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**ORDINANCE NO. 6-18-20.12B**

**AN AMENDMENT TO ORDINANCE NO. 10-11-18.7A ESTABLISHING COMPREHENSIVE ZONING REGULATIONS AND ZONING MAPS FOR SANDOVAL COUNTY, NEW MEXICO, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF.**

**PASSED AND APPROVED ON JUNE 18, 2020, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANDOVAL COUNTY THAT:**

**SECTION 1. TITLE.**

These regulations shall be known as the "COMPREHENSIVE ZONING ORDINANCE OF SANDOVAL COUNTY, NEW MEXICO" and shall be referred to herein as "this Ordinance."

**SECTION 2. PURPOSE.**

The provisions of this Ordinance are designed to promote health and the general welfare of the County; to secure safety from fire, flood, and other dangers; to protect local water resources; to facilitate adequate provisions for transportation, water and wastewater systems, schools, parks and other community requirements; to conserve the value of property; and to provide for the compatible development of land and other natural resources in Sandoval County.

The purpose of this Ordinance is to best accommodate the growth of Sandoval County with reasonable regulations, while at the same time promoting development in the County that is beneficial to its citizens in a manner that protects the County's natural resources, protects the quality of life of its citizens, and simplifies the application process for the public. This Ordinance provides for orderly, compatible, and prudent development in accordance with the County's Comprehensive Plan and any other applicable land use plans that may be hereafter adopted by the County. It is the intention of the Board in adopting and enforcing this Ordinance to exercise all relevant powers conferred on it by the laws of the State of New Mexico, including where applicable, but not limited to, the following sections of NMSA 1978 as they may be amended:

- Sections 4-37-1 through 4-37-9 (powers granted to counties, including powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of a county and its inhabitants);
- Sections 4-57-1 through 4-57-3 (planning for the purpose of guiding development);
- Sections 47-6-1 through 47-6-29 (subdivision);
- Sections 47-5-1 through 47-5-8 (land subdivision);
- Section 3-18-6 (building construction)
- Section 3-18-7 (flood prone areas);
- Section 3-18-10 (sanitary facilities);
- Sections 3-19-1 through 3-19-12 (planning and platting);
- Sections 3-21-1 through 3-21-14 (zoning);
- Sections 3-22-1 through 3-22-5 (historic district zoning);
- Sections 3-39-16 through 3-39-27 (airport zoning);
- Section 3-49-1 (streets);
- Sections 3-53-1 through 3-53-5 (water use and water facilities).

### **SECTION 3. JURISDICTION.**

#### **A. Jurisdiction**

This Ordinance is intended to and shall apply to all the territory within the County to the full extent of the jurisdiction permitted by NMSA 1978 3-21-2, excepting only such areas as are now within:

1. The zoning jurisdiction of an incorporated municipality, whether such municipal jurisdiction is being exercised or not; or,
2. The concurrent zoning jurisdiction of the County and an incorporated municipality, provided such concurrent jurisdiction is being exercised under an existing extraterritorial authority or agreement.

#### **B. Increases in Territory Subject to Jurisdiction**

This Ordinance shall apply automatically to all territory that may hereafter come within the County's zoning jurisdiction. All such territory shall be automatically classified within the Rural Residential/Agricultural (RRA) District until reclassified pursuant to this Ordinance.

#### **C. Decreases in Territory Subject to Jurisdiction**

This Ordinance shall cease to apply as to any territory that may hereafter come within (a) the zoning jurisdiction of an incorporated municipality, or (b) the exercised jurisdiction of a concurrent extraterritorial zoning authority or agreement.

### **SECTION 4. APPLICATION.**

No structure shall be constructed, placed, or maintained, and no land use commenced or continued within the zoning jurisdiction of the County except as authorized by this Ordinance. Any use not designated as permissive or conditional within a particular zone district is prohibited from that zone district, except as otherwise provided in this Ordinance.

### **SECTION 5. INTERPRETATION.**

- A. General. The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other laws or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws or ordinances, then whichever is more restrictive shall govern.
- B. Covenants. For the purposes of zoning, the County shall not enforce private covenants, except as follows:
  - (1) The County shall not apply its Comprehensive Zoning Ordinance to any private agreement or restriction to which the County is not a party to the agreement or covenant or owner of the involved property.
  - (2) If the County is a party to the covenant or agreement, the County may enforce such covenant or agreement at its discretion.
  - (3) Enforcement of a private agreement or covenant is a private right action to be initiated by one or more of the parties involved.

### **SECTION 6. DEFINITIONS.**

- A. **Word Forms.** Words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular number includes the plural number, and the plural number includes the singular number. The words "shall" and "must" are mandatory, and the word "may" is permissive.
- B. **Definitions.** The following definitions apply to this Ordinance:
  1. **"Accessory Structure"** means a structure that is incidental and subordinate to the principal use of a lot or structure. The term "accessory structure" does not include any structure that is within the definition of a "dwelling unit."
  2. **"Accessory use"** means use of a structure or lot that is incidental and subordinate to the principal use of a lot or a structure.

3. **"Acequia"** is an ancient form of irrigation and is also the community of farmers and ranchers that cooperatively maintain the irrigation system.
4. **"Adult Bookstore"** means an establishment:
  - a. Having a substantial portion of its stock in trade, books, magazines and other periodicals depicting, describing or relating to "specified sexual activities" or which are characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas"; or
  - b. Having as a substantial portion of its stock in trade, books, magazines and other periodicals and which excludes all minors from the premises or a section thereof.
5. **"Adult Theater"** means an enclosed theater regularly used for the presenting any film or tape designed to be projected on a screen for exhibition and which regularly excludes all minors.
6. **Adult Live Entertainment Establishment** means an establishment which features dancers, go-go dancers, strippers, or other similar entertainers, any of whom perform topless and/or bottomless.
7. **"Agricultural Activities"** means the cultivation and harvesting of croplands, and the raising, breeding, and management of livestock, but does not include commercial feedlots, dairies, and animal slaughter houses.
8. **"Amended Application"** means an application that reflects any changes from the previous application on the same parcel or tract. Any substantive changes to an application will require re-submittal of the entire application. Substantive changes will be determined in the sole discretion of the Zoning Officer, but are generally defined as a change that affects the use or placement of the proposed use on the land or any mandatory items of the previous application. Non-substantive changes are such items as a correction of clerical or typographical error(s).
9. **"Amendment, Legislative"** means an amendment to the Comprehensive Zoning Ordinance to establish or change a specific policy related to uses, criteria, procedure or other Ordinance provisions of substantial general applicability. A legislative amendment may apply to the Official Zone Maps or text of this Ordinance.
10. **"Amendment Quasi-Judicial Zone Map"** means an amendment changing any portion of an Official Zone Map from one zone designation to another. Such an amendment applies to a specific lot or lots and results in the realignment of zone district boundaries.
11. **"Bed and Breakfast"** means a single-family residence, including guest houses or in law quarters located on the same lot as the primary residence, that are rented for a short term lodging where food service is provided to the guests.
12. **"Brow"** means the point at which the natural vegetation of a slope intersects with the disturbed excavated grade for the purpose of the construction of a residential or non-residential structure.
13. **"Building"** means a structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, or property.
14. **"Building Height"** means the vertical distance measured from the lowest natural grade adjacent to the structure (including garages) to the highest point on the building (not including chimneys and appurtenances).
15. **"Club"** means an association of persons (whether or not incorporated), religious or otherwise, for social purpose, but not including groups, which are organized primarily to render a service carried on as a business for profit.
16. **"Cluster Housing Development"** means a form of development that permits a reduction in lot area requirements below what would ordinarily be required, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, unless otherwise permitted by a policy adopted as part of an Area Plan or Master Plan. The remaining land area, known as Common Open Space, shall be devoted in perpetuity to open space, active recreation, or preservation of environmentally sensitive areas, wildlife corridors, or agriculture.
17. **"Common Open Space"** means that portion of a Cluster Housing Development that is devoted in perpetuity to open space, active recreation, or preservation of environmentally sensitive areas or agriculture, or otherwise left in an unimproved state. Unless specifically stated otherwise, Common Open Space shall not be open for use by the public.
18. **"Community Residential Care Facility"** means any congregate residence, maternity shelter or building for persons, which provides and whose primary purpose is to provide the residents, within the facility, either directly or through contract services, programmatic services, room, board, assistance with the activities of daily living, in accordance with the program narrative, and/or general supervision of two or more adults who have difficulty living independently or managing their own affairs. Community Residential Care Facility does not include facilities for persons currently in custody of, or recently released by, correctional authorities that are designed to offer an alternative to imprisonment and/or facilitate ex-offender reintegration into community life, nor does it include

facilities for persons who require such services by reason of the effects of alcohol or drug use. Community Residential Care Facility does include facilities for recovering alcohol or drug abusers.

19. **"Conditional Use"** means a use that may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Such uses require individual review and approval by the Zoning Commission.
20. **"County"** means Sandoval County, New Mexico.
21. **"County Board"** means the Board of County Commissioners of Sandoval County, New Mexico.
22. **"Dwelling Unit"** means a structure, part of a structure, mobile home, modular home, or manufactured home that is designed for residential occupancy that contains one or more connected rooms and a kitchen and bathroom(s). The term dwelling unit does not include recreational vehicles.
23. **"Dwelling Unit, Singular"** means a dwelling unit that is not physically connected to any other dwelling unit as part of a single structure which contains a kitchen and bathroom(s).
24. **"Dwelling Unit, Multiple"** means a type of housing where 2 or more separate units for residential inhabitants, which contains a kitchen and bathroom(s), are contained within a building or several buildings within one complex.
25. **"Entertainment"** means an engaging or diverting presentation of, or participation in, including but not limited to, live singing, dancing, musical instrumentation, dramatic, prosaic, or poetic activities, but excluding adult live entertainment.
26. **"Family"** means one or more persons residing together in a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include or contain more than five (5) unrelated persons
27. **"Family Child Care Home Facility"** means a private residence in which care, services and supervision is provided to a maximum of twelve (12) children for a period of less than twenty-four (24) hours of any given day. The licensee will reside in the home and be the primary caregiver.
28. **"Family Cluster Development"** means a grouping of singular dwelling units on a single lot that, at the time of application for Conditional Use and thereafter, must meet the following criteria:
  - a. All residents must be immediate family members as defined by this Ordinance;
  - b. The development must comply with all applicable requirements of the New Mexico Environment Department or its succeeding agency;
  - c. The maximum residential density of the development shall not exceed that otherwise permitted under this Ordinance; and
  - d. The development must comply with any other applicable provisions of this Ordinance
29. **"Feedlot, commercial"** means a place of full-time confinement of livestock that are corralled, penned, or otherwise caused to remain in pens or corrals where feeding is other than grazing and which is operated as a commercial enterprise as the primary use. Temporary confinement of the above referenced animals that is normally associated with a ranching operation does not make such an operation a commercial feedlot for purposes of this Ordinance.
30. **"Floor Area"** means the total area of all floors of a building.
31. **"Floor Area Ratio"** means the relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.
32. **"Group Home"** means a dwelling unit occupied by two or more single persons or families consisting of common space and/or facilities for group use by the occupants of the unit, and (except in case of shared one-bedroom units) separate private space for each family. It also includes group housing for elderly or disabled persons. Supportive services may be provided. These structures are usually large single-family units that are being used for this purpose.
33. **Group Homes, conditional"** means a Group Home that serves residents who are not in a protected class and which is a conditional use in every zone district.
34. **"Group Homes, permissive"** means a Group Home that serves residents who are in a protected class and which is a permissive residential use in every zone district if the residents are protected persons. "Protected persons" are unrelated persons who live together in a family-like manner and who have been given protected status under such Federal laws as the Americans with Disabilities Act ("ADA"); the Amended Americans with Disabilities Act of 2009 ("AADA"); the Fair Housing Act ("FHA"), the Civil Rights Act of 1964 and all amendments thereto; the Older Americans Act and all other State and Federal Acts and case law interpreting those acts. These laws extend

protections to persons who may be considered disabled under the law and persons who have a protected status under the State and Federal Constitutions. Persons who live in such group homes are considered “families” under the law and Sandoval County is required to make reasonable accommodations to such persons. Under no circumstances are group homes for disabled persons considered a commercial use. There is no minimum or maximum number of residents for permissive group homes, except as determined by the applicable agencies of the State of New Mexico or of Sandoval County, including but not limited to the NM Department of Health; the Sandoval County Fire Department and the New Mexico Environment Department.

- 35. **“Guest House”** means a detached building which is on the same lot with and is accessory to a primary residence.
- 36. **“Habitability”** means the conditions of a building, being free from defects that might harm the health and safety of the person(s) inhabiting the dwelling.
- 37. **“Home Occupation”** means a business activity performed on the premises of a residence by one or more resident family members where such business activity is secondary and subordinate to the residential use of the premises. A Home Occupation shall have (a) no more than one non-resident employee on the premises at any given time, (b) No business traffic, vehicular or pedestrian, to the premises that exceeds traffic customary for a single family residence, (c) No business equipment and/or supplies visible from outside the lot lines of the residence, (d) no noise or other forms of trespass associated with the business that exceeds that normally associated with a residence, and (e) No more than one non-illuminated sign of not more than four (4) square feet in face area.
- 38. **“Hotel / Motel”** means a building or group buildings, which provides overnight lodging, located on a non-residentially zoned property, where food service may or may not be provided.
- 39. **“Immediate Family Members”** means husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, related by natural birth or adoption.
- 40. **“In-Laws Quarters”** means a building attached to the primary residence, with a kitchen.
- 41. **“Liquid Waste Disposal Regulations”** means the Liquid Waste Disposal Regulations adopted by the Environmental Improvement Board of New Mexico and administered by the New Mexico Environment Department.
- 42. **“Livestock”** means all domestic or domesticated animals that by custom and practice in New Mexico have been used or raised on a farm or ranch for agricultural purposes and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, llamas, rheas, camelids, farmed cervidae, and similar animals, including exotic animals in captivity. “Livestock” does not include canine or feline animals, or any animals not actually used for agricultural purposes.
- 43. **“Lot”** means a parcel or tract of land, platted and/or placed on the County Clerk's record in compliance with applicable statutes and ordinances, and with frontage or legally approved access to public right of way. Whenever a parcel or tract of land is traversed by a public right-of-way it will be considered as two lots for purposes of this Ordinance.
- 44. **“Manufactured Housing”** means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards act of 1974 (42 U.S.C. 5401 et seq.) and the Housing and Urban Development Zone Code II or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with Manufactured Housing Act (Chapter 60, Article 14, NMSA 1978), and with the regulations made pursuant thereto relating to ground level installation and ground anchors.
- 45. **“Massage Parlor”** means an office staffed by a massage therapists licensed by the State of New Mexico for the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include, massage, therapeutic massage, body massage, myomassage, bodywork, body rub, or any derivation of those terms. “Massage therapy” does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law.
- 46. **“Mixed Use”** means any proposed development that envisions or requests a variety of uses of land, including a proposed use that contains undesignated lots or parcels.

47. **"Mobile Home"** means a moveable or portable structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2, as amended to the date of the unit's construction.
48. **"Mobile Home Park"** means any lot on which two or more mobile/manufactured homes are used for human habitation for 30 days or more, except as otherwise provided for in this Ordinance.
49. **"Model Home"** means any furnished dwelling which is primarily used as a marketing tool to show prospective homebuyers a particular plan, type of construction, accoutrements or floor plan, and which is not a residence at the same time. A sales office need not be physically located in the dwelling.
50. **"Multi-Section Manufactured Home"** means a manufactured home or modular home that is a single family dwelling with a heated area of at least thirty-six (36) by twenty-four (24) feet and at least 864 square feet, and is constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.
51. **"Nonconformities"** are any structures or portions thereof, or uses of any land or structures, or lots, or setbacks which do not conform to the regulations of this Ordinance but that lawfully existed on and prior to the effective date of the regulations to which it does not conform. The term "nonconformities" does not include any lot, structure, or use of any structure or lot that, at the relevant time, did not conform to or was not exempt from then effective zoning regulations.
52. **"Overburden"** means excess consolidated or unconsolidated materials of any nature extracted from or during the excavation and grading preparation of a building site.
53. **"Overlay Zone"** means a zone district placed over another zone district or districts for the purpose of imposing special requirements in addition to those of the underlying zone. Development within the overlay zone must conform to the requirements of both zone districts or to the more restrictive of the two zone districts.
54. **"Permissive Use"** means a use that is allowed in a particular zone district.
55. **"Plane of a slope"** means an imaginary parallel line, offset ten (10) feet from a slope equal to or greater than twenty percent (20%).
56. **"Planned Commercial Development"** means an area of non-residential uses or a mixture of residential and non-residential uses proposed for a single lot or group of lots that are contiguous to one another or that are part of a development that is known, designated, or advertised as a common unit or by a common name. This does not include agricultural activities as defined by this Ordinance.
57. **"Recreational vehicle"** means a motor vehicle primarily designed as temporary living quarters for recreational camping, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, including but not limited to, a travel trailer, camping trailer, truck camper, or motor home. Recreational vehicles may neither exceed a width of 8 feet or a length of 40 feet. Such vehicles are regulated by the Motor Vehicle Division of the State of New Mexico. A recreational vehicle does not qualify as a mobile/manufactured home, whether or not it is properly registered with the Motor Vehicle Division.
58. **"Residential Density, Gross"** means the number of dwelling units per acre, calculated by dividing the total number of dwelling units in a development by the total area of that portion of the development site devoted to residential use, including the area occupied by roadways within those residential areas.
59. **"Residential Density, Net"** means the number of dwelling units per acre, calculated by dividing the total number of dwelling units in a development by the total area of that portion of the development site devoted to residential use, excluding any area occupied by roadways within those residential areas.
60. **"Ridge top"** means the highest point in elevation that includes the prominently visible portion of a hill or mountain that sits above an area having an average slope equal to or greater than twenty percent (20%) on one or more sides.
61. **"Setback"** means the minimum allowable horizontal distance between a structure and every road or lot boundary line as measured perpendicularly from the edge of the road right-of-way or lot boundary line to the structure. Setbacks are intended to ensure that fire and rescue and other emergency personnel have full access to all sides

of all buildings and structures, and to ensure that vehicles associated with the use are not parked in the road or street. The Zoning Officer shall exercise reasonable discretion in determining any setback issue, as in situations with irregularly shaped or corner lots. The Zoning Officer's decision regarding any setback issue may be appealed to the County Board.

- 62. **"Setback, Front"** means the minimum allowable distance between a structure and the (1) primary access road right-of-way or (2) lot boundary line that borders on the primary access to the lot.
- 63. **"Setback, Rear"** means the minimum allowable distance between a structure and the boundary or property line of the lot, upon which such structure is located, which is opposite and most distant from the primary access to the lot and that does not intersect with the primary access to the lot.
- 64. **"Setback, Side"** means the minimum allowable distance between a structure and the boundary or property line of the lot, upon which such structure is located, that intersects with a road or street.
- 65. **"Slope"** means the ratio of the vertical change to the horizontal change of land between two points on a line.
- 66. **"Short Term Rental"** means a leased or rented single family residence, or a residence within a multifamily residential building, in its entirety or a portion thereof, for twenty-nine (29) days or less per lease or rental period, where no food service is provided to the guest(s); includes Guest House and In Law Quarters.
- 67. **"Special Event"** means any event (Private or Commercial) that scheduled, does not occur on a regular time interval, this includes but is not limited to: Parades, Marathons, Concerts, large parties or gatherings, Movie productions, Sporting events, Pyrotechnic Events, or events that change a traffic pattern (to include parking).
- 68. **"Specified Anatomical Areas"** means the areas that depict, describe or relate to: Less than completely and opaquely covered: Human genitals, pubic region; Buttock: and that portion of the female breast constituting the nipple and areola (the darkly pigmented portion of the breast encircling the nipple) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 69. **"Specified Sexual Activities"** means activities that depict, describe, or relate to:
  - a. Human genitals in a state of sexual stimulation or arousal.
  - b. Acts of human masturbation, sexual intercourse or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- 70. **"Structure"** means a building or anything else constructed or erected above ground, which requires location on the ground or is attached to something having a location on the ground. For purposes of this Ordinance, the term structure does not include a vehicle, vegetation, public utility poles, walls and fences.
- 71. **"Travel Trailer or Recreational Vehicle Park"** means an area of land used for transient commercial parking of occupied travel trailers, pick-up campers, converted buses, recreational vehicles, tents, or any other similar devices used for temporary portable housing, which are not permanently connected to utilities.
- 72. **"Variance"** means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, dimension, distance, setback, off-street parking, and off-street loading requirements. Financial gain or loss shall not be the determining factor in deciding a variance.
- 73. **"Video Arcade"** means an establishment having six (6) or more coin-operated devices for the amusement and entertainment of its patrons.
- 74. **"Winery"** means an agricultural processing facility operated in accordance with all Federal, State, and local regulations, used for the purpose of processing grapes or other fruit grown on the property or off-site, to produce wine. Processing includes crushing, fermenting, blending, aging, storage, bottling, and any other processes associated with winemaking. Also included are administrative functions, wholesale sales, tasting facilities, and retail sales of wine by the bottle, by the case, and by the glass. Sales of wine related items are permissible, including foods prepared off-site, wine glasses, accessories, reference books, decorative arts, and insignia clothing. Sales may take place during hours when the winery is open to the public and during events as prescribed by this Ordinance. Special events may periodically occur as regulated by Section 21 of this Ordinance.
- 75. **"Zoning Commission"** means the Sandoval County Planning and Zoning Commission.
- 76. **"Zoning Officer"** means the Planning and Zoning Director and/or his/her designee.



**SECTION 7. GENERAL PROVISIONS.** The following general provisions apply to all zone districts:

- A. **Access to Structures.** All structures shall be located on lots such that safe and convenient access is provided for servicing, fire protection, police protection, and any required off-street parking or loading.
- B. **Mobile /Manufactured / Modular Housing Installation.** No mobile, manufactured or modular house shall be occupied unless it is connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored to standards equivalent to and/or in accordance with regulations established pursuant to the Manufactured Housing Act of New Mexico, Section 60-14-1 to Section 60-14-20 NMSA 1978].
- C. **Solid Waste Disposal.** All persons owning or occupying lands within Sandoval County shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of solid waste in a manner or to an extent that may be hazardous to public health or safety, or that obstructs traffic, drainage, or access to structures. All solid waste shall be properly disposed in accordance with the Solid Waste Management Regulations of the New Mexico Environment Department.
- D. **Water and Wastewater Requirements.** All development within Sandoval County shall be in compliance with applicable regulations established by the New Mexico Environment Department concerning water and wastewater systems and by the New Mexico State Engineer's Office concerning water systems.
- E. **Minimum Lot Size.** To protect County residents from the effects of undue concentrations of onsite liquid waste systems and population, the minimum lot size in all zones shall be three-quarters (¾) of an acre (32,670 square feet), unless specified otherwise. Lots that were legally created prior to the effective date of this Ordinance and in accordance with the laws in effect at the time of such creation are not affected by this provision.  
A lot size of less than three-quarters (¾) of an acre may be approved:
  - 1. For a lot that is not served by a community sewer system, by (a) the grant of a permit by the New Mexico Environment Department, and (b) the subsequent grant of a variance pursuant to Section 18 of this Ordinance;
  - 2. For a lot that is served by a community sewer system, by approval of a variance pursuant to Section 18 of this Ordinance; or
  - 3. As otherwise permitted by this Ordinance.
- F. **Building Height**
  - 1. **Rural Districts.** Unless otherwise specified herein, the maximum height of a building in any rural zoning district shall be thirty-six (36) feet.
  - 2. **Urban Single-Family Residential Districts.** The maximum height of a building in any urban single-family residential district (R1-35, R1-15, R1-8, R1-6, and R1-5) shall be thirty-six (36) feet.

## **SECTION 8. ESTABLISHMENT OF ZONE DISTRICTS.**

**A. Zone Districts.** In order to carry out the provisions of this Ordinance, the following zone districts are designated for use within Sandoval County:

RRA	-	RURAL RESIDENTIAL/AGRICULTURAL DISTRICT
CD	-	COMMUNITY DISTRICTS
CD-AL	-	ALGODONES COMMUNITY DISTRICT
CD-RRE	-	RIO RANCHO ESTATES COMMUNITY DISTRICT
CD-LC	-	LA CUEVA COMMUNITY DISTRICT
CD-JV	-	JEMEZ VALLEY COMMUNITY DISTRICT
CD-DT	-	DIAMOND TAIL MASTER PLANNED COMMUNITY DISTRICT
CD-WP	-	WEST PLACITAS COMMUNITY DISTRICT
CD-LP	-	LAS PLACITAS COMMUNITY DISTRICT
CD-IASF	-	IDEAL ACRES/SAN FRANCISCO COMMUNITY DISTRICT
DOZ-LP	-	LAS PLACITAS DESIGN OVERLAY ZONE
DOZ-I25	-	I-25/BERNALILLO INTERFACE DESIGN OVERLAY ZONE
DOZ-WP	-	WEST PLACITAS DESIGN OVERLAY ZONE
DOZ-LC	-	LA CUEVA DESIGN OVERLAY ZONE
DOZ-CORR	-	CORRIDOR OVERLAY ZONE
MP	-	MASTER PLANNED DISTRICT
RC	-	RURAL COMMERCIAL DISTRICT
SU	-	SPECIAL USE DISTRICT
R1-35	-	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-15	-	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-8	-	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-6	-	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-5	-	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R-2	-	URBAN MULTI-FAMILY DISTRICT
R-3	-	URBAN MULTI-FAMILY DISTRICT
R-4	-	URBAN MULTI-FAMILY DISTRICT
R-5	-	URBAN MOBILE HOME PARK DISTRICT
C-O	-	URBAN COMMERCIAL OFFICE DISTRICT
C-1	-	URBAN NEIGHBORHOOD COMMERCIAL DISTRICT
C-2	-	URBAN COMMUNITY COMMERCIAL DISTRICT
C-3	-	URBAN MAJOR COMMERCIAL DISTRICT
I-1	-	GENERAL INDUSTRIAL DISTRICT

**B. Official Zoning Maps.**

All Official Zoning Maps in effect at the time of adoption of this Ordinance, including those adopted pursuant to Legislative and Quasi-Judicial Zone Map Amendments, will continue to be in full force and effect with the adoption of this Ordinance. The establishment of any zoning district, other than the Rural Residential/Agricultural (RRA) District, shall require adoption by Ordinance of an Official Zoning Map showing the district designation and boundaries of the territory so zoned. Any territory subject to this Ordinance that is not classified otherwise on an Official Zoning Map or is not shown on any Official Zoning Map is within the RRA District.

The original of all Zoning Maps shall be recorded in the office of the County Clerk. Copies of all Official Zoning Maps shall be maintained by the County Zoning Officer and shall be available for public reference.

C. **Form of Official Zoning Maps.**

Official Zoning Maps, adopted at the time of this Ordinance and as subsequently adopted or amended, shall be identified by the signature of the Chairman of the County Board, attested to by the County Clerk, and shall bear the seal of the County under the following language:

"This is to certify that this is an official Zoning Map, adopted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by action of the Board of County Commissioners pursuant to the Comprehensive Zoning Ordinance of Sandoval County, New Mexico."

D. **Interpretation.**

Any person adversely affected by a determination of the Zoning Officer regarding the location of any zone district boundary or the zone district classification of any property may appeal that determination to the Zoning Commission pursuant to the provisions of Section 22 of this Ordinance.

## **SECTION 9. RURAL DISTRICTS**

### **SECTION 9 (1). RRA - RURAL RESIDENTIAL/AGRICULTURAL DISTRICT.**

**A. Intent.** This zone district maintains a rural character of land use with low-density residential and agricultural development, ideally on large lots that do not rely on or require connections to centralized water and sewer systems. Certain other uses are allowed, provided they are compatible with the rural residential and/or agricultural nature of the district.

**Permissive Uses.** Any of the following uses are allowed in this zone district:

1. One singular dwelling unit per lot;
2. One Guest House per lot, provided that:
  - a. All applicable requirements of the New Mexico Environment Department are met prior to construction of a Guest House.
  - b. All other applicable requirements of this Ordinance are met.
3. Accessory uses and structures;
4. Agricultural activities, including wineries as defined by this Ordinance, provided that any areas devoted to livestock shall be constructed and maintained to discourage the concentration and breeding of insects and rodents that may be detrimental to human habitation, and provided that animal excrement shall not be allowed to accumulate in excessive amounts;
5. Home occupations; and
6. Public parks, open space, and accessory uses customarily incidental to such uses.
7. Exploratory water wells related to the development of water resources by governmental entities.
8. Permissive group homes.
9. Short Term Rentals;
10. In-Law Quarters.

**Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. Family Cluster Developments
2. Public and private schools and related facilities;
3. Churches and related facilities;
4. Recreational facilities;
5. Day-care and child-care facilities as regulated by the State of New Mexico;
6. Residential group training homes for developmentally or physically handicapped persons, and residential nursing homes that have, no more than ten (10) residents at any one time;
7. Bed and Breakfast;
8. Real estate offices;
9. Essential public utility structures;
10. Commercial stables, rodeo arenas, polo grounds, and riding academies;
11. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance; and
12. Communications Towers as authorized by Sandoval County Ordinance #03-10-16.11A.
13. A Building or Structure that would otherwise be defined as an "Accessory Structure" to a dwelling unit under the terms of Section 6 of this Ordinance but that is not physically located on the same lot with a dwelling unit. Periodic inspections by the Zoning Officer will be required to verify compliance with the provisions of this section.
14. Exploratory water wells related to the development of water resources by non-governmental entities.
15. Conditional group homes.

- D. District Standards.** The following standards apply to all land uses within the zone district:
1. All residential and residential-related buildings and structures shall be located with a front setback of no less than twenty (20) feet, side setbacks of no less than ten (10) feet and rear setback of no less than ten (10) feet;
  2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

**SECTION 9 (2). CD- COMMUNITY DISTRICTS/OZ-OVERLAY ZONES.**

- A. **Intent.** These zone districts/overlay zones are intended to preserve and protect communities and areas that have land use planning and regulation concerns arising from their particular history, culture, development pressures, and/or physical or natural characteristics that may differ from those in the County at large.
- B. **Consistency with County Land Use Plans.** The County Board pursuant to Section 19 of this Ordinance may create Community Districts or Overlay Zones that are consistent with the Sandoval County Comprehensive Plan, and other applicable land use plans adopted by the County.

**SECTION 9 (2.1). CD-AL ALGODONES COMMUNITY DISTRICT.**

- A. **Intent.** This zone district preserves and protects the established unincorporated community known as Algodones and the affiliated communities of Angostura and Las Colonias. This zone district shall be preserved as a predominantly residential community with necessary commercial, business, and other non-residential activities that serve the local residents.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:
  - 1. All uses that are permissive in the RRA zone district;
  - 2. Cemetery; and
  - 3. Galleries and museums.
- C. **Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:
  - 1. All uses that are conditional uses in the RRA zone district;
  - 2. Retail commercial business and eating and drinking establishments intended to serve the local market area, provided that each such establishment does not exceed ten thousand (10,000) square feet of floor area;
  - 3. Business, personal, financial and professional services, provided the maximum floor area for each establishment shall not exceed ten thousand (10,000) square feet;
  - 4. Motor vehicle related services; and
  - 5. Greenhouses, plant nurseries, and landscapers.
- D. **District Standards.** The following standards apply to all land uses within this zone district:
  - 1. All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.
  - 2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

**SECTION 9 (2.2). CD-RRE RIO RANCHO ESTATES COMMUNITY DISTRICT.**

- A. Intent.** This zone district shall provide for the orderly development of those areas of Rio Rancho Estates situated outside of the municipal limits of the city of Rio Rancho that are appropriate for rural residential development. This zone district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of Rio Rancho Estates within Sandoval County.
- B. Permissive Uses.** Any of the following uses are allowed in this zone district:
1. All uses that are permissive in the RRA zone district.
    - a. All dwelling units shall be placed on a permanent foundation. Permanent foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
    - b. If a dwelling unit is to be served by a shared domestic well, permitted under NMSA 1978 Section 72-12-1. The maximum number of parcels served by that well shall not exceed three (3). All parcels to be served by a single shared domestic well shall be contiguous.
    - c. Prior to the issuance of an occupancy permit for any dwelling unit, an attached or detached garage designed to hold at least two (2) cars shall be constructed.
  2. All "livestock" as defined by this Ordinance shall be kept in such a manner as not to constitute a nuisance and in conformance with the following regulations:
    - a. The minimum lot size required for large livestock such as, horses, ponies, cattle, or similar animals, is one-half (1/2) acre for one (1) animal.
    - b. The minimum lot size required for medium livestock such as, sheep, goats, pigs, or similar animals, is one-half (1/2) acre, which will allow the keeping of up to five (5) such animals. Larger lots will permit the keeping of additional such animals at a density of five (5) animals per one-half (1/2) acre.
    - c. Areas devoted to livestock, including accessory buildings or structures, shall be constructed and maintained to discourage concentration and breeding of insect pests.
    - d. All animals shall be confined within the property boundaries.
    - e. Offensive livestock waste odor shall be effectively controlled.
    - f. Animals under six months of age are not counted for purposes of the above provisions.
    - g. Large livestock as referenced in this section must be corralled in such a manner as to keep those animals a minimum of ten feet away from any property line.
- C. Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided in Section 17 of this Ordinance:  
All uses that are conditional uses in the RRA zone district.
- D. District Standards.** The following standards apply to all land uses within this zone district:
1. All building setbacks shall be as provided in the RRA zone district; except, that all lots abutting Southern Boulevard and 60<sup>th</sup> Street between Southern Boulevard and Northern Boulevard shall have
    - a. A minimum front building setback of seventy-five (75) feet from Southern Boulevard and the designated portion of 60<sup>th</sup> Street, and
    - b. A solid masonry wall along the lot line abutting Southern Boulevard and the designated portion of 60<sup>th</sup> Street (6 foot in height for side walls and 3 foot for frontage walls).
  2. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
  3. If a dwelling unit is to be served by shared domestic well, the well shall be permitted under NMSA 1978 Section 72-12-1. The maximum number of parcels served by that well shall not exceed three (3). All parcels to be served by a single domestic well shall be contiguous.
  4. All dwelling units shall have an attached or detached garage built to hold at least two (2) cars prior to the issuance of an occupancy permit.
  5. All dwelling units shall have:
    - a. A minimum width of twenty-four (24) feet,

- b. A minimum length of forty-two (42) feet, and
- c. A minimum habitable area of one thousand- eight (1,008) square feet.
- 6. All dwelling units shall meet the design requirements contained in Section 12 (11).F.2.
- 7. On all dwelling units, the façade materials shall cover all vertical surfaces from the ground to the roofline, excluding any doors, windows, or design elements.
- 8. All dwelling units shall meet the following roof design requirements:
  - a. Pitched roofs shall be made of corrugated metal or tile materials.
  - b. Flat roofs shall have a stuccoed parapet rising at least twelve (12) inches above the roof elevation or sufficient to obstruct from view and mechanical equipment located on the roof.
- 9. All development on property located within one thousand (1,000) feet from the intersection of Southern Boulevard with 20<sup>th</sup> or 60<sup>th</sup> Streets shall meet the design standards contained in Section 12 (2). E.
- E. **Nonconforming Uses.** Any occupied dwelling unit that was legally constructed or installed in this District prior to December 3, 2001 but that does not conform to the requirements of this District is designated as a legal nonconformity pursuant to Section 16 of this Ordinance.

#### **SECTION 9 (2.3). CD-LC LA CUEVA COMMUNITY DISTRICT.**

- A. **Intent.** This zone district shall provide for the orderly development of those sections within the unincorporated area known as La Cueva that are appropriate for rural residential development. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of the La Cueva area within Sandoval County.
- B. **Permissive Uses.** All uses that are permissive in the RRA zone district are permissive in this district, except that the following provisions shall apply:
  - a. All dwelling units shall be placed on a permanent foundation. Permanent foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
  - b. Mobile homes shall have a manufacture date after January 1, 1985 regulated pursuant to NMSA 1978 Section 3-21A-3.
  - c. If inoperable motor vehicles are to be stored on a lot within this district, they must be completely screened from adjacent public right-of-way or private lot(s) by a solid wooden fence. Agricultural vehicles are excluded from this regulation.
- C. **Conditional Uses.** The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance; All uses that are conditional uses in the RRA zone district, except that all non-residential conditional uses must conform to the applicable requirements of the La Cueva Design Overlay Zone.
- D. **District Standards.** The following standards apply to all land uses within this zone district. All building setbacks shall be as provided in the RRA zone district.
- E. **Nonconforming Uses.** Any occupied dwelling unit that was legally constructed or installed within this District prior to the date of adoption of this Ordinance but that does not conform to the requirements of this District is designated as a legal nonconformity pursuant to Section 16 of this Ordinance.



## **SECTION 9 (2.4). CD-JV JEMEZ VALLEY COMMUNITY DISTRICT**

- A. Intent.** This zone district preserves and protects the unique scenic values of the Jemez Valley corridor and the affiliated unincorporated communities of Cañon, Gilman, and South Jemez Springs. The Jemez Valley Community District standards may apply to the incorporated area of the Town of San Ysidro under authorized agreement by the Town of San Ysidro. This district shall provide for development that protects and enhances the rural qualities of the Jemez Valley. In addition, the purpose of the district is to protect the irrigated agricultural tracts and the acequia system of the Jemez Valley Corridor.
1. All requirements set forth by the Jemez Valley Community District are consistent with the finding and recommendations of the Jemez Valley Area Plan.
  2. Due to excessive slope, drainage, and terrain conditions, no Type I, Type II, and Type III, Type IV, or Type V subdivisions will be allowed in the Jemez Valley Community District as described in Article I and II of the Sandoval County Land Subdivision Regulations.
  3. Only Summary Review Subdivisions will be allowed to be considered under the provisions of Article IV of the Sandoval County Land Subdivision
- B. Permissive Uses.** Any of the following uses are allowed in this zone district:
1. All uses that are permissive in the RRA zone district;
  2. Cemetery; and
  3. Galleries and museums.
- C. Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:
1. All uses that are conditional uses in the RRA zone district;
  2. All uses permissive within the (RC) Rural Commercial zone district shall be permissive within this Overlay Zone.
  3. (RC) Rural Commercial zone district shall only apply to tracts of land that have frontage access on NM Highway 4 and U.S. 550.
  4. Any residential structure where the highest section of the building exceeds the natural ridge line-of-sight as viewed from any public road or street.
- D. District Standards.** The following standards apply to all land uses within this zone district:
1. All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.
  2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.
  3. Retail commercial business and eating and drinking establishments intended to serve the local market area, provided that each such establishment:
    - a. Does not exceed ten thousand (10,000) square feet of building footprint for development located on NM Highway 4, and
    - b. Is not located on a lot located on NM Highway 4 that has a slope of more than eight percent (8%) measured from the front setback line to the rear setback line.
  4. Business, personal, financial and professional services, provided the maximum floor area for each establishment shall not exceed ten thousand (10,000) square feet;
- E. Design Standards.** The Following Standards Shall Apply to Residential and Non-Residential Structures
1. Buildings shall be situated on the lot such that existing trees are preserved to the maximum extent possible. This provision shall not prevent the clearing of trees in order to provide defensible space around a building or structure for purposes of fire protection. Trees may be cleared to enhance views, but should be preserved to maintain the natural ridge line-of-sight as viewed from any public road or street.
  2. All parking areas shall be surfaced in a manner deemed acceptable by the County. If any such area is proposed for paving subsequent to the adoption of this Ordinance, a grading and drainage plan must be prepared for review and approval by the County Engineer.
  3. Outdoor light fixtures shall comply with the following:
    - a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.

- b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
  - c. Fixtures shall be required to have all light focused downward.
  - d. Exterior lighting shall be shielded in such a manner as to confine emitted light within the boundary of the property from which it originated.
  - e. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
  - c. Any illuminated on-premise advertising sign shall be turned off between 11:00 P.M. and sunrise except that on-premise signs may remain illuminated while a business is open to the public.
  - g. All non-conforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two (2) years.
4. Drainage and Ponding Requirements for new residential development shall comply with the following:
- a. Upon submission of a residential building permit, the applicant must submit a drainage plan which will demonstrate that site development will not result in an increase of historic pre-development flow. Facilities will be designed to mitigate runoff of private driveways, roofs, and any altered impervious surface.
  - b. Design of residential ponding facilities will be designed to mitigate the impact of a 100 year flood event.

All roofs on structures located in the Jemez Springs North Community as identified in the Jemez Valley Area Plan shall be metal or Class A asphalt with a minimum slope of 8%.

#### **SECTION 9 (2.5). OZ-LC LA CUEVA DESIGN OVERLAY ZONE.**

- A. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.
- B. **Permissive Uses.** For lands within the RC (Rural Commercial) zoning district the following limitations on development apply in addition to those contained within the underlying zone district; All uses permissive within the RC district shall be permissive within this Overlay Zone except that no new establishments selling alcoholic beverages for consumption on premises shall be allowed, except for those selling beer and wine under a restaurant license, as provided by NMSA 1978, Section 60-6A-4.
- C. **Design Standards.** The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new non-residential development within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question. Any expansion of an existing non-residential use or building within this Overlay Zone must also conform to the design standards. Prior to County approval of construction plans as required by Section 15(G) of the Comprehensive Zoning Ordinance, a site development plan must accompany such plans and shall be submitted to the Zoning Officer for approval. Adequate information must be provided along with the site development plan to show that the following requirements will be met:
  - 1. The exterior of all buildings shall be log type, post and beam, or wood lap siding painted or stained a natural wood color.
  - 2. All roofs shall be standing seam metal roofs with a minimum slope of 8%.
  - 3. Where a lot containing a non-residential use abuts lot(s) zoned for or containing existing residential uses, the property line dividing the residential and non-residential lots shall be screened with a solid wooden fence six (6) feet in height.
  - 4. A minimum of 15% of each off-street parking area's ground surface shall be landscaped. No less than one-half (½) of the required landscaping area shall be provided along the roadway frontage of the main roadway serving the lot in question. Plantings included in required landscaping shall be taken from the Plant List attached hereto as Appendix A. Up to 20% of the required landscaping may be provided as part of a required drainage pond, subject to the approval by the Zoning Officer. Landscaping shall meet the following standards:
    - a. Trees shall be at least two (2) inches in caliper measured at the trunk two feet above grade or the tree shall be at least ten (10) feet in height at the time of planting.

- b. Trees of a minimum size as specified herein shall be planted at the rate of one (1) tree per twenty (20) feet of linear street frontage.
  - c. Shrubbery with a minimum size of five (5) gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two (2) shrubs per twenty (20) feet of linear street frontage.
  - d. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape
  - e. Landscaping shall not create a physical or visual obstruction to vehicular traffic. New trees shall not be placed such that future growth might interfere with utility lines or cause structural upheaval of pavement or buildings.
  - f. Landscaping shall be installed according to plans approved by the Zoning Officer and shall be completed within one growing season after issuance of the building permit for the structure by the applicable agency.
  - g. Any plant material that does not survive shall be replaced with an equivalent size and species of plant material as directed following written notification by the Zoning Officer. Failure to properly maintain landscaping shall be considered a violation of this Ordinance.
5. Buildings shall be situated on the lot such that existing trees are preserved to the maximum extent possible. This provision shall not prevent the clearing of trees in order to provide defensible space around a building or structure for purposes of fire protection.
6. All parking areas shall be surfaced in a manner deemed acceptable by the County. If any such area is proposed for paving subsequent to the adoption of this Ordinance, a grading and drainage plan must be prepared for review and approval by the County Engineer.
7. Outdoor light fixtures shall comply with the following:
- a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
  - b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
  - c. Fixtures shall be required to have all light focused downward.
  - d. Exterior lighting shall be shielded in such a manner as to confine emitted light within the boundary of the property from which it originated.
  - e. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
  - f. Any illuminated on-premise advertising sign shall be turned off between 11:00 P.M. and sunrise except that on-premise signs may remain illuminated while a business is open to the public.
  - g. All non-conforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two (2) years.

**D. Notification Requirements.**

Whenever an application is filed under this Ordinance for either a Conditional Use under Section 17 or a Quasi-Judicial Zone Map Amendment under Section 19 for a property within this Overlay Zone, the notification requirements under those sections shall be followed. In addition to those requirements, the applicant shall post and maintain one or more notice signs provided by the Planning & Zoning Department on the subject property at a location designated by the Zoning Officer. Such sign(s) shall be posted at least fifteen (15) days prior to the hearing on the request by the Zoning Commission or County Board and shall remain in place until the hearing is concluded. The applicant shall remove the sign(s) within seven (7) days of the applicable hearing. Failure to properly post and maintain the sign(s) is grounds for deferral or denial of the request.

## **E. Plant List**

Only plants from this list will be approved for this district.

### **Large Trees**

Green Ash	<i>Fraxinus pennsylvanica</i>
White Ash 'Autumn Purple'	<i>Fraxinus americana</i>
Bur Oak	<i>Quercus macrocarpa</i>
Narrowleaf Cottonwood	<i>Populus angustifolia</i>
Maple 'Crimson King'	<i>Acer platanoides</i>
Maple 'Red Sunset'	<i>Acer rubrum 'Franksred'</i>
Maple 'Tartarian'	<i>Acer tataricum</i>
Box Elder Maple	<i>Acer negundo</i>
Quaking Aspen	<i>Populus tremuloides</i>

### **Small & Medium Trees**

Littleleaf Linden	<i>Tilia cordata</i>
Flowering Locust 'Purple Robe'	<i>Robinia pseudoacacia</i>
Thornless Honeylocust	<i>Gleditsia triacanthos inermis</i>
Crabapples	<i>Malus spp.</i>
Chokecherry	<i>Prunus virginiana</i>
Russian Hawthorne	<i>Crataegus ambigua</i>
Toba Hawthorne	<i>Crataegus x mordenensis 'Toba'</i>
Amur Maple	<i>Acer ginnala</i>
Thin-leaf alder	<i>Alnus tenuifolia</i>

### **Evergreens**

Subalpine fir	<i>Abies lasiocarpa</i>
Rocky Mountain juniper	<i>Juniperus scopulorum</i>
Engelmann spruce	<i>Picea engelmanni</i>
Colorado spruce	<i>Picea pungens</i>
Bristlecone pine	<i>Pinus aristata</i>
Limber pine	<i>Pinus flexilis</i>
Ponderosa pine	<i>Pinus ponderosa</i>
Concolor fir	<i>Abies concolor</i>

### **Shrubs**

Serviceberry	<i>Amelanchier alnifolia</i>
Siberian pea shrub	<i>Caragana arborescens</i>
Mountain mahogany	<i>Cercocarpus montanus</i>
Peking cotoneaster	<i>Cotoneaster acutifolia</i>
Mountain spirea	<i>Holodiscus dumosus</i>
Mountain mock orange	<i>Jamesia Americana</i>
'Zabels' blue leaf honeysuckle	<i>Lonicera korolkowi</i>
<i>Tartarian Honeysuckle</i>	<i>Lonicera tatarica</i>
Creeping grape holly	<i>Mahonia repens</i>
Shrubby cinquefoil	<i>Potentilla fruticosa</i>
Currant and gooseberry	<i>Ribes spp.</i>
Canada buffaloberry	<i>Shepherdia Canadensis</i>
Persian lilac	<i>Syringa laciniata persica</i>
Common lilac	<i>Syringa vulgaris</i>
European cranberrybush	<i>Viburnum opulus</i>
Red-osier dogwood	<i>Cornus stolonifera</i>
Japanese barberry	<i>Berberis thunbergi</i>
Rabbitbrush	<i>Chrysothamnus nauseosus</i>
Skunkbush sumac	<i>Rhus trilobata</i>

Harison yellow rose  
Redleaf shrubrose  
Froebel spirea  
VanHoutte spirea  
'MacFarland' lilac

*Rosa harisoni*  
*Rosa rubrifolia*  
*Spiraea bumalda*  
*Spiraea vanhouttei*  
*Syringa villosa*

## **SECTION 9 (2.6). OZ-CORR CORRIDOR OVERLAY ZONE**

### **A. Purpose and Intent**

The Development Standards Section is intended to provide minimum standards for the organization and layout of buildings, parking areas, landscaped areas and building design of commercial and industrial uses so as to promote the general health, welfare and safety of residents within the community. This is accomplished by encouraging the creation of safe and attractive appearances to the public eye and minimizing views of unattractive uses or activities. Likewise, sound design principles can enhance the compatibility of dissimilar uses and provide for transitional or buffer zones between such uses. The standards set forth herein are recognized as assisting in promoting privacy and logical development and strengthening property values.

### **B. Applicability**

The standards outlined in this section shall apply to the following buildings and uses for all Non-Single Family Developments:

1. The following standards shall apply to all developments within 1000 feet of Interstate 25, US Highway 550 and State Roads 4, 14, 22, 96, 126, 165, 197, 290, 313, 314, 315, 485, 528, 537, Northwest Loop and Paseo Del Volcan, and Southern Blvd (Rio Rancho Estates) with the exception of those areas where Design Overlay Zones have been adopted.
2. All buildings and uses of land constructed or developed after the effective date of this Ordinance.
3. Existing properties when a change in the distinguishing characteristics or primary features of the use of a building or land occurs after the effective date of this Ordinance. Such changes may include an increase in the size of the building. Criteria used to establish applicability may include, but is not limited to, an increase in Parking requirements, a change in occupancy designation, a change in outside storage, or other similar factors.

### **C. Commercial/Industrial/Other Non-Single Family Residential Standards**

#### **1. Building Design**

- a. All parking lots shall be screened from public streets by masonry walls or earth berms or combination thereof to a height of at least three (3) feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Such walls shall be designed and colored to match the main buildings on the site.
- b. The use of balconies, overhangs, covered patios, and trellis' can provide relief and contrast to the building and assist in breaking up large wall surfaces.
- c. Roof lines shall be varied providing different heights or varying roof orientation. Parapet walls should be interrupted by pitched roofs to provide variety to the roof and building line.
- d. Pitched roofs shall be composed of mission tile, concrete tile, standing seam metal, or similar grade material.
- e. The architectural detailing and treatment of windows and doorways shall be strongly considered through the use of clerestory windows, arched shapes, bay windows, recessed windows, raised borders, awnings, shutters, and trellis.
- f. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend in with the overall building elevation.
- g. Patio walls and fences shall be an integral part of building design and shall match the main building materials.
- h. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend into the building design.
- i. Mechanical equipment shall be screened from public view and be so located as to be perceived as an integral part of the buildings.
- j. Exterior perimeter walls of a project facing public streets shall be constructed of a slump block, brick, or masonry with a stucco finish to match the main building materials.

## **2. Separation of Uses**

- a. Where industrial or commercial uses are located adjacent to or separated by an alley from any residential use or district, a ten (10) foot wide landscape strip, planted with one (1) tree every twenty (20) linear feet, shall be required along the common property line. Trees must be non-deciduous and may not be clustered. A six (6) foot masonry wall shall be required along the common property line. An eight (8) foot wall may be required for commercial or industrial projects warranting higher screening.
- b. When commercial or industrial uses are adjacent to a residential use or district, the following building separation to property line shall apply:

<u>Building Height</u>	<u>Setback</u>
1 Story (15')	25'
2 Story (36')	50''
- c. A six (6) foot masonry wall shall be required along interior property lines separating individual development sites. Within the front yard setback, maximum wall height shall be three foot – six inches (3'6").

## **3. Site Organization and Development**

### **a. Screening Standards**

1. All outdoor storage areas for materials, trash, equipment, vehicles or similar items shall be screened from view along all street frontages by a six (6) foot wall constructed of slump block, brick, or masonry with a stucco or mortar wash finish designed to match the main building on the site.
2. The storage of materials, trash, equipment, vehicles, or other items within an enclosed storage area should not be substantially visible from adjoining streets or properties.
3. All loading, delivery and service bays should not front onto a public street and shall be screened from public view with at least a six (6) foot wall, constructed of brick, slump block, or masonry with stucco or mortar wash finish, or a similar finish, designed to match the main building on the site.
4. Dismantling, servicing, repairing, etc. of vehicles and/or equipment shall be within completely enclosed building or within an area enclosed by brick, block, or masonry walls.
5. Car wash service bays shall not face onto or be substantially visible from any public street and are subject to the screening standards in 3. above.

### **b. Service Station Design Standards**

1. The minimum dimension of any service station site shall be one hundred-fifty feet (150').
2. Pump islands shall be located at least thirty (30) feet from the street right-of-way line.
3. The outside display of tires, oil or other sale items shall be located adjacent to the main building.
4. Service areas and bay doors shall not front onto or be substantially visible from any public street and are subject to the screening standards.
5. Service stations which are situated within a larger commercial development shall be separated from adjacent property by a three (3) foot wall, landscaping, or curbing, except for necessary driveways, in order to control vehicular movements and circulation.
6. The design of the service station building and site shall be compatible with the type of development in or anticipated in nearby areas.

## **4. Driveways**

- a. The following schedule shall serve as a guide for the allowable number of driveways on a site, unless modified by traffic studies:
  1. one driveway per abutting street;
  2. one additional driveway for sites with a continuous frontage of at least three-hundred (300) feet; or, two (2) additional driveways for sites with a continuous frontage of at least six-hundred (600) feet;
  3. an additional service driveway may be allowed where patrons of the development are not likely to use it (example: service driveway for a shopping center).
- b. Driveways shall not be located closer than one-hundred (100) feet to a street intersection (may be reduced to seventy-five (75) feet in certain instances of hardship).
- c. The joint use of a single driveway by two (2) or more adjoining parcels is encouraged.

- d. Right-turn lanes along public streets are encouraged for establishments with high vehicle counts to reduce disruption to through traffic. A right-turn lane shall be required for retail sites with more than eighty thousand (80,000) square feet of building area. The right-turn lane should be utilized at the primary entrance to the site.
- e. All buildings must have adequate access for fire and emergency vehicles. The minimum width of a fire lane is twenty (20) feet.

#### **5. Miscellaneous Design Standards**

- a. No walls, buildings, or other obstructions to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty-three (33) feet from the intersection of the street right-of-way lines. Trees may be located within the triangle provided they are pruned to permit unobstructed vision.
- b. All trash or refuse collection areas shall be enclosed by a six (6) foot masonry wall, styled to match the material of adjacent walls or the main building on the site.
- c. All outdoor lighting shall be directed down and screened away from adjacent properties and streets.
- d. All undeveloped building pads within developed shopping centers or similar projects shall be either paved or landscaped to control dust and erosion.
- e. Electrical utility, cable TV and all other utility lines for buildings shall be placed underground. Overhead lines are prohibited.

#### **6. Landscaping**

##### **A. General Requirements for All Commercial/Industrial/Non-Residential Uses:**

- 1. A minimum of ten (10) percent of net land area of any site shall be landscaped.
- 2. Required yards fronting on a public street shall be entirely landscaped excluding driveways and walkways. Parking and maneuvering areas shall not be permitted in the landscaped yards cited above excepting driveways and walkways.
- 3. Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the Planning Commission.
- 4. An automatic irrigation system shall be provided to all landscaped areas requiring water.
- 5. All trees required by this part shall have a minimum trunk height of six (6) feet, with a minimum one and one-half inch (1 ½") caliper measured four (4) feet above the ground. Multi-trunk trees may have smaller average caliper measurements.
- 6. Twenty-four inch (24") box trees shall have a minimum trunk height of eight (8) feet with a minimum two (2) inch caliper measured four (4) feet above the ground. Multi-trunk trees may have smaller average caliper measurements.

##### **B. Streetscape Standards**

The following landscaping shall be required along all streets:

- 1. Trees with a minimum size as specified herein shall be planted at the rate of one (1) tree per twenty (20) feet of linear street frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four (24) inch box trees.
- 2. Shrubbery with a minimum size of five (5) gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two (2) shrubs per twenty (20) feet of linear street frontage.
- 3. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along street shall be required.

##### **C. Ground Cover**

- 1. A minimum of twenty five percent (25%) of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of living plant materials characterized by horizontal growth which generally does not exceed eighteen (18) inches in height.
- 2. Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

#### **D. Retention Basins**

1. All private retention basins shall be landscaped. Such basins may not occupy more than fifty percent (50%) of any landscaped area fronting on a public street; except, where exceptional design or shallow depths are proposed for the retention basin.
2. Retention basins shall be contoured and designed as an integral part of any frontage landscaping and shall not take on the appearance of a ditch. Maximum side slopes of basins shall be a four to one (4:1) ratio.

#### **E. Foundation Planting**

Foundation planting is required adjacent to buildings fronting on public streets. A minimum of thirty-three percent (33%) of the building frontage shall be landscaped, with a minimum width planter area of three (3) feet (vehicle overhang not permitted).

#### **7. Maintenance**

All landscaping shall be maintained and any dead plant material shall be promptly replaced.

#### **D. Development Standards For Multi-Family Residential Districts**

##### **1. Purpose**

The intent of these standards is to promote sound design principles and high quality residential environments for residents of multi-family projects. The standards promote privacy for residents and strengthen property values while reducing the impact of high density development on adjacent land uses.

##### **2. Building Design**

###### **a. Intent**

The intent of this section is to establish standards to encourage the orderly and harmonious appearance of structures along the County's major thoroughfares.

###### **b. General Requirements**

1. The architecture of buildings shall not be prescribed and the County encourages variety in the style of structures. The architectural character of a proposed structure, however, shall be in harmony with and compatible to those in the immediate proximity.
2. The building facades of large, massive structures shall be architecturally styled to achieve a smaller scale. Large building walls shall be broken to reduce scale and provide variety to the streetscape by use of landscaping, architectural treatment or murals.
3. Mechanical equipment, whether ground-level or roof-mounted, shall be screened from public view and be so located as to be perceived as an integral part of the building.
4. Accessory equipment capable of generating noise and vibrations shall be properly insulated and the noise and vibrations shall not be apparent from adjacent properties or the public right-of-way.
5. Mission tile, concrete tile, standing seam metal grade roofing material shall be used on all pitched roofs.
6. Equipment such as, but not limited to, telephones, vending machines, and ice machines shall be screened from street view and placed in an area designed for their use, which is an integral part of the structure.
7. All four sides of a building shall receive consistent architectural treatment.

##### **3. Building Separation**

- a. Where a lot is occupied by a group of two more related buildings, the minimum dimension of a yard upon which the principle entrance or exit of a multi-family building shall face, shall be according to the following schedule:

<u>Building Height</u>	<u>Minimum Yard Dimension</u>
1 Story	25 feet
2 Story	40 feet

- b. The minimum separation between buildings on a multi-family site shall be fifteen (15) feet.

##### **4. Relationship of Project to Surrounding Land Uses**

The relationship between a multi-family project and adjacent uses shall take into account the type of adjacent uses, building scale, density and building heights. Particular sensitivity shall be displayed to the relationship between a multi-family project and adjacent residential uses of lesser density to minimize the impact on those less-dense areas.



- a. Multi-family buildings shall be limited to a height of one story within fifty (50) feet of a single-family residential area or zoning district. Multi-family buildings two stories in height or greater shall not be placed within seventy-five (75) feet of a single-family residential area or zoning district.
- b. Individual design situations may dictate additional conditions or considerations to minimize the impact of a multi-family development on adjacent residential uses through the imposition of one or more of the following design considerations:
  - 1. Use of the one-story buildings;
  - 2. Additional landscaping to serve as buffer area;
  - 3. Wider setbacks from property line;
  - 4. Modifying the orientation of buildings;
  - 5. Modifying the orientation of windows and balconies;
  - 6. Providing screen walls.
  - 7. Common recreation facilities in a project shall be located to minimize the intrusion of noise into adjacent residential area.

#### **5. Open Space**

- a. "Common open space" is defined as that portion of a parcel not covered by buildings (including patios, parking areas, or driveways). Such areas shall be devoted to the purpose of outdoor living space for the residents and may include lawn areas, walkways, sitting areas, courtyards, and outdoor recreation facilities. Buildings, structures, and other impervious surfaces devoted to meaningful recreation or open space uses shall be considered as open space.
- b. The amount of common open space provided in a project shall equal or exceed the multiple of 1.5 times the first floor area of all buildings up to a maximum of 45% of the net lot area.
- c. A minimum of 30% of the required common open space shall be provided along the public street frontage in the form of landscaping setback. Such areas shall not be required to exceed 50 feet in width nor shall be less than 25 feet in width.
- d. No more than 50% of the required front yard landscaped area or any other street frontage area may be used for storm water retention purposes. Side slopes of basing shall not exceed a 6:1 slope. The maximum side slope shall be a 4:1 ratio.
- e. Required yards and landscape setback areas fronting on a public street shall be entirely landscaped except for necessary driveways and walkways. Parking is not permitted within the required setback area.
- f. Private outdoor space shall be provided in the form of patios or balconies with a minimum size of sixty (60) square feet per unit and minimum dimension of six (6) feet.

#### **6. Specific Building Design Requirements**

- a. Buildings with metal or steel exteriors shall be architecturally altered through the construction of masonry or wood veneers, facades, or other architectural treatments and installation of landscaping to minimize the extent of metal surfaces visible from the street.
- b. All buildings located within a unified, planned development, such as a master planned community, shall be architecturally styled to achieve harmony and continuity of design. Building elevations shall be coordinated with regard to color, texture, materials, finishes, and form.

#### **7. Landscaping**

- a. A minimum ten (10) foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of fifteen (15) gallons shall be planted every fifteen (15) feet on center within the area. A six (6) foot high masonry wall shall be required along the property line. Any walls facing public streets shall be finished with stucco or other materials to match the main buildings on the site.
- b. Along public street frontages, minimum fifteen (15) gallon-sized trees shall be planted at a ratio of one tree per twenty (20) feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four inch (24") box size.
- c. Within common open space areas, minimum fifteen (15) gallon sized trees shall be planted at a ratio of one tree per dwelling unit.
- d. Open space areas along public street frontage shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:

1. Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.
2. Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.
3. No more than 50% of the required front yard landscaped area may be used for storm water retention purposes.
- e. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

#### **E. Mobile Home Parks**

Standards contained herein are designed to afford adequate separation of mobile home units, screening, and open spaces in order to enhance the park environment.

##### **1. Permitted Uses**

- a. One mobile home on each space, including carports, ramadas, patios, storage rooms and similar accessory structures.
- b. Recreational vehicles, provided no more than fifteen (15) percent of the spaces in the park are used by RV's.
- c. Accessory uses common to mobile home parks including community recreation buildings, parking areas, laundry facilities, manager's office and living quarters, boat and trailer storage area and other similar accessory uses for the exclusive benefit of park residents.
- d. Temporary construction offices, sheds, storage yards, and residential sales offices while construction is ongoing within the project. Such uses shall be kept in a neat and orderly condition and be located so as not to adversely affect residents in the project.

##### **2. Development Standards**

- a. The minimum size of a mobile home park shall be ten (10) acres.
- b. The maximum number of mobile home spaces or units per acre shall be seven (7).
- c. The minimum width of mobile home rental spaces shall be fifty (50) feet with a minimum length of seventy (70) feet.
- d. The minimum width of private driveways or access ways within the park shall be twenty-four (24) feet. Each unit shall have access to a private driveway or access way connected to a public street.
- e. The minimum space between mobile homes shall be twenty (20) feet. This dimension may be reduced to ten (10) feet between awnings or canopies.
- f. No mobile home shall be closer than eight (8) feet to a private driveway.
- g. A minimum of five (5) percent of the site shall be devoted to usable common open space for all residents, excluding streets and private drive ways, parking and storage areas, or required setbacks at the exterior boundaries of the site.
- h. All areas not covered by structures or paving shall be landscaped.
- i. The maximum height of any building or mobile home shall be thirty (30) feet.
- j. Each mobile home shall be skirted to screen wheels and undercarriage.
- k. All electric power lines, telephone lines, cable TV lines and similar utilities shall be placed underground.
- l. No mobile home shall be located closer than fifteen (15) feet to the perimeter of the park. Where the perimeter of the park adjoins a public street, the setback shall be twenty-five (25) feet. A minimum six (6) foot and maximum eight (8) foot wall shall be constructed around the perimeter of the park. Where said wall fronts onto a public street, the wall shall be constructed of slump block, brick or masonry with a stucco finish.
- m. Any part of the mobile home park fronting on a public street shall meet the screening and landscaping requirements for commercial/industrial developments.
- n. A storage yard for boats, trailers, and RV's shall be required unless such vehicles are prohibited. The minimum size of such area shall be sixty (60) square feet per mobile home space. This provision is inapplicable if RV's are used for housing.

##### **3. Landscaping**

- a. A minimum ten (10) foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of fifteen (15) gallons shall be planted every fifteen (15) feet on center within the area. A six (6) foot high masonry wall shall be required along the property line. Any walls

- facing public streets shall be finished with stucco or other materials to match the main buildings on the site. Within this setback area, trees with a minimum size of fifteen (15) gallons shall be planted every 20 feet on center.
- b. Along public street frontages, minimum fifteen (15) gallon-sized trees shall be planted at a ratio of one tree per twenty (20) feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four inch (24") box size.
  - c. Within common open space areas, minimum fifteen (15) gallon sized trees shall be planted at a ratio of one tree per dwelling unit.
  - d. Open space areas along public street frontage shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:
    1. Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.
    2. Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.
    3. No more than 50% of the required front yard landscaped area may be used for storm water retention purposes.
    4. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

#### **SECTION 9 (2.7). CD-WP WEST PLACITAS COMMUNITY DISTRICT.**

- A. **Intent.** This zone district shall provide for the orderly development and protection of those residential areas of Placitas that were formerly under the jurisdiction of the Town of Bernalillo, Sandoval County, New Mexico Extra-Territorial Zoning Ordinance along with the remainder of the western portion of the Placitas area and will implement adopted policies of the Placitas Area Plan. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of these areas within Sandoval County.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:  
All uses that are permissive in the RRA zone district
- C. **Conditional Uses.** The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance:  
All uses that are conditional uses in the RRA zone district.
- D. **District Standards.** The following standards apply to all land uses within this zone district:
  1. A slope analysis shall be submitted with building plans for any new construction within this district. Such slope analysis shall be sealed by a land surveyor or professional engineer licensed to practice in the State of New Mexico. If the slope of the land is twenty percent (20%) or greater, the analysis will designate the brow of a slope, the proposed building envelope or footprint, and the plane of the slope. Retaining walls included on such plans for sites located on slopes of twenty percent (20%) or greater shall have no more than two feet exposed above the natural grade.
  2. All building setbacks shall be as provided in the RRA zone district, except for the following:  
On lots located on slopes twenty percent (20%) or greater, the setback shall be such that no part of a structure or associated retaining wall breaks the plane of the slope.
  3. The minimum lot size shall be one acre (43,560 square feet) except that all lots legally created prior to the adoption of this Ordinance and all lots within subdivisions that have received Preliminary Plat approval from the Board of County Commissioners prior to the adoption of this Ordinance are not affected by this provision.
  4. No building shall exceed twenty-eight (28) feet in height.
  5. Outdoor light fixtures shall comply with the following:
    - a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
    - b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.

- c. Fixtures shall be required to have all light focused downward.
  - d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.
  - e. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
  - f. All non-conforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two (2) years.
6. All dwelling units shall comply with the following standards:
- a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
  - b. Prior to the issuance of an occupancy permit for any dwelling unit, an attached or detached garage designed to hold at least two (2) cars shall be constructed.
  - c. All dwelling units shall have:
    - 1. A minimum width of twenty-four (24) feet,
    - 2. A minimum length of forty-two (42) feet, and
    - 3. A minimum habitable (heated) area of one thousand- eight (1,008) square feet.
7. All dwelling units shall meet the following roof design requirements:
- a. Pitched roofs shall be made of corrugated metal or tile materials.
  - b. Flat roofs shall have a stuccoed parapet rising at least twelve (12) inches above the roof elevation or sufficient to obstruct from view any mechanical equipment located on the roof.
8. The overburden from excavation of any building site shall not allowed to be disposed over any natural vegetated area.

#### **SECTION 9 (2.8). CD-LP LAS PLACITAS COMMUNITY DISTRICT.**

- A. **Intent.** This zone district shall provide for the orderly development and protection of the rural and historic areas of Placitas and will implement adopted policies of the Placitas Area Plan. This district will help to protect the irrigated agricultural tracts and the acequia systems within this part of Placitas. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of these areas within Sandoval County.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:  
All uses that are permissive in the RRA zone district.
- C. **Conditional Uses.** The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance:  
All uses that are conditional uses in the RRA zone district.
- D. **District Standards.** The following standards apply to all land uses within this zone district:
- 1. All building setbacks shall be as provided in the RRA zone district.
  - 2. The minimum lot size shall be as provided in the RRA zone district.
  - 3. No structure shall exceed thirty-six (36) feet in height.
  - 4. Outdoor light fixtures shall comply with the following:
    - a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
    - b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
    - c. Fixtures shall be required to have all light focused downward.
    - d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.
    - e. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
    - f. All non-conforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two (2) years.
  - 5. All dwelling units shall comply with the following standards:

- a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
  - b. Mobile homes shall have a manufacture date after January 1, 1985 regulated pursuant to NMSA 3-21A-3.
- 6. Prior to the transfer of real property within this District by any legally allowable means, the owner of the property or his/her agent will provide, at the time of receipt of an offer to purchase or at the time of transfer, a copy of the Right to Farm and Acequia Awareness packet consisting of Section (6) (B) (7) and (9) (1) of this Ordinance, the text of NMSA 47-9-1 et. seq. known as the Right to Farm Act, and the Acequia Information packet as provided by Sandoval County. The person accepting the transfer or taking ownership will provide written verification of receipt of this information to the transferor or seller.
- 7. Nothing herein prohibits a property owner from placing further restrictions and covenants, except those otherwise prohibited by law, on the use of his/her real property. Such enforcement of any further restrictions or covenants shall be the sole responsibility of those real property owners placing such covenants and restrictions.

#### **SECTION 9 (2.9). CD-IASF IDEAL ACRES/SAN FRANCISCO COMMUNITY DISTRICT.**

- A. **Intent.** This zone district shall provide for the orderly development and protection of the northeastern portion of the Placitas area and will implement adopted policies of the Placitas Area Plan. This district shall provide further for the health, safety, and general welfare of area residents in recognition of the unique nature of this area within Sandoval County.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:  
All uses that are permissive in the RRA zone district.
- C. **Conditional Uses.** The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance:  
All uses that are conditional uses in the RRA zone district.
- D. **District Standards.** The following standards apply to all land uses within this zone district:
  - 1. All building setbacks shall be as provided in the RRA zone district.
  - 2. The minimum lot size shall be two acres (87,120 square feet) except that all lots legally created prior to the adoption of this Ordinance and all lots within subdivisions that have received Preliminary Plat approval from the Board of County Commissioners prior to the adoption of this Ordinance are not affected by this provision.
  - 3. No building shall exceed thirty-six (36) feet in height.
  - 4. Outdoor light fixtures shall comply with the following:
    - a. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
    - b. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
    - c. Fixtures shall be required to have all light focused downward.
    - d. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.
    - e. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
    - f. All non-conforming lighting installed prior to the effective date of this Ordinance shall be altered or replaced in order to conform within two (2) years.
  - 5. All dwelling units shall comply with the following standards:
    - a. All dwelling units shall be placed on a permanent foundation. Permanent Foundations for dwelling units that are not site-built shall comply with the New Mexico Manufactured Housing Division Rules and Regulations (NMAC 14.12.2) for permanent foundations.
    - b. Mobile homes shall have a manufacture date after January 1, 1985 regulated pursuant to NMSA 3-21A-3.

6. Prior to the transfer of real property within this District by any legally allowable means, the owner of the property or his/her agent will provide, at the time of receipt of an offer to purchase or at the time of transfer, a copy of the Right to Farm and Acequia Awareness packet consisting of Section (6) (B) (7) and (9) (1) of this Ordinance, the text of NMSA 47-9-1 et. seq. known as the Right to Farm Act, and the Acequia Information packet as provided by Sandoval County. The person accepting the transfer or taking ownership will provide written verification of receipt of this information to the transferor or seller.
7. Nothing herein prohibits a property owner from placing further restrictions and covenants on the use of his/her real property. Such enforcement of any further restrictions or covenants shall be the sole responsibility of those real property owners placing such covenants and restrictions.

#### **SECTION 9 (2.10). LAS PLACITAS DESIGN OVERLAY ZONE.**

- A. The purpose of this Overlay Zone is to allow for a limited commercial area to serve the historic village area of Placitas and to preserve the semi-rural qualities of the village. This area will be a local center for community scale amenities. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.
- B. **Design Standards for Non-Residential Development.** The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new non-residential development within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question. Any expansion of an existing non-residential use or building within this Overlay Zone must also conform to the design standards. Prior to County approval of construction plans as required by Section 15(G) of the Comprehensive Zoning Ordinance, a site development plan must accompany such plans and shall be submitted to the Zoning Officer for approval. Adequate information must be provided along with the site development plan to show that the following requirements will be met:
  1. No building shall exceed thirty-six (36) feet in height.
  2. The maximum footprint of any building shall be 10,000 square feet, although 6000 square feet is preferred.
  3. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.
  4. The parking requirements in Section 9(4) of this Ordinance shall apply, Parking within the right-of-way of NM 165 will be allowed only with the approval of the New Mexico Department of Transportation.
  5. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

#### **SECTION 9 (2.11). I-25/BERNALILLO INTERFACE DESIGN OVERLAY ZONE.**

- A. The purpose of this Overlay Zone is to promote mixed use development appropriate for an Interstate Highway corridor. In addition, the Overlay Zone is created to promote transit oriented development due to its close proximity to the NM 550/Sandoval County regional transit facility. The Overlay Zone forms a transition from land uses that are appropriate adjacent to an Interstate Highway to the low density residential uses that are appropriate within the CD-WP district. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying zone district. Where the provisions of this Overlay Zone conflict with those of the underlying zone district, the provisions of this Overlay Zone shall apply.
- B. **Design Standards for Certain Types of Development.** The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. Any development that includes uses that are not listed as Permissive or Conditional within the RRA Zone District and that is to be located within this Overlay Zone shall be subject to the following requirements, regardless of the existing zoning of the lot in question:
  1. Any development identified within this Section must be submitted as a Master Planned Development under the provisions of Section 11 of this Ordinance, regardless of the acreage of the parcel in question.

2. No structure shall exceed thirty-six (36) feet in height except for flagpoles, antennas, spires, or other accessory objects customarily placed above the roof level and not intended for human occupancy.
3. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.
4. Any development identified within this section shall include a 100 foot buffer between the perimeter of the development and any existing residential development outside of the Overlay Zone. This buffer may either be open space or single family residential development permissible within the CD-WP zone district.

**SECTION 9 (2.12). CD-DT DIAMOND TAIL MASTER PLANNED DISTRICT.**

- A. **Intent.** This zone district shall provide for the implementation of the Diamond Tail Master Plan and will apply to that area designated as such on that Master Plan approved by the Sandoval County Board of County Commissioners on September 5, 1996 and on the Sandoval County Zoning Map.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:  
All uses that are permissive in the RRA zone district.
- C. **Conditional Uses.** The following uses shall be allowed in this zone district only upon review and approval by the Planning & Zoning Commission as provided by Section 17 of this Ordinance:  
All uses that are conditional uses in the RRA zone district.
- D. **District Standards.** The following standards apply to all land uses within this zone district:
  1. All building setbacks shall be as provided in the RRA zone district.
  2. The minimum lot size shall be as provided in the RRA zone district, except that the total number of residential lots within the district shall not exceed that identified in the Diamond Tail Master Development Plan as filed in the Office of the Sandoval County Clerk on March 5, 1997 in Volume 3, Folio 1587-A.

**SECTION 9 (2.13). WEST PLACITAS DESIGN OVERLAY ZONE.**

- A. The purpose of this Overlay Zone is to allow for the continuation of nonresidential uses in those areas where they already exist in the western portion of the Placitas area. The Overlay Zone further recognizes those uses originally approved by the former Town of Bernalillo, Sandoval County, New Mexico Extra-Territorial Zoning Authority and subsequently by County Ordinances 10-11-18.7B1 through 10-11-18.7B6 establishing Special Use districts and approved by the Board of County Commissioners on November 18, 2010. This Overlay Zone applies to the areas where it is mapped in addition to the provisions of the underlying Special Use districts approved for the properties in question. Where the provisions of this Overlay Zone conflict with those of the Special Use districts, the more stringent of the two shall apply.
- B. **Design Standards for Non-Residential Development.** The following design standards are considered a portion of the Comprehensive Zoning Ordinance and are enforceable as such. All new non-residential development within this Overlay Zone shall be subject to the following requirements in addition to those of the underlying Special Use District:
  1. The maximum footprint of any building shall be 25,000 square feet, though 10,000 square feet is preferred.
  2. The combined floor area of all buildings on any lot shall not exceed 50% of the total area of the lot.
  3. The parking requirements in Section 9(4) of this Ordinance shall apply.
  4. Any new non-residential buildings on the properties in question shall be as represented on a Site Development Plan approved for such by the Planning & Zoning Commission. Such a Site Development Plan will include buffering between commercial and residential uses that incorporates features such as berms, walls, and landscaping.

### **SECTION 9 (3). RC - RURAL COMMERCIAL DISTRICT.**

- A. Intent.** This zone district accommodates the development of business, commercial, service-related, and limited industrial activities that are provided with adequate infrastructure and that would not cause a detriment to any abutting lands in residential use. This district consists of areas where such development should logically locate because of established land use patterns, planned or existing public facilities, and appropriate transportation system capacity and access. Although this district allows a mixture of land uses, there are controls intended to minimize or buffer any nuisances caused by such land uses.
- B. Permissive Uses.** Any of the following uses are allowed in this zone district with the provision that any such use may be referred by the Zoning Officer to the Zoning Commission to determine compliance with the regulations and intent stated herein:
1. All uses that are permissive uses in the RRA zone district;
  2. Business, service, and commercial establishments provided the maximum floor area for each establishment shall not exceed twenty-five thousand (25,000) square feet;
  3. Commercial greenhouses, plant nurseries, and landscapers;
  4. Kennels, animal shelters, veterinary hospitals;
  5. Animal feed stores, tack shops, farm equipment sales;
  6. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance;
  7. Public and private schools and related facilities;
  8. Churches and related facilities;
  9. Day-care and child-care services as regulated by the State of New Mexico;
  10. Cemeteries; and
  11. Public Utility Structures such as a transformer, switching, pumping, or similar technical installation essential to the operation of a public utility except as provided for in Section 13 (D) (7) of this Ordinance.
- C. Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:
1. Family Cluster Development
  2. Multiple dwelling units, provided that the gross density for any lot shall not exceed that permitted by the New Mexico Environment Department except that if community water and sewer systems are available a Floor Area Ratio of up to .3 may be permitted for each lot
  3. Limited industrial activities subject to the following regulations:
    - a. The manufacturing, processing, assembling, renovating, treatment, storage, or warehousing of raw materials, goods, merchandise, or equipment shall be conducted within an enclosed building and/or within an area completely enclosed by a fence or wall,
    - b. No building for manufacturing purposes shall exceed fifty thousand (50,000) square feet in floor area;
    - c. No building for manufacturing purposes shall be located less than one hundred fifty (150) feet from any residential structure, except for a resident caretaker dwelling;
    - d. No complete manufacturing operation shall exceed ten (10) acres in size,
    - e. All buildings on a manufacturing site shall not cover an aggregate area of more than forty percent (40%) of such site, and
    - f. All manufacturing activities shall be conducted in accordance with State and Federal environmental standards.
  4. Salvage yards for scrap material, including automobile bodies, provided that:
    - a. All activities are conducted within an enclosed building or within an area completely enclosed by an opaque fence or wall not more than six (6) feet in height,
    - b. Outside storage of salvage materials or automobile bodies may not be stacked higher than the surrounding fence or wall and shall not be visible from any nearby road or surrounding properties, and
    - c. The entire site for a salvage yard shall not exceed five (5) acres,
  5. Communications Towers as regulated by County Ordinance # 03-10-16.11A; and



6. Commercial stables, rodeo arenas, polo grounds, and riding academies;
7. Any commercial enterprise in which activities may be conducted earlier than 6:00 A.M. or later than 9:00 P.M.
8. Planned commercial development comprising an area of ten (10) acres or more. This does not include uses that, notwithstanding this section, require a Conditional Use or Zone Map Amendment under the terms of this Ordinance.

**D. District Standards.** The following standards apply to all land uses within this zone district:

1. All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.
2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty-five (25) feet.

**SECTION 9(4). RURAL OFF-STREET PARKING AND LOADING.**

- A. **Parking and Loading Space Required.** When any new structure is erected or an existing structure is enlarged, off-street parking and loading spaces as set forth herein shall be provided on site. An express purpose of these vehicle space requirements is to decrease traffic congestion and to promote the free movement of motor vehicles, including fire, rescue, police, and other emergency vehicles, within the County.
- B. **Number of Parking Spaces.** The minimum number of parking spaces to be provided shall be as follows:
1. Dwelling units: two (2) spaces per dwelling unit.
  2. Eating and drinking establishments: one (1) space per 100 square feet of floor area.
  3. Industrial, manufacturing, and wholesaling establishments: one (1) space per two (2) employees on largest shift.
  4. Medical and dental offices, clinics, including veterinary clinics: five (5) spaces per doctor.
  5. Offices, public buildings, and service establishments: one (1) space per three hundred (300) square feet of floor area.
  6. Places of public assembly: one (1) space per five (5) seats when fully occupied.
  7. Retail and commercial business establishments: one (1) space per two hundred (200) square feet of floor area.
  8. Bed and Breakfast: one (1) space for each two (2) sleeping rooms.
- C. **Parking Design Standards.** The following standards shall be applied to off-street parking areas:
1. All parking spaces shall provide adequate access to a road or street; and
  2. Each parking space shall consist of an area not less than nine (9) feet by twenty (20) feet.
- D. **General Rules for Determining Parking Requirements.** In computing the number of off-street parking spaces required, the following rules shall govern:
1. Where fractional spaces result, the parking spaces required shall be construed to be the next highest number.
  2. The parking space requirements for a use not specifically mentioned herein shall be determined by the Zoning Officer in accordance with the minimum requirements established in this Ordinance for similar uses.
  3. With respect to the enlargement of an existing structure, the required number of spaces shall be determined in relation to the total size of the structure and not only with respect to the size of this enlargement.
  4. Where a structure contains multiple uses, the required number of parking spaces shall be the total of all such spaces required for each type of use.
  5. Where special circumstances demonstrate that the anticipated use of a particular structure more likely than not will generate a greater demand for motor vehicle spaces than the minimum number required by this Ordinance, the Zoning Officer shall require the additional number of spaces reasonably necessary to meet such anticipated demand.
- E. **Parking for Physically Challenged Motorists.** For any nonresidential structure that is newly constructed or is being renovated such that an increase in the minimum number of parking spaces will be required, at least two percent (2%) of parking spaces, but not less than one (1) space shall be set aside for the physically challenged. Such spaces shall be:
1. At least twelve (12) feet in width and twenty (20) feet in length, or eight and one-half (8.5) feet in width if an additional three and one-half (3.5) feet at one side is protected and available in a pathway;
  2. Designated for use by the physically challenged by the international symbol of accessibility;
  3. Near or centrally located between related building entrances; and
  4. Located such that occupants of vehicles in these spaces can go to the related building:
    - a. Without going behind parked vehicles;
    - b. Along a path at least three (3) feet wide; and
    - c. Unobstructed by bumpers, curbs, or other obstacles to wheelchairs.
- F. **Off-Street Loading Requirements.** Off-street loading space shall be provided for all structures that receive or distribute bulk materials by motor vehicle. Off-street loading space shall not be located on designated off-street parking space or public right-of-way.

## **SECTION 10. SU - SPECIAL USE DISTRICT.**

- A. **Intent.** This zone district accommodates developments that require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this district shall be determined on a case-by-case basis following amendment procedures provided in Section 19 of this Ordinance. Special conditions may be imposed by the County Board following recommendation by the Zoning Commission. The County Board may not grant a Zone Map Amendment for establishment of a Special Use District unless satisfactory provisions have been made:
1. To assure that compatibility of property uses shall be maintained in the general area;
  2. To preserve the integrity and character of the area in which the Special Use District will be located, and the utility and value of property in the Special Use District and in adjacent zone districts; and
  3. To assure that the Special Use District will not become detrimental to the public health, safety, or general welfare of the County.
  4. To assure that the Special Use District will not conflict with the Sandoval County Comprehensive Plan or any other applicable land use plans adopted by the County.
- B. **Application.** Each application for a Zone Map Amendment for establishment of a Special Use District must follow amendment procedures as stated in Section 19 of this Ordinance, must declare the proposed use, and must be accompanied by a site development plan (except for an incremental Planned Area Development that is subject to specific provisions described elsewhere in this Section) of sufficient size and scale in order to:
1. Show boundaries and topography of the property to be developed;
  2. Show the proposed size, location, use, and arrangement of all structures, signs, parking and loading areas, drainage facilities, landscaping, and traffic and pedestrian circulation routes; and compliance with Section 14 of this Ordinance; and
  3. Indicate the location, type, use, and size of structures on adjacent properties within five hundred (500) feet of the proposed Special Use District boundary.
- C. **Removal of Zones.** In the event that a use authorized as a Special Use District is permanently discontinued, the Special Use District may be cancelled and removed under the provisions for an amendment to this Ordinance. That area delineated by discontinued Special Use District shall be rezoned to the prevailing zone district as determined by the County Board following recommendation by the Zoning Commission.
- D. **Uses Allowed in Special Use Districts.** A Special Use District may be authorized only for uses designated by the County Board, including the following:
1. Asphalt and batching plant;
  2. Cemetery, mausoleum, or crematory, provided that the site shall contain at least 2 acres;
  3. Cluster Housing Development, provided that the following requirements are met:
    - a. Lot Area and Setback. The setback requirements and minimum lot size within a Cluster Housing development will be established by the Site Development Plan as approved by the County Board. In areas where any lot with an area of less than  $\frac{3}{4}$  acre is proposed, a liquid waste disposal plan for such approved by the New Mexico Environment Department and deemed satisfactory by the Board of County Commissioners shall be required.
    - b. Housing Density. The total number of dwelling units per acre allowed within a Cluster Housing Development shall not exceed that which would have been allowed if the site were developed under its previous zoning designation. Special Flood Hazard Areas as mapped by the Federal Emergency Management Agency shall not be counted in determining housing density under this section.
    - c. Open Space Requirements
      1. Common Open Space Areas shall have a minimum dimension of 30 feet.
      2. Common Open Space may form one or more areas within the development, provided that at least one area is at least 60% of the total Common Open Space.
      3. Land dedicated for roadways, driveways, parking areas, and private yards cannot be counted as Common Open Space.
      4. Common Open Space shall not be divided by fences, walls, or buildings.

- d. Site Development Plan Approval. Future development within a Cluster Housing Development shall be in conformance with the Site Development Plan as approved by the County Board. This shall include the location, extent, and purpose of all Common Open Space as well as the location of proposed lots and roadways.
- e. Maintenance of Common Open Space. The maintenance of Common Open Space shall be guaranteed via a mechanism approved by the County Board. The instrument guaranteeing such maintenance shall be recorded in the Office of the County Clerk simultaneously with the final plat of the subdivision. The Common Open Space shall be set aside in perpetuity by deed restrictions. If the maintenance of the Common Open Space is abandoned to the extent that the County Board determines that a threat to public health and safety exists, the County may utilize any means at its disposal to ensure that such a threat is abated.
- f. Ownership of Common Open Space. The Common Open Space in a Cluster Housing Development shall be owned in one of the following ways:
  - 1. The property owners may establish a homeowner's association organized as a non-profit corporation or trust carrying covenants that run with the land and that are recorded with the Office of the County Clerk; OR
  - 2. The Common Open Space may be owned by a public entity or non-profit corporation granted an exemption from Federal Income Tax as described in Section 501 (c) (3) of the United States Internal Revenue Code. Any proposal to transfer the Common Space to such an entity must be approved by the County Board.
- g. Special Considerations. The following factors, where applicable, will be considered by the County Board when reviewing a proposal for a Cluster Housing Development:
  - 1. Inclusion of agricultural uses.
  - 2. Preservation of acequia irrigation systems.
  - 3. Preservation of wildlife habitat and wildlife corridors.
  - 4. Protection of the natural environment.
  - 5. Variation of residential lot sizes and shapes.
  - 6. The visibility of the Common Open Space both from within and without the Cluster Housing Development.
  - 7. The preservation of important views.
  - 8. The furtherance of the goals and policies of any adopted Area Plan for an area within which a Cluster Housing Development is proposed.
  - 9. Reduction of road mileage within a development.
- 4. Commercial feedlot, dairy, or animal slaughter house provided it complies with the following requirements:
  - a. All animal excrement is properly disposed of,
  - b. Associated pests are eradicated by chemical or scientific means,
  - c. Storm water drainage is controlled to avoid pollution of water resources,
  - d. Mechanical means is available for scraping and cleaning feedlot premises at all times, and
  - e. A review is conducted by appropriate local, State, and Federal agencies for feedlot design and location;
- 5. Landfill operation for disposal of refuse, solid waste, liquid waste, septage, chemicals, or hazardous waste;
- 6. Mining, excavating, removing, processing, stockpiling, or distribution of rock, sand, gravel, clay, pumice, scoria, decomposed granite, or similar materials, or batching plant, provided such uses comply with the requirements of Section 10 (1) of this Ordinance:
- 7. Mobile Home Park, subject to the following requirements:
  - a. The maximum density of the Mobile Home Park shall be subject to the approval of the New Mexico Environment Department however, if public water and sewer systems are available, then maximum density of the Mobile Home Park shall be six (6) mobile homes per acre,
  - b. Each mobile home space shall be required to maintain the following yard areas: Side to side spacing between mobile homes shall be at least twenty (20) feet, and back to back spacing shall

- be at least fifteen (15) feet. The distance between any mobile home and any building shall be at least twenty (20) feet,
- c. Any mobile home shall be located at least thirty (30) feet from the right-of-way line of any roadway and at least thirty (30) feet from any property line of the Mobile Home Park,
  - d. All interior roadways shall be at least thirty (30) feet wide, and shall be either paved or graveled to a standard acceptable to the County,
  - e. Sites shall be kept graded, drained, and free of rubbish and litter, and
  - f. Mobile homes shall be skirted with materials compatible with the siding of the mobile home.
8. Power plant or transformer yard of a public utility;
  9. Adult Bookstore, adult theater, and adult live entertainment establishments provided that none of the above listed uses may be located within one-thousand (1,000) feet of a public or private school, church or any residential district, as measured from the building containing the adult establishment to the closest point of the residential district, public or private parcel, or church parcel.
  10. Massage parlor, provided the establishment is not conducted on the same premises where there is a cocktail lounge, photo studio, model studio, art studio, telephone answering service, motion picture theater, or bookstore.
  11. Shopping Centers, subject to the following requirements:
    - a. The shopping center site shall be located with direct access to a State or Federal arterial highway, or a designated County arterial road,
    - b. All buildings must be placed at least thirty (30) feet from any property line of the shopping center land,
    - c. At least ten percent (10%) of the site shall be landscaped and maintained in a clean and healthy condition,
    - d. Outdoor light fixtures installed after the effective date of this Ordinance shall comply with the following:
      1. Fixtures shall be shielded such that light rays emitted by the fixture are projected at 45 degrees from a point on the fixture where light is emitted.
      2. Where used for security purposes, or to illuminate walkways, equipment yards and parking lots, only shielded outdoor light fixtures shall be utilized.
      3. Fixtures shall be required to have all light focused downward.
      4. Exterior lighting shall be shielded in such a manner so that it does not shine onto any adjoining residential properties.
      5. Outdoor light fixtures shall be limited to sixteen (16) feet in height.
      6. Any illuminated on-premise advertising sign shall be turned off between 11:00 P.M. and sunrise except that on-premise signs may remain illuminated while a business is open to the public.
    - e. Loading docks and outside storage areas shall be screened from public roadways and abutting residential properties, and
    - f. Any shopping center proposal for an ultimate development containing more than one hundred thousand (100,000) square feet of floor area shall include a traffic impact analysis of traffic generated by the shopping center as it affects the surrounding roadway system;
  12. Travel trailer or Recreational Vehicle Park provided it complies with the following requirements:
    - a. The park site shall be graded, drained, and free of rubbish,
    - b. The park site shall have a wall, fence, or planted area, six (6) feet in height, that screens the site from adjoining areas, and
    - c. The park shall contain individual campgrounds and each campground shall be at least one thousand five hundred (1,500) square feet in area with adequate parking such that no portion of any vehicle extends into a roadway within the park; and
  13. Oil and gas exploration and production, and the structures and facilities associated with that use.
  14. Other uses not included herein, provided that:

- a. The proposed use or combination of uses is not adequately allowed and controlled in any other zone; and
- b. The proposed use is not detrimental to the area in which it is proposed to be located; and
- d. The proposed use is in conformance with the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.

#### **SECTION 10 (1). SAND AND GRAVEL MINING**

This Section shall be known and may be cited as the Sandoval County Sand and Gravel Mining Ordinance, and is created pursuant to the enabling authority set forth in Section 3-21-14 N MSA (1965).

**A. PURPOSE.** This Section is adopted to provide for and protect the public health, safety and general welfare of the county.

**B. JURISDICTION.** This Section shall apply to all portions of Sandoval County that are subject to the County's land use jurisdiction.

**C. EXEMPTIONS.** This Ordinance shall not apply to:

- 1. Persons who mine sand and gravel on their own properties for their own personal use to the extent that disturbance shall not consist of more than half (.05) acre in any five (5) continuous years;
- 2. Off-site processing activities; and
- 3. Exploratory activities which do not result in mining and/or removal from the property of more than ten (10) cubic yards of material;
- 4. Exemptions may be approved administratively by the Director of County Development.

**CI. INTERPRETATION.**

The provisions of this Section are held to be minimum requirements. Whenever any provisions of this Section conflict with other laws, rules, regulations, covenants or ordinances, the more restrictive shall govern. This Section shall be construed broadly to promote the purposes for which it was adopted. Whenever the County Board or its delegate is required by this Section to make a decision, the decision shall be in writing and supported by the Findings of Fact which are sufficient for meaningful review.

**CII. DEFINITIONS**

- 1. **A-Weighted** - Specific weighting of the sound pressure level for the purpose of determining human response to sound as described in American National Standard Institute (ANSI) S1.4-1983.
- 2. **Background Sound Level** - The A-weighted sound level which is exceeded ninety percent (90%) of the time during the period of observation, during which times sounds from routine motor vehicular traffic and other transient sources is inaudible. The period of observation need not necessarily be contiguous; however, the period of observation must be at least 10 minutes of duration.
- 3. **Basal Cover** - The vegetative cover or extent of cover found at the crown or base of a plant.
- 4. **dB(A)** - Unit of sound level expressed in decibels (dB) as measured on the A-weighted scale.
- 5. **Discharges** - Any measurable, natural or man-made, release of water, sediment or other particulates into the environment.
- 6. **Disturbed Area** - The area within the property which is altered by the mining and related activities, including but not limited to road, utility and facilities construction, and materials stockpiling areas.
- 7. **Existing Mine** - Any sand or gravel extraction operation lawfully existing and in operation on the effective date of this Ordinance.
- 8. **Exploration Operation** - Any mine development exploration operation existing prior to the effective date of this Ordinance and related to the determination of the geologic and economic extent of a sand and gravel resources.
- 9. **Foliar Cover** - The percentage of ground cover covered by the vertical projection of the aerial portion of plants and excluding small openings in the canopy.
- 10. **Fugitive Dust** - Particulate matter not emitted from a duct or stack which becomes airborne during operations or windy conditions.
- 11. **Ground Cover** - The amount (measured as a percentage) of rock, litter, and vegetative basal cover covering the ground. This is further broken down into the components; such as percent litter, percent rock and percent basal cover.

12. **Impulse Noise** - Any single sound pressure peak (with either a rise time less than 200 milliseconds or total duration less than 200 milliseconds) or multiple sound pressure peaks (with either rise time less than 200 milliseconds or total duration less than 200 milliseconds) spaced at least by 200 millisecond pauses.
13. **Impoundments** - A closed basin, naturally formed or constructed, having the effect or purpose of water or sediment detention or retention
14. **Mine (mine site)** - That portion of the disturbed area on the property from which the sand and gravel resource is removed or extracted by whatever means.
15. **Mitigation Measures** - Any proposed or undertaken activity taken for the purpose of lessening or eliminating adverse impacts resulting from mining and related activities.
16. **Mulch** - Vegetation residues or other materials that aid in stabilizing soils and conserving soil moisture.
17. **Native Vegetation** - Indigenous vegetation
18. **Noise Sensitive Zone** - Areas where ensuring of exceptional quiet is of importance during day and night hours. Noise sensitive activities include, but are not limited to, residential areas, operations of schools, libraries open to the public, churches, hospitals, and nursing homes.
19. **Overburden** - Consolidated or unconsolidated materials of any nature, that overlay a sand and gravel deposit.
20. **Owner(s) of Record** (as pertaining to the mine property) - is defined by any one or a combination of the relationships outlined in a. and b. below:
  - a.(1). Being a permittee of a sand and gravel operation;
  - (2). Based on instruments of ownership or voting securities, owning of record in excess of 50 percent of an entity; or,
  - (3). Having other relationships which give one person authority directly or indirectly to control the manner in which an applicant, an operator, or other entity conducts sand and gravel operations.
  - b. The following relationships constitute ownership or control unless it can be demonstrated that the person subject to the presumption does not in fact have the authority, directly or indirectly, to control the manner in which the relevant sand and gravel operation is conducted:
    - (1). Being an officer or director of an entity that mines sand and gravel;
    - (2). Being the operator of a sand and gravel operation;
    - (3). Having the ability to commit the financial or real property assets or working resources of an entity to the mining of sand and gravel;
    - (4). Being a general partner in a partnership;
    - (5). Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent of the entity;
    - (6). Owning or controlling sand and gravel resources to be mined by another person under lease, sublease or other contract and having the right to receive such sand and gravel after mining or having authority to determine the manner in which that person or another person conducts a sand and gravel mining operation, or
    - (7). Owning the property on which any portion is used for the mining of sand and gravel.
21. **Owners of Record** (as pertaining to public notice requirements of this ordinance)- Property owners on record with the Office of the Sandoval County Assessor as of 30 days prior to the date of any public hearing held pursuant to the provisions of this ordinance, but no earlier than 45 days prior to the date of the hearing, or otherwise having any indicia of ownership of the real property.
22. **Post-Mining Land Use** - Specific uses or management-related activities that follow closure of a mine.
23. **Property** - Lands that have a legal description and recorded ownership attached, that are the subject in part or in whole to mining, or proposed mining related activities.
24. **Property-line-noise-source** - Any equipment or facility, or combination thereof, mobile or stationary, which is capable of emitting sound beyond the property line of the land on which the mining operations are conducted.
25. **Reclamation** - Those activities taken to return mined and disturbed lands to an approved post-mining land use, or to the pre-mining condition of the property. These activities may include: backfilling, grading, compacting, soil stabilization, reseeding, re-vegetation, planting of nursery stock, or any other reclamation activity that serves to return the property to its pre-mining condition.

26. **Sand and Gravel** - Rock or similarly occurring consolidated or unconsolidated, naturally occurring materials, including but not limited to, stone, sand, gravel, aggregate, and riprap.
27. **Suitable Material** - Soil, subsoil or geologic material with sufficient nutrient content and that can be used to support vegetation in a post-mining land use.
28. **Traditional Community** - A community which has been continuously occupied since 1925 or earlier.

**F. REZONING AND PRELIMINARY PLAT REVIEW APPROVAL PROCESS**

**1. Site Criteria Performance Standards.**

- a. Mining special use rezoning may only be approved if similar uses have been established as non-conforming on contiguous or adjacent locations; or if the rezoning is compatible with neighboring uses
- b. Special use rezoning for mining may not be permitted on tracts of land smaller than two (2.0) acres in area, except as follows:
  1. Temporary extraction permits
  2. Permits for extraction for preparation of a home site or accessory structures.
  3. Small mining operations not exceeding two (2.0) acres
  4. These uses may be approved administratively provided the submittal requirements of this Section and all other County ordinances are met.
- c. At the Director of County Development's discretion, additional submittals may be required or upon approval conditions may be imposed.
- d. Special use rezoning for mining will only be issued for tracts of land of such size and configuration that all setback requirements set forth in County Ordinances will be met.
- e. Special use rezoning for mining will not be issued if the boundary of the disturbance area is within 1000 feet of residential areas, schools, traditional communities, hospitals, clinics and other health care facilities.

**2. Performance and Development Standards for Mining Special Use Rezoning**

Performance and development standards for mining special use rezoning shall be in addition to those set out in the Sandoval County Zoning Ordinance:

**a. Terrain Management Performance Standards Soils**

1. Soils having severe limitations, or which are shown as unsuitable for the Intended purposes should not be used for the purpose unless the operator has clearly shown in the terrain management plan how these limitations shall be overcome.
2. Grading. All land excavating, grading, filling, and clearing operations shall be designed to fulfill the following requirements as outlined below.
  - a. Preserve, match or blend with the natural contours of the land.
    - i. The plan shall adequately describe how all grading and excavating operations will be performed to blend slopes and fills into the natural contours of the land.
    - ii. The plan shall indicate whether the operator intends to retain or replace trees and other native vegetation, to stabilize slopes, retain moisture, reduce erosion, reduce runoff, and preserve the natural scenic beauty.
    - iii. The plan shall prevent the deposition of sediment into floodplains, drainage channels, water courses, and water bodies.
  - b. The following off-site discharges attributable to the mining activity are prohibited whether the discharge is direct or indirect:
    - i. Sediment and other organic or earthen materials discharged into a water course, water body, drainage channel or floodplain; and,
    - ii. Materials placed in any position which would make it susceptible to erosion and deposition into a water body, drainage channel, water course or floodplain.
      - a. The plan for excavating, grading or land forming, and protective cover shall provide for the prevention of soil erosion and sedimentation.
      - b. The plan shall call for temporary or permanent structural measures to prevent damaging runoff waters from originating on the site.
      - c. Planned structural measures shall adequately provide for the limitations of the site.



- c. Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on site, the plan shall provide for the exposed surfaces to be treated to the extent necessary to prevent dust from blowing off the site.
- d. The maximum cut and fill slopes shall be compatible with soil stability or erodibility as shown on the soil survey.
- e. The plan shall include provisions to prevent runoff from flowing over cut slopes.

**b. Storm Drainage and Flood Control Management Performance Standards**

1. Development of a mining site is almost certain to affect runoff, erosion, and sedimentation. The possible adverse effects of mining activities on runoff, erosion and sedimentation shall be carefully analyzed, and adverse impacts mitigated. All mining operations shall be planned, maintained and conducted to:
  - a. Protect and preserve existing natural drainage channels except where erosion and water control measures are found necessary and approved by the County;
  - b. Provide measures to prevent damaging runoff waters from leaving the site;
  - c. Protect structures and other works from flood hazards using no less than the 100-year frequency storm for calculating flood levels. The County, in its sole discretion, may require greater flood control protection;
  - d. Provide a system wherein runoff water within the site is removed without causing harm or damage to the environment, property, or persons, inside or outside the site;
  - e. Assure that water drained from the site does not contain pollutants or sedimentary materials of a greater quantity that would occur in the absence of the mining operation; and,
  - f. Assure that waters are drained from the site in such a manner that they will not cause erosion outside of the site to any greater extent than would occur in the absence of the mining operation.
2. All storm drainage systems shall be constructed in accordance with the standard of the Sandoval County Soil and Water Conservation District in which the site is located. The preferred method of watershed hydrology evaluation is NRCS (National Resources Conservation Service) Technical Release 55, Urban Hydrology for Small Watersheds or Chapter 2 of the NRCS Engineering Field Manual. Other methods such as HEC I, HEC2, HYMO/AHYMO, or the Rational Method are acceptable if sufficient supporting data is presented and deemed adequate by the County.

**c. Special Provisions for Mining in Arroyos Performance Standards.** In addition to all other requirements contained in this Ordinance, proposed mining operations that will take place within arroyos, watercourses or other similar drainages shall adhere to either Option A or Option B of the following operational criteria:

1. **Option A - Mining without Engineering Analysis.** At the option of the operator, in channel mining may take place without additional engineering analyses if the operation adheres to the following default restrictions:
  - a. No in-channel excavation shall take place within:
    - i. 10 feet from the toe of the arroyo banks in a straight channel reach,
    - ii. 10 feet from the toe of the arroyo bank along the inside channel bend on a curved reach,
    - iii. A setback equivalent to one-half (1/2) the channel width along the outside channel bend on a curved channel reach.
  - b. No excavation within 50 feet of property boundaries.
  - c. Depth of excavation shall be limited to a maximum of five (5) feet below the low-flow channel.
  - d. No excavation shall take place within 100 feet downstream and 50 feet upstream of a public roadway grade crossing of the arroyo.
  - e. No excavation shall take place within 100 feet of any bridge or drainage structure.
  - f. No excavation shall take place within 100 feet of any buried utilities.
  - g. No excavation shall take place within 100 feet of utility poles.
  - h. No excavation shall take place within 100 feet of any acequias.
  - i. No excavation shall take place within 100 feet of any water supply well.
  - j. If more than one criteria apply, the more stringent shall be applied.
  - k. To ensure compliance with the requirements of this Section, the operator shall establish a permanent, surveyed marker on the site. The elevation of the marker shall be established to the nearest hundredth of a foot.

## **2. Option B - Mining With Engineering Analysis**

The operator, at his discretion, may submit hydrologic and geologic analyses, prepared by a qualified specialist, supporting mining criteria other than the default criteria described under Option A.

### **d. Cultural Resources Protection Plan Performance Standards**

1. In order to preserve and enhance the unique heritage of Sandoval County, mining operations shall be established in a manner that respects and avoids disturbance of historic, cultural or archaeological sites, natural and man-made landmarks, acequias, and unmarked human burials. Such sites and landmarks include, but are not limited to structures which are designated by the Official Register of Cultural Properties maintained by the New Mexico Cultural Properties Review Committee or are properties which may contain historic or pre-historic structures, ruins, sites of objects, the desecration or destruction of which would result in loss to the public.
2. A cultural preservation plan shall be required for each proposed mining operation. The plan shall consist of the following:
  - a. a detailed description of historic, cultural or archaeological sites that are more than 50 years old on the property;
  - b. a description of how the proposed mining activity will disturb or adversely impact identified historic, cultural or archaeological sites and artifacts located on the property;
  - c. a description of how adverse impacts will be mitigated, including methods of restoration, preservation, and salvage; and,
  - d. the identity and qualifications of all individuals who are involved in the preparation and implementation of the Cultural Resources Plan.

### **e. Unmarked Human Burials**

1. According to state and federal law, any human burial in the state in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.
2. All applicants shall comply with the requirements of §18-6-11.2 NMSA 1989, which prohibits the knowing, willful and intentional excavation, removal, disturbance or destruction of any human burial, buried or entombed or sepulchered in any unmarked burial ground except by permit issued by the state medical investigator or by the state cultural properties review committee with the concurrence of the state archaeologist and state historic preservation officer.

### **f. Registered Cultural Properties**

Any person desiring to extract sand and gravel in the County and affecting registered cultural properties shall comply with the Cultural Properties Act §§18-6-1 through 18-6-17 NMSA 1989. Additional compliance may be required with Federal regulations if the mined material from the property will be used on Federally funded projects.

### **g. Environmental Protection Plans Performance Standards**

1. Any proposed mining activity shall utilize standard techniques available in order to minimize noise, vibration, smoke and other particulate matter; odorous matter, toxic or noxious matter; radiation hazards; fire and explosive hazards; or electromagnetic interference. If it is determined that the development will create any dangerous, injurious, noxious or otherwise objectionable condition, noise or vibration; smoke, dust, odor or other form of air pollution, electrical or other disturbance, glare or heat, in a manner which causes a significant adverse impact to the adjacent areas, a plan shall be submitted which states how such conditions will be mitigated.
2. Environmental protection plans shall consist of the following:
  - a. An air quality protection plan;
  - b. A noise and vibration mitigation plan;
  - c. A visual impacts mitigation plan;
  - d. Detailed descriptions and graphics showing the steps and methods that will be taken to protect the environment and mitigate adverse impacts; and,
  - e. Plans that are prepared and implemented in a manner consistent with all applicable County, State and Federal rules, regulations and permit conditions.

#### **h. Air Quality Performance Standards**

1. A dust abatement plan shall be submitted with the application and development plan to the Director of County Development.
2. Sand and gravel mining and processing operations shall use dust suppression techniques so there are no visible emissions beyond property boundaries.
3. Truck traffic areas and haul roads going in and out of the site shall be watered, treated with a surface stabilizing agent, or paved with an appropriate surface as necessary.
4. Sites of overburden removal and active pit areas shall be watered as necessary dependent upon existing wind speeds and soil moisture content.
5. Areas of disturbance shall be minimized to the extent feasible.
6. All loads shall be covered.
7. Should the Director of County Development deem it necessary, the operator shall maintain certified daily records of hours and dates of operation, the daily production rates and activities, and the frequency of application of water or equivalent dust suppression methods. This information shall be retained at the site and shall be made available to County personnel upon request.
8. Should the nearest school, residence, office building, or occupied structure, excluding the immediate operations complex, not be more than two miles from the site or the access road, dust control measures with regards to this Ordinance may be reduced or waived at the discretion of the Director of County Development.

#### **i. Sound and Vibration Mitigation Performance Standards.**

1. A Sound and Vibration Mitigation plan shall be submitted with the application to the Director of County Development. The plan shall include:
  - a. A description and location of all significant sources of noise and vibration (mobile and stationary) that will be associated with the proposed mining and processing activity;
  - b. A description of existing and proposed sound and vibration abatement measures, and the schedule of their implementation (if any).
  - c. The predicted sound level estimated out to a radius of one-half mile from the mining property line as of the date of this ordinance as a result of implementation of the proposed operation with abatement measures;
  - d. A description of how vibration from off-site heavy equipment and truck traffic associated with the proposed mining operation may affect structures on properties adjacent to travel routes taken by the heavy equipment and trucks; and,
  - e. A description of vibration mitigation measures for heavy equipment and truck traffic that will be taken (i.e. traffic volume, speed and weight limits, access and route control).
2. Noise Performance Standards.
  - a. Sound abatement measures under this Section do not apply to any equipment or facility, or combination thereof, that are incapable of emitting sound beyond the property line on which operated.
  - b. A sand and gravel mining operation shall not cause or allow the emission of any sound from any property-line-noise-source (impulse or continuous) which exceeds the allowable A-weighted sound levels specified in the following table when measured at any point.

##### *Classification of Adjacent Land Use Allowable Sound Pressure Levels(dB) of Emitted Sound*

Residential, Single-Family, Mobile Homes	70 dBA
Residential, Multi-family	70 dBA
Schools, Churches, Hospitals, Nursing Homes	70 dBA
Offices, Business, Commercial and Professional Buildings	70 dBA
Industrial, Utilities, Agricultural	75 dBA
Undeveloped Public Lands	75 dBA

- c. In mixed-use areas the more restrictive allowable sound emission level shall apply

- d. Should background sound levels exceed the above, noise produced from sources other than at blasting shall not exceed, at the mine property boundary 10 dB(A) past above background in a residential zone, and 16 dB(A) past at all other boundaries.
- e. The peak noise from any blast shall be limited to 130 dB (unweighted) at the boundary of the mining property.
- f. All sound pressure levels shall be measured at the mining property line. All measurements shall be made following the appropriate and most current ANSI or equivalent procedures. Measurements shall be made during times the property-line-noise-source(s) are operating.
- g. No property-line-noise-sources, stationary and mobile, shall be operated during the following holidays in a non-industrial zone: holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- h. Property-line-noise-sources, stationary and mobile, and including heavy equipment traffic, shall be limited in operation near a residential zone, or at a boundary of a nonindustrial portion of a mixed-use zone, from 5:00 p.m. to 8:00 a.m.
- i. Sounds emitted from mandatory emergency devices shall not be regulated by this ordinance except that property line noise sources, stationary and mobile, and including those emitted from heavy equipment and trucks shall not be operated from 5:00 p.m. to 8:00 a.m.

### 3. Vibration Performance Standards

- a. Vibration due to blasting shall be limited to a maximum resultant peak particle velocity in any plane at the site of a protected structure for the following:

<u>Peak Particle Velocity (Inches/second)</u>	<u>F Frequency (Hz)</u>
0.20	1 or less
0.75	1-12
0.80	13
0.90	14
1.00	15-100

- b. In addition, the Director of County Development may further limit such blasting vibration where, in his/her opinion, the density of population or other resources in the area warrants additional protection.
- c. Blasting shall be restricted to the hours of 9:00 am to 5:00 pm. No blasting shall occur on Saturdays or Sundays.

- b. **Visual Impacts Mitigation Performance Standards.** Adverse visual impacts due to the mining or processing activities shall be avoided or minimized to the extent practical through the following location and site design techniques:

- 1. Minimizing the area of disturbance due to the mining activity pursuant to a phasing program;
- 2. Minimizing excavation in visually sensitive areas;
- 3. Avoiding location of structures, machinery and equipment storage and repair areas, utility lines, access roads, mined material stockpiles, and mine waste piles in visually sensitive areas;
- 4. Locating, designing or screening excavated portions of the mine site, structures, machinery and equipment storage and repair areas, utility lines, access roads, material stockpiles and mine waste piles in a manner sensitive to the natural color, form and texture of the surrounding area; and,
- 5. Protecting visually sensitive areas visible along highways, and state, county or federally designated scenic areas, areas visible from traditional communities and contemporary communities.

### I. Lighting Performance Standards

- 1. The applicant shall provide outdoor lighting as necessary to enhance the safety of the site. Outdoor lighting shall be designed in a manner that not only enhances worksite security and public safety but in a manner that conserves energy and prevents spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land.
- 2. An outdoor lighting plan shall be submitted that shows the location, mounting height, types of luminaries, accessory equipment such as shades and deflectors, and the beam direction. The manufacturer's photometric data shall also be provided. All light sources shall be shielded so that they are not directly visible from adjacent residences. All light bulbs shall be shielded. Low or high pressure sodium lamps or other energy efficient sources

shall be used in all installations. Spillover of lighting into adjacent residential properties shall not exceed one half of one (0.5) foot-candle measured at any point ten feet beyond a property line.

**m. Safety and Traffic Control Performance Standards**

1. **Blasting.** All blasting shall be carried out in compliance with all applicable Federal and State standards and permitting requirements. Copies of all applicable permits shall be provided to the County at least 30 days prior to blasting. The operator shall provide reasonable notice of the planned blasting schedule to the public in the area likely to be affected by blasting noise and vibration.
2. **Roads and Traffic**
  - a. If an applicant seeks to permit a sand and gravel mine within 100 feet of the outside right-of-way of a public road or to relocate a public road, a concise description of the public road, the particular part to be relocated, where and when the relocation is to occur, and the duration of the relocation.
  - b. The applicant shall submit a traffic route plan that illustrates all likely private and public roads that will be used by the operation to transport heavy equipment, supplies and sand and gravel within a ten mile radius of the property or to the nearest paved state or federal highway with a level of service equivalent to U.S. 84-285 and S.R. 68.
  - c. The amount of traffic generated by the mining and processing activity shall not cause public roads to operate at a level less than what can be met by current capacity and structural conditions, or cause deterioration to County roads as a result of the activity without just compensation to the County.
  - d. If it is determined by the County that the mining operation will increase the burden, or cause deterioration to any County road, the operator shall be required to undertake a pro-rata share of the cost of improvements or repairs to the County roads which are shown to be caused by the mining-related use. The County Public Works Director will determine the pro-rata share.
3. **Signs and Markers**
  - a. The mining operator shall provide perimeter and other on-site and off-site signs and markers advising the public of the mining activity and related hazards that may be present including but not limited to, warning of truck traffic, open pit hazards, open water hazards, operating equipment, blasting, stockpile and waste pile collapse.
  - b. The operator shall submit a signage plan that shows the number, type, size and location of signs and markers.
  - c. The signs required under this Section shall:
    - i. Be posted and maintained by the person who conducts the sand and gravel mining operations, in addition:
      - a. Shall be maintained during the conduct of all mining related activities;
      - b. Shall be posted at each point of access to the permit area from public roads;
      - c. Be posted on the perimeter of a permit area before the beginning of mining operations.
    - d. Be of a uniform design such that they can be easily seen and read;
    - e. Be constructed of a durable material; and,
    - f. Conform to all state and local ordinances.

**n. Reclamation Plans Performance Standards**

1. A reclamation plan is required for the mine site and associated disturbed areas, and for each phase of the mining operation. Reclamation are those activities taken to restore mined and disturbed lands to an approved post-mining land use. These activities may include; backfilling, grading, compacting, soil stabilization, reseeding, re-vegetation, and planting of nursery stock. A contemporaneous plan may be required if the County Board determines the need for such a plan.
2. The plan will address issues of long-term soil and slope stability, water quality and water conservation, and compatibility with the surrounding environment and land uses. The County Board may make reasonable allowances that recognize future land use and areas that cannot be practically re-vegetated because of slope, rock substrate conditions or other limiting factors.
3. **Plan Requirements.** A reclamation plan shall consist of the following:

- a. A determination of which parts of land shall be reclaimed; (The operator, in consultation with the owner and the County, and subject to the approval of the County, shall determine which parts of the land shall be reclaimed.)
- b. A description of post-mining land use, including concurring documentation from the legal or equitable owner of record of the surface of the mining property;
- c. A description of how reclamation is to be achieved;
- d. An estimated timetable for each phase of the mining operation and contemporaneous reclamation activities;
- e. An estimated cost of accomplishing each phase of the reclamation plan;
- f. A description of the manner in which the plan is consistent with local physical, environmental and climatological conditions, both on-site and in the general area as follows:
  - i. A description of all streams, arroyos and bodies of water;
  - ii. A description and maps of soils and geologic conditions;
  - iii. A scaled plan in cross-section showing existing and planned profiles of slope of affected areas;
  - iv. An inventory of existing vegetation, wildlife and wildlife habitat;
  - v. A plan for revegetation, including but not limited to descriptions of the quantities of each species of vegetation that will be used, time and method of planting, proposed seeding rates, use of fertilizer, mulching and supplemental irrigation;
  - vi. A detailed description of measures to limit soil erosion and off-site sediment transport; and,
  - vii. A detailed description of measures to be taken to ensure protection of surface and groundwater quality and water conservation.

4. Reclamation Performance Standards

- a. All reclamation activities shall comply with applicable state and federal laws and regulations.
- b. Disturbed areas shall be restored to standards set forth in the approved reclamation plan. These standards shall be measurable and verifiable.
- c. Reclamation shall be conducted as contemporaneously as possible with the mining operations.
- d. Reclamation shall result in the establishment of structurally stable slopes and soils through the use of compaction, the use of vegetation and/or engineered materials.
- e. When backfilling pits is part of the reclamation plan, such backfilling or earthmoving operations shall be conducted so as to assure both stability of the materials and the protection of ground waters, such that adjacent properties are not damaged.
- f. Any mine waste material piles will be stabilized and protected to ensure they do not degrade air, surface water and ground water quality.
- g. In the revegetation portion of the approved reclamation plan, topsoil or other suitable rooting medium shall be replaced and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of reseeding itself and spreading. Revegetation should be at least equal in extent of cover to that of the natural vegetation of the surrounding area. Native species shall comprise the largest proportion of the seed mixture.
- h. Plants that die or are not established after a two year period shall be replaced. Revegetation shall be monitored for a minimum of three (3) years. The success of reseeding and revegetation shall be demonstrated by the operator and approved by the County. Success of revegetation shall be measured by techniques approved by the County or a professional expert. Measurements of foliar and basal cover shall be taken no sooner than the third year following planting. The vegetative cover (both foliar and basal) shall be deemed successful if these are 80% or greater within three years of planting, of the quantitative standard. If vegetative cover is not sufficient, additional efforts of revegetation shall be undertaken and additional efforts of revegetation and additional measurements of revegetation success shall be conducted two years after each planting.
- i. Upon cessation of mining, all buildings, structures, mining waste piles and other related items not necessary for environmental protection of the mine site, shall be removed, reclaimed or stabilized according to the approved reclamation plan.

- j. If a new, post-mining land use is not established and implemented within six (6) months of a mine's closure, reseeding or planting of vegetation is required on all disturbed portions of the site. Such revegetation effort shall include both native and introduced species to insure stabilization of the mine site.

**3. Additional Required Submittals for Mining Special Use Rezoning**

In addition to the information required by this Section, the applicant shall provide the following information:

- a. Name and mailing address of the applicant or designated agent;
- b. Name of owner or owners of the land;
- c. A description of surrounding land uses and a terrain management plan which shall include:
  - 1. Vicinity Map - A map, to a scale of not more than 2,000 feet to one inch, showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water courses and water bodies within one and half (1.5) miles of the site. This map shall display the topographic contours at 20-foot intervals. A mark-up of a USGS topographic map is acceptable.
  - 2. Natural Features Map - A map of the site (at the same scale as the preliminary plat map) showing directly, by overlay, or by narrative where appropriate:
    - a. The boundaries of the site;
    - b. The existing contours with intervals of not less than twenty (20) foot where the slope is less than 8% and not more than five (5) feet where the slope is 8% or greater;
    - c. All areas with natural slopes of 25% or greater clearly recorded by scale, line, or color;
    - d. The location of all drainage channels, watercourses, and water bodies;
    - e. The location of all major rock outcropping; and,
    - f. The location of the major vegetation types showing the plant species included and the cover density.
  - 3. Soil Survey - A soil survey of the site including:
    - a. An overlay of the natural features map showing the location of each soil type;
    - b. A description of the soil types; and,
    - c. Interpretations of the limitations from a soil survey for each soil type.
  - 4. Grading Plan - A series of maps, cross sections, and profiles showing the location and impact of the planned mining to the natural land form shall include:
    - a. An overlay of the natural features map showing the location of all proposed excavations, roadways, water and erosion control structures, and utilities and utility easements in relation to the existing contours;
    - b. An overlay showing the finished contours after mining is completed using contour intervals equal to or less than those on the existing contour map;
    - c. The location of all cuts and fills, including the grades, lengths, and depths thereof displayed using the necessary cross sections and profiles to adequately describe and display the planned mining;
    - d. The location of all areas where the planned mining and associated activities will be changed by more than three feet;
    - e. Description of methods of stabilization in areas of cut and fill, embankment compaction, and re-vegetation of steep slopes; and,
    - f. If mining is to take place within an arroyo bed, a predevelopment profile and cross sections of the arroyo shall be prepared. The profile shall extend at least 200 feet upstream and 200 feet downstream of the proposed excavation site. Cross sections shall be taken at 100 foot intervals and shall extend at least 100 feet beyond each bank top. No mining shall be permitted unless the natural flow of the arroyo is sustained in a manner acceptable to Sandoval County.
  - 5. Erosion and Drainage Plan - This shall include the necessary charts, drawings, location maps, and calculations to support the plan:
    - a. A watershed map showing all the upper watershed area draining into or through the site; it should show the water courses and topographic conditions;

- b. Storm drainage computations for the 100-year frequency storm both reaching and leaving the site in the predevelopment conditions;
  - c. Storm drainage calculations for mining and post mining conditions; and,
  - d. The location, type, and size of all proposed drainage and erosion control structures with adequate detail of the design and supporting calculations.
- 6. Water and Water Quality – This shall include any required State of New Mexico approvals for water availability and storm water discharge.
  - a. A letter from the Office of the State Engineer attesting to the availability of sufficient water rights to support the operation of the proposed facility.
  - b. A New Mexico Environment Department storm water discharge permit for the proposed facility, or a letter from the Department stating that such a permit is not required.
- 7. Construction Schedule – This shall include statements describing:
  - a. The start and finish dates for all land clearing and grading activities;
  - b. The duration of exposure of disturbed areas;
  - c. The stabilization date for disturbed areas; and,
  - d. The installation date of all storm drainage system components.
- 4. **The Process for Application for Mining Special Use Rezoning, Hearings and Administrative Procedure**  
 The process for making application for a sand and gravel mining special use rezoning shall be as set forth in Section 19 of this Code.
- 5. **Professional Expert or Consultant Review**  
 If it is necessary for the County to hire a consultant to assist in the review of a mining rezoning application, said consultants fee shall be assessed to the applicant or developer.
- 6. **Application Review For Sand and Gravel Mining Special Use Rezoning, Subdivision Of Land For Mining Uses And Building Permits For Mining Uses Process**  
 Applications for mining special use rezoning, subdivision of land for mining use and building permits for mining uses shall be processed as provided in County Ordinances.
  - a. Original drawing of final plat. The original drawing of the final plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. Final plats shall be prepared at a scale of 200 feet to one (1) inch or larger, and printed on sheets no larger than twenty-eight by thirty-six (28 x 36) inches. Sheets shall be numbered in sequence if more than one sheet is used. The applicant shall also submit two (2) paper copies of the final plat and three (3) copies of the development plan and all supporting documentation.
  - b. Map specifications. The final plat map shall include the following information:
    - 1. Title, scale, north arrow, and date;
    - 2. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
    - 3. Tract boundary lines, and easement and right-of-way lines;
    - 4. Acreage of mining area to the nearest one-hundredth (0.01) of an acre;
    - 5. Ownership of contiguous lands;
    - 6. Location of utilities;
    - 7. Delineation, if applicable, of any 100-year flood plain as designated by the Federal Emergency Management Agency;
    - 8. Names and addresses of the owner or owners of the land to be mined.
    - 9. The certification of surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and,
    - 10. Legal description indicating the range, township, and section within which the site is located.
    - 11. Any other information deemed necessary in the County's sole discretion to protect the public health, safety and welfare.
  - c. Final Requirements Prior to Commencement of Mining.  
 Sand and gravel mining shall not take place within the County on lands that have not been specifically zoned for such purposes and for which plat and development plan approvals have not been obtained in accordance with the provisions of County Ordinances. The County Board, in considering either approval or conditions for



approval of mining use rezoning, may take into consideration the past or current performance of the applicant at other sites and operations. The County Board shall approve the final plat and development plan if the applicant demonstrates that he can fulfill the proposals and requirements contained in the development plan and, that all State and Federal agency permits applicable to the mining, and processing of sand and gravel at the site have been issued and no ground disturbance or mining shall commence on the subject property before the following conditions are met:

1. Final plat and development plan approval. The development plan and final plat are approved by the County Board, and the plat is filed with the office of the County Clerk;
2. Financial security. All required securities set forth by the County Board of have been provided.
3. Agreements. All applicable agreements or conditions set forth by the County Board as pre-conditions to mining have been implemented;
4. Permits. All applicable pre-conditions to mining set forth in State or Federal permits have been met.
5. Improvement requirements.
  - a. The applicant shall install and construct such improvements, as are required by this Ordinance and permit conditions set forth by the County Board in the manner and to the design standards provided in this Ordinance. In the absence of specific designs and specifications, the applicant shall install and construct such improvements in a manner consistent with the intent and purpose of this Ordinance.
  - b. Before construction of any improvements or the submission of any bond or other performance security, the applicant shall furnish the County with all plans and specifications necessary for construction of such improvements. These plans shall be reviewed by the Director of County Development and, if in accordance with this Ordinance and permit requirements, shall be approved by the County, allowing mining to proceed.
6. Improvement Guarantees Assurance. In order for the County to be assured of the completion of all required improvements, the applicant shall agree to either;
  - a. Complete installation of the required improvements before final plat and development plan approval;
  - or,
  - b. Assure construction of required improvements after final plat and development plan approval.

d. Alternatives.

If the applicant wishes to submit the final plat and development plan for approval before completion of required improvements, the applicant shall post a suitable improvement's guarantee in an amount approved by the County. The amount of the guarantee shall not be less than 125 percent (125%) of the estimated cost of the required improvement. The guarantee shall be by a method acceptable to the County pursuant to this Ordinance.

e. Financial Security.

An assurance agreement in a specific sum shall be executed by the applicant as a principal and for the purposes of required improvements pursuant to this Ordinance and the Reclamation Plan. Financial Security shall be supported by the deposit of one of the following instruments with Sandoval County:

1. A cash account, which is deposited as cash in one or more federally-insured accounts, payable only to Sandoval County upon demand;
2. Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of Sandoval County, and placed in the possession of the Director of County Development;
3. Negotiable certificates of deposit, made payable or assigned to Sandoval County and held by a federally-insured bank;
4. An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only to Sandoval County upon presentation;
5. A perfected, first-lien security interest in real property acceptable to the County in favor of Sandoval County only; or,

7. Other investment-grade rated securities having a rating of AAA, AA, or A or an equivalent rating issued by a nationally recognized securities rating service, endorsed to the order of Sandoval County, and placed in the possession of the Director of County Development.

f. Notice to proceed.

The applicant shall provide all necessary documentation to the Director of County Development, and the Director shall verify that the applicant has met all pre-conditions. Upon submittal of all documentation, the Director of County Development shall have thirty (30) days to verify compliance.

If all pre-conditions have been met the Director of County Development shall provide the applicant with a written notice-to-proceed within 15 calendar days of submittal. If pre-conditions have not been met, the Director of County Development shall inform the applicant in writing within 15 calendar days of submittal which pre-conditions have not been met.

g. Improvement agreement.

If, at the time of approval of the final plat and development plan, any improvement has not been completed by the applicant as required by this Ordinance, the County Board shall, as a condition preceding approval of the final plat and development plan, require the applicant to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the applicant's expense.

**G. SPECIAL PROCEDURES**

**1. Expedited Review and Approval Procedure**

At the election of the applicant the reviews and approvals specified in this Ordinance may be combined into a single review and approval process, in accordance with the provisions of this Section.

**2. Application/Fees.**

An applicant shall prepare preliminary plat and mining use permit application and supporting documents in accordance with the requirements of this Ordinance. The applicant shall also prepare a final plat and development plan and supporting documentation in accordance with the requirements of this Ordinance. Submittal is initiated by completing the applications on prescribed forms available from the Director of County Development, and upon payment of the required administrative fees.

**3. Application deemed complete.**

On receipt of the applications, fees, plats, and supporting documentation, the Director of County Development shall review all materials in order to determine if the applications are ready to begin the review process. If there are no deficiencies, the applications are deemed complete for review by written notice to the applicant 60 days after the date of application. If the applications are incomplete or do not comply with the submittal requirements provided herein, the applicant shall be notified and be given a maximum time period of 75 days to correct the deficiencies and return the application for consideration. This time period may be extended upon written request to the Director of County Development. If after 75 days the application remains incomplete, the application will be voided and the application fee will be retained by the County.

**2. Public Hearings, Notice Participation and Record**

- a. Public hearings and notice of public hearing shall be as otherwise provided in Section 15.
- b. Participation in public hearings and record thereof shall be as provided by Section 15.

**H. VACATION OF PLATS**

1. Any final plat on file in the office of the County Clerk may be vacated if as a result of an application for a mining permit use or subdivision for purpose of mining may be vacated if:
  - a. the owners of the land sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the declaration is approved by the County Board ; or,
  - b. the County Board finds that the plat was obtained by misrepresentation or fraud and order a declaration of vacation be prepared by the County.
2. Statement of vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of the declaration of vacation to the County Clerk.

3. Scheduling and notification. Within 60 days after the date of receipt of the declaration of vacation from the owner, the County Board shall approve or deny the declaration of vacation, subject to the following:
  - a. Action shall be taken at a public meeting;
  - b. At least 15 calendar days before the proposed meeting, all owners of record of adjacent properties shall have been notified by mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the County Board .
4. Action. In approving the declaration of vacation of all or part of the final plat, the County Board shall decide whether the declaration of vacation will adversely affect the interests of persons on contiguous land.
5. Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the declaration of vacation is recorded.

**I. VARIANCES**

Applications for variance for issuance of a mining permit use shall be as provided in this Section.

**J. EXISTING CURRENT USES/GRANDFATHER CLAUSE**

1. Legal non-conforming uses shall be determined pursuant to Section 16, and in addition, a nonconforming use of extraction or exploration shall not be recognized unless the operator provides to the Director of County Development within ninety (90) days after the effective date of this Ordinance a description of operations on the effective date of this Section. Within 180 days the applicant shall submit:
  - a. Documentation which conforms to the requirements set forth in this Section, and
  - b. Copies of all permits or approvals which it holds from State and Federal agencies.
2. For the purposes of this Section "discontinued" means for an extraction site, no extraction by the operator has occurred for more than 6 months and for an exploration site, no exploration has occurred by the operator for more than six (6) months.
  - a. The Director of County Development shall investigate all claims of non-conforming use through independent field checks, inspections and interviews. The findings of these field inspections shall document through a narrative report and photographs the historical extent of any exploration or extraction use on each property.
  - a. The Director of County Development after consultation with a professional expert determines that a claimed non-conforming use creates a dangerous, injurious, noxious or otherwise objectionable condition which causes an adverse impact to the surrounding areas or uses, the person seeking to exercise the legal non-conforming use status shall submit a plan and a time schedule for action which states how such conditions will be mitigated and if the plan is not implemented the non-conforming use status shall expire.

**K. ADMINISTRATIVE FEES**

Any person desiring to mine sand and gravel in the County shall pay the administrative fees set by the County in Section 23.

**L. ENFORCEMENT, PENALTIES, AND REMEDIES**

Enforcement, penalties and remedies shall be as provided in Section 24.

**M. SEVERABILITY**

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the intent of the County that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which this Ordinance or any part thereof are inapplicable has been specifically exempted therefrom.

## **SECTION 11. MP - MASTER PLANNED DISTRICT.**

**A. Intent.** The purpose of this zone district is to permit and encourage the unified planning of large areas or mixed use developments in order to achieve the mixture and variety of land uses that such large scale planning makes possible. The boundaries of this zoning district shall be determined on a case-by-case basis following amendment procedures provided in this Section. A Zone Map Amendment to this District must be sought for any development that will result in one hundred (100) or more dwelling units at full build out and that meet the following requirements of this Section:

1. Result in a development with land uses that are not allowed as permissive uses in a residential zoning district.
2. That meets other requirements of this Section.

In addition, a Zone Map Amendment to this District must be sought for any tract of land within the I-25-Bernalillo Interface Overlay Zone when multiple family residential or nonresidential uses are proposed, regardless of the size of the property.

**B. Application.** Each application for a zone change to establish a Master Planned District must be accompanied by the following information:

1. A conceptual development plan that includes:
  - a. a vicinity map showing the boundaries and acreage of the proposed Master Planned District and the adjacent properties indicating existing uses,
  - b. a delineation of any sub-areas intended for phased development or for distinctive uses, indicating the number of acres and nature of each sub-area,
  - c. a statement of the distribution, type, and intensity of land uses within the proposed Master Planned District, and
  - d. a statement of the proposed traffic or transportation circulation system and its public features.
2. A development plan for all or each portion of the Master Planned District (if phased development is proposed) that contains the following:
  - a. the boundaries and topography of the site,
  - b. a legal description of the site,
  - c. the location and acreage of various land uses, including the number of dwelling units in residential areas, and
  - d. specification of the proposed public dedications and easements; and
3. A supportive data document containing statements and information concerning:
  - a. the purpose and intent of the Master Planned District,
  - b. the development phasing schedule (if applicable) showing dates for anticipated initiation and completion of each phase of the Master Planned District,
  - c. a descriptive and/or graphic representation of any perimeter treatment and/or buffer areas proposed for the Master Planned District with respect to the surrounding land uses,
  - d. the principal effect of the Master Planned District on the surrounding community with respect to traffic and transportation sources for water supply, disposal of solid and liquid waste, schools, fire protection, police protection, and population growth, and
  - e. The consistency of the proposal with the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.

**C. District Standards.** The following standards apply to all land uses within this zone district:

1. The gross residential density in a Master Planned District shall not exceed that which would have been allowed if the site were developed under its previous zoning designation, except as otherwise provided in Section 11 (D) of this Ordinance.
2. A minimum of two percent (2%) of the acreage of the Master Planned District shall be designated as open-space common area for recreational use, provided that there shall be a statement of (a) ownership of the common areas (b) appropriate covenants forbidding partition for future sale and/or non-recreational development; (c) maintenance responsibility; and (d) funding of such maintenance of the common area.
3. The County Board may impose (a) building height restrictions; (b) setback requirements; (c) minimum lot sizes; and (d) other conditions and restrictions that reasonably relate to and advance the purposes of this

Ordinance, the Sandoval County Comprehensive Plan and/or other applicable land use plans adopted by the County.

4. The County Board may require that commercial, service, and employment center uses be provided in appropriate locations within the Master Planned District in conformance to the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.
5. Any recreational facilities provided within open space areas shall be fully improved by the developer and shall be maintained in perpetuity by a homeowner's association or similar entity as approved by the County Board.
6. Any proposed Master Planned development within the I-25/Bernalillo Interface Overlay Zone shall demonstrate connectivity of internal pedestrian trails and networks as well as connectivity to trail networks associated with the 550-Sandoval Rail Runner Station. Such Master Planned developments shall promote the overall goals of Transit Oriented Development as adopted by the Placitas Area Plan.

D. **Gross Residential Density Bonus.** The County Board may allow a gross residential density of up to 3.0 dwelling units per acre for a Master Planned District upon recommendation of the Zoning Commission where, in addition to satisfying other applicable requirements, it is established that the proposed Master Plan District development:

1. Substantially furthers the goals and policies of the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.
2. Includes innovative development design criteria and features that enable the development to conform to the natural character of the area.
3. Protects the natural environment through considerations designed to minimize environmental impacts to the greatest degree possible consistent with the proposed uses.
4. Provides for a variety of residential lot sizes and shapes, and structure heights and designs.
5. Demonstrates efficient utilization of existing roadways and limitation of traffic generation to the greatest degree possible consistent with the proposed uses.
6. Demonstrates exceptional architectural control, enforced via a provision approved by the County Board, that allows new development to blend into and enhance the natural character of the area.
7. Makes adequate provision for necessary law enforcement facilities to serve the present and anticipated future needs of the development;
8. Makes adequate provision by the applicant for necessary fire protection and emergency services facilities to serve the present and anticipated future needs of the development.
9. Makes adequate provision for necessary educational facilities to serve the development;
10. Designates a minimum of five percent (5%) of the acreage of the Master Planned District as common open space for recreational purposes. All areas set aside as open space must meet the following criteria:
  - a. No area shall have a minimum dimension of less than thirty (30) feet;
  - b. Land used for roadways, driveways, parking areas, and private yards shall not be calculated as open space.
  - c. Fences, walls, or buildings shall not divide open space.
  - d. Land included as open space shall not be land that otherwise cannot be developed due to physical limitations.
  - e. The Open Space shall be owned in one of the following ways:
    1. The property owners within the development may have an undivided interest in the open space;  
or
    2. The property owners may establish a homeowner's association organized as a non-profit corporation or trust carrying covenants that run with the land and that are legally recorded with the Sandoval County Clerk's Office.
    3. The Common Open Space may be owned by a public entity or non-profit corporation granted an exemption from Federal Income Tax as described in Section 501 (c) of the United States Internal Revenue Code. Any proposal to transfer the Common Space to such an entity must be approved by the County Board.

## **SECTION 12. URBAN DISTRICTS**

### **SECTION 12 (1). URBAN RESIDENTIAL DISTRICTS**

**A. Purpose.** The residential districts are designed to provide high quality neighborhood areas to meet the varying lifestyles of the city's residents. The zoning classifications range from low to high density and include rural-agricultural, single-family, and multi-family uses. The variety of residential districts is intended to respond to the plans and policies of the County's general plan.

**B. Districts Identified.**

The residential districts are grouped into three categories:

1. Single-Family Districts comprised of the R1-35, R1-15, R1-8, R1-6, and R1-5 categories;
2. Multi-Family Districts comprised of the R-2, R-3, and R-4 categories;
3. Mobile Home Park District comprised of the R-5 category.

### **SECTION 12 (1.1). URBAN SINGLE FAMILY DISTRICTS**

**A. Purpose of Urban Single-Family Residential Districts.**

1. The purpose of the R1-35 and R1-15 Districts is to provide low-density, estate-type residential uses with large animal (horse) privileges. The districts serve as a transition between agricultural uses and urban development.
2. The purpose of the R1-8, R1-6, and R1-5 Districts is to provide a variety of single-family detached residential dwelling types at an urban density. The districts are expected to serve as the predominant residential land use in the county.

**B. Permitted Uses.**

1. One single-family detached dwelling per lot. A mobile home, recreational vehicle or similar vehicle shall not be occupied for dwelling purposes unless located in a recreational vehicle park, mobile home park or mobile home subdivision as provided in this Section.
2. Accessory uses and buildings incidental to the principal use such as pools, garages, sheds and provided any accessory building is not used for sleeping or living quarters.
3. Home occupations.
4. Public parks and public recreation areas.
5. Schools, public or private.
6. Community swimming pools and similar recreational facilities of a non-profit nature when associated with a residential project.
7. Agricultural uses for the purposes of cultivation only. No retail business shall be conducted on the premises except in the R1-35 and R1-15 Districts and in accordance with the provisions of this section.
8. A temporary construction office, shed and/or storage yard in conjunction with on-site construction subject to the following:
  - a. Such use shall be kept so as not to adversely affect other properties.
  - b. A site plan for a temporary construction office, shed and/or storage yard shall be submitted for review and approval by the County Development Department. The County Development Department shall provide a checklist of items to be included on the plan that includes, but is not limited to, vehicle access, parking, exterior lighting, emergency access and signage.
  - c. The temporary construction office, shed and/or storage yard shall be removed when on-site construction is completed.
9. A temporary residential sales office shall be allowed for the on-site sale of homes, subject to the following:
  - a. A temporary sales office shall not be permitted until the final plat has been recorded and the building permits for the model home complex have been issued.
  - b. The temporary sales office shall be allowed for a maximum time of 6 months or until the model home complex is completed, whichever occurs first.
  - c. The temporary sales office shall be located so as not to adversely affect other properties.
  - d. A site plan for the temporary sales office shall be submitted for review and approval by the County Development Department. The County Development Department shall provide a checklist of items to be

included on the plan that includes, but is not limited to, vehicle access, parking, exterior lighting, emergency access, signage and landscaping.

10. A subdivision model home complex for the on-site sale of homes subject to the following:

- a. The subdivision plat shall be recorded, infrastructure construction permits issued and house plans approved before building permits for the model home complex are issued.
- b. A model home complex plan shall be submitted for review and approval by the County Development Department prior to the issuance of building permits for the models. The County Development Department shall provide a checklist of items to be included on the plan that includes, but is not limited to vehicle access, parking, exterior lighting, trap fences, emergency access, signage and landscaping.
- c. A certificate of completion shall not be issued for a model home until the infrastructure improvements required to service the model home complex are accepted by the County.
- d. All model homes shall be for sale in the subdivision where the complex is located.
- e. All temporary improvements provided for the model home complex shall be removed or converted before a model home is occupied as a residence. This includes, but is not limited to temporary parking, garage sales offices, lighting, trap fences, lot walls and signage.

11. A subdivision model home complex may be used for off-site sales subject to the requirements of section 12(11).B.10 and the following:

- a. The off-site sales shall be for lots located within the County.
- b. A model home complex shall not be used only for the purpose of off-site home sales. Construction shall be ongoing in the subdivision within which the complex is located while models are used for off-site sales.
- c. A model home complex shall only be used to market off-site homes until ninety-seven (97) percent of the lots in the subdivision that the complex is located in are sold.

12. In R1-35 Districts, the keeping of livestock is permitted at a ratio of one animal per twenty-one thousand seven hundred eighty (21,780) square feet of lot area. Such livestock shall not be corralled or stabled within sixty (60) feet of any lot line. Corrals and stables shall be located in the rear yard.

13. A family Child Care Home Facility with a capacity of six (6) or less children at one time.

14. A Community Residential Care Facility with a capacity of up to ten (10) residents and staff, providing all State of New Mexico regulations are met.

**C. Uses permitted subject to a conditional use permit.**

1. Public utility and municipal buildings and facilities; however, storage, repair and public works yards and similar uses are prohibited.
2. Churches, convents, and parish houses in the R1-35 and R1-15 Districts only.
3. Cemeteries, mausoleums, crematoriums.
4. Mobile home subdivisions subject to Section 12(11).D. herein.
5. Bed and breakfast only in R1-35 Zoning Districts and subject to the following:
  - a. The bed and breakfast shall be owner-occupied. The guest rooms shall be part of the primary residence.
  - b. No more than four (4) rooms with a maximum of three (3) guests per room shall be allowed for the bed and breakfast.
  - c. The bed and breakfast shall not have more than one (1) commercial delivery or outside service in a 24-hour period.
  - d. The conditional use permit is non-transferable and shall be subject to review and may be revoked if the use authorized therein has been exercised in violation of this section or the approval conditions.
  - e. Meals shall be served only to overnight guests and residents.
  - f. No alteration to the exterior or interior of the residential dwelling, accessory building or yard that alters the residential character of the premises shall be permissible.
  - g. Off-street parking shall be at a rate of one (1) space for each two (2) sleeping rooms.
  - h. Except as provided by city code and/or other regulations, no storage of commercial vehicles shall be allowed.
  - i. The bed and breakfast shall not be used for the hosting of receptions, private parties or similar events.
  - j. A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the County Fire Department.

- k. The bed and breakfast inn shall comply with all other provisions of the zone in which it is located and with all other applicable ordinances, codes or regulations.
6. Day care or nursery school in conjunction with a church provided such activities are on the same lot and share joint use of church facilities. Independent freestanding or wall identification signs for the day care or nursery school are not permitted.
7. A Family Child Care Home Facility when more than seven (7) children and no more than twelve (12) children will be on the premises at the same time.

**D. Mobile Home Subdivisions.**

Mobile home subdivisions shall be permitted in any Single-Family Residential District upon approval of a conditional use permit and in accordance with the following standards and requirements.

1. All lots and units placed thereon shall comply with the yard, height, and area requirements of the applicable zoning district as outlined in Section 12(11).G. herein.
2. All dwelling units shall be attached to a foundation, which meets county building code requirements. The foundation shall be skirted or painted to match the mobile home.
3. All dwellings shall have a two-car garage or carport connected to a public street or access easement by at least a twenty (20) foot long driveway.
4. All mobile home subdivisions shall meet the development standards for single-family residential subdivisions in Section 12(11).H.
5. A landscape package for each unit should be provided consisting of a minimum of two (2) fifteen (15) gallon trees to be planted along the street frontage.

**E. Yard, Height, Area, and Density Requirements.**

The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 12(11).H.

<i>District</i>	<i>R1-35</i>	<i>R1-15</i>	<i>R1-8</i>	<i>R1-6</i>	<i>R1-5</i>
Minimum net site area	35,500 sf	15,000 sf	8,000 sf	6,000 sf	6,000 sf
Density in du/acre	1.0	2.4	4.0	5.0	6.0
Minimum lot width	140'	115'	75'	60'	60'
Minimum lot depth	175'	120'	94'	94'*	94'*
Maximum height	30'	30'	30'	30'	30'
Maximum bldg. coverage	15%	20%	40%	40%	50%
Minimum setbacks: front yard	40'	35'	25'	20'	20'***
Total both side yards	40'	30'	15'	15'	10'
Minimum side yard	20'	15'	5'	5'	0'***
Rear yard	35'	30'	20'	15'	15'
Street side	25'	20'	10'	10'	10'

\*Adjacent to an arterial street or freeway, all reverse frontage lots shall have a depth of one hundred five (105) feet.

\*\* May be reduced to fifteen (15) feet in accordance with subsection 202.H.3.d.

\*\*\* Zero lot line development is permitted. Minimum separation between buildings shall be ten (10) feet.



**F. Development Standards for Single-Residential District.**

The following standards shall apply to single-family residential subdivisions and certain types of residential units built within the city. The intent of these standards is to establish a minimum level of environmental quality within Sandoval County as well as a consistent method of evaluating new projects. The standards set objectives for the developer/designer to meet and are not intended to restrict or impede creativity and imagination. In the event of conflict between the provisions of this section and subsection G., "Yard, Height, Area, and Density Requirements", the provisions of this section shall prevail.

**1. Standards for all single-family residential subdivisions.**

- a. Each project shall have a unique entry feature to provide individual identity to the development. Entry features may include a combination of some of the following elements: Entrances paving (such as bomanite), fountains, distinctive landscaping treatment, planters, special wall treatment, gates, etc.
- b. A minimum of six (6) foot and maximum eight (8) foot wall shall be required along the rear of reverse frontage single-family lots along collector or arterial streets. Such walls shall be constructed of slump block, brick, or masonry with a stucco or mortar wash finish and decoratively designed with details such as inlaid tile or brick work, cap tiles, wall insets or offsets, pilaster treatments, etc. Long, straight, unbroken walls are discouraged. Landscaping is required to be installed in accordance with city standards within the collector or arterial right-of-way.
- c. Landscaping shall be required along the rear of reverse frontage single-family lots along collector or arterial streets in accordance with the standards specified below.
  - (1). Trees with a minimum size of fifteen (15) gallons shall be planted at the rate of one (1) tree per twenty (20) feet of linear street frontage. At least twenty-five (25) percent of the trees shall be 24-inch box size.
  - (2). Shrubbery with a minimum size of five (5) gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two (2) shrubs per twenty (20) feet of linear street frontage.
  - (3) Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.
  - (4) A minimum of twenty-five (25) percent of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of grass or other living plant materials characterized by horizontal growth which generally does not exceed eighteen (18) inches in height.
  - (5) Vegetative ground cover shall be so located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.
  - (6). Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

**2. Design standards for single-family residential units located on lots in the R1-5, R1-6, or R1-8 Districts.**

The following design features are suggested for residential units built in conventional residential tract subdivisions with lot sizes ranging from five thousand (5,000) to twelve thousand (12,000) square feet. Subdivisions comprised of custom home sites where each unit is individual in its design are exempt from these standards.

- a. A minimum of three (3) elevations for each house plan is recommended. The elevations should provide variety in architectural design, incorporating features such as different rooflines, window treatment, architectural details, and building material (unless the project is oriented toward a particular architectural theme).
- b. The same house plans with the same or similar elevations should not be placed on adjacent lots or directly across the street from one another.
- c. Each unit shall have a two (2) car garage.
- d. Entryway features are recommended to define the main entrance of the unit and break-up the facade, such as recessed or covered entryways, decorative screen walls and planters, arches, pillars, and other architectural features.
- e. Masonry perimeter lot fences, minimum six (6) feet in height, shall be required for durability and longevity.

- f. Below are the minimum standards required for solar water heating:
  - 1. Any homeowner's association's covenants, conditions and restrictions, implementing bylaws, or guidelines may specify more restrictive requirements.
  - 2. Solar water heating units which are an integrated part of the roof design are preferred. If the solar water heating units are not flat, as preferred, they shall be installed as to not rise more than eight (8) inches from the roof surface. They must appear to be part of the roof structure itself and be the same color as the roof or glass enclosed. Collectors requiring a high angle of installation shall be fully screened from view with a material that blends with existing architecture and color.
  - 3. No preheat, tempering, or holding water tanks shall be located on the roof or side the structure. Heating/air conditioning units shall be ground mounted on a concrete pad.
  - 4. All wiring and piping for solar water heaters and air conditioning units shall be installed as to not be visible from neighboring properties or the street.
- g. The use of stucco, masonry, or lap siding are recommended as exterior building wall finishes for the front of each unit. Hardboard siding may be used on the sides and rear of the unit, on the gable ends of the roof, and on the front of the unit for architectural accent.
- h. A landscaping package for each unit should be provided by the builder/developer consisting of a minimum of two (2) fifteen (15) gallon trees per unit to be planted along the street frontage.
- i. Decorative window treatments on the front of the unit (such as bay windows, trim work, recesses, pop outs) are encouraged.

**4. Additional design standards for single-family residential units located on lots in the R1-5 District** (compact or zero lot line units). In addition to the standards in Section 12(11)H.3. above, the following standards shall apply to compact or zero lot line units.

- a. Masonry perimeter lot fences minimum six (6) feet in height, shall be required. Those sections of fences and walls facing a public street shall be finished to complement the main building materials.
- b. Zero lot line units should be designed to present a "wide" building facade to the public streetscape to minimize the visual impact of the garage on the architecture of the unit. Units, which are so narrow that the garage becomes the visual focal point of the building, shall be strongly discouraged. The following architectural techniques may be used to accomplish this design goal.
  - 1. Placement of living areas of the unit at or near the front setback line of the lot.
  - 2. Garages which are recessed behind the living areas.
  - 3. Variation in orientation of garages (side entry, angled entry, etc.).
  - 4. Decorative screen walls and planter areas.
  - 5. Recessed garage doors.
  - 6. Decorative garage doors.
  - 7. Special entryway treatments to the unit.
- c. In addition, the following features may also be used to assist in improving the streetscape appearance and break-up the garage door facade.
  - 1. Curvilinear streets.
  - 2. Variation in unit setbacks.
  - 3. Extensive landscaping in open areas along streets.
- d. Recreation facilities and common open space areas are suggested in each zero lot line project.
- e. A twenty (20) foot driveway between the sidewalk and face of the garage shall be required on all units where garage entrances are perpendicular to the street. Front setbacks of the units from the streets may be variable where side entry garages are used or where garages are recessed behind the living areas of the units.

## **SECTION 12(1.2). URBAN MULTI-FAMILY DISTRICTS**

### **A. Purpose of Multi-Family Districts.**

1. The purpose of the R-2 District is to promote the ownership of individual units at a medium level of density, including single-family detached units, condominiums, duplexes, and townhouses. The density range will allow for less individual unit maintenance, cost, and size compared to the Single-Family Districts.
2. The purpose of the R-3 and R-4 Districts is to provide for medium to high-density lifestyles encompassing condominiums and rental units. These districts are appropriate in high activity areas of the city, adjacent to commercial areas. Care shall be exercised in the design of these multi-family uses to minimize their impact on adjacent single-family areas.

### **B. General Requirements.**

1. All new buildings and uses of land or substantial additions to or remodeling of existing buildings shall be subject to site plan review in accordance with Section 15.G.1.
2. Refer to Section 13 for off-street parking requirements.

### **C. Permitted Uses.**

1. All uses permitted in Section 12(11).B.
2. Multi-family dwellings including duplexes, townhouses, condominiums, apartments or other cluster housing types.

### **D. Uses Permitted Subject to a Conditional Use Permit.**

1. All uses permitted as conditional uses under Section 12(11).C.
2. Private clubs and lodges of a non-profit nature.
3. Day care centers and nursery schools.
4. Nursing Homes.
5. Group Recovery Home.

### **E. Yard, Height, Area, and Density Requirements.**

The following table outlines the minimum development standards within each district. Yard, height and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 12(12).F.

<b>MULTI-FAMILY RESIDENTIAL DISTRICTS</b>			
District	R-2	R-3	R-4
Minimum net site area	2 acres	6000 sf	6000 sf
Minimum lot area/unit	4500 sf	3000 sf	1980 sf
Density in du/net acre	9.7	14.5	22.0
Minimum lot width	35'	60'	60'
Minimum lot depth	90'	94'	94'
Maximum height	30'	30'	30'
Maximum bldg. coverage	40%	45%	45%
Minimum setbacks:			
Front yard	20'*	25'	25'
Side yard	**	**	**
Rear yard	15'	15'	15'
Street side	20'***	20'	20'

\* May be reduced to ten (10) feet in the case of a single-family attached or detached units where a twenty (20) foot long driveway is provided (see subsection 202.H.3.d).

\*\* Zero (0) feet for lots with common walls; ten (10) feet for lots with no common walls.

\*\*\* May be reduced to ten (10) feet in the case of single-family attached or detached units.

**F. Development Standards for Multi-Family Residential Districts.**

**1. Applicability.**

- a. In the event a lot within the R-2, R-3, or R-4 Districts is developed into single-family attached or detached units, the development standards of Sections 12(11).G. and H. shall apply.
- b. Except as noted in subsection F.1.a. above, the development standards cited herein shall apply in all Multi-Family Districts.

**2. Purpose.**

The intent of these standards is to promote sound design principles and high quality residential environments for residents of multi-family projects. The standards promote privacy for residents and strengthen property values while reducing the impact of high-density development on adjacent land uses.

**3. Open space.**

- a. "Common open space" is defined as that portion of a parcel not covered by buildings (including patios, parking areas, or driveways). Such areas shall be devoted to the purpose of outdoor living space for the residents and may include lawn areas, walkways, sitting areas, courtyards, and outdoor recreation facilities. Buildings, structures, or other impervious surfaces devoted to meaningful recreation or open space uses shall be considered as open space.
- b. "Floor area" includes all areas for residential use measured from the outside faces of exterior walls including balconies, entryways, stairwells, offices, lobbies, patios, and any other space used for habitation.
- c. "Private outdoor space" is that portion of the unit or lot devoted to outdoor recreational use of the individual resident(s) of the unit or lot.
- d. The amount of common open space provided in a project shall equal or exceed the multiple of one and one-half (1.5) times the first floor area of all buildings up to a maximum of forty-five (45) percent of the net lot area.
- e. A minimum of thirty (30) percent of the required common open space shall be provided along the public street frontage in the form of landscaping setback. Such areas shall not be required to exceed fifty (50) feet in width nor shall be less than twenty-five (25) feet in width.
- f. No more than fifty (50) percent of the required front yard landscaped area or any other street frontage area may be used for storm water retention purposes. Side slopes of basins should not exceed a 6:1 slope. The maximum side slope shall be a 4:1 ration.
- g. Required yards and landscaped setback areas fronting on a public street shall be entirely landscaped except for necessary driveways and walkways. Parking is not permitted within the required setback area.
- h. Common open space shall be the central focus of the project. Open space should link recreation facilities with the dwellings and be uninterrupted by vehicular circulation or parking areas.
- i. Private outdoor space shall be provided in the form of patios or balconies with a minimum size of sixty (60) square feet per unit and minimum dimension of six (6) feet.

**4. Building separation.**

- a. Where a lot is occupied by a group of two or more related buildings, the minimum dimension of a yard upon which the principle entrance or exit of a multi-family building shall face, shall be according to the following schedule:

<b><i>Building Height</i></b>	<b><i>Minimum Yard Dimension</i></b>
1 story	20 feet
2 story	30 feet

- b. The minimum separation between buildings on a multi-family site shall be fifteen (15) feet.

**5. Relationship of project to surrounding land uses.**

The relationship between a multi-family project and adjacent uses, building scale, density and building heights. Particular sensitivity shall be displayed to the relationship between a multi-family project and adjacent residential uses of lesser density to minimize the impact on those less-dense areas.

- a. Multi-family buildings shall be limited to a height of one story within fifty (50) feet of a single-family residential area or zoning district. Multi-family buildings two stories in height or greater shall not be placed within seventy-five (75) feet of a single-family residential area or zoning district.
- b. Individual design situations may dictate additional conditions or considerations to minimize the impact of a multi-family development on adjacent residential uses through the imposition of one or more of the following design considerations:
  - 1. Use of one-story buildings;
  - 2. Additional landscaping to serve as buffer area;
  - 3. Wider setbacks from property line;
  - 4. Modifying the orientation of buildings;
  - 5. Modifying the orientation of windows and balconies;
  - 6. Providing screen walls.
- c. Common recreation facilities in a project shall be located to minimize the intrusion of noise into adjacent residential area.
- d. Pedestrian and visual linkages shall be made between a project and off-site amenities.
- e. The project shall be designed to minimize negative traffic impacts on the surrounding uses.

#### **6. Landscaping**

- a. A minimum ten (10) foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of fifteen (15) gallons shall be planted every fifteen (15) feet on center within the area. A six (6) foot high masonry wall shall be required along the property line. Any walls facing public streets shall be finished with stucco or other materials to match the main buildings on the site.
- b. Along public street frontages, minimum fifteen (15) gallon sized trees shall be planted at a ratio of one tree per twenty (20) feet of frontage. A minimum of twenty-five (25) percent of the required trees shall be twenty-four (24) inch box size.
- c. Within common open space areas, minimum fifteen (15) gallon sized trees shall be planted at a ratio of one tree per dwelling unit.
- d. Open space areas along public street frontages shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages:
  - (1). Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.
  - (2). Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for the residents.
  - (3). No more than fifty (50) percent of the required front yard landscaped area may be used for storm water retention purposes.
- e. Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of fifty (50) percent of the building frontage facing public streets shall have foundation plantings.
- f. Landscaped islands within parking areas shall be installed at least every twelve (12) consecutive parking spaces. Such space shall be a minimum of five (5) feet wide and contain at least one fifteen (15) gallon sized tree.

#### **7. Parking.**

- a. All parking lots shall be screened from public streets by masonry walls or earth berms or combination thereof to a height of at least three (3) feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Such walls shall be designed and colored to match the main buildings on the site.
- b. One covered parking space per unit shall be provided.

#### **8. Building design.** Building design is often a matter of individual opinion and difficult to prescribe. The following elements of design shall be considered and encouraged in the architecture of multi-family buildings.

- a. The residential scale and character of a project shall be emphasized. The mass of the building can be reduced by varying setbacks and building heights or by angular orientation of buildings.

- b. The use of balconies, overhangs, covered patios, and trellises can provide relief and contrast to the building and assist in breaking up large wall surfaces.
- c. Buildings shall be designed in concert with each other by carrying certain details and design elements throughout the project, but at the same time avoiding monotony.
- d. Roof lines shall be varied providing different heights or varying roof orientations. Parapet walls should be interrupted by pitched roofs to provide variety to the roof and building line.
- e. Pitched roofs shall be composed of mission tile, concrete tile, wood shake, or similar grade material.
- f. The architectural detailing and treatment of windows and doorways shall be strongly considered through the use of clerestory windows, arched shapes, bay windows, recessed windows, raised borders, awnings, shutters, and trellis.
- g. The individuality and privacy of units shall be emphasized throughout the use of private or semi-private entryways. Cat walks or long corridors lined with entrances to units shall be discouraged.
- h. Entryways and stairwells shall be an integral part of the building design. Consideration should be given to partially screening stairwells or using unique architectural treatments so that they blend in with the overall building elevation.
- i. Patio walls and fences shall be an integral part of building design and shall match the main building materials.
- j. Mechanical equipment shall be screened from public view and be so located to be perceived as an integral part of the buildings.
- k. Exterior perimeter walls of a project facing public streets shall be constructed of a slump block, brick, or masonry with a stucco finish to match the main building materials.

#### **SECTION 12(1.3). URBAN MOBILE HOME PARK DISTRICTS**

**A. Purpose.** The purpose of the R-5 District is to provide an alternative living style and dwelling type to conventional single-family and multi-family housing. Standards contained herein are designed to afford adequate separation of mobile home units, screening, and open space in order to enhance the park environment.

**B. Permitted Uses.**

- 1. One mobile home on each space, including carports, ramadas, patios, storage rooms and similar accessory structures.
- 2. Recreational vehicles provided no more than fifteen (15) percent of the spaces in the park are used by RV's.
- 3. Accessory uses common to mobile home parks including community recreation building, parking areas, laundry facilities manager's office and living quarters, boat and trailer storage area and other similar accessory uses for the exclusive benefit of park residents.
- 4. Temporary construction offices, sheds, storage yards, and residential sales offices while construction is ongoing within the project. Such uses shall be kept in a neat and orderly condition and be located so as not to adversely affect residents in the project.
- 5. Home occupations.

**C. General Requirements.**

- 1. All new mobile home parks or expansions of existing mobile home parks shall be subject to site plan review in accordance with Section 15.G.1.
- 2. Refer to Section 13 for off-street parking requirements.

**D. Development Standards.**

- 1. The minimum size of a mobile home park shall be ten (10) acres.
- 2. The maximum number of mobile home spaces or units per acre shall be seven (7).
- 3. The minimum width of mobile home rental spaces shall be fifty (50) feet with a minimum length of seventy (70) feet.
- 4. The minimum width of private driveways or accessways within the park shall be twenty-four (24) feet. Each unit shall have access to a private driveway or accessway connected to a public street.
- 5. The minimum space between mobile homes shall be twenty (20) feet. This dimension may be reduced to ten (10) feet between awnings or canopies.
- 6. No mobile home shall be closer than eight (8) feet to a private driveway.

6. A minimum of five (5) percent of the site shall be devoted to usable common open space for all residents, excluding streets and private driveways, parking and storage areas, or required setbacks at the exterior boundaries of the site.
8. All areas not covered by structures or paving shall be landscaped.
9. The maximum height of any building or mobile home shall be thirty (30) feet.
10. Each mobile home shall be skirted to screen wheels and undercarriage.
11. All electric power lines, telephone lines, cable TV lines and similar utilities shall be placed underground.
12. No mobile home shall be located closer than fifteen (15) feet to the perimeter of the park. Where the perimeter of the park adjoins a public street, the setback shall be twenty-five (25) feet. Within this setback area, trees with a minimum size of fifteen (15) gallons shall be planted every twenty (20) feet on center.
13. A minimum six (6) foot and maximum eight (8) foot wall shall be constructed around the perimeter of the park. Where said wall fronts onto a public street, the wall shall be constructed of slump block, brick or masonry with a stucco finish.
14. Any part of the mobile home park fronting on a public street shall meet the screening and landscaping requirements for single-family residential subdivisions contained in subsection 12(11).H..
15. A storage yard for boats, trailers, and RV's shall be required. The minimum size of such area shall be sixty (60) square feet per mobile home space.

## **SECTION 12(2). URBAN COMMERCIAL DISTRICTS**

### **A. Purpose and Intent.**

Commercial districts provide activity centers with shopping and services, employment for local residents and additional revenue to strengthen the city's economic base. Commercial zoning standards are intended to ensure convenience, safety, positive community image, variety in retail uses, commerce and office development that enhances the citizens' quality of life. Zoning classifications include classifications for (i) offices, (ii) neighborhood, community and regional businesses and (iii) unique commercial uses found in the city's traditional commercial area. Use intensities and site development criteria are intended to mitigate impact on, as well as maintain compatibility with adjacent residential areas.

### **B. Establishment of Commercial Districts.**

The following commercial districts are established:

1. **Commercial Office District (C-O):** This district is intended to provide an environment desirable for and conducive to development of office and related uses. In addition, certain other kinds of uses are permitted under conditions and standards, which assure compatibility with a general concentration of office uses, as well as with the residential districts, which often adjoin the C-O District. This district will generally serve to provide a transition from more intensive to less intensive uses and will most frequently occur between commercial and residential districts.
2. **Neighborhood Commercial District (C-1):** This district is intended to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent neighborhoods. The C-1 Commercial District provides for neighborhood commercial centers having a supermarket as a principal tenant and with a trade area limited generally to adjacent neighborhoods. This district is intended to be the primary type of neighborhood commercial development. It is further intended that C-1 Districts be restricted to the intersection of arterial streets. No one user shall have a building in excess of one hundred thousand (100,000) gross square feet.
3. **Community Commercial District (C-2):** This district is intended to accommodate development of commercial complexes providing goods and services to a community-wide trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with individual users with a building square footage in the range of one hundred thousand (100,000) to two hundred thousand (200,000) gross square feet.
4. **Major Commercial District (C-3):** This district is intended to accommodate development of large-scale planned commercial complexes providing goods and services to a community-wide and regional trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with some individual users with a building square footage in excess of two hundred thousand (200,000) gross square feet.

### **C. Land Use Matrix.**

The following land use matrix shows the uses, which are permitted outright (P), permitted conditionally (C), permitted as accessory uses (A) or prohibited (-) in specific commercial zoning districts in Sandoval County. The land use matrix is intended to serve as a guide for the convenience of the user of this zoning ordinance. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail.

**Land Use Matrix**

<b>LAND USE</b>	<b>C-O</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
<b>AUTO-ORIENTED USES</b>				
Auto supply store, indoor	-	C	C	C
Auto body and engine repair, upholstery, painting facilities, and similar uses	-	-	-	C
Automobile, boat, recreational vehicle, or motorcycle, sales and rental	-	-	C	P
Automobile leasing facility	-	C	C	P



Automobile service and diagnostic facility	-	-	C	C
Car wash, mechanical, self service	-	-	C	C
Emissions testing facility	-	-	-	P
Gas service station with retail gasoline sales, convenience store, and car wash	-	-	C	C
Tire sales, repair and mounting	-	-	C	C
Truck stop, including wash	-	-	-	C
<b>EATING &amp; DRINKING ESTABLISHMENTS</b>				
Restaurants and similar uses	C	P	P	P
Drive-thru restaurants	-	C	P	P
Tavern, bar, lounge or establishment that sells beer or intoxicating liquor for consumption on premise, excluding restaurants and adult uses	-	-	C	C
<b>ENTERTAINMENT, COMMERCIAL RECREATION &amp; ASSEMBLY USES</b>				
Commercial sporting complexes, concert facilities, stadiums, and similar outdoor recreational facilities	-	-	-	C
Convention centers and exhibition halls	-	-	P	P
Dancing, theatrical or music studio	-	C	P	P
Health and exercise center	C	C	P	P
Indoor commercial recreation/entertainment uses such as movie theaters, bowling alleys, game rooms, video arcades, ice and roller skating rinks, shooting ranges, pool and dance halls, bingo halls, and similar uses, excluding adult uses and taverns bars and lounges	-	-	P	P
Outdoor commercial recreational/entertainment uses such as amusement parks, fairgrounds, golf courses, golf driving ranges, commercial racetrack, rodeo grounds, shooting range, swimming and tennis clubs, and similar uses	-	-	-	C
Reception centers, recreation and social/private clubs	-	-	C	P
Resorts	-	-	P	P
<b>INSTITUTIONAL USES</b>				
Vocational school	-	-	P	P
Business or technical school	P	C	P	P
College or university	-	-	P	P
Churches, synagogues, temples, and similar places of worship	P	P	P	P
Cultural institutions	P	C	P	P
Day care centers or Pre-school centers	C	C	C	C
Libraries and museum	P	P	P	P

Assisted living facility, nursing or convalescent home, long term care facility & hospices, and group care facility	C	-	-	-
Post office	P	P	P	P
Public service and non-profit community uses	C	C	C	C
Public utility buildings, structures, uses, facilities and equipment	C	C	C	C
Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools	P	C	P	P
Substance abuse detoxification and treatment centers, halfway house	-	-	-	C
Zoo (private, public)	-	-	-	C
<b>OFFICE/MEDICAL USES</b>				
Ambulance service facility	-	-	C	C
Emergency medical care facility	P	C	P	P
Hospitals	-	-	P	P
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	C	P	P
Veterinary hospital, offices and clinics, excluding animal boarding	-	C	C	C
Professional, administrative or business offices, banks and financial institutions, excluding non-chartered financial services	P	P	P	P
<b>PERSONAL SERVICES USES</b>				
Appliance service and repair	-	C	P	P
Clothing alteration, custom dressmaking or tailor shop	-	P	P	P
Dry cleaning and laundry establishment	C	P	P	P
Employment Agencies	-	-	C	C
Laundromat, self-service	-	P	P	P
Nail salon, barber shop, and beauty salon	C	P	P	P
Personal service establishments such as tanning salon, massage therapy, palm readers, phrenologists, fortune tellers and astrologers, excluding adult uses	-	-	C	C
Photographic developing and printing studio	-	P	P	P
Ticket and travel agency	P	P	P	P
<b>RESIDENTIAL &amp; LODGING USES</b>				
One caretakers quarters	A	A	A	A
Dwelling units above the ground floor of a building	C	C	C	C
Hotel or motel	-	-	P	P

<b>RETAIL USES</b>				
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	A	P	P	P
Equipment sales, rental and storage yard	-	-	-	C
Monument sales and engraving shop	-	-	-	P
Pawn shop	-	-	-	C
Plant nursery	-	-	C	P
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	C	P
Specialty stores and services, indoor, excluding liquor stores	-	P	P	P
Surplus store, thrift store	-	-	-	P
<b>MISCELLANEOUS USES</b>				
Accessory buildings, structures and uses customarily incidental to a permitted use	A	A	A	A
Automatic teller machine (ATM)	P	P	P	P
Bus terminals	-	-	C	C
Cemetery, crematorium, mausoleum, funeral home and chapel, mortuaries and columbariums	-	-	C	C
Day labor hiring centers	-	-	-	C
Mini-storage warehouses	-	-	C	C
Moving truck, trailer and equipment rental	-	-	C	P
Office warehouses	-	-	C	P

*P = Permitted Use*

*C = Conditional Use Permit required.*

*A = Accessory Use*

*- = Not Permitted*

**D. General Regulations.**

1. All activities, except as otherwise permitted herein, shall be conducted entirely within enclosed buildings.
2. Outdoor storage of goods and materials shall be prohibited.
3. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall be prohibited.
4. All new buildings and uses of land or substantial additions to or remodeling of existing buildings/uses shall be subject to site plan review in accordance with Section 106.
5. Office buildings uses as the primary use: Retail sales of new merchandise and restaurants shall be allowed provided that such uses shall not exceed twenty-five (25) percent of the gross square footage of the building.

**E. Conditional Use Development Standards.**

1. Automobile service and diagnostic facilities, auto supply stores, auto body and engine repair facilities, upholstery and painting facilities, tire sales repair and mounting facilities and similar uses may be allowed as conditional uses in certain commercial districts subject to the following provisions:
  - a. Outdoor displays of merchandise sold on the premises, not exceeding one-hundred (100) square feet, shall be allowed during normal business hours. However, no outdoor storage shall be permitted.
  - b. The exterior design of all buildings shall meet the Sandoval County design requirements.
  - c. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six (6) feet in height constructed according to the Sandoval County wall standards, with a minimum twenty (20) foot landscaping buffer between the masonry wall and the property line abutting the residentially zoned property.
2. Automobile leasing facilities may be allowed as conditional uses in certain commercial zones, provided that:
  - a. No more than six (6) vehicles shall be stored on site in association with an office location, which is part of a commercial center, or commercial complex that includes retail uses.
  - b. Automobile storage shall be limited to paved areas and shall not occupy required parking spaces or access lanes.
3. Car washes, mechanical, and self-service may be allowed as conditional uses in certain commercial zones provided that:
  - a. The site for the car wash shall have a minimum width of one hundred fifty (150) feet and a minimum area of twenty-two thousand five hundred (22,500) square feet after dedication of all required public right-of-way.
  - b. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six (6) feet in height, with a minimum ten (10) foot landscaping buffer between the masonry wall and the property line abutting residentially zoned property.
  - c. Lighting shall be directed toward the site and shall not cause undesirable glare to nearby residential properties.
  - d. Design of structures and site shall be compatible with the type of development in or anticipated in the nearby areas and meet the design criteria of Sandoval County.
  - e. All bays shall be oriented away from adjacent streets and residential areas. Appropriate screening may be used when approved by the Director of County Development.
4. Convenience stores/gas service stations may be permitted as conditional uses in certain commercial districts, provided that:
  - a. Facilities for tire changing and repair, polishing, lubing, washing and minor repair and servicing of motor vehicles shall be entirely within an enclosed building. Body repair, engine rebuilding, bumping, painting, vehicle or trailer rental and general sales of auto parts shall be expressly prohibited.
  - b. Paved areas shall be reduced to the smallest area commensurate with efficient operation and function of the site. All unpaved areas shall be maintained in turf or landscaping.
  - c. The site has minimum frontage of one hundred fifty (150) feet on one arterial street.
  - d. The design of all buildings shall meet Sandoval County design requirements and be compatible with the existing and anticipated surrounding development. In addition, the roofline and the architecture of the canopies shall be stylistically consistent with the other buildings on the site and shall not exceed one hundred fifty (150) lineal feet on any side.
  - e. All canopies, accessory equipment and fuel pump mechanisms shall meet the principal building setback requirements of the applicable zone.
  - f. Convenience stores/gas service stations proposed at the intersection of two arterial streets shall receive approval from the Zoning Commission prior to site plan submittal.
  - g. Service and car wash bays shall not face residential properties or public streets unless entirely screened in a method acceptable to the Director of County Development.
5. Recreation facilities and social clubs and reception centers may be permitted as conditional uses in certain commercial districts, provided that:

- a. Any restaurant or bar operated in connection with a recreation and social club or a reception center shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
- b. Golf fairways, greens and tees, swimming pools, tennis courts and similar outdoor recreation facilities shall be located not less than twenty-five (25) feet from any property line.
- 6. Veterinary offices, hospitals and clinics (excluding animal boarding) may be permitted as conditional uses in certain commercial districts, provided that:
  - a. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.
  - b. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.
  - c. Outdoor runs or exercise pens shall be prohibited unless approval from the Zoning Commission is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than one hundred (100) feet to any street, residential district or existing restaurant, hotel or motel.
- 7. Mini-storage warehouses may be permitted as a conditional use in certain commercial districts, provided that:
  - a. Doors of the storage areas shall not front or face onto any public street or residential use.
  - b. Only indoor storage shall be permitted and there shall be no sale or rental of goods, materials or other tangible or intangible property from the facility or any part thereof and there shall be no activities conducted on the premises whether related to the stored items or otherwise. The sale of insurance by the operator on goods stored therein or the sale therein or the sale by the operator of items used in connection with the storage of goods at the site shall not be prohibited.
  - c. No hazardous or flammable materials, as defined in the International Building Code, shall be stored in such facility.
  - d. Any structure may be exempt from side and rear yard setbacks, provided, that in all cases where the conditional use abuts any residential district on its side or rear lot lines, there shall be a side yard of not less than twenty-five (25) feet and a rear yard of not less than twenty-five (25) feet.
  - e. A wall with a minimum height of six (6) feet and a landscaping screen, all as approved by the Director of County Development, shall be constructed on the side and/or rear property lines.

**F. Property Development Standards.**

- 1. **Area and density.** No standard is established.
- 2. **Coverage.** Full coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the Zoning Commission.
- 3. **Setbacks.**
  - a. **Front yard.** No front yard setbacks are required and the maximum setback permitted shall be ten (10) feet which may be used for landscaping, pedestrian, circulation, entry court, outdoor dining, and similar uses related to a downtown pedestrian environment.
  - b. **Side yard.** No side yard setbacks shall be required, except as follows:
    - 1. Where the side property line abuts residential zoned property, no setback shall be required for the ground floor portion of the structure or first fifteen (15) feet of structure height, whichever is less. Portions of the structure above the ground floor or fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side property line.
    - 2. Where the side property line abuts dedicated alley which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten (10) feet, which shall be measured from the center line of said alley and the forty-five-degree angle of the afore described plane may be measured at the ground level along the center line of said alley.
  - c. **Rear yard.** No rear yard setbacks shall be required except as follows:
    - 1. Where the rear property line abuts residential zoned property a minimum rear yard setback of twenty (20) feet shall be maintained, except that no portion of any structure shall encroach through a plane projected from an angle of forty-five (45) degrees measured at the ground level along the rear property line.

2. Where the rear property line abuts a dedicated alley which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of twenty (20) feet which shall be measured from the center line of said alley and the forty-five (45) degree angle of the afore described plane may be measured at the ground level along the center line of said alley.
  - d. Height. Maximum height of all structures shall be three (3) stories.
  - e. Width. For purposes of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, public or private parking lot, or pedestrian mall/arcade or passage.
4. **Design standards.**
- a. Exterior modifications requiring a building permit shall be subject to the site plan review process and the appeal procedures for site plan review set forth in Section 19.A.1.
  - b. Exterior modifications that do not require a building permit shall be reviewed and approved by city staff according to procedures established by the Director of County Development or designee.
5. **Joint-Use Parking.**
- a. Eligible development. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:
    1. Non-residential new construction on sites of less than twenty thousand (20,000) square feet in size.
    2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theaters;
    3. Existing buildings with uses or occupancies as specified in Section 12(2) of this ordinance, including additions to and rehabilitation of such buildings; and
    4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 12(2) to any uses or occupancies specified in Section 12(2).
  - b. Ineligible development. The following types of uses are not eligible to use joint-use parking standards:
    1. New or existing residential uses; and
    2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.
  - c. Alternative joint-use parking standards. Section 13 the Sandoval County Zoning Ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within a Commercial Zoning District may choose to provide required parking by using the Alternative Joint-Use Parking Standards (Table 1) or to provide parking for the projects exclusive use under the standards established in Section 13.
  - d. Joint-use parking agreement. All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the County Clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

**ALTERNATIVE JOINT-USE PARKING STANDARDS  
MINIMUM PARKING RATIOS**

Use	Minimum Parking Ratios
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	

RETAIL COMMERCIAL	4.0 Spaces/1,000 sf of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater	1.0 space/4 seats
2. Museum.	3.0 Spaces/1,000 of gross usable area
RESTAURANT	
Including:	
1. Restaurant, Coffee House, Juice Bar under 1,000 square feet of gross usable area.	3.0 spaces/1,000 of gross usable area
2. Restaurant over 1,000 square feet of gross usable area.	5.0 spaces/1,000 of gross usable area
3. Outdoor dining areas associated with a restaurant.	0 spaces
RESIDENTIAL	Excluded from use of joint-use parking standards
NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET	Excluded from use of joint-use parking standards
OTHER	Any category not listed above may be reviewed by the city on a case-by-case basis, taking into consideration the impact on peak-hour parking usage and the established parking standards contained in Section 13 of the Sandoval County Zoning Ordinance

### **SECTION 12(3). URBAN INDUSTRIAL DISTRICT**

#### **A. Purpose.**

The industrial district provides for the industrial businesses of the community including research and development, warehousing, wholesaling, manufacturing, assembling, and limited retail and service uses. The district promotes the economic diversity of the county and provides for varying levels of intensity of industrial uses. Performance and design standards assure the county of high quality development.

**General Industrial (I-1) District:** To accommodate warehousing, wholesaling, and manufacturing of an intensive nature involving open uses and/or storage, large-scale structures, etc.

#### **B. General Requirements.**

1. A minimum twenty (20) foot landscaped area shall be provided along all arterial streets. Along all other public streets, a minimum ten (10) foot landscaped area shall be provided. Parking and maneuvering areas shall not be permitted within the landscaped area.
2. All new buildings and uses of land or substantial additions to or remodeling of existing buildings shall be subject to site plan review in accordance with Section 15.G.1.
3. A mobile home, recreational vehicle, or similar vehicle shall be prohibited as a facility for any industrial use permitted in this ordinance except construction trailers and offices which are required while construction is on-going on the site.
4. Refer to Section 12(3).D. for yard, height, and area requirements.
5. Refer to Section 12 (5) for development standards for industrial districts.
6. Refer to Section 13 for off-street parking requirements.

#### **C. General Industrial (I-1) District.**

##### **1. Permitted uses.**

- a. Offices for professional, administrative, clerical, and sales services.
- b. Research laboratories.
- c. Medical and dental laboratories.
- d. Medical offices and clinics.
- e. Pharmacy.
- f. Day care center and nursery school.
- g. Comprehensive childcare facility.
- h. Wholesaling.
- i. Warehousing and distribution, excluding dead vehicle storage, trucking companies, and moving-storage companies.
- j. Manufacturing or assembly of finished products or sub-assemblies so long as the primary use of the property is not the basic processing and compounding of raw materials or food products, except as otherwise provided herein.
- k. Mini-storage and vehicle storage areas provided the sites are used for dead storage only, not for retail purposes.
- l. Residence of a caretaker and family employed on the premises.
- m. Retail commercial operations directly related to the primary industrial use provided it does not exceed ten (10) percent of the gross floor area of the primary industrial use.
- n. Farming, landscaping and agricultural supplies and equipment, wholesaling and storage.
- o. Automobile body and fender shops, motor vehicle assembling.
- p. Truck, bus, and heavy equipment garages, dispatching and weigh stations, including sales, rental and repair.
- q. Equipment and material storage yards, including contractors' facilities.
- r. Animal kennels and hospitals.
- s. Except as noted under subsection B. herein, the manufacturing, processing, compounding of materials, the end product of which consists of materials for later processing or fabrication into a finished product.
- t. Sexually oriented businesses, subject to Section 10 of this ordinance.



**2. Uses permitted subject to a conditional use permit.**

- a. Restaurants, including drive-through facilities.
- b. Financial institutions, including drive-through facilities.
- c. Motels and hotels.
- d. Service stations.
- e. Athletic clubs, health clubs.
- f. General retail sales provided that any store shall not have a sales area greater than five thousand (5,000) square feet in size.
- g. Motion picture studios.
- h. Radio and television studios with receiving and transmitting towers.
- i. Hospitals and other health care facilities.
- j. Public utility buildings.
- k. A mobile home or recreational vehicle used as a residence for a caretaker or operator employed on the premises, including the family of the caretaker.
- l. The manufacturing, storage, processing, distributing or use of chemicals, ice, gases, gasoline and petroleum products, paints, varnishes, and similar toxic, combustible, or explosive chemicals and substances.
- m. The manufacturing, storage, processing or distributing of powder, flour, grains, glues, fertilizers, and feeds.
- n. Tanneries, meat packing, smoking plants, slaughter houses.
- o. The manufacturing of stone products such as brick, cinder block, concrete, pipe, and similar materials.
- p. Cement and paving material mixing plant.
- q. Extraction of sand, gravel, oil, gas and other mining operations.
- r. Foundry, refining, smelting, or alloying.
- s. Auto salvage and wrecking yards.
- t. House movers, equipment, and storage yards.
- u. Sewage disposal or treatment plant.
- v. Cesspool or septic tank servicing and equipment yard.
- w. Metals crushing, recycling, or collection facility.
- x. Transmitting and receiving towers.
- y. Any uses similar to, and not more detrimental than the uses permitted herein.

**D. Yard, Height, and Area Requirements.**

The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 12(4).

District	I-1
Maximum height	35'
Maximum bldg. coverage	-
Minimum setbacks:	
Front yard	20'
Side yard*	-
Rear yard*	-
Street side	15'

\* When adjacent to residential district or use, the following side and rear setbacks shall apply:

<b>Building Height</b>	<b>Setback</b>
1 Story (15')	25'
2 Story (35')	50'

## **SECTION 12 (4). DEVELOPMENT STANDARDS FOR URBAN COMMERCIAL AND INDUSTRIAL DISTRICTS**

### **A. Purpose.**

The development standards in this Section are intended to provide minimum standards for the organization and layout of buildings, parking areas, landscaped areas and building design of urban commercial and industrial uses so as to promote the general health, welfare and safety of residents within the community. This is accomplished by encouraging the creation of safe and attractive appearances to the public eye and minimizing views of unattractive uses or activities. Likewise, sound design principles can enhance the compatibility of dissimilar uses and provide for transitional or buffer zones between such uses. The standards set forth herein are recognized as assisting in promoting privacy and logical development and strengthening property values.

### **B. Applicability.**

1. The standards outlined in this section shall apply to the following buildings and uses in all urban commercial and industrial districts:
  - a. All buildings and uses of land constructed or developed after the effective date of this ordinance.
  - b. Existing properties when a change in the distinguishing characteristics or primary features of the use of a building or land occurs after the effective date of this ordinance. Such changes may include an increase in the size of the building or use or remodeling of an existing building. Criteria used to establish applicability may include, but is not limited to, an increase in parking requirements, a change in occupancy designation, a change in outside storage, or other similar factors.
2. Refer to Section 15.G.1. site plan review for information on submittal, review and processing of plans.

### **C. Landscaping.**

#### **1. General requirements.**

- a. A minimum of ten (10) percent of net land area of any site located in an urban commercial district shall be landscaped. A minimum of five (5) percent of net land area of any site located in an industrial district shall be landscaped.
- b. Landscaping shall be provided along the street frontage between the street or sidewalk and any buildings, parking areas, loading or storage areas in accordance with the following standards:
  - (1). The intersections of arterial or section line streets are a dominant feature of the urban landscape, serving as major focal points of activity in the community. Because of the importance of these intersections, additional landscaped setbacks and design features, beyond the required minimum standards, may be imposed on property at these intersections by the city at the time of re-zoning and/or site plan approval. Such additional features may involve:
    - (a) Wider setbacks;
    - (b) Unique building orientation and design;
    - (c) Special landscape features such as fountains, walls, and screening devices;
    - (d) Unique building architecture.
  - (2). Required yards fronting on a public street in the urban commercial districts shall be entirely landscaped excluding driveways and walkways. In the urban industrial districts the following landscaped setbacks shall apply to any building site:
    - (a) Along section-line arterial streets, required yards shall be entirely landscaped;
    - (b) Along all other streets, a ten (10) foot landscaped yard shall be required.
    - (c). Parking and maneuvering areas shall not be permitted in the landscaped yards cited above excepting driveways and walkways.
  - (3). Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the Department of County Development.
- c. Any part of a site not used for buildings, parking, driveways, sidewalks, etc. shall be landscaped.
- d. An automatic irrigation system shall be provided to all landscaped areas requiring water.
- e. All landscaped areas adjacent to vehicular parking and access areas shall be protected by six-inch vertical concrete curbing in order to control storm water flows and minimize damage by vehicular traffic.
- f. All trees required by this part shall have a minimum trunk height of six (6) feet, with a minimum one and one-half-inch caliper measured four (4) feet above the ground. Multi-trunk trees may have smaller average caliper

measurements. Palms shall have a minimum trunk height of five (5) feet. This size of tree is generally referred to as "fifteen (15) gallons" in the landscaping industry.

g. Twenty-four-inch box trees shall have a minimum trunk height of eight (8) feet with a minimum two-inch caliper measured four (4) feet above the ground. Multi-trunk trees may have smaller average caliper measurements. Palms shall have a minimum trunk height of eight (8) feet.

h. Inorganic ground cover, specifically decomposed granite, shall be three-fourths (3/4) inch or less in all arterial and collector right-of-way landscaping areas.

**2. Streetscape standards.** The following landscaping shall be required along all streets:

a. Trees with a minimum size as specified herein shall be planted at the rate of one (1) tree per twenty (20) feet of linear street frontage. A minimum of twenty-five (25) percent of the required trees shall be 24-inch box trees.

b. Shrubbery with a minimum size of five (5) gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than two (2) shrubs per twenty (20) feet of linear street frontage.

c. Clustering of trees and shrubbery shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.

**3. Transition/separation of uses.**

a. Where urban industrial or commercial uses are located adjacent to or separated by an alley from any residential use or district, a ten (10) foot wide landscape strip, planted with one (1) tree every twenty (20) linear feet, shall be required along the common property line. Trees must be non-deciduous and may not be clustered. A six (6) foot masonry wall shall be required along the common property line. An eight (8) foot wall may be required for commercial or industrial projects warranting higher screening.

b. When urban commercial or industrial uses are adjacent to a residential use or district, the following building separation to property line shall apply:

<i><b>Building Height</b></i>	<i><b>Setback</b></i>
1 story (15')	25'
2 story (36')	50'

c. A six (6) foot masonry wall shall be required along interior property lines separating individual development sites. Within the front yard setback, maximum wall height shall be three (3) feet, six (6) inches.

d. Walls which front on a public street shall be constructed of masonry with stucco, slump block or brick designed to match the main building on the site.

**4. Parking lot landscaping.**

a. A minimum of five (5) percent of the parking lot area shall be landscaped, exclusive of front yard or perimeter landscaping and street trees. Such landscaping shall consist of parking islands located within the perimeter of the parking lot.

b. A minimum of one (1) tree shall be provided for every eight (8) parking spaces, exclusive of perimeter landscaping and street trees. Trees must be planted within the parking lot.

c. Parking islands or landscaped areas shall be installed at least every twelve (12) consecutive parking spaces; such islands shall be a minimum of five (5) feet wide and contain a minimum of fifty (50) square feet in area.

d. All parking lots shall be separated from adjacent residential uses or districts by a ten (10) foot landscaped strip planted with a minimum of one (1) tree every twenty (20) linear feet and a six (6) foot masonry wall.

e. All parking lots shall be screened from public streets by walls or earth berms or combination thereof, constructed at least three (3) feet above the grade of the parking lot or adjacent street, whichever is higher in elevation.

f. Variety to the alignment and style of the walls is required. Such walls shall be decoratively designed to match the facade of any buildings and shall be constructed of slump block, brick, or masonry with a mortar wash or stucco finish.

g. Any landscaped area used for vehicular overhang shall not be counted towards the required landscaping.

**5. Ground cover.** The county requires the use of low-water consumptive plants indigenous to this region.. The following standards will apply:

- a. A minimum of twenty five (25) percent of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of living plant materials characterized by horizontal growth which generally does not exceed eighteen (18) inches in height.
- b. Vegetative ground cover shall be so located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.
- c. Inorganic ground cover, consisting of decomposed granite, crushed rock, gravel, river run, and/or boulders, shall be of sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance to the streetscape. Mounding and contouring of landscaped areas is required.

**6. Retention basins.**

- a. All private retention basins in commercial and industrial projects shall be landscaped. Such basins may not occupy more than fifty (50) percent of any landscaped area fronting on a public street: except, where exceptional design or shallow depths are proposed for the retention basin, the County Development Department may permit a greater use of the frontage landscaped area.
- b. Retention basins shall be contoured and designed as an integral part of any frontage landscaping and shall not take on the appearance of a ditch. Maximum side slopes of basins shall be a four to one (4:1) ratio; side slopes of six to one (6:1) are preferred.

**7. Maintenance.**

- a. All landscaping shall be reasonably maintained and any dead plant material shall be promptly replaced.
- b. The maintenance of landscaping in the public right-of-way shall be the responsibility of the adjacent property owner, whether an individual, corporation, or homeowner's association.

**8. Foundation planting.**

Foundation planting is required adjacent to buildings fronting on public streets. A minimum of thirty-three (33) percent of the building frontage shall be landscaped, with a minimum width planter area of three (3) feet (vehicle overhang not permitted).

**D. Site Organization and Development.**

**1. Screening standards.**

- a. All outdoor storage areas for materials, trash, equipment, vehicles or similar items shall be screened from view along all street frontages by a six (6) foot wall constructed of slump block, brick, or masonry with a stucco or mortar wash finish designed to match the main building on the site.
- b. The storage of materials, trash, equipment, vehicles, or other items within an enclosed storage area should not be substantially visible from adjoining streets or properties.
- c. All loading, delivery and service bays should not front onto a public street and shall be screened from public view with at least a six (6) foot wall, constructed of brick, slump block, or masonry with a stucco or mortar wash finish, designed to match the main building on the site.

*Exception:* In the I-1 zone, these bays must be screened from arterial streets only.

- d. Dismantling, servicing, repairing, etc. of vehicles and/or equipment shall be within completely enclosed building or within an area enclosed by brick, block, or masonry walls.
- e. Parking lots shall be screened from street view in accordance with subsection 12 (5).C.
- f. Outside display of cars, boats, trailers, trucks and other vehicles shall meet the screening requirements for parking lots.
- g. Car wash service bays shall not face onto or be substantially visible from any public street and are subject to the screening standards in subsection 12(5).C. above.

**2. Service station design standards.**

- a. The repair of motor vehicles shall not include painting, upholstering, body and fender work or major overhauling.
- b. The minimum dimension of any service station site shall be one hundred fifty (150) feet.
- c. Pump islands shall be located at least thirty (30) feet from the street right-of-way line.
- d. The outside display of tires, oil or other sale items shall be located adjacent to the main building.

- e. Service areas and bay doors shall not front onto or be substantially visible from any public street and are subject to the screening standards in subsection 12(5).C.
- f. Service stations, which are situated within a larger commercial development, shall be separated from adjacent property by a three (3) foot wall, landscaping, or curbing, except for necessary driveways, in order to control vehicular movements and circulation.
- g. The design of the service station building and site shall be compatible with the type of development in or anticipated in nearby areas.
- h. Service stations shall be subject to all landscaping and design standards contained in this section, including screening of parking and maneuvering areas with walls and landscaping.

### **3. Driveways.**

- a. The following schedule shall serve as a guide for the allowable number of driveways on a site, unless modified by traffic studies:
  - (1). One driveway per abutting street;
  - (2). One additional driveway for sites with a continuous frontage of at least three hundred (300) feet; or, two (2) additional driveways for sites with a continuous frontage of at least six hundred (600) feet;
  - (3). An additional service driveway may be allowed where patrons of the development are not likely to use it (example: service driveway for a shopping center).
- b. Driveways shall not be located closer than one hundred (100) feet to a street intersection (may be reduced to seventy-five (75) feet in certain instances of hardship).
- c. The joint use of a single driveway by two (2) or more adjoining parcels is encouraged.
- d. Right-turn lanes along public streets are encouraged for establishments with high vehicle counts to reduce disruption to through traffic. A right-turn lane should be considered for retail sites with more than eighty thousand (80,000) square feet of building area. The right-turn lane should be utilized at the primary entrance to the site.
- e. All buildings must have adequate access for fire and emergency vehicles. The minimum width of a fire lane is twenty (20) feet.

### **4. Miscellaneous design standards.**

- a. No walls, buildings, or other obstructions to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty-three (33) feet from the intersection of the street right-of-way lines. Trees may be located within the triangle provided they are pruned to permit unobstructed vision.
- b. All trash or refuse collection areas shall be enclosed by a six (6) foot masonry wall, styled to match the material of adjacent walls or the main building on the site.
- c. All outdoor lighting shall be directed down and screened away from adjacent properties and streets.
- d. All undeveloped building pads within developed shopping centers or similar projects shall be either paved in asphalt or landscaped to control dust and erosion.
- e. Electrical utility, cable TV and all other utility lines for buildings shall be placed underground. Overhead lines are prohibited.

### **E. Building Design.**

- 1. Intent.** The intent of this section is to establish standards to encourage the orderly and harmonious appearance of structures along the county's thoroughfares.
- 2. General requirements.**
  - a. The architecture of buildings shall not be prescribed and the city encourages variety in the style of structures. The architectural character of a proposed structure, however, shall be in harmony with and compatible to those in the immediate proximity, but avoiding excessive variety or monotony.
  - b. The county encourages and expects high quality construction and design of buildings with respect to materials, colors, finishes, form and scale.
  - c. Signage shall be considered an integral design element of any building and shall be compatible with the exterior architecture with regard to location, scale, color and lettering.

- d. The building facades of large, massive structures shall be architecturally styled to achieve a smaller scale consistent with the character of Sandoval County. Large building walls shall be broken to reduce scale and provide variety to the streetscape by use of landscaping and architectural treatment.
- e. Buildings should be sited and designed to achieve an optimum level of energy efficiency with regard to solar orientation.
- f. Mechanical equipment, whether ground level or roof-mounted, shall be screened from public view and be so located to be perceived as an integral part of the building.
- g. Accessory equipment capable of generating noise and vibrations shall be properly insulated and the noise and vibrations shall not be apparent from adjacent properties or the public right-of-way.
- h. Mission tile, concrete tile, wood shake, or similar grade roofing material shall be used on all pitched roofs.
- i. Equipment such as, but not limited to, telephones, vending machines, and ice machines shall be screened from street view and placed in an area designed for their use, which is an integral part of the structure.
- j. All four (4) sides of a building shall receive consistent architectural treatment.

**3. Specific building design requirements.**

- a. Buildings with metal or steel exteriors shall be architecturally altered through the construction of veneers, facades, or other architectural treatments and installation of landscaping to minimize the extent of metal surfaces visible from the street. All roof-mounted mechanical equipment shall be screened in accordance with Section 12(4).D.1.
- b. Drive-thru windows shall not face onto a public street. Stacking lanes shall be screened from the street with three (3) foot masonry walls and/or berms.
- c. All buildings located within a unified, planned development, such as a shopping center, shall be architecturally styled to achieve harmony and continuity of design. Building elevations shall be coordinated with regard to color, texture, materials, finishes, and form.

**SECTION 13. URBAN OFF-STREET PARKING**

**A. Purpose.**

The intent of this section is to establish standards for the provision of adequate off-street parking, loading and maneuvering spaces for the uses permitted in this ordinance in a manner which is safe, efficient, convenient and visually attractive.

**B. Applicability.**

- 1. Off-street parking and/or loading space shall be provided as prescribed herein at the time of:
  - a. Construction of a new building;
  - b. Any new uses of land;
  - c. Enlargement or addition of any new nonresidential building or use of land;
  - d. Creation of a new residential unit by adding to or subdividing an existing residential unit.
- 2. All required spaces shall be located on the lot or a contiguous lot, upon which the use is located.
- 3. Prior to the construction of any parking lot or the conversion of any land area for parking use, there shall be submitted to the County Development Department, a parking plan graphically describing the location and size of all parking stalls, driveways, walkways, landscaped areas, retention basins, and other improvements. The parking plan may be submitted as part of the site plan review requirement as outlined in Section 15.G.1. if the parking lot is proposed for construction in conjunction with a building.

**C. Definitions.**

- 1. **Gross floor area.** The sum total of the areas of the floors of a building measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) buildings; but not including underground parking spaces, uncovered steps, exterior balconies and exterior walkways.
- 2. **Off-street parking space.** A paved and properly drained area, enclosed or unenclosed, required by this Code to be permanently reserved for parking one (1) motor vehicle. The size of such space shall be determined by Section 13.F.
- 3. **Commercial vehicle.** Any motor vehicle with a manufacturer's chassis rating greater than one (1) ton.

**D. General requirements.**

1. All required off-street parking space shall be connected with a public street by a paved driveway not less than twenty (20) feet in length within the property line.
2. All parking areas and driveways shall have a surface of masonry, concrete or asphalt except in the R1-35 Districts where a dust free surface is permitted.
3. Minimum driveway widths shall be twenty (20) feet for two-way drives and fourteen (14) feet for one-way drives.
4. Required parking spaces shall not occupy the required front or street side yard in all districts, except as permitted in the I-1 District.
5. Tandem arrangement of required spaces is prohibited.
6. All commercial, industrial, and multi-family uses are prohibited from using alleys as access points to parking areas where the alley is adjacent to an Urban Single-Family Residential District.
7. Where access to a parking lot or space for uses other than single-family residential is provided by an alley, said alley shall be minimum twenty (20) feet wide and paved to the nearest intersecting street as required by city standards.
8. Motor vehicles may be parked in the front yard only when on an improved driveway leading to required off-street parking.
9. On all residential lots, the parking of one (1) or more commercial vehicles with a manufacturer's chassis rating exceeding five (5) tons or the parking of two (2) or more commercial vehicles with a manufacturer's chassis rating of less than five (5) tons shall be considered a commercial use and is prohibited. Said commercial vehicles shall not be parked in the required front or street side yard and shall be screened from street view.
10. All off-street parking lots shall be screened from street view and landscaped in accordance with Section 13 of this ordinance.
12. In Urban Single-Family Residential Districts, one (1) additional parking space in excess of minimum requirements shall be permitted in the front yard. Such space shall be paved.
13. All vehicular egress from parking lots to public right-of-way shall be by forward motion only, except in the case of single-family and two-family residences fronting on a local street or a primary or secondary collector street.
14. Except where a wall is required, six-inch vertical concrete curbing shall be required around the perimeter of the parking area to protect landscaped areas and control vehicular circulation and the flow of storm water.
15. Within the Urban Residential Districts, recreational vehicles, boats, and trailer shall not be parked in the required front yard of a lot. Such vehicles, boats, and trailers may be stored in the side or rear yard of the lot, provided they are screened from street view by solid fencing or walls.

**E. Required Parking Schedule.**

Except where noted, required parking is based on the gross square footage of the building.

**1. Residential Uses.**

Type	Required Parking
Single-family	2-car garage/unit
Two-family	2-covered spaces/unit
Mobile home	2 spaces/unit
*Multi-family:	
Efficiency	1.5 spaces/unit
1 Bedroom	1.5 spaces/unit
2 Bedroom	1.75 spaces/unit
3 Bedroom	2 spaces/unit
Townhouse	2 spaces/unit
*Plus: One (1) visitor space per ten (10) units must be provided. At least one (1) space per multi-family unit must be covered and assigned to a unit.	



## 2. Institutional Uses.

Type	Required Parking
Churches: Main assembly building or area Classroom, other buildings	1 space/100 sq. ft.  1 space/classroom plus 1 space/200 sq. ft. floor area in office use
Elementary & JHS	1 space/200 sq. ft.
High schools, colleges	1 space/200 sq. ft.
Trade, business schools	1 space/200 sq. ft.
Hospitals	1 space/200 sq. ft.
Convalescent home	1 space/3 beds
Government offices	1 space/200 sq. ft.

## 3. Commercial Uses.

Type	Required Parking
Auditoriums, theaters, stadium or similar place of assembly	1 space/160 sq. ft. or 1 space/4 seats, whichever is greater
Private clubs, lodges, (no overnight accommodations)	1 space/200 sq. ft. or 1 space/5 seats in main assembly whichever is greater
Dance halls, skating rinks, amusement center, recreation centers	1 space/200 sq. ft.
Child care center	4 spaces plus 1 space per 10 children that center is licensed to accommodate
Funeral homes	1 space/4 seats in main assembly area or 1 space/300 sq. ft.
Medical, dental offices, clinics	1 space/200 sq. ft.
General offices and non-retail commercial	1 space/250 sq. ft.
Hotels, motels	1 1/3 spaces per sleeping room
Recreational vehicle parks	1.1 spaces per R.V. space
Restaurants, cafes, bars, cocktail lounges	1 space/50 sq. ft. of indoor public area and 1 space/200 sq. ft. of outdoor area
Retail sales	1 space/300 sq. ft.
Bulky merchandise sales, nurseries, building materials, equipment rental	1 space/300 sq. ft.
Banks and personal service	1 space/150 sq. ft.

Bowling alleys	4 spaces/lane
Tennis, handball courts	3 spaces/court
Golf course	1 space/200 sq. ft. in main building PLUS 4 spaces per green

**4. Industrial.**

Type	Required Parking
Manufacturing and industrial uses	1 space/500 sq. ft.
Warehousing	1 space/500 sq. ft. for first 10,000 sq. ft. plus 1 space per 5,000 sq. ft. remaining gross floor area.

5. **In the case of mixed uses**, the total requirement for off-street parking space shall be the sum of the requirements of the various uses computed separately as specified in this section.

6. **Cumulative parking space requirements** for mixed-use occupancies may be reduced where it can be demonstrated that the peak requirements of the several occupancies occur at different times. Special exceptions to the total number of spaces required by the addition of all of the uses shall be considered through the conditional use permit procedure of this Code if supported by a parking demand study.

**F. Parking and Access Standards.**

1. Parking space sizes.

- The standard parking space shall be nine (9) feet wide by eighteen (18) feet long unless specified otherwise by this Code.
- Parking spaces within long term parking areas servicing offices or industry may be reduced in size to eight (8) feet by eighteen (18) feet, provided the spaces are "designated" for employee parking through markings on wheel stops or pavement, use of directional signage, and/or segregation by separate driveways.
- A two (2) foot wide landscape strip for vehicle overhang is permitted at the front of a parking space. Such landscape strip shall not count towards the minimum amount of landscaping required by this Code.

2. Parking lot aisle widths shall be in accordance with the following schedule:

Angle of Parking					
	*Parallel	30	45	60	90
One-way aisle	12'	12'	13'	18'	24'
Two-way aisle	18'	18'	18'	18'	24'

\*Parallel parking spaces shall be twenty-two (22) feet long.

**G. Accessible Parking.**

- Accessible parking for non-residential developments shall be provided in conformance with the Americans with Disabilities Act (ADA) and International Building Code (IBC) as amended.
- Accessible parking for multiple-family residential developments shall be provided in conformance with the Americans with Disabilities Act (ADA), Federal Fair Housing Act (FFHA) and International Building Code (IBC) as amended.

## **SECTION 14. SUPPLEMENTARY REGULATIONS**

### **A. Applicability.**

Notwithstanding any specific requirements outlined in this ordinance, the following general regulations, where applicable, shall apply.

### **B. General Requirements.**

1. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.
2. Every dwelling shall be located and maintained on a "lot" as defined herein.
3. No space needed to meet the width, yard, area, coverage, parking or other requirements of this ordinance for a lot or building may be sold or leased away from such lot or building.
4. No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
5. Every part of a required yard shall be open to the sky and unobstructed except for accessory buildings in a rear yard. The ordinary projections of skylights, window sills, belt courses, cornices, chimneys, flues and other ornamental features and open or lattice enclosed fire escapes, fireproof outside stairways and balconies may project into a yard not more than five (5) feet except in the case of a side yard where it shall not come nearer than three (3) feet.
6. No lot shall be divided in such a way that any division of such a lot shall contain more dwelling units than are permitted by the zoning regulations of the district in which such lot is situated.
7. On an interior lot, in any Urban Residential District, having no access to an alley and where the garage or carport is not attached to the main building, required side yards shall be maintained.
8. A mobile home, recreational vehicle, or similar vehicle shall not be considered a dwelling unit, nor occupied as such unless located in a recreational vehicle or mobile home park or mobile home subdivision. A mobile home, recreational vehicle, or similar vehicle shall be prohibited as a facility for any non-residential use permitted in this ordinance, except (1) construction trailers and offices which are required while construction is on-going on a site; and (2) as a residence for a caretaker and family in an industrial zone subject to a conditional use permit per Section 12(3).E.
9. Any enclosed porch or one capable of being enclosed shall be considered a part of the main building in the determination of the size of yard or lot coverage.
10. Bay windows, including their cornices and eaves, may project into any required yard not more than two (2) feet, provided, however, that the sum of such projections on any wall does not exceed one third (  $\frac{1}{3}$  ) the length of said wall.
11. Where two (2) or more lots are used as a building site and where main buildings cross lot lines, then the entire area shall be considered as one (1) lot, except that the front of the parcel shall be determined to be the front of the individual lots as originally platted or laid out.
12. In all zones which require a front yard, no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points thirty-three (33) feet from the intersection of the street lines, except trees pruned high to permit unobstructed vision for automobile drivers; and pedestal type identification signs and pumps at gasoline service stations.
13. Mechanical equipment, including but not limited to heat/cooling equipment, pool pumps, electrical equipment and motors directly related to the primary use of the property, shall be restricted from use in the front yard.

### **C. Detached Accessory Buildings.**

In all residential districts, detached accessory buildings shall conform to the following restrictions concerning their locations on a lot.

1. Any detached accessory building not in the rear one-half (  $\frac{1}{2}$  ) of the lot shall maintain such yards as are required for a dwelling unit on the same lot.
2. All detached accessory buildings placed in the rear half (  $\frac{1}{2}$  ) of the lot may encroach into the required rear and side yard setbacks except in the following instances:

- a. On a through lot, the accessory buildings shall not be located closer to the rear property line than the distance required for front yard setback.
  - b. On a corner lot contiguous to a key lot, no detached accessory building shall be erected or altered so as to come closer to the street side of the corner lot than the front yard required on the key lot, but in no event greater than twenty-five (25) feet.
  - c. On any other corner lot, the accessory buildings shall not be located closer to the street side property line than the setback required for the main building.
  - d. On a lot in the R1-35 District, the accessory buildings shall not be located closer than twenty (20) feet to rear and side property lines.
3. No building which is accessory to any residential building shall be erected to a height greater than fifteen (15) feet; except on a residential lot in the AG District, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main building in that district.
  4. No accessory buildings shall occupy more than twenty-five (25) percent of the area lying between the rear of the main building and the rear property line.
  5. No detached accessory building designed or used for sleeping or living purposes shall be closer to any line than is required for a dwelling unit on the same lot.

**D. Height Limitations.**

The following limitations shall apply:

1. Attached church spires, crosses, belfries, cupolas, flagpoles, clock towers, or similar features may extend above the roof no more than the height of that building. Detached features shall be no greater than twice the height of the highest building on site.
2. Chimneys, bulkheads, penthouses and domes not for human occupancy, ventilators, skylights, water tanks, and other similar mechanical equipment shall be limited to twelve (12) feet above the roof level.
3. Parapet walls or cornices (without windows) may extend to a maximum of five (5) feet above the building height limit.
4. All antennae and towers greater than thirty-five (35) feet measured from grade (refer to Section 6, definitions) shall require a conditional use permit (see Section 12(3)). Any antenna or tower exceeding thirty-five (35) feet measured from grade shall be located at least one (1) foot from all property lines for every foot of the antenna's or tower's height above grade.

**E. Fences and Walls.**

The following restrictions on fences and walls shall apply:

1. In all Urban Residential Districts, the maximum height of freestanding walls or fences in a required front yard setback shall be three (3) feet. In the areas behind the required front yard setback, and in the rear and side yards, the maximum height of such walls shall be six (6) feet, except as noted below.
2. In residential districts, walls along the rear of reverse frontage of lots or walls adjacent to multi-family, commercial, or industrial uses or districts may have a maximum height of eight (8) feet.
3. Open wire fences exceeding the above heights may be built around schools and other public or quasi-public facilities when necessary for the safety or restraint of the occupants.
4. Open wire fences exceeding the above height limitations may be built around tennis courts along the rear and side yards only by approval of a conditional use permit.
5.
  - a. On a corner lot contiguous to a key lot, fences or freestanding walls over three (3) feet in height may be placed upon the property line except within a triangle measured ten (10) feet from the street along the common lot line, and twenty (20) feet along the property line extending from the common lot line towards the front of the corner lot.
  - b. On a key lot contiguous to a corner lot, a six (6) foot fence or freestanding wall may be erected along that portion of a key lot contiguous with the rear yard of the corner lot, but, such fence or wall shall not come closer to the front line of the key lot than ten (10) feet.
6. The height of a fence shall be measured from the higher of the adjacent finished grade elevations, which elevation shall be the average measured within fifty (50) feet of the fence.

**F. Swimming Pools.**

The following regulations shall apply to all swimming pools.

1. All swimming pools shall be enclosed by a solid wall or fence or chain link fence not less than five (5) feet in height. All gates shall be self-closing with self-closing latches and be constructed in such a manner as to prevent uninvited access. Wrought iron gates and fences shall have bar openings spaced at a maximum of four (4) inches.
2. In any Urban Single-Family Residential District, private swimming pools shall be located in the side or rear yards, shall not be any closer than three (3) feet to any property line and may not be located within any recorded easement except with a written approval of the easement holder. In case of a corner lot, a pool may not be located closer than five (5) feet to the street side property line.
3. In any district other than those above, a private swimming pool or a semi-public swimming pool shall not be closer than seven (7) feet to any property line, except that in the case of a corner lot, a swimming pool shall not be closer than ten (10) feet to the side property line on the street side.
4. No public swimming pool shall be located closer than twenty-five (25) feet to any lot line on the lot on which it is situated.
5. The above regulations shall apply to all non-permanent wading pools made of rubber, plastic or similar materials containing water with a depth of more than eighteen (18) inches.
6. Swimming pools shall not be located in the required front yard of any district.

**G. Outdoor Lighting.**

1. **Purpose.** These regulations are intended to establish procedures and standards that ensure minimal light pollution, reduce glare, increase energy conservation and maintain the quality of Sandoval County's physical and aesthetic character. These regulations further implement the Sandoval County Comprehensive Plan and are found to be in the furtherance of the public health, safety and welfare. They are also intended to aid in the control of lighting that detrimentally affects astronomical observation. For the purposes of this section, "visible from contiguous real property" shall mean any light levels, which exceed a light level of one (1) foot candle at the property line.
2. **Applicability.** These regulations shall not apply to lighting installed prior to the effective date of this Ordinance. These regulations shall not apply to public streetlights. These regulations shall apply to all outdoor lighting including, but not limited to, search, spot or floodlights for:
  - a. Buildings and structures.
  - b. Recreational areas.
  - c. Parking lot lighting.
  - d. Landscape lighting.
  - e. Other outdoor lighting.
3. **Standards.**
  - a. Recreational lighting. The following standards apply to the lighting of all outdoor recreational facilities except baseball, softball, soccer, volleyball or football fields; driving ranges; and outdoor arenas and amphitheaters, or other field recreation facilities.
    - (1). The height of any light fixture or illumination source shall not exceed twenty (20) feet.
    - (2). All lighting or illumination units or sources shall be hooded or shielded so that they are not visible from any contiguous lot or real property.
    - (3). Lights or illuminating units shall not cause light to be cast upon any contiguous real property, either directly or through a reflecting device.
    - (4). All of the recreational lighting excepted from the above standards shall meet the following standards:
      - (a). All metal halide lamps shall be filtered by glass, acrylic, or translucent enclosures.
      - (b). No lighting of one hundred fifty (150) watts or greater shall be used after 11:00 p.m. contiguous to any residential district or use.
      - (c). Shields shall be provided to control external glare and minimize uplight and offsite light trespass so that light levels do not exceed one foot candle at the property line contiguous to residential districts or uses.
      - (d). Lighting for special events after 11:00 p.m. requires a temporary use permit for areas contiguous to any residential district or use.

- b. Sign lighting. External lighting of the face of signs shall be placed above the sign and shielded in a manner that the illumination source shall not be visible from any contiguous lot or real property. All signage shall be constructed in conformance with the Sandoval County Sign Ordinance.
- c. Security, landscaping, architectural, or other lighting.

(1).All other outdoor lights shall be shielded and directed according to the following schedule:

Wattage of each light source	Shielding required	Directed downward
Up to 100	No	No
100 to 175	Yes	No
Over 175	Yes	Yes

(2). Building mounted light fixtures shall be attached only to walls and the top of the fixture shall not be higher than the top of the parapet or roof, whichever is higher. Said lights shall be shielded and directed downward.

- d. Other pole-mounted lighting (parking, walkways, etc.).

(1).All lights mounted on poles eight (8) feet or greater in height shall be directed down. The light source shall be shielded so that it will not be visible from any contiguous real property.

(2).Any pole-mounted lighting shall have a maximum height of twenty-five (25) feet. In or within thirty-five (35) feet of any residential zoning district and all light fixtures shall not exceed sixteen (16) feet in height.

- e. Searchlights. The operation of searchlights shall be allowed subject to the following conditions:

(1).During the months of May through October, searchlights shall be operated only between the hours of 6:00 a.m. and 11:00 p.m.;

(2).During the months of November through April, searchlights shall be operated only between the hours of 7:00 a.m. and 10:00 p.m.; and

(3).Searchlights shall not be operated on residentially zoned properties except for grand openings of new developments.

(4).All searchlights shall be pointed skyward such that no direct light therefrom shall shine upon any building or structure.

- f. Mercury vapor lamps. The installation of mercury vapor fixtures is prohibited.

- 3. **Submittals required.** All new construction or reconstruction shall submit an outdoor lighting plan for the entire site, which indicates how the standards of this Section are to be met.
- 4. **Nonstandard lighting.** Any lighting, which does not meet the standards of this Section 14.G. shall require a use permit.

## **SECTION 15. ADMINISTRATION.**

- A. **Administrative Official.** The Zoning Officer shall administer the provisions of this Ordinance.
- B. **Inspection.** The Zoning Officer has the authority to conduct inspection of buildings, structures and the use of land to determine compliance with this Ordinance. This provision does not grant right of entry without due process of law. The Zoning Officer shall provide for on-site inspections and other relevant information that may be requested by the County Board or the Zoning Commission as necessary to carry out the purpose of this Ordinance.
- C. **Inspection Order.** Upon sufficient showing that consent to an inspectorial search has been refused by an owner, occupant, other appropriate responsible party, or is otherwise unobtainable within a reasonable period of time, the Zoning Officer may make application for an inspection order. Such application shall be made to a District Court judge having jurisdiction over the premises or vehicle to be searched.
1. The application shall be granted and the inspection order 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 its proceedings on the application, and enter thereon its finding in accordance with the requirements of this section.
  2. The Zoning Officer 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.
  3. The Zoning Officer shall, if authorized by the issuing authority on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants who shall assist the Zoning Officer in executing the order at his direction.
  4. After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the Zoning Officer shall return the order to the issuing authority with a sworn report of the circumstances of execution failure thereof.
- D. **Information and Records.** The Zoning Officer shall maintain an office to supply the public with information concerning this Ordinance, and shall maintain copies of this Ordinance and the Sandoval County Zoning Maps in an updated form. Zoning Files shall be maintained in the Planning and Zoning Office of the County and shall contain records of the following:
1. Conditional Use Approvals;
  2. Variances Allowed Under this Ordinance;
  3. Applications for Amendment to this Ordinance;
  4. Certificates of Nonconformance;
  5. Zoning Appeals; and
  6. Zoning Violations and Complaints; and
  7. Special Requirements in accordance with Sections 17 and 19 of this Ordinance;
- E. **Official Ordinance and Maps.** The County Clerk shall maintain all original copies of this Ordinance, and subsequent amendment hereto, and the Official Zoning Maps.
- F. **Violation: Complaints and Notification.** The Zoning Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Zoning Officer who shall immediately document in writing the nature of the complaint and investigate such complaint to determine if a violation of this Ordinance is found to exist. Whenever the Zoning Officer finds probable cause to believe a violation of this Ordinance exists, whether acting on independent initiative or in response to an investigated complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing. Such notification shall order the necessary correction to be made within thirty (30) days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in Section 24 of this Ordinance.

If a landowner fails, refuses, or is unable to remedy the violation within 30 days of a Court order affirming the violation, the County may take such action as is necessary to remediate the violation. The County may remediate the violation itself or may employ an independent contractor to correct the violation in the County's sole

discretion. The County has the right to place a lien upon the property for the cost of the remediation, pursuant to state law (NMSA 1978 Section 3-36-1 et. seq., and Section 4-37-1).

- G. **Building Permits.** Building permits, applications for building permits, and certificates of occupancy within the County's zoning jurisdiction shall be considered by the Zoning Officer upon submission of appropriate construction plans, accompanying materials as specified in Section 15 (G) (1) of this Ordinance, and the required fee. Approval shall be granted only if same are found to be in compliance with the provisions of this Ordinance.

- (1) **PLAN SUBMISSION REQUIREMENTS:** All construction requiring a building permit under the terms of the relevant Building Code(s) adopted by the State of New Mexico shall require the submission of construction plans to the Zoning Officer. Any applications that are missing required material shall be deemed incomplete and will not be accepted by the Zoning Officer. Proof of connection to an approved community sewer system may replace the requirement for an onsite liquid waste disposal permit. All construction on new or existing structures will require a proper solid waste disposal container. On new-construction, an approved liquid waste disposal unit must be provided onsite unless the contractor has other access to restroom facilities. Submissions for approval of construction by the Zoning Officer under this section must include, at a minimum, the materials listed below. The Zoning Officer may, at his/her discretion require additional information should the circumstances warrant.

#### **REQUIRED MATERIALS**

##### *New Residential Construction*

1. Building Permit Application from the appropriate authority
2. State of New Mexico Environment Department (hereinafter "NMED") Liquid Waste Permit, and stamped floor plan
3. Site Plan
4. Where applicable, site drainage plans approved by the appropriate authority

##### *Residential Additions*

1. Building Permit Application from the appropriate authority
2. Floor plan (If addition is/are bedroom(s), the NMED must review and stamp the floor plans).
3. Site Plan

##### *Manufactured/Mobile Home Placement*

1. Copy of NMED Liquid Waste Permit and stamped floor plans
2. Site Plan
3. Proof of age for Mobile Homes
4. Appropriate stamp from Federal Housing & Urban Development Department
5. New Mexico Manufactured Housing Division (hereinafter "MHD") Foundation and / or Installation Permit Application(s).

##### *Modular Construction*

1. Copy of a Building Permit issued by the appropriate authority.
2. Application for Foundation Permit
3. Foundation Plans
4. NMED Liquid Waste Permit with stamped floor plans
5. Site Plan

##### *Foundation Only*

1. Building Permit Application from the appropriate authority / MHD Permit
2. Site Plan



#### *Retaining Walls*

1. Building Permit application from the appropriate authority
2. Site Plan
3. Wall / foundation plan stamped by a New Mexico Registered Engineer or Architect.

#### *Fencing (over 6 ft in height)*

1. Building Permit application from the appropriate authority
2. Site plan
3. Wall plan

#### *Swimming Pools*

1. Building Permit application from the appropriate authority
2. Site Plan
3. Pool plan

#### *Commercial/Multiple Family Residential*

1. Building Permit application from the appropriate authority that is signed by a Contractor with the applicable license issued by the State of New Mexico.
2. Site Plan, including Parking Plan
3. Complete set of Construction Plans
4. Landscaping Plan
5. If property is located on a State Highway, a copy of an access permit from the New Mexico Department of Transportation, if required.
6. Drainage Plan prepared and stamped by a New Mexico Registered Professional Engineer, if required.
7. NMED Liquid Waste Permit with stamped floor plans.

### **SECTION 15(1). HEALTH AND SANITATION**

#### **A. Findings and Purpose**

1. It is the purpose of this Section to promote the health, safety and welfare of the citizens of the county by protecting property from blighting and deteriorating conditions by establishing minimum standards governing the maintenance, appearance and conditions of all residential and non-residential premises.
2. It is the purpose of this Section to enhance the beauty and quality of the environment; promote the conservation of natural resources; prevent the spread of disease and the creation of nuisances; and to provide for the abatement of public nuisances.
3. In the interest of city residents, it is necessary to prohibit the accumulation of litter, refuse, rubbish or other solid waste, weeds, inoperable or abandoned vehicles on property, and water wastage within the corporate limits of the city by declaring such as public nuisances.
4. This subchapter shall apply to all buildings, structures and lands within the city without regard to use, the date of construction, improvement or alteration.

#### **B. Definitions**

For the purpose of this Section only, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. "Abandoned vehicle" means a motor vehicle which has remained for more than 48 hours in a condition described by one of the following:
  - (a) Without license plates or a temporary registration conspicuously displayed thereon; or
  - (b) With license plates which have an expiration date more than 90 days prior to the date of inspection.
2. "Airborne particulate matter" means material discharged into or suspended in the air in finely- divided form, i.e., sand or dust.
3. "Aircraft" means any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air including helicopters, lighter-than-air conveyances.
4. "Authorized private receptacles" means a litter storage and collection receptacle as required in this code.
5. "Blight" or "Blighted" means unsightly conditions including the accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth or

lack of maintenance, or is damaged and any other similar conditions of disrepair and deterioration regardless of other properties in the area.

6. *"Debris"* means any substance of little or no apparent economic value, which may be present in accumulations in excess of six inches in height and ten inches in diameter, including but not limited to deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, abandoned or neglected equipment, or the scattered remains of items.
7. *"Deterioration"* means the condition or appearance of a building, structure or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance.
8. *"Digging"* means excavating or turning up the soil with a spade or other hand tool.
9. *"Dust"* means very fine particles that become airborne due to wind, traffic and other human activity.
10. *"Enclosed structure"* means a structure at least six feet in height or tall enough to eliminate the public's view, including neighbors, of the interior and meets all applicable building codes.
11. *"Exposed to public view"* means any premises, or any building or any part thereof, which may be lawfully viewed by the public or any member thereof, from a sidewalk, street, alleyway, open-air parking lot or from any adjoining or neighboring premises.
12. *"Exterior of the building"* means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.
13. *"Exterior property areas"* means open space on the premises, on adjoining property and all sidewalks under the control of the owners or operators of the premises.
14. *"Extermination"* means the control or elimination of insects, rodents or other pests by recognized programs of integrated pest management which includes sanitation, harborage control and the use of approved pesticides and other legal pest elimination methods.
15. *"Fences", "Screen walls", or "Retaining walls"* means self-standing structures designed to provide semi-privacy, security or bank retention between grade separations.
16. *"Fire Hazard"* means any thing or act which may increase or may cause any increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by the Fire Inspector, or which may obstruct, delay or hinder the prevention, suppression or extinguishment of fire.
17. *"Fire Inspector"* means any Sandoval County Fire Department personnel authorized to exercise the powers and duties required in administering and enforcing the fire code.
18. *"Garbage"* means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.
19. *"Grading"* means leveling the soil and the removal of vegetation.
20. *"Handbill"* means any printed, reproduced or written matter, or any sample or device which advertises any business, commercial establishment, person, meeting, exhibition, theatrical performance or other activity, for the purpose of either directly or indirectly promoting the interest thereof; or which, while containing reading matter other than advertising matter, is predominantly and essentially for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser for distributor, however, "newspaper," as defined herein, is not to be construed to be included within the definition of "Handbill".
21. *"Hazardous waste"* means any chemical compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the state, except that, for the purpose of this article, hazardous waste shall include household waste,
22. *"Health hazard"* means the presence of any items which adversely impact or jeopardize the well-being or health of an individual. Such items include human waste, medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal and decay matter.
23. *"Infestation"* means the apparent presence of unpleasant, damaging or unhealthful insects, rodents, reptiles or pests.
24. *"Inoperative" or "Inoperable vehicle"* means any motor vehicle which by reasons of dismantling, disrepair or other cause is incapable of being propelled under its own power.

25. *"Landfill"* means an area of land or an excavation in which solid wastes are placed for disposal and that employs an engineered method that minimizes environmental hazards and meets the requirements of the state solid waste regulations.
26. *"Litter"* means decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible wastes, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, scrap paving material, discarded appliances, discarded furniture, dry vegetation, trees, which may harbor insect or rodent infestations or may become a fire hazard, and piles of earth mixed with any of the above foreign objects, including inoperable vehicles.
27. *"Lot"* means a parcel or tract of land, platted and placed on the Sandoval County Clerk's record in accordance with applicable laws and ordinances, generally as a portion of a subdivision intended for development purposes, including public right-of-way.
28. *"Motor vehicle"* means any wheeled vehicle which is self-propelled or intended to be self-propelled.
29. *"Newspaper"* means any newspaper of general or local circulation as defined by general law; any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation; any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
30. *"Occupant"* means a person, persons or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property.
31. *"Owner"* means a person, persons or legal entity listed as the current title holder as recorded in the official records of the Sandoval County Assessor's Office.
32. *"Premises"* means a lot, plot or parcel of land including the structures thereon.
33. *"Public Nuisance"* means creating, performing or maintaining anything affecting without lawful authority any number of citizens which is either injurious to public health, safety or welfare, or interferes with the exercise and enjoyment of public rights including the right to use public property.
34. *"Public place"* means any and all rights of way, and any and all public parks, spaces, grounds and buildings.
35. *"Public right-of-way"* means paved or unpaved streets and adjoining public real property, alleys, drainage, gutter or other public easements and lined or unlined drainage channels which comprise the municipal storm drainage system.
36. *"Refuse"* means, but is not limited to all putrescible and nonputrescible solid wastes (except body wastes) including ashes, waste or unwholesome material of any kind, street cleanings, dead animals, abandoned motor vehicles, vehicle parts and solid market and industrial wastes.
37. *"Responsible party"* means an occupant, lessor, lessee, manager, licensee or other person having control over a structure or parcel of land; and, in the case where the demolition of a structure is proposed as a means of abatement, any lien holder whose lien interest is recorded in the official records of the Sandoval County Assessor's Office.
38. *"Rubbish"* means, but is not limited to all nonputrescible solid wastes such as paper, cardboard, cans, wood, yard clippings, leaves, glass, bedding, crockery and other similar materials.
39. *"Screened area, exterior"* means an area separated by a permanent non-flexible device to completely conceal one element of a property from other elements or from adjacent or contiguous property. Examples include, but are not limited to fencing six feet in height that is made from solid brick or chain link fencing with opaque slats.
40. *"Solid waste"* means, but is not limited to any garbage, litter, refuse, rubbish, special waste, white goods, debris and other discarded materials originating from residential, commercial or industrial sources.
41. *"Special waste"* means, but is not limited to any solid waste which requires special handling or a special sign such as, but not restricted to, incinerator ash, infectious and noninfectious medical waste, petroleum products, hazardous waste, white goods and tires.
42. *"Tillage"* means cultivating, plowing or turning over the soil.
43. *"Vegetation"* means plant life of any kind.
44. *"Water"* means water provided through the system through which the county receives its water or any extensions thereof, as well as through private wells and delivery systems.
45. *"Water waste"* means the non-beneficial use of water that is supplied by any water supply system within the county.

46. *"Weeds"* means Pigweed (*lamaranthus retroflexus*), Russian thistle (*salsola pestifer*), or ragweed (*ambrosia* spp.) commonly referred to as tumbleweeds. For the purpose of this Section, *"weeds"* shall also mean plants that, by reason of abandonment, lack of care or lack of maintenance, choke out growth of other plant material in the area, and dead, dying or unattended plant life, named or unnamed, which is abandoned or overgrown.

47. *"White goods"* means, but is not limited to any major appliances, such as washing machines, clothes dryers, hot water heaters, stoves and refrigerators.

**C. Building and Structure Exteriors**

1. All exposed exterior surfaces shall be maintained so as to be free of deterioration that is a threat to health and safety, or shall not otherwise present a deteriorated or blighted appearance. Examples of the deterioration and blight include, but are not limited to:
  - a. Stucco or paint that is deteriorated, indicated by peeling, flaking, cracked, blistering or mildew, resulting in exposed, bare unprotected surfaces over more than 30% of the exterior.
  - b. Window screening that is not maintained in good condition.
2. All structures on premises shall be safe, structurally sound and shall be maintained so that they do not constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to leaning fences, fences that are missing numerous slats or blocks, graffiti, peeling paint, deterioration of paint or materials and rotting or damaged materials.

**D. Inoperable or Abandoned Vehicles**

1. Outdoor storage of inoperable or abandoned vehicles or parts thereof on the premises is prohibited. Inoperable or abandoned vehicles may be stored on the premises so as not to be visible from any adjoining property or public road.
2. This section shall not apply in an area where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning, or where vehicles are kept in an enclosed structure, or when vehicles are owned and actively being restored by the owner or tenant of the premises. A motor vehicle is being actively restored if within the last 30 days the owner has spent at least ten hours of labor in repairing, rebuilding or reconstruction of the motor vehicle. The burden shall be on the owner of the vehicle to prove that it is being actively restored which may include receipts for the purchase of parts and supplies during the last 30 days which have been installed on the vehicle.
3. Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his residential premises, any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one month, if the motor vehicle is registered in the resident's name; or
4. One inoperable or abandoned vehicle may be stored upon property within the county when not within a wholly enclosed structure, if fully covered and placed in the side or back yard. Any vehicle must be at least five feet from any property line and at least five feet from any permanent structure.
5. Any person violating this section may, in the event of hardship, request an extension of this subchapter's compliance period by a written request to the Director of County Development.
6. This section shall not be construed to permit the parking or placement of inoperable or abandoned motor vehicles on any public street. Placement of inoperable or abandoned vehicles on any public street is subject to enforcement by the Sandoval County Sheriff's Office.

**E. Dumping**

**Unlawful dumping or disposal of solid waste.** It shall be unlawful to dispose of solid waste in any manner other than as specified in this code.

1. Unlawful to dump. It shall be unlawful for any person to place or dump solid waste or debris in any arroyo, stream bed, drainage ditch, public fountain or any public body of water within the boundaries of the county.
2. Dumping on property. It shall be unlawful for any person to place or dump solid waste or debris on any property within the county whether owned by the person or not.
3. Vacant lots or land. Vacant lots or lands which have been the subject of repeated dumping shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands must be approved and may include permanent fencing, ditch or berm, or placement of four-foot high posts at four-foot intervals. Signs stating "no dumping" shall be erected in accordance with applicable ordinances on vacant lands which have been subject to dumping on more than one occasion.

**F. Administration and Enforcement**

1. Except as otherwise provided in this Section, the Zoning Officer shall enforce this subchapter, which shall include the inspection of premises, the issuance of violations and the issuance of citations.
2. It shall be unlawful and a violation of this Section for the owner, builder, agent, lessee or occupant of any lot within the county to allow solid waste or debris to accumulate upon the property within the county, or to allow materials to accumulate and become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic. Any responsible party who causes, permits, facilitates or aids or abets any violation of any provision of this subchapter shall be subject to enforcement as stated herein.
3. Any person aggrieved by a violation or apparent violation of this subchapter may file a written complaint with the Department of County Development, which shall investigate the complaint and take action to have the violation penalized and removed, if the violation is found to exist.
4. Any person violating the provisions of this subchapter may be issued a notice of violation or a citation to Magistrate Court.
  - a. A notice of violation is a warning which requires a reasonable time limit for abatement, which shall not be more than 15 days after the issuance of the notice of violation, except as otherwise provided in this Section. The notice of violation shall be written and shall be served by personal delivery or by certified mail to the person's last known address, or by posting upon the property for ten calendar days. Upon the failure to abate a violation pursuant to the issuance of a notice of violation, a citation to Magistrate Court will be issued.
  - b. A notice of violation warning for any offense governed by this Section shall also serve as warning notice to the violator that subsequent offenses, within a 12-month period, shall result in a Court citation in lieu of additional notices of violation.
5. In those instances where unauthorized or improper grading or tillage of a lot occurs, the person that caused the violation shall revegetate or restore the property to its prior state; in accordance with a plan approved by the Zoning Officer.
6. Upon the failure of any person to abate a violation of this Section, the county may require the removal or mitigation of the violation at the expense of the person who caused the violation or the person in control of a property. Any person who causes property damages to public property shall be liable for the damage. The method for collection of costs to the county may include, but shall not be limited to, a lien pursuant to NMSA §§ 3-36-1 et seq.

**SECTION 15 (2). NUISANCES**

**A. Unlawful Activity**

It is unlawful to commit public nuisance. Public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either injurious to public health, safety, morals or welfare, or interferes with the exercise and enjoyment of public rights including the right to use public property.

**B. Nuisances Declared**

In the interest of the inhabitants of the county, it is necessary to prohibit the accumulation of junk, trash and refuse on property within the limits of the county by declaring the accumulation a nuisance. The following are hereby declared to be a public nuisance.

1. Unoccupied premises. It shall be unlawful for any reason for any person to sweep, place or throw solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises.
2. Unsanitary premises. It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, motor vehicles not in operating condition, waste water or any conglomeration of residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents. The accumulation of building materials, pipes, lumber or boxes may be maintained on the premises if the accumulation is evenly piled and stacked for a reasonable length of time.
3. Hazardous premises. It shall be unlawful for any person to permit in or about his premises weeds, briars, brush or any other solid waste to become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.
4. Obstruction of fire protection equipment. No person shall place or keep any post, fence, vehicle, growth, trash storage or other material or thing near any fire hydrant, fire department connection or fire protection system

control valve that would prevent the equipment or hydrant from being immediately discernible or in any other manner deter or hinder the firefighters from gaining immediate access to the equipment or hydrant.

5. Accumulation of solid waste.
  - a. It shall be unlawful for any person to allow any solid waste to accumulate upon premises, owned, leased, rented or occupied by him during intervals between collection thereof, except in the manner herein provided.
  - b. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways or vacant lots within the county, except in the manner and in the receptacles or container as provided herein.
6. Solid waste receptacles. All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle and the receptacles shall be located only in places as shall be readily accessible for removing and emptying the same, but shall not be placed in a place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.
7. Outdoor vehicle storage; prohibited acts; exceptions.
  - a. It is unlawful for any person, firm or corporation to store on, place on or permit to be stored or placed on, or allowed to remain on any occupied or unoccupied land within the county, a dismantled, partially dismantled, not properly registered, or inoperative motor vehicle, or any parts of a motor vehicle, except in areas where the activity is within the contemplated purposes of duly licensed businesses and are kept in a wholly enclosed garage or structure.
  - b. Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his premises, any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one week if the motor vehicle is registered in his name; and provided further that any owner or tenant may, in the event of hardship, secure permission from the county to extend the period of time.
  - c. As used in this Section, the following terms shall have the following meanings:
    - (1) *"Dismantled or partially dismantled vehicle"* means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.
    - (2) *"Inoperative" or "inoperable motor vehicle"* means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.
    - (3) *"Motor vehicle"* means any wheeled vehicle which is self-propelled or intended to be self-propelled.
  - d. This section shall be construed as being supplementary to any sections of Section 15(1) relating to rubbish, litter, refuse and shall not be construed to permit the parking or placing of dismantled, partially dismantled or inoperable motor vehicles on any public street.

**C. Notice and Complaint**

1. The Zoning Officer, upon observing any violation of this Section shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner occupant or tenants, which limit shall be not less than 2 days or more than 30 days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address.
2. In the event the owner or occupant of the property where the nuisance violation of this subchapter exists, has failed, within the prescribed time, to abate the nuisance, then the Zoning Officer shall file a complaint charging violation of this subchapter with the Magistrate Court demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the Court for the violation of this subchapter.

**D. Abatement; Removal of Nuisance**

1. In the event that a person is convicted of violating this subchapter and still refuses to remove the junk, trash or refuse, the county may enforce this section in any manner consistent with law.
2. Should the person refuse or fail to pay the assessment, the county shall collect the assessment as provided by law.

**E. Injunctions**

The Zoning Officer, when a nuisance exists as set forth in this Section, may maintain a complaint in the name of the county, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same.

## **SECTION 16. NONCONFORMITIES.**

- A. **Definition.** Within the Zone Districts established by this Ordinance, there exist: lots, structures, or uses of land or structures that were lawful before this Ordinance was passed or amended, but would be prohibited or restricted under the terms of this Ordinance. It is the intent of this Ordinance to allow these nonconformities to continue until they are removed, but not to encourage their survival. The existence of nonconformity on a property shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. **Expansion.** A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building that existed prior to the effective date of this Ordinance shall not be deemed an extension of such nonconforming building.
- C. **Abandonment.** Whenever a nonconforming use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use must be in conformance with the provisions of this Ordinance.
- D. **Nonconforming Lot Size.** Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed or improved provided that setback and any other requirements of the lot are in conformance with the provisions of this Ordinance. Unless specifically cited by the Zoning Commission, a Certificate of Nonconformance will not be required for nonconforming lots.

## **SECTION 17. CONDITIONAL USES.**

- A. **Approval Required.** Conditional uses established by this Ordinance shall not be allowed without the review, public hearing, and approval of the Zoning Commission. In conducting such public hearing and in making a decision, the Zoning Commission shall be guided by the criteria set forth in this section, as well as by any other applicable criteria established by this Ordinance or other law.
- B. **Application.** Any request for approval of a conditional use shall be submitted to the Zoning Officer with the appropriate filing fee on an application form prescribed by the Zoning Officer. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the requested Conditional Use is consistent with the intent and purpose of this Ordinance. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and public hearing.
- C. **Notice of Public Hearing.** Notification of the time and place of any public hearing held pursuant to this Section shall be published in a newspaper of general circulation in the County at least fifteen (15) days prior to the hearing. In addition, notice of the public hearing shall be mailed by certified mail, return receipt requested, to:
  - 1. the applicant(s);
  - 2. the owner(s), as shown by the records of the County Treasurer, of the land for which the approval is requested, if different from the applicant(s); and,
  - 3. the owners, as shown by the records of the County Treasurer, of land within one hundred (100) feet, excluding public right-of-way, of the land for which the approval is requested. If any notice is returned undeliverable, the County shall attempt to discover the addressee's most recent address and shall remit the notice by certified mail, return receipt requested.
- D. **Guidelines.** The Zoning Commission shall not approve any conditional use unless satisfactory provision has been made concerning:
  - 1. Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;
  - 2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
  - 3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health.
  - 4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties;
  - 5. The general compatibility of the proposed use with actual or prospective permissive use of adjacent properties; and
  - 6. The overall health and safety of the community.

- E. **Special Requirements.** The Zoning Commission may impose special requirements as a condition of approval in order to satisfy the above mentioned guidelines. Such special requirements must be made in writing, transmitted to the applicant, and placed on record in the Planning and Zoning Office of the County.
- F. **Subsequent Action.** Following notice to the property owner by certified mail, return receipt requested, a conditional use may be revoked (a) by action of the Zoning Commission or the County Board at a public hearing, or (b) through an action brought in a court of competent jurisdiction by the Zoning Officer on behalf of the County, upon proof that the use for which the conditional use was obtained:
  - 1. Has not been conducted in reasonable compliance with any special requirement imposed as a condition for approval of the conditional use;
  - 2. No longer satisfies the defining criteria for the type of conditional use granted; or
  - 3. As actually operated would not satisfy the guideline criteria of this section for the grant of such a conditional use, provided that revocation on this basis requires proof that is clear and convincing.

#### **SECTION 18. VARIANCES.**

- A. **Definition.** The Zoning Commission may approve a variance from the strict application of area, dimension, distance, setback, off-street parking, and off-street loading requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of a lot or structure.
- B. **Application.** Any request for approval of a variance shall be submitted to the Zoning Officer with the appropriate filing fee on an application form prescribed by the Zoning Officer. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the requested variance is consistent with the intent and purpose of this Ordinance. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and public hearing.
- C. **Notice of Public Hearing.** Notification of the time and place of any public hearing regarding a variance shall be provided as specified in Section 17(C) of this Ordinance.
- D. **Required Findings.** The Zoning Commission shall not approve any variance absent findings that:
  - 1. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by the owners of other properties in the same district under the terms of the Ordinance;
  - 2. The need for a variance is the result of special conditions and circumstances not caused by the applicant, and the hardship is not self-imposed or self-created;
  - 3. Granting the variance requested will not confer on the applicant any special privilege that is denied by the Ordinance to owners of other lots or structures in the same zone district;
  - 4. The variance granted is the minimum departure from this Ordinance necessary to permit reasonable use of the lot or structure;
  - 5. The variance granted is in harmony with the purpose and intent of this Ordinance, and is not injurious to the area or otherwise detrimental to the public welfare;
  - 6. The variance will not set a precedent that conflicts with the policies of the Sandoval County Comprehensive Plan or other applicable land use plans that adopted by the County; and
  - 7. The applicant would suffer an unnecessary hardship if the variance requested were denied.

#### **SECTION 19. AMENDMENTS.**

- A. **Legislative Amendments.** Legislative amendments (a) to the text of this Ordinance and/or (b) affecting or creating any Official Zoning Map may be initiated by the County Board, the Zoning Commission, or the Zoning Officer. An owner of land may petition for the initiation of a legislative amendment, but further action in response to such a petition shall be discretionary. Legislative amendments shall be adopted by the County Board in accordance with all state law requirements, including applicable notice provisions.
- B. **Review and Recommendation of Zoning Commission.** In addition, legislative amendments first shall be reviewed and considered at a meeting of the Zoning Commission, duly noticed as provided in this section. Following such consideration, the Zoning Commission shall provide its written recommendation to the County Board. The County Board shall consider such recommendation in open meeting, and a majority of the County Board may at that time



order publication of the title and a general summary of the proposed amendment. Notwithstanding these requirements, no deficiency (a) in any notice of the Zoning Commission meeting, or (b) in any aspect of the Zoning Commission participation in the legislative amendment process shall be grounds for invalidation of any legislative amendment otherwise duly enacted in accordance with state law.

- C. **Notice of Zoning Commission Meeting on Legislative Amendment.** The meeting of the Zoning Commission regarding a legislative amendment shall be noticed by publication of the title and a general summary of the proposed amendment in a newspaper of general circulation in the County at least once a week for two consecutive weeks prior to the date of the meeting.
- D. **Quasi-Judicial Zone Map Amendments.** All other amendments (hereinafter referred to as "Zone Map Amendments") affecting any Official Zoning Map may be initiated by any owner(s) of land within the jurisdiction of this Ordinance or his/her authorized agent. Such amendment shall be initiated by the submission to the Zoning Officer of a completed application form prescribed by the Zoning Officer together with the appropriate filing fee. In addition, the applicant shall submit to the Zoning Officer such information as may be reasonably required to determine whether the request is consistent with the intent and purpose of this Ordinance, the Sandoval County Comprehensive Plan or other land use plans adopted by the County. At such time, the Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for review and recommendation. The Zoning Commission shall prepare and transmit a recommendation in writing, to the County Board within seven (7) days after their review of the proposed amendment is completed. If, in the judgment of the Zoning Officer or the Zoning Commission, an applicant substantially amends an existing application for Zone Map Amendment, it will be considered an Amended Application and that applicant shall be required to submit a new application under the terms and conditions of this Ordinance.
- E. **Notice of Meetings and Hearings on Zone Map Amendments.** Notification of the time and place of any Zoning Commission meeting or County Board hearing to consider a Zone Map Amendment shall be provided as specified in Section 17 (C) of this Ordinance.
- F. **Zone Map Amendment Guidelines.** The County Board shall not approve a Zone Map Amendment unless satisfactory provision has been made concerning the following, where applicable:
1. Accessibility to property and existing or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;
  2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
  3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health.
  4. The economic, noise, glare, or odor effects of the conditional amendment on adjoining properties;
  5. The general compatibility of the proposed amendment with actual or prospective permissive zoning use of adjacent properties;
  6. The overall health and safety of the community; and,
  7. Conformance to the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County.
  8. The applicant has had a pre-application public meeting where he has invited property owners, occupants, and county staff affected by the proposed amendment when the amendment involves:
    - (a). creation of a Special Use (S-P) District;
    - (b). creation of a Master Planned (M-P) District; or
    - (c). change of an urban residential zone to any other classification.
- G. **Zone Map Amendment Public Hearing.** Upon receipt of the written recommendations of the Zoning Commission and following the provision of proper Notice as specified in Section 17 (C) of this Ordinance, the County Board shall hold a public hearing to make its decision on an application for a Zone Map Amendment. Any approval of such an Amendment by the County Board shall be by Ordinance. Following such approval a copy of the Ordinance adopting the Amendment to the Official Zone Map shall be filed with the County Clerk and the Planning and Zoning Office of the County. Such Ordinance shall include any special requirements imposed by the County Board.

## **SECTION 20. TEMPORARY USE PERMITS**

In certain situations where unique circumstances warrant, the Zoning Commission may authorize by Temporary Use permit the location of uses in any zone in which they would otherwise not be permitted. In no case shall any use authorized by this section be permitted to exist for a period in excess of twenty-four (24) months and no renewal of a permit for the same use shall be allowed under this section.

- A. **Application.** Any request for a Temporary Use permit shall be submitted with the applicable filing fee to the Zoning Officer on a prescribed application form obtainable from the Zoning Officer. The Zoning Officer shall transmit the application and any supplementary information to the Zoning Commission for their review and consideration. The Zoning Commission shall hold a public hearing in which to make a decision on the application. Notice of the hearing shall be provided as per Section 17(C) of this Ordinance. At their hearing, the Zoning Commission may impose such conditions and limitations as it deems necessary:
1. To assure that the proper performance standards and conditions are, whenever necessary, imposed upon uses that are, or that reasonably may be expected to become obnoxious, dangerous, offensive, or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
  2. To preserve the utility, integrity, and character of the zone in which the use will be located, without adversely impacting adjacent zones; and
  3. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
- B. **Financial Assurance.** The Zoning Commission may require that the applicant post a suitable financial guarantee to assure timely compliance with conditions and limitations, including the time limitation on the proposed use.
- C. **Denial.** The Zoning Commission may deny any such application if it finds that the conditions specified in this Section will not be met and/or the proposed application would more appropriately be processed under Sections 17 or 19 of this Ordinance.
- D. **Alternate Administrative Procedure.** In cases where the proposed use is located on a lot or lots with a total land area of one acre or smaller and the proposed use will not extend beyond thirty (30) days, an alternative administrative procedure is hereby established. Following the submittal of an application and the appropriate filing fee, the Zoning Officer shall review the application for compliance with the conditions specified in this section. Within fifteen (15) days of receipt of a complete application, the Zoning Officer shall approve the application, deny the application, or refer the application to the Zoning Commission for review pursuant to this Section.
- E. **Violation.** Any noncompliance with any condition of approval of a Temporary Use permit, including the time limitation imposed on the proposed use shall be deemed a violation of this Ordinance as per Section 24 herein.
- F. **Sand and Gravel Mining.** Any approvals of applications under this Section for sand and gravel mining uses shall be made subject to all applicable conditions of Section 10 (1) of this Ordinance.

## **SECTION 21. SPECIAL EVENTS PERMITS.**

When residents have a need for a change of land use for a special event, the Zoning Officer may authorize by Special Event Permit the uses in any zone in which they would affect the services of the County during the operation of the event. In no case shall any use authorized by this section be permitted to exist for a period in excess of thirty (30) days and only one renewal in a calendar year shall be allowed under this section. The County shall form a committee from staff. This committee membership shall consist of County Development, Sheriff's Department, Emergency Management Services, Public Works, and Tourism.

- A. **Application.** Any application for a Special Event permit shall be submitted with the applicable filing fee to the Zoning Officer on a prescribed application form obtainable from the Zoning Officer. The Zoning Officer must receive application and any supplementary information for Special Event permits at least thirty (30) days prior to the event. The Zoning Officer shall transmit the application and supplementary information to the Committee for their review and consideration. At their meeting the Committee shall inform the Zoning Officer of the need to impose such conditions and limitations as it deems necessary:
1. To assure that the proper safety standards and conditions are, whenever necessary, imposed upon the events that are, or that reasonably may be expected to become obnoxious, dangerous, offensive, or

injurious to the health, safety and welfare of the public, or a portion thereof, by reason of the activity of this event.

2. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare
3. That the resources of the Sandoval County Tourism and Visitors bureau be made available to the event if needed.
4. That there will be appropriate planning for public safety agencies by this event.

- B. **Financial Assurance.** The Committee may require that the applicant post a suitable financial guarantee for County services as well as a liability policy. The applicant will be responsible for 105% of any expenses incurred by Sandoval County as part of this event, to include but not be limited to: Road preparations, Law Enforcement requirements, Fire and Emergency Medical and Management Service standby. The expense fee will be required to be paid to Sandoval County in two phases, ½ of the estimated costs prior to the event with the balance due within 30 days after being invoice for the event. If the Committee determines that liability insurance is required, Sandoval County shall also be named as an insured party on the policy.
- C. **Denial.** The Zoning Officer may deny any such application if he / she finds that the conditions specified in this Section will not be met and / or the proposed applications would more appropriately be processed under Sections 17 or 20 of this Ordinance.
- D. **Administrative Relief.** At the discretion of the County Commission, when it is in the best interest of the County, the Commission may defer or waive any or all of the fee requirements of this section.
- E. **Violation.** Any noncompliance with any condition of approval of a Special Event Permit, including the time limitation imposed on the proposed use shall be deemed a violation of this Ordinance as per Section 24 herein.

## **SECTION 22. APPEALS.**

- A. **Right of Appeal.** Anyone aggrieved by a decision of the Zoning Officer or the Zoning Commission in carrying out the provision of this Ordinance may appeal such decision as specified in Table A below. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

Type of Application	Zoning Officer	Zoning Commission	County Board
Temporary Use Permit	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Temporary Use Permit (Administrative Procedure)	Decision	Considers Appeal (Hearing)	Considers Appeal (Record Hearing)
Variance	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Conditional Use	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Special Event Permit	Decision	Considers Appeal (Hearing)	Considers Appeal (Record Hearing)
Beneficial Use Determinations	Recommends		Decision (Hearing)
Interpretation/ Administrative Action	Decision	Considers Appeal (Hearing)	Considers Appeal (Record Hearing)

- B. **Application.** Any appeal following a decision of the Zoning Officer or the Zoning Commission shall be made in writing on prescribed forms obtainable from the Zoning Officer upon payment of the applicable filing fee. Any appeal not submitted within thirty (30) days after the decision that is the subject of the appeal shall not be considered.

- C. **Public Hearing.** The decision on an appeal shall be made by the appropriate body as specified in Table A following a public hearing. Within sixty (60) days of the date of the filing of an appeal the Zoning Officer shall schedule a date for the public hearing. At that time, person(s) filing the appeal shall be notified by certified mail, return receipt requested, of the time and place of the public hearing. The date of the appeal hearing will be scheduled by the Zoning Officer based in part upon the quantity and complexity of other matters pending before the body that is to consider the appeal. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least fifteen (15) days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the original applicant (if he/she is not the appellant) and the owners of property adjacent to the property that is the subject of the appeal.
- D. **Review on Record.** Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:
1. All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;
  2. All materials submitted to the Zoning Officer with respect to any application(s);
  3. The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;
  4. The findings of fact and conclusions of law entered by the Zoning Commission following their decision; and
  5. Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.
- E. **Stay of Proceedings.** An appeal shall stay all proceedings in the action unless the Zoning Officer or Zoning Commission certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of district court. Approval of a Building Permit or any other required approval required from the Zoning Officer in order to accomplish a development approved under Sections 17, 18, or 20 of this Ordinance shall not be granted until any appeal is decided or the time for filing such an appeal has expired.
- F. **Decision.** At the public hearing, the appellate body (either the County Board or Zoning Commission, whichever is applicable) may reverse, change, or affirm the decision appealed. A majority vote of the members of the County Board is required to reverse or change a decision made by the Zoning Commission.

#### **SECTION 22 (1). BENEFICIAL USE DETERMINATIONS**

In the event that a property owner in the County believes that all beneficial use of his property has been denied, or “taken” by the application of this Ordinance, then he/she may appeal to the County Board. Such appeal shall be accomplished by submitting an application for a beneficial use determination under the provisions of Section 22 of this Ordinance. The following procedures provided in this Section shall be used prior to seeking relief from the courts in order that any denial of beneficial use of property may be remedied through a non-judicial forum.

- A. **Purpose** - The purpose and intent of this Ordinance is that every property owner in the County should enjoy a beneficial use of his/her property. A beneficial use determination is a process by which the County evaluates the allegation that there is no beneficial use, and can provide relief from the regulations by granting additional development potential to permit a beneficial use of the property. It is also the intent of this Section that such relief not increase the potential for damaging the health, safety, or welfare of future users of the property or neighbors that might reasonably be anticipated if the property owner were permitted to build.
- B. **Notice and Public Hearing** - The notice requirements and public hearing procedures for a beneficial use determination shall be the same as that provided for appeals under Section 22 of this Ordinance.
- C. **Additional Information Required** - The nature of this appeal requires detailed financial information on the property that is not required or desired in normal appeal applications. The following data shall accompany all applications for a beneficial use appeal:

1. Documentation of the date of purchase and the purchase price of the property.
2. A description of the physical features present on the property, the property's total acreage, the present use of the property, and the use of the property at the time of the adoption of this Ordinance.
3. A description of the specific portions of the regulations that are alleged to result in an elimination of all beneficial use of the property together with all appraisals, studies, any other supporting evidence and any actions taken by the County related to the property.
4. A description of the use that, in the belief of the property owner, represents the minimum beneficial use of the property and all documentation, studies, and other evidence supporting that position.
5. Documentation that the property has been listed for sale for at least six (6) months after the adoption of this Ordinance, and originals or copies of all bids, offers-to-purchase, and other correspondence regarding the sale of such property.

D. **Deprivation Standards** - In determining if a property owner has been deprived of beneficial use of his/her property, the County Board shall take into account the following factors:

1. The value of the property prior to adoption of this Ordinance that caused the property owner to apply for relief shall be compared to the value of the property with the regulations as applied. A mere diminution in value does not deprive the property owner of a beneficial use; the diminution must be so drastic that it effectively deprives the property owner of any significant use or enjoyment of the property.
2. A use common to the County and/or the area of the subject site, although it may not involve further development of the land, is considered a beneficial use. Attention shall also be given to land uses that are considered to be the lowest intensity in the County or adjoining areas but that still provided for occupation and living by the property owner. These land uses shall be considered beneficial uses.
3. Whether the property is being singled out for different treatment than similarly situated properties under this Ordinance.
4. A minimum beneficial use of the land should be one that does not have any governmental subsidy attached to the use or long-term safe occupation of the property. If such a subsidy exists, then it should be reflected in considering minimum beneficial use on a valuation basis. The public costs of a subsidy should be considered as a payment to the property owner for the restriction on the property if there is an annual subsidy that enhances the economic return of the existing use to the property owner.
5. The extent to which the regulations protect users or neighbors from threats to health or safety shall be fully accounted for. A use that seriously threatens the health of future residents or neighbors is not a beneficial use.
6. Expectations shall, in general, not be considered. Only expectations backed by investments made prior to the adoption of the restrictions in question and that are substantially above the cost of the land and normal planning investments, shall be considered.
7. In no case shall a use that is nuisance per se, or a use that in that particular location constitutes a nuisance, be granted relief. Such uses are not legal uses of the land and thus no taking of beneficial use of the land can occur.

E. **Granting Relief** - If the County Board finds that a property owner has been denied all beneficial use of his property, then the following relief may be granted:

1. The property owner shall be given the minimum increase in development intensity or other possible concessions from this Ordinance in order to permit a beneficial use of the land. The highest use, or even an average reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum beneficial use of property and, therefore, the amount of relief to be granted a property owner.
  - a. The limited development potential, given the natural condition of the property, shall not be attributed to the regulations applied to the property. If the property is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall be taken into account in identifying the best site for development that minimizes costs for development.
  - b. The potential for damage to either residents or property shall be assessed in determining a beneficial use. Conditions shall be placed on sites where damage from building or hazardous

conditions is likely. The conditions may include location restrictions, size limitation, construction practices, and shall require a building to be built so it will not be damages.

2. The County Board shall make its decision by resolution. Based on the findings of the public hearing, the County Board may also direct that public hearings be held to amend this Ordinance.

#### **SECTION 23. FILING FEES.**

- A. **Applications.** Any applications required by this Ordinance shall be filed with the required filing fee on prescribed forms obtainable from the Zoning Officer. Such fees shall not be required where the County or any official thereof is the moving party.
- B. **Fees.** Fees will be established by Resolution of the County Board and will be subject to periodic review and update.
- C. **Refunds.** If an application is withdrawn before required public notification is published, the filing fee shall be refunded to the person making the application. If an application is withdrawn after such notification is published, the filing fee shall not be refunded.

#### **SECTION 24. PENALTIES.**

The County Board finds there is a significant risk to the health, safety and welfare of the citizens of Sandoval County from unregulated activities, including violations of this Ordinance. The County Board further finds that violations of this Ordinance are a nuisance that must be abated by the assessment of fines. The Commission declares that this section of the Zoning Ordinance is a nuisance abatement article enacted pursuant to the County's authority under state law and that the remedies set forth hereunder are purely civil and not criminal in nature.

Any citation issued for violation of this Ordinance shall state the name of the alleged violator, the date the citation was issued, the type of violation, and the section of this Ordinance under which the violation is issued. The citation shall, if possible, list the action necessary to cure the alleged violation. The citation shall conspicuously and in bold face type state: **"If not paid, this fine shall constitute a lawful debt which will be collected pursuant to legal process and may be assessed as a lien upon the property upon which the violation exists. If the violation is remediated by the County or by a contractor hired by the County, the actual costs of remediation may be added to the fine."**

The violation citation may be issued to the owner of the land where the violation is alleged to exist, the occupier of the land if different from the owner or to both in the discretion of the Zoning Officer. When possible, the citation shall contain the address of the property on which the violation is alleged to exist, the legal description of the property or both. The citation shall be hand-delivered to the alleged owner or violator if possible, or may be mailed to the alleged violator or owner or posted upon the property. Any of the previously listed forms of notice shall constitute sufficient service of notice under the law.

The fine for violating any provision of this ordinance shall not exceed \$300 and the fine shall be payable to the County. The fine may be waived in the sole discretion of the County if the alleged violator commences and completes satisfactory actions to remediate the alleged violation.

#### **SECTION 25. SEVERABILITY.**

The provisions of this Ordinance shall be deemed to be severable, and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

#### **SECTION 26. REPEAL OF PREVIOUS ORDINANCES.**

The Sandoval County Comprehensive Zoning Ordinance of November 30, 2007, No. 07-11-01.8B and all amendments thereto, with the exception of Legislative and Quasi-Judicial Zone Map Amendments in effect at the time of adoption of this Ordinance, are hereby repealed.