be considered free-standing.

2. Any exceptions allowed for shopping centers, in order to provide adequate signing in special situations, shall be as provided under § 14-16-3-2 of this Zoning Code. Such a sign exception must be specifically defined in the Planning Commission resolution. Shopping centers approved prior to the effective date of this Zoning Code shall comply with sign regulations in this article, unless an exception is specifically defined in a Planning Commission resolution.

(13) Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed, or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year unless the time is extended by the Planning Director.

(14) Uses or activities in a tent, if the uses or activities are listed elsewhere in this subsection, provided:

(a) The tent may not be erected for more than seven days at a time and may not be erected more than two times a year on a given premises; and

(b) There is sufficient paved off-street parking available on the premises to meet the parking requirements for all uses on the premises, including the activity in the tent. The Zoning Enforcement Officer shall approve the site plan for the tent, which shall demonstrate adequate parking and vehicle circulation, prior to erection of the tent; and

(c) There are toilet facilities on the premises available to the users of the tent; and

(d) The City Fire Marshal or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(15) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(B) Conditional Uses.

(1) Antenna, over 65 feet in height.

(2) Apartment, as permitted in division (A)(7) above, if there are more than 30 dwelling units per acre but not more than 50 dwelling units per acre. Conditional use applications shall be considered on the basis of a site plan.

(3) Auto, trailer, and truck rental, service, storage, provided at least the following is complied with:

(a) The lot is graded and surfaced as follows:

1. Blacktop or equal. Two inches of asphaltic concrete on a prime coat and a four inch compacted subgrade, or a surface of equal or superior performance characteristics.

2. Such paving shall be maintained level and serviceable.

(b) 1. A fence or wall which prevents vehicles from extending beyond the property line shall be erected. However, if the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

2. In a parking structure there shall be a six foot high solid wall on every parking level, where the structure is within 19 feet of privately owned land in a residential zone.

(c) Trucks and trailers parked outdoors for rental or storage, provided:

1. Such vehicles shall not exceed 35 feet in length, 12 feet in height, or a registered gross vehicle weight capacity of 26,000 lbs. The body of trailers shall not be over 14 feet long unless it is a recreational vehicle.

2. No such vehicles shall be truck tractors or road tractors.

3. Parked or stored vehicles shall not cover more than 25% of the premises.

4. Special restrictions on types and number of such vehicles as well as screening and location of parking shall be imposed if appropriate and necessary to protect the neighborhood.

(d) Vehicle repairing, done within a completely enclosed building and at least 20 feet from any residential zone.

(4) Bicycle and motorized bicycle (moped) sales and rental, provided that outdoor display is permitted only 50 feet or more from any residential zone.

(5) Community Residential Program except not either Community Residential corrections program or Community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Drive-up service window, except where listed as permissive in this zone, provided that the vehicle movement plan is approved by the Traffic Engineer, and further provided that the service window and any associated order board are located at least 75 feet from any residential zone. Drive-up service windows in existence upon the effective date of this Zoning Code shall be considered as approved conditional uses.

(7) Dwelling unit (house, townhouse, apartment), for properties that do not meet the criteria of divisions (A)(7)(b) and (A)(7)(e)1 above or with SU-2 zoning that refers to the C-1 zone but does not specify provisions for the regulation of residential uses, provided:

(a) There are not over 30 dwelling units per net acre.

(b) Usable open space is provided on site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom unit, and 600 square feet for each dwelling unit containing three or more bedrooms. If located in an area designated by the master plan as "Developing" or "Semi-Urban," the total open space requirements of the R-D or RA-1 zone, respectively, shall be met.

(c) Development shall comply with the regulations specified in division (A)(7)(e)8 above.

(8) Fireworks sales, provided the use is limited to 45 days in one calendar year.

(9) Games within a completely enclosed building, operated for profit, and not permissive in this zone.

(10) Kennel, provided:

(a) It is in a completely enclosed building.

(b) It is no closer than 30 feet from any residential zone.

(c) The noise from the kennel does not exceed the ambient noise level as defined in § 9-9-2, Noise Control, when measured 30 feet from any exterior wall of the kennel.

(11) One mobile home for a watchman or caretaker on the same premises developed with a commercial building or use provided that the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(12) Mortuary.

(13) Outdoor storage or activity except as specifically listed as a permissive or conditional use in this section and as further provided below:

(a) The outdoor storage or activity is part of a use on the same premises, which use is a permissive only within a building in this zone.

(b) Outdoor uses which would impact their environs with appearance, light, noise, odor, or similar environmental problems likely to be unpleasant to neighboring premises and uses shall not be approved.

(c) Outdoor conditional uses may justify special buffering to prevent the activity from negatively impacting adjacent land.

(d) Outdoor restaurant seating located within 75 feet of a residential zone.

(14) Park-and-ride joint-use facilities, if it is determined that under the conditions imposed there will not be a shortage of on-site parking for the activities on the site; in such situations, no parking variance is required.

(15) Photo direct off-set printing, perforating, scoring, cutting, and other light duty printing services provided:

(a) The number of persons engaged in the business is limited to five excluding secretarial, clerical, and delivery personnel; and

(b) Activities or products are not objectionable due to noise, vibration or other cause.

(16) Public utility structure which is not permissive.

(17) Recycling bin as an accessory use on the site, as provided in § 14-16-3-15 of this Zoning Code.

(18) Restaurant serving liquor, provided that the restaurant is located within a shopping center site for which a site development plan has been approved.

(19) Retail sales of gasoline, oil, liquefied petroleum gas, including outside sales, where there are more than eight vehicle fueling positions or four two-sided fuel dispenser units.

(20) Schools, other than public.

(21) Storage of household goods, office records, equipment or material reasonable to neighborhood function provided:

(a) All activities are conducted within a completely enclosed building, the scale and style of which fits its location;

(b) Individual storage cubicles, units, or facilities are not each directly accessible from outside the enclosed building; and

(c) Direct access to the premises from an arterial or collector street is available.

(22) Uses or activities in a tent. If the uses or activities are listed elsewhere in this section, provided there is sufficient paved off-street parking available on the premises to meet parking requirements for all uses on the premises, including the activity in the tent, and provided that the City Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(23) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is located, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) ***Height.*** Structures shall not exceed 26 feet except as provided in § 14-16-3-3 of this Zoning Code, and for sign and antenna height, in division (A) of this section.

(D) ***Lot Size.*** No requirements.

(E) ***Setback.*** Setback shall be as provided in the O-1 zone.

(F) ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) ***Shopping Center Regulations.*** Any site in this zone classified as a Shopping Center site, as defined in § 14-16-1-5 of this Zoning Code, is subject to special site development regulations. The Shopping Center Regulations are provided in § 14-16-3-2 of this Zoning Code.

('74 Code, § 7-14-21) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 87-1976; Am. Ord. 88-1976; Am. Ord. 1-1977; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 74-1977; Am. Ord. 30-1978; Am. Ord. 31-

1978; Am. Ord. 38-1978; Am. Ord. 61-1980; Am. Ord. 74-1980; Am. Ord. 66-1981; Am. Ord. 94-1981; Am. Ord. 39-1983; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 101-1983; Am. Ord. 102-1983; Am. Ord. 74-1985; Am. Ord. 63-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 63-1990; Am. Ord. 69-1990; Am. Ord. 26-1991; Am. Ord. 43-1991; Am. Ord. 2-1994; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 10-2004; Am. Ord. 4-2005; Am. Ord. 43-2005; Am. Ord. 7-2006; Am. Ord. 23-2007; Am. Ord. 5-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; Am. Ord. 27-2011; Am. Ord. 2012-004; Am. Ord. 2012-021)

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§ 14-16-2-17 C-2 COMMUNITY COMMERCIAL ZONE.

This zone provides suitable sites for offices, for most service and commercial activities, and for certain specified institutional uses.

(A) ***Permissive Uses.*** Permissive uses, provided there is no outdoor storage except parking and as specifically allowed below:

(1) Antenna, up to 65 feet in height.

(2) Clinic.

(3) Copying, blueprinting.

(4) Institution:

(a) Club.

(b) Day Care Center.

(c) Library.

(d) Museum.

(e) School, including caretaker's mobile home.

(5) Office.

(6) Park-and-ride temporary facilities.

(7) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(8) Residential uses permissive in the R-3 Zone with the following requirements and exceptions:

(a) Relationship to Sector Development Plans.

1. Where SU-2 zones refer to the C-2 zone and specify regulations for residential uses that impose different restrictions and/or development standards than those contained in this section, the provisions of the SU-2 zones shall prevail.

2. Where SU-2 zones refer to the C-2 zone but do not specify provisions for the regulation of residential uses, residential development shall be regulated by section (B)(6) below.

(b) Site, or any portion thereof, shall be located within 660 feet from the right-of-way line of a Major or Enhanced Transit Corridor or within a Community or Major Activity Center as designated by the Comprehensive Plan, or be located within a designated Metropolitan Redevelopment Area (MRA).

(c) Houses are not allowed.

(d) Residential uses may be part of a vertical mix of uses (e.g., residential over commercial or residential over office).

(e) Where residential uses are proposed, the following regulations shall apply:

1. Area: minimum of 0.5 acres.

2. Height: Pursuant to the R-3 Zone.

3. Number of dwelling units: Maximum 30 dwelling units per acre; however, residential structures constructed in applicable sites located within 660 feet of the centerline of San Mateo Blvd., Central Ave. and Montgomery Blvd. may have up to 75 dwelling units per acre.

4. Density: The total square footage of all buildings shall achieve a minimum floor area ratio of 0.3.

5. Usable open space: Pursuant to the R-3 Zone. At least 50% of the required open space shall be provided in the form of shared or aggregate open space.

6. Parking requirements and allowances:

   a. One space/unit;

   b. Shared Parking: As provided in § 14-16-3-1(E)(6)(b) except that parking for residential uses is eligible for a shared parking exception.

   c. On-street parking credit: one space per available, adjacent on-street parking space.

7. Approval process: Site Development Plan for Building Permit approval by the Environmental Planning Commission for sites five acres in size and larger. Site development plan approval by the Planning Director or his/her designee for sites under five acres in size.

8. For new residential development, in addition to the applicable General Regulations in the City Zoning Code, the following regulations must also be met:

   a. Building Frontage and Articulation. The following regulations shall apply to all facades fronting a street:

      i. The design standards of § 14-16-3-18(C)(2)(a), (b), (c), (d) and (e) shall apply.

      ii. The design standards of § 14-16-3-18 (D)(2), except section (h), shall apply.

      iii. A minimum of 30% of the ground floor shall have windows. For facades with doors, the percentage of windows may be reduced to 20%.

      iv. Upper floors shall have a minimum of 20% glazing.

v. The primary entry to the building shall be oriented toward the street or within 50 feet of a central courtyard.

b. Alleys: Existing alleys should remain in place to provide access to a site.

c. Building Placement:

i. Buildings shall be set back 0 to 15 feet from property lines adjacent to a street.

ii. Side and rear setbacks shall be pursuant to the underlying zone.

d. Pedestrian Access: Residential uses shall provide direct pedestrian connections from the residential building(s) to all street sidewalks and to other building(s) on the premise or project site. See § 14-16-3-1(H).

e. Landscaping:

i. Building setbacks not used for pedestrian activity shall have a minimum landscape area of 50%. Asphalt is not a permitted material within the setback area.

ii. Landscaping on roof decks may be counted toward the required area landscaping as regulated by § 14-16-3-10.

f. Parking Placement: Parking shall be located to the rear or to the side of a building, in a common parking area located interior to the block, or in a combination of the above. Parking is not permitted between a building and the street on which it fronts. Parking areas between a building and a side street are limited to 64 feet in width and shall have landscaped buffers facing the streets with a minimum depth of four feet and a screen wall with a minimum height of 36 inches. Wall material shall be as regulated by § 14-16-3-19(c).

g. Signage: Signage shall be as regulated by the O-1 zone, with the following exceptions:

i. Building-mounted signs shall be limited to 25 square feet.

ii. No more than one wall-mounted sign per building façade.

iii. Freestanding signs are not permitted on premises of under five acres.

iv. The maximum height of freestanding signs is eight feet.

9. Redevelopment of existing structures that results in a net 25% increase in square footage shall comply with the preceding regulations as determined by the Planning Director or his or her designee.

(9) Sign, off-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Only wall signs and free-standing signs are permitted in the Established or Redeveloping Areas.

2. Only wall signs are permitted in the Developing or Semi-Urban Areas except that free-standing signs designated to be read from the Interstate Highway and with at least one edge within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, are also permitted.

3. Separation.

   a. No sign shall be nearer than 300 feet to any other off-premise sign.

   b. No sign within 660 feet of the nearest edge of the public right-of-way of an Interstate Highway shall be nearer than 1,000 feet to any other off-premise sign.

   c. But divisions a. and b. above shall not apply as to the distance between two signs separated by a building or other obstruction where the face of only one sign is visible from any point on the public right-of-way.

   d. But divisions a. and b. above shall not apply to signs which are at some point within five feet of each other and only one of the sign faces is designed to be read from any given lane of traffic.

4. No free-standing sign erected after January 1, 1976, shall be nearer than 100 feet to any preexisting on-premise sign.

5. Setback

   a. No sign shall be nearer than seven feet to any public street right-of-way, except a public right-of-way containing an Interstate Highway without a frontage road between the sign and the Interstate Highway.

   b. No sign shall overhang a public right-of-way containing an Interstate Highway without a frontage road between the sign and the Interstate Highway.

6. No free-standing sign shall be nearer than 150 feet to any conforming residential property.

(b) Size.

1. Free-standing sign area of any one sign shall not exceed 300 square feet plus an additional add-on sign area of 18 square feet, except that within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the area of any one sign designed to be read from the Interstate Highway may be up to but shall not exceed 672 square feet plus an additional add-on sign area of 34 square feet. Free-standing sign length shall not exceed 60 feet.

2. Wall sign area shall be controlled by the provisions of division (9)(c)2. of this division (A).

(c) Height.

1. Sign height shall not exceed 26 feet, except:

   a. As provided in division 2. below; and

   b. the height of an add-on sign may be up to but shall not exceed 31 feet.

2. Within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the height of the highest point of the sign shall not exceed 29 feet, measured either from grade or from the elevation of the Interstate Highway at its closest point, except the height of an add-on sign may be up to but shall not exceed 34 feet, measured in the same way.

(d) Illumination, Motion: No regulations, apart from the general sign regulations.

(10) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Building-mounted signs extending above the height of the building shall be permitted only if they are:

   a. A continuation of the plane of a projecting sign or of the nearest facade; or

   b. Counted and controlled by all number, size, and height regulations for free-standing signs, including division (c)2.b. below.

2. A sign shall not overhang into the public right-of-way more than five feet.

3. Projecting signs shall not project horizontally more than five feet, except marquee signs are permitted to project ten feet.

(b) Number.

1. In the Established or Redeveloped Areas. One free-standing or projecting sign shall be permitted for each street frontage of each premises or joint sign premises which has at least 100 feet of street frontage, or one per 300 feet of total street frontage (e.g., up to two signs allowed if 630 feet of frontage), whichever is more permissive. A portable sign may also be permitted pursuant to the General Signage Regulations.

2. In the Developing, Semi- Urban, or Rural and Open Areas.

   a. No free-standing signs on sites of under five acres except a portable sign may also be permitted pursuant to the General Signage Regulations.

   b. One free-standing sign per street frontage shall be permitted on premises of five acres or more, provided the street frontage is at least 100 feet wide.

   c. One free-standing sign shall be permitted on a premises with 250 feet or more of street frontage but an area under five acres, provided the maximum sign area for each of one or two faces shall not exceed 35 square feet per face.

3. One canopy sign per entrance or exit shall be permitted.

4. No limit on number of wall signs.

(c) Size.

1. Size of Free-Standing and Projecting Signs. Sign area for a free-standing or projecting sign shall not exceed the following area:

   a. Seventy-five square feet if the most important street abutting the lot is a local street.

   b. One hundred square feet if the most important street abutting the lot is a collector street.

   c. Two hundred and fifty square feet if the most important street abutting the lot is an arterial street or freeway (if division d. below does not apply).

   d. Three hundred square feet if the sign is within 200 feet of a moving lane of a freeway and is visible from the freeway; in addition to the regular limits on numbers of signs, there shall be no more than one sign this large per business.

2. Size, Building-Mounted Signs, Except Projecting Signs.

   a. A building-mounted sign on premises or joint sign premises where there is no free-standing on- or off-premise sign shall not exceed the following:

      i. Twenty percent of the area of the facade to which it is applied, if the sign area is not wholly visible from an abutting collector street, arterial street, or freeway;

      ii. Twenty-five percent of the area to which it is applied, if the sign area is wholly visible from an abutting collector street; or

      iii. Thirty percent of the area of the facade to which it is applied, if the sign area is wholly visible from an abutting arterial street or freeway.

   b. A building-mounted sign on premises or joint sign premises where there is a free-standing or projecting on- or off-premise sign shall not exceed one-half the percentage of facade area listed in division a. above.

   c. An off-premise wall sign may be substituted for the area which otherwise would be permitted for an on-premise sign; such sign shall be regulated by height regulations for off-premise signs.

(d) Height.

1. Height of a free-standing sign shall not exceed 26 feet, except a sign which is within 200 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, may be up to but shall not exceed 26 feet above the freeway at its closest point.

2. Height of a building-mounted sign shall not exceed five feet above the height of the building, or it shall not exceed 30 feet, whichever is lower.

3. However, height of either a non-illuminated wall sign or an illuminated wall sign for a hotel or motel may be over 30 feet.

(e) Illumination, Motion, Lettering. No regulations, apart from general sign regulations.

(f) Exceptions.

1. Permitted building-mounted sign area from the front and sides of the principal building of the business may be transferred from the building to a customer service area of the same business on the same premises, provided the height of such signs shall not exceed 15 feet and setback shall be at least ten feet; such signing shall not be considered free-standing.

2. Any exceptions allowed for shopping centers, in order to provide adequate signing in special situations, shall be as provided in § 14-16-3-2 of this Zoning Code. Such a sign exception must be specifically defined in the Planning Commission resolution. Shopping centers approved prior to the effective date of this Zoning Code shall comply with sign regulations in this article unless an exception is specifically defined in a Planning Commission resolution.

(11) Radio or television studio or station.

(12) Recycling bin as an accessory use on the site, as provided in § 14-16-3-15 of this Zoning Code.

(13) Retailing of any consumer product and provision of any customer, personal, or business service, except adult amusement establishments and adult stores, hospitals for human beings and transit facilities, provided it is not listed as a conditional use in this zone, or as a permissive or conditional use listed for the first time in the C-3 zone, and with the following limitation:

(a) Alcoholic drink sales for consumption off premises; except the sale of alcoholic drink within 500 feet of a community residential program or hospital for treatment of substance abusers is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994:

1. are limited to building area which is not within 500 feet of a residential zone; and

2. shall not include the sale of broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a designated Metropolitan Redevelopment Area (as defined in the State Metropolitan Redevelopment Code), a city owned park or city owned major public open space:

A. distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

B. beer, as defined in the New Mexico Liquor Control Act, in any single container labeled as containing 16 or fewer ounces; and

C. fortified wines with a volume of alcohol of more than 13.5 percent.

(b) Vehicle sales, rental, service, repair, and storage, both indoor and outdoor, provided:

1. Outdoor activity areas (display and storage of stock in trade) meet all the specifications for a parking lot, as regulated in the O-1 zone.

2. Outdoor storage of inoperative vehicles is limited to two vehicles at any time, and a given inoperative vehicle shall not be parked outdoors over two weeks in any 12-month period.

3. Painting and major automotive repair is conducted within a completely enclosed building at least 20 feet from any residential zone.

4. A truck terminal is not permitted.

5. Outdoor vehicle storage as a principal business, where vehicles are typically not moved for one week or more, is not a permissive use.

(c) Banking, loaning money, including pawn. Drive-in facilities included on the condition the vehicle movement plan is approved by the Traffic Engineer.

(d) Building materials, provided they are in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or is contiguous to land not zoned C-2, C-3, M-1 or M-2.

(e) Circus or Carnival operation outdoor or in a tent provided:

1. The use is located at least 300 feet from a dwelling in a residential zone;

2. The use is permitted at one location for a period not to exceed seven days in any calendar year;

3. Hours of operation, including erection and dismantling of equipment are:

a. If the use is located between 300 feet and 500 feet from a dwelling, between 7:30 a.m. and 10:30 p.m.;

b. If the use is located 500 feet or more from a dwelling, between 6:00 a.m. and 11:30 p.m.;

4. There is sufficient off-street parking available on the premises to meet parking requirements for all the uses on the premises. The Zoning Enforcement Officer shall approve a site plan which shall demonstrate adequate parking and vehicle circulations;

5. There are toilet facilities on the premises; and

6. The City Fire Marshal or his authorized representative gives prior approval of any tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(f) Drive-in restaurant, provided a solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. However, if the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(g) Dry cleaning, laundry, clothes pressing, provided:

1. Only cleaning fluid which is not flammable at temperatures below 138.5° Fahrenheit may be used;

2. The number of persons engaged in operating a laundry or dry cleaning establishment is limited to five, excluding pressers, office, clerical, or delivery personnel;

3. That portion of the structure in which any cleaning process is done is at least 50 feet from any residential zone.

(h) Flowers and plants, including out-door sales.

(i) Gasoline, oil, and liquified petroleum gas retailing, including outdoor sales, but not truck plazas.

(j) Golf driving range, miniature golf course, baseball batting range, located in a building or outdoors, provided fencing or other suitable device is employed to insure that balls are not hit out of premises.

(k) Hospital for animals, provided it has no outside pens. One outside exercise run is permitted, provided it is enclosed with a solid wall or fence at least six feet high, and no more than one animal is permitted in the run at any one time.

(l) One mobile home for a watchman or caretaker on the same lot with commercial uses, permissive or conditional in this zone, which do not have or normally require a permanent structure, including but not limited to used car sales lot; mobile home or recreational vehicles sales or rental lot; and circus, carnival, or similar enterprise. However, the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(m) Parking lot, as regulated in the O-1 zone.

(n) Pets, as regulated in the C-1 zone.

(o) Restaurant with outdoor seating.

(p) Sample dwelling unit used to sell such units, including incidental sales office activity.

(q) Secondhand store, including outside storage in the side or rear yard and if enclosed by a solid wall or fence at least six feet high.

(r) Stand or vehicle selling fruit, vegetables, or nursery stock, provided it is limited to a period of 90 days in any calendar year. However, one renewal for an additional 90 days may be permitted by the Planning Director.

(s) Not permissive as retailing or services are uses listed as conditional use in this section and uses that are in substantial part industrial or manufacturing activities, e.g., automobile dismantling, sheet metal working, or tire recapping and retreading.

(14) Storage structure or yard for equipment, material or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six

or more months, and further provided that it is limited to a period of one year unless the time is extended by the Planning Director.

(15) Wholesaling of jewelry.

(16) Uses or activities in a tent, if the uses or activities are listed elsewhere in this subsection, provided:

(a) The tent may not be erected for more than seven days at a time and may not be erected more than two times a year on a given premises;

(b) There is sufficient paved off-street parking available on the premises to meet parking requirements for all uses on the premises, including the activity in the tent. The Zoning Enforcement Officer shall approve the site plan for the tent, which shall demonstrate adequate parking and vehicle circulation, prior to erection of the tent; and

(c) There are toilet facilities on the premises available to the users of the tent; and

(d) The City Fire Marshall or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(17) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(B) Conditional Uses.

(1) Antenna, over 65 feet in height.

(2) Apartment, as permitted in division (A)(8) above, if there are more than 30 dwelling units per acre but not more than 75 dwelling units per acre. Conditional use applications shall be considered on the basis of a site plan.

(3) Church or other place of worship, including incidental recreational and educational facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(4) Cold storage plant.

(5) Community residential program, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Drive-in theater.

(7) Dwelling unit (house, townhouse, apartment), for properties that do not meet the criteria of divisions (A)(8)(b) and (A)(8)(e)1 above or with SU-2 zoning that refers to the C-1 zone but does not specify provisions for the regulation of residential uses, provided:

(a) There are not over 30 dwelling units per net acre.

(b) Usable open space is provided on site in an amount no less than specified in the R-3 zone; no more shall be required than specified in the R-2 zone except if located in an area designated by the master plan as "Developing" or "Semi-Urban," the total open space requirements of the R-D or RA-1 zone, respectively, shall be met.

(c) Development shall comply with the regulations specified in division (A)(8)(e)8 above.

(8) Emergency shelter, provided the standards of § 14-16-3-13 of this Zoning Code are met.

(9) Fire wood sales and related storage, provided the wood is not visible from land not zoned C-2, C-3, M-1, or M-2.

(10) Kennel.

(11) Mobile home development, provided the development contains at least three acres. Approval of a site development plan and landscaping plan is required prior to development.

(12) One mobile home for a watchman or caretaker on the same premises with a commercial use other than one of those uses enumerated in division (A)(12)(l) of this section. However, the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(13) Outdoor storage or activity, except as specifically listed as a permissive or conditional use in this section, and as further provided below:

(a) No outdoor storage or activity specified as a principal special use in § 14-16-2-22(B) of the Zoning Code, the SU-1 zone, may be a conditional use considered under this division (B).

(b) Combinations of uses, some or all of which are outdoor uses, which interact to create a more intense use, operating as one coordinated enterprise or attraction are not normally appropriate for approval as conditional uses under this division (B), being more properly controlled as SU-1 zone special uses.

(c) Outdoor uses which would impact their environs with appearance, light, noise, odor, or similar environmental problems likely to be unpleasant to neighboring premises and uses shall not be approved.

(d) Outdoor conditional uses often justify special requirements to keep the appearance or other aspects of the outdoor storage or activity from negatively impacting adjacent land.

(e) Outdoor vehicle storage as a principal business, where vehicles are typically not moved for one week or more, is not appropriate if it will be significantly visible from adjacent streets or nearby residential, office, or commercial uses: if approved. this type of storage requires special buffering.

(14) Parking of more than two truck tractors and two semitrailers for over two hours.

(15) Park-and-ride joint-use facilities, if it is determined that under the conditions imposed there will not be a shortage of on-site parking for the activities on the site; in such situations, no parking variance is required.

(16) Pony riding without stables, provided it is located at least 300 feet from a dwelling which is a conforming use.

(17) Public utility structure which is not permissive.

(18) Retail sale of alcoholic drink for consumption off premises, where the portion of the building used for such business is within 500 feet of a residential zone, provided such sales shall not include the sale of broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a city owned park or city owned major public open space except the retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers, is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994 and further provided that such sales shall not include:

(a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

(b) beer, as defined in the New Mexico Liquor Control Act, in any single container; and

(c) fortified wines with a volume of alcohol of more than 13.5 percent.

(19) Retail business in which products may be manufactured, compounded, processed, assembled, or treated, as an accessory use, including carpentry, plumbing, sheet-metal working, upholstering, sign painting, making of metal stamps, catering, baking, confectionery making, or jewelry or curio making, provided:

(a) All activities are conducted within a completely enclosed building.

(b) The number of persons engaged in the manufacturing, processing, assembling, or treating of products is limited to ten, excluding office, clerical or delivery personnel.

(c) Activities or products are not objectionable due to odor, dust, smoke, noise, vibration, or other cause.

(20) Uses or activities in a tent, if the uses or activities are listed elsewhere in this section, provided there is sufficient paved off-street parking available on the premises to meet parking requirements for all uses on the premises, including the activity in the tent, and provided that the Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] or his designated representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(21) Tire recapping or retreading, provided:

(a) The activity is incidental to the major use and is conducted within a completely enclosed building.

(b) Outdoor storage of tires is enclosed by a solid wall or fence at least six feet high.

(c) Tires stored outdoors may not be stacked above the plane established by the top of the required surrounding wall.

(22) Transfer or storage of household goods, provided:

(a) Parking and maneuvering of trucks is permitted only off the street in an off-street parking area as regulated by this article.

(b) Servicing of trucks is permitted only within a building or an area completely enclosed by a solid wall or fence at least eight feet high.

(23) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) ***Height.*** Height shall be as provided in the O-1 zone, except sign and antenna height shall be as provided in division (A) of this section.

(D) ***Lot Size.*** No requirements.

(E) ***Setback.*** Setback shall be as provided in the O-1 zone.

(F) ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) ***Shopping Center Regulations.*** Any site in this zone classified as a Shopping Center site, as defined in § 14-16-1-5 of this Zoning Code, is subject to special site development regulations. The Shopping Center Regulations are provided in § 14-16-3-2 of this Zoning Code.

('74 Code, § 7-14-22) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 57-1976; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 74-1977; Am. Ord.38-1978; Am. Ord. 55-1978; Am. Ord. 74-1980; Am. Ord. 42-1981; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 74-1985; Am. Ord. 11-1986; Am. Ord. 80-1986; Am. Ord. 41-1987; Am. Ord. 62-1988; Am. Ord. 3-1990; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 63-1990; Am. Ord. 69-1990; Am. Ord. 43-1991; Am. Ord. 39-1992; Am. Ord. 50-1992; Am. Ord. 13-1993; Am. Ord. 2-1994; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 11-2002; Am. Ord. 10-2004; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 16-2005; Am. Ord. 43-2005; Am. Ord. 7-2006; Am. Ord. 23-2007; Am. Ord. 5-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; Am. Ord. 2012-004)

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§ 14-16-2-18 C-3 HEAVY COMMERCIAL ZONE.

This zone provides suitable sites for C-2 uses, wholesale commercial uses, and some light industrial uses which cause no vibration discernible beyond the premises.

(A) Permissive Uses.

(1) Uses permissive and as regulated in the C-2 zone.

(2) Uses which must be conducted within a completely enclosed building:

(a) Adult amusement establishment or adult store, provided:

(1) The use is located at least 1,000 feet from any adult amusement establishment or adult store; and

(2) The use is located at least 500 feet from the nearest residential zone, or from any church or pre-elementary, elementary or secondary school.

(b) Automotive engine manufacturing, wholesale assembling or rebuilding of automotive vehicles or parts.

(c) Bottling.

(d) Cold storage plant.

(e) Ice plant, wholesale.

(f) Dry cleaning, clothes pressing, dyeing, including rug and carpet, provided that portion of the structure in which any cleaning process is done is at least 50 feet from any residential zone.

(g) Manufacturing, assembling, treating, repairing, or rebuilding of products, as follows:

1. Building (structure) sub-assembly.

2. Electrical appliances, electronic instruments and devices, radios or phonographs, including the manufacture of small parts only.

3. Food products, except meat and fish products, sauerkraut, vinegar, yeast, and the rendering or refining of fat or oil provided:

a. Fish and chicken food is prepared with non-boiling processes.

b. Dry grain is processed or ground only to the consistency of a rough grind.

4. Jewelry, curios.

5. Metal stamps, tool and die making.

6. Plumbing, assembly only.

7. Pottery, ceramics, provided only previously pulverized clay and kilns fired by electricity or gas are used.

8. Sewed items, including clothing.

9. Signs, commercial advertising structures.

(h) Sheet metal working (light).

(i) Tire recapping or retreading.

(j) Upholstering.

(k) Warehousing.

(l) Welding, as a principal activity.

(3) Uses which must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high, which must be solid when it faces or abuts land not zoned C-2, C-3, M-1, or M-2.

(a) Construction contractor's equipment storage, or contractor's plant.

(b) Equipment rental, sales, display, and repair - operative contractor's and heavy farm equipment.

(c) Feed or fuel storage or sales.

(d) Kennel.

(e) Printing, publishing, lithographing, or blueprinting.

(f) Wholesaling.

(4) Antenna, without limit as to height.

(5) Operative contractor's equipment and heavy farm equipment sales.

(6) Railroad right-of-way and incidental facilities, provided they are at least 100 feet from any residential zone or approved by master plan.

(7) Sign, off-premise, as provided in the C-2 zone and § 14-16-3-5 of this Zoning Code, except:

(a) Size. Free-standing sign area of any one sign shall not exceed 672 square feet. An additional add-on sign area of 34 square feet is permitted.

(b) Height:

1. Sign height shall not exceed 29 feet, except:

a. As provided in division 2. below; and

b. The height of an add-on sign may be up to but shall not exceed 34 feet.

2. Within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the height of the highest point of the sign shall not exceed 29 feet, measured either from grade or from the elevation of the Interstate Highway,

at its closest point, except the height of an add-on sign may be up to, but shall not exceed 34 feet, measured in the same way.

(B) Conditional Uses.

(1) Uses conditional in the C-2 zone except dwelling units referred to in § 14-16-2-17(B)(6).

(2) Automobile dismantling yard, provided:

(a) All activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet high.

(b) Inoperative automobile bodies may not be stacked above the plane established by the top of the required surrounding wall.

(3) Building material storage or sales.

(4) Construction Contractor's equipment storage, or contractor's plant.

(5) Equipment rental, sales, display, and repair - operative contractor's and heavy equipment.

(6) Feed or fuel storage or sales.

(7) Manufacturing, assembling or treating articles, provided it is conducted within a completely enclosed building, except uses listed as conditional in the M-1 or M-2 zone.

(8) Vehicle storage outdoors as a principal use where vehicles are typically not moved for one week or more.

(9) Wholesaling, other than as limited under permissive uses in this zone.

(C) Height. Height shall be as provided in the O-1 zone, except antenna height shall not be limited.

(D) Lot Size. No requirements.

(E) Setback. Setback shall be as provided in the O-1 zone.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) Shopping Center Regulations. Any site in this zone classified as a Shopping Center site, as defined in § 14-16-1-5 of this Zoning Code, is subject to special site development regulations. The Shop-ping Center Regulations are provided in § 14-16-3-2 of this Zoning Code.

('74 Code, § 7-14-23) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 13-1977; Am. Ord. 74-1977; Am. Ord. 62-1988; Am. Ord. 75-1989; Am. Ord. 3-1990; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 2-1991; Am. Ord. 42-2004; Am. Ord. 43-2005; Am. Ord. 66-2005; Am. Ord. 19-2010)

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§ 14-16-2-19 IP INDUSTRIAL PARK ZONE.

This zone provides suitable sites for a wide range of industrial and commercial uses, provided such uses are conducted in a compatible and harmonious manner within industrial environments achieved through a Development Plan.

(A) Permissive Uses.

(1) Adult amusement establishment, or adult store, provided:

(a) The use is located at least 1,000 feet from any adult amusement establishment or adult store; and

(b) The use is located at least 500 feet from the nearest residential zone, or from any church or pre-elementary, elementary or secondary school.

(2) Air separation plant for nitrogen, oxygen, and argon only.

(3) Auditorium, place of assembly.

(4) Bottling plant.

(5) Club.

(6) Cold storage plant.

(7) Golf course or golf driving range.

(8) Hospital for animals.

(9) Institution, including library, museum, school, day care center, but not disciplinary institutions or hospital for human beings.

(10) Laboratory — experimental, testing, or medical, provided all activities are conducted within a completely enclosed building. Noxious fumes, odor, or dust shall not be emitted from the premises.

(11) Machine Shop.

(12) Manufacturing, assembling, treating, repairing, or rebuilding articles except those conditional or otherwise limited in this zone and the M-1 zone or specifically listed as permissive or conditional in the M-2 zone, provided manufacturing is conducted within a completely enclosed building.

(13) Office.

(14) Office machine equipment sales and repairs.

(15) One dwelling per premises for a watchman or caretaker on the same premises with commercial or industrial use.

(16) Park-and-ride temporary facilities.

(17) Parking lot related to another use permitted in this zone, as regulated in the O-1 zone.

(18) Printing, publishing, lithographing, blue-printing, or photostating.

(19) Public utility use or structure and fire stations, provided their location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(20) Radio and/or television station, provided the construction of any structure, tower or facility near an airport that interferes with airport airspace requirements as determined by the Federal Aviation Administration, is prohibited.

(21) Railroad right-of-way and incidental facilities, provided they are at least 100 feet from any residential zone or approved by master plan.

(22) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair:

(a) Books, magazines, newspapers, except adult book store.

(b) Cosmetics, notions, gifts.

(c) Drugs, medical supplies.

(d) Flowers and plants.

(e) Food and drink, for consumption on premises.

(f) Gasoline, oil, liquified petroleum gas.

(23) Sales and display rooms or buildings for wholesalers, distributors, warehouses, or manufacturers.

(24) Services:

(a) Automobile repairing, but no body work; repairing shall be done within a completely enclosed building at least 20 feet from any residential zone.

(b) Banking, loaning money, including pawn. Drive-in facilities permitted on the condition the vehicle movement plan is approved by the Traffic Engineer.

(c) Barber, beauty.

(d) Car washing.

(e) Clinic.

(f) Day care center.

(g) Dry cleaning, laundry, clothes pressing.

(h) Health gymnasium.

(i) Hotel or motel, including incidental uses.

(j) Photography, except adult photo studio.

(25) Sign, on-premises as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location. A sign shall not overhang into the public right-of-way.

(b) Number.

1. In the Established or Redeveloping Areas: one free-standing sign or projecting sign shall be permitted for each street frontage of each premises or joint sign premises which has at least 200 feet of street frontage. A portable sign may also be permitted pursuant to the General Signage Regulations.

2. In the Developing or Semi- Urban Areas: as provided in division 1. above, except that there shall be no free-standing or projecting sign on a premises of less than five acres. However, a portable sign may also be permitted pursuant to the General Signage Regulations.

3. One wall sign shall be permitted per facade per business.

4. On a multi-business premises, one additional sign of any type shall be permitted as a directory sign, provided its area does not exceed 32 square feet.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area for a free-standing or projecting sign shall not exceed the following:

a. 75 square feet if the most important street abutting the lot is a local street.

b. 100 square feet if the most important street abutting the lot is a collector or arterial street or freeway.

2. Size, Building-Mounted Signs, Except Projecting Signs. A building-mounted sign shall not exceed the following area:

a. Fifteen percent of the area of the facade to which it is applied if the sign is not wholly visible from an abutting arterial or collector street; or

b. Twenty percent of the area of the facade to which it is applied if the sign is wholly visible from an abutting arterial or collector street or freeway.

(d) Height.

1. Height of a free-standing sign shall not exceed 26 feet.

2. Height of a building-mounted sign shall not exceed five feet above the building wall.

(e) Illumination. Light bulbs illuminating signs shall not shine directly into adjacent conforming residential property.

(f) Motion, Lettering. No regulations, apart from those in § 14-16-3-5.

(26) Sheet metal working.

(27) Swimming pool.

(28) Warehouse.

(29) Wholesaling.

(30) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(B) Conditional Uses. Uses permissive or conditional in the M-1 zone and not permissive in this zone, except not Community residential program, Emergency shelter, or dwelling unit other than caretaker or watchman premises on the premises of the commercial or industrial use.

(C) Height.

(1) Structure height and width shall fall within 45° angle planes drawn from the horizontal at the mean grade along each boundary of the premises, but a structure shall not exceed a height of 120 feet.

(2) Exceptions to the above are provided in § 14-16-3-3 of this Zoning Code and, for sign height, in division (A) of this section.

(D) Lot Size. Minimum lot area shall be one-half acre. Minimum lot width shall be 100 feet. No more than 50% of the surface of any lot or site shall be covered with buildings.

(E) Setback. The following regulations apply, except as provided in § 14-16-3-3 of this Zoning Code:

(1) There shall be a front-yard setback of not less than 20 feet.

(2) There shall be a side-yard setback of not less than ten feet.

(3) There shall be a rear-yard setback of not less than ten feet.

(4) No setback will be required on sides abutting rail trackage or rail easements.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) Outside Storage. All outdoor storage and trash collection areas shall be visually screened from all property lines by a solid wall or fence or by an evergreen hedge at least six feet high.

(H) General Requirements.

(1) Minimum Zone Size. The minimum total contiguous area eligible for an IP zone designation is 20 acres.

(2)Master Development Plan. A plan meeting the requirements of § 14-16-1-5 shall accompany an application for change to IP zoning. No building permit shall be issued for an IP-zoned property until a Master Development Plan has been approved. Amendment of an approved Master Development Plan shall be the same as in the SU-1 zone.

(3) Landscaping. Landscaping shall be as specified in § 14-16-3-10 of this Zoning Code, except that a minimum landscaped strip of ten feet shall be maintained between parking areas and the street right-of-way line, regardless of site size.

(I) ***Materials.*** Barbed tape, razor wire, barbed wire or similar materials are prohibited except at public utility structures and Albuquerque Police Department or Transit Department facilities.

('74 Code, § 7-14-24) (Ord. 80-1975; Am. Ord. 6-1977; Am. Ord. 26-1977; Am. Ord. 76-1977; Am. Ord. 38-1978; Am. Ord. 14-1984; Am. Ord. 11-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 58-1995; Am. Ord. 22-1997; Am. Ord. 9-1999; Am. Ord. 29-2003; Am. Ord. 42-2004; Am. Ord. 66-2005; Am. Ord. 5-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; **2013**)

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§ 14-16-2-20 M-1 LIGHT MANUFACTURING ZONE.

This zone provides suitable sites for heavy commercial and light manufacturing uses.

(A) Permissive Uses.

(1) Uses first listed as permissive and as regulated in the C-3 zone (§ 14-16-2-18(A)).

(2) Uses permissive and as regulated in the IP zone.

(3) Antenna, without limit as to height.

(4) Automotive sales, rentals, service, repair, and storage, provided:

(a) The area meets all of the specifications for a parking lot as defined in this Zoning Code.

(b) Major automotive repair is conducted within a completely enclosed building.

(5) Automobile dismantling, provided:

(a) All activities are conducted in a completely enclosed building or are enclosed by a solid wall or fence at least six feet high.

(b) Inoperative automobile bodies may be stacked to a height that does not exceed the height of the required wall.

(6) Commercial agricultural activity and incidental structures. Animals permissive are cattle, horses, goats, and sheep, provided the number of head of cattle or horses does not exceed one for each 10,000 square feet of open lot area, or one sheep or goat for each 4,000 square feet of open lot area, or equivalent combination. Animals shall be so controlled that they cannot graze on any other premises. Animals under four months old are not counted.

(7) Emergency shelter, provided that the standards of § 14-16-3-13 of this Zoning Code are met.

(8) Manufacturing, assembling, treating, repairing, or rebuilding articles, except those conditional or otherwise limited in this zone or specifically listed as permissive or conditional in the M-2 zone, provided all manufacturing is conducted within a completely enclosed building.

(9) Incidental uses within a building, most of which is occupied by offices, including news, cigar or candy stand, personal-service establishment and the like, provided:

(a) The use is intended primarily for the use of occupants of the building.

(b) The use is limited to a maximum of 10% of the total floor area.

(10) Parking lot, as regulated in the 0-1 zone.

(11) Recycling bin as an accessory use on the site, as provided in § 14-16-3-15 of this Zoning Code.

(12) Sign, off-premise, as provided in the C-2 zone and § 14-16-3-5 of this Zoning Code, except:

(a) Size. Free-standing sign area of any one sign shall not exceed 672 square feet. An additional add-on sign area of 34 square feet is permitted.

(b) Height.

1. Sign height shall not exceed 29 feet except:

a. As provided in division 2. below; and

b. the height of an add-on sign may be up to but shall not exceed 34 feet.

2. Within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the height of the highest point of the sign shall not exceed 29 feet, measured either from grade or from the elevation of the Interstate Highway at its closest point, except the height of an add-on sign may be up to but shall not exceed 34 feet, measured in the same way.

(13) Sign, on-premise, as provided in the C-2 zone and in § 14-16-3-5 of this Zoning Code.

(14) Storage structure or yard for equipment, material or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed, or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year, unless the time is extended by the Planning Director.

(15) Trailer sales, rentals, service, repair, and storage, provided:

(a) Paving shall be maintained level and serviceable. The lot must be graded and surfaced with one of the following:

1. Gravel: Two inches of compacted gravel (3/8 inch to one inch size) at least 1/2 inch of which shall be maintained on the surface; gravel shall be kept off of the right-of-way; or

2. A hard surface superior to division 1. above.

(b) A fence or wall which prevents vehicles from extending beyond the property line shall be erected.

(c) A solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. However, if the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(16) The following uses, provided all activities are conducted within a completely enclosed building and provided that noxious fumes, odors, or dust shall not be emitted from the premises:

(a) Blacksmith shop.

(b) Poultry or rabbit live storage or killing and dressing.

(17) Uses which must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which is maintained in a state of good repair and which must be solid when it faces or abuts land not zoned C-2, C-3, M-1, or M-2:

(a) Concrete or cement products manufacturing, batching plant, processing of stone.

(b) Gravel, sand, or dirt removal, stockpiling, processing, or distribution.

(c) Truck terminal, tractor, trailer, or truck storage, including maintenance facilities.

(B) Conditional Uses.

(1) If so approved, the following uses may be conducted in an area not completely enclosed by a wall or fence:

(a) Air separation plant not otherwise allowed as a permissive use.

(b) Animal raising, other than those animals which are permissive in this section.

(c) Building material storage or sales.

(d) Concrete or cement products manufacturing, batching plant, processing of stone.

(e) Contractor's equipment storage, or contractor's plant.

(f) Feed or fuel storage or sales.

(g) Gravel, sand, or dirt removal activity, stockpiling, processing, or distribution.

(h) Rental, sales, display, and repair of operative contractor's and heavy farm equipment.

(i) Salvage yard for storage and sale of used material provided the yard is enclosed on all sides by a solid wall or fence at least six feet high.

(j) Truck terminal, tractor, trailer, or truck storage, including maintenance facilities.

(2) Community residential corrections program: up to 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(3) Community residential program for substance abusers with up to 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Public utility structure which is not permissive.

(5) Retailing which is not permissive, provided retailing shall not include the sale of alcoholic drink for consumption off premises within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a city owned park or city owned major public open space if the alcoholic drink is in a broken package or in the following package except the retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers, is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994 and further provided that such sales shall not include:

(a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

(b) beer, as defined in the New Mexico Liquor Control Act, in any single container; and

(c) fortified wines with a volume of alcohol of more than 13.5 percent.

(6) Uses or activities in a tent, if the uses or activities are listed elsewhere in this section, provided there is sufficient paved off-street parking available on the premises to meet parking requirements for all uses on the premises, including the activity in the tent, and provided that the City Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(7) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) Height.

(1) Structure height up to 36 feet is permitted at any legal location. The height and width of the structure over 36 feet high shall fall within a 45° plane drawn from the horizontal at the mean grade along each boundary of the premises, but a structure shall not exceed a height of 120 feet.

(2) Exceptions to the above are provided in § 14-16-3-3 of this Zoning Code, and, for sign height, as provided in the C-2 zone.

(D) Lot Size. No requirements.

(E) Setback. Setback shall be as provided in the O-1 zone.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) Large Retail Facility Regulations. Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to special development regulations. The large retail facility regulations are provided in § 14-16-3-2 of the Zoning Code.

('74 Code, § 7-14-25) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 74-1977; Am. Ord. 38-1978; Am. Ord. 34-1981; Am. Ord. 74-1985; Am. Ord. 41-1987; Am. Ord. 3-1990; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 2-1991; Am. Ord. 43-1991; Am. Ord. 22-1997; Am. Ord. 9-1999; Am. Ord. 11-2002; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 43-2005; Am. Ord. 23-2007; Am. Ord. 19-2010)

§ 14-16-2-21 M-2 HEAVT MANUFACTURING ZONE.

This zone provides suitable sites for nearly all industrial uses.

(A) Permissive Uses.

(1) Uses permissive and as regulated in the M-1 zone.

(2) Blast furnace, coke oven.

(3) Boiler works.

(4) Iron or steel foundry or fabrication plant, forging, rolling, or heavyweight casting.

(5) Manufacture or treating of the following:

(a) Acetylene Gas.

(b) Alcohol.

(c) Ammonia, bleaching powder, chlorine.

(d) Asphalt.

(e) Brick, tile, terra-cotta.

(f) Chemicals.

(g) Oilcloth, linoleum.

(h) Paint, oil (including linseed), shellac, turpentine, lacquer, varnish.

(i) Petroleum by-products.

(j) Plastics.

(k) Pyroxylin.

(l) Soap.

(m) Sodium compounds.

(n) Stove or shoe polish.

(o) Tar products.

(6) Railroad repair shop.

(7) Salvage yard, for storage and sale of used materials, such as metal, rope, paper, glass, leather, rags, lumber, plastic, and equipment made of these materials, provided the yard is enclosed on all sides by a solid fence or wall at least six feet high.

(B) Conditional Uses.

(1) Uses conditional in the M-1 zone, except not any Community residential program nor any dwelling unit other than caretaker or watchman premises on the premises of the commercial or industrial use.

(2) Distillation of bones.

(3) Fat rendering.

(4) Manufacture of the following:

(a) Cement, lime, gypsum, plaster of Paris.

(b) Explosives.

(c) Fertilizer.

(d) Glue.

(e) Products not elsewhere listed.

(5) Slaughter of animals.

(6) Tannery, curing of rawhides.

(7) Wool pulling or scouring.

(C) Height.

(1) Structure height up to 36 feet is permitted at any legal location. To protect solar access, a structure over 36 feet high shall fall within a 45° angle plane drawn from the horizontal at the mean grade of the northern boundary of the premises.

(2) Exceptions to the above are provided in § 14-16-3-3 of this Zoning Code and for sign height, as provided in the C-2 zone.

(D) Lot Size. No requirements.

(E) Setback. Setback shall be as provided in the O-1 zone.

(F) Off-Street Parking. Off-street parking must be provided as set forth in § 14-16-3-1 of this Zoning Code.

(G) Large Retail Facility Regulations. Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to special development regulations. The large retail facility regulations are provided in § 14-16-3-2 of the Zoning Code.

('74 Code, § 7-14-26) (Ord. 80-1975; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 66-2005; Am. Ord. 23-2007; Am. Ord. 19-2010)

§ 14-16-2-22 SU-1 SPECIAL USE ZONE.

This zone provides suitable sites for uses which are special because of infrequent occurrence, effect on surrounding property, safety, hazard, or other reasons, and in which the appropriateness of the use to a specific location is partly or entirely dependent on the character of the site design.

(A) Procedure.

(1) Development within the SU-1 zone may only occur in conformance with an approved Site Development Plan. An application for a change to SU-1 zoning shall state the proposed use and must be accompanied by a plan including, at a minimum, all the elements of a Site Development Plan for Subdivision Purposes. As part of the zone amendment action, a Site Development Plan may be approved; alternatively a plan may be approved later. If an approved Site Development Plan is a specified condition of zone change approval, such plan must be approved within the time period specified in § 14-16-4-1(C)(11) of this Zoning Code. No building permit shall be approved unless it is consistent with a complete site development plan for building permit and landscaping plan for the lot in question, approved by the Planning Commission or its designee; at the Planning Commission's discretion, approval of detailed plans may be required for the entire SU-1 zone area prior to issuing a building permit.

(2) A decision implementing a change to the zone map to SU-1 zoning shall designate the specific use permitted, and a building permit shall be issued only for the specific use and in accordance with an approved Site Development Plan. The specific use shall be recorded on the zone map.

(3) In approving an application, the Planning Commission may impose requirements as may be necessary to implement the purpose of this Zoning Code. However, for an adult amusement establishment or adult store on an SU-1 zoned site, no conditions may be imposed on the adult uses that would prevent them from existing on the site if the uses are allowed under the applicable Zoning Code distance requirements.

(4) A certified copy of the Site Development Plan shall be kept in the Planning Department records so that it may be reviewed against an application for a building permit for any part or all of a special use.

(5) The Planning Commission may review the application, plan, and progress of development at least every four years until it is fully implemented to determine if it should be amended.

(6) The Planning Director may approve minor changes to an approved Site Development Plan or Landscaping Plan if it is consistent with the use and other written requirements approved by the Planning Commission, if the buildings are of the same general configuration, if the total building square footage is not greater than 10% than the approved plan, the vehicular circulation is similar in its effect on adjacent property and streets, and the approving official finds that neither the city nor any person will be substantially aggrieved by the altered plan. If the Planning Director believes there might be a person substantially aggrieved by the altered plan or if the total building square footage would be increased more than 2%, he shall give mailed notice of the proposed change to owners of adjacent property and to neighborhood associations entitled to notice of zone change proposals there.

(7) The Planning Director or a designee may approve site plans for temporary park-and-ride facilities.

(B) Special Uses.

(1) Accessory use customarily associated with a use permitted in this zone, provided it is incidental to the major use. Signs as permitted and regulated by the Planning Commission.

(2) Adult amusement establishment or adult store provided:

(a) The use is located at least 1,000 feet from any adult amusement establishment or adult store; and

(b) The use is located at least 500 feet from the nearest residential zone, or from any church or pre-elementary, elementary or secondary school. Signs as regulated in the C-2 zone.

(3) Airport. Signs as permitted and regulated by the Planning Commission.

(4) Antenna (commercial).

(5) Amusement facility of a permanent character, including but not limited to kiddieland, baseball batting range, or golf driving range.

(6) Automobile dismantling yard or similar use. Signs as regulated in the C-1 zone.

(7) Bed and Breakfast Establishment. A Bed and Breakfast establishment with five to eight guest rooms shall abut a collector street, minor arterial street, or major arterial street, except a site of one acre or greater may abut a local street.

(8) Campground, provided it meets the requirements of § 14-16-3-7 of this Zoning Code. Signs as regulated in the C-2 zone.

(9) Cemetery, including columbarium, mausoleum, or crematory, provided the site contains at least 30 acres. Signs as regulated in the O-1 zone.

(10) Church or other place of worship, including incidental recreational and educational uses; such an incidental use must be operated by the church rather than a business entity and must continue to be operated by the church, unless the resolution governing the SU-1 zone specifically allows operation of a specified incidental use by an entity other than the church itself. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code. Signs as permitted and regulated by the Planning Commission.

(11) Park-and-Ride temporary facilities.

(12) Drilling, production, or refining of petroleum gas or hydrocarbons. Signs as regulated in the O-1 zone.

(13) Drive-in theater, provided:

(a) Reservoir off-street standing space or side service road space is provided at any entrance sufficient to accommodate at least 30% of the vehicular capacity of the theater.

(b) A screen less than 500 feet from an arterial street is so located or shielded that the picture surface cannot be seen from the arterial street.

(c) The theater is enclosed with a solid wall or fence at least six feet high.

(14) Fire station. Signs as regulated in the O-1 zone.

(15) Golf course. Signs as regulated in the O-1 zone.

(16) Gravel, sand, or dirt removal activity, stockpiling, processing, or distribution and batching plant. Signs as regulated in the O-1 zone.

(17) Helipad, other than a medical helipad or a law enforcement helipad, provided it complies with Federal, State and Local regulations including City noise regulations; and further provided that:

(a) Helipads are a minimum of 650 feet from the nearest residential zone as measured from the edge of the helipad unless it is demonstrated the helipad will not be injurious to adjacent property, the neighborhood, or the community, but in no case shall a helipad be located less than 350 feet from the nearest residential zone, as measured from the edge of the helipad.

(b) The total number of helicopter operations (a landing and a takeoff is one operation) shall not exceed 3 on any day. The operations per day do not accumulate if not used.

(c) Helicopter landing and takeoff operations are prohibited between 10 P.M. and 7 A.M.

(d) Written documentation of helipad operations, including, but not limited to, flight path usage and the date and time of all landings and takeoffs, shall be maintained by the helipad owner and made available upon request for public inspection.

(e) Helipad operations that assist in medical emergencies, police emergencies, or search and rescue emergencies, when solicited by agencies which respond to such emergencies, shall not be limited to three operations per day nor to time of day limitations.

(18) Hospital for human beings, including medical helipad, provided that the traffic generated, ambulance noise, nor medical helipad will have serious adverse effects on the neighborhood. Medical helipads shall be sited and buffered to minimize impacts on surrounding properties. Written documentation of medical helipad operations, including date and time of all landings and takeoffs, shall be maintained and made available upon request for public inspection. Signs as regulated in the C-1 zone.

(19) Institution, correctional or mental. Signs as regulated in the O-1 zone.

(20) Law Enforcement Helipad, provided that such helipads are sited and buffered to minimize impacts on surrounding properties. Written documentation of law enforcement helipad operations, including date and time of all landings and takeoffs, shall be maintained and made available upon request for public inspection.

(21) Major public open space as defined and administered pursuant to Chapter 5, Article 8, ROA 1994 of this code of ordinances.

(22) Open market. Signs as regulated in the C-1 zone.

(23) Ore reduction, smelting. Signs as regulated in the O-1 zone.

(24) Planned development area, including residential development and mobile home development, in which special use, height, area, setback, or other regulations should be imposed, provided the site contains at least three acres. Signs as permitted and regulated by the Planning Commission.

(25) Planned Residential Development (PRD), provided:

(a) Allowed uses include single-family houses, townhouses, apartments, associated accessory structures and home occupations as regulated by the R-1 zone. Residence/work spaces are allowed as approved by the Planning Commission. O-1 permissive and C-1 permissive uses may be allowed, up to 25% of the total gross floor area of the development, as approved by the Planning Commission.

(b) A Site Development Plan for Subdivision (§ 14-16-1-5(B)) is required for approval by the Planning Commission in conjunction with a zone map amendment and prior to building permit approval, with specific design requirements that include, but are not limited to: maximum and minimum number of dwelling units and/or density; maximum and minimum lot size(s); maximum building height; minimum building setbacks; architectural design standards, including but not limited to exterior wall materials and colors, roof materials and colors; placement of mechanical units; preliminary grading and drainage plan; landscape design standards; parking; site lighting; design of walls and fences visible from public rights-of-way; and pedestrian amenities.

(c) The PRD uses and development are compatible with adjacent properties, including public open spaces, public trails and existing neighborhoods and communities. The standards for compatibility shall include the design requirements in subsection (b).

(d) Upon approval of a Site Development Plan for Subdivision with design requirements by the Planning Commission, individual site plans for building permit may be submitted for building permit approved unless the Planning Commission specifies additional review.

(e) Signs as permitted and regulated by the Planning Commission.

(26) Public utility structure. Signs as regulated by the Planning Commission.

(27) Police Station. Signs as regulated in the O-1 zone.

(28) Race track. Signs as regulated in the C-2 zone.

(29) Stadium. Signs as regulated in the C-2 zone.

(30) Swimming pool. Signs as regulated in the O-1 zone.

(31) Transit facilities.

(32) Truck plaza.

(33) A concealed wireless tele-communications facility may be allowed in conjunction with an approved use, provided the requirements of § 14-16-3-17 are met.

(34) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(35) Use combinations not adequately allowed and controlled in other zones, relative to a specific site. Signs as permitted and regulated by the Planning Commission.

(36) Hospital for treatment of substance abusers.

(37) Form based zones (TOD-MAC, TOD-COM, MX, ID and PND), provided:

(a) The form based zones shall comply with the standards of § 14-16-3-22 Form Based Zones. The provisions of § 14-16-3-22 shall control where inconsistent with § 14-16-2-22.

(b) A site development plan for a form based zone is required for approval by the Planning Commission in conjunction with a zone map amendment and prior to building permit approval, with specific submittal requirements that include, but are not limited to:

1. An accurate site plan at a scale of at least 1 inch to 100 feet showing: building placement, parking location, street layout, lot layout, placement of mechanical equipment, lighting and signage, public amenities, walls, and required usable open space;

2. A preliminary grading plan;

3. A preliminary utility plan;

4. A landscape plan showing landscape areas, plant material, water harvesting areas; and

5. Building elevations demonstrating building types, frontage types, heights, fenestration, shading elements, articulation, ground story clear height.

(c) The form based zones shall meet the eligibility requirements set forth in § 14-16-3-22(B).

(d) Modifications to any of the standards of the (§ 14-16-3-22) Form Based Zones may be granted by the Environmental Planning Commission or other City Council designated approval body, as set forth in § 14-16-3-22(A)(6).

(C) ***Off-Street Parking.*** Off-street parking shall be provided as required by the Planning Commission.

(D) ***Height.*** The same regulations apply as in the R-2 zone unless modified by the Planning Commission.

(E) ***Open Space.*** If the SU-1 zone is mapped in an area not designated by the master plan as Redeveloping or Established Urban, 2,400 or more square feet of open space per dwelling shall be preserved. Of the total 2,400 square feet, the following minimum amounts shall be usable open space on the lot with the dwelling: 200 square feet for each efficiency or one-bedroom dwelling, 250 square feet for each two-bedroom dwelling, and 300 square feet for each dwelling containing three or more bedrooms. The remaining requirement may be met by the alternatives listed in § 14-16-3-8(A) of this Zoning Code.

(F) ***Variances.*** If the resolution approving SU-1 references the regulations of another zone or if the adopted site development plan specifically incorporates such regulations, the referenced zone regulations shall apply unless a variance is approved.

(G) Any special use that would allow the sale or dispensing of alcoholic drink for consumption off premises shall be subject to the restrictions set forth in the C-2 zone (§ 14-16-2-17 of this Zoning Code) for sales of alcoholic drink for consumption off premises except any retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers, is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994.

(H) ***Large Retail Facility Regulations.*** Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to special development regulations. The large retail facility regulations are provided in § 14-16-3-2 of the Zoning Code.

('74 Code, § 7-14-30) (Ord. 80-1975; Am. Ord. 48-1976; Am. Ord. 6-1977; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 68-1979; Am. Ord. 40-1980; Am. Ord. 49-1980; Am. Ord. 42-1981; Am. Ord. 14-1984; Am. Ord. 77-1984; Am. Ord. 11-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 45-1992; Am. Ord. 43-1994; Am. Ord. 8-1995; Am. Ord. 58-1995; Am. Ord. 17-1997; Am. Ord. 33-1997; Am. Ord. 9-1999; Am. Ord. 8-2000; Am. Ord. 35-2000; Am. Ord. 11-2002; Am. Ord. 50-2002; Am. Ord. 48-2003; Am. Ord. 16-2004; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 30-2005; Am. Ord. 23-2007; Am. Ord. 5-2008; Am. Ord. 7-2008; Am. Ord. 9-2009; Am. Ord. 19-2010)

§ 14-16-2-23 SU-2 SPECIAL NEIGHBORHOOD ZONE.

This zone allows a mixture of uses controlled by a Sector Development Plan which specifies new development and redevelopment which is appropriate to a given neighborhood, when other zones are inadequate to address special needs.

(A) ***Permissive Uses and Control.*** Any use specified by a duly adopted Sector Development Plan for a given location is permitted. Specifications contained in the Sector Development Plan shall control. However, if a matter controlled in the RC zone is not mentioned in the plan, then the provisions of the RC zone shall be applicable.

(B) ***Procedure.*** Procedure, in addition to that specified in § 14-16-4-3 of this Zoning Code, shall be as follows:

(1) An application for SU-2 shall include a proposed Sector Development Plan.

(2) If the application or decision would impose or eliminate SU-2 zoning or amend an SU-2 Sector Development Plan for an area over one block or for any City-owned property that has primarily been used for a municipal purpose, including parks or properties that contains a structure such as a fire station, police substation, community center, or other facility out of which a City service has been provided, and been deemed non-essential for municipal purposes, the City Council shall have the authority to amend the plan and zoning map. City Council approval is not required when establishing or changing the zoning of excess rights-of-way that have been vacated. The City Council shall follow the procedures of § 14-16-4-1(C). The Council shall hear the zone change and the Sector Development Plan or plan amendments simultaneously. The zone shall not be approved without approving a Sector Development Plan.

(3) If the application or decision would amend an SU-2 Sector Development Plan for an area of one block or less, the Planning Commission shall have the authority to amend the plan and zoning map, except as provided in §14-16-2-23(B)(2) above. The Planning Commission shall follow the procedures of § 14-16-4-1(C).

(C) ***Appropriateness.*** The SU-2 zone is appropriate to map where it is applied to an entire neighborhood or a major segment of a neighborhood, which area meets at least one of the following criteria:

(1) The area is developed such that the requirements of other available zones do not promote the conservation of special neighborhood characteristics which the city desires to preserve;

(2) The area has developed or should develop with a pattern of mixed land uses, which will need careful control and coordination of development at a sub-area scale in order to insure a desirable inter-mixture of uses;

(3) There are factors which substantially impair or arrest the sound growth and economic health and well-being of the area, or the area constitutes an economic or social burden and is a menace to the public health, safety, or welfare in its present condition and use, and as regulated by zoning; or

(4) The area is particularly appropriate for development, on a pilot basis or otherwise, for residential construction under special regulations designed to make housing more affordable; the City Council shall make a specific finding if the SU-2 zoning is based upon this criterion. Such a Sector Development Plan may authorize variances to the requirements of the

Subdivision Regulations and § 6-5-7-1 et seq., Sidewalks, as they relate to the Sector Plan area. This division (4) shall terminate and be repealed effective January 1, 1993; variances granted under the terms of this division (4) shall remain in force for the duration provided in the specific variance.

(D) ***Large Retail Facility Regulations.*** Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to the special development regulations for large retail facilities as provided in § 14-16-3-2 of the Zoning Code unless the site is governed by a Rank III Plan that contains design regulations or other similar standards applicable to retail development, as determined by the Planning Director, then the regulations of the Rank III Plan shall apply.

('74 Code, § 7-14-31) (Ord. 80-1975; Am. Ord. 45-1977; Am. Ord. 7-1981; Am. Ord. 78-1986; Am. Ord. 14-1989; Am. Ord. 23-2007; Am. Ord. 7-2008; Am. Ord. 2012-036)

§ 14-16-2-24 SU-3 SPECIAL CENTER ZONE.

This zone allows a variety of uses controlled by a plan which tailors development to an Urban Center; these include centers of employment, institutional uses, commerce, and high density dwelling.

(A) ***Control.*** Any use consistent with the master plan and specified by a duly adopted Sector Development Plan is permitted. Specifications contained in the Sector Development Plan shall control. However, if a matter controlled in the R-3 or C-2 zones is not mentioned in the Sector Development Plan, then the provisions of the R-3 zone shall be applicable for residential uses and the provisions of the C-2 zone shall be applicable for nonresidential uses.

(B) ***Procedure for Total Urban Center.*** Procedure for the total Urban Center, in addition to that specified in § 14-16-4-3 of this Zoning Code, shall be as follows:

(1) An application for SU-3 shall include a proposed Sector Development Plan.

(2) The City Council or other approval body shall follow the procedures of § 14-16-4-1(C). The zone shall not be approved without approving a Sector Development Plan.

(C) ***Procedure for Individual Premises within the Total Urban Center.*** All uses and structures must have a Site Development Plan and, if relevant, a Landscaping Plan, each approved by the Planning Director.

(1) These shall be approved only when they are consistent with the Sector Development Plan.

(2) The Planning Director or a designee may approve site plans for park-and-ride temporary facilities.

(D) ***Open Space.*** The amount of open space required per dwelling and the alternatives for satisfying the requirement shall be stated in the Sector Development Plan for each SU-3 zone mapped in an area not designated by the master plan as Redeveloping or Established Urban.

(E) ***Large Retail Facility Regulations.*** Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to the special development regulations for large retail facilities as provided in § 14-16-3-2 of the Zoning Code unless the site is governed by a Rank III Plan that contains design regulations or other similar standards applicable to retail development, as determined by the Planning Director, then the regulations of the Rank III Plan shall apply.

('74 Code, § 7-14-32) (Ord. 80-1975; Am. Ord. 77-1984; Am. Ord. 12-1990; Am. Ord. 58-1995; Am. Ord. 23-2007; Am. Ord. 19-2010; Am. Ord. 2012-036)

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§ 14-16-2-25 H-1 HISTORIC OLD TOWN ZONE.

This zone endeavors to preserve and promote the educational, cultural, and general welfare of the public through the preservation and protection of the traditional architectural character of historic old Albuquerque.

(A) Architectural Styles. The City Council finds and declares that the Spanish Colonial, Territorial, or Western Victorian architectural styles of building and structures erected prior to 1912 in the area now constituted as the State of New Mexico comprise the traditional architectural character of the H-1 Historic Old Town Zone.

(B) Permissive Uses.

(1) Uses permissive in the R-2 zone, except wireless telecommunications facilities.

(2) Institution.

(a) Church or other place of worship, including incidental recreational and educational facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Club.

(c) Library.

(d) Museum.

(e) Wedding chapel, including related sales and services, but excluding receptions.

(3) Manufacturing and creating, through handcrafted methods, of arts and crafts objects, including furniture and cabinets.

(4) Office.

(5) Parking lot, as regulated in the O-1 zone and meeting the landscaping standards of § 14-16-3-10 of this Zoning Code, with the following additional provisions:

(a) At least 15% of the ground area of parking lots (including driveways) shall be devoted to landscaping.

(b) Additional provisions adopted by the Landmarks and Urban Conservation Commission for the H-1 Historic Old Town Zone, including the requirements of the Rio Grande Boulevard Corridor Plan regarding off-street parking areas, shall also apply to parking lots.

(c) Any existing parking lots must come into compliance with landscaping and other site development requirements within one year of the date of adoption of these requirements.

(d) Landscaping plans showing all parking lot improvements must be reviewed and approved by the Landmarks and Urban Conservation Commission.

(6) Retail sales of the following goods, plus incidental retailing of related goods and incidental services or repair, either indoors or outdoors, provided that any outdoor retail activity except parking and retail activities listed below at (6)(i), (l), (m), (n), (o) and (p), is contained within a private patio or porch that is completely enclosed by a solid wall that is a minimum of six feet in height and the interior of which is not directly visible or accessible to the general public other than by the main entrance of the business:

(a) Alcoholic drinks for consumption on the premises, provided:

1. At least 60% of revenue from the establishment is from food service excluding the sale of alcoholic liquors. Upon application for annual license renewal to the State Department of Alcoholic Beverage Control the license holder shall certify to the City that not less than 60% of gross sales from the preceding 12 months operation of the establishment is derived from food services. The license holder shall submit an annual report prepared and signed by a Certified Public Accountant to the City Treasurer on the sales of the establishment containing the annual gross sales figures, separating the gross sales figures into two categories:

a. Food services sales; and

b. Alcoholic liquors sales.

2. Alcoholic liquors may be served and consumed either indoors or outdoors, but only at a table or booth in conjunction with ordering and consuming a full service meal and only as further restricted below. For the purpose of this Zoning Code, the term FULL SERVICE MEAL shall constitute what one would normally consume as a meal. No consumption of alcoholic liquors shall be allowed in a lounge or waiting area. Outdoor service and consumption of alcohol shall only occur within areas enclosed by permanent rigid screening that is a minimum of three feet in height and which clearly demarcates the area in which alcohol is being served or consumed as separated from public areas.

a. Alcoholic liquor may be served and consumed outdoors only if the alcoholic liquors have been stored and prepared indoors, and only when such consumption of alcoholic liquors would not be injurious to any adjacent property or the Historic Old Town Area.

b. The determination of lack of injury shall be made by that City Hearing Officer defined at § 13-2-2 ROA 1994.

3. No alcoholic liquors shall be sold before 11:00 a.m. All sales of alcoholic liquors shall cease at the time food sales and service in the establishment cease, except that in no event shall alcoholic liquors be sold after 11:00 p.m.

4. No sign in the H-1 zone shall refer to the serving of alcoholic liquors except by the use of the word “drinks.”

(b) Antiques.

(c) Arts and crafts objects, supplies, plus their incidental creation provided there is little or no reproduction of identical objects.

(d) Bicycles and bicycling accessories

(e) Books, magazines, newspapers, stationery, except adult book store.

(f) Clothing, shoes, dry goods.

(g) Cosmetics, notions, hobby supplies.

(h) Flowers and plants.

(i) Food and non-alcoholic drink for consumption on premises or off, but not drive-in facility; on-premises consumption may be outdoors if the food and non-alcoholic drinks have been prepared indoors.

(j) Furniture, household furnishings.

(k) Jewelry.

(l) Outdoor sales and related display of "handcrafted items" (as defined in § 13-3-2-4) provided the installation is on specified portions of the public sidewalk including porch along the east side of San Felipe Street, N.W., as permitted by Chapter 13, Article 3, Part 2, Old Town Solicitations.

(m) Outdoor sales and related display on public right of way for the San Felipe de Neri Fiesta (traditionally the first weekend in June) are not restricted by this Zoning Code.

(n) Other retail sales at special events as defined in § 13-3-2-4 of the City Code.

(o) Limited outdoor demonstrations of retail goods, provided:

1. An outdoor demonstration is limited to a person demonstrating the creation retail goods that are handcrafted (as defined in § 13-3-2-4), the use of tables or other functional items associated with the demonstration and the display of items created on the day of the demonstration; and

2. An outdoor demonstration is limited to an outdoor area on the private premises of the indoor business space; and

3. A demonstration shall not be conducted on or obstruct the public right-of-way; and

4. A demonstration shall not obstruct any entrance to a business space; and

5. All sales shall be conducted entirely indoors within the business space; and

6. A demonstration of retail goods shall be limited to one demonstration on a premises at any given time; and

7. A demonstration may include a sign noting the name of the demonstrator and not to exceed three square feet in area.

(p) Limited outdoor display of retail goods in accordance with section (o)(2 through 6) above and further provided;

1. The display of retail goods on tables, cases, racks, kiosks, boards, or blankets is prohibited; and

2. The display of retail goods on second story railings is prohibited; and

3. The area of any one surface of an individual item displayed shall not be smaller than six inches by six inches; and

4. The area of any one surface of an individual item or the total (cumulative) surface area of more than one item displayed by any one business shall not be greater than 15 square feet; and

5. Any alteration to the exterior of any structure in association with outdoor display is subject to a Certificate of Appropriateness as set forth in the provisions for the H-1 Zone.

6. This subsection shall not apply to special use permits for outdoor retailing as set forth in the H-1 Zone provisions; and

7. The display of chili ristras is not restricted by this Zoning Code. For the purpose of this subsection, a CHILI RISTRA is defined as a string or cord on which natural, unadorned chile peppers (Capsicum annuum) are threaded or tied.

(7) Services.

(a) Barber, beauty.

(b) Bicycle rental and related service (maintenance and minor repairs) and storage, provided there is no outdoor activity, including service, display or storage except as provided in § 14-16-2-25(B)(6) of this Zoning Code.

(c) Day care center.

(d) Hotel, motel.

(e) Instruction in music, dance, fine arts, or crafts.

(f) Interior decorating.

(g) Photographer's studio, except adult photo studio.

(h) Tailoring, dressmaking.

(i) Theater, except adult theater.

(j) Outdoor theatrical performances under such terms and conditions as authorized by the Mayor or his designee.

(k) Persons engaged in a street performance as defined at § 12-2-28(C) ROA 1994. Exception: Street performances shall not be permitted in the Old Town Plaza Park or the streets immediately surrounding the Old Town Plaza including the sidewalks on both sides of the streets and the sidewalk occupied by the Old Town Portal Market, whether or not vendors are present.

(8) Sign, off-premise, as provided in § 14-16-3-5 of this Zoning Code, as provided in the H-1 specific development guidelines which may be adopted, and further provided:

(a) Location. No farther than 20 feet from:

1. The intersection point of the public right-of-way lines of two streets or alleys; or

2. The intersection of public right-of-way and a parking lot with over 20 automobile and light truck parking spaces.

(b) Size. The sign area relating to any one business shall not exceed one-half square foot.

(c) Height. Sign height shall not exceed ten feet.

(d) Illumination. No sign that flashes or blinks shall be permitted. No visible bulbs, neon tubing, luminous paint, or plastics (with the exception of vinyl lettering) shall be permitted as part of any sign.

(e) Motion. No sign shall move. No streamers shall be permitted.

(f) Lettering. No business sign shall have more than one style of lettering as specified by the H-1 specific development guidelines and filed at the Planning Division. A sign shall not have more than two colors. No character shall be over 1.5 inches high.

(9) Sign, on-premise, as in § 14-16-3-5 of this Zoning Code as provided in the H-1 specific development guidelines which may be adopted and further provided:

(a) Location.

1. All signs attached to a structure fronting on Old Town Plaza or within a 150 foot radius of the exterior boundaries of the Plaza Park shall be wall signs or canopy signs.

2. Business not fronting on Old Town Plaza and not within a 150 foot radius of the exterior boundaries of the Plaza Park may have free-standing or projecting signs, provided the Planning Director finds such sign type and plan reasonable and necessary for visibility.

(b) Number. No more than two signs are permitted for any one business except that a business having frontage on two or more streets will be allowed a total of three signs. A composite group of small signs integrated into one framed unit shall be considered as one sign.

(c) Size.

1. No wall sign's area shall exceed eight square feet except that a wall sign on a facade abutting an arterial or collector street or a wall sign on a front facade that is wholly visible from an arterial street shall not exceed 16 square feet.

2. No non-wall sign's area shall exceed three square feet on each of one or two sides.

(d) Height. No sign shall exceed the height of the facade, eaves, or fire wall of a building, whichever is lower. Variance to this regulation may be approved with a minimal showing of exceptionality based on its appropriateness as determined by the Landmarks and Urban Conservation Commission.

(e) Illumination. No sign that flashes or blinks shall be permitted. No visible bulbs, neon tubing, luminous paints, or plastics (with the exception of vinyl lettering) shall be permitted as part of any sign.

(f) Motion. No sign shall move. No streamer shall be permitted.

(g) Exceptions.

1. Standard copyrighted signs offering information on incidental services or recommendations, e.g., AAA or Visa, are permitted in addition to normal sign allowances, provided:

   a. They conform to all provisions contained in this section.

   b. They are inside a window.

   c. No sign's area shall exceed 16 square inches.

2. Non-internally lit signs indicating "open" and "closed" are permitted in addition to normal sign allowances if they are less than 1.5 square feet in area.

3. Premises with two or more buildings, at least one of which does not front directly on the public right-of-way, are permitted an additional sign indicating the name and address of the complex and listing individual businesses located within the complex. Sign height shall not exceed ten feet above grade. The sign area relating to any one business shall not exceed one-half square foot, plus 20% of the area of the sign relating to individual businesses may be used for the name and address of the general premises. The total sign area shall in no case exceed 20 square feet. Only wall signs or free-standing signs are permitted; free-standing signs cannot be located closer than 150 feet to the exterior boundaries of the Plaza Park. Additional signs in this category may be approved by the Landmarks and Urban Conservation Commission for premises with more than one entry from the public right-of-way or adjacent property where the Commission determines that there is not reasonable public notice of businesses on the premises without such additional signs. On-premises signs performing the function described here may be allowed with fewer restrictions if they are one of the two or three signs that each business is allowed in all cases.

4. Restaurants serving food prepared on premises for consumption on or off premises are permitted an additional wall sign of up to six square feet displaying a restaurant menu and indicating the name and hours of operation of the restaurant. This new language increases the space allowed for the display of menus.

5. General information signs that describe the availability of certain amenities such as shopping, dining, parking, snacking and restrooms are allowed. Such signs shall not have any direct reference to any business. Such signs may be placed at various strategic places around Old Town on city owned property. Such general information signs would be placed by the city and then maintained by the Old Town Merchants Association.

6. A sign in association with an outdoor demonstration as provided in subsection (o)(7) above.

(C) Conditional Uses.

(1) Outdoor display of retail goods exceeding an area of 15 square feet on any one surface.

(D) Specific Development Guidelines. The Landmarks and Urban Conservation Commission shall with all due speed approve specific development guidelines for the H-1 zone at a public meeting duly advertised and publicized area-wide. The specific development guidelines shall establish criteria and standards for evaluation of applications for Certificates of Appropriateness in the H-1 zone and shall specify the types of applications for a Certificate of Appropriateness which may be approved by the Planning Director. The specific development guidelines shall be consistent with the provisions of this Zoning Code. The guidelines may be amended by the Landmarks and Urban Conservation Commission at a public hearing duly advertised and publicized area-wide at any time. Specific development guidelines shall be adopted or amended only after receiving a recommendation on the proposal from the Planning Commission.

(E) Special Approval Required.

(1) Any construction, modification, addition, alteration, moving, or destruction which would affect the exterior appearance of any structure or place in the H-1 zone requires a Certificate of Appropriateness which must be approved by the Landmarks and Urban Conservation Commission.

(2) A Certificate of Appropriateness shall also be required for any construction, modification, addition, alteration, moving, or destruction which would affect the exterior appearance of any structure or place within 300 feet of the H-1 zone excluding public right of way. However, land zoned R-1 is excluded from this requirement. Procedures for applications for Certificates of Appropriateness shall be the same as those established by Chapter 14, Article 12, Landmarks and Urban Conservation, for HO Historic Overlay Zones. The applications shall be evaluated according to the criteria established by Chapter 14, Article 12, Landmarks and Urban Conservation, and the standards for architectural style and visual character in the H-1 Historic Zone. This requirement shall apply until such time as the HO Historic Overlay Zone has been applied to the area around the H-1 zone. Thereafter, the requirements for the HO Historic Overlay Zone shall apply and the boundaries shall be as established by the HO Historic Overlay Zone.

(3) Approval of Certificates of Appropriateness shall be by the Landmarks and Urban Conservation Commission unless the adopted special development guidelines authorize the Planning Director to make the decision.

(F) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code. However, the Landmarks and Urban Conservation Commission may require lower structure height where such is found appropriate to the scale of the immediate area.

(G) Lot Size. No requirements.

(H) Setback. The Landmarks and Urban Conservation Commission may require setbacks up to but not exceeding those specified in the R-1 zone where such are found important to the scale and character of the immediate area.

(I) Density. A floor area ratio of 0.75 is the maximum permitted.

(J) Off-Street Parking. None, except one properly paved off-street loading space of at least 9 by 25 feet shall be provided for every commercially-used premises; however, such parking space is required only to the extent on-premise ground space is available.

(K) Special Use Permits for Outdoor Retailing.

(1) Special use permits for outdoor retailing on land other than public right of way may be granted. The provisions of § 14-16-4-2 of this Zoning Code govern the process of approving or voiding such special use permits, with the exception of the identity of the decision maker and the criteria for decision, which are as provided below in this division (J).

(2) The Landmarks and Urban Conservation Commission holds the hearing and makes the decision on granting a special use permit for outdoor retailing. The Commission may impose conditions necessary to meet the stated criteria for granting special use permits.

(3) Criteria for decision are that a special use permit for outdoor retailing shall be approved if and only if, in the circumstances of the particular case and under the conditions of the Certificate of Appropriateness, the outdoor retailing is found to meet all the following criteria:

(a) It is restricted to outdoor sales and display of "handcrafted items" (as defined in § 13-3-2-4) and non-mass-produced bread;

(b) It is at a historically validated location, as evidenced by its having been occupied by outdoor retailing on most summer days since July 1, 1973; the space of the retailing activity shall be no larger than has generally been used during this period, and may be restricted to a smaller space;

(c) The appearance of the outdoor retailing shall be controlled by a Certificate of Appropriateness approved at the same time the special use permit is granted, or as such certificate may subsequently be amended; and

(d) The retailing will not be injurious to the adjacent property and uses or to the historic Old Town area.

('74 Code, § 7-14-33) (Ord. 80-1975; Am. Ord. 26-1977; Am. Ord. 21-1978; Am. Ord. 22-1980; Am. Ord. 69-1980; Am. Ord. 70-1980; Am. Ord. 68-1983; Am. Ord. 104-1983; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 40-1990; Am. Ord. 10-1992; Am. Ord. 47-1993; Am. Ord. 36-1995; Am. Ord. 5-1997; Am. Ord. 9-1999; Am. Ord. 21-2006; Am. Ord. 31-2007; Am. Ord. 38-2007; Am. Ord. 19-2010; Am. Ord. 24-2011)

§ 14-16-2-26 P PARKING ZONE.

This zone provides sites suitable for parking of automotive vehicles.

(A) Permissive Uses.

(1) Off-street parking, including solid waste refuse and/or recycling containers and related enclosures and equipment for the purpose of the containers and required screening as described in the Solid Waste Ordinance, § 9-10-1-7, when such parcel services a building use within 300 feet, as is intended by the Zoning Code.

(2) Parking lot, as regulated in the O-1 zone, except the solid walls or fences shall be as approved by the Planning Commission; the Planning Commission may also require landscaping.

(3) One sign for identification per street frontage, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Size, Height. The sign area does not exceed 20 square feet nor the sign height exceed 15 feet.

(b) Illumination. The sign may be illuminated, but only by a non-oscillating concealed light source.

(B) Conditional Use. An additional structure which is reasonable and necessary for the function of the parking lot or for the convenience of patrons, such as attendant shelter, telephone booth, or rest rooms.

(C) Lot Size. No requirements.

('74 Code, § 7-14-34) (Ord. 80-1975; Am. Ord. 17-2010)

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§ 14-16-2-27 P-R RESERVE PARKING ZONE.

This zone designates lots reserved for off-street parking required by § 14-16-3-1 of this Zoning Code with regard to a use on another lot.

(A) All regulations of the P zone apply.

(B) Hereafter the PR zone satisfies the required off-street requirements of one or more other lots only when such lots are specified in the resolution or motion adopting or amending the PR designation.

('74 Code, § 7-14-35) (Ord. 80-1975; Am. Ord. 38-1978; Am. Ord. 17-2010)

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§ 14-16-2-28 OVERLAY ZONES.

The following overlay zones apply to areas where they are mapped in addition to the provisions of another zone. Where the provisions of overlay zones conflict with the provisions of another section of this Zoning Code, the provisions of the overlay zone shall prevail.

(A) WO Wall Overlay Zone.

(1) General. The overlay zone may be considered for land placed in any residential zone where, due to special planning considerations or external influences, high walls or fences are reasonable and proper even in the front yard.

(2) Control. Front yard wall and fence heights shall be set by the Planning Commission; maximum height in feet shall be stated in the resolution and on the zone map: e.g., R-1/WO-4. However, no wall or fence shall violate the clear sight triangle nor shall a wall or fence over three feet high be closer than 11 feet to the junction of a driveway and a public sidewalk or planned public sidewalk location. All wall designs must comply with requirements of § 14-16-3-19, except for height regulations as determined by the Planning Commission.

(3) Procedures. The wall overlay zone is mapped through the regular rezoning process.

(B) HO Historic Overlay Zone.

(1) General. This overlay zone may be used in any area which is suitable for preservation and which has historical, architectural or cultural significance, and which in addition:

(a) Embodies the distinctive characteristics of a type, period, or method of construction;

(b) Portrays the environment of a group of people in an era of history characterized by a distinctive architectural type;

(c) Has yielded, or is likely to yield, information important in history or prehistory;

(d) Possesses high artistic values; or

(e) Has a relationship to designated landmarks or a historic zone which makes the area's preservation critical.

(2) Controls and procedures shall be prescribed in division (D) of this section.

(C) UCO Urban Conservation Overlay Zone.

(1) General. This overlay zone may be used for areas which have distinctive characteristics that are worthy of conservation but which lack sufficient historical, architectural, or cultural significance to qualify as historic areas, and which, in addition:

(a) Have recognized neighborhood identity and character;

(b) Have high artistic value;

(c) Have a relationship to urban centers or historic zones which makes the area's conservation critical; or

(d) Are located outside of the Redeveloping Area and are subject to blighting influences.

(2) Controls and procedures shall be as proscribed in division (D) of this section.

(D) Controls and procedures in the HO Historic and UCO Urban Conservation Overlay Zones.

(1) Control. The area's distinctive characteristics and general preservation guidelines for the area shall be identified by the City Council in the resolution applying the Historic or Urban Conservation Overlay Zone to any given area. Specific development guidelines for each Overlay Zone area shall be adopted by the Landmarks and Urban Conservation Commission. Any construction, alteration, or demolition which would affect the exterior appearance of any structure within said Overlay Zone shall not be undertaken until a Certificate of Appropriateness has been approved by the Landmarks and Urban Conservation Commission. Provided, however, that the adopted specific development guidelines may exempt specific structures and types of construction, alteration or demolition from the requirement for a Certificate of Appropriateness or may provide for City staff approval in lieu of Landmarks and Urban Conservation Commission approval. Procedures relating to the issuance of a Certificate of Appropriateness are prescribed in Chapter 14, Article 12, Landmarks and Urban Conservation.

(2) Procedures. The HO Historic or UCO Urban Conservation Overlay Zones are mapped through the regular zone map amendment procedures as provided in § 14-16-4-1 of this Zoning Code, except that:

(a) An application for the UCO Urban Conservation Overlay Zone or an application for amendment to the boundaries or the criteria adopted by the Council as to an existing UCO Urban Conservation Overlay Zone can only be submitted by property owners in the area. Fifty-one percent of the property owners in the area covered by the application for a UCO Urban Conservation Overlay Zone must agree in writing to the application before it is submitted.

(b) The Landmarks and Urban Conservation Commission shall conduct the public hearing on the application. The notice requirements shall be the same as those prescribed for Planning Commission hearings on zone map amendments. On the basis of plans, policies and ordinances, adopted by the City Council, the Landmarks and Urban Conservation Commission may recommend approval or amendment of the application, or it may deny the application; and

(c) If the Landmarks and Urban Conservation Commission recommends approval or amendment, the application shall be transmitted to the Planning Commission for review. The Planning Commission shall only conduct a public hearing on the application if new relevant events have occurred since the Landmarks and Urban Conservation Commission hearing or if the Planning Commission concludes that a public hearing is necessary to carry out the intent of the Zoning Code. The Planning Commission shall forward the application to the City Council with the Landmarks and Urban Conservation Commission's recommendations and the Planning Commission's evaluation; and

(d) Only the City Council is authorized to approve any HO Historic or UCO Urban Conservation Overlay Zone map change. The City Council shall officially identify the area's distinctive characteristics which are to be preserved and provide general preservation guidelines in the resolution applying the overlay zone to any given area. The City Council may approve, amend or reject the Landmarks and Urban Conservation Commission's recommendations or the Planning Commission's evaluation. The City Council may amend or rescind any HO Historic or UCO Urban Conservation Overlay Zone it has granted; and

(e) Notice of the time and place of the public hearing conducted by the Council committee on the overlay zone change resolution shall be contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, and the requested zoning, and the place where copies of the application may be examined. Mailed notice of the City Council hearing may be provided to people who indicated interest at the Landmarks and Urban Conservation Commission hearing; and

(f) Within 60 days after an Historic or Urban Conservation Overlay Zone change has been approved, the Landmarks and Urban Conservation Commission shall approve specific development guidelines for the area. The specific development guidelines shall be consistent with the resolution approved by the City Council. The Landmarks and Urban Conservation Commission may amend the guidelines at a public hearing.

(E) AP Airport Protection Overlay Zones.

(1) These overlay zones are appropriate to be used in the vicinity of airports. They are particularly appropriate for essentially undeveloped land. The purpose of these overlay zones is to encourage land use patterns that will separate uncontrollable noise sources from residential and other noise-sensitive areas and to facilitate the orderly development of areas around airports.

(2) The boundaries of the following overlay zones shall be based on expected airport area intermittent noise levels, based on averaged ambient conditions and existing and projected aircraft operations. The effect of noise generated by any other specific land use is not reflected in the Ldn contours which are used to establish the overlay zone boundaries.

(3) AP-1.

(a) The AP-1 Airport Protection Over-lay Zone may be mapped in areas which, due to the operation of aircraft, the noise rating is more than 75 Ldn.

(b) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:

1. Agriculture including incidental nonresidential facilities, except mink and poultry production.

2. Fishing.

3. Mining.

4. Open Space.

5. Parking of vehicles.

6. Transportation routes, including roads, rail lines, and plane runways or taxiways.

(4) AP-2.

(a) The AP-2 Airport Protection Overlay Zone may be mapped in areas in which, due to the landing or takeoff of aircraft, the noise rating is over 65 and not more than 75 Ldn.

(b) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:

1. Uses allowed in the AP-1 overlay zone.

2. Cemetery.

3. Commercial activity (including manufacturing, transportation facilities, retailing, services, utilities, warehousing and wholesaling) except:

a. Outdoor theaters and stadiums are not permissive.

b. Hotels and motels are permitted only if:

i. Construction techniques provide ten decibels extra noise reduction over the industry average for similar structures; certification of such reduction by a qualified architect, or structural engineer registered in the State of New Mexico shall be presented to show compliance; and

ii. Airport hazard insurance is available to said establishments.

(5) Conditional Uses. Any permissive use or conditional use allowed by the underlying zone and not permissive in the overlay zone, provided that due to the particular nature of the use or the special character of the enclosing structure it is clear that:

(a) The use will not be adversely affected by noise expected to be generated by operation of aircraft; or

(b) A small amount of adverse effect from the noise expected to be generated by operation of aircraft is clearly outweighed by a special need for the use at the site proposed.

(F) DO Design Overlay Zone.

(1) General. This overlay zone may be used for areas which deserve special design guidance but do not require complete design control of development; areas so zoned shall be at least 320 acres or they may be of any size specified by a controlling Rank Three Sector or Neighborhood Development Plan. This overlay zone shall meet at least two of the following three conditions:

(a) Contain highly scenic natural features or physical setting, or have highly significant views.

(b) Have development potential which is likely to require unusually complex coordination of floor control, transportation, open space, and urban land uses.

(c) Have a strong role in the development of the form of the metropolitan area: arterial street corridors or critical areas near urban centers or historic zones.

(2) Control. Design regulations, which control specified critical design aspects of the area, shall be adopted by the City Council in the resolution applying the Design Overlay Zone to any given area. Such regulations shall be as specific as possible so that developers and designers will have a clear indication as to what development designs are acceptable. These regulations will address specified design criteria; total design control of development is not intended. Any construction or alteration of buildings or sites which would affect the exterior

appearance of any lot within the overlay zone shall be consistent with the adopted regulations. However, building demolition shall not be controlled by the regulations.

(3) Advisory Design Guidelines. The City Council, the Planning Commission, or the Planning Director may promulgate advisory design guidelines to supplement the design regulations. Such guidelines need not necessarily be followed by developers, but their observance is suggested in order that development might fully achieve the design potential of the area.

(4) Procedure for Individual Premises. Required design review and approval shall be by the Planning Director. Approval as to compliance with the adopted design regulations shall be certified by signature.

('74 Code, § 7-14-39) (Ord. 80-1975; Am. Ord. 21-1978; Am. Ord. 65-1979; Am. Ord. 23-1984; Am. Ord. 21-1989; Am. Ord. 86-1989; Am. Ord. 29-2004)

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PART 3: GENERAL REGULATIONS

Editor's note: Sections 14-16-3-1 through 14-16-3-15 of this article were originally codified as one section (i.e., § 7-14-40) in the Zoning Code set forth in the 1974 Revised Code of Ordinances. In the current edition of the code, the subsections of the General Regulations section have been upgraded into separate sections for the convenience of the code user and to aid in supplementing amendments to the Zoning Code. The ordinance history affecting all sections of § 7-14-40 ROA 1974 appears at the end of § 14-16-3-15.

§ 14-16-3-1 OFF-STREET PARKING REGULATIONS.

An applicant for a building permit for construction of a new building or building addition of 200 square feet or more shall provide parking in accordance with the general requirements of this section. In addition, new buildings and building additions over 2500 square feet constructed after November 1, 2002 shall also be required to comply with all parking design requirements set forth in this section. In zones where off-street parking is required, off-street parking shall be provided for all uses and buildings, except buildings constructed before October 22, 1965 need supply such parking only to the extent on-premise ground space is available.

(A) Parking spaces for automobiles and light trucks shall be provided on-site or on a site zoned P-R within 300 feet of the use, measured along the shortest public right-of-way, as follows. However, if a use is covered by a duly approved development plan, any different parking requirement of that plan shall apply.

(1) Boarding or lodging house: one space for each two guest rooms.

(2) Bowling alley: four spaces for each alley or lane.

(3) Church or other place of worship: one space for each four seats in main room (each 30 inches of pew space is considered one seat).

(4) Club in a separate structure: one space for each five members.

(5) Club not in a separate structure: one space for each 200 square feet of net leasable area.

(6) Community residential corrections program: two spaces per employee on the largest shift; however, a different requirement may be applied as part of conditional use approval, based on the needs of the specific operation.

(7) Community residential program other than community residential corrections program: one space plus one space per four clients or fraction thereof; however, a different requirement may be applied as part of conditional use approval, based on the needs of the specific operation.

(8) Dance hall, skating rink: one space per three persons of permitted fire occupancy load.

(9) Day care center: two spaces plus one additional space for each 500 square feet of net leasable area.

(10) Dormitory, fraternity or sorority house: one space for each three persons in residence.

(11) Emergency shelter: seven spaces; however, a different requirement may be applied as part of conditional use approval, based on the needs of the specific operation.

(12) Exercise or health club: one space per three persons of permitted fire occupancy load.

(13) Flea market, outside: one space for each 200 square feet of stall space and customer circulation area.

(14) Greenhouse or lath-house (retail): one space for each 400 square feet of net leasable area.

(15) Home occupation: no additional spaces.

(16) Hospital, convalescent or nursing home: one space for each two beds.

(17) Manufacturing and wholesaling: one space for each three employees on the largest shift or one space per 1,000 square feet of net leasable area, whichever requirement is greater.

(18) Medical or dental office, clinic: five spaces for each doctor.

(19) Mobile home: two spaces for each mobile home.

(20) Motel or hotel: one space for each rental unit.

(21) Offices: one space per 200 square feet of net leasable area on the ground floor and one space per 300 square feet of net leasable area in the basement areas and on all floors above the ground floor.

(22) Public assembly place, such as auditorium, mortuary, sports arena, stadium, or theater: one space for each four seats (each 30 inches of bench space is considered one seat).

(23) Recreation, outdoor: one space per 200 square feet of site where customers circulate, participate in, or watch the recreation.

(24) Residential use, except community residential program and emergency shelter, which have separate parking listings under this division (A):

(a) For each dwelling not covered by another item of this division (24): one space per bath but not less than two spaces.

(b) For each dwelling with net leasable area of less than 1,000 square feet and which is not covered by either divisions (c) or (b) of this division (24): one space per bath but not less than one and one-half spaces.

(c) Vehicle parking and maneuvering areas in the front yard setback area shall be either a dust free surface consisting of concrete, cement, brick, or sealed aggregate pavement; or three inches of crushed rock or crusher fines over a four inch compacted subgrade.

(d) For each house or townhouse on a lot designated with the suffix "p1" on the subdivision plat (on streets classified for Intermittent Parking as provided in the Subdivision Regulations set forth in Chapter 14, Article 14 of this code):

1. Three spaces if the dwelling has up to two bedrooms; or

2. Four spaces if the dwelling has three or four bedrooms; or

3. Five spaces if the dwelling has five or more bedrooms.

(e) For each house or townhouse, on lots designated with the suffix "p2" on the subdivision plat (on streets classified for Infrequent Parking as provided in the Subdivision Regulations set forth in Chapter 14, Article 14 of this code):

1. Four spaces if the dwelling has up to two bedrooms; or

2. Five spaces if the dwelling has three or four bedrooms; or

3. Six spaces if the dwelling has five or more bedrooms.

(f) Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited.

(25) Residential use - apartment in the R-4 zone: for each dwelling unit, one space per bath but not less than one and one-fourth spaces.

(26) Restaurant, bar: one space for each four seats for establishments without a full service liquor license; otherwise one space per three persons of permitted fire occupancy load.

(27) Retail and service uses unless otherwise specified in this section: one space per 200 square feet for the first 15,000 square feet of net leasable area; then, one space per 250 square feet for the next 45,000 square feet of net leasable area; then, one space per 300 square feet for the net leasable area that exceeds 60,000 square feet.

(28) School - elementary and middle: one space for each employee.

(29) School - high: one space for each four seats in the main auditorium or three spaces for each classroom, whichever is greater.

(30) School - private commercial and private trade: one space for each two seats, or to the extent that seats are not provided, one space for each two student and employee stations.

(31) Warehouse: one space per 2,000 square feet of net leasable area.

(B) Parking for bicycles shall be provided on-site or on a site within 300 feet of the use, measured along the shortest public right-of-way, as follows:

(1) Residential use, five or more dwelling units or mobile homes per lot: one bicycle space per two dwelling units.

(2) Dormitory, fraternity or sorority house: one bicycle space for each six persons in residence.

(3) Nonresidential uses: one bicycle space per each 20 parking spaces required for automobiles and light trucks, but not less than two spaces per premises, unless otherwise specified below:

(a) Drive-in theater, mortuary, or motel or hotel rental unit: None.

(b) School - elementary and middle: one bicycle space for each 20 students.

(c) School - high, commercial, and trade: one bicycle space for each 50 students.

(C) Parking for motorcycles, mopeds, and motor scooters shall be provided on-site as follows:

(1) Non-residential uses:

Total Required Off-Street Parking Spaces	Minimum Motorcycle Parking
1-25	1
26-50	2
51-100	3
101-150	4
151-300	5
301-500	6
501-750	7
751-1,000	8
More than 1,000	8 plus 1 for each additional 500 spaces

(2) These spaces shall be located in an area that is visible from the entrance of the building on the site and shall be designated by its own conspicuously posted upright sign, either free-standing or wall mounted. Each sign shall be no smaller than 12 by 18 inches and shall have its lower edge no less than four feet above grade.

(D) Procedure.

(1) An applicant for a building permit must submit plans showing the off-street parking required by this section. These plans must show location, arrangement, and dimensions of the off-street parking, turning spaces, drives, aisles, and ingress and egress in a manner satisfactory to the Planning Director and Traffic Engineer. Signs between the street or alley and the parking area must be shown. If a premises is to contain ten or more off-street parking spaces, the parking plans must include satisfactory landscaping plans meeting the requirements of § 14-16-3-10(G) of this Zoning Code.

(2) An applicant for a building permit whose off-street parking requirement is to be met in any part on a lot which does not and is not expected to contain a part of the building for which the building permit is requested must secure P-R zoning for the land to be used for parking. All owners of property directly involved must join in the application for the zone change.

(E) General Requirements.

(1) It is unlawful to reduce the amount of existing parking below the minimum required by this section except as provided in Paragraph (D)(6) below.

(2) Whenever a permit has been issued in compliance with the requirements of this section, subsequent use of the structure, or use of land is conditioned upon the unqualified availability of off-street parking as shown in the plans submitted prerequisite to receiving the permit.

(3) A new use for a building shall not be approved if it would create or increase a deficit in off-street parking.

(4) In the event of mixed uses, the total number of required off-street parking spaces is the sum of the requirements of the various uses computed separately. The total number of required off-street parking spaces may be reduced according to Paragraph (D)(6) below.

(5) In calculating the total number of required off-street parking spaces, fractional amounts are to be rounded up to the next whole number.

(6) Parking Reductions:

(a) Transit Reductions:

1. The parking requirement of a building or use shall be reduced 10% if it is within 300 feet of a regular Albuquerque Transit System route.

2. The parking requirement of a building or use shall be reduced an additional 5% for premises which provide, at the owner's cost, transit rider shelters of a type and location acceptable to the City.

3. The parking requirement of a building or use shall be reduced an additional 5% for premises of five acres or more which provide, at the owner's cost, transit pull-offs of a type and location acceptable to the City.

(b) Mixed Use Shared Parking Reductions:

1. In situations where a mix of uses creates staggered peak periods of parking demand, shared parking calculations can be made to reduce the total amount of required parking. All non-residential uses may share parking areas. In no case shall shared parking include the parking required for residential uses.

2. The Planning Director may approve shared parking facilities for developments or uses with different operating hours or different peak business periods provided: 1) pedestrian access is provided to and from the parking area and each building or use; and 2) all other requirements listed in this section are met. (NOTE: Each situation shall be judged according to the individual facts presented.)

3. Parking spaces that are reserved for a specific business (e.g., reserved for doctors only) shall not be counted toward meeting the shared parking requirements.

4. Shared parking spaces may be located on a different lot than the building or use that it serves only where the following conditions are met:

a. The parking is located no more than 500 feet from the building or use that it serves. The distance between the building or use and the parking area shall be measured following a reasonable and safe walking route from the main entrance of the building or use to the parking area in question;

b. The sharing of the required parking shall be guaranteed by a legally binding agreement, duly executed and acknowledged, between the owner of the parking area and the owner of the building or use which is located on a different lot and served by the parking area. Such agreement shall address the issue of how parking will be shared if the parties change their operating hours and peak business periods.

c. The applicant for a building permit or certificate of occupancy for the use which is served by parking spaces on the other lot shall submit a copy of such agreement along with his or her application for such permit or certificate.

5. Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit shared parking calculations to the Planning Director that clearly demonstrate the feasibility of shared parking. The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 20 percent.

6. The sharing of the required parking shall be guaranteed by a legally binding Shared Parking Agreement duly executed and acknowledged among all owners of record. Such agreement shall address the issue of how parking will be shared if the parties change their operating hours and peak business periods. Such written agreement shall be recorded by the applicant with the Bernalillo County Recorder's Office prior to the issuance of a building permit or certificate of occupancy, and a copy filed in the project review file.

(c) The total maximum reduction for transit and shared parking shall not exceed 25%.

(d) On-Street Parking Credit.

1. Where parking spaces are provided on a public street and abut the property, one half of the parking may be counted toward the off-street parking requirement of a building or use on such property provided the on-street parking spaces are approved by the Traffic Engineer, in conjunction with a site plan approval for off-street parking.

2. The on-street parking credit allowance does not apply to residential development of 10 dwelling units per acre or less.

3. Buildings constructed before 1965 cannot take advantage of the on-street parking credit until all off-street parking requirements are met first.

4. The granting of on-street parking does not obligate the City to provide on-street parking in perpetuity since the City could require the public right-of-way for other uses at some future time. If on-street parking is removed as a result of City action, the property owner will not be in violation of this section of the Zoning Code and will not be required to provide additional parking, provided no subsequent development approvals are requested.

5. Notification Requirement. The Planning Department, by regular mail, shall notify all residents within 250 feet of the property for which on- street parking credit is sought. Such residents may submit written comments to the Planning Director regarding the request for on-street parking credit within 15 days from the date the notice was mailed. Comments received by the Planning Director that meet the requirements of this section shall be considered by the Traffic Engineer prior to the final determination of whether to grant credit for on-street parking.

(F) Automobile, Light Truck and Motorcycle Space Standards. Off-street parking, except for houses, shall comply with the following:

(1) Paving, all of which shall be maintained level and serviceable, shall be:

(a) Blacktop or equal: Two inches of asphaltic concrete on a prime coat over a four inch compacted subgrade, or a surface of equal or superior performance characteristics. Hereinafter, where a premises has four or more off-street parking spaces which, as laid

out, require access off of an alley, the full width of the alley shall be paved to City specifications from the parking access drive to a street.

(b) Permeable Pavement or Permeable Pavement System: The permeable surface or permeable pavement system shall be designed to meet the requirements of the City Engineer and/or their designee(s). Alternate paving materials shall be installed and maintained according to manufacturer's specifications. Pavement must support the expected loading and traffic and be sufficiently durable. Designated disabled parking spaces and pedestrian pathways must be paved with 2" asphaltic pavement or equivalent per City of Albuquerque standards to ensure compliance with Federal Guidelines.

(2) The parking area shall have barriers such as concrete bumpers or curbs to prevent vehicles from extending over any public sidewalk or adjacent property line, to prevent damage to adjacent walls or fences, and to prevent vehicle overhang from reducing minimum required widths of pedestrian walkways and landscape areas.

(3) If the parking is in a nonresidential zone, a solid wall or fence at least six feet high shall be erected on sides which abut land other than public right-of-way land in a residential zone. (See also § 14-16-3-10). However:

(a) Such wall or fence shall be three feet high in the area within 11 feet of a public sidewalk or planned public sidewalk location.

(b) If the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Planning Director shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(4) Where parking areas abut the public street and are greater than 100 linear feet, and where total premises parking amounts to 50 spaces or more, screening shall be provided in the form of walls, evergreen landscaping, or a combination thereof. Screening shall be a minimum of 30 inches in height but shall not exceed 36 inches in height according to subsection F(3)(a) of this section. Where walls are provided, they shall integrate with building materials/colors. Where landscaping is provided, proper evidence must be provided indicating the plant selection will achieve proper height.

EXCEPTION TO THE SCREENING REQUIREMENT may be allowed where the parking area is three feet or more below the grade of the public street.

(5) Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet, unless no reasonable alternative is available.

(6) Automobile and Light Truck Dimensions: refer to § 14-16-1-5, Definition of Parking Space.

(7) Motorcycle Parking Space Dimensions: At least four feet wide and eight feet long.

(8) Parking shall be allowed only in appropriately marked parking spaces.

(9) Parking spaces for vehicles with valid distinctive registration plates for the physically disabled as provided by Section 66-3-16 NMSA 1978 shall be provided off street in the amount indicated in division (a) below and meeting the standards indicated in division (b) below. While disabled parking configurations approved under prior zoning regulations will be considered conforming, no building permit shall be issued for new construction or renovation of a building resulting in an increase in required minimum number of parking

spaces unless the parking lot has designated disabled parking spaces as described in this division (8); however, see division (c) below as to newly required signed for existing off-street parking.

(a) The minimum numbers of designated disabled parking spaces are as follows:

Total Required Off-Street Parking Spaces	**Minimum Designated Disabled Parking Spaces**
1 to 25	1
26 to 35	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
More than 1,000	20, plus 1 for each additional 100

(b) Such spaces shall be:

1. At least 12 feet in width and 20 feet in length, or 8.5 feet in width if an additional adjacent delineated access aisle of at least 3.5 feet at one side is provided; spaces 8.5 feet in width may share a common access aisle between two spaces.

2. The designated disabled parking spaces shall be located so as to provide convenient access, at least 36 inches wide, to a primary, accessible building entrance unobstructed by bumpers, curbs, or other obstacles to wheelchairs. The site design shall not permit parked vehicle overhangs or any other obstacle to reduce the clear width of adjacent walkways. Disabled parking spaces and aisles shall not have surface slopes exceeding 1:20 (5% slope or five feet in 100 feet) in any direction.

3. Each disabled parking space shall be designated by its own conspicuously posted upright sign, either free-standing or wall mounted, showing the international disabled symbol of a wheelchair; it may include such wording as "disabled parking" or "handicapped parking." Each sign shall be no smaller than 12 by 18 inches. Each sign shall have its lower edge no less than four feet above grade. Signs shall be maintained in good condition; in parking lots serving nonresidential uses, barriers shall protect free-standing signs from being hit by motor vehicles. However, for any such spaces required for dwelling parking, where the premises is required to have ten or fewer off-street parking spaces, no sign need be displayed so long as no person with need of a designated disabled parking space is a resident on the premises.

(c) Legally installed disabled parking spaces with any clearly visible depiction of the international disabled symbol of a wheelchair may continue with only such marking until November 15, 1986. Beginning November 15, 1986, all disabled parking spaces shall be marked in conformance with (b)(3) above.

(10) Parking spaces shall be appropriately marked to indicate the location of the spaces.

(11) Parking requiring access off an alley must meet the requirements of division (F)(1) above.

(12) Where shopping carts are offered to customers, shopping cart corrals or similar shopping cart storage facilities shall be provided intermittently throughout the parking area. Such shopping cart facilities shall not be provided in lieu of required parking spaces and shall be indicated on all site plans.

(13) Where a single customer entrance to a building is provided, customer loading areas shall not be located in front of the customer entrance or within 15 feet of the entrance.

(G) Bicycle Space Standards. Required bicycle spaces shall comply with the following:

(1) Paving is not required, but the outside ground surface shall be paved or planted in a way which avoids mud or dust.

(2) Bicycle spaces shall be racks or lockers anchored so that they cannot be easily removed. Racks shall be so designed that both wheels and the frame of a bicycle can be locked securely to it with a heavy chain, cable, or padlock. Lockers shall be so designed that an unauthorized person cannot remove a bicycle from them.

(3) Fixed objects which are intended to serve as bicycle racks but not obviously intended for such purposes shall be clearly labeled as available for bicycles.

(4) If a room or common locker not divided into individual lockers or rack spaces is used, one bicycle per 12 square feet of floor area is assumed.

(H) ***Pedestrian Connections.*** The intent of the regulations in this subsection is to accommodate the inter-related movement of vehicles, bicycles, and pedestrians, safely and conveniently, both within the proposed development and to and from the street and the surrounding areas, and to contribute to the attractiveness of the development.

(1) Pedestrian walkways within a site shall be a minimum of six feet in width, unobstructed, and clearly demarcated by the use of techniques such as special paving, grade separation, or pavement marking of a permanent nature, except that clear width may be reduced to 4 feet 6 inches at planting areas for a maximum distance of 10 feet. Pedestrian walkways shall also be lined with adjacent shade trees spaced approximately 25 feet on center and placed within defined planting areas that have a minimum interior dimension of 80 square feet, these trees may also be counted toward Section 14-16-3-10 (E)(2) of the Landscape Regulations provided that the provisions of section 14-16-3-10(E)(1)(a)(b) and (c) are met.

(2) Pedestrian walkways shall be provided from all street sidewalks to the principal customer entrance(s) of the nearest building(s) on a site.

(3) All buildings within a site shall be connected to each other with pedestrian walkways. The connections shall be as direct as possible.

(4) Where building facades abut parking areas, pedestrian sidewalks, no less than eight (8) feet in width, shall be provided adjacent to and along the full length of the building. A minimum width of six feet shall remain clear and unobstructed at all times for pedestrian use.

(5) Parking areas shall be visually and functionally segmented into smaller subareas separated by landscaping and/or pedestrian walkways. No single subarea shall exceed 150 parking spaces.

(6) Parking subareas shall be linked to the main pedestrian walkway(s) leading to the main entrance(s) of the building(s) by means of pedestrian walkways.

('74 Code, § 7-14-40A) (Am. Ord. 50-1993; Am. Ord. 36-2002; Am. Ord. 51-2003; Am. Ord. 2-2006; Am. Ord. 17-2007; O-13-62; O-16-5)

§ 14-16-2-29 PC PLANNED COMMUNITY ZONE.

This zone allows a variety of uses controlled by plans which govern the size, configuration, land use mix, densities, and other features on sites suitable for planned communities in the Reserve and Rural areas.

(A) Control.

(1) Permissive and Conditional Uses Where Guided by Appropriate Plans. Consistent with Council Resolution 151-1990 and the Planned Communities Criteria adopted by that resolution, or as they may hereafter be amended or superseded, a planned community may contain any use and development consistent with adopted plans for that planned community, which plans shall be of the following three levels.

(a) A rank two Area Plan known as a Level A Community Master Plan is required to guide the preparation of Sector Development Plans; typical community size, range would be 5,000 to 10,000 acres; and

(b) More detailed rank three Sector Development Plans known as Level B plans and called either village plans, or plans for community centers, employment centers, or urban centers; specific zoning regulations are determined by these level B plans; and

(c) Subsequent Level C subdivision plats and/or site development plans.

(2) Uses Not Established by a Level B Plan. Until a Level B plan has been adopted by the city to govern a site, uses and regulations specified in the Level A Development Agreement, which must accompany initial city zoning, shall govern the interim permissive and conditional uses.

(3) Open Space. Open space in a planned community shall preserve environmental resources in a network of public and private areas linking land uses and established community identity, consistent with the policies of the Planned Communities Criteria.

(B) Procedure.

(1) Adoption and amendment of rank two Level A plans is by the City Council. It is initially done when the PC zone is mapped for a community; application for the PC zone shall be accompanied by a proposed Level A plan for the planned community.

(2) Adoption and amendment of rank three Level B plans is by the Planning Commission, subject to appeal to the Council. See also § 14-16-4-3 of this article.

(3) Adoption and amendment of the Level C subdivision and site development plans is by the Development Review Board and the Planning Director respectively, subject to appeal to the Planning Commission. However, the Planning Commission may provide in a rank three Level B plan that certain site development plans require approval by the Planning Commission.

('74 Code, § 7-14-36) (Ord. 58-1993)

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§ 14-16-3-2 SHOPPING CENTER REGULATIONS.

This section controls the development of shopping center sites.

(A) General.

(1) No structure shall be erected on a shopping center site except in conformance with a duly approved site development plan. Once approved, such a plan or subsequent amended plan is binding on the entire area of the original site development plan. Sales of all or part of the premises do not alter the effect of the plan. Platting of lots or creation of smaller premises do not alter the effect of the plan. Subsequent to execution of the site development plan, use of the site entirely for manufacturing, assembling, treating, repairing, rebuilding, wholesaling, and warehousing for a period of over one year does change the status of the site as a shopping center and suspends the legal effect of the site development plan for so long as the uses remain.

(2) The rights and duties of the city and of the applicant which result from the approval of an application under this section run with the land and are binding upon successors in interest of the applicant. When an application is approved, a copy of the approved Site Development Plan and Landscaping Plan or record of exemption shall be kept in the office of the Planning Director. A building permit for a shopping center site shall be issued only upon presentation of working plans and specifications drawn in close conformity with an approved Site Development Plan.

(3) The Planning Director shall designate shopping center sites on the official zone map by the symbol "SC."

(4) The Planning Commission may modify the boundaries of or eliminate an existing Shopping Center designation for any site, upon application by the property owner, if the Planning Commission finds no public benefit in continued application of the shopping center regulations because most of the site has been allowed to develop without the guidance of a site development plan.

(B) Shopping Center Requirements. The following regulations apply to an application for a building permit for construction on a shopping center site, except applications covering on-site parking expansion:

(1) An applicant shall submit a Site Development Plan and Landscaping Plan for the shopping center site.

(2) (a) Access to the shopping center site is limited to approaches designed according to accepted traffic engineering practice, so laid out as to be an integral part of the parking area and loading facilities.

(b) Pickup points shall be so designed that vehicles do not create congestion on an abutting public way. No loading and unloading is to be conducted on a public way.

(3) Landscaping of shopping center sites must comply with the regulations of § 14-16-3-10 of this Zoning Code. The Planning Commission may require additional buffer landscaping if it finds it necessary due to demonstrably unusual circumstances.

(4) Free-standing signs on shopping center sites shall be limited to one on-premise sign per 300 feet of street frontage on arterial and collector streets. Maximum signable area shall be 150

square feet per sign face and maximum sign height shall be 26 feet. Off-premise signs shall not be permitted on shopping center sites.

(5) Upon approval, the applicant is responsible for payment of the cost for the necessary traffic control devices and channelization to shelter vehicular turning movements into the shopping center or shopping center site, channelization to be designed according to accepted advanced geometric design technique. These responsibilities must be outlined and agreed upon between the applicant and the city at the time of approval of the Site Development Plan.

(6) The site division regulations established in § 14-16-3-2(D)(3) ROA 1994, apply to all retail facilities with over 90,001 aggregate square feet of gross leasable space.

(C) Procedure.

(1) Approval and revision of plans is the same procedure as for SU-1 plans.

(2) The Planning Commission may review the plan and progress of development at least every four years until it is fully implemented to determine if it should be amended.

(D) Large Retail Facility Regulations.

(1) Applicability.

(a) Provisions of this section and § 14-8-2-7, Responsibilities of Applicants and Developers, shall apply to the following, as determined by the Environmental Planning Commission (EPC):

1. New construction of a large retail facility;

2. Change of use from a non- large retail facility to a large retail facility as defined in § 14-16-1-5;

3. Building expansion of more than 50% of the existing square footage.

(b) Building expansion of 10% to 50% of the existing square footage of an existing large retail facility shall be subject to the following requirements:

1. Pre-application discussion with the Planning Review Team (PRT).

2. Compliance with the large retail facilities design regulations as determined by the EPC. The EPC before issuing final design regulations shall request input from neighborhood associations with boundaries that are within 200 feet of the proposed project.

(c) Building expansion up to 10% of the existing square footage and building renovation of an existing large retail facility shall comply with the design regulations in this section to the extent possible as determined by the Planning Director.

(2) Location and Access of Large Retail Facility. The following regulations manage the location and design of large retail facilities. These regulations are necessary for the proper functioning and enjoyment of the community. They protect the quality of life within surrounding residential areas, support efficient traffic flows, and provide consistent regulations for such facilities. Large retail facilities shall be located to secure adequate street capacity to transport pedestrians and vehicles to and from large retail facilities, and

discourage traffic from cutting through residential neighborhoods. The regulations result in efficient and safe access for both vehicles and pedestrians from roadways in the Metropolitan Transportation Plan to neighborhoods in the vicinity of large retail facilities. The Planning Director, after initial review of a large retail facilities proposal, may require the site to comply with the next level of large retail facilities regulations.

(a) Large retail facilities containing 75,000 to 90,000 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, IP, SU-1 and the SU-2 Zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Permitted in C-1 zones if the project site or site plan reviewed for subdivision is greater than seven acres.

3. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least two through traffic lanes.

(b) Large retail facilities containing 90,001 to 124,999 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, and IP zones and SU-1 and SU-2 zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least four through traffic lanes.

(c) Large retail facilities containing 125,000 square feet or greater of net leasable area are:

1. Permitted in the C-2, C-3, M-1, M-2, IP, SU-1 and SU-2 for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Required to be located within 700 feet of the intersection of two roadways, both of which are designated as at least a collector street in the Mid-Region Council of Governments' Metropolitan Transportation Plan and shall have full access to these roadways. One of the adjacent roadways shall have at least four through traffic lanes and the other adjacent roadway shall have at least six through traffic lanes or is designated a limited access principal arterial in the Mid-Region Council of Governments' Metropolitan Transportation Plan and have a minimum of four lanes.

3. If an arterial or collector street has yet to be built to its full cross-section and does not have the required number of lanes, the large retail facility may have access onto the roadway if the roadway is identified on the Metropolitan Transportation Plan as having the required number of lanes at full build-out.

4. If access control policies prohibit access onto one of the adjacent roadways, a local road may be used as access if it has direct access to at least two roadways that are identified on the Long Metropolitan Transportation Plan, does not pass directly through a residential subdivision and at least one of the intersections is signalized.

5. If access to a location fulfills the criteria of this section but control policies outside the city jurisdiction prohibit access onto one of the adjacent arterial or

collector streets, the remaining arterial or collector street may serve as the sole access if it has direct access to two intersections with an arterial and the intersections are signalized.

6. If warrants are met, the intersection of the primary driveway and the arterial street shall be signalized, unless prohibited by the City Traffic Engineer for safety reasons, at the expense of the applicant. The applicant may place the name of the development on the mast-arm of the signal.

(3) Site division. These regulations create block sizes for large retail facility that are walkable and support land use changes over time. The site plans for subdivision in Phase One and the Final Phase, if proposed, shall subdivide or plan the site as follows:

(a) The entire site shall be planned or platted into maximum 360 foot by 360 foot blocks except as provided in Items (c) and (d) of this division (D)(3).

(b) Primary and secondary driveways (or platted roadways) that separate the blocks shall be between 60 feet and 85 feet wide and shall include the following:

1. Two ten-foot travel lanes;

2. Two parallel or angle parking rows or a combination of such on both sides of the driveway rights of way are permitted but not required;

3. Two six-foot landscaped buffers with shade trees spaced approximately 30 feet on center;

4. Two eight-foot pedestrian walkways constructed of material other than asphalt;

5. Pedestrian scale lighting that provides at least an illumination of 1.2 to 2.5 foot candles or the equivalent foot lamberts; and

6. Standup curb.

(c) One block can be expanded to approximately 790 feet by 360 feet if a main structure (including retail suite liners) covers more than 80% of the gross square footage of a block.

(d) If the site dimensions result in irregular block sizes, blocks of different dimensions are allowed provided:

1. The block sizes achieve the intent of this section;

2. Approval is granted by the EPC;

3. The narrow side of the block abuts the adjacent street that provides the primary access; and

4. The center of the long side has a major entrance, including a forecourt.

(4) Development Phasing and Mixed-Use Component. The large retail facility regulations address the build-out of a large site over time in order to guide the transition from more vehicle-oriented "big box" type retail development with large surface parking fields to finer-scaled, pedestrian oriented, mixed-use development, replacing surface parking with some

parking structures, producing a village center that is integrated into the surrounding neighborhoods. This transition reflects actual trends in development and creates a better, more marketable, and higher use development.

(a) Site development plans for Phase One shall be submitted to the EPC for approval. If future and/or final phases are proposed on the site, site development plans containing a level of detail appropriate for the phasing of the development shall also be submitted to the EPC for approval.

(b) Mixed Use Component. Mixed use development is strongly encouraged in both Phase One and the Final Phase of the site plans for all large retail facilities.

(5) Site Design. These regulations are intended to create pedestrian connections throughout the site by linking structures, make pedestrian connections to external neighborhoods and other uses, and to provide landscaping compatible with the site's scale for pedestrian shade and aesthetic beauty. The regulations will result in an active pedestrian street life, replace large off-street parking fields with parking structures and transit options, conserve energy and water, and meet the goals of the Albuquerque/ Bernalillo County Comprehensive Plan and the Planned Growth Strategy. The following subsections (a) through (n) apply to all large retail facility sites:

(a) Context: The design of structures shall be sensitive to and complement the aesthetically desirable context of the built environment, e.g., massing, height, materials, articulation, colors, and proportional relationships.

(b) Off-Street Parking Standards:

1. If a structure or structures, including retail suite liners, occupies more than 80% of a planned or platted block, the off street parking shall be placed on another block.

2. Parking shall be distributed on the site to minimize visual impact from the adjoining street. Parking shall be placed on at least two sides of a building and shall not dominate the building or street frontage. Parking areas may front onto roadways identified as limited access in the Mid-Region Council of Governments' Metropolitan Transportation Plan, provided that they are adequately screened with landscape walls and plantings. If a project has multiple phases the final phase site plan, if proposed, shall show the elimination of surface parking areas but may include parking structures.

3. If the site is planned into 360 foot by 360 foot lots as called for in these regulations, parking requirements may be met by spaces located on a block immediately adjacent to the structure creating the parking demand.

4. Every third double row of parking shall have a minimum ten foot wide continuous walkway dividing that row. The walkway shall be either patterned or color material other than asphalt and may be at-grade. The walkway shall be shaded by means of trees, a trellis or similar structure, or a combination thereof. Tree wells, planters or supports for shading devices may encroach on the walkway up to three feet. In no case shall the walkway be diminished to less than five feet width at any point.

5. Parking requirements for a large retail facility with a mixed use component may use "best practice" standards for shared parking such as Driving Urban

Environments: Smart Growth Parking Best Practices, a publication of the Governor's Office of Smart Growth, State of Maryland. Refer to § 14-16-3-1 for shared parking requirements.

(c) On-Street Parking Standards:

1. Arterial or collector roadways abutting a large retail facility with a posted speed limit of 35 miles or less per hour shall have on-street parking utilizing a parking/queuing lane under the following standards and if approved by the Traffic Engineer:

   a. On-street parking may use the existing adjacent outside lanes on an arterial or collector.

   b. The parking/queuing lane may be provided by moving the curb lines within the property line and dedicating the parking/queuing lane to the city. The existing through lanes shall not be used as the parking/queuing lane unless a traffic analysis indicates that this will not result in unacceptable degradation of traffic flow, though existing can be restriped in a narrower configuration to provide space for the parking/queuing lane.

   c. The parking/queuing lane has a maximum width of 16'.

   d. Curb extensions/bump- outs shall be constructed at the ends of each block and shall include landscaping to be maintained by the property owner pursuant to a maintenance agreement with the city.

   e. Street trees shall be planted pursuant to the Street Tree Ordinance, Chapter 6, Article 6, ROA 1994.

2. The regulations for parking credits and reductions set forth in § 14-16-3-1(E)(6) shall apply to this subsection except that 100% of the on-street parking shall be credited towards the project's parking requirements.

(d) Signage.

1. Signage shall comply with the shopping center regulations for signage, § 14-16-3-2(B).

2. All signage shall be designed to be consistent with and complement the materials, color and architectural style of the building(s).

3. All free-standing signs shall be monument style.

4. The maximum height of any monument sign shall be 15 feet.

5. Building-mounted signage that faces residential zoning shall not be illuminated.

6. Building-mounted signs shall consist of individual channel letters. Illuminated plastic panel signs are prohibited.

(e) Drive-up windows must be located on or adjacent to the side or rear walls of service or retail structures and the window shall not face a public right of way.

(f) Petroleum Products Retail Facility.

1. Facilities shall be located at a street or driveway intersection.

2. The frontage of the principal structure shall face and line the two streets and follow the set-back and glazing standards for retail suite liner.

3. Fuel pumps, service facilities, ATMs, storage areas, and repair bays are to be screened from the major street by the principal structure.

4. If the structure between the street and the fueling island is not at least the length of the canopy that is over the fueling island, or if there is no service facility structure, the perimeter of the facility shall be screened by either a landscaped berm three feet in height or a wall at least three feet in height.

(g) Truck Bays.

1. Truck bays adjacent to residential lots must be separated from the adjacent lot by a minimum of 40 feet. A minimum 15 foot wide landscape buffer and a six-foot high solid masonry wall shall be provided along the property line. The landscape buffer shall contain evergreen trees or trellises with climbing vines to provide year round screening and buffering from noise. Dock and truck well facilities must also be screened with a masonry wall that extends vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock. Screen walls shall be designed to blend with the architecture of the building. Trucks may not be moved or left idling between the hours of 10:00 p.m. and 6:30 a.m. if the truck bays are located within 300 feet of a residential structure unless negotiated with adjacent property owners and approved by the EPC.

2. Truck bays not adjacent to residential lots must be screened with a masonry wall extending vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock to screen the truck. Screen walls shall be designed to blend with the architecture of the building.

(h) Landscaping. The following landscaping requirements shall apply:

1. Landscaped traffic circles are encouraged at the intersection of interior driveways or platted streets.

2. One shade tree is required per eight parking spaces. Shade trees may be located at the center of a group of four to eight parking spaces, clustered in parking row end caps, or located along internal pedestrian ways. Shade trees lining a pedestrian way internal to a parking area may count as a canopy tree of a parking space. Trees in landscape buffer areas shall not count as parking space trees.

3. Shade trees along pedestrian walkways shall be spaced approximately 25 feet on center.

4. Water conservation techniques shall be utilized where possible and as approved by the City Hydrologist or City Engineer. Such techniques may include water harvesting and permeable paving. Water from roof runoff should be directed or stored and used to assist all trees and landscaping. Parking spaces that meet infiltration basins or vegetated storm water controls should be bordered by

permeable paving. Grasses and other ground vegetation should be near edges to help filter and slow runoff as it enters the site.

(i) Pedestrian walkways. Internal pedestrian walkways shall be planned and organized to accommodate the inter-related movement of vehicles, bicycles, and pedestrians safely and conveniently, both within the proposed development and to and from the street, transit stops, and the surrounding areas. Pedestrian walkways shall contribute to the attractiveness of the development and shall be a minimum of eight feet in width and constructed of materials other than asphalt. Pedestrian walkways along internal driveways or streets internal to the site shall also be lined with shade trees and pedestrian scale lighting. Pedestrian crosswalks shall be constructed of patterned concrete or a material other than asphalt and may be at grade.

(j) A pedestrian plaza or plazas shall be required of all large retail facility development as follows:

1. Large retail facility sites that include a main structure less than 125,000 square feet in size shall provide public space pursuant to § 14-16-3-18(C)(4) of the Zoning Code.

2. Large retail facility sites that include a main structure 125,000 square feet or greater shall provide pedestrian plaza space in the amount of 400 square feet for every 20,000 square feet of building space. A minimum of 50% of the required public space shall be provided in the form of aggregate space that encourages its use and that serves as the focal point for the development. The aggregate space required shall:

   a. Be linked to the main entrance of the principal structure and the public sidewalk or internal driveway;

   b. Include adequate seating areas. Benches, steps, and planter ledges can be counted for seating space;

   c. Have a portion (generally at least 40%) of the square footage of the plaza area landscaped with plant materials, including trees;

   d. Be designed for security and be visible from the public right of way as much as possible;

   e. Have pedestrian scale lighting and pedestrian amenities such as trash receptacles, kiosks, etc.

(k) Lighting.

1. Ornamental poles and luminaries, a maximum of 16 feet in height, shall be used as pedestrian scale lighting.

2. The maximum height of a light pole, other than those along pedestrian walkways, shall be 20 feet, measured from the finished grade to the top of the pole.

3. All on-site lighting fixtures shall be fully shielded to prevent fugitive light from encroaching into adjacent properties and/or right-of- way.

(l) Outdoor Storage. Outdoor storage as part of a mixed use development or within a C-1 or C-2 zoned site is not allowed. Outdoor uses such as retail display shall not interfere with pedestrian movement. Where the zoning permits and where outdoor storage is proposed, it shall be screened with the same materials as the building.

(m) Transit stops. If transit stops exist or are planned adjacent to a large retail facility, they shall include a covered shelter with seating provided at the developer's expense. Either the interior of the structures shall be lighted or the area surrounding the structures shall be lighted to the same standards as pedestrian walkways. If the transit stop is within the public right-of-way, the city shall assume ownership of the shelter and responsibility for maintenance.

(n) Storm Water Facilities and Structures. The following regulations apply to site hydrology:

1. Impervious surfaces shall be limited by installing permeable paving surfaces, such as bricks and concrete lattice or such devices that are approved by the City Hydrologist, where possible.

2. Where possible, transport runoff to basins by using channels with landscaped pervious surfaces. Landscaped strips may be converted into vegetative storm-water canals but must be shallow to avoid defensive fencing.

3. Ponds, retention and detention areas shall be shallow to prevent the need for defensive/security fencing yet have the capacity to manage storm waters in a 100 year event.

4. Trees, shrubs, and groundcover shall be included in storm water basins.

5. Bare patches shall be re- vegetated as soon as possible to avoid erosion, according to a landscaping and maintenance plan.

(o) Energy efficient techniques shall be utilized to reduce energy and water consumption where possible and as approved by the City Hydrologist or City Engineer.

(6) Main Structure Design. The following subsections (a) through (d) apply to main structures:

(a) Setback.

1. Main structures shall be screened from the adjacent street by means of smaller buildings, retail suite liners, or 20 foot wide landscape buffers with a double row of trees.

2. Where the front facade of a retail suite liner is adjacent to a street, the maximum front setback shall be ten feet for private drives and 25 feet for public roadways.

3. Main structures abutting residentially zoned land shall be set back from the property line at least 60 feet.

(b) Articulation.

1. Facades that contain a primary customer entrance and facades adjacent to a public street or plaza or an internal driveway shall contain retail suite liners, display windows, or a recessed patio at a minimum depth of 20 feet, or a

combination of all three, along 50% of the length of the façade. Where patios are provided, at least one of the recessed walls shall contain a window for ease of surveillance and the patio shall contain shading and seating. Where retail suite liners are provided, they shall be accessible to the public from the outside.

2. Every 30,000 gross square feet of structure shall be designed to appear as a minimum of one distinct building mass with different expressions. The varied building masses shall have a change in visible roof plane or parapet height. Massing and articulation are required to be developed so that no more than 100 feet of a wall may occur without an offset vertically of at least 24 inches.

3. For the retail suite liner, the vertical offset shall be a visible change (minimum 6 inches), a change in material may be used for articulation at the same interval and the visible change in roof plane or parapet height shall be a minimum of 18 inches.

4. Facades adjacent to a public right-of-way or internal driveway and facades that contain a primary customer entrance shall contain features that provide shade along at least 40% of the length of the façade for the benefit of pedestrians.

(c) Materials.

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.

2. Design of the external walls and the principal entrance must include three of the below listed options:

a. Multiple finishes (i.e. stone and stucco);

b. Projecting cornices and brackets;

c. Projecting and exposed lintels;

d. Pitched roof forms;

e. Planters or wing-walls that incorporate landscaped areas and can be used for sitting;

f. Slate or tile work and molding integrated into the building;

g. Transoms;

h. Trellises;

i. Wall accenting (shading, engraved patterns, etc.);

j. Any other treatment that meets the approval of the EPC.

(d) Landscaping.

1. The buffer for main structures across the street from residentially-zoned land shall be at least 23 feet wide and include two rows of street trees. The trees shall be located pursuant to the guidelines set forth in Crime Prevention Through

Environmental Design Recommendations. The landscaping of the berm shall provide year-round screening.

2. The public sidewalk adjacent to the main structure may be located within the berm and between the rows of trees. The sidewalk must be a minimum of seven feet behind the curb.

(7) Mixed-Use Component. The following subsections (a) through (g) apply to Mixed Use Development:

(a) Uses and building forms. The mixed use component may include a mix of the following building forms and uses:

1. Apartments or condominiums.

2. Apartments or condominiums over storefronts.

3. Courtyard housing.

4. Live-work.

5. Townhouses.

6. Lofts.

7. Lofts over flex.

8. Senior housing.

9. Mixed income housing including a minimum of 20% affordable at 80% or less of Area Median Income (AMI) for fee simple unit and 60% or less of AMI for rental units. If rental units are multiple sizes, only a maximum of 50% of the rental units set aside for 60% or less of AMI shall be the size of the smallest size category of rental unit in the project.

10. Office building.

11. Office over storefronts.

12. Civic, cultural, and community buildings.

13. Parking structures with commercial or housing liners.

14. Schools, both traditional and technical vocational.

(b) Density.

1. Minimum density: 12 dwelling units per acre.

2. Minimum FAR: .30.

3. Maximum density: As determined by the EPC.

(c) Building Heights. Heights within the mixed use portion of the large retail facility site may vary depending on location. Structures adjacent to residentially zoned parcels shall be subject to the height requirements of the O-1 Zone and shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses. The heights of buildings along the central driveway or street and adjacent to a major arterial or freeway may exceed four stories so long as the average building height of all structures in the mixed use site does not exceed the maximum of four stories and no individual structure exceeds a height of seven stories.

(d) Building Setbacks.

Primary Building	Mixed Use Component
(1) Street-Facing Setback with Ground-Floor Storefront	
a. On Private Drive	10 foot minimum
b. On Public Street	15 foot maximum
(2) Street-Facing Setback without Ground-Floor Storefronts	
a. On Private Drive	10 foot minimum
b. On Public Street	15 maximum
Interior Side Setback (from property line)	Attached or 5' maximum
Interior Side-Side Separation (btw. Adjacent buildings)	Attached or 10' maximum
Interior Rear Setback (from property line)	5' from alley ROW; 20' if no alley (e.g. parking lot)
Interior Rear-Rear Separation] (btw. Adjacent buildings)	30' minimum.
Interior Side-Rear Separation - (btw. Adjacent buildings)	20' minimum

Note 1: Features that may encroach into a pedestrian way up to the maximum specified: eaves (4' max.), awnings (8' max.), and minor ornamental features (2' max). Over pedestrian ways, projections must be more than 8 feet above finished grade.

Note 2: Features that may encroach into setbacks facing driveways or streets (but not driveway or street right-of-ways), up to the maximum specified: arcades & trellises (to driveway or street r.o.w.), porches & stoops (8' max.), eaves (4' max.), awnings (8' max.), and minor ornamental features.

(e) Street Frontage. All street frontages in the mixed-use component shall be:

1. Lined by buildings with windows and primary entries, not garage doors; parking areas shall be located to the rear or side of the building.

2. Building facades shall occupy at least 50% of the street frontage.

(f) Articulation. Mixed-use structures shall have a change in visible roof plane or parapet height for every 50 feet in length, however each distinct roof length does not have to

equal 50 feet in length. Massing and articulation are required to be developed so that no more than 50 feet of wall may occur within a six foot minimum change in the visible vertical offset, or at the same interval a change in material may be used for articulation and the visible change in roof plane or parapet height shall be a minimum of 18 feet.

(g) Entrances and Glazing. Each ground floor use shall have one entrance minimum for each 50' or less of building frontage length.

(h) Materials. The materials standards for the mixed use component are as follows:

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.

2. Arcades, awnings, cantilevers, portals and shed roofs may be made of metal, fabric, concrete tile, clay tile, or slate (equivalent synthetic or better).

3. A mixed-use component shall include at least four of the following design features:

a. Balconies.

b. Projecting cornices and brackets.

c. Eaves.

d. Exposed lintels.

e. Multiple veneers (i.e. stone and stucco).

f. Pitched roof forms.

g. Planter boxes.

h. Slate or tile work and molding integrated into the building.

i. Transoms.

j. Trellises.

k. Wall accenting (shading, engraved patterns, etc.).

l. Any other treatment that meets the intent of this section and that receives the approval of the EPC.

(i) On-Premise Signage.

1. Appropriate signage includes blade signs, awning signs, and wall-mounted or hanging metal panel signs. Internally illuminated box signs, billboards, roof-mounted, free-standing, any kind of animation, and painted window signs, and signs painted on the exterior walls of buildings are not allowed. No flashing, traveling, animated, or intermittent lighting shall be on or visible from (i.e. through windows) the exterior of any building.

2. Wall signs are permitted within the area between the second story floor line and the first floor ceiling within a horizontal band not to exceed two feet in height. Letters shall not exceed 18 inches in height or width and three feet in relief. Company logos or names may be placed within this horizontal band or placed or painted within ground floor or second story office windows and shall not be larger than a rectangle of eight square feet. Projecting signs may not be more than 24 inches by 48 inches and a minimum ten feet clear height above the sidewalk and may be hung below the third story level. Signs may not project more than 36 inches perpendicular to the right-of-way beyond the façade. Lettering on awnings is limited to nine inches in height.

(8) Maintenance Agreement for Vacant or Abandoned Site. Large retail facilities sometimes are vacated due to changing conditions in the retail market. To maintain a quality built environment, large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director:

(a) The landscaping shall be watered, pruned and weeded.

(b) The parking areas shall be cleaned of dirt and litter.

(c) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed.

(d) Outdoor security lighting shall be maintained and operated.

(e) Hydrology systems shall be kept in good working order.

('74 Code, § 7-14-40B) (Am. Ord. 23-2007)

§ 14-16-3-3 SUPPLEMENTARY HEIGHT, AREA, AND USE REGULATIONS.

The following regulations override conflicting regulations elsewhere in this Zoning Code.

(A) Height Regulations.

(1) Height regulations in this Zoning Code do not apply to:

(a) Belfries.

(b) Church spires and towers.

(c) Flag poles.

(d) Flues.

(e) Monuments.

(f) Ornamental towers and spires.

(g) Religious signs as specified in § 14-16-3-5(D)(4) of this Zoning Code.

(2) A height variance may be approved for the following structures even though there is only a minimal showing as to exceptional physical condition:

(a) Chimneys.

(b) Conveyors.

(c) Cooling towers.

(d) Cupolas and domes.

(e) Elevator housings.

(f) Mechanical equipment and its screening.

(g) Observation towers.

(h) Penthouses.

(i) Smoke enclosures.

(j) Smoke stacks.

(k) Solar Collectors

(l) Stage towers or scenery lofts.

(m) Tanks.

(n) Walls and fences which are normally allowed to be up to eight or ten feet high, measured from the lower side, but because of a retaining wall a variance is required to allow the wall or fence to be three feet high measured from the higher side.

(o) Water Towers.

(3) A setback variance may be approved for the following structures even though there is only a minimal showing as to exceptional physical condition:

(a) Solar collectors.

(b) Houses located on lots created when side-yard setback requirements were less severe and the lot's dimensions make it unreasonable to require the current side-yard setback requirements.

(4) Walls, Fences, Retaining Walls. See § 14-16-3-19.

(a) Wall or fence height: A wall, fence, retaining wall, or vertical combination of these in a residential zone may be built within a required setback, provided:

1. It does not exceed eight feet in height above the lowest grade on the lower side within the required side or rear yard or three feet in height above the lowest grade on the lower side within the required front yard.

2. Where property is contiguous to non-residential property, it may be erected to a maximum height of ten feet above the lowest grade on the residential side except in the required front-yard setback.

3. On a corner lot, the rear yard of which is contiguous to the front yard of a residentially-zoned lot, a wall, fence, retaining wall, or vertical combination of these may not exceed three feet in height above the lowest grade on the lower side within ten feet of the street side right-of-way line. However, where approved, a conditional use may approve a higher wall or fence.

4. On a lot where the rear lot line abuts a public street right-of-way and the lot's rear yard is contiguous to the front yard of another residentially-zoned lot, a wall, fence, or vertical combination of these may not exceed three feet in height above the lowest grade on the lower side within 20 feet of the rear right-of-way line; however, this setback is reduced to 15 feet if 15 feet is the normal front-yard setback requirement in the residential zone contiguous to the rear lot.

(b) A wall, fence, retaining wall, or vertical combination of these in a non-residential zone is not limited as to height except:

1. Within five feet of public street right-of-way, where they shall not exceed three feet in height above the lowest grade on the street side; and

2. If a wall or fence plus retaining wall abutting a residential zone would have an effective height of over eight feet above the lowest grade on the residential side, the Planning Director shall decide the required height; such decision shall be made by the same process required for a conditional use.

(c) No wall, fence, or retaining wall shall be erected in the clear sight triangle unless its type and location is approved by the Traffic Engineer based on a finding that it would not be a traffic hazard.

(5) Noncommercial antenna height may be up to but shall not exceed 65 feet in any residential zone.

(6) Special height and use regulations near airports are contained in Chapter 14, Article 15, Airport Zoning.

(7) Building Height Limitations to Preserve Solar Access. The additional height limitations of this division (A) shall apply to all residential zones where the basic height limitation is 26 feet. In any subdivision for which the preliminary or preliminary/final plat is submitted to the city after February 1, 1981, the height of any building shall comply with one of the following additional height limitations, either:

(a) The building height shall not exceed the following heights, determined by the distance cardinally south from the northern boundary of the lot as follows:

Lot Line (feet)	**Height (feet)**
0 - 5	10
5 - 10	11
10 - 15	14
15 - 20	17
20 - 25	20
25 - 30	23
30 - 35	25
35 or more	26

or alternatively:

(b) The height shall not exceed a 31° angle plane (as further defined in division 3. below) drawn upward from a horizontal line located two feet above the mean grade at either:

1. A line lying ten feet within the lot lying to the north and parallel to the general south side of the neighboring lot which is most nearly perpendicular to cardinal north, if the lot is vacant and no building permit for a structure has been applied for;

2. The facade of the principal residential building on the lot lying to the north, which most nearly faces cardinal south if the lot has an existing building intended for permanent occupancy or a building permit for a structure has been issued; or

3. The plane shall be made up of lines drawn cardinally south, 31° above horizontal, along all points identifying said southerly setback lines or building lines.

(c) The Zoning Enforcement Officer shall waive all or part of the provisions of divisions (a) and (b) above if he finds that, pursuant to rules and regulations promulgated by the Mayor and so records in his files, beneficial and important solar access can be protected for a lot to the north through the height requirements of this division (A) due to:

1. The lot(s) to the north being exceptionally large or high, so that there are many good locations for solar collector relating to passive or active solar energy systems which will not be blocked by the proposed construction; or

2. The development on the lot(s) to the north is already served by as much solar collector area as is likely to ever be needed and solar access to that collector surface will not be impaired by the proposed construction.

(d) The Zoning Enforcement Officer shall waive the provisions of divisions (a) and (b) above if he finds that the owner or builder proposing the height limit waiver has demonstrated:

1. That there will clearly not be a principal building in the area within 35 feet to the north of the proposed building; or

2. That any heated building which building is on separate lot, is built or is under construction to minimum energy efficient standards with a maximum average U value for the walls (Uo wall) not to exceed .16 BTUs per hour per square foot degrees Fahrenheit and with a maximum average U value for the roof (Uo roof) not to exceed .04 BTUs per hour per square foot per degrees Fahrenheit. The fact that the building adjacent to the north is connected to the proposed building does not change the regulations.

(B) Area and Use Regulations.

(1) Yards.

(a) All parts of required yards or open spaces must be open to the sky, except as follows:

1. Accessory buildings.

2. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon smoke towers which may project as much as ten feet into the rear yard.

3. Projections of skylights, sills, chimneys, belt courses, cornices, and ornamental features which may project as much as 24 inches into a required yard.

4. Evaporative coolers which may project as much as 48 inches into the required rear or side yards.

(b) Required yard or court area with any building or lot cannot be considered as providing a yard or court area for another building or lot.

(2) Accessory Structures.

(a) Unless approved under a Site Development Plan, an accessory building on a lot, the principal use of which is a house or town house, shall not be located in the required front yard setback and shall not occupy over 25% of the side-plus-rear-yards. An accessory structure in any required yard shall not exceed either 18 feet in height, or any applicable height limitations imposed by division (A)(7) of this section, except if it is in a required side-yard setback on a corner, it shall not exceed the height of the fence allowed by (A)(4) of this section.

(b) On a corner lot, the rear yard of which abuts the front yard of a residentially-zoned lot, an accessory building shall comply with the same side-yard setback on the street side as the principal building.

(c) An accessory structure which is not covered by division (b) above has no required setback from a lot line, except that an accessory structure used as a garage for off-street parking with access to an alley shall be set back a minimum of five feet from the alley.

(d) An accessory building that is 80 square feet in area or smaller and six feet in height, or smaller, must be at least five feet from another accessory building without living quarters on abutting lots and at least 10 feet from a dwelling or accessory living quarters on abutting lots.

(e) An accessory building that is larger in area or height than an accessory building as described in division (d) above must be at least five feet from any other accessory building without living quarters and at least 10 feet from any dwelling or accessory living quarters.

(f) No accessory building may extend across the width of the rear or side yard unless a passage of at least five feet is provided at some point along the width.

(g) An accessory building may be connected to the principal building with a roof, provided that at least two sides of the connecting structure are not enclosed with a material other than that necessary for roof supports. The roof shall be located at least as far from the side lot lines as is the principal building.

(h) Accessory swimming pools may occupy any part of the yard, provided they are not closer than five feet to a lot line or building and provided they are surrounded by a duly approved wall or fence at least six feet high. Alternatively, accessory swimming pools shall be surrounded by a barrier that complies with Section AG105 of the 2003 International Residential Code and shall be equipped with a powered safety cover that complies with ASTM F1346-91(2003), Standard Performance Standards for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs; each to be certified for compliance by a professional swimming pool contractor, registered architect or registered engineer in plan submittals for a swimming pool. (But note division (A)(4) of this section).

(3) A use allowed in a zone shall not be carried on in a vehicle, including a trailer, unless such vehicle's use is specifically allowed in that zone. However, this does not limit vehicles' use for transportation and temporary storage.

('74 Code, § 7-14-40C; Am. Ord. 35-1995; Am. Ord. 29-2004; Am. Ord. 29-2005; Am. Ord. 44-2005)

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§ 14-16-3-4 NONCONFORMANCE REGULATIONS.

(A) ***Nonconforming Structure.*** Except as otherwise provided for herein or pursuant to an applicable sector development plan a nonconforming structure is not required to be made to conform.

(1) A nonconforming structure may be maintained, repaired, or altered unless such maintenance, repair or alteration would increase the extent of nonconformance.

(2) A structure nonconforming as to height regulations cannot be added to or enlarged unless the addition or enlargement conforms to all the regulations of the zone in which it is located.

(3) A structure nonconforming as to setback regulations cannot be added to or enlarged unless the addition conforms to all the regulations of the zone in which the structure is located.

(4) A nonconforming structure may be moved in whole or in part to another location on the lot, provided that the moving will make it nonconforming to a lesser extent.

(5) A nonconforming structure which is damaged may be restored, provided the restoration is started within six months of the damage and is prosecuted diligently to completion.

(6) A wall or fence nonconforming by virtue of being in the clear sight triangle may remain only if the Traffic Engineer gives and does not withdraw a written opinion that the wall or fence is not a traffic hazard. A wall or fence which is legally nonconforming to this Zoning Code because it is partially or wholly constructed of barbed tape, razor wire, barbed wire or similar materials in a zone where such materials are prohibited shall be removed by June 3, 2013. Other nonconforming walls and fences may remain for the life of the structure.

(B) ***Nonconforming Use of a Structure or Land.***

(1) Except as otherwise provided in this section or in an applicable sector development plan a structure which did not violate applicable zoning as to use when that use was initiated and which use violates subsequently adopted zoning shall be allowed to continue to exist as a nonconforming use for the life of the use.

(2) Any adult amusement establishment or adult store that was in conformance with the Zoning Code on March 1, 2004, that becomes a nonconforming use as a result of the 2004 adult use amendments to the Zoning Code shall be allowed to continue to exist as a nonconforming use for the life of the use.

(3) Helipads, law enforcement helipads and medical helipads, which constitute a nonconforming use, must be removed from the premises they are located on within twelve months after they become nonconforming. A helipad, law enforcement helipad or medical helipad which is located in an SU-1 zone and has a site development plan depicting such a helipad approved by the Environmental Planning Commission prior to March 5, 2000 shall be deemed conforming.

(4) That portion of a structure or land containing a nonconforming use shall not be increased; provided, however, that the portion of a structure or land containing a nonconforming use may be expanded by up to 25% if approved by the Zoning Hearing Examiner pursuant to the special exception procedures of § 14-16-4-2.

(5) A structure or portion thereof which has been nonconforming as to use, including a status established building, and which hereafter becomes vacant and remains vacant or is not used

for a continuous period of one year or more is not to be occupied thereafter except by a conforming use as specified in the regulations of the zone in which such structure is located. Neither the intention of the owner nor that of anybody else to use such a structure or part thereof for any nonconforming use, nor the fact that said structure or part thereof may have been used by a makeshift or pretended nonconforming use shall be taken into consideration in interpreting and construing the word "vacant" as used in this division (9).

(6) A nonconforming use may be changed to another use equally or more restrictive than the immediately preceding nonconforming use.

(7) Except as otherwise provided for herein or pursuant to an applicable sector development plan a non-conforming use of land shall be made to conform within one year of the use becoming nonconforming.

(a) A nonconforming use of land consisting of a mobile home shall be made to conform within five years of becoming nonconforming.

(b) A nonconforming use of land and incidental structures consisting of a mobile home development may remain for the life of the fixtures, which shall never be more than 50 years but only if:

1. The mobile home development does not cease operation for a continuous period of one year or more;

2. Any private street system servicing the mobile homes is paved at least to a standard approved by the Planning Director and the Traffic Engineer according to the standards of § 14-14-4-6, Subdivision Regulations (even though there may be no new subdivision); and

3. Mobile homes within the development are skirted with materials compatible with the siding of the mobile home or the unit is situated at ground level within two years of the mobile home development becoming non-conforming.

4. Additions to nonconforming mobile home developments shall conform to current zoning.

(c) Land with a nonconforming use which thereafter becomes and remains vacant for a continuous period of six months or more shall not again be used except in conformity with the applicable zoning. Neither the intention of the owner nor that of anybody else to use a lot or part thereof for any nonconforming use, nor the fact that said lot or part thereof may have been used by a makeshift or pretended nonconforming use shall be taken into consideration in interpreting and construing the word "vacant" as used in this subdivision (c).

(C) ***Nonconforming Lot Size.*** A lot which does not meet minimum lot size requirements may be used without a variance as a separate lot occupied by a structure and use permitted in that zone if:

(1) The lot was legally created and placed on the records of the County, complying with any zoning and subdivision standards and procedures then applicable; and

(2) The use and structure are permitted or are legally nonconforming, or

(3) It is a new use or new construction and there is no use allowed under applicable zoning because of the size of the lot and the proposed use is the use which most nearly meets lot size requirements.

(4) Animal keeping which requires special lot size is not permitted on lots smaller than the size specified.

(D) ***Nonconforming signs.*** A nonconforming sign shall be made to conform within five years of becoming nonconforming, except:

(1) Any sign which violates the brightness regulations of this Zoning Code shall be made to conform as to brightness within one year of becoming nonconforming.

(2) Signs erected contrary to zoning regulations in force at the time of erection and signs identified in § 14-16-3-5(B)(1) of this Zoning Code are subject to immediate removal under the terms of § 14-16-4-11 of this Zoning Code.

(3) Nonconforming signs may remain for the life of the sign if the sign's degree of nonconformance does not exceed 10% nonconformance for each of setback or overhang, size, or separation and does not exceed 20% nonconformance of height.

(4) Signs nonconforming as to size or number shall not be enlarged.

(5) Signs installed under variances from former zoning regulations which were less strict than those subsequently adopted shall be made to conform within five years of the effective date of the subsequently adopted zoning.

(E) ***Nonconforming Landscaping.*** Premises which, when they were developed, were not required to be developed according to a landscaping plan approved by the city shall be made to conform to such a plan within two years of the time they were required to so conform due to amendment of the map or text of this Zoning Code.

(F) ***Property Acquisition by Government Entities.*** A property that becomes nonconforming to any regulation of the Zoning Code that results from an acquisition of real property by a government entity with the power of eminent domain may remain nonconforming in perpetuity but only as to the affected regulation or regulations caused by the acquisition; however, the nonconforming status will cease when the property owner applies for and obtains a change of zoning designation. The City will be responsible for recording a Certificate of Legally Nonconforming Status with the County Clerk.

('74 Code, § 7-14-40D) (Am. Ord. 26-1999; Am. Ord. 8-2000; Am. Ord. 15-2000; Am. Ord. 44-2000; Am. Ord. 11-2001; Am. Ord. 11-2002; Am. Ord. 15-2002; Am. Ord. 44-2002; Am. Ord. 42-2004; Am. Ord. 16-2005; Am. Ord. 68-2005; Am. Ord. 37-2007; **2013**)

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§ 14-16-3-5 GENERAL SIGN REGULATIONS.

(A) Zoning Permits, Seals of Compliance.

(1) Permit needed. Except for signs specified under divisions (A)(7), (C)(3), (C)(4)(a), (C)(4)(b)1, 2, and 3 of this section, a sign permit is required for the following types of new signs:

(a) All sign faces having an area greater than 40 square feet.

(b) All signs having a height in excess of eight feet.

(c) All illuminated signs.

(d) All signs with moving elements.

(e) All free-standing and projecting on-premise signs.

(f) All portable signs. The permit for a portable sign shall automatically become void when the number of employees of the small business becomes ten or more. Upon request, the business owner shall furnish documentation evidencing the number of employees of the business. Failure to provide such evidence within 48 hours of it being requested shall void the permit.

(g) A permit for a new off-premise sign will be approved only upon removal of an existing off-premise sign, and support structure, of equal or greater sign area. In addition, the new off-premise sign must be located on a property of equivalent or more intensive zoning, e.g., a C-2 off-premise sign removal can be applied to a C-2 or C-3 zone, but not to a C-1 zone.

(h) Changing an existing sign so that it becomes an electronic sign or changing an electronic sign from an electronic message reader board sign to an electronic display panel sign shall require a sign permit for a new sign.

(i) Temporary subdivision identification signs as per division (C)(4)(b)(4).

(2) Permit Applications. The permit application for a new sign shall contain the following:

(a) Signature of the applicant.

(b) The name and address of the sign owner and sign erector.

(c) Drawings showing the design and dimensions of the sign. Standard sign structure drawings may be filed with the Planning Department and referenced in permit applications.

(d) A drawing of the site plan or building facade indicating the proposed location of the sign, and all other existing signs maintained on the premises and regulated by this Zoning Code.

(e) For illuminated signs, a statement declaring the sign's brightness, image change rate and transition time. Electronic sign applications must also declare the type of software used, programming details and specify how the photo cell will operate.

(3) Annual Permit Renewal for Electronic Signs.

(a) A new or renewed sign permit for an electronic sign, as provided for in § 14-16-3-5(A)(2), shall expire one year after the date of issuance and shall be renewed annually.

(b) The City shall notify each owner of an electronic sign of the expiration and renewal requirement and shall provide the owner with an application form. The owner shall complete the application form, sign it and submit an affidavit which states that, in the preceding year, either:

(i) there have been no changes to the electronic sign; or

(ii) there have been changes to the electronic sign. Any changes shall be specified and explained in writing.

(c) The City shall review the application materials and determine compliance with the Zoning Code.

(d) This requirement for the renewal of an electronic sign permit shall apply to all existing electronic signs.

(4) Fees. A sign permit fee shall be charged to cover the cost of enforcement of zoning regulations concerning signs erected after 1975 and for the costs associated with the enforcement of zoning regulations for all electronic signs. The fee for a sign permit shall be:

(a) $.70 per square foot of the largest face of the sign or $70, whichever is more.

(b) $1.45 per square foot of the largest face of the sign or $145, whichever is more, for signs erected without a permit when it has been determined by the Zoning Enforcement Officer that the sign erector had full knowledge of the permit requirements.

(c) For electronic signs, the fee shall be paid annually.

(d) The Planning Director may adopt by regulation an additional fee to cover the costs associated with the inspection and enforcement of electronic signs.

(e) Notwithstanding the above, sign fees and plan check fees shall be waived for signs within the Central Avenue Neon Sign Design Overlay Zone that are approved based upon meeting the "Qualifying Sign Design Criteria".

(5) Seal of Compliance. Any sign for which a permit is required shall bear a seal of compliance. This seal shall be affixed to the sign by the Zoning Enforcement Officer after an inspection has shown that the sign conforms to the provisions of this Zoning Code. For electronic signs the seal shall be effective for a one year period and shall state the permit's date of expiration. A special seal of compliance (or legal nonconformance) shall be placed on legal preexisting signs of types listed in division (A)(1) of this section by the Zoning Enforcement Officer.

(6) Nullification. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. However, a permit for the same work as proposed in a permit that has become null and void may be applied for and no additional fee shall be collected for new application.

(7) Permit Exceptions. The following operations shall not be considered as creating a sign and shall not require a sign permit.

(a) Replacing Copy. The changing of the advertising copy or message, including the interchange of sign facings, on an approved painted or printed sign structure or on a marquee or similar approved sign, provided the size of the sign is not changed.

(b) Maintenance. Painting, cleaning, and other normal maintenance and repair of a sign or sign structure unless a structural change is made.

(c) Upgrade. Improvement or upgrade of a sign, including replacement, provided the size of the sign is not changed.

(B) Restrictions on New Off-Premise Electronic Signs.

(1) Limitation on New Off-Premise Electronic Signs.

(a) No new off-premise electronic sign shall be permitted within the City except as provided in this subsection (B).

(b) The modification of any existing off-premise sign that makes the sign an electronic sign shall constitute a new electronic sign. However, such modification shall not cause an existing off-premise sign located within six hundred sixty feet (1/8 mile) of the nearest edge of the right-of-way of Interstate 25 between the northern and southern boundaries of the City, and within six hundred sixty feet (1/8 mile) of the nearest edge of the right-of-way of Interstate 40 between the eastern and western boundaries of the City, to forfeit its status as a lawful nonconforming sign only with respect to its location along Interstate 25 and Interstate 40.

(c) Any expansion of the area of a sign that operates as an electronic sign shall constitute a new electronic sign with respect to the area of expansion.

(2) Exception for New Off-Premise Electronic Sign.

(a) A new off-premise electronic sign can be permitted if the applicant can demonstrate that existing off-premise signs and support structures containing at least three times the advertising area of the proposed electronic sign will be permanently removed.

(b) The removed signs must be located on property of equivalent or less intense zoning than the location of the proposed off-premise electronic sign.

(c) Off-premise signs that have been previously removed and not replaced may count as removed advertising space for the purpose of permitting a new electronic off-premise sign.

(3) This subsection (B) shall not apply to any electronic sign for which, prior to enactment of this subsection, an application for the sign permit or for a site plan or site plan amendment to allow the sign, has been submitted to the City and is pending.

(4) This subsection (B) shall not apply to the improvement, upgrade, or replacement of an existing electronic sign so long as the advertising space is not increased by such improvement, upgrade, or replacement.

(C) Regulations Applicable to Signs in All Zones.

(1) Prohibited Signs. The following signs are prohibited and shall be removed or brought into conformance in accordance with § 14-16-4-11 of this Zoning Code:

(a) Signs contributing to confusion of traffic control or resembling traffic control lighting; unauthorized signs, signals, markings or devices which purport to be or are imitations of official traffic control devices or railroad signs or signals, or signs which hide or interfere with the effectiveness of any official traffic control devices or any railroad signs or signals.

(b) Unauthorized signs, installed after June 17, 2002, which attempt to control traffic on the public right of way.

(c) Signs, except wall signs, in a clear sight triangle.

(d) The copy on signs which advertise an activity, business, product, or service no longer produced or conducted on the premises upon which the sign is located unless they can meet requirements for a new off-premise sign. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.

(e) Rotating, pulsating or oscillating beacons of light, including searchlights used for commercial or promotional purposes.

(f) Signs with audible devices.

(g) Free-standing signs with overhead wiring to supply electric power; however, off-premise signs are excluded unless underground power lines supply the site.

(h) Permanent Directory Signs. One permanent sign identifying and giving directions to businesses in an industrial park controlled by the IP or SU-1 zone shall be permitted at each entrance to the industrial park. Illumination shall be in accordance with the restrictions set forth in this section. Such signs' areas shall not exceed 1.5 square feet per business in the industrial park.

(i) Canopy signs, the bottom of which is less than seven feet above grade.

(j) Building-mounted signs which extend above the wall of the building and which do not have sign supports covered in a manner which integrates the sign with the building design. (Angle irons or similar supports shall not be visible from public right-of-way; guy wires or cables may be visible).

(k) Signs with high intensity electronic discharge strobe lights.

(l) Off-premise sign, any part of which is located within six hundred sixty feet of the nearest edge of the right-of-way of Interstate 25 between the northern and southern boundaries of the City, and within six hundred sixty feet of the nearest edge of the right-of-way of Interstate 40 between the eastern and western boundaries of the City.

(2) Prohibited Locations.

(a) No sign shall have its lowest point less than 12 feet above the ground over public right-of-way except those signs specified in Subsections 14-16-3-5(H), 14-16-3-5(I) and 14-16-3-5(K) of this Zoning Code.

(b) No sign facing, except a wall sign or a one-square-foot address sign, shall be between three and eight feet above the gutter line within ten feet of a street public right-of-way line except those signs specified in Subsection 14-16-3-5(H) of this Zoning Code.

(c) No electronic sign shall be allowed within any residential zone, historic zone, historic overlay zone or state or nationally registered historic district.

(d) No electronic sign shall be allowed within 1/8 mile (660 feet) of the outer edge of the right-of-way of the following streets: Alameda Boulevard, Griegos Road, Rio Grande Boulevard, Unser Boulevard, and Tramway Boulevard. In addition, no electronic sign shall be allowed within 1/8 mile (660 feet) of the outer edge of the right-of-way of Segment 3 of Coors Boulevard as mapped in the Coors Corridor Plan, with the addition of the section from St. Josephs Drive to Western Trail and Coors Boulevard south of Central Avenue.

(e) No electronic sign shall be allowed within 1/4 mile (1320 feet) of the boundary of major public open spaces and/or the Petroglyph National Monument.

(f) Subsections (c), (d) and (e) shall not apply to any electronic sign existing prior to the adoption of this subsection if such sign is controlled by Section 42A-1-34 NMSA 1994 and if such sign was an electronic sign prior to such adoption.

(3) Special Political Signs. Special political signs shall be permitted up to a total area of six square feet on each premises in a residential zone and up to 32 square feet for each sign in a nonresidential zone. Special political signs may be erected no earlier than 60 days prior to the election to which the sign pertains; they shall be removed within ten days after that election or after the termination of the candidacy, whichever occurs first.

(4) Signs Permitted in All Zones. Subject to the other provisions of this Zoning Code, the following additional signs shall be permitted on private property in any zone and shall not be counted in determining the number or size of signs permitted:

(a) Construction Signs. One sign shall be permitted for all building contractors, one for all professional firms, and one for all lending institutions on premises under construction, each sign's area not to exceed 32 square feet with not more than a total of three such signs permitted on one premises. Such sign shall be confined to the site of the construction, construction shed, or trailer and shall be removed within 14 days of the beginning of the intended use of the project.

(b) Real Estate Signs.

1. a. One temporary real estate sign located on the property it refers to shall be allowed for each street frontage of a developed premises or undeveloped lot of less than two acres. Signs shall be removed within seven days of sale or complete leasing.

b. In residential zones, the signs shall not exceed four square feet in area including name identification riders. An additional add-on sign area of one-half square foot indicating that the property has been sold or leased is permitted. In nonresidential zones, the signs shall not exceed 16 square feet in area.

2. One temporary real estate sign not exceeding 24 square feet in area and located on the property it refers to shall be allowed for each lot two acres or over. If the lot has multiple frontage, one additional sign not exceeding 24 square feet in area shall be allowed on the property, to be placed facing the additional frontage. Under no circumstances shall more than two sign units be permitted on the lot. Signs shall be removed within seven days of sale or complete leasing.

3. Temporary real estate directional signs not exceeding three square feet in area, three feet in height, and four in number, showing a directional arrow and placed on private property may be permitted on approach routes to an open house.

4. Temporary subdivision identification signs located on the vacant residential property shall be allowed for each subdivision or builder's development as follows:

   a. Number of signs: Two (2) signs for the first ten lots plus one (1) additional sign for each additional, full ten lots, not to exceed six (6) signs total.

   b. Sign face area: Such signs shall not exceed 32 square feet in area.

   c. Height: Sign height shall not exceed four feet above the top of the subdivision wall on the lot where such sign is placed. Signs shall not be placed on the wall of a residential building or an accessory structure. If walls do not exist on the lot where such sign is placed, then the sign height shall not exceed eight feet.

   d. Location: Signs shall not be located in common areas, such as Home Owners Association areas and easements, unless approved by the owner of the common area such as a Home Owners Association, nor in the public right-of-way. There shall be no violation of the clear sight triangle at any street intersection. Signs shall not be allowed where the sign is directly across the street from or adjacent to the lot line of a residential zone.

   e. Timing: Signs shall not be displayed prior to the date of recording of the plat, and shall be removed upon completion of the project.

   f. Permit required: Each sign is eligible for a two-year permit. After that, a yearly permit renewal is required. Fee is as per § 14-16-3-5(A)(4).

   g. Illumination: Signs shall not be illuminated.

5. The height of real estate signs shall not exceed five feet when located in a residential zone.

(c) Signs located inside a building or structure, provided the sign is not so located as to be conspicuously visible and readable, without intentional effort, from outside the building or structure.

(d) Advertising for community or civic events, flags or emblems of civic, philanthropic, educational, or religious organizations, maintained for a temporary period not in excess of one month.

(e) Official national, state, or city flags for any period of time.

(f) Street Banners. Street banners advertising a public entertainment or event, if specifically approved by the Planning Director and the Traffic Engineer and in locations designated, may be displayed 14 days prior to and seven days after the public entertainment or event.

(g) Permanent Identification Signs. One permanent sign setting forth the name of a community, development, center, or other like project shall be permitted if set back in

may be approved by the Planning Director if he finds the project is large and needs additional signs for reasonable identification.

(h) Civic, Religious, and Quasi-Public Signs - Off-Premise. Off-premise name, directional, and information signs of service clubs, places of worship, civic organizations, and quasi-public uses shall be not more than three square feet in area. Sign height shall not exceed eight feet. In the event that there is a need for more than one such sign at one location, all such signs must be consolidated and confined within a single frame, subject to the review and approval of the Planning Director.

(i) Residential Name and Street Address Signs. A resident's name sign not exceeding one square foot in area per face shall be permitted for each house or town house. Sign height shall not exceed eight feet. Street address signs shall not be limited.

(j) Private Traffic Direction. Signs which are necessary for and function only to direct traffic movement onto, off of, or within a premises shall be allowed without limit as to number: maximum size shall not exceed six square feet. These signs shall not contain commercial advertising and shall not be counted in the number of signs in the other provisions of this Zoning Code. Illumination of these signs shall conform to this Zoning Code, except that standard traffic signal light devices may be used if needed and if approved by the Traffic Engineer. Horizontal directional signs on and flush with paved areas are exempt from the limitations of this division (j).

(k) Historic Signs. A historic sign that is associated with the historic use of a premises is exempt from provisions of the Zoning Code that would otherwise prohibit its display. For the purposes of this section, a historic sign is defined as a sign that is listed or determined to be eligible for listing in the New Mexico Register of Cultural Properties either individually or as a contributing part of a property, or a sign that contributes to the historic character of a designated City Landmark. A historic sign may be relocated on the premises to facilitate its preservation. If the copy or imagery of a historic sign is altered, the alteration shall preserve the historic integrity of the sign, and any new portion added to a historic sign may be considered a new sign for the purpose of determining the number and size of signs permitted.

(D) Regulations Applicable to Signs in or Within 40 Feet of Residential Zones. The additional provisions of this section apply to all signs allowed in a residential zone or within 40 feet of a residential zone. In the case of a nonresidential zone within 40 feet of a residential zone, the more restrictive of these regulations or the regular sign regulations in the nonresidential zone shall apply**.**

(1) No portion of an illuminated sign shall have a luminance greater than 200 footlamberts at night.

(2) Electronic signs shall not exceed an illumination level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance depending on sign area, measured as follows:

Area of Sign sq. ft.	Measurement Distance (ft.)
10	32
15	39

10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than those specifically listed in the above table the measurement distance may be calculated with the following formula: Measurement Distance = The Square Root of the following: The Area of Sign Sq. Ft. x 100.

(3) No sign nor part of a sign shall move, flash, or rotate. No sign or any part of any sign shall change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted. No sign shall include motion of the message or image. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects.

(4) No more than one sign per premises shall be illuminated, apart from the general illumination of the premises, between 10:00 p.m. and 7:00 a.m.

(5) No sign shall be on the public right-of- way, except for name and address signs mounted on mailboxes and signs specified in Subsections 14-16-3-5(H) and 14-16-3-5(K) of this Zoning Code.

(6) An apartment premises with five to 24 dwelling units may have wall signs identifying the apartments provided the sign area on any facade does not exceed 12 square feet, and the total wall sign area on any premises does not exceed 30 square feet. No facade shall have more than five words which contain any character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(7) An apartment premises with more than 24 dwelling units or a nonresidential premises may have signs identifying the principal uses of the premises, as follows:

(a) Each premises may have no more than one free-standing sign provided, however, that premises with more than 750 feet of public street frontage may have one additional free-standing sign for each 500 feet of additional frontage or fraction thereof.

(b) No free-standing sign shall exceed 16 feet in sign height or 24 square feet per sign face.

(c) Wall signs, provided the sign area on any facade does not exceed 40 square feet and the total wall sign area on any premises does not exceed 100 square feet. No facade shall have more than five words which contain a character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(8) No signs shall be erected or maintained on a house, townhouse, mobile home used as a residence, or vacant land, except as permitted in division (B) of this section and § 14-16-2-6(A)(2)(f) (for home occupations) of this Zoning Code.

(9) Premises which are mobile home parks with up to 24 dwellings may have signs identifying the development provided the signs are mounted flush to the perimeter wall or fence and the total sign area does not exceed 30 square feet. There shall be no more than five words which contain any character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(10) Premises which are mobile home parks with more than 24 dwellings may have signs identifying the development as follows:

(a) Premises may have one free- standing sign at any location on the site provided, however, that premises with more than 750 feet of public street frontage may have one additional sign for each 500 feet of additional frontage or fraction thereof. Such sign shall not exceed 16 feet in sign height or 24 square feet per sign face.

(b) In addition to signs provided in division (a) above, premises may have signs mounted flush to the perimeter wall or fence if the total of such sign area does not exceed 100 square feet. There shall be no more than five words which contain a character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(E) Regulations Applicable to Electronic Signs.

(1) Electronic signs shall include a photo cell to control brightness. Any previously permitted electronic sign shall be turned off from sunset to sunrise until the sign is brought into compliance for brightness.

(2) No electronic sign shall move, flash, or rotate, or change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted. No sign or part of a sign shall change its illumination more than once an hour.

(3) No sign shall include motion of the message or image. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects.

(4) No more than one sign per premises shall be illuminated, apart from the general illumination of the premises, between 10:00 p.m. and 7:00 a.m.; provided however that this provision shall not apply to signs that only display gasoline prices at establishments for retail sales of gasoline, oil, and liquefied petroleum.

(5) Illuminated signs with a 360 degree display are prohibited.

(6) If a premise meets the requirements for a free standing electronic sign, with at least 100 feet of street frontage, then the premise is prohibited from having an electronic sign that is a wall sign or canopy sign. If a premise does not meet the requirements for a free standing sign, that premise shall be permitted one electronic sign that can be a wall sign or canopy sign.

(F) ***Regulations Applicable to Signs in Nonresidential Zones.*** The additional provisions of this section apply to all signs not in a residential zone or within 40 feet of a residential zone.

(1) General Illumination.

(a) No light bulb used to indicate time or temperature shall have a rating greater than 40 watts; no reflectors shall be used in connection with such bulbs.

(b) No portion of an illuminated sign, apart from light bulbs used to indicate time or temperature, shall have a luminance greater than 320 footlamberts at night. Electronic signs shall include a photo cell to control brightness. Any previously permitted electronic sign shall be turned off from sunset to sunrise until the sign is brought into compliance on brightness.

(c) Electronic signs shall not exceed an illumination level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance depending on sign area, measured as follows:

Area of Sign sq. ft.	Measurement Distance (ft.)
10	32
15	39
20	45

25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than those specifically listed in the above table the measurement distance may be calculated with the following formula: Measurement Distance = The Square Root of the following: The Area of Sign Sq. Ft. x 100.

(2) Any illuminated sign, or any illuminated element of any sign, may turn on or off, or change its brightness, provided that:

(a) Change of illumination does not produce any apparent motion of the visual image, including but not limited to illusion of moving objects, moving patterns or bands of light, expanding or contracting shapes, or any similar effect of animation except twinkling. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects, meaning any transitional images or changes to the message before the new message appears.

(b) There is no continuous or sequential flashing in which more than one-third of the lights are turned on or off at one time.

(c) The sign is not within 200 feet of a residential zone and visible from such zone.

(3) No sign or any part of any sign may move or rotate at a rate more often than once each ten seconds, or change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted.

(4) Religious Signs. On-premise signs consisting only of religious symbols of a religious group operating an institution or place of worship may be as high as 15 feet above the roof top of the principal building on the lot, regardless of whether the sign is illuminated.

(G) Joint Sign Premises.

(1) A joint sign premises may be created by the owners of all the abutting premises who wish to cooperate in order to jointly obtain permission for one free-standing or projecting sign on the joint sign premises. Such owners shall sign an appropriate form provided by the Zoning Enforcement Officer.

(2) A joint premises is entitled to a free-standing or projecting on-premise sign as if it were one premise. However, if the owner of one or more cooperating premises which is necessary to make up the required 100 feet of street frontage legally withdraws from such agreement, the free-standing or projecting sign automatically becomes illegally nonconforming and shall be removed within 30 days.

(H) Transit Shelter Sign. Signs which are attached to or part of the structure of a transit shelter as allowed in Section 5-1-3 ROA 1994 and further regulated by this section.

(1) Number. Each transit shelter may only have one transit shelter sign.

(2) Size. Transit shelter sign shall not exceed 24 square feet.

(3) Height. Transit shelter signs shall not exceed 7 feet in height.

(4) Location.

(a) A transit shelter sign may be on the public right-of-way.

(b) A transit shelter sign may be located on private property abutting the right-of-way.

(c) A transit shelter sign may not be placed without the prior approval of the Transit Department.

(5) Illumination shall be in accordance with the restrictions set forth in this Zoning Code.

(6) Prohibited Locations.

(a) A transit shelter sign may not be placed on a transit shelter that faces or abuts a house or townhouse.

(b) A transit shelter sign shall not encroach the clear sight triangle.

(c) A transit shelter sign may not be placed on a transit shelter located along a local street, as classified by the Long Range Roadway System.

(d) A transit shelter sign may not be placed on a transit shelter within 100 feet of a residentially zoned lot located along a collector street, as classified by the Long Range Roadway System.

(e) A transit shelter sign may not be placed on a transit shelter within 50 feet of a dwelling unit located along an arterial street, as classified by the Long Range Roadway System.

(I) Temporary Directional and Identification Signage for New Subdivisions. Signs that are attached to or part of the structure of a temporary signboard and function only to direct traffic to new residential subdivisions and developments as allowed in § 5-1-3 ROA 1994 and further regulated by this section.

(1) Number. Each signboard shall have a City of Albuquerque header and may have a maximum of four directional and identification signs.

(2) Signboard Size. Each signboard shall not exceed 25 square feet in total area, including header and all signs.

(3) Sign Size. Each individual sign on the signboard shall be at least 9.5 inches tall but no greater than 18 inches tall and shall be 60 inches wide. (Between 576 square inches or 4 square feet and 1080 square inches or 7.5 square feet.)

(4) Header Size. Each signboard shall have a City of Albuquerque header, 15 inches tall by 60 inches wide (900 square inches or 6.25 square feet).

(5) Height. Each signboard shall not exceed 5 feet in height.

(6) Width. Each signboard shall not exceed 5 feet in width.

(7) Construction. Each signboard shall be mounted on 4-inch by 6-inch posts that are designed and constructed in accordance with minimum AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals.

(8) Location.

(a) A signboard may be placed in the public right-of-way, but not within a median or at an intersection, and is subject to approval by the Department of Municipal Development.

(b) A signboard may be located on private property abutting the right-of-way.

(c) Individual sign boards shall be located a minimum of 500 feet from any other sign board.

(9) Artificial illumination is not allowed.

(10) Prohibited Locations.

(a) A signboard may not be placed in a location and/or with an orientation that faces or abuts a house or townhouse.

(b) A signboard shall not encroach the clear sight triangle.

(c) Signboards shall only be placed on streets designated as arterial and collector roadways on the Albuquerque Metropolitan Area Long Range Roadway System Map.

(d) A signboard may not be placed within 100 feet of a residentially zoned lot located along a collector street, as classified by the Long Range Roadway System.

(e) A signboard may not be placed within 50 feet of a dwelling unit located along an arterial street, as classified by the Long Range Roadway System.

(11) Approval and Time Period. Requests to erect a signboard shall require final approval from the Planning Director. Approved requests shall not exceed one year from the date granted. Any time extension thereafter shall not exceed one additional year and must be requested in writing at least 30 days prior to expiration.

(12) Remediation or removal of substandard, out-of-date or improperly maintained signboards shall be in accordance with § 14-16-4-11 of this Zoning Code.

(J) Signs Advertising Alcoholic Beverages.

(1) Signs, free-standing and building-mounted, that advertise alcoholic beverages, including the use of words and images, and are visible from a street, sidewalk, park or a facility that serves minors shall not be located within 300 feet of a facility that serves minors.

(2) The following signs that advertise alcoholic beverages shall be permitted:

(a) Signs located inside a building, even when visible from the outside;

(b) Signs on vehicles;

(c) Signs that serve to identify businesses that sell alcohol by depicting the name, logo or slogan of the business;

(d) Signs that do not refer to a specific brand of alcoholic beverage;

(e) Signs visible from and that face an interstate highway; and

(f) Signs discouraging the use of alcoholic beverages.

(3) For the purposes of this subsection "facilities that serve minors" is defined to mean a pre-elementary, elementary or secondary school, day care center, church or other place of worship, including incidental recreational and educational facilities attended by minors and city owned parks or city owned major public open spaces frequented by minors.

(K) Portable Signs. In any zone, except the Historic Old Town (H-1) Zone, § 14-16-2-25, where retail sales is a permissive use, in addition to any other signs, a small [less than ten employees] retail sales business shall be permitted during the customary business hours of the business to display one portable sign that comports with all of the following requirements:

(1) The portable sign is less than six square feet per side, no more than 2.5 feet wide and displays no more than two sides of lettering or advertising.

(2) The sign shall stand no more than three feet above ground level at its highest point.

(3) The sign shall not be placed so as to block or obstruct vehicular or pedestrian line of sight of an intersection of any two or more streets and the intersection of an alley or driveway to a public street.

(4) The sign shall be freestanding and located in front of the retail business establishment the sign represents.

(5) For sidewalks that comply with § 14-16-3-1(H)(4), a minimum of six feet shall remain clear and unobstructed at all times for pedestrian use. For sidewalks that do not meet the minimum width requirement in § 14-16-3-1(H)(4), a minimum of three feet shall remain clear and unobstructed at all times for pedestrian use.

(6) The sign may be located in the public right-of-way, but not within two feet of the curb, not in the clear path of travel and not in the clear areas adjacent to any street furniture.

(7) The sign shall be removed during non- business hours of the retail business and stored inside the business and away from public view and shall also be removed when weather conditions create potentially hazardous conditions.

(8) Paper signs, balloons, banners and wind-activated devices shall not be used or attached to a sign.

(9) The sign must be constructed of wood, metal or other durable materials in such a manner as to resist movement by high winds.

(10) The sign may consist of a changeable writing board, chalkboard, or surface that accommodates changeable letters.

(11) No sign that requires electricity or any other power source shall be permitted.

(12) Signs shall be constructed in a manner that incorporates a base from which no supports or feet extend which may cause pedestrians to trip. No external cables, brackets, wires or props shall be permitted.

(13) A sign shall be replaced when the sign becomes defaced or tattered in whole or in part, at the determination of the Zoning Enforcement Officer or his/her designee.

(14) No more than one portable sign as described in this sub-section shall be permitted per business. In the case of events such as flea markets, craft fairs or other events where there are several small businesses, portable signs are not allowed except for one portable sign to advertise the event.

('74 Code, §7-14-40E; Am. Ord. 31-1995; Am. Ord. 23-2001; Am. Ord. 39-2001; Am. Ord. 30-2002; Am. Ord. 31-2002; Am. Ord. 43-2005; Am. Ord. 52-2005; Am. Ord. 46-2006; Am. Ord. 6-2009; Am. Ord. 7-2009; Am. Ord. 17-2011; Am. Ord. 31-2011; Am. Ord. 2012-012; Am. Ord. 2013-013)

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§ 14-16-3-6 MOBILE HOME DEVELOPMENT REGULATIONS.

(A) Mobile homes shall be skirted with materials compatible with the siding of the mobile home unless the unit is situated at ground level.

(B) Parking incidental to another use permitted in this zone is permissive provided all motor vehicles which are not parked inside a building are operative and are not wholly or partially dismantled.

('74 Code, § 7-14-40F)

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§ 14-16-3-7 CAMPGROUND REGULATIONS.

(A) General.

(1) New or enlarged campgrounds shall be zoned SU-1.

(2) A campground shall have an area of not less than five acres and sites for no less than 15 recreational vehicles.

(3) The maximum gross density within a campground shall be 15 camp sites per acre. Land not accessible to campers shall not be included in the calculation of gross density.

(B) Camp Sites.

(1) All recreational vehicles or tents parked or attached to the ground for use as an overnight accommodation shall be on a camp site, as defined by this section.

(2) Each camp site shall be at least 1,650 square feet in area.

(3) Each camp site shall provide parking space of adequate size to accommodate the vehicles allowed at the same site. Such parking space shall be so constructed that no portion of such vehicle shall extend onto any street within the campground.

(4) (a) Camp sites shall comply with the following minimum setback requirements:

1. From the perimeter of the campground: 20 feet

2. From the boundary of a public right-of-way other than a local street: 100 feet

(b) The minimum setback requirements, above, may be reduced if the camp site is totally obscured from sight from off-site by natural barriers or a solid wall or fence at least six feet high.

(c) Where a campground abuts a mobile home park, the minimum setback may be reduced to ten feet along the boundary between the mobile home park and the campground.

(C) Streets. A campground shall be serviced by a private street system, paved at least to the off-street parking regulations of this Zoning Code, and providing safe and convenient access to all camp sites. If such road system is for one-way traffic only, directional signs shall be installed.

(D) Screening. On any side of the premises contiguous or across the street from a residential zone, a solid wall or fence at least six feet high shall be erected and maintained. However, this requirement need not be met until a dwelling unit is built on the residentially-zoned land.

(E) Toilet and lavatory facilities.

(1) Water-flush toilets and urinals shall be provided, and shall not be farther than 300 feet from any camp site not provided with an individual sewer connection.

(2) A minimum of four toilets shall be provided for the first 29 camp sites. For each additional 25 camp sites not provided with sewer connections, an additional toilet shall be provided.

(3) One lavatory shall be provided for up to six toilets. One additional lavatory shall be provided for each two toilets when more than six toilets are required.

(4) If separate facilities are provided for men and women, urinals shall be acceptable for no more than one-third of the toilets required in the men's facilities, except that one urinal may be used to replace a toilet in a minimum park as described in division (2) above.

(F) ***Other Standards.*** For matters not covered under this Zoning Code or other city ordinances, the latest edition of Standards for Recreational Vehicle Parks sponsored by the National Fire Protection Assn., the Recreational Vehicle Institute, and the Trailer Coach Assn., shall apply.

('74 Code, § 7-14-40G)

§ 14-16-3-8 DETACHED OPEN SPACE REGULATIONS.

In the RA-1, R-D, and other zones in areas designated by the master plan as "Developing" or "Semi-Urban," required open space may be in part on lots separate from the dwellings for which the open space is required (i.e., detached open space). Such detached open space need not be accessible to the residents of the related dwellings, but will preserve open space which is important to the whole community as well as to the residents of the related dwellings. The following regulations and policies apply to such detached open space:

(A) Alternatives for the satisfaction of the open space requirements of residential zones other than SU-3 in areas designated by the master plan as Developing or Semi-Urban shall be the following:

(1) The land owner may elect to meet the total requirement on the dwelling's lot.

(2) The land owner may elect to meet the requirement for open space in excess of that met on the dwelling lot by giving the city payment in cash per the provisions of division (H) of this section.

(3) If the dwelling is in an area covered by a Sector Development Plan, the landowner may elect to meet the requirement for open space in excess of that met on the dwelling's lot by giving the city a suitable legal instrument preserving detached open space, in an amount equaling his dwelling's remaining obligation.

(B) The owner of the detached open space shall forfeit permanently to the city by deed or other suitable legal instrument the right to use or develop such land other than as specified in division (E) of this section. The city may accept the land in fee simple, provided the other provisions of this section are met. Such deed or other legal instrument shall contain specifications consistent with this section and shall be filed for record with the County Clerk.

(C) Detached open space offered to meet open space requirements shall be in a location designated by an adopted city plan either as open space or as a use listed in division (E) of this section, unless otherwise provided in a Sector Development Plan adopted prior to December 1, 1984. The city will refuse to accept the offered property interest as detached open space if, according to other plans, policies, and regulations, it must be dedicated in fee simple or easement for public right-of-way, drainage control, or neighborhood park. Notwithstanding the previous requirement, certain portions of drainage control areas may be accepted as detached open space as provided in § 14-5-2-10.

(D) The city shall ensure that the detached open space remains in the uses listed below for at least so long as the related residential development exists. When such residential development no longer exists, the city may dispose of its open space rights, but only by trading its rights for open space rights of equal value on other land.

(E) Uses shall be limited to uses similar to the following, which are found by the city to be beneficial to the whole community as well as to the residents of the dwellings which caused the land to be preserved for open space:

(1) Active and passive outdoor recreation.

(2) Agriculture (outdoor) and pasturing animals.

(3) Botanical parks open to the general public.

(4) Lakes, waterways, flood water storage areas, and other public facilities for handling flood water.

(5) Land maintained in its natural state or being returned to a natural state.

(6) Structures and facilities incidental to the above uses.

(F) If the land acquired under these provisions is owned in fee simple by the city, it may be leased to a private organization for recreational uses, but only if such uses will be open to the general public.

(G) The city shall acquire and preserve open space, whether by dedication of an off-site property interest or by use of case given in lieu of land, in the general vicinity of the related dwelling which created the open space requirement, consistent with adopted city plans. If the dwelling's Sector Development Plan shows open space land, that land is the preferred location for meeting the dwelling's remaining open space obligation, and the Planning Director may require that it be used, to the extent that the owner gives off-site land for required open space. Before a property interest is acquired, the Planning Director shall certify that the land in question is a desirable open space acquisition which will contribute to the realization of the residential densities and open space patterns defined by the master plan.

(H) If the city receives cash-in-lieu of open space,

(1) The city shall make every reasonable effort to use the cash-in-lieu of land to acquire and preserve the amount of detached open space for which the related dwelling was obligated.

(2) (a) The city shall spend the money with all due speed to acquire the same types of property interest that could have been accepted from the property owner in areas which will contribute to the realization of the residential densities defined by the master plan. The land should be in the general vicinity of the dwelling which requires the open space. Normally, the site will be designated as a park other than a neighborhood park or as open space by a Rank One, Two, or Three Plan of the city.

(b) Where the dwellings are in an area covered by a Sector Development Plan, it is particularly appropriate that such land within the Sector Plan area be acquired. It can also be appropriate to secure limited ownership interests in land appropriate for public support of agriculture in areas designated Semi-Urban or Rural and Open by the Albuquerque/ Bernalillo County Comprehensive Plan.

(3) The amount of money the city agrees to accept shall be based on the square foot value of the dwelling site immediately after the site is platted into lots or at the time of annexation and zoning, whichever comes later. The land owner shall obtain appraisal. If the city is not satisfied with this appraisal, the city and land owner will present their estimates of value to the Planning Commission at the public meeting for a determination. The decision of the Planning Commission shall be final; provided, however, in no event will the value be less than the latest appraisal value upon which taxes have been assessed by the Bernalillo County Assessor. This decision of the Planning Commission is not subject to appeal. If the land owner is unwilling to accept the Planning Commission's decision, the land owner will be required to provide the full amount of open space instead of substituting cash.

(I) The open space requirement shall be met before a building permit is issued by the city.

(J) No refunds or credits shall be given for lawfully required and received dedication of detached open space or cash-in-lieu thereof because the requirement had been reduced subsequently.

('74 Code, § 7-14-40H)

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§ 14-16-3-9 AREA LIGHTING REGULATIONS.

(A) The location of the lighting fixture together with its cut-off angle shall be such that it does not directly shine on any public right-of-way or any other residential premises;

(B) It shall not have an off-site luminance greater than 1,000 footlamberts; it shall not have an off-site luminance greater than 200 footlamberts measured from any private property in a residential zone.

(C) Where on-site lighting is provided, the location of all light poles shall be indicated on the site plan.

(D) For sites smaller than five acres, the maximum height of a light pole, measured from the finished grade to the top of the pole, shall be 20 feet.

(E) For sites five or more acres, the maximum height of a light pole, measured from the finished grade to the top of the pole, shall be 30 feet.

(F) The maximum height of a light pole, measured from the finished grade to the top of the pole, within 100 feet of a residential zone shall be 16 feet.

('74 Code, § 7-14-40I) (Am. Ord. 36-2002)

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§ 14-16-3-10 LANDSCAPING REGULATIONS.

APPLICABLE TO APARTMENT AND NONRESIDENTIAL DEVELOPMENT.

(A) ***Basic Requirements.*** Landscape is required for all apartment development and all nonresidential development in accordance with the regulations of this section.

(B) ***Intent and Purpose.***

(1) The intent of these regulations is to establish landscape standards that enhance, improve and maintain the quality of the public environment by providing visual relief from urbanization while enriching Albuquerque's character and quality of life.

(2) The purpose of this section is to define and regulate landscape requirements that establish visually attractive, sustainable desert landscapes that aid in the creation of a quality public realm. The City recognizes landscape as a vital component to quality environments that enhance Albuquerque's overall appearance and provides public benefit through:

(a) Providing visual relief from urbanization; and

(b) Establishing a consistent, attractive streetscape that generates a sense of continuity and a strong, positive City image; and

(c) Improving the aesthetic appearance of commercial, industrial and multi-family residential development thereby protecting and enhancing public/private investments and property values; and

(d) Ensuring the use of native and/or adapted, low water-use or xeric species, regionally appropriate, sustainable design and maintenance techniques to conserve water resources; and

(e) Contributing to the processes of air purification, oxygen regeneration, ground water recharge, and storm water runoff retention. Landscape should be designed to retain soil moisture, prevent erosion and help encourage the growth of abutting plantings, and mitigate urban, heat-island effects whilst aiding in the abatement of air and water pollution, dust, noise, heat and glare; and

(f) Providing shade and comfort for pedestrians and visually narrowing streets, which has been shown to reduce vehicle speeding and accidents.

(C) ***Landscaping Plan.*** See also the definition of this term in §14-16-1-5 of this Zoning Code.

(1) As to apartment and nonresidential developments, all applicants for building permits for construction of a new building or building addition over 200 square feet shall submit and have approved by the Planning Director a landscape plan prior to issuance of a related building permit; however, foundation permits may be issued on the basis of simple designation of appropriate areas of the site to be landscaped to meet the minimum requirements. Landscape plans shall include street trees for those parts of the lot abutting a major street, a major local street, or another street, where street trees are required.

(2) Prior to design, the existence of underground utility lines shall be verified. Underground utility lines to be checked are as follows: water and sewer, traffic signal, fire alarm, gas, telephone, electric, and cable television. Planting must be located so as to not interfere, either at the time of installation or later, with the function of such underground lines; trees and shrubs shall be planted no less than three feet from existing gas mains or gas service lines and/or underground electric utility lines.

(3) All plans and plants depicted within the landscape plan shall be drawn to scale. The Planning Director and/or his/her designee shall create and maintain a checklist of plan requirements to assist applicants and staff at design and review. The landscape plan shall show at a minimum, the following:

(a) The common and botanical names of the plants and shrubs to be used; if there is no common name only the botanical name shall be used; the quantities of shrubs and trees and their mature height and spread shall be provided; and

(b) Topography in the form of finished contour lines; and

(c) The type of watering system; and

(d) The parties responsible for maintenance of the landscaping; and

(e) The square footage for each separate area of landscape and also a total for all landscape on the site.

(D) Installation and Maintenance.

(1) Landscape shall be installed according to the approved plan; installation shall be completed within 60 days of the related building's occupancy.

(2) Landscape shall have adequate maintenance. Landscapes which die shall be replaced by the owner as expeditiously as possible, but in no case longer than 60 days after notification.

(3) Any damage to utility lines resulting from the negligence of the abutting landowner, his agents, or employees in the installation and maintenance of the landscaped area in the public right-of-way shall be the responsibility of such landowner. Any damage to utility lines resulting from the growth of plant materials, which have been approved by the applicable public utility as part of a plan for landscape on the public right-of-way, shall be the responsibility of such public utility. If a public utility disturbs a landscaped area in the public right-of-way, it shall make every reasonable effort to preserve the landscape materials and return them to their prior locations after the utility work. If, nonetheless some plant materials die, it is the obligation of the abutting landowner to replace the plant materials.

(4) Conflicts can occur with large trees near overhead electric utility lines and/or underground utility lines. The larger the tree, the farther it should be located from an electric utility line. Small growth trees (those fewer than 25 feet high at maturity) can be near the electric utility lines. If possible, locate medium growth trees (those under

40 feet high at maturity) at least 15 feet away from the electric utility lines and locate large growth trees (those under 80 feet high at maturity) at least 25 feet from electric utility lines. Trees that grow into or near electric lines may be trimmed back to prevent any growth into the lines.

(5) Property owners acknowledge that approved landscaping and trees installed and maintained in public rights-of-way abutting private properties are the property of the City, and that that the City reserves the right to remove it if necessary for a transportation project without compensation, but at no cost to the property owner. Landscaping installed in the abutting public right-of-way by property owners and later removed by the City shall not impact previously approved Net Lot Area calculations for required landscaping as described in §14-16-3-10(E)(2).

(E) Landscape Area Requirements.

(1) A minimum of 15% of the net lot area of each development shall be landscaped.

(2) NET LOT AREA is defined as means the total area of the lot minus the following:

(a) The area of the lot covered by buildings;

(b) The portions of the lot that are not required for off-street parking or a parking lot and which are fully screened from view from any abutting lot or public right-of-way by an opaque wall or fence at least six feet high, in which no landscape will be required except required buffer landscaping; chain link fence with slats does not constitute acceptable full screening;

(c) The area of any approved landscape that the property owner installs and maintains in the abutting public right-of-way, exclusive of the area of any existing or planned public sidewalk.

(3) Required Vegetative Coverage. All landscape areas 36 square feet in size or larger shall be covered with living, vegetative materials, such as trees, grasses, vines, shrubs, or flowers. To minimize water consumption, the use of vegetative ground cover other than turf grass is encouraged. Coverage will be calculated from the realistic, mature spread of the plants, including the mature canopies of trees, all calibrated for Albuquerque's desert climate/environment, and as follows:

(a) The total landscaped area shall have at least 75% coverage by living, vegetative materials; and

(b) A minimum of 30% coverage of the total landscaped area shall be achieved by ground-level plants (shrubs, groundcover, grasses, etc.); and

(c) A minimum of five species must be used on the site to have a mix of living vegetative materials represented in understory plantings; and

(d) Trees selected from the Official Albuquerque Plant Palette and Sizing List and included on a landscape plan contained within a Site Development Plan or a Building Permit set that satisfy the requirements of the landscape regulations

contained within Section 14-16-3-10, subsections (E) - Landscape Area Requirements, (F) - Special Landscape Standards and (G) - Street Tree Policies Abutting the Public Right-of-Way may also be counted provided that the provisions of section 14-16-3-10(E)(1)(a)(b) and (c) are met. Any street trees required by the City that are planted within 20-feet of the back of curb of the abutting street may be used to help fulfill section 14-16-3-1(H) and landscape regulations for off-street parking areas abutting a street frontage, street tree and coverage requirements.

(4) Plant Palette and Plant Sizes. The Planning Director or his/her designee, appropriate staff and entities such as the ABCWUA, the local chapter of the American Society of Landscape Architects, local landscape maintenance firms, and local nurseries, shall create an official, Albuquerque-specific tree and plant palette (Official Albuquerque Plant Palette and Sizing List). Except as otherwise specified in this section, the minimum acceptable sizes of plants or amounts of seed, at the time of planting, are as follows:

(a) Trees.

1. Deciduous Trees: Two inches in caliper measured six inches above grade;

2. Evergreen Trees: six feet in height;

3. Multi-trunk Trees: Minimum of two trunks, with a combined minimum caliper of two inches

(b) Shrubs: one gallon;

(c) Ground cover: adequate to provide general ground coverage within one growing season after planting.

(5) Right-of-Way Landscape. The installation of an adequate irrigation system that meets the minimum technical requirements of the City of Albuquerque with a separate meter for the landscape area in the public right-of-way, or a separate valve(s) at the property line allowing isolation of the irrigation to the landscape within the public right-of-way. Drip irrigation systems and artificial turf shall not be allowed within the public right-of-way.

(6) Clear sight areas as specified in the Development Process Manual (DPM) shall be maintained at all exits of parking areas. The clear sight triangle (at street corners), as defined in §8-2-2-15, Traffic Code, and also in §14-16-1-5 of this Zoning Code, shall be kept clear.

(7) Standard Landscape Buffers. Landscape buffer areas are required to separate off-street parking and circulation areas from front, side, and rear boundaries of premises. On sites controlled by the shopping center regulations (§14-16-3-2) and planned development areas controlled by site development plans, these requirements shall be based on the entire area of the planning site unless otherwise approved by the Planning Commission. Landscape buffers may be crossed by driveways connecting to abutting land. No parking is permitted within a required landscape buffer area.

Landscape approved within the abutting public right-of-way may be counted toward this requirement if there is no existing or planned public sidewalk between such landscape and the premises, but in no case shall the width of the on-site landscape buffer be less than five feet. Specific required landscape buffer locations and minimum widths shall be as follows:

(a) Front

1. Ten feet, if there is/are no building(s) or forecourt(s) within ten feet of the front property line;

2. The landscape buffer can be reduced or eliminated if the building(s), forecourt(s) and/or frontage(s) are located within ten feet of the front property line as allowed by underlying zoning;

3. Adequate room and spacing for required Street Trees (§14-16-3-16 10(H)) may be accommodated/provided in the public right-of-way and/or on the site immediately abutting the public sidewalk: minimum 60 square feet planting area with a minimum width of four feet for each tree; and maximum of 25-30 feet spacing on-center. For planting areas with over 1,000 cubic feet (CF) of uncompacted soil, tree spacing may be increased to up to 35 feet on-center.

(b) Side - Six feet, where the side yard of a property abuts and/or fronts a street.

(8) Special Buffer Landscaping/Screening Requirements. Where a nonresidential zone is developed after April 2, 1990 for a nonresidential purpose and the site abuts a residential zone, special buffer landscape is required to minimize noise and sight impact of the non-residential activities in the residential area. Buffers shall meet required vegetative coverage.

(a) The standard buffer landscape shall be a landscape strip at least ten (10) feet wide where located along the residential/nonresidential boundary.

(b) The buffer landscape shall include trees, capable of reaching a height at maturity of at least 25 feet. Spacing of the trees shall be equal to 75% of the mature canopy diameter of the trees; where utilities and/or utility easements may interfere with tree placement and/or growth, the number of trees may be reduced and/or the trees may be grouped to minimize conflicts with utilities and/or utility easements. Trees shall not be planted near existing or proposed street light poles.

(c) Where parking or vehicle circulation areas a but the landscape buffer, a minimum six foot high opaque wall or fence shall also be required to visually screen the parking or circulation area from the abutting residential zone; chain link fence with slats shall not constitute acceptable screening; the landscape area may be reduced by up to 25% if the surface of the parking or vehicle circulation area is of a permeable material and approved by the Planning Director or her/his designee.

(d) This division (8) requirement does not apply to lots which were entirely developed as of January 1, 1976.

(9) Special Screening Requirements for Certain Uses. In addition to the above requirements in division (4), an additional screening requirement applies where a principal business is:

(a) A mobile home sales lot; or

(b) Outdoor vehicle storage where the vehicles are typically not moved for one week or more: if the site is so developed after April 2, 1990, 27 and abuts a residential zone or is separated only by public right-of- way from a residential zone, a minimum eight foot high opaque wall or fence shall be required to visually screen the parking or display area from the abutting residential zone; chain link fence with slats shall not constitute acceptable screening.

(F) Special Landscape Standards.

(1) Off-Street Parking Area Landscape. Trees are required in and around off-street parking areas to provide shade and relieve the adverse visual impact of large expanses of pavement and parked cars. Quantity and distribution of trees shall be as follows:

(a) One tree is required per ten parking spaces;

(b) No parking space may be more than 100-feet from a tree trunk;

(c) The minimum size of tree planters within off-street parking areas shall be 60 square feet per tree; the open tree planter area may be reduced to 36 square feet if the surface of the parking or vehicle circulation area adjacent to the tree planter is of a permeable material, and combined with the open tree planter area, meets the 60 square foot per tree requirement;

(d) At least 75% of the required parking area trees shall be deciduous canopy-type shade trees, capable of achieving a mature canopy diameter of at least 25 feet.

(2) Street Trees. Street trees meeting the requirements of § 14-16-3-10(H), Street Trees, are required along all arterial and collector street frontages.

(3) Artificial turf/grass. Artificial turf/grass shall not be counted as living vegetative material or to meet the Required Vegetative Coverage Requirements section referenced under §14-16-3-10(E)(2) above.

(4) Tree Requirements for Multi-Family Residential Developments. In addition to the above requirements, multi-family residential sites must provide trees in areas around residential structures as follows:

(a) Trees shall be provided at not less than the rate of one tree per ground floor dwelling unit and one tree per two second-story dwelling units. No additional trees are required for units above the second story;

(b) At least 50% of the required trees shall be deciduous canopy-type shade trees or coniferous trees capable of attaining a mature canopy diameter of at least 25 feet.

(G) Street Tree Policies Abutting the Public Right-of-Way. The following standards apply to trees planted on private property abutting the public right-of-way that may be counted toward the street tree requirement.

(1) Required Street Trees.

(a) Street trees shall be installed no later than 30 days after the completion of construction and shall occur before final inspection as required in the Building Code.

(b) Street trees shall be maintained alive and healthy. Maintenance and trimming of street trees and replacement of dead trees are the responsibility of the owner of the lot on which the tree is located.

(2) The following city policies govern the placement of all street trees which are planted on private property, abutting the public right-of-way, or which are required to be planted near streets pursuant to city plans, policies and ordinances; the policies are applicable for all street trees:

(a) Size of the trees at maturity should be in proportion to the planting space provided for them. Spacing between evenly spaced street trees should be no greater than the diameter of the tree canopy at maturity, per the Official Albuquerque Plant Palette and Sizing List. Smaller species of trees will require closer spacing, and larger trees will require greater spacing. Spacing shall be approved as part of the plan approval process.

1. Adequate room and spacing for Street Trees shall be accommodated / provided: minimum 60 square feet planting area for each tree.

2. On sites where evenly-spaced street trees are not possible or do not conform to the overall design objectives of the site, random clustering of street trees may be acceptable, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly-spaced. But in no case shall there be a gap of more than 100 feet between street trees.

(b) Where less than three feet of space exists between the curb and the public sidewalk, street trees shall not be planted into the parkway strip. Any street trees required by the City shall be planted within 20 feet of the back of curb of the abutting street. In addition to fulfilling the street tree requirement, such trees can be included in the calculation described in §14-16-3-10(E)(2) Furthermore, if an off-street parking area is located along the frontage of the site, these trees may be used concurrently to fulfill the landscape regulations for these areas, in possible addition to the street tree and coverage requirements.

(3) As it is desirable to have a mix of species and genera represented in the urban forest in order to protect against the loss of trees due to disease, insects or environmental conditions, the following guidelines shall be used:

(a) Plantings of ten or fewer trees may all be of the same genus;

(b) Plantings of more than ten trees must use at least two different genera, with roughly equal numbers of each;

(c) One of every three street trees planted may be an accent tree per the Official Albuquerque Plant Palette and Sizing List, provided the guidelines in §14-16-3-10(G)(1), above, are met.

(4) Street Tree Programs.

(a) The Mayor or his/her designee shall prepare, distribute, and continue to keep available to the public a booklet or other printed material encouraging street trees, indicating recommended species, city regulations, appropriate street tree locations, and tree care.

(b) The Mayor or his/her designee shall, through the Capital Improvements Program, cause street trees to be planted near the street frontages of all city-owned lots, at least meeting the requirements of §6-6-2-1 et seq.

(c) The Mayor or his/her designee shall propose to the City Council appropriate major streets for special assessment districts for the planting and maintenance of street trees. The Mayor shall designate appropriate city staff to administer such supports.

(d) Whenever a city project on the public right-of-way removes or kills one or more street trees, the Mayor or his/her designee shall replace each such tree with one of the same species in approximately the same location, unless the species or location is contrary to §6-6-2-1 1 et seq. or to related regulations or plans, in which event each such tree shall be replaced with a tree of conforming species and location.

(5) Regulations detailing the provisions of §6-6-2-1 et seq. should be enacted in coordination with and through the Parks and Recreation Department, and be amended by the Environmental Planning Commission at an advertised public hearing.

(6) Waivers. The Mayor or his/her designee, upon application of land owners, may waive or modify requirements of §6-6-2-1 et seq., if it is found that:

(a) Street trees would necessarily contribute to unsafe conditions on the public right-of-way; and/or

(b) The lot frontage is sufficiently forested to be in general compliance with the intent of §6-6-2-1 et seq.; and/or

(c) Alternative landscape plans, in harmony with the surroundings and meeting the intent of §6-6-2-1 et seq. are proposed.

(7) Appeals. Appeals from the decision of the Mayor or his/her designee on requests for waivers may be taken to the Environmental Planning Commission by filing written notice with the Planning Division within 15 days after the request for a waiver has been denied.

('74 Code, § 7-14-40J; O-16-5)

§ 14-16-3-11 SITE DEVELOPMENT PLAN APPROVAL AND SUBDIVISION REGULATION REQUIREMENTS.

(A) Site Development Plan approval for either subdivision or building purposes may include:

(1) Imposition of relevant requirements contained within or authorized by the city's Subdivision Ordinance, including but not limited to dedication of rights of way and assurances for required infrastructure improvements both on site and off site.

(2) Imposition of other requirements of other city ordinances.

(B) Site Development Plans, especially plans for unbuilt areas, are often changed so that developers can better respond to changing market conditions. Amendment of Site Development Plans does not require meeting the criteria which must be met to justify changing zones or changing written specifications imposed by Sector Development Plans or by terms of approval of a zone such as SU-1. Site Development Plans are expected to meet the requirements of adopted city policies and procedures.

(C) Possible Termination of Site Development Plans for Sites Which Have Not Been Fully Developed.

(1) If less than one-half of the approved square footage of a Site Development Plan has been built or less than one-half of the site has been developed, the plan for the undeveloped areas shall terminate automatically when specified below unless extended as provided below:

(a) Seven years after adoption or major amendment of the plan: within six months prior to the seven-year deadline, the owners of the property shall request in writing through the Planning Director that the Planning Commission extend the plan's life an additional five years. At an advertised public hearing the Planning Commission shall grant approval if it deems that the Site Development Plan remains appropriate and the owner intends to fully develop the site according to the plan concept. The Planning Commission shall be less likely to terminate a site plan if there is little flexibility in how the site can be developed or if there is a strong architectural or landscaping character on the site which should be preserved.

(b) Subsequently, upon similar requests, the Planning Commission may grant requests for additional five-year extensions of the plan, using the same criteria and process.

(c) If a Site Development Plan is approved for any additional five-year period by the Planning Commission, an updated Transportation Impact Study (TIS) shall be required to determine if there are off-site improvements needed that were not previously required.

(2) For the purposes of this division (C):

(a) Hereafter, the Planning Director shall provide a copy of these Provisions for Plan Termination to the applicant at the time such an initial plan or a major plan amendment is approved;

(b) For Site Development Plans approved prior to the effective date of this division, the Planning Director shall as soon as possible provide a copy of these Provisions for Plan Termination to the current owner(s) of a site covered by a Site Development Plan. For

previously approved Site Development Plans, the time periods specified in this division (C) shall be deemed to run from the date this division becomes effective.

(c) A major amendment of a Site Development Plan is an amendment adopted by the Planning Commission which is not a minor amendment as contemplated by § 14-16-2-22(A)(6) of this Zoning Code.

(d) If an approved Site Development Plan indicates phases of development, that is most often an adequate basis for city extension of the life of the Site Development Plan for the later phases. When the first phase has been built, extension of the plan for later phases may be granted by the Planning Director on behalf of the Planning Commission upon a finding that the plan as previously approved is likely to be built in the future. Appeal of a decision of the Planning Director is to the Planning Commission as provided in § 14-16-4-4 of this Zoning Code.

(e) If an approved Site Development Plan has been partially completed, the termination of the plan shall not adversely affect or impose additional requirements upon the developed parcels.

(f) Termination of all or part of a Site Development Plan under the terms of this division does not preclude approval of a similar plan at a later date.

(g) If a Site Development Plan is terminated, the city shall release the owner from any pending subdivision improvements agreements and financial guarantees for public infrastructure required to be constructed as a condition of approval of the Site Development Plan.

(3) Fee. A filing fee of $50 to cover reasonable expenses shall accompany each request for plan extension.

('74 Code, § 7-14-40K)

§ 14-16-3-12 COMMUNITY RESIDENTIAL PROGRAM REGULATIONS.

(A) Applicants for permissive Community residential programs shall satisfy the Zoning Enforcement Officer and applicants for conditional Community residential programs shall satisfy the Zoning Hearing Examiner that they will meet the following standards:

(1) Prior to occupancy of the facility, the program will obtain any applicable license from the State of New Mexico; any city approval is conditional upon the Zoning Enforcement Officer receiving state confirmation that an appropriate license has been issued or certification that a license is not required by the state.

(2) The program will provide a planned program of care consisting of full-time programmatic supervision, counseling and/or therapy, and assistance in the development of daily living skills.

(3) The program will be operated under the authority of a reputable governing board, proprietor, or government official to whom staff are responsible and who will be available to city officials, if necessary, to resolve complaints pertaining to the facility. To afford accessibility, a governing board shall include one or more residents of the Albuquerque metropolitan area.

(4) The design of the facility will be compatible with the neighborhood within which it is located, including its landscaping and architecture. The Zoning Enforcement Officer or the Zoning Hearing Examiner, whichever is applicable, shall consider lawful covenants and/or should consider elements and characteristics of the neighborhood including but not limited to:

(a) roof types;

(b) setbacks;

(c) percentage of impervious surface coverage;

(d) garage style and design;

(e) major facade elements;

(f) landscaping type and design; and

(g) architectural style

that apply to the facility and are in effect at the time of review in the determination of whether the design of the facility will be compatible with the neighborhood.

(5) The health and safety of the residents will be protected by the physical structure which will be used. Programs which are not licensed by the state shall satisfy the Zoning Enforcement Officer that they meet all city ordinances and regulations; in doing so, he shall seek the review of the Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] and the Director of the Department of Environmental Health.

(6) The operators will have a workable, written plan for facilitating good relationships with neighboring residents and businesses, including a method for recording and resolving complaints by neighbors pertaining to the operations of the program. Complaints, efforts to resolve complaints, and the result of such efforts shall be recorded.

(7) In order to better allow integration of the clients of Community residential programs into their neighborhoods, Community residential programs shall be located a minimum of 1,500 feet from any other Community residential program or Emergency shelter.

(8) (a) The total combined number of Emergency shelters and Community residential programs located in any City Council District shall not exceed one for each 1,000 dwelling units within that Council District.

(b) If the periodic realignment of the boundaries of a Council District causes the number of Emergency shelters and Community residential programs to exceed one for each 1,000 dwelling units, those shelters and programs legally established prior to the time of the realignment shall be allowed to continue to operate, however, no new shelters or programs shall be approved until the requirements of subsection (8)(a) can be met .

(9) Notice to neighbors of proposed permissive community residential programs is not required; however, it is highly recommended that applicants notify leaders of affected neighborhood associations, nearby businesses, and neighbors.

(10) The above regulations shall not apply to Community residential programs legally established prior to the effective date of this section, September 2, 1987, except:

(a) Existing community residential programs shall be counted in respect to decisions on the location of new programs; and

(b) By September 2, 1988, existing Community residential programs shall comply with the procedures for complaints (division (6) above) and annual review (division (E)(1) below).

(11) Distance from premises selling or dispensing alcoholic beverages.

(a) In order to better integrate into the community the clients of community residential programs and the patients of hospitals for treatment of substance abusers, any licensee that sells or dispenses alcoholic beverages, including but not limited to beer and wine, for on or off-premises consumption, pursuant to Chapter 13, Article 2 ROA 1994, shall not locate within 500 feet of a community residential program, including but not limited to, community residential programs for substance abusers and community residential corrections programs or hospitals for treatment of substance abusers.

(b) In each zone in the Zoning Code that allows for a licensee to sell alcoholic beverages within the city, all licensees' establishments must meet this separation requirement from the effective date of Ord. 4-2005, or March 1, 2005, whichever is later.

(c) This separation requirement applies prospectively to all licensees, selling alcoholic beverages, locating their establishments within the city. Licensees' establishments currently existing pursuant to paragraph (b) will be considered nonconforming uses pursuant to § 14-16-3-4 ROA 1994.

(d) Nothing in this requirement for separation between liquor establishments and community residential programs or hospitals for treatment of substance abusers shall prohibit a community residential program or a hospital for treatment of substance abusers from choosing to locate within 500 feet of an existing licensees' establishment dispensing alcohol.

(B) (1) The applicant shall take all necessary steps to comply with all city ordinances and state licensing. When appropriate, the applicant shall obtain a letter that no state license is required from the State Health and Environment Department.

(2) The Zoning Enforcement Officer shall not deny an application for a permissive Residential care facility unless he concludes there is clear and convincing evidence that such use will be injurious to adjacent property, the neighborhood, or the community in ways specified in division (A) of this section. Any such denial may be appealed to the Planning Commission.

(C) Community residential programs must evaluate and exclude any client who is a threat to others, based on the specific history of the individual, the current behavior of the individual, and/or current illegal use of a controlled substance by the individual, if said threat cannot be eliminated by reasonable accommodation.

(D) Every provider shall send complaint procedures to each property owner within a 100 feet of the property within 45 days subsequent to city approval, to facilitate good neighbor relations. Neighboring residents and businesses may, if written complaints are not resolved within 30 days after bringing them to the attention of the program operators, file such complaints with the Zoning Enforcement Officer for review, investigation, and possible mediation.

(E) Review Process.

(1) Operators of community residential programs shall annually submit to the Zoning Enforcement Officer copies of complaints received, efforts to resolve complaints, and the result of such efforts; their current license; up-dated program description; up-dated listing of board members, proprietors, or responsible government officials; and up-dated neighborhood relations plan; when there are no changes since the previously filed documents, a statement to this effect is sufficient. The Zoning Enforcement Officer shall review this documentation, along with records of any complaints filed with the city to assure that the program continues to function in accord with city regulations and the original terms of the city's approval. For programs licensed by the State of New Mexico, this review will occur at the time of application for license renewal. For other programs it will occur at the anniversary of the date upon which approval was originally granted.

(2) If evidence indicates changes in the program materially in violation of the original terms of approval or major unresolved complaints attendant upon the use of the facility as a community residential program, the Zoning Enforcement Officer may refer the matter to the Zoning Hearing Examiner for a public hearing to determine if the approval should be terminated or its terms amended. This process shall apply whether the use is permissive or conditional. The decision of the Zoning Hearing Examiner is subject to appeal to the Planning Commission within 15 days of decision.

(F) Notwithstanding division (E) above, if the Zoning Enforcement Officer finds clear and convincing evidence that the program is violating the original terms of its approval, he may take action to enforce the terms of approval at any time; normally after written warning, the Zoning Enforcement Officer will initiate criminal enforcement action or seek an injunction.

(G) Fees; Approval of Applications.

(1) The Zoning Enforcement Officer shall charge a fee of $55 for review of standards specified in division (A) of this section as to a community residential program hereafter established which has not been approved for the previous year. The fee and review applies to both permissive and conditional uses.

(2) The above fee shall reserve the location as to distance and separation criteria for 90 days, to the degree that the site met the location requirements of this section when the fee and application were tendered. After the expiration of 90 days, upon showing of significant improvements since the previous extension or application, up to three 90-day extensions shall be granted, which will maintain the location as to distance and separation. No application can be extended beyond 360 days from the date of original application. This provision does not exclude the applicant from reapplying for the same location, meeting all of the other appropriate requirements; however, other applications which have been filed shall take priority over the reapplication as to distance and separation.

(3) The Zoning Enforcement Officer shall charge a fee of $35 for the annual review specified in division (E) of this section.

(H) A dwelling occupied by a group meeting the definition of a family is allowed, as is any family, regardless of whether it also meets the definition of a community residential program. Dwellings occupied in this manner shall not be counted or controlled as community residential programs as provided in this section, but this does not relieve them of applicable state licensing requirements.

(I) The Planning Director and the Zoning Enforcement Officer may form advisory citizen committees to advise them in administering the provisions of this division (I); particularly appropriate would be a committee to advise the Zoning Enforcement Officer and Zoning Hearing Examiner concerning community residential program quality and a committee to assist in the formation of training programs for citizens and neighborhood associations regarding community residential programs.

('74 Code, § 7-14-40L) (Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 4-2005; Am. Ord. 12-2005; Am. Ord. 23-2006)

§ 14-16-3-13 EMERGENCY SHELTER REGULATIONS.

(A) Applicants for permissive emergency shelters shall satisfy the Zoning Enforcement Officer and applicants for conditional emergency shelters shall satisfy the Zoning Hearing Examiner that they will meet the following standards:

(1) The program is operated under the authority of a reputable governing board, proprietor, or government official to whom staff are responsible and who will be available to city officials, if necessary, to resolve complaints pertaining to the facility.

(2) The design of the facility will be compatible with the neighborhood within which it is located, including its landscaping, architecture, and client waiting areas satisfactory to generally keep clients from waiting on the public right of way.

(3) The facility is in compliance with health, fire, safety, sign, and parking regulations.

(4) The facility will have staffing, supervision, and security arrangements appropriate to the number of clients and to its hours of operations, and a program for client referrals to social services or the provision of services directly.

(5) The operators have a written plan for facilitating good relationships with neighboring residents and businesses, including especially a method for recording and resolving complaints by neighbors pertaining to the operations of the program. Efforts to resolve complaints and the result of such efforts shall be recorded.

(6) Emergency shelters shall be located a minimum of 1,500 feet from any other emergency shelter, and no more than one other emergency shelter shall be within one mile of the proposed emergency shelter.

(7) The total combined number of emergency shelters and community residential programs located in any Planning Information Area, as defined by the city's Planning Department, shall not exceed one for each 1,000 dwelling units within that Planning Information Area.

(8) The above regulations shall not apply to emergency shelters legally established prior to the effective date of this division (A) except:

(a) Existing emergency shelters shall be counted in respect to decisions on the location of new emergency shelters; and

(b) Within one year from the September 2, 1987, effective date of these amendments, existing emergency shelters shall comply with the procedures for complaints (division (5) above) and annual review (division (D)(1)(a) of this section).

(B) The Zoning Enforcement Officer shall not deny an application for a permissive emergency shelter unless he concludes there is clear and convincing evidence that such use will be injurious to adjacent property, the neighborhood, or the community in ways specified in division (A) above. Any such denial may be appealed to the Planning Commission.

(C) Neighborhood residents and businesses may, if written complaints are not resolved within 30 days after bringing them to the attention of the program operators, file such complaints with the Zoning Enforcement Officer for review, investigation, and possible mediation.

(D) Review Process.

(1) Operators of emergency shelters shall annually submit to the Zoning Enforcement Officer copies of their up-dated program description; up-dated listing of board members, proprietors, or responsible government officials; and up-dated neighborhood relations plan; when there are no changes since the previously filed documents, a statement to this effect is sufficient. Operators shall also have available for review, if requested, the complaint log for the previous year. The Zoning Enforcement Officer shall review this documentation, along with records of any complaints filed with the city to assure that the program continues to function in accord with its original terms of approval. This review will occur at the anniversary of the date upon which approval was originally granted, except the Zoning Enforcement Officer may allow it to occur at the time of application for license renewal if some part of the establishment is licensed by the State of New Mexico.

(2) If evidence indicates changes in the shelter materially in violation of the original terms of approval or major unresolved complaints attendant upon the use of the facility as an emergency shelter, the Zoning Enforcement Officer may refer the matter to the Zoning Hearing Examiner for a public hearing to determine if the approval should be terminated or its terms amended. This process shall apply whether the use is permissive or conditional. The decision of the Zoning Hearing Examiner is subject to appeal to the Planning Commission within 15 days of decision.

(E) Notwithstanding division (D) above, if the Zoning Enforcement Officer finds clear and convincing evidence that the emergency shelter is violating the original terms of this approval, he may take action to enforce the terms of approval at any time.

(F) Fees.

(1) The Zoning Enforcement Officer shall charge a fee of $55 for review of standards specified in division (A) of this section as to an emergency shelter hereafter established which has not been approved for the previous year.

(2) The Zoning Enforcement Officer shall charge a fee of $35 for the annual review specified on division (D) of this section.

('74 Code, § 7-14-40M) (Am. Ord. 23-2001; Am. Ord. 30-2002)

§ 14-16-3-14 [RESERVED.]

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§ 14-16-3-15 RECYCLING BIN REGULATIONS.

(A) Recycling bins shall be sturdy, integrally covered, and designed to keep rain off of their contents.

(B) An on-site sponsor shall accept responsibility for site management, keeping the recycling bin's immediate site as approved by the city decision maker and promptly cleaning up recyclables and refuse which are outside but near the recycling bin.

(C) The on-site sponsor shall submit a sketch to the Planning Director, agreeing to a specific site plan which will fit the refuse bin(s) reasonably attractive on the premises and will not unduly interfere with any other elements required on the premises such as parking, vehicle circulation, and landscaping. When the city decision maker approves a sketch as being in compliance with the standards of the Zoning Code, the sponsor is bound by the sketch; the recycling bin may not remain on the site except in conformance with such an approved sketch.

(D) Recycling bins shall meet the setback requirements for buildings in the zone where they are located. In addition, recycling bins shall not be located closer than 100 feet from a residential zone. Recycling bins shall not be located in fire lanes or utility easements.

(E) Extra signage relating to the recycling bins, beyond signs regularly allowed on the site, shall be limited as indicated on the approved sketch. Such extra signs shall be mounted flush on the bins and shall be of a size and number approved by the city decision maker as necessary to make the recycling workable. Signs shall describe the materials being collected.

(F) Before approving the sketch, the city decision maker shall be satisfied that the materials will be collected on an adequate, regular schedule and will in fact be recycled. It is a violation of the Zoning Code to not recycle materials which recycling-bin signs indicated will be received for recycling.

('74 Code, § 7-14-40O)

(Ord. 80-1975; Am. Ord. 39-1976; Am. Ord. 40-1976; Am. Ord. 56-1976; Am. Ord. 69-1976; Am. Ord. 86-1976; Am. Ord. 6-1977; Am. Ord. 13-1977; Am. Ord. 51-1977; Am. Ord. 76-1977; Am. Ord. 38-1978; Am. Ord. 53-1980; Am. Ord. 55-1980; Am. Ord. 56-1980; Am. Ord. 62-1980; Am. Ord. 36-1981; Am. Ord. 42-1981; Am. Ord. 19-1982; Am. Ord. 37-1984; Am. Ord. 77-1984; Am. Ord. 39-1985; Am. Ord. 51-1985; Am. Ord. 72-1985; Am. Ord. 3-1986; Am. Ord. 10-1986; Am. Ord. 40-1986; Am. Ord. 81-1986; Am. Ord. 41-1987; Am. Ord. 68-1988; Am. Ord. 53-1989; Am. Ord. 65-1989; Am. Ord. 12-1990; Am. Ord. 19-1990; Am. Ord. 21-1990; Am. Ord. 47-1990; Am. Ord. 8-1991; Am. Ord. 25-1991; Am. Ord. 43-1991; Am. Ord. 45-1991; Am. Ord. 22-1992; Am. Ord. 43-1994; Am. Ord. 19-2010)

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§ 14-16-3-16 PRIVATE COMMONS DEVELOPMENT.

(A) A Private Commons Development (PCD) may be established on a tract of land containing two or more acres and zoned RA-1, RA-2 or RO-1, or any zone designated for this type of development in a sector or area plan in accordance with the Zoning Code.

(B) The number of dwelling units permitted in a PCD is determined by dividing the site area by the minimum lot size permitted in the zone rounded to the nearest whole number. However, the number of dwellings in a PCD may not be more than 50. The minimum lot size to be used for determining the number of dwelling units in a PCD with RA-1 zoning shall be 21,780 square feet.

(C) The dwelling units may be houses or townhouses or any combination thereof on any size lots.

(D) The minimum setbacks are as follows:

(1) Front – 15 feet except driveways shall not be less than 20 feet long.

(2) Rear – 15 feet for houses and townhouses unless adjoining R-1, RA-1, RA-2, or RO-1 zoned land, in which case the setback for townhouses shall be 25 feet.

(3) Side – there shall be no required side yard setback except that there shall be a minimum setback of five feet for all side yards contiguous with the PCD boundary.

(E) A minimum of 30% of the gross area of a PCD or 100% of the area gained through lot size reductions, whichever is greater, shall be set aside as a Parceled Commons Area (PCA).

(F) The PCA may be used for agriculture, landscaping, recreation, open space or any combination thereof. It may be composed of separate tracts but each shall have a minimum length and width of 35 feet and shall be visible from a public right-of-way. Land used for streets, driveways, parking, sidewalks and private yards may not be counted as part of a PCA. No buildings or structures are permitted in a PCA except those necessary for the operation and maintenance of the PCA. A PCA may have underground easements. The PCA shall be set aside by the developer either as a Private or Public PCA. A Private PCA shall be created, subject to a finding of suitability by the DRB, through a land use easement and restrictive covenants acceptable to the Development Review Board (DRB). A Public PCA may be created by dedication of land to the City.

(1) For the creation of a Private PCA:

(a) The covenants shall be in the form of recorded deed restrictions and shall be referenced on the subdivision plat.

(b) The covenants shall assure that the PCA will be protected from all forms of development except as shown on an approved site development plan.

(c) The covenants shall require individual lot owners and the members of the homeowner's association, if applicable, to be jointly and severally liable for maintenance of the PCA.

(d) A land use easement, in favor of the city, shall state the proposed allowable use(s) of the Private PCA, and require that the Private PCA be maintained by parties who have ownership interest in the PCD. The land use easement shall state that if the responsible parties fail or refuse to act on maintenance obligations as set forth in the easement, the City shall have the authority to perform such maintenance as necessary to protect public health and safety. The easement shall state that the city may, after written notice and failure to comply within 30 days, enter upon and maintain the Private PCA. The

easement shall state that the cost of such maintenance plus any other penalties or costs allowed by law in connection therein, shall be assessed against the properties within the PCD and failure to pay assessed charges may result in a municipal lien against each of the individual lots in the PCD. This provision shall not be deemed to create an obligation to act on the part of the city. Under no circumstances will the city maintain recreational uses. Under no circumstances shall the city maintain the PCA for a period longer than one year.

(e) The use of a PCA may be restricted to the residents of the PCD and may be fenced so long as the public's view is not significantly diminished.

(2) For the creation of a Public PCA:

(a) An application for consideration of the Public PCA shall be submitted to the DRB in writing at the time the need or desire for a Public PCA becomes apparent, preferably at the sketch plat submittal stage. The application shall state fully the grounds justifying the Public PCA and all of the facts relied upon by the applicant. The application shall be processed concurrently with the related plat.

(b) In determining whether or not the property offered as a Public PCA is acceptable for that purpose, the DRB shall examine the quality of the property offered as to its proposed design, layout, improvements, location, size, cost of maintenance, and general suitability for City purposes.

(c) If after examining the above criteria the DRB determines that the creation of a Public PCA would create a net benefit to the public because the property offered is clearly more beneficial to the public welfare as a Public PCA as compared to the minor detriment resulting in additional burdens to the City, then the DRB shall approve the creation of a Public PCA.

(d) If approved by the DRB, the property offered as a Public PCA shall be dedicated to the City, in accordance with the Subdivision Ordinance.

(e) Responsibility for maintenance of the Public PCA shall be determined during review by the DRB. Written acknowledgement to the DRB from the relevant City department desiring to accept a Public PCA shall be provided and a notation as to maintenance responsibility required on the approved plat.

(f) If dedication of a Public PCA is not accepted by a City department, then the PCA shall remain private.

(g) The use of a Public PCA shall be open to the public.

(G) A PCD is created by DRB approval of a site development plan and a subdivision plat. Site plan and subdivision approval are contingent upon recorded deed restrictions and easements approved by the DRB.

(H) The recorded deed restrictions may not be amended or repealed without the City's prior written approval.

(I) Upon recording the plat and all required documents for a PCD, the area of the PCD shall be delineated and designated with the letters “PCD” on the official zone map.

(J) In accordance with this article, the Planning Director may void the site development plan and remove the PCD designation if the property is replatted to conform to the requirements of the underlying zoning district.

(Ord. 10-1995; Am. Ord. 2013-011)

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§ 14-16-3-17 WIRELESS TELECOMMUNICATIONS REGULATIONS.

(A) ***Applicability.*** Every wireless telecommunications facility located within the city limits, whether upon private or public lands, is subject to this section, except that the following facilities are exempt:

(1) Amateur Radio Station Operator/Receive-Only Antenna if owned and operated by a federally licensed amateur radio station operator or used exclusively for a receive-only antenna;

(2) Any existing tower and antenna provided a valid building permit was issued for the tower or antenna prior to adoption of this section;

(3) Emergency Services. Wireless telecommunications facilities used exclusively for emergency services including police, fire, and operation of the water utility; and

(4) Any antenna used for AM, FM or TV broadcasting.

(B) ***General Provisions.*** The following regulations apply to all wireless telecommunications facilities in all zones, unless otherwise stated.

(1) Setbacks and Separation:

(a) A free-standing wireless telecommunications facility shall be set back a minimum of 100 feet from the property line of a residential zone.

(b) New free-standing wireless telecommunications facilities in public utility substations shall be exempt from the setback requirement if the wireless telecommunications tower is no taller than the existing utility structure within 20 feet of said substation.

(c) A free-standing wireless telecommunications facility shall be set back a minimum of 50 feet from the existing right of way.

(d) Except as stated in (a), (b) and (c) above, setbacks shall conform with the setback requirements of the zone in which the wireless telecommunications facility is located.

(e) Free-standing wireless telecommunications facilities shall be separated by at least 1,000 feet, as measured from the wall or fence of each free-standing wireless telecommunications facility.

(2) Lighting and Signage:

(a) Only security lighting or lighting required by a state and/or federal agency is allowed, provided:

(i) The location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way or any residential premises.

(ii) The lighting shall not have an off-site luminance greater than 1,000 footlamberts; it shall not have an off-site luminance greater than 200 footlamberts measured from any private property in a residential zone.

(b) The only signage that is permitted is that which is required by state or federal law.

(3) Abandonment: All wireless telecommunications facilities which are not in use for three consecutive months shall be removed by the wireless telecommunications facility owner. This removal shall take place within three months of the end of such three month period. Upon removal, the site shall be revegetated to blend with the existing surrounding vegetation. If there is no vegetation on a wireless telecommunications facility site, the site shall be returned to its preconstruction condition. The facility owner shall notify the city when removal of the facility occurs.

(4) Interference: Every wireless telecommunications facility shall meet the regulations of the Federal Communications Commission, or any successor thereof, regarding physical and electromagnetic interference.

(5) Health Issues: Every wireless telecommunications facility shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission or any successor thereof, and any other federal or state agency.

(6) View corridors: Only collocations, public utility collocations, and architecturally integrated wireless telecommunications facilities are permitted within 1/8 mile from the outer edge of the right-of-way of any flood control arroyo designated by the city or the Albuquerque Metropolitan Arroyo Flood Control Authority and identified as part of an existing or future trail system by the city, or the following streets: Alameda Boulevard, Griegos Road, Coors Boulevard, Central Avenue, Unser Boulevard, Sunport Boulevard, Paseo del Norte, Rio Grande Boulevard, Tramway Boulevard, Interstate 25 and Interstate 40.

(7) Open Space: Only collocations, public utility collocations, and architecturally integrated wireless telecommunications facilities are permitted within 1/4 mile from the property line of any city- owned or operated major public open space and the Petroglyph National Monument.

(8) Historic Overlay Zones and Registered Historic Properties:

(a) Only architecturally integrated wireless telecommunications facilities are permitted within any designated Historic Overlay Zone.

(b) Wireless telecommunications facilities are strictly prohibited in the H-1 zone.

(c) Only architecturally integrated wireless telecommunications facilities are permitted on properties listed on the State Register of Cultural Properties or the Federal Register of Historic Places.

(C) Collocation & Public Utility Collocation:

(1) Collocations and public utility collocations are encouraged. Such collocations or public utility collocations are not subject to the concealment requirements prescribed by subsection 14-16-3-17(E) below, but shall be done in the least visibly intrusive manner, to blend in with the existing structure and its surroundings. Notwithstanding the foregoing, collocation on a concealed wireless telecommunications facility shall maintain the concealed nature of the facility.

(2) No new free-standing wireless telecommunications facility shall be permitted unless the Planning Director or designee determines, upon the applicant's demonstration, that no existing tower, structure or public utility structure can be used in lieu of new construction to accommodate the applicant's proposed wireless telecommunications facility. Evidence which demonstrates that collocation or public utility collocation cannot be used in lieu of new construction to reasonably accommodate the proposed wireless telecommunications facility

shall consist of an affidavit with supporting exhibits submitted by the applicant addressing the following:

(a) That no existing tower, structure, or public utility structure within a 1/2 mile radius meets the minimum engineering requirements and/or lacks available space to support the proposed wireless telecommunications facility;

(b) That collocation or public utility collocation of the proposed wireless telecommunications facility would cause unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structures, or the antenna(s) on the existing towers, structures or public utility structures would cause interference with the applicant's proposed telecommunications facility;

(c) That there are other limiting factors that render existing towers, structures, or public utility structures within the 1/2 mile radius unsuitable; or

(d) That the owners of existing towers, structures, or public utility structures within the 1/2 mile radius will not allow the applicant to place its wireless telecommunications facility thereon, or such owners are requiring payments thereof that substantially exceed commercially reasonable rates.

(3) Unless otherwise specified in this Zoning Code, Public Utility Collocations are permitted in all zoning districts except the H-1 Historic Old Town Zone.

(4) When mounted on a transmission or sub-transmission line structure, the equipment cabinet(s) shall be not more than 3 feet x 4 feet x 18 inches deep, at a minimum height of 10 feet, and a maximum height of 20 feet; and

(D) Application Requirements:

(1) Applications for Free-Standing Wireless Telecommunications Facilities and Architecturally Integrated Wireless Telecommunications Facilities. In addition to any information otherwise required by the Comprehensive City Zoning Code, each applicant for a new free-standing or architecturally integrated wireless telecommunications facility shall provide the Planning Department with:

(a) A map of all existing wireless telecommunications facilities, operated by any carrier, within a ½ mile radius of the site;

(b) The zone map(s) specific to the application, from the city's Zone Atlas, drawn to scale, showing land uses and zoning designations, including those outside the city limits;

(c) Evidence that demonstrates the absence of collocation possibilities as prescribed by subsection 14-16-3-17(C)(2), above;

(d) A set of site development plans which, in addition to other requirements in this Zoning Code:

(i) Includes a scaled site development plan clearly indicating the location, type, color and height of any proposed wireless telecommunications facility, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other jurisdictions), Comprehensive Plan classification of the site, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of any wireless telecommunications facility, topography, parking and

other information deemed necessary by the Planning Department to assess compliance with this section;

(ii) Describes the facility's capacity, including a notarized statement from the applicant which declares the number and type(s) of antenna(s) that it can accommodate, or an explanation why the facility cannot be designed to accommodate other users;

(iii) Includes an affidavit explaining what the engineering requirements are and the factual basis for those requirements;

(iv) Includes an engineer's or architect's stamp and registration number;

(v) Includes the separation distance between any tower and other telecommunications facilities and the owner of those facilities; and

(vi) Includes any other information as requested by the Planning Department reasonably needed to evaluate the request;

(e) Unless the applicant has demonstrated that the free-standing or architecturally integrated wireless telecommunications facility cannot be designed to accommodate future collocations by other users, a letter of intent committing the wireless telecommunications facility owner and his/her/its successors and assigns to allowing shared use of the facility if an additional service provider agrees in writing to meet reasonable terms and conditions of shared use;

(f) Evidence that the applicant mailed notice by registered or certified mail return receipt requested of the proposed free-standing or architecturally integrated wireless telecommunications facility to adjacent property owners that would be entitled to notice of a zone map amendment and to recognized neighborhood associations within a 1/4 mile radius. The applicant shall also submit a copy of the notice with its application. In addition to all other relevant information, the notice must include the applicant's contact information and the contact information for the relevant City staff or department where more information may be requested, and must further indicate that the property owner may request to be notified in writing upon the Planning Department's decision on the application. When requested by any person or neighborhood association entitled to notice under this subsection, the wireless telecommunications facility owner or agent shall meet with those persons or association representatives to provide a selection of alternative concealed facility designs deemed both technically feasible and aesthetically non-intrusive, seeking to reach a mutual agreement concerning the most acceptable design. The Applicant shall notify those persons who specifically requested the meeting and all neighborhood associations entitled to notice under this subsection of the time and location of the meeting.

(2) Applications for Collocations, Public Utility Collocations, and Upgrades to Existing Facilities.

(a) In addition to any information otherwise required by the Comprehensive City Zoning Code, each applicant for a collocation, public utility collocation, or upgrade as described by § 14-16-3-17(D)(3) not resulting in a substantial change, shall provide the Planning Department with:

(i) Documentation establishing that the installer has permission from the structure owner and property owner, if not the same, to install the wireless telecommunications antenna(s) and any associated buildings, cabinets or equipment at the site;

(ii) The zone map(s) specific to the application, from the city's Zone Atlas;

(iii) A set of site development plans with an engineer's or architect's stamp and registration number which, in addition to other requirements in this Zoning Code includes a scaled site development plan clearly indicating the location, type, and height of the existing wireless telecommunications facility and the proposed wireless telecommunications facility, adjacent roadways, and elevation drawings of the wireless telecommunications facility as existing and as proposed;

(iv) A signed statement from the public utility or owner of the tower certifying the dimensions of the tower as originally installed or permitted, inclusive of any modifications that were approved prior to February 22, 2012 (date of the Spectrum Act);

(v) An affidavit explaining the engineering requirements and the factual basis for those requirements; and

(vi) Any other information requested by the Planning Department reasonably needed to evaluate the request.

(b) If the proposed collocation, public utility collocation, or upgrade will result in a substantial change to the existing wireless telecommunications facility or public utility structure as described by subsection 14-16-3-17(D)(3) it shall be permitted only upon the applicant's receipt of a waiver pursuant to § 14-16-3-17(G). If such a waiver is required, the application will be deemed incomplete until such time as the waiver is approved.

(c) The Planning Director or designee shall review applications for the proposed collocations or public utility collocations. Applications for collocations meeting the relevant requirements of this § 14-16-3-17 and not resulting in a substantial change shall be approved. The Director's decision is subject to appeal pursuant to the appeal provisions of the Zoning Code.

(3) Upgrade; Substantial Change.

(a) For purposes of this section, an "upgrade" is the replacement, or addition of wireless telecommunications antenna(s) or equipment, but does not include routine maintenance.

(b) For purposes of this section, a "substantial change" to a wireless telecommunications facility or public utility structure includes any upgrade or physical alteration to an existing public utility structure or existing wireless telecommunications facility that meets any of the following criteria:

(i) For wireless telecommunications towers other than wireless telecommunications towers in the public right-of-way, it increases the height of the wireless telecommunications tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for wireless telecommunications facilities in

the public-right-of way or for public utility structures, it increases the height of the structure by more than 10% or ten feet, whichever is greater;

(A) Changes in height are to be measured from the dimension of the tower as originally installed or permitted, inclusive of any modifications that were approved prior to February 22, 2012.

(ii) For wireless telecommunications towers other than wireless telecommunications towers in the public right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for wireless telecommunications facilities in the public-right-of way or for public utility structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For wireless telecommunications facilities other than wireless telecommunications facilities in the public right-of-way, it would increase the number of equipment cabinets beyond a maximum of four; for wireless telecommunications facilities in the public-right-of way or for public utility structures, it involves the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails excavation or deployment beyond the current site;

(v) It would defeat the concealment requirements of subsection 14-16-3-17; or

(vi) It does not comply with the conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the above subsections (i) through (iv).

(E) Concealment:

(1) All proposed wireless telecommunications facilities, excluding collocations, public utility collocations, and upgrades that do not result in a substantial change shall use concealed technology and shall be:

(a) The least visually and physically intrusive as possible and have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility;

(b) Aesthetically integrated with existing buildings, structures, and landscaping, to blend in with the nature and character of the built and natural environment and take into consideration height, color, style, massing, placement, design, and shape;

(c) Located to avoid a dominant silhouette of a wireless telecommunications facility on escarpments and mesas, and to preserve designated view corridors; and

(d) To the extent feasible without impacting functionality, located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening, and sited so as to not stand out of the landscape as a wireless telecommunications facility.

(2) Consistent with federal law, these concealment requirements shall not be administered so as to have the effect of prohibiting the provision of wireless telecommunication services.

(3) The Planning Director or his/her designee shall determine whether the requirements prescribed by this subsection are sufficiently satisfied subject to review pursuant to the appeal provisions of the Zoning Code.

(F) Landscaping and Screening:

(1) All free-standing wireless telecommunications facilities shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director or his/her designee; however, the Planning Commission may waive this requirement where the Planning Commission finds this requirement is not useful to achieving the intent of this Zoning Code.

(2) All free-standing wireless telecommunications facilities shall be surrounded by solid fence or wall, at least six feet high and not more than nine feet high and landscaping at least sufficient to screen ground equipment facilities from public view. Chain link with slats shall not constitute a solid fence or wall.

(G) Waiver:

(1) The Planning Commission, after a public hearing noticed as required for a special exception, may grant a waiver of those requirements over which the Planning Commission has review authority except for allowed maximum height. A waiver shall be granted only if the Planning Commission finds in writing that the waiver substantially:

(a) Is in the best interest of the community as a whole;

(b) Will expedite the approval of an antenna, tower, or tower alternative;

(c) Will not jeopardize public health, safety and welfare;

(d) Will either ameliorate the adverse impacts of antenna and tower proliferation or the adverse impact of requiring new construction of towers or antenna(s); and

(e) Will better serve the purposes of this section.

(2) The facts to be considered by the Planning Commission in reviewing an application for a waiver shall include:

(a) The height of the proposed tower;

(b) The proximity of the tower antenna to residential structures and residential district boundaries;

(c) The nature of uses on adjacent and nearby properties;

(d) The surrounding topography;

(e) The surrounding vegetation and foliage;

(f) The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating any visual obtrusiveness;

(g) The proposed ingress and egress;

(h) The availability of suitable existing towers or other structures; and

(i) Such other factors as may be relevant.

(H) Fees. The Mayor shall set a fee of $3,000 per application for a proposed wireless telecommunications facility to cover reasonable administrative expenses based on approximate city costs incidental to the processing of applications for siting wireless telecommunications facilities. The fee for an application for a collocation shall be $2,000. Such fees may be increased every two years based on Consumer Price Index (CPI) increases.

(I) Review Time. The administrative review time shall not exceed 60 days for a complete application. If a notice of deficiency is sent to the applicant, the application is not complete until such deficiency is corrected to the satisfaction of the Director. If the deficiencies are not corrected within 60 days of notice of the deficiencies the application shall be deemed withdrawn and no further action will be taken on it.

(Ord. 9-1999; Am. Ord. 12-2002; Am. Ord. 50-2002; Am. Ord. 5-2008; 2014)

§ 14-16-3-18 GENERAL BUILDING AND SITE DESIGN REGULATIONS FOR NON-RESIDENTIAL USES.

(A) ***General Intent.*** The building and site design regulations in this section are intended to enhance the visual appearance of non-residential development; to promote street and neighborhood character; and to strengthen the pedestrian environment. Regulations for large-scale development are also provided to mitigate the negative visual impacts arising from the scale, bulk and mass inherent to large commercial buildings.

(B) ***Applicability.***

(1) Provisions of this section shall apply to all non-residential uses unless otherwise specified.

(2) Provisions of this section shall apply to the following:

(a) Construction of a new building.

(b) Construction of a building addition that increases the existing square footage by 50% or by 15,000 square feet, whichever is less. Application of the provisions shall be required of the building addition and the existing building(s).

(c) Change of use. Where use changes from manufacturing or warehouse to office or commercial, typical design requirements related to office/institutional or commercial retail/service uses shall be required.

(3) With the exception of public sidewalks, the area of all required sidewalks, seating areas, patio or other usable outdoor areas may be applied in meeting up to 1/3 of the landscape requirements for the overall site as required in § 14-16-3-10(E)(1).

(C) ***Design Standards -- Office/Institutional and Commercial Retail/ Service Uses.*** (Note: Sites 5 acres and greater will be required to comply with the following design standards in addition to any other design requirements that the Environmental Planning Commission may deem necessary.)

(1) ***Sidewalks.*** Pedestrian sidewalks, a minimum of 8 feet in width, shall be provided along the entire length of major facades containing primary entrances. The width of the sidewalk shall be increased as follows:

(a) Ten feet in width for buildings 10,000 to 30,000 square feet;

(b) For buildings greater than 30,000 square feet, the width of the sidewalk shall increase at the rate of one foot in width per 10,000 square feet of building size to a maximum required width of 15 feet.

(c) The width of the required sidewalk may vary along the entire length of the facade provided the average required width is maintained and provided the width of the sidewalk along the facade does not fall below 8 feet.

(d) A six-foot wide clear path shall be maintained along the sidewalk at all times. Site amenities, cars, landscaping and other uses of the sidewalk may not encroach upon the six-foot clear width.

(e) The building's overall footprint will be considered the area for calculation of sidewalk width. A collection of smaller buildings linked by common walls will be considered as one building.

(f) Site amenities, landscaping, vending and customer pick-up may be incorporated into the width of the sidewalk provided they do not encroach upon the clear width as stated above.

(g) ***Exceptions.***

1. Where primary entrances are located adjacent to a public sidewalk, the width of the public sidewalk may be included in the calculation provided a pedestrian connection is provided to connect the public sidewalk with the entrance(s).

2. Where a vestibule or other projecting entryway is provided, the depth of the vestibule or entryway may be included in the sidewalk calculation, provided 6 feet of sidewalk is located in front of the vestibule or projecting entryway in order to allow pedestrian connectivity along the entire length of the facade.

(2) ***Pedestrian Features.*** Major facades shall incorporate at least one or a combination of the following features along no less than 50% of the length of the facade. Such features shall be distributed along the length of the facade in order to avoid creating a blank facade greater than 30 feet in length.

(a) Display windows, provided the sill height does not exceed 45 inches above the finished floor and the overall glass height is a minimum of 48 inches. Where windows are provided, they shall not be mirrored or opaque along the ground floor.

(b) Doors/Entrances.

(c) Portals, arcades, canopies, trellises, awnings associated with windows (windows do not have to comply with dimensions specified in (a) above), or other three dimensional elements that provide shade and/or weather protection.

(d) Raised planters a minimum of 12 inches and a maximum of 28 inches in height, located adjacent to the facade, with living, vegetative materials such as ornamental grasses, vines, spreading shrubs, flowers, or trees over at least 75% of the planter. Coverage shall be calculated from the mature spread of the plants.

(e) A minimum 15-foot wide landscaped area planted adjacent to the facade. One shade tree for every 50 linear feet of facade shall be provided in the landscaped area. Shrubs and/or groundcover shall cover at least 75% of the landscaped area measured from the mature spread of the plants.

(f) Shade trees, provided at one tree for every 30 linear feet of the entire facade, which may be evenly spaced or clustered along the facade. Trees shall be placed within defined planting areas that have a minimum interior dimension of 36 square feet and a minimum width of four feet. Provision of trees will not fulfill off-street parking or street tree requirements.

(g) Any other treatment that meets the intent of this section and that meets the approval of the Planning Director or his designee.

(h) ***Exception.*** Major facades containing service areas will not be required to provide pedestrian features in front of the service area.

(3) ***Major Facades Greater Than 100 Feet In Length.*** In addition to the requirements set forth in subsection (C)(2) above, buildings containing major facades greater than 100 feet in length

shall incorporate outdoor seating adjacent to at least one of the facades, a minimum of one seat per 25 linear feet of building facade. Each seat shall be a minimum of 24 inches in width and 15 inches in height. Benches, raised planters, ledges or similar seating features may be counted as seating space. If the outdoor seating is located on the south or west side of the building, at least 25% of the seating area shall be shaded.

(4) ***Public Space.*** (Applicable to buildings 60,000 square feet or greater. A collection of smaller buildings linked by common walls shall be considered one building.) One public space area, a minimum of 400 square feet, shall be provided for every 30,000 square feet of building space. The public space area shall be privately owned and maintained and should typically contain seating and shade. Public space areas are prioritized so that (a) below is required of the first 30,000 square feet. In addition to (a), public space areas may contain one or a combination of the following features:

(a) Outdoor plaza, patio, or courtyard with seating and shade covering a minimum of 25% of the area.

(b) Pocket park with seating and shade covering a minimum of 25% of the area.

(c) Sculpture or other artwork.

(d) Fountain or some other water feature.

(e) Playground or other recreational amenity.

(f) Any other amenity that meets the intent of this section and that meets the approval of the Planning Director or his designee.

(5) An aggregate of buildings 125,000 square feet or greater shall provide pedestrian plaza space in the amount of 400 square feet for every 20,000 square feet of building space. A minimum of 50% of the required public space shall be provided in the form of aggregate space that encourages its use and that serves as the focal point for the development. The aggregate space shall:

(a) Be linked to the main entrance of the principal structure and the public sidewalk or internal driveway;

(b) Include adequate seating areas. Benches, steps, and planter ledges can be counted for seating space;

(c) Have a portion (generally at least 40%) of the square footage of the plaza area landscaped with plant materials, including trees;

(d) Be designed for security and visible from the public right-of-way as much as possible;

(e) Have pedestrian scale lighting and pedestrian amenities such as trash receptacles, kiosks, etc.

(6) ***Screening.***

(a) Roof-mounted mechanical equipment shall be screened from the public right-of-way by parapet walls or structural features. The minimum height of the parapet walls or structural features shall be as follows:

1. 42" if the roof top equipment is within 10 feet of the building wall;

2. 30" if the roof top equipment is within 20 feet of the building wall;

3. 18" if the roof top equipment is beyond 20 feet of the building wall.

(b) Wall-mounted mechanical and electrical equipment on major facades is discouraged. If used, it shall be screened by dense evergreen foliage or by other acceptable screening devices. Wall-mounted mechanical equipment on non-major facades shall be painted to match the color of the subject building or screened by other acceptable screening devices.

(c) Ground-mounted mechanical and electrical equipment, excluding transformers, adjacent to a major facade shall be screened through use of walls, earth berms, dense evergreen foliage or other acceptable screening devices.

(d) Loading areas which face a public street or residentially-zoned property and which are not separated from the public street or a residentially-zoned property by intervening buildings, landscaping or by a distance of at least 100 feet, shall be screened with solid walls which are a minimum of six feet in height when measured from the finished grade exterior to the loading area. The distance of the screening wall from the loading area shall not exceed 100 feet.

(D) Design Standards – All Non-Residential Uses.

(1) Building Entrances. Primary entrances along major facades shall be clearly defined with facade variations, porticos, roof variations, recesses or projections, or other integral building forms.

(2) Break up the Mass. Major facades greater than 100 feet in length shall break up building mass by including at least two of the following architectural features:

(a) Wall plane projections or recesses of at least 2 feet in depth, occurring at least every 100 feet and extending at least 25% of the length of the facade;

(b) A vertical change in color, texture, or material occurring every 50 linear feet and extending at least 20% of the length of the facade;

(c) An offset, reveal, pilaster, or projecting element, no less than two feet in width and projecting from the facade by at least six inches and repeating at minimum intervals of 30 feet;

(d) Three dimensional cornice or base treatments;

(e) Art such as murals or sculpture to be coordinated through the City Arts Program;

(f) A change in visible roof plane or parapet height for every 100 feet in length, however, each distinct roof plane does not have to equal 100 feet in length;

(g) Any other treatment that meets the intent of this section and that meets the approval of the Planning Director or his designee.

(h) ***Exception.*** In cases where the applicant has provided pedestrian amenities according to subsection (C)(2) above, the applicant need only provide one of the above-listed treatments.

(3) Provisions for Employees. Buildings requiring six or more water closets, pursuant to the Uniform Building Code, shall provide outdoor gathering space for employees. Such space shall be a minimum of 300 square feet, with seating and shade covering a minimum of 25% of the area.

(a) ***Exception.*** The provision for employees will not be required if an outdoor plaza, patio, courtyard or pocket park are provided as part of the development plan in accordance with subsection (C)(4) above.

(4) ***Accessory Buildings.*** All accessory buildings visible from a public street shall be similar in color and material to the major building on a site.

(5) ***Drive-Up Service Windows.*** Drive-up service windows shall be oriented away from pedestrian areas, residentially-zoned areas and public streets where possible. In cases where drive-up service windows face these areas, screening shall be provided. Screening may be in the form of walls, earth berms, or evergreen landscaping, or a combination thereof and shall be a minimum of three feet in height. Where walls are provided, a minimum 3-foot wide planting strip with live vegetation shall also be provided on the pedestrian or residential or public street side.

(6) ***Gas Fueling Canopies.*** Gas fueling canopies and canopy fascia shall be similar in color and texture to the major building on a site. All under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.

(Ord. 10-2004; Am. Ord. 23-2007)

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§ 14-16-3-19 GENERAL HEIGHT AND DESIGN REGULATIONS FOR WALLS, FENCES AND RETAINING WALLS.

(A) Height regulations.

(1) A wall, fence, retaining wall, or vertical combination of these (the "wall") that does not face a public street right-of-way, a public park, open space, or designated trails (the "public side") and is in a residential zone may be built within a required setback, provided:

(a) It does not exceed eight feet in height above the abutting grade on the lower side within the required side or rear yard or three feet in height above the abutting grade on the lower side within the required front yard.

(b) Where contiguous to non-residential property, it does not exceed ten feet in height above the abutting grade on the residential side except in the required front-yard setback.

(c) On a corner lot, the rear yard of which is contiguous to the front yard of a residentially zoned lot, a wall, fence, retaining wall, or vertical combination of these does not exceed three feet in height within ten feet of the right-of-way line. The height of the wall shall be measured from the abutting grade on the street side or the abutting front yard grade whichever is most restrictive. However, a conditional use may be approved for a higher wall or fence.

(d) On a lot where the rear lot line abuts a public street right-of-way and the lot's rear yard is contiguous to the front yard of another residentially-zoned lot, a wall, fence, or vertical combination of these does not exceed three feet in height above the abutting grade on the lower side within 20 feet of the rear right-of-way line; however, this setback is reduced to 15 feet if 15 feet is the normal front-yard setback requirement in the residential zone contiguous to the rear lot.

(2) A wall, fence, retaining wall, or vertical combination of these that face a public street right-of-way, a public park, open space, or designated trail and is in a residential zone may be built within a required setback, provided:

(a) It does not exceed three feet in height above the abutting grade on the street side and 11 feet in height above the abutting grade on the private side within the required front yard; or shall not exceed six feet in height above the abutting grade on the street side and 14 feet in height above the abutting grade on the private side within the required side or rear yard, except:

1. Any combination of a wall, fence and retaining wall height along the required side or rear yard that exceeds six feet in height above the abutting grade on the public side in order to retain higher ground on the private property side may be constructed up to eight feet in height; such wall shall not exceed six feet in height from the abutting grade on the private property side of the wall. The design of this wall combination shall include at least two of the façade design treatments specified in § 14-16-3-19(B)(2)(b) and the design shall be consistent with the remainder of this section;

2. A wall, fence and retaining wall or a combination of these shall have no segment rising more than six feet in height visible from the public street right-of-way. A minimum horizontal distance of four feet shall separate the vertical height segments. The top-most segment may be constructed up to eight feet in height

provided the wall does not exceed six feet in height above the abutting grade on the private property side of the wall. Such wall combination shall include at least two of the façade design treatments specified in § 14-16-3-19(B)(2)(b) and the design shall be consistent with the remainder of this section.

3. Design elements may project vertically two feet above the allowed wall height. Such elements shall have a maximum width of five feet, and are allowed at intervals of no less than 200 feet.

(b) On a corner lot, the rear yard of which is contiguous to the front yard of a residentially zoned lot, a wall, fence, retaining wall, or vertical combination of these does not exceed three feet in height within ten feet of the right-of-way line. The height of the wall shall be measured from the abutting grade on the public street side or the abutting front yard grade whichever is most restrictive. However, a conditional use may be approved for a higher wall or fence.

(c) On a lot where the rear lot line abuts a public street right-of-way and the lot's rear yard is contiguous to the front yard of another residentially-zoned lot, a wall, fence, or vertical combination of these does not exceed three feet in height above the abutting grade on the street side within 20 feet of the rear right-of-way line; however, this setback is reduced to 15 feet if 15 feet is the normal front-yard setback requirement in the residential zone contiguous to the rear lot.

(d) Sound mitigation. A wall, retaining wall or a vertical combination of these that face a public street right-of-way may be higher than otherwise allowed on any residentially zoned property, for an existing residence where approved as a conditional use. The wall height shall be no higher than eight feet in height above the abutting grade on the public side of the wall and must be at least ten feet from the property line in areas where walls are limited to three feet in height. Where a wall is along a sloped street, the wall may be stepped at intervals not to exceed eight feet, and each interval may be eight feet in height at the lower end of the interval. For approval of sound mitigation walls, the following conditions shall be met:

1. The existing traffic noise level during daytime exceeds 67 dB(A) Leq (Table 1 of Title 23 Part 772 of the Code of Federal Regulations, and as amended) at any location on the affected property.

2. The proposed solid wall provides a sound level reduction of at least 4 dB(A) Leq as compared to the noise level without the solid wall;

3. The maximum wall height approved shall be limited to that required to reduce sound levels to 67 dB(A);

4. The design of the wall shall include at least two facade design treatments specified in § 14-16-3-19(B)(2)(b) and the design shall be consistent with the remainder of this section;

5. A noise analysis shall be certified by a licensed Engineer and must be collected in the following manner:

a. The existing sound levels must be measured using an instrument sensitive to pressure fluctuations and meeting the standards of the ANSI S1.4-1983 Type 1 or Type 2 or those of International Electro Technical Commission (IEC) Publication 651 or those of the latest respective revisions thereof;

b. Sound level measurements shall be A-weighted equivalent levels (Leq) collected during a consecutive fifteen minute period;

c. Analysis of wall effectiveness must be demonstrated using the latest version of the Federal Highway Administration's (FHWA) Traffic Noise Model or equivalent methodology. An alternative predictive methodology in consistent with FHWA's Traffic Noise Model may be used with prior written approval from the City of Albuquerque Environmental Health Department.

(3) A wall, fence, retaining wall, or vertical combination of these in a non-residential zone is not limited as to height except:

(a) Within five feet of public street right-of-way, where they shall not exceed three feet in height above the abutting grade on the street side; and

(b) If a wall, fence, retaining wall, or vertical combination of these abutting a residential zone has a height of over eight feet above the abutting grade on the residential side, the Zoning Hearing Examiner shall decide the required height through a conditional use.

(4) No wall, fence, or retaining wall or vertical combination of these shall be erected in the clear sight triangle unless the Traffic Engineer, based on a finding that it would not be a traffic hazard, approves its type and location.

(B) Barbed tape, razor wire, barbed wire or similar materials. Barbed tape, razor wire, barbed wire or similar materials are prohibited in and abutting residential zones, and shall not be visible from a public street right-of-way in non-residential zones except in C-3, IP, M-1, M-2 or corresponding zones. Public utility structures and Albuquerque Police Department or Transit Department facilities are exempt from this regulation.

(C) Design regulations.

(1) Applicability. These design regulations shall apply to the following:

(a) The side of all walls, fences, retaining walls or a vertical combination of these that exceed four feet in height and that face:

1. Arterial, collector and local street rights-of-way;

2. Public park;

3. Public open space; and

4. Designated public trails.

(b) Any wall that does not exceed four feet in height above the abutting grade on the public side shall only comply with subsections (B)(2)(b) Façade and (B)(2)(c) Materials and texture of this section.

(c) The public street side of all front, side, and rear yard walls that require a special exception.

(2) Design standards. Walls shall contain variation in layout, façade surface, and/or pattern of openings, materials, texture and color.

(a) Layout.

1. The layout shall incorporate at least one of the following features to break the massing of the wall:

a. Indentations at intervals that shall not exceed three lots and shall be the width of at least one lot in the following manner:

i. Indented every other lot with minimum indentions of 16 inches in depth;

ii. Indented every second lot or two contiguous lots with minimum indentions of 32 inches in depth;

iii. Indented every third lot or three contiguous lots with minimum indentions of 48 inches in depth.

iv. An angular indention in compliance with i., ii., or iii shall be allowed.

b. Curvilinear alignments with a minimum distance of four feet between the outer surfaces of the wall. The outermost point of each curve shall have intervals no greater than 80 feet;

c. Vertical pilasters with a minimum projection of two inches from the public side of the wall surface at intervals of no more than 20 feet in length.

d. Decorative features, such as columns with a minimum projection of four inches from the public side of the wall surface at intervals of no more than 60 feet in length.

e. Terracing of walls with a minimum horizontal distance of four feet separating the vertical height segments. The height of the wall(s) shall meet the requirements of subsection (A)(2) of this section.

(b) Façade.

1. Façade design along the public side shall comply with at least one of the following, and the façade design elements shall be distributed throughout the length of the wall:

a. Openings, at least 5% of the wall façade surface, constructed into the façade or created by using see-through pattern blocks, tubular steel or wrought iron bars, wood or other grillwork;

b. Variation in the top of the wall, such as stepping down and/or up vertically within subsection (A)(3) Height Regulations of this section. The normal stepping of the wall to accommodate grade change does not satisfy this requirement;

c. A variety of materials, texture or color on at least 20% of the wall façade surface;

d. A continuous overhang cap along the length of the wall projected at least two inches from the public side face of the wall;

e. A variety of living shrubs, trees and/or vines covering or overhanging at least one third of the length of a wall in conjunction with a streetscape/landscape maintenance agreement between the City and the adjoining community association as part of the subdivision approval.

(c) Materials and texture.

1. Acceptable materials include but are not limited to stucco over concrete masonry units (CMU) or other structural materials; stabilized adobe; split face blocks; slump blocks; bricks; stone; glass blocks; curved interlock blocks; wood; tubular steel; wrought iron bars; other grill work; or a combination of these materials. Exposed flat-faced CMU blocks may constitute no more than 50 percent of the wall façade.

(Ord. 29-2004; Am. Ord. 2012-037)

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§ 14-16-3-20 ARCHAEOLOGICAL SITES.

(A) Short title. This section may be cited as the "Albuquerque Archaeological Ordinance."

(B) Applicability. This section applies when an applicant initiates the approval process for any of the following:

(1) A preliminary plat for any subdivision that is five acres or more in size; or

(2) A site development plan or master development plan for a project that is five acres or more in size on property that is zoned SU-1 Special Use, IP Industrial Park, an SU-2 zone that requires site plan review, PC Planned Community with a site plan requirement, or meets the Zoning Code definition of a shopping center site.

(C) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A person who files an application and/or begins the city approval process for which this section applies.

ARCHAEOLOGICAL RESOURCE. Material remains of past human activity and life which are of archaeological interest including, but not limited to: pottery, basketry, bottles, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources unless found in an archaeological context. No item shall be treated as an archaeological resource unless such item is at least 75 years old. Material remains that are structures may be considered under the city's Landmarks and Urban Conservation Ordinance (§§ 14-12-1 et seq., ROA 1994).

ARCHAEOLOGICAL SITE, SIGNIFICANT. A geographic location which contains an archaeological resource likely, as determined by the City Archaeologist, to yield information important to the prehistory or history of the Albuquerque area.

ARCHAEOLOGICAL SURVEY. A visual inspection conducted on foot that examines, identifies, records, evaluates and interprets all surface visible archaeological resources.

ARCHAEOLOGIST, QUALIFIED. A professional archaeologist who meets minimum standards to hold a current State General Permit at the Principal Investigator level issued by the New Mexico Cultural Properties Review Committee. The City Archaeologist shall be a qualified archaeologist who, within six months of hire, obtains a current State Annual General Permit at the Principal Investigator level and a State Annual Unmarked Burial Permit.

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

(D) City Archaeologist.

(1) The City Planning Department shall employ a qualified archaeologist to implement the Albuquerque Archaeological Ordinance. A qualified archaeologist may be contracted on a temporary basis when the position is not filled or when the City Archaeologist is unable to perform day-to-day duties. Such archaeologist shall be referred to as the "City Archaeologist."

(2) The City Archaeologist shall be housed in the City Planning Department and shall report to the Planning Department Director.

(3) The City Archaeologist shall:

(a) Have such qualifications as established by this section;

(b) Contract with or hire such assistants and support staff as are necessary to perform the duties assigned and delegate such duties of the City Archaeologist to such assistants and support staff as is deemed appropriate;

(c) Assist any city department in complying with this section;

(d) Consult the New Mexico Cultural Resources Information System and other information sources to compile and maintain a digital database of surveyed areas, site locations, site types, cultural time periods and site conditions that is compatible with the Albuquerque Geographic Information System;

(e) Determine whether an archaeological resource is of historic or pre-historic significance;

(f) Maintain records of project areas that received a "Certificate of No Effect" or a "Certificate of Approval";

(g) Inspect ground-disturbing activities and/or archaeological resources, as needed;

(h) Review and comment on cases in the EPC process. Comment on DRB cases as necessary;

(i) Review any application for a Certificate of No Effect or proposed treatment plan and approve or deny it within 15 days;

(j) Coordinate with other divisions and departments as necessary to ensure compliance with treatment plans;

(k) Maintain a list of qualified archaeologists; and

(l) Such other activities that will promote the public's understanding and appreciation for the City of Albuquerque's archeology.

(E) Certificate of No Effect; Certificate of Approval.

(1) Prior to the approval of a preliminary plat or a site development or master development plan, the applicant must first obtain either a Certificate of No Effect or a Certificate of Approval.

(2) A Certificate of No Effect shall be issued when the City Archaeologist determines that the proposed development will not adversely impact any significant archaeological sites. The City Archaeologist shall issue a Certificate of No Effect upon determining that the applicant has demonstrated any of the following:

(a) That an archaeological investigation has been conducted on the property and that, based on a report prepared by a qualified archaeologist, it has been determined that no significant archaeological site exists on the property. The factual basis necessary to support this determination shall be met through the presentation of an archaeological investigation report prepared in compliance with federal or New Mexico state historic

preservation laws and regulations which used a comparable definition for a significant archaeological site. Documentation indicating that the report was accepted by the relevant agency shall accompany the report;

(b) That the property has been disturbed through previous land use or development to such an extent that there is a substantial reduction in the probability of the continuing existence of any significant archaeological site. It shall be adequate evidence that the property was previously disturbed to such an extent so as to meet this requirement if the property has been graded, demolition has occurred on the property, or the project involves redevelopment or rehabilitation of existing improvements; or

(c) That the informational value of any significant archaeological sites located on the property has been satisfactorily documented through previous archaeological investigation.

(3) If the applicant fails to obtain a Certificate of No Effect, a Certificate of Approval may be obtained as follows:

(a) A qualified archaeologist shall prepare a treatment plan. The treatment plan shall be a site specific plan in report format that shall:

1. Detail strategies for the management of the affected archaeological sites;

2. Include standards for further testing, sampling, documentation, data recovery, preservation and protection, analysis and report preparation;

3. Outline an effective preservation plan or data recovery and documentation plan for those resources that the City Archaeologist has determined to have significant research or other value;

4. Provide a schedule for the implementation of the treatment plan; and

5. Provide a cost estimate for mitigation strategies, including testing, data recovery, curation and report preparation.

(b) The City Archaeologist shall review the treatment plan and shall approve or deny the proposed plan within 15 days of its submission. If the plan is approved, a Certificate of Approval shall be issued by the City Archaeologist. If the plan is not approved as submitted, the City Archaeologist shall advise the applicant of the changes needed in the plan for its approval. In making a decision on the plan, the City Archaeologist shall consider methods to avoid, reduce or mitigate effects on archaeological resources, including the use of conservation easements, while taking into consideration the needs of the property owner.

(c) The Director of the Planning Department shall require that the treatment plan is included on the applicable infrastructure lists of preliminary plats and site plans for building permit such that compliance is a condition of final plat approval.

(d) The Director of the Planning Department shall require that any necessary treatment plan is referenced on the first sheet of the site development plan and/or master development plan. Implementation of the necessary treatment plan shall be made a condition of approval in the Official Notice of Decision.

(e) The Director of the Planning Department shall promptly advise the Landmarks and Urban Conservation Commission of (i) any archaeological resource that the City Archaeologist has determined is significant, and (ii) any application for a Certificate of Approval.

(4) Failure to obtain a Certificate of Approval required by this section or failure to complete and implement a city approved treatment plan, which is the basis of a Certificate of Approval, shall subject the property owner to the penalties in § 1-1-99 ROA 1994. The city may also seek injunctive relief or take administrative action, including the revocation of a city issued permit, for failure to obtain a Certificate of Approval or complete or implement an approved treatment plan.

(5) The city may promulgate regulations for the implementation of this section.

(F) Unexpected archaeological discovery.

(1) In the event that an archaeological resource is unexpectedly discovered in the city during demolition, development or land disturbance activity on any property for which a Certificate of No Effect has been issued, such activity in the immediate vicinity of the archaeological resource shall immediately cease and the person or entity responsible for or overseeing the demolition, development or land disturbance activity shall immediately notify the Director of the Planning Department or the City Archaeologist of the discovery.

(2) Activity that ceases because of the unexpected discovery of an archaeological resource may resume only after the City Archaeologist determines that the resource is not significant or a treatment plan is approved by the city as set forth in division (D). If the City Archaeologist determines that the area containing the archaeological resource can be separated from the project and the resource protected until the treatment plan is completed, the demolition, development or land disturbance activity may resume.

(3) The failure to immediately cease demolition, development or land disturbance activity upon the discovery of an archaeological resource is a violation subject to the penalties in § 1-1-99 ROA 1994.

(G) Appeals. The City Archaeologist's decision may be appealed to the Landmarks and Urban Conservation Commission (LUCC). The LUCC shall be the final appellate body within the city administrative process.

(H) Human remains. In the event that human remains or funerary artifacts are discovered on any property in the city during demolition, development or land disturbance activity, Section 18-6-11.2 of the New Mexico Cultural Properties Act shall control.

(Ord. 25-2007)

§ 14-16-3-21 MOBILE HOME RESIDENT NOTIFICATION.

(A) ***Short title.*** This section may be cited as the "Mobile Home Resident Notification Ordinance".

(B) ***Findings and public policy.*** The City Council finds that one of the Albuquerque/Bernalillo County Comprehensive Plan's goals is to increase the city's supply of affordable housing, ameliorate the problems of homelessness and displacement, and ensure that residents have safe, decent and affordably priced housing in stable neighborhoods. The Council further finds that mobile home developments play a vital role in meeting the city's affordable housing needs through the furnishing of low cost, stable housing environments. Therefore, it is the city's policy to minimize the hardships and disruptions associated with displacing mobile home residents.

(C) ***Definitions.*** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LANDLORD. The owner or any person responsible for operating and managing a mobile home development or an agent, employee or representative authorized to act on the landlord's behalf in connection with matters relating to tenancy in the development.

MOBILE HOME. A movable or portable housing structure larger than 40 feet in body length, 8 feet in width, or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes; it does not include structures built to the standards of the Building Code and other technical codes adopted in § 14-1-3 ROA 1994, as of the date of the unit's construction.

MOBILE HOME DEVELOPMENT or PARK. An area developed or intended to be developed for occupancy by two or more mobile homes which are used for dwelling purposes. It includes areas known as mobile home parks, where lots or spaces are rented individually to residents; mobile home subdivisions, where lots are sold individually, usually to residents of the lots; or other forms of ownership.

MOBILE HOME DEVELOPMENT OWNER or PARK OWNER or OWNER. The person or legal entity holding title to the mobile home development.

RESIDENT. A person who resides in a mobile home in a mobile home development.

TENANCY. The right of a resident to use a space or lot within a mobile home development on which to locate, maintain or occupy a mobile home, lot improvements and accessory structures, including the use of services and facilities of the mobile home development.

(D) ***Termination of mobile home park tenancy resulting from change of use.*** In those cases where the owner intends to change the use of his land, and where such change of use would result in eviction of inhabited mobile homes, the landlord shall first give the resident of each mobile home subject to such eviction a written notice of his intent to evict not less than 18 months prior to such change of use of the land, notice to be mailed to each resident.

(E) ***Civil enforcement.*** Any mobile home development resident whose rights under this section have been violated may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover actual damages. A plaintiff prevailing in an action to enforce this section shall be entitled to recover his or her costs and expenses of suit and reasonable attorney's fees. This provision does not preclude any other remedy that may be available at law or in equity.

(F) ***New Mexico Mobile Home Park Act.*** The provisions of the New Mexico Mobile Home Park Act (Chapter 47, Article 10, NMSA 1978) shall apply as applicable to mobile home developments in

Albuquerque with the exception of the length of time required for resident notification in the event of a change in land use. This section increases the length of time for required notification from six months to 18 months.

(Ord. 7-2008)

§ 14-16-3-22 FORM BASED ZONES.

Section organization. The Form Based Zones section is organized into the following three parts:

Division (A), General Provisions. Division (A) provides the general mechanisms for implementing the form based zones.

Division (B), Form Based Zones. Division (B) provides the overall regulatory structure for each form based zone. Each zone provides regulatory standards regarding eligibility requirements, building placement, height, parking, open space and landscape requirements, allowable and prohibited uses, as well as allowable building and frontage types, and other development standards.

Division (C), Components. The components include the specific descriptions of the elements regulated in division (B), including Building Types, Frontage Types, General Building Standards, Street Standards, and standards for Parking, Lighting, Signage, Walls and Fences, Screening, and Landscape.

(A) General provisions.

(1) Intent and purpose.

(a) The Albuquerque/Bernalillo County Comprehensive Plan and the Planned Growth Strategy guide the future development of Albuquerque. The Planned Growth Strategy is a long range guide to encourage a more efficient and sustainable urban form for the city. Both of these documents seek to create and support a city where:

1. A range of housing opportunities and choices is available;

2. Development takes place as a mixture of uses rather than large acreages of single land types;

3. Residents need to travel fewer miles every day to go about their lives;

4. Development supports a variety of transportation choices;

5. There is an active pedestrian life through the creation of walkable neighborhoods;

6. Development is characterized by human rather than automotive scale; and

7. Older, established areas are as desirable to live in as new ones.

(b) The form based zones implement the goals and policies of the Comprehensive Plan and Planned Growth Strategy by guiding development that is pedestrian friendly, has a mix of uses and is more compact than the more vehicular oriented building patterns prevalent since the 1940s. The form based zones:

1. Identify a variety of building types and establish requirements for how the buildings must relate to the street, recognizing that their relationship to streets that are pedestrian oriented is different than their relationship to streets that are more vehicle-oriented (e.g., setbacks, location of parking, access to parking);

2. Regulate the way buildings relate to their surrounding environment (e.g., massing, solar access, building stepbacks);

3. Regulate building design which is in scale to the pedestrian.

(2) Relationship to city regulations. Applicable only when a form based zone is approved.

(a) Where § 14-16-3-22 Form Based Zones conflict with the Subdivision Regulations (Revised Code of the City of Albuquerque ("ROA") § 14-14-1-1 et seq.), § 14-16-3-22 Form Based Zones prevails.

(b) The general regulations of the Zoning Code (Revised Code of the City of Albuquerque ("ROA") § 14-16-3-1 et seq.) do not apply to § 14-16-3-22 Form Based Zones unless so specified by § 14-16-3-22.

(c) Where § 14-16-3-22 Form Based Zones conflicts with the Development Process Manual (DPM), § 14-16-3-22 Form Based Zones prevails.

(d) Where § 14-16-3-22 Form Based Zones conflicts with Area Plans, Sector Development Plans and/or Design Overlay Zones, then those Area Plans, Sector Development Plans and/or Design Overlay Zones shall prevail.

(e) Where § 14-16-3-22(B) Zones conflicts with § 14-16-3-22(C) Components, § 14-16-3-22(B) Zones shall prevail.

(3) Establishment of form based zones.

(a) The zones presented in the form based zones are intended to permit mixed use, sustainable, pedestrian scale development. The zones are:

1. SU-1 Transit Oriented Development - Major Activity Center (TOD-MAC)

2. SU-1 Transit Oriented Development - Community Activity Center (TOD-COM)

3. SU-1 Mixed Use (MX)

4. SU-1 Infill Development (ID)

5. SU-1 Planned Neighborhood Development (PND) with the following subareas: PND-C (Center/Corridor), PND-G (General), and PND-E (Edge)

(b) Description of the form based zones. This part establishes a set of form based regulations that are tailored to a variety of situations. These zones allow mixed use development in a variety of contexts, ranging from new development on large "Greenfield" sites, to neighborhood redevelopment, to infill development on small sites.

1. Transit Oriented Development - Major Activity Center (TOD-MAC). These are Major Activity Centers as defined by the Comprehensive Plan characterized by high intensity employment, civic, retailing and entertainment development with a complementary mix of commercial and high density residential functions with a design, capacity and intensity supportive of transit. The centers are compact and spatially concentrated, with a network of streets and pedestrian ways connected to existing or future transit facilities.

2. Transit Oriented Development - Community Activity Center (TOD-COM). These are community activity centers as defined by the Comprehensive Plan

which serve a relatively large area to provide community-serving retail and services as well as high density residential with a design, capacity and intensity supportive of transit. Densities and intensities are smaller in scale than the TOD-MAC, for major activity centers.

3. Mixed Use (MX). The MX zone supports pedestrian scale, principally mixed-use development that is integral to a Transit Corridor as defined by the Comprehensive Plan, or an existing or future commercial or mixed use corridor, shopping center node or mixed use neighborhood. This zone can be used to establish commercial, mixed uses and medium to high density residential development that serves existing or planned residential neighborhoods.

4. Infill Development (ID). The ID zone provides a flexible standard to encourage the context-sensitive development of empty lots or the redevelopment of sites in substantially built up areas. It ensures that new development respects the context of its surroundings while implementing the compact, pedestrian friendly policies of the Comprehensive Plan and the Planned Growth Strategy.

5. Planned Neighborhood Development (PND). The PND zone permits the establishment of mixed use and residential neighborhoods on undeveloped sites or in developed or partially developed areas. These neighborhoods may include a mixed use center or may contain a network of smaller mixed use nodes that provide transit supportive commercial and civic functions. The Planned Neighborhood Development zone includes separate regulations for Center/Corridor, General, and Edge development that are integral parts of the PND zone.

(c) The establishment of a form based zone may be justified as to the policies of the Comprehensive Plan and Planned Growth Strategy per Resolution 270-1980, as follows:

1. The establishment of form based zones is consistent with the health, safety, morals and general welfare of the city. The land use patterns realized by the form based zones will play an important role in improving Albuquerque's social and economic quality of life. The new development pattern guided by the form based zones will reduce dependency on cars, increase opportunities to be physically active, and improve air quality by reducing hazardous vehicle emissions, currently the second largest source of carbon dioxide emissions in New Mexico.

   Albuquerque's built environment typifies a mostly post- World War II vehicle oriented pattern of land uses and site design that often relates poorly to the street and adjacent land uses. The enforced separation of uses and accommodation of the automobile over the pedestrian have resulted in growing shortages of funding for public services due to the increased infrastructure costs attributable to sprawl, a built environment more conducive to car travel than alternative modes of travel, and greater distances from home to work, services, entertainment and schools, resulting in increased vehicle miles traveled and increased air quality issues. The form based zones provide a tool for improving those relationships over time, in both new and existing settings. The zones guide mixed use development that is at a pedestrian scale with features like connected street networks, buildings that orient to the street, and densities that support transit service.

2. The establishment of the form based zones supports the adopted elements and objectives of the Albuquerque Bernalillo Comprehensive Plan, its Centers and Corridors Policies and the Planned Growth Strategy. The adoption of the form based zones furthers the goals and policies of the Comprehensive Plan by guiding development toward the city's established areas. The form based zones support compact, mixed use and pedestrian friendly development patterns in locations that will strengthen key areas of the city's urban core by providing the lifestyle opportunities that create renewed interest in these older areas. By providing zoning that creates mixed use, higher density development which is in scale to the pedestrian, and regulates the relationship to existing development and adjacent uses, the form based zones are supportive of polices whose goal is to create a quality urban environment which offers variety of choice in housing, transportation, work areas and life styles while creating a visually pleasing environment.

   The form based zones implement the goals and objectives of the Centers and Corridors policies of the Comprehensive Plan which established a network of higher density, mixed use development activity centers connected by transit corridors with a goal of guiding development that encourages travel to and from these locations by walking, bicycling, or mass transit. The Planned Growth Strategy determined that Albuquerque faces critical challenges related to deteriorating infrastructure and growing deficiencies in natural resource conservation and preservation connected to land, water and air quality, traffic congestion, timely provision of infrastructure, parks schools and other facilities to support new development and decline of some older neighborhoods. To counter those trends, the Planned Growth Strategy promotes the Centers and Corridors policies of the Comprehensive Plan as a key to directing future urban growth. The Planned Growth Strategy relies on the redevelopment of the Centers and Corridors to absorb future population, housing, employment and services, thereby redirecting growth from the fringes of the city to its existing urbanized areas. The form based zones create the mix of land uses, densities and pedestrian scale development appropriate to the designated activity centers and transit corridors. The form based zones will result in more efficient use of existing infrastructure, reduced maintenance of public services, and a built environment offering greater options that enhance quality of life and provide more transportation choices for the city's citizens.

3. The establishment of the form based zones implements the Planned Growth Strategy goals for creating new vitality in existing neighborhoods by developing various regulatory and non-regulatory mechanisms to encourage quality community-based infill development and redevelopment. As part of its overall implementation strategy, the Planned Growth Strategy encourages the adoption of Smart Growth and Traditional Neighborhood Development principles, codes and processes for inclusion into the city's governing plans. The establishment of the form based zones adopts a development code based on Traditional Neighborhood Development principles advocated by the Planned Growth Strategy, which includes creating economic and social vitality by allowing a mixture of complementary land uses including housing, retail, offices, commercial services and civic uses; developing commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians; reinforcing streets as public places that encourage pedestrian and bicycle travel; encouraging efficient land use by facilitating compact, high-density development and minimizing the

amount of land required for surface parking; and facilitating development (land use mix, density and design) that supports public transit.

4. The establishment of the form based zones will provide for development that is more advantageous to the community, as articulated by the policies of Centers and Corridors and the Planned Growth Strategy by guiding a development pattern that creates the mix of uses that reduce vehicular miles traveled and vehicular emissions, reducing the city's carbon footprint as well as improving air quality while providing a range of lifestyle opportunities to the city's residents. It is now commonly acknowledged that new mixed use development makes for more efficient use of existing and new infrastructure while reducing overall growth at the fringes, thereby protecting the valued open space and working landscapes around Albuquerque along with the tourism, jobs, watershed protection and quality of life that these places provide.

5. The establishment of the form based zones does not constitute a spot zone as the resulting development facilitates the realization of the Comprehensive Plan. The Comprehensive Plan sets directives for compact mixed-use and higher density development along its primary streets and at designated major activity and community centers to support a range of transportation options which will reduce auto dependency, trip times, and increase citizens' usage of multi-modal transportation services, including public transit, bicycle and pedestrian opportunities. The form based zones guide growth toward activity centers and transit corridors in a manner that will create the compact mixed use and higher density development that will contribute to balancing vehicular transportation with other forms of transportation.

(4) Incentives for establishment of form based zones.

(a) The establishment of the form based zones offers the following development incentives in order to promote the development of vacant land or redevelopment of existing development in already urbanized areas where infrastructure and services are in place and at key locations for infill or redevelopment, including downtown, transit corridors and locations near employment, shopping, and recreational and cultural amenities. These incentives should make redevelopment of key parcels more attractive and affordable by addressing common barriers to higher density, pedestrian friendly development, such as inadequate infrastructure, lengthy approval processes, obsolete zoning provisions, and often excessive infrastructure requirements.

(b) Incentives.

1. Modifications/flexibility from DPM standards. The regulations set forth by the form based zones allow variation from standard DPM practices. Deviation from the DPM standards not described by the form based zones, but which support the greater intent of the form based zones, may be granted by the Environmental Planning Commission (EPC) upon reasonable justification by the applicant and only in conjunction with a site development plan for form based zones. Deviations granted by the EPC shall be acknowledged and implemented by the Development Review Board.

2. Modifications/flexibility from subdivision standards. In order to create a more compact urban form and allow for more efficient infrastructure design, the Environmental Planning Commission may grant deviations from the city's subdivision standards for form based zones upon reasonable justification by the

applicant. Modifications granted by the EPC shall be acknowledged and implemented by the Development Review Board.

3. Density and parking allowances. The regulations set forth by the form based zones place no limits on density, except in the Planned Neighborhood Development (PND) zone. The intent is to provide market flexibility and allow building volume to be the limiting mechanism.

4. Simplified review process. The requirements of a Site Development Plan for Building Permit for form based zones have been simplified to facilitate a review process that focuses on evaluating the elements of the form based zones rather than specific design details.

5. Traffic Impact Study exemption. The intent of the form based zones is to create development that provides a range of multi-modal opportunities, reducing overall vehicular need. Accordingly, a TIS shall not be required for development within a SU-1 form based zone.

(5) Development approval process.

(a) Any of the SU-1 form based zones may be applied for through the zone map amendment process (§ 14-16-4-1) based on the requirements of § 14-16-2-22(B)(37). The policies for deciding zone map changes contained in Resolution 270-1980, are applicable to all requests for form based zones. SU-1 form based zones require the submittal of a Form Based Zones Site Development Plan to the Environmental Planning Commission as defined by § 14-16-2-22(B)(37).

(b) Any of the form based zones may be applied for and established through the Sector Development Plan process (§ 14-16-4-3) where they will be established as SU-2/SU-1 zones.

(c) Any of the form based zones may be mapped as an optional overlay zone, allowing the use of the underlying zone category or the use of the form based zones. The overlay zone may be enacted in a Sector Development Plan or at the request of consenting land owners and shall be granted through the Environmental Planning Commission or other City Council designated approval body.

(d) The form based zones may be applied for based on the specific eligibility criteria established for each form based zone.

(6) Administration of form based zones.

(a) The standards in the form based zones regulations are specific and prescriptive. This level of specificity provides certainty for applicants, neighborhoods and zoning staff. However, these standards do not limit design creativity or ignore unique site or neighborhood conditions. The standards set a level of detail that allows flexibility within the framework of desirable mandated features of the built environment.

(b) While the regulations of the form based zones attempt to address the varied application possibilities throughout the city, no regulation can predict the range of unique conditions which may arise during its implementation. As such, modifications from the standards are permitted if the modifications do not conflict with the intent of the form based zones.

1. Modifications. Three types of modification are permitted, as defined and regulated below:

Type of Modification	***Definition***	***How Approved***
(a) Minor	Modification from dimensional standards by no more than 10%.	Administratively, by Planning Director*
(b) Major	Any modification that is not considered a "minor" modification, unless a modification is prohibited by the form based zones.	EPC*
(c) Enhanced Transit Corridors	Height maximums for parcels located along Comprehensive Plan designated Enhanced Transit Corridors may be increased an additional 20%.	Building Permit
*or by other City Council designated approval body		

(B) Zones.

(1) SU-1 Transit Oriented Development - Major Activity Center (TOD-MAC)

(a) Zone intent.

1. Provides a mixture of high density residential, commercial and employment uses within a Comprehensive Plan designated major activity center or future major activity center or land abutting a major activity center with existing zoning C-3 or higher.

2. Provides a compact urban form that is oriented to the pedestrian with uses that are dependent upon, or may generate, a relatively high level of transit usage.

3. Provides development standards characterized by a more intensely built-up environment that is oriented to pedestrians, but accommodating of automobiles.

(b) Eligibility criteria.

1. An application for a zone change to SU-1 TOD-MAC shall meet the following eligibility criteria:

a. A TOD-MAC zone shall only be located in an area designated in the Centers and Corridors component of the Comprehensive Plan as a major activity center, or

b. Land abutting a major activity center with existing zoning C-3 or higher.

(c) Permitted/prohibited uses.

1. Any use not listed as a prohibited use shall be permitted.

2. The following uses are not permitted:

a. Adult amusement establishment and adult store, except in areas previously zoned C-3, I-P, M-1, M-2 as of the enactment of the form based zones.

b. Uses first permitted and conditional in the M-2 zone.

c. The following SU-1 uses:

i. Adult amusement establishment or adult store

ii. Automobile dismantling yard

iii. Campground

iv. Cemetery

v. Drilling, production or refining of petroleum gas or hydrocarbons

vi. Gravel, sand or dirt removal activity, stockpiling, processing or distribution and hatching plant

vii. Ore reduction, smelting

viii. Planned development area

ix. Planned residential development

x. Truck plaza

d. Uses permitted and conditional in the P zone and the PR zone.

(d) Permitted building types.

1. The following building types are permitted. See § 14-16-3-22 (C)(1) for building type standards:

a. Stacked flats

b. Courtyard apartments

c. Podium building

d. Live/work unit

e. Flex building

f. Liner building

g. Drive-through/service station

h. Light industrial

i. Warehouse

j. Civic institutional building

k. Structured parking - no ground floor uses.

l. Structured parking - ground floor uses

(e) Height.

1. The following height limitations have been established to create a variety in building height:

a. Minimum height: 26 feet

b. Maximum height: No height maximum.

i. Within 75 feet of an abutting R-1 through R-T zone or corresponding SU-2 zone, building heights shall not exceed a 45 degree angle plane that begins at a height of 26 feet measured from the residential property line.

c. Section 14-16-3-3(A) Height Regulations shall apply with the following exception:

i. Section 14-16-3-3(A) (4) Walls, Fences, Retaining Walls shall not apply. Walls, fences and retaining wall heights shall be regulated by § 14-16-3-22(C).

(f) Building frontage articulation.

1. See § 14-16-3-22(C)(3) for articulation standards.

a. Ground story clear height. A ground floor story shall have a minimum 10 feet clear height except lower ceiling heights are permissible for entryways and secondary spaces (restrooms, hallways, closets, etc.).

b. Articulation on street facades. The design standards of the Zoning Code § 14-16-3-18(D) shall apply to all permitted building types regardless of length, with the following exceptions:

i. Art such as murals and sculptures shall not require coordination with City Arts Program.

ii. Section 14-16-3-18 (D)(2)(b) Vertical Change of Color or Material, shall not apply.

iii. Wall plane projection or recesses shall occur at least every 75 feet.

c. Commercial Building Types (§ 14-16-3-22 (C)(1)) shall devote a minimum 50% of the street facing, street level area, to store front and/or café frontage types.

d. Shading elements. Portals, awnings, canopies and/or overhangs are required for a minimum of 50% of the ground floor façade along public ways and courtyards. Shading devices are not required along service drives and alleys.

e. Balconies and portals. Shall have a minimum 10 feet vertical clearance.

(g) Building placement.

1. In order to create a usable pedestrian realm and to accommodate existing street design and utility easements where applicable, building placement is determined by the following criteria:

a. Buildings shall be located at edge of pedestrian realm.

b. The pedestrian realm. Pedestrian realm shall be 15 feet from the back of curb. The intent is to create an aligned sidewalk condition that extends for at least the length of the block. (See § 14-16-3-22 (C)(4)(a) for pedestrian realm standards.)

c. Excess right of way (R.O.W.). If the R.O.W. extends beyond the 15 feet from the back of curb, buildings shall be placed at edge of R.O.W. The excess R.O.W. shall be considered part of the pedestrian realm, and shall comply with § 14-16-3-22 (C)(4)(a) Pedestrian Realm Standards.

d. Limited existing pedestrian realm. Where the existing allowable R.O.W. does not allow for a 15 foot pedestrian realm, buildings may be placed in a manner that is responsive to the existing context of the area. However, at all times, a minimum six feet clear sidewalk shall be maintained.

e. In addition, the following setbacks apply:

i. Side yard setback (minimum): 0 feet

ii. Rear setback (minimum): 0 feet

iii. Or as provided in the building and frontage type standards (See § 14-16-3-22 (C)(1 and 2))

f. Encroachments. See § 14-16-3-22(C)(3)(b) for encroachment standards.

(h) Usable open space.

1. Usable open space shall be provided as follows:

a. A minimum 5% of the site area shall be designated as usable open space in the form of patios, plazas, balconies, roof decks, courtyards or exterior walkways.

b. Usable open space is not required if building is located within 1,500 feet of a park, plaza or other designated usable open space that is at least one acre in size and is accessible to the public.

(i) Street design.

1. Block size. Block perimeter for new development shall not exceed a maximum of 1600 feet. No block shall exceed 400 feet in length measured from center of R.O.W. Block lengths longer than 300 feet shall be provided with mid-block access points. If a block size in a developed area exceeds these standards, mid-block pedestrian access points shall be included in any redevelopment projects such that block lengths do not exceed 400 feet. The Planning Director may modify block size standards based on limitations of existing conditions.

2. Street types.

a. The following street types shall be permitted for all new or redeveloped streets in a TOD-MAC zone, see § 14-16-3-22(C)(4)(d) for street type standards.

i. RA-20

ii. CS-60

iii. CS-84

iv. CS-94

v. AV-90

vi. BV-115

vii. BV-125

viii. BV-135

3. Alleys. See § 14-16-3-22 (C)(4)(c) for alley standards.

(j) Off-street parking.

1. Required minimum parking calculations.

a. All uses: No parking requirement.

2. See § 14-16-3-22(C)(5) for additional parking standards where parking occurs.

(k) Service and loading. See § 14-16-3-22(C)(9) for screening standards.

(l) Landscape standards.

1. Landscape standards shall be per the City of Albuquerque Zoning Code (§ 14-16-3-10) with the following exceptions:

a. Landscaping area requirements.

i. In recognition of the compact urban character of TOD MAC development, the total landscape area required for each development shall be a minimum 5% of the net lot area.

ii. See § 14-16-3-22 (C)(10) for additional landscape standards.

(m) Lighting standards. See § 14-16-3-22(C)(6) for lighting standards.

(n) Signage.

1. Sign, off-premise, as regulated by the C-1 zone § 14-16-2-16(A)(10) with the following exceptions:

a. Height of free-standing sign shall not exceed 8 feet.

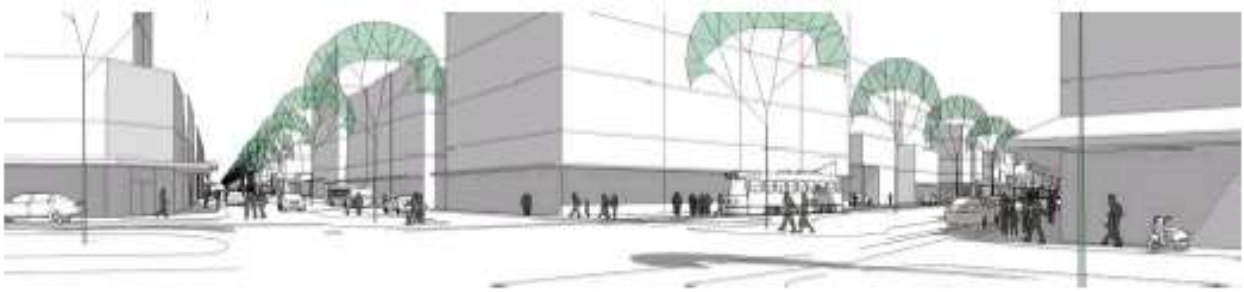
2. Sign, on-premise, as regulated by the C-1 zone, § 14-16-2-16(A)(11) with the following exceptions and additions:

a. Signs may project more than one foot into the R.O.W. per City Encroachment Agreement requirements.

b. Height of freestanding sign shall not exceed eight feet.

3. See § 14-16-3-22(C)(7) for additional signage standards.

(2) SU-1 Transit Oriented Development - Community Activity Center (TOD-COM)



(a) Zone intent.

1. Provides a mixture of high density residential, commercial, entertainment, civic, and employment uses within a designated or planned community activity center, or land abutting a community activity center with zoning C-2 or higher.

2. Is characterized by a more intensely built-up environment and pedestrian orientation, while accommodating automobiles and active areas of shops and

related commercial activities. Provides an interconnected street system; buildings oriented to the public street; mixed use including higher density residential; wrapped parking structures and on street parking.

(b) Eligibility criteria.

1. An application for a zone change to SU-1 TOD-COM shall meet the following eligibility criteria:

a. A TOD-COM zone shall be located in a Comprehensive Plan designated community activity center or future community activity center; or

b. Land abutting a community activity center with existing zoning of C-2 or higher; or

c. Areas mapped as SC (shopping center) sites.

(c) Permitted/prohibited uses.

1. Any use not listed as a prohibited use shall be permitted.

2. The following uses are not permitted:

a. Adult amusement establishment and adult store, except in areas previously zoned C-3, I-P, M-1, M-2 as of the enactment of the form based zones.

b. Uses first permissive and conditional in the M-2 zone.

c. Uses permitted and conditional in the P or PR zone.

d. The following SU-1 uses:

i. Adult amusement establishment or adult store

ii. Automobile dismantling yard

iii. Campground

iv. Cemetery

v. Drilling, production or refining of petroleum gas or hydrocarbons

vi. Gravel, sand or dirt removal activity, stockpiling, processing or distribution and hatching plant

vii. Ore reduction, smelting

viii. Planned development area

ix. Planned residential development

x. Truck plaza

(d) Permitted building types.

1. The following building types are permitted. See § 14-16-3-22(C)(1) for building type standards.

   a. Stacked flats

   b. Terrace apartments

   c. Courtyard apartments

   d. Podium building

   e. Flex building

   f. Liner building

   g. Light industrial

   h. Warehouse

   i. Civic institutional building

   j. Structured parking - no ground floor uses

   k. Structured parking - ground floor uses

(e) Height.

1. The following height limitations have been established to create variety in building heights.

   a. Minimum height: 26 feet

   b. Maximum height: 78 feet with the following exception:

      i. Within 75 feet of an abutting R-1 through R-T zone or corresponding SU-2 zone, building heights shall not exceed a 45 degree angle plane that begins at a height of 26 feet, measured from the residential property line.

   c. Section 14-16-3-3(A) Height Regulations shall apply with the following exception:

      i. Section 14-16-3-3 (A)(4) Walls, Fences, Retaining Walls shall not apply. Walls, fences and retaining wall heights shall be regulated by § 14-16-3-22(C)(8).

(f) Building frontage articulation.

1. See § 14-16-3-22(C)(3) for additional articulation standards.

   a. Ground story clear height. A ground floor story shall have a minimum ten feet clear height except lower ceiling heights are permissible for entryways and secondary spaces (restrooms, hallways, closets, etc.)

b. Articulation on street facades. The design standards of the Zoning Code § 14-16-3-18(D) shall apply to all permitted building types with the following exceptions:

i. Art such as murals and sculptures will not require coordination with City Arts Program.

ii. Section 14-16-3-18 (D)(2)(b), Vertical Change of Color or Material, shall not apply.

iii. Wall plan projection or recesses shall occur at least every 75 feet.

c. Shading elements. Portals, awnings, canopies and/or overhangs are required for a minimum of 75% of the ground floor façade along public ways and courtyards. Shading devices are not required along service drives and alleys.

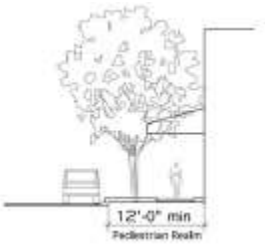
d. Balconies and portals. Shall have a minimum 10' vertical clearance.

e. Commercial building types shall devote a minimum of 50% of street level, street facing area to store front and or café frontage types.

(g) Building placement.

1. In order to create a usable pedestrian realm and to accommodate existing street design and utility easements where applicable, building placement is determined by the following criteria:

a. Buildings shall be located at the edge of the pedestrian realm.



b. The pedestrian realm. The pedestrian realm shall be 12 feet from the back of curb. The intent is to create an aligned sidewalk condition that extends for at least the length of the block. (See § 14-16-3-22 (C)(4)(a) for pedestrian realm standards.)

c. Excess R.O.W. If the R.O.W extends beyond the 12 feet from the back of curb, buildings shall be placed at edge of R.O.W. The excess R.O.W. shall be considered part of the pedestrian realm, and shall comply with § 14-16-3-22(C)(4)(a) Pedestrian Realm Standards.

d. Limited existing pedestrian realm. Where the existing allowable R.O.W. does not allow for a 12 foot pedestrian realm, buildings may be placed in a manner that is responsive to the existing context of the area. However, at all times, a minimum six feet clear sidewalk shall be maintained.

e. In addition, the following setbacks apply:

i. Side yard setback (minimum): 0 feet

ii. Rear setback (minimum): 5 feet

iii. Or as provided in the building and frontage type standards (See § 14-16-3-22 (C)(1 and 2)).

f. Encroachments. See § 14-16-3-22(C)(4)(b) for encroachment standards.

(h) Usable open space.

1. Usable open space shall be provided as follows:

a. A minimum 5% of the site area shall be designated as usable open space in the form of patios, plazas, balconies, roof decks, or courtyards or exterior walkways.

b. Usable open space is not required for properties located within 1,500 feet of a park, plaza or other designated usable open space is at least one acre in size and is accessible to the public.

(i) Street design.

1. Block size. Block perimeter for new development shall not exceed 2,000 feet max. No block shall exceed 600 feet in length, measured from the center of the R.O.W. Block lengths longer than 360 feet shall be provided with mid-block pedestrian access points. If a block size in a developed area exceeds these standards, mid-block pedestrian access points shall be included in any redevelopment projects such that block lengths do not exceed 400 feet. The Planning Director may modify block size standards based on limitations of existing conditions.

2. Street types.

a. The following street types shall be permitted for all new and redeveloped streets in a TOD-COM zone. See § 14-16-3-22(C)(4)(d) for street type standards.

i. RA-20

ii. CS-60

iii. CS-84

iv. CS-94

v. AV-90

vi. BV-115

vii. BV-125

viii. BV-135

3. Alleys. See § 14-16-3-22 (C)(4)(c) for alley standards.

(j) Off-street parking.

1. Required minimum parking calculations:

a. All uses: 1/1500 net square feet

b. On-street parking may count for 100% of off-street parking requirements.

c. Shared parking facilities. Off-street parking requirements can be met by shared parking facilities located within 600 feet.

d. See § 14-16-3-22(C)(5) for additional parking standards.

(k) Service and loading. See § 14-16-3-22 (C)(9) for screening standards.

(l) Landscape standards.

1. Landscape standards shall be per the City of Albuquerque Zoning Code (§ 14-16-3-10) with the following exceptions:

a. Landscaping area requirements.

i. In recognition of the compact urban character of TOD COM development, the total landscape area required for each development shall be a minimum 5% of the net lot area.

ii. See § 14-16-3-22 (C)(10) for additional landscape standards.

(m) Lighting standards. See § 14-16-3-22(C)(6) for lighting standards.

(n) Signage.

1. Sign, off-premise, as regulated by the C-1 zone § 14-16-2-16(A)(10) with the following exceptions:

a. Height of sign shall not exceed eight feet.

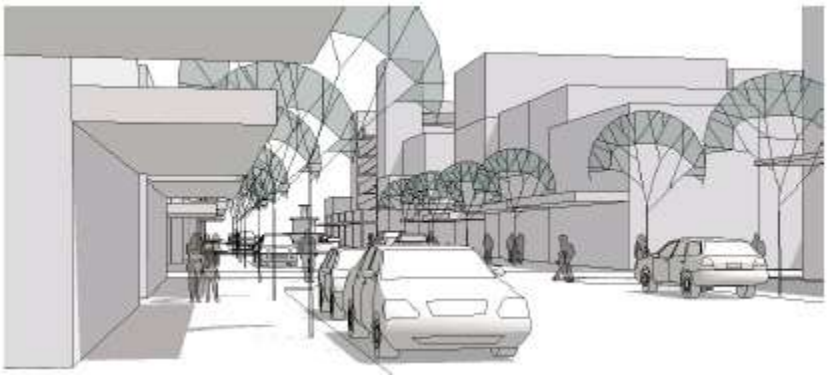
2. Sign, on-premise. as regulated by the C-1 zone, § 14-16-2-16(A)(11) with the following exceptions and additions:

a. Signs may project more than one foot into the R.O.W. per City Encroachment Agreement requirements.

b. Height of freestanding signs shall not exceed eight feet.

3. See § 14-16-3-22(C)(7) for additional signage standards.

(3) SU-1 Mixed Use Zone (MX)



(a) Zone intent.

1. Provides a mixed use environment with medium to high density residential, shopping, service, office, and entertainment uses along a Comprehensive Plan designated transit, enhanced transit corridor and express corridor or, in redeveloping nodal or strip shopping centers, or in a planned commercial corridor or mixed use nodes.

2. Is designed for locations within walking or biking distance of residential areas.

(b) Eligibility criteria.

1. An application for a zone change to SU-1 MX shall meet the following eligibility criteria:

a. Existing parcel zoning is R-C, O-1, C-1, C-2, C-3, I-P, M-1 M-2 or corresponding SU-1 or SU-2 zones.

b. Areas mapped as SC (shopping center) sites.

(c) Permitted/prohibited uses.

1. Any use not listed as a prohibited use shall be permitted.

2. The following uses are not permitted:

a. Adult amusement establishment and adult store, except in areas previously zoned C-3, I-P, M-1, M-2 as of enactment of the form based zones.

b. Uses first permitted and conditional in the M-1 zone.

c. Uses first permitted and conditional in the M-2 zone.

d. Uses permitted and conditional in the P zone and the P-R zone.

e. The following SU-1 uses:

i. Adult amusement establishment or adult store

ii. Automobile dismantling yard

iii. Campground

iv. Cemetery

v. Drilling, production or refining of petroleum gas or hydrocarbons

vi. Gravel, sand or dirt removal activity, stockpiling, processing or distribution and hatching plant

vii. Ore reduction, smelting

viii. Planned development area

ix. Planned residential development

x. Truck plaza

(d) Permitted building types.

1. The following building types are permitted. See § 14-16-3-22(C)(1) for building type standards.

a. Stacked flats

b. Terrace apartments

c. Courtyard apartments

d. Podium building

e. Flex building

f. Liner building

g. Drive-through/service station

h. Stand alone commercial/office building

i. Light industrial

j. Warehouse

k. Civic institutional building

l. Structured parking - no ground floor uses

m. Structured parking - ground floor uses

(e) Height.

1. The following height limitations have been established to create variety in building heights:

a. Maximum height: 60 feet with the following exception:

i. Within 75 feet of an abutting R-1 through R-T zone and corresponding SU-2 zone, building heights shall not exceed a 45 degree angle plane that begins at a height of 26 feet, measured from the residential property line.

b. Section 14-16-3-3(A) Height Regulations shall apply with the following exception:

i. Section 14-16-3-3 (A)(4) Walls, Fences, Retaining Walls shall not apply. Walls, fences and retaining wall heights shall be regulated by § 14-16-3-22(C)(8).

(f) Building frontage articulation.

1. See § 14-16-3-22(C)(3) for additional articulation standards.

a. Ground story clear height for commercial/retail spaces. A ground floor story shall include a minimum ten feet clear height except lower ceiling heights are permissible for entryways and secondary spaces (restrooms, hallways, closets, etc.).

b. Articulation on street facades. The design standards of the Zoning Code § 14-16-3-18(D) shall apply to all permitted building types with the following exceptions:

i. Art such as murals and sculptures will not require coordination with City Arts Program.

ii. Section 14-16-3-18 (D)(2)(b), Vertical Change of Color or Material, shall not apply.

iii. Wall plan projection or recesses shall occur at least every 60 feet.

c. Shading elements. Portals, awnings, canopies and overhangs are required for a minimum of 75% of the length of the ground floor façade along public ways and courtyards. Shading devices are not required along service drives and alleys.

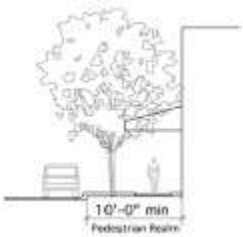
d. Balconies and portals. Shall have a minimum ten feet vertical clearance.

e. Commercial building types shall devote a minimum of 50% of street level, street facing area to store fronts and or café frontage types.

(g) Building placement.

1. In order to create a usable pedestrian realm and to accommodate existing street design and utility easements where applicable, building placement is determined by the following criteria:

a. Buildings shall be located at the edge of the pedestrian realm.



b. The pedestrian realm. The pedestrian realm shall be ten feet from the back of curb. The intent is to create an aligned sidewalk condition that extends for at least the length of the block. (See § 14-16-3-22(C)(4)(a) for pedestrian realm standards.)

c. Excess R.O.W. If the R.O.W. extends beyond the ten feet from the back of curb, buildings shall be placed at edge of R.O.W. The excess ROW shall be considered part of the pedestrian realm, and shall comply with § 14-16-3-22(C)(4)(a) Pedestrian Realm Standards.

d. Limited existing pedestrian realm. Where the existing allowable R.O.W. does not allow for a ten foot pedestrian realm, buildings may be placed in a manner that is responsive to the existing context of the area. However, at all times, a minimum six feet clear sidewalk shall be maintained.

e. In addition, the following setbacks apply:

i. Side yard setback (minimum): 0 feet

ii. Rear setback (minimum): 10 feet

iii. Or as provided in the building and frontage type standards (See § 14-16-3-22(C)(1and 2)).

f. Encroachments into the R.O.W., see § 14-16-3-22(C)(4)(b) for encroachment standards.

(h) Usable open space.

1. Usable open space shall be provided as follows:

a. A minimum 10% of the site area shall be designated as usable open space in the form of patios, plazas, exterior walkways, balconies, roof decks or courtyards.

b. Usable open space is not required for mixed-use or non-residential properties if located within 1,500 feet of a park, plaza or other designated usable open space that is at least one acre in size and is accessible to the public.

(i) Street design.

1. Block size. Block perimeter for new development shall not exceed a maximum of 2,000 feet. No block shall exceed 600 feet in length, measured from center of

R.O.W. Block lengths longer than 360 feet shall be provided with mid-block pedestrian access points. If a block size in a developed area exceeds these standards, mid-block access points shall be included in any redevelopment projects such that block lengths do not exceed 400 feet.

2. Street types.

a. The following street types are permitted. See § 14-16-3-22(C)(4)(d) for street type standards:

i. RA-20

ii. CS-60

iii. CS-84

iv. CS-94

v. AV-90

3. Alleys. See § 14-16-3-22 (C)(4)(c) for alley standards.

(j) Off-street parking.

1. Required minimum parking calculations:

a. All uses: 1/1000 net square feet

b. On-street parking may count for 100% of off-street requirements.

c. Shared parking facilities. Off-street parking requirements may be met by shared parking facilities located within 300 feet.

d. See § 14-16-3-22(C)(5) for additional parking standards.

(k) Service and loading. See § 14-16-3-22(C)(9) for screening standards.

(l) Landscape standards.

1. Landscape standards shall be per the City of Albuquerque Zoning Code (§ 14-16-3-10) with the following exceptions:

a. Landscaping area requirements.

i. The total landscape area required for each development shall be a minimum 10% of the net lot area.

ii. See § 14-16-3-22 (C)(10) for additional landscape standards.

(m) Lighting standards. See § 14-16-3-22(C)(6) for lighting standards.

(n) Signage.

1. Sign, off-premise, as regulated by the C-1 zone § 14-16-2-16(A)(10) with the following exceptions:

   a. Height of free-standing sign shall not exceed eight feet.

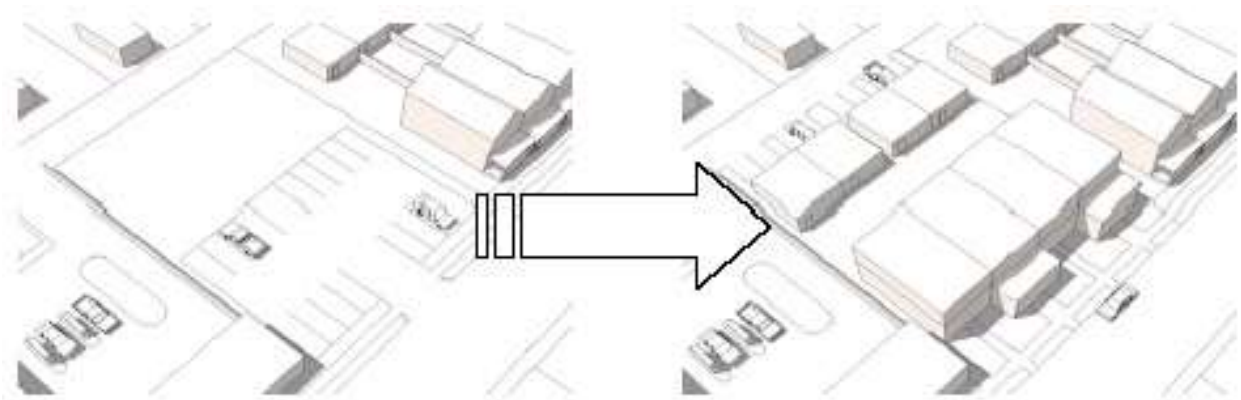
2. Sign, on-premise, as regulated by the C-1 zone, § 14-16-2-16(A)(11) with the following exceptions and additions:

   a. Signs may project more than one foot into R.O.W. per City Encroachment Agreement requirements.

   b. Height of free-standing signs shall not exceed eight feet.

3. See § 14-16-3-22(C)(7) for additional signage standards.

(4) SU-1 Infill Development Zone (ID)



(a) Zone intent.

1. The primary purpose of the ID zone is to integrate infill development into the context of the built environment.

2. In order to encourage infill development, while protecting the neighborhood context, the regulations for the ID zone include reduced front and side setbacks; reduced parking requirements; design standards; and access requirements.

3. The ID zone provides opportunities to introduce neighborhood commercial uses such as a corner store, barber shop or bakery into existing residential areas.

(b) Eligibility criteria.

1. An application for a zone change to SU-1 ID shall meet all of the following eligibility criteria:

   a. Existing parcel zoning is R-1, R-LT, R-T, R-G, R-2, R-3, R-D, R-C, O-1, C-1, or corresponding SU-1 or SU-2 zoning, with the following conditions:

      i. Lots with existing residential zoning shall be located on a corner of two streets designated collector or higher.

ii. Lots with existing zoning O-1or C-1 shall be located on a street designated collector or higher.

b. Minimum ID parcel size: none.

c. Maximum ID parcel size: three acres, not including streets.

d. A zone change to SU-1 ID does not constitute a changed condition under Resolution 270-1980 to justify a zone change to higher intensity zoning.

(c) Permitted/prohibited uses.

1. Permissive uses.

a. R-2 permissive uses

b. C-1 permissive uses with the following prohibitions:

i. Antenna

ii. Park and ride temporary facilities

iii. Public utility structure

iv. Retail sales of auto parts and supplies

v. Retail sale of gasoline, oil, liquefied petroleum gas, including outside sales

vi. Drive-in facilities

vii. Car washing

viii. Parking lot

ix. Off premise sign

(d) Permitted building types.

1. The following building types are permitted, see § 14-16-3-22(C)(1) for building types standards:

a. Detached house

b. Sideyard

c. Rowhouse and courtyard rowhouse

d. Accessory unit/carriage house

e. Duplex/triplex/fourplex

f. Stacked flats

g. Terrace apartments

h. Courtyard apartments

i. Podium building

j. Flex building

k. Liner building

l. Stand alone commercial/ office building

m. Civic institutional building

(e) Height.

1. The following height restrictions apply:

a. Building heights shall not exceed the maximum height of the zoning in place prior to the zone change to SU-1 ID with the following exception:

i. Within 75 feet of an abutting R-1 through R-T zone or corresponding SU-2 zone, building heights shall not exceed a 45 degree angle plane that begins at a height of 11 feet, measured from the residential property line.

b. Section 14-16-3-3(A) Height Regulations shall apply with the following exclusions:

i. Section 14-16-3-3 (A)(4) Walls, Fences, Retaining Walls shall not apply. Walls, fences and retaining wall heights shall be regulated by § 14-16-3-22(C)(8).

(f) Building frontage and articulation.

1. See § 14-16-3-22(C)(3) for additional articulation standards.

a. Articulation on street facades. The design standards of the Zoning Code § 14-16-3-18(D) shall apply to all building types, except detached house, sideyard, rowhouse, accessory unit and duplex/triplex/fourplex with the following exceptions:

i. Art such as murals and sculptures will not require coordination with City Arts Program.

ii. Section 14-16-3-18 (D)(2)(b) Vertical Change of Color or Material, shall not apply.

iii. Wall plan projection or recesses shall occur at least every 40 feet.

b. Shading elements. Portals, awnings, canopies and/or overhangs are required for a minimum of 75% of the ground floor façade except for single family detached buildings.

c. Balconies and portals. Shall have a minimum eight feet vertical clearance.

(g) Building placement.

1. Buildings shall be setback 0 to 15 feet from the front property line. At least 50% of structure length shall not exceed 15 feet from the front property line or at the edge of a public utility easement if an easement is located outside the maximum setback.

2. Side and rear setbacks shall be the same as the zoning in place prior to the zone change to SU-1 ID.

(h) Usable open space.

1. Usable open space shall be provided as follows:

a. For apartment buildings: A minimum 15% of the site area shall be designated as usable open space in the form of patios, plazas, balconies, roof decks, courtyards or exterior walkways.

b. Usable open space is not required for mixed-use or non-residential properties if located within 1,500 feet of a park, plaza or other designated usable open space that is at least one acre in size and is accessible to the public.

(i) Street design.

1. The following street types shall be permitted. See § 14-16-3-22(C)(4)(d) for street type standards.

a. RA-20

b. MBL-24

c. CS-60

d. CS-84

e. CS-94

f. AV-90

2. Alleys. See § 14-16-3-22 (C)(4)(c) for alley standards.

(j) Off-street parking.

1. Required minimum parking calculations:

a. Ground floor non- residential: 1/1000 net square feet

b. Residential: 1/unit

c. On-street parking may count for up to 50% of the off-street parking requirements.

d. Shared parking facilities. Off-street parking requirements can be met by parking spaces located in a shared parking facility located within 200 feet.

e. See § 14-16-3-22(C)(5) for additional parking standards.

(k) Service and loading. See § 14-16-3-22(C)(9) for screening standards.

(l) Landscape standards. See § 14-16-3-22(C)(10) for landscape standards.

(m) Lighting standards. See § 14-16-3-22(C)(6) for lighting standards.

(n) Signage standards.

1. Sign, on-premise, as regulated by the O-1 zone, § 14-16-2-15(A)(16) with the following exceptions and additions:

a. Sign area of building mounted signs. Sign area shall be limited to 25 sf.

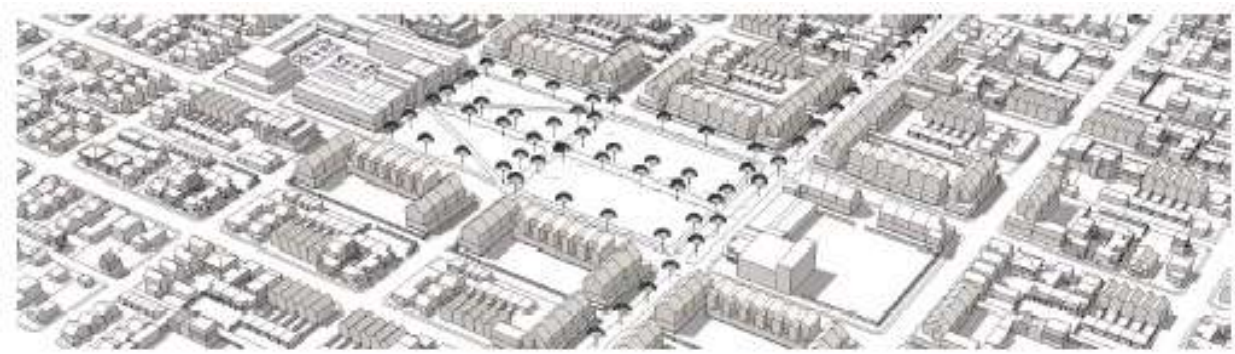
b. No more than one wall mounted sign per premise per building façade.

c. Signs may project more than one foot into R.O.W. per City Encroachment Agreement requirements.

d. Free-standing signs are not permitted.

2. See § 14-16-3-22(C)(7) for additional signage standards.

(5) SU-1 Planned Neighborhood Development (PND) with the following sub areas: PND-C (Center/Corridor), PND-G (General), and PND-E (Edge)



(a) Zone intent.

1. Provides for neighborhoods that include a variety of housing types with neighborhood retail, service and recreational opportunities within walking and bicycling distance of central or corridor commercial, mixed use areas. Buildings are oriented toward streets, plazas and parks with interconnected pedestrian and traffic routes. Open space is organized into a central park/plaza area, with improved parks or civic spaces.

(b) Eligibility criteria.

1. An application for a zone change to SU-1 PND shall meet the following eligibility criteria:

   a. A PND zone is best suited to areas which are undeveloped or large acreage tracts which can be substantially redeveloped.

   b. An application for a PND area shall include a land area of a minimum 20 acres.

   c. Is accessible by existing or future transit routes.

   d. Consist of a PND - Center/Corridor, a PND - General and a PND - Edge.

      i. PND - Center/ corridor (PND-C). The area of the PND with higher density, mixed use development which shall be at least 10% of the PND by acreage.

      ii. PND - General (PND-G). The general mixed-use area of a PND which shall abut the center/corridor and which shall be at least 20% of the PND by acreage.

      iii. PND - Edge (PND-E). The area of PND which transitions to the context of surrounding areas which shall be at least 10% of the PND by acreage.

2. A Phasing Plan shall be submitted as part of the Site Plan for Form Based Code for the PND zone. As the intent of the PND zone is to create neighborhood commercial areas in conjunction with residential development, the Phasing Plan may provide for construction of the center/corridor at any time; however, the Phasing Plan shall not permit the issuance of certificates of occupancy for the last 25% of the dwelling units in the PND until the center/corridor is at least 50% completed. If the applicant consents and the condition is made a part of an enforceable Development Agreement, the restriction on certificates of occupancy can be changed to a restriction on the sale of the dwelling units. In established area applications, the Phasing Plan may be modified or eliminated.

(c) Permitted/prohibited uses.

1. Any use not listed as a prohibited use shall be permitted.

2. The following uses are not permitted:

   a. Adult amusement establishment and adult store, except in areas previously zoned C-3, I-P, M-1, M-2 as of the enactment of the form based zones.

   b. Uses first permitted and conditional in the M-1 zone.

   c. Uses first permitted and conditional in the M-2 zone.

   d. The following SU-1 uses:

      i. Adult amusement establishment or adult store

      ii. Automobile dismantling yard

iii. Campground

iv. Cemetery

v. Drilling, production or refining of petroleum gas or hydrocarbons

vi. Gravel, sand or dirt removal activity, stockpiling, processing or distribution and hatching plant

vii. Ore reduction, smelting

viii. Planned development area

ix. Planned residential development

x. Truck plaza

(d) Permitted building types.

1. The following building types are permitted. See § 14-16-3-22(C)(1) for building type standards:

	PND-Center	PND-General	PND-Edge
Detached Single-Family Dwelling Unit		•	•
Sideyard		•	•
Rowhouse And Courtyard Rowhouse	•	•	•
Accessory Unit/Carriage House	•	•	•
Duplex/Triplex/Fourplex	•	•	•
Stacked Flats	•	•	•
Terrace Apartments	•	•	•
Courtyard Apartments	•	•	•
Podium Building	•	•	•
Flex Building	•	•	•
Liner Building	•	•	•
Drive-Through/Service Station			•
Stand Alone Commercial/Office Building	•		•
Light Industrial	•		•
Civic Institutional Building	•		•
Structured Parking - Ground Floor Uses	•		•

(e) Densities, intensities, and height.

1. In Comprehensive Plan designated established area applications, densities, intensities and height may be modified up to 20%.

	Center/corridor	General	Edge
Minimum Average Residential Density*	20 dwelling units per acre	12 dwelling units per acre	Varies: a. 6 dwelling units/acre when transitioning to an adjacent single family zone; b. up to 20 du/acre when transitioning to an adjacent multi-family or commercial zone
Maximum Average Residential Density*	40 dwelling units per acre	20 dwelling units per acre	Varies: a. 10 dwelling units/acre per acre when transitioning to an adjacent single family zone; b. up to 40 du/acre when transitioning to an adjacent multifamily or commercial zone
Minimum Average Non-Residential FAR	0.3	0.3	none
Minimum Height	2 stories / 26' on at least 70% of block	2 stories / 26' on at least 70% of block	none
Maximum Height	4 stories / 60' Within 75' of the property line of a single family zone, a development's building shall not exceed 2 stories / 26' in height	3 stories / 40' Within 75' of the property line of a single family zone, a development's building shall not exceed 2 stories / 26' in height	Varies: 2 stories / 26' within 75' of single family zone; up to 4 stories/60' feet when transitioning to an adjacent multifamily or commercial zone

* When the average density is calculated for two or more parcels, the average calculated must fall within the range of "Minimum Average" and "Maximum Average" contained in the Residential Density and Floor Area Ratio (FAR) standards in the table above. For an individual parcel (or a lot without subdivision) the Minimum Average is the minimum and the Maximum Average is the maximum density allowed.

2. Section 14-16-3-3(A) Height Regulations shall apply with the following exclusions:

a. Section 14-16-3-3(A)(4) Walls, Fences, Retaining Walls shall not apply. Walls, fences and retaining wall heights shall be regulated by § 14-16-3-22(C)(8).

(f) Building frontage articulation.

1. See § 14-16-3-22(C)(1) for additional articulation standards.

a. Ground story clear height. A ground floor use with a store front, café, office and lobby frontage types shall have a minimum ten feet clear height,

except lower ceiling heights are permissible for entryways and secondary spaces (restrooms, hallways, closets, etc.).

b. Articulation on street facades. The Design Standards of the Zoning Code (§ 14-16-3-18(D) shall apply to all commercial and multi-family building types with the following exceptions:

i. Art such as murals and sculptures will not require coordination with City Arts Program.

ii. Section 14-16-3-18 (D)(2)(b) Vertical Change of Color or Material, shall not apply.

iii. Wall plan projection or recesses shall occur as follows:

Center/Corridor. At least every 40 feet.

General. At least every 60 feet.

Edge. At least every 75 feet.

c. Shading elements. Portals, awnings, canopies and/or overhangs are required for a minimum of 75% of the ground floor façade along public ways and courtyards. Shading devices are not required along service drives and alleys.

d. Commercial building types shall devote street level, street facing building frontage to store fronts and or café frontage types as follows:

Center/Corridor. A minimum of 75%

General. A minimum of 60%.

Edge. A minimum of 50%.

e. Balconies and portals. Shall have a minimum eight feet vertical clearance.

(g) Building placement.

1. Setbacks. The front, rear, and side setback requirements in the PND are as follows:

a. PND - Center (PND-C)

Front setback (minimum): 0 feet

Front setback (maximum): 5 feet

Side street setback (minimum): 0 feet

Side yard setback (minimum): 0 feet

Rear setback (minimum): 5 feet

b. PND - General (PND-G)

Front setback (minimum): 0 feet

Front setback (maximum): 10 feet

Side street setback (minimum): 0 feet

Side yard setback (maximum): 10 feet

Rear setback (minimum): 10 feet

c. PND - Edge (PND-E)

Front setback (minimum): 0 feet

Front setback (maximum): 15 feet

Side street setback (minimum): 0-5 feet

Side yard setback (minimum): 10 feet

Rear setback (minimum): 10 feet

Garage setback shall be a minimum of 10 feet from building façade.

(h) Open space/civic space.

1. For applications in Comprehensive Plan designated established areas, these requirements may be modified by up to 20%.

2. The land area and locational requirements for civic spaces in the PND are as follows:

a. A minimum 20% of the designated center or corridor area shall be developed as public parks, plazas or squares. This acreage may be divided into more than one site.

3. Usable open space shall be provided as follows:

a. Apartment buildings: a minimum 15% of the site area shall be designated as usable open space in the form of patios, plazas, balconies, roof decks, exterior walkways or courtyards.

b. Usable open space is not required for multi-family buildings if any portion is located within 800 feet of a park, plaza or other designated usable open space that is accessible to the public. If a block size in a developed area exceeds these standards, mid-block access points shall be included in any redevelopment projects such that block lengths do not exceed 400 feet.

(i) Street design.

1. Block perimeter shall be limited to 2000 feet maximum measured center of the R.O.W. Maximum block length is 600 feet. For mixed use or commercial streets one mid block access is required at 300 feet. If a block size in a developed area exceeds these standards, mid-block access points shall be included in any redevelopment projects such that block lengths do not exceed 400 feet.

2. Street types.

a. The following street types shall be permitted for all new streets in a PND zone. See § 14-16-3-22(C)(5) for street type standards:

i. RA-20

ii. MBL-24

iii. CS-60

iv. CS-84

v. CS-94

vi. AV-90

vii. BV-115

viii. BV-125

ix. BV-135

3. Alleys. See § 14-16-3-22 (C)(4)(c) for alley standards.

(j) Off-street parking.

1. In established area applications, these standards may be modified by up to 20%.

a. Parking spaces shall either be internal to a block or in designated parking areas.

b. Parking is not allowed to front across the street from any lot that is part of an existing single-family zoning district. This restriction does not apply if the parking is behind residential units.

c. Parking areas that share rear or side lot lines with a single-family zoning district shall be screened from view at the street and shared lot line with a solid wall, landscape buffer, or other means (See § 14-16-3-22(C)(5) for landscape buffer standards).

2. Required minimum parking calculations.

   a. Non-residential: 1/500 net square feet

   b. Residential: 1/unit

   c. On-street parking may count for off-street requirements.

   d. Shared parking facilities. Off-street parking requirements may be met by shared parking facilities on-site or located within 600 feet.

3. See § 14-16-3-22(C)(5) for additional parking standards.

(k) Service and loading. See § 14-16-3-22(C)(9) for screening standards.

(l) Landscape. See § 14-16-3-22 (C)(10) for landscape standards.

(m) Lighting. See § 14-16-3-22(C)(6) for lighting standards.

(n) Signage standards. The following standard shall apply:

1. For PND Center and General, See § 14-16-2-16(A)(10) C-1, Sign, on-premise and off premise, for signage requirements with the following additions:

   a. Signs may project more than one foot into R.O.W. per City Encroachment Agreement requirements.

   b. Free-standing signs are not permitted.

2. For PND Edge, See Sign, On-premise, as regulated by the O-1 zone, § 14-16-2-15(A)(16) with the following exceptions and additions:

   a. Sign area of free-standing signs. Sign area shall be limited to 15 square feet.

   b. Height of free-standing signs. Sign height shall not exceed eight feet.

   c. No more than one free-standing sign per premise.

   d. Sign area of building mounted signs. Sign area shall be limited to 25 square feet.

   e. No more than one wall mounted sign per premise per building façade.

   Signs may project more than one foot into R.O.W. per City Encroachment Agreement requirements.

(C) Components. Building Types, Street Design, Parking, Lighting, Signage, Usable Open Space

(1) Building types.

(a) The form based zones emphasize design standards to ensure compatibility between uses. The zones in which these building types may be used are presented in division (B). Each zone permits a distinctive array of these building types in order to promote a specific development goal. Descriptions and standards for building types are established in this division. Building types are descriptions of building forms and are not intended to dictate building uses.

1. Residential building types.

a. Detached house.

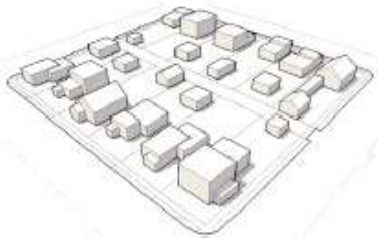
i. Description. A detached dwelling unit with useable front and rear yards and oriented to the street. Garages are either behind the dwelling unit or setback from the front façade.

ii. Access. The primary entry to each dwelling unit shall have direct access from a porch, stoop, portal or patio which faces the street. Loading and trash disposal shall be accessed from an alley, side driveway, or a circular driveway

iii. Parking. Parking shall be located in the side or rear yard. Garages may be attached, detached, or connected by a breezeway and shall be setback from the front façade a minimum of ten feet. Parking may be located in a common parking area interior to the block.

iv. Frontage. Each dwelling unit shall include a stoop, porch, patio and/or portal frontage type.

v. Exposure to light and air. Each dwelling unit shall have all sides exposed to the outdoors.



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b. Sideyard.

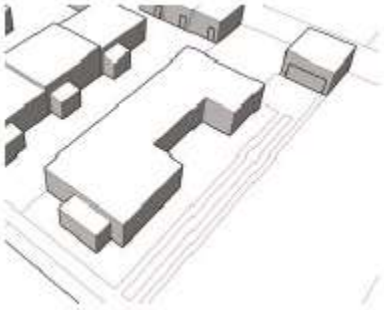
i. Description. A detached dwelling unit with a zero side lot line or a sideyard use easement.

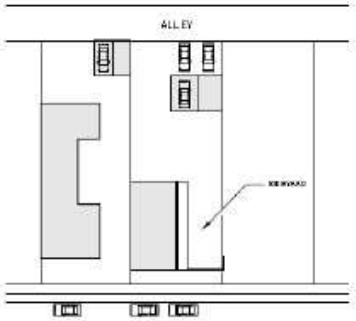
ii. Access. The primary entry to each dwelling unit shall have direct access from an individual stoop, patio, portal or porch that shall front the street or the sideyard. Loading and trash disposal shall be accessed from an alley or side driveway.

iii. Parking. Parking shall be located in the rear portion of the lot. Garages may be attached, detached, or connected by a breezeway and shall be setback from the front façade.

iv. Frontage. Each dwelling unit shall include a stoop, patio, portal and/or porch frontage type.

v. Exposure to light and air. Each unit shall have at least three sides exposed to the outdoors.





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c. Rowhouse and courtyard rowhouse.

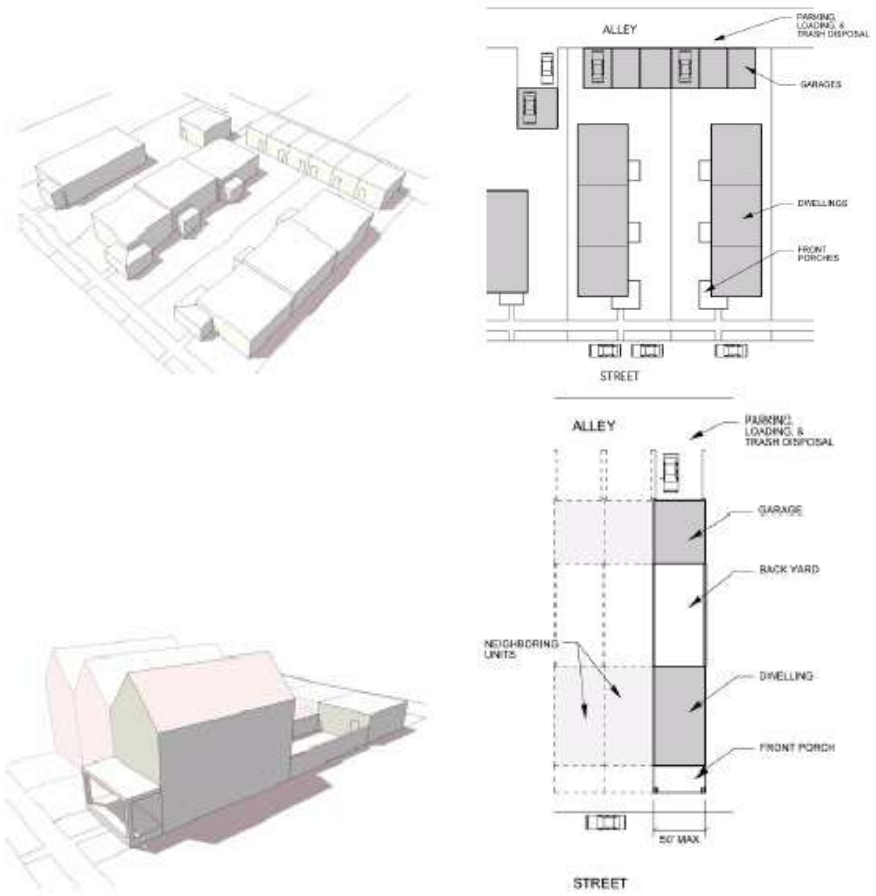
i. Description. One of a group of attached dwelling units divided from each other by at least one common wall, each having a separate entrance leading directly to the outdoors at ground level.

ii. Access. The primary entry to each dwelling unit shall have direct access to the street or to a court. Loading and trash disposal shall be accessed from an alley or side driveway.

iii. Parking. Parking shall be located in the rear portion of the lot or a common parking area may be located interior to the block. Garages may be attached, detached or connected by a breezeway and shall be setback from the front façade a minimum of ten feet.

iv. Frontage. Each dwelling unit shall include a stoop, patio, portal and/or porch frontage type fronting the street or fronting a courtyard

v. Exposure to light and air. Each unit shall have at least two sides exposed to the outdoors. Units may abut other units at the property line, and/or share common walls.



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d. Accessory unit/carriage house.

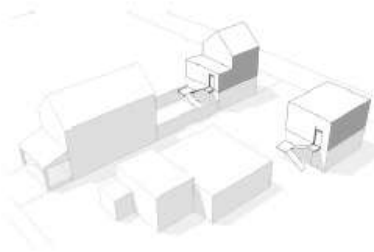
i. Description. An accessory unit is a building type consisting of a dwelling unit or work space which may or may not be over a garage. It may be located on an alley and is located at the back 1/3 of a lot that includes a principal building.

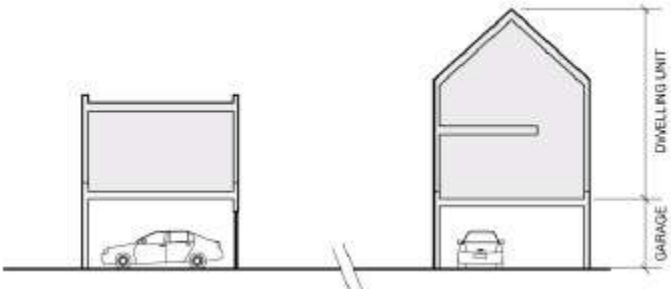
ii. Access. The primary entry to the accessory unit shall be from the sideyard or rear yard or alley and shall be via covered porch, stoop, terrace or balcony. Loading and trash disposal shall be accessed from an alley or side drive.

iii. Parking. Parking shall be located or accessed from an alley, a side driveway or a common parking area may be located interior to the block. Garages may be attached, detached or connected by a breezeway to an accessory unit.

iv. Frontage. Each unit shall include a stoop, patio, portal, and/or porch frontage type.

v. Massing. Accessory units may be located above or adjacent to garages or as a freestanding rear yard structure.





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e. Duplex, triplex and fourplex.

i. Description. Duplexes, triplexes, and fourplexes are multiple dwelling units that are architecturally presented as single-family houses compatible with the surrounding neighborhood.

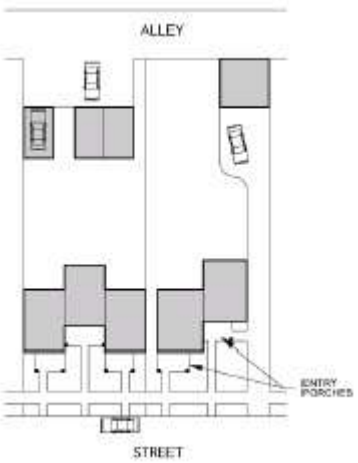
ii. Access. The primary entry to each dwelling unit shall have direct access to the street from a patio, porch, a common porch, portal and/or stoop of which a minimum of one shall face the street. Loading and trash disposal shall be accessed from an alley or side driveway.

iii. Parking. Parking shall be located in the rear portion of the lot. Parking shall be accessed from an alley, a side driveway or common parking area may be located interior to the block. Garages may be attached, detached or connected by a breezeway and shall be setback from the front façade a minimum of ten feet.

iv. Frontage. Each unit shall include a stoop, patio, portal and/or porch frontage type, either individually or in common with an adjoining unit.

v. Massing. Duplexes, triplexes, and fourplexes shall be articulated similar to single family houses.

vi. Exposure to light and air. Each unit shall have a minimum of two sides exposed to the outdoors.



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f. Stacked flats.

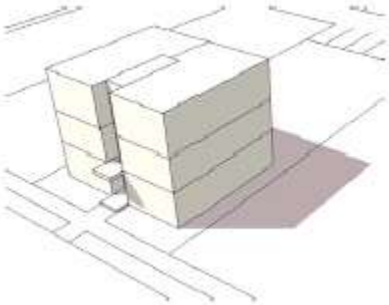
i. Description. Stacked flats are a multi-level, multiple dwelling type in which the primary entry to the building is common. Access to individual units is via interior circulation.

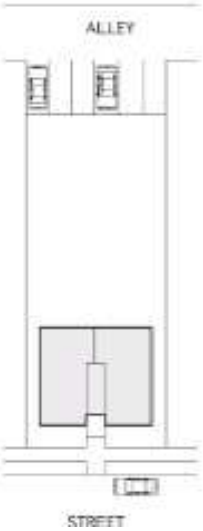
ii. Access. Stacked flats share a common primary entry. Each unit is accessed via a circulation area which is interior to the building. A common primary entry shall have direct access from a common porch, patio, portal and/or stoop. Loading and trash disposal shall be accessed from an alley or side driveway.

iii. Parking. Parking shall be located in the rear portion of lot or under the principal building. A common parking area may be located interior to the block. Garages may be attached, detached or connected by a breezeway. Garages are not permitted on the front façade.

iv. Frontage. Ground level frontage types along the street shall include stoops, porches, portals and/or forecourts.

v. Exposure to light and air. Each unit shall have a minimum of two sides exposed to the outdoors.





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g. Terrace apartment.

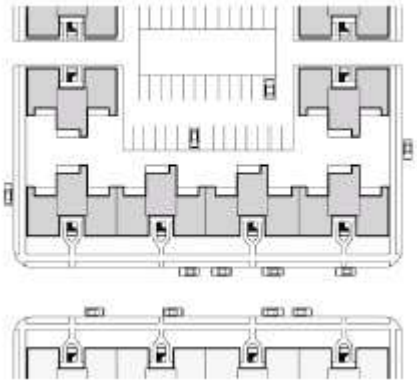
i. Description. Terrace apartments have access to individual units from an exterior circulation point which may be common or individual to each unit. Each unit above the first floor shall have an exterior balcony or terrace.

ii. Access. The primary entry to each individual unit on the ground floor shall have direct access from a permitted frontage type facing the street. Loading and trash disposal shall be accessed from an alley or side driveway.

iii. Parking. Parking shall be located in the rear portion of the lot, under the principal building or in a common parking area located interior to the block. Garages may be attached, detached, or connected by a breezeway. Garages are not permitted on the front façade.

iv. Frontage. Ground level frontage types along the street shall include stoops, porches and/or forecourts.

v. Exposure to light and air. Each unit shall have a minimum of two sides exposed to the outdoors.



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h. Courtyard apartments.

i. Description. Courtyard apartments consist of dwelling units arrayed next to each other to form a shared court that is partly or wholly open to the street. Fences and gates separating the court from the street and/or parking courts shall comply with the general standards section.

ii. Access. Each individual unit shall have direct access or share a common access from a porch, common porch, portal and/or stoop facing the court or facing the street or the building may have one common entry with a porch, stoop, portal or patio. Loading and trash disposal shall be accessed from an alley or side driveway.

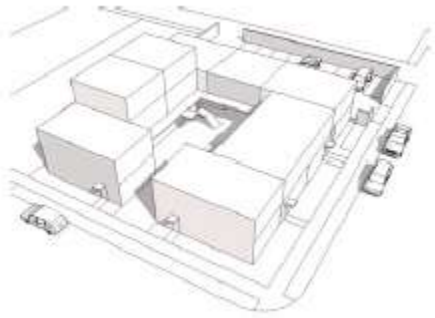
iii. Parking. Parking shall be located in the rear portion of lot, under the building(s) or in a common parking area located interior to the block. Garages may be attached, detached, or connected by a breezeway. Garages are not permitted on the front façade.

iv. Open space. Court shall be landscaped with at least one tree per 500 square feet and a minimum 15% of the court area shall have living vegetative material.

v. Frontage. Ground level frontage types along the street and court shall include porches or a common porch, portals, stoops and/or patios.

vi. Massing. All dwellings may be incorporated into one building mass or may be individual units which together form a court.

vii. Exposure to light and air. Each unit shall have at least two sides exposed to the outdoors.



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2. Commercial or mixed use building forms.

a. Podium building.

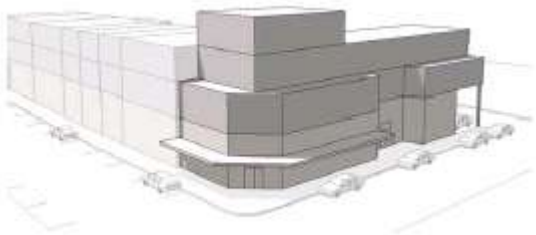
i. Description. A podium building has one or more floors which meet the minimum setback requirement as determined by form based zones, with upper floors stepping back to reduce impact of height.

ii. Access. The primary entry to each individual unit on the ground street façade shall have direct access to the street. Access to upper floor offices, residential and commercial units shall be via a ground floor lobby with direct access to the street. Parking, loading and trash disposal shall be accessed from an alley or shared side drive aisle.

iii. Parking. Parking shall be located in the rear portion of the lot or under the principal building or a common parking area may be located interior to the block.

iv. Frontage. Ground level frontage types along the street shall be store fronts, offices, cafés, and/or lobbies and may also include portals, forecourts, courts, and/or patios.

v. Massing. Upper floors may step back. Where the zone permits more than three stories, the fourth story and above shall be setback at least eight feet from the front building plane.



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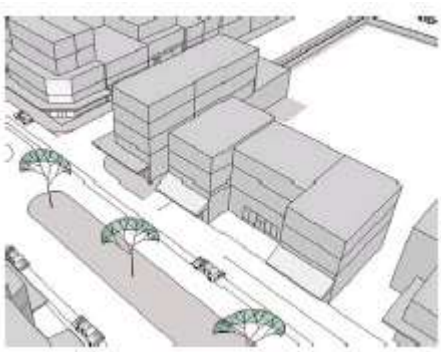
b. Courtyard building.

i. Description. A courtyard building has a minimum of two sides that flank a central court fronting a street.

ii. Access. The primary entry to each individual unit on the ground floor street façade shall have direct access to the street or court. Access to upper floor offices, residential and commercial units shall be via a ground floor lobby with direct access to the street or court. Parking, loading and trash disposal shall be accessed from an alley or shared side drive aisle.

iii. Parking. Parking shall be located in the rear portion of the lot or under the principal building or a common parking area may be located interior to the block.

iv. Frontage. Ground level frontage types along the street shall be store fronts, offices, cafés, and/or lobbies and may also include portals, forecourts, courts, and/or patios. Courts or forecourts shall not be deeper than courtyard width.



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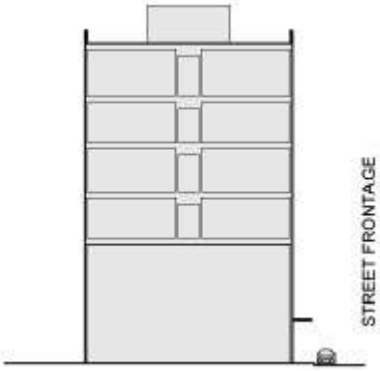
c. Flex building.

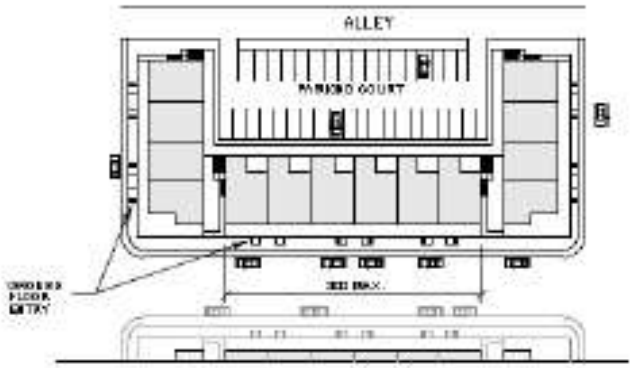
i. Description. A flex building is a standard rectangular urban building form. A flex building may include light wells and atriums.

ii. Access. The primary entry to each individual unit on the ground floor street facade shall have direct access from a permitted frontage type facing and abutting the street. Access to above residential, office or commercial space shall be via a lobby with direct access to the street. Loading and trash disposal shall be accessed from an alley or shared side driveway.

iii. Parking. Parking shall be located in the rear portion of lot or under the principal building, or in common or public parking areas located interior to the block. Customer access from the parking lot to the front entrance may be provided with a breezeway and/or arcade link.

iv. Frontage. Ground level frontage types along the street shall be store fronts, cafes, lobbies and/or office and may also include patios, portals, forecourts and/or courts.





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d. Liner building.

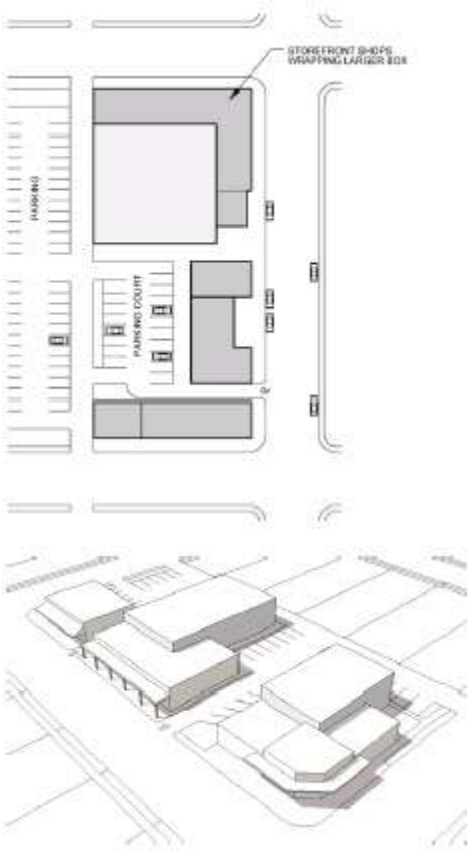
i. Description. A building specifically designed to mask a parking lot, parking garage, or large retail facility (big box) from a street.

ii. Access. The primary entry to each individual unit on the ground floor street façade shall have direct access from a permitted frontage type facing and abutting the street. Loading and trash disposal shall be accessed from an alley or shared side driveway.

iii. Parking. Parking shall be located behind, under the liner building or in a common parking area located interior to the block.

iv. Frontage. Frontage types along the street shall be store fronts, offices, lobbies and/or cafés and may also include patios, portals, forecourts and/or courts.

v. Placement and massing. A liner shall mask a minimum of 80% of the ground floor street frontage of a parking lot, garage or large retail facility.



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3. Utilitarian types.

a. Drive-through/service station.

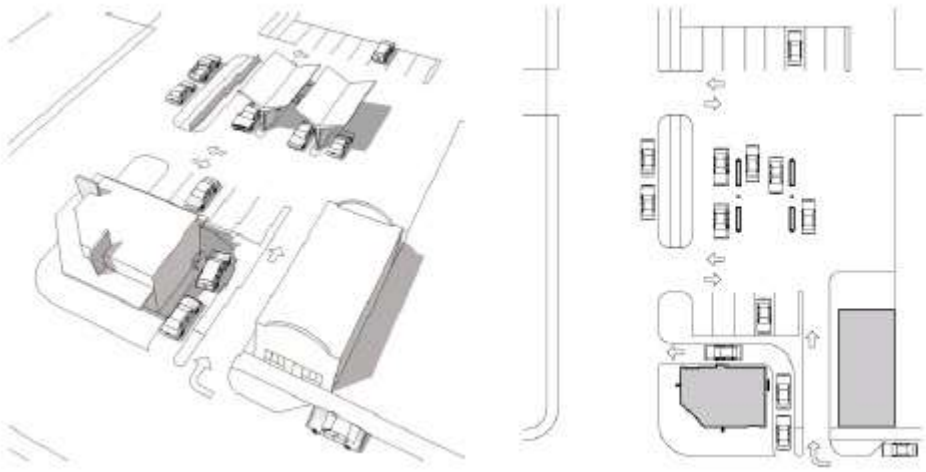
i. Description. A drive-through/service station building type includes office buildings with drive-through facilities, shops or store buildings with drive-through facilities, and restaurant buildings. Drive-through building types can accommodate, for example, gasoline stations, automobile repair and service structures, and car care centers (includes car wash).

ii. Access. The primary entry to each individual unit on the ground floor street facade shall have direct access from a permitted frontage type facing and abutting the street. Loading and trash disposal shall be accessed from an alley or shared side driveway.

iii. Parking and service drives. Parking shall be located behind, at the side (if located on a corner), or under the principal building.

iv. Drive-through lanes shall access a street, an alley, or shared parking area to the rear of the principal building.

v. Frontage and placement. Frontage types along the street shall be store front and/or café. A four foot high street wall shall screen service areas at lot perimeter with openings for vehicular access.



Graphics are conceptual

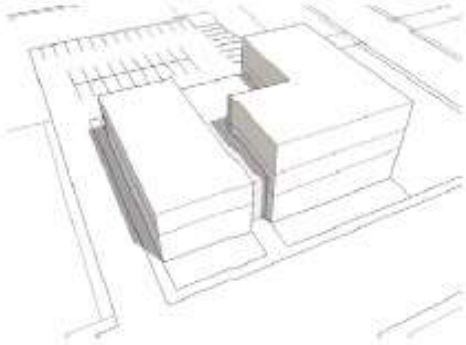
b. Stand alone building.

i. Description. A stand alone building accommodates larger building floor plates that may require large surface parking areas.

ii. Access. One primary entry to each individual unit on the ground floor street facade shall have direct access from a permitted frontage type facing the street. Loading and trash disposal shall be accessed from an alley or shared side drive aisle.

iii. Parking. Parking shall be located behind, under, or to the side of the principal building. Parking areas to the side of or along the street frontage principal building: (1) are limited to 60 feet in width (2) shall have a landscaped buffer facing the street with a minimum depth of six feet, and a street wall with a maximum height of 36 inches.

iv. Frontage. Frontage types along the street shall be store fronts, office, lobbies, and/or cafés and may include patios, portals, forecourts and/or courts.



Graphics are conceptual

c. Light industrial building.

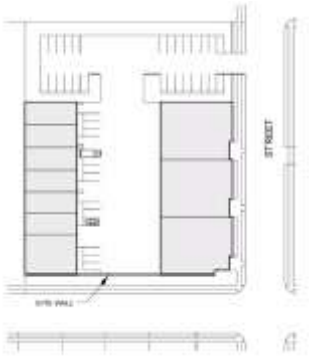
i. Description. Light industrial building is similar to a warehouse, but usually contains the operation of multiple tenants, and is not intended to be easily serviced by 18 wheel semi-tractor trucks.

ii. Access. Each unit adjacent to a street shall have a primary entry to the street from a permitted frontage type. Loading and trash disposal shall be accessed from an alley or shared side driveway.

iii. Parking. Parking shall be located behind, under, or to the side of the principal building. Parking areas with more than two rows on the side of the building: (1) shall be limited to 60 feet in width and 100 feet in depth, and (2) if adjacent to the street, shall have a maximum 36 inches high wall with a landscaped buffer that has a minimum depth of six feet.

iv. Frontage. Frontage types along the street shall be store fronts, office, lobbies, and/or cafés and may include patios, portals, forecourts and/or courts.

v. Placement and massing. Buildings shall be configured on the site to create an interior court where service, assembly, or loading activities occur. If a court configuration is not possible because of site constraints, these activities shall be screened from the street by the principal buildings on the site or by a five foot street wall with a landscaped buffer along the street side that has a minimum depth of six feet. Blank walls and loading areas shall not face public streets.



Graphics are conceptual

d. Warehouse

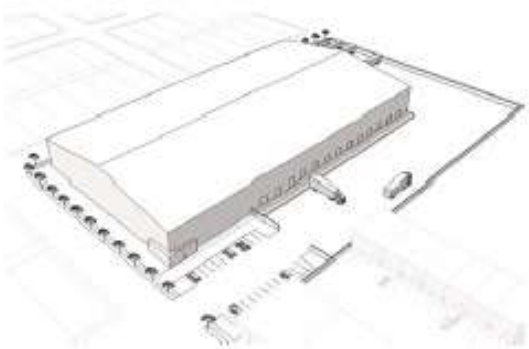
i. Description. Warehouses are typically large, rectangular buildings and are land intensive. Truck traffic and loading are primary on-site activities.

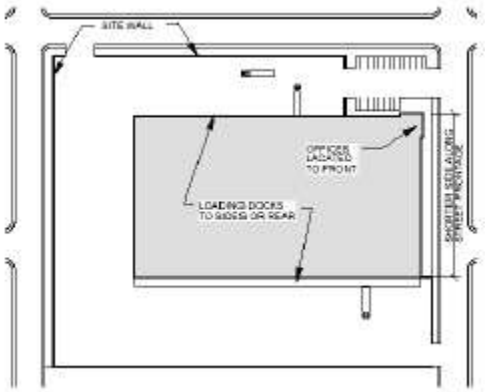
ii. Access. Public entrances shall be from a permitted building type fronting the street.

iii. Parking and loading. Loading and vehicle access doors shall be located either: (1) to the rear of the principal building(s) or, (2) to the side of the principal building(s) if it is completely screened from view by a landscaped buffer and a street wall.

iv. Placement and massing. Warehouse offices shall be located in the front of warehouse buildings adjacent to the street. The primary building elevations shall be oriented toward streets. Loading docks and vehicle access doors shall be located on the sides or rear of buildings to limit visibility from streets. A minimum eight foot high street screen wall shall be provided for the sides of the project visible from the street, excluding the front facade. A six foot wide landscaping strip shall be provided along the street side of the wall.

v. Frontage. Frontage types along the street shall be store fronts, offices, lobbies, and/or cafés and may include patios, portals, forecourts and/or courts.





Graphics are conceptual

4. Institutional and civic building types.

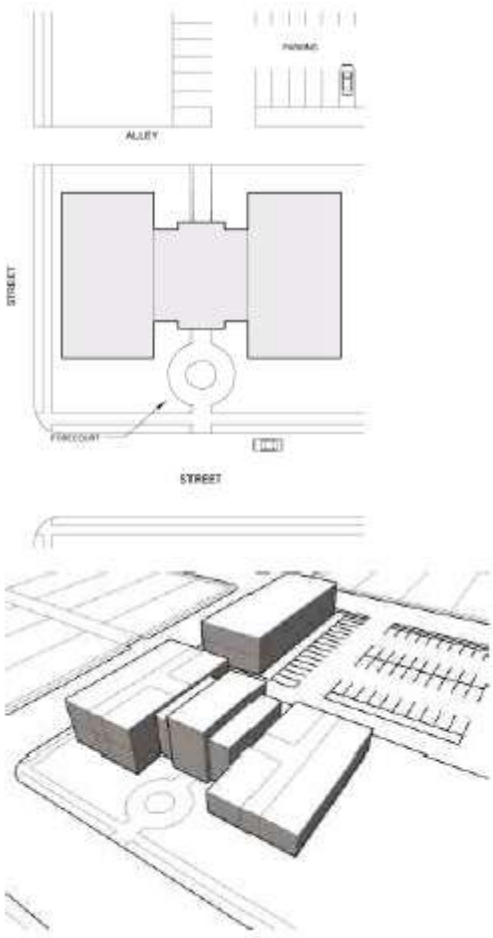
a. Civic or institutional building.

i. Description. Civic and Institutional buildings can accommodate a variety of arts, culture, education, recreation, transportation, government and public assembly uses. These buildings range from large floor plates and multiple levels to smaller, more intimately scaled structures.

ii. Access. The building shall have a main entrance facing on to a public street, courtyard, forecourt or public space such as a park. Loading and trash disposal shall be accessed from an alley or shared side driveway.

iii. Parking. Parking shall be located in common surface parking areas located interior to the block and/or underneath buildings.

iv. Articulation. Details shall maintain pedestrian, human scale.



Graphics are conceptual

b. Structured parking.

i. Description. Structured parking is a multi-level garage for the parking of automobiles.

ii. Frontage. In order to minimize the visual impact of parking structures, the design of parking structures shall comply as follows: 1. Where parking structures front more than 200 feet of a block face, for any length over 200 feet, structures shall include permitted frontage types; or, 2. Structures shall be located behind a liner building, so that the parking is not visible from the street, except for the entryway. The entryway shall not exceed 30 feet in width along the street façade. Where frontage types are required along the ground level street façade, they shall be store fronts, offices, lobbies, and/or cafés and may include patios, portals, forecourts and/or courts.

iii. Massing. Parking structures shall be compatible in terms of scale, height and design with surrounding properties. Parking structures are considered compatible in scale and height if the height does not exceed the average height of principal structures within 300 feet of the proposed structure by more than one story.

Graphics are conceptual

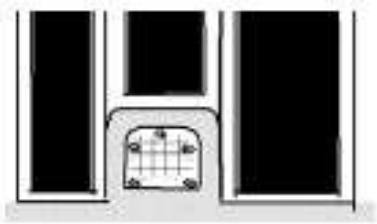
(2) Frontage types.

(a) Various frontage types are established in order to implement the form based zones. The individual building type and zone standards prescribe where each frontage type is permitted. Frontage types may be combined as indicated in specific building types. The frontage types are:

1. Café. A café frontage accommodates outdoor seating for restaurants and cafes and has a primary entrance at sidewalk grade. It may be setback up to 15 feet from the edge of the pedestrian realm. Setback areas may meet the frontage type requirements of a patio, portal and/or court. A minimum of 40% of a ground floor façade shall have clear glazing to a height of at least eight feet above finish floor. Café frontages may include roll up doors and bi-fold doors. Fences and walls are permitted up to 42 inches high, measured from the adjacent sidewalk or public right-of-way. Café frontage may be covered or open to the air.

2. Court. A court is an uncovered area partly or wholly enclosed by buildings or walls. Walls shall be no higher than 42 inches. A court shall not include a parking area. A principal entry of each unit that surrounds the court shall open directly onto the court, a street or pedestrian pathway that directly abuts the courtyard space. The court may be located at, above or below grade level. However, an above or below grade court shall be ADA accessible.

3. Forecourt. A forecourt has a facade that is aligned close to the frontage line with a central portion of it set back. Gardens and vehicular drop off are permitted within the forecourt. A fence or wall at the property line may be used to define the private space of the court with a maximum height of 48 inches.



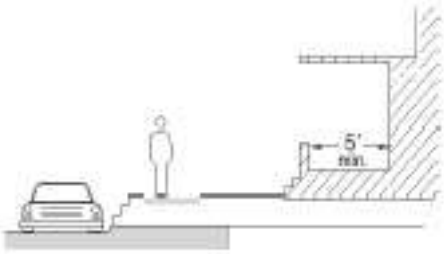
4. Lobby. A lobby is a ground-level vestibule and waiting area for upper story uses with a primary entrance to the street at sidewalk grade. A minimum of 25% of the ground floor street façade is required to have clear glazing up to a minimum eight feet, is required for lobbies with a frontage greater than ten linear feet. The lobby entry may be setback up to ten feet. A lobby frontage may be appropriate for hotel uses. The setback area shall be used to provide pedestrian amenities that stimulate street activity. Appropriate amenities include food service, retail, temporary event activities, seating, kiosks, landscape elements, fountains and art.

5. Office. An office frontage has a primary entrance at sidewalk grade and a minimum of 30% of the ground floor street façade width shall have clear glazing to a height of at least eight feet above finish floor level with a maximum sill height of 48 inches. An office frontage may be set back up to ten feet from the pedestrian realm for an entry area. The setback area shall be used to provide pedestrian amenities that stimulate street activity. Appropriate amenities include food service, retail, temporary event activities, seating, kiosks, landscape elements, fountains and art.

6. Portal (arcade). A portal is a covered area supported by evenly spaced columns, is attached to the front building façade and may wrap around the outside of the building. Portals shall conform to the elevation of the adjoining public sidewalk and may encroach upon the sidewalk space per city encroachment agreement. Portals may include a balcony that overlaps the sidewalk per city encroachment agreement. Portals shall have at minimum eight feet clear height.

7. Patio. A patio is an area enclosed by a fence or wall attached to a building. A patio fence or wall shall not be higher than 42 inches. A patio is a minimum of 50 square feet.

8. Porch. A porch is an enclosed area adjacent to the building entry. A porch may have a roofed area or awning attached to the front façade. The porch has direct access to or from the building along the front façade, and may extend to include a portion of the side or rear of the building. A porch shall be at least five feet deep. A porch may be glazed or screened.



9. Store front. A store front facade has an entrance at sidewalk grade and an overhang, canopy, shading element or awning that encroaches over the sidewalk. A setback is permitted up to ten feet from the edge of the pedestrian realm for up to 50% of the length of a building's street frontage. A minimum of 50% of the ground floor street facade width shall have clear glazing up to a height of eight feet. The setback area shall be used to provide pedestrian amenities that stimulate street activity. Appropriate amenities include food service, retail, temporary event activities, seating, kiosks, landscape elements, fountains and art.

a. In addition, a store front shall contain windows that conform to the following:

i. Windows on ground floor shall not be opaque or mirrored;

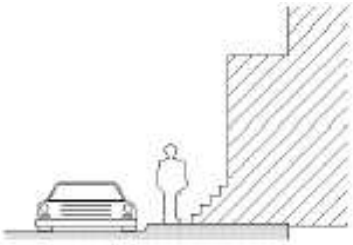
ii. Ground floor windows shall not be made opaque by window treatments and shall permit visibility into store from the sidewalk;

iii. Sills shall be not more than 36 inches above the fronting sidewalk elevation;

iv. Window screens (including security screens, bars and other such devices) shall be located behind the window surface (interior);

v. Transom windows are encouraged on store fronts.

10. Stoop. A stoop is a frontage with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is an exterior stair and landing and may be covered by an overhang, awning or canopy. The stair may be perpendicular or parallel to the sidewalk. This type of frontage is recommended for residential uses and when used for commercial uses shall be accompanied by a ramp. Per a City Encroachment Agreement, a stoop may encroach into the R.O.W. when the facade is placed at the edge of the pedestrian realm.



(3) General building standards.

(a) The following standards are intended to create an environment that is pedestrian friendly by requiring building articulation that creates visual interest, relates to a pedestrian scale, and provides visibility both into and out of buildings, creates sidewalk activity and provides pedestrian comfort through sidewalk shading.

1. Building entryways on streets. At least one entrance for each commercial/retail space on a street facade shall have direct access to the street or a street fronting court or plaza. All upper level non-residential and residential spaces shall have a first floor lobby with direct access to street or a street fronting court or plaza.

2. Corner lots. Corner lots shall address the corner in at least one of the following ways: location of main entrance at a corner; articulation at the corner of the building relating to the corner, i.e. curve, angle, step back or projection, tower element and/or Planning Director approved detail.

3. Upper floors shall have a minimum of 20% glazing on street facing facades and shall meet the articulation requirements of each zone.

(4) General street standards.

(a) Pedestrian realm. The area from the back-of-curb dedicated to pedestrian use. The width of the pedestrian realm is prescribed by individual zones; however the width may be modified for the following conditions: footings (one to three feet modification), utility easements (as necessary), and requirements for building articulation and setback (as necessary). In addition, the pedestrian realm shall contain the following areas:

1. Frontage zone. This is the area adjacent to the building and may be utilized by private entities to provide pedestrian amenities that stimulate street activity. Appropriate uses include food service, retail, temporary event activities, seating, kiosks, landscape elements, fountains and art.

2. Walking zone. This zone describes the area dedicated to pedestrian circulation that shall remain clear at all times.

a. Sidewalk width. A clear pedestrian path of six feet shall be maintained at all times. Sidewalks shall be a hard surface which may include concrete, brick, or pavers. Sidewalk material shall be slip resistant and of a permanent nature.

b. Sidewalk alignment. The sidewalk shall be aligned where possible within the block.

3. Landscape zone. This zone is located between the walking zone and the edge zone. In some conditions it is also the area adjacent to the back of curb. The landscape zone is dedicated to landscaping, street furnishings, bike racks, information centers, lighting, signage and transit facilities.

a. Street trees. Street trees shall be located every 25 feet on center in the street edge zone.

b. The use of tree grates is permitted for all tree wells.

4. Edge zone. This zone is the area adjacent to the back-of-curb dedicated to street furnishings, bike racks, telephones, information centers, lighting, signage and transit facilities.

5. The landscape zone and edge zone may be combined to allow a six-foot wide clear walking area if the R.O.W. is constrained.

(b) Encroachments.

1. Encroachments in the public R.O.W. shall follow existing city regulations.

2. Building encroachments in the form of balconies or structural shading elements shall not extend within two feet of the curb.

(c) Alleys.

1. Existing alleys shall remain and are subject to all street type standards except width.

2. New alleys or rear access easements shall be required for all new development, and as follows:

   a. New alleys or rear access easements shall comply with the street type standards below.

   b. The City Engineer may waive the alley requirement if an alley or rear access is prohibitive due to a lack of connectivity or other existing condition.

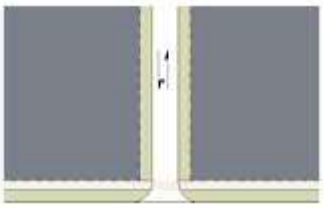
(d) Street type standards.

1. The following standards give the street type followed by the right-of-way width, followed by the pavement width, and in some instances followed by specialized transportation capability. They may be modified in the following ways:

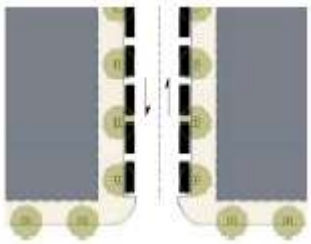
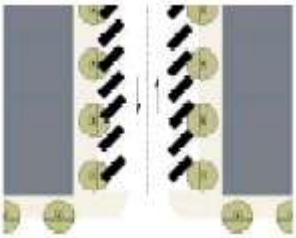
   a. Sidewalk widths may be increased.

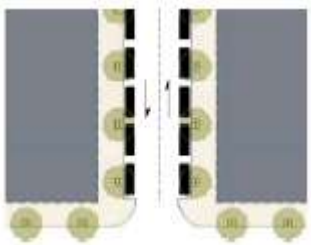
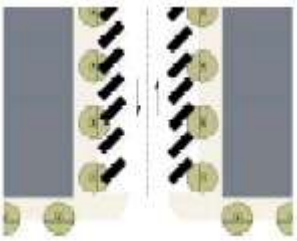
   b. If a bicycle path, lane or route is designated, street right-of-way shall be increased by ten feet to accommodate a five feet wide bicycle lane in each direction.

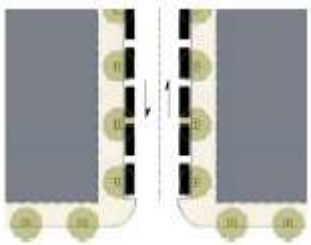
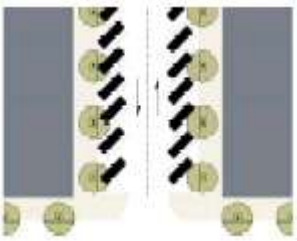
   c. Where the following street standards conflict with the requirements of § 14-16-3-22(C)(4)(a), Pedestrian Realm, § 14-16-3-22(C)(4)(d), Street Types, shall prevail.

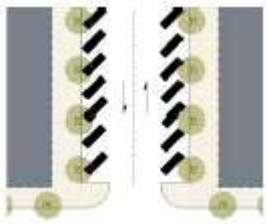
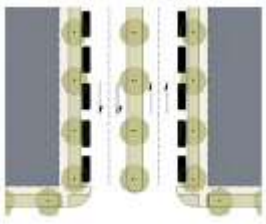
ABBREVIATIONS Mid Block Access Lane: MBL Rear Alley: RA Commercial Street: CS		
	RA- 20	**MBL-24**
Thoroughfare Type	Rear Alley	Mid Block Access Lane
Right-of-Way Width	20 feet	24 feet
Pedestrian Realm	None	6 feet, at least one side
Walkway Type	None	6 feet Sidewalk, at least one side
Roadway Realm	20 feet	6 -12 feet
Pavement Width	20 feet	6- 12 feet
Traffic Lanes	2 lanes	2 lanes (yield 1 lane at a time).
Parking Lanes	None	None
Curb Type	Inverted Crown	Inverted Crown
Curb Radius	15 feet	15 feet

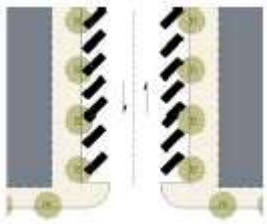
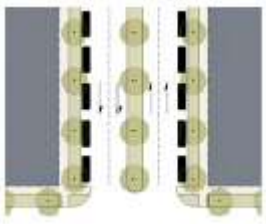
(4)General street standards.

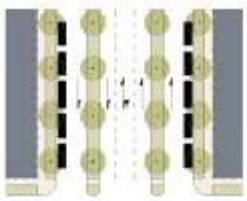
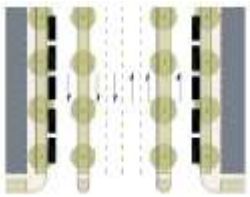
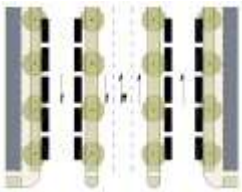
ABBREVIATIONS Avenue: AV Commercial Street: CS Boulevard: BV		
	CS- 60	**CS-84**
Thoroughfare Type	Commercial Street	Commercial Street
Right-of-Way Width	60 feet	84 feet
Pedestrian Realm	Both Sides, 13 feet	15 feet, each side
Walkway Type	8 foot Sidewalk	10 foot Sidewalk
Planter Type	5' x 7' Tree well	5' x 7' Tree well
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Roadway Realm	34 feet	54 feet
Pavement width	34 feet	54 feet
Traffic Lanes	2 lanes	2 lanes
Parking Lanes	Both Sides @ 7 feet marked	Both Sides @ 17 feet marked
Curb Type	Curb	Curb
Curb Radius	15 feet	15 feet

ABBREVIATIONS Avenue: AV Commercial Street: CS Boulevard: BV		
	CS- 60	**CS-84**
Thoroughfare Type	Commercial Street	Commercial Street
Right-of-Way Width	60 feet	84 feet
Pedestrian Realm	Both Sides, 13 feet	15 feet, each side
Walkway Type	8 foot Sidewalk	10 foot Sidewalk
Planter Type	5' x 7' Tree well	5' x 7' Tree well
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Roadway Realm	34 feet	54 feet
Pavement width	34 feet	54 feet
Traffic Lanes	2 lanes	2 lanes
Parking Lanes	Both Sides @ 7 feet marked	Both Sides @ 17 feet marked
Curb Type	Curb	Curb
Curb Radius	15 feet	15 feet

ABBREVIATIONS Avenue: AV Commercial Street: CS Boulevard: BV		
	CS- 60	**CS-84**
Thoroughfare Type	Commercial Street	Commercial Street
Right-of-Way Width	60 feet	84 feet
Pedestrian Realm	Both Sides, 13 feet	15 feet, each side
Walkway Type	8 foot Sidewalk	10 foot Sidewalk
Planter Type	5' x 7' Tree well	5' x 7' Tree well
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Roadway Realm	34 feet	54 feet
Pavement width	34 feet	54 feet
Traffic Lanes	2 lanes	2 lanes
Parking Lanes	Both Sides @ 7 feet marked	Both Sides @ 17 feet marked
Curb Type	Curb	Curb
Curb Radius	15 feet	15 feet

ABBREVIATIONS Avenue: AV Commercial Street: CS Boulevard: BV		
	CS-94	**AV-90**
Thoroughfare Type	Commercial Street	Avenue
Right-of-Way Width	94 feet	90 feet
Pedestrian Realm	15 feet, each side	13 feet, each side
Walkway Type	12 foot Sidewalk	8 foot Sidewalk
Planter Type	5' x 7' Tree well	5 foot Continuous planter
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Edge Zone	2 feet	2 feet
Roadway Realm	64 feet	64 feet
Pavement Width	64 feet	28 feet, 8 foot median, 28 feet
Traffic Lanes	2 lanes, w/ 1 turning lane	4 lanes
Parking Lanes	Both Sides angled @ 17 feet marked	Both Sides @ 8 feet marked
Curb Type	Curb	Curb
Curb Radius	15 feet	15 feet

ABBREVIATIONS Avenue: AV Commercial Street: CS Boulevard: BV		
	CS-94	**AV-90**
Thoroughfare Type	Commercial Street	Avenue
Right-of-Way Width	94 feet	90 feet
Pedestrian Realm	15 feet, each side	13 feet, each side
Walkway Type	12 foot Sidewalk	8 foot Sidewalk
Planter Type	5' x 7' Tree well	5 foot Continuous planter
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Edge Zone	2 feet	2 feet
Roadway Realm	64 feet	64 feet
Pavement Width	64 feet	28 feet, 8 foot median, 28 feet
Traffic Lanes	2 lanes, w/ 1 turning lane	4 lanes
Parking Lanes	Both Sides angled @ 17 feet marked	Both Sides @ 8 feet marked
Curb Type	Curb	Curb
Curb Radius	15 feet	15 feet

ABBREVIATIONS Boulevard: BV			
	BV-115	**BV-125**	**BV-135**
Thoroughfare Type	Boulevard	Boulevard	Boulevard
Right-of-Way Width	115 feet	125 feet	135 feet
Pedestrian Realm	15 feet, each side	13 feet, each side	13 feet, each side
Walkway Type	8 foot Sidewalk	8 foot Sidewalk	8 foot Sidewalk
Planter Type	5 foot Continuous planter	5 foot Continuous planter	5 foot Continuous planter
Landscape Type	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.	Trees at 25' o.c. Avg.
Edge zone	2 feet	2 feet	2 feet
Roadway Realm	85 feet	80 feet	89 feet
Pavement Width	18 feet - 33 feet - 18 feet	18 feet - 44 feet - 18 feet	28 feet - 33 feet - 28 feet
Traffic Lanes	2 lanes w/ one turning lane & two one-way slip roads	4 lanes & two one-way slip roads	3 lanes, one turning lane & two one-way slip roads
Parking Lanes	8 feet	8 feet	8 feet
Curb Type	Curb	Curb	Curb
Curb Radius	15 feet	25 feet	25 feet

(5) Off-street parking.

(a) Adjacent and abutting on-street parking may count toward off-street parking requirements as permitted by form based zone.

(b) Buildings constructed prior to 1965 shall supply parking spaces only to the extent on-premise ground space is available.

(c) Standard city transit reductions shall apply. See Zoning Code (§ 14-16-3-1(E)(6)(a)).

(d) Automobile and light truck space standards shall apply. See Zoning Code (§ 14-16-3-1(F)).

1. Section 14-16-3-1(B)(3) Parking for Bicycles shall apply.

(e) Pedestrian connections shall apply. See Zoning Code (§ 14-16-3-1(H)).

(6) Lighting.

(a) Area lighting. Shall be per the Zoning Code (§ 14-16-3-9).

(b) Pedestrian street lights. Pedestrian street lights shall be located between 13 feet and 16 feet above grade with a maximum average spacing (per block face) of 60 feet on center. Pedestrian street lights must be placed two feet from the back of curb on each side of the street and travel lanes, unless otherwise indicated. Street lighting and street trees should not conflict.

(c) Exterior building lights. On the street front elevation, exterior lights shall be mounted between six feet and 14 feet above adjacent grade.

(d) Alley lighting. All lots with alleys shall have lighting fixtures within five feet of the alley's edge of pavement where it does not conflict with vehicle access and circulation. The fixture shall illuminate the alley, be between eight and 12 feet in height, and not cause glare into adjacent lots. When a structure in the lot is within five feet of the alley's edge, the lighting fixture shall be attached to the structure and not to a light pole.

(e) Lighting elements. Lighting elements shall be compact fluorescent, metal halide, LED, or halogen only. No HID or fluorescent tube lights (excepting compact fluorescent bulbs) may be used on the exterior of buildings.

(f) Floodlights and directional lights. Floodlights or directional lights may be used to illuminate alleys, parking garages and working (maintenance) areas, but must be shielded or aimed in such a way that they do not shine into other lots or the street.

(7) Signage.

(a) Section 14-16-3-5 General Sign Regulations shall apply with the following additions and exceptions:

1. Section 14-16-3-5(D). Neon signs and animated signs are permitted.

2. Section 14-16-3-5(E). One joint sign premise per street façade is permitted where allowed by form based zone.

3. Free standing signs. All free standing signs shall have a base area equal in width to the overall width of the sign.

(b) Iconic signage. An iconic sign is a sign whose form suggests its meaning. Such a sign is unique and creates an image and/or defines a place. An iconic sign may be sculptural in style and demonstrates extraordinary aesthetic quality, creativity or innovation. These are signs that are different from the typical sign and have elements of highly recognizable or identifiable features, facades or are otherwise distinguished from an average square or rectangular box design. They typically have characteristics of art, going beyond simply advertising the why and where. The iconic sign typically refers to an object in symbolic form (as with the road sign which shows a man at work).

1. Modifications to zone standards. Where an iconic building mounted or free-standing sign is proposed, the height and size limitations of the zone may be modified to allow such sign based on the definition listed above and at the discretion of the approving body.

(8) Walls and fences.

(a) As per City Zoning Code (§ 14-16-3-19) with the following exceptions:

1. Prohibited materials. Chain link, barbed wire, barbed tape and razor wire are prohibited except at public utility structures and Albuquerque Police Department or Transit Department facilities. Temporary construction fences are permitted pursuant to City Zoning Code § 14-16-3-19.

2. Street walls within 20 feet of the public street right-of-way shall not exceed three feet in height above the abutting grade on the street side, except walls used for screening of mechanical equipment, loading and service area shall not exceed six feet.

(9) Screening of mechanical equipment, service and loading areas.

(a) Pursuant to City Zoning Code (§ 14-16-3-18(C)(6)(a)) with the following additions and exceptions:

1. Service and loading facilities shall be combined, where possible.

2. Trash containers shall not be visible from a public or private street and shall be recessed or screened by a six-foot high solid wall and/or gate.

3. Ground mounted mechanical equipment, service and loading areas shall be accessed from alleys or rear access easements where possible.

(10) Landscaping standards.

(a) Landscape standards shall be per the City of Albuquerque Zoning Code (§ 14-16-3-10) with the following exceptions:

1. The mature spread of a tree's canopy may count toward the 75% required vegetative ground cover (§ 14-16-3-10(G)(3)) for landscape areas.

2. The use of tree grates is permitted for all tree wells.

3. Usable open space in such forms as patios, plazas and courtyards, shall have a minimum landscape area of 15%.

4. Building setbacks not used for pedestrian activity shall have a minimum landscape area of 50%. Asphalt is not a permitted material within the setback area.

5. Landscaping on roof decks may be counted toward the required area landscaping.

6. Standard landscape buffers.

a. Front landscape buffers: Where parking areas front on a public or private street, a minimum four foot deep landscaped area with a minimum three foot high screen wall adjacent to the parking area shall be maintained between the parking area and the street.

b. Side/rear: A minimum landscaped buffer with a four foot deep landscape area with a minimum three foot high screen wall adjacent to the parking area shall be required between parking areas and abutting residential zones. The landscape buffer shall be planted primarily (at least 50%) with

evergreen trees or tall shrubs or climbing vines capable of screening the parking area from the abutting residential zone.

7. Off-street parking area landscaping per Zoning Code § 14-16-3-10, with the following exceptions:

   a. One tree is required for every eight spaces.

   b. No parking space may be more than 50 feet from a tree trunk.

8. Water harvesting areas. Surface runoff shall be directed into water collection areas located in parking lot landscape areas, landscape setback areas and patio or plaza areas where possible. The burden is on the applicant to demonstrate why water harvesting is not possible if water harvesting areas are not utilized.

(Ord. 9-2009; Am. Ord. 19-2010)

§ 14-16-3-23 ZONING OF HOT AIR BALLOONS

(A) The launching and landing of hot air balloons shall be a permissive use within all zoning districts within the City of Albuquerque.

(B) This section shall not preclude any sector development plan from prohibiting the launching and landing of hot air balloons if that prohibition is specific.

(C) This section does not supersede other limitations on the launching or landing of hot air balloons including but not limited to prohibitions on trespass and limitations on noise, advertising and/or nuisance.

(Ord. 2013-004)

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§ 14-16-3-24 SMALL LOAN BUSINESSES

(A) ***Initial Review by the Zoning Enforcement Officer.*** No Small Loan Business shall commence operation until such time as it demonstrates to the Zoning Enforcement Officer's satisfaction that:

1) It has obtained a valid license under the New Mexico Small Loan Business Act from the New Mexico Regulations and Licensing Department;

2) It is not located on the same parcel as another Small Loan Business, nor is closer than one mile (5,280 ft.), as measured in a straight line from property line to property line, to any other parcel on which another Small Loan Business is located; and

3) It is in compliance with all relevant requirements of the Zoning Code.

(B) ***Annual Review by the Zoning Enforcement Officer.*** Each Small Loan Business shall annually submit to the Zoning Enforcement Officer proof that it has renewed its license with the New Mexico Regulations and Licensing Department and that it remains in compliance with all relevant requirements of the Zoning Code.

(C) ***Zoning Enforcement Officer Review Fee.*** The Planning Director shall establish a reasonable review fee for the Zoning Enforcement Officer's reviews as required by this Section. Payment of the review fee for an initial review shall reserve the location of the proposed Small Business as to the distance separation requirements prescribed by this Section for ninety (90) days.

(D) ***Penalty.*** Any failure by a Small Loan Business to satisfy the requirements of this Section constitutes violation of the Zoning Code and will subject such Small Loan Business to enforcement by the Zoning Enforcement Officer as provided by law.

(E) ***Non-Conformance of Existing Small Loan Businesses.*** Any Small Loan Business in operation prior to the effective date of this Section will be considered a nonconforming use pursuant to §14-16-3-4 ROA 1994 for purposes of the distance separation requirements prescribed herein. However, all Small Loan Businesses, regardless of their initial date of operation are subject to the annual reporting requirements prescribed by subsection "B" above.

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§ 14-16-3-25 MOBILE FOOD UNIT

(A) Mobile Food Unit

(1) Mobile Food Units are permitted to operate on private property in any non-residential zone, provided:

(a) The Mobile Food Unit and any associated tables, chairs, displays, umbrellas, or the like, must not physically occupy or obstruct access to any parking stalls necessary to meet the minimum parking requirements for the on premise land uses (if any), except that this requirement does not apply if the mobile food unit is operating outside of the hours of operation of the on premise uses.

(b) The Mobile Food Unit and any associated tables, chairs, displays, umbrellas, or the like, must not obstruct any designated ingress or egress from the property, or any designated drive-aisle.

(c) The Mobile Food Unit has written permission from the property owner for use of the site, a copy of which shall be kept and maintained in the mobile food unit and made available for review by any City inspector at all times during operation of the mobile food unit at the site.

(d) The Mobile Food Unit operator must provide receptacles for disposal of all food truck-generated refuse.

(e) Every mobile food unit is subject to, and must comply with, the general noise restrictions prescribed by Section 9-9-12 ROA 1994, and all other relevant requirements and restrictions of local, state, and federal law.

(2) Mobile Food Units are permitted to operate on private property in residential zones, provided:

(a) The Mobile Food Unit has written permission from the property owner for use of the site, a copy of which shall be kept and maintained in the Mobile Food Unit and made available for review by any City inspector at all times during the operation of the Mobile Food Unit at the site.

(b) Mobile Food Units may not operate on the same residential property more than 12 days per year.

(c) The mobile food unit operator must provide receptacles for disposal of all food truck-generated refuse.

(3) For purposes of this section, “operation” of a mobile food unit includes any activity involved with food preparation or sales.

(4) This section establishes land use regulations pertaining to Mobile Food Units. Mobile Food Units shall comply with all other applicable requirements of the traffic code. Other aspects of Mobile Food Units are regulated in other parts of the Municipal Code. Please refer to Traffic Code § 8-5-1-42 and Health, Safety & Sanitation Code § 9-6-5.

(O-15-36, Enactment O-2015-024)

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PART 4: ADMINISTRATION AND ENFORCEMENT

§ 14-16-4-1 AMENDMENT PROCEDURE.

(A) Application.

(1) Prospective applicants should discuss their situation with the Planning Director before making application for an amendment to the map or text of this Zoning Code so as to familiarize themselves with city plans and policies.

(2) Amendments to the map or text of this Zoning Code are initiated by application to the city on prescribed forms. Each application for an amendment to a zone map shall be accompanied by sufficient copies of an accurate site plan, building development plan, sketch, evidence of interest in property, or other related information as may be required by the city. Where a zone map amendment is proposed to be accomplished by the adoption or amendment of a sector development plan the procedures of § 14-16-4-3 shall be followed for making such application. Submission of inaccurate information with an application is grounds for denial. An application relating to unplatted land shall be accompanied by a plat delineating the boundaries of the area requested to be amended.

(3) Applications for amendment of the official zone map may be made only by the Mayor or his designated representative, a City Councilor or a designee of the City Council or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be an applicant for an amendment of the official zone map.

(4) Applications for amendment of the text of this Zoning Code may be made by the city or by any person. A City Councilor shall make such application by introduction to the City Council of an ordinance amending this Zoning Code.

(5) An application to amend zoning for the same property or to make the same text change may not be filed within 12 months from the date of final action by the city on a prior application. However, this limitation shall not apply to applications by a representative of the city.

(6) Application for zoning of an area to be annexed to the city is an application for a map amendment and must be filed and processed concurrently with the annexation action.

(B) Fee. An application fee shall be charged as follows except to representatives of the city:

(1) Map amendment, as follows:

(a) No fee for the establishment of city zoning for parcels being annexed.

(b) Less than one acre, $240.

(c) One to ten acres, $240 plus $55 per acre or portion thereof.

(d) More than ten acres, $685 plus $10 per acre or portion thereof.

(e) For an overlay zone, one-fourth of the above rates.

(f) Deferral requested by the applicant, $110.

(2) Text Amendment, $565.

(3) Site Development Plan:

(a) Original Plan approval at either the related zone map amendment public hearing or at a separate public hearing, $385.

(b) Amendment approved by Planning Director without interdepartmental review, $45.

(c) Amendment requiring a public hearing and interdepartmental review, $255.

(d) Deferral at the request of the applicant, $110.

(4) When an application is withdrawn after it has been advertised for public hearing by the city, the application fee shall not be refunded. When the application is withdrawn before such advertisement, all but $40 of the fee shall be refunded.

(C) Hearing and Decision on Proposed Zone Map Amendments.

(1) Prior to hearing, the Planning Director shall request interested city departments and other agencies to comment on the application. Comments received shall be submitted to the Planning Commission.

(2) In cases where the City Council is authorized to approve the zone map amendment the Planning Commission shall make a recommendation to the City Council as provided for at § 14-13-2-5(C)(2). Such consideration shall be at a public meeting at a time and place contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the meeting. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined.

(3) In all cases the Planning Director shall cause a staff report to be prepared that recommends approval or denial of the proposed zone map amendment and the justification for the recommendation.

(4) The Planning Commission in cases where it is authorized to approve the zone map amendment or the City Council in cases where it is authorized to approve the zone map amendment shall consider the proposal at a public hearing at a time and place contained in a public notice published in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined. When the area of the zone map amendment is for 40 acres or more or where the amendment is through the adoption or amendment of a Sector Development Plan, the published notice shall include an additional display advertisement of no less than nine square inches, including a map of the area of the application.

(5) The Planning Director shall notify the applicant by certified mail of the date, time, and place of hearing.

(6) Applications for change to the zone map for an area of one block or less:

(a) The applicant must post and maintain one or more signs, as provided and where instructed by the Planning Director, at least 15 days before the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is

completed. Failure to properly post signs is grounds for deferral or denial of the application. No one, except the applicant or an agent of the applicant or the city, shall remove or tamper with any such required sign during the period it is required to be maintained under this division (a).

(b) At the expense of the applicant, the Planning Director shall mail written notice by certified mail, return receipt requested not less than 15 days prior to the date of the hearing to all owners of property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries of the area proposed to be changed, excluding public right-of-way, using for this purpose the last known name and address of the owners shown in the records of the County Assessor. Notice shall include the date, time, and place of the hearing.

(7) For applications for change to the zone map for an area of over one block but less than 40 acres where the area is not covered by a concurrently proposed Sector Development Plan, signs shall be posted as provided in division (6)(a) above.

(8) Whenever a change in zoning is proposed for an area of more than one block, the Planning Director, at the applicant's expense, shall mail notice of the public hearing by first class mail to the owners, as shown by the records of the County Assessor, of lots or of land within the area proposed to be changed by a zoning regulation and within one hundred feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returned undelivered, the Planning Director shall attempt to discover the owner's most recent address and shall, at the applicant's expense, remit the notice by certified mail, return receipt requested, to that address.

(9) In addition to the above notification requirements, all applicants requesting a zone map amendment for an area of any size that includes a mobile home development shall post and maintain a minimum of one sign at each entrance to the mobile home development, to include both vehicular and pedestrian entrances. These signs shall be in addition to signs required in division 6(a) above and shall be maintained throughout the time period specified in that division. Such an applicant shall also provide, at the time of application, a list of all current mobile home development residents and their addresses within the subject area proposed to be changed. Failure by an applicant to provide this list shall be grounds for rejection, deferral, or denial of the application. The Planning Director shall mail written notice of the date, time and place of the zone map amendment hearing not less than 15 days prior to the date of the hearing to all mobile home development residents within the subject area to be changed, using for this purpose the list of current residents provided by the applicant. The applicant shall reimburse the Planning Department for costs related to notification of the residents. For cases in which the mobile home development owner is not party to the zone map amendment request (e.g. the city is the applicant) and the applicant is unable to obtain a current list of residents and their addresses either from the mobile home development owner or from the County Assessor records, the sign posting requirements of this division and of division 6(a) above shall be considered adequate notice.

(10) An advertised hearing may be continued to a time and place announced at the hearing without advertising or reposting of signs.

(11) The Planning Commission may prescribe regulations pertaining to the submission of documentary evidence into the record of any application prior to the advertised hearing date for said application.

(12) City ordinances, rules and regulations with respect to the standards for a zone map amendment establish the standards that must be met before an amendment may be approved.

Compliance with ordinances, rules and regulations regarding standards for a zone map amendment do not create any right to an amendment. The approval of a zone map amendment is discretionary.

(13) The zoning map and any related Sector Development Plan may be amended at the conclusion of a public hearing on the basis of plans, ordinances and policies adopted by the City Council. In making a decision, the key findings of fact shall be stated. Additional, satisfactory submissions may be made a condition of approval. Approval of a zone more intensive than the advertised or a change of zoning outside the area advertised for hearing is possible only after appropriately readvertising and reposting signs.

(14) When a zone map amendment which is inconsistent with an adopted Rank 2 or Rank 3 city plan is requested, the Planning Director shall not process it unless an appropriate plan amendment is also requested; the Planning Commission shall then consider the applications and make a decision on the application if it has authority to make the plan amendment, or make recommendations if the City Council has the plan-change authority.

(15) The Planning Commission has the authority to amend the zone map except in the following situations. The City Council has the sole authority, in its discretion, to:

(a) Amend the zoning map imposing or eliminating SU-2 or SU-3 zoning;

(b) Amend the zoning map imposing or eliminating HO, UCO, or DO overlay zoning;

(c) Amend an SU-2 or SU-3 Sector Development Plan for an area over one block, or for any City-owned property within a Sector Development Plan that has primarily been used for a municipal purpose, including parks or properties that contains a structure such as a fire station, police substation, community center, or other facility out of which a City service has been provided, and been deemed non-essential for municipal purposes. City Council approval is not required when establishing or changing the zoning of excess rights-of-way that have been vacated;

(d) Amend the general preservation guidelines or design regulations for an area where HO, UCO, or DO overlay zoning has been imposed;

(e) Amend the zoning map as to land being concurrently annexed;

(f) Amend the zoning map pursuant to deciding an appeal of a zone change decision; or

(g) Amend zoning regulations when all the equitable owners of land which comprises at least 20% of the area proposed for change or 20% of the area within 100 feet, excluding public right-of-way, of the area proposed to be changed in zoning regulation, protest in writing the proposed change in the zoning regulation. For purposes of this division (g) the definition of a "change in zoning regulation" at § 14-16-4-4(E)(5)(d) shall apply. When there is a protest duly based on this division g, the proposed change in zoning regulation shall require approval by a majority of all Councilors. When such protest is filed after action of the Planning Commission, it shall be processed as an appeal. It is the burden of the persons asserting the applicability of this division g to show that it applies through clear and convincing evidence.

(16) (a) An approval of a change to the zone map does not become official until the Planning Director signs Certification of Zoning and sends it to the applicant and any other person who requests such notification on the specific case. Such certification shall be signed immediately after appeal possibilities have been concluded and after all requirements

prerequisite to this certification are met. A Certification of Zoning is not required for zone map amendments for which the City is the applicant.

(b) If such requirements are not met within six months after the date final city approval is voted, the approval is void; however, the Planning Director may extend this time limit up to an additional six months.

(17) When only a site development plan is requested to be amended, the zoning classification is not open to amendment, whether in the original decision or on appeal.

(D) Hearing and Decision on Proposed Ordinance Text Changes.

(1) Prior to City Council hearing on a text change, including those initiated by the City Council or an official of the city, an application for a text change shall generally be evaluated by the Planning Director and the Planning Commission.

(2) The Planning Director shall notify the applicant of the date, time, and place of hearing.

(3) The City Council may consider any application for text amendment and shall consider any such application which receives a positive recommendation from the Planning Commission. Such consideration shall be at a public hearing.

(E) Hearing and Decision on Approval of Development Plans. Hearings by the Planning Commission in initial approval or amendment to a Sector Development Plan or Site Development Plan specified under a zone in this Zoning Code shall abide by the provisions of division (C) of this section.

(F) Comprehensive Review of Zone Map. Within the one-year period immediately preceding December 1, 1980, and within each one-year period immediately preceding July 1 of every fourth year thereafter, the Planning Director, after completely reviewing the zone map then in effect, shall recommend to the Planning Commission a version to the official zone map, revised to the extent appropriate to advance the accomplishment of the master plan.

('74 Code, § 7-14-41) (Ord. 80-1975; Am. Ord. 6-1977; Am. Ord. 31-1977; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 21-1979; Am. Ord. 53-1980; Am. Ord. 100-1980; Am. Ord. 72-1981; Am. Ord. 62-1982; Am. Ord. 23-1984; Am. Ord. 60-1986; Am. Ord. 49-1987; Am. Ord. 58-1987; Am. Ord. 73-1989; Am. Ord. 12-1990; Am. Ord. 16-1992; Am. Ord. 32-1995; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 7-2008; Am. Ord. 19-2010; Am. Ord. 2012-036)

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§ 14-16-4-2 SPECIAL EXCEPTIONS.

(A) Application and Fee.

(1) Special exceptions to this Zoning Code which may be applied for are:

(a) Conditional use;

(b) Variance; and

(c) Expansion of nonconforming use.

(2) Request for special exceptions is initiated by application to the city on prescribed forms. Each application shall be accompanied by at least one copy of an accurate site plan, building development plan, sketch or other related information, as required by the Zoning Hearing Examiner.

(3) An application for the same special exception on the same site may not be considered within 12 months of the date of final city action on a prior application.

(4) An application fee of $100 shall accompany each application. When an application is withdrawn after it has been advertised for public hearing, the application fee shall not be refunded. When an application is withdrawn before such advertisement, all but $20 of the fee shall be refunded. Where the city is the applicant or agent, the application fee is waived.

(B) Hearing and Decision.

(1) A duly filed application for a special exception to the regular zoning provisions shall be decided upon the record after a hearing by the Zoning Hearing Examiner.

(2) At least 15 days in advance of a hearing, the Planning Director shall publish notice of the hearing in a newspaper of general circulation in the city, and at least 15 days in advance of a hearing shall mail notice individually to the following:

(a) The applicant;

(b) The applicant's agent;

(c) The owners, as shown by the records of the County Assessor, of lots comprising the application site and lots within 100 feet, excluding public right-of-way, of the application site;

(d) Any neighborhood association which has filed its articles of incorporation, bylaws, or other document indicating its existence which includes key contact people, organizational structure, current boundaries and preferred mailing address with the Office of Neighborhood Coordination, if the boundaries of the organization include any part of the parcel of the requested special exception, or any land within 100 feet thereof, excluding public right-of-way; and

(e) Any other person, agency, or organization that has filed with the Planning Director a request to receive notices of hearings and has paid a reasonable fee therefor.

(3) The notice shall:

(a) Give the time and place of hearing;

(b) Contain a statement describing location of the property and the subject matter of the hearing; and

(c) Specify how additional information can be obtained.

(4) The applicant shall post and maintain one or more signs, as provided and where instructed by the Planning Director, at least 15 days before the date of the hearing. The applicant is responsible for removing such sign within five days after the hearing is completed. Failure to properly post signs is grounds for deferral.

(5) Prior to hearing, the Planning Director shall request city departments and other agencies which he judges would be interested to comment on the application. Comments received shall be submitted to the Zoning Hearing Examiner and shall be part of the hearing record.

(6) A written statement giving the name and address of the person making the appearance, signed by him or by his agent, and filed with or maintained by the Zoning Hearing Examiner prior to the Hearing Examiner's terminating public comment on the case, constitutes appearance of record. The parties to a hearing shall be any of the following persons who have entered an appearance of record:

(a) A person entitled to notice under divisions (2)(a) through (d) above;

(b) The representatives of any department or agency of the city or another unit of local government in the metropolitan area which may be affected by the application; or

(c) A person who satisfied the Zoning Hearing Examiner that he has a significant personal, pecuniary, or property right or interest in the subject matter of the hearing.

(7) A party shall be afforded an opportunity to present evidence and argument and to question witnesses on all relevant issues, but the Zoning Hearing Examiner may impose reasonable limitations on the number of witnesses heard, and on the nature and length of their testimony and questioning. The Zoning Hearing Examiner may call witnesses and introduce papers on his own volition during the public hearing. All testimony at the hearing shall be under oath or affirmation. Nothing in this Zoning Code shall prohibit interested members of the public from testifying at hearings.

(8) The Planning Director shall make a full record of the hearing by sound recording; any person shall have the opportunity to listen to, copy, or transcribe the recording at any reasonable time at the office of the Planning Director. Summary minutes shall be kept of all Zoning Hearing Examiner's hearings, and they shall be kept available for public inspection.

(9) Prior to making a decision, the Zoning Hearing Examiner shall neither:

(a) Communicate, directly or indirectly, with any party or his representatives in connection with the merits of any issue involved, except upon notice and opportunity for all parties to participate;

(b) Use nor rely upon any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless made a part of the record; nor

(c) Inspect the site with any party or his representative unless all parties are given opportunity to be present.

(10) An advertised hearing may be continued to a time and place announced at the hearing without readvertising or reposting of signs.

(11) The Zoning Hearing Examiner shall act on an application within 15 days of the conclusion of the hearing. He shall prepare a written decision, which includes the key findings of fact. This report shall be made part of the record. Each material finding shall be supported by substantial evidence or, if it is noted on the record, by the personal knowledge of or inspection of the Zoning Hearing Examiner.

(12) The Zoning Hearing Examiner may, when approving a special exception, impose conditions necessary to meet the stated criteria for granting special exceptions.

(13) Notification. When any special exception is approved, approved with conditions, or denied, as provided in this section, written notification of the action listing any conditions imposed shall be sent within one day of the action to every party and to any other person who has entered an appearance and also requested a copy of the decision; however, when the decision is made in the public hearing, notice shall be mailed only to the applicant and other persons who have entered an appearance and who have requested to be so informed.

(C) ***Criteria for Decision.*** The city shall approve a special exception if the evidence presented to the record shows that the following criteria are met. Although others may submit evidence, it is the burden of the applicant to ensure that there is such evidence in the record.

(1) A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed:

(a) Will not be injurious to the adjacent property, the neighborhood, or the community;

(b) Will not be significantly damaged by surrounding structures or activities.

(2) Variance. A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:

(a) The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;

(b) There are special circumstances applicable to the subject property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid;

(c) Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and

(d) Substantial justice is done.

(3) The expansion of a nonconforming use, including the expansion of a building to accommodate such expanded nonconforming use, shall be approved if and only if, in the circumstances of the particular case and under conditions imposed:

(a) The expanded use will not significantly interfere with the enjoyment of other land in the vicinity;

(b) The expanded use will not be significantly damaged by surrounding structures or activities;

(c) The expanded use is consistent with the spirit of this Zoning Code, substantial justice, and the general public interest;

(d) The owner will experience unnecessary hardship and in addition will be denied a continued reasonable use of the property if the expansion is not approved;

(e) The expansion does not exceed 25% of the floor or ground area in nonconforming uses on the site at the time it became nonconforming; and

(f) The owner covenants that the use of the entire premises will be ceased or made conforming at the time specified by this Zoning Code for termination of the original nonconforming use on the premises.

(D) Voiding of Special Exceptions.

(1) An approved special exception shall be void one year after the date approval vested if the rights and privileges granted thereby have not been utilized.

(2) An approved special exception shall be void if it is utilized in a way materially in violation of the terms of approval for a continuous period of one year or more. Such voidance is in addition to and not instead of other remedies available to the city at any time for violation of this Zoning Code.

(3) An approved conditional use shall be void if, after the use has begun, it ceases on the approved site for a continuous period of one year or more.

(E) A person who acquires a property interest in a site which was previously granted a special exception has the responsibility to learn the terms of such approval. The existence of an activity or structure which is not in compliance with regular zoning provisions constitutes constructive notice that there may be a special exception, the terms of which must be met.

('74 Code, § 7-14-42) (Ord. 80-1975; Am. Ord. 78-1980; Am. Ord. 49-1987; Am. Ord. 58-1987; Am. Ord. 45-1990; Am. Ord. 13-1991; Am. Ord. 8-1995; Am. Ord. 32-1995; Am. Ord. 23-2001; Am. Ord. 30-2002; O-13-57)

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§ 14-16-4-3 SECTOR DEVELOPMENT PLAN PROCEDURES.

(A) Application for New or Amended Sector Development Plans.

(1) Application for the adoption or amendment of a sector development plan may be initiated by filing with the Planning Director or by the introduction of a bill by a City Councilor. The application shall be accompanied by the proposed sector development plan or sector development plan amendment.

(2) Prospective applicants should discuss their ideas with the Planning Director before making application so as to familiarize themselves with city plans and policies.

(3) An application seeking a new sector development plan or an amendment to a sector development plan shall be filed on prescribed forms. Each application shall be accompanied by sufficient copies of the proposed plan, evidence of interest in property, and other related information as required by the city. Submission of inaccurate information with an application is grounds for denial.

(4) Applications may be made only by the Mayor or his designated representative, a City Councilor or a designee of a City Councilor or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be an applicant.

(5) Where the official zone map has been set by a Sector Development Plan, application for amendment of the official zone map is through amendment of the plan. The application shall be subject to the same fee and notice as changes to the zone map in areas not governed by a Sector Development Plan.

(6) Applications for amendment of the text of a previously adopted Sector Development Plan shall be subject to the same fee, and notification and other procedures as changes to the text of this Zoning Code.

(B) Fee. An application fee shall be charged as follows except to representatives of the city:

(1) Plan approval, $70 if approval is requested at the same time rezoning of the plan's area is requested.

(2) Plan approval, $230 if approval is requested at a time other than when rezoning of the plan's area is requested.

(3) The application fee is nonrefundable.

(C) Adoption of Sector Development Plan

(1) The Planning Commission is authorized to approve Sector Development Plans for R-D and PC zoned areas, subject to appeal as in a zone change.

(2) Only the City Council shall approve Sector Development Plans for areas which are not entirely zoned R-D or PC. If the City Council has jurisdiction to adopt the governing Sector Development Plan, only the City Council may approve Sector Development Plan amendments, except that applications for amendments to the zoning in Sector Development Plans for less than one block shall be decided by the Planning Commission.

(3) The Planning Director shall request interested city departments and other agencies to comment on all applications. Comments received shall be submitted to the Planning Commission together with the Planning Department staff report.

(4) The Planning Director shall cause a staff report to be prepared that provides an analysis of the proposed Sector Development Plan adoption or amendment.

(5) For Sector Development Plan adoption or amendment where the Planning Commission is required to provide a recommendation prior to Council action the Planning Commission shall adopt its recommendation at a public meeting.

(6) The Planning Commission may prescribe regulations pertaining to the submission of testamentary or documentary evidence into the record of any application prior to the advertised hearing date for the application.

(7) The Planning Commission shall make a decision on a Sector Development Plan proposed for the R-D zone within 90 days after filing of a complete application for approval of such plan. If the Planning Commission action is appealed, no plan shall be considered in effect until the appeal is decided, and the provisions of § 14-16-2-14(G)(2) of this Zoning Code shall control during the interim.

(D) Review and Administration.

(1) In addition to the review of a Sector Development Plan pursuant to § 14-13-2-5 ROA 1994 the Planning Commission shall review a Sector Development Plan whenever the Commission or the Planning Director determines that conditions in the general area of the plan have substantially changed or that review is appropriate for other reasons, but in any event review shall take place at least every ten years until the plan is fully implemented in order to determine if the plan should be amended.

(2) The Planning Director may approve minor changes to an approved Sector Development Plan or Landscaping Plan if it is consistent with the use and other written requirements approved by the Planning Commission or City Council, if the buildings are of the same general size, the vehicular circulation is similar in its effect on adjacent property and streets, and the approving official finds that neither the city nor any person will be substantially aggrieved by the altered plan.

('74 Code, § 7-14-44) (Ord. 80-1975; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 53-1980; Am. Ord. 12-1990; Am. Ord. 36-1990; Am. Ord. 49-1990; Am. Ord. 58-1993; Am. Ord. 36-1994; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 19-2010; Am. Ord. 2012-036)

§ 14-16-4-4 APPEAL.

(A) Jurisdiction.

(1) Appeal of declaratory rulings as to the applicability of the Zoning Code by the Zoning Enforcement Officer, or any action which is authorized by the Zoning Code and is made by the Planning Director is to the City Council through the Land Use Hearing Officer. Appeal of decisions of the Zoning Hearing Examiner is to the Board of Appeals. Upon denial of a Certificate of Appropriateness by the Mayor or Planning Director under the terms of § 14-16-2-25 or § 14-16-2-28 of this Zoning Code, the matter will be remanded to the Landmarks and Urban Conservation Commission for further consideration, if the applicant requests such remand within 15 days of denial.

(2) Appeal of the following actions is to the City Council through the Land Use Hearing Officer:

(a) Any action which is authorized by the Zoning Code and is made by the Planning Commission;

(b) Denial of an application for the HO Historic Overlay Zone or UCO Urban Conservation Overlay Zone by the Landmarks and Urban Conservation Commission;

(c) A decision on a special use permit by the Landmarks and Urban Conservation Commission;

(d) Appeals of a decision of the Board of Appeals; and

(e) Appeals of a decision of the Development Review Board.

(3) Once an appeal is filed, no prior decision rendered by the Zoning Enforcement Officer, the Zoning Hearing Examiner, the Planning Director, the Planning Commission, the Board of Appeals, the Development Review Board, or Landmarks and Urban Conservation Commission upon which the appeal is based may be unilaterally withdrawn, changed or modified by any of the above as they have lost jurisdiction to act on the matter.

(B) Application.

(1) Administrative appeals shall be filed at the office of the Planning Department. Any zoning decision which can be appealed under the terms of division (A) above is final unless appeal is initiated by application to the city on prescribed forms within 15 days of the announced decision. The date of determination is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday, or holiday as listed in § 3-1-12, the next working day is considered as the deadline for filing the appeal. Appeals of declaratory rulings to the City Council are not subject to the time limits on making an appeal as set forth above. Written decisions shall be issued by the Planning Department no later than five working days after an oral decision has been rendered.

(2) The following persons shall have the right to file appeals of city planning, zoning and land use decisions:

(a) Where the decision appealed is a special exception, persons who were parties or could have been parties at the Zoning Hearing Examiner's hearing.

(b) Any person may appeal declaratory rulings by the Zoning Enforcement Officer.

(c) Where the decision appealed is a conditional use for retail sale of alcoholic drink for consumption off premises where the portion of the building used for such business is within 500 feet of a residential zone, any person who owns a property interest within 500 feet of the subject site (excluding public right-of-way).

(d) In other cases, persons who own a property interest within 300 feet of the subject-site (excluding public right-of-way); and organized neighborhood associations (as provided in § 14-16-4-2(B)(2)(d)) if the boundaries of the association include any part of the subject-site or any land within 600 feet thereof (excluding public right-of-way).

(e) Any person who demonstrates a personal or pecuniary interest or property right adversely affected by the decision, which right or interest is more than merely nominal or remote.

(3) In prosecuting or defending an appeal any person may be represented by an attorney, any other representative or may appear for him or herself. An attorney or other representative must have written authorization from the person being represented. Any attorney, other representative or person appearing for himself or herself must abide by orders of the appellate body and preserve appropriate decorum.

(4) Applications for an appeal shall clearly articulate the reasons for the appeal; appellants shall specifically cite and explain one or more alleged errors:

(a) In applying adopted city plans, policies, and ordinances in arriving at the decision;

(b) In the appealed action or decision, including its stated facts;

(c) In acting arbitrarily or capriciously or manifestly abusive of discretion.

(5) A permit dependent on a decision described in division (A) of this section shall not be issued until an appeal is decided or the time for filling the appeal has expired without an appeal being filed; however, if public hearing produces no objection of any kind to approval of an application, which application is approved, the deciding entity may allow issuance of a building permit before 15 days if the applicant agrees in writing to return the building permit if an appeal is duly filed. The appeal of a decision by the Planning Director to issue a building permit shall not result in the automatic revocation of the permit. The holder of the permit shall be on notice that the building permit may be withdrawn.

(C) Acceptance.

(1) The City Council, upon accepting an appeal, shall refer the appeal to the Land Use Hearing Officer for a hearing. The Land Use Hearing Officer may place reasonable limitations on an appeal hearing at the beginning of the hearing in question. The Land Use Hearing Officer shall hear the appeal in accordance with rules adopted by the Council and shall enter a recommendation regarding the appeal after making appropriate findings of fact. The Land Use Hearing Officer may accept new evidence into the record. If the Land Use Hearing Officer's recommendation is that the appeal should be remanded, the Land Use Hearing Officer shall set forth the reason(s) for the remand and the matters to be reconsidered. The Land Use Hearing Officer shall forward the recommendation and findings to the Council within five days of the recommendation. The Council shall place the Land Use Hearing Officer's recommendation, including findings, on the agenda of the next regular full Council meeting at which land use, planning and zoning matters are heard following receipt of the Land Use Hearing Officer's recommendation. At the Council meeting, the Council shall vote whether to accept or reject the Land Use Hearing Officer's recommendation and findings. The

Council may accept a portion of the Land Use Hearing Officer's recommendation and findings and reject the remainder. A motion to reject or accept the Land Use Hearing Officer's recommendation and findings must be approved by a majority of the membership of the Council. If the Land Use Hearing Officer's recommendation is rejected or if a majority of the Council fails to either accept or reject the recommendation, the appeal shall be scheduled before the full Council no earlier than the next regular meeting of the full Council at which land use matters are heard. If only a portion of the Land Use Hearing Officer's recommendation and findings are rejected, only that portion shall be scheduled for hearing before the Council. The Council may accept new evidence. Prior to the Council hearing a matter, following the rejection of a LUHO recommendation, the LUHO hearing shall be transcribed and made a part of the record before the City Council.

(2) The City Council may remand an appeal to the Planning Commission, Board of Appeals, Development Review Board, Planning Director or Landmarks and Urban Conservation Commission for rehearing and decision if it finds that rehearing would be likely to serve public policy and resolve the appeal. If the City Council remands an appeal to the Planning Commission, Board of Appeals, Development Review Board, Planning Director or Landmarks and Urban Conservation Commission, the Council shall state key findings of fact on which that action is based.

(3) The Planning Commission, Board of Appeals, Development Review Board or Landmarks and Urban Conservation Commission shall hold a public hearing and make a decision relative to all appeals sent to it initially or remanded to it by the City Council as set forth elsewhere in this Zoning Code.

(4) No public advertising or announcement of appeals is required beyond that specified in division (E)(4) of this section.

(5) The City Council may approve the withdrawal of an appeal if it has received a written request to this effect from the appellant.

(D) ***Fee.*** A filing fee of $55 to cover reasonable expenses shall accompany each appeal application. When an application is withdrawn, the application fee shall not be refunded. There shall be no filing fee on an appeal of the Planning Commission, the Board of Appeals, Development Review Board, Planning Director or the Landmarks and Urban Conservation Commission, on a decision remanded to it by the City Council.

(E) ***Hearing and Decision.***

(1) An appeal to the Board of Appeals shall have a public hearing opened within 45 days of the expiration of the appeal period and concluded within 75 days of the expiration of the appeal period; however, the appellate body may for good cause determine that the appeal hearing should be deferred beyond the 75-day period. An appeal to the City Council shall be introduced into the Council within 45 days of the expiration of the appeal period, the hearing opened within 60 days of the expiration of the appeal period, and concluded within 90 days of the expiration of the appeal period; however, the Council may for good cause determine that the appeal should be deferred beyond the 90-day period.

(2) The general procedure for an appeal hearing is as follows:

(a) The appellate body, including the Land Use Hearing Officer, may hold a hearing on the entire record sent to it and reverse, affirm, or modify the decision appealed.

(b) If it appears to the appellate body that some additional evidence is necessary for the proper disposition of the matter, it may allow evidence to be taken.

(c) The appellate body may remand the matter for reconsideration; if the appellate body remands the appeal, it shall state specifically the matters to be reconsidered and the reasons for remand on which that action is based.

(d) The presiding officer and the Land Use Hearing Officer may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony and cross-examination.

(e) Staff of the appellate body, other than employees of a city division which is the appellant or the appellee, may upon request of a member of the appellate body communicate with that member at any time and by any means; copies of any written materials shall be distributed to all parties. In addition to appearing before the body, any party to an appeal may provide written argument to the appellate body by submitting it through the staff of that body. The written argument shall not include new evidence and shall be submitted at least five days before the next hearing on the appeal with copies provided to any neighborhood association entitled to notice in the case and to all parties. Any appellate body may, by rule or regulation, increase the five day period. There should be no other communication, outside a hearing, with a member of an appellate body concerning a pending appeal. Any other communication that does occur shall be disclosed by the member of the appellate body who receives the communication.

(f) The appellate body hearing the appeal shall take action on the appeal at the conclusion of the hearing, and shall state and adopt key findings of fact. Appellate bodies other than the City Council shall adopt their findings immediately after taking action on the appeal. The City Council may, after taking action on the appeal, adopt findings at the conclusion of the hearing or at the next scheduled meeting of the City Council, provided a councillor who did not participate in the action taken on the appeal may not participate in the action to adopt the findings.

(3) Special, additional appeal procedures apply when the matter is an appeal of a special exception or a zone map amendment:

(a) All testimony at the hearing shall be under oath or affirmation.

(b) No member of the appellate body shall inspect the site with any party to the appeal or his representative.

(4) The Planning Director shall give written notice of an appeal, together with a notice of the date, time, and place of hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

(5) Vote needed:

(a) 1. When the Planning Commission has voted a change in zoning regulation and this action is appealed to the City Council, a majority of all members of the City Council is required to defeat an appeal and change the zoning regulation if the appeal is signed by each of the equitable owners of record of land comprising at least:

a. Twenty percent of the land proposed for change in zone; or

b. Twenty percent of the land not proposed for zone change but within 100 feet, excluding public right-of-way, of the land proposed for change in zone.

2. It is the burden of the persons asserting the applicability of this division (a) to show that it applies through clear and convincing evidence.

(b) Unless division (a) above applies, a majority of all members of the City Council is required to reverse a determination by the Planning Commission, the Board of Appeals, the Development Review Board, the Planning Director or the Landmarks and Urban Conservation Commission.

(c) A simple majority of the Planning Commission or the Board of Appeals is required to reverse a determination of the city staff.

(d) For the purpose of this division (E), CHANGE IN ZONING REGULATION means one of the following:

1. Change in the identity of the mapped zones;

2. Initial adoption of sector development plans or site development plans; or

3. Amendment of such plans if and only if:

a. The land uses permitted would be changed;

b. A limitation as to maximum total floor area within the plan area would be changed by 10% or more;

c. Building height at a given place within the plan area would be changed by 10% or more and would be over 26 feet high; or

d. The permitted number of dwelling units would be changed.

(6) If, in deciding an appeal, the City Council amends the zone map, the new zone must be one whose uses and density are within what is allowed in the proposed zone which has been advertised.

(7) In acting on an appeal, the city reserves for all its appellate bodies, including the Land Use Hearing Officer, the portion of the city's zoning authority which allows the city to decide appeal based on the preponderance of the evidence, to reweigh the evidence in the record, and to accept supplementary evidence when appropriate. However, a city appellate body may adopt rules barring new evidence.

(F) ***Judicial Review.*** The remedy for parties dissatisfied with the action of the City Council shall be in accordance with state law. The review shall be limited to the record made on the public hearings held pursuant to this Zoning Code.

(G) The Council shall adopt regulations setting forth the qualifications of the Land Use Hearing Officer.

(H) If the Land Use Hearing Officer has a conflict of interest regarding a particular appeal or a party to that appeal, the appeal shall be heard by the Council.

(I) In any matter heard by the Council without the Land Use Hearing Officer, the Council may choose to have a Hearing Officer take testimony and make recommendations.

(J) Any city appellate body, including the City Council and Land Use Hearing Officer, for a given case, may suspend any applicable procedural rule if doing so does not adversely impact any party's rights.

('74 Code, § 7-14-45) (Ord. 80-1975; Am. Ord. 86-1976; Am. Ord. 6-1977; Am. Ord. 31-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 22-1980; Am. Ord. 53-1980; Am. Ord. 100-1980; Am. Ord. 69-1981; Am. Ord. 72-1981; Am. Ord. 68-1983; Am. Ord. 4-1984; Am. Ord. 75-1985; Am. Ord. 49-1987; Am. Ord. 73-1989; Am. Ord. 45-1990; Am. Ord. 38-1991; Am. Ord. 9-1992; Am. Ord. 16-1992; Am. Ord. 54-1992; Am. Ord. 59-1993; Am. Ord. 29-1995; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 20-2003; Am. Ord. 8-2005; Am. Ord. 1-2007; Am. Ord. 33-2008; O-13-63)

§ 14-16-4-5 ZONING ENFORCEMENT OFFICER; APPROVAL REQUIRED FOR PERMITS AND THE LIKE.

(A) The Zoning Enforcement Officer is the enforcement officer and has the authority and duty to enforce this Zoning Code.

(B) An application for a permit, license, or certificate pertaining to the use of land or building shall be approved by the Zoning Enforcement Officer. A permit, license, or certificate issued in conflict with the provisions of this Zoning Code is void.

('74 Code, § 7-14-46A.1,2)

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§ 14-16-4-6 PERMITS REQUIRED, FEES.

(A) Fences and Free-standing Walls.

(1) No person shall erect a fence or free-standing wall (which is not either a retaining wall or a wall of a building) without first obtaining a permit from the city. If no permit is required under the New Mexico Uniform Building Code, as adopted by § 14-1-3, a permit is required under the Zoning Code. Application for a zoning permit for a wall or fence shall be reviewed by the Zoning Enforcement Officer to determine that its location, height, and structure conform to the Zoning Code.

(2) Fee. The fee for a zoning permit for a wall or fence which is proposed to be erected shall be $25. The fee for a zoning permit for a wall or fence which has been erected after the effective date of this section but before such permit is approved shall be $80; such a permit shall not be issued until the Zoning Enforcement Officer has determined that the plans accurately reflect the fence as built or as the owner obligates himself to rebuild it. If the fence is part of a plan submitted for Zoning review prior to construction, per division (B) of this section, the fee of $25 is waived.

(B) Review of Plan; Fee. A fee shall be charged by the Zoning Enforcement Officer for the review of a plan required under the terms of the New Mexico Uniform Building Code, as adopted by § 14-1-3. Such fee shall be $25, except that for buildings of over 4,000 square feet gross floor area, a fee of $45 shall be charged. The fee for Building Code review of plans for a building or other structure built after the effective date of this division and prior to request for a permit shall be double the above fees.

(C) Processing Fee. A processing fee shall be charged by the Zoning Enforcement Officer for issuance of a requested certificate of zoning which includes both a statement of the zone which applies and conclusions on the zoning conformity of the development and use of the lot. Such fee shall be $35, except it shall be $70 for certificates required for issuance or transfer of liquor licenses. There shall be no fee for a requested certificate of zoning which indicates the zone which applies to a lot but does not indicate whether the development of the lot is conforming.

('74 Code, § 7-14-46A.8-10; Am. Ord. 30-2002)

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§ 14-16-4-7 INSPECTORIAL SEARCHES.

(A) Definition. As used in this section, INSPECTORIAL SEARCH means an entry into and examination of premises or vehicles, for the purpose of ascertaining the existence or nonexistence of violations of the Zoning Code.

(B) Inspectorial Searches by Consent.

(1) Within the scope of his authority, the Zoning Enforcement Officer or his authorized zoning inspectors may conduct an inspectorial search, with the voluntary consent of an occupant or custodian of the premises or vehicles to be inspected, who reasonably appears to the Zoning Enforcement Officer or his inspector to be in control of the places to be inspected or otherwise authorized to give such consent.

(2) Before requesting consent for an inspectorial search, the Zoning Enforcement Officer or his inspector shall inform the person to whom the request is directed of the authority under and purposes for which the inspection is to be made and shall, upon demand, exhibit an identification card or document evidencing his authority to make such inspections.

(3) Inspections undertaken pursuant to this section shall be carried out with due regard for the convenience and privacy of the occupants, and during the daytime unless, because of the nature of the premises, the convenience of the occupants, the nature of the possible violation or other circumstances, there is a reasonable basis for carrying out the inspection at night.

(4) Unless advance notice would be likely to cause the suspected violation to be temporarily eliminated so as to frustrate enforcement, notice of the purpose and approximate time of an inspectorial search of an area not open to the general public shall be sent to the occupants or custodians of premises or vehicles to be inspected not less than seven days before the inspection is undertaken.

(C) Inspectorial Searches without Consent.

(1) Upon sufficient showing that required consent to an inspectorial search has been refused or is otherwise unobtainable within a reasonable period of time, the Zoning Enforcement Officer may make application for an inspection order/search warrant. Such application shall be made to a district court having jurisdiction over the premises or vehicle to be search. Such application shall set forth:

(a) The particular vehicle(s), premises, or portion thereof sought to be inspected;

(b) That the owner or occupant of the premises or vehicle(s), has refused entry;

(c) That inspection of the premises or vehicle(s) is necessary to determine whether they comply with the requirements of this Zoning Code;

(d) Any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the premises or vehicle(s) which constitutes a violation of this Zoning Code; and

(e) That the Zoning Enforcement Officer or his inspector is authorized by the city to make the inspection.

(2) The application shall be granted and the inspection order/search warrant issued upon a sufficient showing that inspection in the area in which the premises or vehicles in question

are located, or inspection of the particular premises or vehicles, is in accordance with reasonable legislative or administrative standards, and that the circumstances of the particular inspection for which application is made are otherwise reasonable. The district court shall make and keep a record of the proceedings on the application, and enter thereon its finding in accordance with the requirements of this section.

(3) The Zoning Enforcement Officer or inspector executing the inspection order/search warrant shall, if the premises or vehicle in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to effect entry and make the inspection.

(4) The Zoning Enforcement Officer or inspector conducting the search shall, if authorized by the district court on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants who shall assist the Zoning Enforcement Officer or inspector in executing the order at his direction.

(5) After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the Zoning Enforcement Officer shall return the order to the district court with a sworn report of the circumstances of execution or failure thereof.

('74 Code, § 7-14-46A.3)

§ 14-16-4-8 DECLARATORY RULINGS.

(A) Upon request, the Zoning Enforcement Officer shall issue declaratory rulings as to the applicability of the Zoning Code to a proposed development or activity.

(B) In determining whether a use not specifically permitted by this Zoning Code can be considered as permissive or conditional in a particular zone, the similarity to and compatibility with other permissive or conditional uses in that zone shall be determining factors.

(C) Upon issuance of a declaratory ruling, the Zoning Enforcement Officer shall transmit a copy of the ruling to the Planning Commission and the Planning Director within five working days.

('74 Code, § 7-14-46A.7)

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§ 14-16-4-9 OFFICIAL ZONING MAP.

(A) The Planning Director shall maintain the official zone map. Such map shall indicate the zone of all areas within the boundaries of the city. Maps shall be available to the public for viewing, and copies shall be made available for sale. Upon request, the Zoning Enforcement Officer shall issue statements of the official zoning of specific parcels of land.

(B) The zones and boundaries of zones as established and shown on the map made a part of Commission Ordinance No. 2726, as amended, including de facto amendments by proposed zoning maps adopted as part of Sector Development Plans, are incorporated herein and designated as the official zone map of the city; land on the map designated A-1 becomes RA-2, R-1, in the Developing Area becomes R-D, C-4 becomes SU-3, P-1 or P-2 becomes P, P-1R or P-2R becomes P-R and Neighborhood Development Plan becomes SU-2.

(C) Wherever the zone map does not name the zoning of an area within the city the area is zoned R-1, except if it is in the Developing Area it is R-D.

(D) Sites approved for public utility structures shall be so designated on the official zoning map.

('74 Code, § 7-14-46C)

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§ 14-16-4-10 VIOLATIONS, REMEDIES.

In the event a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Zoning Code, the Zoning Enforcement Officer, in addition to other remedies, may institute an appropriate action or proceeding to prevent the unlawful action, to restrain, correct, or abate the violation; to prevent the occupation of the building, structure, or land; or to prevent an illegal act, conduct, business, or use in or about the premises.

('74 Code, § 7-14-46A.4)

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§ 14-16-4-11 REMOVAL OF SIGNS.

The Zoning Enforcement Officer shall order the removal of any sign or violating portion thereof which is erected or maintained in violation of this Zoning Code. Ten days notice in writing shall be given to the owner of such sign, or of the structure or premises on which such sign is located, to remove the sign or to bring it into compliance with this Zoning Code. Upon failure to remove the sign or to comply with this notice, the Zoning Enforcement Officer shall have the sign removed. Any cost of removal incurred by the city shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall be a lien on the property.

('74 Code, § 7-14-46A.5)

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§ 14-16-4-12 DISCLAIMER.

This Zoning Code shall not be construed to hold the city or its authorized representatives responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a building permit as herein provided.

('74 Code, § 7-14-46A.6)

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§ 14-16-4-13 STATUS ESTABLISHED BUILDING REVIEW PROCEDURES.

(A) Application and Fee.

(1) Request for review of a premises nonconforming as to use for approval of status established building(s) is initiated by application to the City on prescribed forms. Each application shall be accompanied by an accurate site plan of the property and other documentation necessary for verification. Documentation may include affidavits and historical documents, including property surveys, County Assessor and building permit records, Sanborn Insurance maps, City Directory citations, aerial photos, and other information as may be required by the City. Each application shall include sufficient copies of materials and include evidence of ownership or interest in property, and shall be complete and accurate. Incomplete or inaccurate information may be grounds for deferral or denial.

(2) An affidavit shall accompany each application for review of premises seeking status established building approval for any structure to be used for residential purposes. That affidavit shall state that the property owner asserts that the structure is suitable and safe for human habitation.

(3) An application fee of $90.00 shall accompany each application for review of a premises. Application fees for applications that are withdrawn shall not be refunded.

(B) Hearing and Decision.

(1) A duly filed application for status established building shall be decided upon the record at or after a public hearing by the City Hearing Officer, as defined by the Independent Office of Hearings Ordinance (§§ 2-7-8-1 et seq. ROA 1994) who shall serve in the position of "Hearing Officer for Status Established Buildings".

(2) Notice of a hearing for approval of a status established building and the procedure for such hearings shall be as specified in § 14-16-4-2(B) of this Zoning Code as it pertains to the Hearing and Decision on SPECIAL EXCEPTIONS, with the exception that all references in that section to "Zoning Hearing Examiner" or "Hearing Examiner" shall be replaced by "Hearing Officer for Status Established Buildings," and all references to "special exception(s)" shall be replaced by "status established building(s)". In addition, applicants for status established building shall post and maintain one or more signs, as provided and where instructed by the Planning Director, for at least 30 days before the date of the hearing.

(C) Criteria for Decision. A status established building shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the applicant for status established building is able to demonstrate to the satisfaction of the Hearing Officer that:

(1) the current use of the building is nonconforming;

(2) the subject property is clearly identified by a site plan and the improvements upon it are accurately depicted;

(3) the continuance of the use, if approved, will not be contrary to the public health, safety or welfare of the community.

(4) the use, as currently operated and/or maintained, did not, and the continuance of the use is not likely to, significantly interfere with the enjoyment of, or be injurious to, other land in the vicinity;

(5) no significant public purpose would be served by requiring removal of the use;

(6) the use, if continued, will not be damaged by surrounding structures or activities; and

(7) continuance of the use does not create a significant disparity between the existing zoning and the status established building.

The following factors shall be evaluated in determining whether there is a significant disparity between existing zoning and the status established building:

(a) the scale, height and overall density of the building;

(b) the noise, air or other pollution generated by the use;

(c) the traffic and traffic congestion generated by the use;

(d) parking needs and availability;

(e) usable open space;

(f) lighting generated by the use;

(g) access to the building;

(h) existing landscaping;

(i) any other factor deemed relevant by the Hearing Officer.

(D) The Hearing Officer may, when approving a status established building, impose conditions necessary to meet the criteria for granting a status established building that are tailored to the specific impact the conditions are intended to mitigate, including, but not limited to, density, intensity of use, parking, open space, and landscaping/buffering.

(E) Appeal, Fees, Hearing, and Decision.

(1) The appeal procedure for status established buildings shall follow the appeal procedures, including notification, specified for Special Exceptions as specified in § 14-16-4-4 APPEAL of this Zoning Code. Appeal of a decision of the Hearing Officer for a status established building application is to the Board of Appeals.

(2) The filing fee for an appeal is $55.

(3) Appeal shall be made to the City on prescribed forms accompanied by a copy of the file of the decision of the Hearing Officer and information detailing the reason for appeal.

(Ord. 44-2002; Am. Ord. 31-2007)

§ 14-16-4-99 PENALTY.

Any person who violates any provision of this Zoning Code shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Each day of violation is considered a separate offense.

('74 Code, § 7-14-46B)

(Ord. 80-1975; Am. Ord. 6-1977; Am. Ord. 45-1977; Am. Ord. 57-1977; Am. Ord. 53-1980; Am. Ord. 72-1981; Am. Ord. 6-1986; Am. Ord. 49-1986; Am. Ord. 47-1990; Am. Ord. 25-1991; Am. Ord. 23-2001)