

# CLOVIS

New Mexico



## Unified Development Ordinance

PUBLIC HEARING DRAFT

April 2019

Substantive changes from current zoning ordinance are identified in footnotes<sup>1</sup> and through redline (new/add) and ~~striketrough~~ (deletion).

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<sup>1</sup> Footnotes have this appearance.

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### **17.05.010. Title**

Title 17 is known and may be cited as the “City of Clovis Unified Development Ordinance.” For convenience, it may be referred to as the “UDO.”

### **17.05.020. Effective Date**

The provisions of this UDO become effective on INSERT DATE, except as otherwise expressly stated.

### **17.05.030. Applicability**

The provisions of this UDO apply to all public and private uses and developments, except as provided by state or federal law or as otherwise expressly stated in this UDO.

### **17.05.040. Jurisdiction**

Except as otherwise expressly stated, the provisions of this UDO apply to all land within the corporate limits of the city (see also [17.35.010](#) for provisions governing jurisdiction of subdivision-related regulations).

### **17.05.050. Purposes**

This UDO is adopted for the purposes of:

- A.** Protecting and promoting the public health, safety and general welfare; and
- B.** Implementing the policies and goals of the comprehensive plan and other relevant, officially adopted plans of the city.

### **17.05.060. Minimum Requirements**

- A.** The provisions of this UDO are the minimum requirements deemed necessary to carry out the UDO’s stated purposes.
- B.** In addition to the requirements of this UDO, all uses, buildings and structures must comply with all other applicable ordinances, laws and regulations.

- C. All references in the UDO to other governmental regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for the city to enforce regulations imposed by other government authorities.

#### **17.05.070. Compliance Required**

- A. Land may not be used for any purpose other than one that is allowed by the provisions of this UDO.
- B. A building or structure may not be erected, located, moved, reconstructed, extended or structurally altered except as allowed by this UDO.
- C. Buildings, structures and land may be used and occupied only in compliance with the provisions of this UDO.
- D. All lots created or modified must comply with all applicable provisions of this UDO.

#### **17.05.080. Conflicting Provisions**

##### **A. Conflict with State or Federal Regulations**

If the provisions of this UDO are inconsistent with state or federal law, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.

##### **B. Conflict with Other City Regulations**

If the provisions of this UDO are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision governs unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.

##### **C. Conflict with Private Agreements and Covenants**

This UDO does not interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this UDO impose a greater restriction than imposed by an agreement or covenant among private parties, the provisions of this UDO govern. The city is not responsible for monitoring or enforcing agreements or covenants among private parties.

#### **17.05.090. Rules of Language and Construction**

##### **A. Meanings and Intent**

Words and terms expressly defined in this UDO including those defined in [Chapter 17.90](#) have the specific meanings assigned unless the context indicates another meaning. Words that are not expressly defined in this UDO have their common dictionary meaning.

##### **B. Computation of Time**

1. References to “days” are to calendar days unless otherwise expressly stated. References to “business days” are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by city government.
2. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or holiday observed by city government, that day is excluded.
3. A day concludes at the close of business and any materials received after that time will be considered to have been received the following day.



**C. Tenses and Usage**

1. Words used in the singular include the plural. The reverse is also true.
2. Words used in the present tense include the future tense. The reverse is also true.
3. The terms "must," "will," and "shall" are mandatory.
4. The word "may" is permissive, not mandatory or required. The phrase "may not" is not permissive, but rather indicates a prohibited action.
5. When used with numbers, "up to x," "not more than x" and "a maximum of x" all include "x."
6. The word "person" includes a firm, association, organization, partnership, limited liability company, trust, or corporation, as well as an individual.
7. The words "used" and "occupied" include "intended, designed or arranged to be used or occupied."

**D. Conjunctions**

Unless the context otherwise expressly indicates, conjunctions have the following meanings:

1. "And" indicates that all connected items or provisions apply; and
2. "Or" indicates that the connected items or provisions may apply singularly or in combination.

**E. Headings and Illustrations**

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this UDO. In case of any difference of meaning or implication between the text of this UDO and any heading, drawing, table, figure or illustration, the text governs.

**F. Versions and Citations**

All references in this UDO to other city, state or federal regulations are to be construed as referring to the most up-to-date version and citation for those regulations, unless otherwise expressly indicated. When the referenced regulations have been repealed and not replaced by other regulations, UDO requirements for compliance are no longer in effect.

**G. Lists and Examples**

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

**H. Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this UDO expressly prohibit such delegation.

**I. Public Officials and Agencies**

1. Unless otherwise expressly stated, all employees, public officials, bodies and agencies to which references are made are those of the City of Clovis or individuals or agencies legally authorized to act on behalf of the City of Clovis.
2. References in this UDO to the "city" are references to the City of Clovis.
3. References in this UDO to the "county" are references to Curry County.
4. References in this UDO to the "city commission" are references to the Clovis City commission.

5. References in this UDO to the “planning and zoning commission” are references to the City of Clovis planning and zoning commission.

#### **17.05.100. Zoning Map<sup>2</sup>**

##### **A. Establishment**

The location and boundaries of the zoning districts defined in this UDO must be established by ordinance and shown on a geographic coverage layer that is maintained as part of a geographic information system (GIS). This “Zoning” geographic coverage layer constitutes Clovis’ official zoning map.

##### **B. Maintenance and Updates**

The planning and zoning administrator is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments (rezonings).

##### **C. District Boundaries**

Zoning district boundary lines must be described by legal description or by a map that accompanies the ordinance establishing the district or amending the district boundaries. When a legal description is used, the zoning district boundary is deemed to extend to the centerline of abutting streets. When a map is used, district boundary lines must be established by dimensions, property lines, recorded lot lines, or the centerline of abutting streets, alleys, or railroad rights-of-way, as those features were of record at the time of adoption.

##### **D. Map Interpretations**

Where any uncertainty exists about a zoning boundary that was established by legal description, the legal description accompanying the amending ordinance governs. In other cases, the director of building safety is authorized to make an interpretation in accordance with the procedures of [17.65.120](#). The following rules apply to all map interpretations:

1. A boundary shown on the zoning map as approximately following a street, alley or railroad right-of-way line will be construed as following the centerline of that street, alley or railroad right-of-way.
2. A boundary shown on the zoning map as approximately following lot lines or other lot boundaries will be construed as following such lot lines or lot boundaries.
3. A boundary shown on the zoning map as approximately following a section line or municipal boundary line will be construed as following that section line or municipal boundary line.
4. A boundary shown on the zoning map as approximately following a river, stream, drainage channel or other watercourse will be construed as following the centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes (flooding, erosion, sedimentation, etc.), the boundary will be construed as moving with the centerline of the watercourse.

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<sup>2</sup> Minor (non-substantive) modifications to provisions of existing 17.20.100.

5. A boundary shown on the zoning map as approximately following a ridge line or topographic contour line will be construed as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes (erosion, slippage, subsidence, etc.), the boundary will be construed as moving with the ridge line or contour line.
6. A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above will be construed as being parallel to, or an extension of, the feature.

**E. Zoning of Annexed Land**

When land is annexed or otherwise brought into the zoning jurisdiction of the city, it may be classified in an RS-170 or RS-7 district or assigned another zoning classification based on the comprehensive plan, existing land uses, any applicable annexation agreement and other relevant considerations.

**17.05.110. Transitional Provisions**

The provisions of this section address the transition to this UDO from the UDO in effect immediately preceding the effective date specified in [17.05.020](#).

**A. Applications, Permits and Approvals**

1. Any building, development or structure for which a building permit was issued or a complete building permit application had been accepted for processing before the effective date specified in [17.05.020](#) may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not comply with provisions of this UDO. If the building, development or structure is not commenced and completed within the time allowed under the original building permit and any authorized permit extension, the building, development or structure may be constructed, completed and occupied only if it complies with the regulations of this UDO.
2. Complete applications for conditional uses, variances or other zoning-related approvals that are pending approval on the effective date specified in [17.05.020](#) must be reviewed wholly under the terms of the UDO in effect immediately preceding the effective date specified in [17.05.020](#). Building permits for construction and development approved under such zoning approvals may be issued in accordance with [17.05.110.A.3](#).
3. The director of building safety is authorized to issue building permits for construction or development approved before the effective date specified in [17.05.020](#) and for developments pending approval under [17.05.110.A.2](#), even if such building, development or structure does not fully comply with provisions of this UDO. If building is not commenced and completed within the time allowed under the building permit and any authorized permit extension, then the building, development or structure may be constructed, completed and occupied only if it complies with the regulations of this UDO.
4. When a use classified as a conditional use under this UDO exists as an approved conditional use or permitted use on the effective date specified in [17.05.020](#), that use will be considered a lawfully established conditional use under this UDO. When any amendment to this UDO changes the classification of a permitted use to a conditional use, any use lawfully established before such amendment will be considered a lawfully established conditional use after the effective date of the amendment. A lawfully established existing use that is not allowed as a conditional use or permitted use in the district in which the use is now located will be considered a nonconforming use and will be subject to all applicable regulations of [Chapter 17.75](#).

## B. Zoning District Name Conversions

### 1. General

The zoning district names in effect before the effective date specified in [17.05.020](#) are converted in this UDO as follows:

TABLE 05-1: ZONING DISTRICT NAME CONVERSIONS

Map Symbol	Previous Zoning District Name	Map Symbol	New Zoning District Name
RA	Ranchette	RS-170	Residential Single-family-170
RS	Residential Single-Family	RS-7	Residential Single-family-7
NC(c-1)	Neighborhood Conservation Carport	(c1)*	Carport Overlay
NC(c-2)	Neighborhood Conservation Prefabricated Carport	(c2)*	Prefab Carport Overlay
NC(L)	Neighborhood Conservation Livestock	(L)*	Livestock Overlay
NC(MH)	Neighborhood Conservation Mobile Home	(MH)*	Mobile Home Overlay
NC(MHP)	Neighborhood Conservation Mobile Home Park	(MHP)*	Mobile Home Park Overlay
R	Residential	RM	Residential Multi-family
MD	Mixed Development	CG	Commercial General
UD	Urban Development	CBD	Central Business District
I	Industrial	I	Industrial
PUD	Planned Unit Development	PUD	Planned Unit Development
TND	Traditional Neighborhood Development	TND	Traditional Neighborhood Development

\* Overlay designations are appended to base district names [e.g., RS7(c2)]

### C. Violations

The adoption of this UDO does not affect any pending or future prosecution of, or action to abate, violations of the previous UDO that occurred before the effective date specified in [17.05.020](#).

## 17.05.120. Safe Harbor Authorization

The city commission is expressly authorized to avoid the preemptive force of any provision of the Religious Land Use and Institutionalized Persons Act (RLUIPA) by any one or more of the following actions:

1. Changing the policy or practice that results in a substantial burden on religious exercise;
2. Retaining the policy or practice and exempting the substantially burdened religious exercise;
3. Providing exemptions from the policy or practice for applications that substantially burden religious exercise; or
4. Any other means that eliminates the substantial burden on religious exercise.

## 17.05.130. Severability

If any portion of this UDO is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the UDO and does not affect or diminish the validity of the remainder of the UDO.

## Chapter 17.10 | Residential Districts

17.10.010. Districts .....	10-1
17.10.020. Use Regulations.....	10-1
17.10.030. Lot and Building Regulations .....	10-1
17.10.040. Other Relevant Regulations.....	10-4

### 17.10.010. Districts

#### A. List

The residential zoning districts are listed in [Table 10-1](#). When this UDO refers to “residential” zoning districts or “R” districts, it is referring to these districts.

*TABLE 10-1: RESIDENTIAL (R) ZONING DISTRICTS*

Map Symbol	District Name
<b>RS-170<sup>3</sup></b>	Residential Single-family-170
<b>RS-7<sup>4</sup></b>	Residential Single-family-7
<b>RM<sup>5</sup></b>	Residential Multi-family

#### B. Purposes

Residential zoning districts are primarily intended to create, maintain and promote a variety of housing opportunities for individual households and to maintain and promote the desired physical character of existing and developing neighborhoods. While the districts primarily accommodate residential uses, some nonresidential uses are also allowed. The various R district are primarily differentiated on the basis of allowed building types, density and lot and building regulations.

### 17.10.020. Use Regulations

Principal uses are allowed in R districts in accordance with [17.30.010 \(Table 30-1\)](#).

### 17.10.030. Lot and Building Regulations

#### A. General

1. This section establishes basic lot and building regulations for all development in R districts. The regulations vary based on the zoning classification, building type and development type (conventional vs. cluster). These lot and building regulations are not to be interpreted as a guarantee that allowed densities and development yields can be achieved on every lot. Other factors, such as off-street parking requirements, central water and wastewater service availability, and other factors may work to further limit development potential on some sites.

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<sup>3</sup> Replaces existing RA (Ranchette district)

<sup>4</sup> Replaces existing RS (Residential Single-family district)

<sup>5</sup> Replaces existing R (Residential district)

2. Two different development options (conventional and cluster) are offered in RS districts as a way of promoting a wide variety of neighborhood and lifestyle choices and to promote conservation of natural resources, including agricultural lands. The conventional and cluster development options, where allowed, may be used at the property owner's election.

#### B. Table of Regulations for Conventional Development

"Conventional development" is any building or development that is not part of an approved cluster development. All conventional residential development and all nonresidential development in R districts must comply with the conventional lot and building regulations of [Table 10-2](#), except as otherwise expressly stated in this UDO. General exceptions to these regulations and rules for measuring compliance can be found in [Chapter 17.85](#). Additional regulations governing accessory uses and structures can be found in [17.30.030](#).

TABLE 10-2: LOT AND BUILDING REGULATIONS FOR CONVENTIONAL DEVELOPMENT IN R DISTRICTS

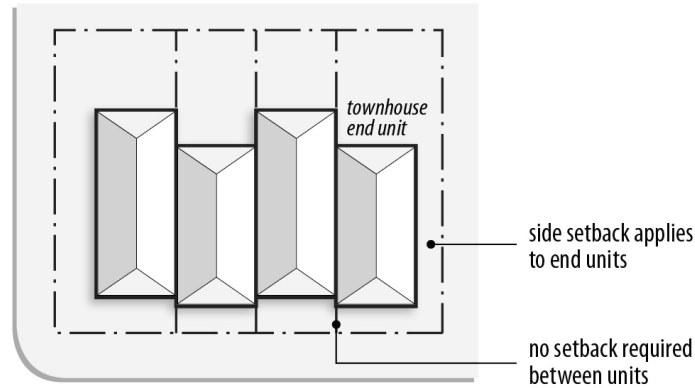
Regulations	RS-170	RS-7	RM
<b>CONVENTIONAL DEVELOPMENT</b>			
<b>Minimum Lot Area (sq. ft.)</b>			
Detached house	170,000	7,000	5,000
Lot line house	NA	7,000	5,000 <sup>6</sup>
Townhouse	NA	NA	2,400
Duplex	NA	NA	8,000
Multi-unit house	NA	NA	8,000
Apartment	NA	NA	8,000
Other allowed buildings/uses	170,000	7,000	5,000
<b>Minimum Lot Area per Dwelling Unit (sq. ft.)</b>			
Detached house	170,000	7,000	5,000
Lot line house	NA	7,000	5,000
Townhouse	NA	NA	2,400
Duplex	NA	NA	4,000
Multi-unit house	NA	NA	2,000
Apartment	NA	NA	1,000
<b>Minimum Lot Width (ft.)</b>			
Detached house	250	65	50
Lot line house	NA	65	50
Townhouse	NA	NA	24
Duplex	NA	NA	48
Multi-unit house	NA	NA	80
Apartment	NA	NA	80
Other allowed buildings/uses	250	65	50
<b>Minimum Building Setbacks (ft.)</b>			
Street	100	20	20
Side (interior)	40	5	5[1] [2]
Rear	25	15	15[3]
<b>Maximum Building Height</b>	<b>35</b>	<b>35</b>	<b>45</b>

<sup>6</sup> Currently, 6,000 sq. ft.

### C. Table Notes

- [1] No interior side setback is required for interior units in townhouse developments. Side setback applies to end units (see [Figure 10-1](#)).

FIGURE 10-1: SIDE SETBACKS FOR TOWNHOUSES



- [2] Minimum interior side setback is 10 feet for apartment buildings and buildings occupied by nonresidential principal uses (e.g., schools, churches, fire stations).
- [3] Minimum rear setback is 25 feet for apartment buildings and buildings occupied by nonresidential principal uses (e.g., schools, churches, fire stations).

### D. Table of Regulations for Cluster Development

- The cluster development option allows smaller lots and other flexible lot and building regulations in exchange for the provision of common open space that is not typically provided in a conventional development. Cluster residential development designs allow more compact and less costly networks of roads and utilities. They can also help reduce stormwater runoff and non-point source pollutant loading rates and can be used to preserve an area's semi-rural character.
- The cluster development option is allowed for residential development in RS districts only. All cluster residential development in RS districts must comply with the lot and building regulations of [Table 10-3](#), except as otherwise expressly stated in this UDO. General exceptions to these regulations and rules for measuring compliance can be found in [Chapter 17.85](#). Additional regulations governing accessory uses and structures can be found in [17.30.030](#). Additional cluster development regulations are included in [17.35.040](#).

TABLE 10-3: LOT AND BUILDING REGULATIONS FOR RESIDENTIAL CLUSTER DEVELOPMENT IN R DISTRICTS

Regulations	RS-170	RS-7
<b>CLUSTER DEVELOPMENT</b>		
<b>Overall Site</b>		
Minimum open space (% site)	60	60
Minimum area per dwelling unit (sq. ft.)	170,000	7,000
<b>Minimum Lot Area (sq. ft.)</b>		
Detached house	20,000	4,000
Lot line house	NA	4,000
<b>Minimum Lot Width (ft.)</b>		
Detached house	100	40
Lot line house	NA	40
<b>Minimum Building Setbacks (ft.)</b>		
Street	30	20
Side (interior)	15	5
Rear	40	25
<b>Maximum Building Height</b>	<b>35</b>	<b>35</b>

**17.10.040. Other Relevant Regulations**

Uses and structures in residential zoning districts may be subject to other regulations and standards, including the following.

**A. Accessory Uses and Structures**

See [17.30.030](#).

**B. Parking**

See [Chapter 17.40](#).

**C. Stormwater Management**

See [17.35.030.F](#).

**D. Detention/Retention**

See [17.35.030.G](#).

**E. Signs**

See [Chapter 17.45](#).

**F. Landscaping and Screening**

See [Chapter 17.50](#).

**G. Outdoor Lighting**

See [17.50.010](#).

**H. Nonconformities**

See [Chapter 17.75](#).



## Chapter 17.15 | Commercial and Industrial Districts

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17.15.030. Lot and Building Regulations .....	15-1
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### 17.15.010. Districts

#### A. List

The commercial and industrial zoning districts are listed in Table 15-1. When this UDO refers to “commercial” or “industrial” zoning districts or to “C” or “I” districts, respectively, it is referring to these districts.

TABLE 15-1: COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Map Symbol	District Name
CG	Commercial General
CBD	Central Business District
I	Industrial

#### B. Purposes

Commercial and industrial zoning districts are intended to accommodate and promote neighborhood, community- and region-serving commercial uses, as well as industrial and employment uses.

### 17.15.020. Use Regulations

Principal uses are allowed in commercial and industrial districts in accordance with [17.30.010 \(Table 30-1\)](#).

### 17.15.030. Lot and Building Regulations

#### A. Table of Regulations

Residential uses allowed in C and I districts are subject to the RM district regulations of [Table 10-2](#). All other principal uses and structures in C and I districts are subject to the lot and building regulations of Table 15-2, except as otherwise expressly stated in this UDO. General exceptions to lot and building regulations and rules for measuring compliance can be found in [Chapter 17.85](#). Additional regulations governing accessory uses and structures can be found in [17.30.030](#).

TABLE 15-2: C AND I DISTRICT LOT AND BUILDING REGULATIONS

Regulations	CG	CBD	I
Minimum Lot Area (sq. ft.)	7,000	<del>5,000</del> 2,500	20,000
Minimum Lot Width (ft.)	65	<del>50</del> 25	150
Minimum Building Setbacks (ft.)			
Street	25	0	50
Side (interior)	0	0	0/15
Rear	0	0	10
Maximum Building Height	In accordance with the International Building Code		

#### B. Table Notes

The following notes refer to the bracketed numbers (e.g., “[1]”) in Table 15-2:

- [1] No setback required when abutting another I-zoned lot. In all other cases, minimum side setback of 15 feet applies.

**17.15.040. Other Relevant Regulations**

Uses and development in commercial and industrial zoning districts may be subject to other regulations and standards, including the following.

**A. Accessory Uses and Structures**

See [17.30.030](#).

**B. Parking**

See [Chapter 17.40](#).

**C. Stormwater Management**

See [17.35.030.F](#).

**D. Detention/Retention**

See [17.35.030.G](#).

**E. Signs**

See [Chapter 17.45](#).

**F. Landscaping and Screening**

See [Chapter 17.50](#).

**G. Outdoor Lighting**

See [17.50.010](#).

**H. Nonconformities**

See [Chapter 17.75](#).

## Chapter 17.20 | Overlay Districts

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### 17.20.010. General<sup>7</sup>

#### A. Purpose and Intent

As the name implies, overlay districts “over-lay” applicable base zoning district classifications to alter some or all of the base zoning district regulations that apply to particular sites. Overlay zoning districts work to modify or supplement the regulations imposed by base zoning district when necessary to address special situations or accomplish specific city goals. Overlay zoning is intended to be used when the base zoning district applied to an area remains generally appropriate, but when an additional, modified or eliminated requirement could help implement the city’s planning goals or address an area-specific planning, design or land use regulation issue.

#### B. Procedures for Establishment

1. Except as otherwise expressly stated, overlay district regulations must be established in accordance with the UDO text amendment procedures of [17.65.020](#).
2. Except as otherwise expressly stated, overlay district boundaries may be established, amended or eliminated only in accordance with the zoning map amendment procedures of [17.65.030](#).
3. A pre-application meeting is required before the filing of any owner-initiated application to create overlay district regulations or establish or amend overlay district boundaries (see [17.65.010.C.2](#)).
4. Proposed regulations and overlay district boundaries must be based on an adopted plan or be prepared following an inclusive, transparent, and equitable planning and public involvement process that includes opportunities for affected property owners and residents to participate in the formulation of overlay regulations and proposed district boundaries or otherwise offer recommendations and provide input.
5. The applicant must provide at least the following information to the planning and zoning commission and city commission before their respective public hearings:

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<sup>7</sup> These overlay districts are based on the existing NC districts, and represent an alternative approach for accommodating carports, the keeping of livestock and the siting of mobile homes and mobile home parks. They are not intended to represent a substantive change.

- a. Specific findings regarding the need for the proposed overlay and the overlay's consistency with the UDO's general purposes (17.05.050) and the with the stated purpose and intent of the proposed overlay district regulations.
- b. All proposed use, development or design regulations that will apply within the boundaries of the proposed overlay and what actions (e.g., new development, building additions, change of use) will trigger compliance with those regulations.
- c. Documentation of the public involvement process used in preparing proposed overlay regulations and overlay district boundaries, including at least a description of:
  - (1) The opportunities provided for participation and input;
  - (2) The types of information disseminated to affected residents, businesses and property owners and the methods of dissemination; and
  - (3) The level of participation by affected residents, businesses and property owners in meetings and discussions.
- d. A map showing all lots included within the boundaries with identification of those property owners, residents and businesses who have indicated, in writing, their support or opposition to the overlay district text or map amendment. Property owners may submit their written indication of support or opposition at informational meetings, at public hearings, or by writing directly to the director of building safety or planning and zoning commission.
- e. Once approved, overlay zoning districts must be shown on the official zoning map by appending the applicable overlay district map symbol (in parentheses) to the base zoning district map symbol. For example, a carport overlay in an RS-7-zoned area would be shown on the zoning map as "RS-7(c1)."

**C. Selection Criteria**

An overlay district must be a geographically defined area that has a significant concentration of sites that are united by physical development patterns, architecture, land use issues or other factors related to public health, safety or general welfare.

**D. Interpretation**

- 1. All applicable regulations of the underlying base zoning district apply to property in an overlay district unless otherwise expressly stated in the overlay district regulations.
- 2. When overlay regulations conflict with regulations that otherwise apply in the underlying base zoning district, the regulations of the applicable overlay govern. If property is classified in multiple overlay districts and the regulations of one overlay district conflict with the regulations of another overlay district, the more restrictive regulations govern.
- 3. Overlay district boundaries must be shown on the official zoning map.

**17.20.020. (c1) Carport Overlay District**

**A. Purpose and Intent**

The (c1), Carport Overlay district is intended to accommodate the use and construction of "stick-built" carports that generally match the appearance of the principal dwelling unit on the lot.

**B. Regulations**

Carports in (c1), Carport Overlay districts are subject to the general carport regulations of 17.30.030.D, as well as the following:

1. In (c1) Carport Overlay districts, the roof of the carport must match roof pitch and color of the principal dwelling unit on the subject lot. The carport's supporting structure must match the principal dwelling unit in terms of color and materials.
2. When the carport roof is pitched, the gutter must be at the same level as the gutter on the principal dwelling unit.
3. Carport ceilings must be between 6.5 feet and 9 feet above floor or driveway surface immediately below.

#### **17.20.030. (c2) Prefab Carport Overlay District**

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

The (c2), Prefab Carport Overlay district is intended to accommodate the use and siting of prefabricated carports, as well as the construction of stick-built carports.

##### **B. Legacy Status**

1. Land classified in a (C2) overlay zoning district on the effective date specified in 17.05.020 will continue to be classified in the (C2) overlay district.
2. No applications to establish new (C2) overlay zoning districts or to expand the boundaries of existing (c2) overlay zoning districts may be accepted for processing after the effective date specified in 17.05.020.

##### **C. Regulations**

Carports in (c2), Prefab Carport Overlay districts are subject to the general carport regulations of 17.30.030.D, as well as the following:

1. All premanufactured carports and any carports utilizing structural steel members or steel pipe require design approval by a professional engineer to standards adopted by the New Mexico Construction Industries Division.
2. All foundation plans for anchoring the carport structure to a permanent foundation must be approved by the department of building safety.
3. Any carport meeting the (c1) Carport Overlay district regulations may also be constructed in an (c2) Carport Overlay district.

#### **17.20.040. (L) Livestock Overlay District**

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

The (L), Livestock Overlay district is intended to accommodate the keeping of livestock in zoning districts that would not otherwise allow such use.

##### **B. Regulations**

The keeping of livestock is a permitted use in any (L) Overlay district. The maximum allowed density of livestock in an (L-1) Overlay district may not exceed one animal unit per acre of lot area.

#### **17.20.050. (MH) Mobile Home Overlay District**

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

The (MH), Mobile Home Overlay district is intended to accommodate the siting of individual mobile homes on individual lots in zoning districts that would not otherwise allow the siting of mobile homes.

**B. Regulations**

A single mobile home dwelling unit may be placed on a lot located within an (MH) Overlay district, subject to compliance with all of the regulations that apply to detached houses in the underlying zoning district. All mobile home units must be skirted consistent with the character of the mobile home structure.

**17.20.060. (MHP) Mobile Home Park Overlay District**

**A. Purpose and Intent**

The (MHP), Mobile Home Park district is intended to accommodate the siting of mobile home parks in zoning districts that would not otherwise allow such uses.

**B. Regulations**

Mobile home parks are subject to all of the following regulations:

1. At least 20% of the mobile home park must be set aside as open space.
2. A fence, wall of vegetative screen at least 7 feet in height must be provided around the entire perimeter of the mobile home park in order to provide effective visual screening of the park from public rights-of-way and abutting lots.
3. All public and private streets within the mobile home park must comply with public street standards.
4. Mobile home parks that contain more than 8 mobile home dwelling units must provide at least 2 public accesses routes for ingress to and egress from the mobile home park.

## Chapter 17.25 | Special Districts

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### 17.25.010. General

#### A. Purpose

Like overlay zoning districts, special purpose zoning districts are tools for dealing with unique neighborhoods or settings or accomplishing special planning and zoning goals. Unlike overlay districts, however, special districts are base zoning classifications; they do not “over-lay” other base zoning districts.

#### B. Establishment

Except as otherwise expressly stated, special districts may be established, amended or removed only in accordance with the zoning map amendment procedures of [17.65.030](#).

### 17.25.020. PUD, Planned Unit Development District<sup>8</sup>

#### A. Purpose and Intent

The PUD, Planned Unit Development district is established to accommodate development that would be difficult or impossible to carry out under otherwise applicable zoning regulations. Different types of PUDs will promote different planning goals. In general, however, all PUDs are intended to result in development that is consistent with the city’s adopted plans and that provides greater public benefits than could be achieved using conventional zoning regulations. PUDs are also generally intended to promote one or more of the following:

1. Variety in housing types and sizes to accommodate households of all ages, sizes, incomes and life-style choices;
2. Compact, mixed-use development patterns where residential, commercial, employment, civic, and open space areas are located in close proximity to one another;
3. A transportation network designed to accommodate safe and efficient motorized and non-motorized travel;
4. Direct, safe and convenient non-motorized travel routes within the boundaries of the development site, as well as connections to abutting properties;
5. Buildings and other improvements that by their arrangement, massing, design, character and site design elements establish a quality, livable environment;

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<sup>8</sup> The PUD provisions have been completely rewritten.

6. Sustainable development practices;
7. Incorporation of open space amenities and natural resource features into the development design;
8. Low-impact development (LID) and best management practices for managing stormwater; and
9. Flexibility and creativity in responding to changing social, economic and market conditions.

**B. Initiation of Amendment**

Applications to establish an PUD district or expand the boundaries of an existing PUD district may be initiated only by the owner of the subject property.

**C. Statement of Intent**

Each PUD application must include a written explanation describing how the proposed development meets the purpose and intent described in [17.25.020.A](#) and the supplemental review and approval criteria of [17.25.020.D.2](#).

**D. PUD Approval Procedures**

**1. Overview of Required Approval Process**

- a. A property owner request for rezoning to the PUD zoning district requires review and approval of a zoning map amendment (see [17.65.030](#)), which is processed concurrently with a development plan (see [17.65.090](#)).
- b. After approval of the zoning map amendment and development plan, site plan review and approval is required in accordance with the procedures of [17.65.100](#).
- c. No building permit may be issued and no building or development may occur in a PUD zoning district until a subdivision plat incorporating the provisions of the approved development plan has been approved and filed of record in the county clerk's office.

**2. Supplemental Review and Approval Criteria**

In making recommendations and decisions on PUD district zoning map amendments, review and decision-making bodies must consider the zoning map amendment criteria of [17.65.030.H](#) and the following factors:

- a. Whether the proposed Planned Unit Development is consistent with the comprehensive plan and any other adopted plans for the subject area;
- b. Whether the development plan complies with the PUD district provisions of [17.25.020](#);
- c. Whether the development will result in public benefits that are equal to or greater than those that would have resulted from development under conventional zoning (non-PUD) regulations; and
- d. Whether appropriate terms and conditions have been imposed on the approval to protect the interests of surrounding property owners and residents, existing and future residents of the PUD and the general public.

**E. Abandonment**

Abandonment of an approved PUD requires that the property be rezoned to another zoning district in accordance with the zoning map amendment procedures of [17.65.030](#) or that a new PUD be approved following the procedures of [17.25.020.D](#).

**F. Use Regulations and Lot and Building regulations**

The use regulations and lot and building regulations that apply within an PUD zoning district must be established at the time of development plan approval by the city commission.



**G. Other Development Standards**

Unless otherwise expressly provided in the approved development plan, properties within the PUD district are subject to all other applicable provisions of this UDO and the subdivision regulations. The PUD district is expressly intended to accommodate the use of alternative standards for streets and other public improvements based on the approved development plans. The development plan must specify the deviations proposed from otherwise applicable subdivision design and public improvement standards if deviations from otherwise applicable regulations and standards are proposed.

**17.25.030. PI, Public and Institutional Districts<sup>9</sup>**

**A. Mapping**

The PI (Public and Institutional) zoning district designations may be applied regardless of ownership of the land on which the use is located. PI zoning designations are not intended to be applied to land owned by a governmental or institutional entity but used for non-governmental service or non-institutional use.

**B. PI-1, Neighborhood-scale Public and Institutional District**

**1. Purpose**

The PI-1, Neighborhood-scale Public and Institutional district is intended to accommodate small-scale, low-intensity public, civic, and institutional uses that are commonly found in or near residential neighborhoods.

**2. Allowed Uses**

Principal uses are allowed in PI-1 districts in accordance with [17.30.010 \(Table 30-1\)](#).

**3. Lot and Building Regulations**

**a. Maximum District Area**

In order to maintain the intended neighborhood-scale character of the PI-1 district, the maximum contiguous PI-1 zoned area may not exceed 4 acres.

**b. Setbacks and Other Lot and Building Regulations**

The size, location, and design of all buildings, structures, activity areas and other site improvements must comply with the lot and building regulations of the most restrictive abutting zoning district, except that no minimum lot area, minimum lot width or street frontage requirements apply in an PI-1 district.

**4. Other Regulations**

Development in an PI-1 district is subject to all other applicable regulations of this UDO, including parking, landscaping, sign and other regulations of general applicability.

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<sup>9</sup> This is a proposed new zoning district that would be available for city-initiated rezonings and for future property owner-initiated rezonings

**C. PI-2, Campus-scale Public and Institutional District**

The PI-2, Campus-scale Public and Institutional district is intended to accommodate development and expansion of large public, civic and institutional uses, while minimizing the potential for adverse impacts on surrounding areas.

**1. Allowed Uses**

Principal uses are allowed in the PI-2 district in accordance with [17.30.010 \(Table 30-1\)](#). Additional uses may be approved in the PI-2 district only if expressly approved as part of an institutional master plan. Multiple principal uses and buildings are allowed on a single lot in the PI-2 district.

**2. Development Review**

**a. Applicability**

Unless otherwise expressly exempted, development review and approval is required before the issuance of any building or development permit in the PI-2 district. To comply with the development review requirements of this section, applicants have the option of:

- (1)** securing conditional use approval for all proposed buildings development activities in the PI-2 district; or
- (2)** submitting and securing approval of an overall institutional master plan in accordance with the requirements of this section.

**b. Exemptions**

The following are exempt from the development review requirements of this section:

- (1)** development that complies with a valid, approved institutional master plan;
- (2)** interior building alterations if the alteration will not result in an increase in the number of employees or the creation of or need for additional parking spaces; and
- (3)** exterior building modifications that will not result in an increase in the number of employees or the creation of or need for additional parking spaces

**3. Lot and Building Regulations**

**a. Transitional Areas**

The size, location, and design of all buildings, structures, activity areas and other site improvements located within 150 feet of the boundary of any R zoning district, are subject to the abutting R district's lot and building regulations, except that no minimum lot area, minimum lot width or street frontage requirements apply in the PI-2 district.

**b. Interior Site Areas**

Areas of an PI-2-zoned site located more than 150 feet from the boundary of an R zoning district are governed by the regulations approved at the time of conditional use or institutional master plan approval, whichever is applicable. Institutional master plans and conditional use applications must include the applicant's detailed description of the regulations proposed to be used.

**4. Institutional Master Plans**

**a. Purpose**

Institutional master plan requirements provide a framework for development of large public, civic and institutional uses in campus-like settings. Approval of an institutional master plan is intended to protect the character and integrity of adjacent areas while allowing flexibility in

site development and design that is not possible when development occurs on a lot-by-lot or building-by-building basis.

**b. Planning Area**

An institutional master plan must include all land located within the proposed PI-2 district and depict all land uses within the area extending out at least 300 feet from the PI-2 district boundary.

**c. Existing Property and Uses**

The institutional master plan must include a description of land, buildings, and other structures occupied by the institution as of the date of submission of the institutional master plan. At a minimum, the following information is required:

- (1) Illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, parking, landscape features and other significant site improvements;
- (2) Land and building uses;
- (3) Gross floor area;
- (4) Building height;
- (5) Landscaping and lighting;
- (6) Off-street parking and loading facilities;
- (7) Stormwater Management; and
- (8) Detention/Retention.

**d. Uses and Development Envelope**

The institutional master plan must include a description of all proposed land uses to be allowed and the land area and development envelope within which future development will occur. The development envelope shall be described in narrative and through the use of drawings or models. The plan must include the following in describing the development envelope:

- (1) Floor area ratio (FAR);
- (2) Average daily and peak-hour traffic;
- (3) Height;
- (4) Setbacks;
- (5) Total site area of open space; and
- (6) Total number of motor vehicle and bicycle parking spaces to be provided.

**e. Transportation Management Plan**

The institutional master plan must include a transportation (motorized and nonmotorized) and parking management plan that identifies any traffic mitigation measures to be used.

**5. Approval Procedures**

Institutional master plans require review and approval in accordance with the PUD procedures of [17.25.020.D.1](#).

## **17.25.040. TND, Traditional Neighborhood District**

### **A. Description**

The TND, Traditional Neighborhood District is a special zoning classification that is tailored to specific sites and specific development plans. TNDs are intended to promote walkable neighborhood designs with a range of housing types and convenient access to shopping, recreation and civic amenities.

### **B. TND Zoning Approval Procedures**

1. A property owner request for rezoning to the TND zoning district requires review and approval of a zoning map amendment (see [17.65.030](#)), which is processed concurrently with a development plan (see [17.65.090](#)).
2. After approval of the zoning map amendment and development plan, site plan review and approval is required in accordance with the procedures of [17.65.100](#).
3. No building permit may be issued and no building or development may occur in a TND zoning district until a subdivision plat incorporating the provisions of the approved development plan has been approved and filed of record in the county clerk's office.

### **C. Abandonment**

Abandonment of an approved TND requires that the property be rezoned to another zoning district in accordance with the zoning map amendment procedures of [17.65.030](#) or that a new TND be approved following the procedures of [17.25.020.D](#).

### **D. TNDs Established**

The following Traditional Neighborhood Districts have been established:

#### **1. Saddlewood TND**

Development within the Saddlewood TND shall be governed by the regulating plan, regulations and design standards incorporated into Ordinance No. 1994-2013, adopted January 17, 2013.

## Chapter 17.30 | Use Regulations

17.30.010. Allowed Uses .....	30-1
17.30.020. Use Categories .....	30-3
17.30.030. Accessory Uses .....	30-23
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### 17.30.010. Allowed Uses

#### A. Use Classification System

Uses are listed in the first column of [Table 30-1](#). This UDO classifies uses into categories and subcategories, which are defined in [17.30.020](#). In some cases, specific use types and building types are listed in addition to the use categories and subcategories.

#### B. Permitted Uses

Uses identified with a "P" are permitted as-of-right in the subject zoning district, subject to compliance with any supplemental regulations identified in the final column of [Table 30-1](#) and with all other applicable regulations of this UDO.

#### C. Conditional Uses

Uses identified with an "C" may be allowed if reviewed and approved in accordance with the conditional use procedures of [17.65.110](#). Conditional use uses are subject to compliance with any supplemental regulations identified in the final column of [Table 30-1](#) and with all other applicable regulations of this UDO.

#### D. Prohibited Uses

Uses identified with an "-" are expressly prohibited. Uses that are not listed in the table and that cannot be reasonably interpreted (as stated in [17.30.020.A.5](#)) to fall within any defined use category are also prohibited.

#### E. Accessory Uses

Accessory uses, such as home occupations, are not regulated by [Table 30-1](#). Customary accessory uses are allowed in conjunction with principal uses permitted by right or by conditional use, subject to compliance with all applicable accessory use regulations of [17.30.030](#).

TABLE 30-1: TABLE OF ALLOWED USES

USE CATEGORY	RS-170	RS-7	RM	CG	CBD	I	PI	Definition/ Add'l Regulations
<b>Subcategory</b> Specific use								
<b>RESIDENTIAL</b>								
<b>Household Living</b>								<a href="#">17.30.020.B.1</a>
Detached house	P	P	P	P	PC	LC	=	<a href="#">17.30.020.B.1.a</a>
Lot line house	-	P	P	P	PC	-	-	<a href="#">17.30.020.B.1.b</a>
Townhouse	-	-	P	P	PC	-	-	<a href="#">17.30.020.B.1.c</a>
Duplex	-	-	P	P	PC	-	-	<a href="#">17.30.020.B.1.d</a>
Cottage Court	=	C	P	P	C	=	=	<a href="#">17.30.020.B.1.e</a>
Multi-dwelling house	-	-	P	P	P	-	-	<a href="#">17.30.020.B.1.f</a>
Apartment	-	-	P	P	P	-	-	<a href="#">17.30.020.B.1.g</a>
Manufactured housing unit	P	P	P	P	PC	LC	=	
Mobile home	-	-	-	-	-	-	-	<a href="#">17.30.020.B.1.j</a>
Mobile home park	-	-	C	-	-	-	-	<a href="#">17.30.020.B.1.k</a>
Accessory dwelling unit	C	C	P	P	C	C	-	<a href="#">17.30.030.C</a>
<b>Group Living</b> (except as below)	-	-	C	C	C	=	C	<a href="#">17.30.020.B.2</a>

USE CATEGORY	RS-170	RS-7	RM	CG	CBD	I	PI	Definition/ Add'l Regulations
<b>Subcategory</b>								
Specific use								
Group home	P	P	P	P	<u>P</u>	<u>P</u>	P	<a href="#">17.30.020.B.2.a</a>
Protective care	–	–	<u>C</u>	<u>C</u>	<u>C</u>	C	<u>C</u>	<a href="#">17.30.020.B.2.b</a>
<b>PUBLIC, CIVIC AND INSTITUTIONAL</b>								
<b>Airport</b>	–	–	–	–	–	C	–	<a href="#">17.30.020.C.2</a>
<b>Cemetery</b>	P	P	P	P	P	P	P	<a href="#">17.30.020.C.2</a>
<b>College or University</b>	–	–	C	P	P	–	P	<a href="#">17.30.020.C.3</a>
<b>Day Care</b>								<a href="#">17.30.020.C.4</a>
Family child care home (maximum 6 children)	P	P	P	P	P	–	–	
Group child care home (7 to 12 children)	C	C	C	–	–	–	–	
Day care center (adults or more than 12 children)	–	–	–	P	P	C	P	
<b>Fraternal Organization</b>	–	–	C	P	P	P	P	<a href="#">17.30.020.C.5</a>
<b>Governmental Service</b>	–	–	C	P	P	P	P	<a href="#">17.30.020.C.6</a>
<b>Hospital</b>	–	–	C	P	P	C	P	<a href="#">17.30.020.C.7</a>
<b>Library or Cultural Exhibit</b>	–	–	P	P	P	–	P	<a href="#">17.30.020.C.8</a>
<b>Natural Resource Preservation</b>	P	P	P	P	P	P	P	<a href="#">17.30.020.C.9</a>
<b>Parks and Recreation</b>	C	C	P	P	P	P	P	<a href="#">17.30.020.C.10</a>
<b>Postal Services</b>	–	–	–	P	P	P	P	<a href="#">17.30.020.C.11</a>
<b>Religious Assembly</b>								<a href="#">17.30.020.C.12</a>
Small (seating capacity of less than 200)	P	P	P	P	P	–	P	
Large (seating capacity of 200 or more)	–	–	P	P	P	–	P	
<b>Safety Service</b>	C	–	C	P	P	P	P	<a href="#">17.30.020.C.13</a>
<b>School</b>								<a href="#">17.30.020.C.14</a>
Elementary	P	P	P	P	P	–	P	
Jr. or Sr. High	–	–	P	P	P	–	P	
<b>Utilities and Public Service Facility</b>								
Minor	P	P	P	P	P	P	P	<a href="#">17.30.020.C.15</a>
Major	C	C	C	C	C	P	P	<a href="#">17.30.020.C.16</a>
<b>COMMERCIAL</b>								
<b>Adult Entertainment</b>	–	–	–	–	–	P	–	<a href="#">17.30.020.D.1</a>
<b>Animal service</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.D.2</a>
<b>Assembly and Entertainment</b>								<a href="#">17.30.020.D.3</a>
Indoor	–	–	–	P	P	–	–	
Outdoor	–	–	–	P	C	–	–	
<b>Broadcast or Recording Studio</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.D.4</a>
<b>Commercial Service</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.D.5</a>
<b>Financial Services</b>	–	–	–	P	P	–	–	<a href="#">17.30.020.D.6</a>
<b>Funeral or Mortuary Service</b>	–	–	–	P	P	–	–	<a href="#">17.30.020.D.7</a>
<b>Lodging</b>								<a href="#">17.30.020.D.8</a>
Bed & breakfast	<u>–</u>	<u>–</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>–</u>	<u>–</u>	<a href="#">17.30.020.D.8.a</a>
Campgrounds and RV parks	–	–	–	P	–	–	–	<a href="#">17.30.020.D.8.c</a>
Hotel/motel	–	–	–	P	P	–	–	<a href="#">17.30.020.D.8.b</a>
<u>Short-term rental</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>–</u>	<u>–</u>	<a href="#">17.30.020.D.8.d</a>
<b>Office</b>	–	–	–	P	P	P	P	<a href="#">17.30.020.D.9</a>
<b>Parking, Non-accessory</b>	–	–	–	P	P	P	P	<a href="#">17.30.020.D.10</a>
<b>Restaurant</b>								<a href="#">17.30.020.D.11</a>
Restaurant	–	–	–	P	P	P	–	<a href="#">17.30.020.D.11</a>
<u>Food truck</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>–</u>	<a href="#">17.30.020.D.11</a>
<b>Retail Sales</b>								<a href="#">17.30.020.D.12</a>
Building supplies and equipment	–	–	–	P	P	P	–	
Consumer shopping and convenience goods	–	–	–	P	P	P	–	
Liquor sales	–	–	–	P	P	P	–	
<b>Self-service Storage Facility</b>	–	–	–	P	P	Y	–	<a href="#">17.30.020.D.13</a>
<b>Studio, Artist or Instructional Service</b>				P	P	P	–	<a href="#">17.30.020.D.14</a>
<b>Trade School</b>	–	–	–	P	P	–	P	<a href="#">17.30.020.D.15</a>

USE CATEGORY	RS-170	RS-7	RM	CG	CBD	I	PI	Definition/ Add'l Regulations
<b>Subcategory</b> Specific use								
<b>Vehicle Sales and Service</b>								<a href="#">17.30.020.D.16</a>
Commercial vehicle repair/maintenance	–	–	–	P	P	P	–	<a href="#">17.30.020.D.16.a</a>
Commercial vehicle sales and rentals	–	–	–	P	P	P	–	<a href="#">17.30.020.D.16.b</a>
Fueling station	–	–	–	P	PC	P	–	<a href="#">17.30.020.D.16.c</a>
Personal vehicle repair and maintenance	–	–	–	P	C	P	–	<a href="#">17.30.020.D.16.d</a>
Personal vehicle sales and rentals	–	–	–	–	–	P	–	<a href="#">17.30.020.D.16.e</a>
Vehicle part and supply sales	–	–	–	P	P	P	–	<a href="#">17.30.020.D.16.f</a>
Vehicle body and paint finishing shop	–	–	–	P	P	P	–	<a href="#">17.30.020.D.16.g</a>
<b>WHOLESALE SALES AND DISTRIBUTION</b>								
<b>Equip. &amp; Materials Storage, Outdoor</b>	–	–	–	–	–	P	–	<a href="#">17.30.020.E.2</a>
<b>Trucking and Transportation Terminal</b>	–	–	–	C	–	P	–	<a href="#">17.30.020.E.2</a>
<b>Warehouse</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.E.3</a>
<b>Wholesale Sales and Distribution</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.E.4</a>
<b>INDUSTRIAL</b>								
<b>Low-impact Manufacturing &amp; Industry</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.F.1</a>
<b>Moderate-impact Manufacturing &amp; Industry</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.F.2</a>
<b>High-impact Manufacturing &amp; Industry</b>	–	–	–	–	–	P	–	<a href="#">17.30.020.F.3</a>
<b>Junk or Salvage Yard</b>	–	–	–	–	–	P	–	<a href="#">17.30.020.F.3.b(1)</a>
<b>Mining or Mineral Processing</b>	–	–	–	C	–	P	–	<a href="#">17.30.020.F.5</a>
<b>RECYCLING</b>								
<b>Construction or Demolition Debris</b>	–	–	–	–	–	C	–	<a href="#">17.30.020.G.1</a>
<b>Consumer Material Drop-off Station</b>	–	–	–	P	–	P	P	<a href="#">17.30.020.G.2</a>
<b>Consumer Material Processing</b>	–	–	–	–	–	P	–	<a href="#">17.30.020.G.3</a>
<b>AGRICULTURAL</b>								
<b>Animal Husbandry</b>								<a href="#">17.30.020.H.1</a>
Intensive	P	–	–	–	–	P	P	<a href="#">17.30.020.H.1.a</a>
General	P	–	–	–	–	C	–	<a href="#">17.30.020.H.1.b</a>
<b>Community Garden</b>	P	P	P	P	P	P	P	<a href="#">17.30.020.H.2</a>
<b>Farm</b>	P	–	–	–	–	P	P	<a href="#">17.30.020.H.3</a>
<b>Nursey or Greenhouse</b>	P	–	–	P	–	P	–	<a href="#">17.30.020.H.4</a>
<b>Stable</b>	P	–	–	–	–	–	–	<a href="#">17.30.020.H.5</a>
<b>OTHER</b>								
<b>Drive-in or Drive-through Facility</b> (as a component of an allowed principal use)	–	–	–	P	–	P	–	<a href="#">17.30.020.I.1</a>
<b>Off-Premise Outdoor Advertising Sign</b>	–	–	–	P	P	P	–	<a href="#">17.30.020.I.2</a>

## 17.30.020. Use Categories

### A. Generally

This section establishes and describes the use categorization system used to classify principal uses in this UDO.

#### 1. Use Categories

This UDO classifies principal land uses into 8 major groupings (described in [17.30.020.B](#) through [I](#)). These major groupings are referred to as “use categories.” The use categories are as follows:

- Residential. See [17.30.020.B](#).
- Public, Civic and Institutional. See [17.30.020.C](#).
- Commercial. See [17.30.020.D](#).
- Wholesale, Distribution and Storage. See [17.30.020.E](#).
- Industrial. See [17.30.020.F](#).
- Agricultural. See [17.30.020.H](#).

g. Other. See [17.30.020.I](#).

## **2. Use Subcategories**

Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on common functional, product or physical characteristics, such as the type and amount of activity, the type of customers or residents, and how goods or services are sold or delivered and site conditions.

## **3. Specific Use Types**

Some use subcategories are further broken down to identify specific types of uses that are regulated differently than the subcategory as a whole.

## **4. Use Tables**

Use tables are used in this UDO to identify the land uses allowed within the respective zoning districts. The structure of the use tables reflects the hierarchical nature of the use categorization system described in this section.

## **5. Determination of Use Categories and Subcategories**

a. When a use cannot be reasonably classified into a use category, subcategory or specific use type, or appears to fit into multiple categories, subcategories or specific use types, the director of building safety is authorized to determine the most similar and thus most appropriate use category, subcategory or specific use type based on the actual or projected characteristics of the principal use or activity in relationship to the use category, subcategory and specific use type descriptions provided in this chapter. In making such determinations, the director of building safety must consider:

- (1) The types of activities that will occur in conjunction with the use;
- (2) The types of equipment and processes to be used;
- (3) The existence, number and frequency of residents, customers or employees;
- (4) Parking demands associated with the use; and
- (5) Other factors deemed relevant to a use determination.

b. If a use can reasonably be classified in multiple categories, subcategories or specific use types, the director of building safety is authorized to categorize each use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate “fit.”

## **B. Residential Use Category**

This category includes uses that provide living accommodations for one or more persons. The residential use subcategories are as follows.

### **1. Household Living**

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging. Dwelling units are housed in the following residential building types:

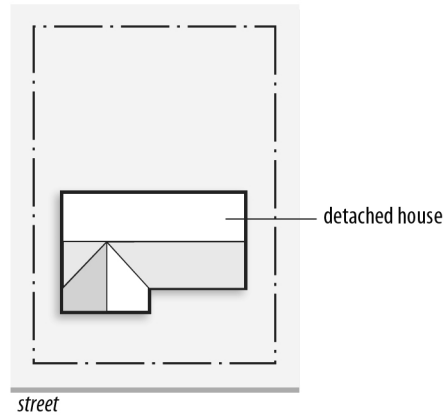
#### **a. Detached House**

A detached house is a principal residential building, other than a manufactured housing unit or mobile home, that contains only one dwelling unit and that is located on a single lot that is not occupied by other principal residential buildings. Detached houses are not attached to and do



not abut other dwelling units. Detached houses include conventional (“stick-built”) construction and construction involving modular or system-built components as long as such construction complies with city building codes.

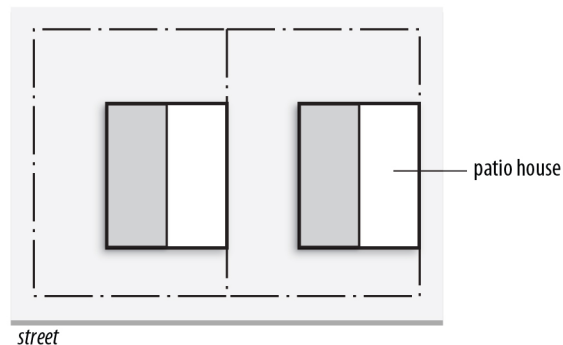
FIGURE 30-1: DETACHED HOUSE



**b. Lot Line House**

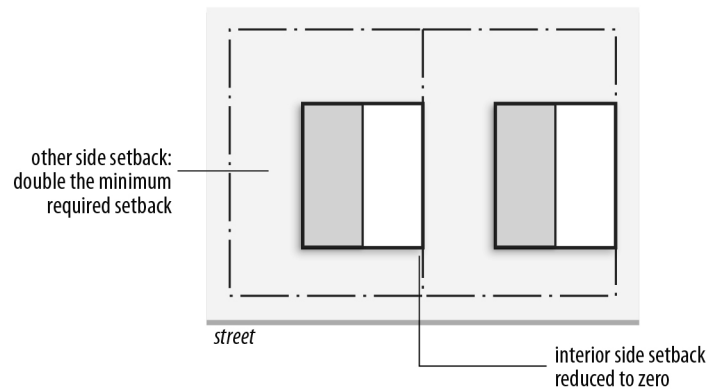
A lot line house (sometimes referred to as a “patio house”) is a principal residential building occupied by one dwelling unit and that is located on a single lot that is not occupied by other principal residential buildings. Lot line houses are not attached to and do not abut other dwelling units. A lot line house is shifted to one side of the lot so that there is a more usable side yard on one side of the house and very little or no private yard on the other side. Lot line houses are subject to the same lot and building regulations that apply to detached houses except as modified by the following regulations:

FIGURE 30-2: LOT LINE HOUSE



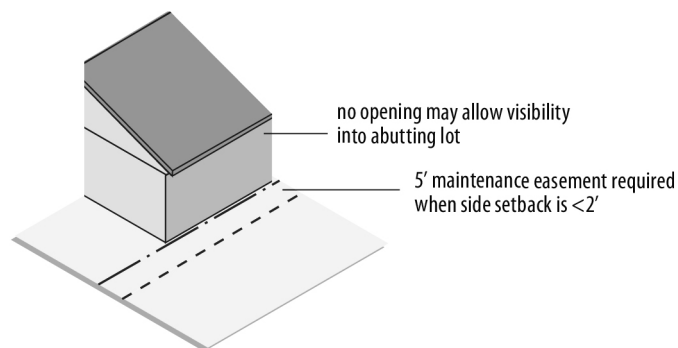
- (1) A lot line house development must consist of at least 3 contiguous lots with frontage on the same street.
- (2) The interior side building setback on one side of the lot containing a lot line house may be reduced to as little as zero. The zero- or reduced setback side of a lot line house may not abut a street and may not abut a lot that is not part of the lot line house development. On the “non-zero” side, a side building setback must be provided equal to at least twice the minimum side building setback requirement of the subject zoning district.

FIGURE 30-3: MINIMUM SIDE BUILDING SETBACKS FOR LOT LINE HOUSES



- (3) When a lot line house's exterior wall or eaves are within 2 feet of the abutting property line, a perpetual maintenance easement at least 5 feet in width must be provided on the abutting lot, which, with the exception of walls and/or fences, must be kept clear of structures. The easement must be depicted on the plat and established in the deed of dedication accompanying the plat. This provision is intended to ensure the ability to conduct maintenance on the lot line house. Eaves on the side of a lot line house with a zero or reduced setback may project over the side property line only if shown on the easement required under this paragraph.
- (4) Windows, doors and other openings that allow for visibility into the side yard of the lot abutting the reduced or zero setback side of the lot line house are prohibited. Windows that do not allow visibility into the side yard of the lot abutting the zero or reduced setback side, such as clerestory windows or translucent windows, are allowed, subject to compliance with the building code.

FIGURE 30-4: LOT LINE HOUSE MAINTENANCE EASEMENTS AND "PRIVACY" REQUIREMENTS

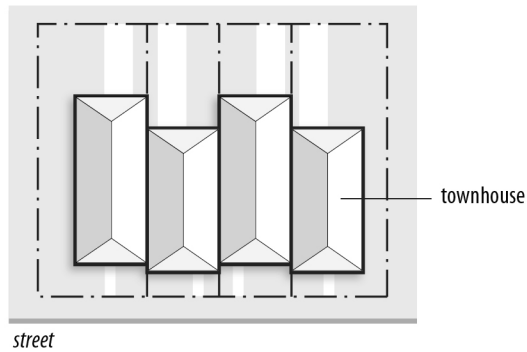


- (5) A lot line house development is permitted only if a subdivision plat incorporating these requirements is approved in accordance with the subdivision regulations and filed of record in the county clerk's office.

**c. Townhouse**

A townhouse building is a principal residential building containing multiple dwelling units, each located on its own lot with a common or abutting wall along the dwelling units' shared lot lines. Each dwelling unit has its own external entrance.

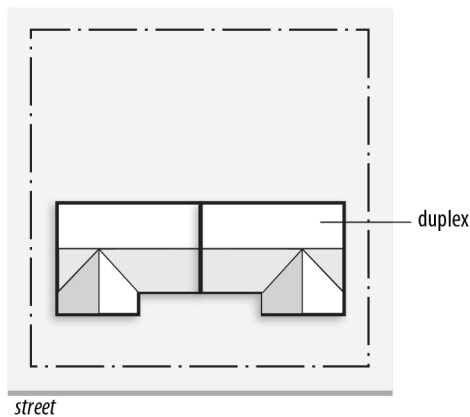
FIGURE 30-5: TOWNHOUSE



**d. Duplex**

A duplex is a principal residential building occupied by 2 dwelling units, both of which are located on the same (single) lot, which is not occupied by other principal residential buildings. The 2 dwelling units are attached and may be located on separate floors or side-by-side.

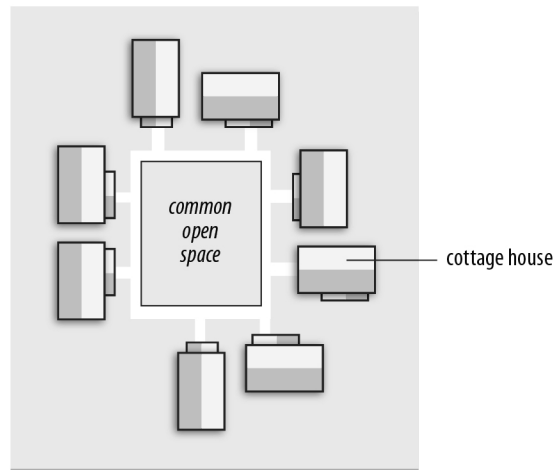
FIGURE 30-6: DUPLEX



**e. Cottage Court**

A cottage court is a grouping of small detached houses around a common open space or shared courtyard. Cottage courts are subject to lot and building regulations of the subject zoning district except as modified by the following supplemental cottage court regulations:

*FIGURE 30-7: COTTAGE COURT*



**(1) Purpose**

These cottage court regulations are intended to provide opportunities for individual ownership of small houses oriented around a courtyard or common open area.

**(2) Development Size**

Cottage courts must contain at least 4 and no more than 10 houses arranged around at least 2 sides of a courtyard or common open space.

**(3) Orientation of Cottage Houses**

(a) Cottage houses must be oriented to, and have a main entry onto a courtyard or common open space area that is accessible by all residents in the cottage court, provided that cottage houses on lots abutting minor streets must have their front building elevation facing the street, including a building entrance, with a second entrance facing a courtyard or common open space area.

(b) Required courtyards and common open space areas must have cottage houses abutting on at least 2 sides.

(c) All cottage houses must be located within 75 feet walking distance of a required courtyard or common open space area.

**(4) Open Space**

A unified, contiguous courtyard or common open space must be provided as the focal point of the cottage court. The courtyard or common open space area must contain at least 250 square feet of common open space per cottage house.

**(5) Building Setbacks and Separation**

All buildings within a cottage court must comply with the minimum building setbacks from lot lines that apply to detached houses in the subject zoning district, except that no building setback is required from an alley. All buildings within a cottage court must be separated by a minimum distance of 10 feet.

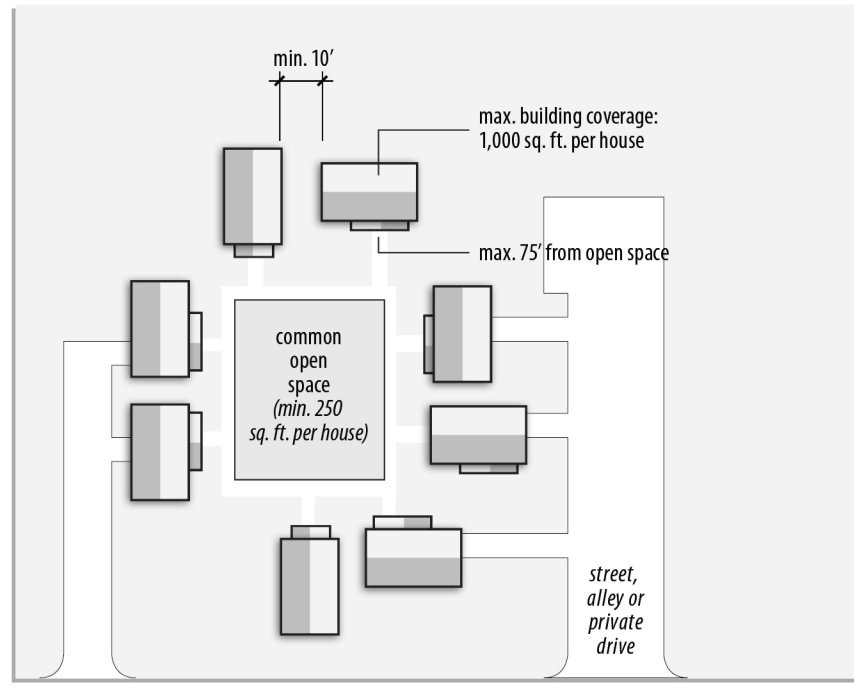
**(6) Building Coverage**

Individual cottage houses are subject to a maximum first floor area of 1,000 square feet. Attached garages are counted in the calculation of first floor area, but covered porches and detached accessory buildings are not counted.

**(7) Vehicular Access and Parking**

- (a) Vehicular access to parking areas serving cottage houses within the development may come from the street, an alley or a private drive.
- (b) Required parking may be provided on each cottage house lot or in a shared parking area located within commonly owned space or in a combination of the two. Common parking areas containing 4 or more spaces must be screened from view of abutting R-zoned lots in accordance with the F1 screening fence or wall standards of §17.50.070.C.2. Parking may not be located in street yards or in the required courtyard or common open space area.

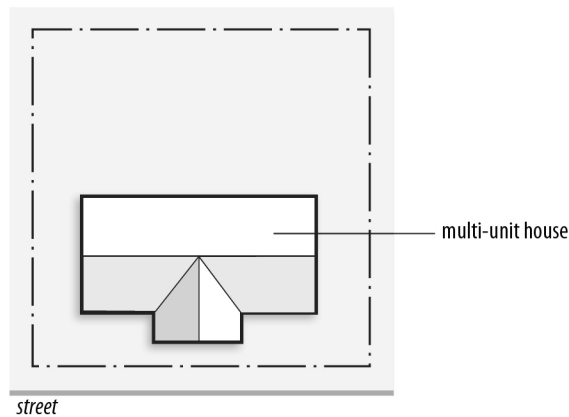
**FIGURE 30-8: COTTAGE COURTS**



**f. Multi-unit House**

A multi-unit house is a principal residential building that contains 3 or 4 dwelling units that share common walls and/or common floors/ceilings. The building is located on a single lot that is not occupied by other principal residential buildings. Multi-unit houses have the appearance of large detached houses and have only one entrance visible from the street.

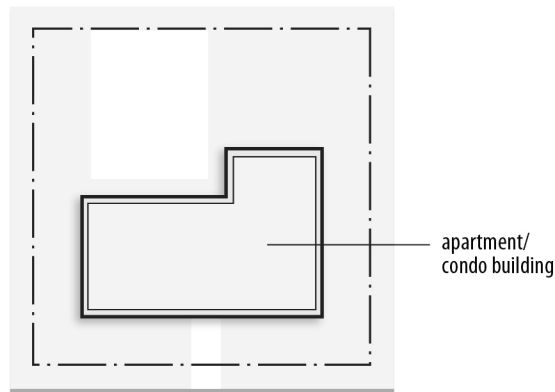
FIGURE 30-9: MULIT-UNIT HOUSE



**g. Apartment**

An apartment building is a principal residential building on a single lot that is occupied by 3 or more dwelling units (other than a multi-unit house) that share common walls and/or common floors/ceilings.

FIGURE 30-10: APARTMENT/CONDO



**h. Manufactured Housing Unit**

A manufactured housing unit is a principal residential building that complies with the *National Manufactured Housing Construction and Safety Standards Act of 1974* (42 U.S.C. §5401, et seq.). Manufactured housing units are subject to the same regulations that apply to detached houses.

**i. Manufactured Housing Subdivision**

A manufactured housing subdivision is a residential subdivision primarily comprising home sites for manufactured housing units on individual lots. Manufactured housing subdivisions and manufactured housing units are subject to the same regulations that apply to conventional subdivisions and detached houses.

**j. Mobile Home**

A mobile home is a principal residential building that is built on a permanent chassis and that complies with *Standard for Mobile Homes, National Fire Protection Association (NFPA) 501*, American National Standards Institute (ANSI) 119.1, in effect at the time that the unit was manufactured.

**k. Mobile Home Park**

A mobile home park is a lot or multiple lots upon which mobile homes or manufactured housing units are available for lease or upon which spaces for mobile homes or manufactured housing units are available for lease.

**2. Group Living**

Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities. Examples of group living use types include group homes, convents, monasteries, novitiates, fraternity and sorority houses, nursing homes, assisted living facilities, and homeless centers.

**a. Group Home**

A community-based group living use for up to 8 elderly persons (not counting staff) or 8 persons with disabilities (not counting staff) that allows independent living and that provides communal room and board, personal care, and habilitation services in a household-like environment.

**b. Protective Care**

A facility operated by the city, the state, the federal government or a private party under contract with the city, the state or the federal government and used for rehabilitation and overnight accommodation of individuals, including staff, who are (a) under the jurisdiction of a court or (b) individuals recently released from the jurisdiction of a court. Includes jails, prisons, and re-entry facilities.

**C. Public, Civic and Institutional Use Category**

This category includes public, quasi-public and private uses that provide unique services that are of benefit to the public at-large. The public, civic and institutional subcategories are as follows.

**1. Airport or Ground Transportation Terminal**

- a.** Facilities from which FAA-certified aircraft take off, land and operate, including customary accessory uses and structures.
- b.** All airports shall contain the 65 DNL within the airport boundary or within land zoned I. This delineation shall be determined based on the 20-year airport plan.

**2. Cemetery**

Land or structures used for burial or permanent storage of the dead or their cremated remains. Typical uses include cemeteries and mausoleums. Also includes pet cemeteries.

**3. College or University**

Institutions of higher learning that offer courses of general or specialized study and are authorized to grant academic degrees. The college or university use subcategory includes classrooms and instructional spaces, as well as on-campus residence halls, fraternity and sorority houses, administrative buildings, auditoriums and other on-campus uses and facilities that provide customary accessory and support functions for college or university uses.

**4. Day Care**

Uses providing care and supervision for children or adults for a fee on a regular basis away from their primary residence for less than 24 hours per day (note: uses providing care and supervision for children or adults for 24 hours per day or longer are classified as group living uses). The three type of day care are as follows:

- a. Family Child Care Home**  
A state-licensed day care that provides care and supervision for no more than 6 children in the licensee's full-time residence.
  - b. Group Child Care Home**  
A state-licensed day care that provides care and supervision for no more than 12 children in the licensee's full-time residence.
  - c. Day Care Center**  
A state-licensed day care that provides care and supervision for any number of adults or more than 12 children.
- 5. Fraternal Organization**  
The use of a building or lot by a not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests and where the primary activity is a service not carried on as a business enterprise.
- 6. Governmental Service**  
Local, state or federal government services or functions that are not otherwise classified.
- 7. Hospital**  
Uses providing medical or surgical care to patients and offering inpatient (overnight) care.
- 8. Library or Cultural Exhibit**  
Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art or library collections of books, manuscripts and similar materials for study and reading. Includes aquariums and planetariums.
- 9. Natural Resource Preservation**  
Undeveloped land left in a natural state for specific use as visual open space or environmental purposes. Typical uses include wildlife or nature preserves, arboretums, flood management projects and reservoirs.
- 10. Parks and Recreation**  
Recreational, social or multi-purpose uses associated with public parks and open spaces, including playgrounds, playfields, play courts, community centers and other facilities typically associated with public parks and open space areas. Also includes public and private golf courses and tennis clubs.
- 11. Postal Service**  
Facilities operated by the U.S. Postal Service, including post offices and mail sorting and distribution facilities.
- 12. Religious Assembly**  
Religious services involving public assembly that customarily occur in churches, synagogues, temples, mosques and other facilities used for religious worship.
- 13. Safety Service**  
Establishments that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, ambulance services and storm or civil defense shelters.
- 14. School**  
Public and private schools at the primary, elementary, middle school or high school level that provide basic, compulsory education.



**15. Utilities and Public Service Facility, Minor**

Infrastructure services that need to be located in or close to the area where the service is provided. Minor utilities and public service facilities generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; gas regulating stations; underground electric distribution substations; electric transformers; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication warning/broadcast facilities.

**16. Utilities and Public Service Facility, Major**

Infrastructure services that typically have substantial visual or operational impacts on nearby areas. Typical uses include but are not limited to water and wastewater treatment facilities, high-voltage electric substations, utility-scale power generation facilities (including wind, solar and other renewable and nonrenewable energy sources), sanitary landfills and utility-scale water storage facilities, such as water towers and reservoirs.

**D. Commercial Use Category**

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use subcategories are as follows.

**1. Adult Entertainment**

- a. Any establishment in which persons' "specified anatomical areas" are displayed for customers or other employees or in which patrons may view "specified sexual activities" either live, in print or on film, video or other electronic media. It may include bars, restaurants, movie theaters, theaters, peep shows, dance halls, strip halls, bookstores, special cabarets, physical culture establishments and photographic studios or any other normally permitted use where "specified sexual activities" are displayed or where "specified anatomical areas" are exposed to customers.
- b. All adult entertainment uses are subject to the following regulations:
  - (1) The use may not serve minors, employ minors or allow minors in the building. The building entrance must prominently display a sign stating: "Persons under 18 years prohibited from entering. Violators will be prosecuted." Letters on the sign must be at least 2 inches in height.
  - (2) The use shall have a valid business license from the city. Should this license not be renewed by virtue of the business serving minors, the city shall hold hearings to revoke the business license and zoning approval.
  - (3) Signs may not use any visual image that suggests sexual parts or humans.
- c. Adult entertainment uses must be spaced at least 200 feet from one another and are prohibited within 660 feet of any of the following, measured from lot line to line:
  - (1) An R-zoned lots;
  - (2) A lot occupied by a residential dwelling unit;
  - (3) A lot occupied by a religious assembly use; or
  - (4) A lot occupied by a school.

**2. Animal Service**

Uses that provide goods and services for care of animals, including the following specific use types:

- a. Grooming**  
Grooming of dogs, cats and similar small animals, including dog bathing and clipping salons and pet grooming shops.
  - b. Boarding or Shelter**  
Animal shelters, care services and kennel services for dogs, cats and small animals, including boarding kennels, pet resorts/hotels, pet adoption centers, dog training centers, animal rescue shelters and zoos and animal sanctuaries.
  - c. Veterinary**  
Animal hospitals and veterinary clinics.
- 3. Assembly and Entertainment**  
Uses that provide gathering places for participant or spectator recreation, entertainment or other assembly activities. Assembly and entertainment uses may provide incidental food or beverage service. Typical uses include gun clubs, shooting ranges, health clubs, gymnasiums, banquet halls, entertainment centers, event centers, billiard centers, bowling centers, cinemas, go-cart tracks, laser tag, paintball, miniature golf courses, stadiums, arenas, video arcades, race tracks, fairgrounds, rodeo grounds, water parks, amusement parks and live theaters.
- 4. Broadcast or Recording Studio**  
Uses that provide for audio or video production, recording or broadcasting.
- 5. Commercial Service**  
Uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Examples of commercial service use types include the following:
  - a. Building Service**  
Uses that provide maintenance and repair services for all structural and mechanical elements of structures, as well as the exterior spaces of premises. Typical uses include janitorial, landscape maintenance, carpet cleaning, chimney sweeps, extermination, plumbing, electrical, HVAC, roofing, window cleaning and similar services.
  - b. Business Support Service**  
Uses that provide personnel services, printing, copying, package (delivery) drop-off, photographic services or communication services to businesses or consumers. Typical uses include employment agencies, day labor hiring services, armored car services, copy and print shops, delivery/courier service drop-off location for consumers, caterers, telephone answering services and photo developing labs.
  - c. Consumer Maintenance and Repair Service**  
Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, gunsmiths, locksmiths, vacuum repair shops, electronics repair shops and similar establishments. Business that offer repair and maintenance service for large equipment or technicians who visit customers' homes or places of business are classified as a "building service."
  - d. Personal Improvement Service**  
Uses that provide personal grooming, cosmetic or health and well-being-related services. Typical uses include barbers, hair and nail salons, tanning salons, day spas, body art services and fortune telling services.

**e. Research Service**

Uses engaged in scientific research and testing services leading to the development of new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

**6. Financial Service**

Uses related to the exchange, lending, borrowing and safe-keeping of money. Automatic teller machines, kiosks and similar facilities that do not have on-site employees or amplified sound are not classified as financial service uses if they meet the criteria for classification as an accessory use (see [17.30.030.A.2](#)). Typical examples of financial service use types are banks, credit unions, and personal credit establishments:

**7. Funeral and Mortuary Service**

Uses that provide services related to the death of a human or domestic, household pet, including funeral homes and mortuaries. Funeral and mortuary services may include crematoriums as an accessory use. Other crematoriums and animal rendering uses are classified as moderate-impact manufacturing and industry.

**8. Lodging**

Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by the week. Lodging uses sometimes provide food or entertainment, primarily to registered guests. Examples of specific lodging use types include:

**a. Bed and Breakfast**

A detached house in which the owner/operator offers overnight accommodations and meal service to overnight guests for compensation. Bed and Breakfast uses in R districts are subject to the following regulations:

- (1)** Bed and breakfast are limited to a maximum of 12 guest rooms unless a lower limit is established by the planning and zoning commission as a condition of an approved conditional use.
- (2)** The maximum length of stay for any guest is limited to 30 consecutive days.
- (3)** The owner/operator must maintain a register of bed and breakfast guests and on-site events for each calendar year and make the register available to city code enforcement upon request.
- (4)** Cooking facilities are prohibited in guest rooms.
- (5)** Signs are allowed in accordance with the sign regulations of the subject zoning district unless the planning and zoning commission establishes stricter conditions at the time of conditional use approval.
- (6)** Public restaurants are prohibited. Meals may be served only to overnight guests and for on-site events expressly authorized by the planning and zoning commission at the time of conditional use approval. The planning and zoning commission may authorize bed and breakfasts to be rented for events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc. The use of bed and breakfasts for on-site events requires express authorization of the planning and zoning commission, in accordance with the conditional use procedures of [17.65.110](#). As part of approval of the conditional

use, the planning and zoning commission is authorized to establish the maximum number of on-site events per year and the maximum number of guests per any single event, based on the availability of off-street parking and the facility's likely impacts on the area.

**b. Hotel/Motel**

An establishment, other than a bed and breakfast or rural retreat, in which short-term lodging is offered for compensation. A hotel/motel may include an accessory use restaurant.

**c. Recreational Vehicle Park/Campground**

An establishment that provides temporary overnight accommodations for camping in recreational vehicles or tents.

**d. Short-Term Rental**

The use of an owner-occupied residential dwelling unit for lodging.

**9. Office**

Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services.

**10. Parking, Non-Accessory**

Parking that is not provided to comply with minimum off-street parking requirements or that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A parking facility that provides both accessory and non-accessory parking will be classified as non-accessory parking if it leases 25% or more of its spaces to non-occupants of or persons other than visitors to a particular use.

**11. Restaurant**

An establishment that serves food or beverages for on- or off-premise consumption as its principal business. The preparation and processing of food or beverages to be served or sold on-site directly to consumers is permitted as an accessory use to a restaurant. Typical examples of restaurant uses include sit-down restaurants, fast-food restaurants, cafés, cafeterias, ice cream/yogurt shops, donut shops, coffee shops, bars, brewpubs, nightclubs, food trucks and similar establishments. Restaurants are subject to all applicable state regulations regarding required separation distances from protected uses<sup>10</sup>

**a. Food truck**

A licensed motor vehicle or other mobile food dispensation unit that is temporarily parked outside of the right-of-way and in which food items are sold to the general public. Food trucks are subject to the following supplemental regulations:

(1) Food trucks may only be located on a vacant lot or one containing a principal building or use.

(2) The number of food trucks allowed per site is limited as follows:

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<sup>10</sup> This is different from today's ordinance, which establishes local separation distance requirements that are not entirely consistent with the state.

- (a) A maximum of one food truck is allowed on sites with less than 20,000 square feet of land area.
- (b) On sites with land area of 20,000 square feet or more, one food truck is allowed per 20,000 square feet of land area or fraction thereof.
- (c) For purposes of this provision, a site may consist of one lot or a combination of contiguous lots.
- (d) The number of food trucks allowed may be increased above the limits established in this section if approved in accordance with the conditional use procedures of 17.65.110.
- (3) Food trucks must be located at least 100 feet from the main entrance of any non-food truck restaurant and at least 100 feet from any outdoor dining area serving a non-food truck restaurant.
- (4) Food trucks may not obstruct pedestrian, bicycle or vehicle circulation routes, and must be set back at least 5 feet from the edge of any driveway or public sidewalk and at least 15 feet from fire hydrants.
- (5) Food trucks and any associated seating areas may not occupy parking spaces provided to meet the minimum parking requirements of the principal use, unless the principal use's hours of operation do not coincide with those of the food truck business. Food trucks may not occupy any parking spaces reserved for persons with disabilities.
- (6) No freestanding signs or audio amplification are allowed as part of the food truck's operation.
- (7) Hours of operation of food trucks are limited to the hours between 6:00 a.m. and 10:00 p.m.
- (8) Food trucks and associated outdoor seating must be removed from all permitted locations when not in operation.
- (9) Operators are responsible for ensuring that all waste is disposed of in accordance with city regulations and for maintaining all areas used for food vending and customer activity in a safe and clean condition.

## **12. Retail Sales**

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer. Examples of specific retail use types include:

### **a. Convenience Goods**

Retail sales uses that sell or otherwise provide (1) sundry goods; (2) products for personal grooming and for the day-to-day maintenance of personal health or (3) food or beverages for off-premise consumption, including grocery stores, retail bakeries and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include convenience stores, drug stores, grocery and specialty food stores, wine or liquor stores, gift shops, newsstands, florists and tobacco stores.

### **b. Consumer Shopping Goods**

Retail sales uses that sell or otherwise provide wearing apparel, fashion accessories, furniture, household appliances and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort or aesthetics. Typical uses include clothing stores, department

stores, appliance stores, TV and electronics stores, bike shops, book stores, costume rental stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores and pet supply stores, shoe stores, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, medical supplies, office supplies and office furnishing stores and wig shops.

**c. Building Supplies and Equipment**

Retail sales uses that sell or otherwise provide goods to repair, maintain or visually enhance a structure or premises. Typical uses include hardware stores, home improvement stores, paint and wallpaper supply stores and garden supply stores.

**13. Self-service Storage Facility**

An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designed and used to accommodate only interior access to storage lockers or drive-up access only from regular size passenger vehicles and two-axle non-commercial vehicles.

**14. Studio, Artist or Instructional Service**

Uses in an enclosed building that focus on providing individual or small group instruction or training in fine arts, music, dance, drama, fitness, language or similar activities. Also includes dance studios, ballet academies, yoga studios, martial arts instruction, tutoring, artist studios and photography studios.

**15. Trade School**

Uses in an enclosed building that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities and similar uses. Truck driving schools are classified as “trucking and transportation terminals” (wholesale, distribution and storage use category).

**16. Vehicle Sales and Service**

Uses that provide for the sale, rental, maintenance or repair of new or used vehicles and vehicular equipment. The vehicle sales and service subcategory includes the following specific use types:

**a. Commercial Vehicle Repair and Maintenance**

Uses, excluding vehicle paint finishing shops, that repair, install or maintain the mechanical components or the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft or similar large vehicles and vehicular equipment. Includes truck stops and fleet vehicle fueling facilities, which may dispense conventional vehicle fuels and/or alternative vehicle fuels.

**b. Commercial Vehicle Sales and Rentals**

Uses that provide for the sale or rental of large trucks, moving equipment (e.g., U-haul and Ryder) construction or agricultural equipment, aircraft, or similar large vehicles and vehicular equipment.

**c. Fueling Station (for Personal, Consumer Vehicles)**

Uses engaged in retail sales of vehicle fuels for personal vehicles, other than fleet fueling facilities and truck stops. (Note: Fleet vehicle fueling facilities and truck stops are part of the “Commercial Vehicle Repair and Maintenance” specific use type). Fueling stations may dispense conventional vehicle fuels and/or alternative vehicle fuels.

**d. Personal Vehicle Repair and Maintenance**

Uses that repair, install or maintain the mechanical components of automobiles, small trucks or vans, motorcycles, motor homes or recreational vehicles including recreational boats or that wash, clean or otherwise protect the exterior or interior surfaces of these vehicles.

**e. Personal Vehicle Sales and Rentals**

Uses that provide for the sale or rental of new or used autos, small trucks or vans, trailers, motorcycles, motor homes or recreational vehicles including recreational watercraft. Typical examples include automobile dealers, auto malls, car rental agencies. Car-share vehicles that are parked or stored when not being used by members of a car-share program are not regulated as personal vehicle sales and rental uses, but are instead considered accessory parking.

**f. Vehicle Equipment and Supplies Sales and Rentals**

Uses related to the sale, lease or rental of new or used parts, tools or supplies for the purpose of repairing or maintaining motor vehicles.

**g. Vehicle Body and Paint Finishing Shop**

Uses that primarily conduct motor vehicle body work and repairs or that apply paint to the exterior or interior surfaces of motor vehicles by spraying, dipping, flow-coating or other similar means.

**E. Wholesale, Distribution & Storage Use Category**

This category includes uses that provide and distribute goods in large quantities, principally to retail sales, commercial services or industrial establishments. Long-term and short-term storage of supplies, equipment, commercial goods and personal items is included. The wholesale, distribution & storage subcategories are as follows.

**1. Equipment and Materials Storage, Outdoor**

Uses related to outdoor storage of equipment, products or materials, whether or not stored in containers.

**2. Trucking and Transportation Terminals**

Uses engaged in the dispatching and long-term or short-term storage of trucks, buses and other vehicles, including parcel service delivery vehicles, taxis and limousines. Minor repair and maintenance of vehicles stored on the premises is also included. Includes uses engaged in the moving of household or office furniture, appliances and equipment from one location to another, including the temporary on-site storage of those items.

**3. Warehouse**

Uses conducted within a completely enclosed building that are engaged in long-term and short-term storage of goods and that do not meet the definition of a "self-service storage facility" or a "trucking and transportation terminal."

**4. Wholesale Sales and Distribution**

Uses engaged in the wholesale sales, bulk storage and distribution of goods. Such uses may also include incidental retail sales and wholesale showrooms. Expressly includes the following uses: bottled gas and fuel oil sales, flea markets, ice distribution centers, monument sales, portable storage building sales, vending machine sales, auctioneers, and frozen food lockers.

**F. Industrial Use Category**

This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. The industrial subcategories are:

**1. Low-impact Manufacturing and Industry**

- a.** Manufacturing and industrial uses that do not, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of low-impact manufacturing and industrial uses include: commercial laundries and linen supply services, apparel manufacturing, bakery products manufacturing, bottling plants, ice manufacturing, mattress manufacturing and assembly, microbreweries, micro distilleries, musical instrument and parts manufacturing, newspaper printing and binderies.
- b.** All low-impact manufacturing and industry uses are subject to the following regulations:
  - (1)** All loading areas shall be accessed from alleys or side yards rather than from public streets.
  - (2)** In the CG district, loading areas shall be screened from view of streets and residential zoning districts.
  - (3)** No use shall generate any noise above 65 DNL, measured outside the building.

**2. Moderate-impact Manufacturing and Industry**

- a.** Manufacturing and industrial uses that, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of moderate-impact manufacturing and industrial uses include: large breweries, distilleries and alcohol manufacturing (other than micro distilleries) coffee roasting with a roasting capacity of more than 3 kilos, dairy products manufacturing, foundries, chrome plating, crematoriums and animal rendering plants, electroplating, fiberglass manufacturing, flour mills and paper products manufacturing.
- b.** Moderate-impact manufacturing and industry uses are subject to the following regulations:
  - (1)** The use must meet all city sewer waste pretreatment requirements.
  - (2)** If the use involves hazardous chemicals (as defined by the U.S. Environmental Protection Agency), the relationship to any airport shall be reviewed to determine that:
    - (a)** The use is located to minimize risk of an aircraft accident involving the use.
    - (b)** The type of process is not likely to have adverse impacts on the airport should a spill or other problem related to the plant occur.
  - (3)** When abutting a lot that is R-zoned or used for residential purpose, the use must be set back from that lot by a distance of at least 300 hundred feet.
- c.** In the CBD district, moderate-impact manufacturing and industry uses shall only be permitted on lots abutting existing railroad tracks.

**3. High-impact Manufacturing and Industry**

- a.** Manufacturing and industrial uses that regularly use hazardous chemicals or procedures or that produce hazardous byproducts or explosive hazards. Typical examples of high-impact manufacturing and industrial uses include: the manufacture of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. This subcategory also includes petrochemical tank farms, gasification plants, smelting, animal slaughtering, oil refining, asphalt and concrete (batch) plants and tanneries.
- b.** High-impact manufacturing and industry uses are subject to the following regulations:



- (1) The use must meet all city sewer waste pretreatment requirements.
  - (2) If the use involves hazardous chemicals (as defined by the U.S. Environmental Protection Agency), the relationship to any airport shall be reviewed to determine that:
    - (a) The use is located to minimize risk of an aircraft accident involving the use.
    - (b) The type of process is not likely to have adverse impacts on the airport should a spill or other problem related to the plant occur.
  - (3) When abutting a lot that is R-zoned or used for residential purpose, the use must be set back from that lot by a distance of at least 300 hundred feet.
- c. In the CBD district, high-impact manufacturing and industry uses shall only be permitted on lots abutting existing railroad tracks.

**4. Junk or Salvage Yard**

A building or open area where waste, scrap, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, processed, or handled for reclamation, disposal or other similar purposes, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles.

**5. Mining or Mineral Processing**

The extraction or quarrying of coal, ores, stone, minerals, top soil or aggregate resources from the ground. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining and top soil extraction. Also includes crushing, washing and grading coal, ore, stone, sand, gravel, minerals, top soil or aggregate resources and manufacture of Portland cement.

**G. Recycling**

This category includes uses that collect, store or process recyclable material for the purpose of marketing or reusing the material in the manufacturing of new, reused or reconstituted products. The recycling use subcategories are as follows:

**1. Construction or Demolition Debris**

Establishments that receive and process general construction or demolition debris for recycling.

**2. Consumer Material Drop-off Station**

An establishment that (1) accepts consumer recyclable commodities directly from the consuming party; (2) is staffed by personnel during times when recyclables are accepted from consumers; and (3) stores materials temporarily before transferring them to recyclable material processing facilities. Establishments that process recyclable material are classified as "consumer material processing" establishments. (Note: dumpsters and recyclable material bins are regulated as accessory uses).

**3. Consumer Material Processing**

Establishments that receive and process consumer recyclable commodities for subsequent use in the secondary market.

**H. Agricultural Use Category**

This category includes uses such as gardens, farms and orchards that involve the raising and harvesting of food and non-food crops and the raising of farm animals. The agricultural subcategories are:

**1. Animal Husbandry**

Uses that involve the feeding, housing and care of livestock, cattle, horses, poultry and similar farm animals for private or commercial purposes.

**a. Intensive**

Animal husbandry uses where animals are tightly confined in buildings or outdoor pens or pastures with more than one animal unit per acre

**b. General**

Animal husbandry uses other than those classified as “intensive.”

**2. Community Garden**

**a.** An area less than one acre in area that is managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers). A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or may be farmed collectively by members of the group. Community gardens may be principal or accessory uses.

**b.** Community garden uses are subject to the following supplemental use regulations:

- (1)** Unless permitted by the underlying zoning district or approved as a conditional use, on-site sale of community garden products is prohibited.
- (2)** Lawn and garden equipment of the type customarily used by consumers for household lawn and garden care is the only type of motorized equipment allowed. The use of motorized equipment is restricted to hours beginning at 8:00 a.m. and ending at 8:00 p.m.
- (3)** The site must be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to adjacent properties.
- (4)** An on-site trash storage container must be provided and located as close as practicable to the rear lot line. Compost bins or piles must also be located as close as practicable to the rear lot line. Trash must be removed from the site at least once a week.
- (5)** Only individuals and organizations authorized by the property owner may participate in the community garden.
- (6)** A sign must be posted on the property identifying the name and phone number of the property owner or the owner's agent name. The sign must be at least 4 and no more than 8 square feet in area and be posted so that it is legible from the public right-of-way.
- (7)** The owner of any lot used for a community garden must give each abutting property owner and occupant written notice of the intent to establish a community garden and the applicable use regulations of this UDO at least 30 days before the start of the community garden.
- (8)** Measures must be taken to prevent cultivated areas from encroaching onto adjacent properties.
- (9)** The property must be maintained free of tall weeds and debris. Dead garden plants must be regularly removed, at least annually.
- (10)** Any community garden use regulation of this section may be modified by conditional use approval.

**3. Farm**

An area managed and maintained by an individual, group or business entity to grow and harvest food crops or non-food crops for sale or distribution.

**4. Nursery or Greenhouse**

A building or site used for propagation and growth of trees or plants for wholesale sales and distribution.

**5. Stable**

Land or structures in which horses are kept, including horses owned by owner or occupant of the subject property and those that are not owned by the subject property owner or the occupant of the subject property. Facilities that offer horse and pony rides, equestrian training and similar services and amusements are also classified as stables.

**I. Other Use Category**

This category includes uses that do not fit the other use categories.

**1. Drive-in or Drive-through Facility**

Any use with drive-through windows or drive-through lanes or that otherwise offer service to the occupants of motor vehicles. Typical uses include drive-through restaurants, drive-through pharmacies, drive-in restaurants and drive-in cinemas. Automatic teller machine kiosks and similar drop-off or pick-up facilities that do not have on-site employees or amplified sound are not classified as drive-in or drive-through facilities if they meet the criteria for classification as an accessory use (see [17.30.030.A.2](#)).

**2. Off-premise Outdoor Advertising Sign**

A sign that directs attention to a business, commodity, service, or activity that is conducted, sold or offered elsewhere than upon the lot where the subject sign is located. Off-premise outdoor advertising signs must comply with the following supplemental regulations.

- a.** Lots on which off-premise outdoor advertising signs are located must have a minimum lot area of at least 7,000 square feet.
- b.** Off-premise outdoor advertising signs are prohibited within 300 feet of any other off-premise outdoor advertising sign.
- c.** The maximum height of an off-premise outdoor advertising sign is 35 feet.
- d.** See also the city's sign regulations in [Chapter 12.12](#).

**17.30.030. Accessory Uses**

**A. Generally Applicable Regulations**

**1. Accessory Uses Allowed**

Accessory uses and structures are allowed only in connection with lawfully established principal uses.

**2. Allowed Uses and Structures**

Allowed accessory uses and structures are limited to those expressly regulated in this chapter as well as those that, in the determination of the director of building safety, satisfy all of the following criteria:

- a.** They are customarily found in conjunction with the subject principal use or principal structure;
- b.** They are subordinate and clearly incidental to the principal use of the property; and
- c.** They serve a necessary function for or contribute to the comfort, safety or convenience of occupants of the principal use.

**3. Time of Construction and Establishment**

- a. Accessory uses may be established only after the principal use of the property is in place.
- b. Accessory buildings may be established in conjunction with or after the principal building or use. They may not be established before the principal building or use is in place.

**4. Location**

- a. Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly stated.
- b. Freestanding accessory buildings are not permitted within the front yard or within 60 feet of the front yard lot line.
- c. Freestanding accessory buildings within the rear yard must be set back at least one foot from the interior side lot line. No setback is required from the rear lot line.
- d. Building walls facing an interior side or rear lot line may not exceed 10 feet in height ~~(including roof)~~ unless the building is set back an additional distance from side and rear lot lines, in which case one additional foot of building height is permitted for each additional one foot of building setback beyond the minimum required setback.
- e. On corner lots, accessory buildings are subject to the same street side setback that applies to the principal building.

**5. Coverage**

The total area of all accessory buildings on a residential lot may not exceed 50% of the area of the rear yard.

**6. Materials**

Accessory buildings may not be constructed of, or incorporate, either modified or freestanding, shipping containers, boxcars, truck beds, or other containers originally designed or constructed for transporting materials and not as a freestanding building or structure.

**B. Accessory Antennas<sup>11</sup>**

**1. Satellite Dish Antennas**

**a. Where Allowed**

- (1) Satellite dish antennas up to 40 inches in diameter are permitted as of right as an accessory use to all lawfully established principal uses in all zoning districts. They are subject to all applicable accessory structure setback regulations.
- (2) Satellite dish antennas over 40 inches in diameter, up to 120 inches in diameter, are permitted as of right as an accessory use to all lawfully established principal uses in mixed-use and nonresidential zoning districts. They are subject to all applicable accessory structure setback regulations.

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<sup>11</sup> New

**b. Location**

- (1)** In RS districts, satellite antennas may be located only to the rear of any principal structure. If usable communication signals cannot be obtained from a rear location, the satellite antenna may be located in the side yard. If usable satellite communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, the antenna may be placed in the street yard outside of the required building setback or on the roof in a location that is visible from the street, provided that the diameter of the satellite dish antenna does not exceed 18 inches.
- (2)** In non-RS districts, satellite dish antennas may be located anywhere in the buildable area of the lot (outside of required building setbacks) or on an allowed principal or accessory building on the lot.
- (3)** Ground-mounted satellite dish antennae must be visually screened to reduce visual impact from surrounding properties at street level and from public streets.

**2. Over-the-Air TV and Amateur Radio Antennas**

**a. R Districts**

- (1)** In R districts, accessory antennas and their support structures are allowed to be mounted on a principal building or accessory building, provided that:
  - (a)** The overall mounted height of the antenna does not exceed 65 feet, measured from the average ground elevation at the base of the building to the highest point of the antenna; and
  - (b)** The aggregate surface area of all mounted antennas may not exceed 10 square feet, based on the area of side with the largest surface area.
- (2)** In R districts, structures other than principal or accessory buildings that are used to support accessory antennas (including guy lines) must comply with all of the following regulations.
  - (a)** Only one such antenna support structure is allowed on a lot.
  - (b)** The antenna support structure may be located only in the rear yard, not in a street yard or side yard.
  - (c)** The overall height of the antenna may not exceed 65 feet, measured from the average ground elevation at the base of the structure to the highest point of the antenna.
  - (d)** The antenna support structure may not encroach upon the land or airspace of any abutting property.
  - (e)** The antenna support structure may not exceed 24 inches in width above 25 feet in height, exclusive of guy lines.

**b. Other Districts**

In all non-R districts, antenna support structures that are accessory to principal uses must be set back from any R district a distance equal to at least 110% of the height of the antenna, measured from the average ground elevation at the base of the structure to the highest point of the antenna. The setback distance must be measured from the nearest point of the antenna

supporting structure (excluding any guy lines) to the nearest point on the residential zoning district boundary line.

**C. Accessory Dwelling Units (ADUs)<sup>12</sup>**

**1. Purpose**

- a.** The accessory dwelling unit regulations of this section are intended to help promote the benefits of accessory dwelling units, while also preserving neighborhood character and promoting predictability and certainty for established neighborhoods.
- b.** Accessory dwelling units (ADUs) help advance the city's housing and land use goals and policies by:
  - (1)** Accommodating additional housing units while preserving the character of existing neighborhoods;
  - (2)** Allowing efficient use of the city's existing housing stock and infrastructure;
  - (3)** Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs;
  - (4)** Providing a means for residents—particularly seniors, single parents, and empty-nesters—to remain in their homes and neighborhoods, and obtain extra income, security, companionship and assistance; and
  - (5)** Promoting a broader range of accessible and more affordable housing.

**2. General Regulations for all ADUs**

All accessory dwelling units must comply with the regulations of this subsection.

**a. Zoning District Regulations**

Accessory dwelling units are subject to all applicable regulations of the zoning district in which they are located, unless otherwise expressly stated in this section.

**b. Where Allowed**

Accessory dwelling units are allowed only on lots that comply with the minimum lot area regulations of the subject zoning district and that are occupied by a detached house or attached house. Accessory dwelling units are not permitted on nonconforming lots or on lots occupied by a principal use other than a detached house or attached house.

**c. Number**

No more than one accessory dwelling unit is allowed per lot.

**d. Owner Occupancy**

The owner of record must reside in either the principal or accessory dwelling unit for a minimum of six months of each calendar year.

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<sup>12</sup> New

**e. Methods of Creation**

An accessory dwelling unit may be created through any of the following methods:

- (1) Converting existing area within the interior of a house (e.g., attic or basement) to an ADU;
- (2) Adding floor area to an existing house to accommodate an ADU;
- (3) Constructing a detached accessory dwelling unit on a parcel with an existing house;
- (4) Converting space within a detached accessory building; or
- (5) Constructing a new house with an internal or detached accessory dwelling unit.

**f. Number of Residents**

The total number of residents that reside in the accessory dwelling unit and the principal dwelling unit, combined, may not exceed the number permitted for a household.

ADU within New or Existing House



ADU within an Addition to House



**g. Location of Entrances**

Only one entrance to a house containing an accessory dwelling unit may be located on a façade that faces a street, unless the house contained an additional street-facing entrance before the accessory dwelling unit was created. Detached ADUs are exempt from this regulation.

Detached ADU within Accessory Building



**h. Size**

The floor area of an ADU may not exceed 49% of the gross floor area of the principal dwelling unit on the subject lot (excluding any attached garage), or 650 square feet, whichever is less.

**i. Parking**

No additional parking is required for an accessory dwelling unit. Existing required parking for the house must be maintained or replaced on-site.

**j. Building Permit Approval**

Before the issuance of a building permit for the construction of any new accessory dwelling unit, plans must be reviewed and approved by the director of building safety to determine compliance with all applicable building and life safety codes.

**3. Regulations for New Detached ADUs and Building Additions**

The regulations of this subsection apply to all detached buildings and building additions proposed to be occupied by ADUs. These provisions apply only to detached buildings and building additions constructed after INSERT EFFECTIVE DATE OF ADU AMENDMENT.

**a. Exterior Finish Materials**

The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the principal dwelling unit.

**b. Roof Pitch**

The roof pitch must be the same as the predominant roof pitch of the house.

**c. Trim**

Trim on edges of elements on the building addition to the house or the accessory structure occupied by the ADU must be the same in type, size and location as the trim used on the principal dwelling.

**d. Entrances**

Building entrances ADUs in detached structures or building additions may not face the nearest side or rear property line unless there is an alley abutting that property line.

**e. Setbacks**

A detached accessory dwelling unit must be located at least 10 feet behind the principal dwelling. This required 10-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.

**f. Height**

The maximum allowed height of a detached accessory dwelling unit is 20 feet or the height of the principal dwelling building, whichever is less.

**D. Carports**

**1. Where Allowed**

Carports are prohibited in required street setbacks except in (c1) Carport or (c2) Prefab Carport Overlay districts.

**2. Regulations**

- a.** Carports in ~~front-street~~ yards may not exceed 26 in width by 20 feet in depth.
- b.** Carports that create any right-of-way obstruction by the vehicle parked in the carport are prohibited, as are carports located closer than one foot from the property line.
- c.** The clear site triangle shall start 12 feet back from the inside of the curb line.
- d.** Clear views from the carport are required for safety. No obstructions to view shall be located between 3.5 and 6.5 feet above grade along the carport's exterior. No obstructions to view may be located within a 30-degree sight triangle located on either side of the carport.
- e.** Carports may not be used for storing items other than personal or company vehicles, motorcycles or bicycles.



**E. Compressed Natural Gas (CNG) Refueling Appliances<sup>13</sup>**

Private (restricted access), consumer-oriented (home), CNG refueling appliances are permitted as an accessory use to lawfully established household living uses in all zoning districts.

**F. Electric Vehicle Charging Stations<sup>14</sup>**

**1. General**

- a. Private (restricted-access) electric-vehicle (EV) charging stations are permitted as accessory uses to lawfully established principal uses in all zoning districts.
- b. Public EV charging stations are permitted as accessory uses to lawfully established principal nonresidential uses in all zoning districts.

**2. Parking**

- a. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.
- b. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles.

**3. Equipment**

Vehicle charging equipment must be designed and located so as to not impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

**4. Signage**

Public electric vehicle charging stations must be posted with signage indicating that the space is reserved for electric vehicle charging purposes only. For purposes of this provision, “charging” means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.

*FIGURE 30-11: ELECTRIC VEHICLE PARKING SIGNS (TYPICAL)*



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<sup>13</sup> New

<sup>14</sup> New

## **G. Home Occupations<sup>15</sup>**

### **1. Description**

Home occupations are jobs or professions conducted wholly or partly from a residential dwelling.

### **2. Purpose**

The home occupation regulations of this section are intended to allow Clovis residents to engage in customary home-based work activities, while also helping to ensure that neighbors are not subjected to adverse operational and land use impacts (e.g., excessive noise or traffic or public safety hazards) that are not typical of residential neighborhoods.

### **3. Types of Home Occupations**

Two types of home occupations are defined and regulated under this section: type 1 and type 2.

#### **a. Type 1 Home Occupations**

Type 1 home occupations are those in which household residents use their home as a place of work, with no employees, customers or clients coming to the site. Typical examples include telecommuting office workers, writers, consultants, artists and crafts people.

#### **b. Type 2 Home Occupations**

Type 2 home occupations are those in which household residents use their home as a place of work and either employees or customers come to the site. Typical examples include tutors, teachers, photographers, counselors, hair cutting/styling and real estate agents.

### **4. Exemptions**

Nonresidential uses that are expressly allowed in conjunction with residential uses (e.g., bed and breakfast uses, family day care homes and short-term rentals) are not regulated as home occupations and are not subject to these home occupation regulations.

### **5. Allowed Uses**

The home occupation regulations of this section establish performance standards for all home occupations rather than listing specific home occupation uses that are allowed. Uses that comply with the standards of this section are allowed as of right unless otherwise expressly stated.

### **6. Prohibited Uses**

The following uses are expressly prohibited as home occupations:

- a.** Any type of assembly, cleaning, maintenance, painting or repair of vehicles or equipment with internal combustion engines or of large appliances (such as washing machines, clothes dryers or refrigerators);
- b.** Dispatch centers or other businesses where employees come to the site and are dispatched to other locations;
- c.** Equipment or supply rental businesses;
- d.** Tow truck services;
- e.** Taxidermists;

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<sup>15</sup> New/updated

- f. Restaurants;
- g. Funeral or interment services;
- h. Animal care, grooming or boarding businesses; and
- i. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building; and
- j. Any use that does not comply with regulations of this section.

## 7. Where Allowed

### a. Type 1 Home Occupations

Type 1 home occupations are permitted as of right as an accessory use to a principal use in the household living use category. Type 1 home occupations are subject to the general regulations of [8](#) and the supplemental regulations of [9](#).

### b. Type 2 Home Occupations

Type 2 home occupations may be approved as an accessory use to a principal use in the household living use category only through the conditional use procedures of [17.65.110](#). Type 2 home occupations are subject to the general regulations of [17.30.030.G.8](#) and the supplemental regulations of [17.30.030.G.10](#).

## 8. General Regulations

All type 1 and type 2 home occupations are subject to the following regulations.

- a. Home occupations must be accessory and subordinate to the principal residential use of the property.
- b. Home occupations that change the character of the residential building they occupy or that adversely affect the character of the surrounding neighborhood are prohibited. Home occupations may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Clovis. Home occupations must be operated so as not to create or cause a nuisance.
- c. Any tools or equipment used as part of a home occupation must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.
- d. External structural alterations or site improvements that change the residential character of the lot upon which a home occupation is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting, the addition of a separate building entrance that is visible from abutting streets or the exterior display of an illuminated nameplate sign.
- e. No display of any material or merchandise is allowed.
- f. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 C.F.R. Sec. 171.8.

## 9. Supplemental Regulations for Type 1 Home Occupations

- a. Only residents of the dwelling unit in which the home occupation is located may be engaged in a type 1 home occupation. No nonresident owners, employees or contractors may be present on the subject property.
- b. No clients, customers, patients, or students are allowed in conjunction with a type 1 home occupation.

- c. Type 1 home occupations and all related activities, including storage (other than the lawful parking of passenger vehicles), must be conducted entirely within the principal residential building or an allowed accessory building.
- d. More than one Type 1 home occupation is allowed as an accessory use, but the general regulations of [8](#) and the supplemental regulations of [9](#) apply to the combined home occupation uses.

#### 10. Supplemental Regulations for Type 2 Home Occupations

- a. Only uses approved in accordance with the conditional use procedures of [17.65.110](#) are allowed as type 2 home occupations.
- b. At least one individual engaged in the home occupation must reside in the dwelling unit in which the home occupation is located as their primary place of residence.
- c. No more than 3 clients or customers may be present at any one time on the site of a type 2 home occupation. Family members of the client or customer are not counted towards the 3-person limit.
- d. A maximum of one nonresident employee is allowed with a type 2 home occupation if no customers or clients come to the site at any time. Home occupations that have clients, customers or students coming to the site may not have nonresident employees and vice-versa. For the purpose of this provision, the term “nonresident employee” includes an employee, contractor, business partner, co-owner or any other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
- e. Type 2 home occupations and all related activities, including storage (other than the lawful parking of passenger vehicles), must be conducted entirely within the principal residential building or an allowed accessory building.

### H. Solar Energy Systems<sup>16</sup>

#### 1. General

- a. Solar energy systems are permitted as of right as an accessory use to all lawfully established principal uses in all zoning districts.
- b. Accessory solar energy systems must comply with all applicable building and electrical code requirements.

#### 2. Building-Mounted Solar Energy Systems

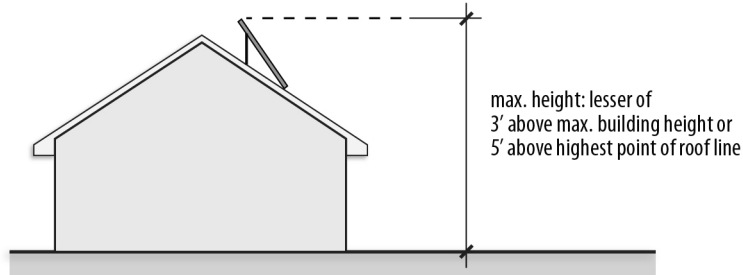
- a. Building-mounted solar energy systems may be mounted on principal and accessory structures.
- b. Building-mounted solar energy systems may not encroach into required street [or side](#) setbacks. Systems mounted on principal structures may encroach into ~~interior side and~~ rear building setbacks in accordance with [17.85.060.C](#).
- c. Only building-integrated or flush-mounted solar energy systems may be installed on street-facing building elevations.

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<sup>16</sup> New

- d. Solar energy systems may not extend more than 3 feet above the applicable maximum building height limit for the subject building type or more than 5 feet above the highest point of the roof line, whichever is less.

FIGURE 30-12: ROOF-MOUNTED SOLAR ENERGY SYSTEMS



### 3. Ground-Mounted Solar Energy Systems

- a. In residential zoning districts, ground-mounted solar energy systems may not be located in a required street setback or street yard areas or in interior side setbacks.
- b. Ground-mounted solar energy systems may be located within ~~required interior side and rear setbacks~~.
- c. Ground-mounted solar energy systems are subject to applicable accessory structure height and lot coverage regulations.

### I. Stables, Private

Private stables are permitted an accessory use on R-zoned lots over 2 acres in area.

- 1. Private stables are limited to the subject property owner's private use only. No horses owned by others are allowed to be boarded.
- 2. Private stables may not exceed ~~40~~50% of the total floor area of the detached house to which they are accessory.
- 3. Private stables must be set back at least 25 feet from all lot lines.
- 4. The number of animals kept in association with private stables may not exceed 0.5 animal per acre.

### J. Wind Energy Systems<sup>17</sup>

#### 1. Purpose

The wind energy system regulations of this section apply to all new wind energy systems and to any physical modification to an existing wind energy system that materially alters the size, type or number of wind turbines or other equipment.

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<sup>17</sup> Existing regulations.

## 2. Regulations

Wind energy systems shall be permitted as an accessory use, subject to the following minimum design, location, and construction requirements:

### a. Maximum Tower Height

The maximum tower height means the vertical distance from ground level to the tip of the wind generator blade and shall not exceed forty-five feet, except in Industrial Zones which shall have a maximum tower height of seventy-five feet. All wind energy systems shall comply with all applicable Federal Aviation Administration height restrictions.

### b. Setbacks

The wind energy system shall be set back a distance not less than the normal set back requirements for that zoning classification, or 1.1 times the height of the wind energy system from ground level to the tip of the wind generator blade, whichever is greater, from:

- (1) Any public right-of-way, unless written permission is granted by the city or the governmental entity having jurisdiction over the right-of-way;
- (2) Any overhead utility lines, unless written permission is granted by the effected utility;
- (3) All property lines; and
- (4) Any occupied structure.

### c. Lighting

A wind energy system shall not be artificially lighted unless such lighting is required by Federal Aviation Administration Regulation.

### d. Code Compliance

A wind energy system, including the tower, shall comply with all applicable federal, state and local construction and electrical codes.

### e. Utility Interconnection

A wind energy system that is to be connected to an electric utility, shall comply with all Public Regulation Commission of New Mexico rules and regulations.

### f. Noise

Audible sound from a wind energy system shall not exceed fifty dba as measured at the exterior of any occupied building on a non-participating land owner's property. Methods for measuring and reporting acoustic emissions from wind energy systems shall be equal to or exceed the minimum standards for precision described in AWEA standard 2.1, titled "procedures for the measurement and reporting of acoustic emissions from wind turbine energy systems volume I first tier."

### g. Shadow Flicker

The owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating land owner's property.

### h. Ice Throw Off

The owner and operator shall prevent ice throw off from blades used as a part of a wind energy system.

**i. Signal Interference**

The owner and operator shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television, internet or similar wireless signals, and shall mitigate any harm caused by the wind energy system.

**j. Liability Insurance**

The owner or operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least one million dollars per occurrence and one million dollars in the aggregate. Certificates of insurance shall be made available to the city upon request.

**k. System Protection**

Wind energy systems shall be protected to prevent unauthorized persons from climbing the pole structure, and all access to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

**l. Controls and Brakes**

All wind energy systems shall be equipped with a redundant braking system. The system shall include both aerodynamic over speed controls, including variable pitch, tip, and other systems (and mechanical brakes). The mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

**m. Wind Resistance**

Every wind energy system shall be certified to withstand sustained winds of ninety miles per hour.

**n. Batteries**

If the wind energy system contains a battery component, all battery systems shall meet applicable state and local regulations.

**3. Permits**

**a.** A building permit shall be required for the installation of a wind energy system.

**b.** The building permit application shall be accompanied by a site plan prepared by a licensed surveyor which includes the following information:

- (1)** Property lines and physical dimensions of the property;
- (2)** Location dimensions and types of existing structures on the property;
- (3)** Location of the proposed wind system tower;
- (4)** Right-of-way of any public road or right-of-way that is contiguous to the property;
- (5)** Overhead utility lines.

**c.** The building permit application shall also be accompanied by:

- (1)** Wind energy specifications, including manufacturer and model, rotor, diameter, tower height, tower type (free standing or guyed), and New Mexico engineer certification;
- (2)** Tower foundation blueprints and drawings; certified by a New Mexico Engineer.
- (3)** Certification letter from the electric utility that is to be interconnected to the wind energy system stating that all plans and procedures for interconnection are acceptable to the utility.
- (4)** The fee required for a building permit.

- d. A permit issued pursuant to this chapter shall expire if:
  - (1) The wind energy system is not installed and functioning within six months from the date issued; or,
  - (2) The wind energy system is out of service or otherwise unused for a continuous twelve-month period.
- e. The owner shall submit an application to the building safety department for a building permit for a wind energy system. The application must be on a form approved by the building safety department and must be accompanied by two copies of the documents required by this chapter.
- f. The building safety department shall issue a building permit for the wind energy system if the application materials show that the proposed system meets the requirements of this chapter.
- g. If the application is approved, the building safety department will return one signed copy of the application with the permit and retain the other copy with the application.
- h. If the application is denied, the owner will be notified in writing and provided a written statement of the reason(s) why the application was denied. The applicant may reapply if the deficiencies specified by the building safety department are corrected.
- i. The owner shall conspicuously post the building permit on the premises so as to be visible at all times until construction and installation of the wind energy system is complete.

#### **17.30.040. Temporary Uses**

##### **A. Description and Purpose**

- 1. A temporary use is the use of private property that does not require a building permit and that may or may not comply with the use and lot and building regulations of the zoning district in which the temporary use is located.
- 2. The temporary use regulations of this chapter are intended to permit such occasional, temporary uses and activities when consistent with the purposes and regulations of this UDO.

##### **B. Authority to Approve**

- 1. All temporary uses require city approval unless otherwise expressly stated in this UDO.
- 2. The director of building safety is authorized to establish administrative procedures governing the processing, review and approval of temporary uses.
- 3. The director of building safety is authorized to approve temporary uses that comply with the provisions of this section and to impose conditions on the operation of temporary uses to help ensure that they do not create significant adverse impacts on surrounding uses and that they operate safely and without causing nuisances, consistent with the general purposes of this UDO. Instead of taking action on proposed temporary uses, the director of building safety is also authorized to refer any temporary use to the planning and zoning commission for consideration in accordance with conditional use procedures of 17.65.110.
- 4. Temporary uses that do not comply with all applicable regulations may be approved as conditional uses in accordance with 17.65.110.

##### **C. Exemptions**

The following temporary uses are permitted as of right, without obtaining prior approval from the director of building safety:



1. Garage sales, subject to [Chapter 5.24](#).
2. Temporary dumpsters on lots with ongoing construction, subject to compliance with all the following regulations:
  - a. Temporary dumpsters related to ongoing construction are permitted for a period in which construction is ongoing and all required permits remain valid.
  - b. Temporary dumpsters may not exceed 22 feet in length, 8 feet in width, and 8.5 feet in height.
  - c. Temporary dumpsters must comply with all structure setback requirements of the subject zoning district.
  - d. Temporary dumpsters are prohibited within storm water basins, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses and development.
  - e. In RS zoning districts and development areas, no more than 1 temporary dumpster may be located on any lot.
  - a.f. Temporary dumpsters are allowed on lots for a period of 60 days following a natural disaster (act of God) occurring in the immediate area of the lot, to be used for the disposal of debris resulting from the natural disaster (act of God). The director of building safety is authorized to grant extensions of the 60-day time limit.

#### **D. Authorized Uses**

The director of building safety is authorized to approve a permit for temporary uses upon determining that the proposed use is a customary temporary use in the subject location and will generally be compatible with surrounding uses and not be a detriment to public safety. The following is a non-exhaustive list of the types of temporary uses and activities for which a permit may be approved by the director of building safety:

##### **1. Holiday Tree and Pumpkin Sales**

Outdoor sale of trees and pumpkins during the Christmas and Halloween seasons are permitted in any district, provided that in RS districts such sales must be on the site of a public, civic or institutional use permitted in the district with direct access to a collector or arterial road.

##### **2. Special Events**

Public interest events such as carnivals, concerts, festivals, revivals and similar public gatherings may be allowed in all zoning districts, subject to compliance with [Chapter 5.40](#) and the following:

- a. In RS districts, such events must be on the site of a public, civic or institutional use permitted in the district.
- b. Special events shall not be held on any site more than 4 times per year.
- c. All special events shall be limited to 14 successive days.
- d. If deemed necessary by the police department, the property access shall be controlled by special traffic personnel. Prior to receiving a permit, the applicant must provide a written communication from the police department indicating adequate provisions have been made.
- e. The health department must review the sanitary provisions. Prior to receiving a permit, the applicant must provide a written communication from the health department indicating adequate provisions have been made.
- f. The director of building safety must review and approve all electric and lighting facilities.
- g. Maximum noise levels may be established. The levels shall be based on the distance of the site to adjoining residential uses and any history of complaints about similar events.

- h.** The applicant shall provide a written agreement or surety for complete site restoration upon the event's conclusion.

**3. Concrete/Asphalt Batch Plants**

Such uses shall meet the following standards:

- a.** No such use shall be located within 1,000 feet of a residential use or R zoning district;
  - b.** All applicable state and federal regulations.

**4. Construction Staging**

Construction staging areas, construction offices and storage of materials related to ongoing construction is allowed for the period in which construction is ongoing and all required permits remain valid.

**5. Sales Office**

Temporary residential sales and leasing offices and model homes are allowed, when located on the same lot or in the same subdivision as the residential units actively being offered for lease or sales.

**6. Film Production**

The taking of commercial still photography or motion pictures either on film, videotape, or similar recording medium, for any purpose intended for viewing on television, in theaters or for institutional uses may be approved in accordance with the general approval procedures of this section, except that when located in an R district or on public rights-of-way or public lands, such activities require review and approval in accordance with the conditional uses procedures of 17.65.110.

**E. General Procedure**

Upon receipt of a complete application for a permit for a temporary use, the director of building safety must review the proposed use for its likely effects and surrounding properties and its compliance with the general provisions of this chapter. The director of building safety may impose such conditions of approval on the permit as the director of building safety determines necessary to mitigate potential adverse impacts. Such conditions may include the following:

- 1.** Requirements for vehicle access and parking;
- 2.** Restrictions on hours of operation;
- 3.** Limitations on signs and outdoor lighting;
- 4.** Requirements for financial guarantees covering the costs of cleanup and/or removal of structures or equipment; and
- 5.** Other conditions necessary to carry out the stated purposes of this UDO and this chapter.

## Chapter 17.35 | Subdivision Design and Improvements

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### 17.35.010. Jurisdiction

#### A. General

The subdivision design and improvement regulations of this chapter apply to all subdivisions located within the city's corporate limits and to those portions of the city's extraterritorial planning and platting jurisdiction located within one mile of the corporate limits of the city, provided however, that lands located within a one-mile radius of Ned Houk Park and the extension of Norris Street to Ned Houk Park are subject to the platting and subdivision regulations of Curry County pursuant to [17.35.010.B](#).

#### B. County Subdivision Regulations

For purposes of exercising the extraterritorial planning and platting jurisdiction of the city, the city will implement and apply, and hereby adopts by reference, the platting and subdivision regulations of Curry County, as amended, as the subdivision regulations to be applied within all areas of the city's extraterritorial planning and platting jurisdiction except those portions located within one mile of the city's corporate limits, as set forth in [17.35.010.A](#).

**C. Right-of-Way Standards in Extra-Territorial Planning and Platting Jurisdiction**

The provisions of [17.35.010.A](#) and [17.35.010.B](#) notwithstanding, approval of all subdivision applications within the 5-mile extra-territorial planning and platting jurisdiction of the city are required to dedicate the following minimum road rights-of-way as part of the subdivision plat:

1. Section-line roads: 100 feet, 50 feet on each side of the section-line; and
2. Half section-line roads: 80 feet way, 40 feet on each side of the half section-line.

**17.35.020. Improvements**

**A. Applicability**

Public improvements are required when an area of land is subdivided or developed. These improvements along with a minimum one-year warranty must be provided by the applicant. Some improvements are eligible for cost-sharing with the city or other agency based on the cost allocation formulas found in these regulations. In most situations ownership of the facilities will be turned over to the city or another agency for maintenance.

**B. Required Improvements**

Required improvements and facilities include, but are not limited to, those listed in this section.

**1. Streets**

A street of sufficient capacity to adequately serve adjacent lots and the expected traffic volume generated by the subdivision or development must be provided. All streets shown on the comprehensive plan, or other official plans, must be dedicated. If arterial streets are required, the city will participate in development of the street; all other streets must be constructed by the applicant.

**2. Pedestrian Ways**

Pedestrian ways of sufficient capacity and convenient location to serve the population generated by the subdivision or development must be provided. Sidewalks within the street right-of-way are required if alternative walkways are not provided.

**3. Drainage Facilities**

Drainage facilities must be provided to accommodate the stormwater runoff generated by a development.

**4. Utilities**

All utilities needed to serve the uses and population within the subdivision and the planned service area must be provided by the applicant.

**5. Street Lights**

Street lights must be provided by the applicant. The location and number of lights will be determined by the department of public works based on type of street, type of development, traffic volume, population density and pedestrian activity.

**6. Street Name Signs**

Street name signs must be provided by the applicant.

**C. Agreements**

1. An agreement or contract setting forth the construction plan, method of construction, and parties responsible for the construction of any required public improvements, together with adequate security or collateral acceptable to the city, is required before commencement of construction of any public improvements.

2. In addition, no final subdivision plat will be approved until the applicant has submitted and the city has approved a subdivision improvements agreement guaranteeing construction of the required public improvements shown on the final subdivision plat, together with financial security to ensure completion of the improvements in case the developer does not complete the required improvements in accordance with the design and time specifications of this chapter.
3. The types of financial security that may be accepted are as follows:
  - a. Performance or property bond;
  - b. Private or public escrow agreement;
  - c. Letters of credit;
  - d. Assignments of receivables;
  - e. Deposits of certified funds or other similar surety agreements acceptable to the city, to be escrowed at a local financial facility. All interest earned on the deposits shall accrue to the developer;
  - f. Deposits of certified funds or other similar surety agreements acceptable to the city. A letter from a financial institution represented that specific unencumbered funds have been designated for the construction of public improvements and that the financial institution will allow the designated funds to be used for no other purpose. The form and content of the letter shall be approved by the city of Clovis; and
  - g. Liens on the subdivision property in favor of the city.
4. The amount of financial security required will be based on the city engineer's estimate of the cost of public improvements. Written bids executed by licensed New Mexico contractors may also be accepted as evidence of public improvement costs.
5. The developer is prohibited from selling lots within a subdivision (see Section 3-20-14, NMSA 1978) before installation of required improvements is complete.
6. Building permits may not be issued within any subdivision until the improvements agreement has been accepted by the city and a form of financial security has been accepted and received by the city, except that the installation of sidewalks prior to the issuance of a building permit is not required until the end of the one-year public improvements warranty period. Before the end of the one-year warranty period, all sidewalks within the subdivision must be installed.
7. As public improvements are completed, the applicant may apply to the city for release of a proportion of the financial security deposited with the city. Upon final inspection, approval and acceptance of the public improvements by the city engineer, the city must release the security. If the city determines that any of the improvements are not constructed in substantial compliance with applicable city specifications, the city may, pursuant to the improvements agreement, withdraw and employ from the deposited security such funds as may be necessary to construct or repair the improvements in accordance with such specifications.

### **17.35.030. Design Standards**

#### **A. General**

Subdivision design and improvements are subject to all applicable the design standards of this section, as well as:

1. The public works department's *Manual of Construction Standards*;
2. New Mexico standard specifications for public works construction;

3. The latest edition of the Institute of Traffic Engineers *Transportation and Traffic Engineering Handbook*; and
4. Federal ADA regulations.

**B. Applicability**

The design standards of this section apply to all subdivisions unless otherwise expressly stated in this chapter.

**C. Access**

1. Access to lots and buildings must be provided in accordance with the Uniform Fire Code. Except for cul-de-sacs, streets must connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or should be a reasonable projection of streets in the nearest subdivided tracts. All private roads and driveways must connect to a dedicated street.
2. Proposed subdivisions that include lots that do not abut a public street must include a development plan as part of the application. The application will be processed according to the procedures set forth for a PUD. The development plan must include all the information required of a PUD plan.

**D. Traffic Circulation Facilities**

**1. General**

The road system must be designed to:

- a. Permit the safe, efficient, and orderly movement of traffic;
- b. Meet, but not exceed the needs of the present and future population served;
- c. Have a simple and logical pattern;
- d. Respect natural features and topography; and
- e. Present an attractive streetscape.

**2. Arrangement of Streets**

The arrangement of streets must conform to the circulation element of the comprehensive plan or the official maps. For streets not shown on the comprehensive plan or official maps, the arrangement must provide for the logical extension of existing streets. Residential streets must be designed to discourage high-speed traffic and to safely accommodate all users ~~will be arranged so as to discourage through traffic and provide for maximum privacy.~~

**3. Arterial Streets**

Arterial streets are generally intended to carry a large volume of traffic from one part of the community to another. State highways that carry traffic through Clovis are examples of arterial streets. Arterial streets are generally located no more than one mile apart, preferably on a section line. Arterial streets shown on the comprehensive plan must be dedicated.<sup>18</sup>

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<sup>18</sup> Requiring dedication of full ROW width for arterial street is problematic. Need to discuss.

**4. Collector Streets**

Collector streets generally connect with arterial streets. They are required to be provided as indicated in the comprehensive plan and in all areas of a subdivision containing 400 or more dwelling units. When intersecting with an arterial street, collector streets must intersect with another collector street or be off-set by a distance of at least 1,000 feet.

**5. Local Streets**

Local streets generally provide direct access to lots within a subdivision. Local streets are designed to carry the lowest volumes of traffic at the lowest speeds. Local streets should have an east-to-west orientation wherever possible. A local street may intersect with an arterial street if offset by a distance of at least 650 feet on the same side of the arterial from any other intersection. A local street and an arterial street may intersect at a T-intersection only.

**6. Other Streets**

**a. Cul-de-sac**

A cul-de-sac is a street with a single means of ingress and egress with a turnaround at the end. Design of turnarounds may vary. A cul-de-sac must be designed according to anticipated ADT level; a residential access cul-de-sac will have a maximum ADT of 250.

**b. Marginal access street**

A marginal access street runs parallel to a collector or arterial street and provides access to abutting properties and separation from through traffic on adjacent streets.

**c. Private street**

Private streets are permitted only in PUDs. The design of the street must be based upon the expected ADT. An applicant must submit a traffic study justifying any private street with a cross-section less than a required public street.

**d. Alley**

Alleys are service roads that provide a secondary means of access to lots.

**7. Intersections**

**a.** All street intersections involving arterial streets must be laid out to intersect at right angles, except that when topography or other site conditions justify variations, the intersection angle may be allowed to vary by up to 10 degrees from a right angle. No intersection of public or private streets may be on a curve of centerline radius less than 500 feet. No curb cut is allowed on a curve section of road with an inside curve radius of less than 150 feet.

**b.** Intersections must be designed with adequate corner site distance. Minimum required corner site distances are as follows:

**(1)** Local and collector streets: 200 feet; and

**(2)** Arterial streets: 350 feet.

**c.** In addition to the corner site distance requirements, no fence, wall, entrance, hedge, shrub planting, tree or other sight obstruction greater than 3 feet above the pavement elevation may be located within the triangular area formed by street curb lines and a line connecting them at points 35 feet from their point of intersection.

**d.** Streets entering the opposite sides of a street shall either be directly across from each other or offset by at least 125 feet from centerline to centerline.

**e.** Streets that enter onto the same side of a street must be spaced at least 300 feet apart, from centerline to centerline.

- f. Curb corner radii at all intersections along arterial streets must be a minimum of 20 feet.
- g. Street name signs must be provided at all intersections.
- h. Intersections that include collector or arterial streets must be designed to allow for future traffic signalization. Geometry and all other details of these intersections require review and approval by the city engineer.

#### E. Pedestrian and Bicycle System

##### 1. Sidewalks

Sidewalks are required parallel to all ~~public~~ streets and must be sized depending on road classification and intensity of development. Alternative locations of sidewalks may be proposed by the applicant. In case an alternative location is proposed, sidewalks in the street right-of-way may still be required if close to a pedestrian generator, to continue a walk on an existing street, or to link areas of probable future development as indicated in applicable plans. In conventional developments, sidewalks must be placed in the right-of-way, parallel to the street, unless an exception has been permitted to preserve topographical or natural features or to provide visual interest, or unless the applicant shows that an alternative pedestrian system provides safe and convenient circulation. All sidewalks must be installed before a certificate of occupancy is issued or by the end of the one-year warranty period for the public improvements for unoccupied lots.

##### 2. Walkways

Mid-block pedestrian easements at least 10 feet in width may be required on blocks exceeding 600 feet in length to provide safe and convenient pedestrian access to schools, playgrounds, shopping, or other community facilities.

##### 3. Bikeways

Separate bicycle paths are required if such paths are shown on comprehensive plan.

#### F. Stormwater Management

1. The stormwater management regulations of this section apply to all subdivisions and any development of 7,000 square feet<sup>19</sup> or more within the city planning and platting jurisdiction. The minimum stormwater management regulations apply to land development activities that are less than 7,000 square feet if such activities are a part of a larger common plan of development, even though multiple separate and distinct land development activities may take place at different times on different schedules. The city commission may, after considering the comments and recommendations of the public works director, grant an exception to the minimum stormwater management regulations if strict compliance it is not feasible due to the natural or existing physical characteristics of the site. The stormwater management regulations of this section apply to residential subdivisions, except those residential lots, subdivisions and units of subdivision that have existing infrastructure improvements installed in the subdivision or unit of a subdivision.
2. The minimum stormwater management requirement is that all applicable developments must provide management measures necessary to maintain the post-development peak discharges for 25-

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<sup>19</sup> Is this lot/site area or building floor area or...?



year frequency, one-hour storm events at a level that is equal to or less than the respective 25-year frequency, one-hour pre-development peak discharge rate, through stormwater management practices that control the volume, timing, and rate of flows.

3. Stormwater management measures are required to satisfy the minimum stormwater management requirements. The stormwater management practices used must be implemented in the following order of preference.
  - a. Infiltration of runoff on-site;
  - b. Off-site stormwater management using an existing playa;
  - c. Flow continuation by use of open vegetated swales and natural depressions;
  - d. Stormwater retention structures;
  - e. Stormwater detention structures.
4. The owner/developer of a subdivision (or a unit of a subdivision) subject to this section must submit a stormwater management plan at the time of submission of the subdivision plat for preliminary approval (final approval for all residential subdivisions that have received preliminary approval prior to the effective date).
5. The stormwater management plan for a subdivision may propose compliance with the minimum stormwater management requirement by a subdivision-wide proposal or a lot-control proposal. For new subdivisions, subdivision-wide proposal are preferred.
6. If a subdivision, after being fully developed, has or will have the potential to create a stormwater impact to downstream properties, the owner/developer must provide on-site stormwater management measures, unless the owner/developer elects to build a structure to adequately facilitate an off-site stormwater management location (such as the next available playa, without impacting the intervening properties).
7. If a subdivision is located adjacent to a natural playa that receives runoff from the same watershed as the subdivision, off-site stormwater management utilizing the adjacent playa may be approved.
8. Whenever off-site stormwater management is proposed, the owner/developer must submit a stormwater control plan demonstrating that:
  - a. The plan will not impact downstream properties between the subdivision and the receiving property (playa); and
  - b. The plan will not reduce the original capacity of the receiving property to handle the pre-development runoff from the water shed.
9. The road system in most areas will be a primary element of the storm drainage collection system of a developed area. Road layouts and grades should be designed to avoid excessive runoff concentration and to minimize the need for storm sewers. Curbed roadways provide drainage outfalls for adjacent properties and site grading generally should provide for runoff from sites toward the roadway. Provisions shall be made in the design of roadways to manage stormwater throughout a subdivision or development. All storm drainage system components must be designed in accordance with the standards of the department of public works manual of construction standards.
10. Playa stormwater storage shown on the Clovis comprehensive plan and/or the Clovis drainage plan must be accurately defined. The size of the playa may be determined by the designated capacity found in the drainage plan. If a developer wishes to store additional stormwater generated by the subdivision or development, the size of the playa may be increased by the developer if approved by the city.

11. Existing drainage ways must be continued and have adequate capacity to accommodate the historic volume of runoff. A drainage way must be included in the subdivision or development plan area if needed to carry stormwater runoff exceeding the storm events described in 17.35.030.F.2. All drainage ways must be of sufficient width to carry the expected maximum stormwater flow as defined by the Clovis drainage plan and in compliance with the Clovis flood ordinance. An area at least ten feet in width along one side of the channel must be provided in addition to the drainage way channel.
12. All drainage facilities must meet the standards of public works department's *Manual of Construction Standards*.
13. If a stormwater management plan is approved for individual lots, a notation of the stormwater control requirement must be identified on the plat in a manner approved by the city so that the responsibility for stormwater management control will run with the title of the property.

#### G. Retention/Detention

1. A residential subdivision-wide stormwater management plan that has a retention/detention area will be maintained by the developer, or is successors-in-interest, for a minimum period of one year from the completed construction of the retention/detention area. Any necessary repairs to the control area will be completed prior to the acceptance by the city.
2. A commercial subdivision stormwater management retention/detention area will be permanently maintained by the developer, or its successor-in-interest. Minimum standards established by this chapter must be permanently maintained.
3. For planned unit developments, retention/detention areas may be combined with open/recreational spaces as dual use. If dual use is approved as a part of the development plan, the total area designated for retention/detention of stormwater must be maintained by the developer or owners association, and the city will not assume ownership or maintenance responsibility.
4. All subdivision-wide stormwater management areas that will be maintained by the must shall be constructed without trees, shrubs or permanent structures that would interfere with maintenance requirements. The developer must establish the retention/detention area with a native or drought resistant grass.
5. The inside slope of a retention/detention area may not exceed 5-to-1 (horizontal-to-vertical).
6. The depth of a retention/detention may not exceed 2 feet. The allowable depth is measured as the vertical distance from grade level to the bottom of the retention/detention area.
7. Upon the recommendation of the director of public works, the commission may approve a deviation in the size and depth of a retention/detention area if the location of the retention/detention area is placed away from the streets and lots in a manner that will maximize visual and aesthetic features, reduce or minimize health and safety risks, and not adversely impact the maintenance of the retention/detention area.

#### H. Schools

Upon receipt of a preliminary plat application for a subdivision of 40 acres or more, the director of building safety must forward the application to the school district. The school district must then assess the need for additional school sites and may work with the developer to acquire such sites. The findings of the school district's land needs assessment and the results of any negotiations with the developer must be forwarded to the planning and zoning commission to be considered with the preliminary plan application.

**I. Utilities**

The developer must coordinate with the affected utilities to provide utilities with sufficient capacity to serve any subdivision or development. Design and construction must be coordinated with the affected utilities. Utilities must be constructed according to the utility company standards and standards contained in these regulations and in the public works department and New Mexico standards. When public sewer and/or water is not furnished, Curry County and state of New Mexico regulations must be followed. If an alley is not provided in a planned development, a utility easement of sufficient width and accessibility must be provided and be part of the approved development plan.

**1. Sewer**

All collection lines for sewer must be located in an alley that serves adjacent property unless a specific exception is requested by the applicant and a plat or PUD development plan delineating such exception is approved by the city.

**2. Mail Service**

The method of mail delivery must be coordinated with the local US Postal Service and city staff.

**J. Public Safety within a Development**

A design for a subdivision and/or a planned unit development must provide for public safety. The design will be reviewed by the city using the following standards:

1. Lighting is arranged so that an entry point, side walk, walkway, recreation area and parking area are adequately illuminated during the times of use.
2. Landscaping is arranged so that areas adjacent to entry points will not provide places of concealment. Plantings adjacent to a walk or parking area must be open or lighted so that a place of concealment is not created.
3. A development with a private road, walkway or parking area will provide to the city an easement to each such area which will allow police and fire personnel access at any time.
4. A fence adjacent to a public right-of-way or easement will have an access point into any area without direct access to a public area. If locked, the access must have a lock on the easement right-of-way that can be opened by the police and fire department.

**K. Street Lights, Street Signs**

Street lights and street signs will be provided as required by city regulation.

**L. PUD Design Standards**

1. Adequate design of grades, paving, gutters drainage and treatment of ground cover to handle stormwater, prevent erosion and formation of dust;
2. Adequate safe and convenient arrangement of pedestrian circulation facilities, roadways, drive-ways, off-street parking and loading space, facilities for waste disposal and illumination;
3. Adequate amount and proper location of pedestrian walks and landscaped spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks and public transportation loading places from general vehicular circulation facilities;
4. Arrangement of buildings and vehicular circulation so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic;
5. Proper arrangement of signs and lighting with respect to traffic control devices and adjacent residential districts;

6. An adequate amount and safe location of play areas for children and other recreational area according to the concentration of occupancy;
7. Arrangement of buildings so that views from entrances and windows are not blocked by nearby structures. Each dwelling unit must have at least one wall with windows through which landscaped yard areas is visible;
8. A metal trash collection container must be located so that it is conveniently accessible and is used by six residential units. The location of the trash container must be readily accessible by trash collection trucks.

#### **17.35.040. Cluster Developments<sup>20</sup>**

##### **A. Purpose/Description**

1. The regulations of this section are intended to encourage development design that is more efficient and provides more open space and greater natural resource protection than conventional development designs. Cluster development designs allow more compact and less costly networks of roads and utilities. They can also help reduce stormwater runoff and non-point source pollutant loading rates and can be used to preserve an area's semi-rural character. Cluster developments are intended to reduce stormwater runoff and flooding, preserve natural resources, protect water quality and encourage the provision of needed open space and recreational amenities for residents.
2. The cluster development regulations of this section require that a specified portion of each development be set aside and permanently preserved as open space.
3. The required open space area within cluster developments can be set aside to conserve and protect significant natural resources. It can also be used to preserve agricultural lands or to provide passive or active recreational opportunities for the subdivision's residents and/or the general public.

##### **B. Lot and Building Standards**

Cluster developments must comply with the lot and building standards of the subject zoning district.

##### **C. Maximum Density and Net Site Area**

1. The maximum number of dwelling units allowed within a cluster development is computed by dividing the net area of the site by the subject zoning district's minimum-lot-area-per (dwelling) unit standard. Net site area is calculated by subtracting all of the following from the site's gross land area:
  - a. Special flood hazard areas;
  - b. Jurisdictional (Army Corps of Engineers) wetlands and waterways; and
  - c. Water bodies with a contiguous area of more than 5,000 square feet.

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<sup>20</sup> This section is entirely new; it was previously included in the module 1 draft.

2. If the cluster development site is located in more than one zoning district, the maximum number of dwelling units allowed must be determined separately for each portion of the site lying within a different zoning district. Density may be transferred from one portion of the site to another as long as the transfer does not result in an increase in the number of dwelling units allowed on the overall site.

#### **D. Open Space**

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

Open space provided to meet minimum open space requirements must be in one or more parcels dedicated or otherwise protected as permanent (active or passive) open space. Any city-accepted parkland or open space under the subdivision regulations will be counted towards meeting minimum open space standards for cluster developments.

##### **2. Location and Design**

The location, size, character and shape of required open space must be appropriate for its intended use.

- a. Open space proposed to be used for recreation, particularly active recreation, should be located and designed so that it can be accessed conveniently and safely by intended users, and open space to be used for ball fields, playing fields or other active recreational facilities should be located on land that is relatively flat and dry.
- b. In the case of resource protection, open space must be designed to provide maximum protection for the subject resources, such as continuous blocks of wildlife or wildlife habitat and corridors, plant habitat, agricultural lands (soils), or riparian areas.

##### **3. Use**

- a. Open space that protects wildlife habitat areas and corridors or promotes preservation of agricultural lands and sustainable food production activities are the highest priority for open space.
- b. Open space may also be dedicated or reserved for one or more of the following uses:
  - (1) Conservation of, and avoidance of development in, any readily identifiable natural hazard areas, i.e., areas that potentially pose a significant hazard to people or property (e.g., drainageways);
  - (2) Conservation and protection of natural resources (e.g., rare plant communities and wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems;
  - (3) Conservation and protection of significant historic or cultural resources; or
  - (4) Provision of active and/or passive outdoor recreation opportunities for the general public or for the development's residents or employees and their guests.
- c. Open space may contain active recreation areas and only such buildings, structures, accessways and parking facilities as are necessary and accessory to its principal uses (e.g., pedestrian paths, recreational club houses, utility lines, driveways, parking areas). All active recreation areas, permanent structures and impervious surfaces must be of a low-impact stormwater design, and management practices must be instituted to protect and enhance the natural character and function of the open space. Such development requires:
  - (1) A tree and native vegetation preservation plan that limits site disturbance to the minimum required for construction and protects mature vegetation areas from degradation;
  - (2) Landscaping using native or naturalized plant species;

- (3)** Low-input, natural vegetation management practices; and
    - (4)** Stormwater management best management practices.
  - d.** Open space areas may be used for low-impact design stormwater management practices.
  - e.** Open space areas may not be used for irrigation with treated sanitary sewage.
  - f.** The area of stormwater retention/detention ponds that are designed to hold stormwater from less than 100-year storm events may not be counted toward satisfying minimum open space requirements.
  - g.** Roadways and parking areas within open space areas may not be counted toward satisfying minimum open space requirements unless they provide public access to the open space area.

#### **4. Ownership and Management**

- a.** The applicant must identify the owner of the open space. The designated owner and the owner's successors are responsible for maintaining the open space and any associated facilities. If a property owners' association is the owner, membership in the association is mandatory and automatic for all property owners within the development and their successors. If a property owners' association is the owner, the property owners' association must have lien authority to ensure collection of dues from all members.
- b.** The applicant must submit a management plan for the open space and all common areas. The management plan must:
  - (1)** Allocate responsibility and guidelines for the maintenance and operation of the open space and any associated facilities, including provisions for ongoing maintenance and for long-term capital improvements;
  - (2)** Estimate the costs and staffing requirements needed for maintenance, operation and insurance and outline the means by which necessary funding will be obtained or provided;
  - (3)** Provide that any changes to the management plan be approved by the planning and zoning commission; and
  - (4)** Provide for enforcement of the management plan.
- c.** In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, the city may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance, plus any administrative costs and penalties, may be charged to the owner, property owner association, or to the individual property owners that make up the property owners association. Unpaid costs will become a lien on all properties within the development.

#### **5. Boundary Markers**

- a.** Construction fencing must be placed at the outer edge of the existing vegetation to be preserved in the permanent open space area. This fencing must be maintained throughout the construction process.
- b.** Permanent signs must be placed at the edge of the permanent open space indicating that the area has been designated as a permanent open space area and identify any limitations on use or disturbance of the area. Signs must be maintained and remain legible at all times.

**E. Permanent Protection of Open Space**

1. The open space must be protected in perpetuity by a binding legal instrument that is recorded with the deed. The legal instrument must be one of the following:
  - a. A permanent conservation easement in favor of either:
    - (1) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization must be bona fide and in perpetual existence and the conveyance instruments must contain an appropriate provision for transfer in the event the organization becomes unable to carry out its functions; or
    - (2) A governmental entity (if the entity accepting the easement is not the city, then a third right of enforcement favoring the city must be included in the easement); or
  - b. An open space tract protected by a permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
  - c. An equivalent legal tool that provides permanent protection, as approved by the city attorney.
2. The instrument for permanent protection must include clear restrictions on the use of the open space. These restrictions must include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the open space.

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### 17.40.010. General

#### A. Purpose

1. The regulations of this chapter establish off-street motor vehicle and bicycle parking requirements that attempt to ensure adequate off-street parking facilities to meet the typical day-to-day needs of shoppers, employees, visitors and residents, while helping avoid the negative impacts that can result from requiring excessive supplies of off-street parking (e.g., impervious surfaces, stormwater runoff, heat island affect, community appearance).
2. The provisions of this chapter are also intended to help protect the public health, safety and general welfare by:
  - a. Promoting economically viable and beneficial use of land; and
  - b. Providing flexible methods of responding to the transportation and access demands of various land uses.

#### B. Applicability

##### 1. General

Off-street parking must be provided and maintained in accordance with the provisions of this chapter. Unless otherwise expressly stated, the regulations apply to all zoning districts and uses.

##### 2. New Uses and Development

The parking regulations of this chapter apply to all new buildings constructed and all new uses established.

##### 3. Change of Use

If a new use of a building or structure requires more off-street parking than the use that most recently occupied the building or structure, additional off-street parking is required in an amount equal to the difference between the parking required for the new use and the parking that would have been required for the previous use if current parking requirements had been applicable, provided that the total number of required spaces for the change of use need not exceed the number that would be required for establishment of a new use.

#### 4. Enlargements and Expansions

- a. The parking regulations of this chapter apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity or other units of measurement used for establishing off-street parking requirements.
- b. In the case of enlargements or expansions that trigger requirements for additional parking, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. There is no requirement to address parking space deficits associated with existing, lawfully established buildings or uses.

#### 17.40.020. Minimum Parking Ratios

Off-street motor vehicle parking spaces must be provided in accordance with the minimum ratios established in Table 40-1. See [17.40.040](#) for an explanation of exemptions and allowed reductions of minimum motor vehicle parking requirements. See [17.40.050](#) for additional information about bicycle parking requirements.

TABLE 40-1: MINIMUM PARKING RATIOS

USE CATEGORY	Unit of Measurement	Minimum Requirement (per unit of measurement)	Add'l Requirements/ Notes
Subcategory Specific use			
RESIDENTIAL			
Household Living			
Detached house	dwelling unit	2	
Lot line house	dwelling unit	2	
Townhouse	dwelling unit	2	
Duplex	dwelling unit	2	
Multi-dwelling house	dwelling unit	2	
Apartment	dwelling unit	2	
Mobile home	dwelling unit	2	
Mobile home park	dwelling unit	2	+ 0.5 guest spaces per unit
Group Living	bed or resident	1.0	
PUBLIC, CIVIC AND INSTITUTIONAL			
Airport	Established in accordance with <a href="#">17.40.030.G</a>		
Cemetery	Established in accordance with <a href="#">17.40.030.G</a>		
College or University	Student	1.10	
Day Care	1,000 sq. ft.	8	
Fraternal Organization	1,000 sq. ft.	8	
Governmental Service	Established in accordance with <a href="#">17.40.030.G</a>		
Hospital	bed	2	
Library or Cultural Exhibit	1,000 sq. ft.	3.5	
Natural Resource Preservation	None		
Parks and Recreation	Established in accordance with <a href="#">17.40.030.G</a>		
Postal Services	1,000 sq. ft.	5	Plus one space per delivery vehicle
Religious Assembly	seat	0.33	
Safety Service			
Fire station/ambulance service	Vehicle bay	4.0	
Other	1,000 sq. ft.	4.0	
School			
Elementary or Jr. High	classroom	2	
Sr. High	student	0.25	
Utilities and Public Service Facility			
Minor	None		
Major	Established in accordance with <a href="#">17.40.030.G</a>		

USE CATEGORY	Unit of Measurement	Minimum Requirement (per unit of measurement)	Add'l Requirements/ Notes
Subcategory Specific use			
COMMERCIAL			
Adult Entertainment	1,000 sq. ft.	16	
Animal service			
Boarding or shelter	1,000 sq. ft.	1.0	
Grooming	1,000 sq. ft.	3.33	
Veterinary	1,000 sq. ft.	3.33	
Assembly and Entertainment			
Indoor	Occupant	0.33	
Outdoor	Occupant	0.25	
Broadcast or Recording Studio			
Commercial Service	1,000 sq. ft.	4	
Financial Services	1,000 sq. ft.	3.5	
Funeral or Mortuary Service	1,000 sq. ft.	6	
Lodging			
Bed & breakfast	guest room	1.0	
Campgrounds and RV parks	camping space	1.0	
Hotel/motel	guest room	1.5	
Office			
Medical	1,000 sq. ft.	4.5	
Other	1,000 sq. ft.	3.5	
Restaurant	1,000 sq. ft.	10	Plus stacking spaces for drive-through (see <a href="#">17.40.090</a> )
Retail Sales	1,000 sq. ft.	4	
Self-service Storage Facility	storage space	0.10	
Studio, Artist or Instructional Service	1,000 sq. ft.	2.5	
Trade School	student	1	
Vehicle Sales and Service			
Commercial vehicle re-pair/maintenance	1,000 sq. ft.	1	Plus 4 per service bay
Commercial vehicle sales and rentals	1,000 sq. ft.	10.0	
Fueling station	pump	1	
Personal vehicle repair and maintenance	1,000 sq. ft.	1.5	Plus stacking spaces for drive-through uses (see <a href="#">17.40.090</a> )
Personal vehicle sales and rentals	1,000 sq. ft.	15.0	
Vehicle part and supply sales	1,000 sq. ft.	4	
Vehicle body and paint finishing shop	1,000 sq. ft.	1	Plus 4 per service bay
WHOLESALE SALES AND DISTRIBUTION			
Equip. & Materials Storage, Outdoor	1,000 sq. ft.	0.25	
Trucking and Transportation Terminal	1,000 sq. ft.	0.25	
Warehouse	1,000 sq. ft.	0.25	
Wholesale Sales and Distribution	1,000 sq. ft.	0.25	
INDUSTRIAL			
Low-Impact Manufacturing & Industry	employee	1.0	
Moderate-Impact Manufacturing & Industry	employee	1.0	

USE CATEGORY		Unit of Measurement	Minimum Requirement (per unit of measurement)	Add'l Requirements/ Notes
Subcategory	Specific use			
High-Impact Manufacturing & Industry		employee	1.0	
Mining or Mineral Processing		employee	1.0	
Junk or Salvage Yard		1,000 sq. ft.	0.20	
RECYCLING				
Construction or Demolition Debris		1,000 sq. ft.	0.5	
Consumer Material Drop-off Station		1,000 sq. ft.	0.5	
Consumer Material Processing		1,000 sq. ft.	0.5	
AGRICULTURAL				
Animal Husbandry			None	
Community Garden			None	
Farm			None	
Nursery or Greenhouse		1,000 sq. ft.	0.20	
Stable		Animal stall	0.50	
OTHER				
Drive-in or Drive-through Facility		stacking spaces required for drive-through uses (see <a href="#">17.40.090</a> )		

### 17.40.030. Calculation of Required Parking

In determining the number of parking spaces required, the following calculation rules apply:

#### A. Multiple Uses

Lots containing more than one use or tenant must provide parking in an amount equal to the total aggregate number of spaces required for each use or tenant on the lot except when a shared parking arrangement is approved in accordance with [17.40.040.G](#).

#### B. Calculations

In calculating the number of parking spaces required for uses subject to a minimum parking ratio of "x" spaces per 1,000 square feet, first divide the floor area of the subject use by 1,000 and then multiply the result by "x." If, for example, a minimum parking ratio of 3.33 spaces per 1,000 square feet is applied to a use occupying 500 square feet of floor area, the minimum parking requirement for that use would be calculated as follows:  $(500 \text{ sq. ft.} \div 1,000) \times 3.33 = 0.5 \times 3.33 = 1.665$ , which is rounded up to 2 spaces (see [17.85.010](#)).

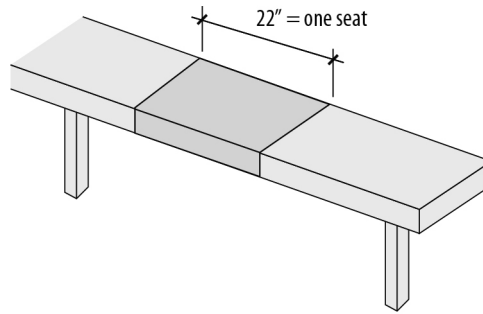
#### C. Occupancy- or Capacity-based Standards

For the purpose of computing parking requirements based on employees, students, members, residents or occupants, calculations must be based on the average number of persons working on any single shift, the average enrollment or membership or the building code-rated capacity, whichever is applicable.

#### D. Bench Seating

For the purpose of calculating parking requirements based on seating, each 22 linear inches of bench or pew length is equivalent to one seat.

FIGURE 40-1: BENCH SEATING



**E. Outdoor Customer Seating/Dining Areas**

Any outdoor customer seating/dining area exceeding 33% of a bar, restaurant or other use's indoor floor area must be counted as floor area for purposes of determining off-street parking requirements.

**F. Unlisted Uses**

Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the director of building safety is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking requirement for the proposed use in accordance with [17.40.030.G](#).

**G. Establishment of Other Parking Ratios**

The director of building safety is authorized to establish required minimum parking ratios for unlisted uses and in those instances where authority to establish a requirement is expressly granted. Such ratios must be established on the basis of (1) a similar use/parking determination (as described in [17.40.030.F](#)), (2) on parking data provided by the applicant or (3) other information available to the director of building safety. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable local uses or on external data from credible research organizations, such as the Urban Land Institute (ULI) and the Institute of Transportation Engineers (ITE). Comparability will be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

**17.40.040. Parking Exemptions and Credits<sup>21</sup>**

**A. Central Business District**

Uses within the CBD zoning district are exempt from compliance with the minimum parking ratios of Table 40-1.

**B. Accessory Buildings**

Accessory buildings are exempt from the minimum off-street parking ratios of [Table 40-1](#).

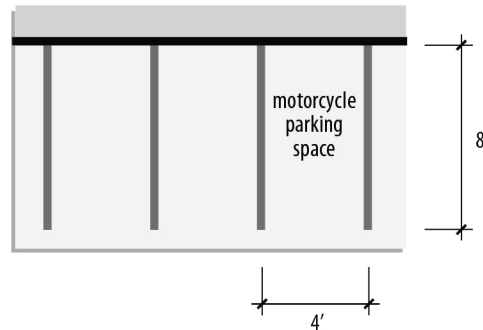
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<sup>21</sup> New

### C. Motorcycle and Scooter Parking

In parking lots containing more than 10 parking spaces, the provision of motorcycle or scooter parking spaces may be credited toward satisfying the minimum off-street parking ratios of [Table 40-1](#) at the rate of one motor vehicle parking space for each 2 motorcycle or scooter parking spaces. The maximum credit allowed under this provision is 2 spaces or 10% of the total minimum motor vehicle parking requirement for the subject property, whichever is greater. To receive credit, each motorcycle and scooter space must have a concrete surface and minimum dimensions of 4 feet by 8 feet. This provision applies to existing and proposed parking lots.

FIGURE 40-2: MOTORCYCLE PARKING SPACE DIMENSIONS



### D. Long-term Bicycle Parking

Each 10 long-term bicycle parking spaces provided in accordance with [17.40.050](#) is credited as one motor vehicle space.

### E. Public Parking

Nonresidential uses may receive credit for parking spaces within a nearby public parking lot or public parking garage, as follows:

1. The nearest pedestrian entrance to the public parking lot or garage must be located within 1,000 feet of the lot on which the subject use is located;
2. The parking facility must be open to the general public from at least 6:00 a.m. to 10 p.m.;
3. Minimum parking requirements may be reduced by one parking space for every 4 parking spaces within the public parking lot or garage, not to exceed a total reduction of more than 25 spaces.

### F. On-street Parking

Nonresidential uses may count on-street parking spaces on public street rights-of-way abutting the subject property towards satisfying off-street motor vehicle parking requirements. One on-street parking space credit may be taken for each 20 linear feet of abutting right-of-way where on-street parking is allowed. Only space on the same side of the street as the subject use may be counted, except that the opposite side of the street may be counted if the property on that side of the street does not have the potential for future development. In calculating credit for on-street parking, all fractional spaces are rounded down.

### G. Shared Parking

#### 1. General

Shared parking refers to the practice of 2 or more users who have need for parking at different times voluntarily agreeing to make use of the same motor vehicle parking spaces. Shared parking is encouraged as a means of conserving scarce land resources, reducing stormwater runoff, reducing the heat island effect caused by large paved areas and improving community appearance.

## 2. Approval

The director of building safety is authorized to approve shared parking arrangements among property owners who propose shared parking.

## 3. Eligibility

Shared parking may be approved for nonresidential uses that have different periods of parking demand. Required residential parking and accessible parking spaces (for people with disabilities) may not be shared, provided that this provision is not intended to prohibit shared driveways serving such uses.

## 4. Calculation

The number of parking spaces required under a shared parking arrangement must be determined in accordance with the following:

- Multiply the minimum parking required for each individual use, as set forth in Table 40-1 by the percentage identified in Table 40-2 for each of the 6 designated time periods.
- Add the resulting sums for each of the 6 columns in Table 40-2.
- Select the time period with the highest total parking requirement and use that total as the shared parking requirement.

TABLE 40-2: SHARED PARKING CALCULATIONS

Land Use	Time					
	Weekday			Weekend		
	Midnight–7:00 a.m.	7:00 a.m.–6:00 p.m.	6 p.m.–Midnight	Midnight–7:00 a.m.	7:00 a.m.–6:00 p.m.	6 p.m.–Midnight
Office and Industrial	5%	100%	10%	0%	60%	5%
Lodging	100%	60%	90%	100%	65%	80%
Restaurants and Bars	50%	70%	100%	45%	70%	100%
Religious Assembly	0%	10%	30%	0%	100%	30%
Assembly & Entertain.	10%	50%	100%	5%	80%	100%
Retail Sales & Comm. Service	5%	70%	90%	0%	100%	60%

## 5. Other uses

If one or more of the land uses proposing to make use of a shared parking arrangement do not conform to the land use classifications in Table 40-2, as determined by director of building safety, then the applicant must submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the director of building safety is authorized to determine the appropriate shared parking requirement, if any, for such uses.

## 6. Location

Shared parking may be located on-site or off-site. Off-site parking is subject to the regulations of [17.40.070.B](#).

## 7. Agreement

Before final approval of a shared parking arrangement, a shared parking agreement must be provided guaranteeing the long-term availability of the shared parking, commensurate with the uses served. The agreement must be filed of record in the county clerk's office. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If a shared parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

#### H. Alternative Compliance

The motor vehicle parking ratios of this chapter are not intended to prevent development and redevelopment or to make development and redevelopment economically impractical. In order to allow for flexibility in addressing the actual expected parking demand of specific uses, alternative compliance parking ratios may be approved through the conditional use procedures of [17.65.110](#) only if:

1. The applicant submits a parking study demonstrating that the motor vehicle parking ratios of [17.40.020](#) do not accurately reflect the actual day-to-day parking demand that can reasonably be anticipated for the proposed use based on field surveys of observed parking demand for similar use within the city or on external data from credible research organizations, such as the Urban Land Institute (ULI) or the Institute of Transportation Engineers (ITE);
2. The planning and zoning commission determines that the other allowed parking reduction alternatives of [17.40.040](#) are infeasible or do not apply; and
3. The planning and zoning commission determines that the reduced parking ratios proposed are not likely to cause material adverse impacts on traffic circulation and safety or on the general welfare of property owners and residents in the surrounding area.

### 17.40.050. Bicycle Parking<sup>22</sup>

#### A. Purposes

##### 1. Short-term Bicycle Parking

Short-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for short time periods, including customers, clients, students and other short-term visitors.

##### 2. Long-term Bicycle Parking

Long-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for long time periods, primarily employees and residents.

#### B. Spaces Required

##### 1. Short-term Bicycle Parking

Short-term bicycle parking spaces must be provided in accordance with the minimum ratios established in [Table 40-3](#).

TABLE 40-3: MINIMUM REQUIRED BICYCLE PARKING RATIOS

USE CATEGORY	
Subcategory Specific use	Bicycle Spaces (% of Required Motor Vehicle Parking Spaces)
<b>RESIDENTIAL</b>	
<b>Household Living</b>	
Apartment	10% or 2 spaces, whichever is greater
<b>PUBLIC, CIVIC AND INSTITUTIONAL</b>	
<b>College or University</b>	
College or University	10% or 2 spaces, whichever is greater
<b>Library or Cultural Exhibit</b>	
Library or Cultural Exhibit	10% or 2 spaces, whichever is greater

<sup>22</sup> New



USE CATEGORY	
Subcategory Specific use	Bicycle Spaces (% of Required Motor Vehicle Parking Spaces)
<b>Parks and Recreation</b>	5% or 2 spaces, whichever is greater
<b>School</b>	
Elementary or Middle School	10% or 2 spaces, whichever is greater
Senior High	5% or 2 spaces, whichever is greater
<b>COMMERCIAL</b>	
<b>Assembly and Entertainment</b>	5% or 2 spaces, whichever is greater
<b>Commercial Service</b>	
Personal improvement service	5% or 2 spaces, whichever is greater
<b>Financial Services</b>	5% or 2 spaces, whichever is greater
<b>Restaurants and Bars</b>	5% or 2 spaces, whichever is greater
<b>Retail Sales</b>	
Consumer shopping/convenience goods	5% or 2 spaces, whichever is greater
Liquor stores	5% or 2 spaces, whichever is greater
<b>Studio, Artist or Instructional Service</b>	5% or 2 spaces, whichever is greater

**C. Long-term Bicycle Parking**

Long-term bicycle parking and storage is not required, but as a means of encouraging the provision of long-term bicycle parking spaces for employees and bicycle commuters, motor vehicle parking credit is offered in accordance with [17.40.040.D](#).

**D. Location and Design**

**1. Short-Term Bicycle Parking Spaces**

**a. Location**

Short-term bicycle parking spaces must be located in highly visible areas that do not interfere with pedestrian movements. At least 50% of required short-term bicycle parking spaces must be located within 100 feet of a customer entrance, with the remainder located no more than 300 feet from any entrance. Short-term bicycle parking must be located on the subject lot, unless a license agreement has been approved by the city to allow private bicycle parking facilities to be located in the right-of-way. Public bicycle parking spaces may be credited toward meeting short-term bicycle parking requirements if such bicycle parking spaces comply with the location requirements of this paragraph.

**b. Design**

Required short-term bicycle parking spaces must:

- (1) Consist of bike racks or lockers that are anchored so that they cannot be easily removed;
- (2) Be of solid construction, resistant to rust, corrosion, hammers, and saws;
- (3) Allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (4) Be designed so as not to cause damage to the bicycle;
- (5) Facilitate easy locking without interference from or to adjacent bicycles; and
- (6) Have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

## 2. Long-Term Bicycle Parking and Storage Spaces

### a. Location

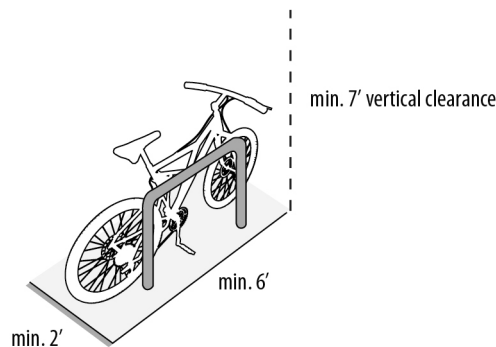
Long-term bicycle parking spaces provided to receive parking credit in accordance with [17.40.040.D](#) must be provided in the building or in a weather-protected area. Long-term bicycle parking spaces must be protected from access by unauthorized persons.

### b. Design

Long-term bicycle parking spaces provided to receive parking credit in accordance with [17.40.040.D](#) must:

- (1) Consist of bike racks or lockers anchored so that they cannot be easily removed;
- (2) Allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (3) Be designed so as not to cause damage to the bicycle;
- (4) Facilitate easy locking without interference from or to adjacent bicycles; and
- (5) Have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet. Bicycle lockers are exempt from overhead clearance requirements.

FIGURE 40-3: BICYCLE PARKING SPACE DIMENSIONS



## E. Conditional Uses

1. The planning and zoning commission is authorized to approve a conditional use reducing the number of short-term bicycle spaces required under this section, in accordance with the conditional use procedures of [17.65.110](#).
2. The planning and zoning commission is also authorized to approve conditional use to modify the bicycle parking design and location requirements of this section in accordance with the conditional use procedures of [17.65.110](#).

## 17.40.060. Use of Off-Street Parking Areas

- A. Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition.
- B. Required off-street parking spaces may not be used for the storage, display or sale of goods equipment or materials. No motor vehicle repair work of any kind is permitted in a required parking space.

- C. Required spaces may be used for electric vehicle charging.

#### 17.40.070. Location of Off-Street Parking

##### A. General

Except as otherwise expressly stated in this chapter, required off-street parking areas must be located on the same lot as the building or use they are required to serve.

##### B. Off-site Parking

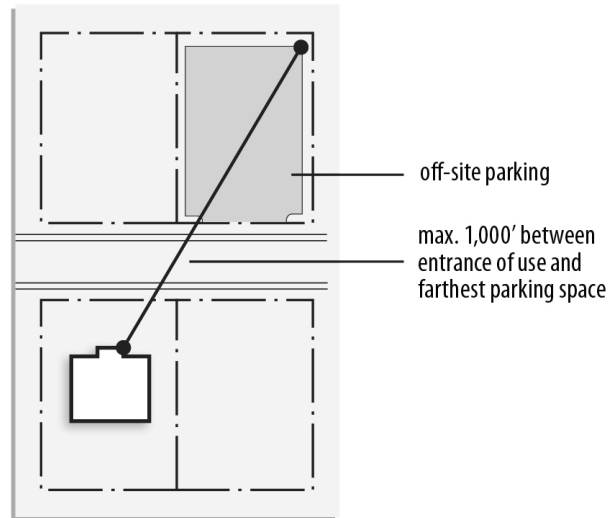
###### 1. When Allowed

All or a portion of required off-street parking for nonresidential uses may be provided off-site, in accordance with the regulations of this section. Required accessible parking spaces (see [17.40.100](#)) and required parking for residential uses may not be located off site.

###### 2. Location

Off-site parking areas must be located within a 1,000-foot radius of the use served by such parking, measured between the nearest public entrance door of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot. Off-site parking lots are allowed only in zoning districts that permit non-accessory parking or in districts that allow the principal use to be served by the off-site parking spaces.

FIGURE 40-4: OFF-SITE PARKING LOCATION



###### 3. Design

Off-site parking areas must comply with all applicable parking area design regulations of [17.40.080](#).

###### 4. Control of Off-Site Parking Area

The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. The agreement must be filed of record in the county clerk's office. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

## 17.40.080. Parking Area Design

### A. Applicability

The parking area design regulations of this section apply to all off-street parking lots for motor vehicles, whether containing required parking spaces or non-required parking spaces.

### B. Ingress and Egress

All parking areas must be designed to allow vehicles to enter and exit a street and cross public sidewalks in a forward motion. This requirement does not apply to R-zoned lots with access on a local street.

### C. Stall Size

Parking spaces must be at least 9 feet in width and 18 feet in length, exclusive of access drives and aisles. In parking areas where permanent wheel stops have been installed, 2.5 feet of the parking space length (depth) beyond the wheel stop may be counted as part of the required stall length if that area is unobstructed and not part of another parking stall, drive aisle or sidewalk.

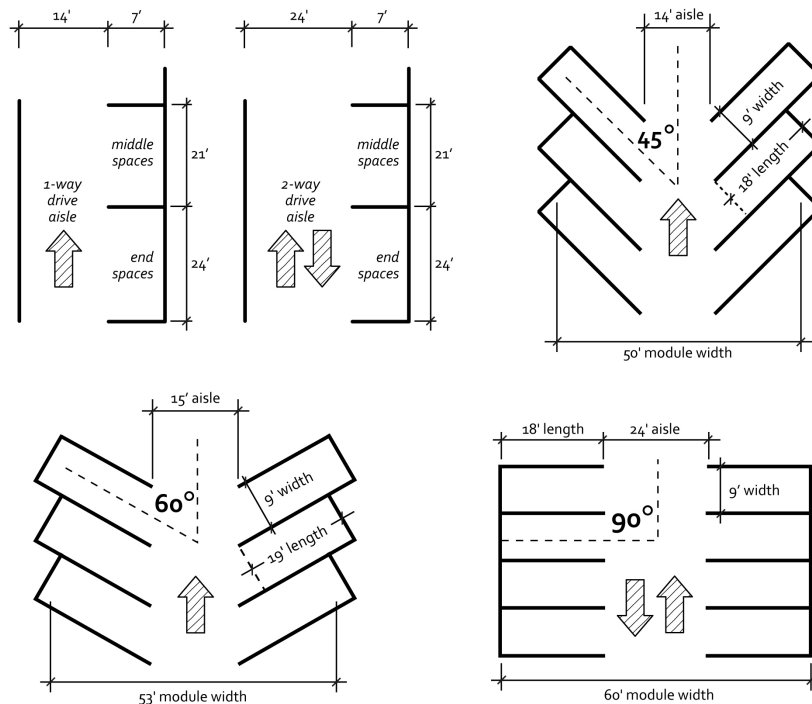
### D. Parking Area Layout (Geometrics)

Parking areas must be designed in accordance with the minimum dimensional standards of [Table 40-4](#). Requirements for layouts or angles not shown in [Table 40-4](#) may be interpolated from the layouts shown, as approved by the director of building safety.

TABLE 40-4: PARKING AREA GEOMETRICS

Minimum Dimensions (feet)	Angle of Parking			
	0 (parallel)	45	60	90
Stall Width	7	9	9	9
Stall Length	21 (middle); 24 (ends)	18	19	18
Aisle Width	1-way=14; 2-way=24	14	15	24
Module Width	21 to 31	50	53	60

FIGURE 40-5: PARKING AREA GEOMETRICS



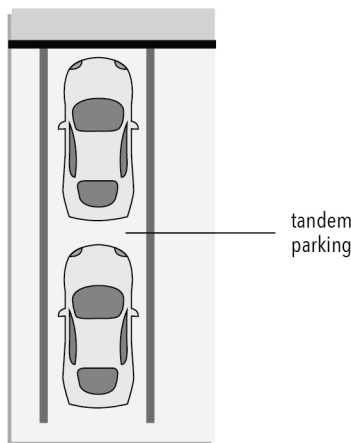
**E. Access**

1. Each required parking space, except valet parking spaces, shall have unobstructed access from a road or alley, or from an aisle or drive connecting with a road or alley, without moving another vehicle.
2. All off-street parking facilities shall be designed with appropriate vehicular access to a street or alley to minimize interference with traffic movements.

**F. Tandem Parking**

Tandem parking spaces may be used to satisfy parking requirements for household living uses when the spaces are assigned to the same dwelling unit. In all other cases required parking spaces must be designed to allow each parking space to be accessed without passing through another parking space. Tandem parking arrangements must have a minimum stall of 9 feet and a minimum length of 36 feet.

FIGURE 40-6: TANDEM PARKING



**G. Vertical Clearance**

All parking spaces must have overhead vertical clearance of at least 7 feet.

**H. Landscaping and Screening**

See [Chapter 17.50](#).

**I. Lighting**

See [17.50.010](#).

**17.40.090. Stacking Spaces for Drive-through Facilities<sup>23</sup>**

**A. Spaces Required**

In addition to the parking required for each use, establishments with drive-through facilities must provide stacking spaces for each drive-through station as indicated in [Table 40-5](#):

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<sup>23</sup> New

TABLE 40-5: DRIVE-THROUGH STACKING SPACE REQUIREMENTS

Use	Minimum Spaces (per lane)
Automated teller machine	2 (measured from ATM)
Bank	3 (measured from teller or service area)
Car wash, automated or customer-operated	2 (measured from vehicle entrance)
Car wash, attendant hand wash	3 (measured from vehicle entrance)
Drug store	2 (measured from pick-up window)
Restaurant drive-through	3 (measured from order board)
Kiosks	2 (measured from service window)
Other	As determined by the director of building safety

**B. Dimensions**

Each lane of stacking spaces must be at least 8 feet in width and at least 18 feet in length. Stacking lanes must be delineated with pavement markings.

**C. Location and Design**

1. Stacking lanes must be located on the subject property. They may not be located within required driveways or drive aisles, parking spaces or loading areas and may not interfere with access to parking and ingress and egress from the street.
2. All areas associated with drive-through facilities, including drive-through signs, stacking lanes, trash receptacles, loudspeakers and service windows must be located to the rear or on the non-street-facing side of the property. Drive-through lanes must be set back at least 10 feet from abutting R-zoned lots, and a screening wall or fence must be provided along the common lot line.

**D. Pedestrian Access**

The principal pedestrian access to the entrance of the use from a public sidewalk may not cross the drive-through facility stacking lane.

**17.40.100. Accessible Parking for People with Disabilities**

A portion of the total number of off-street parking spaces in each off-street parking area shall be specifically designated, located, and reserved for use by persons with physical disabilities; in accordance with the regulations of this section.

- A.** Accessible spaces must be provided in accordance with the minimum ratio established in [Table 40-6](#).

TABLE 40-6: ACCESSIBLE PARKING REQUIREMENTS

Number of Parking Spaces Provided	Number of Accessible Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
>200	7 plus 1 for each 100 add'l. parking spaces provided over 200

- B.** Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest, unobstructed route to an accessible pedestrian entrance to the parking facility. Where spaces have multiple entrances with adjacent parking, accessible parking spaces shall be disbursed and located near the accessible entrances. In multilevel parking structures, van-accessible parking spaces are permitted on one level.

- C. Minimum dimensions. All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:
1. Notwithstanding other provisions to the contrary, minimum width for spaces reserved for persons with disabilities shall be eight feet.
  2. Car-accessible spaces shall have at least a five-foot wide access aisle abutting the designated parking space.
  3. Van-accessible spaces shall have at least an eight-foot wide access aisle abutting the designated parking space.
  4. Required spaces for persons with disabilities shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities. Signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level.

#### **17.40.110. Loading<sup>24</sup>**

##### **A. Required**

1. Off-street vehicle loading and unloading areas must be provided for any new proposed public/ civic, commercial, wholesale sales and distribution or industrial use or building expansion that would result in a building with a floor area of 25,000 square feet or more.
2. Off-street vehicle loading and unloading areas must be provided for any new proposed residential use or building expansion that would result in project containing 50 or more dwelling units.

##### **B. Plans**

Off-street loading plans must be submitted with site plans and building permits involving any use required or proposing to provide off-street loading facilities. Plans must accurately designate the required or proposed off-street loading spaces, dimensions and clearance, and access to the loading spaces. Plans for the design of loading areas are subject to approval by the city.

##### **C. Location and design**

The following location and design regulations apply to all off-street loading facilities regardless of whether they are required to be provided by this UDO.

1. Required off-street loading facilities must be located on the same lot as the use served.
2. All loading areas on lots abutting R zoning districts must be screened from view of the R zoning district.
3. Loading spaces may not be located in a required street setback.

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<sup>24</sup> Substantive revision to existing loading regulations.

4. Loading areas and access drives must be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights unless otherwise approved by the director of building safety.
5. Each required off-street loading berth must be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement, as approved by the director of building safety.

#### **17.40.120. Transportation Impact Analyses**

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

Transportation impact analysis (TIA) requirements are intended to provide a mechanism for objective evaluation of the impacts that proposed developments will have on traffic conditions, transit users, pedestrians and bicyclists.

##### **B. When Required**

1. A transportation impact analysis is required development plan and preliminary plat applications if the proposed development will include more than 100 dwelling units or nonresidential uses that will generate average daily traffic counts of 2,500 or more vehicles per day (ADT) or 250 or more vehicle trips during peak traffic hours (PHT), based on trip generation rates from the latest edition of the Institute of Transportation Engineers (ITE) *Trip Generation Manual*.
  - a. In calculating the number of vehicle trips expected to be generated, only “new” vehicle trips are to be counted; pass-by and internal trip capture rates are not used in calculating new or added vehicle trips.
  - b. A TIA is not required if all the following conditions are met: (1) the subject property has been the subject of a TIA within the previous 3 years; (2) the projected trip generation of the newly proposed development is equal to or less than the previous TIA and (3) the trip distribution has not significantly changed.
  - c. Unless the allowed density or intensity of development allowed on the subject property is limited by a development plan or other mechanism enforceable by the city, all TIA calculations must be based on reasonable estimates of the maximum residential and nonresidential development that could be placed on the subject property, as determined by the director of building safety.
2. In addition to the TIA thresholds established in paragraph 1 of this subsection, the planning and zoning commission and city commission are authorized to require a traffic impact analysis regardless of the size or type based on consideration of:
  - a. The presence of an existing or potential safety issue; or
  - b. The presence of a roadway segment or intersection that is at or near capacity and that is likely to be affected by the proposed development.

##### **C. Level of Service and Safety Assessment**

1. TIAs must include an assessment of existing and build-out-year, peak-hour levels of service on all major street and intersections.
2. The TIA must also include an assessment of the proposed development’s impacts on the safety of pedestrians, cyclists and other forms of non-motorized travel.

##### **D. Study Area**

The transportation impact analysis must address the proposed development’s impact on at least:



1. Roads, sidewalks, bicycle routes, transit facilities and intersections within the development site;
2. Road segments, sidewalks, bicycle routes, transit facilities and intersections abutting the proposed development site; and
3. Off-site road segments and intersections when traffic from the proposed development is expected to account for at least 10% of the road's or intersection approach leg's average daily traffic.

**E. Preparation**

Any TIA, whether required or voluntarily provided, must be prepared by a qualified professional (e.g. traffic engineer or transportation planner). Before preparing the TIA, the individual preparing the TIA must hold a scoping meeting with the director of building safety to identify the study area and any specific issues that must be addressed.

**F. Contents of Analysis**

Transportation impact analyses must include charts, graphics, and narrative presenting at least the following information unless the director of building safety determines that such information is not necessary to conduct a competent review of anticipated transportation impacts:

1. A description of existing land uses and development intensities in the study area, the location and characteristics of streets, sidewalks, bicycle routes, transit facilities and intersections in the study area, and the existing traffic volumes and conditions (including levels of service) of those facilities;
2. A description of the location and traffic-related characteristics (land use, intensity, expected date of full build-out and occupancy, vehicular access points, pedestrian connections, bicycle routes and transit facilities and characteristics, etc.) of the proposed development and other developments in the study area that are under construction or approved, as well as streets and other transportation facilities and improvements in the study area that are under construction or programmed and funded;
3. Projections of future background traffic (existing vehicular, pedestrian, bicycle and transit volumes forecasted to build-out year levels based on traffic growth rates agreed upon in the TIA scoping meeting) plus traffic generated by other developments in the study area that are under construction or approved;
4. Future background and site traffic projections must be made for the peak hours of the adjacent street segments and intersections and for the development's expected full build-out and occupancy date, and must include trip generation, trip distribution (using distributions agreed upon in the TIA scoping meeting), and traffic assignment estimates;
5. Studies of the proposed development's incremental impacts on:
  - a. Street capacity during peak hours at all site access points and at street segments and intersections in the study area (including determination of the level of service for the street segments and intersections, queuing vs. existing/proposed storage);
  - b. The need for signalization of intersections in the study area; and
  - c. Pedestrian, bicycle and transit-user safety and convenience.
6. A description of the location, nature, and extent of site access and transportation improvements and other measures recommended to mitigate any failure to meet traffic operation standards due to the proposed development's transportation impacts;
7. Identification of all assumptions and data sources used in analyses, projections and recommendations.

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## Chapter 17.45 | Signs (Reserved)

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## Chapter 17.50 | Landscaping and Screening<sup>25</sup>

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### 17.50.010. Purposes

The landscaping and screening regulations of this chapter establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this UDO and to help:

- A. Maintain and enhance the city's appearance;
- B. Mitigate possible adverse impacts of higher intensity land uses abutting lower intensity land uses;
- C. Reduce the impacts of noise and glare.
- D. Maintain and improve air quality;
- E. Protect surface water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
- F. Moderate heat by providing shade;
- G. Encourage wise use of water resources;
- H. Encourage preservation and replacement of existing trees and landscaping; and
- I. Encourage greater use of low-impact development practices.

### 17.50.020. Principles

The regulations of this chapter will be interpreted, administered and enforced in accordance with the following general principles:

- A. Preservation of existing trees, shrubs, rock formations, and other natural site features is a top priority and is strongly encouraged.

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<sup>25</sup> The regulations of this chapter are entirely new.

- B. Trees, shrubs and groundcover must be the primary sources of landscaping and must be installed and maintained to reduce stormwater runoff and ensure safe visibility at intersections and points of vehicular access.
- C. The design of landscape areas to promote low-impact development practices (e.g., bioretention basins, rain gardens, filter strips, and grassed swales) is strongly encouraged and may be used to satisfy the landscaping regulations of this UDO.
- D. The alternative compliance provisions of 17.50.100.D are intended to accommodate creativity in landscape and screening design and address site-specific barriers that prevent strict compliance with the regulations of this chapter.

### **17.50.030. Applicability**

The landscaping and screening regulations of this chapter apply as set forth in the individual sections of this chapter. The following are expressly exempt from the landscaping and screening regulations of this chapter:

- A. Agricultural uses;
- B. Public parks and open spaces;
- C. Household living uses consisting of a single household on one lot or 2 households on one lot (existing or proposed); and
- D. Reconstruction of any building that is damaged or destroyed by tornadoes, straight-line winds, ice storms, accidental fire, floods, hail, lightning, or other forces beyond the reasonable control of the property owner.

### **17.50.040. Setbacks**

#### **A. General**

The setback areas required by this UDO must be landscaped, except where they are:

1. Occupied by approved structures or paving;
2. Screened from public view; or
3. Retained in their natural vegetated state.

#### **B. Unused Areas**

Any area of a site not intended for a specific use, including a commercial pad site intended for future development, must be landscaped unless retained in its natural vegetated state.

#### **C. Trees and Shrubs**

At least one tree and 5 shrubs must be provided per site or per each 1,500 square feet of required setback area, which results in more trees and shrubs. If required setback areas exceed 5% of the gross site area, tree and shrub planting requirements do not apply to areas that exceed 5% of the site's gross area. Trees and shrubs required pursuant to this section must be installed in required street yard areas to the maximum extent feasible.

### **17.50.050. Interior Parking Lot Landscaping**

#### **A. Purpose**

The interior parking lot landscaping regulations of this section are intended to help mitigate the visual and stormwater runoff impacts of parking lots and provide shade for parked vehicles and pedestrians.

**B. Applicability**

Unless otherwise expressly stated, the interior parking lot landscaping regulations of this section apply to all the following:

1. The construction of any new principal building or addition to a principal building that increases the floor area of principal buildings on the subject lot by more than 20%;
2. The construction or installation of any new parking lot containing 10 or more parking spaces; and
3. The expansion of any existing parking lot that increases the number of parking spaces or amount of paved area by more than 33%.

**C. Exception**

Parking areas used solely for the display of motor vehicles for sale, lease or rental are exempt from the interior parking lot landscaping requirements of this section.

**D. Requirements**

**1. Landscape Area**

- a. At least 30 square feet of interior parking lot landscape area must be provided for each parking space. If compliance with this regulation would result in the loss of required parking spaces, the amount of parking required is automatically reduced by the amount needed to accommodate the required interior parking lot landscape area.
- b. When at least 50% of interior parking lot landscape area consists of depressed bioretention areas used for stormwater management, the minimum interior parking lot landscape area requirement is reduced from 30 square feet per parking space to 25 square feet per parking space. To receive this bioretention credit, the stormwater harvesting area must be at least 6 inches and not more than 18 inches in depth and planted with vegetation that can withstand periodic inundation.

**2. Trees and Plant Material**

Required interior parking lot landscape areas must include at least one large tree per 10 parking spaces. Minimum tree planting requirements may be satisfied by the installation of new trees or by the preservation of existing trees (in accordance with [17.50.080.B.2.b](#)).

**3. Location and Design**

- a. Interior parking lot landscaping must be reasonably distributed throughout the parking lot and provided in landscape islands or medians that comply with all of the following requirements:
  - (1) They must be bordered by a paved surface on at least 2 sides;
  - (2) They must be at least 6 feet wide, as measured from the back of the curb;
  - (3) They must include at least one tree or shrub per island and be covered with ground cover plants or mulch;
  - (4) They must be protected by curbs or other barriers, which may include breaks or inlets to allow stormwater runoff to enter the landscape island; and
- b. Parking rows that end abutting a paved driving surface must have a landscape terminal island (end cap) at that end of the parking row. All other parking lot landscape islands must be located to comply with all applicable regulations of this section.
- c. The director of building safety is expressly authorized to approve landscape plans that do not provide terminal islands at the end of each parking row or that otherwise provide for reduced

dispersal of interior parking lot landscape areas when proposed landscape planting areas are combined to form functional bioretention areas or to preserve existing trees and vegetation.

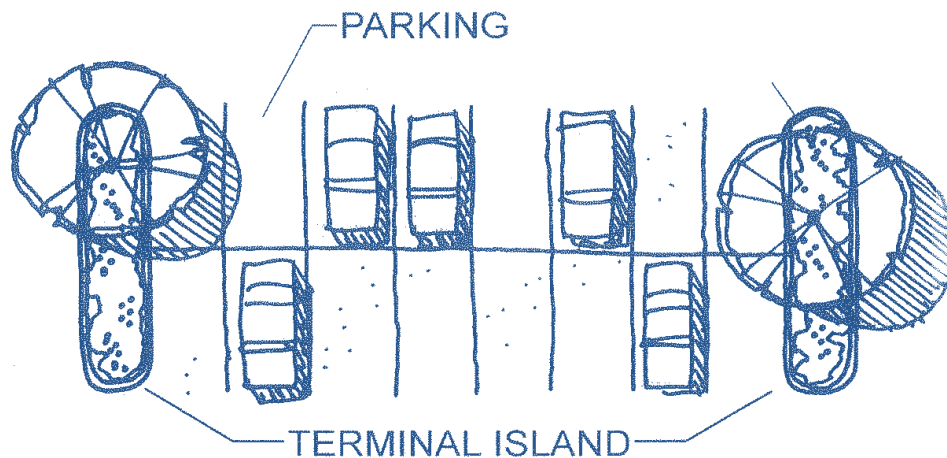
**4. Vehicle Overhangs**

A portion of a motor vehicle parking space may be landscaped instead of paved to meet interior parking lot landscaping requirements. The landscaped area may be up to 2.5 feet of the front of the space, as measured from a line parallel to the direction of the bumper of the vehicle using the space. Groundcover plants or mulch must be provided in the allowed overhang area.

**5. Materials, Installation and Maintenance**

See 17.50.080 and 17.50.090.

FIGURE 50-1: INTERIOR PARKING LOT LANDSCAPING (EXAMPLE)



**17.50.060. Vehicular Use Area Buffers**

**A. Purpose**

The vehicular use area buffer regulations of this section are intended to help mitigate the visual and operational impacts of parking lots and other vehicular use areas<sup>26</sup> when such areas are adjacent to streets or residential zoning districts.

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<sup>26</sup> Vehicular use area = An area on a lot that is not contained within a garage or similar enclosed or partially enclosed structure that is designed and intended for use by motor vehicles, including parking lots, vehicle storage and display areas, loading areas; and driveways and drive-through lanes.



## B. Applicability

Unless otherwise expressly stated, the vehicular use area buffer regulations of this section apply to all the following:

1. The construction or installation of any new vehicular use area with a contiguous paved area of 3,500 square feet or more; and
2. The expansion of any existing vehicular use area that results in the addition of 3,500 square feet of paved area, in which case the vehicular use area perimeter landscaping requirements of this section apply only to the expanded area.

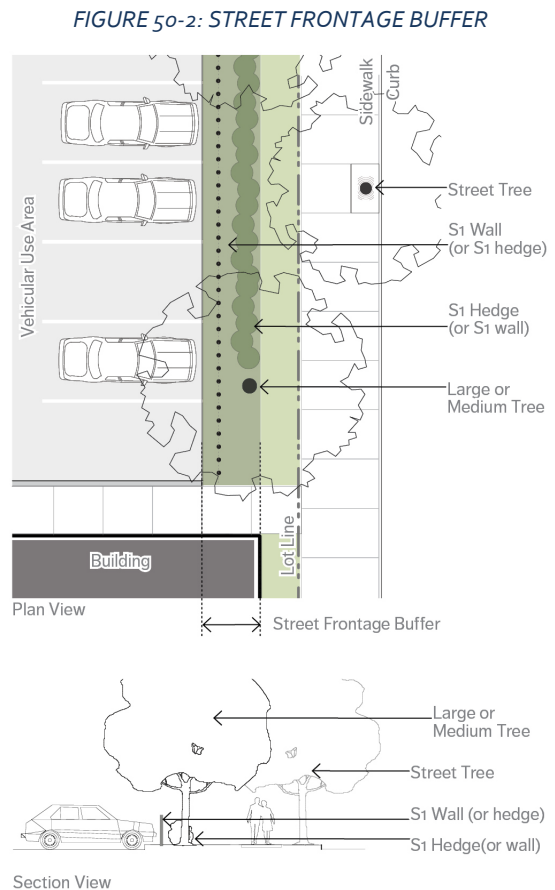
## C. Requirements

### 1. Street Frontage Buffers

- a. When a vehicular use area is located adjacent to a street right-of-way, street frontage buffers must be provided in accordance with the regulations of this subsection to physically and visually buffer the vehicular use area from the right-of-way.
- b. Street frontage buffers are required only when the vehicular use area is located within 100 feet of the right-of-way and there are no intervening buildings between the vehicular use area and the right-of-way.
- c. Except as expressly stated for vehicular use areas in the CBD zoning district (see [17.50.060.C.1.e](#)), street frontage buffers must be at least 7 feet in width and be planted with at least one tree per 30 linear feet of buffer area. An S1 low-profile screen must also be provided within the street frontage buffer, in accordance [17.50.070.C.1](#).
- d. Trees planted to satisfy the setback area landscape requirements of [17.50.040](#) may be counted toward satisfying tree planting requirements within street frontage buffers.
- e. In the CBD zoning district, required street frontage buffers must be at least 3 feet in width.
- f. Groundcover plants or mulch must be provided in all street frontage buffer areas that are not covered by fences or walls.
- g. The vehicle overhang allowance described in [17.50.050.D.4](#) applies to parking spaces abutting street frontage buffer areas.

### 2. R District Buffers

- a. When a vehicular use area is located adjacent to an R-zoned lot, an R district buffer must be provided in the form of an F1 screen, in accordance with [17.50.070.C.2](#).
- b. R district buffers are required only when the vehicular use area is located within 100 feet of an abutting R-zoned lot and there are no intervening buildings between the vehicular use area and the abutting R-zoned lot.



- c. Groundcover plants or mulch must be provided in all R district buffer areas that are not covered by fences or walls.
- d. The vehicle overhang allowance described in [17.50.050.D.4](#) applies to parking spaces abutting R district buffers.

**3. Materials, Installation and Maintenance**  
See [17.50.080](#) and [17.50.090](#).

**17.50.070. Screening**

**A. Purpose**

Screening requirements are intended to partially or completely shield expressly identified uses and site features from view of abutting streets or other abutting lots.

**B. Features Required to be Screened**

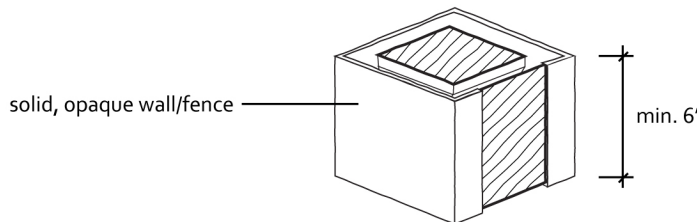
**1. General**

This subsection establishes screening requirements for several common site features that require visual separation from streets and abutting lots. Other uses, districts, structures and activity areas may also require screening in accordance with other provisions of this UDO.

**2. Dumpsters and Recyclable Material Bins**

All dumpsters and recyclable material bins must be screened from view of the street and all abutting properties. Required screening must consist of an opaque fence or wall with a minimum height of 6 feet. One side of the storage area must be furnished with an opaque, lockable gate.

*FIGURE 50-4: DUMPSTER AND RECYCLING BIN SCREENING*



**3. Mechanical Equipment**

**a. Ground-mounted Equipment**

Mechanical equipment located at ground level, such as heating or cooling equipment, pumps, or generators must be screened from view of the street and any abutting R districts by walls, fences or vegetation. Screening must be at least as tall as the tallest part of the equipment required to be screened.

*FIGURE 50-3: R DISTRICT BUFFER*

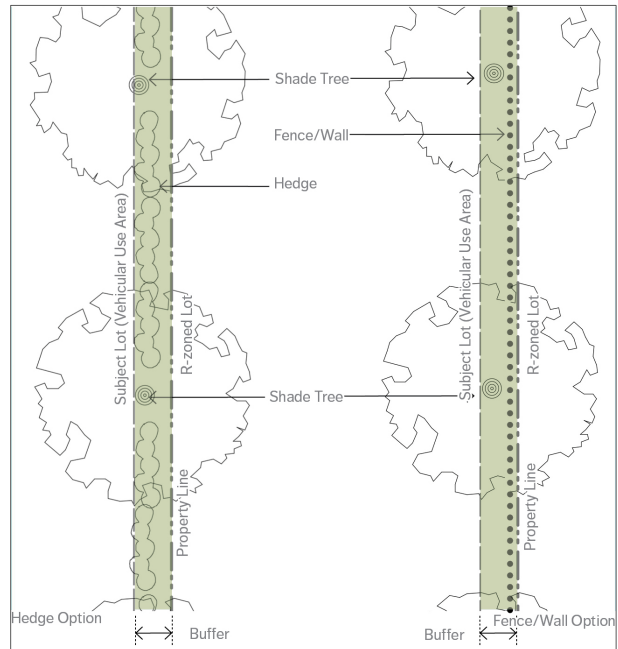
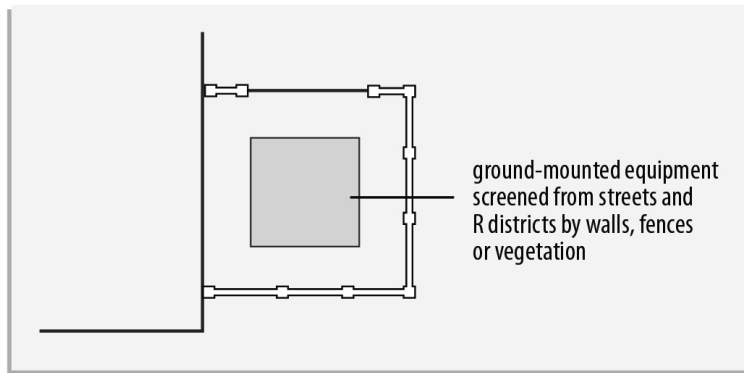


FIGURE 50-5: SCREENING OF GROUND-MOUNTED EQUIPMENT

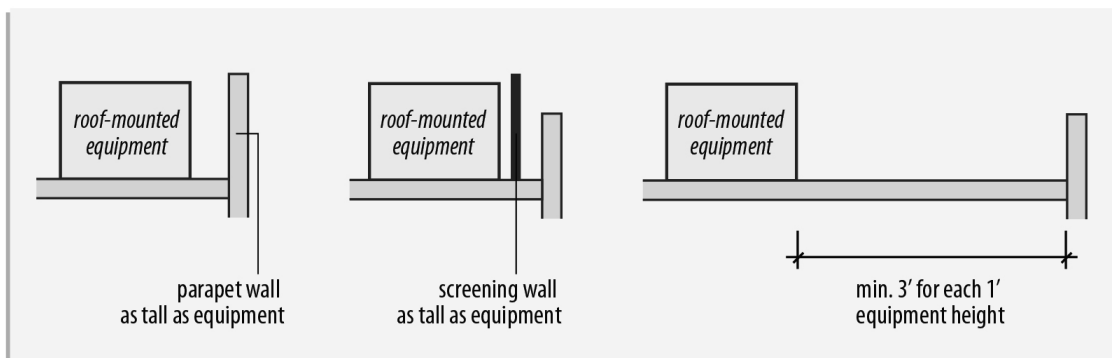


**b. Roof-mounted Equipment**

Mechanical equipment placed on roofs must be screened in one of the following ways, if the equipment is within 50 feet of an R zoning district:

- (1) A parapet along facades facing the R district that is at least as tall as the tallest part of the equipment;
- (2) A screening fence or wall around the equipment that is at least as tall as the tallest part of the equipment required to be screened; or
- (3) An equipment setback from roof edges facing the R district by at least 3 feet for each one foot of equipment height.

FIGURE 50-6: SCREENING OF ROOF-MOUNTED EQUIPMENT



**c. Type of Screens**

**1. S1, Low-profile Screen**

**a. Purpose**

The S1, low-profile screen is intended to help soften visual impacts of certain site features and provide an “urban edge” along lot borders and other site features, while maintaining some visibility of the areas required to be screened.

**b. Design**

The S1 screen requires shrubs planted to form a continuous visual barrier at least 3 feet in height. A 3-foot tall brick, stone, cast stone, or formed concrete wall may be substituted for the shrubs.

## **2. F1, Screening Fence or Wall**

### **a. Purpose**

An F1 screening fence or wall is required in those instances where a complete visual barrier is needed.

### **b. Options**

F1 screening requirements may be met by either of the following options.

- (1)** The installation of an opaque fence at least 6 feet in height and at least one tree per 50 linear feet of fence; or
- (2)** The installation of a masonry wall with a minimum height of 6 feet.

### **c. Street Setback**

When located in a required street setback, required F1 screening fences and walls may not exceed 4 feet in height.

## **3. Materials, Installation and Maintenance**

See ~~17.50.080~~ and ~~17.50.090~~.

## **4. Modification of Requirements**

- a.** Applicable screening requirements may be waived or modified through the alternative compliance approval process (see ~~17.50.100.D~~) or through the special exception approval process when:

- (1)** Existing features provide a visual screen equivalent to the screening requirements of this section;
- (2)** The screening requirements cannot be achieved; or
- (3)** The screening is prohibited by other ordinances or regulations or by plat restrictions.

- b.** An extension of time to install required screening may be approved through the special exception approval process when the properties benefited by the screening are undeveloped.

## **5. Screening or Setbacks Triggered by Proximity to Nonresidential Areas/Features**

When a screening wall or fence or setback is required by this UDO because a use abuts one or more R districts, such wall, fence, or setback is not required if the actual use of the abutting R district is a nonresidential use or a nonresidential development area. This exemption from screening does not apply to junk or salvage yards.

## **17.50.080. Landscape and Screening Material**

### **A. General**

#### **1. Applicability**

The regulations of this section apply to all trees, plant materials, and other features used to satisfy the landscaping and screening requirements of this UDO.

#### **2. Plant List**

The director of building safety is authorized to prepare a specific list of recommended and prohibited plant species for use in administering and enforcing the regulations of this chapter.

#### **3. Selection**

Trees and plants used to satisfy the requirements of this UDO must:

- a. Meet or exceed the plant quality standards established in the latest edition of the American Standard for Nursery Stock (ANSI Z60.1);
- b. Be native to North America adapted for growing conditions in the Clovis area, as determined by the director of building safety; and
- c. Not be artificial plants or listed as a prohibited species on the recommended and prohibited species.

#### **4. Planting Areas**

- a. All planting areas must have amended soil to help ensure the health of newly installed plant material.
- b. All planting areas must be contained by edging material other than vegetation.

### **B. Trees**

#### **1. Types**

Unless otherwise expressly specified, required trees may be deciduous (broadleaf) or evergreen (conifers).

#### **2. Size**

##### **a. New Trees**

New or transplanted trees provided to satisfy the requirements of this UDO must comply with the following minimum size requirements:

- (1) Deciduous trees must have a minimum caliper size of one inch at the time of installation;
- (2) Evergreen trees must have a minimum height of 4 feet at the time of installation.

##### **b. Existing (Preserved) Trees**

- (1) Preserved trees will be credited toward satisfying the tree planting requirements of this UDO in accordance with the regulations of this subsection ([17.50.080.B.2.b](#)).
- (2) Credit will be given on the following basis:
  - (a) Preserved trees up to 6 inches in diameter at breast height (DBH) will be credited as 3 trees.
  - (b) Preserved trees larger than 6 inches DBH, up to 12 inches DBH will be credited as 4 trees;
  - (c) Preserved trees that are more than 12 inches DBH up to 24 inches DBH will be credited as 5 trees; and
  - (d) Preserved trees that are more than 24 inches DBH will be credited at a ratio of 10 trees.
- (3) The tree preservation incentive credits provided in this subsection ([17.50.080.B.2.b](#)) may not be used to reduce the number of trees required by this chapter by more than 50%.
- (4) To receive tree preservation credit, the following additional conditions must be met:
- (5) Preserved trees for which credit is given must be in good health and condition and may not be prohibited species;
- (6) The original grade of the dripline area of a preserved tree may not be changed;

- (7) Tree protection fencing must be installed around the outer limits of the dripline area and remain in place from commencement of construction activity until all exterior work is complete.
- (8) Tree protection fencing must consist of orange vinyl construction fencing, chain link fencing, snow fencing or other similar fencing at least 42 inches in height and supported at maximum of 10-foot intervals by posts or stakes sufficient to keep the fence upright and in place. A visible warning/no-disturb sign must be affixed to fence at 100-foot intervals.
- (9) The director of building safety is expressly authorized to reduce off-street parking requirements to allow for the preservation of existing trees.
- (10) If healthy, preserved trees are removed, they must be replaced by the number trees for which credit was given.
- (11) If preserved trees die or are lost to storms or natural causes within one year of the date of approval of the landscape plan, they must be replaced by the number trees for which credit was given. If preserved trees dies or are lost to storms or natural causes beyond one year of the date of approval of the landscape plan, they must be replaced by an equal number of trees (1:1 basis).

### 3. Species

If more than 12 trees are required, no more than 40% may be of a single species. If more than 25 trees are required, no more than 25% may be of a single species. This requirement applies to trees being planted, not to existing trees.

## C. Shrubs

### 1. New Shrubs

- a. Shrubs must have a minimum container size of 1 gallon and be at least 9 inches in height.
- b. If more than 75 shrubs are used, no more than 40% may be of a single species.

### 2. Existing (Preserved) Shrubs

Existing shrubs may be used to satisfy the landscaping and screening requirements of this UDO if protected and maintained during site development and construction phases of work and if such plants are not otherwise prohibited.

## D. Ground Cover and Mulch

Rock mulch must be installed and maintained at a minimum depth of 2 inches and a maximum depth of 4 inches on all landscape areas except where ground cover plants are fully established.

## E. Fences and Walls

Unless otherwise expressly stated, fences and walls provided to meet the regulations of this chapter are subject to the regulations of this subsection.

- 1. Fences must durable and constructed with materials that are customarily used for fences, including wood, decorative rigid vinyl (polyvinyl chloride), metal or wrought iron. Fence posts must be structurally stable.
- 2. The finished side of all fences other than tree protection fences must face the adjacent property or street. Chain-link fencing may not be used to satisfy the regulations of this chapter.
- 3. Walls, raised planting beds and planters must be constructed of brick, stone or other durable masonry material approved by the director of building safety.

## **17.50.090. Landscape Installation, Irrigation and Maintenance**

### **A. Installation**

1. Required landscaping must be installed in accordance with an approved landscape plan.
2. All trees and plant material must be installed in accordance with sound nursery practices, in a manner designed to encourage vigorous growth.
3. All newly installed trees must be staked.
4. Trees and plant material suitable for planting must be balled and burlapped or container grown. Planting areas should be at least twice the diameter of the root system or the container.
5. All landscaped areas that are adjacent to pavement must be protected with curbs or equivalent barriers. Flush curbs, curb cuts, or other methods must be used to direct stormwater to landscape areas that abut paved areas.
6. The city is not liable for any damage to above-ground or below-ground improvements or landscaping within the public right of way, even when such damage or destruction is the direct result of government action. When landscaping is placed or installed within the public right-of-way, the city has no obligation to replace or repair such landscaping if removed or damaged by city field operations or other governmental functions. The city also has no obligation to maintain above ground or below ground improvements or landscaping within the public right-of-way.

### **B. Protection**

All landscape areas provided to meet the requirements of this UDO must be protected from potential damage by adjacent uses and development, including parking and storage areas.

### **C. Irrigation**

1. All required landscaped areas must be provided with irrigation in accordance with one of the following 2 options:
  - a. A permanent irrigation system with a controller to tailor watering schedules to weather and site conditions; or
  - b. A temporary irrigation system that provides sufficient water to ensure that all trees and plants will become established.
2. Irrigation systems must comply with all applicable building and plumbing codes.

### **D. Timing of Installation**

1. All required landscaping and appurtenances, except trees, must be installed prior to the issuance of a certificate of occupancy.
2. All required trees must be installed within 120 days after issuance of a certificate of occupancy or temporary certificate of occupancy.

### **E. Certificate of Installation**

Within a CO, PUD or MPD district or whenever a mandatory or optional development plan is approved, certification of installation of required landscaping must be provided as required by any express provisions of the CO, PUD or MPD district or mandatory or optional development plan approval that was granted. In all other cases, within 120 days of the issuance of a certificate of occupancy or temporary certificate of occupancy, written certification by the owner of the property, an architect, landscape architect or engineer licensed to do business in the State of New Mexico must be submitted to the city

stating that all landscaping and appurtenances have been installed in accordance with the approved landscape plan.

**F. Maintenance**

1. Required landscaping and screening must be continuously maintained, including necessary watering; weeding; pruning; pest control; litter and debris clean-up; and replacement of dead, diseased or damaged plant material.
2. Failure to comply with an approved landscaping plan, including failure to maintain required landscaping and screening and failure to replace dead, diseased or damaged landscaping, constitutes a violation of this UDO and is subject to penalties and enforcement under Chapter 85.
3. The property owner is responsible for maintenance of trees and landscaping in accordance with the approved landscape plan and the regulations of this UDO. Any dead, diseased or damaged trees, landscaping or screening materials must be removed and replaced by the property owner within 90 days of date that written notice of the obligation to remove and replace required landscaping is issued by the city. Property owners have no obligation to replace or restore required landscaping that is damaged or destroyed as a direct result of government action or lawful action of a franchise utility provider.

**17.50.100. Landscape Plans**

**A. Preparation of Landscape Plan**

Required landscape plans must be accompanied by written certification from an architect, landscape architect or engineer licensed to practice in the State of New Mexico, that the landscape plan is in conformance with the minimum requirements of this chapter, provided that written certification must be provided by a landscape architect licensed to practice in the State of New Mexico if the subject property:

- a. Is subject to an approved mandatory or optional development plan; or
- b. Has a lot area of more than 20,000 square feet and is occupied by buildings with a combined gross floor area of more than 15,000 square feet.

**B. Required Information**

All building permit applications for sites requiring landscaping must include a landscape plan that includes at least the following information:

**1. General**

The date, scale, north arrow, and name of the property owner;

**2. Site Features**

- a. The location of property lines and dimensions of the site;
- b. The approximate center line of existing water courses;
- c. The approximate location of significant drainage features;
- d. The location and size of existing and proposed streets and alleys, drive aisles, parking areas and sidewalks on or adjacent to the lot;
- e. The location of all existing and proposed buildings and structures on the lot;
- f. Existing topography and proposed grading;
- g. Area in which grading and vegetation removal will occur; and
- h. The location of existing and proposed utility easements and overhead utility lines on or adjacent to the lot.



**3. Proposed Landscaping**

- a.** The location, size and type of proposed landscaping (trees, shrubs, groundcover) and the location and size of the proposed landscape areas;
- b.** Planting details and specifications, including type of mulch and edging to be used in landscape areas;
- c.** The method of protecting any existing trees and vegetation proposed to be preserved, including the identification of existing and finished contours illustrating the limits of grading near the drip line of any trees;
- d.** The proposed irrigation plan for each required landscape area, including a list of abbreviations and symbols, water main size, water meter size and location, point of connection, backflow prevention assembly size, make and model;
- e.** The schedule of installation of required trees, landscaping and appurtenances;
- f.** The location of all existing and proposed structures on the site;
- g.** The existing topography and proposed grading; and
- h.** The area and dimensions of each landscape area and the total landscape area provided on the site.

**C. Administrative Review**

After receipt of a complete landscape plan, the director of building safety must:

- 1.** Approve the landscape plan as complying with the requirements of this chapter;
- 2.** Approve the landscape plan with conditions of approval that will bring it into compliance with the requirements of this chapter; or
- 3.** Reject the landscape plan as failing to comply with the requirements of this chapter.

**D. Alternative Compliance Landscape and Screening Plans**

- 1.** To accommodate creativity in landscape and screening design and to allow for flexibility in addressing atypical, site-specific development/redevelopment challenges, the director of building safety is authorized to approve alternative compliance landscape plans prepared by a landscape architect licensed to practice in the State of New Mexico. In order to approve such alternative compliance landscape plans, the director of building safety must determine that one or more of the following conditions or opportunities are present:
  - a.** The site has space limitations or an unusual shape that makes strict compliance impossible or impractical;
  - b.** Physical conditions on or adjacent to the site such as topography, soils, vegetation or existing structures or utilities are such that strict compliance is impossible, impractical or of no value in terms of advancing the general purposes of this chapter;
  - c.** Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary; or
  - d.** Creative, alternative landscape plans will provide an equal or better means of meeting the intent of the landscaping and screening regulations of this chapter.
- 2.** The director of building safety is expressly authorized to approve alternative compliance landscape plans for projects implementing low-impact development practices or seeking sustainable develop-

ment or green building certification from nationally recognized organizations, such as the International Code Council, the U.S. Green Building Council, the International Living Future Institute, the U.S. Green Building Initiative or SITES, as follows:

- a.** Sites implementing regionally recognized low-impact development (LID) may be approved as alternative compliance landscape plans.
  - (1)** LID plans must be sealed by a landscape architect licensed to practice in the State of New Mexico.
  - (2)** LID development solutions may be provided in the street right-of-way, subject to approval by all applicable city agencies. Such improvements must be maintained by the adjoining property owner.
  - (3)** All aspects of a LID project, including permeable pavement, bioretention areas, rain gardens, filter strips, grassed swales, green roofs, wetlands natural stream restoration or preservation will be considered part of the approved alternative compliance landscape plan.
- b.** Plans for sites for which property owners are seeking sustainable development or green building certification from nationally recognized organizations may be approved as alternative compliance landscape plans.
  - (1)** Alternative compliance landscape plans must be sealed by a landscape architect licensed to practice in the State of New Mexico.
  - (2)** Landscape improvements may be provided in the street right-of-way, subject to approval by all applicable city agencies. Such improvements must be maintained by the adjoining property owner.
  - (3)** All proposed aspects of the proposed certification, including hardscape material selections, site lighting, grey water irrigation systems and other components of the site may be considered as part of the approved alternative compliance landscape plan.

## Chapter 17.55 | Outdoor Lighting and Building Design

17.55.010. Outdoor Lighting .....	55-1
17.55.020. Building Design .....	55-3

### 17.55.010. Outdoor Lighting<sup>27</sup>

#### A. Purpose

The outdoor lighting regulations of this section are intended to help ensure adequate lighting for motorized and nonmotorized travelers; provide for the efficient use of energy; and reduce the impacts of nuisance lighting and glare on nearby areas.

#### B. Applicability and Exemptions

The outdoor lighting regulations of this section apply to all outdoor lighting installed after the effective date specified in [17.05.020](#), except that they do not apply to any of the following:

1. Outdoor lighting on lots occupied by residential buildings containing fewer than 4 dwelling units;
2. Public street lights;
3. Airport runway and aviation safety lights required by the FAA (e.g., warning lights on radio, communication and navigation towers);
4. Spotlighting of official government flags, provided that spotlighting is contained within the area of the flag;
5. Outdoor lighting used exclusively for and during public recreational activities, sporting events at stadiums and ball fields or other outdoor public spaces or venues;
6. Outdoor lighting used for emergency equipment and work conducted in the interest of law enforcement or for public health, safety or welfare;
7. Outdoor lighting in association with special events approved by the city commission;
8. Outdoor lighting used for a temporary use lasting no more than 10 days;
9. Lighting fixtures with a light output of no more than 1,000 lumens; and
10. Temporary holiday light displays.

#### C. General Standards

All outdoor lighting must comply with the following general standards:

##### 1. Canopy-Mounted Lights

Recessed fixtures must be used in all under-canopy lighting. No lamps, reflectors, refractors or focusing or diffusing may extend below the underside of the canopy surface.

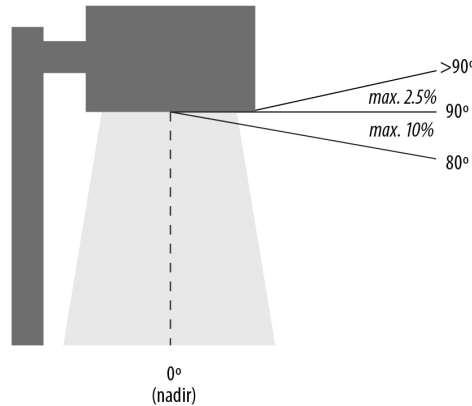
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<sup>27</sup> Substantive update of existing "exterior lighting regulations."

## 2. Shielding

Light sources must be concealed or shielded with cutoffs so that no more than 2.5% of the light emitted directly from the lamp or indirectly from the fixture is projected at an angle of more than 90 degrees above nadir and no more than 10% of the light emitted directly from the lamp or indirectly from the fixture is projected at an angle of more than 80 degrees above nadir.

FIGURE 55-1: REQUIRED SHIELDING



## 3. Spillover Light

Light trespass along the lot line of the subject property may not exceed 0.5 foot-candles when abutting an agricultural or residential zoning district and may not exceed 3.0 foot-candles when abutting any other zoning district or public right-of-way. Maximum illumination levels are measured 3 feet above grade or from the top of any opaque screening fence or wall along the property line.

## D. Lighting Plans

### 1. General

Outdoor lighting plans demonstrating compliance with the standards of this section are required with the submittal of a site plan. If no outdoor lighting is proposed, a note must be placed on the face of the site plan indicating that no outdoor lighting will be provided. Applicants have 2 options for the format of the required lighting plan:

- a. Submit a lighting plan that complies with the fixture height lighting plan requirements of [17.55.010.D.2](#); or
- b. Submit a photometric plan demonstrating that compliance will be achieved using taller fixture heights, in accordance with [17.55.010.D.3](#).

### 2. Option 1: Fixture Height Standard Lighting Plan

Option 1 (Fixture Height Standard Lighting Plans) establishes maximum light fixture heights but does not require submittal of a detailed photometric plan.

- a. Information Required  
Fixture height standard lighting plans must include at least the following:
  - (1) A scale drawing of the site with all outdoor lighting locations shown;
  - (2) Fixture specifications, including catalog cut-sheets or generic standards;
  - (3) Pole type and height of fixture;
  - (4) Lamp type and size; and
  - (5) Fixture mounting and orientation.

**b. Maximum Fixture Heights**

Allowable heights of light fixtures must be measured from the light-emitting surface to finished grade at the base of the pole. Maximum allowed light fixture heights are based on the (ground-level) horizontal distance between the light fixture and any agricultural or residential zoning district or public right-of-way, as established in [Table 55-1](#):

*TABLE 55-1: MAXIMUM LIGHT FIXTURE HEIGHTS*

Distance from AG District, R District or Public Right-of-Way (feet)	Maximum Fixture Height (feet)
0 – 50	16
50.01 – 250	20
More than 250	35

**3. Option 2: Photometric Study**

Under option 2 (Photometric Study Lighting Plan) no maximum fixture heights are established, but applicants are required to submit a photometric study in sufficient detail to demonstrate that all applicable outdoor light standards will be met. The photometric study must include at least the following:

- a. A scale drawing of the site with all outdoor lighting locations shown;
- b. Fixture specifications, including catalog cut-sheets or generic standards;
- c. Lamp type and size;
- d. Fixture mounting heights, mounting orientation, and tilt angles if applicable; and
- e. A representative point-by-point illumination array for the site showing property lines and all off-site lighting impacts.

**E. Measurement of Illumination**

Light levels must be measured with a direct-reading, portable light meter, calibrated annually by an independent laboratory regularly engaged in the calibration of such instruments. The meter's sensor must be located at the top of the visual screening fence or wall along on the property line (or at a height of 3 feet above finished grade at the property line if there is no fence or wall), aimed towards the subject property in horizontal position. Readings must be recorded after the value has stabilized. Measurements are made after establishment of darkness with the light sources to be measured illuminated, and then with those light sources extinguished. The difference between these 2 readings must then be compared to the maximum allowed illumination at the property line. In this way, contributions to light levels by the moon and other ambient light sources are eliminated and the light intensity from the subject light sources can be accurately determined.

**17.55.020. Building Design**

**A. Applicability**

The regulations of this section apply to all new construction of metal buildings and metal-clad buildings visible from and located on lots abutting arterial or collector streets. The regulations also apply alterations and remodeling of existing buildings that result in an increase the building's floor area by 50% or more.

**B. Buildings with Visible Roof Lines**

1. Buildings that have a roof line visible from the abutting arterial or collector street (gable front) must comply with the following minimum regulations:
  - a. Eaves and overhangs must extend at least 12 inches beyond the sidewall and be fully trimmed with gutter and down spouts.

- b. For buildings with an eave height of 12 feet or less, there must be a minimum 4-foot overhang at the front of the building. For buildings with an eave height of more than 12 feet, there must be an overhang of at least 6 feet at the front of the building.
- c. The roof must have a minimum of a 3:12 pitch, and must have a 20-year or greater color cladding finish.
- d. Each building must have either:
  - (1) A brick or stone wainscot, at least 35% of sidewall height at the front of the building, and on any side of the building that is ~~adjacent or abuts~~ visible from an abutting arterial or collector street; or
  - (2) A full stucco facade at the front of the building and on any side that is visible from an abutting ~~adjacent or abuts an~~ arterial or collector street.

**C. Buildings without Visible Roof Lines**

- 1. Buildings with a roof line that is not visible from the abutting arterial or collector street (parapet or mansard) must comply with the following minimum regulations:
  - a. Eaves and overhangs must extend at least 12 inches beyond the sidewall and be fully trimmed with gutter and down spouts.
  - b. There must be a 4-foot covered porch on any arterial or collector street frontage, except above overhead style doors. Required covered porch areas must have an overhang of at least 12 inches at gable overhang.
  - c. Each building must have either:
    - (1) A brick or stone wainscot, at least 35% of sidewall height at the front of the building, and on any side of the building that is ~~adjacent or abuts~~ visible from an abutting arterial or collector street; or
    - (2) A full stucco facade at the front of the building and on any side that is visible from an abutting ~~adjacent or abuts an~~ arterial or collector street.

**D. Anti-Monotony**

In order to promote a variety of building designs and as a means of providing visual interest and avoiding monotony, repetitive building facade designs are prohibited. Adjacent building facade designs must, at a minimum, differ from one another by at least four of the following eight design options:

- 1. Surface material;
- 2. Color of building;
- 3. Reversed floor plans;
- 4. Roofing styles;
- 5. Variation and building heights;
- 6. Location and shape of windows and doors;
- 7. Variations in front porches, walls, etc.; or
- 8. Variation in front setback (minimum 5-foot variation).

## Chapter 17.60 | Wireless Communications Facilities

### 17.60.010. Applicability

The provisions of this chapter apply to all wireless communications facilities on private and public owned property except for the following, which are exempt from the regulations of this chapter:

- A. Existing towers and antennas for which a building permit was issued before the effective date specified in [17.05.020](#);
- B. Wireless telecommunications facilities used exclusively for emergency services including police, fire and operation of the city utilities; and
- C. Amateur radio towers and antennas less than 100 feet in height, above ground level. Any person proposing to erect an amateur radio tower and antenna more than 100 feet in height but less than 200 feet in height may apply for an exemption from the wireless telecommunication facility regulations of this chapter. Upon receipt of a complete application the planning and zoning commission must consider the application for exemption in a public hearing and make a recommendation to the city commission for final action.

### 17.60.020. Where Allowed

Wireless communications facilities and services are allowed in those zoning districts and locations indicated in [Table 60-1](#).

TABLE 60-1: ALLOWED WIRELESS COMMUNICATIONS FACILITIES

FACILITY TYPE	RS-170	RS-7	RM	CG	CBD	I	PI
Initial placement/installation of transmission equipment on wireless support structure	C	C	C	C	C	C	C
Modification of existing tower/base station that constitutes a substantial change	C	C	C	C	C	C	C
Construction/placement of transmission equipment that does not constitute an eligible facilities request	C	C	C	C	C	C	C
Siting of small wireless facility on RS-zoned property occupied by a single household	C	C	–	–	–	–	–
Installation of new wireless support structure on RS-zoned property occupied by a single household	C	C	–	–	–	–	–
Eligible facilities request	P	P	P	P	P	P	P
Installation of new wireless support structure not on RS-zoned property occupied by single household	P	P	P	P	P	P	P
Siting of small wireless facility that is not on RS-zoned property occupied by single household	P	P	P	P	P	P	P
Siting of small wireless facility on a city-owned structure	P	P	P	P	P	P	P

P = Permitted | C = Conditional Use approval Required (See [17.65.110](#)) | – = Prohibited

### 17.60.030. Applications Generally

- A. Every applicant shall file a completed application with the director of building safety, in a number and form specified by the director of building safety.
- B. Applications shall not require or be evaluated based upon:
  - 1. Except as provided in [17.60.040](#), information about an applicant's business decisions with respect to the applicant's designed service, customer demand for service, or quality of the applicant's service to or from a particular area or site;

2. Availability of other potential locations for the placement or construction of a tower or transmission equipment;
  3. Except as provided in [17.60.040](#), other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station; however, applicants are encouraged to consider collocation options prior to submitting an application;
  4. The requirement for removal of existing towers, base stations, or transmission equipment, wherever located, other than requirements stated in policy approved by city board resolution for removal of abandoned towers or transmission equipment;
  5. Surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused towers or transmission equipment can be removed, other than requirements stated in policy approved by city board resolution that are competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned;
  6. Applicant's agreement to provide space on or near the tower, base station, or wireless support structure for the city or for other local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services;
  7. Environmental testing, sampling, or monitoring requirements, or other compliance measures, for radio frequency emissions from transmission equipment that are categorically excluded under FCC rules for radio frequency emissions pursuant to 47 CFR 1.1307(b)(1);
  8. Regulations or procedures for radio frequency signal strength or the adequacy of service quality; or
  9. Perceived or alleged environmental effects of radio frequency emissions, as provided in 47 USC 332(c)(7)(B)(iv).
- C. The city shall not deny an application due to the type of transmission equipment or technology to be used by the applicant, or preference for type of infrastructure or technology; and shall not prohibit the placement of emergency power systems that comply with federal and state environmental requirements.
- D. Applications shall remain valid for a period of 2 years from the date of final approval, including disposition of any appeals. Construction of approved structures or facilities shall be commenced within 2 years of final application approval and diligently pursued to completion.

#### **17.60.040. Applications for New Towers**

In addition to the general application requirements of [17.60.030](#), applications for new towers must include the following:

- A. An explanation of the reason for choosing the proposed location and why collocation was not selected, including a sworn statement from an individual with responsibility over placement of the tower attesting that collocation within the area determined by the applicant to meet the applicant's radio frequency engineering requirements for the placement of a site would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the applicant; and



- B.** Propagation maps, to be used solely for the purpose of identifying the location of the coverage or capacity gap or need for applications for new towers in an area zoned for residential use. Such maps are to be used for no other purpose.

### **17.60.050. Review and Approval Procedures**

**A. Small Wireless Facilities**

Applications for small wireless facilities shall be processed as follows:

1. Within 90 days following the submission of a completed application, the director of building safety shall approve or disapprove the application, by written notice provided to the applicant, and documenting the basis for denial if applicable including the specific code provisions or standards on which the denial is based.
2. An applicant whose application is denied shall have an opportunity to cure any deficiencies identified by the city as the basis for the denial and to submit a revised application within thirty days following the date of denial without paying an additional fee. The city shall approve or deny a revised application within thirty days following submission. The city shall not identify any deficiencies in a second or subsequent denial that were not identified in the original denial.

**B. Other Wireless Communications Facilities**

Applications for any wireless communications service use other than for small wireless facilities shall be processed as follows:

1. Within 30 days of acceptance of an application, city staff shall provide written notice to the applicant of all deficiencies in the application relating to the city's applicable zoning regulations and building permit requirements, setting forth the city code sections and city policies for reference. The applicant shall provide all required information or necessary revisions as set forth in such notice.
2. Within 10 days of the date that the applicant supplements its submission in accordance with the city's notice, city staff shall provide written notice to the applicant of any continued deficiencies in the application, setting forth the city code sections and city policies for reference as also provided in the original notice. The applicant may supplement its submission, and the city may provide notice of deficiencies, until such time as the applicant provides all required information and/or makes all necessary revisions to its plans.
3. No application shall be deemed complete until all deficiencies stated in such notices, if any, have been cured.
4. Unless extended due to notices and responses as described in paragraphs A or B of this subsection, the director of building safety shall approve or disapprove the application, by written notice provided to the applicant:
5. Within 150 calendar days of the date of submission for applications for new towers,
6. Within 60 calendar days of the date of submission for applications for eligible facilities requests, and
7. Within 90 calendar days of the date of submission for applications for (i) initial placement or installation of base stations and/or transmission equipment on wireless support structures, (ii) modification of an existing tower or existing base station that constitutes a substantial change, or (iii) a request for construction or placement of transmission equipment that does not constitute an eligible facilities request.

**8. Notice to Applicant**

If the director of building safety finds that an application submitted under this section does not meet the definition of an eligible facilities request, the city shall notify the applicant in writing that the application shall be processed as an application for a new tower, or as an application for initial placement or installation of a base station and/or transmission equipment on wireless support structures, and/or for modification of an existing tower or existing base station that constitutes a substantial change, and/or for a request for construction or placement of transmission equipment that does not constitute an eligible facilities request, or as a small wireless facility application or wireless support structure for the siting of a small wireless facility, accordingly, and the applicable time-frame for review shall commence on the date stated on said notice.

**17.60.060. Design Requirements**

**A. New and Modified Towers**

The following requirements and criteria are applicable to new towers and modifications of existing towers that constitute a substantial change:

1. A tower shall be set back from the property line of any adjoining residentially zoned property a distance equal to the height of the tower and its related equipment, unless a lesser setback is required due to the type of transmission equipment or technology proposed by the applicant, and the tower and related equipment shall be adequately screened from adjoining residential uses.
2. A tower and any related equipment thereon shall be painted a color compatible with the surrounding area.
3. Except for the minimum lighting, if any, necessary to comply with FAA regulations.
4. The height of a tower, inclusive of any related equipment thereon, shall not exceed 75 feet for a single user or 85 feet in height for co-location, unless additional height is required due to the type of transmission equipment or technology proposed by the applicant.
5. Any service building or equipment located at grade shall be adequately screened from adjoining residential uses.
6. The adverse visual impact of a tower shall be minimized through careful design, siting, landscape screening and innovative camouflaging techniques. Unless otherwise required due to the type of transmission equipment or technology proposed by the applicant, at a tower site, the design of the buildings and related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities with the natural setting and the built environment. If the built environment is anticipated to change significantly during the usable life of the tower, such as within an urban renewal district or recently annexed areas, the tower or structure shall be compatible with the anticipated future built environment.
7. Modifications to existing towers shall not defeat existing concealment elements of the tower, and shall comply with all conditions associated with the prior approval of construction or modification of the tower, including but not limited to building code, UDO, and permit conditions, unless required due to the type of transmission equipment or technology proposed by the applicant.
8. Modifications shall not increase the standard number of new equipment cabinets for the technology involved, not to exceed 4 cabinets, and shall not cause excavation or deployment to occur outside the current site of the tower, unless required due to the type of transmission equipment or technology proposed by the applicant.

9. New freestanding wireless telecommunication facilities shall be separated by a distance of at least 1,000 feet, as measured from the wall or fence of each freestanding wireless telecommunications facility.

**B. Other Wireless Communications Facilities**

The following requirements and criteria shall apply to all wireless communication service uses other than new towers or modifications of existing towers that constitute a substantial change. For purposes of this subsection only, unless otherwise specified, "transmission equipment" includes "transmission equipment," "base station," and "small wireless facility."

1. Transmission equipment shall be placed upon or within a wireless support structure such as to minimize visibility of the transmission equipment to the fullest extent technologically possible, unless visible placement is required due to the type of transmission equipment or technology proposed by the applicant, including but not limited to the following:
  - a. Wall mounted transmission equipment shall be mounted in a configuration that is as flush to the wall as technically possible to ensure both the functionality of the antenna and to minimize visual impact and shall not project above the wall on which it is mounted.
  - b. Transmission equipment mounted on roof appurtenances, such as mechanical equipment, must be as flush mounted to the existing mechanical equipment or roof appurtenance as technically possible to ensure both the functionality of the antenna and to minimize visual impact.
2. Transmission equipment shall be designed and located so as to be architecturally compatible with the wireless support structure upon which the transmission equipment is mounted and to minimize any adverse aesthetic impact, unless otherwise required due to the type of transmission equipment or technology proposed by the applicant.
3. Except for the minimum lighting, if any, necessary to comply with FAA regulations.
4. Transmission equipment upon a wireless support structure, and any related equipment located at grade, shall be adequately screened from adjoining residential uses.
5. The height of a wireless support structure, inclusive of the transmission equipment, shall not exceed the maximum height allowed by the applicable zoning district unless additional height is required due to the type of transmission equipment or technology proposed by the applicant.
6. A wireless support structure, and transmission equipment, shall be set back from the property line of any adjoining residentially zoned property as required by the bulk regulations of the applicable zoning district.
7. The number of new wireless support structures may be reasonably limited, consistent with the protection of public health, safety, and welfare, and provided that such limitation does not have the effect of prohibiting or significantly impairing a wireless service provider's ability to provide wireless service within the area of a proposed new structure.
8. Modifications to an existing base station shall not defeat existing concealment elements of the base station, and shall comply with all conditions associated with the prior approval of construction or modification of the base station, including but not limited to building code, UDO, or permit conditions, unless required due to the type of transmission equipment or technology proposed by the applicant.
9. Modifications to an existing base station shall not increase the standard number of new equipment cabinets for the technology involved, not to exceed 4 cabinets, and shall not cause excavation or

deployment to occur outside the current site of the base station, unless required due to the type of transmission equipment or technology proposed by the applicant.

#### **17.60.070. Variations, Appeals and Regulatory Relief**

If the denial of any appeal for a variation of relief will result in denial of wireless communications services, or if approval of a variation or an appeal for relief is necessary due to the type of technology proposed by an applicant, then the planning and zoning commission shall grant the relief sought, which may be subject to conditions allowed by city, state, and federal law.

#### **17.60.080. Definitions**

The definitions of this section apply solely in administering and interpreting the wireless communications regulations of this article. The following words, terms and phrases have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

##### **A. Applicant**

Any person, and/or any person acting on behalf of another person, engaged in the business of providing wireless communications services or the wireless communications infrastructure required for wireless communications services and who submits an application. This definition of “applicant” shall apply specifically to this article.

##### **B. Application**

A request submitted by an applicant to the director of building safety for any wireless communications service use requiring conditional use approval and/or zoning compliance and siting review as set forth in this article. This definition of “application” shall apply specifically to this article.

##### **C. Base Station**

Equipment not associated with a tower or a supporting structure that is not a tower, at a fixed location, that, at the time that the application is filed, supports or houses an antenna, transceiver, distributed antenna system (DAS) equipment, small cell equipment, or other associated equipment that enables FCC-licensed or FCC-authorized wireless communications between user equipment and a communications network and that has been previously reviewed and approved under the applicable zoning or siting process or under another state or local regulatory review process. “Base station” includes but is not limited to equipment associated with wireless communications services such as private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services such as microwave backhaul; radio transceivers; antennas; coaxial or fiberoptic cable; regular and backup power supplies; and comparable equipment, regardless of technological configuration.

##### **D. Collocation**

The mounting or installation of transmission equipment on an existing tower or base station for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

##### **E. Distributed Antenna System (DAS)**

A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

##### **F. Eligible Facilities Request**

A request for modification of an existing wireless tower or base station, including legal non-conforming structures, that involves collocation, removal, or replacement of transmission equipment, and that does not constitute a substantial change to the tower or base station. “Eligible facilities request” applies only to towers or base stations for which the state or local government has approved the construction of the structure with the sole or primary purpose of supporting covered transmission equipment (i.e. existing

wireless towers), or where the state or local government has previously decided that the site is suitable for wireless facility deployed and approved the siting of transmission equipment that is part of a base station on that structure (i.e. other existing support structures). "Eligible facilities request" includes hardening through structural enhancement where such hardening is necessary for a covered collocation, replacement, or removal of transmission equipment and structural enhancement so long as the modification of the underlying tower or base station is performed in connection with and is necessary to support a collocation, removal, or replacement of transmission equipment, but does not include replacement of the structure upon which the transmission equipment is located.

**G. Equipment Cabinet**

A cabinet mounted on the ground or on a wireless support structure used to support equipment associated with a wireless communication facility.

**H. Existing**

Previously reviewed and approved under applicable zoning or siting processes, or under another form of affirmative state or local regulatory review process. "Existing" includes a wireless tower that does not have a permit or other zoning approval because it was not in a zoned area when it was built, but was otherwise lawfully constructed; and a structure that, at the time of the application, supports or houses a base station, even if the structure was not built for the sole or primary purpose of providing such support. "Existing" does not include a tower or base station that was constructed or deployed without proper review; was not required to undergo siting review; does not support transmission equipment that received another form of affirmative state or local regulatory approval; or any structure that is merely capable of supporting wireless transmission equipment whether or not it is providing such support at the time of the application. This definition of "existing" shall apply specifically to this article.

**I. FCC**

Federal Communications Commission.

**J. Increase in Height**

Any of the following:

1. For towers, a cumulative increase in the height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, measuring the change in height from the dimensions of the tower as originally approved or as of the most recent modification that received local zoning or similar regulatory approval prior to the passage of the Spectrum Act, whichever is greater.
2. For all base stations, an increase in height of the base station by more than 10% or 10 feet, whichever is greater, measuring the change in height from the height of the original structure, rather than the height of the previously approved antenna.

**K. Increase in Width**

An increase in width from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

**L. Site**

All of the following:

1. For towers, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. This definition of "site" shall apply specifically to this article.

2. For base stations, the area in proximity to the structure and to other transmission equipment deployed on the ground at the time of the application. This definition of “site” shall apply specifically to this article.

**M. Small Wireless Facility**

Operator-controlled, low-powered radio access nodes, including those that operate in licensed spectrum and unlicensed carrier-grade Wi-Fi, with a range from 10 meters to several hundred meters, and further defined as follows:

1. Each antenna is no more than six cubic feet in volume.
2. All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight cubic feet in volume.
3. For purposes of this “small wireless facility” definition, volume shall be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, communications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume. “Small wireless facility” does not include any structure that supports or houses equipment described in this definition.

**N. Spectrum Act**

The federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-22, codified at 47 U.S.C. Section 1455 (“Section 6409 Wireless Facilities Deployment”), approved February 22, 2012.

**O. Substantial Change**

Any of the following:

1. The installation of more than the standard number of new equipment cabinets for the technology involved, and not to exceed 4 cabinets.
2. Any excavation or deployment outside the current site of the tower or base station.
3. Modifications that defeat the existing concealment elements of the tower or base station.
4. Modifications that do not comply with conditions associated with the prior approval of construction or modification of the tower or base station, including but not limited to building code, UDO, or permit conditions, and that exceed one or more of the “substantial change” thresholds identified in this definition.
5. An “increase in height,” as that phrase is defined in this article.
6. An “increase in width,” as that phrase is defined in this section.

**P. Tower (or Communication Tower or Wireless Tower)**

A structure constructed with the sole or primary purpose of supporting FCC-licensed or authorized transmission equipment, including transmission of personal wireless service, broadband service, and mobile and fixed broadband service.

**Q. Transmission Equipment**

Any equipment, other than equipment related to a “small wireless facility” as defined in this subsection, that facilitates transmission for any FCC-licensed or FCC-authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power

supply used in any technological configuration associated with any FCC-authorized wireless transmission, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast service, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband. The term “related equipment”, when used in this chapter in reference to a tower or a base station, includes but is not limited to “transmission equipment.”

**R. Wireless Support Structure (or Structure)**

A structure that exists at the time an application is submitted and is capable of supporting the attachment or installation of transmission equipment in compliance with applicable codes, including but not limited to water towers, buildings, and other structures. “Wireless support structure” or “structure” does not include a tower or existing base station.

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### 17.65.010. Common Provisions

#### A. Applicability

The common provisions of this section apply to all the procedures in this chapter unless otherwise expressly stated.

#### B. Review and Decision-making Authority (Summary Table)

[Table 65-1](#) provides a summary of the review and approval procedures of this chapter. In the event of conflict between this summary table and the detailed procedures contained elsewhere in this chapter, the detailed procedures govern.

*TABLE 65-1: REVIEW AND DECISION-MAKING AUTHORITY SUMMARY TABLE*

Procedure	Staff	Planning and Zoning Commission	City Commission	Public Hearing Notice
UDO Text Amendments	R	<R>	DM	N
Zoning Map Amendments	R	<R>	<DM>	N,M,P
Short-form Subdivision Plats	R	R	DM	N,M
Preliminary Plats	R	R	DM	N,M
Final Plats	DM	—	—	—
Development Plans	R	<R>	DM	N,M,P
Site Plans	DM[1]	—	—	—
Conditional Uses	R	<R>	<DM>	N,M,P
UDO Interpretations	DM	<A>	—	—
Administrative Adjustments	DM	<A>	—	M
Variances	R	<DM>	—	N,M,P
Appeals of Administrative Decisions	—	<DM>	—	N,M,P
Beneficial Use Determination	R	—	<DM>	N,M

**R** = Review/recommending body | **DM** = Final decision-making body | **A** = Appeals of decision-making body's decision  
**< >** = Public hearing required | Hearing Notice: **N** = Newspaper; **M** = Mail; **P** = Posting (signs)

Table 65-1 Notes

- [1] Unless alternative site plan review procedure/decision-maker is established by city commission at time of development plan approval (see [17.65.100.C](#))

## **C. Applications and Fees**

### **1. Owner-initiated Applications**

Whenever the provisions of this UDO allow the filing of an application by the owner of the subject property, that application must be filed by all record title owners of the real properties that are the subject of the application or the property owners' authorized agent. If an owner resides out-of-state, that owner must designate an in-state individual or firm for notice and service of process.

### **2. Pre-application Meetings**

#### **a. Purpose**

Pre-application meetings provide an early opportunity for staff and applicants to discuss the procedures, standards and regulations required for development approval under this UDO.

#### **b. Applicability**

Pre-application meetings are required whenever the provisions of this UDO expressly state that they are required. They are encouraged in all cases.

#### **c. Scheduling**

Pre-application meetings must be scheduled with the director of building safety.

#### **d. Guidelines**

The director of building safety is authorized to establish guidelines for pre-application meetings, including information that should be provided and any available alternatives to face-to-face meetings, such as telephone conversations and email correspondence.

#### **e. Effect**

Neither the applicant nor the city is bound by any statements or determinations made during the pre-application meeting.

### **3. Form of Application**

Applications required under this UDO must be submitted in a form and in such numbers as required by the official responsible for accepting the application. Applications must include materials and information to assist authorized review and decision-making bodies in their consideration of the application, including at least the following:

- a.** A list of the names and addresses of all owners of record of the property that is the subject of the application;
- b.** A signed statement granting city staff right of reasonable access to view, enter and inspect the property, uses or buildings on the site for compliance with this UDO; and
- c.** Maps, plats, surveys, dimensioned site plans, engineering documents, environmental reports, traffic studies, and other materials and information, as required by this UDO or application checklists established by the official responsible for accepting the application. Application forms and submittal requirements must be made available to the public.

### **4. Application Filing Fees and Notification Costs**

All applications must be accompanied by the application fee that has been established by the city commission and by an amount to cover the costs of required public hearing notices.

**5. Application Completeness, Accuracy and Sufficiency**

- a.** An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required application filing and notification fees.
- b.** The official responsible for accepting the application must determine whether an application is complete within 5 business days of application filing.<sup>28</sup>
- c.** If an application is determined to be incomplete, the official responsible for accepting the application must provide notice to the applicant along with an explanation of the application's deficiencies. Notice of an incomplete application may be provided by personal service, electronic mail or first-class mail.
- d.** No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the first available processing cycle. If the deficiencies are not corrected by the applicant within 60 days, the application will be deemed to have been withdrawn.
- e.** Applications deemed complete will be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this UDO.
- f.** The official responsible for accepting the application may require that applications or plans be revised before being placed on an agenda for possible action if the official determines that:
  - (1)** The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with UDO requirements or other regulations;
  - (2)** The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with UDO requirements or other regulations; or
  - (3)** The decision-making body does not have legal authority to approve the application.

**D. Application Processing Cycles**

The director of building safety and other officials responsible for accepting applications, after consulting with review and decision-making bodies, is authorized to promulgate reasonable cycles and timelines for processing applications, including deadlines for receipt of complete applications.

**E. Neighbor Communications**

- 1.** Neighbor communications are encouraged by the planning and zoning commission and city commission to help:
  - a.** educate applicants and neighbors about one another's interests;
  - b.** resolve issues in a manner that respects those interests; and

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<sup>28</sup> Currently "2 working days."

- c. identify unresolved issues before initiation of formal public hearings.
- 2. Applicants are encouraged to submit a summary of their neighbor communication activities at or before the first required public hearing. The recommended content of such summaries is as follows:
  - a. Efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified);
  - b. How information about the proposal was shared with neighbors (mailings, work-shops, meetings, open houses, flyers, door-to-door handouts, etc.);
  - c. Who was involved in the discussions;
  - d. Suggestions and concerns raised by neighbors; and
  - e. What specific changes (if any) were considered and/or made because of the neighbor communications.

#### **F. Public Hearing Notice**

##### **1. Newspaper Notice**

Whenever the procedures of this chapter require that newspaper notice be provided, the notice must be published in a newspaper of general circulation within the City of Clovis.

##### **2. Mailed Notice**

- a. Whenever the procedures of this chapter require that notices be mailed, the notices must be sent by United States Postal Service. certified Regular First Class mail is allowed except when provisions of this ordinance or of state law expressly require another form of delivery.
- b. Addresses must be based on property ownership information from the county clerk's office. When required notices have been properly addressed and deposited in the U.S. mail, alleged failure of a party to receive the mailed notice does not constitute grounds to invalidate any action taken.

##### **3. Posted Notice**

- a. Except as expressly stated in 17.65.010.F.3.b, when the procedures of this chapter require that posted notice be provided, at least one notice sign must be posted on each public street frontage abutting the subject property in locations plainly visible to passers-by. If the subject application includes an area with more than 200 feet of street frontage on a single street, at least one sign must be posted for each 200 feet of street frontage or fraction thereof on that street. If the subject property does not have frontage on a public street, signs must be placed on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the subject property.
- b. When the city initiates a zoning map amendment to ensure consistency with its comprehensive plan or to implement land use and zoning policies, the director of building safety is authorized to designate the number and location of posted notice signs. The locations must be within the area proposed for rezoning, be plainly visible to passers-by and provide reasonable posted notice.
- c. Applicants are responsible for providing posted notice and for providing the director of building safety with a signed affidavit and photographs evidencing compliance at least 10 calendar days before the public hearing. The applicant must remove all notice signs within 5 days of a final decision on the matter.

##### **4. Content of Notice**

All required public hearing notices must:

- a. Indicate the date, time and place of the public hearing that is the subject of the notice;
- b. Describe any property involved in the application by map, street address or by legal description;
- c. Describe the action sought in the application or proposal;
- d. Identify who will conduct the hearing; and
- e. Indicate where additional information on the matter may be obtained.

**5. Constructive Notice**

- a. Minor defects in required notices will not be deemed to impair the notice or invalidate proceedings pursuant to the notice. Minor defects in notice are limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. If questions arise at the hearing regarding the adequacy of notice, the hearing body must make a formal finding about whether there was substantial compliance with the notice requirements of this UDO.
- b. When the records of the city document the publication, mailing, and posting of notices as required by this chapter, required notice of the public hearing will be presumed to have been given.

**6. Courtesy Notice<sup>29</sup>**

- a. In addition to otherwise required notices of public hearings, the director of building safety must endeavor to provide one or more of the following forms of additional courtesy notice of public hearings required under this UDO:
  - (1) Mailing notices to registered neighborhood and resident organizations whose boundaries include or are abutting the subject property;
  - (2) Posting notices in city hall or in other government buildings; or
  - (3) Publishing notice on the city website.
- b. Failure to provide any form of courtesy notice that is not required under this UDO or any defect in courtesy notice that is provided does not invalidate, impair, or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.

**G. Hearing Procedures**

- 1. At required public hearings, interested persons must be permitted to submit information and comments, verbally or in writing. The hearing body is authorized to establish reasonable rules and regulations governing the conduct of hearings and the presentation of information and comments.
- 2. Once commenced, a public hearing may be continued by the hearing body. No re-notification is required if the continuance is set for specified date and time and that date and time is announced at the time of the continuance.

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<sup>29</sup> New, proposed "courtesy notice" provisions.

3. If a public hearing is continued or postponed for an indefinite period from the date of the originally scheduled public hearing, new public hearing notice must be given before the rescheduled public hearing. If the applicant requests and is granted a continuance or postponement requiring renotification, the applicant must pay any costs of renotification.

#### **H. Action by Review Bodies and Decision-Making Bodies**

1. In acting under the procedures of this chapter, review and decision-making bodies must act by simple majority vote of a quorum, unless otherwise expressly stated.
2. Review and decision-making bodies may take any action that is consistent with:
  - a. The regulations of this UDO;
  - b. Any rules or by-laws that apply to the review or decision-making body; and
  - c. The notice that was given.
3. In acting on zoning map amendments, review and decision-making bodies are expressly authorized to recommend and approve a less intensive zoning district classification than the zoning district that was described in required public notices (see “less intensive zoning district” in [17.90.150](#)).
4. Review and decision-making bodies are authorized to continue a public hearing or defer action to receive additional information or further deliberate.

#### **I. Conditions of Approval**

When the procedures of this chapter authorize approval with conditions, review bodies, including staff, are authorized to recommend conditions and decision-making bodies are authorized to approve the subject application with conditions. Any conditions recommended or approved must relate to a situation likely to be created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development.

#### **J. Decision-Making Criteria; Burden of Proof or Persuasion**

Applications must address relevant review and decision-making criteria. In all cases, the burden is on the applicant to show that an application or proposal complies with all applicable review or approval criteria.

#### **K. Required Time-frames for Action**

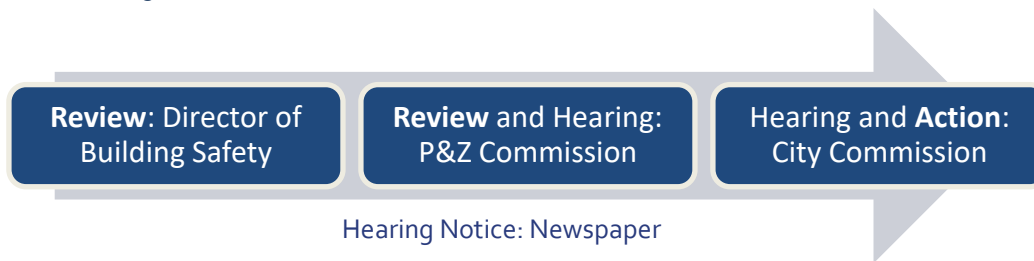
Any time limit specified in this UDO for any decision or action on behalf of a review or decision-making body may be extended if the applicant agrees to an extension. Unless otherwise expressly stated, if a review or decision-making body does not render a decision or act within the time required under this UDO and the applicant has not agreed to an extension of that time limit, the application is deemed denied.

## 17.65.020. Unified Development Ordinance Text Amendments

### A. Authority to File

Amendments to the text of this UDO may be initiated only by the city commission, planning and zoning commission or director of building safety.<sup>30</sup>

FIGURE 65-1: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT PROCESS (GENERALLY)



### B. Review and Recommendation—Director of Building Safety

The director of building safety must prepare a report and recommendation on the proposed UDO text amendment. The report must be transmitted to the planning and zoning commission before its public hearing on the proposed amendment.

### C. Notice of Hearing

Notice of the planning and zoning commission's required public hearing on a UDO text amendment must be published in the newspaper at least 15 days before the scheduled public hearing (see [17.65.010.F](#) for additional information on newspaper notices).

### D. Hearing and Recommendation—Planning and Zoning Commission

The planning and zoning commission must hold a public hearing on the proposed UDO text amendment. Following the close of the public hearing, the planning and zoning commission must act to recommend that the proposed text amendment be approved, approved with modifications, or denied and transmit its report and recommendations to the city commission. If the planning and zoning commission arrives at a tie vote, the application must be forwarded to the city commission with the notation of the tie vote.

### E. Final Action—City Commission

Following receipt of the planning and zoning commission's report and recommendation, the city commission must hold a public hearing and act to approve the proposed UDO text amendment, approve the proposed text amendment with modifications or deny the proposed text amendment. The city commission is also authorized to remand the proposed text amendment back to the planning and zoning commission for further consideration.

### F. Review and Approval Criteria

In making recommendations and decisions about UDO text amendments, review and decision-making bodies must consider all relevant factors, including at least the following:

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<sup>30</sup> Revised; current ordinance allows private citizens to initiate text amendments.

1. Whether the proposed text amendment is in conformity with the policy and intent of the comprehensive plan; and
2. Whether the proposed UDO text amendment corrects an error or inconsistency or is necessary or desirable to meet the challenge of a changed or changing condition.

### 17.65.030. Zoning Map Amendments (Rezoning)

#### A. Authority to File

Amendments to the zoning map may be initiated only by the city commission, the planning and zoning commission, the owner of the real property that is the subject of the proposed zoning map amendment or by the subject property owner's authorized agent.

FIGURE 65-2: ZONING MAP AMENDMENT PROCESS (GENERALLY)



#### B. Application Filing

Property owner-initiated applications for zoning map amendments must be filed with the director of building safety. Property owners have the option of filing applications for zoning map amendments with or without a development plan. If the applicant elects to submit a development plan concurrently with a zoning map amendment application, the development plan procedures of [17.65.090](#) govern review and approval of the development plan.<sup>31</sup>

#### C. Review and Recommendation— Director of Building Safety

Following receipt of a complete zoning map amendment application or initiation of zoning map amendment by the planning and zoning commission or the city commission, the director of building safety must prepare a report and recommendation on the proposed zoning map amendment. The report must be transmitted to the planning and zoning commission before its public hearing on the proposed amendment.

#### D. Notice of Hearing

Notice of the planning and zoning commission's required public hearing on a zoning map amendment must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper, mail and posted notices):

##### 1. Newspaper Notice

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

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<sup>31</sup> The option to submit a rezoning request with a site-specific development plan is new.



## 2. Mailed Notice

Notice must be mailed to all owners of property included within the area that is the subject of the proposed zoning map amendment and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing. ~~Mailed notice is not required for city-initiated rezonings that encompass more than 100 acres of land area. Whenever a zoning map amendment is proposed for an area of one block or less, notice of the public hearing must be sent by certified mail, return receipt requested. Whenever a zoning map amendment is proposed for an area of more than one block, notice of the public hearing must be sent by first class mail. If a zoning map amendment notice sent by first class mail is returned undelivered, the zoning authority must attempt to discover the owner's most recent address and remit the notice by certified mail, return receipt requested, to that address.~~

## 3. Posted Notice

Notice (signs) must be posted at least 10 days before the scheduled public hearing.

## E. Hearing and Recommendation—Planning and Zoning Commission

1. Following receipt of a complete application for a zoning map amendment or initiation of a zoning map amendment by the planning and zoning commission or city commission, the planning and zoning commission must hold a public hearing on the proposed amendment. Following the close of the public hearing, the planning and zoning commission must act to recommend that the proposed amendment be approved, approved with modifications, or denied.
2. All proposed zoning map amendments must be transmitted to the city commission within 15 days of the date of planning and zoning commission action.

~~A property owner-initiated application recommended for denial by the planning and zoning commission may not be considered further unless the applicant, within 15 days of the date of the planning and zoning commission's action, files a written request with the city clerk and the recording secretary of the planning and zoning commission for a public hearing by the city commission. The request for hearing must be accompanied by the payment of the required filing fee.~~

3. If the planning and zoning commission arrives at a tie vote, the application must be forwarded to the city commission with the notation of the tie vote.

## F. Final Action—City Commission

1. Following receipt of the planning and zoning commission's recommendation, the city commission must hold a public hearing on the application and act to approve the proposed zoning map amendment, approve the proposed amendment with modifications, including approval of a less intensive zoning district, or deny the proposed amendment. The city commission is also authorized to remand the proposed zoning map amendment back to the planning and zoning commission for further consideration.
2. Zoning map amendments may be approved by a simple majority vote of a quorum, except as stated in 17.65.030.G.

## G. Protest Petitions

1. Pursuant to NMSA 1978, § 3-21-6, if a valid protest petition is filed against any proposed zoning map amendment, passage of the zoning map amendment requires a favorable vote of three-fourths of the members of the entire city commission.
2. A protest petition will be deemed valid if it is signed and acknowledged by the owners of 20% or more of the area of the lots included in proposed zoning map amendment area or by the owners of

20% or more of the area of the lots within 100 feet of the area included in the proposed zoning map amendment, not counting public rights-of-way.

3. A written protest petition opposing a zoning map amendment must be submitted to the director of building safety at least 24 hours before the start of the meeting at which the city commission vote is to vote on the matter.

#### **H. Review and Approval Criteria**

In making recommendations and decisions on zoning map amendments, review and decision-making bodies must consider all relevant factors, including at least the following:

1. Whether the proposed zoning map amendment is consistent with the policy and intent of comprehensive plan; and
2. Whether the proposed zoning map amendment corrects an error or inconsistency or is necessary or desirable to meet the challenge of a changed or changing condition.

### **17.65.040. Subdivisions Generally**

Unless otherwise expressly stated in this chapter, all proposed divisions of land into 2 or more parts or that otherwise meet the definition of a subdivision under New Mexico law require review and approval of a preliminary plat and final plat in accordance with [17.65.070](#) and [17.65.080](#), respectively.

### **17.65.050. Short-form Subdivision Plats**

#### **A. Applicability**

The short-form subdivision plat procedures of this section may be used only for the following:

1. Street vacations;
2. Easement vacations; and
3. Revisions to valid, approved preliminary plats involving no increase in density and no changes in land use, arterial or collector streets, public park or other public land.

#### **B. Neighbor Communications**

1. Before filing an application for short-form subdivision plat approval, the applicant must either:
  - a. Contact all owners of real property located within 100 feet of the subject property, excluding public right-of-way, to obtain their comments and signatures on a city-issued response form; or
  - b. Request that the city deliver written notices to such property owners.
2. The notice letter and response form must state that property owners may appear in person at scheduled meetings or submit written opinions and comments at or before the scheduled meetings.

#### **C. Application Filing**

Complete applications for short-form subdivision plat approval must be filed with the director of building safety. The application must be accompanied by a plat meeting all the requirements of a final plat and bearing the seal of a New Mexico-registered professional surveyor. Applications must be filed at least 15 days before the planning and zoning commission's scheduled meeting to review the application.

**D. Agency Review**

At least 12 days before the planning and zoning commission's scheduled meeting to review the application, the director of building safety is authorized to distribute the application and plat to review agencies<sup>32</sup> and request that comments on the proposed plat application, if any, be provided to the director of building safety by a specified date. If comments are not provided within that time-frame, review and approval bodies will act as if the review agencies have no comments.

**E. Review and Recommendation—Director of Building Safety**

1. The director of building safety must review the short-form plat to determine if it complies with all applicable regulations. If the short-form plat is proposed to revise a valid, approved preliminary plat, the review must also assess whether the short-form plat is in conformity to the approved preliminary plat and adjacent subdivisions.
2. Based on review of the short-form plat, the director of building safety must prepare a report and recommend that the minor subdivision be approved or disapproved.
3. The staff report must be made available to the applicant at least 8 days before the planning and zoning commission meeting. If the staff report requests changes or clarifications, the applicant must submit a revised plat or plan, other information, or a response, to staff at least 5 days before the planning and zoning commission meeting.
4. If all application procedures have been properly followed, the staff must submit the application to the planning and zoning commission for their consideration. The agenda of the planning and zoning commission meeting must be made available to the news media and the public no later than 3 days before the meeting.

**F. Action by Planning and Zoning Commission and City Commission**

1. The planning and zoning commission at a regularly scheduled meeting must review the short-form plat, reports and recommendations from city staff and review agencies, and comments from adjacent property owners and the applicant. It must then make a recommendation and forward the recommendations to the city commission.
2. If the planning and zoning commission recommends approval of the short-form plat, the plat will be deemed to be in conformity with the regulations of this ordinance and the city comprehensive plan and referred to city commission for its consideration. If the city commission approves the plat, the plat is deemed to be in conformity with the regulations of this ordinance and the city comprehensive plan.
3. If the planning and zoning commission postpones action on the short-form plat, the plat must be reconsidered by the planning and zoning commission at its next regularly scheduled meeting. Upon reconsideration, the planning and zoning commission may approve, disapprove or grant conditional

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<sup>32</sup> The term "Review Agencies" has been added to the definitions: "Local, state and federal agencies; utilities; and other agencies who have regulatory responsibility or directly related interests in subdivision plats and land development matters, as determined by the director of building safety based on the location and nature of the subject application."

approval. If the city commission postpones the plat, the plat must be forwarded to the city commission for consideration at a regularly scheduled meeting, provided all provisions as specifically outlined by the city commission have been complied with by the applicant.

4. If the planning and zoning commission recommends disapproval of the plat, the plat is deemed not be in conformity with the regulations of this ordinance and the city comprehensive plan. The planning and zoning commission must send its recommendation to the city commission. If the city commission elects to disapprove the plat, the plat is deemed not to be in conformity with the regulations of this ordinance and the city comprehensive plan. Whenever a plat has been denied by the city commission, then the planning and zoning commission may not reconsider that plat for a period of one year from the city commission's action of disapproval, unless, in the opinion of the city, the plat is modified to overcome the stated objections, then the planning and zoning commission and the city commission may consider the plat within the one year limitation.
5. The planning and zoning commission and the city commission may approve short-form plats subject to specified conditions.

**G. Notification**

The applicant must be notified by the city by letter of the action taken by the planning and zoning commission and by the city commission. The letter must describe any changes or recommendations of the planning and zoning commission or city commission.

**H. Signatures**

Upon approval of the short-form plat by the city commission, the signatures of the mayor, chairperson of the planning and zoning commission, director of the department of public works and fire chief must be affixed to the document.

**I. Recording Fee**

The applicant must pay recording fees as set by the county clerk and recorder.

**J. Changes**

Changes, erasures, modifications, or revisions are not permitted after approval of the plat has been given by the city commission and signed by proper officials. No plat may be recorded before completion of all requirements and conditions.

**K. Recording**

The city, after all signatures have been obtained, recording fees submitted is responsible for recording the approved short-form plat.

**17.65.060. Replats and Lot Line Adjustments**

The resubdivision of platted tracts (replats) are considered to be a subdivision and must comply with all applicable subdivision plat review and approval procedures, except that the adjustment of lot lines in tracts of less than one acre for the purpose of increasing or reducing the size of such contiguous lots, but not less than the minimum lot area regulations of this ordinance do not require the filing of a plat if a certificate of survey setting forth the legal description of the lot line adjustments resulting from the resubdivision is filed with the planning and zoning commission, the county clerk and the county clerk. Such filing is considered as a rededication of the described lots in all respects. Any increase or decrease in the number of lots within the tract does constitute a subdivision and must comply with all applicable subdivision plat review and approval procedures.

## **17.65.070. Preliminary Subdivision Plats**

### **A. Applicability**

Except as otherwise expressly stated in this chapter, preliminary subdivision plat approval is the first step of the required subdivision process.

### **B. Neighbor Communications**

1. Before filing an application for preliminary subdivision plat approval, the applicant must either:
  - a. Contact all owners of real property located within 100 feet of the subject property, excluding public right-of-way, to obtain their comments and signatures on a city-issued response form; or
  - b. Request that the city deliver written notices to such property owners.
2. The notice letter and response form must state that property owners may appear in person at scheduled meetings or submit written opinions and comments at or before the scheduled meetings.

### **C. Application Filing**

Complete applications for preliminary subdivision plat approval must be filed with the director of building safety. The application must be accompanied by a plat meeting all the requirements of a final plat and bearing the seal of a New Mexico-registered professional surveyor. Applications must be filed at least 25 days before the planning and zoning commission's scheduled meeting to review the application.

### **D. Agency Review**

At least 23 days before the planning and zoning commission's scheduled meeting to review the application, the director of building safety is authorized to distribute the application and plat to review agencies<sup>33</sup> and request that comments on the proposed plat application, if any, be provided to the director of building safety by a specified date. If comments are not provided within that time-frame, review and approval bodies will act as if the review agencies have no comments.

### **E. Review and Recommendation—Director of Building Safety**

1. The director of building safety must review the preliminary plat to determine if it complies with all applicable regulations. If the preliminary plat is proposed to revise a valid, approved preliminary plat, the review must also assess whether the preliminary plat is in conformity to the approved preliminary plat and adjacent subdivisions.
2. Based on review of the preliminary plat, the director of building safety must prepare a report and recommend that the minor subdivision be approved or disapproved.
3. The staff report must be made available to the applicant at least 8 days before the planning and zoning commission meeting. If the staff report requests changes or clarifications, the applicant must

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<sup>33</sup> The term "Review Agencies" has been added to the definitions: "Local, state and federal agencies; utilities; and other agencies who have regulatory responsibility or directly related interests in subdivision plats and land development matters, as determined by the director of building safety based on the location and nature of the subject application."

submit a revised plat or plan, other information, or a response, to staff at least 5 days before the planning and zoning commission meeting.

4. If all application procedures have been properly followed, the staff must submit the application to the planning and zoning commission for their consideration. The agenda of the planning and zoning commission meeting must be made available to the news media and the public no later than 3 days before the meeting.

#### **F. Action by Planning and Zoning Commission and City Commission**

1. The planning and zoning commission at a regularly scheduled meeting must review the preliminary plat, reports and recommendations from city staff and review agencies, and comments from adjacent property owners and the applicant. It must then make a recommendation and forward the recommendations to the city commission.
2. If the planning and zoning commission recommends approval of the short-form plat, the plat will be deemed to be in conformity with the regulations of this ordinance and the city comprehensive plan and referred to city commission for its consideration. If the city commission approves the plat, the plat is deemed to be in conformity with the regulations of this ordinance and the city comprehensive plan.
3. If the planning and zoning commission postpones action on the short-form plat, the plat must be reconsidered by the planning and zoning commission at its next regularly scheduled meeting. Upon reconsideration the planning and zoning commission may approve, disapprove or grant conditional approval. If the city commission postpones the plat, the plat must be forwarded to the city commission for consideration at a regularly scheduled meeting, provided all provisions as specifically outlined by the city commission have been complied with by the applicant.
4. If the planning and zoning commission recommends disapproval of the plat, the plat is deemed not be in conformity with the regulations of this ordinance and the city comprehensive plan. The planning and zoning commission must send its recommendation to the city commission. If the city commission elects to disapprove the plat, the plat is deemed not to be in conformity with the regulations of this ordinance and the city comprehensive plan. Whenever a plat has been denied by the city commission, then the planning and zoning commission may not reconsider that plat for a period of one year from the city commission's action of disapproval, unless, in the opinion of the city, the plat is modified to overcome the stated objections, then the planning and zoning commission and the city commission may consider the plat within the one year limitation.
5. The planning and zoning commission and the city commission may approve preliminary plats subject to specified conditions.

#### **G. Notification**

The applicant must be notified by the city by letter of the action taken by the planning and zoning commission and by the city commission. The letter must describe any changes or recommendations of the planning and zoning commission or city commission.

#### **H. Effect of Preliminary Plat Approval**

1. Approval of the preliminary plat does not constitute approval of the subdivision by the planning and zoning commission or by the city commission but merely recognizes the general acceptability of the proposed subdivision design.

2. Once a preliminary plat is approved, the applicant is authorized to submit detailed plans and specifications for the proposed subdivision and for all public improvements to be constructed. The applicant is also authorized to file a final plat in accordance with the procedures of [17.65.080](#).
3. Approved preliminary plats are valid for 5 years from the date of approval, unless the applicant is granted an extension of time, then a resubmittal fee will be required. If a final plat for a part of the subdivision has not been approved and recorded as required by the provisions of these regulations within such 5-year period or any extension granted, the preliminary plat must be resubmitted to the Planning and zoning commission and the city commission and processed as new preliminary subdivision plat application.

## **17.65.080. Final Subdivision Plats**

### **A. Application Filing**

Complete applications for final subdivision plat approval must be filed with the director of building safety before the date that any applicable preliminary plat approval lapses (See [17.65.070.H](#)). The application must be accompanied by a plat that conforms to the approved preliminary plat and that meets all the requirements of a final plat.

1. Two copies of the final drainage report and 3 copies of the final construction drawings must be submitted at least 8 days before the city staff meeting.
2. The original of the final plat, the required number of copies and improvement agreement must be submitted to the city.
3. If any land is to be maintained by a homeowners' association or by special conditions imposed within the subdivision, the proposed covenants must be submitted.
4. The final plat must exactly correspond to the approved preliminary plat relating to drainage, utility services, public streets and alleys, and other infrastructure or easements.
5. Minor deviations on lot dimensions may be made so long as there is no change to the fundamental character of the subdivision as contained in the preliminary plat.
6. If the planning and zoning commission or the city commission imposed conditions on the preliminary plat, the final plat must comply with all of the imposed conditions

### **B. Agency Review**

Within 2 days of receipt of a complete final plat application, the director of building safety must distribute the application and plat to review agencies and request that written notifications of their findings on the proposed plat application, if any, be provided to the director of building safety by a specified date. If notification is not received by the city within the timeframe specified by the director, it will be assumed that the plat and other submission material are acceptable.

### **C. Action by the City**

1. The director of building safety must review the final plat to determine if it complies with this ordinance and all other applicable regulations.
2. If deficiencies in the final plat are discovered, the director of building safety must notify the applicant of such deficiencies within 5 days of receipt of the application.
3. If deficiencies are not discovered, the director of building safety is authorized to approve the final plat.

4. If there are any deviations from or modifications to the approved preliminary plat, other than those expressly allowed by this ordinance, the final plat must be forwarded to the planning and zoning commission for review.

**D. Signatures**

Upon final approval of the final plat by the city, the signatures of the mayor, the chairperson of the planning and zoning commission, the director of the department of public works and the fire chief must be affixed to the document.

**E. Recording Fee**

The applicant must pay recording fees as set by the county clerk and recorder.

**F. Changes**

Changes, erasures, modifications, or revisions are not permitted on the final plat after signatures have been affixed. No plat will be recorded before completion of all requirements and conditions.

**G. Recording**

The city, after all signatures have been obtained, recording fees submitted, and improvement guarantees furnished is responsible for recording the approved final plat.

## 17.65.090. Development Plans

**A. Purpose**

Development plans are required with some property owner-initiated rezonings and are optional with other property owner-initiated rezonings. Their purpose is to depict a property owner's generalized plan for the type, amount and character of development proposed on the subject property. By providing greater certainty about development proposals, development plans provide review and decision-making bodies with additional information on which to base rezoning decisions.

**B. Applicability**

**1. Mandatory**

Development plans are required (mandatory) for Planned Unit Development (PUD) zoning map amendments. They are also required for major amendments to existing Planned Unit Developments (PUDs).

**2. Optional**

Property owners may elect to submit a development plan with any zoning map amendment application. In acting on optional development plans, the planning and zoning commission is authorized to recommend and the city commission is authorized to approve use and development limitations that are at least as restrictive or are more restrictive than the base zoning regulations. Optional development plans may not be used to obtain relief from otherwise applicable UDO regulations.

*FIGURE 65-3: DEVELOPMENT PLAN PROCESS (GENERALLY)*





**C. Application Filing**

Complete applications for development plan approval must be filed with the director of building safety concurrently with a zoning map amendment application.

**D. Review and Recommendation—Director of Building Safety**

Following receipt of a complete application, including the required development plan, the director of building safety must prepare a report and recommendation. The report must evaluate the proposed development plan considering all applicable standards and approval criteria. The report must also include a description of any development plan modifications or conditions of approval that would help ensure the development plan complies with applicable standards and approval criteria. The director of building safety's report must be transmitted to the planning and zoning commission before the required public hearing.

**E. Notice of Hearing**

Notice of the planning and zoning commission's required public hearing must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper, mail and posted notices).

**1. Newspaper Notice**

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

**2. Mailed Notice**

Notice must be mailed to the owner of the subject property and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing.

**3. Posted Notice**

Notice (signs) must be posted at least 10 days before the scheduled public hearing.

**F. Hearing and Recommendation—Planning and Zoning Commission**

1. Within 60 days of the date of filing of a complete application for development plan approval, the planning and zoning commission must hold a public hearing to consider the proposed development plan. Following the close of the public hearing, the planning and zoning commission must act to recommend that the proposed development plan be approved, approved with modifications, or denied.
2. A development plan application recommended for approval or approval with modifications must be transmitted, with the report and recommendation of the planning and zoning commission, to the city commission within 30 days of the date of planning and zoning commission action.
3. If the planning and zoning commission arrives at a tie vote, the application must be forwarded to the city commission with a notation of the tie vote.

**G. Final Action—City Commission**

1. Following receipt of the planning and zoning commission's recommendation, the city commission must hold a public hearing on the development plan and act to approve the proposed development plan, approve the proposed development plan with modifications or deny the proposed development plan. The city commission is also authorized to remand the proposed development plan back to the planning and zoning commission for further consideration.
2. In acting on mandatory development plans, the city commission is granted final decision-making authority on any conditional use, variance or other zoning authorization that would otherwise require approval by the planning and zoning commission. This "concurrent" approval authority is intended to avoid redundant and conflicting reviews. Concurrent approval authority does not extend to optional development plans.

3. Development plans may be approved by a simple majority vote of a quorum, except that any accompanying zoning map amendment may require a super-majority vote, as stated in [17.65.030.G](#).

#### **H. Requirement for Filing of Site Plan**

1. Unless a longer period or a phasing plan is approved at the time of approval of a mandatory development plan, a complete application for site plan approval must be filed within 2 years of the date of mandatory development plan approval. If an application for site plan approval is not filed within the time required, no further site plans may be approved for the project until the subject property owner has filed the original or amended development plan for re-review and reconsideration by the planning and zoning commission and city commission. Such re-review and reconsideration must follow the mandatory development plan review procedures of this UDO. Following re-review and reconsideration, the planning and zoning commission is authorized to recommend and the city commission is authorized to approve any of the following actions based on surrounding land use patterns and other relevant information presented at the time of reconsideration by the planning and zoning commission and city commission:
  - a. An extension of time for filing a site plan
  - b. An amendment to the approved mandatory development plan; or
  - c. Rezoning to another zoning district in accordance with the zoning map amendment procedures of [17.65.030](#).
2. The site plan filing deadline established in [17.65.090.H.1](#) does not apply to optional development plans.

#### **I. Amendments to Approved Development Plans**

##### **1. Minor Amendments**

- a. The planning and zoning commission is authorized to approve amendments to approved development plans as minor amendments if the planning and zoning commission determines that substantial compliance is maintained with the approved development plan. The following is a non-exhaustive list of changes that may be considered as minor amendments:
  - (1) Any deviation expressly authorized at the time of development plan approval;
  - (2) The relocation or addition of customary accessory uses and structures;
  - (3) Adjustment of internal development area boundaries, provided the allocation of land to uses and the relationship of uses within the project are not substantially altered;
  - (4) Limitation or elimination of previously approved uses, provided the character of the development is not substantially altered;
  - (5) Modification of the internal circulation system that would not increase points of access from adjacent streets, change access to another street or increase projected traffic volumes;
  - (6) Lot splits that modify a recorded plat and that have been reviewed and approved, as required by the subdivision regulations;
  - (7) Modifications to approved signage, provided the size, location, number and type of signs is not substantially altered;
  - (8) Modification to approved screening and landscaping plans, provided the modification is not a substantial deviation from the original approved plan;

- (9) Changes reducing the number of permitted dwelling units, the amount of nonresidential floor area or the area covered by buildings or paved areas; and
        - (10) Reductions in off-street parking or loading by more than 10% or one space, whichever results in a greater reduction.
      - b. In those cases when the city commission has expressly imposed a condition more restrictive than recommended by the planning and zoning commission, any amendment of that city commission-imposed condition must be reviewed and approved by the city commission.
      - c. Notice of the planning and zoning commission's public hearing on a development plan minor amendment request must be provided at least 15 days in advance of the hearing by mailing written notice to all owners of property within a 100-foot radius of the exterior boundary of the subject property. Notice (signs) must also be posted on the subject property at least 10 days before the scheduled public hearing.
      - d. If the planning and zoning commission determines that the proposed development plan amendment, if approved, will result in a significant departure from the approved development plan or otherwise significantly change the character of the subject area or that the cumulative effect of a number of minor amendments substantially alters the approved development plan, then the amendment must be deemed a major amendment to the development plan and processed as a new development plan following the development plan approval procedure of [17.65.090](#), including all requirements for fees, notices and hearings.
- 2. **Appeal of Development Plan Minor Amendment Decisions**

An appeal from any development plan minor amendment decision by the planning and zoning commission may be taken by any person aggrieved, or any taxpayer or any officer, department, board or bureau of the city. Appeals are made to the city commission by filing notice of appeal with the director of building safety within 10 days of the date of the decision being appealed. The appeal must specify the grounds of the appeal. Upon filing of the notice of appeal, the planning and zoning commission must transmit to the city commission, the original or certified copies of all the papers constituting the record in the case, together with the decision of the planning and zoning commission. The city commission must notify the applicant and all interested parties, as recorded in the minutes of planning and zoning commission, of the appeal hearing location, date and time.
- 3. **Major Amendments**

Any amendment to an approved development plan that is not authorized as a minor amendment must be processed as a new development plan following the development plan approval procedure of [17.65.090](#), including all requirements for fees, notices and hearings.

## **17.65.100. Site Plans**

### **A. Applicability**

Site plan approval is required before the issuance of any permits for development or construction on any property included within the boundaries of any approved development plan and whenever a provision of this UDO expressly states that site plan approval is required.

### **B. Application Filing**

Complete applications for site plan approval must be filed with the director of building safety. At a minimum, the application must include a site plan, landscape plan and sign plan.

**C. Review and Action by Director of Building Safety; Appeals**

1. Unless otherwise required by the city commission as a condition of approval of a development plan, the director of building safety is authorized to review and act on site plans. The director of building safety must approve the site plan if it complies (as applicable) with an approved development plan, all conditions of development plan approval and all applicable regulations of this UDO. If the submitted site plan does not comply with an approved development plan, any conditions imposed on that plan or applicable regulations of this UDO, the director of building safety must disapprove the site plan and advise the landowner in writing of the specific reasons for disapproval.
2. If the director of building safety does not approve the site plan, the landowner may either: (1) resubmit the site plan to correct the plan's inconsistencies and deficiencies, or (2) within 60 days of the date of notice of disapproval, appeal the decision of the director of building safety by filing a notice of appeal with the director of building safety. If such an appeal is filed, the site plan must be reviewed by the planning and zoning commission following the hearing and notice requirements that apply to minor amendments of approved development plans (see [17.65.090.1.1.c](#)). The planning and zoning commission's decision may be appealed following the procedures of [17.65.090.1.2](#).

**D. Effect of Approval**

Approval of a site plan must occur before any building permits are issued. Site plan approval, in and of itself, does not constitute effective dedication of rights-of-way or any other public improvements, nor will the site plan be the equivalent of or an acceptable alternative to the final platting of land prior to the issuance of building permits.

**17.65.110. Conditional Uses<sup>34</sup>**

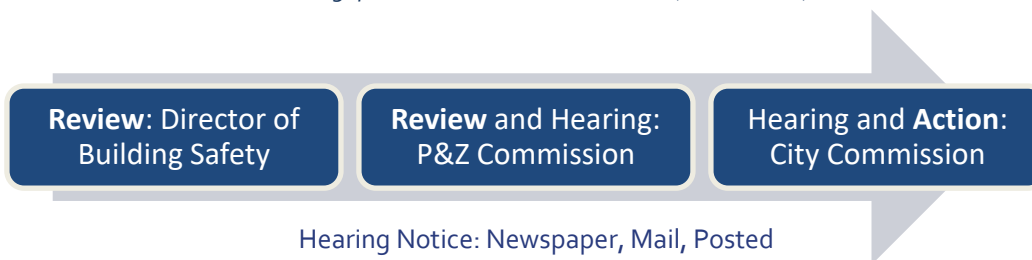
**A. Authorized Conditional Uses**

Only those conditional uses expressly authorized in this UDO may be approved as conditional uses.

**B. Authority to File**

Applications for conditional use approval may be filed only by the owner of the subject property or by the property owner's authorized agent.

*FIGURE 65-4: CONDITIONAL USE PROCESS (GENERALLY)*



**C. Application Filing**

Complete applications for conditional use approval must be filed with the director of building safety.

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<sup>34</sup> Reworked procedure.

**D. Review and Recommendation—Director of Building Safety**

Following receipt of a complete application, the director of building safety must prepare a report on the proposed conditional use. The report must be transmitted to the planning and zoning commission before the required public hearing.

**E. Notice of Hearing**

Notice of the planning and zoning commission's required public hearing on a conditional use application must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper, mail and posted notices).

**1. Newspaper Notice**

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

**2. Mailed Notice**

Notice must be mailed to the owner of the subject property and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing.

**3. Posted Notice**

Notice (signs) must be posted at least 10 days before the scheduled public hearing.

**F. Hearing and Recommendation—Planning and Zoning Commission**

1. Following receipt of a complete application for conditional use approval, the planning and zoning commission must hold a public hearing on the conditional use application. Following the close of the public hearing, the planning and zoning commission must act to recommend that the proposed conditional use be approved, approved with conditions or denied.
2. The planning and zoning commission's recommendation on the conditional use application must be transmitted to the city commission within 15 days of the date of planning and zoning commission action.

~~A conditional use application recommended for denial by the planning and zoning commission may not be considered further unless the applicant, within 15 days of the date of the planning and zoning commission's action, files a written request with the city clerk and the recording secretary of the planning and zoning commission for a public hearing by the city commission. The request for hearing must be accompanied by the payment of the required filing fee~~

3. If the planning and zoning commission arrives at a tie vote, the application must be forwarded to the city commission with the notation of the tie vote.

**G. Final Action—City Commission**

1. Following receipt of the planning and zoning commission's recommendation, the city commission must hold a public hearing on the conditional use application and act to approve the proposed conditional use, approve the proposed conditional use with conditions, or deny the proposed conditional use. The city commission is also authorized to remand the proposed conditional use application back to the planning and zoning commission for further consideration.
2. Conditional uses may be approved by a simple majority vote of a quorum.
3. In approving a conditional use, the planning and zoning commission is authorized to recommend and the city commission is authorized to impose such conditions and restrictions as determined to be necessary to ensure compliance with the standards of [17.65.110.H](#), to reduce or minimize the effect of the conditional use upon other properties in the area, and to better carry out the general purpose and intent of this UDO.

#### **H. Approval Criteria**

In making recommendations and decisions on conditional use applications, review and decision-making bodies must consider all relevant factors, including at least the following:

1. That the proposed use or activity is expressly authorized as a conditional use;
2. That the proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.
3. That approval of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
4. That the proposed conditional use will be served by adequate utilities, access roads, parking, drainage and other important and necessary facilities, infrastructure and community services; and
5. That the proposed special use complies with all applicable regulations of this UDO except as expressly approved in accordance with the procedures of this UDO.

#### **I. Lapse of Approval**

1. An approved conditional use will lapse and become void one year after it is approved unless a building permit has been issued and the project has commenced and is diligently pursued to completion. If no building permit is required, the use, improvement or activity that is the subject of the conditional use must be in place within the 1-year period.
2. The city commission may extend the expiration period by up to one year at the time of approval of the conditional use or any time before expiration of the approval. Requests for extensions after the conditional use is approved must be processed in accordance with the conditional use procedures, including applicable fees, notices and public hearings.

#### **J. Transferability**

Approved conditional uses run with the land and are not affected by changes of tenancy, ownership, or management.

#### **K. Amendments**

1. Amendments to approved conditional uses must be processed as new conditional use applications, including all requirements for fees, notices and public hearings, provided that the director of building safety is authorized to approve the following:
  - a. Any structures or uses authorized to be approved by the director of building safety at the time of conditional use approval; and
  - b. The addition or relocation of customary accessory uses and structures.
2. Applications for amendments to approved conditional uses must be filed in a form established by the director of building safety.

### **17.65.120. UDO Interpretations**

#### **A. Purpose and Applicability**

1. Day-to-day responsibility for administering and interpreting the provisions of this UDO, including the zoning map, rests with the director of building safety, whose decisions may be appealed to the planning and zoning commission, in accordance with the procedures of ~~17.65.150~~.
2. Occasionally, the UDO may not sufficiently address an issue that arises in administering or interpreting the UDO. In those cases, the director of building safety may elect to issue, or a citizen may

file an application for, a written UDO interpretation to guide future decision-making. The procedures of this section govern the issuance of such interpretations. The procedures also govern interpretations of the terms of approved development plans and site plans, such as those associated with PUDs.

**B. Authority**

The director of building safety is authorized to issue written interpretations pursuant to this section or to delegate that authority to the director of building safety or the director of building safety, based on which office has primary responsibility under this UDO for administering the provisions in question. The director of building safety is also authorized to refer the matter to the planning and zoning commission for an interpretation or for guidance in making an interpretation.

**C. Application**

A complete application for a written interpretation request may be submitted to the director of building safety.

**D. Action**

Within 30 days of receipt of a complete application, the director of building safety must (1) review and evaluate the interpretation request considering the provisions that are the subject of the interpretation request and any other relevant documents (2) consult with affected staff and (3) prepare a written interpretation.

**E. Form**

The interpretation must be provided to the applicant in writing and filed in the official record of interpretations.

**F. Official Record**

The director of building safety must maintain an official record of written interpretations. The record of interpretations must be available for public inspection in the office of the director of building safety during normal business hours.

**G. Appeal of decision**

Appeals of written interpretations issued pursuant to this section may be taken to the planning and zoning commission in accordance with the appeal procedures of [17.65.150](#).

### **17.65.130. Administrative Adjustments<sup>35</sup>**

**A. Intent**

Administrative adjustments are intended to provide a streamlined approval procedure for minor (de minimis) modifications of selected UDO regulations. Administrative adjustments are further intended to:

1. Allow development and construction that is in keeping with the general purpose and intent of UDO regulations and the established character of the area in which the development or construction is located;

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<sup>35</sup> New proposed expedited procedure for granting very limited forms of zoning relief.

2. Provide flexibility that will help promote rehabilitation and reuse of existing buildings when such flexibility will not adversely affect nearby properties or neighborhood character; and
3. Provide flexibility for new construction when such flexibility is in keeping with the general purpose and intent of UDO regulations and will not adversely affect nearby properties or surrounding neighborhood character.

**B. Authorized Administrative Adjustments**

1. Administrative adjustments may be granted only as expressly identified in this section.
  - a. The director of building safety is authorized to approve an administrative adjustment reducing minimum lot width requirements by up to 20%.
  - b. The director of building safety is authorized to grant an administrative adjustment reducing minimum required street setbacks by up to 5 feet.
  - c. The director of building safety is authorized to grant an administrative adjustment reducing minimum required side and rear setbacks in any R district by up to 20%.
  - d. The director of building safety is authorized to approve an administrative adjustment reducing minimum off-street parking requirements by up to one space or 20%, whichever is greater.
2. The administrative adjustment procedures may not be used to vary, modify or otherwise override a condition of approval or requirement imposed by an authorized decision-making body.

**C. Authority to File**

Administrative adjustment applications may be filed by the owner of the subject property or by the property owner's authorized agent.

**D. Application Filing**

Complete applications for administrative adjustments must be filed with the director of building safety.

**E. Notice of Filing/Intent to Approve**

The applicant is responsible for delivering written notice of application filing to all owners of property abutting the subject lot. The written notice must describe the nature of the requested administrative adjustment. It must also indicate the date on which the director of building safety will act on the application and that the application will be available for review and comment until that date. Any interested party may submit written comments concerning the application to the director of building safety.

**F. Action by Director of Building Safety**

1. The director of building safety must review each application for an administrative adjustment and act to approve the application, approve the application with conditions, deny the application or refer the application to the planning and zoning commission for consideration as a variance.
2. The director of building safety may not take final action to approve or deny an administrative adjustment application until at least 5 business days after the date of delivery of the required notices.
3. The director of building safety decision to approve or deny an administrative adjustment must be based on the approval criteria and standards of [17.65.130.G](#) and accompanied by written findings of fact.
4. At least once per calendar year, the director of building safety must provide to the planning and zoning commission a list of all administrative adjustment decisions.



**G. Standards and Review Criteria**

Administrative adjustments may be approved only when the director of building safety determines that the following general approval criteria and any specific criteria associated with the authorized administrative adjustment have been met:

1. The requested administrative adjustment is consistent with all relevant purpose and intent statements of this UDO and with the general purpose and intent of the comprehensive plan;
2. The requested administrative adjustment will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare; and
3. Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent feasible.

**H. Conditions of Approval**

In granting an administrative adjustment, the director of building safety is authorized to impose conditions upon the subject property that are necessary to reduce or minimize any potentially adverse impacts on other property in the surrounding area, and to carry out the stated purpose and intent of this UDO.

**I. Lapse of Approval**

An approved administrative adjustment will lapse and become void one year after it is granted by the director of building safety, unless a building permit for the work or improvements authorized has been issued and the project has commenced and is diligently pursued to completion. If no building permit is required, the improvement that is the subject of the administrative adjustment must be in place within the 1-year period.

**J. Transferability**

Approved administrative adjustments run with the land and are not affected by changes of tenancy, ownership, or management.

**K. Amendments**

A request for changes in the specific nature of an approved administrative adjustment or changes to any conditions attached to an approved administrative adjustment must be processed as a new administrative adjustment application, including all requirements for fees and notices.

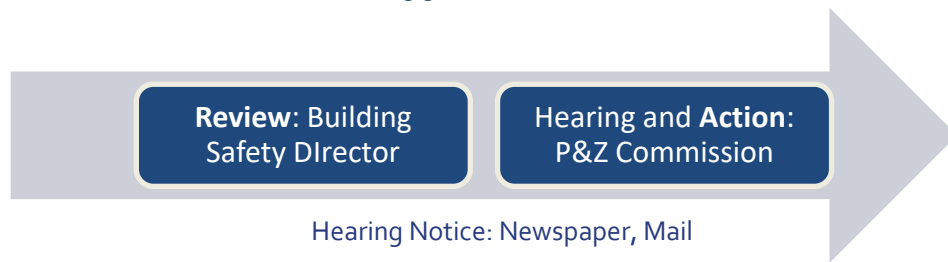
**L. Appeals**

The applicant or any interested party may appeal the administrative adjustment decision of the director of building safety in accordance with the variance procedures of [17.65.150](#).

**17.65.140. Variances****A. Intent**

A variance is a grant of relief to a property owner from strict compliance with the regulations of this UDO. The intent of a variance is not to simply remove an inconvenience or financial burden that may result from compliance with applicable zoning requirements. Variances are intended to help alleviate an unnecessary hardship or practical difficulty that would be caused by strict enforcement of the subject UDO requirements. They are intended to provide relief when the requirements of this UDO render property very difficult or impossible to put to reasonable use because of some unique or special characteristics of the property itself.

FIGURE 65-5: VARIANCE PROCESS



**B. Authorized Variances**

The planning and zoning commission is authorized to grant a variance to any regulation in this UDO in accordance with the variance procedures of this section, except that the variance procedures may not be used to do any of the following:

1. Allow a principal or an accessory use in a zoning district that is not otherwise allowed in that zoning district (i.e., "use variances" are prohibited);
2. Allow an accessory use on a lot that is not occupied by the principal use that such accessory use serves;
3. Waive, modify or amend any definition or use classification;
4. Waive, modify or otherwise vary any of the review and approval procedures of this UDO;
5. Waive, modify or otherwise vary any of the subdivision design and improvement regulations of [Chapter 17.25](#);
6. Waive, vary, modify or otherwise override a condition of approval or requirement imposed by an authorized decision-making body or the state or federal government; or
7. Waive, vary or modify applicable residential density regulations, provided that this provision is not intended to prohibit variances to minimum lot area or width requirements that apply to lots occupied by a single dwelling unit.

**C. Authority to File**

Variance applications may be filed only by the owner of the subject property or by the property owner's authorized agent.

**D. Application Filing**

Complete applications for variances must be filed with the director of building safety.

**E. Review and Report—Director of Building Safety**

Following receipt of a complete application, the director of building safety must prepare a report on the requested variance. The report must be transmitted to the planning and zoning commission before the required public hearing.

**F. Notice of Hearing**

Notice of the planning and zoning commission's required public hearing on a variance application must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper and mail notices).

**1. Newspaper Notice**

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

**2. Mailed Notice**

Notice must be mailed to the owner of the subject property and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing.

**G. Hearing and Final Decision—Planning and Zoning Commission**

1. Following receipt of a complete variance application, the planning and zoning commission must hold a public hearing to consider the requested variance. Following the close of the public hearing, the planning and zoning commission must act to approve the requested variance, approve the variance with modifications and/or conditions, or deny the variance request based on the standards and review criteria of 17.65.140.H.
2. In approving a variance, the planning and zoning commission is authorized to impose such conditions and restrictions as the board determines to be necessary to ensure compliance with the standards of 17.65.140.H, to reduce or minimize the effect of the variance upon other properties in the area, and to better carry out the general purpose and intent of this UDO.

**H. Standards and Review Criteria**

1. No variance may be approved unless the planning and zoning commission determines that the following facts, favorable to the property owner, have been established:
  - a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
  - b. That literal enforcement of the subject UDO provision is not necessary to achieve the provision's intended purpose;
  - c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
  - d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
  - e. That the variance to be granted is the minimum variance that will afford relief;
  - f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
  - g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this UDO or the comprehensive plan.

**I. Lapse of Approval**

1. An approved variance will lapse and become void one year after it is granted by the planning and zoning commission, unless a building permit for the work or improvements authorized has been issued and the project has commenced and is diligently pursued to completion. If no building permit is required, the improvement that is the subject of the variance must be in place within the 1-year period.
2. The planning and zoning commission may extend the expiration period by up to one year at the time of approval of the variance or any time before expiration of the approval. Requests for extensions after the variance is approved must be processed in accordance with the variance procedures, including applicable fees, notices and public hearings.

**J. Transferability**

Approved variances run with the land and are not affected by changes of tenancy, ownership, or management.

**K. Amendments**

A request for changes in the specific nature of the approved variance or changes to any conditions attached to an approved variance must be processed as a new variance application, including all requirements for fees, notices and public hearings.

**L. Appeals**

Planning and zoning commission decisions on variances may be appealed to District Court in accordance with [17.70.060](#).

**17.65.150. Appeals of Administrative Decisions**

**A. Authority**

Unless otherwise expressly stated in this UDO, the planning and zoning commission is authorized to hear and decide all other appeals where it is alleged there has been an error in any order, requirement, decision or determination made by the director of building safety or any other administrative official in the administration, interpretation or enforcement of this UDO.

*FIGURE 65-6: APPEALS OF ADMINISTRATIVE DECISIONS (GENERALLY)*



**B. Right to Appeal**

Appeals of administrative decisions may be filed by any person aggrieved by the director of building safety's or other administrative official's decision or action. The planning and zoning commission is authorized to make determinations about whether individuals filing appeals are "aggrieved" by the decision or action.

**C. Application Filing**

1. Complete applications for appeals of administrative decisions must be filed with the director of building safety and the administrative official who made the decision being appealed.
2. Appeals of administrative decisions must be filed within 10 days of the date of the decision being appealed.

**D. Effect of Filing**

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the director of building safety or the administrative official who made the decision being appealed certifies to the planning and zoning commission, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property, in which case the proceedings will not be stayed unless by a restraining order, which may be granted by the planning and zoning commission or by a court of record based on due cause shown.

**E. Record of Decision**

Upon receipt of a complete application of appeal, the director of building safety or other administrative official whose decision is being appealed must transmit to the planning and zoning commission all papers constituting the record related to decision being appealed

**F. Notice of Hearing**

Notice of the planning and zoning commission's required public hearing must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper and mail notices).

**1. Newspaper Notice**

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

**2. Mailed Notice**

When an appeal affects a specific property, notice must be mailed to the owner of the subject property and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing.

**G. Hearing and Final Decision**

1. The planning and zoning commission must hold a public hearing on the appeal.
2. Following the close of the public hearing, the planning and zoning commission must make its findings and act on the appeal.
3. In exercising the appeal power, the planning and zoning commission has all the powers of the administrative official from whom the appeal is taken. The planning and zoning commission may affirm, reverse, or modify the decision being appealed.
4. In acting on the appeal, the planning and zoning commission must grant to the official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.

**H. Review Criteria**

The decision being appealed may be reversed or wholly or partly modified only if the planning and zoning commission finds that the director of building safety, the director of building safety or other administrative official erred.

**I. Appeals**

Planning and zoning commission decisions may be appealed to District Court in accordance with [17.70.060](#).

**17.65.160. Reasonable Accommodation**

**A. Purpose**

For the purposes of this ordinance, "reasonable accommodation" means providing an individual with a disability or developers of housing for individuals with a disability, flexibility in the application of zoning regulations (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities. The purpose of this section is to provide a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Americans with Disabilities Act and the Federal Fair Housing Amendments in the application of this UDO.

**B. Application Filing**

- a. Applications for reasonable accommodation must be filed with the director of building safety.**

- b. The application must include a detailed explanation of why the modification is reasonably necessary to make the specific housing available to a person with a disability, including information establishing that the applicant is disabled under applicable laws, as well as other information required by the director of building safety to make the determination. If the project for which the reasonable accommodation request is being made also requires an additional zoning approval, then the applicant must file the request concurrently with the application for such approval.

**C. Review and Approval**

The director of building safety, in consultation with the city attorney, is authorized to consider and act on requests for reasonable accommodation. The director of building safety must issue a written decision in which the request is approved, approved subject to conditions, or denied. In making the decision, the following factors must be considered:

1. Special need created by the disability;
2. Potential benefit that can be accomplished by the requested modification;
3. Need for the requested modification, including alternatives that may provide an equivalent level of benefit;
4. Physical attributes of and any proposed changes to the subject property and structures;
5. Potential impact on surrounding uses;
6. Whether the requested modification would constitute a fundamental alteration of the zoning regulations, policies or procedures of the city;
7. Whether the requested modification would impose an undue financial or administrative burden on the city; and
8. Any other factor that may have a bearing on the request.

**D. Notice of Decision**

The written decision of the director of building safety must be mailed to the applicant and to all owners of record of all properties abutting the property that is the subject of the reasonable accommodation request. All written decisions must give notice of the right to appeal a decision of the director of building safety in accordance with 17.65.159. The decision of the director of building safety constitutes the final decision of the city, unless appealed. Only the aggrieved applicant and abutting property owners who received notice of the written reasonable accommodation determination have a right to appeal the decision.

**E. Transfer**

Approved requests for reasonable accommodation are granted to an individual and do not run with the land unless the director of building safety determines that the modification is physically integrated into the structure and cannot easily be removed or altered to comply with this UDO or the accommodation is to be used by another individual with a disability.

**F. Conditions and Guarantees**

Before issuance of any permits relative to an approved reasonable accommodation request, the director of building safety is authorized to require the applicant to record a covenant acknowledging and agreeing to comply with the terms and conditions imposed.

~~17.65.160~~ **17.65.170. Beneficial Use Determination**<sup>36</sup>

**A. Intent and Applicability**

1. The procedures of this section are intended to provide a means of providing relief when the city commission determines that substantial economic hardship has arisen from the application of this unified development ordinance to private property located within the City of Clovis.
2. The procedures of this section are further intended to allow objective and fair review of claims by private property owners that any such application of the city's zoning and development regulations requires appropriate relief, while at the same time preserving the ability of the city to lawfully regulate real property and fulfill its other duties and obligations to the citizens of Clovis.
3. The provisions and procedures of this section must be followed to conclusion before seeking relief from the courts based upon a claim against the city that alleges denial of economically beneficial use of land.

**B. Application**

**1. General**

After final action on an application is rendered by the decision-making body and all available appeals to other city bodies are exhausted, the subject property owner may file a beneficial use determination application with the INSERT OFFICIAL seeking relief from the regulations of this UDO on the basis that the city's action on the application has created a substantial economic hardship or resulted in an unconstitutional taking of private property.

**2. Timing**

No later than 30 days after the date of final action by an authorized decision-making body, the applicant must file a notice of intent to file a beneficial use determination application in writing with the director of building safety. Within 60 days of the filing of a notice of intent, the applicant must file a complete beneficial use determination application with the director of building safety.

**3. Affected Property Interest**

The beneficial use determination application must provide information sufficient for the city attorney to determine that the petitioner possesses a protectable interest in property under the Constitution of New Mexico and the *Fifth Amendment* to the United States Constitution.

**4. Supplemental Information**

The nature of beneficial use determination procedure requires detailed financial information from a property owner that is not required for other applications. The following supplemental information must accompany all applications for a beneficial use determination. This information will not be made available for public inspection without the consent of the applicant:

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<sup>36</sup> Procedure has been substantially rewritten and edited to, among other things, remove references to hearing officer and designate the city commission as the hearing and decision-making body.

5. Price paid and other terms of sale for the subject property, the date of purchase, and the name of the party from whom purchased, including the relationship, if any, between the petitioner and the party from whom the property was acquired;
6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest;
7. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the subject property by the current owner, applicant, or developer prior to the date of application;
8. Complete copies of all appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, in the 3 years before the date of application;
9. The assessed value of and ad valorem taxes on the property for the 3 years before the date of application, including copies of the assessment notices;
10. All information, including copies of the complete loan documents, concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including the right of purchasers to assume the loan;
11. Complete copies of all listings of the property for sale or rent, price asked and offers received, if any, during the period of ownership or interest in the property;
12. Complete copies of all studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
13. For income-producing property, itemized income and expense statements from the property for the 3 years before application, including state and federal income tax returns;
14. All available evidence and documentation of improvements, investments, or expenditures for professional and other services related to the property made during the 3 years before application;
15. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
16. All available information about use(s) of the property during the 3 years before application.

**C. Substantial Economic Hardship Standard**

For purposes of this section, a "substantial economic hardship" is defined as a denial of all reasonable economic use of the property. Upon a finding that the regulations of this UDO have resulted in a denial of all reasonable economic use of the property or resulted in an unconstitutional taking of private property, the city may provide the petitioner with appropriate relief from the zoning or other land development regulations, as stated in this section.

**D. Review and Report— Director of Building Safety**

Following receipt of a complete application, the director of building safety must prepare a report on the beneficial use determination. The report must be transmitted to the city commission before the required public hearing.

**E. Notice of Hearing**

Notice of the city commission's required public hearing on a beneficial use determination application must be provided as follows (see [17.65.010.F](#) for additional information on required newspaper and mail notices).



**1. Newspaper Notice**

Notice must be published in the newspaper at least 15 days before the scheduled public hearing.

**2. Mailed Notice**

Notice must be mailed to the owner of the subject property and all owners of property within 100 feet of the subject property at least 10 days before the scheduled public hearing.

**F. Hearing and Final Decision—City Commission**

- 1.** Following receipt of a complete application, the city commission must hold a public hearing to consider the beneficial use determination request. Following the close of the public hearing, the city commission must act to grant or deny appropriate relief. Because takings law is constantly changing in both substance and interpretation, the city commission should be guided by advice from the city attorney regarding interpretations of appropriate considerations in its deliberations and what the measure of relief to be provided, if any, should be.
- 2.** Any relief to be provided a claimant must be limited to the minimum necessary to provide a reasonable, beneficial use of the subject property and may be in the form of alternative uses, additional development intensity or other such non-monetary, regulatory relief as is deemed appropriate by the city commission.
- 3.** Any relief granted will be presumed abandoned and expire if not utilized for its proper purpose within 2 years from the date it was granted.
- 4.** Any unexpired relief granted runs with the land and is not affected by changes of tenancy, ownership, or management.

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## Chapter 17.70 | Administration

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### 17.70.010. City Commission

The city commission has the powers and duties that are expressly identified in this UDO and the city code, including:

- A. Approving members of the planning and zoning commission as provided by city code;
- B. Taking final action on UDO text amendments, zoning map amendments, conditional use permits and beneficial use determinations;
- C. Taking such other actions not expressly delegated to the planning and zoning commission or others under this UDO, as the city commission may deem desirable and necessary to implement the provisions of the comprehensive plan and this UDO.

### 17.70.020. Planning and Zoning Commission

#### A. Composition

The planning and zoning commission shall consist of 7 members to be nominated and appointed by the mayor with the advice and consent of the city commission. At least one member must be an officer, agent, employee or representative of a public utility operating and performing services within the city, and at least one other member must be a member of the city commission. The city manager, the building inspector, and the director of building safety ~~may shall~~ serve as ex-officio, nonvoting members of the planning and zoning commission.

#### B. Terms

Members of the planning and zoning commission serve 2-year terms.

#### C. Vacancies

Whenever a vacancy occurs on the planning and zoning commission, an appointment for the remainder of the vacant term must be made within 30 days, in the same manner as regular appointments.

#### D. Officers

1. At an annual organizational meeting, the members of the planning and zoning commission shall elect a chair and vice-chair from among its members. The chair and vice-chair's terms must be for one year with eligibility for re-election. No member may serve as chair for more than 2 consecutive terms. The chair is responsible for administering oaths and for taking actions necessary to preserve order and the integrity of all proceedings before the planning and zoning commission. In the absence of the chair, the vice-chair must act as chair.
2. The director of building safety shall serve as secretary of the planning and zoning commission. The secretary must keep minutes of all proceedings, which must include a summary of all proceedings before the planning and zoning commission and a record of the vote of all members upon every

question. The director of building safety is also responsible for keeping audio recordings of all planning and zoning commission meetings.

**E. Quorum**

Except as otherwise expressly stated in the UDO, 4 members of the planning and zoning commission constitutes a quorum necessary to act and transact business.

**F. Removal from Office**

1. After a public hearing and for good cause stated in writing and made part of the public record, any member of the planning and zoning commission may be removed upon approval by the city commission.
2. If any member of the planning and zoning commission fails to attend 3 consecutive meetings or has been absent from more than 50% of the meetings during any 12-month period, the chair of the planning and zoning commission must notify the mayor. The mayor must then declare the member's seat vacant and appoint a new member in the same manner as regular appointments.

**G. Compensation**

Planning and zoning commission members serve without compensation.

**H. Conflicts of Interest**

Any member of the planning and zoning commission who has a conflict of interest in the outcome of any policy, decision or determination before the planning and zoning commission on which they serve shall, as soon as possible after such interest becomes apparent, disclose to each of the other members the nature of his financial interest in the issue and then be disqualified from participating in any debate, decision or vote relating to the matter.

**I. Meetings**

Planning and zoning commission meetings must be held as required to dispense of matters properly presented before the planning and zoning commission. Additionally, meetings may be called by the chair or at the request of 3 planning and zoning commission members. All planning and zoning commission meetings must be in city hall or as designated by public notice in a place accessible to the public. All meetings shall comply with the New Mexico Open Meetings Act (NMSA 1978, Chapter 10, Article 15) and the Governmental Conduct Act (NMSA 1978, Chapter 10, Article 16).

**J. Powers and Duties**

The planning and zoning commission shall have the following powers and duties:

1. To study city and regional planning issues and the means of protecting and improving the environment for the citizens of Clovis;
2. To promote the understanding of planning and environmental matters relating to land use and planning among public officials as well as the residents of Clovis;
3. To review and make recommendations to the city commission concerning amendments to the comprehensive plan;
4. To review and make recommendations to the city commission concerning UDO text amendments, zoning map amendments, and conditional use permits;
5. To administer and enforce the provisions of this UDO;
6. To undertake such other duties, responsibilities and powers as may be delegated to it by the city commission, including but not limited to powers delegated by this UDO and the subdivision regulations for the city.

#### **17.70.030. Planning Department**

In addition to the jurisdiction, authority and duties which may be conferred upon the planning department by other provisions of the Clovis City code and the New Mexico Statutes, the planning department has the following jurisdiction, responsibilities and duties under this UDO:

- A. To review, consider and render interpretations of this UDO's text or the official zoning map;
- B. To review and make recommendations for the disposition of applications for various permits or approvals;
- C. To receive applications for development permits for processing pursuant to this UDO's terms;
- D. To serve as the secretary to the planning and zoning commission pursuant to this UDO's terms;
- E. To ensure that adequate public notice is provided for development application permits pursuant to this UDO's terms;
- F. To initiate requests to the city attorney to institute proceedings against the violators of this UDO;
- G. To undertake the planning and zoning commission's long-range comprehensive planning, development plan review and zoning review responsibilities;
- H. To review, as necessary, but at least every 5 years, the comprehensive plan and this UDO and recommend amendments to the planning and zoning commission and city commission;
- I. To coordinate other local, regional, state and federal planning and permitting processes affecting development in the city and to serve as liaison to such local, regional, state and federal planning agencies having jurisdiction over city development.

#### **17.70.040. Building Inspector**

The building inspector must assist the planning and zoning commission with the administration of this UDO and has the following duties and responsibilities:

- A. To inspect buildings, uses, developments or other activities for compliance with this UDO;
- B. To make such investigations and written reports as the city manager or the city commission may direct;
- C. To enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures;
- D. To issue such notices and orders as may be deemed necessary for the purpose of enforcing compliance with the provisions of this UDO and the city code.

#### **17.70.050. City Attorney**

In addition to the jurisdiction, authority and duties that are conferred upon the city attorney by other provisions of the city code, the city attorney has the following authority and duties under this UDO:

- A. To review for form all written findings of fact and resolutions drafted by the planning department staff or planning and zoning commission in connection with any title requirement;
- B. To review for form all development agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documentation in connection with any title requirement; and
- C. To advise the city commission, planning department staff and planning and zoning commission in regard to the legal issues which may arise during implementation of the comprehensive plan and this UDO.

**17.70.060. Judicial Relief; Appeals to District Court**

A final decision on the review and approval procedures of [Chapter 17.65](#) may be appealed to District Court, pursuant to Section 3-21-9 NMSA 1978, provided that all local appeals and remedies have been exhausted. Specifically, matters that could be resolved via a variance, appeal of administrative decision or a beneficial use determination may be submitted to District Court only upon completion of the local appeal procedures specified in this UDO.

## Chapter 17.75 | Nonconformities

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### 17.75.010. General

#### A. Scope

The regulations of this article govern nonconformities, which are lots, uses, and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more requirements of this ordinance.

#### B. Intent

Occasionally, lots, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through zoning map amendments or amendments to the text of this ordinance). The regulations of this chapter are intended to clarify the effect of such nonconforming status and avoid confusion with “illegal” buildings and uses (those established in violation of applicable regulations). The regulations of this article are also intended to:

1. Recognize the interests of landowners in continuing to use their property for uses that were lawfully established;
2. Promote maintenance, reuse and rehabilitation of existing buildings; and
3. Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

#### C. Authority to Continue

Any nonconformity that existed on the effective date specified in [17.05.020](#) or any lot, structure use or situation that becomes nonconforming upon adoption of any amendment to this UDO or any amendment of the zoning map subsequent to the effective date specified in [17.05.020](#) may be continued, subject to the regulations of this chapter.

#### D. Determination of Nonconforming Status

1. The burden of proving that a nonconformity exists (as opposed to a violation of the UDO regulations) rests entirely with the subject owner.
2. The director of building safety is authorized to determine whether reliable evidence of nonconforming status has been provided by the subject owner.
3. Building permits, lawfully recorded plats, lawfully recorded instruments of conveyance, aerial photography owned by a governmental agency and other official government records that indicate lawful establishment of the use, lot or structure constitute conclusive evidence of nonconforming status. If such forms of conclusive evidence are not available, the director of building safety is authorized to consider whether other forms of evidence provided by the owner are reliable and adequate to document nonconforming status. Common examples of evidence that may be determined to be reliable and adequate include:

- a. Professional registrations or business licenses;
  - b. Utility billing records;
  - c. Rent records;
  - d. Advertisements in dated publications;
  - e. Listings in telephone or business directories; and
  - f. Notarized affidavits affirming the date of lawful establishment of the use or structure.
4. The director of building safety's determination of nonconforming status may be appealed in accordance with 17.65.150.

#### **E. Repairs and Maintenance**

1. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this UDO.
2. If a nonconforming structure or a structure occupied by a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and a final order of vacation or demolition is entered by any duly authorized official by reason of physical condition, it may not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the zoning district in which it is located.
3. Nothing in this chapter is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official.

#### **F. Change of Tenancy or Ownership**

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership or management.

### **17.75.020. Nonconforming Lots**

#### **A. Description**

A nonconforming lot is a lot that was lawfully created in accordance with lot area and lot width regulations in effect at the time of the lot's lawful creation but that does not comply with currently applicable lot area or lot width regulations.

#### **B. Use**

##### **1. R Districts**

A nonconforming lot in an R district may be used as a building site for a single detached house without complying with the district's minimum lot area and lot width requirements.

##### **2. All Other Districts**

In all other (non-R) zoning districts, a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district without complying with the district's minimum lot area and lot width requirements. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area and lot width regulations, while others would not, then only the uses or intensities that comply with applicable regulations are allowed.

#### **C. Lot and Building Regulations**

1. Development on all nonconforming lots must comply with applicable lot and building regulations of the subject zoning district except as expressly stated in 17.75.020.B.



2. Nonconforming lots may not be adjusted in size or shape to increase the extent of nonconformity for lot area, lot frontage, setbacks or other applicable lot and building regulations. Lot area or shape adjustments that decrease or maintain the extent of nonconformity are allowed.

#### **17.75.030. Nonconforming Structures**

##### **A. Description**

A nonconforming structure is a structure, other than a sign, that was lawfully established but that no longer complies with applicable zoning regulations because of the adoption or amendment of zoning regulations after the structure was established.

##### **B. Use**

A nonconforming structure may be used for any use allowed in the zoning district in which the structure is located, including a lawfully established nonconforming use.

##### **C. Movement**

A nonconforming structure may be moved in whole or in part to another location on the same lot only if the movement or relocation does not create additional or new nonconformities. A nonconforming structure may be moved to another lot only if the structure would comply with the zoning regulations that apply to that (relocation) lot.

##### **D. Alterations, Enlargements and Expansions**

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building regulations and does not increase the extent of the nonconformity. A building with a nonconforming street setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback regulations and all other applicable lot and building regulations. Horizontal and vertical extensions of an exterior wall that is nonconforming with regard to applicable setbacks may be approved in accordance with the conditional use procedures of [17.65.110](#).

##### **E. Restoration or Re-establishment of Damaged or Destroyed Structures**

1. When a nonconforming structure is destroyed or damaged by acts of God or accidental fire, the structure may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage. Once a building permit is issued, if the building permit lapses or otherwise becomes void the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.
2. When a nonconforming structure is demolished, damaged or destroyed by causes within the control of the owner and the cost of renovation, repair or replacement (based on the fair market value of all materials and services) is more than 50% of the cost of complete replacement of the structure, the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

#### **17.75.040. Nonconforming Uses**

##### **A. Description**

A nonconforming use is a use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is located. Lawfully established uses that do not comply with separation distance (spacing) requirements are also deemed to be nonconforming uses.

## **B. Change of Use**

1. A nonconforming use in a residential zoning district may be changed only to a use that is allowed in the subject zoning district. Once changed to a conforming use, the nonconforming use may not be re-established.
2. A nonconforming use located in a zoning district other than a residential zoning district, may be changed to a use that is allowed in the subject zoning district, in which case the nonconforming use may not be re-established. A nonconforming use located in a zoning district other than a residential zoning district, may be changed to another nonconforming use only if approved in accordance with the conditional use procedures of 17.65.110. The change of a use to another use included within the same use category does not constitute a "change of use" within the meaning of this section. In order to approve a conditional use for a nonconforming use substitution, the decision-making body must find that the proposed use substitution will not result in any increase in adverse impacts on the surrounding area when compared to the previous nonconforming use of the property. In making such a determination, the planning and zoning commission must consider all of the following factors, as applicable:
  - a. Traffic to and from the site;
  - b. Hours of operation;
  - c. Noise levels;
  - d. Outdoor display, storage and work activities; and
  - e. Other factors likely to have an effect on the surrounding area.

## **C. Expansion of Use**

A nonconforming use of a portion of a building may be expanded or extended into the remaining portions of the building if the director of building safety determines that the areas of the building in which the expansion is proposed were manifestly arranged and designed for the use. Nonconforming use may not be expanded or extended in any other way unless the expansion reduces or eliminates the nonconformity.

## **D. Movement**

A nonconforming use may be moved in whole or in part to another location on the same lot only if the movement or relocation does not create additional or new nonconformities. A nonconforming use may be moved to another lot only if the use would comply with the zoning regulations that apply to that (relocation) lot.

## **E. Loss of Nonconforming Status**

1. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
2. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of 12 months or more.
  - a. Any period of discontinuance caused by acts of God or accidental fire is not counted in calculating the length of discontinuance.
  - b. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the uses, activities and operations maintained on the lot are generally to be considered as a whole. For example, the failure to rent one unit in a nonconforming multi-unit residential building for an extended period does not result in a loss of the right to

rent that apartment or space after 6 months, as long as the building as a whole is continuously maintained and used.

**F. Damage or Destruction**

1. When a building containing a nonconforming use is destroyed or damaged by acts of God or accidental fire, the building may be restored or repaired and the nonconforming use may be re-established, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage.
2. When a building containing a nonconforming use is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than 50% of the cost of complete replacement of the structure, the nonconforming use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

**G. Accessory Uses**

No use that is accessory to a principal nonconforming use may continue after the principal nonconforming use has been abandoned.

**H. Nonconforming Use of Unimproved Land**

Nonconforming uses of unimproved land are land uses and activities that meet the definition of a nonconforming use but that include structures that are all accessory or incidental to the use and in the aggregate do not cover more than 10% of the lot area devoted to the nonconforming use. Common examples include storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar open-air uses. Nonconforming uses of unimproved land are subject to the nonconforming use regulations of this section, except as modified by the following specific regulations:

1. No nonconforming use of unimproved land may be changed to another nonconforming use, nor enlarged, increased or moved to another portion of the lot, nor extended to occupy a greater area of land than was occupied at the time that the use became nonconforming.
2. No additional structure (other than fences) may be erected in connection with a nonconforming use of unimproved land.
3. If any nonconforming use of unimproved land ceases for any reason for a period of more than 90 days, (except when government action impedes access to or use of the premises) any subsequent use of such land must conform in all respects to the regulations of the zoning district in which it is located.

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## Chapter 17.8o | Violations, Penalties and Enforcement<sup>37</sup>

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### **17.8o.010. Responsibility for Enforcement**

The director of building safety, the building safety department and any other officials or agencies designated by the mayor have responsibility for enforcing this UDO. All departments, officials, agencies and employees vested with the authority to review, recommend or issue development approvals, permits or licenses must act in accordance with the provisions of this UDO.

### **17.8o.020. Violations**

A violation of a provision of this UDO—including any of the following—are subject to the remedies and penalties provided for in this UDO.

- A.** To use land, buildings or other structures in any way that is not consistent with the requirements of this UDO;
  - B.** To erect a building or other structure in any way not consistent with the requirements of this UDO;
  - C.** To install or use a sign in any way not consistent with the requirements of this UDO;
  - D.** To engage in the use of a building, structure or land, the use or installation of a sign, or any other activity requiring one or more permits or approvals under this UDO without obtaining such required permits or approvals;
  - E.** To engage in the use of a building, structure or land, the use or installation of a sign, or any other activity for which a permit or approval has been granted under this UDO or under previous UDOs of the city in any way inconsistent with such permit or approval or any conditions imposed on the permit or approval;
  - F.** To violate the terms of any permit or approval granted under this UDO or under previous UDOs of the city or any condition imposed on the permit or approval;
  - G.** To obscure, obstruct or destroy any notice required to be posted under this UDO;
  - H.** To violate any lawful order issued by any authorized public official; or
- 

<sup>37</sup> Many of the provisions of this chapter are new. The changes are intended to provide a broader range of enforcement and penalty options to promote voluntary compliance with the UDO.

- I. To continue any violation after receipt of notice of a violation.

#### **17.80.030. Continuing Violations**

Each day that a violation continues constitutes a separate violation of this UDO.

#### **17.80.040. Remedies and Enforcement Powers**

The city has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:

##### **A. Fines**

Any person violating any provisions of this UDO or failing to comply with any of its requirements may be deemed guilty of a petty misdemeanor punishable by a fine, as set forth in Section 1.24.030 of the city code.

##### **B. Withhold Permit**

1. The director of building safety may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an uncorrected violation of a provision of this UDO or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the violation in question.
2. The director of building safety may deny or withhold all permits, certificates or other forms of authorization on any land where an uncorrected violation exists. The director of building safety may also withhold all permits, certificates or other forms of authorization on any other land owned by the owner of land on which an uncorrected violation exists. This enforcement provision may be used regardless of whether the property for which the permit or other approval is sought is the property in violation.
3. Instead of withholding or denying a permit or other authorization, the director of building safety may grant such authorization subject to the condition that the violation be corrected.

##### **C. Revoke Permits**

1. A permit, certificate or other form of authorization required under this UDO may be revoked by the director of building safety when the director of building safety determines:
  - a. That there are unapproved significant, material departures from approved plans or permits;
  - b. That the development permit was procured by false representation or was issued by mistake; or
  - c. That any of the provisions of this UDO or approval previously granted by the city are being violated.
2. Written notice of revocation must be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued. If no persons can reasonably be served with notice, the notice must be posted in a prominent location.

##### **D. Stop Work**

With or without revoking permits, the director of building safety may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this UDO or of a permit or other form of authorization issued under this or previous UDOs.

**E. Injunctive Relief**

The city may seek an injunction or other equitable relief in court to stop any violation of this UDO or of a permit, certificate or other form of authorization granted under this or previous UDOs.

**F. Abatement**

The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

**G. Other Penalties, Remedies and Powers**

The city may seek such other penalties and remedies as are provided by law.

**H. Continuation of Previous Enforcement Actions**

Nothing in this UDO prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous valid ordinances and laws.

**17.80.050. Remedies Cumulative**

The remedies and enforcement powers established in this UDO are cumulative, and the city may exercise them in any combination or order.

**17.80.060. Persons Subject to Penalties**

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

**17.80.070. Enforcement Procedures**

**A. Non-Emergency Matters**

In the case of violations of this UDO that do not constitute an emergency or require immediate attention, the director of building safety must give notice of the nature of the violation to the property owner by personal service, U.S. first class mail or by posting notice on the premises. Notices of violation must state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

**B. Emergency Matters**

In the case of violations of this UDO that constitute an emergency situation as a result of public health or safety concerns if not remedied immediately, the city may use the enforcement powers available under this UDO without prior notice, but the director of building safety must attempt to give notice to the property owner simultaneously with beginning enforcement action.

**17.80.080. Appeals**

A determination made by the director of building safety or other administrative officials that a UDO violation has occurred may be appealed by the affected party in accordance with ~~17.65.150~~.

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## Chapter 17.85 | Measurements

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### 17.85.010. Fractions and Rounding

When calculations required under this UDO result in fractions, the results must be rounded as follows:

#### A. Maximum Limits

When a regulation governs a maximum quantity or limit, any fractional result must be rounded down to the preceding whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet of lot area is applied to an 23,000 square foot lot, the resulting fraction of 4.6 is rounded down to 4 allowed dwelling units. (Note: “minimum lot area per dwelling unit” is a measure of the maximum density of dwelling units allowed, and is therefore subject to this “maximum limits” rounding rule.)

#### B. Minimum Requirements

When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. Any fractional result of less than 0.5, is rounded down. For example, if a minimum tree planting requirement of one tree for every 30 linear feet is applied to a 50-foot long strip, the resulting fraction of 1.67 is rounded up to 2 required trees. On the other hand, if that same minimum tree planting requirement is applied to a 43-foot long strip, the resulting fraction of 1.43 is rounded down to 1 required tree

### 17.85.020. Lot Area

Lot area is measured as the total ground-level surface area contained within the property lines of a lot.

### 17.85.030. Lot Area per Unit

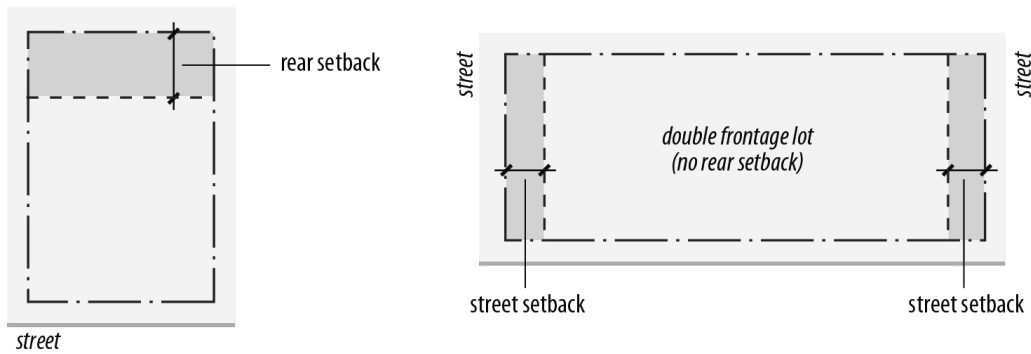
Lot area per unit is a measure of maximum residential density, expressed in terms of the amount of lot area required for each dwelling unit on the subject lot. To determine the number of dwelling units allowed on a lot, divide the area of the lot by the minimum lot-area-per-unit requirement, and round any fractional result down to a whole number (see [17.85.010.A](#)). If, for example, a minimum lot-area-per-unit requirement of 5,000 feet per unit is applied to a 23,000 square foot lot, a maximum of 4 units would be allowed on that lot (4.6 rounded down to 4).

### 17.85.040. Floor Area

The floor area of a building is measured as the sum of the gross horizontal areas of all floors within the building, including basements, as measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings. The floor area of enclosed required off-street parking areas is not included in the measurement of floor area.



FIGURE 85-3: REAR SETBACK MEASUREMENT

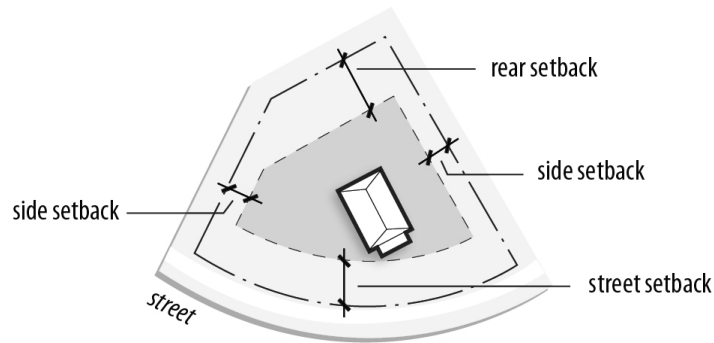


**B. Setbacks on Irregular Lots**

Setbacks are measured from lot lines towards the center of the lot, as follows:

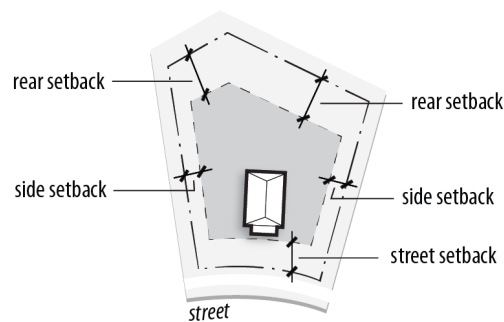
1. Generally, setbacks are measured as set out in [17.85.060.A](#).
2. When lot lines are curvilinear, setbacks must be measured parallel to the curvilinear lot line.

FIGURE 85-4: SETBACKS FROM CURVILINEAR LOT LINES



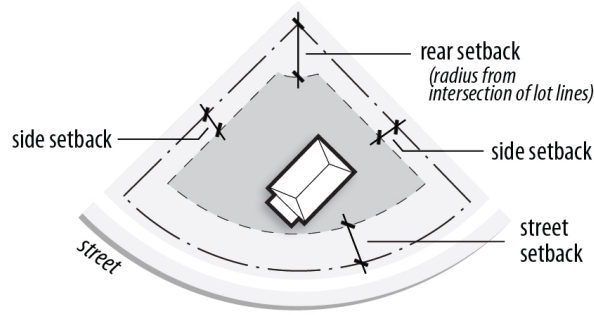
3. When there are multiple rear lot lines, the rear setback must be measured from each of rear lot lines.

FIGURE 85-5: SETBACKS FROM MULTIPLE REAR LOT LINES



4. When there is no rear lot line, the rear setback must be measured as a radial distance from the intersection of side lot lines at the rear of the lot.

FIGURE 85-6: REAR SETBACK MEASUREMENT WHEN THERE IS NO REAR LOT LINE



**C. Permitted Setback Obstructions in R Zoning Districts<sup>38</sup>**

Setbacks must be unobstructed and unoccupied from the ground to the sky except as indicated in [Table 85-1](#):

TABLE 85-1: PERMITTED SETBACK OBSTRUCTIONS IN R ZONING DISTRICTS

Obstruction	Setback		
	Street	Side	Rear
Accessory buildings (see also <a href="#">17.30.030</a> )	No	No	Yes
Air conditioning units	No	No	Yes
Arbors and trellises	Yes	Yes	Yes
Awnings, canopies, light shelves and architecturally integrated solar shading devices [1]	Yes	Yes	Yes
Barbeque pits and outdoor fireplaces	No	No	Yes
Bay windows [1]	Yes	No	Yes
Carports	No[2]	No	Yes
Chimneys and flues [1]	Yes	No	Yes
Clotheslines	No	Yes	Yes
Decks, patios, and other features and structures less than 30 inches in height above grade	Yes	Yes	Yes
Eaves and gutters [1]	Yes	Yes	Yes
Fences and walls (see also <a href="#">Chapter 15.44</a> )	Yes	Yes	Yes
Fire escapes projecting no more than 4.5 feet into the setback	Yes	Yes	Yes
Flagpoles and similar features	Yes	Yes	Yes
Geothermal heat pumps and geothermal heat exchange equipment up to 4 feet in height above grade	No	No	Yes
Green houses and hoop houses	No	No	Yes
Insulation added to the outside of the exterior wall of an existing building	Yes	Yes	Yes
Plants and cold frames	Yes	Yes	Yes
Rainwater harvesting equipment projecting no more than 4.5 feet into the setback	Yes	No	Yes
Recreational equipment (e.g., swing sets, playground equipment, tree houses, etc.)	No	No	Yes
Satellite dish antennas	See <a href="#">17.30.030.B.1</a>		
Sills, belt courses, cornices and similar architectural features [1]	Yes	Yes	Yes
Solar energy systems, building-mounted	No	No	Yes
Solar energy systems, ground-mounted	No	No	Yes
Swimming pools and tennis courts	No	No	Yes
Wheelchair lifts and ramps that meet federal, state and local accessibility standards	Yes	Yes	Yes

Table 85-1 Notes

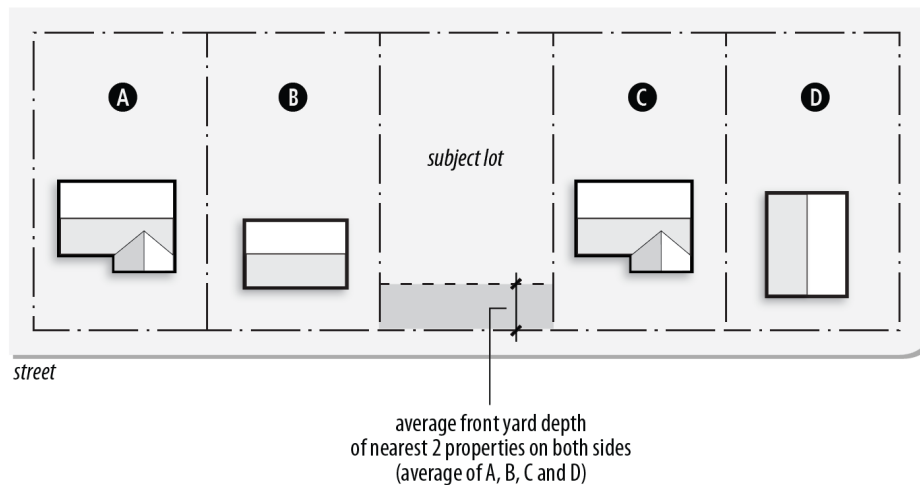
<sup>38</sup> This section is entirely new. It is intended to offer some flexibility that does not appear to be present in the current ordinance.

- [1] May not project more than 2 feet into the yard or required setback.
- [2] Allowed in Carport and Prefab Carport Overlay districts (see [17.20.020](#) and [17.20.030](#)).

#### D. Contextual Setbacks

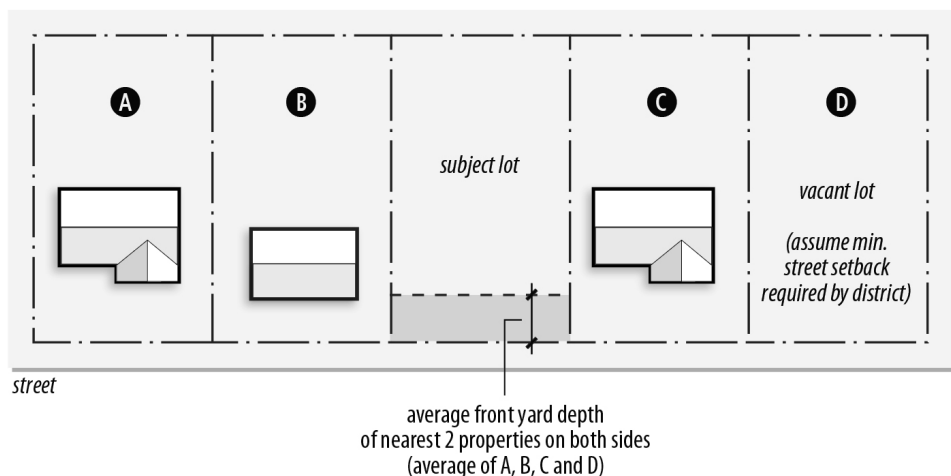
When existing buildings on one or more abutting lots are closer to the street (front or street side) property line than the otherwise required setback, additions to existing buildings or construction of new buildings on the subject lot may comply with the average street yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying with the zoning district's minimum street setback requirement. Existing yard depths must be based on the front corners of the buildings on the lots used in the contextual setback determination that are nearest to the subject lot.

FIGURE 85-7: CONTEXTUAL SETBACKS (1)



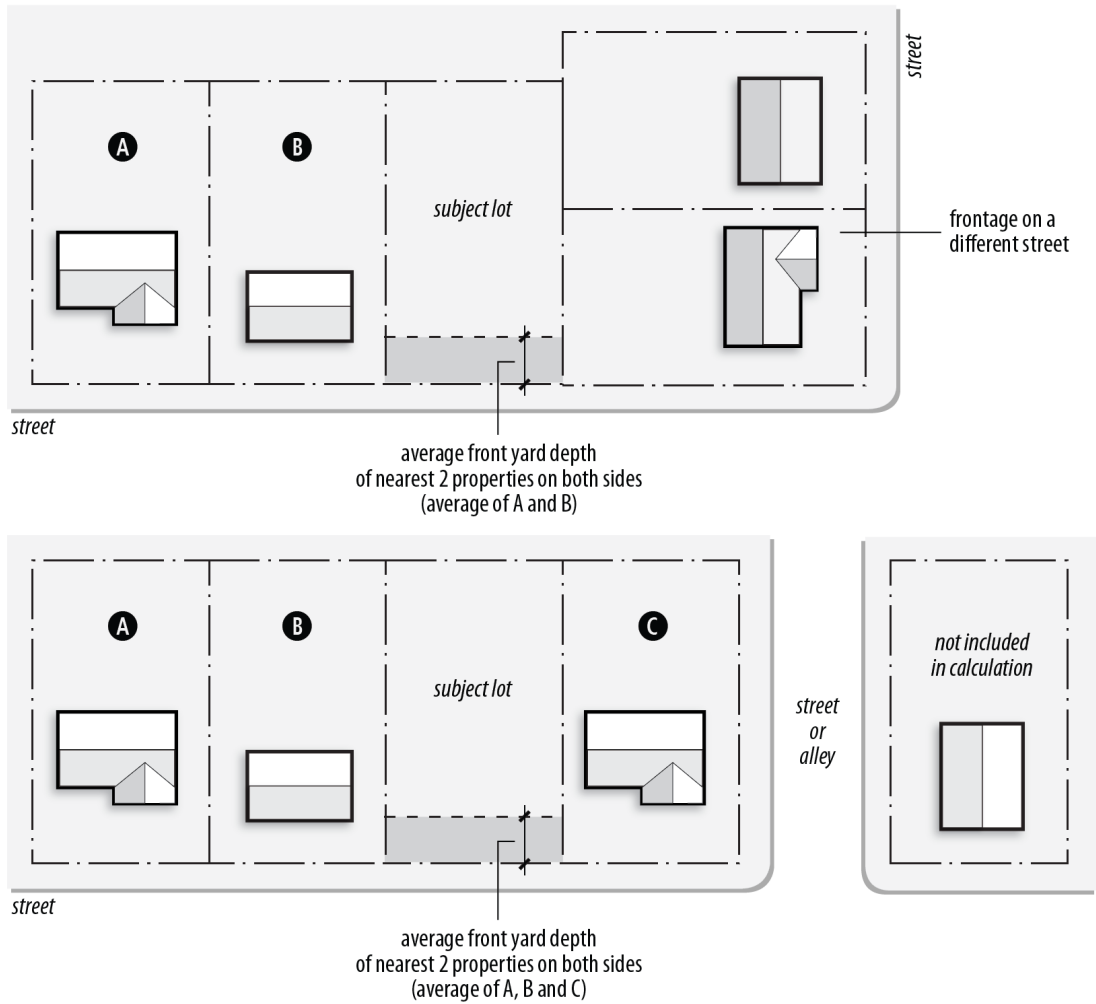
1. If one or more of the lots required to be included in the averaging calculation is vacant, that vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district.

FIGURE 85-8: CONTEXTUAL SETBACKS (2)



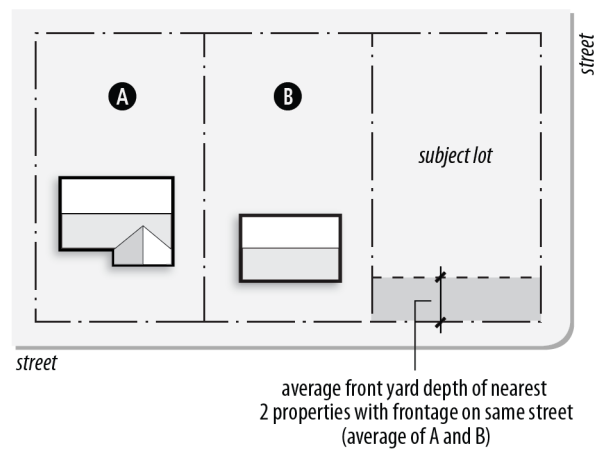
2. Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.

FIGURE 85-9: CONTEXTUAL SETBACKS (3)



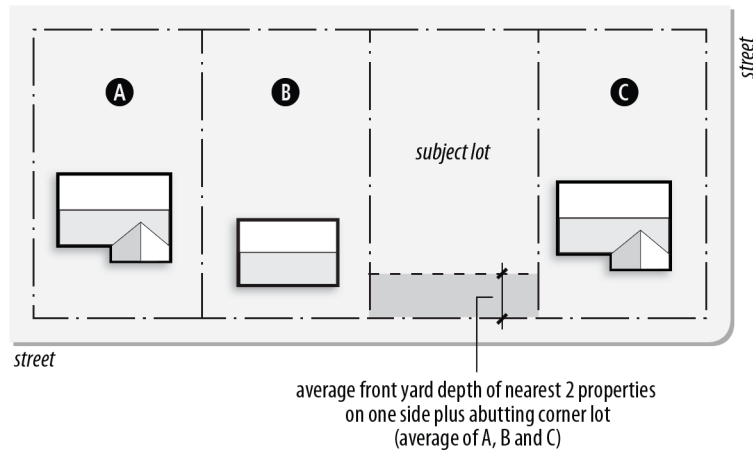
3. When the subject lot is a corner lot, the average street yard depth will be computed on the basis of the nearest 2 lots with frontage on the same street as the subject lot.

FIGURE 85-10: CONTEXTUAL SETBACKS (4)



4. When the subject lot abuts a corner lot with frontage on the same street, the average street yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.

FIGURE 85-11: CONTEXTUAL SETBACKS (5)



5. These contextual setback provisions may not be used to reduce the setback of a street-facing garage door to less than 20 feet.

#### 17.85.070. Building Coverage

Building coverage is the total area of a lot covered by principal and accessory buildings. Only building areas beneath a roof are counted for purposes of measuring building coverage. A porch with a roof, for example, is counted, but an uncovered deck structure is not considered building coverage.

#### 17.85.080. Building Height

##### A. Measurement

1. Building height is measured as the vertical distance from the lowest ground elevation along the building's exterior wall to the highest point on the subject building. For purposes of measuring height:
  - a. The highest point of the building is the coping of a flat roof, the top of a mansard roof or shed roof, or the peak of the highest gable of a gambrel or hip roof. For buildings without a roof, height is measured to the highest point of the structure.

##### B. Exceptions

1. Farm buildings and farm-related structures are not subject to building height limits.
2. Chimneys, elevators, equipment penthouses, monitors, cooling towers and ventilators may exceed maximum building height limits, provided they are not intended for human occupancy and they do not extend more than 20 feet above the top of the principal structure to which they are attached.
3. Belfries, clock towers, cupolas, domes, flag poles and spires may exceed maximum building height limits, provided they are not intended for human occupancy and they are not more than 150% taller than the applicable height limit. This 150% limit may be increased through the conditional use procedures of [17.65.110](#).

**17.85.090. Other Height Measurements**

The height of structures other than buildings is measured as vertical distance from the average finished grade at the base of the structure to the highest point of the structure. Unless otherwise expressly stated, the height of a structure may not exceed the maximum building height allowed in the subject zoning district.

**17.85.100. Occupancy**

For the purpose of determining compliance with standards or requirements based on building occupancy or capacity, calculations must be based on the building code.



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### **17.90.010. General**

Words and terms expressly defined in this UDO have the specific meanings assigned unless the context clearly indicates another meaning. Words and terms that are not expressly defined in this UDO have their common dictionary meaning.

### **17.90.020. Use Definitions**

See [17.30.020](#) for an explanation of the use categorization system used in this UDO and for use definitions.

### **17.90.030. Measurement-Related Terms**

See [Chapter 17.85](#) for an explanation of various lot and building regulation terms, such as “lot area,” “building height,” “setbacks” and “build-to zone.”

## **17.90.040. Terms Beginning with "A"**

### **Abut or Abutting**

To touch or share a contiguous boundary or border. Lots separated only by an alley are expressly deemed to be abutting lots.

### **Accessory Use or Structure**

A use or structure that meets the criteria established in [17.30.030.A.2.](#)

### **Adjacent**

Lying near or in the immediate vicinity

### **Agent**

A person duly authorized to act on behalf of the owner of the subject property.

### **Alley**

A public right-of-way that affords a means of access to abutting property, generally secondary in nature.

### **All-Weather Surface (or Material)**

A hard surface, dustless material capable, during ordinary use, of withstanding without substantial deterioration, normal weather conditions. Gravel, rock or screenings alone, without use of a road surface binder, does not meet the definition of an all-weather surface.

### **Animal Unit**

A measure representing a common denominator to define a farm. Animal unit measures are related to the amount of feed various farm animals consume and the amount of waste they produce. The animal unit value assigned to several common farm animals is listed in [Table 90-1.](#)

*TABLE 90-1: ANIMAL UNIT VALUES*

Type of Livestock	Number Animals Per Animal Unit
Horse (including suckling foal)	1.0
Cow (including suckling calf) or bull	1.0
Calves (under twelve months)	2.0
Ewes (including suckling lambs), withers or rams	6.0
Female goats (including suckling kids), withers or males	6.0
Poultry	25.0
All livestock not otherwise listed in this table	1.0

### **Applicant**

The owner of the subject property or an agent authorized by the subject property owner to submit an application on the owner's behalf.

### **Awning**

A roof-like structure typically made of cloth, metal or other material attached to a frame that extends from and is supported by a building. Awnings are typically erected over a window, doorway or building front and they may be raised or retracted to a position adjacent to the building.

## **17.90.050. Terms Beginning with "B"**

### **Base (Zoning) District**

Any zoning district that is not an overlay district.

### **Block Face**

All lots abutting one side of a street between the 2 nearest intersecting streets.

**Building**

A structure that is permanently affixed to the land; with or without a roof, or walls on all sides; and used or intended for supporting or sheltering any use or occupancy.

**Building Coverage**

See [17.85.070](#).

**Building Height**

See [17.85.080](#).

**17.90.060. Terms Beginning with "C"****Carport**

Any parking space or spaces having a roof, but not enclosed by walls, and accessory to a dwelling or dwellings. Parking garages and parking structures are not carports.

**City**

The City of Clovis, New Mexico.

**City Commission**

The city commission of the City of Clovis.

**Cold Frame**

An unheated structure no more than 4 feet in height used for protecting seedlings and plants from the cold.

**17.90.070. Terms Beginning with "D"****Development**

Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, or excavation operations.

**Development Plan**

See [17.65.090](#).

**Dumpster**

A container with a capacity of more than 1.5 cubic yards or a height of more than 4.5 feet that is designed for receiving, transporting, and depositing waste materials produced by uses that are on the subject site. Dumpsters are typically designed to be hoisted and emptied into a garbage truck.

**Dwelling Unit**

A room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities, for not more than one household living independently of any other household.

**17.90.080. Terms Beginning with "E"****Electric Vehicle**

Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid or an off-board source, that is stored on-board via a battery. "Electric vehicle" includes: (1) battery electric vehicles; and (2) plug-in hybrid electric vehicles.

### **Electric Vehicle (EV) Charging Station**

A public or private parking space that is served by battery charging station equipment.

Electric vehicle charging station, private (restricted-access) means an EV charging station that is not available for use by the general public. Examples include electric vehicle charging stations that serve residential homeowners or renters, executive parking areas, designated employee parking areas and fleet parking areas.

### **Electric Vehicle Charging Station, Public**

An EV charging station that is accessible to and available for use by the general public.

### **Electric Vehicle Parking Space**

Any parking space that is clearly identified to be used exclusively for the parking of an electric vehicle.

## **17.90.090. Terms Beginning with "F"**

### **Floor Area**

See [17.85.040](#).

### **Foot-candle**

A measure of illumination, the amount of light falling onto a surface. One lumen of light, shining evenly across one square foot of surface, illuminates that surface to one foot-candle.

## **17.90.100. Terms Beginning with "G"**

### **Geothermal Heat Exchange System**

Equipment that exchanges thermal energy between the ground (or a water source) and a building. This includes vertical closed loop, horizontal closed loop, water body closed loop system and open loop systems. Also known as ground source heat pumps and geothermal heat pumps.

### **Grade, Finished**

The vertical location of the ground or pavement surface after site grading work is completed in accordance with an approved plan.

## **17.90.110. Terms Beginning with "H"**

### **Height, Building**

See [17.85.080](#).

### **Home Occupation**

An accessory use of a dwelling unit for business or commercial purposes. Home occupations are subject to the regulations of [17.30.030.G](#).

### **Hoop House**

A temporary or permanent structure typically made of flexible pipe or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of protecting and cultivating plants. A hoop house is considered more temporary than a greenhouse.

### **Household**<sup>39</sup>

One or more persons who inhabit a single dwelling unit, as a single housekeeping unit, that is: (1) traditionally characterized by matrimonial or parent-child relationship, provided that all such persons are related by blood, marriage, adoption, fosterage, or guardianship and no more than 2 unrelated inhabitants are included in the housekeeping unit; or (2) predominantly characterized by voluntary associational, communal relationships, provided no more than 8 inhabitants are included in the housekeeping unit. The term "household" expressly includes community-based residential facilities licensed by or contracted with the New Mexico Department of Human Services that provide care or supervision by a responsible adult for no more than 8 individuals with developmental or physical disabilities as a single housekeeping unit.

### **17.90.120. Terms Beginning with "I"** RESERVED.

### **17.90.130. Terms Beginning with "J"** RESERVED

### **17.90.140. Terms Beginning with "K"** RESERVED

### **17.90.150. Terms Beginning with "L"**

#### **Lawfully Established**

A use, structure, lot or sign (as the context indicates) that was established in conformance with all applicable UDO regulations in effect at the time of its establishment.

#### **Light Trespass**

Light that is emitted into an unintended area.

#### **Lot**

A lot of record.<sup>40</sup>

#### **Lot Area**

See 17.85.020.

#### **Lot Area per Unit**

A measurement of allowed residential density. See 17.85.030.

#### **Lot, Corner**

A lot abutting 2 or more streets at their intersection or upon 2 segments of the same street, when such segments form an interior angle of less than 135 degrees. The point of intersection of street rights-of-way lines is the corner.

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<sup>39</sup> Substantive revision; referred to as "family" in current ordinance.

<sup>40</sup> Substantive change.

### **Lot, Double-frontage**

An interior lot with frontage on more than one street or a corner lot with frontage on more than 2 streets.

### **Lot, Interior**

A lot other than a corner lot.

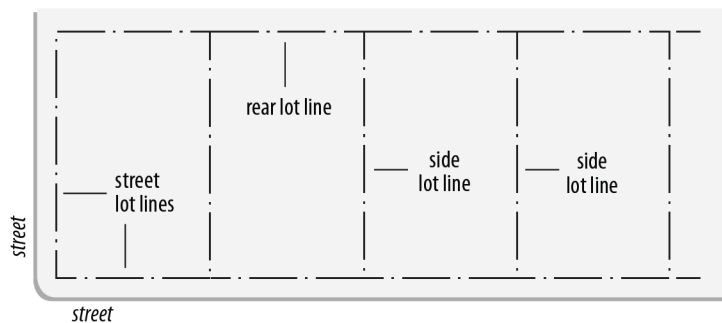
### **Lot of Record**

A lot that is part of a subdivision, the plat of which is recorded in the county clerk's office; a parcel of land, the conveyance of which is recorded in the county clerk's office; or the balance of a parcel of land where the conveyance of another portion of that parcel is recorded in the county clerk's office.

### **Lot Line**

Any boundary of a lot.

*FIGURE 90-1: LOT LINES*



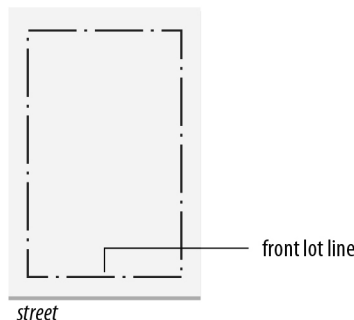
### **Lot Line, Front**

The boundary of a lot that abuts the street. Unless otherwise expressly stated, the owner of the subject property may select which lot line is the front lot line on corner lots.

### **Lot Line, Street**

The boundary of a lot that abuts a street. A lot may have more than one street lot line, and a street lot line may also be a front lot line.

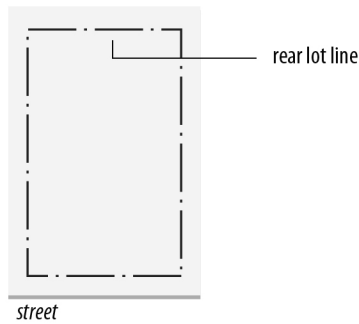
*FIGURE 90-2: STREET LOT LINE*



### **Lot Line, Rear**

The boundary of a lot that is most distant from and most nearly parallel to the front lot line.

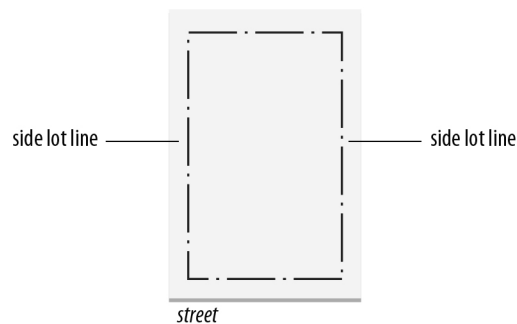
FIGURE 90-3: REAR LOT LINE



### Lot Line, Side

Any boundary of a lot that is not a street lot line or a rear lot line.

FIGURE 90-4: SIDE LOT LINES



### Lot Width

See [17.85.050](#).

## 17.90.160. Terms Beginning with "M"

### Mobile Storage Unit, Temporary

A mobile, fully enclosed container that is specifically designed and used for the temporary storage of household goods, wares, and materials for the purpose of moving, relocation, or temporary storage during construction. This definition does not include a shipping or cargo container, modified or otherwise.

### Multi-tenant Development

A development typically under unified ownership and control consisting of 2 or more business establishments, which may be on the same lot or on separate lots. The tenants of multi-tenant development typically share vehicle access and parking facilities.

## 17.90.170. Terms Beginning with "N"

### NA (or –)

Not applicable or no requirement.

### Nonconforming Lot

See [17.75.020.A](#).

### Nonconforming Use

See [17.75.040.A](#).

### **Nonconforming Structure**

See ~~17.75.030.A~~.

### **Nonconformity**

A nonconforming lot, nonconforming use, nonconforming structure, nonconforming development feature or nonconforming sign.

### **Nonresidential District or Nonresidential Zoning District**

Any zoning district other than R (residential) district.

## **17.90.180. Terms Beginning with "O"**

### **Open-Air Uses**

Uses of land that do not involve buildings or that involve buildings that are incidental and accessory to the open-air use of the lot. Typical examples include storage yards, vehicle impound yards, auto wrecking and junkyard uses.

### **Outdoor Customer Seating/Dining Area**

The area of all unenclosed areas used or intended to be used for seating and dining by customers and guests, including standing table areas.

### **Overlay District**

A zoning district that over-lays one or more base zoning districts and imposes requirements in addition to those of the base district or modifies the regulations otherwise applicable in the base zoning district.

## **17.90.190. Terms Beginning with "P"**

### **Parapet or Parapet Wall**

A wall-like barrier at the edge of a roof that acts as a vertical extension of an exterior building wall extending above the roof height of the building. Parapets may serve as a safety or architectural feature.

### **Parking Area**

The area which includes the parking spaces, the maneuvering areas necessary to enter and exit the spaces and the drives providing access to the parking spaces and maneuvering areas from a public or private street or other parking areas.

### **Parking Space, Off-Street**

A space on a lot intended and reserved for the parking of an automobile.

### **Parking Space, Required Off-Street**

A space on a lot reserved for parking required by this UDO.

### **Photovoltaic Cell**

A semiconductor device that converts solar energy into electricity.

### **Planning and Zoning Commission**

The planning and zoning commission of the City of Clovis.

### **Principal Building**

A building or combination of buildings of chief importance or function on a lot. In general, the principal use is carried out in the principal building.



### **Principal Use**

A use or activity or combination of which are of chief importance on the lot; one of the main purposes for which the land, buildings or structures are intended, designed or ordinarily used.

### **Public Improvement**

Any improvement, facility or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, alleys, pedestrian walks or paths; storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment; and public utility and energy services.

### **17.90.200. Terms Beginning with "Q"** **RESERVED**

### **17.90.210. Terms Beginning with "R"**

#### **Rainwater Harvesting Equipment**

A rain barrel, cistern or similar container that collects and stores rainwater or other water that would otherwise be lost as runoff.

#### **Recreational Vehicle (RV)**

A trailer, boat trailer, travel trailer, camping trailer, truck camper, camper shell, motor home, tent trailer, boat, houseboat, or similar vehicle or unit. Camper shells that are attached to a pickup truck are not considered a recreational vehicle.

#### **Residential Building**

A detached house, lot line house, townhouse, duplex, multi-dwelling house, apartment, or mobile home.

#### **Review Agencies**

Local, state and federal agencies; utilities; and other agencies who have regulatory responsibility or directly related interests in subdivision plats and land development matters, as determined by the director of building safety based on the location and nature of the subject application.

### **17.90.220. Terms Beginning with "S"**

#### **Setback**

An open, unobstructed area that is required to be provided by this UDO. See [17.85.060](#).

#### **Solar Energy System**

A system intended to convert solar energy into thermal, mechanical or electrical energy.

#### **Solar Energy System, Building-Integrated**

A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, shading devices and similar architectural components.

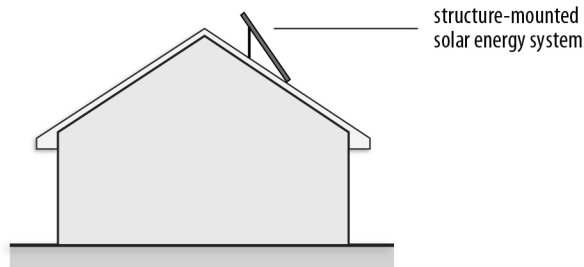
*FIGURE 90-5: BUILDING-INTEGRATED SOLAR ENERGY SYSTEM*



### **Solar Energy System, Structure-Mounted**

A solar energy system that is mounted on the façade or roof of either a principal or accessory structure.

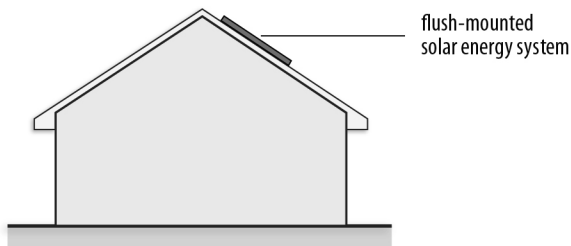
*FIGURE 90-6: STRUCTURE-MOUNTED SOLAR ENERGY SYSTEM*



### **Solar Energy System, Flush-Mounted**

A solar energy system that is mounted flush with a finished building surface, at no more than 6 inches in height above that surface.

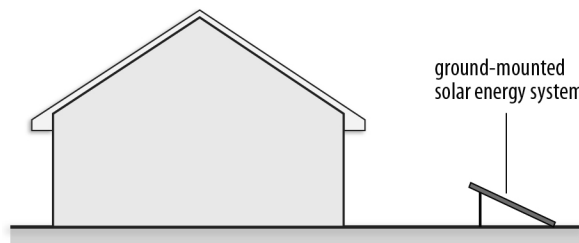
*FIGURE 90-7: FLUSH-MOUNTED SOLAR ENERGY SYSTEM*



### **Solar Energy System, Ground-Mounted**

A solar energy system mounted on the ground and not attached to any other structure other than structural supports.

*FIGURE 90-8: GROUND-MOUNTED SOLAR ENERGY SYSTEM*



**Solar Panel**

A group of photovoltaic cells assembled on a panel. Panels are assembled on-site into solar arrays.

**Special Event**

An temporary event or group of related temporary events typically involving a mass gathering of people on public right-of-way or public property; or on private property in a manner that results in significant impacts on public property or right-of-way.

**Street Wall**

The wall or part of the building nearest the abutting street.

**Street Yard**

See Yard, Street.

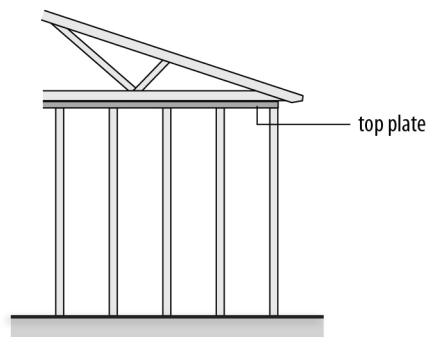
**Structure**

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, and includes buildings, parking areas, walks, fences canopies and signs.

**17.90.230. Terms Beginning with "T"****Top Plate**

The horizontal timber directly carrying the trusses of a roof or the rafters.

*FIGURE 90-9: TOP PLATE*

**17.90.240. Terms Beginning with "U"****Utility-scale Energy Production**

An energy production facility that produces electric energy for widespread distribution through the electric power grid.

**17.90.250. Terms Beginning with "V"****Variance**

See [17.65.140](#).

**Vehicle Fuels, Alternative**

Electricity, CNG (compressed natural gas), LNG (liquefied natural gas), LPG (liquefied petroleum gas), and hydrogen.

**Vehicle Fuels, Conventional**

Gasoline and diesel fuel.

#### 17.90.260. Terms Beginning with "W"

##### **Walkway**

A clearly defined path for non-motorized movement between buildings, structures, destinations, or other walkways on or adjacent to a site.

##### **Wind Energy System**

Equipment that converts and then stores or transfers energy from the wind into a usable form of energy, any base, blade, foundation, generator, rotor, tower, transformer, vein, wire, inverter, battery, or other component used in the system.

##### **Wind Energy Tower**

Any monopole, freestanding, or guyed structure that supports a wind generator.

##### **Wind Generator**

Blades and associated mechanical and electrical conversion components mounted on a wind energy tower and used as a part of a wind energy system.

#### 17.90.270. Terms Beginning with "X"

RESERVED

#### 17.90.280. Terms Beginning with "Y"

##### **Yard**

An actual (as opposed to "required") open, unoccupied space that exists on a lot between a building and a lot line.

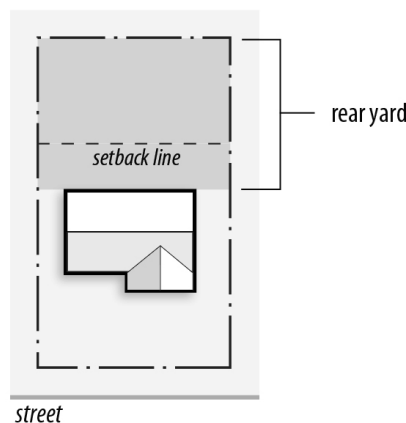
##### **Yard, Front**

A yard extending along the full length of the front lot lines between the side lot lines.

##### **Yard, Rear**

A yard extending along the full length of the rear lot line between the side lot lines.

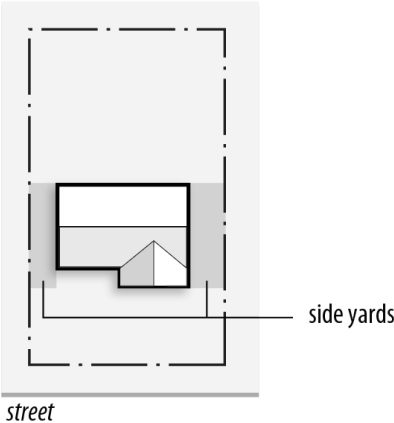
*FIGURE 90-10: REAR YARD*



##### **Yard, Side**

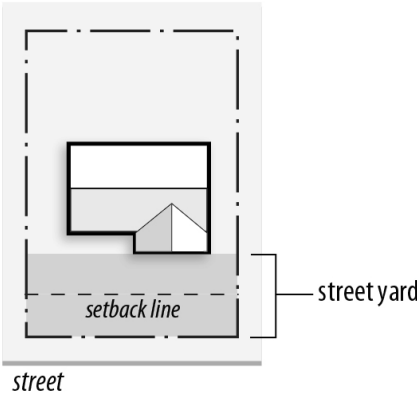
A yard extending along a side lot line between the front yard and the rear yard.

FIGURE 90-11: SIDE YARD



**Yard, Street**  
Any yard abutting a street.

FIGURE 90-12: STREET YARD



**17.90.290. Terms Beginning with "Z"**  
**RESERVED**

# Appendix A: Plat Submittal Requirements

## Information Required with Sketch Plats

The following information must be provided in a sketch plan submittal:

- A. Name of the sketch plan;
- B. Name, address and phone number of applicant;
- C. Name, address and phone number of preparer of plan if different from applicant;
- D. Date of preparation, north arrow and indication of approximate scale;
- E. Boundary lines of plan with approximate lengths of lines;
- F. Location of playas and water courses if any, indication of direction of drainage if no water courses exist;
- G. Location of existing and proposed streets on and adjacent to the plan area;
- H. Number of proposed dwellings and indication of the size of any other use; If the sketch plan is for a PUD, add the following:
- I. Indication of number of dwelling units in each structure and parking spaces in each lot;
- J. Outline and location of all structures.

## Information Required with Preliminary Plats

- A. The preliminary plat must conform to the following format:
  1. The scale for the preliminary plat must adequately represent all information;
  2. A preliminary plat will be twenty-four inches by thirty-six inches;
  3. Contour intervals must be no greater than two feet within the subdivided tract. Accuracy must be no less than one-half contour interval.
- B. Information required on the preliminary plat:
  1. Name of subdivision;
  2. General legal description by quarter section, section, township and range. Description must include approximate survey tie to an accepted survey monument;
  3. Name, address and phone number of person, corporation or organization preparing the preliminary plat;
  4. Name, address and phone number of the applicant;
  5. Name and address of property owners within, surrounded by, and adjacent to the subdivision; name of adjacent subdivisions;
  6. Date of preparation, north arrow and a written and graphic scale;
  7. Vicinity map to locate the subdivision;
  8. Boundary lines of the subdivision showing approximate length of lines;
  9. Approximate location, right-of-way, width, functional classification, and names of existing and proposed streets. A typical cross section of each classification may be used;
  10. Approximate location of street lights;
  11. Approximate location of fire hydrants;
  12. Approximate location of cluster mailboxes;
  13. Approximate location, functional classification and dimensions of all existing and proposed streets adjacent to the subdivision. Typical cross section may be used;
  14. Approximate location, length, width and type of any nonstreet transportation link (e.g., path, bike way, trail, railroad, etc.);
  15. The approximate location, dimension area and land use of each lot or parcel of land located within and adjacent to the subdivision. The information for lots within the subdivision may be presented in a table;
  16. Location and use of, or changes in preexisting or proposed water forms, watercourses or bodies of water. The standard project (100-year) floodplain must be identified. In areas where flood plain mapping has not been completed, the flood plain must be identified to a detail of two feet. Where applicable, the city flood plain regulations apply;
  17. Proposed roads and utility facilities which will require extension to the boundary of the subdivision. All easements (existing or proposed) and utility right-of-way must be clearly labeled, identified, dimensioned, and tied to reference points and will be shown by fine dashed lines. Existing easements must bear

- notation of dedication or conveyance. If any easement of record cannot be definitely located, a statement of the existence, the nature, and the easement's record reference must be placed in the note section;
18. Present zoning and any proposed changes with boundary lines shown;
  19. Parcel of land within the plat boundary which is not owned by the applicant on the submittal date; and written evidence that such owner is aware of the proposal and indication from such owner of the intent to participate in the plat;
  20. Supplemental information must include:
    - a. Preliminary drainage report and erosion control plan,
    - b. Proposed method of guaranteeing public improvements,
    - c. Relative percentages and acreage of proposed land uses and total population per use at completion,
    - d. Preliminary construction drawings of any public improvement (sidewalks, fire hydrants, cluster mailboxes, street lights, roads, bridges, culverts, channelization etc.) prepared by a registered professional engineer, licensed in the state of New Mexico.
  21. Written statements concerning general planning considerations to include, but not limited to the following:
    - a. A statement regarding the on-site and off-site effect of storm water run-off,
    - b. An evaluation of the consequence of traffic generated by the proposed subdivision,
    - c. An assurance of the compatibility of the subdivision to the Clovis comprehensive plan,
    - d. A statement regarding the development and maintenance of any street medians or common area.
    - e. A statement regarding the payment of current year property taxes for the subdivided land as required by state law.
    - f. A statement certifying whether any water rights appurtenant to the land have been severed. If appurtenant water rights have been severed, the subdivider must provide proof of compliance with state law for either a service commitment from a water provider or an opinion of the State Engineer.
    - g. If the application is for an annexation, add the following: A statement reviewing the impact of the proposed annexation to the city, containing expected population, rationale for applicant's need for city services and other pertinent impact information.
    - h. If the application is for a zoning change, add: A written justification for the request containing such information as why conditions have changed to require the proposal and how the proposal conforms to the Clovis comprehensive plan.
    - i. If the preliminary plan or plat is for a PUD, add the following:
      - (1) The proposed finished grade of the designated area, shown in contour intervals of not to exceed one foot,
      - (2) The location of each existing and each proposed structure in the PUD area, the use or uses to be contained therein, the number of stories, gross floor area and approximate location of entrances and loading points,
      - (3) The location of all outside facilities for waste disposal,
      - (4) All curb cuts, private driving lanes, parking areas, loading areas and public transportation points,
      - (5) All pedestrian walks and open areas for use by tenants or members of the public,
      - (6) The location and height of all walls, fences and screen planting,
      - (7) The types of surfacing, such as paving, turf or gravel, to be used at the various locations,
      - (8) The location of fire hydrants.

### **Information Required with Final Plats**

- A. A registered professional surveyor must prepare the final plat with permanent India ink or using a photographic process on a linen or polyester (Mylar) film.
  1. Size of sheet: twenty-four inches by thirty-six inches;
  2. Scale. Must be an engineer's scale and no smaller than one inch equals one hundred inches;

3. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. Each sheet must show the scale, date of the survey, north point and name of the subdivision.
- B. The following information will be shown on the plat:
  1. Name of the subdivision;
  2. Written and graphic scale;
  3. Name and address of owner or owners of record;
  4. Name of city, county and state;
  5. Total acreage of subdivision; total number of lots;
  6. Location and description of the subdivision referenced by quarter section, section, township and range; if said description contains references to recorded documents, said information will be indicated on the map;
  7. Certification statements, to include:
    - a. Certification of dedication, ownership and maintenance,
    - b. Certification of approval by the city commission and by signature of the mayor,
    - c. Certification by the clerk and recorder,
    - d. Certification of survey by a registered professional surveyor which must follow the state Board of Registration for Professional Engineers and Land Surveyors' Amended Minimum Standards For Land Surveys in New Mexico,
    - e. Certification of the chairperson of the planning and zoning commission;
  8. An accurate and complete boundary survey of the land to be subdivided must be completed in compliance with Amended Minimum Standards for Land Surveys in New Mexico as published by the New Mexico State Board of Registration for Professional Engineers and Land Surveyors;
  9. The exact location and width of all existing or recorded streets, right-of-way and easements adjacent to the boundaries of the subdivided tract must be indicated by a dashed line and adjacent subdivisions and streets identified by official names;
  10. Date of preparation, north point, written and graphic scale;
  11. The right-of-way lines and names, if applicable, of all proposed or existing streets, alleys, greenways, bike ways, paths, trails and other transportation links dimensioned by lengths, widths, bearings. Center-line data or right-of-way data for all curves must be indicated on the plat;
  12. All easements (existing or proposed) and utility right-of-way must be clearly labeled, identified, dimensioned and tied to reference points and will be shown by fine dashed lines. Existing easements must bear notation of dedication or conveyance. If any easement of record cannot be definitely located, a statement of existence, the nature and the easement's record reference must be placed in the note section;
  13. All lots and blocks must be, to the extent possible, numbered consecutively;
  14. Parcels other than lots, streets or easements must be designated by letter with dispositions indicated in the note section. Location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision will be shown. Public tracts must be dedicated by a statement on the plat; responsibility of maintenance of all other tracts must be noted.
  15. Excepted parcels (parcels not a part of the subdivision) must be marked and dimensioned and include the statement "not included";
  16. Lots which require special studies for development or which present significant hazards to development must be indicated by letter and limitations placed in the note section;
  17. The 100-year (standard project) flood plain must be delineated on the plat. No lots will be located in the flood plain except to the extent that development conforms with the existing city or county regulations and lots with these limitations identified on the plat;
  18. Supplemental information to submit with the final plat:
    - a. The applicant must supply to the city evidence of good title vested in the applicant. The evidence may consist of a title insurance commitment or policy issued by a title insurance company or an attorney's opinion of title, certified to a date not more than thirty days prior to the submittal of the final plat to the city, showing the name of the owner(s) of the land and all other persons who have an interest in, or encumbrance on, the property described on the final plat. The applicant will cause to be joined on said filing plat those parties necessary to give unencumbered fee simple title to all



- public lands contained therein. As the alternative, such other parties may subordinate their interest to the dedication of public lands contained therein by a notarized ratification statement,
- b. Construction Plans. The location of all public amenities such as fire hydrants, street lights, cluster mailboxes, side walks, pathways, bikeways and other transportation must be indicated in the construction drawings. If any public improvements (roads, bridges, culverts, channelization etc.) are required, construction drawings must be prepared by a registered, professional engineer, licensed in the state of New Mexico and submitted to the city for approval by the city engineer, together with a complete construction schedule prior to commencement of work. Failure to gain approval prior to construction may lead to nonacceptance of the improvements. Final Drainage Report. The final drainage report and the final construction drawings must be submitted a minimum of eight working days prior to final plat submission,
  - c. Collateral suitable to guarantee public improvements is required,
  - d. Subdivision improvements agreement and estimate of guaranteed funds are required.
19. If the final plan or plat is for a PUD, add the following:
- a. The proposed finished grade of the designated area, shown in contour intervals of not to exceed one foot,
  - b. The location of each existing and each proposed structure in the PUD area, the use or uses to be contained therein, the number of stories, gross floor area and approximate location of entrances and loading points,
  - c. The location of all outside facilities for waste disposal,
  - d. All curb cuts, private driving lanes, parking areas, loading areas and public transportation points,
  - e. All pedestrian walks and open areas for use by tenants or members of the public,
  - f. The location and height of all walls, fences and screen planting,
  - g. The location, size, height and orientation of all signs,
  - h. The types of surfacing, such as paving, turf or gravel, to be used at the various locations,
  - i. The location of fire hydrants,
  - j. Lighting locations, noting height, lumens area of illumination and shielding,
  - k. Landscape material listed by species, caliper if appropriate and average height,
  - l. Dedication statement for public safety easement.
20. Certification of payment of current year, and all previous years' property taxes in a form acceptable to the county recording official.
21. Certification of whether any water rights appurtenant to the land have been severed. If appurtenant water rights have been severed, the subdivider must certify compliance with state law for either a service commitment from a water provider or an opinion of the State Engineer.