FINAL DRAFT

# Unified Development Code

Doña Ana County

September 30, 2016

DRAFT

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# ARTICLE 1 ADMINISTRATION

## 1.1 AUTHORITY

**State Statute and Comprehensive Plan**

This Chapter is authorized by NMSA 1978, §3-21-1 *et seq*., §4-57-1 *et seq*., §47-6-1 *et seq*., §4-37-1 , §3-18-7, §3-20-5, §3-20-6, §3-20-9, §74-6-1 *et seq*., and Plan 2040, the Comprehensive Plan for Doña Ana County ("Comprehensive Plan"), adopted by Resolution No. 2015-54. All citations to legal authorities cited in this Chapter are intended "as amended".

## 1.2 APPLICABILITY: PROHIBITED ACTS; INTERPRETATION, AND CONFLICT

### 1.2.1 Location and Limitations

a. This Chapter shall apply to all property within the unincorporated areas of Doña Ana County and outside the limits of any jointly-administered extra-territorial zone by the County and another governmental entity pursuant to NMSA 1978, Chapter 3, Article 21, unless specifically made applicable under the terms of a joint powers agreement governing the joint administration of an extra-territorial zone entered into between the County and another governmental entity, and shall apply to all private or public activities or development for private or public purposes on such lands. Property owned or controlled by any governmental entity shall be exempt from this Chapter only when specific exemption is provided elsewhere by state or federal statute or law.

b. Limited application of this Chapter to County-owned land. Only the zoning provisions and development standards of this Chapter shall apply to County-owned land; however, those provisions or standards shall not apply when the Board of County Commissioners (BOCC) finds that:

   i. Application of such provisions or standards would unreasonably interfere with the feasibility of the public project; and

   ii. No undue negative impact on the surrounding community will result if the provisions or standards are not applied to the particular public project.

### 1.2.2 Prohibited Acts

a. No application under this Chapter shall be approved for land that was illegally subdivided, or on which a violation of this or any other County ordinance, regulation or any other provision of law exists.

b. It shall be unlawful to construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any regulation or any provisions of this Chapter.

### 1.2.3 Interpretation and Conflict

This Chapter is not intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties or other valid ordinances. Where this Chapter imposes greater restrictions than those imposed by other rules, regulations, easements, covenants, agreements, or County ordinances or resolutions, the provisions of this Chapter shall be controlling. Where two or more provisions of this Chapter are in conflict, the more restrictive shall apply.

## 1.3 INTENT

The intent of this Chapter is to achieve the policies and actions delineated in the Comprehensive Plan, comply with the requirements of the New Mexico Subdivision Act and to achieve the following general purposes:

a. Create orderly, harmonious and economically sound development in order to promote the health, safety, and general welfare of the residents of the County;

b. Lessen congestion in the streets and public ways;

c. Secure safety from fire, flood waters, panic and other dangers;

d. Provide adequate light and air;

e. Avoid undue concentration of population;

f. Facilitate adequate provision for transportation, water, sewerage, schools, parks and other public requirements;

g. Control and abate the unsightly use of buildings or land;

h. Encourage the location of compatible uses of land including compact, pedestrian-oriented, mixed uses standards for historic colonias or for new development; and

i. Provide for floodwater and fugitive dust management.

## 1.4 ADMINISTRATIVE AUTHORITY AND DUTIES

### 1.4.1 Decision Making Authorities

The following positions and bodies are listed in a hierarchy of review, for approval or denial, with the Zoning Administrator being the first level of action succeeded by each entity as listed below:

a. Zoning Administrator;

b. Planning and Zoning Commission (P&Z);

c. Board of County Commissioners (BOCC); and

d. District Court

### 1.4.2 Zoning Administrator

The Community Development Department (CDD) Director shall act as Zoning Administrator or appoint a designee to administer this Chapter, and while

performing that function, the Zoning Administrator shall:

a. Receive, review, and act upon applications for land uses when said land uses are within the scope of the administrative approval provisions of this Chapter;

b. Report to the P&Z and to the BOCC, in a form appropriate to each, the applications received and administratively approved by the CDD and post on the appropriate maps the location and uses permitted;

c. Receive, review, analyze, and present to the P&Z applications for zone changes, community types, special use permits, variances, appeals, and site plans for review and disposition in accordance with this Chapter;

d. Present to the P&Z recommendations concerning changes and amendments to this Chapter, and upon receiving the P&Z's recommendation, present said recommendation to the BOCC, if appropriate, for final disposition;

e. Receive and present to the P&Z appeals by persons aggrieved by any decision of the Zoning Administrator;

f. Receive and present to the BOCC appeals by persons aggrieved by any decision of the P&Z;

g. Maintain current, and historical records of this Chapter, including, but not limited to: maps, zone changes, variances, special use permits, community types, amendments to this Chapter, nonconforming uses, appeals, applications, zoning district amendments on the official zoning maps, and minutes of meetings of the Development Review Committee (DRC) and P&Z;

h. Provide technical assistance as may be required to the P&Z and the BOCC to exercise their respective duties;

i. Receive, review and recommend approval, approval with conditions, or denial of preliminary and final plats and replats to the P&Z and the BOCC, when applicable;

j. Review and recommend changes or amendments to the Comprehensive Plan, UDC or this Chapter to the P&Z and the BOCC;

k. Maintain data on demographic changes, land use, demand for public services and public facilities and report to the P&Z and BOCC periodically;

l. Carry out special studies and prepare plans for land use and development of public facilities as directed by the County Manager, P&Z or BOCC;

m. Review all building permits for compliance with the provisions of this Chapter;

n. Review all permits for mobile homes and recreational vehicles for compliance with this Chapter; and

p. Transmit final decisions to the applicant in writing, and upon request to interested parties.

### 1.4.3 Planning and Zoning Commission

There is hereby established a Planning and Zoning Commission (P&Z), consisting of seven members who shall be appointed for two-year staggered terms by the Board of County Commissioners of Doña Ana County (BOCC). Members may be reappointed at the completion of their term by the BOCC. Members shall not receive compensation for performing their duties, but they may be reimbursed for training or attendance at conferences upon prior approval by the County Manager. The P&Z shall:

a. Adopt bylaws for the election of officers, conduct of meetings, and establishment of operations of the P&Z, subject to approval by the BOCC;

b. Receive, hear and make final determinations on applications for variances and Special use permits as prescribed by, and subject to, the procedures established herein;

c. Receive, hear and make recommendations to the BOCC on approval, approval with conditions, or denial of zone change requests;

d. Receive, hear and make recommendations to the BOCC, on requests for amendments and changes to this Chapter;

e. Hear and decide appeals from the Zoning Administrator's interpretation of the meaning of terms and language of this Chapter. The P&Z may affirm, modify or reverse the interpretation;

f. Hear and decide appeals of actions taken by the Zoning Administrator. The P&Z may affirm, modify or reverse actions of the Zoning Administrator;

g. Report on all matters requested by the BOCC;

h. Review, and when necessary, recommend changes and amendments to the Comprehensive Plan and UDC to the BOCC, at a minimum of once a year or as needed;

i. Review and make recommendations for approval, approval with conditions or denial of preliminary plats and replats to the BOCC; and

j. Carry out special studies and prepare plans for land use and development of public facilities as directed by the BOCC.

### 1.4.4 Board of County Commissioners

The Board of County Commissioners of Doña Ana County (BOCC) is authorized to zone land, approve the Subdivision of land, assure standards protect the health, safety and welfare of the County, hear appeals and shall:

a. Receive and consider recommendations on requests for amendments to this Chapter from the Planning and Zoning Commission (P&Z);

b. Consider and make final determinations on the creation of new zoning districts, zone changes, preliminary and final plats and replats, and appeals

from the P&Z subject to the procedures established herein and other ordinances;

c. Instruct the Community Development Department (CDD) and the Planning and Zoning Commission (P&Z), from time to time, to make studies or initiate studies and draft reports concerning issues arising from this Chapter and from other land use practices; and

d. Receive, review, modify, and adopt amendments to the Comprehensive Plan.

## 1.5. ADMINISTRATIVE COMMITTEES AND DEPARTMENT DIRECTORS

### 1.5.1. Development Review Committee

The Development Review Committee (DRC) consists of department directors of Doña Ana County Utilities, Flood Commission, Community Development, Fire and Emergency Services, and Engineering Services or their designees and is empowered to act, as outlined herein, on matters placed before it. In reviewing such matters, the DRC may:

a. Identify and address issues that may affect a proposal, and provide general oversight of the review of development-related proposals;

b. Consider all oral and written statements from the County reviewing agencies or applicant;

c. Resolve conflicting comments, recommendations and design differences between County reviewing agencies and the applicant regarding issues or concerns raised by County staff; and

d. Make recommendations to the P&Z, BOCC, Camino Real Regional Utility Authority (CRRUA) Extraterritorial Planning and Zoning Commission (ETZC), and to the CRRUA Board on behalf of the County for approval, conditional approval, or denial.

### 1.5.2 Doña Ana County Flood Commission Director

The Director of the Doña Ana County Flood Commission or his or her designee is hereby designated the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of Title 44 of Code of Federal Regulations (National Flood Insurance Program regulations) pertaining to floodplain management. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

a. Maintain and hold open for public inspection all records pertaining to the Flood Commission Department of this Chapter;

b. Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding;

c. Review, recommend approval, approval with conditions, or denial of applications relating to flood requirements of this Chapter;

d. Review proposed developments to assess any potential effect upon and compliance with Drainage Master Plans;

e. Review proposed developments for effects on existing flood and drainage control structures within a 1-mile radius of subject property;

f. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

g. Make necessary interpretations as to the exact location of the boundaries of areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);

h. In riverine situations, notify adjacent communities and the New Mexico State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and

i. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

### 1.5.3 County Engineer

The County Engineer (CE) or designee of the Engineering Services Department (ESD) shall:

a. Receive, review and approve applications for the design, construction, and grading and drainage when said construction is in conformance with the provisions of this Chapter;

b. Report to the County P&Z and to the BOCC, in a form appropriate to each, the applications received and approved by ESD and post on the appropriate maps, site plans and drawings the location and construction permitted;

c. Receive, review, analyze, approve and file applications for access, roads, Traffic Impact Analyses (TIA), grading, drainage, Erosion Control Plans (ECP), Stormwater Pollution Prevention Plans (SWPPP), and subdivision plats in accordance with the provisions of this Chapter;

d. Maintain current and permanent records of the ESD;

e. Decide, make recommendations and administer all matters pertaining to this Chapter upon which the CE is required to act and carry out inspections;

f. Receive, review and make recommendations on preliminary and final plats to the P&Z and BOCC, when applicable; and

g. Carry out special studies and prepare plans for transportation and infrastructure as directed by the County Manager, P&Z, or BOCC.

### 1.5.4 County Fire Chief

The Doña Ana County Fire Chief (CFC), Deputy Fire Chief, Fire Prevention Specialist or designee, shall administer and implement the provisions of this Chapter, the IFC and the NFPA requirements, and in furtherance of its authority, the CFC shall:

a. Receive, review, and make recommendations on applications for design and construction of buildings, when said construction is in conformance with the provisions of this Chapter;

b. Report to the P&Z and the BOCC, in a form appropriate to each, applications received and approved by CFC and post on the appropriate maps, site plans and drawings the location and construction permitted;

c. Receive, review and make recommendations on subdivisions and replats to the P&Z; and

d. Carry out special studies related to fire prevention and protection issues as directed by the County Manager, P&Z, or BOCC.

### 1.5.5 Doña Ana County Utilities Manager

The Utility Manager (UM) shall:

a. Receive, review, file and approve applications for design and construction of utilities, when said construction is in conformance with the provisions of this Chapter;

b. Report to the P&Z and to the BOCC, in a form appropriate to each, the applications received and approved by the Utilities Department and post on the appropriate maps the location and construction permitted;

c. Receive, review, analyze, approve and file applications for utilities, water and wastewater demand analyses including organic and hydraulic loadings, analyses of downstream facilities at wastewater tie-in locations, oversee associated utility installations and testing, and review plats in accordance with the provisions of this Chapter;

d. Receive, review and make recommendations on preliminary and final plats and replats to the P&Z and BOCC, when applicable; and

e. Carry out special studies related to water and wastewater infrastructure as directed by the County Manager, P&Z, or BOCC.

## 1.6 FEES

The schedule of fees for permits is set by Resolutions adopted by the BOCC and codified in Chapter 179 of the Doña Ana County Code. Whenever any activity covered by this Chapter has begun without a permit, and an investigation reveals a permit is required, the permit fee shall be triple the original fee.

## 1.7 AMENDMENTS

### 1.7.1 Legislative Amendments

a. The BOCC may, in accordance with NMSA 1978, §§3-21-1 *et seq*., and pursuant to New Mexico statutes and case law, on its own motion, on the recommendation of the P&Z, or on a petition as provided for in this subsection, amend, supplement, or repeal all or any part of this Chapter.

b. Legislative action may be taken by the P&Z or BOCC to reflect public policy relating to matters of a permanent or general character that is not usually restricted to individual persons or groups and is usually prospective, including, by way of example but not limited to, a comprehensive County-wide rezoning or text amendments that are not quasi-judicial in nature.

c. Neither this Chapter nor any zoning regulation, restriction, or zoning district boundary shall become effective, amended, supplemented or repealed until after a public hearing, held by the BOCC, at all parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing shall be published as required by New Mexico State Statutes and this Chapter.

d. Any property owner, lessee, developer, or any other party may, by a petition submitted through the CDD, request the BOCC to consider legislative amendments to any section of the text of this Chapter or any zoning district requirement or individual zoning district on the map established under this Chapter. The P&Z will review the requested legislative amendment and make a recommendation to the BOCC. The BOCC will consider the requested legislative amendment at a public hearing held in accordance with the requirements as set forth above.

### 1.7.2. Quasi-Judicial Amendments

a. The P&Z and BOCC shall apply quasi-judicial rules and process in considering proposed amendments to the text of this Chapter that are quasi-judicial in nature. The CDD, in consultation with the County Attorney, shall consider any proposed amendment and make a determination as to whether the substance of the proposed text amendment is quasi-judicial in nature.

b. Quasi-judicial action by the P&Z or BOCC typically involves a determination of the rights, duties, or obligations of specific individuals on the basis of the application of currently existing legal standards or policy considerations of past and present facts developed at a hearing conducted for the purpose of resolving the matter in question.

## 1.8 ENFORCEMENT

a. This Chapter may be enforced as provided for by law, including but not limited to the specific provisions of this Chapter and NMSA 1978, §§3-21-10, 4-37-3 and 47-6-1 *et seq*.

b. The County Attorney, the District Attorney, the County Sheriff, and the Zoning Administrator of Doña Ana County shall enforce this Chapter.

c. The BOCC, the District Attorney or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act [NMSA 1978, §47-6-1 *et seq.*] and County Subdivision Regulations:

   i. Injunctive relief to prohibit an applicant from selling, leasing or otherwise conveying an interest in subdivided land until s/he complies with the terms of the New Mexico Subdivision Act and County Subdivision Regulations;

   ii. Mandatory injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and County Subdivision Regulations;

   iii. Rescission and restitution for persons who have purchased, leased or otherwise acquired an interest in subdivided land that was divided, sold, leased or otherwise conveyed in material violation of the New Mexico Subdivision Act or County Subdivision Regulations; or,

   iv. Civil penalty of up to five thousand dollars ($5,000) for each parcel created in knowing, intentional or willful material violation of the New Mexico Subdivision Act or County Subdivision Regulations.

d. The BOCC, the District Attorney and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus pursuant to the provisions of the New Mexico Subdivision Act.

e. In any action by the Attorney General pursuant to the New Mexico Subdivision Act, venue shall be proper in the district court of any county where all or part of the land is situated or the district court of the county where the defendant resides.

f. Nothing in this section shall be construed as limiting any common-law right of any person in any court relating to subdivisions.

g. Any person who knowingly, intentionally or willfully commits a material violation of the New Mexico Subdivision Act [NMSA 1978, §47-6-1 *et seq.*] is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars ($10,000) per violation, or by imprisonment for not more than one year, or both.

h. Any person who is convicted of a second or subsequent knowing, intentional or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars ($25,000) per violation or by imprisonment for not more than eighteen months, or both.

i. In case any building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used in violation of the law or of this Chapter or any amendments thereto, or any land is, or is proposed to be, used in violation of the law or of this Chapter or any amendments thereto, the BOCC, the County Attorney, the District Attorney, the County

Sheriff, the Zoning Administrator, or any adjacent or neighboring property owner who would be adversely affected by such violation, in addition to other remedies provided by law, may institute civil action for an injunction, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

j. In addition to the civil remedies and penalties outlined above, a violation of this Chapter shall constitute a petty misdemeanor and shall be punishable as set forth in Doña Ana County Code Section 1-20.

## 1.9 EFFECTIVE DATE

The effective date of this Chapter shall be 30 days after the date of recordation in the Office of the Doña Ana County Clerk. [TO BE DRAFTED IN CONJUNCTION WITH THE LANGUAGE OF JPA WITH THE CITY OF LAS CRUCES]

## 1.10 REPEAL

The following Chapters of the Doña Ana County Code are hereby amended by deleting and repealing: Chapter 157—Design and Construction Standards; Chapter 172—Erosion Control; Chapter 207—Flood Damage Prevention;—Chapter 250—Land Use and Zoning Regulations; Chapter 279—Roads; Chapter 296—Stormwater Management; and Chapter 300—Subdivision of Land. Further, the Extra-territorial Zoning Ordinance No. 88-02 and the Extra-territorial Subdivision Ordinance No. 88-01 are hereby repealed.

# ARTICLE 2 PROCEDURES

This Article implements Section 1.3 Intent by providing procedures for complying with the regulations of this Chapter.

## 2.1 GENERAL PUBLIC HEARINGS

### 2.1.1 Legislative Hearing Procedures

In addition to the Legislative Amendments contained in Section 1.7.1, the Planning and Zoning Commission (P&Z) shall review proposed legislation in a public meeting per the New Mexico Open Meetings Act where it shall seek public input. The P&Z shall consider all input and presentations and shall make a formal recommendation to the BOCC regarding legislative matters. The following procedures shall be followed for public hearings of the Board of County Commissioners (BOCC) for legislative matters:

a. Legislative Changes to Zoning Regulations

i. A majority of the BOCC may order publication of the title and a general summary of a proposed ordinance in a newspaper of general circulation in the County at least once a week for 2 consecutive weeks prior to the date of the meeting of the BOCC at which the ordinance is to be submitted for final passage. The date of the meeting shall be included in the published notice. The style and form of the ordinance shall be determined by the BOCC. [NMSA 1978, §3-21-14]

ii. A proposed ordinance shall be passed only by a majority vote of all the members of the BOCC, and an existing ordinance shall be repealed by the same vote. [NMSA 1978, §3-21-14]

iii. The original copy of the ordinance together with the proof of publication and supporting maps shall be filed in a book kept for that purpose and authenticated by the signature of the County Clerk. The County Clerk shall keep the book together with supporting maps in the Clerk's office. The title and a general summary of the ordinance shall be published in a newspaper of general circulation in the County once each week for 2 consecutive weeks, the last date of publication being not less than 15 nor more than 30 days prior to the effective date of the ordinance. No ordinance shall take effect until at least 15 days after the last date of publication. It is a sufficient defense to any prosecution for violation of an ordinance to show that no publication was made. Copies of the proposed ordinance shall be made available to interested persons during normal and regular business hours of the County Clerk upon request and payment of a reasonable charge, beginning with the date of publication and continuing to the date of consideration by the BOCC. [NMSA 1978, §3-21-14]

b. Legislative Changes to Subdivision Regulations

i. The BOCC shall authorize publication of title and general summary one time at least 2 weeks prior to the public hearing to consider the

amendment, which shall become effective 30 days after it has been recorded in the Office of the County Clerk [NMSA 1978, §§4-37-7&9].

ii. Prior to adopting, amending or repealing any Subdivision Regulation, the BOCC shall consult with representatives of the State Engineer's Office, the NM Environment Department, the Office of Cultural Affairs, all Soil and Water Conservation Districts within the County, the NM Department of Transportation and the Attorney General about the subjects within their respective expertise for which the BOCC is considering promulgating a regulation. In the process of the consultation, the representatives of each of the state agencies shall give consideration to the conditions peculiar to the county and shall submit written guidelines to the BOCC for its consideration in formulating regulations [NMSA 1978, §47-6-10].

iii. A subdivision regulation may not be adopted, amended or repealed until after a public hearing held by the BOCC. Notice of the hearing shall be given at least 30 days prior to the hearing date and shall state:

1) Subject of the regulation;

2) Time and place of the hearing;

3) Manner in which interested persons may present their views; and

4) Place and manner in which interested persons may secure copies of any proposed regulation. The BOCC may impose a reasonable charge for the costs of reproducing and mailing of the proposed regulations.

iv. The notice shall be published in a newspaper of general circulation in the County.

v. Reasonable effort shall be made to give notice to all persons who have made a written request to the BOCC for advance notice of its hearings.

vi. The BOCC shall give the state agencies listed above 30 days' notice of its regulation hearings.

vii. At the hearing, the BOCC shall allow all interested persons reasonable opportunity to submit data, views or arguments, orally or in writing. The BOCC shall keep a complete record of the hearing proceedings.

viii. Representatives from the above listed state agencies shall be given the opportunity to make an oral statement at the hearing and to enter into the record of the hearing a written statement setting forth any comments that they may have about the proposed regulation, whether favorable or unfavorable, when the proposed regulation relates to an issue that is within the agencies' respective areas of expertise.

ix. A regulation is not invalid because of the failure of a state agency to submit a guideline prior to the promulgation of the regulation or because the representative of a state agency did not appear at a public hearing on the regulation or did not make any comment for entry in the hearing record.

x. The BOCC shall act on the proposed regulation at the subdivision Regulation hearings or at a public meeting to be held within 30 days of the hearing on the proposed regulations. Upon adopting, amending or repealing the regulations, the BOCC shall include in the record a short statement setting forth the BOCC's reasoning and the basis of the BOCC's decision, including the facts and circumstances considered and the weight given to those facts and circumstances.

xi. Any person heard or represented at the hearing shall be given written notice of the BOCC's decision, including the facts and circumstances considered, if the person makes a written request to the BOCC for notice of its decision.

xii. A regulation, amendment or repeal is not effective until 30 days after it is filed with the County Clerk and the State Records Administrator.

### 2.1.2 General Quasi-judicial Hearing Procedures

The following procedures shall apply to quasi-judicial hearings of the BOCC and P&Z:

a. In the hearing, the P&Z and BOCC shall consider all oral and written statements from reviewing agencies, the applicant, the public and County Staff.

b. Any party may submit written protests or statements to the Zoning Administrator prior to the public hearing that the P&Z and BOCC may consider in their decision. These shall include the name, address, and signature of the party or parties.

c. The P&Z and BOCC may approve a matter by a majority of the full membership if it is in the public interest, is in conformance with the goals of the Comprehensive Plan and meets all other decisional criteria articulated in this Chapter except as limited by NMSA 1978, §3-21-6.C.

### 2.1.3 Specific Rules of Due Process for Quasi-judicial Hearings

a. All persons giving oral testimony before the P&Z or the BOCC in quasi-judicial hearings, including Staff, shall be sworn-in, and testimony shall be taken under oath or affirmation.

b. Parties appearing before the P&Z or the BOCC shall be afforded a reasonable opportunity to present documentary and physical evidence, the testimony of witnesses, and argument, to cross-examine all persons testifying before the P&Z or BOCC, and to rebut evidence presented by opposing parties. In the interest of preserving an orderly and efficient hearing, the P&Z or the BOCC may require that cross-examination of a witness be

accomplished by directing questions of the witness through the Chair of the P&Z or the BOCC.

c. Subject to the limitations herein, persons desiring to present testimony to the BOCC in quasi-judicial hearings may do so without having to establish an appearance on the record in the prior related hearing on the matter before the P&Z.

d. So-called "statements" contained within documents offered as evidence shall not be excluded solely on grounds that such "statements" are not subject to cross-examination. However, the P&Z or the BOCC may upon other grounds limit the introduction of, or the weight given to, such documents and the "statements" they contain.

e. The formal rules of evidence applicable in civil judicial proceedings shall not apply to quasi-judicial hearings before the P&Z or the BOCC.

f. All relevant evidence and testimony having probative value, including hearsay, is admissible in quasi-judicial hearings if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs.

g. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

h. All persons desiring to submit documentary evidence to the P&Z or BOCC are strongly encouraged to present such evidence to the appropriate Planning Staff sufficiently in advance of the hearing for inclusion in the P&Z or BOCC agenda packets. If, during a hearing on a particular matter, a person offers documentary evidence that was not included in the P&Z or the BOCC agenda packets for that matter, the P&Z or BOCC may recess, table, or postpone further action on the matter until the P&Z or BOCC has had sufficient opportunity to review the offered documentary evidence, or may take such other action as the interests of justice and due process may require.

i. All persons intending to submit documentary evidence to the BOCC during a hearing shall provide a minimum of 10 copies of such documentary evidence at the time it is offered. All persons intending to submit documentary evidence to the P&Z during a hearing shall provide a minimum of 12 copies of such documentary evidence at the time it is offered.

j. For purposes of this Chapter, documentary evidence includes, but is not limited to, letters, written statements, spreadsheets, petitions, reports, diagrams, charts, photographs, computer discs, and presentations in printed or electronic form.

k. All parties in interest and citizens shall have an opportunity to be heard subject to the limitations consistent with g, above. Normally, more formal presentations by parties, such as those involving slide presentations, charts, handouts, or expert testimony, should be limited to 15 minutes. Less formal comments from members of the public should normally be limited to 3 minutes. The P&Z and the BOCC may grant or limit such time for presentations, testimony, and comments as justice and fairness under the circumstances may require.

l. The P&Z and the BOCC may determine the credibility of witnesses and the weight to be accorded to any testimony or evidence presented.

### 2.1.4 Representation; Legal Argument; Spokesperson Designation for Quasi-judicial Hearings

a. Individual parties, groups, and entities appearing at quasi-judicial hearings before the P&Z or the BOCC, and interested members of the public desiring to present public comment, are not required to be represented by an attorney although they may be represented by an attorney at their own expense and have that attorney speak on their behalf.

b. If any person, or their attorney, intends to present legal argument referencing specific ordinance sections, statutes, judicial decisions, or other legal authority at the hearing, a written memorandum containing such legal argument, along with citations to the specific legal authorities relied upon, shall be submitted to the appropriate County staff sufficiently in advance of the hearing for inclusion in the P&Z or BOCC agenda packets. If at a hearing any person, or their attorney, presents legal argument referencing specific ordinance sections, statutes or judicial decisions without having submitted a memorandum in advance of the hearing, the P&Z or BOCC may recess, table, or postpone further action on the matter until the appropriate County staff have had sufficient opportunity to analyze the citations to authority, and may take such other action as the interests of justice and due process may require.

c. Entities such as neighborhood associations and other groups of individuals with members sharing common positions or comments may designate a single non-attorney spokesperson to present the common positions or comments of the entity or group of individuals to the P&Z or BOCC in lieu of individual testimony or comment. Nothing in this Chapter, shall authorize the practice of law by a non-attorney on another person's behalf.

### 2.1.5 Ex-Parte Communication

a. All communication with members of the P&Z or BOCC occurring outside of a public hearing and concerning the substance of a specific matter that is pending or that may reasonably be brought before the P&Z or BOCC for quasi-judicial action, constitutes ex-parte communication and is prohibited. Ex-parte communication includes, but is not limited to, communication by telephone, voicemail message, note, letter, document, text message, email, photograph, or facsimile transmission, and includes communication from an applicant, proponent, opponent, adjacent property owner, or any member of the public with an interest in the particular matter.

b. Ex-parte communication does not include P&Z or BOCC communication with County staff.

c. Outside of a public hearing, an applicant, a proponent, an opponent, an adjacent property owner, or a member of the public with an interest in a particular matter that is pending, or that may reasonably be brought, before the P&Z or BOCC for quasi-judicial action should communicate only

through the appropriate County staff and not with a member of the P&Z or BOCC.

## 2.2 SPECIFIC LAND USE APPLICATION PROCEDURES

### 2.2.1 Town Hall Meeting

The town hall meeting is intended to provide for an exchange of information between the applicant, community residents and property owners of affected adjacent properties. The applicant shall present a conceptual site plan and other associated information explaining the land use proposal. This meeting affords the community with the opportunity to provide input regarding health, safety and quality of life concerns prior to major investment for a development project. The town hall meeting also aligns with the Livability Principles of the Comprehensive Plan.

a. The applicant shall convene a town hall meeting for the following:

   i. All community types pursuant to Article 3-Community Types;

   ii. All master plans; and

   iii. Any zone change request over 10 acres from a residential designation to a commercial or industrial designation.

b. The applicant shall provide a notice of the town hall meeting at least 21 days prior to the date of the meeting and shall be:

   i. Published one time in a newspaper of general circulation in the County;

   ii. Posted at local community centers and post office;

   iii. Mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified. This area shall be the area of notice; and

   iv. Signs, supplied by the CDD, posted on the subject property in conspicuous locations to notify adjacent property owners and passersby of the proposed land use request.

c. No P&Z or BOCC Commissioner shall attend the town hall meeting.

d. The applicant shall arrange for the facilities in which the town hall meeting is to be held, including accessible locations and accommodations for English/Spanish translation prior to the meeting. County staff shall be in attendance to observe, take notes, and answer any questions related to the County Code.

e. The applicant shall hire a moderator to preside over the town hall meeting. The moderator shall conduct the meeting, decide all questions of order and

manage the order of speakers at the meeting. The moderator may order the removal of a person who persists in behaving in a disorderly manner.

f. The town hall meeting shall occur after a pre-application conference following the requirements of Section 2.2.3 Pre-Application Conference and prior to submittal of the development application.

g. The applicant shall submit a town hall meeting summary report within 10 working days to the CDD that includes:

   i. Town hall meeting(s) location, noting date and facility; the number of people that attended; and copies of sign-in sheets;
   ii. Copies of comment letters, petitions, and other pertinent information received from residents and other interested parties; and
   iii. Summary of the issues and concerns discussed at the meeting(s) including a list of potential solutions and any subsequent agreements, and unresolved issues and concerns, if applicable.

### 2.2.2 General Notice Requirements

Unless specific procedures are required elsewhere in this Chapter, the following notice requirements shall apply:

a. Signs, supplied by the CDD, shall be posted for a minimum of 21 days on the subject property in conspicuous locations to notify adjacent property owners and passersby of the proposed land use request.

b. Notice of the time and place of the public hearing shall be published one time at least 21 days prior to the date of the hearing in a newspaper of general circulation in the County.

c. Whenever a parcel, lot, or area of land is to be considered for a zone change, special use permit, variance, master plan, community type, or subdivision, notice of public hearing shall be mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified. This area shall be the area of notice; and

d. Reasonable effort shall be made to give notice to all persons who have made a written request for notice of a final decision from any Decision Making Authority listed in Section 1.4.1.

### 2.2.3 Pre-application Conference

The applicant for a land use request shall attend at least 1 pre-application conference with CDD staff. In this conference, the applicant shall be given general advice about the procedures and data requirements for the land use request. The applicant shall prepare a conceptual plan prior to the first pre-application conference. CDD staff shall review the proposed land use request and shall inform the applicant as to the reviews and approvals required. Neither the applicant nor the County shall be bound by any statements or determinations made during the pre-application conference.

## 2.3 ZONE CHANGES

a. Zone changes may be initiated by the CDD, P&Z, BOCC, or by application submitted by any person or property owners (including all parties having an equitable interest, trustees of an estate, all persons having a specific power of attorney or have the written consent and signature of the property owner) to be considered for a zone change.

b. Other than zone changes initiated by the CDD, P&Z, or BOCC, an applicant for a zone change shall complete and submit an application in accordance with the procedures established herein. In addition, the application shall include the following information:

   i. The legal description and address of the property for the zone change;

   ii. The property's current and proposed zoning classification;

   iii. The justification for the zone change addressing the decisional criteria contained in Section 2.3.2; and

   iv. A conceptual site plan showing arrangement of uses proposed and the relationship to adjacent natural and built networks. The conceptual site plan is for information only and is not intended to be used in approval of subsequent building plans, unless required by the P&Z or BOCC at a public hearing.

### 2.3.1 Public Hearing for a Zone Change

No zone change shall be approved until a public hearing has been held by the P&Z, who shall recommend approval, conditional approval or denial to the BOCC. The BOCC shall also hold a de novo public hearing in accordance with the General Notice Requirements established in Section 2.2.2.

a. No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public hearing at which all parties in interest and residents shall have an opportunity to be heard. Notice of the time and place of the public hearing shall be published, at least 21 days prior to the date of the hearing, within its respective jurisdiction. Whenever a change in zoning is proposed for an area of 1 block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor's, of lots of land within the area proposed to be changed by a zoning regulation and within 300 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation.

b. Whenever a change in zoning is proposed for an area of more than 1 block, notice of the public hearing shall be mailed by first class mail to the owners, as shown by the records of the County Assessor's, of lots or of land within the area proposed to be changed by a zoning regulation and within 300 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returned undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt

requested, to that address. Notification shall not extend past a major land feature such as the Rio Grande or the Interstate Highway..

c. If the owners of 20% or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a two-thirds vote of all the members of the BOCC. d. A case may be postponed until the next regular meeting or until such time as the matter may be resolved.

### 2.3.2 Decisional Criteria for a Zone Change

a. A proposed zone change shall be consistent with the intent of this Chapter and promote the health, safety, and general welfare of the residents of the County. Additional factors that the P&Z and BOCC may consider in decisions include but are not limited to:

i. Potential number of homes;

ii. Population;

iii. Demographics;

iv. Potential traffic flows and impacts;

v. Need for new commercial or residential activity;

vi. Potential water and sewer needs;

vii. Existing infrastructure capacities and the ability of existing systems to accommodate new development;

viii. Environmentally sensitive areas, areas of historical significance, or areas that contain endangered or rare species of animal and plant life;

ix. The impact of a proposed zone change on surrounding properties; and

x. Implementation of best management practices for the development.

b. The cost of land or other economic considerations pertaining to the applicant shall not be the sole determining factor for a zone change.

c. Stability of land use and zoning is desirable; therefore, the applicant shall provide a sound justification for the zone change. The burden is on the applicant to show why the change should be made.

d. A proposed zone change shall not be in significant conflict with the Comprehensive Plan or other adopted or approved County plans and amendments thereto, including privately developed area plans that have been adopted by the County.

e. The applicant shall demonstrate that the requested zone change is supported by a:

i. Need to cover and perfect a previous defective ordinance or to correct mistakes or injustices therein; or

ii. Sufficient change of conditions making the zone change reasonably necessary to protect the public interest.

f. Where evidence of a change or mistake is adduced, there is no reciprocal right to a change in zoning, nor is there a threshold evidentiary standard which when met compels rezoning. Even with very strong evidence of a change or mistake, a zone change may be granted, but is not required to be granted, except where a failure to do so would deprive the owner of all economically viable use of the property.

g. The applicant has the burden of overcoming the presumption that the current zoning district designation is the most appropriate designation.

h. A proposed zone change that requires major and un-programmed capital expenditures by the County may be:

i. Denied due to lack of capital funds; or

ii. Approved with the understanding that the County is not bound to provide the capital improvements on any special schedule.

i. Location on a collector or major thoroughfare is not in itself sufficient justification for apartment, office, commercial or industrial zoning.

j. A zone change that results in a zone different from surrounding zoning on a strip of land along a thoroughfare is generally called "strip zoning." Strip commercial zoning may be approved only where:

i. The change will clearly facilitate realization of the Comprehensive Plan; and

ii. The area of the proposed zone change is different from surrounding land as it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

k. Spot zoning is prohibited. Spot zoning is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the parcel. Spot zoning is determined on an ad hoc basis depending on the facts and circumstances of each case. Factors to be considered are:

i. The disharmony with the surrounding area;

ii. The size of the area to be rezoned; and

iii. The benefit of the rezoning to the community or the owner of the parcel.

## 2.4 SPECIAL USE PERMITS (SUP)

### 2.4.1 General Provisions and Procedures

An applicant has the option of either applying for an Administrative SUP or proceeding directly to the P&Z to consider the SUP at a public hearing. The Zoning Administrator may administratively approve a special use permit if no written objections are received within 21 days from the date that notice is provided consistent with Section 2.4.3 provided all agency review comments are satisfactorily addressed. The notice shall identify the property and state the nature of the SUP requested, and shall also state that if no written objections to the SUP are received within 21 days of the date of the notice, the SUP may be granted administratively without a hearing. If written objections are received within the 21 day period, the SUP will be submitted to the P&Z for a public hearing. Special use permits shall not be considered a zone change.

### 2.4.2 Application Procedure

An applicant for an SUP shall complete and submit an approved application form in accordance with the procedures established herein. The applicant shall be the property owner, or have the written consent and signature of the property owner. The applicant shall also submit the following information with the application:

a. Narrative indicating the reason for the request, the purpose and use of the property, scope of work, hours of operation, number of clients and all improvements to be made.
b. Site plan meeting the specifications of Section 2.8.2 Detailed Site Plan Standards.
c. Grading and drainage plan, Traffic Impact Analysis (TIA) or Environmental Impact Statement (EIS) may be required by County staff.
d. The Zoning Administrator may place appropriate conditions on environmentally sensitive areas, areas of historical significance or areas that contain endangered or rare species of animal or plant life.
e. Any analysis required shall be undertaken and paid for by the applicant.

### 2.4.3 Notice Procedure for Special Use Permits

a. For Administrative SUPs:

i. Signs supplied by the CDD, shall be posted for a minimum of 21 days on the subject property, in conspicuous locations, in a manner that is reasonably calculated to notify adjacent property owners and passersby of the proposed administrative special use request.

ii. Notice of deadline for public input for an administrative SUP shall be published one time at least 21 days prior to the date of the administrative decision in a newspaper of general circulation in the jurisdiction of the County.

iii. Notice of an administrative SUP shall be mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified.

b. SUPs Decided by Public Hearing:

i. Signs supplied by the CDD, shall be posted for a minimum of 21 days on the subject property, in conspicuous locations, in a manner that is reasonably calculated to notify adjacent property owners and passersby of the hearing for the proposed special use permit.

ii. Notice of public hearing shall be published one time at least 21 days prior to the date of the hearing in a newspaper of general circulation in the jurisdiction of the County.

iii Notice of the SUP shall be mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified..

### 2.4.4 Decisional Criteria for Special Use Permits

A proposed SUP must be consistent with the health, safety, and general welfare of the residents of the County per the intent of this Chapter. The Zoning Administrator, P&Z, and BOCC shall use the following general criteria when reviewing special use permits but are not limited to:

a. Potential traffic flows and impacts;

b. Need for new commercial or residential activity;

c. Potential water and sewer needs;

d. Existing infrastructure capacities and the ability of existing systems to accommodate new development;

e. Environmentally sensitive areas in the vicinity, areas of historical significance, or areas that contain endangered or rare species of animal and plant life;

f. The impact of a proposed SUP on surroundings properties; and

g. Implementation of Best Management Practices for the development.

### 2.4.5 Approval Procedures and Conditions

The Zoning Administrator, P&Z or the BOCC may approve, conditionally approve or deny the SUP with right of appeal in accordance with the provisions of Section 2.16 Appeals. Approval may be granted with conditions that are deemed necessary to ensure that the purpose and intent of this Chapter are met and to mitigate potentially detrimental effects of the SUP to surrounding properties. In addition to the conditions, a time limitation on the SUP may be imposed. If a Special Use has not commenced within, or is discontinued for, a period of 1 year, said permit shall

automatically expire. All improvements shall be in accordance with the development standards applicable to the zoning district or community type, and Article 6, except as otherwise authorized by the SUP.

### 2.4.6 SUP Site Plan Revisions

Minor revisions to a detailed site plan, following final approval, may be subsequently approved by the Zoning Administrator without a public hearing. Major revisions to the detailed site plan are subject to the same requirements as an original application and may require a public hearing. Minor and major revisions to site plans are defined in Section 2.8.5 Site Plan Revisions.

### 2.4.7 Recording of the Special Use Permit

After approval, the special use permit shall be recorded in the Office of the County Clerk and shall include all information, conditions, reference to site plans and other provisions of the special use. The special use, as granted, shall be shown on the Official Zoning Map as a special use permit indicating its location with a designation of 'SUP'.

## 2.5 TEMPORARY USE PERMITS

A temporary use is a land use that may include, but not be limited to, outdoor concerts, tent revivals, circuses, carnivals or festivals. A permit shall be required for all temporary uses.

### 2.5.1 Application Procedure

Applications for a temporary use permit shall be obtained from the CDD and shall include a narrative indicating the reason for the request, the purpose and use of the property, and a site plan showing the proposed layout of the event or use.

### 2.5.2 Site Plan for Temporary Use Permits

A site plan for a temporary use permit shall include the following:

a. Location of permanent and temporary structures, including lighting and signage..

b. Vehicular access and circulation.

c. Area designated for off-street parking.

d. Location of portable restrooms and trash receptacles.

### 2.5.3 Additional Information Required

a. Written approval of the property owner.

b. Valid Doña Ana County Business Registration.

c. Proof of necessary inspections (building, fire, etc.) deemed necessary by the CDD.

d. Any additional information deemed necessary by the Zoning Administrator.

### 2.5.4 Applicant Requirements

a. Make provisions for adequate traffic control, fire protection, erosion control, dust mitigation, solid and liquid waste removal

b. Locate all mechanical and electrical machinery, not intended to be accessed by the public, away from publicly accessible areas.

c. Mitigate dust by watering down or using dust suppressants on any dirt or graveled portions of the property, parking areas and access points prior to any event and periodically during the duration of the temporary use permit (to be specified at the time of application approval).

d. Any other mitigation deemed necessary to protect the public interest by the Zoning Administrator or ESD including but not limited to lighting, visibility, erosion, or pollution control measures.

### 2.5.5 Review, Notification and Approval Procedures

A temporary use permit shall be reviewed and approved or denied by the Zoning Administrator on a case by case basis using requirements of Section 2.5.4 to ensure the public health, safety and welfare is secured after consulting with the appropriate agencies.

### 2.5.6 Time Limitations and Revocations

A temporary use permit may be issued for a period of time not to exceed 30 days, which may be extended one time for an additional two weeks. Non-compliance with any provision of this section shall be cause for immediate revocation of the permit and appropriate enforcement action.

## 2.6 ADMINISTRATIVE TEMPORARY RELIEF

Temporary relief from development requirements may be permitted at the Zoning Administrator's discretion for a period of time not to exceed 180 days. The relief may be granted upon determination by the Zoning Administrator that (1) the hardship to the applicant if the Chapter is strictly enforced significantly outweighs the potential impact to surrounding properties, and (2) the hardship will terminate within the duration of the temporary relief granted. The Zoning Administrator:

a. Shall make specific written findings as to the reasons for granting, granting with conditions, or denying the temporary relief.

b. May extend the temporary relief time period one time up to 180 days. Any request for temporary relief beyond 180 days extenstion shall be decided by the P&Z at a public hearing.

c. i. Applications for all extensions for temporary relief shall be made 45 days prior to the date of expiration.

## 2.7 VARIANCES

The intent of variances allows an applicant to deviate from the requirements of this Chapter. Any proposed development that does not conform to any of the standards of development in this Chapter may not commence without obtaining a variance. A variance shall not be granted unless the variance fulfills the requirements of this section. In granting a variance,

any reasonable conditions may be imposed to minimize any potential adverse effects to property within the area of notice.

### 2.7.1 Public Hearing and Approval

Upon receipt of the variance application and any supplementary data, the Zoning Administrator shall provide the required notices and shall schedule a public hearing with the P&Z per Section 2.2.2. The P&Z shall approve, conditionally approve or deny the application per the findings of Section 2.7.2. The decision of the P&Z on the variance application is final, unless it is appealed to the BOCC.

### 2.7.2 Findings

The P&Z and the BOCC, if the matter is appealed, may grant, grant with conditions, or deny a variance after making specific findings on whether the applicant has adequately demonstrated:

a. The variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice;

b. The variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice;

c. There is a physical hardship resulting from the size or shape of the parcel; or from existing structures on the parcel; or from topographic or physical conditions on the site or in the area of notice and the hardship is not self-imposed; and

d. The variance upholds the purpose and intent of this Chapter, public safety and welfare are secured, and substantial justice is done.

### 2.7.3 Administrative Variances

a. The Zoning Administrator may administratively approve a variance based on Section 2.7.2 Findings under the following circumstances:

   i. Deviation from a numerical standard of 20% or less, or another specific type of deviation specifically authorized by this Chapter;

   ii. Numerical deviation to comply with the prevailing setback of buildings within 100 feet and on the same block and thoroughfare as the lot; or

   iii. Variance to an otherwise conforming permit on a property that contains a legal nonconforming use, where the permit would bring the property into greater conformance.

b. The Zoning Administrator shall review the application in consultation with other agencies as appropriate, and shall transmit the application to those agencies. The CDD shall inform the applicant of any supplementary data required for the application.

c. The Zoning Administrator may impose reasonable conditions regarding further expansions, maximum height limits, time limitations, types of construction, and landscaping to assure the requirements of this Chapter are met.

d. The following notification requirements shall apply to administrative variances:

ii. Signs supplied by the CDD, shall be posted for a minimum of 21 days on the subject property, in conspicuous locations, in a manner that is reasonably calculated to notify adjacent property owners and passersby of the proposed special use request.

iii. Notice of deadline for public input for the administrative variance shall be published one time at least 21 days prior to the date of the decision in a newspaper of general circulation in the jurisdiction of the County.

iv. Notice of the administrative variance shall be mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified.

v. If a written objection is received within 21 days, the administrative variance application will be submitted to the P&Z for a public hearing. The procedures under this section shall be followed for notification of the P&Z meeting.

e. The Zoning Administrator shall notify the applicant of the approval, approval with conditions, or denial for the administrative variance in writing. The notice shall either state the nature and conditions of approval of the administrative variance or shall state the reasons for denial of the variance. The notice shall also advise the applicant of the next action.

## 2.8 DETAILED SITE PLAN REVIEW PROCESS

### 2.8.1 Detailed Site Plan Review and Approval

No person shall commence any use or construction for which a detailed site plan is required under this Chapter without first obtaining approval of such site plan. The site plan for all uses and buildings except single-family and two-family dwellings and accessory structures, shall be prepared by a professional engineer, architect, or surveyor licensed in the State of New Mexico, and the detailed site plan shall follow the requirements of this Chapter.

### 2.8.2 Detailed Site Plan Requirements

A site plan and its accompanying materials shall indicate the following:

a. Location and legal description of the property.

b. Location, arrangements, and dimensions of the property and of all existing and proposed uses, buildings, structures, landscaping and buffering, contours or spot elevations of terrain, paving, drainage structures, utilities and septic facilities. These shall be labeled according to their use.

c. Lot coverage data including all impervious areas expressed in square footage and percentage of total lot area.

d. The following information shall be included for community types per Article 3 and zoning standards in Article 5:

i. Façade build-out;

ii. Setback encroachments and depths;

iii. Private frontage designation;

iv. Pedestrian shed connectivity;

v. Elevation drawings of all proposed structures; and

vi. Location of civic spaces.

e. The location, dimensions and descriptions of all existing and proposed utility easements, ingress and egress, parking, including number of spaces, location and dimensions of all parking and loading areas, bicycle parking areas, accessible spaces, driveways and islands, and best management practices if applicable.

f. The location, dimensions, names, and widths of any adjacent thoroughfares, including bicycle and pedestrian facilities and parkway widths and landscaping or any other community amenity.

g. The location of any required setbacks or other horizontal and vertical dimensional requirements for the subject property and for abutting properties.

h. The location and dimensions of any proposed signs.

i. The location, dimensions, and intensity in lumens of all existing and proposed exterior lighting.

j. The location, dimensions, and capacity of any watercourses on or adjacent to the property, including watercourses with intermittent or ephemeral flow.

k. The Zoning Administrator, P&Z, BOCC, and other reviewing agencies may require additional data in report form for uses with the potential to impact residential development abutting the property, or within a 300 foot radius of the property, with excessive traffic, changes in drainage, noise, odor, vibration or concussion, smoke, fumes, chemical usage or emissions, dust, glare, hazard, or increased fire danger.

### 2.8.3 Application

The applicant shall submit a land use application, detailed site plan, supporting documentation and shall pay an application fee. The Zoning Administrator shall review these materials in consultation with other agencies as appropriate, and shall submit the materials to those agencies for review and comment. The CDD shall inform the applicant of any additional data required for the application.

### 2.8.4 Zoning Administrator Determination

The Zoning Administrator shall approve, conditionally approve, or deny the site plan in writing only after determining that the proposed use and site plan are permitted

and conform to the standards of this Chapter. Approval becomes effective on the date signed by the Zoning Administrator and shall remain valid until the use(s) commence, but not to exceed one year, after which a new application and site plan shall be required. If the site plan is denied, the Zoning Administrator shall state the reasons in writing and mail the letter by first class mail or via facsimile or email within 10 working days of the date of the decision indicating the reasons for denial and instructions for appeal per Section 2.16 Appeals.

### 2.8.5 Site Plan Revisions

The Zoning Administrator may approve certain minor revisions to the approved site plan as listed below. Major revisions and all other minor revisions require new agency review and approval by the appropriate approving body.

a. Minor revisions to dimensional variations less than 25% that shall be approved by the Zoning Administrator:
   i. additional parking or landscaping;
   ii. adjustments to the landscape buffer, lighting or signs;
   iii. non-structural changes to buildings; and
   iv. rearrangement of accessory buildings and landscaping.

b. Major revisions including dimensional variations of 25% or more, include but are not limited to the following:
   i. change in land use or intensity;
   ii. modifications of vehicular or traffic volumes and circulation;
   iii. modifications to pedestrian connectivity;
   iv. increase in size of property or change in location or configuration of structures; and
   v. revisions to approved access, circulation, drainage, grading, frontage and height.

## 2.9 LEGAL NONCONFORMING USES AND LOTS

Uses and structures that were lawful at the time they were established, but would now be prohibited are legal nonconforming uses. Such legal nonconforming uses shall be permitted to continue, but any enlargement, expansion, or extension of the nonconforming use or structure shall be permitted only if the nonconforming use or structure complies with the requirements of this Chapter, except as herein stated. Refer to Table 5.1 Land Use Classification Matrix: Zoning Districts.

### 2.9.1 Continuance of Legal Nonconforming Uses

a. Unless otherwise specifically provided for in this Chapter, legal nonconforming uses that were otherwise lawful on the effective date of this Chapter may be continued regardless of ownership until the current use changes.

b. Upon written request, a letter of legal nonconforming use will be issued by the Zoning Administrator and shall be required for all nonconforming uses of land, buildings or mobile homes created by the adoption of this Chapter. It is the responsibility of the property owner(s) to furnish 3 documents, such as affidavits or other legal documents to the Zoning Administrator,

establishing the legal nonconforming use status of the land, buildings, or mobile homes.

### 2.9.2 Maintenance Permitted

A legal nonconforming use, building or structure may be maintained and the occupancy of such building or structure may be continued; however, the nonconforming use shall not be changed or expanded, except as provided for in Section 2.9.

### 2.9.3 Expansions, Repairs and Alterations

Repairs and structural alterations may be made to a nonconforming mobile home, building or to a building housing a nonconforming use; however, the nonconforming use shall not be expanded or intensified. The modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Chapter.

### 2.9.4 Restoration of Damaged Buildings

Structures housing a legal nonconforming use damaged or destroyed by fire, flood or other disaster or act of nature may resume the legal nonconforming use, provided that restoration pursuant to current adopted Building Code is commenced within a period of 1 year from the date of destruction and is diligently pursued, without abandonment of the project, to completion. Such restoration shall not increase the floor area devoted to the nonconforming use over that which existed at the time the structure came into nonconforming status, unless required by the current adopted building codes. Any increase of the floor area shall not exceed the minimum required by such Building Code. A building permit or mobile home installation permit shall be obtained and countersigned by the Zoning Administrator noting any restrictions and requirements to enable the nonconforming use to continue without violation of this Chapter.

### 2.9.5 Discontinuance or Abandonment

A legal nonconforming use, building, mobile home or structure or portion thereof or a lot occupied by a nonconforming use that is, or hereafter becomes abandoned or is discontinued for a continuous period of 1 year, shall not thereafter be occupied except by a use that conforms to the regulations of the zone in which it is located and the standards set forth in this Chapter.

### 2.9.6 Transfer of Use

If a legal nonconforming use is sold, leased or otherwise transferred, the use may continue with no change or expansion of use, unless the change is to a conforming use under this Chapter.

### 2.9.7 Change of Use

The legal nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

### 2.9.8 Expansion of Use Permitted

A legal nonconforming use may be extended throughout any portion of a completed building when the use was made nonconforming by this Chapter and when it was clearly designed or arranged to accommodate such use.

### 2.9.9 Nonconforming Use of Land

The legal nonconforming use of land, existing at the time this Chapter became effective, may be continued, provided that no such nonconforming land use shall in any way be expanded, extended or increased in intensity of use, either on the same or adjoining property, and provided that if such nonconforming use of land or any portion thereof, is abandoned for a period of 1 year or more, any future use of such land shall be in conformity with the provisions of this Chapter.

### 2.9.10 Nonconforming Lots

When a legal nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum set forth in this Chapter, the lot may be used as zoned as if it were conforming.

### 2.9.11 Permits Granted Prior to Passage of Code

Authorization granted by the County to construct a building or structure shall not be denied or abridged in the event that a building permit has been issued and such permit is still valid. In the case of a special use permit issued prior to the effective date of this Chapter, the use may be continued as a nonconforming use and shall not be expanded or changed in use. Any permit approved prior to adoption of this Chapter and that has not begun or does not comply with the approved conditions may not be extended beyond the 180 day period from issuance of the permit.

### 2.9.12 Plats Approved Prior to Passage of Code

Existing subdivision plats within the transect zones that were approved prior to the adoption of this Chapter may deviate by 25% from the following requirements:

a. Private frontages and setbacks;

b. Parking location standards; and

c. Principal building front setback.

## 2.10 BUILDING PERMITS, MOBILE HOME INSTALLATION PERMITS, AND ELEVATION CERTIFICATES

a. Building Permits. A building permit shall be required for all construction within the County as specified in the latest Building Code adopted by the County. All building permit applications submitted to the Building Services Division (BSD) shall be reviewed in accordance with the currently adopted Building Code in effect and subsequent amendments thereto. Additionally, all building permit applications shall be reviewed for compliance with the requirements of this Chapter, an approved site plan, delinquent taxes, and all other applicable state and local laws.

b. Mobile Home Installation Permits. Mobile home installation permits (MHIP) shall be required for the placement of all mobile homes. All applications for mobile home installation permits shall be submitted to the BSD for review. All mobile home installation permit applications shall be reviewed for compliance with the most current installation and location standards for the placement of mobile homes in effect, and subsequent amendments thereto, including the requirements of this Chapter and for compliance with an approved site plan. A mobile home installation permit application may be approved only if the contents of that application meet the installation and location standards for the placement of mobile homes in effect at the time of application. A MHIP may be refused until compliance with all County Codes is demonstrated.

c. Elevation Certificates, Construction. Construction within a Federal Emergency Management Agency (FEMA) designated floodplain may not be started until the applicant has provided an elevation certificate that has been accepted by the appropriate County agency: the Flood Commission or County Engineer. Designs for construction in the floodplain shall be prepared by a professional engineer licensed in New Mexico.

d. Elevation Certificates, Limits on Liability. The acceptance of an elevation certificate and related information will not constitute a representation, guarantee or warranty of any kind or nature by Doña Ana County or by any political subdivision, or by an officer or employee of any of them, of the practicability or safety of any structure or activity, and will create no liability upon or cause of action against any public body, officer, or employee for damage that may thereby result.

### 2.10.1 Certificate of Occupancy

Certificates of occupancy shall not be issued until all applicable requirements of the currently adopted Building Code and this Chapter are met. Once a certificate of occupancy is issued, a business registration shall be obtained for nonresidential uses when required by law.

## 2.11 SUBDIVISION AUTHORITY AND CONFORMANCE

### 2.11.1 Subdivisions Authorized

Subdivisions are authorized by NMSA 1978, §47-6-1 *et seq.*, §4-37-1, §3-20-5, §3-20-6, §3-20-9.

### 2.11.2 Approval Required

The P&Z shall make a recommendation to the BOCC on preliminary plats. The BOCC shall approve, approve with conditions, or deny proposed preliminary and final plats and vacation of plats.

### 2.11.3 Subdivision Conformance

Subdivisions shall conform to the provisions of this Chapter prior to being approved by the BOCC and recorded in the Office of the County Clerk. Subdivisions may be approved along with related zone changes at the same hearing.

## 2.12 SUBDIVISION PROCEDURES

### 2.12.1 General Rule

a. No person shall divide a surface area of land into 2 or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future, except as provided herein, or by submitting a claim of exemption for a matter not falling under the definition of subdivision in NMSA 1978, §47-6-2. The Zoning Administrator shall approve, approve with conditions, or deny the claim of exemption. The definition of "subdivision" and matters eligible for exemptions are provided in Article 7 of this Chapter. The County, property owner, or their authorized representative may initiate a subdivision application.

b. The subdivision application may include the following procedures:

   i. At least 1 pre-application conference prior to submission of a formal application and initiation of engineering or design work;

   ii. Pre-engineering conference for subdivisions that include thoroughfares;

   iii. Agency review;

   iv. Summary plat review;

   v. preliminary plat review; and

   vi. final plat review.

c. The data requirements for these reviews are set forth in Article 4.

d. Subdivisions may be submitted in phases and final plats for each phase may be filed separately.

### 2.12.2 Pre-application Conferences

An applicant for a subdivision shall attend at least 1 pre-application conference with County staff. In this conference, the applicant shall be given general guidance about the procedures and data requirements for the subdivision application. The applicant may be informed as to the availability of alternatives for the proposed plan, available programs, and other options. The applicant shall prepare a sketch plan for at least 1 pre-application conference, but shall not prepare engineering or architectural drawings prior to the first pre-application conference. The Zoning Administrator shall review the proposed subdivision and shall advise the applicant as to the fees, reviews and approvals required. Article 4 Subdivisions outlines the required documentation for submittal. Neither the applicant nor the County shall be

bound by any statements or determinations made during the pre-application conference.

2.12.3 **Pre-engineering Conference for Thoroughfare Network and Traffic Impact Analysis**

The applicant may be required to submit a Traffic Impact Analysis (TIA) with the preliminary plat. However, prior to detailed calculation of the traffic impacts, and prior to summary review by the Zoning Administrator or preliminary plat review by the P&Z, the applicant's engineer shall confer with the Engineering Services Department (ESD) and other County staff to ensure the layout of the thoroughfare network is likely to satisfy the requirements of this Chapter.

2.12.4 **Agency Review**

a. Within 10 working days of the plat application package being deemed complete, the CDD shall forward a copy of the plat and supporting documentation to the following state and local agencies by certified mail, receipt requested, with a request for review and opinions:

   i. New Mexico Office of the State Engineer;

   ii. New Mexico Environment Department;

   iii. New Mexico Department of Transportation;

   iv. Soil and Water Conservation District in which the proposed subdivision is located;

   v. New Mexico Historical Preservation Division;

   vi. Appropriate school district; and

   vii. Other agencies deemed necessary by the CDD.

b. Requests for review shall be delivered to County Departments through interoffice mail, and the date stamped by each department on the material received shall serve as receipt of delivery.

c. The state and local agencies shall have 30 days from their receipt of the plat to review and return an opinion regarding the plat. The CDD shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency.

d. Prior to approving any subdivision, the P&Z and the BOCC shall ensure that the following agencies have been contacted and provided an opportunity to comment on the subdivision within 30 days receipt of the plat, and that their comments on the subdivision, if any, have been received within the time limits permitted in this Chapter and have been given due consideration. In addition to the following agencies, the P&Z and the BOCC may also request opinions from any other agency or individual with specific expertise relating to the development of a given subdivision. The following agencies will be contacted:

(i) State Engineer to determine:

(a) Whether the applicant can furnish sufficient water quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; and

(b) Whether the applicant can fulfill the proposal in the disclosure statement concerning water, excepting water quality.

(ii) Department of Environment to determine:

(a) Whether the applicant can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations

(b) Whether there are sufficient liquid and solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations; and

(c) Whether the applicant can fulfill the proposals contained in the disclosure statement concerning water quality and concerning liquid and solid waste disposal facilities.

(iii) New Mexico Department of Transportation to determine whether the applicant can fulfill the state highway access in conformity with state regulations.

(iv) Soil and Water Conservation District to determine:

(a) Whether the applicant can furnish terrain management sufficient to protect against flooding, inadequate drainage and erosion; and

(b) Whether the applicant can fulfill the proposals contained in the disclosure statement concerning terrain management.

(v) State Historic Preservation Division to determine that cultural properties directly affected by the subdivision are identified and protected, as required by the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-6-17.

(vi) Elephant Butte Irrigation District to determine whether the proposed subdivision infringes on the District's rights-of-way and whether the lots that will utilize surface water rights are adequately served with irrigation easements and whether surface water is proposed for use in the subdivision.

(vii) County Fire Chief to determine whether the subdivision proposal complies with applicable portions of the

International Fire Code (IFC) and the National Fire Protection Association (NFPA).

(viii) County Engineering Services to determine whether the design, layout, construction details, disclosure statement and all other facets of the plan and specific components of the subdivision proposal conform to all applicable standards.

(ix) County Flood Commission to:

(a) Determine whether the subdivision lies within a FEMA-designated floodplain;

(b) Notify the developer of any ongoing or proposed flood-control projects that will affect the proposed subdivision; and

(c) Determine whether the design, layout, construction details, disclosure statement and all other facets of the subdivision proposal conform to all applicable standards, as they relate to drainage.

(x) All utility companies affected by the proposed subdivision to determine whether the proposed subdivision can provide easements to meet their respective service needs.

(xi) The affected school district to review the plat and state whether a school site is proposed in or adjacent to the subdivision.

e. If, in the opinion of the appropriate public agency or an Indian nation, tribe or pueblo, a subdivider cannot fulfill the requirements of Subsection 2.12.4.d above and Section 4.7 or, if the appropriate public agency or the Indian nation, tribe or pueblo does not have sufficient information upon which to base an opinion on any one of these subjects, the subdivider shall be notified of this fact by the BOCC, and the procedure set out below shall be followed:

(1) if the appropriate public agency or the Indian nation, tribe or pueblo has rendered an adverse opinion, the board of county commissioners shall give the subdivider a copy of the opinion;

(2) the subdivider shall be given thirty days from the date of notification to submit additional information to the public agency or the Indian nation, tribe or pueblo through the board of county commissioners; and

(3) the public agency or the Indian nation, tribe or pueblo shall have thirty days from the date the subdivider submits additional information to change its opinion or issue a favorable opinion when it has withheld one because of insufficient information. No more than thirty days following the date of the expiration of the thirty-day period, during which the public agency or the Indian nation, tribe or pueblo reviews any additional information submitted

by the subdivider, the board of county commissioners shall hold a public hearing in accordance with Section 2.12.5 below to determine whether to approve the preliminary plat. Where the public agency has rendered an adverse opinion, the subdivider has the burden of showing that the adverse opinion is incorrect either as to factual or legal matters. Where the Indian nation, tribe or pueblo has rendered an adverse opinion, the subdivider may submit additional information to the board of county commissioners. If a public agency disagrees with an adverse opinion rendered by an Indian nation, tribe or pueblo, that agency shall submit a response to the board of county commissioners.

2.12.5 **Public Hearings on Preliminary and Final Plats**

a. Notice of the hearing before the P&Z and BOCC shall be given at least 21 days prior to the hearing date and shall state the:

i. Subject of the hearing;

ii. Time and place of the hearing;

iii. Manner for interested persons to present their views; and

iv. Place and manner for interested persons to secure copies of any favorable or adverse opinion and of the applicant's proposal.

b. The notice shall be published one time in a newspaper of general circulation in the County.

c. Reasonable effort shall be made to give notice to all persons who have made a written request for advance notice of the public hearings.

d. Public hearings on preliminary and final plats shall be held within 30 days from the receipt of all requested public agency opinions where all such opinions are favorable, or within 30 days from the date all public agencies complete their review of any additional information submitted by the applicant. If the BOCC does not receive a requested opinion within the 30 day period, the BOCC shall proceed with the public hearing.

e. At the public hearing, all interested persons shall be given a reasonable opportunity to submit data, views or arguments, orally or in writing, and to examine witnesses testifying at the hearing.

f. Within 60 days after the public hearing by the P&Z, the BOCC shall approve, approve with conditions, or deny the preliminary plat at a public hearing. The CDD shall inform the applicant in writing of the decision of the BOCC.

g. Approval or conditional approval of a preliminary plat shall constitute approval of the proposed subdivision design and layout of streets, lots, blocks and utilities submitted on the preliminary plat, and shall be used as a guide in the preparation of the final plat.

### 2.12.6 **Summary Plat Review**

a. Type three A subdivisions and all type five subdivisions as defined in Article 7 shall be submitted to the County for administrative approval under the summary review procedure:

   i. Type three A subdivisions containing 5 or fewer parcels of land, unless the land within a subdivision has been previously identified in the County Comprehensive Plan or this Chapter, as an area subject to unique circumstances or conditions that require additional review or was previously created by summary review process.

   ii. All type five subdivisions.

b. A pre-application conference is required before the submittal of an application for summary review and approval. The pre-application process is described in Section 2.12.2 Pre-application Conferences of this Chapter.

c. Summary review plat submittal is initiated by completing an application on a prescribed form obtainable from the CDD, and upon payment of the required administrative fees. An applicant shall prepare a summary review plat, disclosure statement and supporting documentation in accordance with the requirements provided in Article 4 of this Chapter. The summary review plat shall follow the Data Requirements of a Final Plat per Article 4, suitable for filing with the County Clerk.

d. Within 10 working days of receipt of the complete application, fees, summary review plat and supporting documentation, the CDD shall determine whether review by other state or local agencies is required, whether or not all required items have been submitted and shall notify the applicant in writing. If the summary review plat application package is incomplete, the applicant shall be notified and be given time to correct the deficiencies and return the summary review plat for consideration. If any additional information requested is not received by the County within 6 months of the date of notification, resubmittal of a new application package will be required.

e. Within 30 days of the date the summary review plat application is deemed complete, review shall be afforded to all County and outside agencies in accordance with Section 2.12.4, as the Zoning Administrator deems necessary to ensure complete review.

f. Signs, supplied by the CDD, shall be posted for a minimum of 21 days on the subject property in conspicuous locations to notify adjacent property owners and passersby of the proposed land use request.

g. If, at the time of approval of the summary review plat, any public improvements have not been completed by the applicant as required by this Chapter, the Zoning Administrator shall, as a condition preceding approval of the summary review plat, require the applicant to enter into a Development Agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the applicant's expense.

h. If the Zoning Administrator does not act upon a summary review plat within the required period of time, the applicant shall give the County Manager written notice of the County's failure to act. If the County fails to approve or reject the summary review plat within 30 days after such notice, the County shall, upon demand by the applicant, approve the plat without further delay.

2.12.7 **Preliminary Plat Review**

a. Preliminary plats shall be submitted for type one, type two, type three B, and type four subdivisions as defined per Article 7.

b. The applicant shall prepare a preliminary plat in compliance with Article 4 and pay a fee for preliminary plat review.

c. The County staff shall:

i. Review the preliminary plat and disclosure statement in consultation with other agencies and transmit the preliminary plat to those agencies for review and comment per Section 2.12.4;

ii. Inform and obtain any supplemental data from the applicant required for the application as requested by the reviewing agency. If any additional information requested is not received by the County within 6 months of the date of notification, resubmittal of a new application package will be required;

iii. Prepare a staff report of agency comments and schedule a public hearing as outlined in Section 2.2.2 General Notice Requirements and 2.12.5 Public Hearings on Preliminary and Final Plats before the P&Z for its recommendation to the BOCC; and

iv. Upon receipt of the P&Z recommendation, prepare a staff report and schedule a public hearing as outlined in Section 2.2.2 General Notice Requirements before the BOCC for its final decision on the preliminary plat application.

2.12.8 **Expiration of Preliminary Plat**

a. An approved or conditionally approved preliminary plat shall expire 36 months after its approval or conditional approval by the BOCC. However, if the applicant proposes to file multiple final plats as provided for under this Chapter governing phased development, each filing of a final plat shall extend the expiration of the approved or conditionally approved preliminary plat for an additional 36 months from the date of its expiration or the date of the previously filed final plat, whichever is later. The number of phased final plats shall be determined by the BOCC at the time of the approval or conditional approval of the preliminary plat.

b. Prior to the expiration of the approved or conditionally approved preliminary plat, the applicant may submit an application for extension of the preliminary plat for a period of time not exceeding a total of 3 years. The period of time specified in this section shall be in addition to the period of time provided in Section a above.

c. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat. [NMSA 1978, §47-6-11.1]

2.12.9 **Final Plat Review & BOCC Action**

a. Before approving the final plat for a subdivision containing 10 or more parcels, any 1 of which is 2 acres or less in size, the BOCC shall require that the applicant provide proof of a service commitment from a water provider and an opinion from the state engineer that the applicant can fulfill the requirements of Paragraph (1) of Subsection F of NMSA 1978, §47-6-11.

b. Upon receipt of the proposed final plat, disclosure statement and any supplementary data, the Zoning Administrator shall provide the required notices and shall schedule a public hearing per Section 2.2.2 General Notice Requirements and Section 2.12.5 Public Hearings on Preliminary and Final Plats for consideration of the subdivision application by the BOCC.

c. After the approval or conditional approval of a preliminary plat and prior to the expiration of such plat, the applicant may prepare a final plat in accordance with the approved or conditionally approved preliminary plat.

d. The BOCC shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by findings identifying the requirements that have not been met.

e. If, at the time of approval of the final plat, any public improvements have not been completed by the applicant as required by the BOCC pursuant to this Chapter, the BOCC shall, as a condition precedent to the approval of the final plat, require the applicant to enter into an improvement agreement or a modified development agreement with the County upon mutually agreeable terms to thereafter complete the improvements at the applicant's expense consistent with the requirements of Article 4 of this Chapter.

2.12.10 **Substantial Completion of Subdivision Infrastructure Improvements**

a. The issuance of permits for building construction within subdivisions in situations where required subdivision infrastructure improvements such as roadways, drainage facilities, water, and wastewater are not substantially complete can create risks to the health, safety and welfare of the occupants of such buildings and to County residents. The purpose of this section is to prevent such risks by requiring substantial completion of required subdivision infrastructure prior to issuance of building permits. This section applies to permits for construction of residential, commercial or industrial buildings in the unincorporated areas of Doña Ana County.

b. The County shall not issue building permits or certificates of occupancy for construction of residential, commercial or industrial buildings within a subdivision or phase of a subdivision until all required subdivision

infrastructure improvements for the subdivision or phase of the subdivision have been determined by the County to be substantially complete under this section. The applicant is responsible for ensuring such subdivision improvements are completed.

c. A developer, lot owner, or other applicant for a building permit or certificate of occupancy may appeal the CDD's determination that a subdivision or phase of a subdivision is not substantially complete under the provisions of this section. The appeal shall be initiated by filing a written notice of appeal with the CDD within 10 working days from the date of the CDD's final written determination. The notice of appeal shall cite the specific reasons for the appeal and the relief sought, and shall be accompanied by the appropriate fee and supporting information. The appeal shall be heard by the BOCC. .

d. Notwithstanding the provisions of Section 2.12.9.b above, the County may issue a limited number of conditional building permits for construction of residential, commercial or industrial buildings within a subdivision. The building permit for a particular subdivision, or phase thereof, shall be limited to 10% of the total lots contained in the subdivision or phase thereof. If the calculation of the number of conditional building permits that may be eligible to be issued for a subdivision or phase thereof results in a fraction, then the County shall round up to the nearest whole number. The applicant and the property owner(s) requesting a conditional building permit shall acknowledge in writing, in a form acceptable to the County, that the conditional building permit is subject to the following conditions and restrictions:

i. No final inspection shall be conducted, and no certificate of occupancy shall be issued, for any building constructed under a conditional building permit, as provided in this section, until the required subdivision infrastructure is deemed substantially complete by the County, pursuant to the terms of this section. Notwithstanding the prohibitions in this subsection, and in sections ii and iii below, a final inspection may be conducted and a certificate of occupancy may be issued for 1 building per subdivision or phase thereof, to be used solely as a model home or sales office for the subdivision prior to the infrastructure for the subdivision or phase thereof being deemed substantially complete by the County.

ii. The applicant and property owner(s) shall not occupy and shall not allow any other person to occupy the building subject to the conditional building permit, until the required subdivision infrastructure is deemed substantially complete and a certificate of occupancy is issued by the County.

iii. The applicant and property owner(s) shall not make, request, or allow any final connection of any water, electric or gas utility service to the building and shall not make, request or allow any water, electric or gas meter to be installed for the building unless and until the required subdivision infrastructure is deemed substantially complete by the County, pursuant to the terms of this Chapter. This subsection does not

apply to the temporary connection of water or electric service solely for the purpose of facilitating building construction.

iv. The applicant and the property owner(s) shall assume all risks, liability and damages associated with the commencement of building construction prior to the substantial completion of the required subdivision infrastructure, and shall agree to hold harmless Doña Ana County, its officers, officials, agents and employees.

v. A conditional building permit may be revoked for violation of any of the conditions or restrictions applicable to conditional building permits issued under this section, and any such violation shall, in addition to any other remedies provided by law, constitute a petty misdemeanor punishable as set forth in Doña Ana County Code Section 1-20.

vi. The fee for a conditional building permit under this section shall be the same as that established for regular building permits.

2.12.11 **Recording Plats**

a. A final plat is in full force and effect only after having been recorded in the Office of the County Clerk. When the improvements required on the final plat are in place, and have been inspected and approved by the County Engineer, the County Engineer shall transmit to the Zoning Administrator an authorization to record the final plat and disclosure statement in the Office of the County Clerk. The plat may not be recorded until all improvements have been completed or upon posting a financial guarantee on a form approved by the BOCC.

b. If an applicant wishes to submit the final plat for review, approval, and recording before completion of required improvements, the applicant shall post a financial guarantee in an amount recommended by the County Engineer. The guarantee shall be not less than 125% of the estimated cost of the required improvement. This guarantee may be included in a development agreement, including, but not limited to, a bond, letter of credit, escrow deposit, or other method explicitly approved by the BOCC.

c. One-year Construction Warranty and Release of Collateral shall follow the requirements of this Chapter.

2.12.12 **Requirements for Sale, Lease, or Other Conveyance**

It is unlawful to sell, lease, or otherwise convey land within a subdivision before:

a. The required and approved disclosure statement and final plat has been recorded in the Office of the County Clerk;

b. All corners of all parcels and blocks within the subdivision have been permanently marked with metal stakes in the ground and a reference stake placed beside 1 corner of each parcel;

c. The prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement accompanied by a readable copy of the final plat; and

d. Supporting documentation and sources of information provided in the disclosure statement shall be cited and, if applicable, engineering certification provided.

2.12.13 **Acceptance of Thoroughfares**

Upon full conformity with the requirements of this Chapter, the thoroughfares may be accepted for maintenance by the County. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk or a Resolution of Acceptance by the BOCC is filed in that Office. Upon receipt of a letter of non-acceptance from the CDD, the applicant may make the necessary corrections and resubmit the application.

2.12.14 **Succeeding Subdivisions**

a. Unless subject to a variance approved pursuant to Section 2.7, any proposed subdivision shall be combined with a previous subdivision and upgraded for classification purposes and improvement requirements by the BOCC if the proposed subdivision includes:

i. A part of a previous subdivision that has been created in the preceding 7-year period;

ii. Any land retained by an applicant after creating a previous subdivision if the previous subdivision was created in the preceding 7-year period; or

iii. Land adjoining a previous subdivision that is owned by the original applicant.

b. The cost of improvements required to upgrade the subdivision shall be the responsibility of the owner of the lot or lots being subdivided or of the party initiating the action.

2.12.15 **Vacation of Plats**

a. Any final plat filed in the Office of the County Clerk may be vacated or a portion of the final plat may be vacated if:

i. The owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the BOCC; or

ii. The BOCC finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

b. The vacation of all or a portion of a final plat shall be initiated by submittal of the statement of vacation to the Zoning Administrator, along with the names of all owners of record of property within the subdivided land to be vacated, the names of all owners of record of property contiguous to the subdivided land to be vacated, and statements of acceptance by public

utilities. The authorized representatives of all utility companies that have easements within the subdivision's proposed vacation of the plat must sign a notarized statement agreeing to the proposed vacation.

c. Within 60 days after the date of receipt of the statement of vacation and payment of appropriate review fees, the BOCC shall approve or deny the vacation, subject to the following:

i. Action shall be taken at a public hearing following the requirements of Section 2.12.5.

ii. Relevant utilities and other agencies have been notified.

d. In approving the vacation of all or a part of a final plat, the BOCC shall decide whether any person is adversely affected by the vacation. In approving the vacation of all or a portion of a final plat, the BOCC may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

e. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the Office of the County Clerk. The final plat shall be marked with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page that the statement of vacation is recorded.

f. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

2.12.16 **Exemptions**

a. It is unlawful for any person to divide a surface area of land, including land within a previously approved subdivision, into 2 or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future, unless such person either obtains approval for a subdivision as provided in this Chapter or files and obtains approval for a claim of exemption as provided in this Chapter. For a list of exemptions, see definition of subdivision in Article 7, Glossary of Terms.

b. Verification of Exemption.

i. Any person claiming entitlement to an exemption under the provision of this Chapter shall file a written claim of exemption on the form prescribed in the Appendix of this Chapter with the Zoning Administrator before making the land division for which the claim of exemption is made.

ii. The Zoning Administrator shall review the claim of exemption and supporting documents and shall notify the applicant within 30 days by either personal notification or first-class mail; however, the 30 day period shall not begin to run until the person claiming the exemption has delivered a completed claim of exemption application, including all supporting documents, to the Zoning Administrator. The date of notification is either the date of mailing or the personal notification.

(a) A claim of exemption shall be approved by the Zoning Administrator unless the request does not qualify for an exemption as stated within the definition of a subdivision contained within Article 7, or because of lot size and access requirements as stated in this Chapter. If the claim of exemption is approved, or if the Zoning Administrator fails to notify the applicant within 30 days after receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land in the manner provided by the Exemption under which the application was made without complying with the provisions of this section. If approved, the claim of exemption form shall be filed along with the conveyance documents in the Office of the County Clerk.

(b) In denying a claim of exemption, the Zoning Administrator shall cite the reason the request does not qualify for an exemption as stated within the definition of a subdivision contained within Article 7, or because of lot size and access requirements as stated in this Chapter. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Section 2.16, or submit an application for a subdivision as provided in this Chapter.

### 2.12.17 **Amended Plats and Replats**

If an applicant amends a previously approved and recorded subdivision plat, the following will apply:

a. A minor replat is any amended plat for the purpose of correcting an error on a previously approved and filed subdivision if the amendment creates no additional lots and does not materially affect any existing lots, dedicated rights-of-way, or easements. Minor replats will be processed and approved by the Zoning Administrator.

b. A major replat is any amendment to a final plat that alters or increases the number of lots, dedicated rights-of-way, or easements in a previously platted subdivision, and creates no more than 5 additional lots that conforms to zoning. Major replats shall meet the requirements of a final plat, and will be processed and reviewed as a summary plat review per Section 2.12.6.

c. Any plat amendment not described as a minor or major replat in this subsection shall require the submission of a new subdivision application and will be processed and reviewed accordingly.

## 2.13 COMMUNITY TYPES

### 2.13.1 **General Provisions and Procedures**

Approval of a community type shall not be considered a zone change. A community type as defined in Article 3 is an optional development standard permitted in every Zoning District, except industrial zones, on any parcel of land 10 acres or greater within the County. Community types shall be in accordance with the sector plan as

defined by the Comprehensive Plan in Table 3.1 Community Types by Sector. The development of community types is intended to promote mixed-use communities, including neighborhoods at various scales that include residential, commercial, institutional, civic spaces and have access to water and wastewater services, see Table 3.2 Community Types, Criteria. Development intensities for mixed-use community types include Small Villages, Villages, Towns, Neighborhoods, and Urban Centers as specified in Table 3.3 Community Types, Areas and Civic Space.

### 2.13.2 Application Requirements

Community types shall include the submittal and review of a community type application per the standards of Articles 3, 4 and 5, and all other applicable sections of this Chapter. The community type shall be designed and structured by the percentages of development intensities as shown in Table 3.3. The application for a community type shall include the following:

a. A conceptual site plan including details such as, but not limited to:

i. Size and location of community type;

ii. Description of the thoroughfare network;

iii. Locations and percentages of development intensities;

iv. Proposed dwelling unit densities;

v. Main civic space type, location, and size;

vi. Location and percentage of additional civic space;

vii. Connectivity of pedestrian sheds;

viii. Description and location of existing and proposed utilities;

ix. Description of transportation adjacency, if required, see Table 3.2;

x. Description of community adjacency, if required, see Table 3.2;

xi. Sector Plan allocation type; and

xii. Any other information that the Zoning Administrator deems reasonably necessary to properly assess the request.

b. A Site Threshold Analysis and Traffic Impact Analysis (TIA) meeting the requirements outlined in Article 6 Development Construction Standards. The level and extent of the required TIA shall be determined by the County Engineering Services based on the review of the Site Threshold Analysis (STA).

### 2.13.3 Decisional Criteria for Community Types

The Zoning Administrator may administratively approve a community type based on the following:

a. A proposed community type per the intent of this Chapter must be consistent with the health, safety, and general welfare for the residents of the County.

b. A proposed community type shall not be in significant conflict with adopted elements of the Comprehensive Plan, other approved County Plans or other Sub-area master plans including privately developed area plans that have been adopted by the County.

c. Each community type should be allocated to the Sectors indicated in Section 3.1.1 and Table 3.1.

d. Each community type shall meet the requirements of Table 3.2 (Community Types, Criteria) pertaining to water and wastewater services and adjacency requirements.

e. Each community type shall meet the requirements of Table 3.3 pertaining to the characteristics, design and the percentages of development intensities.

### 2.13.4 Notice & Approval Procedures for Community Types

a. The Zoning Administrator shall follow the agency review requirements of Section 2.12.4 for any community type.

b. Review and discussion of the proposed plan by the DRC.

c. A town hall meeting shall be held for a community type in accordance with the procedures established pursuant to Section 2.2.1.

d. The Zoning Administrator may impose reasonable conditions regarding further expansions, maximum height limits, time limitations, types of construction, buffering and landscaping to assure the requirements of this Chapter are met.

e. If applicable, a community type may be approved in conjunction with a subdivision application based on the requirements of this Chapter.

f. The Zoning Administrator shall notify the applicant of the approval, approval with conditions, or denial for the community type in writing. The notice shall either state the nature and conditions of approval of the community type or shall state the reasons for denial of the community type. The notice shall also advise the applicant of the next action they may take to address any outstanding issues.

g. When approved, the community type shall be mapped on the Official Zoning Map of Doña Ana County.

## 2.14 EXPIRATION OF LAND USE APPLICATIONS

All land use applications submitted to the CDD shall expire by limitation and become null and void if no action is taken by the applicant within 180 days after receiving written notification of inaction from the Zoning Administrator. The Zoning Administrator may grant extensions to the applicant for periods not exceeding 90 days upon written request by the applicant explaining the circumstances beyond the control of the applicant that have prevented any action from being taken.

## 2.15 MASTER PLANS

### 2.15.1 General Provision and Procedures

A master plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development

and the need for flexibility in land development. The master plan process is intended to ensure that proposed development is suitable and appropriate for a given parcel of land, based on its location and its environmental characteristics, which may offer a change in design criteria and to advance the goals and objectives of the Comprehensive Plan. The master plan process permits changes that conform with the intent to provide health, safety, and general welfare to County residents. Approved master plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted master plan.

2.15.2 **General Provisions**

a. A master plan shall be required when any of the following criteria apply:
   i. A development is to be divided into multiple phases;
   ii. A development application is proposing multiple land uses;
   iii. An application is for the single development of 40 or more lots; and
   iv. When a commercial, office, or industrial development application is proposing to utilize the summary subdivision procedure more than once on contiguous parcels owned by the same owner.

b. For smaller residential developments of 10 or fewer acres, with 39 or fewer lots and built in no more than 2 phases, a master plan is not required.

c. The subdivider is responsible for including on the master plan all contiguous property owned, legally controlled by, or of any development and/or financial interest to said subdivider.

d. A preliminary plat may be submitted simultaneously with the master plan.

2.15.3 **Pre-Application Requirements**

Prior to the filing of an application for approval of a master plan, the applicant shall submit a conceptual plan of the proposed development to the CDD. This does not require a written application or fee, nor does the pre-application procedure require formal approval by either the P&Z or BOCC. Conceptual plans shall be presented to the first available DRC meeting for review and comment. The DRC shall discuss with the developer, or the developer's representative, the proposed conceptual plan and shall indicate any changes that will be required for the formal submittal of the proposal.

a. A conceptual plan for the master plan shall include the following information:
   i. Name of master plan.
   ii. Vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or built features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map.
   iii. North arrow, date of preparation, written and graphic scale.
   iv. A general legal description that includes approximate survey ties and approximate acreage.

v. Name and address of the consultant preparing the master plan.

vi. Name and address of the developer.

vii. Boundary lines of the master plan, with approximate lengths of lines.

viii. Proposed land use, by parcel or phase. Residential parcels shall provide gross density range.

ix. Present zoning and proposed zoning (if applicable).

x. Contours—20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the CDD.

xi. Adjacent land use and zoning district identification.

xii. Thoroughfare system: Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include bikeways, pedestrian sheds, trails and any other transportation lines. Identify existing and proposed classification of roads per the design standards of this Chapter and based on the current MPO transportation plan.

xiii. Significant natural features, such as arroyos and approximate 100-year floodplains as determined by FEMA Special Flood Hazard Areas and FIRM.

xiv. Adjacent roads and other transportation routes identified by functional classification.

xv. Road and Utility Easements.

xvi. Tabular information:

a) Land use of each phase or parcel.
b) Approximate acreage for each parcel or phase.
c) Total number of residential dwelling units, minimum and maximum range.
d) Dwelling units per acre for each parcel or phase.
e) Approximate acreage proposed for open space, private and public facilities, and right-of-way.
f) Approximate additional population to be generated by development, based on census data.
g) Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation information, as amended.

xvii. Approval block signifying the final approved master plan to be signed by the Zoning Administrator upon approval by the P&Z and compliance with all conditions.

xviii. A conceptual utilities plan shall contain key information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed

utilities to be provided to the development. Actual size and location of utilities to be determined at time of development and subject to change based on utility needs of the surrounding area.

xix. A conceptual grading and drainage plan shall contain key information to provide a general understanding of how drainage issues will be addressed by the development.

**2.15.4 Application Requirements**

a. The master plan, supplemental material and fees shall be submitted to the CDD, and a receipt shall be issued. The Zoning Administrator shall then have 10 working days to review the submittal for completeness. If all of the required items have been submitted, and the master plan submittal contains all necessary items per the requirements of this Chapter, the Zoning Administrator shall accept the submittal for review. A proposed master plan shall not be accepted for review by the Zoning Administrator if incomplete or substantially inaccurate. If a submittal is found to be incomplete, the applicant shall have 10 working days to correct the deficiencies.

b. The application shall be signed by all property owners for the subject property, as recorded in the Office of the County Clerk.

c. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.

d. The Zoning Administrator, the DRC, or the P&Z shall have the authority to add submittal requirements if it is determined that the additional information is reasonably necessary in order to accomplish the objectives of this Chapter. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

e. Master plans will be processed by the Zoning Administrator and sent to the relevant departments for review, comment, and recommendation. Each reviewing entity shall be requested to complete their review within 10 working days. Written reports, containing comments and recommendations shall be returned to the Zoning Administrator.

f. The Zoning Administrator shall review all comments for applicability and appropriateness to the master plan requirements and forward any comments to the applicant or the applicant's representative for completion. Master plans applications that are commented upon shall be returned, amended, resubmitted and reviewed until the provisions set forth in their respective regulations have been met.

2.15.5**Notice Procedures for Master Plans**

a. Posting and notice shall follow the requirements of Section 2.2.2 General Notice Requirements of this Chapter.

2.15.6 **Decisional Criteria for Master Plans**

a. Master plans shall be submitted to the DRC for review, comments and recommendations to the P&Z. The DRC shall review the master plan to determine whether it is consistent with the intent and purposes set forth in Section 1.3 of this Chapter. The DRC shall provide the P&Z with a report containing a

recommendation that the master plan be either approved, conditionally approved, postponed or denied. The report shall include the reason(s) for the recommendation.

b. The P&Z shall review the master plan, report, comments and recommendations received from the DRC, Zoning Administrator and presentations from the applicant or the applicant's representative and from any interested persons. Action from the P&Z shall be in the form of approval, conditional approval, postponement, or denial. Action from the P&Z shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions acted upon by the P&Z at the public hearing shall be furnished to the applicant.

c. It is the requirement of the P&Z that no master plan shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither party is present at the public hearing, the master plan will be postponed until the next regular P&Z meeting.

d. Upon approval of the master plan by the P&Z, the developer may submit to the CDD any zoning applications, preliminary plats or final plats as necessary and applicable that reflect the objectives of the approved master plan.

e. The approval of the master plan shall be effective for a period of 5 years, as described on the approval action form. If, at the expiration of the 5 year period, no single preliminary plat, building permit, or any other development application, in conformance with the approved master plan, has been submitted and approved, the master plan shall expire. Such action does not necessarily have to encompass the entire master-planned area in order for said master plan to remain active. The developer may submit a request for extension prior to the expiration date. The request will be reviewed by the Zoning Administrator for consideration. Approval of a master plan does not prohibit the utilities department from revising any utility requirements based on projected needs or growth around the master-planned area.

f. Any substantial change to the master plan will require resubmittal of the plan in its entirety. Minor modifications shall be reviewed and considered by the Zoning Administrator. Substantial modifications to the master plan are subject to a regular public hearing with the same requirements as an original application. Substantial modifications shall include, but are not limited to:

   i. Any change in land use or use intensity;

   ii. Modifications of vehicular traffic circulation on arterials, collectors or major local designated streets;

   iii. Increase in residential density;

   iv. Any extension of time limits beyond 20 percent; and

   v. Any change in the master plan that is determined by the Zoning Administrator to be substantial.

## 2.16 APPEALS

Any aggrieved person or party may appeal a final written decision of a Decision Making Authority listed in Section 1.4.1, other than a decision of the Zoning Administrator, to the next higher level within 30 days of the written and recorded decision. Appeal of a decision of the Zoning Administrator must be within 30 days of the written decision.

### 2.16.1 Procedure

a. The appeal shall be initiated by the filing of a written notice with the CDD prior to 5:00 p.m. on the 30th calendar day following the date of the decision.

b. The notice of appeal shall concisely and specifically set forth in writing the points on which it is urged the decision should be set aside by the next higher level of Authority.

c. Appeal hearings before the P&Z and BOCC shall be de novo hearings, and may include review and consideration of the record and of any new evidence submitted prior to or during the hearing.

d. Public notice shall be given in the same manner as required for the action being appealed.

e. The hearing on appeal shall be commenced within 60 days of the filing of the notice of appeal.

f. Decisions on appeals by the BOCC shall be made by a majority vote unless the decision being appealed required a greater than majority vote of the P&Z, in which case the increased vote requirement shall be applicable to the decision by the BOCC on the appeal.

g. The next level of administrative authority may approve or reverse the decision of the lower level of administrative authority, or make such modification on the appeal as it deems necessary, in order to protect the public interest. The decision shall be based on findings of fact.

h. Appeals of final administrative decisions of the BOCC to District Court shall be governed by NMSA 1978, §39-3-1.1, as amended.

### 2.16.2 Quasi-judicial Nature of Appeals

Hearings on appeals shall include the following:

a. A person or group filing an appeal shall include a written "Statement of Appearance" giving the name and address of the person making the appeal, signed by the person or the person's agent. This statement will constitute an appearance of record.

b. The parties to a quasi-judicial matter shall be any of the following who have entered an appearance of record:

   i. The applicant or applicant's agent;

   ii. The owners, as shown on the records of the County Assessor, of lots comprising the application site, and lots within the area of notice of the original action;

   iii. The representatives of any department or agency of the County that may be affected by the application; and

   iv. Any person or entity whom the P&Z or BOCC, acting as the Board of Appeals, determines to be an aggrieved person or party.

c. A party shall be afforded the opportunity to present evidence and argument and to question and cross-examine witnesses on all relevant issues. The decision making authority on appeal may impose reasonable limitations on the number of witnesses heard, and on the nature and length of testimony and questioning to avoid unnecessary and duplicative testimony and assure that testimony and questioning is relevant to the case.

d. The Zoning Administrator, the P&Z or the Board of Appeals may question witnesses and may request to review documents presented. The Zoning Administrator shall keep a record of all proceedings in quasi-judicial matters heard by the P&Z. The County Clerk shall keep a record of all proceedings in quasi-judicial matters heard by the Board of Appeals.

e. All testimony shall be made under oath or affirmation.

### 2.16.3 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed unless the appellant certifies that by reasons therein stated, a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of a District Court after a notice is provided to the appellant.

# ARTICLE 3 SECTOR PLAN AND COMMUNITY TYPES

The Sector Plan allocates each community type to one or more sectors in locations suitable, with respect to infrastructure, transportation and adjacent development, by ensuring that each community type is of a size and internal design appropriate to its location and surroundings.

## 3.1 SECTOR PLAN ADOPTED

The BOCC has adopted the Sector Plan in support of Plan 2040--The Comprehensive Plan for Doña Ana County ("Comprehensive Plan"). The Sector Plan describes the community types that are recommended in each Sector (See Section 3.1.1 Sectors and Table 3.1. Community Types by Sector). The Sector Plan considers the various development scenarios in the Comprehensive Plan and considers the physical attributes of the land and its current patterns of development, including proximity to existing infrastructure.

### 3.1.1 Sectors

Each sector, as characterized by the Comprehensive Plan, is used as a guide to express whether or not a particular area is intended for growth and what type of growth is expected: controlled, intended or targeted; and each sector is used for the following purposes:

a. The O1 Sector consists of lands protected from development.
b. The O2 Sector consists of lands of rural character, such as a Small Village, in which development shall be limited to not overburden resources or natural systems.
c. The G1 Sector consists of lands of primarily rural character, such as a Small Villages and Villages, in which development shall be limited to not overburden resources or natural systems.
d. The G2 Sector consists of lands that can support substantial growth by virtue of proximity to existing infrastructure and safety from flooding, with the intent to be developed as small villages, villages, towns, neighborhoods and urban centers.
e. The G3 Sector consists of land already developed and with the intent to further develop to match or intensify the surrounding community types with the intent to be developed as villages, towns, neighborhoods and urban centers.

**Table 3.1 Community Types by Sector**

| Community Types➔ | Small Village | Village | Town | Neighborhood | Urban Center | |
|---|---|---|---|---|---|---|
| **Sectors🡻** | | | | | | |
| **O1** | | | | | | |
| **O2** | R | | | | | |
| **G1** | R | R | | | | |
| **G2** | R | R | R | R | R | |
| **G3** | | R | R | R | R | |
| **LEGEND** | | | | | | |
| **Recommended** | R | | | | | |

## 3.2 COMMUNITY TYPES

A community type is a regulatory category that defines the physical form, density, character, and extent of a new development or community, which can be used to develop a new community on any parcel 10 acres or greater, regardless of the underlying zoning, except industrial and R5L zones, providing they meet the decisional criteria in Article 2 and comply with the standards below. Proposed community types include Small Villages, Villages, Towns, Neighborhoods, and Urban Centers and are mixed-use communities per 3.2.3 through 3.2.8.

a. Small Villages that are structured by a standard pedestrian shed oriented toward a common destination that consists of civic space, and in the form of a small, isolated settlement;

b. Villages that are structured by a standard pedestrian shed oriented toward a common destination that consists of a mixed use center or corridor, and in the form of an isolated medium-sized settlement near a transportation route;

c. Towns refer to an agglomeration of community units, chiefly where they are isolated from adjacent mixed-use community units;

d. Neighborhoods that are structured by a standard pedestrian shed oriented towards a common destination primarily urban oriented with other mixed use community units; and

e. Urban Centers that are structured by a standard pedestrian shed oriented toward a common destination consisting of large mixed-use center or corridor and in a form of a commercial cores upon major transportation routes.

### 3.2.1 General

a. All community types shall follow the town hall meeting procedures per Article 2.

b. Characteristics of each community type are listed below, and should be allocated to the sectors indicated in Section 3.1.1 Sectors and Table 3.1 Community Types by Sector.

c. Each community type shall have wastewater services and be located per Table 3.2 Community Types, Criteria.
d. No construction pursuant to an approved community type may commence until a preliminary plat has been approved.
e. Each community type shall have the characteristics required by Table 3.3 Community Types, Areas and Civic Space, and in this section:

   i. The land to be dedicated as main civic space shall be assigned to an appropriate development intensity per Table 4.3 Civic Space Types and Table 3.5 Land Use Classification Matrix: Development Intensities.

**Table 3.2 Community Types, Criteria**

| **Criteria➔** | **Wastewater Service** | **Transportation Adjacency** | **Community Adjacency** |
|---|---|---|---|
| **Community Types🡻** | | | |
| **Small Village** | Optional | Not Applicable | Not Applicable |
| **Village** | Optional | Within 1/2 mile of a collector or arterial | Not Applicable |
| **Town** | Required | Within 1/2 mile of an arterial | Within 1/4 mile of existing residential or commercial development |
| **Neighborhood** | Required | Within 1/2 mile of a collector | Within 1/4 mile of existing residential or commercial development |
| **Urban Center** | Required | Adjacent to arterial | Surrounded by existing or proposed residential and commercial development |

### 3.2.2 Development Intensities

a. Land uses in new community types shall be mapped as development intensities according to the percentages allocated in Table 3.3 Community Types, Areas and Civic Space.
b. Development intensities for the mapping of a new community type shall include the following categories:

   i. N (Natural) is land preserved from development.
   ii. R (Rural) Development Intensity consists of sparsely settled lands in open or cultivated conditions. These include bosque, agricultural land, and grazing land. Typical buildings include farmhouses and agricultural buildings. Thoroughfares are rural in character and have no pedestrian facilities. The landscape is agriculture or that which occurs naturally.
   iii. L (Low Intensity) Development Intensity consists of low density single-family residential dwelling areas, with some mix of uses, home occupations and outbuildings. Parkways within thoroughfares and yard plantings shall be

naturalistic and building setbacks shall be relatively deep. Blocks are large and thoroughfare networks irregular.

iv. M (Medium Intensity) Development Intensity consists of a mix of uses but is primarily mixed density residential. It contains a wide range of building types: houses, compounds, townhouses, duplexes, small apartment buildings, and live-work units. Setbacks and landscaping are variable. Thoroughfares with sidewalks define medium-sized blocks.

v. H (High Intensity) Development Intensity consists of higher density mixed-use buildings that accommodate retail, offices, townhouses and apartments. It shall have a tight network of thoroughfares with wide sidewalks, regularly spaced street tree planting and buildings set close to the sidewalks.

**Table 3.3 Community Types, Areas, and Civic Space**

| **Standards➔** | **Size** | **Type of Main Civic Space (select Development Intensity to suit)** | **Civic Space (percent of Community Type area)** | |
|---|---|---|---|---|
| Community Types🡻 | | | | |
| Small Village | 10-40 acres | Plaza, Square or Green | 5% minimum | |
| Village | 40-100 acres | Plaza, Square or Green | 5-20% | |
| Town | 100+ acres | Plaza, Square or Green | 5-20% | |
| Neighborhood | 40-200 acres | Plaza, Square or Green | 5-20% | |
| Urban Center | Varies | Plaza or Square | 5-15% | |
| **Standards➔ See Table 3.5 Development Intensities** | **R (percent of Community Type area)** | **L (percent of Community Type area)** | **M (percent of Community Type area)** | **H (percent of Community Type area)** |
| Community Types🡻 | | | | |
| Small Village | 0% min. | 10-40% | 20-60% | 0-10% |
| Village | 0% min. | 0-30% | 30-60% | 0-15% |
| Town | 0% min. | 0-20% | 40-70% | 5-25% |
| Neighborhood | 0% min. | 0-30% | 30-60% | 0-15% |
| Urban Center | 0% min. | 0-20% | 40-70% | 10-25% |

### 3.2.3 **Mixed-use Community Types, Design**

Mixed-use communities include neighborhoods at various scales that include residential, commercial, institutional and civic space. Small Villages, Villages, Towns, Neighborhoods, and Urban Centers are mixed-use community types. They shall be designed according to the following parameters:

a. Structure of a mixed-use community type. The land for each mixed-use community type shall be allocated according to the percentages of land area in Table 3.3 Community Types, Areas and Civic Space, except that a Town shall be aggregated from 2-3 community types per Table 3.3 Community Types, Areas and Civic Space.

b. Structure and Placement of a Pedestrian Shed. A pedestrian shed is a notional circle with a radius of 1/4 mile. Each pedestrian shed is located on the site of a new community type according to existing conditions, such as traffic intersections, adjacent developments, transit stations, and natural features.

   i. Adjustment. Each pedestrian shed shall be adjusted to include the land falling outside it or between itself and other pedestrian sheds under the same application, and shall not exceed the size limitations in Table 3.3 Community Types, Areas and Civic Space. The adjusted pedestrian shed(s) shall then become the boundary of its community type.

c. Development Intensities. Development intensities shall be allocated to the community type in the percentages specified in Table 3.3. Community Types, Areas and Civic Space.

d. Civic space is the combination of certain physical constants including the relationships among their intended use, size, landscaping and fronting buildings.

   i. Main civic space shall be assigned to each mixed-use community type per Table 3.3 Community Types, Areas and Civic Space.
   ii. Remaining acreage of the community type required to be assigned as civic space shall be computed per the percentage indicated in Table 3.3 Community Types, Areas and Civic Space.
   iii. Remaining acreage shall then be assigned to one or more of the civic spaces of Table 4.3 Civic Space Types.
   iv. Land on which civic space(s) are to be located shall be assigned to corresponding Development Intensity(s) within the mixed-use community type per Table 4.3 Civic Space Types and Table 3.5. Land Use Classification Matrix: Development Intensities.
   v. Where a civic space is permitted in more than one development Intensity, the development intensity may be assigned from any of the development intensities in which the civic space is permitted.

e. Subdivision Design Standards for Community Types. Each community type shall conform to Article 4.

### 3.2.4 **Small Village**

a. Mixed-use community type.
b. Shall be structured by one pedestrian shed.
c. Shall have the wastewater services, civic spaces, and the percentages of land allocated to civic space and development intensities specified in Table 3.2 Community Types, Criteria and Table 3.3 Community Types, Areas and Civic Space.
d. Shall have a common destination such as a general store, meeting hall, schoolhouse, park, and/or place of worship.

### 3.2.5 Village

a. Mixed-use community type.
b. Shall be structured by one or two pedestrian shed(s).
c. Shall have wastewater services, civic spaces, and percentages of land allocated to civic spaces and development intensities specified in Table 3.2 Community Types, Criteria and Table 3.3 Community Types, Areas and Civic Space.
d. Shall have a common destination such as a general store, café, coffee shop, meeting hall, schoolhouse, park, and/or place of worship.
e. Shall be assigned to areas primarily residential or rural in character.

### 3.2.6 Town

a. Mixed-use community type.
b. Shall be comprised of a total of 2-3 community types including any combination of the following that upon completion, match the criteria for individual community types in Table 3.2 Community Types, Criteria: 1-3 Villages, 1-3 Neighborhoods, and 0-1 Urban Center.
c. Each community type within a Town shall have wastewater services, civic spaces, and percentages of land allocated to civic space and development intensities specified in Table 3.2 Community Types, Criteria and Table 3.3 Community Types, Areas and Civic Space.

### 3.2.7 Neighborhood

a. Mixed-use community type.
b. Shall be structured by one pedestrian shed.
c. Shall have wastewater services, civic spaces, and percentages of land allocated to civic space, and development intensities specified in Table 3.2 Community Types, Criteria and Table 3.3 Community Types, Areas and Civic Space. Percentages of land in civic space and development intensities may be modified to match the intensity of existing adjacent development.
d. Shall be assigned to a site that is:
    i. Primarily residential in character, and
    ii. Bounded by adjacent development or development under the same application on at least 50% of its abutting boundary.

### 3.2.8 Urban Center

a. Mixed-use community type.
b. Shall be structured by one pedestrian shed.
c. Shall have wastewater services, civic spaces, and the percentages of land allocated to civic space and development intensities specified in Table 3.2 Community Types, Criteria and Table 3.3 Community Types, Areas and Civic Space. Percentages of land in civic space and development intensities may be modified to exceed the intensity of existing adjacent development.

## 3.3 COMMUNITY TYPE USES MATRIX

Development intensities are for new development as a community type for predominantly mixed and compact land uses. The land uses that are listed in the matrix in Table 3.4 Land Use Classification Matrix: Development intensities are permissible by right for a community type as designated by "P", Permitted. If a "C" is listed in the matrix, specific Conditions are applied to that land use, per Section 3.3.1 and Table 3.4. The purpose of the matrix is to assist the user of this Chapter in identifying the specific land uses permitted within a community type. Where the same primary use of land is listed in more than one category, different development standards may apply depending on the requirements of Table 3.5 Land Use Classification Matrix: Development Intensities and the Site Development Standards, see Tables 3.7-3.11. Where a land use is listed under only one classification, it is only allowed in that classification.

### 3.3.1 Conditions for Development Intensities

Conditional Uses listed in Table 3.5 Land Use Classification Matrix: Development Intensities shall be limited for size or intensity per Table 3.4 Conditions for Specific Development Intensities below.

**Table 3.4 Conditions for Specific Development Intensities**

| | Low Intensity (L) | Medium Intensity (M) |
|---|---|---|
| **Lodging** | 6 rooms max. | 12 rooms / RV spaces max. |
| **Office** | NP | 6,000 sq. ft. floor plate max. |
| **Retail & Service** | NP | 12,000 sq. ft. floor plate max.<br>Alcohol and food services shall seat no more than 40 |
| **Institutional** | NP | Building size shall be limited by parking. Parking shall have no more than 30 spaces |
| **Agricultural** | NP | Building size shall be limited by parking. Parking shall have no more than 20 spaces |
| **Automotive** | NP | Accessory to residential only. No exterior storage permitted. |
| **Civil Support** | NP | Parking shall have no more than 30 spaces |
| **Education** | NP | Childcare facilities shall have no more than 4 parking spaces.<br>Elementary schools shall have sites no greater than 5 acres unless playground has 24-hour access. |
| **Industrial** | NP | Building size shall be limited by parking. Parking shall have no more than 20 spaces. |

**LEGEND:** NP—Not Permitted

**Table 3.5. Land Use Classification Matrix: Development Intensities**
**LAND USES FOR COMMUNITY TYPES**

| **Civic Space (See Table 4.3)** | **R** | **L** | **M** | **H** |
|---|---|---|---|---|
| Park | P | P | P | |
| Green | | P | P | P |
| Square | | | P | P |
| Plaza | | | P | P |
| Neighborhood Multipurpose Field | | P | P | |
| Playground | P | P | P | P |
| Community Garden, Small | P | P | P | P |
| Community Garden, Medium | P | P | P | |
| Community Garden, Large | P | P | | |
| **Residential** | **R** | **L** | **M** | **H** |
| Apartment or Condominium Complexes | | | P | P |
| Duplex | | | P | P |
| Accessory Dwelling | P | P | P | P |
| Fourplexes | | | P | P |
| Home Occupations | P | P | P | P |
| Live-work Unit | | | P | P |
| Single-family Dwelling, Mobile Home | | P | | |
| Single-family Dwelling, Site-built | P | P | P | |
| Townhouse | | | P | P |
| Triplex | | | P | P |
| | | | | |
| **Lodging** | **R** | **L** | **M** | **H** |
| Bed and Breakfast | | C | P | P |
| Hotels and Motels | | | C | P |
| Inn | | | C | P |
| Recreational Vehicle Park | | | C | |
| **Office** | **R** | **L** | **M** | **H** |
| Laboratory and Scientific Offices and Services | | | | P |
| Office, General | | | C | P |
| Office, Small | | | P | P |
| **Retail & Service** | **R** | **L** | **M** | **H** |
| Commercial Laundry | | | C | P |

**Table 3.5. Land Use Classification Matrix: Development Intensities**
**LAND USES FOR COMMUNITY TYPES**

| **Retail & Service Continued** | R | L | M | H |
|---|---|---|---|---|
| Commercial Uses not Elsewhere Classified | | | C | P |
| Display Gallery | | | C | P |
| Kiosk | | | P | P |
| Large Format Facilities, under 50,000 sq. ft. | | | | P |
| Open Market Building | | S | P | P |
| Personal Service | | S | C | P |
| Bar, Pub, Tavern | | | C | P |
| Restaurant, Bakery, Catering Service | | S | C | P |
| Food truck/Push Cart | | P | P | P |
| Retail Building | | | C | P |
| **Institutional** | **R** | **L** | **M** | **H** |
| Community Buildings, public or private | | P | P | P |
| Cultural Centers | | | C | P |
| Entertainment Facilities, not adult entertainment | | | | P |
| Exhibition Center | | | | P |
| Institutional Uses such as Libraries, Educational or Cultural | | | C | P |
| Museums | | | C | P |
| Off-site Parking Areas for Commercial and Industrial Uses | | | | P |
| Recreation and Sports Facilities, private | | | P | |
| Recreation and Sports Facilities, public | | P | P | |
| Religious Institutions | | S | P | P |
| Theaters and like places of assembly | | | C | P |
| Sports Stadium | | | | P |
| **Agriculture** | **R** | **L** | **M** | **H** |
| Agricultural Packaging and Warehousing | | | | |
| Agricultural Processing Facilities | | | | |
| Agriculture | P | A | A | A |
| Aquaculture | P | | | |
| Auction Yard | | | | |
| Farming and Ranching | P | | | |
| Grain Storage | P | | | |
| Greenhouses and Nurseries, commercial | | | C | |
| **Agriculture Continued** | **R** | **L** | **M** | **H** |

**Table 3.5. Land Use Classification Matrix: Development Intensities**
**LAND USES FOR COMMUNITY TYPES**

| | | | | |
|---|---|---|---|---|
| Livestock Pen | | S | | |
| Poultry raising, commercial | | | | |
| Stable, private | | P | S | |
| Stable, public, commercial | | | | |
| Wine Tasting Room | P | | C | P |
| **Automotive** | **R** | **L** | **M** | **H** |
| Automobile, SUV Repair, Sales or Service | | | | P |
| Automobile Garages, Painting or Auto Body Work | | | | |
| Auto-related Repair & Service, but not auto painting or body work | | | C | P |
| **Civil Support** | **R** | **L** | **M** | **H** |
| Animal Hospitals, Veterinary Clinics, and Kennels | | | C | |
| Cemetery | | | C | |
| Health Services, public or private | | | C | P |
| **Education** | **R** | **L** | **M** | **H** |
| Child and Adult Care, commercially operated | | S | C | P |
| Childcare, Home Occupation | | P | P | P |
| College or University | | | | P |
| Elementary School | | S | C | P |
| High School, Jr. High School, Middle School | | S | | P |
| Trade School | | | | P |
| **Industrial** | **R** | **L** | **M** | **H** |
| Borrow Pits, Batching Plants, and Asphaltic Mix Plants | | | | |
| Wireless Communication Facilities | | S | S | S |
| Food and Fiber Processing | | | | |
| Laboratory Facility | | | C | P |
| Light Manufacturing | | | C | P |
| Major Facilities for Distribution of Electric, Natural Gas, Water, Sewer, Cable | | | | P |
| Mini-storage Units | | | | |
| Recycling Centers | | | | |
| Renewable Energy Facility | | | | |
| Utility Buildings, Wastewater Lift Stations and Substations, minor, private or public | S | S | P | P |
| **Industrial Continued** | **R** | **L** | **M** | **H** |

**Table 3.5. Land Use Classification Matrix: Development Intensities**
**LAND USES FOR COMMUNITY TYPES**

| | | | | |
|---|---|---|---|---|
| Wrecking Services | | | | |

LEGEND

| | |
|---|---|
| Permitted | P |
| Conditional Use, see Table 3.4. | C |
| Special Use Permit, see Article 2. | S |
| Unlimited number of dwelling units | U |
| Rural | R |
| Low Intensity | L |
| Medium Intensity | M |
| High Intensity | H |
| Permitted if Assessed as Agriculture for on-farm operations | A |
| Development prohibited except for structures to support BLM | *N |

## 3.4 REGULATIONS SPECIFIC TO COMMUNITY TYPES

This section provides development standards in a continuum of intensity within the L, M, and H Development Intensities, but does not pertain to the R Development Intensities unless explicitly specified herein. The purpose of the development intensities in the continuum of intensity is to vary the density, intensity of land use, variety of land uses, scale and size of buildings, and other factors according to the specific development intensity. The purpose of regulating frontages and height, facades, and fences is to encourage the definition of the public realm and regulation of adjacent development intensities in a manner that ensures their mutual compatibility for community types.

### 3.4.1 Subdivision and Development Construction Standards

Article 4 standards shall govern pursuant to subdivision applications and Article 6 standards shall govern pursuant to development and construction standards. Development intensity areas follow the same subdivision and construction standards of transect zones as depicted on Table 3.6 Standard Equivalencies.

**Table 3.6. Standard Equivalencies**

| Development Intensity | Transect Zone |
|---|---|
| Natural (N) | T1 |
| Rural (R) | T2 |
| Low Intensity (L) | T3 |
| Medium Intensity (M) | T4 |
| High Intensity (H) | T5 |

### 3.4.2 Civic Spaces

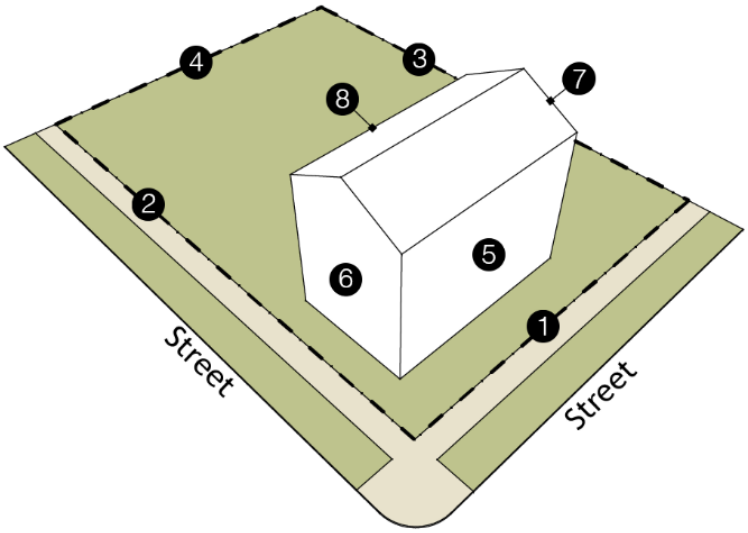
Civic spaces shall be designed per Table 4.3 Civic Space Types for the type of civic space permitted per Table 3.5 Land Use Classification Matrix: Development Intensities.

### 3.4.3 Site Standards

Lots in all development intensities shall conform to Table 3.7 – Table 3.11.

**Table 3.7. Façades, Elevations, and Lot Lines Illustrated**

**Façades, Elevations, and Lot Lines**

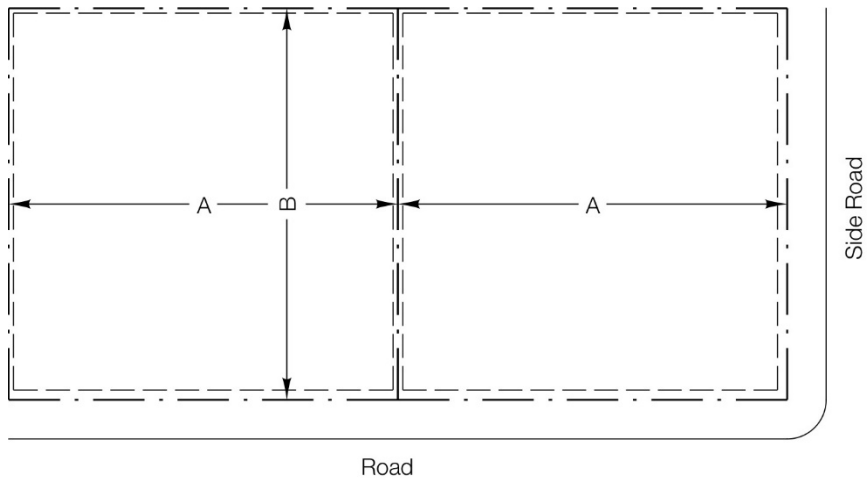



| Terms | |
|---|---|
| 1-4 | Lot Line |
| 1 | Primary Frontage Line |
| 2 | Secondary Frontage Line |
| 3 | Side Lot Line |
| 4 | Rear Lot Line |
| 5-6 | Façade |
| 5 | Primary Façade |
| 6 | Secondary Façade |
| 7-8 | Elevations |
| 7 | Side Elevation |
| 8 | Rear Elevation |

**Table 3.8. Site Standards: R Development Intensity**

## Rural Development Intensity (R)

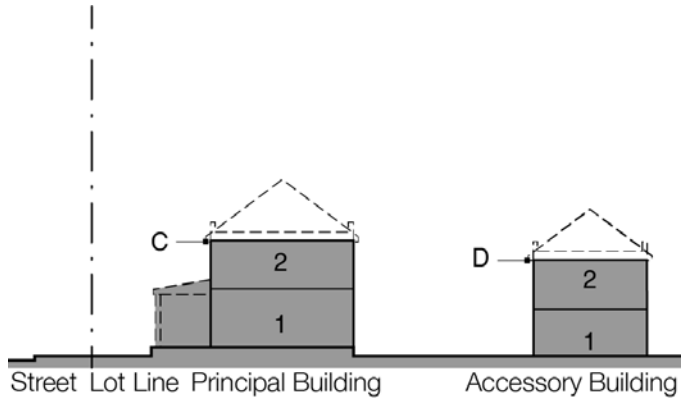
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| **1. Lot Size and Density** | |
| A | Lot Width: not applicable |
| B | Lot Depth: not applicable |
| 1.1 Lot Area: | 10 Acres (min) |

| **2. Other Lot Standards** | |
|---|---|
| Accessory Dwelling | R--1 Accessory dwelling limited to 1,250 sq. ft. permitted for every 5 acres of lot area. |

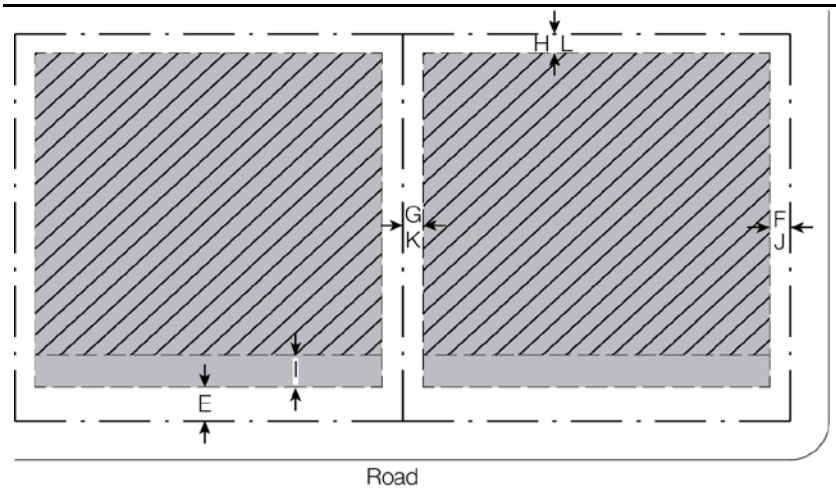
### Building Form




| **3. Building Height** | |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4. Private Frontage** | |
| 4.1 Private Frontage Type: Common Yard or Fenced / Walled Yard | |
| 4.2 Frontage Buildout: not applicable | |

## Rural Development Intensity (R)

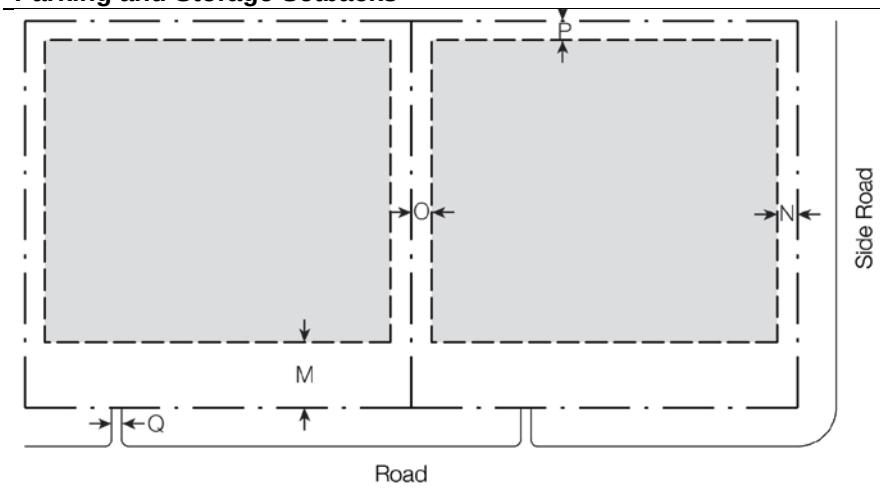
### Building Setbacks, General




| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| **5. Principal Building** | |
| E | Primary Frontage: 25 feet (min) |
| F | Secondary Frontage: 12 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **6. Accessory Buildings** | |
| I | Primary Frontage: 20 feet behind front façade (min) |
| J | Secondary Frontage: 12 feet (min) |
| K | Side Setback: 5' min |
| L | Rear Setback: 5'min |

| **7. Lot Coverage and Encroachments** | |
|---|---|
| 7.1 Lot Coverage | 5% (max) |
| 7.2 Portal | 16 % of setback (max), but no more than 8 feet |
| 7.3 Balcony or Bay Window | 8% of setback (max), but no more than 4 feet |

### Parking and Storage Setbacks

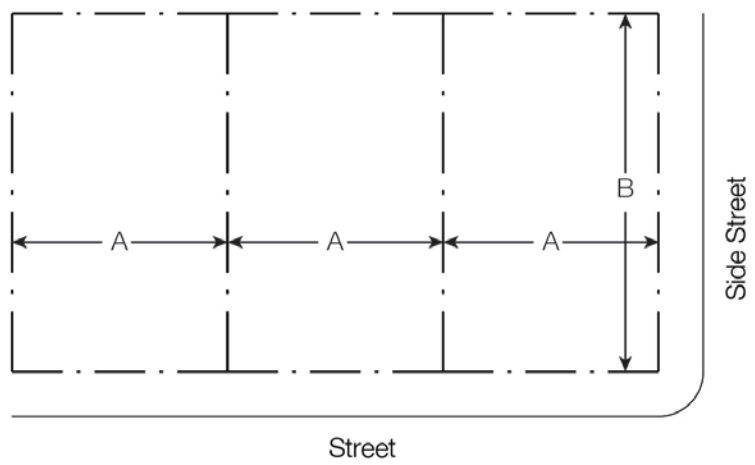



| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Available for Parking/Storage |
| **8. Principal Building** | |
| M | Primary Frontage: 20 feet behind front façade |
| N | Secondary Frontage: 24 feet (min) |
| O | Side: 24 feet (min) |
| P | Rear: 24 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 3.9. Site Standards: L Development Intensity**

## Low Intensity Development Intensity (L)

### Lot Standards

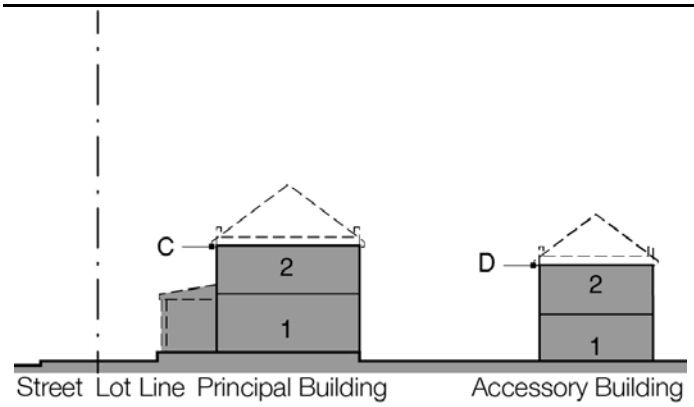



| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |

| 1. Lot Size and Density | |
|---|---|
| A | Lot Width: 60 feet (min) |
| B | Lot Depth: not applicable |
| 1.1 Lot Area: | 6,000 square feet (min) |

| 2. Other Lot Standards | |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling permitted per lot limited to 800 sq. ft. |

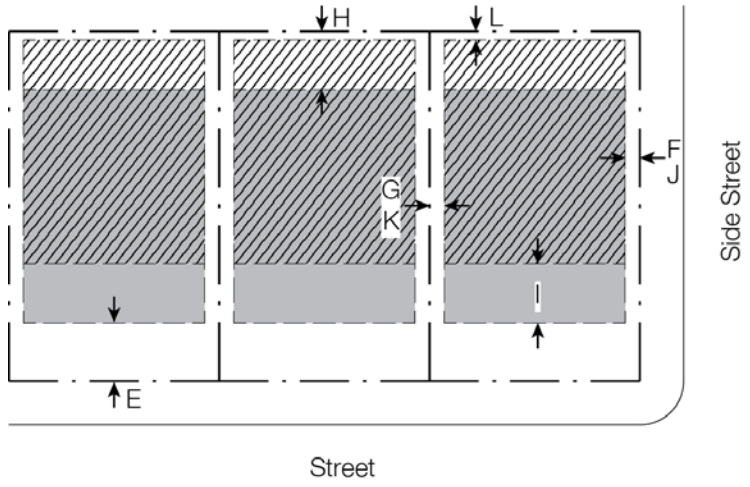
### Building Form




| 3. Building Height | |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4. Private Frontage** | |
| 4.1 Private Frontage Type: Common yard or Fenced / Walled yard | |
| 4.2 Frontage Buildout: not applicable | |

## Low Intensity Development Intensity (L)

**Building Setbacks, General**

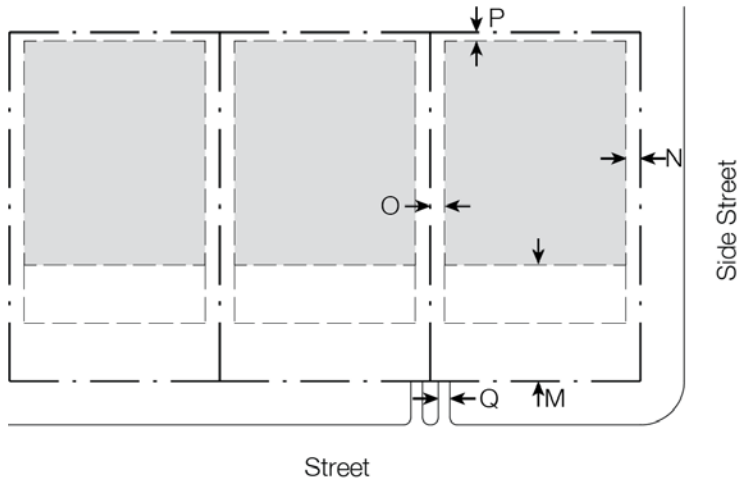



| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| **5. Principal Building** | |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 5 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **6. Accessory Buildings** | |
| I | Primary Frontage: 20 feet behind primary façade (min) |
| J | Secondary Frontage: 5 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 3 feet (min) |

| **7. Lot Coverage and Encroachments** | |
|---|---|
| 7.1 Lot Coverage | 40% (max) |
| 7.2 Portal, Patio | 40% of setback (max), but no more than 8 foot encroachment |
| 7.3 Balcony or Bay Window | 20% of setback (max), but no more than 4 foot encroachment |

## Low Intensity Development Intensity (L)

**Parking and Storage Setbacks**

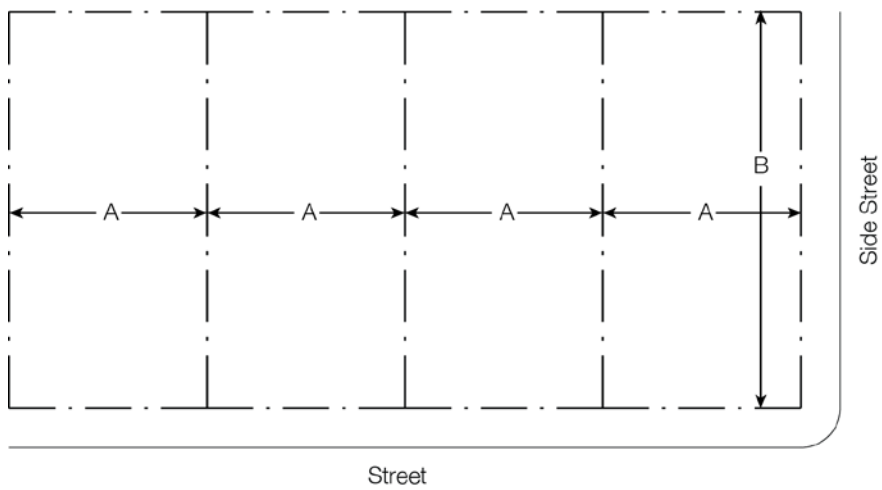



| **Legend:** | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| | Available for Parking/storage |
| **8. Principal Building** | |
| M | Primary Frontage: 15 feet behind front façade |
| N | Secondary Frontage: 24 feet (min) |
| O | Side: 5 feet (min) |
| P | Rear: 5 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 3.10. Site Standards: M Development Intensity**

## Medium Intensity Development Intensity (M)

### Lot Standards




**Legend:**

| | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |

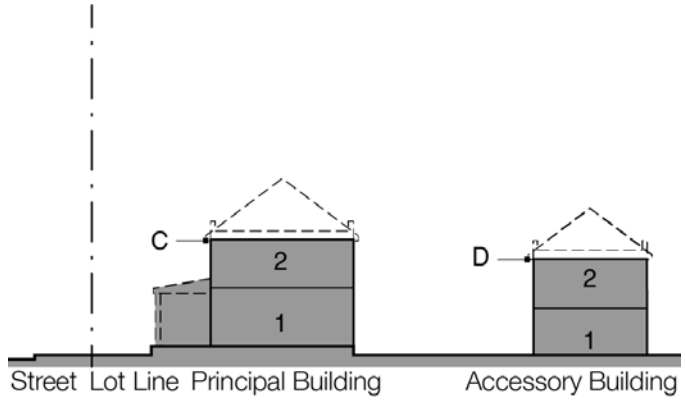
**1. Lot Size and Density**

| | |
|---|---|
| A | Lot Width: 20-100 feet |
| B | Lot Depth: 70 feet (min) |
| 1.1 Lot Area: | 4,000 square feet (min) |

**2. Other Lot Standards**

| | |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling permitted per lot. |

### Building Form




**3. Building Height**

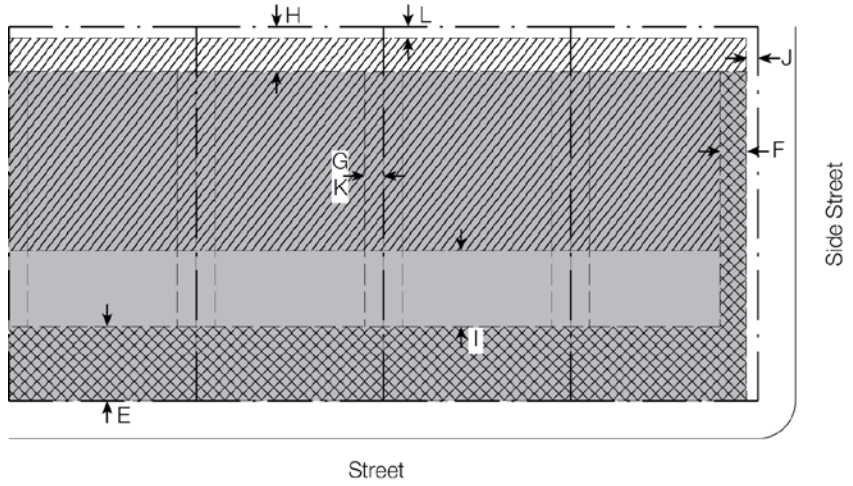
| | |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |

**4. Private Frontage**

| |
|---|
| 4.1 Private Frontage Type: Common yard, Fenced / Walled Yard, Terrace, Shopfront, and Common Entry |
| 4.2 Frontage Buildout: 50% (min) |

## Medium Intensity Development Intensity (M)

**Building Setbacks, General**

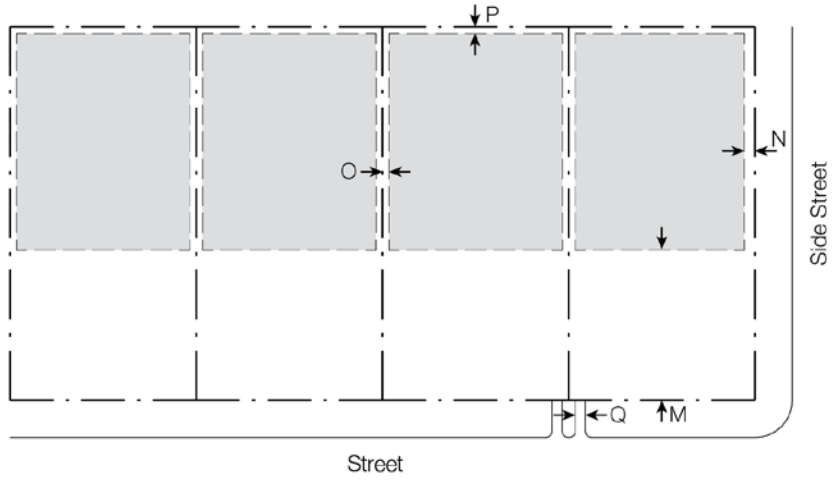



| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **5. Principal Building** | |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 5-12 feet |
| G | Side Setback: either 5 feet (min) or 0 feet |
| H | Rear: 5 feet (min) |
| **6. Accessory Buildings** | |
| I | Primary Frontage: 20 feet behind front façade (min) |
| J | Secondary Frontage: 5 feet (min) |
| K | Side Setback: either 5 feet (min) or 0 feet |
| L | Rear Setback: 3 feet (min) |

| **7. Lot Coverage and Encroachments** | |
|---|---|
| 7.1 Lot Coverage | 65% (max) |
| 7.2 Portal, Patio | 80% of setback (max), but no encroachment within 2 feet of the curb |
| 7.3 Awnings | 100% of setback (max), but no encroachment within 2 feet of the curb |

## Medium Intensity Development Intensity (M)

**Parking and Storage Setbacks**

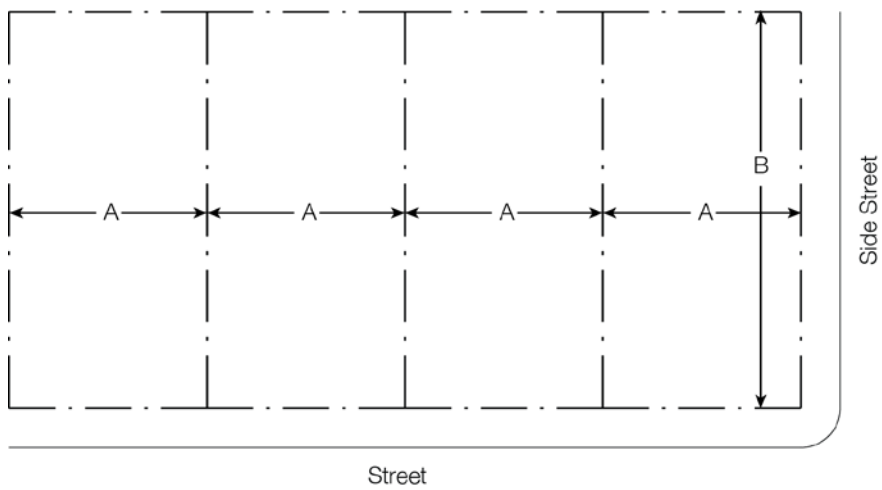



| **Legend:** | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| | Available for Parking/storage |
| **8. Principal Building** | |
| M | Primary Frontage: 20 feet behind Front Façade |
| N | Secondary Frontage: 5 feet (min) |
| O | Side: 3 feet (min) |
| P | Rear: 3 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 3.11. Site Standards: H Development Intensity**

## High Intensity Development Intensity (H)

### Lot Standards

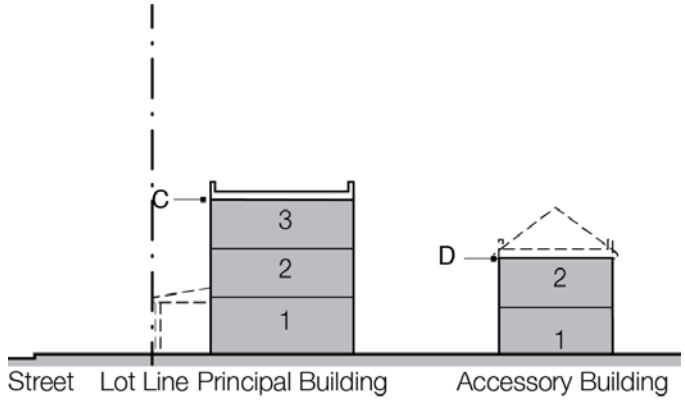



| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| **1. Lot Size and Density** | |
| A | Lot Width: 20-250 feet |
| B | Lot Depth: 50 feet (min) |
| 1.1 Lot Area: | 3,000 square feet (min) |

### 2. Other Lot Standards

| | |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling permitted per lot. |

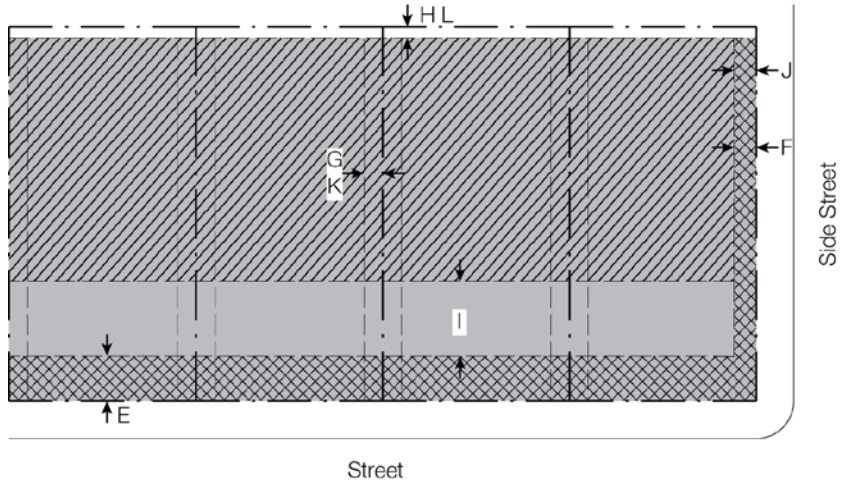
### Building Form




| 3. Building Height | |
|---|---|
| C | Principal Building Height: 3 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4. Private Frontage** | |
| 4.1 Common Yard, Fenced / Walled Yard, Terrace, Shopfront, Common Entry, and Forecourt | |
| 4.2 Frontage Buildout: 50% (min) | |

## High Intensity Development Intensity (H)

**Building Setbacks, General**

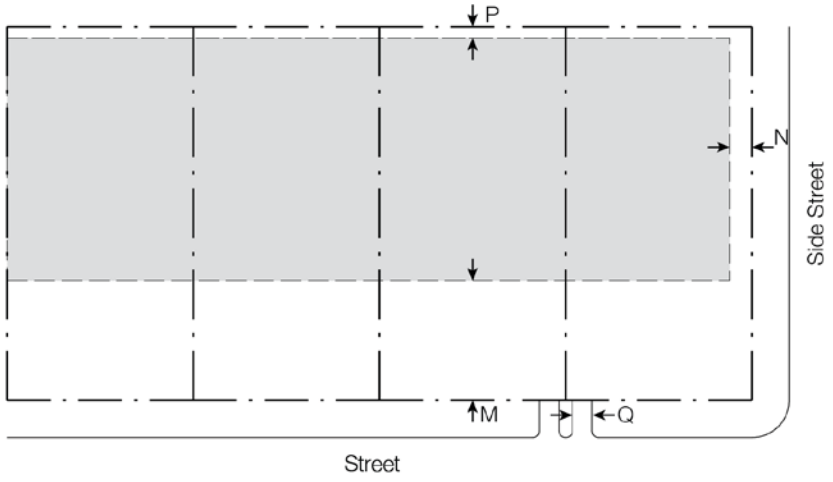



| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **5. Principal Building** | |
| E | Primary Frontage: 12 feet (max) |
| F | Secondary Frontage: 6 feet (max) |
| G | Side Setback: either 5 feet (min) or 0 feet |
| H | Rear: 3 feet (min) |
| **6. Accessory Buildings** | |
| I | Primary Frontage: 20 feet behind Front Façade (min) |
| J | Secondary Frontage: 6 feet (min) |
| K | Side Setback: either 5 feet (min) or 0 feet |
| L | Rear Setback: 3 feet (min) |

| **7. Lot Coverage and Encroachments** | |
|---|---|
| 7.1 Lot Coverage | 80% (max) and for a non-residential building 30,000 square feet (max) |
| 7.2 Portal | 90% of setback (max), but no encroachment within 2 feet of the curb |
| 7.3 Awnings | 90% of setback (max), but no encroachment within 2 feet of the curb |

## High Intensity Development Intensity (H)

**Parking and Storage Setbacks**




| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| | Available for Parking/storage |
| **8. Principal Building** | |
| M | Primary Frontage: 20 feet behind Front Façade |
| N | Secondary Frontage: 5 feet (min) |
| O | Side: 3 feet (min) |
| P | Rear: 3 feet (min) |
| Q | Access Driveway Width in frontage: 12 feet (min for each direction of travel) |

### 3.4.4 Lots and Driveways

a. Flag lots shall only be permitted in the R Development Intensity areas.
b. Driveways. Except as specifically permitted in Table 3.8 through Table 3.11, driveways shall be a minimum of 10 feet wide in the private frontage for one-way travel and 20 feet wide for 2-way travel, measured perpendicular to the direction of travel.
c. Lot Coverage. The lot coverage shall be per Table 3.8 through Table 3.11.

### 3.4.5 Setbacks and Building Height

The required building placement, setbacks and building heights shall conform to Table 3.8 through Table 3.11.

a. Setbacks, administrative adjustment. Setbacks may be adjusted by up to 20% by the DRC or the Zoning Administrator to accommodate specific site conditions.
b. Frontage Buildout. The principal building shall occupy at least the percentage of the lot width specified in Table 3.8 through Table 3.11, measured at the minimum setback.
c. Facade Area. The facade shall be located entirely within the facade area indicated in Table 3.8 through Table 3.11.
d. Setbacks, railroad. Rear yard or side yard setbacks abutting railroad tracks shall be a

minimum of 40 feet, unless an earthen berm or other sound barrier is provided along the property line adjacent to the railroad tracks.

e. Building Separations. There shall be no less than 6 feet between detached buildings on the same lot, measured eave to eave.

f. Easement encroachments. There shall be no permanent structures or obstructions located on or over easements without written approval of the Zoning Administrator and the entity/party for which the easement is provided.

### 3.4.6 Building arrangement

a. Outdoor Equipment. All outdoor electrical, plumbing, and mechanical equipment shall be located behind the façade or façades, or concealed from frontage view with a screen or wall. These facilities shall not encroach into the private frontage.

b. Accessory Dwelling, Habitable Area. The habitable area of an accessory dwelling within the principal building or of an accessory building shall not exceed 1,250 ft.$^2$ or 30% of a principal dwelling, excluding the parking area, whichever is greater.

### 3.4.7 Parking Location Standards

Except where specified otherwise, the following apply to parking within a lot in all Development Intensities:

a. Parking for development intensities shall be located on the portion of a lot shown in Table 3.8 through Table 3.11.

b. Parking shall be accessed by a rear alley or a rear lane when such are available.

### 3.4.8 Private Frontage

a. The private frontage buildings shall conform to Table 3.12 Private Frontages and shall be permitted where indicated in Table 3.8 through Table 3.11.

b. The main entrance to the principal building shall be accessed via the primary frontage, and shall be located in the primary façade. (See Table 3.7.)

**Table 3.12. Private Frontages**

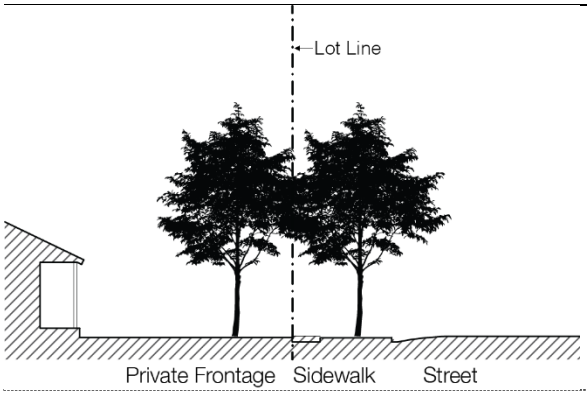
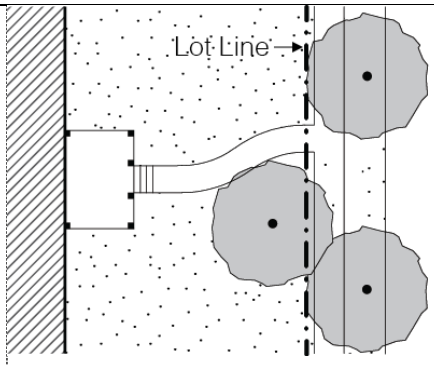
| 1. Common Yard | |
|---|---|
|  |  |
| Permitted Elements: | Porch |
| Surface Treatments: | Landscaping, including produce gardens and a path leading to building entries. |
| Special Requirements | Not Applicable |

**Table 3.12. Private Frontages**

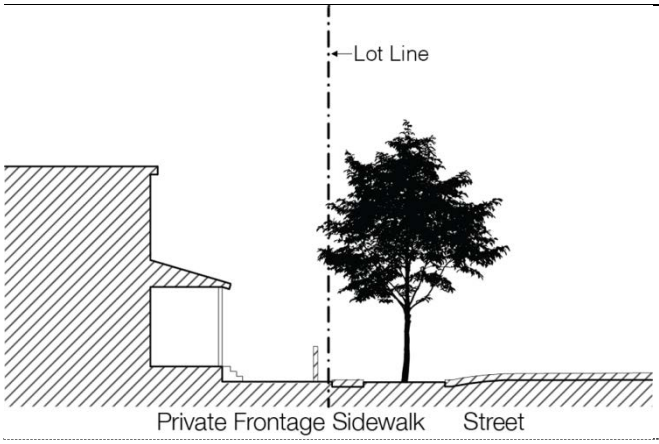
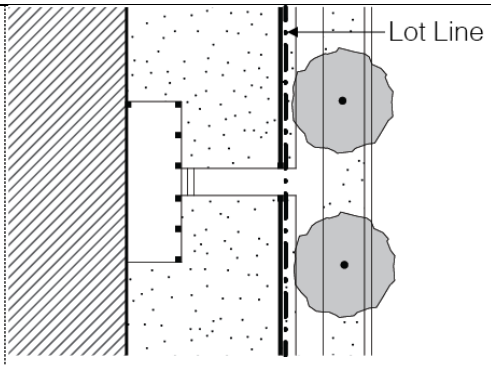
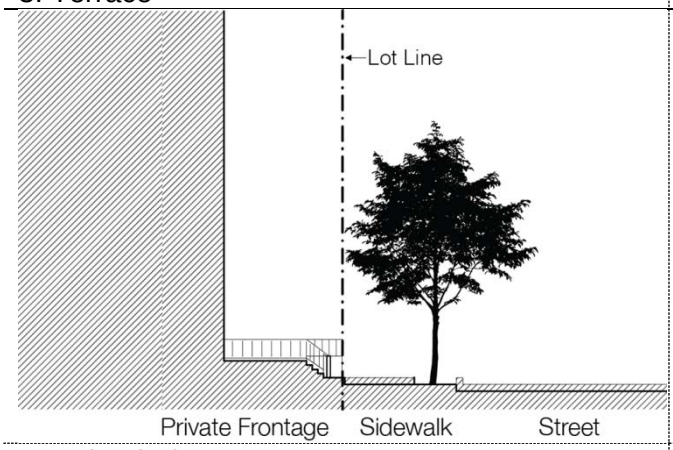
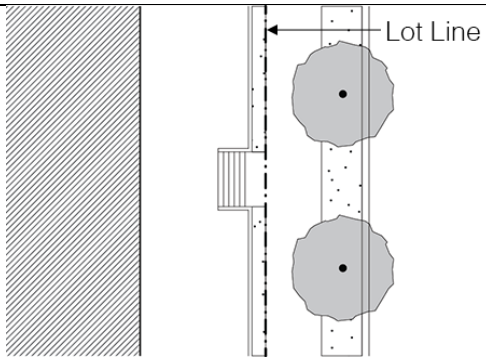
| 2. Fenced / Walled Yard | |
|---|---|
|  |  |
| Permitted Elements: | Porch, Stoop, Fence, Hedge, Wall |
| Surface Treatments: | Landscaping, including produce gardens and a path leading to building entries |
| Special Requirements | Not Applicable |
| 3. Terrace | |
|  |  |
| Permitted Elements: | Stoop, Shopfront, Awning, Wall |
| Surface Treatments: | Paved or landscaped |
| Special Requirements | Raised 8” min. above average sidewalk grade |

**Table 3.12. Private Frontages**

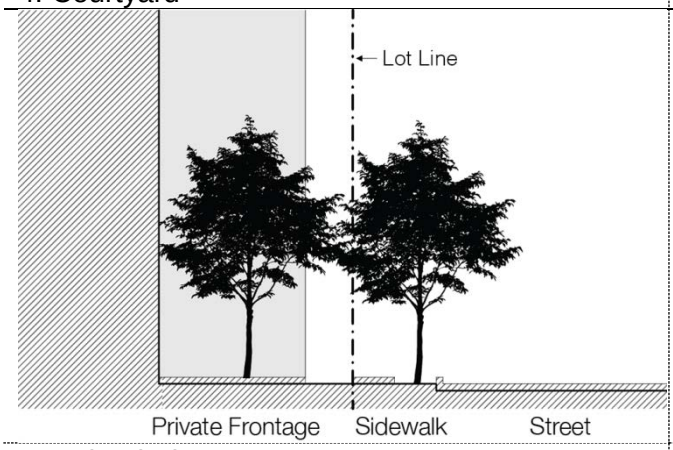
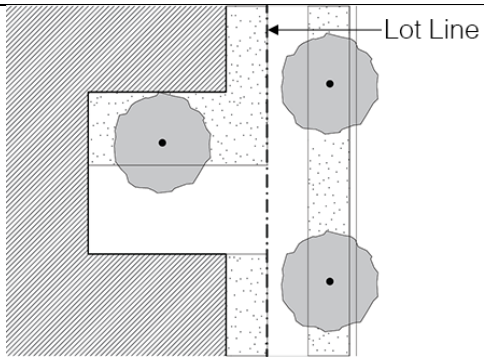
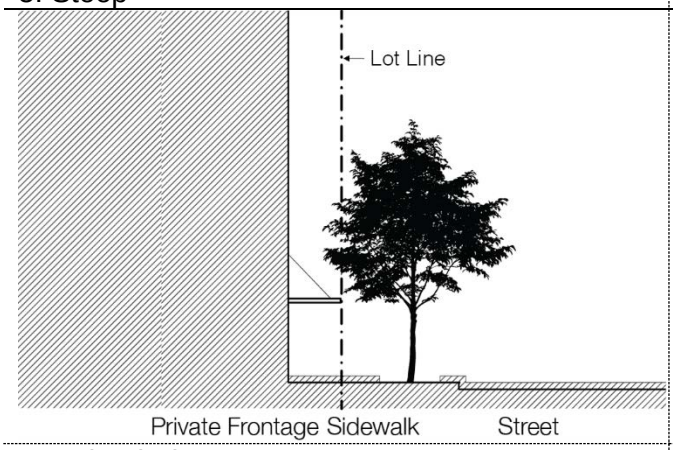
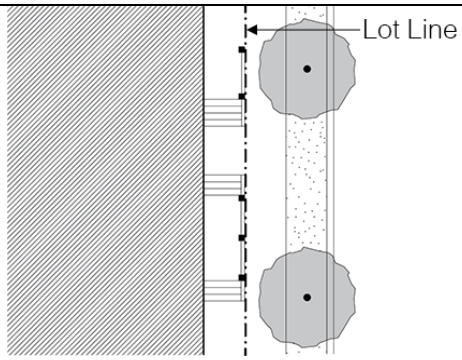
| | |
|---|---|
| 4. Courtyard | |
|  |  |
| Permitted Elements: | Hedges, Walls |
| Surface Treatments: | Paved in coordination with parkway |
| Special Requirements | May recess 20 ft. max. for pedestrian entries or 30 ft. max. for vehicular access. Shall provide access to the main building entrance. Driveways within forecourts are limited to 20 ft. in width. Portions of the driveway in the parkway shall be limited to 12 ft. in width. |
| 5. Stoop | |
|  |  |
| Permitted Elements: | Hedges, Walls |
| Surface Treatments: | Paved in coordination with parkway |
| Special Requirements | May be recessed into the building façade. |

**Table 3.12. Private Frontages**

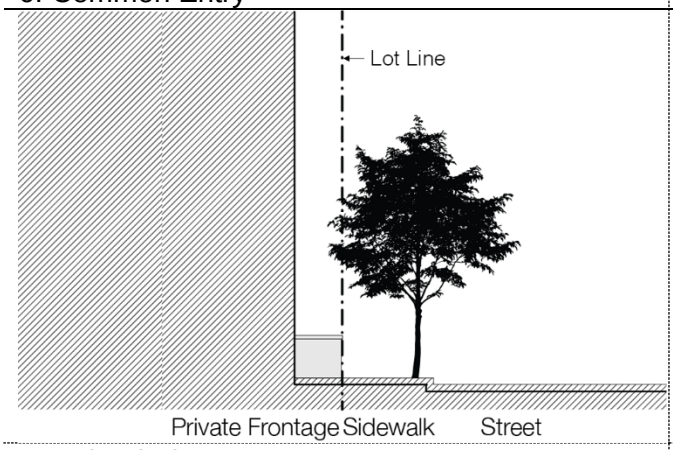
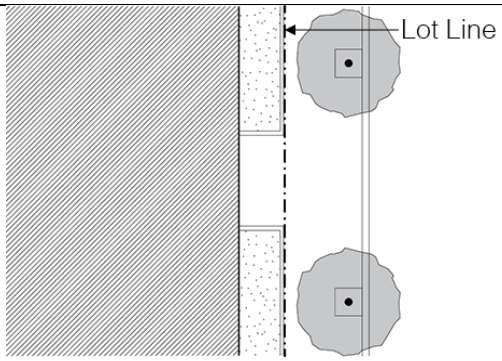
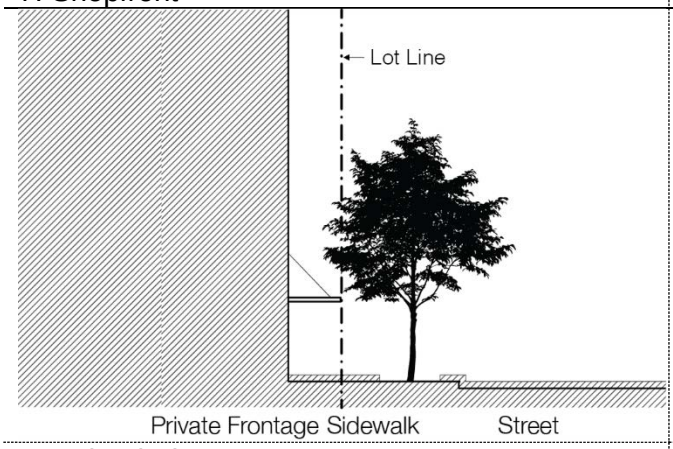
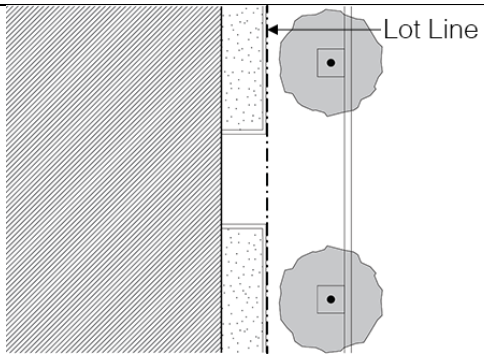
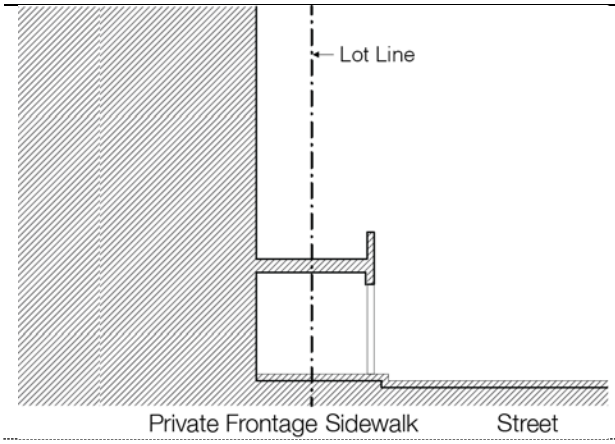
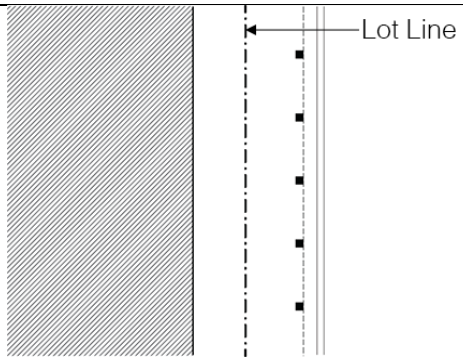
| | |
|---|---|
| 6. Common Entry | |
|  |  |
| Permitted Elements: | Awning, Planter, Wall |
| Surface Treatments: | Any area not with the planter shall be paved |
| Special Requirements | Not Applicable |
| 7. Shopfront | |
|  |  |
| Permitted Elements: | Awning, Display Windows |
| Surface Treatments: | Paved |
| Special Requirements | Façade shall be glazed with clear glass no less than 50% of the ground floor frontage, calculated separately for each façade. |

**Table 3.12. Private Frontages**

| 8. Portal | |
|---|---|
|  |  |
| Permitted Elements: | Shopfronts |
| Surface Treatments: | Paved |
| Special Requirements | Must be compliant with Shopfront regulations |

### 3.4.9 Building Heights

Building heights shall be measured in stories:

a. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except that a commercial use on the first floor shall have a minimum height of 10 feet and the maximum height of 25 feet. A single floor level exceeding these heights shall be considered to be 2 or more stories.
b. Mezzanine extending 33% beyond the floor area shall be counted as an additional story.
c. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
d. Each level of a parking garage above ground counts as a single story regardless of relationship to habitable stories.

### 3.4.10 Frontages and Façades

The following shall pertain to façades and frontages in all Development Intensities:

a. All façades shall be glazed no less than 15% of each story with clear glass. Shopfronts shall be glazed on no less than 50% of that story.
b. No portion of the private frontage may encroach on the sidewalk. Where a sidewalk exists on the lot, the edge of the sidewalk shall be deemed the edge of the frontage for the purposes of regulating frontages.

### 3.4.11 Frontages, Masking of Parking, and Fences

a. Open Parking Areas. Open parking areas shall be masked from the frontage by a building or streetscreen, except that the DRC may review and the Zoning Administrator may grant an administrative variance for excessive cost or practical difficulty. The DRC and Zoning Administrator shall consider the relative

importance of the frontage to walkability in the vicinity of the lot, see Article 2 for processes.

b. Streetscreen. In the absence of the building façade along any part of frontage line in the H Development Intensity, a streetscreen shall be built parallel with the façade.
c. Streetscreens, Design. Streetscreens shall be between 3.5 and 6 feet in height. The streetscreen may be replaced by hedge or fence if the DRC reviews an administrative variance, (See Article 2.7.3). Streetscreens shall have no opening larger than necessary to allow automobiles and pedestrian access.
d. Fences. Fences shall be located in development intensities per Table 5.25 Fence Type, Zones.

### 3.4.12 Regulations Specific to N Development Intensity

All development shall be prohibited in the N Development Intensity, except for structures erected for the support of the Bureau of Land Management, for parks and park services, and other structures approved by the Planning & Zoning Commission (P&Z), except where the P &Z has no jurisdiction to approve.

### 3.4.13 Regulations Specific to R Development Intensity

The following regulations shall apply to development in the R Development Intensity:

a. Office Use, Area and Location. Building area available for office use on each lot is restricted to 600 square feet within the first story of the Principal Building or Accessory Building.
b. Retail Use, Type and Size. Retail use is limited to roadside stands, not to exceed 600 square feet, and may be open-air.
c. Institutional, Manufacturing, and Industrial Uses. Institutional, Manufacturing, and Industrial uses are prohibited, unless they are accessory to agricultural use, per Table 3.5. Land Use Classification Matrix: Development Intensities.
d. Agricultural Use. Agricultural use is permitted by right per the definition of Agriculture.
e. Agriculture-Related Buildings. Agriculture-related buildings, barns, workshops, and sheds shall be a minimum of 50 feet from all adjacent front and rear property lines and 20 feet from all side property lines, or 100 feet from a public right-of-way, whichever is greater. Such buildings shall not exceed 40 feet in height.
f. Accessory Buildings. One accessory building may be used as a dwelling. Additional accessory buildings cannot be used as living quarters.

### 3.4.14 Regulations Specific to L Development Intensity

a. Office Use, Area and Location. Building area available for office use on each lot is restricted to 600 square feet within the principal or the Accessory Building.
b. Retail Use, Area. Building area available for retail use is restricted to buildings at corner locations and may not exceed 2,000 square feet.
c. Retail use, Food Service. Food service is limited to no more than 600 square feet of

seating area.

d. Institutional, Manufacturing, and Industrial Uses. Institutional, manufacturing, and industrial uses are prohibited, unless they are accessory to agricultural use.
e. Agricultural Use. Agricultural use is limited to the specific uses in Table 3.5. Land Use Classification Matrix: Development Intensities.

### 3.4.15 Regulations Specific to M Development Intensity

a. Retail, Office and Agricultural uses are limited to the specific uses in Table 3.5. Land Use Classification Matrix: Development Intensities and Table 3.4 Conditions for Specific Development Intensities.

### 3.4.16 Regulations Specific to H Development Intensity

a. Retail Use, Area and Location. Retail uses are not limited in area.
b. Institutional Use. Institutional uses may occupy any building story.
c. Agricultural Use. Agricultural use is limited to the specific uses in Table 3.5. Land Use Classification Matrix: Development Intensities.

### 3.4.17 Parking and Loading Location and Design

This regulation ensures parking and loading are located and regulated safely and in a manner that supports economic opportunity and pedestrian activity. This is accomplished by ensuring off-street parking and loading do not interfere with the spatial enclosure and harmony of the public realm, and that on-street loading is located and timed for convenience and compatibility with adjacent uses.

a. Conformance. Parking shall comply with Americans with Disabilities Standards for Accessible Design (ADA SAD), the Federal Highway Administration (FHA) and the engineering standards of this Chapter.
b. Parking Access and Location. The development intensity shall regulate the location and access. (See Table 3.8 through Table 3.11.)
c. Loading Location. Off-street loading space shall be provided and maintained for every building or part thereof occupied by any use requiring the movement of large volumes to or from vehicles.

    i. One space is required for each whole increment of 10,000 ft.$^2$ occupied by the use.
    ii. Each loading space shall be at least 12 feet wide and 45 feet long, with a minimum overhead clearance of 14 feet from the pavement surface.
    iii. Loading and unloading areas shall be located to allow vehicles to maneuver safely and conveniently to and from the public right-of-way or any parking space or parking lot aisle. Except when located on a thoroughfare, loading and unloading areas shall be screened from view from primary and secondary frontages. Loading docks with raised platforms shall be screened from view from primary and secondary frontages.
    iv. Access to loading and unloading areas shall be restricted to the hours between 7 AM and 10 PM, except when otherwise designated by the Zoning Administrator.

### 3.4.18 **Fire Lanes**
Development intensities shall comply with fire lane standards per Section 5.5.5.

### 3.4.19 **Environmental Performance Standards**
Development intensities shall comply with environmental performance standards per Section 5.6.

### 3.4.20 **Landscaping, Fencing, and Buffering**
Development intensities shall comply with landscaping, fences, and buffering standards per Section 5.7 and Table 3.6.

### 3.4.21 **Signs**
Development intensities shall comply with sign standards per Section 5.8 and Table 3.6.

### 3.4.22 **Mobile Homes, Mobile Home Parks, and Mobile Home Subdivisions**
Development intensities shall comply with mobile home standards per Section 5.9.

### 3.4.23 **Home Occupation Permits**
Development intensities shall comply with home occupation permits per Section 5.10.

### 3.4.24 **Keeping of Animals**
Development intensities shall comply with keeping of animals per Section 5.11.

# Article 4 Subdivisions

These subdivision regulations ensure the development of land is in a form supporting the health, safety and welfare of County residents, while reinforcing the character of the County and providing safe and convenient access for multi-modal traffic: automobiles, cyclists, transit, and pedestrians. These regulations accomplish this by primarily ensuring that the lots, blocks, and thoroughfares create compact and interconnected development where appropriate, and that there are adequate and convenient civic spaces.

## 4.1 P&Z Review

P&Z recommendations to approve, conditionally approve or deny a subdivision application shall include a determination as to whether the proposed development, if developed according to the plans and information provided, will meet the standards of this Chapter.

## 4.2 Development Review Committee

The Development Review Committee (DRC) shall review the following matters associated with subdivision applications prior to review by the Zoning Administrator, P&Z, or BOCC, as required: master plans; preliminary and final plats; variances; community types and detailed site plans.

## 4.3 Thoroughfare, Block, and Lot Guidelines

The purpose of the following thoroughfare, block, and lot guidelines is to provide standards that vary according to their location on the continuum of intensity to enable compact and interconnected development.

A. Thoroughfare Network, Design

The arrangements, character, extent, width, grade, and location of all thoroughfares shall consider existing and other planned thoroughfares, topographical conditions, dust, and surface drainage both in and through the subdivision, public convenience and safety and appropriateness to proposed uses of land to be served by such thoroughfares. Layout and design of thoroughfares shall comply with Article 6 and shall:

(1) Be configured to distribute traffic throughout the subdivision and designed to reduce speeds of vehicular traffic.

(2) Extend existing thoroughfares where they terminate at the bounds of the proposed subdivision.

(3) Provide stub thoroughfares to the boundary of the subdivision where conditions permit the later extension of thoroughfares into adjacent areas.

(4) Conform to master or sub-area plans near the vicinity of the subdivision that have been approved by the County.

(5) Along a railroad right-of-way or limited-access highway right-of-way or at a river, ravine or arroyo, the design shall provide a parallel thoroughfare at a distance suitable for the strip of land to be developed according to its zoning district or development intensity. Design shall provide sufficient space for safe operation of signals and queuing of traffic.

(6) Avoid jogs in thoroughfares in which the centerline is offset by less than 200 feet.

(7) Ensure that horizontal and vertical curves for all thoroughfares meet the standards of Section 6.3 Access and Parking, including any design adjustments to connect proposed subdivision thoroughfare to neighboring thoroughfares.

(8) Design intersections at right angles and not less than 80 degrees where possible, in accordance with Section 6.3 Access and Parking.

(9) Ensure clear sight triangles and required setbacks have been removed from the buildable area of corner lots so the remaining size of the buildable area is sufficient for builds with at least the same amount of surface area as the ones abutting in the same zone or development intensity.

(10) Ensure thoroughfares meet engineering and thoroughfare design standards per Section 6.3 Access and Parking.

(11) Avoid half thoroughfares by which only 1 side of the thoroughfare's pavement is platted or constructed, except that a thoroughfare may be constructed on the boundary of a parcel between two phases of the same subdivision.

(12) Ensure both ends of every thoroughfare terminate at intersections and form a network of lots and blocks. Zoning Administrator or the Design Review Committee may review a variance to this requirements where the terrain or width of a parcel to be subdivided is not practical to serve an area except by using a cul-de-sac. No cul-de-sac shall exceed 600 feet to the center of the bulb or ½ block in length for the zone or development intensity.

(13) Provide separate, legally described paved access directly to the nearest arterial or collector highway.

(14) Provide any necessary dedication of land for rights-of-way at the project's perimeter to ensure that the subdivision will not become inaccessible during a 100-year storm.

B. Thoroughfare Network Plan

Preliminary and final plats shall include a thoroughfare network plan which shall include the following:

(1) Existing major thoroughfares networks including thoroughfares leading to commercial and mixed-use areas and connecting between them railroad lines, highways, and designated County, State, and Federal Routes.

(2) Designation for each thoroughfare mapped (both within and near the proposed subdivision). See Section 6.3 Access and Parking.

(3) Proposed network of thoroughfares and their intersections including the following:

(a) Width of right-of-way;

(b) Design of parkways;

(c) Curb and turning radii at intersections;

(d) Location and type of traffic control devices; and

(e) Dimensions dictated by safety standards and engineering requirements.

(4) Proposed modifications to existing thoroughfares.

C. Thoroughfare Assemblies

Thoroughfare assemblies shall be designed according to Section 6.3 Access and Parking.

D. Block Standards

(1) Blocks shall consist of lots surrounded by thoroughfares.

(a) Lengths of block faces shall not exceed the maximum length of a block face, measured along lot lines, for the zone or development intensity per Table 4.1 Maximum Block Face Length, except that the Zoning Administrator may adjust the length of a block face by up to 10% by approval of an administrative variance to accommodate specific site conditions. See Section 2.7.3 Administrative Variances.

(b) Where two or more zones or development intensities occur on the same block face, the block face length shall not exceed that shortest required length.

(c) The block face length in Mobile Home Parks (DM) shall apply to the internal blocks to each DM or subdivision as well as to the sum of all contiguous land under the same ownership within the zone.

(2) The Zoning Administrator may exempt blocks adjacent to undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks from a limitation on block length by approval of an administrative variance. See Section 2.7.3 Administrative Variances.

(3) Block faces exceeding 500 feet shall be subdivided with a sidewalk extending through the block and is a minimum of 12 feet in width.

(4) Rear lanes or alleys shall be required for medium and high intensity areas within a new community and within T4 and T5 Transect Zones. Rear lanes and alleys are not mandatory where the rear lot lines are at the edge of the site to be subdivided or where the block has been previously subdivided.

**Table 4.1 Maximum Block Face Length**

| | **N&T1** | **R&T2** | **R5/& R5L** | **L&T3** | **M& T4** | **H & T5** | **D1/D1L** | **D2/D2L 1** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Maximum Block Length (feet) | - | - | - | 660 | 600 | 500 | 660 | 600 | 500 | 500 | 500 | 500 | 600 | 600 | - | - | - |
| **Legend** | "-" means "no maximum." Numbers refer to length in feet. | | | | | | | | | | | | | | | | |

E. Parkway Assemblies

(1) Each segment of a thoroughfare shall include a parkway corresponding to its adjacent zone(s) or development intensity in Section 6.3 Access and Parking.

(2) Public lighting shall be located within the furnishings zone.

(3) Public planting shall follow Section 5.7 Landscaping, Buffering, and Fencing.

(4) Parkways in high intensity areas within a community type, within T5 Transect Zone and with portals or shopfronts may replace public planting with sidewalk pavement.

(5) Sidewalks shall be provided per the minimum widths of Table 4.2 Minimum Width of Sidewalk Standards. Sidewalks shall meet the current Americans with Disabilities Standards for Accessible Design (ADA SAD) for curb ramps and accessible routes for all new construction.

(6) Sidewalks shall be optional where no sidewalks exist in parkways or lots adjacent to and across a thoroughfare from the subject lot.

(7) Sidewalks shall be a minimum of 10 feet in width at shopfronts, space permitting.

**Table 4.1 Minimum Width of Sidewalk Standards**

| | **N&T1** | **R&T2** | **R5/R5L** | **L&T3** | **M&T4** | **H&T5** | **D1/D1L** | **D2/D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Minimum Sidewalk Width | - | - | - | 5 | 5 | 6 | - | 5 | 5 | 5 | 6 | 6 | 6 | 6 | 5 | 5 | 5 |
| **Legend** | "-" means "not required." Numbers refer to width in feet. | | | | | | | | | | | | | | | | |

F. Lot Structure

(1) Lots shall have minimum and maximum widths and lot sizes per Tables 5.4 through 5.17 Site Standards, except claims of exemptions in the Rural (T2) Zone may be platted per NMED standards.

(2) Each lot shall have a primary frontage along the vehicular thoroughfare except that the Zoning Administrator may permit a primary frontage along a sidewalk by approval of an administrative variance. See Section 2.7.3 Administrative Variances.

(3) Where lots have multiple frontages as shown in Table 5.3 Facades, Elevations and Lot Lines Illustrated, 1 frontage line shall be designated as primary and any other frontage lines shall be designated as secondary.

(4) All lots shall meet all relevant federal, state and local governmental regulations.

(5) Lots with double frontage shall identify the intended front of the lots for driveway and address purposes. Double-frontage lots on adjacent cul-de-sacs shall not be permitted.

(6) Legal access to a public thoroughfare within the development shall be required for all lots.

## 4.4 Civic Space Requirements

The purpose of civic spaces is to ensure civic amenities are of appropriate types and are in strategic and accessible locations and compatible land uses.

A. Civic Spaces

Civic spaces shall be assigned to each pedestrian shed during the design process. The minimum and maximum percentage of land to be dedicated and deeded as land in civic space is shown in Table 3.3 Community Types, Criteria. Civic spaces shall be assigned per Tables 3.5 Land Use Classification Matrix: Development Intensities and 5.1 Land Use Classification Matrix: Zoning Districts, and shall be designed per Table 4.3 Civic Space Types to conform to the zone and development intensity and to the following:

(1) Those portions of N Zone, if any, within the transect zone or community type shall be part of the civic space allocation and shall be a park, per Table 4.3 Civic Space Types.

(2) Pedestrian sheds shall contain at least one main civic space that is a square, plaza or green, per Table 4.3 Civic Space Types. An entrance to the main civic space shall be within 1,000 feet of the center point of the pedestrian shed unless topographic conditions, pre-existing thoroughfare alignments or other approved circumstances prevent such location.

(3) Playgrounds conforming to Table 4.3 Civic Space Types shall be located so that every residential lot is within 1,000 feet of a playground.

(4) At least 50% of the perimeter of each square or plaza per Table 4.3 Civic Space Types shall abut a thoroughfare.

(5) Small spaces not conforming to the specific standards of Table 4.3 Civic Space Types are permitted and encouraged, although they shall not contribute to the minimum percentage of land required to be dedicated as civic space.

(6) The County may elect to accept ownership of land in civic space and nothing herein shall obligate the County to accept such land. Homeowner associations or civic organizations may elect to accept ownership of land in civic space and the developer shall provide an ownership and maintenance strategy for the civic space.

(7) Planting, lighting and landscaping in civic spaces shall conform to Section 4.5 Public Lighting, Table 6.9 Typical Urban Parkways, and Table 6.10 Typical Rural Parkways.

(8) Design of a civic space shall be approved by DRC. Where a civic space extends between two or more zones or development intensities, the space may comply with civic space standards from either zone or development intensity.

**Table 4.2 Civic Space Types**

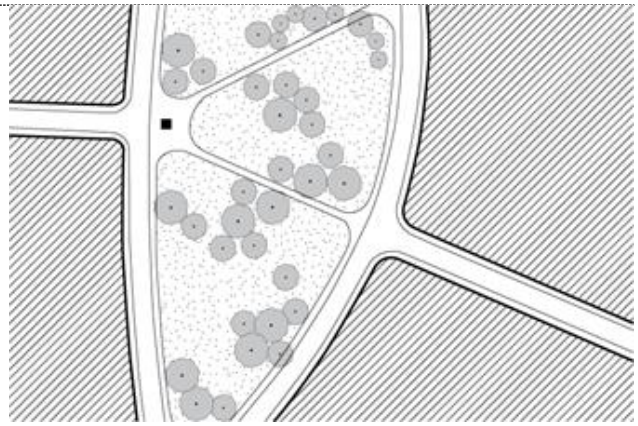
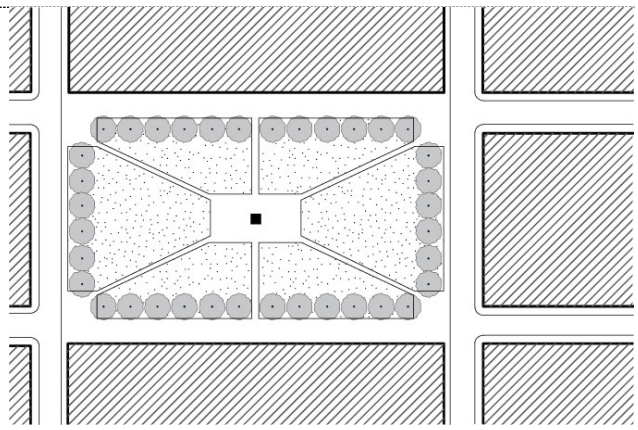
| **4.3-a Park** | |
|---|---|
| Area | 3 acres, minimum |
| Standard: A Park may be independent of surrounding building frontages. Landscape shall consist of paths and trails, fields, water bodies, bosques, and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectory of the river or arroyos. | |
| **4.3-b Green** | |
| Area | 1 - 5 acres |
| Standard: A square or plaza spatially bounded by landscaping rather than building frontages. Landscape shall consist of landscaping and trees, naturalistically disposed. |  |
| **4.3-c Square** | |
| Area | 1/2 - 5 acres |
| Standard: A Square is spatially bounded by building frontages. Landscape shall consist of paths, landscaping and trees, formally disposed. Squares shall be located at the intersection of major thoroughfares. |  |

**Table 4.2 Civic Space Types**

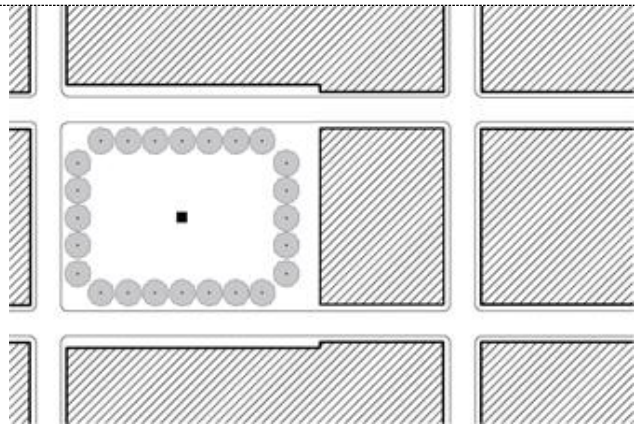
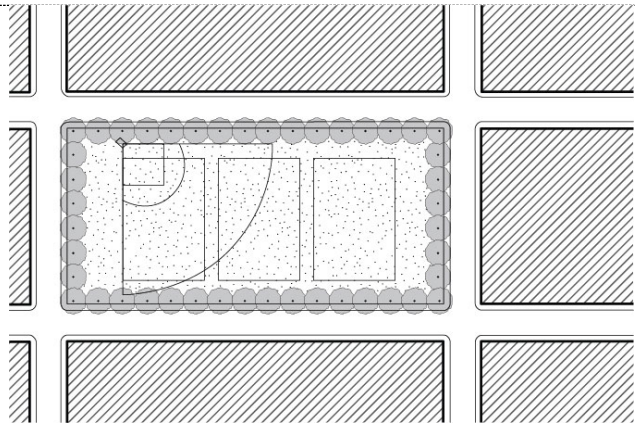
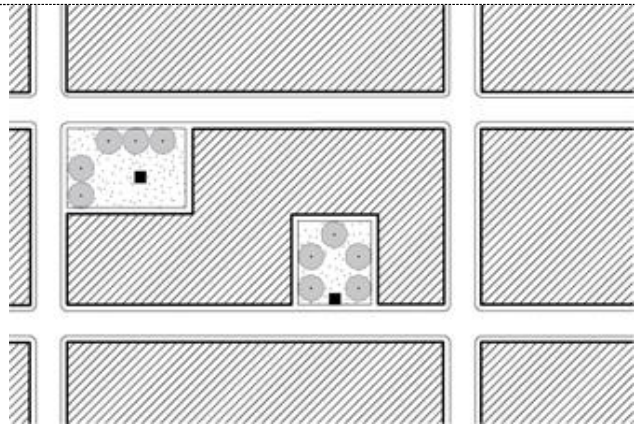
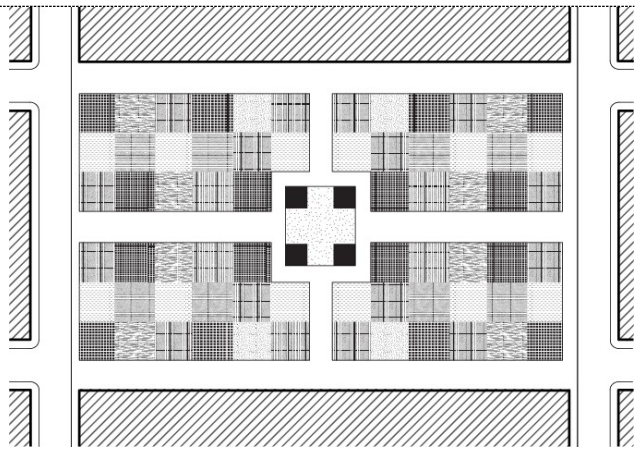
| **4.3-d Plaza** | |
|---|---|
| Area | 1/4 - 4 acres |
| Standard: A Plaza shall be spatially bounded by building frontages. Landscape shall consist primarily of pavement. Trees are recommended but not required if the space can be shaded by adjacent street trees. Plazas shall be located at the intersection of major streets. |  |
| **4.3-e Neighborhood Multipurpose Field** | |
| Area | 1 1/2 – 3 acres |
| Standard: A Neighborhood Multipurpose Field may be spatially bounded by landscaping or by building frontages. There shall be a 20 ft. clear zone at the perimeter and shall be landscaped with canopy trees. If this area is adjacent to a thoroughfare, the street trees may provide the required shade. This field may serve a secondary purpose of stormwater management. |  |
| **4.3-f Playground** | |
| Area | Varies |
| Standard: A Playground shall be fenced and may include an open shelter or shade structure. Playgrounds shall be interspersed within residential areas and may be placed within a block or another civic space. |  |

**Table 4.2 Civic Space Types**

| **4.3-g Community Garden, General** | |
|---|---|
| Area | Varies |
| (1) A community garden shall be used by two or more individuals from the community, with individual or communal plots to grow plants, including for sale or use.<br>(2) The community garden shall be managed and maintained by an individual, group of individuals, or an organization, but not by a for-profit business. Land may be donated permanently or temporarily by a for-profit entity, and the community garden may include on-site sales in a stand of 600 square feet or smaller.<br>(3) A community garden may be fenced and may include a tool shed. Running water is required. Community gardens may be located within a block or included within a park or square or plaza or temporarily located on vacant parcels. |  |
| **4.3-h Community Garden, Small** | |
| A small community garden shall have no livestock. | 1/8 acre, maximum |
| **4.3-i Community Garden, Medium** | |
| A medium community garden may include animals used in food production, with the exception of roosters. Livestock facilities shall be set back 75 feet from property lines. | 1/8 – 2 acres |
| **4.3-j Community Garden, Large** | |
| A large community garden is managed and maintained by an individual, group of individuals or organization for Urban Agriculture. Animals used in food production shall be permitted with the exception of roosters. Livestock facilities shall be setback a minimum of 75 feet from the property lines | 2 acres, minimum |

## 4.5 Public Lighting

A. Purpose

The purpose is to tailor design of lighting to context and assure adequate lighting for safety. Lighting within the County shall maintain the rural character of the region, in part by preserving the visibility of night-time skies while providing for safety and security.

B. Standards

Within parkways, prescribed types of public lighting shall be as shown in Table 6.11 Parkway Assemblies.

(1) New development within the R and L Development Intensities and within T2, T3, R5 or D1 Zones shall meet the following standards:

(a) All lighting installations shall be designed and installed to be fully shielded except as exempted below and commercial lighting shall have a maximum lamp wattage of 250 watts HID (or approximately 1,600 lumens).

(b) Residential lighting shall be shielded such that the lamp or the lamp image is not directly visible outside the property perimeter.

(c) Exemptions:

[1] Lighting in swimming pools and other water features governed by the National Electrical Code.

[2] Exit signs and other illumination governed by the International Building Code.

[3] Lighting for stairs and ramps as required by the International Building Code.

[4] Holiday and temporary lighting less than 30 days use in any one year.

[5] Athletic field lighting, when field is in use.

[6] Low voltage landscape lighting, but such lighting shall be shielded to eliminate glare and light trespass.

(2) All light standards shall comply with NMSA 1978, §§74-12 Night Sky Protection.

## 4.6 Public Utilities

A. Utility and Pedestrian Easements

The purpose is to ensure that easements provide adequate space for utilities and pedestrian access. This section also ensures that the easements are located in a manner appropriate to their zones and development intensities. This is accomplished by ensuring that:

(1) Utility easements are concealed from view of the street where possible and they are not located where they would hinder the further development of lots over time; and

(2) Pedestrian easements are located for the convenience and safety of pedestrians.

B. Location

New, dry utilities shall be below ground for subdivisions greater than 5 parcels.

C. Wet Utilities

Wet utilities shall be located only outside a thoroughfare right-of-way if the Zoning Administrator approves an administrative variance where the terrain or topography is not practical to serve an area otherwise; see Section 2.7.3 Administrative Variances. Wet utility laterals shall be coordinated with landscaping and public lighting.

D. Transformers and Utility Pedestals

Transformers and utility pedestals shall be located behind building frontage and outside private frontage and shall be screened from view of the sidewalk or the street, if appropriate.

E. Existing Overhead Utilities

For properties with existing overhead utilities:

(1) Dry utility services shall be placed below ground from the pole to any new structure;

(2) Where possible, transformers and utility pedestals shall be located behind principal building frontage;

(3) Reservation of an easement for future below ground placement of utilities shall be required;

(4) Utility poles that prohibit the construction of an unobstructed 5 foot pedestrian sidewalk shall be relocated to permit such a sidewalk; and

(5) Additional building setbacks within a private frontage for the overhead utilities may be required.

F. Properties without Rear Alleys

(1) All dry utilities shall be placed below ground;

(2) Dry utilities shall be placed beneath the sidewalk or within parkway and adjacent to property line where sidewalk is not required; and

(3) Where possible, transformers and utility pedestals shall be set behind the principal building frontage.

G. Properties with Rear Alleys or Lanes

(1) Dry utilities shall be located beneath the roadways or on-street parking; and

(2) Transformers and utility pedestals shall be located on private property within utility easements at rear of property.

H. Terminated Vista

Transformers and utility pedestals shall not be located at terminated vistas.

I. Alleys and Rear Lanes

Alley and rear lane easement configurations are specified in the Table 6.5 Development Intensity (DI) and Transect Zone Thoroughfare Cross Sections.

J. Pedestrian Access Easements

Pedestrian access easements in the form of pedestrian trails and paths shall be configured as follows:

(1) A minimum 5 foot walkway shall be provided.

(2) Public planting and public lighting shall be configured according to Sections 5.7 Landscaping, Buffering, and Fencing, and 6.3 Access and Parking.

## 4.7 Subdivision Data Requirements

A. Pre-Application Process, Data Requirements

(1) Sketch Plan. A sketch plan shall be prepared by the subdivider which shows the proposed thoroughfares, blocks and lots with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.

(a) Additional Information. In addition to the sketch plan and location map, the subdivider shall provide the following information:

[1] Name and mailing address of the subdivider and designated agent, if any.

[2] Name of the owner or owners of land to be subdivided.

[3] Parcel ID number and accompanying map from the Doña Ana County Assessor's Office.

[4] A description of surround land uses.

[5] Accessibility of site to roads and utilities.

B. Preliminary Plat, Application Specifications. Documentation for preliminary plat review shall include the following:

(1) A completed application for preliminary plat review and the following in the formats, numbers and specifications indicated in the application:

(a) A preliminary plat map, per Section 4.7.C. Preliminary Plat Map Specifications.

(b) Water Supply Plan including the water supply source, water quantity demand, conservation, water quality and fire protection components.

(c) Liquid Waste Disposal Plan.

(d) Solid Waste Disposal Plan.

(e) Documentation of legal status and general description of the condition of the accessibility of the site to roads and utilities.

(f) If the subdivision is intended to be a phased, a phasing plan, phasing schedule, a schedule of improvements shall be provided. This shall also indicate the intended disposition of blocks and areas to be zoned or mapped within them and optionally, the intended lots in subsequent phases.

(g) Terrain Management Plan.

(h) Cultural Properties Protection Statement.

(i) Disclosure Statement. The disclosure statement shall provide sufficient documentation to permit the prospective purchaser, lessee or other person acquiring

an interest in subdivided land to make an informed decision about the purchase, lease or other conveyance of the land.

(j) If the subdivision requires the construction of the public water supply system or community liquid waste system, documentation that the New Mexico Environment Department has approved the proposed work.

C. Preliminary Plat, Map Specifications

The preliminary plat map shall be prepared at a scale of 200 feet to one inch or larger and printed on sequentially numbered sheets. The cover sheet shall include a vicinity map indicating the location of the proposed subdivision. The preliminary plat shall include the following:

(1) Title, scale, North arrow and date.

(2) Existing topography.

(3) Existing and proposed boundary lines in bearings and distances for the subdivision.

(4) Proposed lot lines with lot and block numbers and approximate acreage of each lot.

(5) The location, dimensions and purpose of existing and proposed easements.

(6) Names and right-of-way widths of existing and proposed thoroughfares on and adjacent to the subdivision.

(7) Identification of thoroughfare type per Table 6.4.

(8) Calculation of maximum block face dimension per Table 4.1 Maximum Block Face Length.

(9) Locations, dimensions and purpose of any land to be dedicated to public use, including any improvements to be made to that land.

(10) Location of subdivision in relation to an established benchmark including a vicinity map.

(11) Location of archaeological, historical or culturally significant features on the site.

(12) Delineation, if applicable, of any 100-year floodplain as designated by the Federal Emergency Management Agency.

(13) Names and addresses of the owner or owners of land to be subdivided, the subdivider if other than the owner and the land surveyor.

(14) Legal description, indicating the range, township and section within which the subdivision is located, if applicable.

D. Preliminary Plat, Support Data Requirements

The supporting documentation required for the preliminary plat review is intended to provide sufficient information to demonstrate to the Zoning Administrator, P&Z and the BOCC to determine whether the following are true:

(1) Water quantity is sufficient to fulfill the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses.

(2) Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination.

(3) There is a means of liquid waste disposal for the subdivision.

(4) There is a means of solid waste disposal for the subdivision.

(5) There are satisfactory roads to each parcel including entry and exit for emergency vehicles and there are appropriate utility easements to each parcel.

(6) Terrain management protects against flooding, inadequate drainage, erosion and meets the requirements of the Development Construction Standards. See Article 6 Development Construction Standards.

(7) There are protections for cultural properties, archaeological sites and unmarked burials that maybe directed affected by the subdivision as required by the Cultural Properties Act. See the Cultural Properties Act, NMSA 1978, §§18-6-1 *et seq*.

(8) The subdivider can fulfill the proposals contained in the disclosure statement for the subdivision.

(9) That the subdivider can ensure that the subdivision will result in an adequate network of thoroughfares serving a set of clocks that are each designed with sufficient dimensions to ensure that the resulting lots will be legal for their intended land uses.

(10) The subdivision will conform to these regulations and to the New Mexico Subdivision Act (see NMSA 1978, §§47-6-1 *et seq*.).

E. Phased Subdivisions

Subdivisions that are proposed to be phased and filed in multiple final plats shall include in the application package an anticipated phasing schedule for the final plat and a schedule of infrastructure improvements. A master plan per Article 2 may be required.

F. Final Plat, Application Specifications

Documentation shall include the following:

(1) A completed application for final plat review and the following in the formats, numbers and specifications indicated in the application:

(2) A final plat per Section 4.7.G Final Plat, Map Specifications.

G. Final Plat, Map Specifications

The final plat shall be prepared at a scale of 200 feet to 1 inch or larger and shall be drawn by a professional surveyor licensed in New Mexico on durable reproducible stock with north orientation and shall include the following information:

(1) Name of subdivision, scale, north arrow, equivalent scale, graphic scale, date of field work and date of certification.

(2) Description of all monuments found or set and basis of bearing used in the survey in accordance with the current minimum standards for surveying in New Mexico and subsequent advisory opinions issued by the New Mexico Board of Registration for Professional Engineers and land Surveyors.

(3) Tract boundary lines, easements and right-of-way lines and property lines of lots and other sites dimensioned to 0.01 foot in length and 1 second of arc in direction with curve data to include the radius, central angle, length and chord dimensions.

(4) Easements and rights-of-way providing evidence of legal access and utility easements to the subdivision from off-site: name, right-of-way width and center-line data of each road or other right-of-way within the subdivision; if the access is based upon an agreement, the recording data in the land records for the agreement including type of deed, book number, page number and filing date.

(5) Recording data of the instrument of title of the subdivision to include owner of record, type of deed, book and page number; recording data of all adjoining tracts to include owner of record, type of deed, book and page number, or if adjoining lots or parcels are in an existing subdivision, lot and block of existing recorded subdivision with plat book and page.

(6) Location, dimensions and purpose of all easements including irrigation easements and dedicated public site.

(7) Number of each parcel in progression with its dimensions and the dimensions of all land dedicated for public use.

(8) Delineation of any 100-year floodplain as designated by the Federal Emergency Management Agency or other drainage studies conducted or available through the Office of the Flood Commission with base flood elevation for all lots within the flood hazard zone.

(9) Names of the owner or owners of the subdivision at the time of plat filing.

(10) Certification of a surveyor registered in New Mexico stating the survey and plat meet the minimum standards for surveying in New Mexico.

(11) Legal description including the section, township and range within which the subdivision is located, if applicable.

(12) Reference to any subsequent pages which contain details of any major elements contained in the subdivision plant.

(13) Legend describing the graphical elements of the plat including the building setback lines for all lots within the subdivision.

(14) Any general notes which are needed to explain any unusual features, inclusions or circumstances regarding the plant.

(15) Certification block for BOCC Chairperson and attest space for County Clerk.

(16) Certification block for representatives from all appropriate utility companies.

(17) Vicinity map to locate subdivision showing relationship to existing roadways, municipalities and other landmarks.

(18) Outlots or parcels other than lots, streets or easements shall be designated with disposition indicated in the note section; location of land intended to be converted or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified; purpose of each outlot and responsibilities for maintenance of all tracts shall be noted.

(19) Recording information for the Doña Ana County Clerk.

H. Guarantees, Representations and Conformance

(1) Affidavit. The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by the owner at the time of plat filing and subdivider or their authorized agents in the manner required for the acknowledgment of deeds. Every final plat submitted to the County Clerk shall be accompanied by an affidavit of the owner and subdivider or their authorized agents stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the final plat shall be provided to every purchaser, lessee or other person acquiring an interest in the subdivided land before sale, lease or other conveyance.

(2) Dedication. The final plat shall contain a certificate stating that the BOCC has accepted, accepted subject to improvement or rejected on behalf of the public any land offered for dedication for public use in conformity with the terms of the offer of dedication.

(3) Disclosure Statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in Appendices I and J of this Chapter.

(4) Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 *et seq*. and 12 CFR Parts 1010, 1011 and 1012) may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement or record.

(5) Environment Department Approval. For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.

(6) Opinion of the State Engineer. Before approving the final plat for a subdivision, the BOCC shall require that the subdivider provide an opinion from the Office of the State Engineer stating: (1) whether the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses; and (2) whether the subdivider can fulfill the proposals in the disclosure statement concerning water, except water quality. The BOCC may elect not to approve the final plat if the State Engineer has not issued a positive opinion for the subdivision water use.

(7) Agriculture. Subdividers are required to disclose to purchasers that New Mexico law includes the "Right to Farm Act" (NMSA 1978, §§47-9-1 through 47-9-7). According to this law "any agricultural operation or facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the operation or facility, if the operation was not a nuisance at the time it began and has been in existence for more than a year." The Right to Farm Act includes, but is not limited to, operations and facilities within the farm or ranch such as chemical application, field preparation, irrigation, cultivation, conservation

practices, pruning, plowing, planting, roadside markets or any other use of the land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry or fish.

(8) Improvement Guarantees. If the subdivider wishes to submit the final plat for review, approval and recording before completion of required improvements, the subdivider shall post a suitable improvements guarantee in an amount approved by the County. The guarantee shall be not less than 125% of the estimated cost of the required improvement. This guarantee may be by development agreement, bond, letter of credit, escrow deposit or other method acceptable to the BOCC.

(9) One-Year Construction Warranty. All subdivisions shall be insured by a one-year warranty of improvements which shall obligate the subdivider to repair to County standards any improvements which fail within 1 year of the County's final inspection of construction in the subdivision. In order to ensure compliance with this regulation, all work performed in the construction of roads and drainage rights-of-way of a subdivision shall be subject to a warranty binding the subdivider to such terms as are mentioned above. This warranty shall be in the format included in the Appendix of these regulations (see Appendix B).

(10) Release of Collateral. If the subdivider files a construction letter of financial assurance and indemnity agreement for improvements within the subdivision and wishes to draw on that letter of financial assurance, the following procedure shall be applied:

(a) As any phase of construction within a subdivision is completed but no more frequently than once a month and at least 10 days before the release can be accomplished, the subdivider may submit to the Zoning Administrator a letter requesting partial release of funds from a letter of financial assurance: A request for release shall contain the following information : (1) Description of the work including quantities of materials used in the component parts of the work for which the partial release is being requested. (2) Dollar amount, including unit prices for each element in the description of work. (3) Percentage of the total amount of work involved in the subdivision represented by the requested release. (4) Total dollar amount requested for release. (5) Balance of dollars remaining in the County's control of the letter of credit. (6) Balance of dollars required to complete the subdivision's improvements.

(b) Component parts of the work for which partial releases may be requested include but are not limited to the following: (1) Earthwork consisting of clearing and grubbing; removal of structures and obstructions; excavation, borrow and embankment work; subgrade preparation; construction of pads. (2) Base work consisting of base course and subbases; other approved bases. (2) Surface treatments and pavements: hot mix, prime coats, bituminous surface treatments; other approved pavements. (4) New structures and constructions, including concrete, steel and wood structures; culverts and storm drains; contour ditches; rip-rap; guardrails; fences; sidewalks and media improvements; curbs and gutters; cattle guards; irrigation ditches; drop inlets; utilities; retaining structures; walls and monuments. (5) Traffic control

devices: signs and support structures; pavement markings; signal and lighting structures.

(11) Within 10 working days of receiving a request for release of collateral, the Zoning Administrator shall forward such request to the Engineering Services Department. Within 5 working days of receiving the request for release, the Engineering Services Department shall submit a letter to the Zoning Administrator in conformance with the requirements of this chapter.

(12) Within 15 days of receiving a request for the release of collateral, the Zoning Administrator shall notify the applicant of the County's acceptance of the contents of the request or, in case of a rejection of the request, shall return the request and a letter stating the County's reasons for not releasing funds from the letter of credit to the applicant; in case of a rejection by the County of a request, the developer may correct the application and resubmit it to the County.

(13) In reviewing the request, the County Engineer shall determine what portion of the construction for which the subdivider is requesting a partial release has been completed and does meet the Development Construction Standards or what portion of the construction for which the subdivider is requesting a release can reasonably be expected to be completed during the calendar month in which the release is requested and shall within 5 working days of receipt of the request forward to the Zoning Administrator a response in the form of a letter of completion and acceptance or partial completion and acceptance identifying the work accepted for release, the dollar amount recommended for release, the percentage of the total amount of the letter of credit covered by the release and the total dollar amount remaining in the letter of credit.

(14) A recommendation of payment shall be based on the County Engineer's review of the application accompanying data and on-site observations of work in progress and shall constitute the County's agreement that the work as progressed to the point indicated in the recommendation of payment and that, to the best of the County Engineer's knowledge, information and belief, the work quality is in accordance with the contract documents, the Development Construction Standards and the approved plans for the subdivision being constructed.

(15) The County staff may refuse to recommend the whole or any part of any requested release if the Engineering Services Department finds that the work does not meet the criteria listed in Section 4.7.H.14 above. The County may also reduce subsequent releases for any amount required to correct defective work or to complete work for which a release has been permitted if subsequently discovered evidence or the results of subsequent inspections or tests show that the work does not meet the criteria listed in Section 4.7.H.14.

(16) In the event that any subsequent natural occurrence or action by the developer causes changes to the completed work which results in it falling below the Development Construction Standards, the dollar amount required to bring the completed work back to County standards shall be held back from succeeding releases until such time as the damage has been eliminated and the completed work once again meets the Development Construction Standards.

(17) Within 7 days of receiving a letter of completion and acceptance or of partial completion and acceptance from the Engineering Services Department, the Zoning Administrator shall inform the developer and the developer's lending institution in writing of the release of funds, specifying the amount released, what work is represented by the release and previous amounts released and the balance remaining in the letter of credit. The Zoning Administrator shall also request that the lending institution provide a written response verifying its receipt of the release letter, verifying the accuracy of the contents of the release letter and describing its actions regarding the release of funds.

(18) At the time when all required work in the subdivision is complete and the developer has satisfied all contractual requirements within the subdivision to meet the County's standards, the County Engineer shall write a letter of the Zoning Administrator indicating satisfaction and acceptance of performance by the developer and contractor and acceptance of a 75% release of the funds remaining in the letter of credit. Upon receipt of the Engineer's letter and upon receipt of the developer's letter of request of release of funds from the letter of credit, the Zoning Administrator shall, within 7 days, inform the developer's lending institution in writing of the release of funds, specifying the amount released, that the work represented by the release is the final work in the subdivision, and the balance remaining in the letter of credit shall be 25% of the value which shall be held until successful completion of the warranty period. The Zoning Administrator shall also request that the lending institution provide a written response verifying its receipt of the released letter, verifying the accuracy of the contents of the release letter and describing its actions regarding the release of funds.

(19) Upon the successful completion of the warranty period, the County Engineer shall write a letter to the Zoning Administrator indicating satisfaction and acceptance of performance by the developer and contractor and acceptance of final release of the funds remaining in the letter of credit. Upon receipt of the Engineer's letter and upon receipt of the developer's final letter of request of release of funds from the letter of credit, the Zoning Administrator shall, within 7 days, inform the developer's lending institution in writing of the release of funds, specifying the amount released, that the work represented by the release is the successful completion of the warranty and the balance remaining in the letter of credit shall be $0. The Zoning Administrator shall also request that the lending institution provide a written response verifying its receipt of the released letter, verifying the accuracy of the contents of the release letter and describing its actions regarding the release of funds. Financial assurances shall be released following construction of required improvements including testing and inspection, in accordance with the requirements of Article 2.

# ARTICLE 5. ZONING DISTRICTS AND REQUIREMENTS

The purpose of the requirements of this Article provide standards for the development of properties in a manner compatible with the Comprehensive Plan and zoning standards suitable for development and subdivision applications. The Official Zoning Map for Doña Ana County is located in the Community Development Department (CDD), which is the final authority on the zoning status of all lands within the County. Whenever changes are made to the zoning district boundaries, via approval of a zone change, the Zoning Administrator shall amend the Official Zoning Map of Doña Ana County.

## 5.1 ZONING DISTRICTS

This Chapter establishes two types of zoning districts: transect zones and use zones.

### 5.1.1 Transect Zones

Transect zones reflect the historic development patterns of Doña Ana County and are predominantly mixed uses and compact development. These zoning districts are located and map zoned to the existing historic communities and townsites that includes natural and rural conditions.

a. Each zone shall have a distinct character as described below and specific land uses can be found in Table 5.1 Land Use Classification Matrix: Zoning Districts:

i. N (Natural) Zone consists of lands in or reverting to a natural condition, including lands unsuitable for settlement or development due to topography, hydrology or vegetation.

ii. T2 (Rural) Zone consists of sparsely settled lands in open or cultivated conditions. These include bosque, agricultural land and grazing land. Typical buildings include single family residential site-built homes and mobile homes, farmhouses and agricultural buildings. Thoroughfares are rural in character and have no pedestrian facilities. Landscaping is agricultural or that which occurs naturally.

iii. T3 (Neighborhood Edge) Zone consists of low density single-family residential dwelling areas, with some mix of uses, home occupations and outbuildings. Parkways within thoroughfares and yard plantings shall be naturalistic and building setbacks shall be relatively deep. Blocks are large and thoroughfare networks irregular.

iv. T4 (General Neighborhood) Zone consists of a mix of uses but is primarily mixed density residential. It contains a wide range of building types: houses, compounds, townhouses, duplexes, small apartment buildings and live-work units. Setbacks and landscaping are variable. Thoroughfares with sidewalks define medium-sized blocks.

v. T5 (Town Center) Zone consists of higher density mixed-use buildings that accommodate retail, offices, townhouses and apartments. It shall have a tight network of thoroughfares with wide sidewalks, regularly spaced street tree plantings and buildings set close to the sidewalks.

### 5.1.2 Use Zones

Use zoning districts are one of several zones that are developed and regulated primarily by specific uses and are typically characterized by adjacent or similar development.

a. Each use zoning district shall permit the following uses as described below and specific land uses can be found in Table 5.1 Land Use Classification Matrix: Zoning Districts:

i. R5 (Rural Density Residential) Zone permits single-family residential site-built homes, mobile homes and related uses necessary to serve residential areas on lots 5 acres or greater.

ii. R5L (Rural Density Residential – Limited) Zone permits single-family site-built homes and manufactured homes on lots 5 acres or greater.

iii. D1 (Low Density Residential) Zone permits single-family site-built homes, mobile homes, and related uses necessary to serve residential areas.

iv. D1L (Low Density Residential – Limited) Zone permits single-family site-built homes and manufactured homes.

v. D2 (Medium Density Residential) Zone permits a mixture of single-family site-built homes, mobile homes, duplex residences, and related residential support uses.

vi. D2L (Medium Density Residential – Limited) Zone permits a mixture of single-family site-built homes, manufactured homes, duplex residences, and related residential support uses.

vii. D3 (High Density Residential) Zone permits triplex, fourplex, and multiple-family apartment complexes at a relatively high density of dwelling units per acre, and related land uses, with community water and sewer services. Related public and quasi-public services and support facilities necessary to serve multiple-family uses are permitted.

viii. DM (Mobile Home Park) Zone permits single-family site-built homes, manufactured homes or mobile homes (ground-installed or blocked and screened), recreational vehicles and related community services that serve a mobile home park.

ix. MU (Mixed Use) Zone permits small-scale commercial activities mixed with residential uses (site-built structures). Commercial and residential uses are allowed within the same structure. It conserves traditional development patterns while allowing for infill and development of new uses that are compatible in scale and intensity with existing development.

x. C1 (Neighborhood Commercial) Zone permits neighborhood commercial activities and small-scale freestanding businesses.

xi. C2 (Community Commercial) Zone permits a range of commercial activities that serve a community or several communities, and allow larger commercial businesses.

xii. C3 (Regional Commercial) Zone permits a wide range of regional commercial activities generating large amounts of employment and traffic, serving a wide region on the County.

xiii. I1 (Light Industrial) Zone permits light-intensity industrial activities that serve a community or several communities and are compatible with other commercial uses.

xiv. I2 (Medium Industrial) Zone permits medium-intensity industrial activities that serve a community or several communities.

xv. I3 (Heavy Industrial) Zone permits heavy-intensity industrial activities properly buffered from surrounding communities.

**Table 5.1 Land Use Classification Matrix: Zoning Districts**

**LEGEND**

| | |
|---|---|
| Permitted | P |
| Conditional Uses, See Table 5.1 | C |
| Permitted if Assessed as Agriculture for On-Farm Operations Only | A |
| Special Use Permit | S |
| Retail Uses Not Elsewhere Classified, Limited By Building Size | * |

| | |
|---|---|
| Natural | N |
| Rural | T2 |
| Neighborhood Edge | T3 |
| General Neighborhood | T4 |
| Town Center | T5 |
| Rural Density Residential | R5 |
| Rural Density Residential - Limited | R5L |

| | |
|---|---|
| Low Density Residential | D1 |
| Low Density Residential - Limited | D1L |
| Medium Density Residential | D2 |
| Medium Density Residential - Limited | D2L |
| High Density Residential | D3 |
| Mobile Home Park | DM |
| Mixed Use | MU |
| Neighborhood Commercial | C1 |
| Community Commercial | C2 |
| Regional Commercial | C3 |
| Light Industrial | I1 |
| Medium Industrial | I2 |
| Heavy Industrial | I3 |

Consult Sections 5.1, Table 5.1 and 5.3 for additional restrictions on uses. Lots in all zones shall conform to Tables 5.4 through 5.17 Site Standards.

| | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Transect Zones | | | | | Use Zones | | | | | | | | | | | | | | |
| **PRIMARY USE OF PROPERTY** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| **Civic Space** | | | | | | | | | | | | | | | | | | | | |
| Park | | P | P | P | | P | P | P | P | P | P | P | P | | | | | | | |
| Green | | P | P | P | P | P | P | | | | | | | | | | | | | |
| Square | | | | P | P | | | | | | | | | | | | | | | |
| Plaza | | | | P | P | | | | | | | | | | | | | | | |
| Neighborhood Multipurpose Field | | | | P | P | | | P | P | P | P | P | P | P | | | | | | |
| Playground | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | |
| Community Garden, Small | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | |

| | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Transect Zones | | | | | Use Zones | | | | | | | | | | | | | | |
| **PRIMARY USE OF PROPERTY** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Community Garden, Medium | | P | P | P | | P | P | P | P | P | P | | P | P | P | P | P | | | |
| Community Garden, Large | | P | P | | | P | P | P | P | | | | P | P | P | P | P | | | |
| **Residential** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Apartment or Condominium Complex | | | | P | P | | | | | P | P | P | | | | | | | | |
| Duplex | | | | P | P | | | | | P | P | P | | | | | | | | |
| Accessory Dwelling | | P | P | P | P | S | S | S | S | | | | | | | | | | | |
| Fourplex | | | | P | P | | | | | | | P | | | | | | | | |
| Home Occupation (see Section 5.10 Home Occupation Permits)) | | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | |
| Live-Work Unit | | | | P | P | | | | | | | | | P | | | | | | |
| Mobile Home Park | | | | | | | | | | | | S | P | | | | | | | |
| Single-family Dwelling, Mobile Home | | P | P | P | | P | | P | | P | | | P | | | | | | | |
| Single-family Dwelling, Site-built | | P | P | P | | P | P | P | P | P | P | | | P | | | | | | |
| Townhouse | | | | P | P | | | | | | | P | | P | | | | | | |
| Triplex | | | | | P | | | | | | | P | | P | | | | | | |
| Community Types | | P | P | P | P | P | | P | P | P | P | P | P | P | P | P | P | | | |
| **Lodging** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Bed and Breakfast | | P | S | P | P | S | S | S | S | P | P | P | | P | | | | | | |
| Hotel and Motel | | | | C | P | | | | | | | | | P | | P | P | | | |
| Inn | | | | C | P | | | | | | | | | P | P | P | P | | | |
| Recreational Vehicle Park | | P | | C | | | | | | | | | P | | S | P | P | P | | |
| **Office** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Laboratory, Scientific, Ag Research. Office and Service | | S | S | C | P | | | | | | | | | P | P | P | P | P | P | |
| Office, General | | | | C | P | | | | | | | | | P | | P | P | P | | |
| Office, Small | | | | P | P | | | | | | | | | P | P | P | P | P | P | |
| **Retail & Service** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Adult Bookstore or Adult Entertainment | | | | | | | | | | | | | | | | S | S | S | S | S |
| Commercial Laundry | | | | C | P | | | | | | | | | | P | P | P | | | |
| Commercial Use Not Elsewhere Classified | | | | C | P | | | | | | | | | P | P | P | P | | | |
| Convenience Store | | | | | P | | | | | | | | | P | P | P | P | P | | |

| | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Transect Zones | | | | | Use Zones | | | | | | | | | | | | | | |
| **PRIMARY USE OF PROPERTY** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Display Gallery | | | | C | P | | | | | | | | | P | P | P | P | | | |
| Gas Station | | | | P | P | | | | | | | | | S | P | P | P | P | P | P |
| Kiosk | | | | P | P | | | | | | | | | P | P | P | P | | | |
| Retail Facility, Large, over 25,000 sq. ft.* | | | | | S | | | | | | | | | | | P | P | P | | |
| Retail Facility, Medium, 10,000 to 25,000 sq. ft.* | | | | | P | | | | | | | | | | | P | | | | |
| Retail Facility, Small, under 10,000 sq. ft.* | | | | C | P | | | | | | | | | P | P | | | | | |
| Open Market Building | | | S | P | P | | | | | | | | | P | P | P | P | | | |
| Personal Service | | | S | C | P | | | | | | | | | P | P | P | P | P | | |
| Bar, Pub, Tavern | | | | C | P | | | | | | | | | P | P | P | P | P | | |
| Nightclub | | | | | S | | | | | | | | | | | P | P | P | | |
| Restaurant, Bakery, Catering Service | | | S | C | P | | | | | | | | | P | P | P | P | P | S | S |
| Food Truck/Push Cart | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| **Institutional** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Community Building, Public or Private | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | |
| Convention or Exhibition Hall | | | | | | | | | | | | | | P | | | P | | | |
| Cultural Center | | | | C | P | | | | | | | | | P | | | | | | |
| Entertainment Facility, Not Adult Entertainment | | | | | P | | | | | | | | | | P | P | P | | | |
| Exhibition Center | | | | | P | | | | | | | | | P | | | | | | |
| Institutional Use such as Library, Educational or Cultural | | | | C | P | | | | | | | | | | P | P | P | | | |
| Museum | | | | C | P | | | | | | | | | P | P | P | P | | | |
| Off-Site Parking Area for Commercial and Industrial Use | | | | C | P | | | | | | | | | | P | P | P | P | P | P |
| Prison | | | | | | | | | | | | | | | | | | | S | S |
| Recreation and Sports Facility, Private | | P | | P | | | | | | | | P | P | | P | P | P | | | |
| Recreation and Sports Facility, Public | | S | P | P | | S | S | S | S | S | S | S | S | S | P | P | P | | | |
| Religious Institution | | S | S | P | P | S | S | S | S | S | S | S | S | P | P | P | | | | |
| Theater and Like Places of Assembly | | | | C | P | | | | | | | | | P | P | P | | | | |
| Sports Stadium | | | | | P | | | | | | | | | P | P | P | | P | | |
| **Agriculture** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Agricultural Packaging and Warehousing | | A | | | | A | A | A | A | | | | | | | P | P | P | P | P |
| Agricultural Processing Facility | | A | | | | A | A | A | A | | | | | | | | S | P | P | P |
| Aquaculture | | S | | | P | S | S | | | | | | | S | | | P | P | P | P |
| Auction Yard | | S | | | | | | | | | | | | | P | P | P | P | P | |
| Dairy and Related Operations | | | | | | | | | | | | | | | | | | S | P | P |

| | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Transect Zones | | | | | Use Zones | | | | | | | | | | | | | | |
| **PRIMARY USE OF PROPERTY** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Feed Lot | | | | | | | | | | | | | | | | | | P | P | P |
| Farming and Ranching | | A | A | A | A | A | A | A | A | A | A | A | A | A | P | P | P | P | P | P |
| Grain Storage | | A | | | | A | A | A | A | | | | | | | | | P | P | P |
| Greenhouse and Nursery, Commercial | | S | | C | P | S | S | S | S | | | | | S | P | P | P | P | | |
| Livestock Pen | | A | S | | | S | S | | | | | | | | | | | P | P | P |
| Poultry Raising, Commercial | | S | | | | | | | | | | | | | | | | | P | P |
| Poultry Slaughtering and Processing, Commercial | | | | | | | | | | | | | | | | | | | P | P |
| Research | | P | S | | | | | | | | | | P | | | | | | P | P |
| Stable, Private | | P | P | C | | P | P | P | P | P | P | | | | | | | | | |
| Stable, Public, Commercial | | S | | | | S | S | | | | | | | | | | | | | |
| Stockyard or Slaughter House | | | | | | | | | | | | | | | | | | | P | P |
| Swine Production | | | | | | | | | | | | | | | | | | | P | P |
| Wine Tasting Room | | S | | C | P | S | S | S | S | | | | | P | P | P | P | | | |
| **Automotive** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Automobile, SUV Repair, Sales or Service | | S | | | P | | | | | | | | | | | | P | P | P | P |
| Automobile Garages, Painting or Auto Body Work | | S | | | | | | | | | | | | | | | P | P | P | P |
| Auto-Related Repair and Service, But Not Auto Painting or Body Work | | S | | C | | | | | | | | | | | P | P | P | P | P | P |
| RV or Truck Repair, Sales or Service | | | | | | | | | | | | | | | | | P | P | P | P |
| Truck Stop | | | | | | | | | | | | | | | | | P | P | P | P |
| **Civil Support** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Animal Hospital, Veterinary Clinic and Kennel and Ag Office and Medical Research | | P | S | C | | S | S | | | | | | S | P | P | P | P | P | | |
| Cemetery | | S | | C | | | | | | | | | | | | P | P | P | | |
| Crematorium | | | | | | | | | | | | | P | | | | | S | P | P |
| Funeral Home and Funeral Chapel | | | | | | | | | | | | | | | | P | P | S | | |
| Health Service, Public or Private | | S | | C | P | | | S | S | | | | | | P | P | P | P | | |
| Hospital | | | | | | | | | | | | | | | | P | P | P | P | P |
| **Education** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Child and Adult Care, Commercially Operated | | S | S | C | P | S | S | S | S | S | S | P | S | P | P | P | P | P | | |
| Childcare, Home Occupation | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | |
| College or University | | | | | P | | | | | | | | | | P | P | P | | | |

| | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Transect Zones | | | | | Use Zones | | | | | | | | | | | | | | |
| **PRIMARY USE OF PROPERTY** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Elementary School | | S | S | C | P | S | S | S | S | S | S | S | S | S | | | | | | |
| High School, Jr. High School, Middle School | | S | S | S | P | S | S | S | S | S | S | S | S | S | | | | | | |
| Trade School | | | | | P | | | | | | | | | | P | P | P | P | P | |
| **Industrial** | **N** | **T2** | **T3** | **T4** | **T5** | **R5** | **R5L** | **D1** | **D1L** | **D2** | **D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Borrow Pit, Batching Plant and Asphaltic Mix Plant | | | | | | | | | | | | | | | | | | | P | P |
| Wireless Communications Facility | | S | S | S | S | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P |
| Construction Equipment, Related sales, Services, Storage and Distribution Facility | | | | | | | | | | | | | | | | P | P | P | P | P |
| Drilling of Oil, Gas Well or Other Shaft Mining | | | | | | | | | | | | | | | | | | | | P |
| Energy Generation Operation | | | | | | | | | | | | | | | | | | | | P |
| Explosive Materials, Manufacturing or Storage | | | | | | | | | | | | | | | | | | | | P |
| Fat Rendering Plant | | | | | | | | | | | | | | | | | | | | P |
| Fertilizer Plant | | | | | | | | | | | | | | | | | | | | P |
| Food and Fiber Processing | | S | | | | | | | | | | | | | | | | P | P | P |
| Foundry | | | | | | | | | | | | | | | | | | | | P |
| Ground Transportation Terminal | | | | | | | | | | | | | | | | P | P | P | P | P |
| Junkyard and Dismantling | | | | | | | | | | | | | | | | | | | | P |
| Laboratory Facility | | | | C | P | | | | | | | | | | P | P | P | P | P | P |
| Light Manufacturing | | | | C | P | | | | | | | | | | | | P | P | P | P |
| Major Facility for Distribution of Electric, Natural Gas, Water, Sewer, Cable | | | | | P | | | | | | | | | | P | P | P | P | P | P |
| Heavy Manufacturing | | | | | | | | | | | | | | | | | | | | P |
| Mini-Storage Unit | | S | | | | | | | | | | | | | | P | P | P | P | P |
| Petroleum Refinery and Storage | | | | | | | | | | | | | | | | | | | | P |
| Recycling Center | | S | | | | | | | | | | | | | | | P | P | P | P |
| Renewable Energy Facility | | S | | | | | | | | | | | | | | | | P | P | P |
| Utility Building, Wastewater Lift Station and Substation, Minor, Private or Public | S | S | S | S | P | S | S | S | S | P | P | P | P | P | P | P | P | P | P | P |
| Warehouse | | | | | | | | | | | | | | | | | | P | P | P |
| Wholesale Sales and Storage | | | | | | | | | | | | | | | | | P | P | P | |
| Wrecking Service | | S | | | | | | | | | | | | | | | P | P | P | P |

# 5.2 REGULATIONS GENERAL TO ALL ZONES

## 5.2.1 Purpose

The purpose of this section is to provide regulations general to all zones, including the classification and regulation of uses in all zones.

5.2.2 General Use Standards

Land uses in transect zones and use zones shall be in accordance with Table 5.1 Land Use Classification Matrix: Zoning Districts:

a. Coexistence of Uses. All of the uses permitted by Table 5.1 shall be permitted to coexist on a property simultaneously within a given zoning category.

b. Special Use Permits. A specific use that is not permitted by right within a zoning district will require a special use permit (S) per Table 5.1.

c. Conditional Use. A conditional use (C) is permitted with certain conditions limiting size or intensity per Table 5.2 Conditions for Transect Zones.

**Table 5.2 Conditions for Transect Zones**

| | **T4** |
|---|---|
| Lodging | 12 rooms/RV spaces maximum. |
| Office | 6,000 sq. ft. building footprint maximum. |
| Retail & Services | 12,000 sq. ft. building footprint maximum. Alcohol and food service establishments shall seat no more than 40. |
| Institutional | 20 parking spaces maximum. |
| Agricultural | 20 parking spaces maximum. |
| Automotive | Accessory to residential only. No exterior storage permitted. |
| Civil Support | 30 parking spaces maximum. |
| Education | Childcare facilities shall have no more than 4 parking spaces. Elementary school sites shall be 5 acres maximum unless playground has 24-hour shared community access. |
| Industrial | 20 parking spaces maximum. |

d. Limited Overlay. Where a "Limited" Overlay (L) is mapped in a zone, the overlay restricts additional uses in the zone as follows:

i. Limited Overlay in any low or medium density residential zone (R5L, D1L and D2L) prohibits the use of mobile homes. Allows for site-built homes and manufactured homes groundset only.

e. Group Homes. Group homes, including all uses meeting the definition of "Group Home" in the Fair Housing Act and Federal Housing Amendments Act, shall be permitted where a single-family, duplex, triplex, fourplex, or multi-family dwelling use is permitted, and shall obey any zoning restrictions for such a dwelling use. Group homes or halfway-houses for prisoners, parolees, juvenile offenders, and similar uses shall be approved by the Planning & Zoning Commission (P&Z) as special use permits (S).

f. Travel Trailers and recreational vehicles shall be located in approved mobile home parks or recreational vehicle parks. Temporary location of mobile homes and recreational vehicles shall be permitted outside mobile home parks or recreational vehicle parks under the following conditions:

i. Property owner is constructing or remodeling a residential dwelling unit and has obtained a valid building permit, along with a temporary use permit for the mobile home or recreational vehicle. Temporary permits are valid for one year and may be renewed for an additional year if work is proceeding on the site-built home. This exception becomes void 30 days after the house receives a certificate of occupancy; or

ii. With a temporary use permit, intended for a period exceeding 7 days. Only one travel trailer or recreational vehicle is allowed per property.

g. Sales on Residential Lots. Garage, yard sales or similar uses are limited to three sales in one year per street or unit address, and each sale shall be limited to three consecutive days. For the purpose of this regulation, the address includes unit number or letter.

h Commercial Vehicle Parking. Commercial vehicles with more than six wheels, and semi-trucks or semi-trailers cannot park in residential areas except for reasonable period for loading and unloading. Agricultural vehicles parked on farms (as defined by the Tax Assessor's records) are exempt from this provision. One semi-truck may be parked on properties of 3/4 acre or larger. Such vehicles may not be parked in the front yard, forward of the front building line of the residential structure.

i. Adult Bookstores and Adult Entertainment. Adult bookstores and adult entertainment uses shall be located 1,000 feet from the property line of any church, school, public park or recreational facility, residential zone, or residential use and shall require a public hearing by the P&Z.

j. Other Structures. Structures that do not meet the definition of principal buildings or accessory buildings shall be approved by the Zoning Administrator as long as the structures are no larger than is reasonably necessary to serve a use allowed on the property. The determination of what is reasonably necessary shall be based upon generally accepted standards associated with the proposed use. Any accessory building with a roof shall not be allowed except where a principal or accessory building is permitted.

k. Swimming Pools, Hot Tubs and Spas. Open and uncovered swimming pools, hot tubs, or spas may occupy a setback, provided they are located no closer than 5 feet to a property line, building, or fence, provided they are surrounded by an approved wall or fence, at least four feet in height with self-closing devices on the gates. When approved by the Zoning Administrator, an automatic safety cover meeting ASTM-F1346 Standard Performance Specifications may be used as an alternative to the approved wall or fence to satisfy the requirement for barriers surrounding swimming pools. All hot tubs and spas shall have an approved safety cover.

l. Outside Storage. Outside storage of any materials that total 200 square feet or greater, shall be enclosed by a 6 foot solid wall or opaque fence on all sides.

5.2.3 Lots and Driveways

a. Cul-de-Sacs. The width of a lot on a cul-de-sac shall be measured at the minimum front setback line.

b. Flag Lots. Where permitted, the width of the primary frontage line of a flag property shall be 25 feet including a driveway.

c. Odd-Shaped Lots. The Zoning Administrator shall determine the setback and yard coverage standards for odd-shaped properties.

d. Driveways. Except as specifically permitted in Tables 5.4 through 5.17, driveways shall be a minimum 10 feet wide in the private frontage for one-way travel and 20 feet wide for 2-way travel, measured perpendicular to the direction of travel, except they may have wider unimproved shoulders in N, R and R5 Zones. The DRC may require a wider driveway for reasons of practical difficulty such as fire lanes, queuing or to accommodate oblique angles. Legal non-conforming lots may be developed with existing and improved access. Non-residential driveways and parking areas shall be paved in accordance with Article 6.

e. Lot Coverage. Lot coverage shall be per Tables 5.4 through 5.17.

5.2.4 Principal Building, Accessory Building, Setbacks and Building Height

One principal building shall be built at the primary frontage. Required building placement, setbacks and building heights shall conform to Tables 5.4 through 5.17.

a. Setbacks, Administrative Adjustment. Setbacks may be adjusted by up to 20% by the Zoning Administrator to accommodate specific site conditions and shall meet the requirements of an administrative variance per Section 2.7.3.

b. Frontage Buildout. Principal building shall occupy at least the percentage of the property width specified in Tables 5.4 through 5.17, measured at the minimum setback.

c. Façade Area. Façade shall be located entirely within the façade area indicated in Tables 5.4 through 5.17.

d. Setbacks, Railroad. Rear yard or side yard setbacks abutting railroad tracks shall be a minimum of 40 feet unless an earthen berm or other sound barrier is provided along the property line adjacent to the railroad tracks.

e. Building Separations. There shall be no less than 6 feet between detached buildings on the same lot, measured eave to eave.

f. Easement Encroachments. There shall be no permanent structures or obstructions located on or over easements without written approval from the entity/party for which the easement is provided, and review and approval by the Zoning Administrator providing it does not compromise the health, safety and welfare of the public.

5.2.5 Building Arrangement

a. NMED Standards. In no case shall the lot standards be reduced below the New Mexico Environment Department standards, if applicable.

b. Outdoor Equipment. All outdoor electrical, plumbing and mechanical equipment shall be located behind the façade or concealed from frontage view with a screen or wall. These facilities shall not encroach into the private frontage.

5.2.6 Parking Standards

Except where specified otherwise for the zone, the following apply to parking within a property in all zones:

a. Parking for transect zones shall be located on the portion of a property shown in Tables 5.4 through 5.17.

b. Parking for use zones shall be confined to the portion of the lot outside of setbacks, except that 1/3 of the area between the front of the principal building and the primary frontage line may be occupied by parking. This calculation excludes driveways.

c. Parking shall be accessed by a rear alley or a rear lane when such are available and are described in Article 6.

d. For multi-family and non-residential land uses, the computation of the required number of parking spaces shall be delineated in Article 6. The Zoning Administrator may allow flexibility and deviations from the number of spaces, providing the uses are primarily oriented to walkability, transit-oriented development or similar uses.

**Table 5.3 Façades, Elevations, and Lot Lines Illustrated**

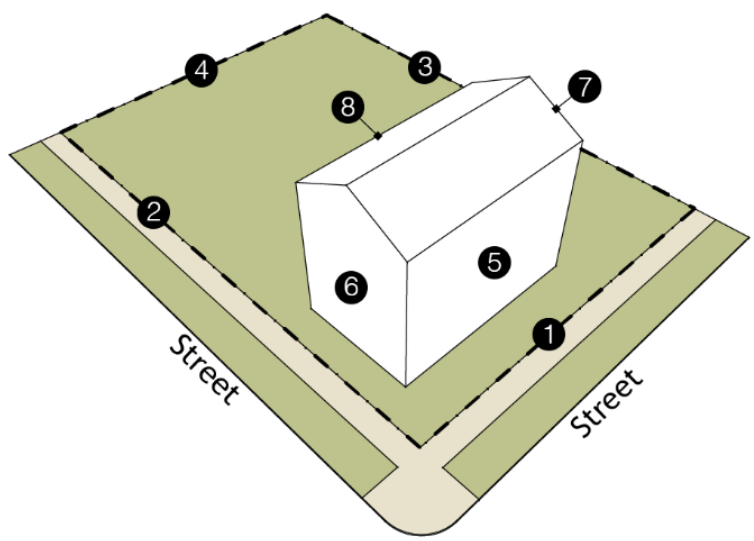
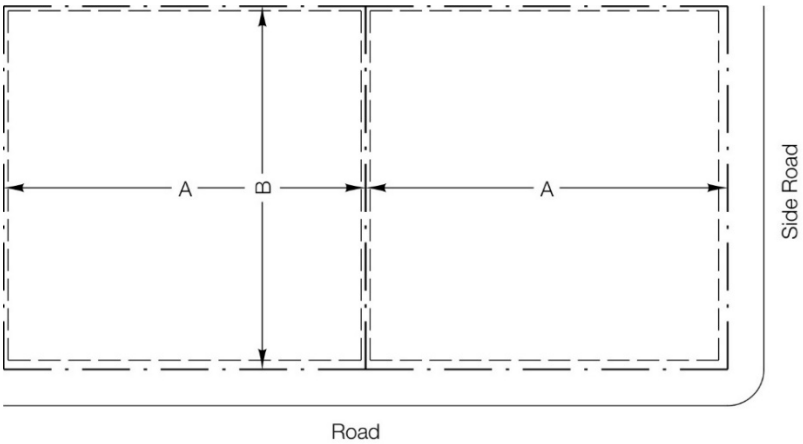
| Façades, Elevations, and Lot Lines | Terms | |
|---|---|---|
|   | 1-4 | Lot Line |
| | 1 | Primary Frontage Line |
| | 2 | Secondary Frontage Line |
| | 3 | Side Lot Line |
| | 4 | Rear Lot Line |
| | 5-6 | Façade |
| | 5 | Primary Façade |
| | 6 | Secondary Façade |
| | 7-8 | Elevations |
| | 7 | Side Elevation |
| | 8 | Rear Elevation |

**Table 5.4 Site Standards: T2, R5, and R5L Zone**

## Rural and Rural 5-Acre Zones (T2, R5 & R5L)

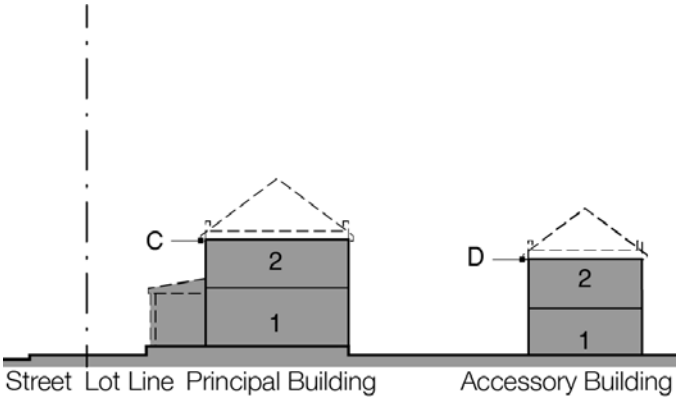
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size and Density** |
| A | Lot Width: not applicable |
| B | Lot Depth: not applicable |
| 1.1 | Lot Area: 2 Acres (min) T2; 5 Acres (min) R5 & R5L |

| **2.** | **Other Lot Standards** |
|---|---|
| Accessory Dwelling | T2 - 1 Accessory dwelling limited to 1,250 sq. ft. and 1 Accessory dwelling permitted for every 5 acres of lot area, R5 & R5L - Special Use Permit (S) required. |

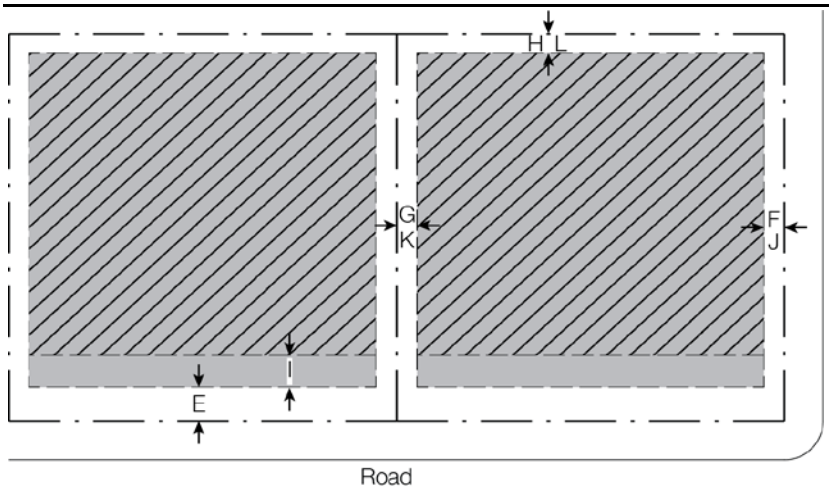
### Building Form




| **3.** | **Building Height** |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4.** | **Private Frontage** |
| 4.1 | Private Frontage Type: Common Yard or Fenced/Walled Yard |
| 4.2 | Frontage Buildout: not applicable |

## Rural and Rural 5-Acre Zones (T2, R5 & R5L)

### Building Setbacks, General

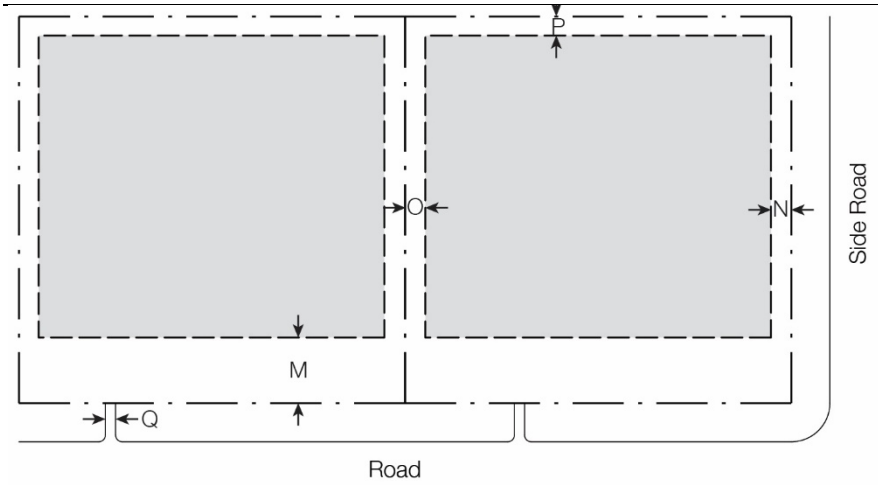



| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| **5.** | **Principal Building** |
| E | Primary Frontage: 25 feet (min) |
| F | Secondary Frontage: 12 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **6.** | **Accessory Buildings** |
| I | Primary Frontage: 20 feet behind front façade (min) |
| J | Secondary Frontage: 12 feet (min) |
| K | Side Setback: 5' min |
| L | Rear Setback: 5'min |

| **7.** | **Lot Coverage and Encroachments** | |
|---|---|---|
| 7.1 | Lot Coverage | 5% (max) |
| 7.2 | Portal | 16% of setback (max), but no more than 8 feet |
| 7.3 | Balcony or Bay Window | 8% of setback (max), but no more than 4 feet |

## Rural and Rural 5-Acre Zones (T2, R5 & R5-L)

### Parking and Storage Setbacks

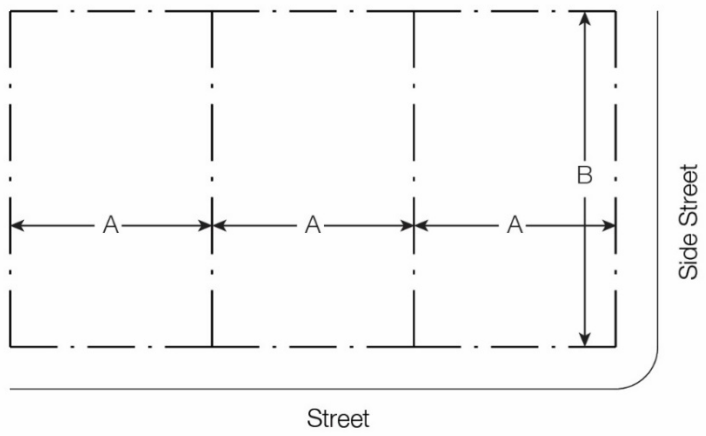



| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| | Available for Parking/Storage |
| **8.** | **Principal Building** |
| M | Primary Frontage: 20 feet behind front façade |
| N | Secondary Frontage: 24 feet (min) |
| O | Side: 24 feet (min) |
| P | Rear: 24 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 5.5 Site Standards: T3 Zone**

## Neighborhood Edge Zone (T3)

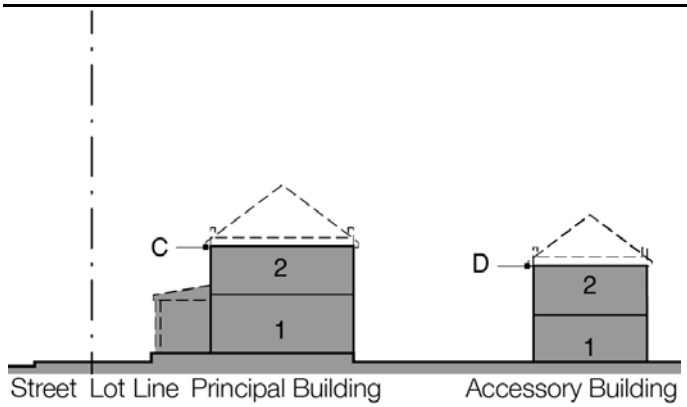
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size and Density** |
| A | Lot Width: 60 feet (min) |
| B | Lot Depth: not applicable |
| 1.1 | Lot Area: 6,000 square feet (min) |

| **2.** | **Other Lot Standards** |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling permitted per lot limited to 800 sq. ft. |

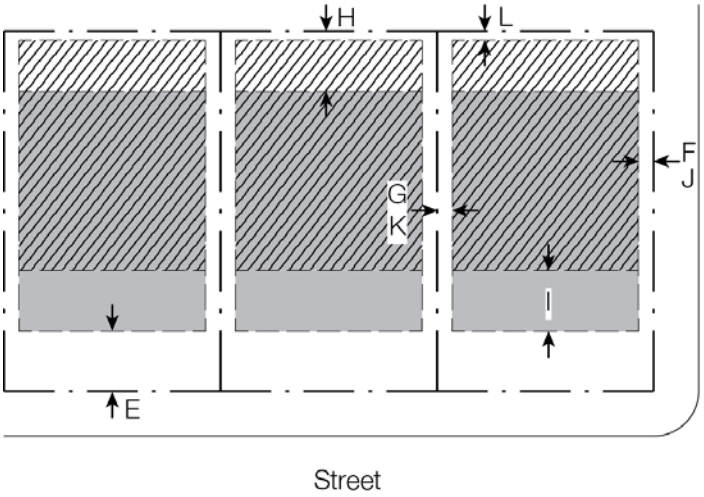
### Building Form




| **3.** | **Building Height** |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4.** | **Private Frontage** |
| 4.1 | Private Frontage Type: Common yard or Fenced/Walled yard |
| 4.2 | Frontage Buildout: not applicable |

## Neighborhood Edge Zone (T3)

**Building Setbacks, General**

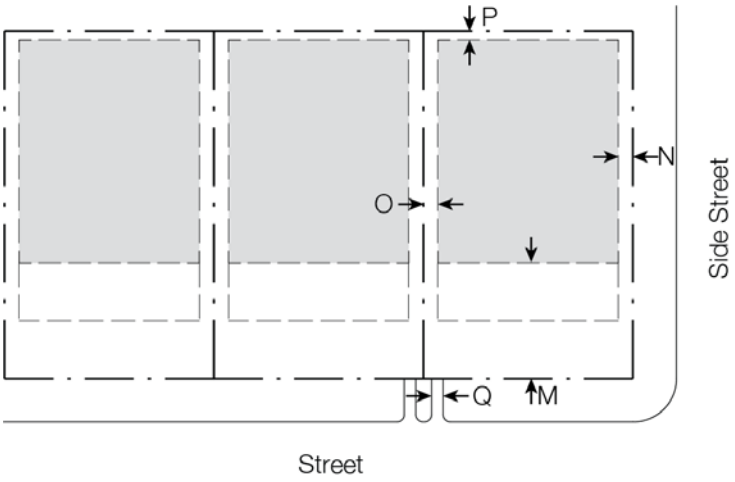



| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| **5.** | **Principal Building** |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 5 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **6.** | **Accessory Buildings** |
| I | Primary Frontage: 20 feet behind primary façade (min) |
| J | Secondary Frontage: 5 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 3 feet (min) |

| **7.** | **Lot Coverage and Encroachments** | |
|---|---|---|
| 7.1 | Lot Coverage | 40% (max) |
| 7.2 | Portal, Patio | 40% of setback (max), but no more than 8 foot encroachment |
| 7.3 | Balcony or Bay Window | 20% of setback (max), but no more than 4 foot encroachment |

## Neighborhood Edge Zone (T3)

### Parking and Storage Setbacks

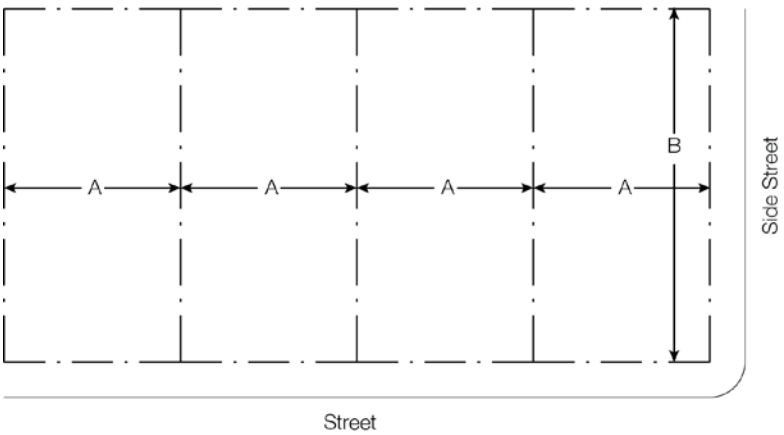



| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| | Available for Parking/Storage |
| **8.** | **Principal Building** |
| M | Primary Frontage: 15 feet behind front façade |
| N | Secondary Frontage: 24 feet (min) |
| O | Side: 5 feet (min) |
| P | Rear: 5 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 5.6 Site Standards: T4 Zone**

## General Neighborhood Zone (T4)

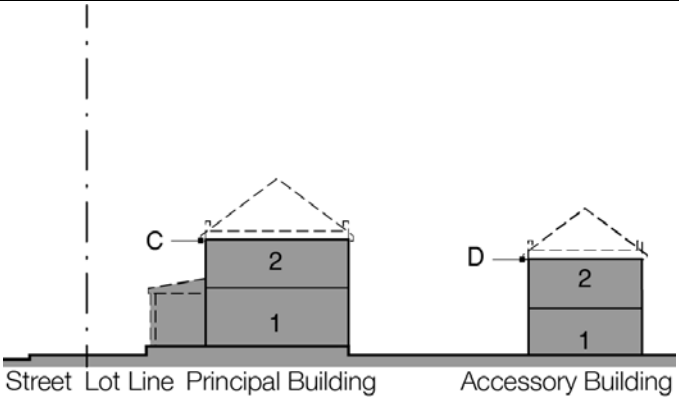
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size and Density** |
| A | Lot Width: 20-100 feet |
| B | Lot Depth: 70 feet (min) |
| 1.1 | Lot Area: 4,000 square feet (min) |

| **2.** | **Other Lot Standards** |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling permitted per lot. |

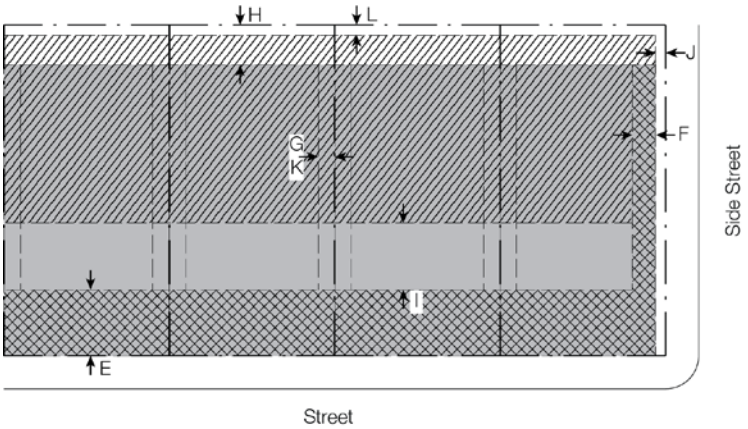
### Building Form




| **3.** | **Building Height** |
|---|---|
| C | Principal Building Height: 2 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4.** | **Private Frontage** |
| 4.1 | Private Frontage Type: Common yard, Fenced/ Walled Yard, Terrace, Shopfront, and Common Entry |
| 4.2 | Frontage Buildout: 50% (min) |

## General Neighborhood Zone (T4)

### Building Setbacks, General

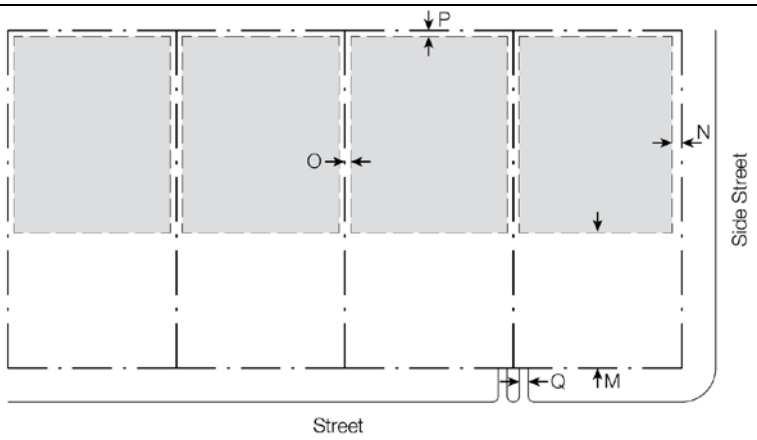



| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **5.** | **Principal Building** |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 5-12 feet |
| G | Side Setback: either 5 feet (min) or 0 feet |
| H | Rear: 5 feet (min) |
| **6.** | **Accessory Buildings** |
| I | Primary Frontage: 20 feet behind front façade (min) |
| J | Secondary Frontage: 5 feet (min) |
| K | Side Setback: either 5 feet (min) or 0 feet |
| L | Rear Setback: 3 feet (min) |

| **7.** | **Lot Coverage and Encroachments** | |
|---|---|---|
| 7.1 | Lot Coverage | 65% (max) |
| 7.2 | Portal, Patio | 80% of setback (max), but no encroachment within 2 feet of the curb |
| 7.3 | Awnings | 100% of setback (max), but no encroachment within 2 feet of the curb |

## General Neighborhood Zone (T4)

### Parking and Storage Setbacks

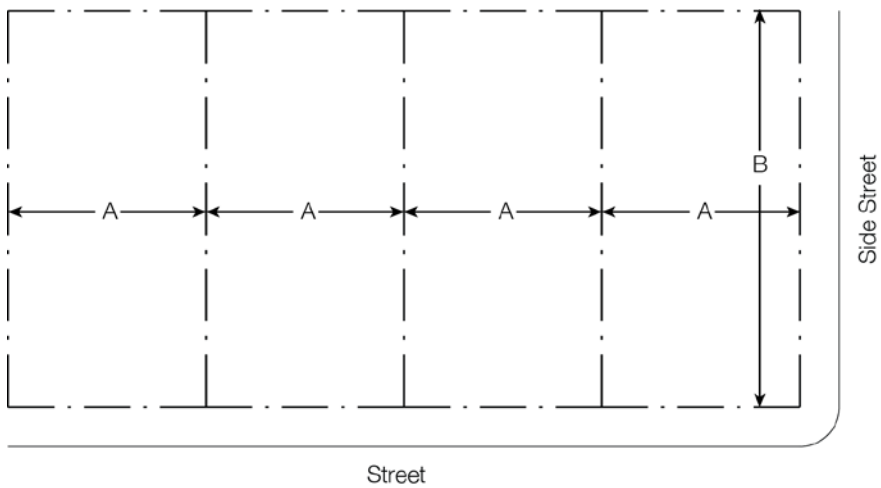



| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| | Available for Parking/Storage |
| **8.** | **Principal Building** |
| M | Primary Frontage: 20 feet behind Front Façade |
| N | Secondary Frontage: 5 feet (min) |
| O | Side: 3 feet (min) |
| P | Rear: 3 feet (min) |
| Q | Access Driveway width in frontage: 10 feet (min) |

**Table 5.7 Site Standards: T5 Zone**

## Town Center Zone (T5)

### Lot Standards



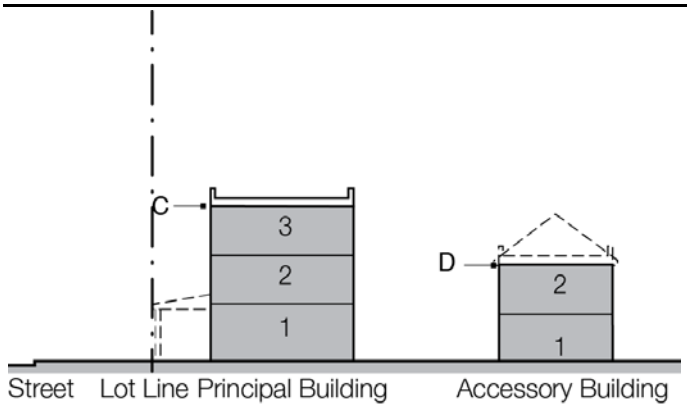

**Legend:**

| | |
|---|---|
| — · — | Property Line |
| - — — | Setback Line |

| | |
|---|---|
| **1.** | **Lot Size and Density** |
| A | Lot Width: 20-250 feet |
| B | Lot Depth: 50 feet (min) |
| 1.1 | Lot Area: 3,000 square feet (min) |

| | |
|---|---|
| **2.** | **Other Lot Standards** |
| Accessory Dwelling | 1 Accessory dwelling permitted per lot. |

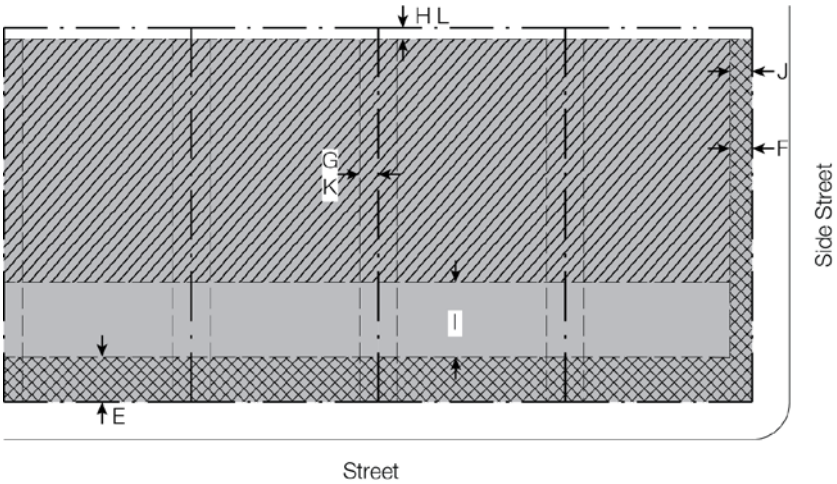
### Building Form




| | |
|---|---|
| **3.** | **Building Height** |
| C | Principal Building Height: 3 stories (max) |
| D | Accessory Building Height: 2 stories (max) |
| **4.** | **Private Frontage** |
| 4.1 | Common Yard, Fenced/ Walled Yard, Terrace, Shopfront, Common Entry, and Forecourt |
| 4.2 | Frontage Buildout: 50% (min) |

## Town Center Zone (T5)

### Building Setbacks, General

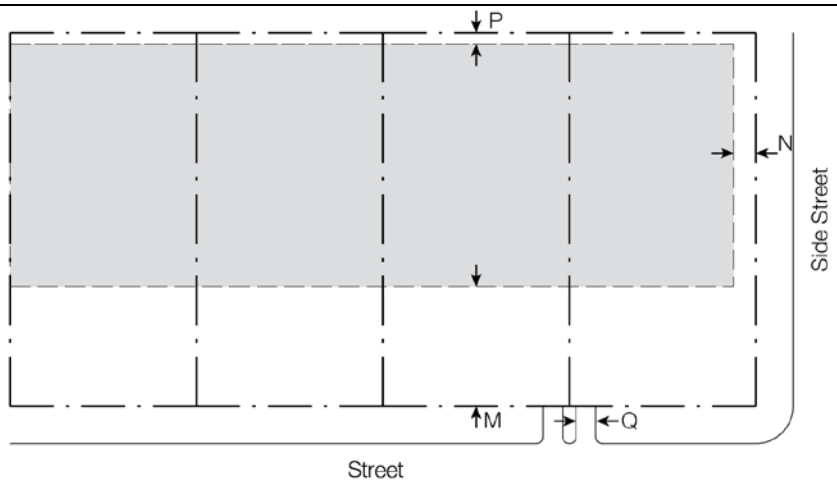



| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **5.** | **Principal Building** |
| E | Primary Frontage: 12 feet (max) |
| F | Secondary Frontage: 6 feet (max) |
| G | Side Setback: either 5 feet (min) or 0 feet |
| H | Rear: 3 feet (min) |
| **6.** | **Accessory Buildings** |
| I | Primary Frontage: 20 feet behind Front Façade (min) |
| J | Secondary Frontage: 6 feet (min) |
| K | Side Setback: either 5 feet (min) or 0 feet |
| L | Rear Setback: 3 feet (min) |

| | | |
|---|---|---|
| 7. | Lot Coverage and Encroachments | |
| 7.1 | Lot Coverage | 80% (max) and for a non-residential building 30,000 square feet (max) |
| 7.2 | Portal | 90% of setback (max), but no encroachment within 2 feet of the curb |
| 7.3 | Awnings | 90% of setback (max), but no encroachment within 2 feet of the curb |

## Town Center Zone (T5)

### Parking and Storage Setbacks

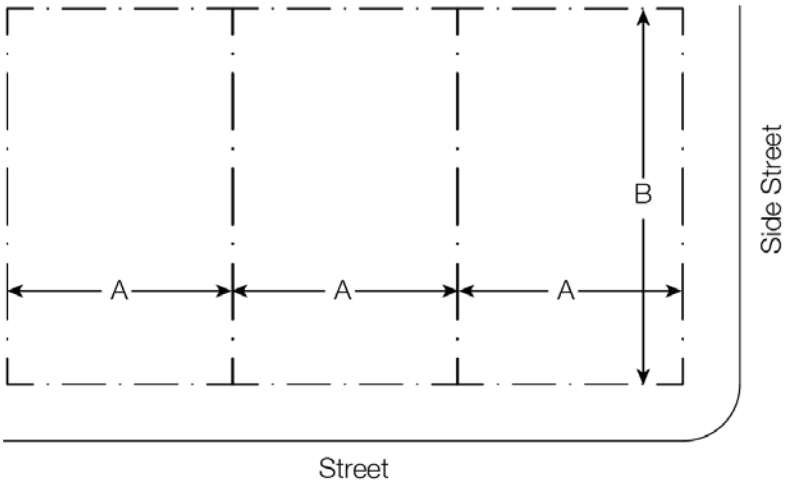



| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| | Available for Parking/Storage |
| **8.** | **Principal Building** |
| M | Primary Frontage: 20 feet behind Front Façade |
| N | Secondary Frontage: 5 feet (min) |
| O | Side: 3 feet (min) |
| P | Rear: 3 feet (min) |
| Q | Access Driveway Width in frontage: 12 feet (min for each direction of travel) |

**Table 5.8 Site Standards: D1 Zone**

## Low Density Residential Zone (D1 & D1L)

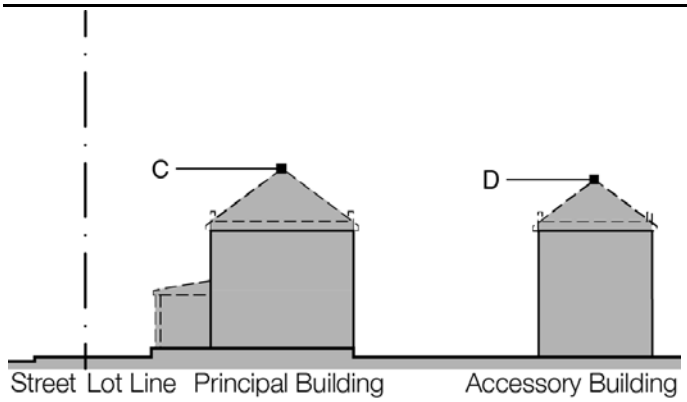
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| **1.** | **Lot Size and Density** |
| A | Lot Width: 100 feet (min) |
| B | Lot Depth: Not Applicable |
| 1.1 | Lot Area: 1 acre (min) |

| **2.** | **Other Lot Standards** |
|---|---|
| Accessory Dwelling | 1 Accessory dwelling limited to 1,250 sq. ft. and permitted by Special Use Permit (S) |

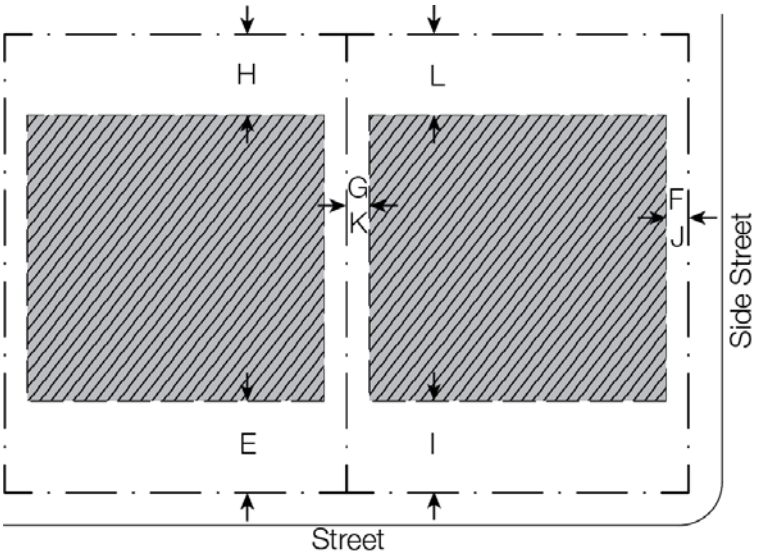
### Building Form




| **3.** | **Building Height** |
|---|---|
| C | Principal Building Height: 35 feet (max) |
| D | Accessory Building Height: 35 feet (max) |
| **4.** | **Private Frontage** |
| 4.1 | Private Frontage Type: Not applicable |
| 4.2 | Frontage Buildout: Not applicable |

## Low Density Residential Zone (D1 & D1L)

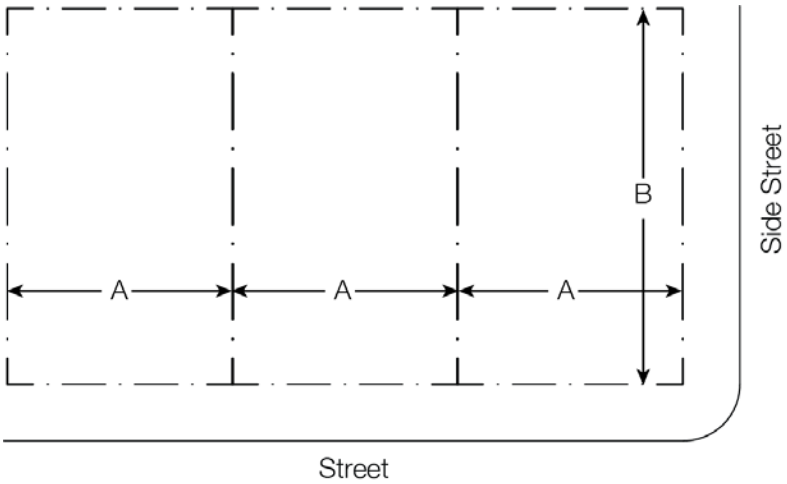
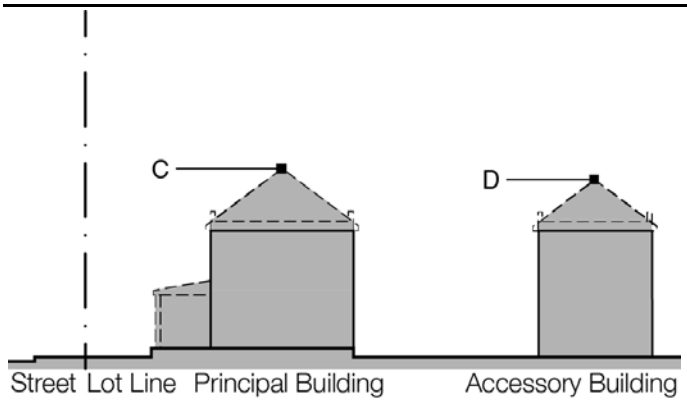
**Building Setbacks, General**




| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **5.** | **Principal Building** |
| E | Primary Frontage: 20 feet (min) |
| F | Secondary Frontage: 5 feet (min) |
| G | Side Setback: 10 feet (min) |
| H | Rear: 10 feet (min) |
| **6.** | **Accessory Buildings** |
| I | Primary Frontage: 25 feet (min) |
| J | Secondary Frontage: 5 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 5 feet (min) |

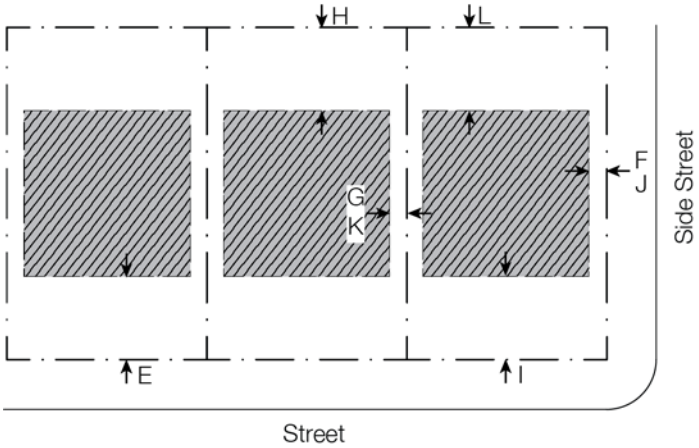
| | |
|---|---|
| **7.** | **Accessory Buildings** |
| 7.1 | 5,000 square feet or 10% of lot area, whichever is greater |
| 7.2 | Accessory buildings shall be at least 10 feet from all other buildings. |
| **8.** | **Lot Coverage** Not Applicable |

**Table 5.9 Site Standards: D2 Zone**

| **Medium Density Residential Zone (D2 & D2L)** | | |
|---|---|---|
| **Lot Standards** | | |
|   | **Legend:** | |
| | Property Line | |
| | Setback Line | |
| | **1.** | **Lot Size** |
| | A | Lot Width: 60 feet (min) |
| | B | Lot Depth:70 feet (min) |
| **2.** | **Lot Size** | 6,000 sq. ft. min. or per NMED requirements |
| **3.** | **Other Lot Standards** | Accessory Dwelling: 1 accessory dwelling limited to 800 sq. ft. |
| **Building Form** | | |
|   | **4.** | **Building Height** |
| | C | Principal Building Height: 35 feet (max) |
| | D | Accessory Building Height: 35 feet (max) |
| | **5.** | **Private Frontage** |
| | 5.1 | Private Frontage Type: Not applicable |
| | 5.2 | Frontage Buildout: Not applicable |

## Medium Density Residential Zone (D2 & D2L)

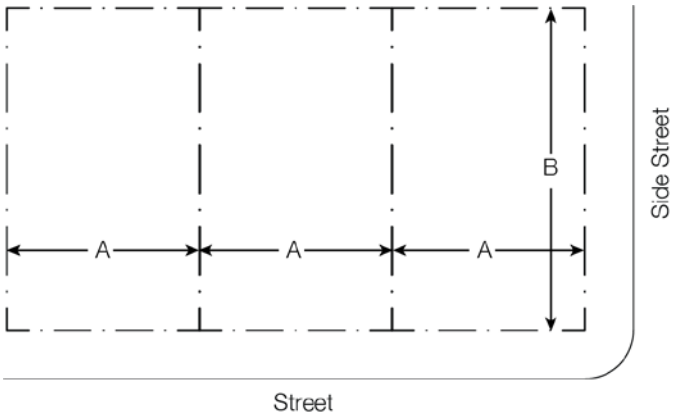
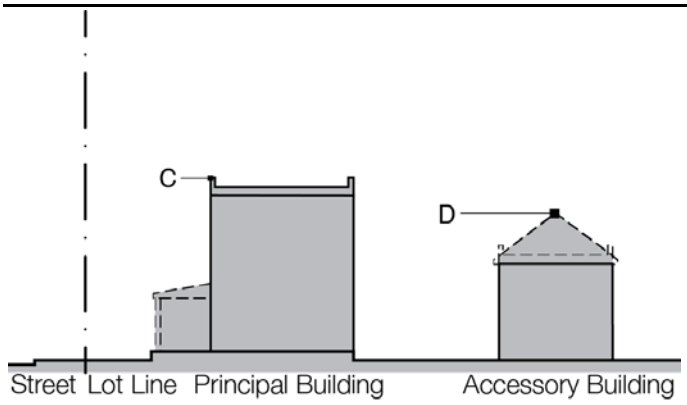
**Building Setbacks, General**




| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 7 feet (min) |
| G | Side setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 25 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 5 feet (min) |

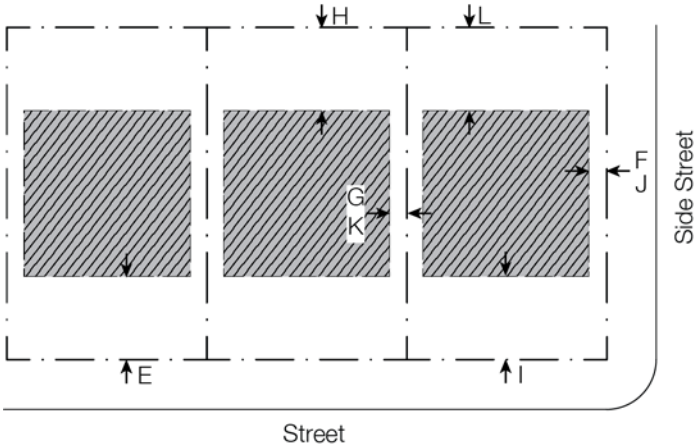
| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | 5,000 square feet or 10% of lot area, whichever is greater | |
| 8.2 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

**Table 5.10 Site Standards: D3 Zone**

| **High Density Residential Zone (D3)** | | |
|---|---|---|
| **Lot Standards** | | |
|   | **Legend:** | |
| | Property Line | |
| | Setback Line | |
| | **1.** | **Lot Size** |
| | A | Lot Width: 60 feet (min) |
| | B | Lot Depth:70 feet (min) |
| **2.** | **Lot Size** | 4,200 sq. ft. min. or per NMED requirements |
| **3.** | **Other Lot Standards** | Accessory Dwelling: Not applicable |
| **Building Form** | | |
|   | **4.** | **Building Height** |
| | C | Principal Building Height: 45 feet (max) |
| | D | Accessory Building Height: 35 feet (max), |
| | **5.** | **Private Frontage** |
| | 5.1 | Private Frontage Type: Not applicable |
| | 5.2 | Frontage Buildout: Not applicable |

## High Density Residential Zone (D3)

**Building Setbacks, General**



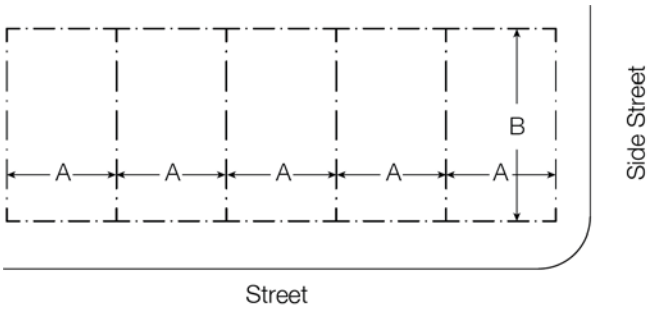

| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 5 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 5 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 20 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 5 feet (min) |

| | | |
|---|---|---|
| **8.** | **Recreational Space** | 10% of the lot, but no more than 20,000 sq. ft. shall be recreational space |
| **9.** | **Accessory Buildings** | |
| 9.1 | 5,000 square feet or 10% of lot area, whichever is greater | |
| 9.2 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **10.** | **Lot Coverage** | Not applicable |

**Table 5.11 Site Standards: DM Zone**

## Mobile Home Park Zone (DM)

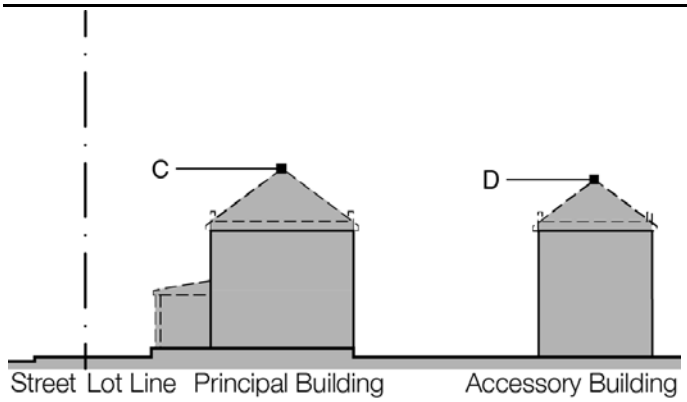
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size** |
| A | Lot Width: 50 feet (min) |
| B | Lot Depth: 70 feet (min) |

| | | |
|---|---|---|
| **2.** | **Lot Size** | |
| 2.1 | A site/space for a mobile home shall be considered to be a lot for the purpose of this table. | |
| 2.2 | 3,500 square feet (min) | |
| **3.** | **Other Lot Standards** | Accessory Dwelling: Not applicable |

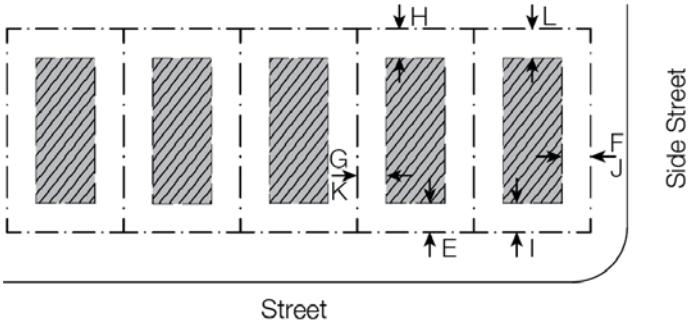
### Building Form




| | |
|---|---|
| **4.** | **Building Height** |
| C | Not applicable |
| D | Accessory Building Height: 25 feet (max), |
| **5.** | **Private Frontage** |
| 5.1 | Private Frontage Type: Not applicable |
| 5.2 | Frontage Buildout: Not applicable |

## Mobile Home Park Zone (DM)

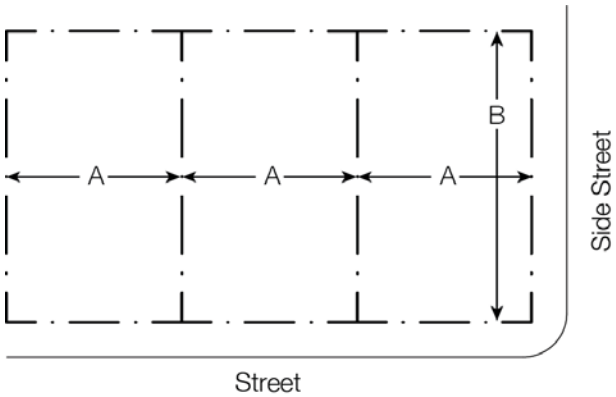
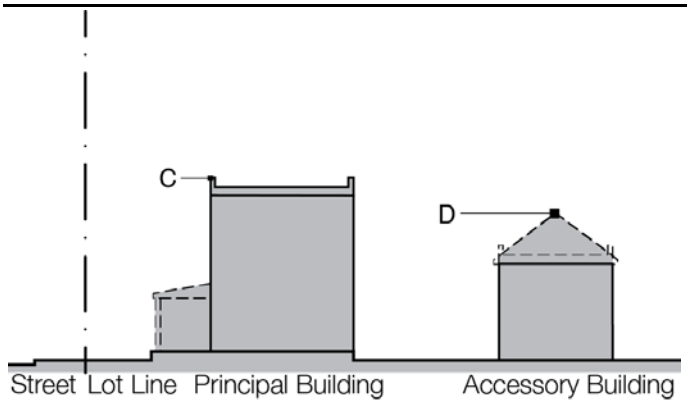
**Building Setbacks, General**




| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| 6. | Principal Building |
| E | Primary Frontage: 15 feet (min), or 10 feet (min) with a wall in the front |
| F | Secondary Frontage: 7 feet (min) |
| G | Side Setback: 5 feet (min) |
| H | Rear: 25 feet (min) |
| 7. | Accessory Buildings |
| I | Primary Frontage: 25 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 5 feet (min) |
| L | Rear Setback: 5 feet (min) |

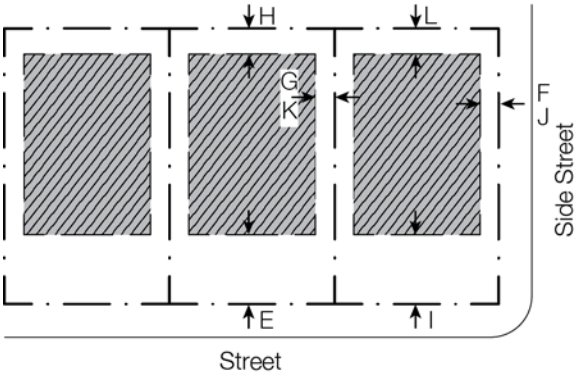
| | | |
|---|---|---|
| **8.** | **Recreational Space** | 10% of the Mobile Home Park, but no more than 20,000 sq. ft. shall be recreational space. |
| **9.** | **Accessory Buildings** | |
| 9.1 | 5,000 square feet or 10% of lot area, whichever is greater | |
| 9.2 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **10.** | **Lot Coverage** | Not applicable |

**Table 5.12 Site Standards: MU Zone**

| **Mixed Use Zone (MU)** | | |
|---|---|---|
| **Lot Standards** | | |
|   | **Legend:** | |
| | Property Line | |
| | Setback Line | |
| | **1.** | **Lot Size** |
| | A | Lot Width: Not applicable |
| | B | Lot Depth: Not applicable |
| **2.** | **Lot Size** | 6,000 sq. ft. minimum |
| **3.** | **Other Lot Standards** | Accessory Dwelling: Not applicable |
| **Building Form** | | |
|   | **4.** | **Building Height** |
| | C | Principal Building Height: 35 feet (max) |
| | D | Accessory Building Height: 35 feet (max), |
| | **5.** | **Private Frontage** |
| | 5.1 | Private Frontage Type: Not applicable |
| | 5.2 | Frontage Buildout: Not applicable |

## Mixed Use Zone (MU)

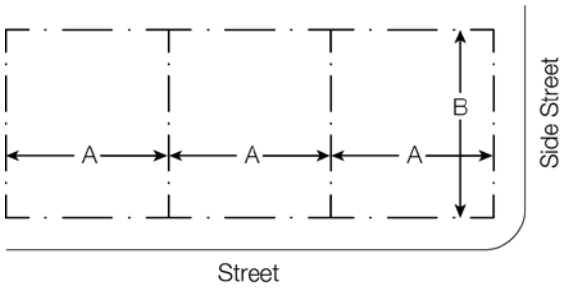
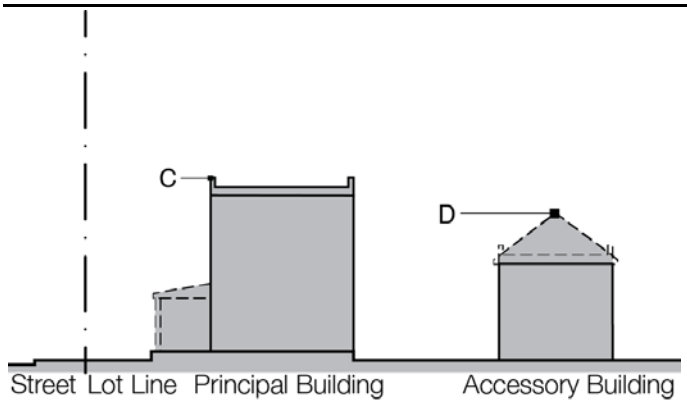
### Building Setbacks, General




| Legend: | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 15 feet (min) |
| F | Secondary Frontage: 7 feet (min) |
| G | Side Setback: 7 feet (min) |
| H | Rear: 25 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 25 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 7 feet (min) |
| L | Rear: 5 feet (min) |

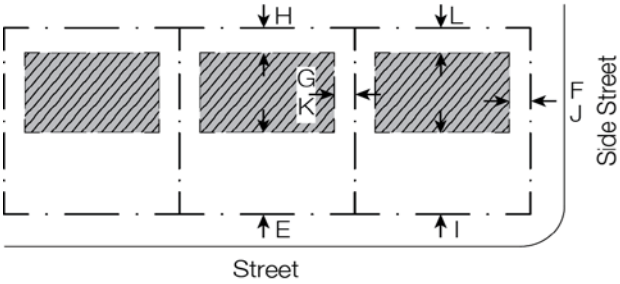
| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | 5,000 square feet or 10% of lot area, whichever is greater | |
| 8.2 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

**Table 5.13 Site Standards: C1 Zone**

| **Neighborhood Commercial Zone (C1)** | | |
|---|---|---|
| **Lot Standards** | | |
|   | **Legend:** | |
| | Property Line | |
| | Setback Line | |
| | **1.** | **Lot Size** |
| | A | Lot Width: 40 feet (min) |
| | B | Lot Depth: 70 feet (min) |
| **2.** | **Lot Size** | Not applicable |
| **3.** | **Other Lot Standards** | Accessory Dwelling: Not applicable |
| **Building Form** | | |
|   | **4.** | **Building Height** |
| | C | Principal Building Height: 40 feet (max) |
| | D | Accessory Building Height: 35 feet (max), but not higher than the height of the principal building. |
| | **5.** | **Private Frontage** |
| | 5.1 | Private Frontage Type: Not applicable |
| | 5.2 | Frontage Buildout: Not applicable |

## Neighborhood Commercial Zone (C1)

**Building Setbacks, General**



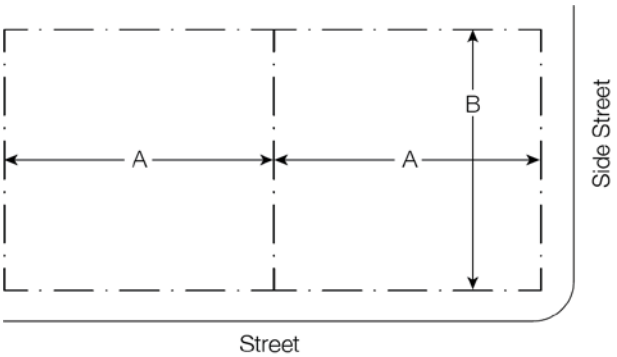

| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 25 feet (min) |
| F | Secondary Frontage: 7 feet (min) |
| G | Side Setback: 7 feet (min) |
| H | Rear: 15 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 25 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 7 feet (min) |
| L | Rear Setback: 15 feet (min) |

| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

**Table 5.14 Site Standards: C2 Zone**

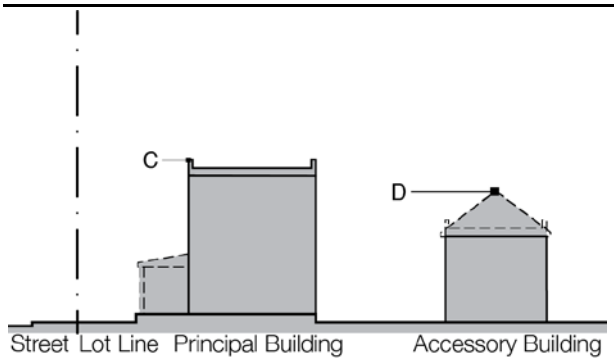
## Community Commercial Zone (C2)

### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size** |
| A | Lot Width: 100 feet (min) |
| B | Lot Depth: 100 feet (min) |
| **2.** | **Lot Size:** Not applicable |
| **3.** | **Other Lot Standards:** Accessory Dwelling - Not applicable |

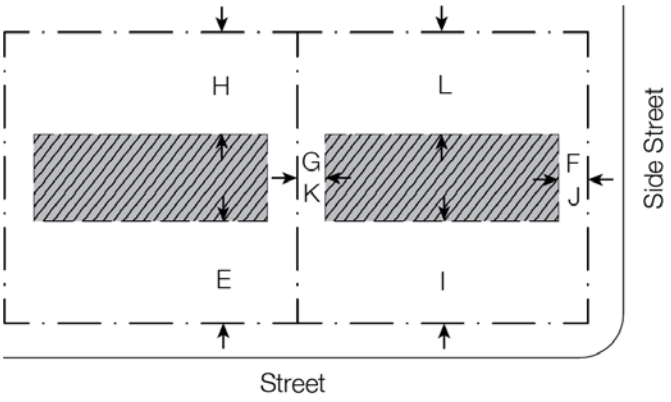
### Building Form




| | |
|---|---|
| **4.** | **Building Height** |
| C | Principal Building Height: 40 feet (max) |
| D | Accessory Building Height: 35 feet (max), but not higher than the height of the principal building. |
| **5.** | **Private Frontage** |
| 5.1 | Private Frontage Type: Not applicable |
| 5.2 | Frontage Buildout: Not applicable |

## Community Commercial Zone (C2)

**Building Setbacks, General**



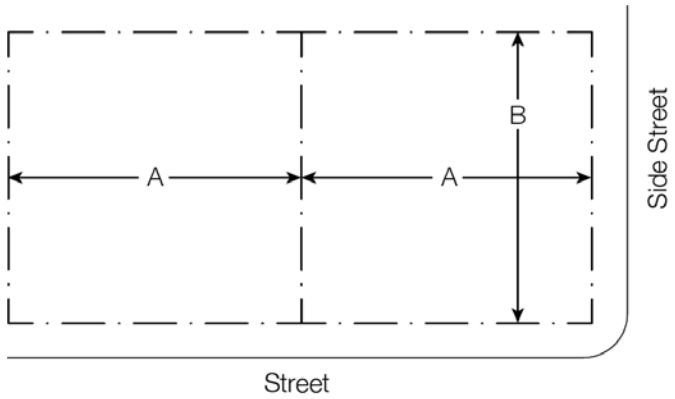

| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 35 feet (min) |
| F | Secondary Frontage: 10 feet (min) |
| G | Side Setback: 10 feet (min) |
| H | Rear: 35 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 35 feet (min) |
| J | Secondary Frontage: 10 feet (min) |
| K | Side Setback: 10 feet (min) |
| L | Rear Setback: 35 feet (min) |

| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

**Table 5.15 Site Standards: C3 Zone**

## Regional Commercial Zone (C3)

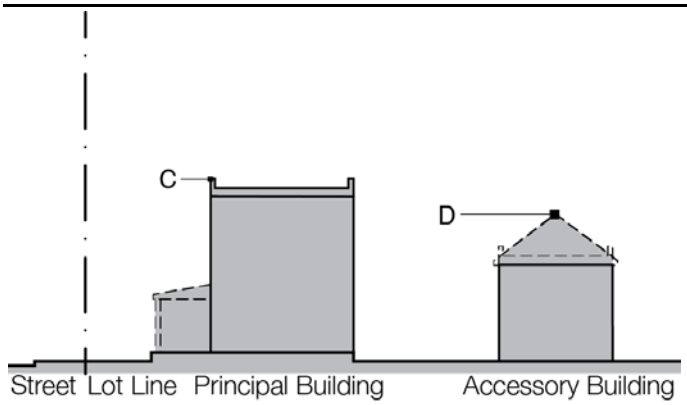
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - — — - | Setback Line |
| 1. | Lot Size |
| A | Lot Width: 100 feet (min) |
| B | Lot Depth: 100 feet (min) |

| | | |
|---|---|---|
| **2.** | **Lot Size** | Not applicable |
| **3.** | **Other Lot Standards** | Accessory Dwelling – Not applicable |

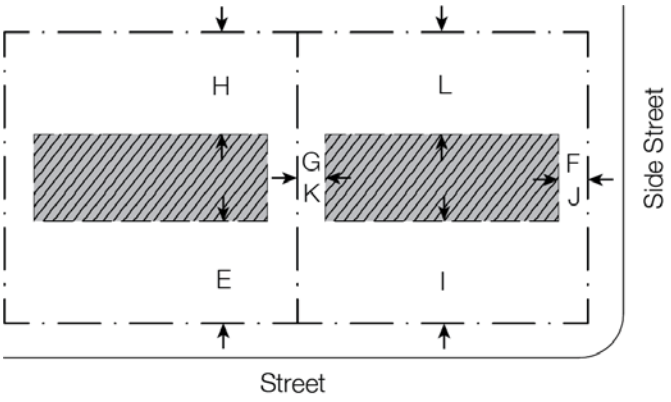
### Building Form




| **4.** | **Building Height** |
|---|---|
| C | Principal Building Height: 50 feet (max) |
| D | Accessory Building Height: 35 feet (max), but not higher than the height of the principal building. |
| **5.** | **Private Frontage** |
| 5.1 | Private Frontage Type: Not applicable |
| 5.2 | Frontage Buildout: Not applicable |

## Regional Commercial Zone (C3)

**Building Setbacks, General**



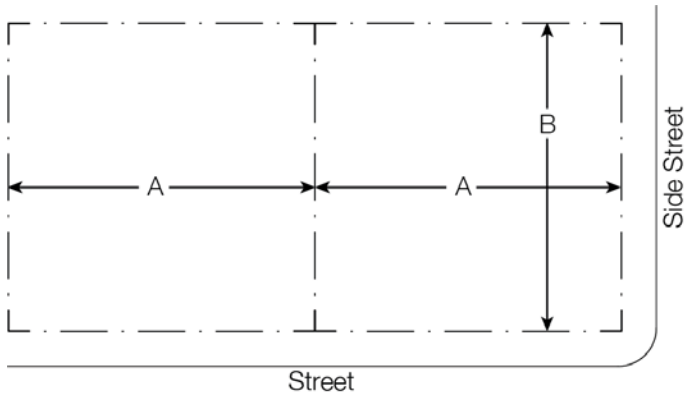

| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 40 feet (min) |
| F | Secondary Frontage: 10 feet (min) |
| G | Side Setback: 10 feet (min) |
| H | Rear: 35 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 40 feet (min) |
| J | Secondary Frontage: 10 feet (min) |
| K | Side Setback: 10 feet (min) |
| L | Rear Setback: 35 feet (min) |

| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

**Table 5.16 Site Standards: I1 and I2 Zones**

## Light and Medium Industrial Zones (I1, I2)

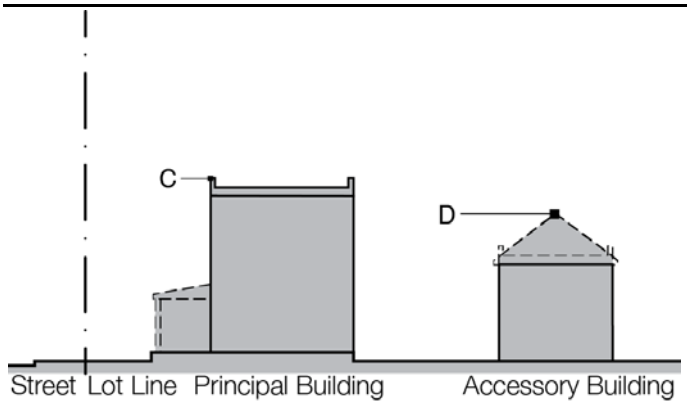
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - - - - | Setback Line |
| **1.** | **Lot Size** |
| A | Lot Width: 150 feet (min) |
| B | Lot Depth: 150 feet (min) |

| | | |
|---|---|---|
| **2.** | **Lot Size** | Not applicable |
| **3.** | **Other Lot Standards** | Accessory Dwelling – Not applicable |

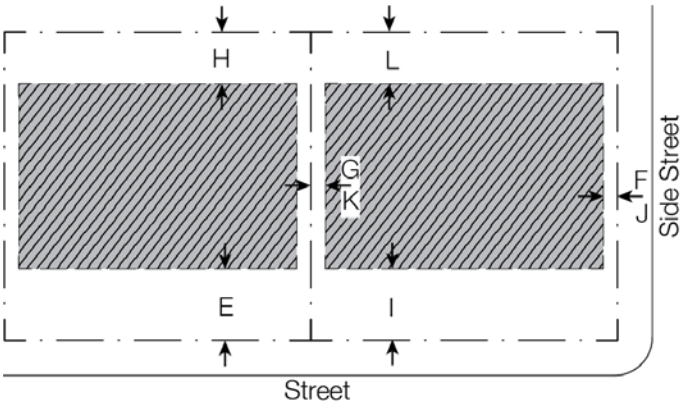
### Building Form




| | |
|---|---|
| **4.** | **Building Height** |
| C | Principal Building Height: 50 feet (max) |
| D | Accessory Building Height: 45 feet (max), but not higher than the height of the principal building. |
| **5.** | **Private Frontage** |
| 5.1 | Private Frontage Type: Not applicable |
| 5.2 | Frontage Buildout: Not applicable |

## Light and Medium Industrial Zones (I1, I2)

**Building Setbacks, General**



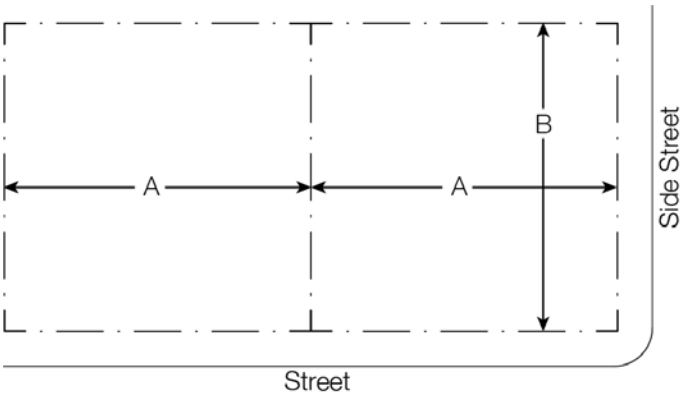

| **Legend:** | |
|---|---|
| | Property Line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 35 feet (min) |
| F | Secondary Frontage: 7 feet (min) |
| G | Side setback: 7 feet (min) |
| H | Rear: 25 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 35 feet (min) |
| J | Secondary Frontage: 7 feet (min) |
| K | Side Setback: 7 feet (min) |
| L | Rear Setback: 25 feet (min) |

| | | |
|---|---|---|
| 8. | Accessory Buildings | |
| 8.1 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| 9. | Lot Coverage | Not applicable |

**Table 5.17 Site Standards: I3 Zone**

## Heavy Industrial Zone (I3)

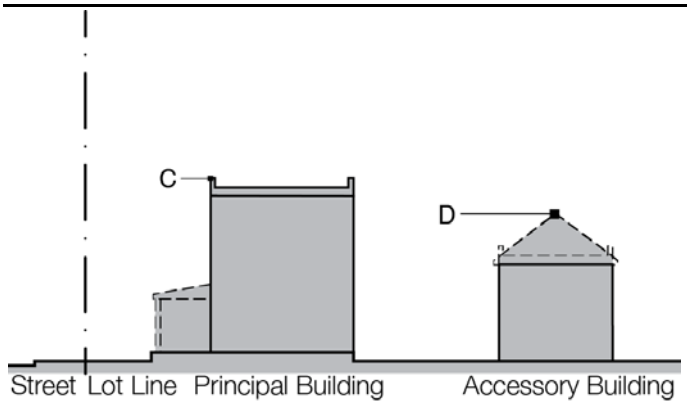
### Lot Standards




| Legend: | |
|---|---|
| — · — | Property Line |
| - — - | Setback Line |
| **1.** | **Lot Size** |
| A | Lot Width: 150 feet (min) |
| B | Lot Depth: 150 feet (min) |

| | | |
|---|---|---|
| **2.** | **Lot Size** | Not applicable |
| **3.** | **Other Lot Standards** | Accessory Dwelling: Not applicable |

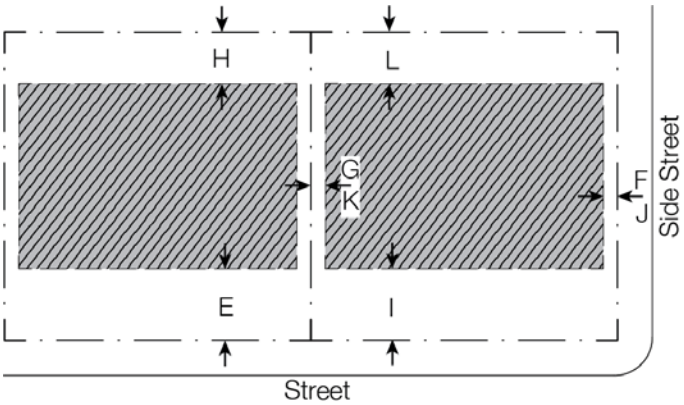
### Building Form




| | |
|---|---|
| **4.** | **Building Height** |
| C | Principal Building Height: 50 feet (max) |
| D | Accessory Building Height: 45 feet (max), but not higher than the height of the principal building. |
| **5.** | **Private Frontage** |
| 5.1 | Private Frontage Type: Not applicable |
| 5.2 | Frontage Buildout: Not applicable |

## Heavy Industrial Zone (I3)

**Building Setbacks, General**




| **Legend:** | |
|---|---|
| | Property line |
| | Setback Line |
| | Buildable Area |
| | Accessory Building Area |
| | Façade Area |
| **6.** | **Principal Building** |
| E | Primary Frontage: 35 feet (min) |
| F | Secondary Frontage: 10 feet (min) |
| G | Side Setback: 10 feet (min) |
| H | Rear: 35 feet (min) |
| **7.** | **Accessory Buildings** |
| I | Primary Frontage: 35 feet (min) |
| J | Secondary Frontage: 10 feet (min) |
| K | Side Setback: 10 feet (min) |
| L | Rear: 35 feet (min) |

| | | |
|---|---|---|
| **8.** | **Accessory Buildings** | |
| 8.1 | Accessory buildings shall be at least 10 feet from all other buildings. | |
| **9.** | **Lot Coverage** | Not applicable |

# 5.3 REGULATIONS SPECIFIC TO TRANSECT ZONES

The purpose of this section is to provide transect zones in a continuum of intensity primarily for uses within the T3, T4 and T5 Zones and does not pertain to the T2 Zone unless explicitly specified herein. The purpose of the zones in the continuum of intensity is to vary the density, intensity of land use, variety of land uses, scale and size of buildings, and other factors according to the zone. The purpose of regulating frontages and height, façades, and fences is to encourage the definition of the public realm and regulation of adjacent zones in a manner that ensures their mutual compatibility.

5.3.1 Civic Spaces

Civic Spaces shall be designed per Table 4.3 Civic Space Types for the type of civic space permitted per Table 5.1 Land Use Classification Matrix: Zoning Districts.

5.3.2 Lots

Flag properties are not permitted except in T2.

5.3.3 Private Frontage

The private frontage buildings shall conform to Table 5.18 Private Frontages and shall be permitted where indicated in Tables 5.4 through 5.17.

a. The main entrance to the principal building shall be accessed via the primary frontage and shall be located in the primary façade. See Table 5.3.

**Table 5.18 Private Frontages**

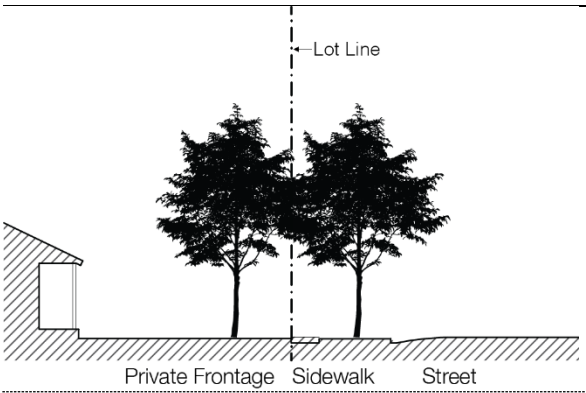
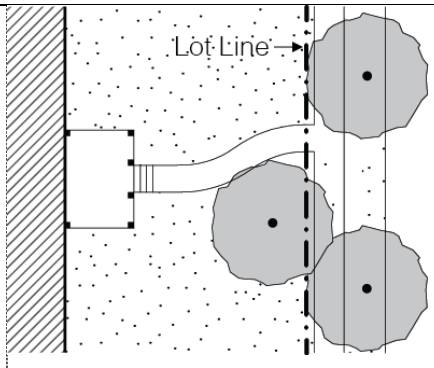
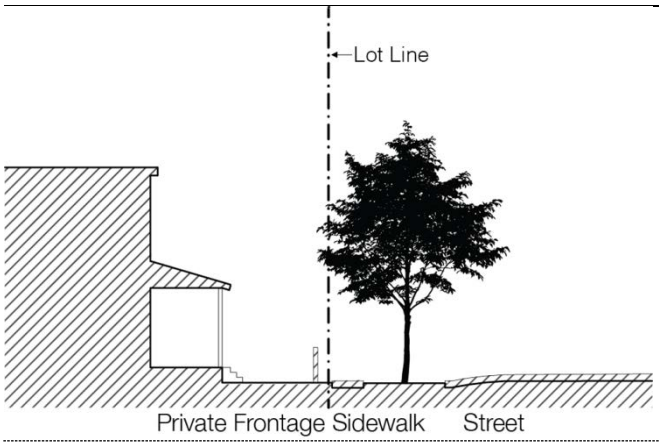
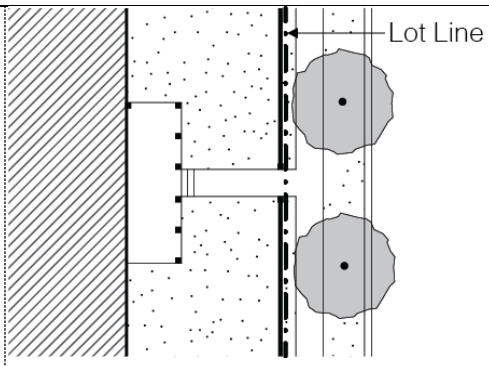
| | |
|---|---|
| **1. Common Yard** | |
|  |  |
| Permitted Elements: | Porch |
| Surface Treatments: | Landscaping, including produce gardens and a path leading to building entries. |
| Special Requirements | Not Applicable |
| **2. Fenced / Walled Yard** | |
|  |  |
| Permitted Elements: | Porch, Stoop, Fence, Hedge, Wall |
| Surface Treatments: | Landscaping, including produce gardens and a path leading to building entries |
| Special Requirements | Not Applicable |
| **3. Terrace** | |

**Table 5.18 Private Frontages**

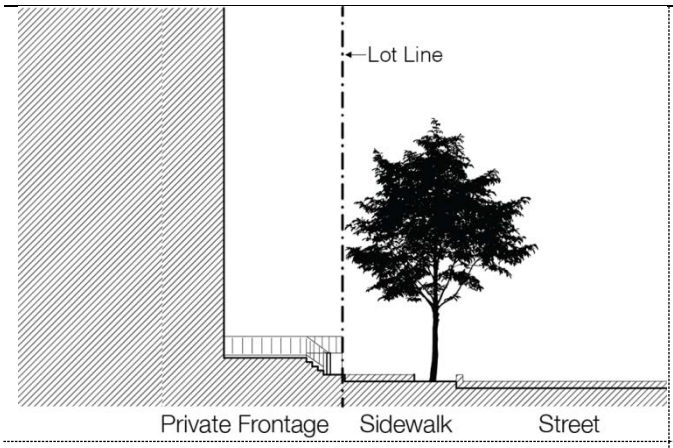
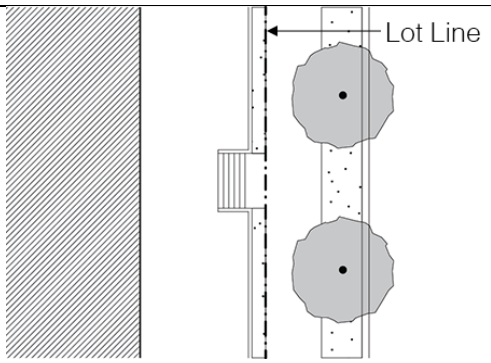
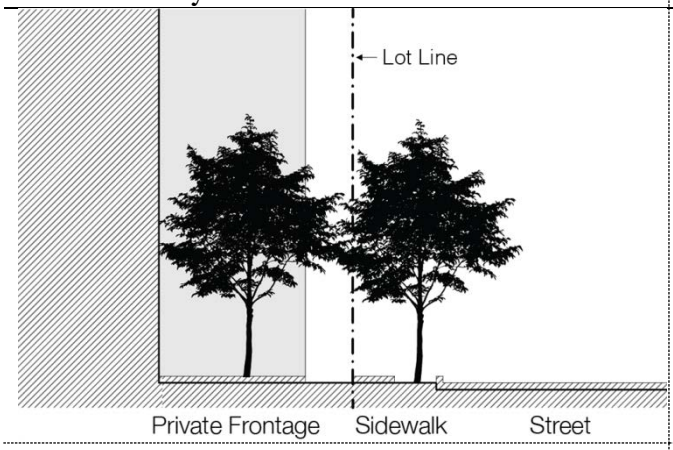
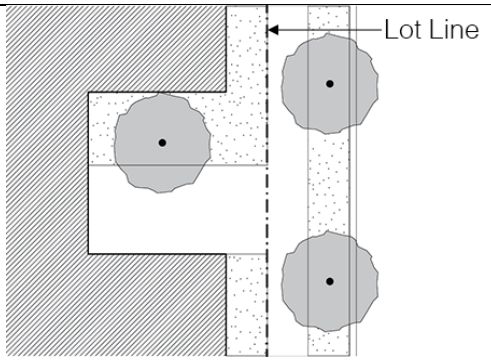
| | |
|---|---|
|  |  |
| Permitted Elements: | Stoop, Shopfront, Awning, Wall |
| Surface Treatments: | Paved or landscaped |
| Special Requirements | Raised 8" min. above average sidewalk grade |
| **4. Courtyard** | |
|  |  |
| Permitted Elements: | Hedges, Walls |
| Surface Treatments: | Paved in coordination with parkway |
| Special Requirements | May recess 20 ft. max. for pedestrian entries or 30 ft. max. for vehicular access. Shall provide access to the main building entrance. Driveways within forecourts are limited to 20 ft. in width. Portions of the driveway in the parkway shall be limited to 12 ft. in width. |

**Table 5.18 Private Frontages**

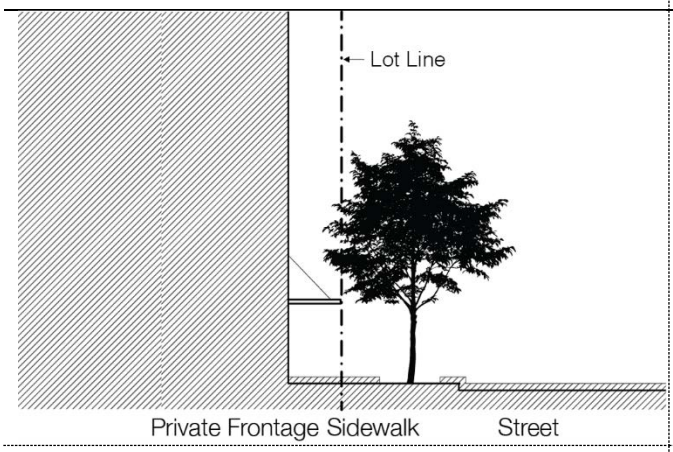
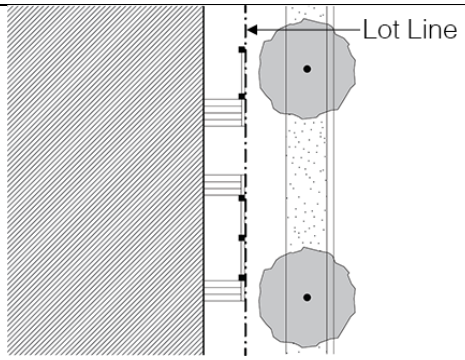
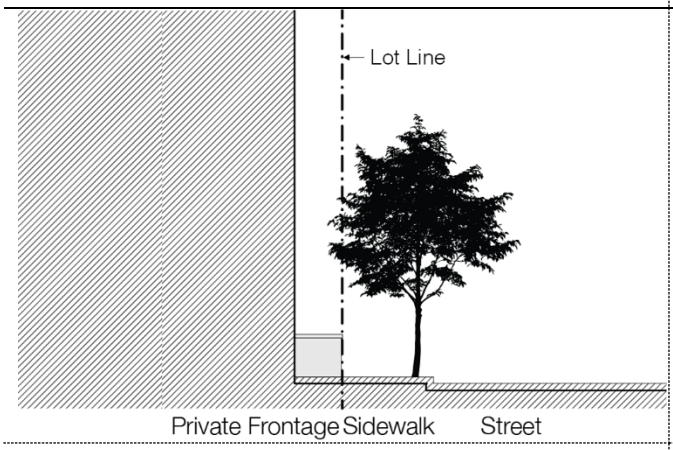
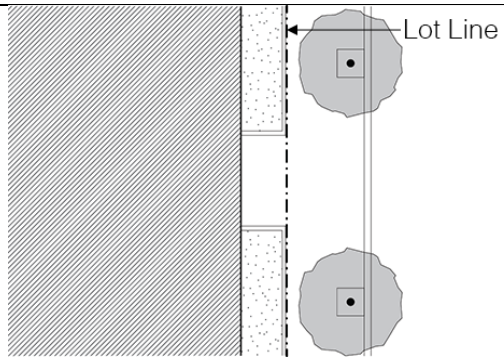
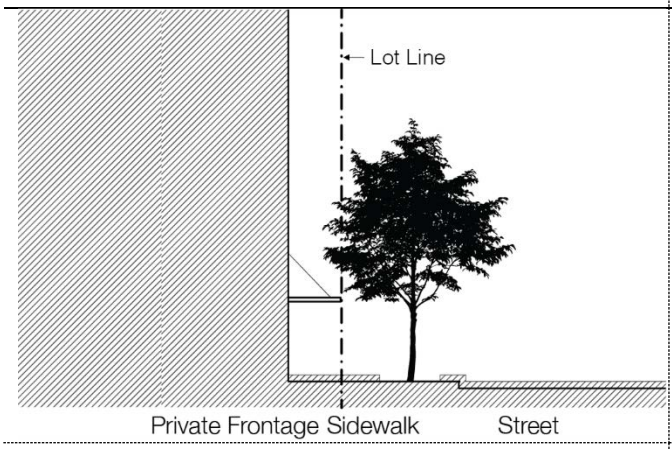
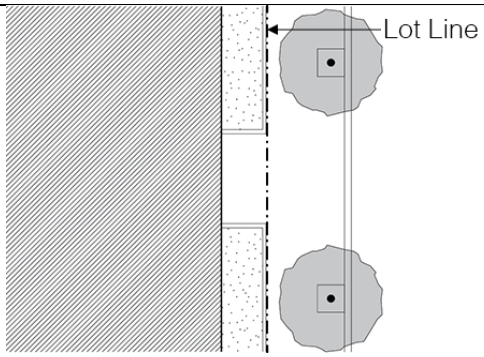
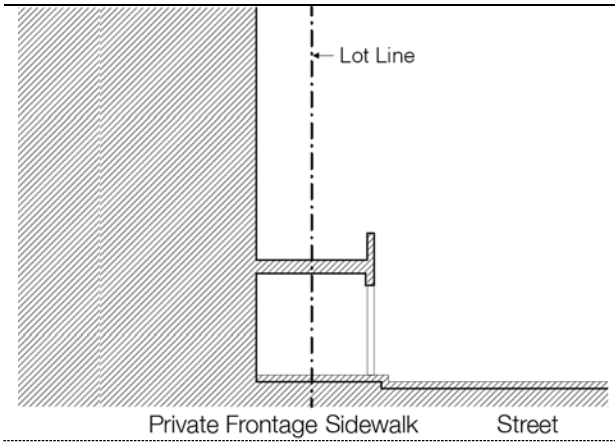
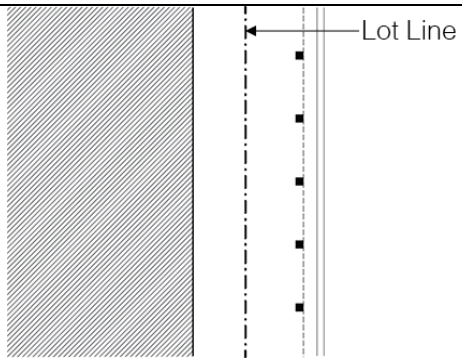
| **5. Stoop** | |
|---|---|
|  |  |
| Permitted Elements: | Hedges, Walls |
| Surface Treatments: | Paved in coordination with parkway |
| Special Requirements | May be recessed into the building façade. |
| **6. Common Entry** | |
|  |  |
| Permitted Elements: | Awning, Planter, Wall |
| Surface Treatments: | Any area not with the planter shall be paved |
| Special Requirements | Not Applicable |

**Table 5.18 Private Frontages**

| **7. Shopfront** | |
|---|---|
|   |   |
| Permitted Elements: | Awning, Display Windows |
| Surface Treatments: | Paved |
| Special Requirements | Façade shall be glazed with clear glass no less than 50% of the ground floor frontage, calculated separately for each façade. |
| **8. Portal** | |
|   |   |
| Permitted Elements: | Shopfronts |
| Surface Treatments: | Paved |
| Special Requirements | Must be compliant with Shopfront regulations |

5.3.4 Building Heights

Building heights shall be measured in stories.

a. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except that a commercial use on the first floor shall have a minimum height of 10 feet and the maximum height of 25 feet. A single floor level exceeding these heights shall be considered to be two or more stories.

b. Mezzanine extending 33% beyond the floor area shall be counted as an additional story.

c. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.

d. Each level of a parking garage above ground counts as a single story regardless of relationship to habitable stories.

5.3.5. Frontages and Façades

The following shall pertain to façades and frontages in all zones.

a. All façades shall be glazed no less than 15% of each story with clear glass. Shopfronts shall be glazed on no less than 50% of that story.

b. No portion of the private frontage may encroach on the sidewalk. Where a sidewalk exists on the property, the edge of the sidewalk shall be deemed the edge of the frontage for the purposes of regulating frontages.

5.3.6 Frontages, Masking of Parking and Fences

a. Open Parking Areas. Open parking areas shall be masked from the frontage by a building or streetscreen, except that the Zoning Administrator may grant an administrative variance for excessive cost or practical difficulty. The Zoning Administrator shall consider the relative importance of the frontage to walkability in the vicinity of the property and may designate on the zoning map certain portions of thoroughfares in which is will more readily approve an administrative variance to this requirement. See Article 2.

b. Streetscreen. In the absence of the building façade along any part of frontage line in the T5 Zone, a streetscreen shall be built parallel with the façade.

c. Streetscreens, Design. Streetscreens shall be between 3.5 and 6 feet in height. The streetscreen may be replaced by hedge or fence if the Zoning Administrator reviews an administrative variance (see Article 2.7.3). Streetscreens shall have no opening larger than necessary to allow automobiles and pedestrian access.

d. Fences. Fences shall be located in zones per Table 5.26.

5.3.7 Regulations Specific to N Zone

Development shall be prohibited in the N Zone except for structures erected for the support of the Bureau of Land Management for parks, and park services, and other structures approved by the P&Z, except where the P&Z has no jurisdiction.

5.3.8 Regulations Specific to T2 Zone

Land within the T2 Zone may be subdivided by right per Article 4 or rezoned per Article 2; otherwise the standards herein shall pertain.

a. Office Use, Area and Location. Building area available for office use on each property is restricted to 600 square feet within the first story of the principal building or accessory building.

b. Retail Use, Type and Size. Retail use is limited to roadside stands, not to exceed 600 square feet and may be open-air.

c. Institutional, Manufacturing and Industrial Uses. Institutional, manufacturing and Industrial uses are prohibited unless they are accessory to agricultural use, per Table 5.1 Land Use Classification Matrix: Zoning District.

d. Agricultural Use. Agricultural use is permitted by right per the definition of agriculture.

e. Agriculture-Related Buildings. Agriculture-related buildings, barns workshops and sheds shall be a minimum of 50 feet from all adjacent front and rear property lines and 20 feet from all side property lines, or 100 feet from a public right-of-way, whichever is greater. Such buildings shall not exceed 40 feet in height.

f. Accessory Buildings. One accessory building may be used as a dwelling. Additional accessory buildings cannot be used as living quarters.

5.3.9 Regulations Specific to T3 Zone

a. Office Use, Area and Location. Building area available for office use on each property is restricted to 600 square feet within the principal or accessory building.

b. Retail Use, Area. Building area available for retail use is restricted to buildings at corner locations and may not exceed 2,000 square feet.

c. Retail Use, Food Service. Food service is limited to no more than 600 square feet of seating area.

d. Institutional, Manufacturing and Industrial Uses. Institutional, manufacturing and industrial uses are prohibited unless they are accessory to agricultural use.

e. Agricultural Use. Agricultural use is limited to the specific uses in Table 5.1 Land Use Classification Matrix: Zoning Districts.

5.3.10 Regulations Specific to T4 Zone

a. Retail Use, Area and Location. Retail use, area and location are limited per Table 5.1

b. Office Use, Area and Location. Building area available for office use on each property is limited to 2,500 square feet.

c. Agricultural Use. Agricultural use is limited to the specific uses in Table 5.1 Land Use Classification Matrix: Zoning Districts.

5.3.11 Regulations Specific to T5 Zone

a. Retail Use, Area and Location. Retail uses are not limited in area.

b. Institutional Use. Institutional uses may occupy any building story.

c. Agricultural Use. Agricultural use is limited to the specific uses in Table 5.1 Land Use Classification Matrix: Zoning Districts.

## 5.4 REGULATIONS SPECIFIC TO USE ZONES

The purpose of these regulations of use zones is to maintain compatibility both with certain existing forms of development and with the regulations under which they were previously

permitted. See the specific uses in Table 5.1 Land Use Classification Matrix: Zoning Districts.

5.4.1 General

The use zones are provided to maintain compatibility with existing regulation and to differentiate zones by specific uses permitted.

5.4.2 Building Height

Building heights shall be measured in feet above grade except within 60 feet of a primary frontage, in which case building heights shall be measured above the highest point on the sidewalk (or ground if there is no sidewalk) at the primary frontage line.

5.4.3 Thoroughfare Access

No property shall be subdivided within a use zone unless it has access from a right-of-way or from an easement with an improved roadway of the widths specified in Table 5.19.

**Table 5.19 Thoroughfare Access**

| Minimum Access Requirements | R5/R5L | D1L/ D1 | D2L/ D2 | D3 | DM | MU | C1 | C2 | C3 | I1 | I2 | I3 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 50-foot wide right-of-way or has an easement with a 24-foot wide improved roadway | R | R | R | | | R | R | | | | | |
| 60-foot wide right-of-way or has an easement with a 36-foot wide improved roadway | | | | R | R | | | | | | | |
| Along a collector, County road or state highway and has access from either a 50-foot wide right-of-way or from an easement with a 24-foot wide improved roadway | | | | | | | | R | | | | |
| Along a County road or state highway and has access from either a 60-foot wide right-of-way or from an easement with a 36-foot wide improved roadway | | | | | | | | | R | R | R | R |
| | **LEGEND** | | | | | | | | | | | |
| | Required - R | | | | | | | | | | | |

5.4.4 Regulations Specific to R5 and R5L Zones

The R5 Zones are primarily for residential use at a very low density.

5.4.5 Regulations Specific to D1 and D1L Zones

The D1 Zones are primarily for residential use at a low density.

5.4.6 Regulations Specific to D2 and D2L Zones

The D2 Zones are primarily for residential use at a medium density.

5.4.7 Regulations Specific to D3 Zone

The D3 Zone is primarily for residential use at a high density.

a. Recreational Space. 10% or 20,000 square feet of the total development, whichever is less, shall be devoted to usable space for recreational activities. Ponding and drainage areas may contribute to this recreational space.

5.4.8 Regulations Specific to DM Zone

The DM Zone is primarily for mobile home parks; see Section 5.9 for additional standards.

a. Mobile Homes, Type. Mobile homes shall be equal to or greater than 8 feet in width or 40 feet in length and 11 feet in height.

b. Site Conditions. If the site accommodates mobile homes, it shall be approve for a:

i. Mobile home park with community water and sewer;

ii. Subdivision with community water and sewer; or

iii. RV park or campground.

c. Mobile Home Site. Each mobile home site/space shall be governed by the site standards for the DM Zone in Table 5.11 Site Standards: DM Zone.

d. Dwellings, Number. A minimum of 5 dwellings are permitted per mobile home park or subdivision; one dwelling per each space for mobile home.

e. Space for a Mobile Home, Area. 3,500 square feet, excluding roadways.

f. Space for a Mobile Home, Width. 50 feet.

g. Space for a Mobile Home, Depth. 70 feet.

h. Recreational Space. 10% or 20,000 square feet of the total development, whichever is less, shall be devoted to usable space for recreational activities. Ponding and drainage areas may contribute to recreational space.

5.4.9 Regulations Specific to MU Zone

The MU Zone is primarily for mixed land uses.

a. Additional Uses. The Zoning Administrator may approve other similar uses that are compatible with those uses listed in Table 5.1 Land Use Classification Matrix: Zoning Districts.

b. Driveways. Driveways may not exceed 150 feet in length without an approved turnaround unless reviewed and approved by the County Fire Chief; minimum 25 feet of driveway width for non-dedicated streets or driveways within a property for two-way traffic and minimum 20 feet for one-way traffic (measured perpendicular to the direction of travel). Driveways shall be paved.

5.4.10 Regulations Specific to C1, C2 and C3 Zones

The C1 Zone is primarily for neighborhood commercial uses. The C2 Zone is primarily for community commercial uses. The C3 Zone is primarily for regional commercial uses.

a. Driveways. Driveways may not exceed 150 feet in length without an approved turnaround unless reviewed and approved by the County Fire Chief; minimum 25 feet of driveway width for non-dedicated streets or driveways within a lot for two-

way traffic and minimum 20 feet for one-way traffic (measured perpendicular to the direction of travel). Driveways shall be paved.

5.4.11 Regulations General to I1, I2 and I3 Zones

The I1, I2 and I3 Zones are primarily for light, medium, and heavy industry, respectively.

The three zones differ in their uses permitted, which are listed separately in Table 5.1 Land Use Classification Matrix: Zoning Districts.

a. Setbacks for loading facilities from railroad tracks or airport taxiways may be reduced to 0 feet. Driveways and loading docks shall be paved.

## 5.5 PARKING AND LOADING LOCATION AND DESIGN

This regulation ensures parking and loading are located and regulated safely and in a manner that supports economic opportunity and pedestrian activity. This is accomplished by ensuring off-street parking and loading do not interfere with the spatial enclosure and harmony of the public realm, and that on-street loading is located and timed for convenience and compatibility with adjacent uses.

5.5.1 Conformance

Parking shall comply with Americans with Disabilities Standards for Accessible Design (ADA SAD), the Federal Highway Administration (FHA) and the engineering standards of this Chapter.

5.5.2 Parking Access and Location

The Zone shall regulate the location and access. See Sections 5.2, 5.3, 5.4 and 5.5.

5.5.3 Forward Travel

Except at alleys and lanes, and for one- or two-family dwellings, vehicles exiting the property shall travel in a forward direction.

5.5.4 Loading Location

Off-street loading space shall be provided and maintained for every building or part thereof occupied by any use requiring the movement of large volumes to or from vehicles.

a. One space is required for each whole increment of 10,000 square feet occupied by the use.

b Each loading space shall be at least 12 feet wide and 45 feet long, with a minimum overhead clearance of 14 feet from the pavement surface.

c Loading and unloading areas shall be located to allow vehicles to maneuver safely and conveniently to and from the public right-of-way or any parking space or parking lot aisle. Except when located on a thoroughfare, loading and unloading areas shall be screened from view from primary and secondary frontages. Loading docks with raised platforms shall be screened from view from primary and secondary frontages.

d. Access to loading and unloading areas shall be restricted to the hours between 7 a.m. and 10 p.m., except when otherwise designated by the Zoning Administrator.

5.5.5 Fire Lanes

a. This section refers to the requirements for major developments such as, but not limited to, the following:

i. Places of Assembly

ii. Business Parks

iii. Educational Facilities

iv. Institutional Facilities

v. Industrial Parks

vi. Shopping Centers

vii. Storage Facilities

viii. Residential/Subdivisions

b. An applicant will be required to adhere to the current adopted edition of the International Fire Code (IFC).

c. General Requirements for Plans Submittals

i. Authority to Design; Maintenance Responsibility. The Fire Chief (Authority Having Jurisdiction [AHJ]) or his/her designee is authorized to designate fire lanes on private or public property where such areas shall be kept free of parked vehicles and other obstructions to provide/ensure ready access in such areas in case of fire or other emergencies. The designation by the Fire Chief (AHJ) of such fire lanes shall never be held to make the County responsible for the maintenance of such fire lanes on private property, but the owner of such property shall continue to be responsible for the maintenance of such area. The official records of the designation and location of any such fire lanes shall be kept in the Office of the Fire Chief.

ii. Before site plans of proposed construction are submitted to the Building Services Department for issuance of building permits, such plans shall be submitted to the Fire Chief (AHJ) for review and approval of the adequacy of access for fire and emergency equipment to any buildings and of the adequacy of any proposed fire lanes. The specific requirements of this section as applicable to a specific structure may be modified by the Fire Chief in recognition of varying occupancies, size and/or hazard of buildings and the provision of other means of access of fixed fire protection.

iii. The Fire Chief (AHJ) or designee may require the owners of existing shopping centers and existing facilities on private property, to submit site plans for use in determining whether to designate fire lanes on the property. The Fire Chief may require that the fire lane for existing buildings be established to provide access for fire suppression operations by improving existing conditions. Fire lanes established for new and existing structures shall conform to fire lane requirements applicable at the time of

construction. If no fire lane requirements were applicable at the time of construction, the Fire Chief or designee may require establishment of fire lanes to conform with the requirements of this section, insofar as is practicable without requiring any construction, structural modification or substantial financial hardship.

iv. The Fire Chief (AHJ) will require any and all developments to be provided with an adequate water supply for the purpose of firefighting effort in accordance with the IFC Appendix C.

v. The Fire Chief (AHJ) will require all developments to be provided with adequate fire apparatus access roads in accordance with IFC Appendix D.

vi. Where required by the Fire Code Official, approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE shall be provided for fire apparatus access road to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced and repaired when necessary to provide adequate visibility.

## 5.6 ENVIRONMENTAL PERFORMANCE STANDARDS

These regulations require that any adverse environmental effects remain on the property on which they are generated.

### 5.6.1 General Requirement

All uses, except those uses listed under the Right to Farm Act, NMSA 1978 §§47-9-1 to 7 shall comply with the performance standards established in this subsection. All noise vibration, radiation, fire and explosive hazard or glare shall conform to local, state and federal laws and any federal, state or county law, ordinance or regulation that establishes a more restrictive standard shall apply. Nothing in this section may be construed to alter, change, modify or abrogate any authority granted exclusively to any state or federal regulations.

### 5.6.2 Nuisance

No use shall be operated or maintained that creates an environmental detriment or public nuisance, including but not limited to visual clutter created by excessive signage, lighting or outdoor storage, noise or odors as defined herein or other noise and odors such as those created by pets or garbage.

### 5.6.3 Noise

Any activity or operation of any use producing noise (other than ordinary vehicular noise) shall be as regulated by the noise standards in Chapter 261, Noise.

### 5.6.4 Lighting

All on-site lighting of buildings, lawns and parking areas shall be designed so as not to shine or cause glare onto any adjacent property or building or to cause glare onto any public street or vehicle thereon.

a. All light standards shall comply with NMSA 1978 §74-74 Night Sky Protection.

5.6.5 Glare and Heat

Principal and accessory uses producing glare or heat shall be conducted so that no glare or heat from the activities or operations shall be detectable at any point off the parcel on which the use is located. Flickering or intense sources of light shall be controlled or shielded so as not to cause a nuisance across property lines.

5.6.6 Vibration

No earth-borne vibration from any operations of any use shall be detectable at any point off the parcel on which the use is located, unless land is assessed as agriculture.

5.6.7 Dust and Air Pollution

Dust and other types of air pollution borne by the wind from sources such as storage areas and the like within property boundaries shall be managed by appropriate landscaping, screening, sheltering, paving, oiling, fencing, wetting, collecting or other acceptable means. The T2 Zones and agriculturally assessed lands shall be permissive to commercial agricultural uses and the environmental impacts thereof.

5.6.8 Fluid Discharge of Radioactive and Hazardous Waste

The discharge of fluid and the disposal of radioactive and hazardous waste materials shall be in compliance with applicable state and federal laws and regulations governing such materials or waste. No operation that produces radioactive or hazardous waste material shall commence without prior notice and approval of the Zoning Administrator, the Fire Chief, the County Sheriff and the Chief Building Official. Notice shall be given at least 30 days before the operation is commenced and shall be subject to a public hearing. Radioactive and hazardous material shall be transported, stored and used only in conformance with all applicable federal, state and local laws.

5.6.9 Electromagnetic Interference

Electromagnetic interference from any operations of any use in any district shall not adversely affect the operation of any equipment located off the parcel on which such interference originates.

5.6.10 Odors

The release of materials odorous by nature, or capable of being odorous, either by bacterial decomposition or chemical reaction, which renders it perceptible from beyond the zoning property, shall be prohibited with the exception of commercial agricultural uses.

5.6.11 Toxic Substances

The storage, handling or transport of toxic substances shall comply with the State of New Mexico Office of Emergency Management (OEM) rules and regulations, as applicable relative to the prevention of water pollution

5.6.12 Water Pollution

All uses shall comply with the State of New Mexico and the United States Environmental Protection Agency (EPA) rules and regulations as applicable regarding the prevention of water pollution.

5.6.13 Fire and Explosion Hazards

Materials that present potential fire and explosive hazards shall be transported, stored and used only in conformance with applicable federal, state and local laws and the Doña Ana County Fire Chief (CFC).

5.6.14 Outdoor Storage

All outdoor storage for fuel, raw materials and products shall be enclosed by a solid fence, wall and/or plant materials adequate to conceal such facilities from adjacent properties and public right-of-way, per Section 5.7. These restrictions do not apply to commercial agricultural.

5.6.15 Drainage

No use shall adversely affect the natural drainage pattern on its own or any other property.

## 5.7 LANDSCAPING, BUFFERING, AND FENCING

Doña Ana County is located within the Chihuahuan Desert ecoregion with a diversity of plants and wildlife adapted to its range of climate; this guides requirements for landscapes, buffers, and fences.

5.7.1 Applicability

a. New Development: All commercial, industrial, public, and multi-family properties, to include all exterior roadway frontages of single family developments. Specifically, this is the area between the roadway edge and property line or exterior walls, whichever is furthest from the roadway.

b. Expansions of Existing Development: All commercial, industrial, public, multi-family properties. If the existing landscape area is less than the required landscape area, additional landscaping shall be provided according to this section.

c. Exceptions:

i. The following properties: single-family residential, community garden, and farming and ranching;

ii. Existing development not being expanded; and,

iii. Existing landscaping, if developed in compliance with zoning requirements in effect prior to the enactment of this chapter.

5.7.2 Landscape Plan Requirements

A Landscape Plan shall be submitted with an application for building permits, site plans, and subdivisions, including:

a. Required clearances, proposed irrigation, plantings, ground cover, any required buffers, and other landscape treatments including water harvesting and hardscape. The plan shall include a graphic scale, a written scale, and a north arrow.

b. Proposed irrigation shall indicate the water source with static pressure, type and size of system, and equipment. Irrigation shall be noted as permanent or temporary.

i. Permanent System: Plan shall indicate an underground system of adequate sizing to properly irrigate landscape. This shall include a reduced pressure backflow preventer with a locking enclosure and insulation or heating, valves, piping, drip emitters, heads, and a multi-program controller.

ii. Temporary System: Plan shall indicate a method to establish seeding and low water-use plants. This shall include an underground or on-grade system, a water truck, or a time-release water supplement. Temporary systems shall be removed within 2 years of the landscape completion date.

5.7.3 Plant Preservation Credit

a. General Requirements:

i. Possess a live plant cover, including a full canopy and roots, not overly pruned to compromise vigor or the typical form for their species, and determined as such by CDD or county extension agent;

ii. Provide a plan for temporary, protective fencing beyond their root zone(s) and temporary irrigation to protect plants during construction, prior to landscape installation;

iii. Can meet up to 50% of landscape requirements;

iv. Invasive species as listed in New Mexico Department of Agriculture or other USDA lists, may not be used towards any plant preservation credits, and;

v. Credit shall be issued for trees and plants preserved upon substantial completion of project and landscaping.

b. Natural Condition.

i. Consists of areas in their natural condition including post-developed sites, which have returned to their pre-developed condition, with no less than 50 percent native plants.

ii. An area of natural condition meets the landscape area requirement at a ratio of 1 to 1.

c. Preserved Plants.

i. An established tree or other plant existing on a property, except invasive species.

ii. Existing trees meet the tree quantity requirement at a ratio of 1 tree per 3 inches caliper to a maximum of 9 inches caliper per existing tree. Existing canopy area meets the live plant cover requirement at a ratio of 1 to 1.

iii. Other existing plants meet the shrub and other plant quantity requirement at a ratio of 1 plant per square foot of live plant cover to a maximum of 10 square feet per existing plant. Existing live plant cover meets the live plant cover requirement at a ratio of 1 to 1.

5.7.4 Landscaping, Required Areas

a. The landscaped area shall be void of any impermeable obstruction to planting, except where hardscape and other features are proposed.

b. Required landscape areas shall be landscaped in accordance with this section and divided into two parts:

i. Inside the Property Line. The minimum landscape area is calculated by using the entire property square footage, multiplied by 15%, less plant preservation credit.

ii. Within the Public Right-of-Way. The entire square footage of the planter shall be landscaped per Table 6.11.

c. Provided Landscape Area: Any plantable area not left as natural cover, excluding features such as golf courses, parks, recreational areas, community gardens, and un-landscaped areas covered in mulch. Due to variations in site design, the provided landscape area could be larger than required. The same standards shall apply to the entire area.

5.7.5 Landscaping, Required Treatments

a. All proposed landscaping shall provide active landscape features.

b. General Landscape Type. Landscaping shall consist of living trees and other plants, ground cover, and irrigation.

i. For exceptions to general landscape requirements, see Sections 5.7.6 through 5.7.7.

ii. For plant substitutions allowing design flexibility, see Table 5.20.

c. Minimum Live Plant Cover: Live trees and other plants combined shall cover a minimum of 25% of the provided landscape area at maturity, see area column of Table 5.21.

d. Trees: A minimum of 1 live tree shall be provided for every 1,000 sq. ft. of landscape area at a minimum size combination of 15 gallon and/or 5 foot height with a 2 foot canopy width.

e. Other Plants: A minimum of 20 live plants shall be provided for every 1,000 square feet of landscape area, at a minimum size of 5 gallon.

f. Ponding Areas shall meet requirements of Section 6.5 and Section 5.7.

g. Low water-use trees and other plants shall be used in a minimum of 50% of provided live plant cover, per Table 5.21.

h. High water-use plants shall not be counted towards any required landscaping per Table 5.21.

i. Artificial or other non-living plants including synthetic lawns and turf, shall not be counted for any required landscaping.

j. Prohibited or not-recommended plants shall not be counted towards any required landscaping, per Table 5.22. Prohibited plants shall not be added to any provided landscape area.

k. Ground Cover: Any combination of mulch, seeding, or turf, but shall not include asphalt, concrete, or bare soil. Ground cover is required in all areas of provided landscaping not covered by plants.

i. Inorganic Mulch: Mulches shall be a minimum depth of 2 inches. On slopes 5:1 or greater, mulches shall be sized 2 inches in diameter or larger, at a depth allowing no visible bare soil or weed fabric.

ii. Organic Mulch: Mulches shall be a minimum depth of 3 inches. On slopes 5:1 or greater, organic mulch is not permitted.

iii. Seeding: A technique which disperses seeds and results in germination of live plants, including grasses and wildflowers. Multiple applications of seeding shall provide a minimum of 25 percent cover within 2 years of the landscape completion date. On slopes 3:1 or greater, seeding is not permitted.

iv. Turf: A surface layer of soil, grass, and its roots bound into a mat. On slopes 6:1 or greater, turf is not permitted.

l. Plastic is prohibited under any mulch, between plants, or as a covering to bare soil

m. Required Clearances. Landscape features and plantings at maturity shall not interfere with critical distances to infrastructure and other site features:

i. Clear Sight Triangle: Trees and other plants within a clear sight triangle per Section 6.2.4 shall be free of foliage from 30 inches to 8 feet in height above the roadway.

ii. Overhead Utilities or Lines: Trees shall not be located underneath utilities or lines, except species known to mature under 12 feet in height.

iii. Underground Utilities or Lines: Trees shall not be located within 3 feet of any underground utilities.

iv. Fireplugs or Fire Hydrants: Trees shall not be located within 8 feet of fireplugs or hydrants. Other plants shall be located so mature canopies are a minimum of 5 feet from fireplugs or hydrants.

v. Street Light Poles or Fixtures: Trees shall be located so mature canopies do not contact poles or fixtures, and trunks shall be a minimum of 10 feet from poles or fixtures. Other plants shall be located so mature canopies are a minimum of 3 feet from poles or fixtures.

vi. Drainage Structures, Underground and Above-Ground Utility Boxes, Poles, and Vaults: Trees and other plants shall be located so mature canopies are a minimum of 3 feet from the structure.

vii. Planting Area Sizing, Trees: An unpaved area with a minimum of 36 square feet and no dimension less than 4 feet shall be provided for each tree. Tree trunks require a minimum of 6 feet clearance from buildings, fences, walls, and parkways.

viii. Planting Area Sizing, Other Plants: An unpaved area sized to accommodate plantings at maturity. Mature canopy of other plants shall not extend beyond planting area.

ix. Overhead Structures and Canopies: Provided landscape area shall not be located beneath the structure. Trees shall be located so mature canopies do not contact the structure.

5.7.6 Landscape, Public Right-of-Way

a. Trees in parkways shall have a size combination of no less than 24 inch box, 1-1/2 inch caliper, and/or 6 foot height with a 2 foot canopy width at installation time. Trees shall not be spaced closer than their mature canopy widths, using even or uneven groupings and spacing.

b. Turf, regardless of irrigation method, is prohibited in this area.

c. Live Plant Cover: a minimum of 50% of provided landscape area.

5.7.7 Landscape, Vehicular Use Areas

These requirements shall apply to parking lots, driveways, and loading areas containing greater than 10 spaces in a use zone and 25 spaces in a transect zone:

a. A minimum of 1 live tree per 5 parking spaces, evenly distributed.

b. All paved surfaces shall drain into landscape areas unless subsurface conditions do not support infiltration.

c. Trees shall have a size combination of no less than 24 inch box, 1-1/2 inch caliper, and/or 6 foot height with a 2 foot canopy width at installation time.

d. Turf, regardless of irrigation method, is prohibited in this area.

5.7.8 Plant List.

The emphasis is on plants best suited for the arid conditions and temperature range in the Chihuahuan Desert.

a. Recommended tree and plant species for landscaping are provided in Table 5.21. **Bold type** signifies a native plant in Doña Ana County.

b. Plant List Headings:

i. Common name: locally-used name;

ii. Botanical name: scientific name;

iii. Height: average mature canopy height;

iv. Width: average mature canopy width, diameter, or spread;

v. Area: average area of mature canopy width;

vi. Edible: a plant with fruit or foliage used for food; and,

vii. Water Use Zone: A typical water requirement for landscaping once established in an ecoregion per Figure 5-1. Asterisks indicate the applicable region (* valley, ** foothills, *** valley and foothills).

**Figure 5-1. Ecoregion – Water Use Zones**

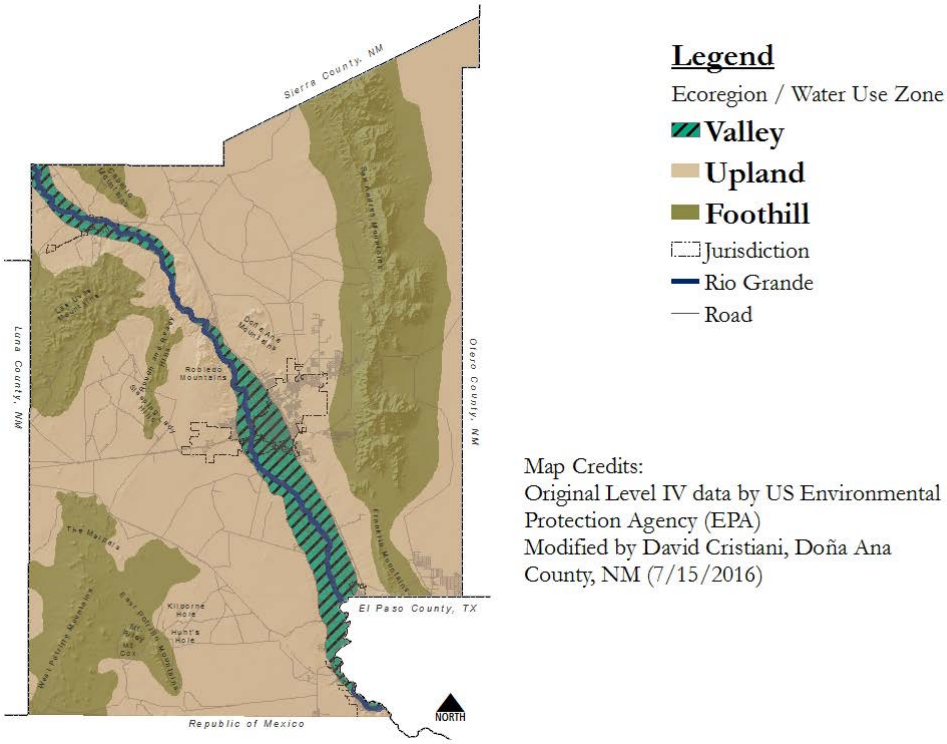


**Table 5.20 Plant Substitutions**

| Required Type and Size | | Equivalent | | |
|---|---|---|---|---|
| quantity | plant | 15 gallon | 5 gallon | 1 gallon |
| 1 | Tree:<br>24 inch box, 1-1/2 inch caliper, and/or a 6 foot height with a 2 foot canopy | 2 | 6 | n/a |
| 1 | Tree or Other Plant:<br>15 gallon and/or a 5 foot height with a 2 foot canopy | n/a | 3 | 9 |
| 1 | Tree or Other Plant:<br>5 gallon | 1/3 | n/a | 3 |

**Table 5.21 Plant List**

**Trees (and skyline accents)**

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Mimosa or Silk Tree | Albizzia julibrissin | 25 | 30 | 450 | | medium |
| Mexican Blue Palm | Brahea armata | 20 | 12 | 75 | | ***low, medium |
| Pecan | Carya illinoinensis | 60 | 40 | *800 | yes | *medium, high |
| Atlas Cedar | Cedrus atlantica | 50 | 25 | 325 | | medium |
| Deodar Cedar | Cedrus deodora | 60 | 30 | *450 | | ***medium, high |
| Cedar of Lebanon | Cedrus libani | 50 | 25 | 325 | | medium |
| Netleaf or Canyon Hackberry | Celtis reticulata | 20 | 20 | 200 | | ***low, medium |
| Texas Redbud | Cercis canadensis var. texensis | 20 | 25 | 325 | | medium |
| **Mexican Redbud** | **Cercis canadensis** | **15** | **20** | **200** | | ***low, medium** |
| Mediterranean Fan Palm | Chamaerops humilis | 12 | 10 | 50 | | ***low, medium |
| **Desert Willow** | **Chilopsis linearis** | **30** | **30** | **450** | | ***low, medium** |
| **Arizona Cypress** | **Cupressus arizonica** | **50** | **25** | **325** | | ***low, medium** |
| Italian Cypress | Cupressus sempervirens | 60 | 10 | 50 | | medium |
| Loquat | Eriobotrya japonica | 12+ | 15 | 125 | | medium |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Texas Ash | Fraxinus texensis | 18 | 15 | 125 | | medium |
| **Arizona Walnut** | **Juglans major** | **40** | **40** | **800** | **yes** | *****low, medium** |
| **Alligator Juniper** | **Juniperus deppeana** | **25** | **20** | **200** | | *****low, medium** |
| **Oneseed Juniper** | **Juniperus monosperma** | **15** | **15** | **125** | | **low** |
| Rocky Mountain Juniper | Juniperus scopulorum | 20 | 15 | 125 | | ***low, medium |
| Goldenrain Tree | Koelreuteria paniculata | 20 | 20 | 200 | | ***low, medium |
| Pink Crepe Myrtle (tree form) | Lagerstroemia indica 'Muskogee' | 15 | 12 | 75 | | medium |
| White Crepe Myrtle (tree form) | Lagerstroemia indica 'Natchez' | 15 | 12 | 75 | | medium |
| Crepe Myrtle (tree) | Lagerstroemia indica | 12+ | 12 | *75 | | *medium, high |
| Goldenball Leadtree | Leucanea retusa | 15+ | 15 | 125 | | low |
| Southern Magnolia | Magnolia grandiflora | 20+ | 25 | *325 | | *medium, high |
| Apple | Malus cultivars | 15+ | 15 | 125 | yes | medium |
| Mexican Piñon | Pinus cembroides | 25 | 20 | 200 | yes | **low, medium |
| **Piñon** | **Pinus edulis** | **20** | **15** | **125** | **yes** | ****low, medium** |
| Afghan Pine | Pinus eldarica | 60 | 30 | 450 | | ***low, medium |
| Italian Stone Pine | Pinus pinea | 70 | 35 | 600 | yes | ***low, medium |
| Chinese Pistache | Pistacia chinensis | 35 | 25 | 325 | | ***low, medium |
| Texas Pistachio | Pistacia texana | 12 | 15 | 125 | | low |
| Pistachio | Pistacia vera | 20 | 15 | 125 | yes | ***low, medium |
| Mexican Sycamore | Platanus mexicana | 50 | 50 | *1250 | | *medium, high |
| California Sycamore | Platanus racemosa | 50 | 50 | *1250 | | *medium, high |
| **Arizona Sycamore** | **Platanus wrightii** | **50** | **50** | ***1250** | | ***medium, high** |
| **Rio Grande or Valley Cottonwood** | **Populus deltoides var. wislizenii** | **50** | **50** | ***1250** | | ***medium, high** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Western Cottonwood** | **Populus fremontii** | **60** | **50** | ***1250** | | ***medium, high** |
| **Honey Mesquite** | **Prosopis glandulosa** | **30** | **30** | **450** | **yes** | **low** |
| **Tornillo or Screwbean Mesquite** | **Prosopis pubescens** | **20** | **20** | **200** | | ***low, medium** |
| **Velvet Mesquite** | **Prosopis velutina** | **30** | **30** | **450** | **yes** | ***low, medium** |
| Almond, Apricot, Cherry, Nectarine, Peach | Prunus cultivars | 12+ | 15 | 125 | yes | medium |
| Bradford Pear | Pyrus calleryana | 20 | 15 | 0 | | high |
| Pear | Pyrus cultivars | 12+ | 15 | 125 | yes | medium |
| **Arizona White Oak** | **Quercus arizonica** | **25** | **30** | **450** | | ****low, medium** |
| Texas Red Oak | Quercus buckleyi | 25 | 20 | 200 | | medium |
| Canby or Sierra Oak | Quercus canbyi | 30 | 25 | 325 | | **low, medium |
| Escarpment Live Oak or Encino | Quercus fusiformis | 25+ | 30 | 450 | | medium |
| Gambel Oak or Roble | Quercus gambelii | 30 | 20 | 200 | yes | medium |
| Chisos Red Oak | Quercus gravesii | 30 | 25 | 325 | | **low, medium |
| **Gray Oak** | **Quercus grisea** | **25** | **30** | **450** | | ****low, medium** |
| Holly Oak | Quercus ilex | 25 | 25 | 325 | | **low, medium |
| Valley Oak | Quercus lobata | 40+ | 40 | 800 | | medium |
| Bur Oak | Quercus macrocarpa | 35 | 35 | 625 | | medium |
| **Chinquapin Oak** | **Quercus muehlenbergii** | **35** | **35** | **625** | | ****low, medium** |
| Monterrey or Mexican White Oak | Quercus polymorpha | 30 | 25 | 325 | | medium |
| English Oak or Roble | Quercus robur | 40 | 40 | 800 | | medium |
| Columnar English Oak | Quercus robur 'Fastigiata' | 50 | 15 | 125 | | medium |
| Cork Oak | Quercus suber | 25 | 25 | 325 | | **low, medium |
| **Desert or Shrub Live Oak** | **Quercus turbinella** | **15** | **20** | **200** | | ****low, medium** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| 'Heritage' Live Oak | Quercus virginiana 'Heritage' | 35 | 35 | 625 | | medium |
| Mexican Sabal | Sabal mexicana | 20 | 10 | 50 | | medium |
| Gooding Willow | Salix goodingii | 25 | 20 | *200 | | *medium, high |
| **Soapberry** | **Sapindus saponaria var. drummondii** | **20** | **20** | **200** | | ***low, medium** |
| **Mexican Elder** | **Sambucus mexicana** | **12** | **15** | **125** | | **medium** |
| Pagoda Tree | Sophora japonica | 20 | 20 | 200 | | ***low, medium |
| Bald Cypress | Taxodium species | 60 | 35 | *625 | | *medium, high |
| Windmill Palm | Trachycarpus species | 20 | 8 | 35 | | medium |
| California or Desert Fan Palm | Washingtonia filifera | 20 | 12 | 144 | | ***low, medium |
| Palma China | Yucca decipiens | 15 | 8 | 35 | | low |
| **Soaptree or Palmilla** | **Yucca elata** | **15** | **8** | **35** | | **low** |
| **Faxon or Palm Yucca** | **Yucca faxoniana** | **15** | **8** | **35** | | **low** |
| Linear-leaf Yucca | Yucca linearifolia | 10+ | 5 | 25 | | **low, medium |
| Blue Yucca | Yucca rigida | 12 | 6 | 20 | | low |
| **Beaked Yucca or Isote** | **Yucca rostrata** | **15** | **8** | **35** | | **low** |
| **Mountain Yucca** | **Yucca schottii** | **10** | **6** | **20** | | **low** |
| **Thompson Yucca** | **Yucca thompsoniana** | **6** | **6** | **20** | | **low** |
| **Torrey Yucca** | **Yucca torreyi** | **15** | **6** | **20** | | **low** |

**Shrubs (and dwarf trees, vines)**

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Glossy Abelia | Abelia grandiflora | 6 | 6 | 36 | | medium |
| **Acacia** | **Acacia species** | **8+** | **8** | **64** | | **low** |
| Pineapple Guava | Acca sellowiana | 12+ | 12 | 144 | | medium |
| **Beebrush or Oreganillo** | **Aloysia wrightii** | **5** | **5** | **25** | | **low** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Coral Vine | Antigonon leptopus | 8+ | 6 | 36 | | low |
| **Sand Sage** | **Artemisia filifolia** | **4** | **4** | **16** | | **low** |
| **Fourwing Saltbush** | **Atriplex canescens** | **6** | **8** | **64** | | **low** |
| **Seepwillow** | **Baccharis salicina** | **8** | **8** | ***64** | | ***medium, high** |
| Anacacho Orchid Tree | Bauhinia lunarioides | 10+ | 12 | 144 | | low |
| **Algerita** | **Berberis hemaetocarpa** | **8** | **8** | **64** | | ****low, medium** |
| **Agarita** | **Berberis trifoliolata** | **6** | **6** | **36** | | **low** |
| Cross Vine | Bignonia capreolata | 6+ | 6 | 36 | | low |
| Wooly Butterfly Bush | Buddleia marrubifolia | 5 | 5 | 25 | | low |
| Red Bird of Paradise | Caesalpinia pulcherrima | 6 | 8 | 64 | | low |
| Fairy Duster | Calliandra species | 2+ | 3 | 9 | | low |
| Western Redbud | Cercis occidentalis | 10+ | 12 | 144 | | ***low, medium |
| **Hairy Mountain Mahogany** | **Cercocarpus breviflorus** | **15** | **12** | **75** | | ****low, medium** |
| Mountain Mahogany | Cercocarpus species | 6+ | 8 | 35 | | **low, medium |
| Rockrose | Cistus species | 6 | 6 | 36 | | **low, medium |
| Cotoneaster | Cotoneaster species | 3+ | 8 | 64 | | medium |
| Silver Dalea | Dalea bicolor | 6+ | 6 | 36 | | **low, medium |
| **Black Dalea** | **Dalea frutescens** | **2** | **4** | **16** | | **low** |
| Mountain Dalea | Dalea versicolor | 4 | 5 | 25 | | low |
| Texas Persimmon | Diospyros texana | 10+ | 12 | 144 | | **low, medium |
| Silverberry | Eleagnus pungens | 8+ | 10 | 100 | | medium |
| **Joint Fir or Canutillo** | **Ephedra species** | **3+** | **5** | **25** | | **low** |
| **Turpentine Bush** | **Ericameria laricifolia** | **3** | **4** | **16** | | **low** |
| **Chamisa** | **Ericameria nauseosa** | **6** | **6** | **36** | | **low** |
| Euonymus | Euonymus | 5 | 5 | 25 | | medium |
| Kidneywood | Eysenhardtia species | 10+ | 12 | 144 | | low |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Apache Plume** | **Fallugia paradoxa** | **5+** | **6** | **36** | | **low** |
| **Desert Olive** | **Forestiera neomexicana** | **10+** | **12** | **144** | | **low** |
| Fragrant Ash | Fraxinus cuspidata | 18 | 15 | 125 | | low |
| **Silktassel Bush** | **Garrya species** | **6** | **6** | **36** | | ****low, medium** |
| Carolina Jessamine | Gelsemium sempervirens | 8+ | 6 | 36 | | medium |
| Algerian Ivy | Hedera canariensis | 6+ | 8 | 64 | | medium |
| English Ivy | Hedera helix | 10+ | 8 | ***64 | | ***medium, high |
| Burford Holly | Ilex cornuta 'Burfordi' | 6+ | 6 | 36 | | medium |
| Jasmine | Jasminum species | 3 | 5 | 25 | | medium |
| Juniper | Juniperus species | 3+ | 6-12 | 36-144 | | low |
| **Winterfat** | **Krascheninnikovia lanata** | **3** | **3** | **9** | | **low** |
| Crepe Myrtle (petite or shrub form) | Lagerstroemia species | 5 | 5 | *25 | | *medium, high |
| **Creosote Bush** | **Larrea tridentata** | **6** | **6** | **36** | | **low** |
| Lavender | Lavendula species | 3 | 4 | 16 | | medium |
| **Texas Sage or Ranger** | **Leucophyllum species** | **6+** | **7** | **49** | | **low** |
| Privet | Ligustrum species | 6+ | 6 | 36 | | medium |
| Coral Honeysuckle | Lonicera sempervirens | 6+ | 6 | 36 | | medium |
| **Wolfberry** | **Lycium species** | **6+** | **6** | **36** | | *****low, medium** |
| Heavenly Bamboo | Nandina domestica | 6 | 5 | 25 | | medium |
| **Mariola** | **Parthenium incanum** | **2** | **3** | **9** | | **low** |
| **Woodbine, Virginia or Hacienda Creeper** | **Parthenocissus species** | **8+** | **6** | **36** | | **medium** |
| Photinia | Photinia species | 10+ | 12 | 75 | | medium |
| **Rosemary Mint** | **Poliomintha incana** | **4** | **4** | **16** | | **low** |
| Lavender Spice | Poliomintha maderensis | 2+ | 3 | 9 | | **low, medium |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Broom Dalea** | **Psorothamnus scoparius** | **4** | **5** | **25** | | **low** |
| Pomegranate | Punica granatum | 15 | 15 | 125 | yes | medium |
| **Cliffrose** | **Purshia species** | **8** | **6** | **36** | | **low** |
| Firethorn or Pyracantha | Pyracantha species | 3+ | 5 | 25 | | **low, medium |
| **Coffeeberry** | **Rhamnus californica var. ursina** | **6+** | **6** | **36** | | ****low, medium** |
| Indian Hawthorn | Rhaphiolepis indica | 4 | 4 | 16 | | medium |
| 'Blueberry Muffin' Hawthorn | Rhaphiolepis umbellata 'Blueberry Muffin' | 3 | 4 | 16 | | medium |
| 'Majestic Beauty' Indian Hawthorn | Rhaphiolepis x 'Montic' | 15 | 15 | 125 | | medium |
| **Prairie Flame Sumac** | **Rhus lanceolata** | **12** | **12** | **75** | | **low** |
| **Littleleaf Sumac** | **Rhus microphylla** | **8** | **10** | **100** | | **low** |
| Sugarbush | Rhus ovata | 8 | 10 | 100 | yes | low |
| **Threeleaf Sumac** | **Rhus trilobata** | **6** | **8** | **64** | **yes** | **low** |
| **Evergreen Sumac** | **Rhus virens** | **10** | **10** | **100** | | **low** |
| Lady Banks' Rose | Rosa banksiae | 10 | 15 | 225 | | ***low, medium |
| Rosemary | Rosmarinus officianalis | 4+ | 5 | 25 | yes | **low, medium |
| 'Tuscan Blue' Rosemary | Rosmarinus officianalis 'Tuscan Blue' | 4 | 3 | 9 | yes | **low, medium |
| **Coyote Willow** | **Salix exigua** | **8+** | **10** | ***50** | | ***medium, high** |
| Chaparral Sage | Salvia clevelandii | 4 | 4 | 16 | | **low, medium |
| Autumn Sage | Salvia greggii | 2 | 2 | 5 | yes | medium |
| Rose Sage | Salvia pachyphylla | 2 | 2 | 5 | | low |
| **Texas Mountain Laurel or Mescal Bean** | **Sophora secundiflora** | **12** | **10** | **50** | | **low** |
| Spanish Broom | Spartium junceum | 8+ | 10 | 100 | | medium |
| Persian Lilac | Syringa persica | 6+ | 6 | 36 | | medium |
| Esperanza, Orange Jubilee | Tecoma spp. | 8+ | 8 | 64 | | ***low, medium |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Yellow Bells | Tecoma stans var. angustata | 6+ | 6 | 36 | | low |
| Bush Germander | Teucrium fruticans | 4+ | 4 | 16 | | **low, medium |
| Asiatic Jasmine | Trachelospermum asiaticum | 2 | 5 | 25 | | medium |
| Star Jasmine | Trachelospermum jasminoides | 8+ | 6 | 36 | | medium |
| **Mexican Buckeye** | **Ungnadia speciosa** | **12+** | **12** | **75** | | ****low, medium** |
| **Arizona Rosewood** | **Vauquelinia californica** | **12+** | **12** | **75** | | **low** |
| **Chisos Rosewood** | **Vauquelinia corymbosa var. angustifolia** | **12+** | **12** | **75** | | **low** |
| Nuevo Leon Rosewood | Vauquelinia corymbosa var. heterodon | 15 | 15 | 125 | | low |
| **Canyon Grape** | **Vitis arizonica** | **10+** | **8** | **64** | | **medium** |
| Grape | Vitis species | 10+ | 8 | 64 | | medium |
| Wisteria | Wisteria species | 10+ | 8 | 64 | | medium |

**Accents (and succulents)**

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Century Plant | Agave americana | 6+ | 6 | 36 | | low |
| Squid Agave | Agave bracteosa | 2 | 2 | 4 | | medium |
| Sharkskin Agave | Agave fernandi-regis | 2 | 2 | 4 | | low |
| **Big Bend Agave** | **Agave havardiana** | **3** | **3** | **9** | | **low** |
| **Lechuguilla** | **Agave lechuguilla** | **1** | **2** | **4** | | **low** |
| Center-stripe Agave | Agave lophantha | 2 | 3 | 9 | | **low, medium |
| **Mescal** | **Agave neomexicana** | **1** | **2** | **4** | | **low** |
| Ocahui | Agave ocahui | 2 | 2 | 4 | | low |
| **Palmer's Agave** | **Agave palmeri** | **3** | **4** | **16** | | **low** |
| **Parry's Agave** | **Agave parryi** | **1.5** | **2.5** | **6** | | **low** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Pulque | Agave salmiana or A. ferox | 4 | 4 | 16 | | low |
| Rough Agave | Agave scabra | 4 | 4 | 16 | | low |
| Queen Victoria Agave | Agave victoria-reginae | 1 | 1.5 | 3 | | low |
| Maguey | Agave weberi | 5 | 5 | 25 | | low |
| **Agave or Century Plant** | **Agave species** | **1+** | **2** | **4** | | ****low, medium** |
| **Tree Cholla** | **Cylindropuntia imbricata** | **6+** | **5** | **25** | | *****low, medium** |
| **Christmas Cholla** | **Cylindropuntia leptocaulis** | **3** | **3** | **9** | | **low** |
| **Cane Cholla** | **Cylindropuntia spinosior** | **6+** | **5** | **25** | | **low** |
| **Cholla** | **Cylindropuntia species** | **3** | **3** | **9** | | **low** |
| **Desert Candle** | **Dasylirion leiophyllum** | **6+** | **6** | **36** | | **low** |
| Texas Sotol | Dasylirion texanum | 4 | 4 | 16 | | **low, medium |
| **Desert Spoon or Blue/Gray Sotol** | **Dasylirion wheeleri** | **6+** | **6** | **36** | | **low** |
| **Blue Barrel or Eagle Claws** | **Echinocactus horizonthalonius** | **.5** | **.5** | **1** | | **low** |
| **Haystack or Strawberry Hedgehog** | **Echinocereus stramineus** | **4** | **4** | **16** | | **low** |
| **Hedgehog, Claret Cup** | **Echinocereus species** | **1+** | **a2** | **4** | | **low** |
| **Fishhook Barrel or Bisnaga** | **Ferocactus wislizenii** | **2+** | **2** | **4** | | **low** |
| **Red or Yellow Hesperaloe** | **Hesperaloe parviflora** | **3+** | **4** | **16** | | ****low, medium** |
| Giant Hesperaloe | Hesperaloe funifera | 5+ | 6 | 36 | | **low, medium |
| Mazari Palm | Nannorrhops richtiana | 4+ | 4 | 16 | | low |
| **Beargrass** | **Nolina greenei** | **4+** | **5** | **25** | | ****low, medium** |
| **Sacahuista** | **Nolina texana** | **3** | **4** | **16** | | ****low, medium** |
| Blue Nolina | Nolina nelsonii | 10+ | 8 | 64 | | **low, medium |
| **Beargrass** | **Nolina microcarpa** | **5** | **6** | **36** | | ****low, medium** |
| Tree Beargrass | Nolina matapensis | 9 | 7 | 49 | | low |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Desert or Engelmann Prickly Pear** | **Opuntia engelmannii** | **4+** | **7** | **49** | | **low** |
| **Blackspine Prickly Pear** | **Opuntia macrocentra** | **3** | **3** | **9** | | **low** |
| **Purple or Santa Rita Prickly Pear** | **Opuntia violacae** | **4** | **5** | **25** | | **low** |
| **Prickly Pear or Nopal** | **Opuntia species** | **4** | **4** | **16** | | **low** |
| Needle Palm | Rhapidiophyllum hystrix | 4+ | 4 | ***16 | | ***medium, high |
| Dwarf Palmetto | Sabal minor | 3+ | 4 | ***16 | | ***medium, high |
| **Banana Yucca or Datil** | **Yucca baccata** | **2+** | **4** | **16** | | **low** |
| **Thornber's Yucca** | **Yucca baccata var. thornberi or Y. arizonica** | **4+** | **6** | **36** | | **low** |
| Mound Lily | Yucca gloriosa | 6+ | 5 | 25 | | medium |
| Pale Yucca | Yucca pallida | 2+ | 2 | 4 | | **low, medium |
| Pendulous Yucca | Yucca pendula or Y. recurvifolia | 4+ | 3 | 9 | | medium |
| Twistleaf Yucca | Yucca rupicola | 2+ | 2 | 4 | | **low, medium |
| Yucca | Yucca species | 2+ | 3 | 9 | | **low, medium |

**Groundcover Plants (and wildflowers, bulbs, ornamental grasses, turf, annuals)**

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Sunset Hyssop** | **Agastache rupestris** | **2** | **2** | **4** | | ****low, medium** |
| **Agastache** | **Agastache species** | **2** | **2** | **4** | | ****low, medium** |
| **Golden Columbine** | **Aquilegia chrysantha** | **1.5** | **2** | *****4** | | *****medium, high** |
| **Purple Threeawn** | **Aristida purpurea** | **2** | **2** | **4** | | **low** |
| **Prairie Sage** | **Artemisia ludoviciana** | **1** | **2** | **4** | | ****low, medium** |
| Thompson Broom | Baccharis x Stam | 2 | 5 | 25 | | **low, medium |
| **Desert Bahia** | **Bahia absinthifolia** | **1+** | **1** | **1** | | **low** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Desert Marigold** | **Baileya multiradiata** | **1+** | **1** | **1** | | **low** |
| **Chocolate Flower** | **Berlandiera lyrata** | **1+** | **2** | **4** | | **low** |
| **Grama Grass** | **Bouteloua species** | **1+** | **1.5** | **5** | | ****low, medium** |
| Buffalo Grass | Bouteloua cultivars | n/a | n/a | n/a | | **low, medium |
| **Scarlet Bouvardia** | **Bouvardia ternifolia** | **1+** | **2** | **4** | | ****low, medium** |
| Bulbine | Bulbine frutescens | 1+ | 2 | 4 | | low |
| **Damianita** | **Chrysactinia mexicana** | **1** | **1.5** | **3** | | **low** |
| Bush Morning Glory | Convolvulus cneorum | 2 | 3 | 9 | | **low, medium |
| Crinum Lily | Crinum species | 1 | 1 | *1 | | *medium, high |
| Bermuda Grass | Cynodon cultivars | n/a | n/a | n/a | | *medium, high |
| Lemon Dalea | Dalea capitata | .5 | 3 | 9 | | **low, medium |
| Trailing Indigo Bush | Dalea greggii | .5 | 4 | 16 | | **low, medium |
| Iceplant | Delosperma species | .5 | 2 | 4 | | low |
| Silver Ponyfoot | Dichondra argentea | .5 | 3 | 9 | | **low, medium |
| **California Fuchsia or Hummingbird Trumpet** | **Epilobium species or Zauschneria species** | **.5+** | **2** | **4** | | **low** |
| **Wild Buckwheat** | **Eriogonum wrightii** | **1.5+** | **2** | **4** | | **low** |
| **Mexican Gold Poppy** | **Eschscholtzia mexicana** | **.5** | **1** | **1** | | **low** |
| Gopher Plant | Euphorbia rigida | 1 | 2.5 | 7 | | **low, medium |
| Turf-type Tall Fescue | Festuca cultivars | n/a | n/a | n/a | | high |
| **Blanketflower** | **Gaillardia species** | **1** | **1** | **1** | | *****low, medium** |
| **Verbena** | **Glandularia species** | **1** | **2** | **4** | | **low** |
| Firecracker Bush | Hamelia patens | 2 | 2 | 4 | | medium |
| Iris | Iris species | 2 | 1.5 | 3 | | medium |
| **Arizona Poppy or Caltrop** | **Kallistroemia species** | **.5+** | **2** | **4** | | **low** |
| Bush Lantana | Lantana camara | 2+ | 3 | 9 | | **low, medium |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| Lantana | Lantana species | 1+ | 3 | 9 | | **low, medium |
| Red Iceplant | Malephora crocea | 1 | 3 | 9 | | low |
| Yellow Iceplant | Malephora lutea | 1 | 3 | 9 | | low |
| Turk's Cap | Malvaviscus drummondii | 3 | 3 | 9 | | medium |
| Manfreda, Mangave | Manfreda species | 1 | 1 | 1 | | medium |
| **Blackfoot Daisy** | **Melampodium leucanthum** | **1** | **1.5** | **3** | | **low** |
| **Desert Four O'clock** | **Mirabilis multiflora** | **1+** | **3** | **9** | | **low** |
| Gulf Muhly | Muhlenbergia capillaris | 2+ | 3 | 9 | | medium |
| Bamboo Muhly | Muhlenbergia dumosa | 3+ | 3 | 9 | | **low, medium |
| **Bull Muhly** | **Muhlenbergia emersleyi** | **3+** | **3** | **9** | | ****low, medium** |
| **Deergrass** | **Muhlenbergia rigens** | **3+** | **4** | **16** | | **medium** |
| **Bush Muhly** | **Muhlenbergia porteri** | **2** | **2** | **4** | | **low** |
| **Muhly Grass** | **Muhlenbergia species** | **3** | **3** | **9** | | ****low, medium** |
| Catmint | Nepeta species | 1+ | 2 | 4 | | **low, medium |
| Evening Primrose | Oenothera species | 1 | 1.5 | 3 | | **low, medium |
| Barbary Ragwort | Othonna cheirifolia | 1 | 1.5 | 3 | | low |
| **Bush Penstemon** | **Penstemon ambiguus** | **3** | **3** | **9** | | **low** |
| Mexican Blue Penstemon | Penstemon amphorellae | 2 | 2 | 4 | | low |
| **Sacramento Penstemon** | **Penstemon alamosensis** | **2** | **2** | **4** | | **low** |
| Rock Penstemon | Penstemon baccharifolius | 2 | 2 | 4 | | low |
| **Firecracker Penstemon** | **Penstemon eatonii** | **2** | **3** | **9** | | **low** |
| **Fendler's Penstemon** | **Penstemon fendleri** | **2** | **2** | **4** | | ****low, medium** |
| **Cardinal Penstemon** | **Penstemon cardinalis** | **2** | **2** | **4** | | **low** |
| Parry's Penstemon | Penstemon parryi | 2 | 2 | 4 | | low |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Giant Wild Snapdragon** | **Penstemon palmeri** | **4** | **3** | **9** | | **low** |
| Coral Penstemon | Penstemon superbus | 2+ | 2 | 4 | | low |
| **Penstemon or Beardtongue** | **Penstemon species** | **2+** | **2** | **4** | | ****low, medium** |
| Jerusalem Sage | Phlomis fruticosa | 1 | 2 | 4 | | **low, medium |
| **Mexican Hat** | **Ratibida columnaris** | **2** | **2** | **4** | | ****low, medium** |
| Oxblood Lily | Rhodophiala bifida | 1 | 1 | 1 | | medium |
| Mexican Blue Sage | Salvia chamaedryoides | 1 | 2 | 4 | | **low, medium |
| Lipstick Sage | Salvia darcyi | 3 | 2 | 4 | | **low, medium |
| Mealy Cup Sage | Salvia farinacea | 2 | 2 | 4 | | **low, medium |
| **Crimson Sage** | **Salvia henryi** | **2** | **2** | **4** | | **low** |
| Santolina or Lavender Cotton | Santolina species | 2 | 3 | 9 | | low |
| **Little Bluestem** | **Schizachryium scoparium** | **2** | **2** | **4** | | ****low, medium** |
| Skullcap | Scutellaria species | 1.5 | 1.5 | 3 | | medium |
| **Globemallow** | **Sphaeralcea species** | **2** | **1.5** | **3** | | *****low, medium** |
| **Alkali Sacaton** | **Sporobulus airoides** | **2** | **3** | **9** | | **low** |
| **Giant Sacaton** | **Sporobulus wrightii** | **5+** | **7** | **49** | | *****low, medium** |
| **Sacaton, Dropseed** | **Sporobulus species** | **2** | **2** | **4** | | **low** |
| **Mountain Marigold** | **Tagetes lemmonii** | **3** | **3** | **9** | | ****low, medium** |
| Angelita Daisy | Tetraneuris acaulis | 1+ | 1 | 1 | | low |
| Greek Germander | Teucrium aronium | .5 | 2 | 4 | | low |
| Trailing Germander | Teucrium chamaedrys | 1 | 2 | 4 | | **low, medium |
| **Shrubby Dogweed** | **Thymophylla acerosa** | **.5** | **1** | **1** | | **low** |
| **Showy Dogweed** | **Thymophylla pentachaeta** | **.5** | **1** | **1** | | **low** |
| **Dahlberg Daisy** | **Thymophylla tenuiloba** | **.5** | **1** | **1** | | **low** |

| Common Name | Botanical Name | Height (ft.) | Width (ft.) | Area (sq. ft.) | Edible | Water Use Zone |
|---|---|---|---|---|---|---|
| **Skeletonleaf Goldeneye** | **Viguiera stenoloba** | **2** | **3** | **9** | | **low** |
| Creeping Myrtle | Vinca major | 1.5 | 3 | 9 | | medium |
| Rain Lily | Zephyranthes species | 1 | 1 | 1 | | **low, medium |
| **Desert Zinnia** | **Zinnia acerosa** | **1** | **1.5** | **3** | | **low** |
| **Prairie Zinnia** | **Zinnia grandiflora** | **.5** | **1** | **1** | | **low** |

5.7.9 Plants, Prohibited or Not Recommended, see Table 5.22.

**Table 5.22 Plant List, Prohibited or Not Recommended**

| Common Name | Botanical Name | Prohibited | Not Recommended |
|---|---|---|---|
| Tree of Heaven | Ailanthus altissima | invasive, water seeking roots | |
| Giant Cane | Arundo donax | invasive and aggressive, water seeking | |
| Desert Broom (female) | Baccharis sarothroides | | invasive d |
| Yellow Bird of Paradise | Caesalpinia gilliesii | | invasive into natural areas |
| Chitalpa | Chitalpa X tashkentensis | | Bacterial Leaf Scorch disease, short life span |
| Russian Olive | Eleagnus angustifolia | invasive, short lifespan | |
| Lehmann Lovegrass | Eragrostis lehmanniana | invasive and aggressive, dominates cleared land, fire hazard | |
| Raywood Ash | Fraxinus oxycarpa 'Raywood' | | attracts insects, stressed outside of lawns and heavily irrigated areas, damaging surface roots |
| Arizona Ash and cultivars such as 'Modesto' | Fraxinus velutina | | riparian native, stressed outside of lawns and heavily irrigated areas, damaging surface roots |
| Honeylocust | Gleditsia triacanthos | | stressed outside of lawns and heavily irrigated areas |
| Fountain Grass | Pennisetum sactaceum | invasive and aggressive | |

| Common Name | Botanical Name | Prohibited | Not Recommended |
|---|---|---|---|
| Cottonwood, Poplar | Populus spp. | within the right-of-way, within 50 ft. of structure or site improvement, water seeking roots, damaging surface roots | heavy water use with age, surface roots, weak branching/wood |
| Bradford Pear and cultivars | Pyrus calleryana | | stressed outside of lawns and heavily irrigated areas |
| Willow | Salix spp. | within the right-of-way, within 50 ft. of structure or site improvement, water seeking roots, damaging surface roots | heavy water use with age, surface roots, weak branching/wood, multiple disease and insect issues |
| Salt Cedar | Tamarix spp. | invasive and aggressive, water seeking roots | |
| Goathead or Puncture Vine | Tribulus terrestris | invasive and aggressive, reseeding, hazardous | |
| Siberian Elm | Ulmus pumila | invasive, water seeking roots, weak branching, damaging surface roots, short lifespan | |
| Chaste Tree | Vitex agnus-castus | | invasive reseeding into ponding and natural areas |

5.7.10 Landscape, Installation

Landscaping shall be installed per the approved plan prior to the issuance of a Certificate of Occupancy by Building Services. Modifications to approved plans shall be submitted to CDD and be in compliance with this chapter.

5.7.11 Landscape, Maintenance

The landscape shall be maintained in a live, weed-free, and litter-free condition. All landscaping shall be maintained to not interfere with required clearances nor constitute a traffic hazard per Section 6.2.4. The following requirements apply to the public right-of-way:

a. Dead plants shall be removed and replaced in compliance with this Chapter, within 60 days after notification from the Zoning Administrator.

b. Tree maintenance:

i. Right to Remove: The County may order or cause to be removed, all or part of any tree in an unsafe condition, interfering with infrastructure, or infected with insects, disease, or other pests.

ii. Tree Topping Prohibited: It is unlawful to top any tree or otherwise remove and/or disfigure the normal canopy of any tree. Trees severely damaged by storms or other causes, under utility wires or other obstructions, or where pruning is impractical are exempt.

iii. Palm and Yucca Foliage Removal Prohibited: Removal of dead foliage skirts on trunk below live crown is not permitted. Pruning for safety issues, insect swarms, or dead flower and fruit stalks are exempt.

iv. Overhanging Trees: A tree overhanging a right-of-way shall be pruned to not obstruct street light illumination or the view in any intersection and clear sight triangle per Section 6.2.4.

c. Other plant maintenance requirements:

i. All plants shall have natural forms retained during pruning or trimming, and to not obstruct the view in any intersection and clear sight triangle per Section 6.2.4.

ii. Shaping and heading back of plants is not permitted.

iii. Skinning and heading back of accent plant foliage is not permitted.

d. Irrigation maintenance requirements:

i. Leaks shall be repaired.

ii Drip Emitters and Heads: Maintenance is required to optimize water flow to plants.

iii. Controller settings including seasonal adjustments are required for proper timing and application of irrigation.

5.7.12 Buffer, General

Buffering mitigates incompatibility between adjacent land uses, as required in Table 5.23. The buffer shall be included in the Landscape Plan in Section 5.7.2.

5.7.13 Buffer, Location

Buffers shall be placed immediately inside the property line, with the following exceptions:

a. The Zoning Administrator may approve an alternate location for one of the following reasons:

i. The site is impractical due to terrain, visibility, or public safety; or

ii. The buffer is set back to avoid overshadowing or impinging on solar access and light for a neighboring property; or

iii. To remain clear of an easement.

b. The alternate location shall not be approved unless the DRC or the Zoning Administrator determines the following:

i. Alternate location buffer of a residential land use can be accomplished at least as well as with the required location; and

ii. Complies with the buffering requirements of Table 5.23.

5.7.14 Buffer, Construction

Buffers shall consist of any combination of the following:

a. Berms can be of appropriate earth or soil, or in combination with a retaining wall, and cannot exceed 1 foot of rise for every 5 feet of linear distance (5:1 slope).

b. Walls can be solid using opaque materials and fences can be open, using screening materials.

c. Vegetation shall meet landscaping requirements of this Chapter. Mature tree canopies shall not overhang the property line. Tree trunks shall be no less than 6 feet from the property line. Mature shrub and other plant canopies shall be no less than 2 feet from the property line.

5.7.15 Buffer Types

One of the following buffer types may be required based on the degree of separation necessary between land uses:

a. Buffer, Solid Wall Required: A solid wall or fence 6-8 feet high shall be constructed between the following uses and residential land uses: parking for 10 or more vehicles; loading zones; outdoor storage of vehicles and equipment; outdoor work yards; outdoor seating or entertainment space; other similar uses as determined by the Zoning Administrator.

i. The height of the wall shall be reduced or set back at a driveway or alley so as not to impinge on any clear sight triangle.

ii. If the wall plus retaining wall have an effective height of over 8 feet on the adjacent property, the Zoning Administrator shall determine the acceptable height.

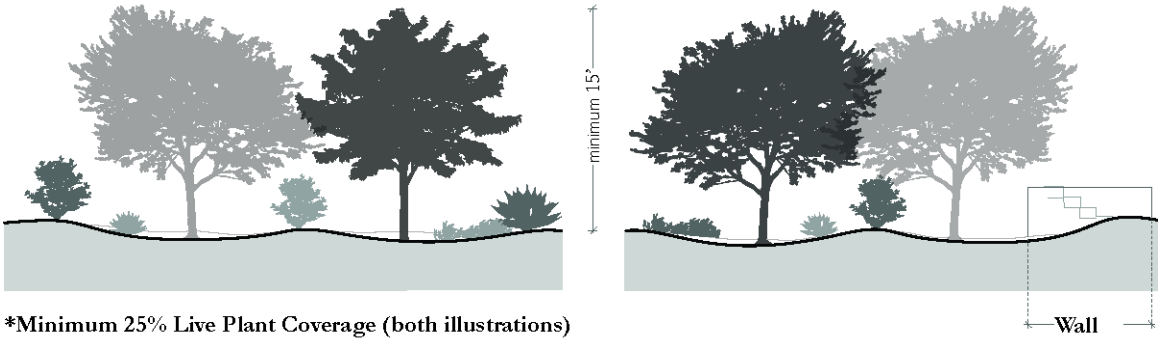
b Buffer, Landscaping Required: Landscape buffer assemblies of the classes in Section 5.7.16 shall be required as specified in Table 5.23.

5.7.16 Buffer, Landscape Buffer Classes

a. Buffer Class 1: Open Screen. Shall have a width of 12 feet, composed of intermittent visual obstructions from the ground to a height of 15 feet. Live plant cover: A minimum of 25% of provided buffer area. See Figure 5-2.

**Figure 5-2 Buffer Class 1: Open Screen Illustration**

Suggested planting patterns:



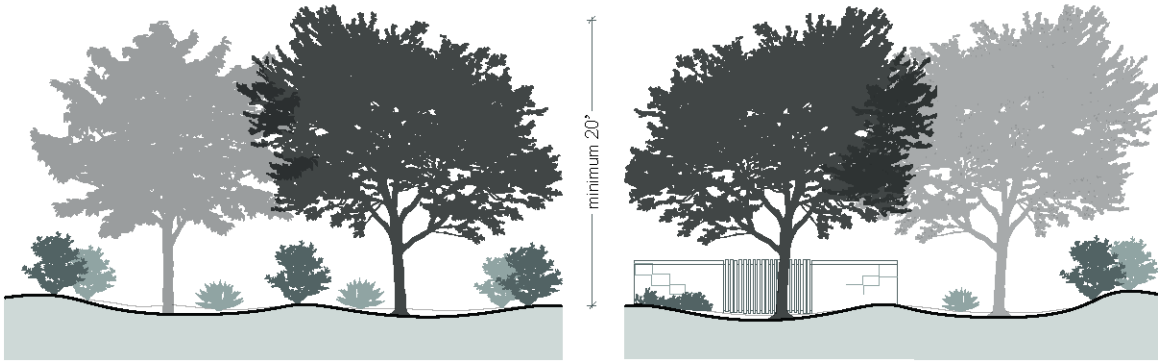

***Minimum 25% Live Plant Coverage (both illustrations)**

* Based on specific area calculations

b. Buffer Class 2: Semi-Opaque Screen. Shall have a width of 12 feet, composed of a screen that is opaque from the ground to a height of 3 feet, with intermittent visual obstructions to a height of 20 feet. Live plant cover: A minimum of 50% of provided buffer area. See Figure 5-3.

**Figure 5-3 Buffer Class 2: Semi-Opaque Screen Illustration**

Suggested planting patterns:




***Minimum 50% Live Plant Coverage (both illustrations)**

* Based on specific area calculations

c. Buffer Class 3: Opaque Screen. Shall have a width of 20 feet, composed of a screen that is opaque from the ground to a height of 6 feet with intermittent visual openings to a height of 20 feet. Live plant cover: A minimum of 75% of provided buffer area. See Figure 5-4.

**Figure 5-4 Buffer Class 3: Opaque Screen Illustration**

Suggested planting patterns:

***Minimum 75% Live Plant Coverage (both illustrations)**

* Based on specific area calculations

**Table 5.23 Buffer Class Requirements**

| Adjacent Zone | N | R5/R5L | T2 | T3/L | T4/M | T5/H | D1/D1L | D2/D2L | D3 | DM | MU | C1 | C2 | C3 | I1 | I2 | I3 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **N** | | | | | | | | | | | | | | | | | |
| **R5/R5L** | | | | 2 | 3 | 3 | | | 1 | 1 | 1 | 2 | 2 | 3 | 3 | 3 | 3 |
| **T2** | | | | 1 | 2 | 3 | | | 1 | 1 | 1 | 2 | 2 | 3 | 3 | 3 | 3 |
| **T3/L** | | 2 | 1 | 1 | 2 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 3 | 3 | 3 |
| **T4/M** | | 3 | 2 | 2 | 1 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 2 | 2 | 3 |
| **T5/H** | | 3 | 3 | 2 | 2 | 1 | 3 | 3 | 3 | 3 | 2 | 2 | 2 | 1 | 1 | 1 | 1 |
| **D1/D1L** | | | | 1 | 2 | 3 | | | 1 | 1 | 1 | 2 | 2 | 3 | 3 | 3 | 3 |
| **D2/D2L** | | | | 1 | 2 | 3 | | | 1 | 1 | 1 | 2 | 2 | 3 | 3 | 3 | 3 |
| **D3** | | 1 | 1 | 1 | 2 | 3 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 3 | 3 | 3 | 3 |
| **DM** | | 1 | 1 | 1 | 2 | 3 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 3 | 3 | 3 | 3 |
| **MU** | | 1 | 1 | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 3 | 3 | 3 |
| **C1** | | 2 | 2 | 1 | 1 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 3 | 3 |
| **C2** | | 2 | 2 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 2 | 3 | 3 |
| **C3** | | 3 | 3 | 2 | 1 | 1 | 3 | 3 | 3 | 3 | 2 | 1 | 1 | 1 | 1 | 2 | 3 |
| **I1** | | 3 | 3 | 3 | 2 | 1 | 3 | 3 | 3 | 3 | 3 | 2 | 2 | 1 | 1 | 1 | 2 |
| **I2** | | 3 | 3 | 3 | 2 | 1 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 2 | 1 | 1 | 1 |
| **I3** | | 3 | 3 | 3 | 3 | 1 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 2 | 1 | 1 |

**Legend:** Number indicates the buffer class required per Section 5.7.19

5.7.17 Walls or Fences, Location

Walls and Fencing shall be located on the property as follows and per Figure 5-5:

a. Wall or fence locations are described by the following:

i. "at the primary frontage" shall be one located between the line of the primary façade and the primary frontage property line.

ii. "at the secondary frontage" shall be one located between the secondary façade and the secondary frontage line and along the rear property line between the secondary frontage and any accessory building.

iii. "at the frontage" is a fence at the primary frontage or a fence at the secondary frontage.

iv. "at the side lot line" shall be one near the side property line and includes any returns to the elevation of a building on the property.

v. "at the rear lot line" or "at the rear lane" shall be one that extends along the rear of the property but is not a fence at the secondary frontage.

b. No fence shall extend beyond a property line and no fence shall impinge in a clear sight triangle.

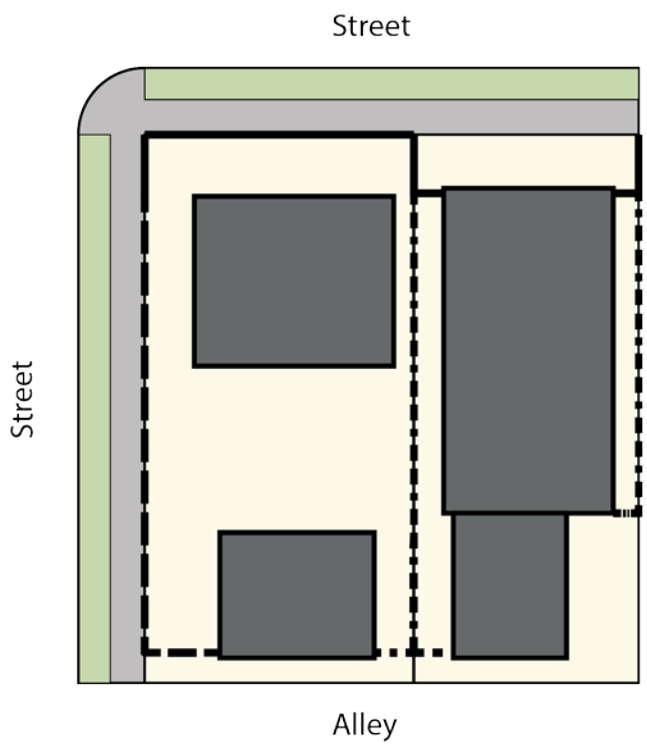
c. Fences between properties shall be built up to but not over the property line.

d. Fences at rear lanes/alleys shall not extend into the setback for accessory buildings.

e. Where an alley or service lane exists, the lots abutting the alley may erect a solid wall or fence.

**Figure 5-5 Wall or Fence Locations**

**Locations**




| | |
|---|---|
| | Wall or Fence at the Primary Frontage |
| | Wall or Fence at the Secondary Frontage |
| | Wall or Fence at a Side Lot Line |
| | Wall or Fence at the Rear Lot Line or on an alley |

5.7.18 Wall or Fence, Height. Wall and fence heights shall have minimum and maximum heights per Table 5.24 and shall be measured:

a. To the highest point of the wall, the top rail of a fence or to the top of a standard picket.

b. A primary or secondary frontage is measured from sidewalk grade where sidewalks are present or the adjacent grade of the right-of-way.

c. Between properties from the adjacent yard's grade.

d. Along a rear lane from the grade of the rear lane.

**Table 5.24 Wall or Fence Height (feet)**

| Wall or Fence Location | N | T2 | R5/R5L | L/T3 | M/T4 | H/T5 | D1/D1L | D2/D2L |
|---|---|---|---|---|---|---|---|---|
| Primary Frontage | | L | L | 3-3.5 | 3-4 | 3-4 | 3-3.5 | 3-4 |
| Secondary Frontage | | L | L | 3-5 | 3-5 | 3-5 | 3-5 | 3-5 |
| Side Lot Line | | L | L | 5-6 | 5-6 | 5-6 | 5-6 | 5-6 |
| Rear Lot Line | | L | l | 5-6 | 5-6 | 5-6 | 5-6 | 5-6 |
| **Wall or Fence Location** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
| Primary Frontage | 3-5 | 3-5 | 4-5 | 4-5 | 4-5 | 4-8 | 4-8 | 4-8 |
| Secondary Frontage | 3-5 | 3-5 | 3-5 | 3-5 | 3-5 | 4-8 | 4-8 | 4-8 |
| Side Lot Line | 5-6 | 5-6 | 5-6 | 5-6 | 5-6 | 5-8 | 5-8 | 5-8 |
| Rear Lot Line | 5-6 | 5-6 | 5-6 | 5-6 | 5-6 | 5-8 | 5-8 | 5-8 |
| **Legend** | | | | | | | | |
| As required for livestock L | | | | | | | | |

5.7.19 Wall or Fence, Type

Major wall and fence types are described in Table 5.26. They are permitted in land uses per Table 5.25.

**Table 5.25 Wall or Fence Type, Zones**

| Wall or Fence Location | N | T2 | R5/R5L | L/T3 | M/T4 | H/T5 | D1/D1L | D2/D2L | D3 | DM | MU | C1 | C2 | C3 | I1 | I2 | I3 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wall: Masonry or Cast-in-Place | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Fence: Wood or Metal (slats, verticals) | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Fence: Wood or Metal (rails) | | P | P | P | | | P | | | | | | | | | | |
| Fence: Wood Pole | P | P | P | P | | | P | | | | | | | | | | |
| Fence: Wire | P | P | P | P | | | P | | | | | | | | | | |
| Fence: Open Concrete Block | | P | P | P | | | P | | | | | | | | | | |
| **Legend** | | | | | | | | | | | | | | | | | |
| Permitted P | | | | | | | | | | | | | | | | | |

5.7.20 Wall and Fence Design

The general design of walls and fences is shown in Table 5.26. Wall and fence design shall meet the following requirements:

a. Walls: Reinforcement including rebar shall be incorporated into all walls including pilasters of the size and spacing per building codes.

b. Fencing: Supporting members and posts of a fence shall be on the inside of fence (toward the property interior), the smooth or flat faces on the outside. If two faces are used, each face shall be of the same type and finish.

c. Wood frontage fences shall be painted or stained.

d. Chain link fencing is permitted only at rear property lines, alleys, and side property lines. Chain link fencing shall be painted in dark colors.

e. Chain link fencing shall not be permitted on any street frontage.

f. Barbed wire fencing shall not be permitted on any lot except on agricultural properties and in industrial zones.

**Table 5.26. Wall or Fence Types, Illustrated**

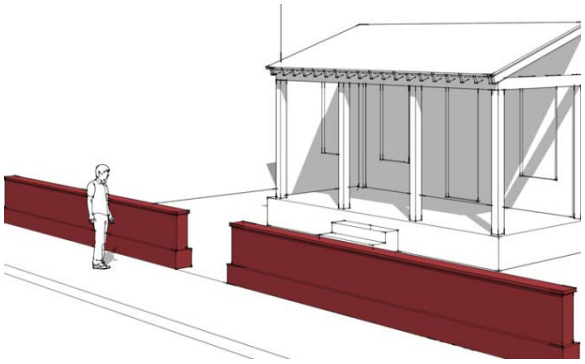
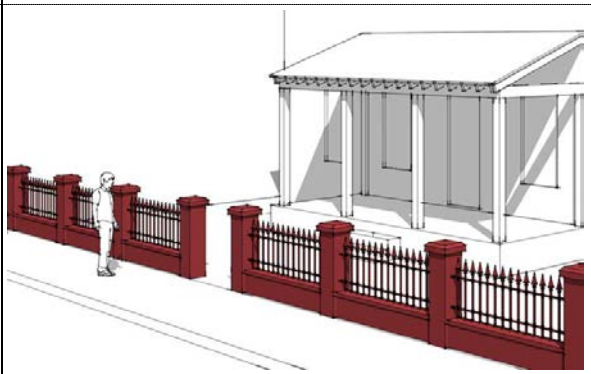
| Wall or Fence type | General Design |
|---|---|
| 1. Wall: Solid (masonry or cast-in-place) |  |
| 2a. Fence: Vertical Picket (wood or metal, with CMU, rock or adobe pilasters) |  |

**Table 5.26. Wall or Fence Types, Illustrated**

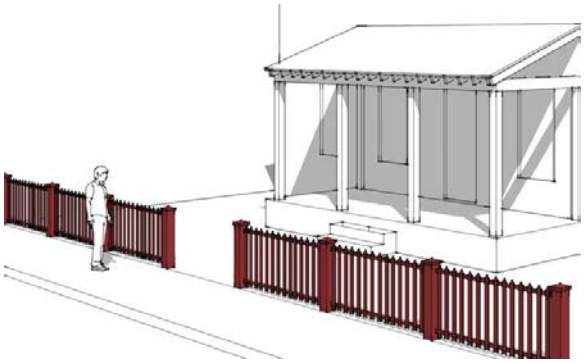
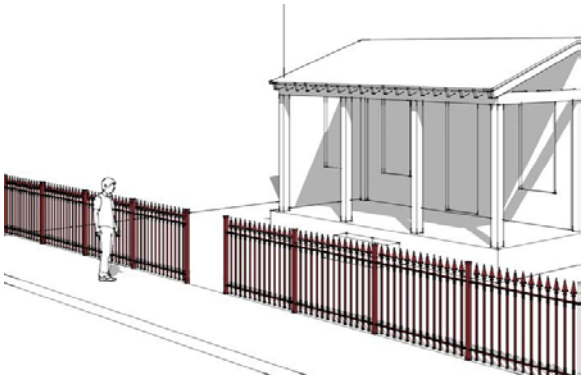
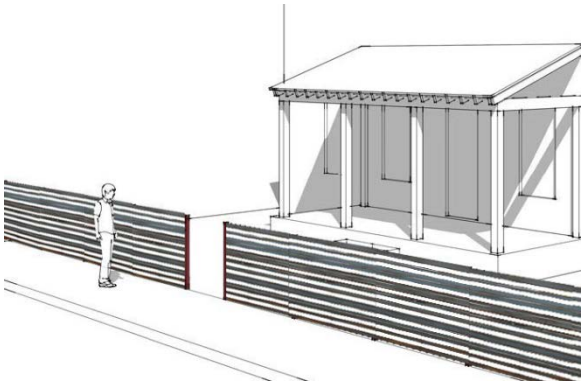
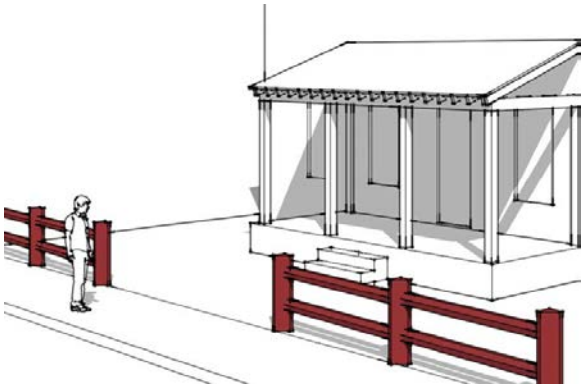
| Wall or Fence type | General Design |
|---|---|
| 2b. Fence: Vertical Picket (wood or metal, with wood or metal pilasters) |  |
| 2c. Fence: Vertical Picket (wood or metal) |  |
| 2d. Fence: Slat (metal or wood) |  |
| 3. Fence: Ranch or Rail (wood or metal sections) |  |

**Table 5.26. Wall or Fence Types, Illustrated**

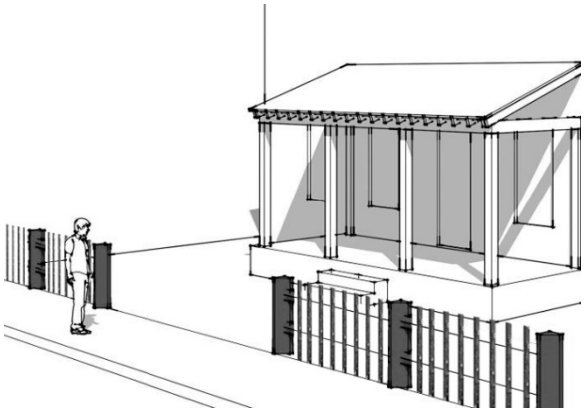
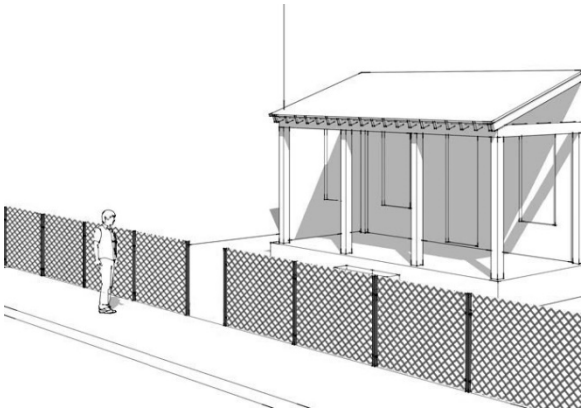
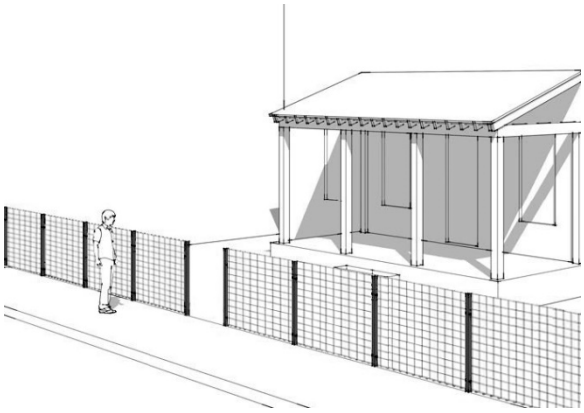
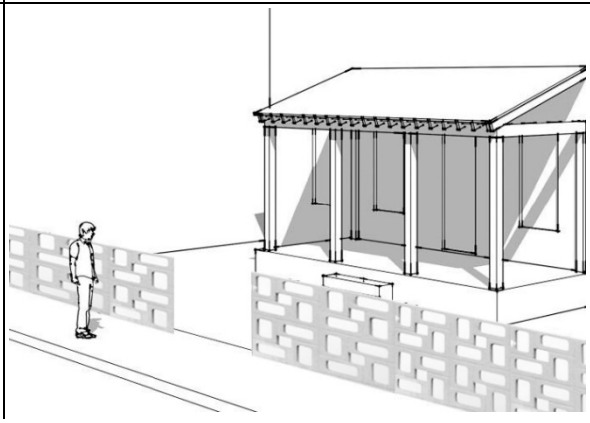
| Wall or Fence type | General Design |
|---|---|
| 4. Fence: Pole (wood latilla/coyote or ocotillo) |  |
| 5. Fence: Wire (metal, chain link or welded-wire mesh) |   |

**Table 5.26. Wall or Fence Types, Illustrated**

| Wall or Fence type | General Design |
|---|---|
| 6. Fence: Open Face (decorative CMU, cast-in-place concrete or metal) |  |

## 5.8 SIGNS

5.8.1 The regulation of permanent monuments, signs and markers within required buffers include the following:

a. Provide property owners and occupants an opportunity for effective identification and identification of place, goods sold or produced, or services rendered;

b. Reflect the character of the natural and built environments;

c. Maintain or improve the aesthetic character of their context, relate to any buffer walls and fencing, compliment architecture and landscaping, provide safe and non-obtrusive lighting, and not distract motorists or demand excessive attention; and

d. Protect pedestrians and motorists from injury and property damage wholly or partially caused by cluttered, distracting, poorly constructed or poorly maintained signs.

5.8.2 Permit Required

a. A sign permit shall be required before the erection, re-erection, construction, alteration, placement or installation of all signs regulated by this chapter, except according to Section 5.8.7. Additional electrical and building permits may also be required and shall meet all requirements of those permits. The following actions shall also require a valid sign permit:

i. Expansion to the face area or height of an existing sign.

ii. Change in location of an existing sign.

iii. Change in the dimensions of an existing sign.

5.8.3 Non-conforming Signs

a. Non-conforming signs may not be altered, changed in shape or size, raised, or replaced unless such action brings the sign into closer conformity with this chapter.

b. Non-conforming signs that do not comply with this section's prohibition of signs in the public right-of-way and prohibition of freestanding signs in the clear sight triangle shall be moved to comply with those subsections of this section within 180 days of adoption of this chapter. If a notice has been sent to a sign owner, lessee, or property owner indicating that a sign is in need of repair, alteration or removal because it is in violation of this section, the County may initiate proceedings to revoke the sign permit (if any was issued) and may remove the sign 30-180 days after the notice is sent; time may be reduced if it is a health and safety issue.

5.8.4 Prohibited Signs

The following signs are prohibited:

a. Any sign built or displayed without a permit, if a permit is required.

b. Any sign not expressly allowed in this section.

c. Signs that pose a distraction by blinking, flashing, fluttering, rotating and similar movement (actual or illusion), and other distractions identified by the Zoning Administrator. These restrictions do not apply to the following:

   i. Rotating barber poles at an approved barbershop;

   ii. Flashing and chasing lights on concessions and rides at fiestas, fairs and similar special events,

   iii. Warning signs placed by government authorities;

   iv. Strings of flashing and chasing lights displayed during the December holiday season, if such lights do not outline or highlight a sign;

   v. Display of the accurate time and temperature; and

   vi. Scotchlite or reflective tape.

d. Signs, except sidewalk signs within 5 feet of a curb or edge of a roadbed, that obstruct vehicular or pedestrian traffic or that obstruct the clear sight triangle.

e. Except as expressly permitted in this section, signs placed over the public right-of-way or public property or any sign that encroaches onto the right-of-way below 8 feet above the sidewalk or grade of the land.

f. Signs placed or painted on vehicles, trailers, or movable devices whose primary use is a sign, this includes the parking of such vehicle, trailer, or device in a manner as to constitute a sign. This does not include vehicles, etc., used in the course of usual business activities.

g. Signs that pose a safety hazard or block a clear view of surroundings.

h. Signs affixed to public or utility poles, street furniture, fences, walls, retaining walls or similar features.

i. Signs on natural features such as rocks, trees or outcroppings.

j. Banners, pennants, streamers and other fluttering devices except in Section 5.8.8.k.

5.8.5 Maintenance and Removal

a. Signs shall be maintained in conformity with the structural standards of the current Building Code adopted by the County and shall be kept clean and in good repair.

b. All braces, bolts, clips, fastenings and supporting frames shall be securely affixed to the support structure or wall. Signs shall be kept free of rust, rot, insect infestation, bird nests and other deterioration. Billboard posters shall be kept free of peeling, fading and other deterioration.

c. If the message portion of a sign is not maintained, is peeled or becomes faded and unreadable, the message portion shall be replaced within 30 days or the sign shall be removed. If structural elements of the sign structure separate or collapse, or fall into severe disrepair, the sign shall be removed if not replaced within 30 days.

d. If a sign is considered to be unsecured, unsafe or in danger of falling or if it is damaged, destroyed, taken down or removed for any purpose other than copy change, the sign shall be removed immediately or repaired and made to comply with all standards in this section. Such signs may be removed by the County and charged to the owner.

e. No sign shall be placed within any public right-of-way or on County property without the County's consent. Signs placed within the public right-of-way or on County property may be removed by the County and associated costs charged to the owner.

5.8.6 General to all Zones and Community Types, General Limitations

a. Mounting Hardware. Mounting hardware shall complement the design of the sign.

b. Illuminated Signs. Illuminated signs shall only be illuminated from dusk to dawn (or during similar darkness during storms), and shall permit no direct view of bulbs.

c. Coordinated Design. The signs within each property shall be coordinated in design when possible. For buildings with multiple signs, mounting hardware or sign shapes, sizes and colors shall be coordinated between the developer and the property owner.

d. Placement. Signs should be placed where the architectural features suggest the best placement for signage. They should be vertically aligned with the center of an architectural feature such as a storefront window, entry portal or width of a bay or overall retail space. They shall not interrupt or obscure these features or cause visual disharmony.

e. Wiring. Electrical raceways, conduits and wiring shall not be exposed. Internal lighting elements shall be contained completely within the sign assembly or inside the wall.

f. Sign Area. Height and width shall be measured using the smallest rectangle that fully encompasses the entire extent of letters, logo and background and shall only apply to one side of any sign that has two faces separated by a horizontal angle of 45 degrees or less. All freestanding signs may be double-sided.

g. Lettering design and construction. Signs shall use only cut-out letters, painted, etched and channel letters.

h. Mounting hardware. Mounting hardware, such as supports and brackets, may be simple and unobtrusive or highly decorative, but shall complement the design of the sign, the building, or both.

i. Encroachment. No sign may encroach beyond the property line except as specifically permitted for the type of sign in Sections 5.8.8 through 5.8.11.

5.8.7 Signs Permitted by Zone or Community Type

The following types of signs are permitted in all zones and community types but are not listed in Table 5.27 below: signs required by statute, signs not visible, address and name signs, curbside address signs, directional signs, future use, construction, real estate signs, historical markers, emblems, miscellaneous exempt signs, newspaper boxes, open house signs, public utility warnings, signs on vehicles, temporary commercial displays and temporary signs.

**Table 5.27 Signs Permitted by Zone or Community Type**

| **Sign Types** | **N** | **T2** | **R5/R5L** | **T3/L** | **T4/M** | **T5/H** | **D1/D1L** | **D2/D2L** | **D3** | **DM** | **MU** | **C1** | **C2** | **C3** | **I1** | **I2** | **I3** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ordering Board | | | | | OB | B | | | | | B | B | B | B | | | |
| Awning Sign | | B | | | B | B | | | | | B | B | B | B | | | |
| Band Sign | | B | | | B | B | | | | | B | B | B | B | B | B | B |
| Blade Sign | | B | B | B | B | B | | | | | B | B | B | B | | | |
| Marquee Sign | | | | | OB | B | | | | | B | B | B | B | | | |
| Monument Sign | | | | | OB | P | | | | P | P | P | P | P | P | P | P |
| Outdoor Display Case | | B | | | B | B | | | | | B | B | B | B | | | |
| Sidewalk Sign | | | | | OB | B | | | | | B | | | | | | |
| Shingle Sign | | B | B | B | B | B | | | | | | | | | | | |
| Window Sign | | B | | | B | B | | | | | B | B | B | | | | B |
| Yard Sign | B | B | B | B | B | B | B | B | B | B | B | B | B | B | B | B | B |
| Billboard | | | | | | | | | | | | | | C | C | C | C |
| Pole Sign | | | | | OB | P | | | | | | P | P | P | P | P | P |

| **LEGEND** | |
|---|---|
| Permitted | P |
| Permitted for business | B |
| Permitted for business in an "O" overlay | OB |

5.8.8 Signs Exempt from Permitting

The following types of signs shall not require sign permits and shall be permitted by right, provided that they obey the limitations herein.

a. Signs Required by Statute

b. Address Signs and Name Signs. Address signs and name signs, if they conform to the following limitations:

i. They shall be constructed of durable materials.

ii. Address signs and family name signs shall be of a single panel or individual letters.

c. Curbside Address Signs. Curbside address signs consisting of numbers painted on curbs. Such signs shall not be considered to be address signs.

d. Directional Signs. Directional signs shall list entrances, exists, parking locations, and other directional and safety information.

i. The Zoning Administrator may determine that additional directional signs are necessary for safety and wayfinding and shall permit or require them.

ii. The general description and additional limitations shall be as listed below:

**Directional Sign**

| | | |
|---|---|---|
| Description: A sign located on private property which displays warnings, instructions or directions and on which no other form of business promotion or advertising appears. | Permitted Quantity | 1 per curb cut or pedestrian entry |
| | Attachment | Building wall or freestanding |
| | Width | 2 feet (max) |
| | Height | 1 foot (max) |
| | Depth | 1 foot (max) |
| | Setback from a frontage line | 0 feet (min) |
| | Letter Height | 8 inches (max) |

e. Future Use, Construction and Real Estate Signs, Exempt. Signs shall indicate future use of the site, building or tenant space. The general description and additional limitations shall be as below:

**Future Use, Construction and Real Estate Signs, Exempt**

| | | |
|---|---|---|
| Description: A sign indicating the future use, construction, availability for rent or lease of the site, building or tenant space. | Permitted Quantity | 1 per future use or per lot |
| | Permitted Duration | 7 days after the use commences |
| | Attachment | Varies |
| | Area | 32 square feet (max) |
| | Setback from a frontage line | 10 feet if not attached to a wall |
| | Letter Height | 1 foot |

f. Historical Markers, Emblems. Historical markers, flags, seals, emblems and other official devices.

g. Miscellaneous Exempt Signs. Signs for rest rooms; logos of credit cards accepted; trading stamps; trade association and Chamber of Commerce membership; business hours; gasoline and car wash signs for pumps, oil racks, vacuum cleaners and supply racks; vending and newspaper machines and other similar signs as determined by the Zoning Administrator.

h. Newspaper Boxes. Newspaper boxes, mailboxes and other delivery enclosures not greater than 2 cubic feet in volume and bearing the address of the box or a logo of the box's owner or supplier.

i. Open House Signs. Open house signs up to 6 square feet in sign area may be displayed only while the event is in progress and shall not be placed in public rights-of-way or on public property.

j. Political Signs. No political sign shall exceed 32 square feet in sign area. No political sign may be erected sooner than 90 days prior to the election day or caucus day to which they pertain and shall be removed within 10 days following the same election or caucus. Advertising on a duly permitted billboard shall be exempt from the size and time limits stated in this subsection. Political signs are permitted to be placed on fences or walls (e.g., chain link fences, retaining walls, rock walls), but they are not permitted to be placed in clear sight triangles or in a manner that would prevent clear sight of vehicles.

k. Ordering Boards. The general description, permitted location in zones and additional limitations shall be as below:

**Ordering Board**

| | | |
|---|---|---|
| Description: A sign displaying the items offered at a business, typically for the convenience of drivers. | Permitted Quantity | 1 per business |
| | Attachment | Building wall or freestanding |
| | Area | 24 square feet (max) |
| | Setback from a frontage line | 20 feet (min) |
| | Letter Height | 8 inches (max) |

l. Public Utility Warnings. Public utility warning and underground utility identification signs.

m. Signs on Vehicles. Signs on vehicles and trailers that are currently operating and registered.

n. Temporary Signs. The Zoning Administrator shall determine the scope of this exception beyond the terms listed in the description below.

i. Signs that are permitted under other provisions of this section shall not meet the exception for temporary signs.

ii. The general description and additional limitations shall be as listed below:

**Temporary Sign**

| | | |
|---|---|---|
| Description: Signs and decorations including but not limited to "for sale," "for | Permitted Quantity | Varies |
| | Permitted Duration | 32 days (max) |
| | Attachment | Varies |

| | | |
|---|---|---|
| rent," "for lease," "open house," personal opinion, political and "garage sale" signs, construction signs, holiday decorations and signs advertising home tours, fairs, fiestas and other similar events. | Width | 8 feet (max) |
| | Height | 8 feet (max) |
| | Area | 36 square feet (max) |
| | Setback from a frontage line | 20 feet |
| | Letter Height | Varies |

5.8.9 General to all Zones and Community Types, Limitations by Type

a. Limitation on Information. The following types of signs shall not list products, sales or other promotional messages or contact information: awning, band, blade, monument, pole, roof or wall.

b. Awning Signs. Awning signs shall not be internally illuminated or backlit. The general appearance and additional limitations are listed below:

**Awning Sign**

| | |
|---|---|
| Permitted Quantity | 1 per window |
| Attachment | Wall above window |
| Width | Width of façade (max) |
| Depth/projection | 4 feet, (min) |
| Clearance from pavement | 8 feet (min) |
| Letter Height | 5-10 inches |
| Sign Area | 70% of each fabric plane (max) |
| Valance Height | 1 foot (max) |
| Distance from curb | 2 feet (min) |

c. Band Signs. The following band sign construction types are permitted: cut-out letters individually attached to the wall or on a separate background panel, and externally illuminated; flat panel letters printed or etched on the same surface as the background, which is then affixed to the wall and externally illuminated; translucent or solid channel letters, if each has its own internal lighting element and is individually attached to the wall or onto a separate background panel. The general appearance and additional limitations are listed below:

**Band Sign**

| | |
|---|---|
| Permitted Quantity | 1 per frontage |
| Attachment | Wall (fascia) above windows or doors |

| | |
|---|---|
| Width | 90% of width of the façade (max) |
| Height | 3 feet (max) |
| Depth/projection | 7 inches (max) |
| Clearance from pavement | 7 feet (min) |
| Letter Height | 18 inches (max) |

d. Blade Signs. Blade signs shall not encroach above the roof line or above the bottom of the second story window. The general appearance and additional limitations are listed below:

**Blade Sign**

| | |
|---|---|
| Permitted Quantity | 1 per frontage or 1 per 1st floor entry |
| Attachment | Wall |
| Width | 4 feet (max) |
| Height | 4 feet (max) |
| Depth/projection | 4 feet (max) |
| Clearance from pavement | 7 feet (min) |
| Letter Height | 8 inches (max) |
| Distance from curb | 2 feet (min) |

e. Future Use, Construction and Real Estate Signs, Non-exempt. Construction, future use and real estate signs that are greater than 32 square feet in area require a sign permit, but signs of 32 square feet or smaller do not. The general description and additional limitations shall be as follows:

**Future Use, Construction and Real Estate Signs, Non-Exempt**

| | | |
|---|---|---|
| Description: A sign indicating the future use, construction, availability for rent or lease of the site, building or tenant space. | Permitted Quantity | 1 per future use or per lot |
| | Permitted Duration | 7 days after the use commences |
| | Attachment | Varies |
| | Area | 32 square feet (min) |
| | Setback from a frontage line | 10 feet if not attached to a wall |
| | Letter Height | 1 foot |

f Marquees. Marquees shall be located only above the principal entrance of a building housing a theater, auditorium, ballroom or similar venue.

i. All marquees, including anchors, bolts, supporting rods and braces shall be constructed of non-combustible materials and shall be designed by a structural engineer and approved by the Building Inspector.

ii. While marquees' components and materials may vary, anchors, bolts and supporting rods should be limited to the interior of the marquee.

iii. Message boards shall be permitted as part of marquees, and shall be limited only by the width of the entrance and the permitted encroachment, except that the sides and front of the marquee shall not exceed 60 linear feet in total.

iv. The general appearance and additional limitations are listed below:

**Marquee Sign**

| | |
|---|---|
| Permitted Quantity | 1 per business or civic use |
| Attachment | Wall above entrance |
| Width | Entrance plus 2 feet on each side |
| Height | 4-10 feet |
| Depth/projection | 10 feet (min) |
| Clearance from pavement | 10 feet (min) |
| Letter Height | 8 inches (min) |
| Distance from curb | 3 feet (min) |

g. Monument Sign. A monument sign may contain the names of all tenant(s) or occupant(s) of the building. The general appearance and additional limitations are listed below:

**Monument Sign**

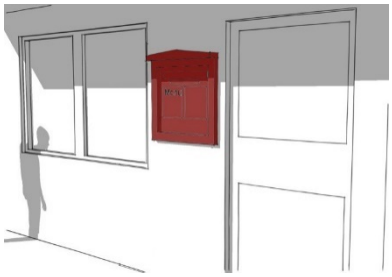
| | |
|---|---|
| Permitted Quantity | 1 per lot, or 2 if frontage > 600 feet |
| Width | 4 feet (max) |
| Height | 6 feet (max) |
| Depth | 1 foot (max) |
| Apex | 6 feet 6 inches (max) |
| Distance from curb | 10 feet (min) |
| Setback from a frontage line | 5 feet or 30 feet from a controlled access highway |

h. Outdoor Display Case. Outdoor display cases may be externally or internally illuminated.

i. Theaters, movie theaters and other places of assembly are permitted outdoor display cases 12 square feet in area.

ii. The general appearance and additional limitations are listed below:

**Outdoor Display Case**



| | |
|---|---|
| Permitted Quantity | 1 per qualifying use |
| Attachment | Building wall, 10 feet of entry (max) |
| Width | 3.5 feet (max) |
| Height | 3.5 feet (max) |
| Area | 6 square feet (max) |
| Depth/projection | 5 inches (max) |
| Clearance from pavement | 4 feet (min) |
| Sign Area | 70% of each fabric plane (max) |
| Valance Height | 1 foot (max) |
| Distance from curb | 2 feet (min) |

i. Sidewalk Signs. Sidewalk signs shall consist of freestanding, double-sided temporary signs placed near the entrance to a business in a primarily pedestrian environment

i. No more than 1 sidewalk sign is permitted for each business.

ii. Sidewalk signs shall be removed at the close of business each day and whenever high winds or other weather conditions might pose a hazard to safety.

iii. Sidewalk signs shall not exceed 42 inches in height or 26 inches in width.

iv. Sidewalk signs shall not impede ADA accessibility.

v. The general appearance and additional limitations are listed below:

**Sidewalk Sign**

| | |
|---|---|
| Permitted Quantity | 1 per frontage or 1 per 1st floor entry |
| Attachment | Freestanding, weighted |
| Width | 2 feet 2 inches (max) |
| Height | 3 feet 6 inches (max) |

| | |
|---|---|
| Area | 3 square feet (max) |
| Distance from curb | 2 feet (min) |

j. Shingle Signs. Shingle signs shall not encroach above the roof line or above the bottom of the second story window. The general appearance and additional limitations are listed below:

**Shingle Sign**

| | |
|---|---|
| Permitted Quantity | 1 per frontage or 1 per 1st floor entry |
| Attachment | Wall or awning |
| Width | 2 feet (max) |
| Height | 3 feet (max) |
| Depth/projection | 2 feet (max) |
| Clearance from pavement | 7 feet (min) |
| Letter Height | 8 inches (max) |
| Distance from curb | 2 feet (min) |

k. Temporary Commercial Displays. A temporary commercial display may incorporate the following items: banners, pennants, streamers and balloons which are not to exceed 30 feet from the ground to the top of the balloon. Balloons cannot be placed on top of a building; one portable sign, not flashing.

i. A sign permit is required for a temporary commercial display. A bond shall be posted by the display builder or business to ensure that the display will be removed when the sign permit expires. If the display is not removed within two days after the sign permit expires, the County may remove the display.

ii. The general description and additional limitations are listed below:

**Temporary Commercial Displays**

| | | |
|---|---|---|
| Description: A sign indicating the future use of the site, building or tenant space. | Permitted Quantity | Varies |
| | Permitted Frequency | Four occasions per year |
| | Permitted Duration | 14 days per occasion |
| | Attachment | Varies |
| | Height, Balloons | 30 feet from the ground (max) |

| | | |
|---|---|---|
| | Area | Varies |
| | Setback from a frontage line | 5 feet or 30 feet from a controlled access highway. |

l. Window Signs

i. Window signs shall consist of individual vinyl appliqué letters or graphics applied to the window; letters painted directly on the window; hanging signs suspended behind the window; neon signs; or door signs applied to or hanging inside the glass portion of an entrance doorway.

ii. Window signs shall not interfere with the primary use of windows, which is to enable passersby and public safety personnel to see through windows into premises and view product displays.

iii. Other forms of signs in windows shall be deemed to be temporary signs. See Section 5.8.8.

iv. The general appearance and additional limitations are listed below:

**Window Sign**

| | |
|---|---|
| Permitted Quantity | 25% of glass in each window |
| Attachment | Window surface |
| Width | Varies |
| Height | Varies |
| Clearance from pavement | 4 feet (min) |
| Apex | 6 feet 6 inches (max) |
| Letter Height | 8 inches (max) |

m. Yard Signs.

i. A business that has a setback sufficient to accommodate a yard sign shall be permitted one yard sign.

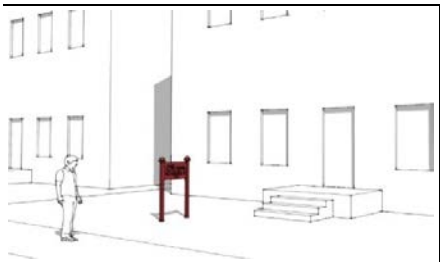
ii. A yard sign shall be set back at least 6 feet from the frontage line and shall not exceed 6 square feet in area excluding posts or 6 feet in height including posts.

iii. The general appearance and additional limitations are listed below:

**Yard Sign**

| | |
|---|---|
| Permitted Quantity | 1 per lot |
| Attachment | Freestanding on 1-2 poles |
| Width | Varies |

**Yard Sign**

| | | |
|---|---|---|
|  | Height | 6 feet (max) |
| | Depth | 1 foot (max) |
| | Setback from a frontage line | 6 feet (min) |

5.8.10 Use Zones, Limitations by Transect or Community Type

a. Awning, Band, Blade, Roof, Projecting, Wall and Window Signs. The areas of awning, band, blade, projecting, roof, wall and window signs shall be allocated from a total budget to be calculated as follows: 3 square feet of sign area for each linear foot of wall on which the sign will be placed or at least 32 square feet of sign allowed for each business.

b. Pole Sign. The general description and additional limitations shall be as listed below:

**Pole Sign**

| | | |
|---|---|---|
| Description: An outdoor sign that is mounted on one or more freestanding poles or other support so that the bottom edge of the sign face is not in direct contact with a solid base or the ground. | Permitted Quantity | 1 per frontage |
| | Permitted Size, 100-300 ft. frontage | 100 square feet (max) |
| | Permitted Size, 300-600 ft. frontage | 150 square feet |
| | Permitted Sixe, min 600 ft. frontage | 200 square feet |
| | Height | 20 feet |
| | Setback from a frontage line | 5 feet or 30 feet from a controlled access highway |

5.8.11 Billboards

a. General. The general description and additional limitations shall be as listed below:

**Billboard**

| | | |
|---|---|---|
| Description: A large outdoor sign typically designed to be read from a moving vehicle. | Format A | Controlled access highways; additionally major arterials in T2/R Zone only |
| | Format B | Controlled access highways; additionally major arterials in T2/R Zone only |
| | Format C | Controlled access highways |
| | Minimum Spacing (all formats) | No less than 1,000 feet on limited access highways, including those in other jurisdictions |

| | | |
|---|---|---|
| | Height (all formats) | 45 feet from ground but no more than 30 feet above the roadway grade level. |

b. Format. The allowed dimensions of a billboard face not including frame, are below. Where billboards vary from these formats, they will be deemed to be in the next size larger but shall not exceed Format C.

**Billboard Face Format**

| | |
|---|---|
| Format A | 12 feet wide, 6 feet in height (72 square feet) |
| Format B | Larger than Format A; up to 24 feet wide, 12 feet in height (288 square feet) |
| Format C | Larger than Format B; up to 48 feet wide, 14 feet in height (672 square feet) |
| Cutouts | Additional 40 square feet, but not more than 10% of sign area (all formats) |

c. Design. Two billboard faces, back to back, or V-shaped with no more than a forty-five degree angle of separation are allowed on a structure. Vertical and horizontal stacking of billboard faces are prohibited. Billboards shall be supported by one or two metal poles or metal-sheathed wood poles or any other construction material provided the construction plans are stamped by a New Mexico licensed engineer. Billboards as attached signs are prohibited.

## 5.9 MOBILE HOMES, MOBILE HOME PARKS, AND MOBILE HOME SUBDIVISIONS

The purpose of these regulations for mobile homes, mobile home parks and mobile home subdivisions is to ensure that they are a safe and healthy place to live and designed in a pattern of thoroughfares and blocks that is compatible with other types of development.

5.9.1 Mobile Homes in all Zones

a. Permits Required. A mobile home installation permit shall be required for a mobile home in addition to a zoning approval.

b. Principal Buildings and Accessory Buildings. See Table 5.1 Land Use Classification Matrix: Zoning Districts for the list of permitted uses.

c. Special Flood Hazard Areas. See Article 6.

5.9.2 Mobile Home Parks

The following development standards apply to mobile home parks:

a. Vehicular Access. All mobile home parks shall have vehicular access from a dedicated right-of-way. Secondary access shall be provided where there are more

than 31 mobile home sites. Secondary access shall be 20 feet wide and shall be improved.

b. Thoroughfares and Blocks. The mobile home park shall be designed with thoroughfares and blocks with no block exceeding 500 feet in length, measured at the edge of the areas assigned to each mobile home. Each mobile home site shall have direct access to a thoroughfare internal to the mobile home park.

c. Thoroughfare Layout. Thoroughfare layout shall be designed for preservation of natural features, to follow topography to the greatest extent possible consistent with Subdivision Regulations.

d. Pavement. All thoroughfares within a mobile home park shall be surfaced as an improved roadway to prevent potholes and blowing dust and shall provide adequate emergency access.

e. Connectivity and Network. Both ends of every thoroughfare segment in the mobile home park shall terminate at an intersection, and the thoroughfares shall form a network bounding blocks and extending in all directions. The DRC may review a variance to this requirement where the terrain or the width of the parcel to be subdivided is such that it is not practical to serve an area except by a cul-de-sac, see Section 5.2.3. No cul-de-sac shall exceed 600 feet or ½ block in length for its zone, to the center of its bulb.

f. Pedestrian Walks. There shall be a network of pedestrian walks, or pathways, connecting mobile home sites with each other and with mobile home park facilities and shall comply with current ADA Standards.

g. Mobile Home Subdivision. A mobile home park may be subdivided into fee-simple properties if those properties each individually satisfy the zoning requirements for the zone and also satisfy the development standards of the DM Zone.

h. Drainage. All mobile home sites and thoroughfares shall be designed to ensure proper drainage. The County Engineer shall approve a complete drainage plan.

## 5.10 HOME OCCUPATION PERMITS

The purpose of a home occupation permit is to allow limited commercial endeavors involving the manufacturing, purchase, sale, lease or exchange of goods, and/or the provision of services within a residential dwelling, or accessory building associated with a residential dwelling. In circumstances where the home occupation is secondary and incidental to the primary residential use of the residential dwelling, or accessory building associated with a residential dwelling, provided the home occupation does not alter the exterior of the dwelling and property or materially affect the residential nature of the neighborhood. For purposes of this section, the term "residential dwelling" shall include any accessory building associated with a residential dwelling.

a. It is a violation of this code for any person or entity having legal or equitable ownership or physical custody of, or control over, a residential dwelling, to operate, or to allow the operation of, a home occupation within such residential dwelling, regardless of zoning district, without first obtaining a home occupation permit in

compliance with the requirements of this code. In addition to the home occupation permit itself, the applicant for such permit must obtain a business registration in compliance with the Business Registration Fee provisions of Doña Ana County Code Chapter 154 and must comply with all other codes and ordinances, including, but not limited to, those relating to parking, landscaping, drainage, and building requirements.

b. A home occupation may be permitted in any residential dwelling, subject to the following requirements and limitations.

   i. No more than two (2) people, in addition to the permanent occupants residing on the premises, shall be engaged, whether paid or not, in the home occupation.

c. The home occupation use of a residential dwelling or accessory building associated with the residential dwelling must be clearly incidental and subordinate to the primary residential use of the property, except for day care or child care services.

d. Any storage associated with the home occupation shall be completely enclosed within the residential dwelling and such storage shall not exceed 600 square feet in area.

e. As a result of the home occupation there must be no change in the outside appearance of the residential dwelling or the premises, except as to signage described in the paragraph below, and there must be no other evidence of the conduct of a home occupation visible to the public.

f. Only one sign, one square foot in size, non-illuminated, free-standing or mounted flush against the residential dwelling, shall be permitted which refers to the home occupation.

g. No equipment, material, or process shall be used in a home occupation that creates noise, glare, vibration, dust, fumes, odor or electrical interference detectable at the property line or creates visual or audible interference with any radio, television receiver or computer on or near the premises or that exceeds that which is normally found in a residential area.

h. There shall be no hazardous, explosive, highly flammable, combustible, corrosive, radioactive or other restricted materials used or stored on the premises of a home occupation beyond the amount normally kept at a residential dwelling for residential use. The use or storage of all such materials must comply with the Doña Ana County Fire Code.

i. The utility use associated with the home occupation must comply with the public utility rules and regulations applicable to residential dwellings.

j. Home Occupation Parking Requirements:

   i. On-street parking for customers or clients in connection with a home occupation shall be permitted only if the residential nature of the neighborhood remains unaffected.

ii. No more than two customer or client vehicles shall be parked at or near a home occupation at any one time, except for instructional service, day care or child care services.

iii. Vehicles larger than one ton in carrying capacity that are used in connection with a home occupation shall be stored or parked in a structure or other enclosure out of public view. Semi-trailer trucks, cabs and trailers with weight limitations shall not be used or stored in conjunction with a home occupation.

iv. A home occupation shall not cause the elimination of any off-street parking required by law for the occupants of the dwelling unit.

k. Home occupation permits may be approved for the following activity categories: Professional Office, Professional Service, Instructional Service, Home Artisan Business, Small Item Repair Service and Day Care/Child Care Service. Home occupation permits may be approved for Automotive Service per Table 5.1 in the T4 Zone.

i. Professional Office includes offices for accountants, appraisers, architects, attorneys, contractors, engineers, financial planners, insurance agents, consulting services, real estate sales and similar office uses.

ii. Professional Service includes home occupations involving computer programming and internet/website development, beautician/hairdresser/ barber services, direct distribution, maid services, mail order, massage therapy, ironing, pet grooming, telephone/fax answering, word processing and similar service uses. Beauticians/hairdressers/barbers and massage therapists licensed by the State of New Mexico shall be limited to one customer station per residential property for the home occupation.

iii. Instructional Service includes educational tutoring, music instruction and similar instructional services. A maximum of five students may be at the dwelling at any one time.

iv. Home Artisan Business shall include business related artist studios, cabinet making, dress making, engraving, furniture making, crafting, jewelry making, sewing, tailoring, writing studios, small scale pickling/canning activity and similar uses.

v. Small Item Repair Service includes bicycle, computer, television, vacuum cleaner, locksmith, watch, tool, shoe and similar repair services.

vi. Day Care/Child Care Service must be in compliance with state licensing regulations. Any Day Care/Child Care Service home occupation involving more than six children being at the residential dwelling at the same time shall be allowed only upon approval of a special use permit (S).

l. The following activities shall be prohibited as home occupations: adult bookstores/video stores, adult amusement establishments, health and exercise facilities, motor vehicle repair services, tattoo/body piercing parlors, auto or truck repair, motorcycle repair, lawn mower repair, large appliance repair, internal

combustion engine repair and similar activities except as permitted in T4 per Table 5.1

m. An activity not specially enumerated under the activity categories listed above may be permitted by the Zoning Administrator if the applicant for a home occupation permit can establish that the proposed activity is reasonably similar in size, scope, use, and intensity as an enumerated home occupation activity.

n. Home Occupation Permit Approval

i. Application. Application for a home occupation permit must be submitted to the Doña Ana County Community Development Department (CDD) on an official form developed for that purpose along with payment of the application fee. The proposed home occupation activity shall be reviewed for compliance with all applicable statutes, ordinances and regulations.

ii. Review and Scope. As part of the review and approval process, the applicant for a home occupation permit shall provide a site plan, providing clients frequent the home occupation, which at a minimum shall consist of a scaled drawing showing property line dimensions, the location, dimensions and setbacks of all structures, driveway access, parking areas and proposed signage. In addition, the County may require an applicant for home occupation permit to submit additional documentation describing in detail the equipment, materials or processes to be used in connection with the home occupation and to allow inspection of the premises proposed for the home occupation in order to determine compliance with all applicable statutes, ordinances and regulations. Applications for home occupation permits that do not meet the requirements of all other applicable statutes, ordinances or regulations shall be denied.

iii. Business Registration. A home occupation permit, although approved, shall not be effective until the applicant obtains a Tax Identification Number from the State of New Mexico and a Doña Ana County business registration approved by the CDD.

iv. Renewal. The business registration associated with a home occupation Permit must be renewed on an annual basis on an official form developed by the Doña Ana County Clerk's Office for that purpose. A home occupation permit need not be renewed unless there is a material change in the home occupation activity, or its location, or there is a material increase in the permitted activity's size, scope, or intensity from that originally permitted.

v. Expiration. The home occupation permit shall remain in effect until such time as the home occupation activity is no longer in operation as originally approved, the annual business registration is not renewed or approved, or it is determined that a violation of the home occupation provisions of this code or the provisions of any other applicable statute, ordinance or regulation has occurred, and the home occupation permit or business registration is revoked.

o. Revocation of Home Occupation Permit; Enforcement

i. A home occupation permit may be revoked for the violation of, or noncompliance with, the provisions of this Code or any other statute, ordinance, or regulation relevant to the home occupation activity. In addition, a home occupation permit may be revoked upon one or more of the following:

1) A non-permitted material change in home occupation activity or a change in location or a material increase in the permitted activity's size, scope or intensity from that originally permitted.

2) A failure by the applicant to maintain a valid business registration or other license required for the home occupation.

3) A failure by the applicant to allow reasonable inspection of the approved premises at reasonable times for the purpose of determining compliance with the home occupation provisions of this Code.

4) The submission of false or materially misleading information on a home occupation permit application.

ii. Any home occupation permit shall, upon revocation, become null and void, and any use of the property approved under such home occupation permit shall immediately cease.

iii. Home Occupation Inspections. As a condition of approval of a home occupation permit, an applicant shall be deemed to consent to reasonable inspection of the approved premises at reasonable times by County officials, including Community Development staff, law enforcement and Code Enforcement Officers for the purpose of determine compliance with the provisions of this Code.

iv. Prior to revoking a home occupation permit or taking other enforcement action for a violation of the home occupation provisions of this Code, the County shall notify the applicant listed on the home occupation permit of such violation by certified mail, to the address listed on the home occupation permit application. Enforcement action may include, but is not limited to, revocation of a home occupation permit and prosecution in Magistrate or District Court. The notification shall include:

1) A specific description of the violation.

2) The specific actions to be taken by the applicant that are necessary to correct the violation.

3) A demand that the violation be corrected within a specific period of time not to exceed 30 calendar days from the date of the notice. The demand may specify a reasonable period of time less than 30 days for violations having a material adverse impact upon public health or safety.

4) A description of further action the County may take if the violation is not corrected within the specified time period.

v. If the violation is not corrected within the time period stated in the demand notice, the County shall send notice of the revocation of the home occupation permit by certified mail, return receipt requested, to the address provided on the home occupation permit application at least 5 days prior to the effective date of the revocation and the initiation of any other enforcement action, including, but not limited to, prosecution in court.

vi. Any person aggrieved by the revocation of a home occupation permit may, within 10 working days from the effective date of the revocation, appeal to the P&Z by filing with the Zoning Administrator written notice stating the nature of the appeal and the specific reasons therefore.

vii. The notice, demand and revocation procedures set forth above, shall not be required when home occupation activities are being conducted without a home occupation permit in violation of this Code. Such violations may be enforced as any other violation of this Code may be enforced.

## 5.11 KEEPING OF ANIMALS

### 5.11.1 Purpose

The following regulations are established for the keeping of animals, which are included in the classes of domestic horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervideae (deer and elk). This definition does not include feline or canine animals. The keeping of large animals shall be allowed on properties of 0.75 of an acre or larger. If properties are less than 0.75 of an acre in size, a special use permit (S) is required. Youths participating in 4H or FFA sanctioned projects/programs shall be granted a 4H/FFA Exemption provided the meet the requirements of Section 5.11.5 below.

a. All properties shall have a minimum of 32,670 square feet (3/4 of an acre) for the keeping of large animals.

b. Density limitation for livestock is not applicable to young animals born on the property to existing animals and below weaning age or six (6) months of age, whichever is greater.

c. On properties of 3/4 acre or more, horses, mules, donkeys, swine, llamas, bovines and peacocks shall have a minimum open property area of 1,000 square feet for each animal, provided they meet the following density requirements:

i. Properties between 3/4 and 1 acre are allowed one (1) large animal.

ii. Properties between 1 and 2 acres shall not exceed a density of two (2) large animals per acre.

iii. Properties larger than 2 acres shall not exceed a density of three (3) large animals per acre.

d. Mature stallions, bulls, buffalo and beefalo shall be prohibited from properties containing less than 2 acres. Additional large animals will require a special use permit (S). For animals not mentioned here, the density per acre limitation shall be determined by the Zoning Administrator after consultation with relevant agencies.

e. No animal shall be kept closer than 35 feet to a dwelling on an adjacent parcel.

f. Keeping of animals shall not be permitted in the required front, side and street-side yard setbacks

g. No animal dwelling unit shall be kept closer than 100 feet to a private water well or 200 feet from a public water well.

5.11.2 Keeping of Large Animals

The following regulations are established for the keeping of large animals:

a. Corral Size. Every corral to be provided shall have a minimum width or length of not less than 12 feet and shall contain not less than 240 square feet of area.

b. Box Stall. Every box stall to be provided shall have a minimum of 12 feet of length and width.

c. Fencing. Fencing to be provided shall be subject to the following:

i. Materials and Construction. Fencing may be constructed of wood, chain link, masonry, metal and materials with the structural integrity sufficient to contain animals.

ii. Fence Posts. Fence posts may be constructed of wood, metal, concrete or materials with the structural integrity sufficient to contain animals.

iii. Fence Height. Fences to be provided for enclosure shall be maintained not less than 4-1/2 feet in height. For use in conjunction with stud stalls, such fence shall be maintained not less than 6 feet in height.

d. Shade. Corrals containing less than 450 square feet of area shall have at least 54 square feet of shade, provided by either roof, trees or other means.

e. Water Facilities. Running water facilities shall be provided within 50 feet of each stall and/or corral and each animal shall have access to fresh water.

f. Maintenance. All stalls and corrals shall be continuously maintained with preservatives, fasteners and other materials so as to maintain appearance and prevent deterioration and animal escape.

g. Containment Devices. Substantial and acceptable locking or latching devices shall be provided and installed on all gates and doors to animal areas located thereon in such a manner so as to be inaccessible to animals and small children. This will prevent unauthorized entry and animal escape.

h. Dust Control. All areas used as arenas for exercising, training or exhibition of animals shall be maintained to abate dust by dampening (spraying water) or other acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.

i. Compliance with Health Regulations. The keeping and maintenance of large animals, as provided for in this section, shall comply with all regulations and provisions of the Health and Sanitation laws of the State Environmental, Health and Livestock Departments and the County. All premises and facilities upon which animals, poultry or fowl are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread at least once a week so as not to constitute a nuisance and all premises and facilities shall be treated weekly with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents which in any way can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace and/or tranquility of the general public.

5.11.3 Keeping of Small Animals

The following regulations are established for the keeping of small animals such as goats, sheep, miniature horses and the like and very small animals such as rabbits, poultry and fowl in residential zoning districts with properties greater than 0.50 acres in size. If properties are less than 0.50 acres in size, a special use permit (S) is required. For animals not listed here, the density per acre limitations shall be determined by the Zoning Administrator after consultation with relevant agencies.

a. The following are the minimum areas required and the maximum density of very small and small animals allowed on a single property.

i. Very Small Animals. Minimum area of open property area (not including front and side setbacks or dwelling unit) shall be 6 square feet for each very small animal, providing that the total number of animals does not exceed the number calculated by this formula:

[1] Multiply the size of the property or parcel, expressed numerically in acres carried to two decimal places, by a factor of 80 [ex. 2.5 acres * 80 = 200 very small animals].

ii. Small Animals. Minimum area of open property area (not including front and side setbacks or dwelling unit) shall be 100 square feet for each small animal, providing that the total number of animals does not exceed the number calculated by this formula:

[1] Multiply the size of the property or parcel, expressed numerically in acres carried to two decimal places, by a factor of 8 [ex. 0.65 acres * 8 = 5.2, or 5 small animals].

b. No animal shall be kept closer than 35 feet to a dwelling on an adjacent parcel.

c. Keeping of animals shall not be permitted in the required front, side and street-side yard setbacks.

d. All small animals shall be provided with adequate enclosures to contain them within the boundaries of the owner's property.

e. No animal dwelling until shall be kept closer than 100 feet to a private water well or 200 feet from a public water well.

f. All premises and facilities upon which animals, poultry or fowl are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread at least once each week so as not to constitute a nuisance. All premises and facilities shall be treated weekly with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents which in anyway can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace and/or tranquility of the general public.

g. The keeping and maintenance of small animals, as provided for in this section, shall comply with all regulations and provisions of the health and sanitation laws of the State Environmental, Health and Livestock Departments and the County

5.11.4 Keeping of Small Animals in Higher Residential Density Districts

In the D3 and DM residential districts, only small domestic animals, such as dogs, cats or birds may be kept per county ordinances.

5.11.5 Requirements for 4H and FFA Projects/Programs

When the youth are involved in a sanctioned 4H or FFA project/program and the animals are housed on the property on a temporary basis, they shall maintain proof of their involvement along with a beginning and ending date of each project/program.

a. Exemptions

i. Youths who actively participate in 4H or FFA, shall not be required to obtain a special use permit (S) so long as the parcel is at least 0.75 acres in size for large animals and 0.50 acres for small animals. Youths shall be exempt also from the open property area and density (Section 5.11.1.c), corral size (Section 5.11.1.h.i) and box stall size (Section 5.11.1.h.ii) requirements of this Article.

ii. All other zoning districts not listed or properties with a parcel size of less than 3/4 acre shall be required to obtain a special use permit (S).

5.11.6 Nothing in this section shall be construed to allow the violation of any other code, ordinance or statute.

## 5.12 AIRPORT DISTRICT

See Chapter 125 of the Doña Ana County Code.

5.12.1 Any land within the Airport Zone shall conform to Chapter 125, Airport.

5.12.2 Setbacks for loading facilities from railroad tracks or airport taxiways maybe reduced to 0 feet.

# 5.13 WIRELESS COMMUNICATIONS FACILITIES

5.13.1 Purpose

The purpose of this Section is to encourage consistent and safe wireless communication infrastructure and accommodate reasonable and reliable access to communications facilities and networks, consistent with "Plan 2040". This Section ensures the placement, construction or modification of wireless facilities complies with all applicable federal laws, including without limitation, Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. 1455(a) ("Section 6409"). This Section applies to all new communications facilities or new appurtenances to existing facilities except facilities utilized for law enforcement, fire, ambulance and other emergency dispatch functions.

5.13.2 Approvals Required for Wireless Facilities and Wireless Support Structures

Wireless Communications Facilities (WCF) and Wireless Support Structures (WSS) are permitted in locations depicted in the Land Use Classification Matrices in Table 3.5 and Table 5.1. The following sections outline the Classification Criteria, specific exemptions, types of zoning approvals, and permitting required for WCF.

5.13.3 Classification Criteria.

New WCF, WSS, and modifications to existing, permitted wireless facilities are classified as follows:

a. New WCF and WSS. Any new WCF or WSS intended for use that is separate from existing WCF, requires review, zoning approval, and permitting;

b. Existing WCF and WSS. The expansion of any existing WCF or WSS is classified into minor and substantial modifications. All modifications listed below require permitting.

i. Types of Minor Modifications:

1) Increases the existing vertical height of the tower by 10% or 20 feet, whichever is less;

2) Increases the existing vertical height of the support structures 10% or 10 feet, whichever is less;

3) New item on tower that would extend horizontally by less than 20 feet or width of tower at elevation of change;

4) Structure or new item extends horizontally less than 6 feet from existing structure;

5) Does not exceed 4 new cabinets;

6) Does not require any excavation or deployment outside of the current of the leased/owned site and any access/utility easements;

7) Does not increase the diameter of the structure, pole, utility pole by 30%, or

8) Does not comply with conditions in any prior approval, other than those related to height, width, number of cabinets, or new

excavations, unless those changes would exceed any of the limits set forth in items [a] through [g] above.

ii. Types of Substantial Modifications:

1) Increases the existing vertical height of the tower by more than the greater of 10% or 20 feet;

2) Increases the existing vertical height of the support structures by more than the greater of 10% or 10 feet;

3) New item on tower would extend horizontally by greater than 20 feet or width of tower at elevation of change;

4) Structure of new item extends horizontally more than 6 feet from existing structure;

5) Exceeds 4 new cabinets;

6) Any excavation or deployment outside of the current leased/owned site and any access/utility easements;

7) Defeats any required concealment elements previously approved, or

8 Increases the diameter of the structure, pole, utility pole by more than 30%.

5.13.4 Exemptions from Zoning Approval.

The following WCF or modifications to legally-permitted existing facilities are exempt from formal zoning approval; however, zoning and development standards are still applicable and all other State, Federal and Local permits must be secured:

a. Removal or replacement of transmission equipment on an approved existing wireless tower or base station that does not result in a substantial modification; Section 6409 exemption shall be documented on building permit;

b. Ordinary maintenance of existing WCF and WSS;

c. Co-location on approved and existing wireless towers and facilities, if the increase does not create a substantial modification; such Section 6409 exemption shall be documented on building permit;

d. New or substantially modified WCF located in the C2, C3, I1, I2 and I3 zoning districts;

e. WCF located within County-owned rights-of-way and property, and approved in compliance with state laws and by the Board of County Commissioners (BOCC);

f. Carrier on Wheels or Cell on Wheels (COW) placed at any location for temporary purposes as part of a declaration of an emergency or a disaster by the Governor or the BOCC; and

g. Personal (Private) Freestanding or Guyed Towers for Amateur Radio Communication specifically for the sole use of a licensed amateur radio operator as a

personal, non-commercial antenna. Height limits, setbacks and other applicable standards addressed this Chapter shall be adhered to.

5.13.5 Administrative Approval of a Special Use Permit.

The following types of applications are subject to administrative approval of a special use permit as provided in Section 2.4 and Section 5.13(3)(a) of this Article.

a. Existing Wireless Facilities

i. Co-locations. Commercial C1 Zone only and which would result in a substantial modification to the existing tower and/or facility.

ii. Substantial modifications to existing towers and facilities in the Commercial C1 Zoning District.

b. New Wireless Facilities

i. Wireless facilities that are 75 feet or less in height in the C1 Commercial District.

ii. COW, in any commercial or industrial zone, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor;

iii. Monopoles or replacement poles located on public property or rights-of-way, in any commercial or industrial zoning district.

5.13.6 Zoning Approval – Special Use Permit.

The following types of applications shall follow Section 2.4 Special Use Permit Public Hearing Process and Section 5.13(3)(a), and are not eligible for administrative approval:

a. Existing wireless facilities.

i. Co-location located in residential zones resulting in a substantial modification of the existing facility.

b. New Towers and/or WCF in any residential zones.

i. New WSS, concealed only, that are 75 feet or less in height, in any residential zone;

ii. COW, in any residential zone, if the use of the COW is not in response to a declaration of an emergency or disaster by the Governor or the BOCC;

iii. New WCF in any historic district inventoried at the local, State or Federal level; and

iv. New wireless facilities, regardless of zone, if it is to be located in any significant view shed or scenic byway that is inventoried at the local, State or Federal level.

5.13.7 Review and Approval Process

a. Content of Application Packages. Each application package shall contain the following:

i. Copy of lease or letter of authorization from property owner providing applicant's authority to pursue application.

ii. Supporting documentation from a professional engineer licensed in the State of New Mexico calculating the fall zone and certifying that the WSS has sufficient structural integrity to accommodate the required number of additional users as provided in this Section.

iii. Written verification from a professional engineer licensed in the State of New Mexico certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas, for co-locations and substantial modifications.

iv. An existing coverage map and accompanying technical data, signal strength measurements, etc., that justifies the need for the location of a new WCF.

v. Documentation showing the locations of other sites considered and the reasoning supporting the site selection.

vi. A detailed site plan depicting all proposed improvements, per Section 2.8.2, including property lines or property boundaries, setbacks, all applicable easements, topography, overhead and underground utilities, dimensions of improvements and structures and the fall zone. Zoning Standards of this Article and Article 6 Development Construction Standards shall apply.

vii. Scaled drawings and written description of the proposed WSS or WCF, including structure height, width, elevations, ground and structure design and proposed construction and concealment materials.

viii. Number and placement of proposed antennas and their height above ground level.

ix. Line-of-sight diagram or photo simulation from a distance of: the Area of Notification, the nearest neighboring residences, and adjacent public rights of way showing the proposed WSS and any additional components set against the skyline, significant viewsheds, and viewed from at least the four cardinal directions.

x. A statement that the proposed WSS will be made available for co-location to other service providers at commercially reasonable rates, provided space is available and consistent with this Chapter.

xi. Upon application, the applicant must state in writing why their application is intended to be processed as a Section 6409 permit.

b. Fees. The total fees are established by Resolution approved by the BOCC.

c. Procedure and Timing

i. Applications for special use permits shall follow the process as described in Article 2.

ii. Building Permit. The applicant shall obtain a building permit following approval of the special use permit application, if applicable, but before commencement of any site work or construction.

iii. For co-location permits that involve minor modifications, decisions to approve, approve with conditions or to deny shall occur within 60 days from the receipt of a complete application. This permit is intended to adhere to the federal requirement found in Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. 1455(a).

iv. For co-location permits that involve substantial changes or modification, decisions to approve, approve with conditions or to deny shall occur as a written decision within 90 days from the receipt of a complete application.

v. For new wireless telecommunications facilities, decisions to approve, approve with conditions or to deny shall occur as a written decision within 150 days from the receipt of a complete application.

5.13.8 General Standards and Design Requirements

The following are general standards and design requirements for WCF including location, siting, co-location, concealment, design standards, setback, height limitation, accessory buildings, landscaping, buffering and fencing.

a. General Standards

i. WSS shall be subject to the following:

1) Engineered and constructed to accommodate a minimum number of co-locations based upon their height:

A. Support structures 60 to 100 feet shall support at least 2 telecommunications providers;

B. Support structures greater than 100 feet but less than 150 feet shall support at least 3 telecommunications providers; and

C. Support structures 150 feet or greater in height shall support at least 4 telecommunications carriers.

ii. Concealed WCF shall be designed to accommodate the co-location of other antennas whenever economically and technically feasible. Antennas shall be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

iii. Upon request of the applicant, the P&Z or BOCC may consider a variance to the requirement of concealment or that new WSS accommodate the co-location of other service providers if it finds that co-location at the site is not essential to the public interest or that the construction of a modified support structure will promote community compatibility.

iv. A monopole or replacement pole shall be permitted within County-owned rights-of-way and property, approved in compliance with state laws and by the BOCC and in accordance with the following requirements:

1) The right-of-way shall be a minimum of 100 feet in width.

2) The right-of-way shall contain overhead utility transmission and/or distribution structures that are 80 feet or greater in height.

3) The height of the monopole or replacement pole may not exceed by more than 20 feet the height of existing utility support structures.

4) Monopoles and the accessory equipment shall be setback a minimum of 15 feet from all boundaries of the right-of-way or property line, 110% of height, if adjacent to a resident zone.

5) Single carrier monopoles may be used within rights-of-way due to the height restriction imposed by Section 5.13(3)(c) below.

v. All WCFs shall comply with the Noise Ordinance of the County Code. Emergency backup generators in use only during times of power outages and testing/maintenance shall comply with those standards where technical, practical and financial considerations permit.

vi. Outdoor lighting of WCFs shall be limited to motion-sensing lights; such lights as are needed while a site is manned, and any lights needed to comply with other rules, ordinances or laws.

b. Design Standards

WCF shall be contextually integrated with built and natural environments including the following requirements:

i. Site location and development shall preserve the existing character of the surrounding community, buildings, land uses and zoning district. Facilities shall be integrated through location and design to blend in with existing characteristics of the site.

ii. Grading and drainage requirements shall remain consistent with Article 6 requirements. WCF shall not increase erosion to the subject property or alter existing watercourses.

iii. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized.

iv. WSS shall adhere to the height limits set forth in this section from the base of the structure to the top of the highest point, including appurtenances.

v. Paint and texture techniques shall match the existing structure, or if ground-mounted, such design shall be integrated with the surrounding landscape. Where feasible, wireless components can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

vi. All disturbed areas shall be revegetated and/or stabilized as necessary to control erosion and dust.

vii. All power source lines and communication lines to the proposed facility shall be underground.

c. Setbacks

i. Unless otherwise stated herein, each WSS shall be setback from all property lines a minimum distance equal to 110% of its proposed height.

ii. Personal Non-Commercial, Amateur Radio Communication Antenna: No antenna shall be placed in a required setback for the zone and shall not be located closer to the front of the lot than the primary structure. These antennas are not to be considered as a primary use in a residential zone, but rather an accessory use.

d. Concealment

i. All proposed WCF, excluding co-locations and alterations that do not result in a substantial modification shall use concealed technology and shall be:

1. The least visually and physically intrusive as possible and have the least adverse visual effect on the environment and its character, existing vegetation and on the residences in the area of the WCF;

2. Aesthetically integrated with existing buildings, structures and landscaping to blend in with the nature and character of the built and natural environment and take into consideration height, color, style, massing, placement, design and shape.

3. Located to avoid a dominant silhouette of a wireless telecommunications facility on escarpments and mesas and to preserve designated view sheds and scenic byways as inventoried at the local, State or Federal level; and

4. To the extent feasible without impacting functionality, located in areas where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening, and siting so as to not stand out of the landscape as a wireless telecommunications facility.

ii. Consistent with Federal law, these concealment requirements shall not be administered so as to have the effect of prohibiting the provision of WCF.

e. Height Limitations

i. Any Residential or C1 Commercial Zoning: WCF shall be concealed and limited to 75 feet in height.

ii. C2 or C3 Commercial Zoning: Non-concealed WCF shall not exceed 75 feet in height.

iii. C2 or C3 Commercial Zoning: Concealed WCF shall not exceed 85 feet in height.

iv. I1, I2 or I3 Industrial Zoning: WCF shall not exceed 200 feet in height.

v. Personal Non-Commercial, Amateur Radio Communication Antenna: The highest point of any antenna shall not exceed 150% of the structural height limit set for the zone in which the antenna is to be placed.

vi. Variances: The P&Z or BOCC shall have the authority to vary the foregoing height or concealment restriction upon a Variance Application, per the requirements of Article 2. The applicant shall submit any technical

information or other justifications necessary to document the need for the additional height or non-concealment.

f. Safety Requirements

i. WCF or WSS shall only be lighted or marked as required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

ii. Signs located at the WCF shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. If the WCF is located on subject property with other land uses, this requirement is not intended to conflict with the allowable signage for the overall property.

g. Accessory Equipment.

i. Accessory equipment including buildings, cabinets or shelters shall be used only to house equipment and other supplies in support of the operation of the WCF or WSS. Any equipment not used in direct support of such operation shall not be stored on the subject property.

h. Landscaping, Buffering and Fencing

i. Trees or other landscaping vegetation shall be used to screen site/fence from public roads and residential areas if required by the Zoning Administrator.

ii. Buffer must comply with requirements provided in Section 5.7 of this Article.

iii Ground-mounted accessory equipment and WSS shall be secured and enclosed with an opaque fence not less than 8 feet in height.

iv. The Zoning Administrator, P&Z or BOCC may waive or modify the above fencing requirement if it is deemed that a fence is not appropriate or needed at the proposed location due to constraints from terrain or other natural or practical condition on the site. The intent shall be to secure the site and screen the base equipment from public view.

i. Location/Siting

i. Recommended locations include areas:

1) Architecturally integrated WCFs, where feasible.

2) Ground-mounted antenna arrays on hillsides.

3) Positioned to provide maximum utility to users and carriers.

ii. Non-recommended locations include areas:

1) With significant view sheds or scenic byways which are inventoried at the local, State or Federal level.

2) Identified as having archeological, historical and/or cultural significance as noted in "Plan 2040".

3) Located in existing historic communities or proposed community types unless integrated into architectural features.

5.13.9 Miscellaneous Provisions

a. Abandonment and Removal. If a WSS is abandoned and remains abandoned for a period in excess of 12 consecutive months, Doña Ana County may require that such WSS be removed by providing written notice to the owner of the WSS to take such action(s) as may be necessary to reclaim the WSS. If within 60 days of receipt of said written notice, the owner of the WSS fails to reclaim the WSS, the owner of the WSS shall be required to remove the same within 6 months thereafter. Doña Ana County shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

b. Multiple Uses on a Single Parcel or Lot. WCF and WSS may be located on a parcel containing another principal use on the same site or may be the principal use itself, providing the standards of this Chapter are met.

5.13.10 WCF and WSS Existing o the Effective Date of this Chapter

a. Non-conforming Uses. WCF and WSS that were legally permitted on or before the date this Chapter was enacted shall be considered a permitted and lawful use.

b. Activities at Non-conforming WCF. Notwithstanding any provision of this Chapter.

i. Ordinary maintenance may be performed on a non-confirming WCF or WSS.

ii. Co-location of WCF on an existing non-conforming WSS shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure or use and shall be exempt from the zoning process provided that the co-location does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.

iii. Substantial modifications may be made to non-conforming WSS by following the special use permit process defined in this Chapter.

5.13.11 For definitions specific to WCF and WSS, see Article 7 Glossary of Terms.

# ARTICLE 6 DEVELOPMENT CONSTRUCTION STANDARDS

This purpose of this Article is to ensure that development is outside of hazardous areas and creates no new hazards, and that the form of development and its infrastructure is compatible in design and engineering with the balance of this Chapter.

## 6.1 PERMITS REQUIRED

### 6.1.1 PERMITS

Construction permits shall be required pursuant to Table 6.1 Construction Permits. Applications shall be made by the property owner or owner's authorized representative (permittee), who shall represent all parties of interest. The County may refuse to accept a permit application when relevant information is missing or there is no written evidence of the ownership of the property surface rights provided in the application. The applicant shall be notified when information is missing from the application.

### 6.1.2 Department Review

All permits required for any development shall be approved by the designated County Review Department(s) listed in Table 6.1 Construction Permits.

### 6.1.3 Expirations

Every permit issued by the County under the provisions of this Article shall expire by limitation and become null and void if the construction or work authorized by such permit is not commenced within 60 days from the date of such permit or as specified in Table 6.1 Construction Permits. The permit shall also expire if the construction or work authorized by such permit is suspended or abandoned any time after the work is commenced for a period of 90 days. After 90 days, a new permit shall be obtained and the fee shall be 1/2 of the original permit; and provided, further, that such suspension or abandonment has not exceeded 180 days. After 180 days of inactivity, a new permit shall be obtained.

a. Any resident holding a current permit may apply for an extension of time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The County may extend the time for action by the permittee for a period not exceeding 90 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

### 6.1.4 Suspension or Revocation

The County may, in writing, suspend or revoke a permit issued under the provision of this Article whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of an ordinance or regulation or any provisions of this Article.

**Table 6.1 Construction Permits**

| Permit Type | County Review Department | Review Time | Expiration | Inspection |
|---|---|---|---|---|
| **Access Permit** | Engineering Services | 10 working days after acceptance of complete application | Within 6 months of issuance | Engineering Services |
| | For Access Permit specifications see Section 6.1.5. | | | |
| **Floodplain Development Permit** | Flood Commission | 30 working days after acceptance of complete application | Within 1 year of issuance | Building Services |
| | For Development Permit specifications see Section 6.1.6 | | | |
| **Grading Permit** | Engineering Services and Flood Commission | 15 working days after acceptance of complete application | Within 180 days of inactivity and per 6.2.4 above | Engineering Services |
| | For Grading Permit specifications see Section 6.1.7. | | | |

### 6.1.5 Access Permits

Applications shall be made pursuant to Table 6.1 Construction Permits.

a. Permit application forms for non-residential or multi-family parcels. Completed permit application forms shall be submitted to the Engineering Services Department (ESD). The permit application shall include the following:

i. Thoroughfare and driveway plan and profile; Drainage plan of the site showing impact to public right-of-way, development, wildlife corridors and the adjacent parcels; alternative site design may also meet this requirements if design strategies include integrated features;

ii. Map and letters delineating utility locations before and after the construction of access in and along the thoroughfare;

iii. Subdivision, zoning or development plan, if applicable;

iv. Property map indicating other access and adjacent public roads and thoroughfares;

v. Proposed access design;

vi. The intended use of the property;

vii. Site Threshold Analysis, if required;

viii. A Professional Engineer, licensed in the state of New Mexico, prepared and certified traffic control plan, if applicable, in conformance with the Manual on Uniform Traffic Control Devices for Thoroughfares and Highways, as amended;

ix. Grading permit application, if required; and

x. Erosion control measures or alternative Storm Water Control

Measures (SCM).

b. Permit Application Forms for a Single-family or Common Driveway Parcel. Completed permit application forms shall be submitted to the ESD. The permit application shall include the following:

i. Thoroughfare and driveway plan and profile; drainage plan of the site showing impact to public right-of-way, development, and the adjacent parcels;

ii. Map and letters delineating utility locations before and after the construction of access in and along the thoroughfare;

iii. Property map indicating other access and adjacent public roads and thoroughfares;

iv. Grading permit application, if required; and

v. Erosion control measures, or alternative Storm Water Control Measures (SCM) if required.

c. Application Review Procedures. The review period begins with the acceptance of a complete permit application by the appropriate County-designated representative.

i. Transmittal of a completed permit, approved by the ESD, or transmittal of a denied application constitutes action on the permit application.

ii. If the ESD denies an application, the ESD shall provide the applicant a copy of the application marked "denied," along with any attachments and a written explanation for the decision.

iii. If the ESD approves an application permit, the permit shall be prepared and transmitted to the applicant along with any additional terms and conditions established by the ESD. If the permittee does not agree to all terms and conditions of the permit, the permit shall be deemed denied.

iv. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used for vehicular access. In accepting the permit, the permittee agrees to all terms and conditions of the permit. Should the permittee choose to appeal a denied application, or the terms and conditions of a permit, the appeal shall be filed within 30 days of the date of transmittal of the notice of denial of transmittal of the permit.

d. Construction Requirements.

i. The permittee shall notify the ESD of the pending construction at least 5 working days prior to any construction in a County right-of-way.

ii. Work shall be performed by an appropriately licensed contractor and insured in the State of New Mexico.

iii. The ESD may inspect the access during construction and upon completion of construction to ensure that all terms and conditions of the permit are met. Property required for access improvements may be required to be dedicated, and if so shall be dedicated without cost to the public.

iv. The access construction as required by the terms and conditions of the permit shall be completed at the expense of the permittee. The County may bill the permittee for direct costs and labor provided by the County for the installation and relocation of all traffic control devices within the public right-of-way directly related to the use of the permitted access. Where construction of access requires the reconstruction of the existing thoroughfare, the County shall require the contractor or permittee to post a bond in an amount sufficient to ensure completion of the work.

v. The hours of operation/work on or immediately adjacent to the thoroughfare may be restricted due to peak-hour traffic demands and other pertinent thoroughfare operating restrictions. Generally, the hours of operation/work shall be limited to daylight hours, Monday through Friday.

vi. A copy of the permit shall be available for review at the construction site. If necessary, minor changes and additions shall be ordered by the County to meet unanticipated site conditions and noted on the permit documents.

e. Illegal Access to the Thoroughfare. The County may install barriers across or remove any access that provides direct access to a County road that is constructed without an access permit or used in violation of this Article or permit terms and conditions.

f. Improvements to Legal Access. The permittee may make physical improvements to an access with the permission of the County. The applicant shall use the access permit pursuant to Section 6.1.5. Review and processing of the permit application will be in accordance with this Article.

g. Revocations. Where a property is being redeveloped, reconstructed, or its basic vehicular usage changed, the owner shall apply for a new access permit and reconstruct the driveways to comply with this Article.

6.1.6. Erosion Control Best Management Practices

a. Description. Best practice will integrate project features that emphasize protection of watershed function through replication of pre-development runoff patterns (rate, volume, duration).

b. Method. Best practice will integrate construction methods and engineering practices. Best practice will include natural features of the landscape and engineered solutions (e.g. infiltration and water storage) to treat, manage, and control storm water on-site to reduce erosion. Best practices should be designed in collaboration with ESD and CDD staff.

### 6.1.7 Floodplain Development Permit

A Floodplain Development Permit may be required, in accordance with National Flood Insurance Program (NFIP), if the proposed development is all or partially located within a FEMA Special Flood Hazard Area as defined in Section 6.4. The Flood Commission Director shall determine if a Floodplain Development Permit is required and shall appoint a Floodplain Administrator to review and Building Services shall issue Flood Plain Development Permits.

a. Permit Application Forms. Application for a development permit shall be presented to the Building Services on forms furnished by Building Services and shall include:

   i. Plans in duplicate drawn to scale showing the location.

   ii. Dimensions.

   iii. Elevation of proposed landscape alterations.

   iv. Existing and proposed structures, including the placement of manufactured homes.

   v. Location of the foregoing in relation to areas of special flood hazard.

   vi. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

   vii. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.

   viii. A certificate from a registered Professional Engineer or surveyor that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 6.4.7.b.

   ix. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development or description of alternative integrated methods considering natural and built drainage systems.

b. Application Review Procedures. The review period begins with the acceptance of a complete permit application by the Floodplain Administrator or designee. A record of all information shall be maintained. Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:

   i. The danger to life and property due to flooding or erosion damage.

   ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

   iii. The danger that material may be swept onto other lands to the injury of others.

   iv. The compatibility of the proposed use with existing and

anticipated development.

v. The safety of access to the property in times of flood for ordinary and emergency vehicles.

vi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of thoroughfares and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems.

vii. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

viii. The necessity to the facility of a waterfront location, where applicable.

ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

x. The relationship of the proposed use to the Comprehensive Plan, all other relevant drainage plans and master plans for that area.

**c.** Grading and Pre-Development Best Management Practices

i. Description**.** Best practice will preserve existing natural features to reduce cost associated with erosion, revegetation, and dust control.

ii. Methods. Best practice will include natural drainage, topography, rock outcroppings, and native plant areas which can be preserved, and serve as detention areas to promote on-site benefits of water resources. Best practices should be designed in collaboration with EDS and CDD staff.

### 6.1.8 Grading Permit

Any person required under Section 6.5, to submit a grading permit, shall apply to the County prior to the issuance of a building or construction permit by an appropriately licensed contractor in the State of New Mexico and shall meet the minimum requirements of this Article, as determined by ESD. The application will be signed by the owner of the property where the work is to be performed or by his/her duly authorized representative. The applicant shall ensure that all application data is correct. Any falsification of application data shall invalidate the permit.

a. Permit Application. A grading permit shall be issued by the County based on the following:

i. Submittals shall be prepared and certified by a New Mexico Professional Engineer.

ii. Grading permits shall be reviewed by the ESD and the Flood Commission and issued based upon approved final subdivision plats, building or such other site improvement plans as necessary for development of the property on which such permit is required.

iii. Removal of more than 50 cubic yards shall require disclosure of

disposal site.

iv. On-site processing of material is limited to those used for preparation or construction of improvements within the site covered by the grading permit.

v. A grading plan shall show drainage control methods and shall control dust and erosion if an Erosion Control Plan is not required per Section 6.5.4 Erosion Control Plan (ECP).

vi. A drainage report, as outlined in Section 6.5.9 Drainage Report, shall be required if one of the following conditions, or other drainage susceptible conditions as determined by ESD or the Flood Commission, apply:

a) The average slope across the property is greater than 4%;

b) The site lies within a FEMA special flood hazard area;

c) Thoroughfare improvements are proposed; or

d) There is any alteration of a watercourse or an introduction of an obstruction or structure.

vii. The grading permit shall only be issued in conjunction with a complete set of approved construction plans.

b. Every application will contain the following information:

i. Location, nature and extent of the proposed work and a general statement as to the intended use of the site.

ii. The names, addresses and phone numbers of the owner(s) of record of the property on which the work is to be performed.

iii. The names, addresses and phone numbers of the persons, contractors, or organizations that will perform the work and of the person who will be in effective control of the work.

iv. For all roads or other excavations where the volume of earth to be moved exceeds 1,000 cubic yards, a cut and fill map showing the height of cuts and fills at a maximum of 50 foot intervals and at any major breaks in the terrain shall be required.

v. Time frame for work to start and to be completed.

vi. Any additional related information required by the County that may be reasonably required to carry out the purpose and intent of this Article.

c. An application for a grading permit shall include a topographic and boundary survey and grading plan, prepared and certified by a NMPE, with elevation contours shown at not more than 2-foot intervals on slopes up to 30% and 5 foot intervals on slopes greater than 30% that shows:

i. Contour mapping shall extend a minimum of 500 feet beyond the development boundaries;

ii. Location and finished floor elevation (FFE) of all existing structures;

iii. All areas with slopes 0% to 20%, 21% to 30%, and 31% and greater, differentiated through shading, tone, color or line weight, as well as vertical and horizontal data;

iv. A permanent benchmark noted on the plan and approved by the ESD shall be used in determining the location of improvements within the development. Both horizontal and vertical datum are required. A tie to a section corner or other known, accepted and approved monuments are required;

v. All areas to be graded on the site and the final contours to be achieved by the grading;

vi. All finished floor or grade elevations;

vii. The location of temporary erosion structures and methods used, including staging and stockpile areas, unless an Erosion Control Plan is included within submittal;

viii. All pertinent drainage information, including but not limited to drainage flow arrows, flow rates, volumes, proposed inflow and outflow points for runoff from the study area showing both the pre- and post-development conditions;

ix. All facilities for control and disposition of stormwater runoff;

x. Descriptions to include all pertinent information (e.g., size, slope, material, etc.) of existing irrigation and drainage facilities and structures shall be submitted, such as ditches, drainageways, gutters and culverts and shall include all pertinent information such as size, slope and material;

xi. Development limits and individual lots, including building envelopes, footprints, or pads if applicable, rights-of-way, easements, and proposed thoroughfare improvements;

xii. One hundred twenty-five percent (125%) of the differential runoff between pre-development and post-development conditions shall be retained/detained in ponding areas;

xiii. All significant trees and areas with substantial grass coverage to be removed;

xiv. A construction schedule when the project will be developed in phases;

xv. The location of fencing around the areas to be protected;

xvi. The ratio of horizontal to vertical measurement for cut and fill slopes;

xvii. The total volume, in cubic yards, of earth to be moved;

xviii. All existing disturbed areas; and

xvix. FEMA flood hazard areas and FIRM information.

d. Applicants shall comply with the Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), New Mexico Environment Department (NMED), the United States Army Corps of Engineers (USACE), Office of the State Engineer (OSE), or as applicable by law. It is the responsibility of each applicant to determine whether additional notification or permitting is required.

e. Liability Insurance Required; Hold-Harmless Agreements. General liability insurance shall be required as a condition for issuance of a grading permit.

i. Procurement and maintenance of such liability insurance policy shall be the sole responsibility of the applicant.

ii. Before any grading permit is issued, the applicant shall attach to the application a copy of a current certificate of insurance as evidence of general liability and contractual insurance. The minimum limit of liability shall be $300,000 combined single limit. Such policy certification shall provide that the insurance cannot be canceled or the limit of coverage reduced without 30 days prior written notice to the County. Failure to provide the insurance certification or failure to meet the minimum liability insurance requirements will result in no permit being issued. Should the liability insurance policy expire or be canceled, the County shall revoke any outstanding grading permit under such policy.

iii. The applicant shall be required to enter into a hold-harmless agreement with the County protecting the County, any of its departments, agencies, officers, or employees from all cost, injury and damage incurred by the applicant and from any other injury or damage to any person or property whatsoever caused by any activity, conduct, or event arising out of any act authorized by the permit. The County shall provide the approved form for this hold-harmless agreement.

f. Application Review Procedures. The review period begins with the acceptance of a complete permit application by the appropriate County-designated representative.

i. The grading permit will be issued by the County upon verification and approval of the information contained within the permit application.

ii. The County can refuse to issue any grading permit whenever the proposed grading is contrary to the provisions of this Article.

iii. If any person does any grading or otherwise disturbs the ground cover of any property within the County without a grading permit, he/she shall apply for a grading permit and shall be subject to a triple permit fee.

iv. All permits issued shall expire per Table 6.1 and 6.2.4 above. Typically within 1 year of issuance of the permit with a maximum of a 1-year extension, provided extension is requested prior to the expiration of the initial permit.

g. Grading on holidays and weekends; time limitations. No grading of any kind, except as permitted below, shall be permitted on holidays and weekends unless the landowner or authorized representative has received approval by the County by 12:00 noon of the day before the holiday or by 12:00 noon on Friday. A holiday shall be defined as an official County holiday for County employees, and the weekend shall be defined as the time period between 5:00 p.m. on Friday and 7:00 a.m. on the following Monday or next working day. Grading will not be permitted within 300 feet of a residentially zoned area before 7:00 a.m. or after 5:00 p.m. on weekends and holidays. Failure to notify the County shall be considered a violation of this Article. Notification is not required if the grading is supervised by an inspector provided by a government entity.

h. Removing Hazardous Conditions.

i. If the County finds that the grading (either completed or in progress) is causing a hazard to persons or property, it shall notify the owner or his authorized representative and require that the hazard be removed or eliminated as soon as practicable, depending upon the degree of urgency with the hazard involved. If such action is not completed within the time limit stated within the notice, the County may require that reasonable temporary protective measures be provided in the interim.

ii. If materials are washed or accumulated upon thoroughfares, lanes or other public property as a result of improperly controlled grading of higher or adjacent lands, the County shall notify the owner or his authorized agent to remove such material and restore the thoroughfares, lanes or public property to their original condition within 24 hours. Failure to comply with such notice shall be a violation of this Article.

iii. If the owner fails to comply with such notice as provided in Section 6.1.8.h.i or 6.1.8.ii above, the County may authorize the work to be done by County resources or by contract. A report shall be prepared for the BOCC covering the actual cost of doing the work. After notice and an opportunity to be heard, the BOCC may, by resolution, determine the actual cost of doing the work and declare this amount, plus the cost of recording the resolution, to be a personal liability of the owner of the land and a lien on the land, payable within 10 days after adoption of the resolution, and thereafter bearing the simple annual interest at a rate of 12% until paid. A copy of the resolution, authenticated by the acknowledgement of the County Clerk, shall be filed for record in the office of the County Clerk. Notice of the hearing before the BOCC shall be in writing and delivered in person or sent by

certified mail with return receipt requested to the owner and to holders of recorded liens on the property. If, after reasonably diligent efforts, the person to be notified of such hearing cannot be found, notice may be given by 1 publication in a newspaper of general circulation within the County.

iv. Materials from a grading site that are spilled or deposited onto public thoroughfares shall be removed by the contractor or permittee on the same day. Whenever ramps are required to cross County rights-of-way, approval shall be obtained.

i. Responsibilities of Landowner or Authorized Representative. Under this Article, the landowner or his authorized agent will be responsible for:

i. Obtaining a permit, if required, for any grading.

ii. Obtaining the services of a Professional Engineer, licensed to practice in the State of New Mexico.

iii. All the legal duties, obligations or liabilities incident to ownership of the property while the work of grading is in progress or after the completion of the work. Neither the issuance of a permit nor the compliance with the provisions of this Article shall relieve any person or owner from any responsibility for damages to persons or property otherwise imposed by law, nor impose any liability upon the County, or any official of the County, for such damages.

iv. Installing the appropriate devices, structures, landscaping and facilities and executing soil stabilization, erosion control, handling of materials in conjunction with any proposed grading so as to fulfill the intent and purpose of this Article.

v. The continued maintenance and repair of all retaining walls, cribbing, drainage facilities, slopes, landscaping, soil stabilization and erosion control measures and any other protective devices located upon his property and constructed pursuant to the permit.

vi. Applying for a grading permit to coordinate and obtain clearance from all utilities with a property interest within the boundaries of the permit. Failure to clear any such utility may result in an immediate suspension of the grading permit.

vii. Replacing any surveying and/or property monuments that may be disturbed during grading operations. Monuments shall be certified by a professional surveyor, licensed to practice in the State of New Mexico.

viii. Notifying New Mexico One Call within 48 hours of start of construction.

j. Responsibility and Authority of the County. The County, under the authority of this Article, shall be responsible for:

i. Reviewing all grading permit applications as submitted under the

requirements of Section 6.1.8 above and issuing or denying grading permits within 15 working days.

ii. Performing or obtaining all the appropriate tests and inspections to assure that the conditions of the permit and intent and purpose of this Article have been fulfilled. Unforeseen testing requirements shall be the applicant's responsibility at the time of application.

iii. Imposing such conditions and specifications on the issuance and duration of the grading permit as may be reasonably necessary to cause the work to fulfill the intent and purpose of this Article. These conditions and specifications shall include, but will not be limited to, the following:

a) Interim and permanent soil erosion control and land management requirements, including provisions for:

(1) Disturbed soil surface treatments (emulsions, mulches, seeding, and the like);

(2) Protective drainage measures for surface drainage and subsurface water where required;

(3) Terracing and use of dikes and berms;

(4) Paving and other miscellaneous related measures;

(5) Retaining walls; and

(6) Approved development plans.

b) Compaction Requirements in Cut and Fill Areas.

(1) Unstabilized slopes shall be no steeper than 6:1, unless a structural alternative or some other measures applying professional engineering standards are provided. Cut or fill for roads shall not exceed 15 feet in height;

(2) On-site cut slopes shall not exceed 10 feet in height. In no case shall the height of the cut exceed the height of the building;

(3) On-site fill slopes shall not exceed 15 feet in height. Retaining wall for fill slopes shall be no greater than 15 feet in height; or

(4) All cut and fill areas shall be compacted to no less than 95% as determined by ASTM D1557, modified proctor.

c) Working Procedures and Safety Requirements:

(1) Protective fencing;

(2) Excavation slope limitations, shoring and bracing in accordance with OSHA guidelines and procedures;

(3) Traffic control requirements concerning transportation of material on public ways;

(4) Limitations on the amount of area that may be disturbed by grading operations;

(5) Work scheduling requirements; and

(6) Stockpiling and reuse of topsoils.

## 6.2 THOROUGHFARES

### 6.2.1 Sidewalks

a. Sidewalks shall be required along all thoroughfares where the average lot size of adjacent lots is less than 1 acre. Sidewalks shall have a minimum width of 5 feet and as regulated further by Table 6.9 Typical Urban Parkways. All sidewalks shall have a minimum thickness of 6 inches.

b. Sidewalks shall be constructed out of concrete or other materials accepted by ESD and shall be built at the time of thoroughfare construction unless access is for primary residential lot frontage.

c. Thoroughfare lights, power poles, fire hydrants, thoroughfare signs or other types of obstructions shall not be permitted on the sidewalks or the designated walkway. If thoroughfare obstructions are in the way of proposed sidewalks, the obstructions shall be relocated prior to construction of the sidewalk.

d. Table 6.9 Typical Urban Parkways. Sidewalks shall meet the requirements of the American with Disabilities Act.

### 6.2.2 Thoroughfare Design Guidelines

If a County design standard does not exist for a particular project, the New Mexico Department of Transportation standards, United States Department of Transportation standards, and the Institute of Transportation Engineers (ITE) Context Sensitive Solutions (CSS) shall apply.

a. The applicant shall provide documentation proving that all roads to and within a development have unobstructed legal and physical access to an asphaltic surfaced Municipal-, County- or State-maintained road(s). It is the developer(s) responsibility to construct the legal and physical access from the development to an asphaltic surfaced Municipal-, County- or State-maintained road(s).

b. The width for thoroughfares linking a development intensity or transect zone development to a County- or state-maintained road shall be regulated by Table 6.8 Thoroughfare Geometry.

c. The width for thoroughfares linking a use zone development to a County- or state-maintained road shall be regulated by Table 6.8 Thoroughfare Geometry.

d. The layout of principal roads within a development shall be designed to join to principal existing thoroughfares in adjoining areas and to serve adjoining areas. The width of the right-of-way in a development shall be sufficient to ensure that future development needs will not be limited by narrow rights-of-way, per the Mesilla Valley and El Paso MPOs.

e. Centerlines of offset thoroughfares entering onto collector or arterial

thoroughfares shall not be less than 400 feet apart.

f. All roads shall be provided with adequate grades, lines-of-sights and drainage, including the conveyance of collected runoff, and culverts or dip sections for the lateral passage of flows. Easements external to a thoroughfare right-of-way section may be used for the conveyance and storage of storm runoff and utilities if water intrusion onto the right-of-way is mitigated via subsurface drainage.

g. Thoroughfares shall intersect as nearly as possible at right angles, and in no case shall thoroughfares intersect at angles of less than 75° for local thoroughfares and 90° for collector and arterial thoroughfares.

h. Thoroughfares shall connect to other thoroughfares, forming a network. Where required by topography, dead-end thoroughfares shall terminate in a cul-de-sac having a minimum radius of 50 feet for residential uses and 80 feet for nonresidential uses. Maintenance of culs-de-sac will be by private means. Phased development or construction shall be provided with temporary turnaround easements with 50 foot radii for residential and 80 foot radii for nonresidential uses as necessary at the end of each phase, constructed with base course and prime coat, and may be vacated upon extension of the road within a subsequent phase. Turnarounds, in phased development, are not required on thoroughfares less than 150 feet in length.

i. All roads proposed to be publicly maintained shall include dedication of adequate rights-of-way as identified in Section 6.2.5. Private thoroughfares and easements shall be allowed only in circumstances where a maintenance agreement and evidence of a properly created road easement is provided obligating individual landowners or homeowners' associations for maintenance of the private thoroughfares and/or easements. Easements and pavement widths and pavement sections for private thoroughfares and easements shall meet the requirements for public thoroughfares of similar function. In no case shall private thoroughfares be designed in such a way as to prevent access and/or passage of emergency vehicles.

j. Controlling access parallel to thoroughfares, i.e., reserve strips, is prohibited.

k. All construction within the right-of-way or easement shall meet all applicable provisions of Section 6.2.5 and Section 6.2.6. A deviation from the referenced standards will be allowed only when testing of the materials and/or methods used shows the deviation to be equal or greater in quality to that of Section 6.2.6 and requires approval from ESD.

l. All utilities within public rights-of-way or easements shall be coordinated with and comply with the requirements of the utility company or provider and Chapter 274, Use of Rights-of-Way, of the Doña Ana County Code, as amended.

m. Concrete collars for valves and manholes are required where such valves and manholes fall within the County right-of-way.

n. Header curbs are required to be used when the thoroughfares are not used to convey stormwater and the flows do not parallel the road.

o. Public and private thoroughfares that exceed 1,500 feet in length require secondary access designed to the specifications required by this Article. Private access roads/drives shall be platted easements and shall be a part of the lot facing the easement.

p. Thoroughfare improvements shall be centered within the right-of-way or the easement unless considered a half-thoroughfare as allowed within this Article.

q. The minimum right-of-way radius at intersections shall be 25 feet at the property line for all thoroughfare classifications in use zones. Curb radii in a community type and transect zone shall be regulated per Table 6.2 Community Type or Transect Zone Curb Radii Dimensions. This Table assigns lane widths and turning radii in community types and transect zones, see Table 6.5 Development Intensity or Transect Zone Thoroughfare Cross Sections.

**Table 6.2 Community Type and Transect Zone Curb Radii Dimensions**

| **CURB RADIUS** | | | | | |
|---|---|---|---|---|---|
| **Design Speed** | Effective Turning Radius (feet) | Rural | Low Intensity | Medium Intensity | High Intensity |
| **15 mph** | 10 – 15 | NP | P | P | NP |
| **20 – 25 mph** | 15 – 20 | P | P | P | P |
| **30 mph** | 20 – 30 | P | NP | NP | NP |

**NOTE: P = permitted, NP = not permitted**

r. Where use zone residential subdivisions are proposed along collector or arterial thoroughfares that prohibit direct access to the thoroughfare, the developer shall provide an approved physical barrier, including but not limited to a solid wall or fence with landscaping along the right-of-way, which shall be built at the time of thoroughfare construction. The barrier shall conform to the clear sight triangle per Figure 6-1 Use Zone Clear Sight Triangle Illustration, and shall be properly maintained.

s. All signage shall be constructed with U channel posts/anchors or other as approved by the ESD (NMDOT approved square posts/anchors may be acceptable), in accordance with the Manual of Uniform Traffic Control Devices, as amended.

t. The design and construction of bicycle and pedestrian facilities is required for all thoroughfare cross sections.

u. In areas of erosive soil characteristics in excess of a 3% grade, an additional 4 feet of paving and Types A and B curb and gutter, see Section 6.8 Design Drawings or a 6 inch asphalt dike shall be required. In areas where this section applies, water shall be let out at the nearest natural or man-made stream or pond but shall not exceed the hydraulic carrying capacity of the road per Table 6.18 Street Capacity Criteria.

### 6.2.3 Clear Sight Triangles

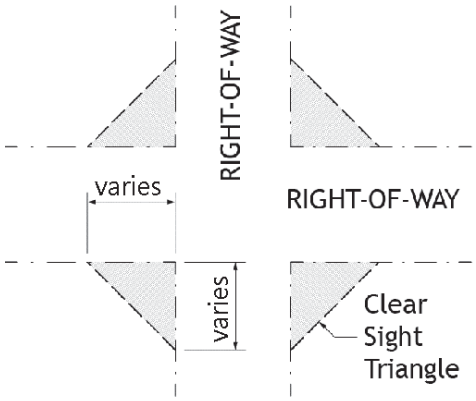
The application of a clear sight zone is critical on high-speed thoroughfares and on low-speed, walkable urban thoroughfares with controlled intersections and right-of-way constraints per the Institute of Transportation Engineers Context Sensitive Solutions. The Doña Ana County Community Types and Transect Zones are walkable urban areas and have specific clear sight criteria per Figure 6-2 Community Type and Transect Zone Clear Sight Triangle Illustration and Table 6.5 Walkable Urban Thoroughfare Cross Sections.

a. Section 6.2.3 shall apply to all other County roads, private roads, intersections, and public, private, and off-thoroughfare multiple parking area entrances, exits, and driveways to and from County and private roads and all property subject to Doña Ana County's jurisdiction. The standards established by these clear sight triangles regulations shall be met for all future construction or development which requires a building or other permit to be issued by the County, and shall apply to all existing or future landscaping or other nonstructural obstructions.

b. Design requirements for compliance. The County Engineering Services Department may rely upon the American Association of State Highway and Transportation Officials (AASHTO) publication, A Policy on Geometric Design of Highways and Thoroughfares, current edition, in determining the appropriate design requirements for a particular intersection to comply with the requirements of these clear sight triangles regulations.

    i. An area of unobstructed vision at street intersections, entrances/exits, permitting a vehicle to see approaching vehicles to the right or left. Nothing over 3 feet in height measured from the street at the lowest edge of pavement shall be permitted to obstruct a sight line, which shall be the front street and side street lines of a corner lot and a line connecting points from the intersection of the property line of such lot in accordance with Section 6.8.3. Additional distance may be necessary and is to be determined by a line of sight analysis. See Figure 6-1 Use Zone Clear Sight Triangle Illustrations.

**Figure 6-1 Use Zone Clear Sight Triangle Illustration**



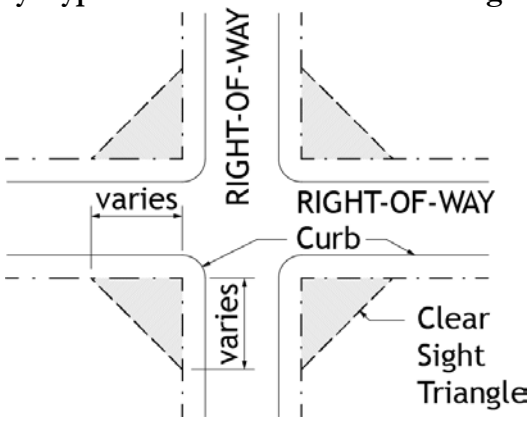

ii. Any existing trees located within the clear sight triangle will be allowed to remain if all branches are trimmed from a height between 3 feet and 8 feet.

iii. No single post or column within the designed triangle shall exceed 12 inches in thickness at its greatest cross-section dimension.

iv. In all use zones requiring entrances/exits not at street intersections, for multiple parking areas (parking lots) and private driveways, a clear sight triangle shall be formed in accordance with Section 6.8.3 on either side of the entrance/exit.

c. Community type and transect zone clear sight distances shall be determined by the character of the zone or community type, the design speed of the thoroughfare, and the frequency of controlled intersections. Measurements shall be from the back of curb rather than the property line. See Figure 6-2 Community Type and Transect Zone Clear Sight Triangle Illustration and Table 6.5.

**Figure 6-2 Community Type and Transect Zone Clear Sight Triangle Illustration**



d. Permits. No building or grading permits shall be issued for the construction or alteration of any structure that would create a violation of Section 6.2.3. Construction or erection of utilities such as overhead poles, boxes, risers, etc., within the clear sight triangle which would interfere with the area of obstructed sight shall not be permitted except by special permit authorized by the ESD.

**6.2.4 Right-of-way and Thoroughfare Requirements**

The location of collector and arterial thoroughfares shall be generally guided by policy and specifically located as development occurs. Coordination between the County and the developer shall provide the appropriate classification and alignment of all major and minor thoroughfares within and abutting developments to encourage appropriate and efficient transportation circulation patterns. Dedication and improvements for El Paso and Mesilla Valley MPO corridors are required within and adjacent to proposed developments.

a. An applicant shall be responsible for 100% of the thoroughfare ROW and improvements within the boundaries of the development; or

b. For thoroughfares adjacent to the development, the applicant shall provide the following thoroughfare ROW and improvements:

   i. Major and minor locals shall require a full thoroughfare section.

   ii. All collector, minor and principal arterial thoroughfares shall require a half-thoroughfare section, including sidewalk, curb and gutter, parkway and additional improvements up to the right-of-way line.

c. Access requirements for developments, including antiquated (previously filed) subdivisions shall consist of the following:

   i. Minimum access to a development shall be from a dedicated and accepted public right-of-way or public easement. The developer shall provide evidence that the linking road exists and has permission to construct the thoroughfare. In instances where the access to a development is unimproved, it shall be the responsibility of the applicant to design and construct, a minor local thoroughfare from the development boundary to the nearest paved public thoroughfare. A wider width may be required subject to the results of a Traffic Impact Analysis (TIA). If the thoroughfare linked to the proposed development is classified as a major thoroughfare (e.g., a collector or arterial), the developer shall provide the equivalent of a major local thoroughfare from the boundary of the development to the nearest paved public thoroughfare.

d. Access to lots within a commercial, mixed-use, or industrial development shall be from either a dedicated and accepted improved public right-of-way or an improved access established by a permanent private road and/or access easement a minimum of 60 feet wide; a wider width may be required by this Article or per the requirements of the zoning district.

e. Access to lots within a residential development, proposed subdivision or

antiquated previously filed subdivision shall be from a dedicated and improved paved public right-of-way.

f. All parcels shall provide a minimum of 50% of the necessary additional right-of-way for adjacent thoroughfares to conform to the required width as defined within this Article for all roads classified collector and above. One hundred percent of the required right-of-way shall be required for local thoroughfares.

### 6.2.5 Thoroughfare Cross Section Geometry

Thoroughfares shall be designed per the character of their context. The Doña Ana County Comprehensive Plan defines types of communities in the region relative to their community character. Thoroughfares shall be built according to their context classification per Table 6.4 Thoroughfare Classification Context. The context is regulated by the adjacent land uses or zoning districts per Table 6.3 Context per Community Type or Zone.

**Table 6.3 Context per Community Type or Zone**

| **Community Types** | **Development Intensities** | **Context** |
|---|---|---|
| | **Natural (N)** | **Rural** |
| | **Rural (R)** | **Rural** |
| | **Low Intensity (L)** | **Walkable Urban** |
| | **Medium Intensity (M)** | **Walkable Urban** |
| | **High Intensity (H)** | **Walkable Urban** |
| **Transect Zones** | **Natural(T1)** | **Rural** |
| | Rural (T2) | Rural |
| | Neighborhood Edge (T3) | Walkable Urban |
| | General Neighborhood (T4) | Walkable Urban |
| | Town Center (T5) | Walkable Urban |
| Use Zones | Rural Density Residential (R5&R5L) | Rural |
| | Low Density Dwelling (D1&D1L) | Suburban |
| | Medium Density Dwelling (D2&D2L) | Suburban |
| | High Density Dwelling (D3) | Suburban |
| | Mobile Home (DM) | Suburban |
| | Mixed Use (MU) | Suburban or Walkable Urban |
| | Neighborhood Commercial (C1) | Suburban |
| | Community Commercial (C2) | Suburban |
| | Regional Commercial (C3) | Suburban |
| | Light Industrial (I1) | Suburban |
| | Medium Industrial (I2) | Suburban |
| | Heavy Industrial (I3) | Suburban |
| | | |

**Table 6.4 Thoroughfare Classification Context**

| Suburban | Walkable Urban | Rural |
|---|---|---|
| Principal arterial | Boulevard | Principal arterial |
| Minor arterial | Avenue, Boulevard | Minor arterial |
| Collector | Street, Avenue | Collector |
| Local | Low Intensity Street, Street | Local |

a. Walkable Urban Thoroughfare Cross Sections per Table 6.5 are required in all

community type subdivisions or thoroughfare improvements in transect zones T3, T4 and T5. See Table 6.4 Thoroughfare Classification Context.

b. Suburban thoroughfare cross sections per Table 6.6 Suburban Thoroughfare Cross Sections are required in all use zoned subdivisions with lots less than 10,000 square feet, or any lot less than 80 feet wide at the front building setback, or a gross density greater than 4 dwelling units per acre.

c. Rural and Natural Zones thoroughfare cross sections per Table 6.7 Rural Use Zone Thoroughfare Cross Sections are required per Table 6.3 Context per Community Type or Zone.

d. The following documents shall be used to guide the planning, design, and construction of motor vehicle, bicycle, and pedestrian facilities:

    i. Institute of Transportation Engineers (ITE) Context Sensitive Solutions (CSS);

    ii. Association of American State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets, as amended;

    iii. AASHTO Guide for the Development of Bicycle Facilities, as amended; and

    iv. AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities, as amended.

e. The following requirements shall apply to all thoroughfares intersecting public rights-of-way in Doña Ana County:

    i. A list of constrained rights-of-way will or may be maintained in the New Mexico DOT, Doña Ana County, local governments' transportation plans and metropolitan planning organizations.

    ii. Roadway build-out is from the outside of the right-of-way towards the centerline.

    iii. Internal street systems require access to adjacent subdivisions/phases.

    iv. All landscaping materials within the rights-of-way shall be mutually agreed upon by the developer and Doña Ana County or municipality having jurisdiction over the thoroughfares.

    v. Multi-use paths shall be asphaltic surfaced a minimum of 8 feet wide.

f. Alternative Thoroughfare Cross Sections. Alternatives to the thoroughfare cross sections provided below may be approved by the DRC, provided that they either are:

    i. Proposed as part of a comprehensive, master planned development; and:

(a) Are based on generally accepted transportation planning and traffic engineering design principles;

(b) Provide equivalent accommodations for all transportation modes, as appropriate;

(c) Address emergency vehicle access requirements as determined by the Fire Chief; and

(d) Are recommended for approval by the County Engineer and the Community Development Director or their designee.

OR

ii. Required for traffic calming, drainage, landscaping, transit, biking or pedestrian enhancements; and:

(a) Provide substantially equivalent street capacities based on the street classifications;

(b) Are based on generally accepted traffic engineering design principles;

(c) Provide equivalent accommodations for all transportation modes, as appropriate;

(d) Address emergency vehicle access requirements as determined by the County Fire Chief; and

(e) Are recommended for approval by the County Engineer and the Zoning Administrator or their designee.

OR

iii. Based on an alternative hierarchy of streets that includes, at a minimum, street classifications per Table 6.4 Thoroughfare Classification Context; and:

(a) Are based on generally accepted traffic engineering design principles;

(b) Provide equivalent accommodations for all transportation modes, as appropriate;

(c) Address emergency vehicle access requirements as determined by the Fire Chief; and

(d) Are recommended for approval by the County Engineer and the Zoning Administrator or their designee.

g. Road and Thoroughfares Best Management Practices.

i. Description. Best practice will integrate road and thoroughfare features within multi-modal areas, supporting pedestrian and landscape requirements.

ii. Methods. Best practice will include Active Landscape Features combined with road and thoroughfare components to create complete and connected amenities (e.g. walkable and accessible routes). Methods will include chicanes, curb cuts, bio-swales, and

other active landscape features. Best practices should be designed in collaboration with EDS and CDD staff.

h. Community Type and Transect Zone Thoroughfare Cross Sections.

i. If the right-of-way needed for complete roadway construction is constrained, the cross section should be reduced in the following order:

(a) Planting strip width to 3 feet minimum.

(b) Sidewalk width to 5 feet minimum.

(c) Bicycle lane to 5 feet minimum.

ii. Bicycle lanes shall be striped on both sides and include a buffer strip and signs, directional arrows, and stencils.

iii. Bicycle lanes shall not be built on roadways with design speeds below 30 mph.

iv. All on-street parking decisions shall be per Table 6.5.

v. All thoroughfares classified as avenue and above may be designated as transit routes. Transit-related facilities, such as a shelter or bus pull-out, may be required.

vi. Three-hundred-foot block lengths are recommended.

vii. Multi-use paths:

(a) Shall not be placed immediately adjacent to avenues or boulevards, especially in lieu of sidewalks or bicycle lanes.

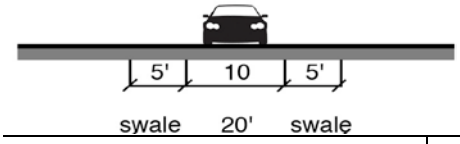
(b) May be used if they are incorporated with the overall design and traverse the development on an independent right-of-way allowing for more direct access to a destination.

(c) Shall be asphaltic surfaced a minimum of 8 feet wide.

i. Parkway Assemblies. Parkway assemblies shall comply with the standards of Section 4.3.E Parkway Assemblies and Tables 6.9 Typical Urban Parkways, 6.10 Typical Rural Parkways, and 6.11 Parkway Assemblies. Tables 6.9 and 6.10 illustrate the components of the parkway and Table 6.11 regulates the type and size for each component of the parkway.

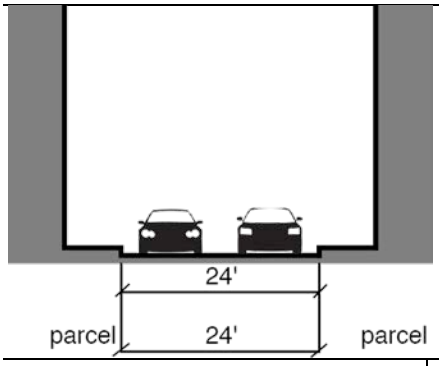
## Table 6.5 Walkable Urban Thoroughfare Cross Sections

**Lane: L-20-10**



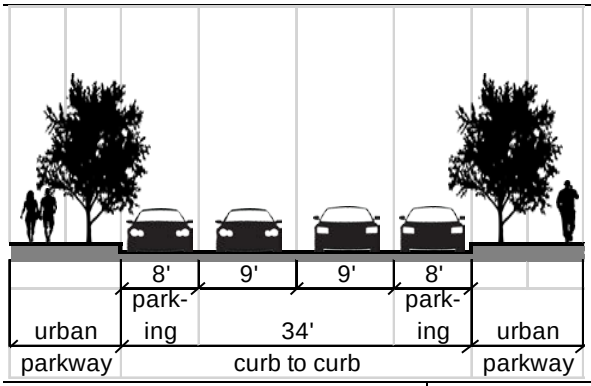

| | |
|---|---|
| **Easement Width** | 20 ft. |
| **Design ADT** | N/A |
| **Design Speed** | N/A |
| **Pavement Width** | 10 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | Taper |
| **Clear Sight Distance** | 20’ along local street from end of curb taper |
| **DI & Zoning Districts** | L, M, T3 & T4 |
| **Functional Classification** | Access |

**Alley: A-24-24**



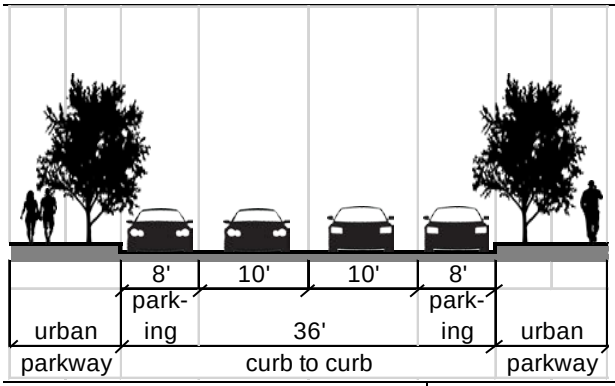

| | |
|---|---|
| **Easement Width** | 24 ft. |
| **Design ADT** | N/A |
| **Design Speed** | N/A |
| **Curb-to-Curb Width** | 24 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | Taper |
| **Clear Sight Distance** | 20’ along local street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4 & T5 |
| **Functional Classification** | Local |

**Low Intensity Street: ST-52-34**



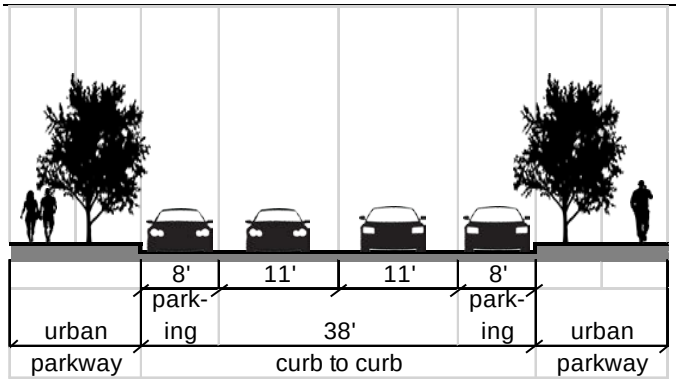

| | |
|---|---|
| **ROW Width** | 52 ft. |
| **Design ADT** | Less than 1,500 |
| **Design Speed** | 15 mph |
| **Curb-to-Curb Width** | 34 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 20’ along local street from end of curb radius |
| **DI & Zoning Districts** | L, M, T3 & T4 |
| **Functional Classification** | Local |

**Low Intensity Street: ST-58-36**



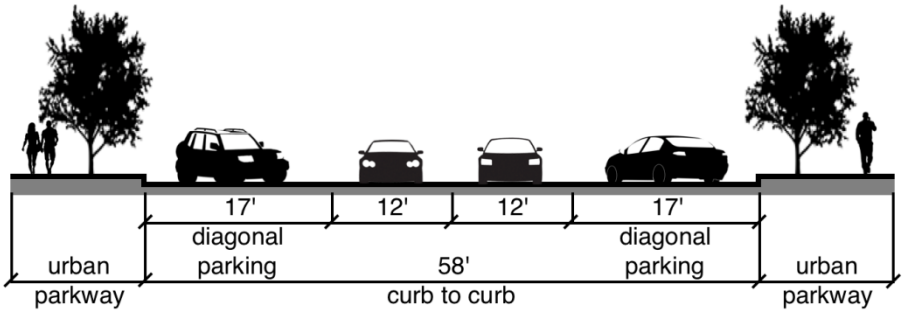

| | |
|---|---|
| **ROW Width** | 58 ft. |
| **Design ADT** | Less than 7,500 |
| **Design Speed** | 20 mph |
| **Curb-to-Curb Width** | 36 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 20’ along local street from end of curb radius |
| **DI & Zoning Districts** | L, M, H, T3, T4, T5 |
| **Functional Classification** | Local, Minor Collector |

**Street: ST-60-38**



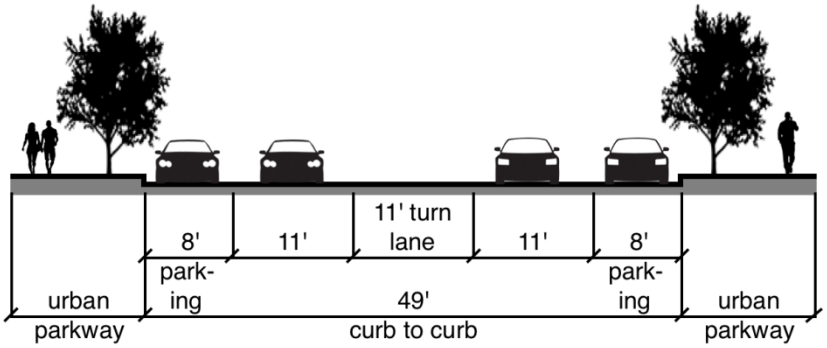

| | |
|---|---|
| **ROW Width** | 60 ft. |
| **Design ADT** | Less than 15,000 |
| **Design Speed** | 25 mph |
| **Curb-to-Curb Width** | 38 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 25’ along collector street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4, T5 |
| **Functional Classification** | Collector |

**Street: ST-82-58**



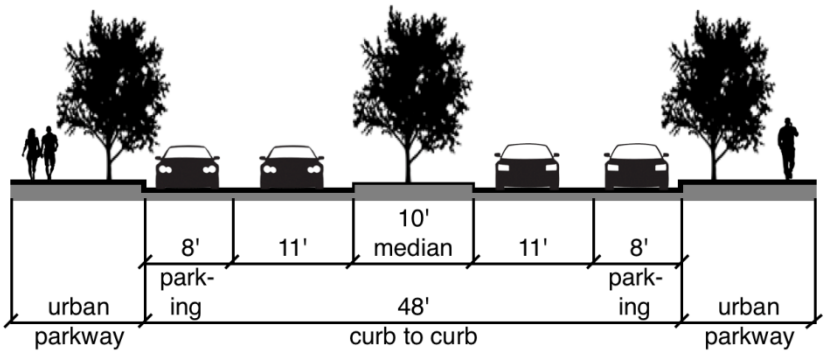

| | |
|---|---|
| **ROW Width** | 82 ft. |
| **Design ADT** | Less than 15,000 |
| **Design Speed** | 25 mph |
| **Curb-to-Curb Width** | 58 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 25’ along collector street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4 & T5 |
| **Functional Classification** | Collector |

**Avenue: AV-73-49**



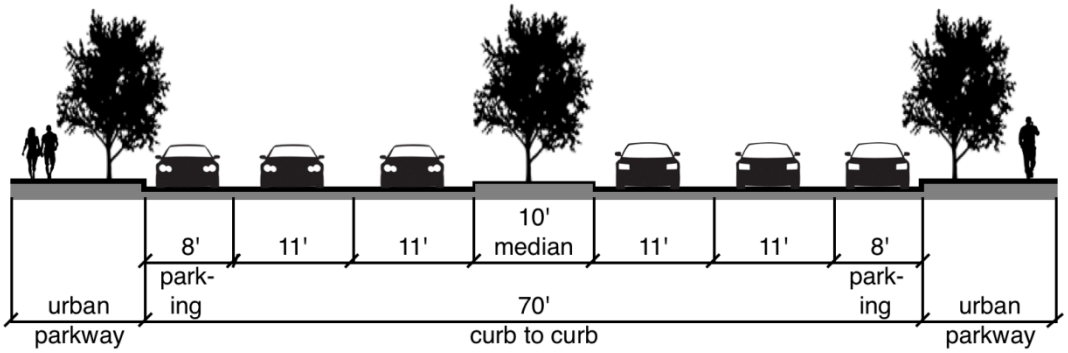

| | |
|---|---|
| **ROW Width** | 73 ft. |
| **Design ADT** | Less than 22,000 |
| **Design Speed** | 30 mph |
| **Curb-to-Curb Width** | 49 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | Varies |
| **Clear Sight Distance** | 30’ along collector street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4, T5 |
| **Functional Classification** | Collector, Minor Arterial |

**Boulevard: BV-72-48**




| | |
|---|---|
| **ROW Width** | 72 ft. |
| **Design ADT** | Less than 15,000 |
| **Design Speed** | 30 mph |
| **Curb-to-Curb Width** | 48 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 30’ along collector street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4 & T5 |
| **Functional Classification** | Collector, Minor Arterial |

**Boulevard: BV-94-60**




| | |
|---|---|
| **ROW Width** | 94 ft. |
| **Design ADT** | Less than 32,000 |
| **Design Speed** | 30 mph |
| **Curb-to-Curb Width** | 70 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | 100 feet |
| **Clear Sight Distance** | 30' along collector street from end of curb radius |
| **DI & Zoning Districts** | M, H, T4, T5 |
| **Functional Classification** | Collector, Arterial |

i. Suburban Thoroughfare Cross Sections

i. If the right-of-way needed for complete roadway construction is constrained, the cross section should be reduced in the following order:

(a) Planting strip width to 3 feet minimum. For Suburban Residential Local, 2 ½ feet are allowed.

(b) Sidewalk width to 5 feet minimum.

(c) Bicycle lane to 5 feet minimum.

(d) Replace bicycle lane with 14 feet minimum wide curb lane.

ii. Bicycle lanes shall be striped on both sides and include buffer strip and signs, directional arrows, and stencils.

iii. Bicycle lanes shall not be built on roadways classified below major local.

iv. All on-street parking decisions shall be determined by the adjoining land uses.

v. All roadways classified as collector and above may be designated as transit routes. Transit-related facilities, such as a shelter or bus pull-out, may be required.

vi. Cul-de-sacs require pedestrian and bike access through head, except where a physical barrier exists. Exceptions approved by

Zoning Administrator.

vii. Internal street system requires access to adjacent subdivisions/phases.

viii. Three-hundred-foot block lengths and varied building setbacks are recommended.

ix. Multi-use paths:

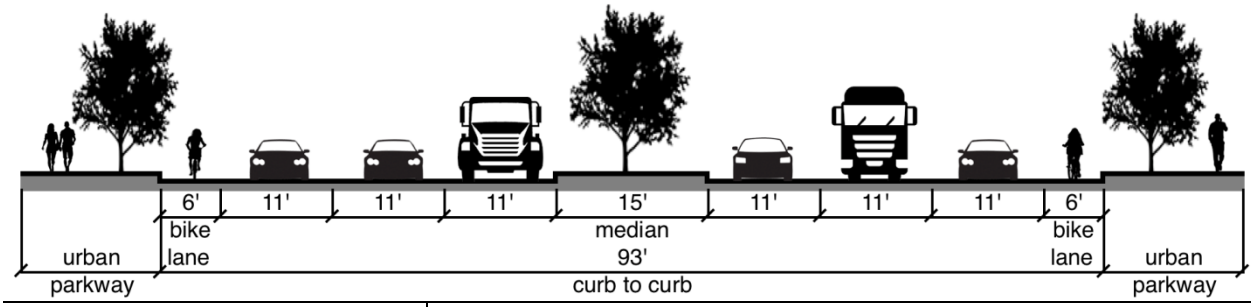
(a) Shall not abut travel lanes on arterials or collectors, especially in lieu of sidewalks or bicycle lanes.

(b) May be used if they are incorporated with the overall design and traverse the development on an independent right-of-way allowing for more direct access to a destination.

(c) Shall be asphaltic surfaced a minimum of 8 feet wide.

**Table 6.6 Suburban Thoroughfare Cross Sections**

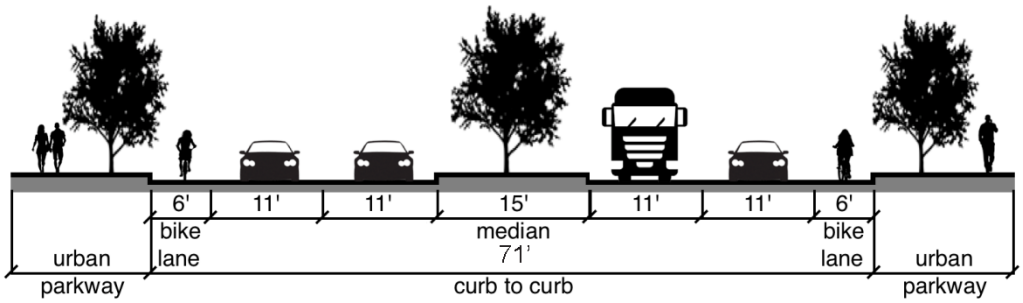
**Suburban Principal Arterial**




| | |
|---|---|
| **ROW Width** | 120 ft. |
| **Design ADT** | Greater than 40,000 |
| **Design Speed** | 45 mph |
| **Curb-to-Curb Width** | 93 feet for 7 lanes |
| **Maximum Grade** | 7% |
| **Minimum Curve Radius** | 1,090 feet with no superelevation<br>830 feet with 2% max. superelevation |
| **Land Use** | Single Dwelling Residential; Multiple Dwelling Residential; Community Commercial; Regional Commercial; Church; Public Buildings; Industrial; Open Space; Alternative parkway configurations may be considered based on land use |

**Note: A seven lane roadway cross section with 15 feet raised median is shown above. However, 3 or 5 lane roadway may be constructed based on approved traffic impact analysis. In such cases median width will be increased accordingly.**

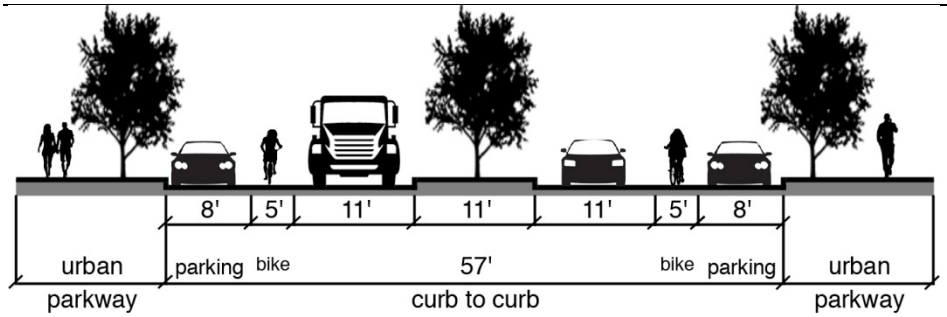
## Suburban Minor Arterial




| | |
|---|---|
| **ROW Width** | 100 ft. |
| **Design ADT** | Less than 40,000 |
| **Design Speed** | 45 mph |
| **Curb-to-Curb Width** | 71 feet |
| **Maximum Grade** | 7% |
| **Minimum Curve Radius** | 1,090 feet with no superelevation<br>830 feet with 2% max. superelevation |
| **Land Use** | Single Dwelling Residential; Multiple Dwelling Residential; Community Commercial; Regional Commercial; Church; Public Buildings; Industrial; Open Space; Alternative parkway configurations may be considered based on land use |

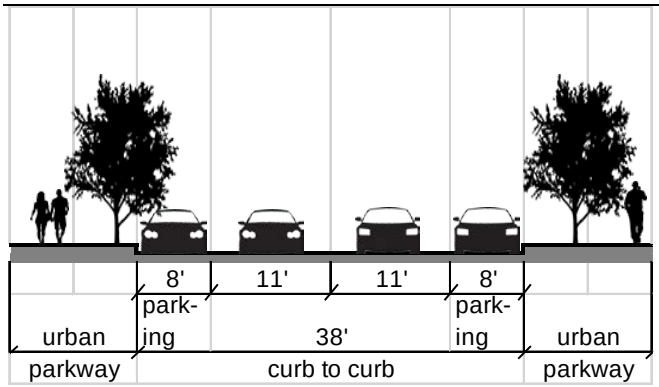
**Note: A five lane roadway cross section with 15 feet raised median is shown above. However, 3 or 5 lane roadway may be constructed based on approved traffic impact analysis. In such cases median width will be increased accordingly.**

**Suburban Collector**



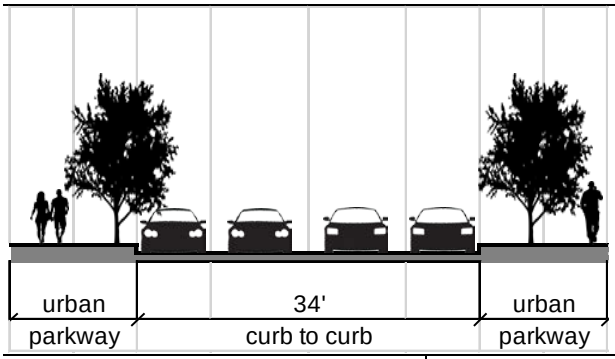

| | |
|---|---|
| **ROW Width** | 85 ft. |
| **Design ADT** | Less than 20,000 |
| **Design Speed** | 35 mph |
| **Curb-to-Curb Width** | 57 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | 430 feet with no superelevation<br>830 feet with 2% max. superelevation |
| **Land Use** | Single Dwelling Residential; Multiple Dwelling Residential; Community Commercial; Church; Public Buildings; Open Space; Alternative parkway configurations may be considered based on land use |
| **Note: 1) In primarily residential land use areas, a 10 foot (minimum) multi-use path may be approved in lieu of the 2 5 foot bike lanes.** | |

**Suburban Major Local**



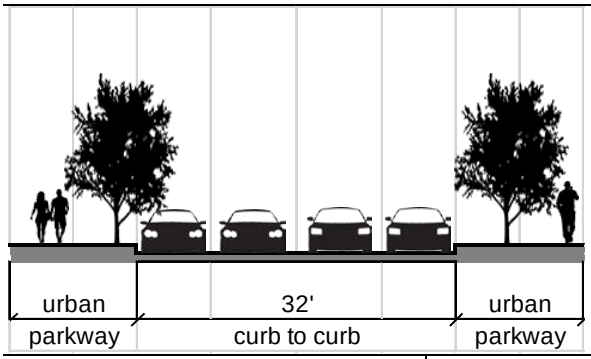

| | |
|---|---|
| **ROW Width** | 60 ft. |
| **Design ADT** | less than 7,500 |
| **Design Speed** | 30 mph |
| **Curb-to-Curb Width** | 38 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | Varies |
| **Land Use** | Single Dwelling Residential; Multiple Dwelling Residential; Neighborhood Commercial; Public Buildings; Open Space; Alternative parkway configurations may be considered based on use |

**Suburban Residential Local**




| | |
|---|---|
| **ROW Width** | 50 ft. |
| **Design ADT** | Less than 1,500 |
| **Design Speed** | 25 mph |
| **Curb-to-Curb Width** | 34 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 100 feet |
| **Land Use** | Single Dwelling Residential; Multiple Dwelling Residential; Local Mixed Use; Open Space; Alternative parkway configurations may be considered based on land use |

**Suburban Low Volume Residential Local or Cul-de-Sac**




| | |
|---|---|
| **ROW Width** | 50 ft. |
| **Design ADT** | Less than 700 |
| **Design Speed** | 25 mph |
| **Curb-to-Curb Width** | 32 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 100 feet |
| **Land Use** | Single Dwelling Residential; Low Density Multiple Dwelling Residential; Open Space; Alternative parkway configurations may be considered based on land use |

j. Rural Thoroughfare Cross Sections

i. Shoulders shall be paved with the travel lanes and striped on both sides of the roadway.

ii. The width of drainage swales, external to right-of-way, shall be determined by the drainage report.

iii. The construction materials for multi-use paths are determined by the applicable design standards, minimum of asphaltic surfaced, and shall:

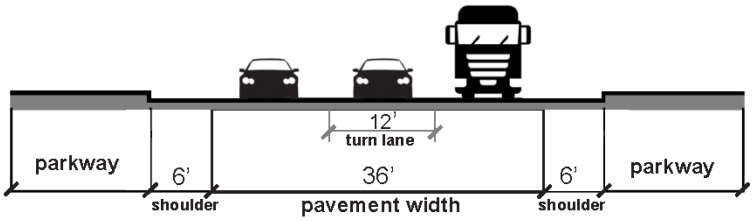
(a) Be brought to the intersection for safe crossing at crosswalk.

(b) Not be put in or terminate unless connecting to established origin/destination, such as the trail system.

(c) Be separated from the roadway by at least 3 feet.

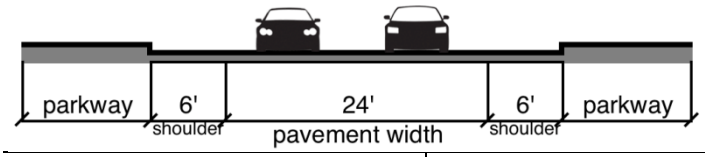
**Table 6.7 Rural Use Zone Thoroughfare Cross Sections**

**Rural Principle Arterial**



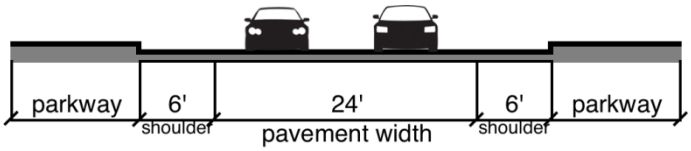

| | |
|---|---|
| **ROW Width** | 120 ft. |
| **Design ADT** | Greater than 20,000 |
| **Design Speed** | 55 mph |
| **Pavement Width** | 36 feet |
| **Maximum Grade** | 7% |
| **Minimum Curve Radius** | 1,850 feet with no superelevation<br>1,350 feet with 2% (maximum) superelevation |
| **Land Use** | Natural, Rural (Alternative parkway configurations may be considered based on land use.) |

**Rural Minor Arterial**



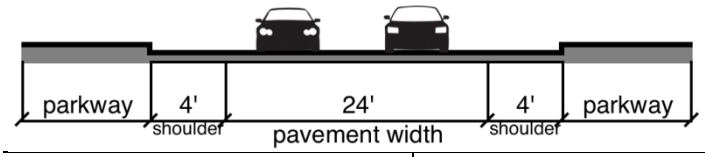

| | |
|---|---|
| **ROW Width** | 100 ft. |
| **Design ADT** | Less than 20,000 |
| **Design Speed** | 55 mph |
| **Pavement Width** | 36 feet |
| **Maximum Grade** | 7% |
| **Minimum Curve Radius** | 1,850 feet with no superelevation<br>1,350 feet with 2% (maximum) superelevation |
| **Land Use** | Natural, Rural (Alternative parkway configurations may be considered based on land use.) |

**Rural Collector**




| | |
|---|---|
| **ROW Width** | 85 ft. |
| **Design ADT** | Less than 5,000 |
| **Design Speed** | 35 mph |
| **Pavement Width** | 36 feet |
| **Maximum Grade** | 8% |
| **Minimum Curve Radius** | 430 feet with no superelevation<br>430 feet with 2% (maximum) superelevation |
| **Land Use** | Low Density Single Dwelling Residential; Rural; Natural (Alternative parkway configurations may be considered based on land use.) |

**Rural Local**




| | |
|---|---|
| **ROW Width** | 50 ft. |
| **Design ADT** | Less than 1,500 |
| **Design Speed** | 30 mph |
| **Pavement Width** | 32 feet |
| **Maximum Grade** | 12% |
| **Minimum Curve Radius** | 250 feet with no superelevation<br>200 feet with 2% (maximum) superelevation |

**Table 6.8 Thoroughfare Geometry**

| Functional Classification | Design Speed (mph)[1] | AADT[2] | Minimum Right-of-Way (feet) | General Surfacing Requirements, Notes and Conditions[3] | Minimum Center-Line Radius (feet) | | Vertical Curve Requirements[4] | | | Maximum Grade Allowed[10] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Normal Crown[4] (feet) | Super Elevation with 0.02[5] (feet) | For Crest Stopping Sight Distance[8] | For SAG Stopping Control Sight Distance[8] | Maximum Grade Change Allowed w/o Vertical Curve[9] | |
| **Walkable Urban Thoroughfares** | | | | | | | | | | |
| Boulevard | 30 | 15,000 – 32,000 | 72 | 4 inches HMAC min. | Varies according to cross section | Varies according to cross section | 61 | 79 | Required in all cases | 7% |
| Avenue | 30 | <22,000 | 73 | 4 inches HMAC min. | Varies according to cross section | Varies according to cross section | 61 | 79 | 0.50% | 7% |
| Street | 25 | <15,000 | 60 | 3 inches HMAC min. | Varies according to cross section | Varies according to cross section | 80 | 65 | 0.50% | 8% |
| Low Intensity Street | 20 | < 7,500 | Varies according to cross section | 2 inches HMAC min. | Varies according to cross section | Varies according to cross section | 32 | 35 | 1% | 10% |
| **Suburban Thoroughfares** | | | | | | | | | | |
| Principal Arterial | 45 | >40,000 | 120 | 4 inches HMAC min. | 1,090 | 830 | 61 | 79 | Required in all cases | 7% |
| Minor Arterial | 45 | <40,000 | 100 | 4 inches HMAC min. | 1,090 | 830 | 61 | 79 | 0.50% | 7% |
| Collector | 35 | <20,000 | 85 | 3 inches HMAC min. | 430 | 340 | 80 | 65 | 0.50% | 8% |

| Functional Classification | Design Speed (mph)[1] | AADT[2] | Minimum Right-of-Way (feet) | General Surfacing Requirements, Notes and Conditions[3] | Minimum Center-Line Radius (feet) | | Vertical Curve Requirements[4] (feet) | | | Maximum Grade Allowed[10] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Normal Crown[4] (feet) | Super Elevation with 0.02[5] (feet) | For Crest Stopping Sight Distance[8] | For SAG Stopping Control Sight Distance[8] | Maximum Grade Change Allowed w/o Vertical Curve[9] | |
| **Suburban Thoroughfares Continued** | | | | | | | | | | |
| Local | 30 (major) 25 (minor) | <7,500, see Table 6.6 | Varies according to cross section | 2 inches HMAC min. | Varies according to cross section | Varies according to cross section | 32 | 35 | 1% | 10% |
| **Rural Thoroughfares** | | | | | | | | | | |
| Principal Arterial | 55 | >20,000 | 120 | 4 inches HMAC min. | 1,850 | 1,350 | 151 | 136 | Required in all cases | 7% |
| Minor Arterial | 55 | <20,000 | 100 | 4 inches HMAC min. | 1,850 | 1,350 | 84 | 96 | 0.50% | 7% |
| Collector | 35 | <5,000 | 85 | 3 inches HMAC min. | 430 | 340 | 29 | 49 | 0.50% | 8% |
| Local | 30 25 (cul-de-sac) | <1,500 | 50 | 2 inches HMAC min. | 250 | 200 | 19 | 37 | 1% | 10% |

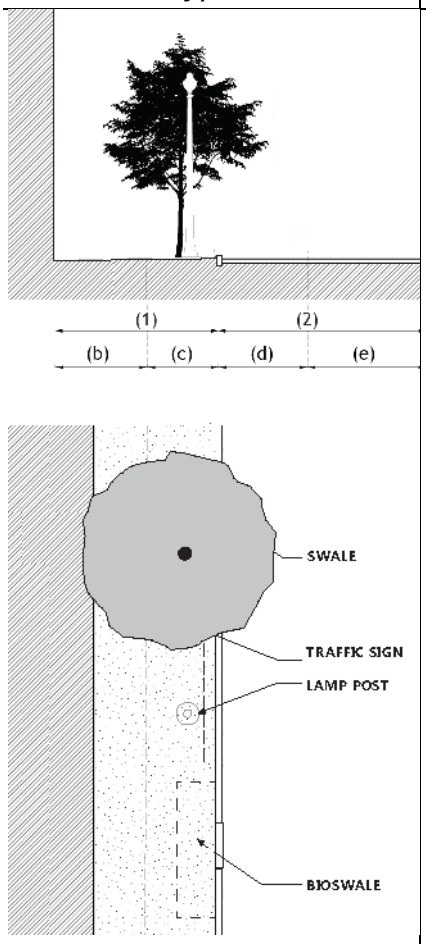
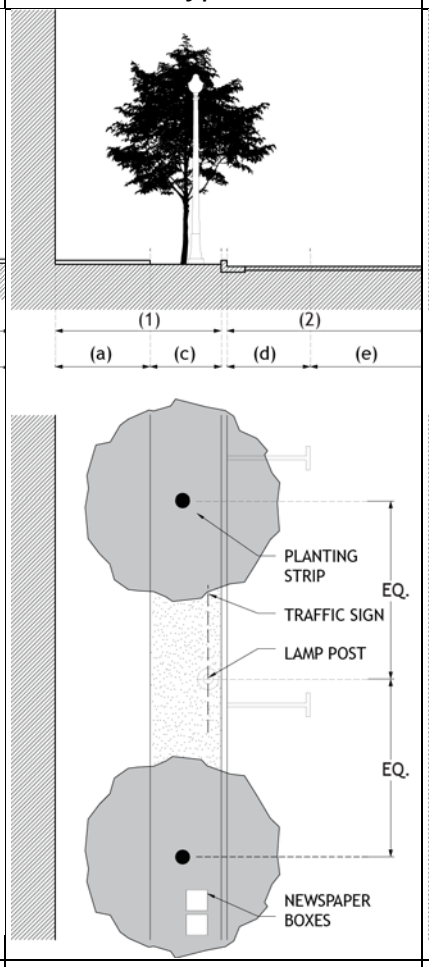
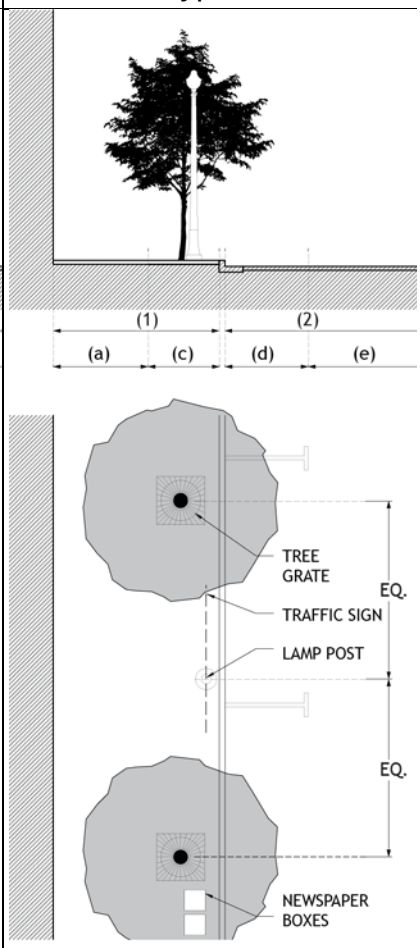
Thoroughfare Geometry General Notes for Table 6.8:

A. The location and preliminary alignment of principal arterials and minor arterials, shall be determined in cooperation with the Mesilla Valley MPO Metropolitan Thoroughfare Plan and El Paso MPO Metropolitan Transportation Plan based upon the TIA.
B. Developer shall use the most recent version of all AASHTO guides and policies.
C. Replatting of an existing subdivision resulting in the creation of additional lots shall be subject to the combination and upgrade requirements of this Article, succeeding subdivisions, which require that existing streets within the subdivision be upgraded to the minimum street pavement and rights-of-way required for the new subdivision.
D. Minimum slope in streets with standard curb and gutter shall be 1/2% with a crown of minimum 1% and maximum 2%. Minimum slope in streets with header curb shall be 0%. The crown on a 0% street shall be a minimum 2%.
E. All streets shall provide a roadside recovery clear zone or other approved method of slope and barrier protection as described in the latest edition of AASHTO Policy on the Geometric Design of Highways and Streets.
F. Follow New Mexico Department of Transportation Design Standards to determine design speeds and center-line radii for state roads.

Thoroughfare Geometry Supplemental Notes for Table 6.8:

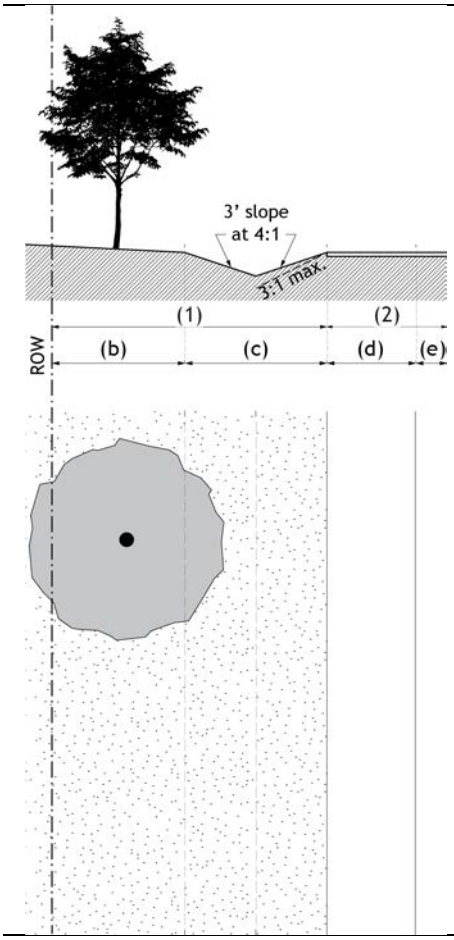
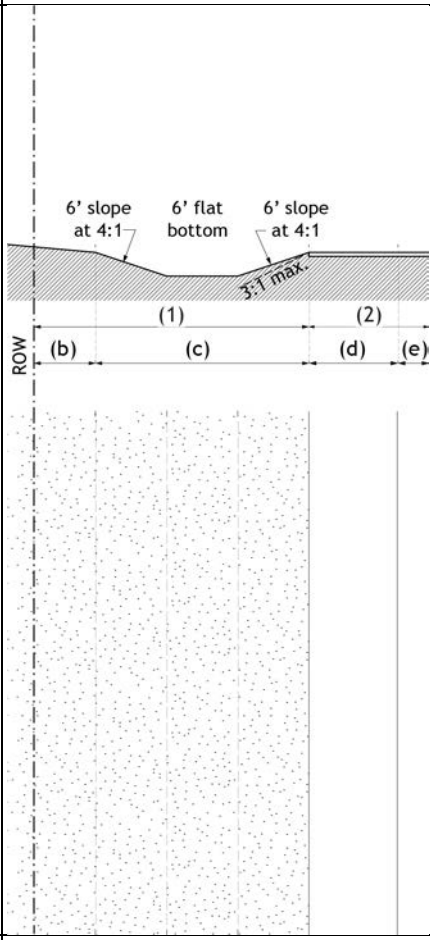
1. Posted speed limits shall be at or below the design speed limits.
2. The AADT listed above is a planning tool used to determine the classification criteria.
3. Surfacing width is measured from inside edge of curbing. The minimum allowable thickness is 6 inches of base course, 2 inches HMAC or 6 inches of concrete. Additional thicknesses may be required per Section 6.2.6.
4. A minimum of 50 feet shall be maintained between vertical points of intersection.
5. Lengths of vertical curves longer than the minimums resulting from the use of K values shown should be used wherever possible. However, K should not exceed 143 when curb and gutter is used.
6. The values for K shown are to be used in determining the minimum length of vertical curve required by the use of the relationship L = KA where: L = Length of vertical curve in feet; A = Algebraic difference in grades expressed in percent; K = Design value indicative of rate of curvature.
7. Crest vertical curves are based on eye height of 3 feet 3 inches, object height of 6 inches and AASHTO minimum stopping distances. SAG vertical curves are based on AASHTO standards.
8. Local residential streets with 90°, or near 90°, turns may be designed with a minimum center-line radius of 80 feet with the approval of the County Engineering Services Department.
9. The cross slopes of cul-de-sacs shall not exceed 2%.
10. Road and utility easements for cul-de-sacs may be provided that serve 5 lots or less. When this option is utilized, the roadway shall be designed to this Article and the easement shall be platted as part of the lots.

**Table 6.9 Typical Urban Parkways**

| Type A | Type B | Type C |
|---|---|---|
|  |  |  |
| **(1) Parkway** | (2) Transportation Way | |
| **(a) Walkway: no less than 5 ft., 6 ft. min. in H** | (d) Parking Lane | |
| **(b) Planter** | (e) Travel Lane | |
| **(c) Planter & Verge** | | |

**Note: Alternative parkway configurations may be considered based on land use.**

**Table 6.10 Typical Rural Parkways**

| Type A | Type B |
|---|---|
|   |   |
| **(1) Parkway** | (2) Transportation Way |
| **(b) Planter and/or multi-use path** | (d) Shoulder |
| **(c) Swale** | (e) Travel Lane |

**Note: Alternative parkway configurations may be considered based on land use.**

**Table 6.11 Parkway Assemblies**

| Details | Rural/T2 | L/T3 | M/T4 | H/T5 | Suburban |
|---|---|---|---|---|---|
| **Curb Type** | Swale | Raised Curb | Raised Curb | Raised Curb | Raised Curb |
| **Walkway** | | | | | |
| **Type** | Not required | Path / Sidewalk | Sidewalk | Sidewalk | Path / Sidewalk |
| **Min. Width (feet)** | n/a | 8 – path<br>4 – sidewalk | 5 | 6 | 8 - path<br>4 - sidewalk |
| **Lighting** | | | | | |
| **Max. Height (feet)** | Not required | 12 | 16 | 16 | 20 |
| **Min. Spacing (feet)** | n/a | At intersections | At intersections | 50 on center | At intersections |
| **Planter** | | | | | |
| **Type** | Swale | Bio-Swale | Continuous | Continuous or Tree Well | Continuous |
| **Min. Width (feet)** | n/a | 4 – path<br>6 – sidewalk | 5 | 72 sq. ft. min. – tree well;<br>5 min. | 6 – path<br>5 – sidewalk |

### 6.2.6 Standard Specification for Thoroughfare Construction

All thoroughfares constructed within Doña Ana County shall comply with New Mexico Department of Transportation Standard Specification for Highway and Bridge Construction, as adopted and amended.

a. All testing and construction inspections for all developments shall adhere to the guidelines as set forth in the New Mexico Department of Transportation Standard Specification for Highway and Bridge Construction, as adopted and amended.

b. A pavement design report included with the final plat or final document submittal shall include, but not be limited to:

i. Soil profiles shall be obtained from soil borings performed within the proposed right-of-way and proposed borrow area, or in areas determined to yield representative soils. Thoroughfare soil borings shall be taken at an interval of 500 feet. Additional soil borings may be required if soil characteristics change significantly. Soil borings shall be advanced to a depth of at least 5 feet, or refusal, whichever is shallower. In "cut" portions of the thoroughfare, the depth of borings shall be measured from the proposed finished grade elevation of the pavement. In "fill" portions of the thoroughfare, the depth of borings shall be measured below existing grade. Soil borings are required to classify materials to determine the thickness of the layers of the road structure and to identify soils that are excessively expansive or resilient. Such soils shall receive special consideration by substitution with "engineered fill" or stabilization with a suitable admixture and/or mechanical means. Field conditions encountered with unsatisfactory materials shall be submitted with pavement design calculations along with

satisfactory design solutions.

ii. All calculations used in the design, including traffic volumes, soil types and structural numbers.

iii. A table showing material properties used in the design and soil parameters including R-values, modulus of resilience, and CBR. Soils with R-values less than 45 require stabilization or removal to no less than suitable underlying materials; chemical and/or mechanical stabilization approved by ESD.

iv. Laboratory test data indicating properties of materials tested.

c. A registered Professional Engineer, licensed to practice in the State of New Mexico, shall perform pavement designs. The engineer shall have demonstrated expertise in the design and analysis of rigid and/or flexible thoroughfare pavements. All pavement design documents shall be referenced in the design notes. All designs shall be based on a minimum 20 year life period.

d. The minimum thickness for a pavement structure shall be 2 inches of HMAC overlaying 6 inches of base course, overlaying subgrade preparation and soil stabilization. However, the actual thickness will be determined from a pavement design analysis. Double-penetration macadam surfacing may be allowed in areas for a temporary use and as approved by ESD.

e. Double-penetration surface treatment is considered to have no structural coefficient value.

f. Before starting to work on improvements in a development, the developer shall arrange a conference with the ESD to review contract specifications, review partial release procedures, and otherwise familiarize the developer with the County's requirements and procedures for managing development of communities. Individuals present at the conference should be the developer, the County inspector, the County Engineer's representative and the contractor. The developer shall provide 5 sets of approved construction drawings to be retained by the County at this meeting. Up to 3 additional approved copies for the developer or his representative may be requested.

g. The developer or contractor shall obtain all necessary permits prior to starting any grading or construction.

h. The developer or contractor shall give the ESD a minimum of 48 hours' notice prior to commencing any construction or testing of material, including but not limited to the following:

i. Clearing and grubbing, subbase, subgrade, and base course;

ii. Compaction;

iii. Concrete;

iv. Bituminous materials and asphaltic concrete;

v. All forms and steel used in pouring concrete; and

vi. Trench backfill.

i. The ESD shall order materials testing of materials and construction in the development as soon as the contractor notifies ESD they are available for testing. The ESD shall approve or reject the materials and construction based on the results of those tests.

j. Testing of materials and construction fees shall be paid by the permit holder if the installation fails testing.

k. The ESD shall have 5 working days to respond to the results of materials tests.

l. Retesting of materials or construction due to failure to pass compliance tests shall be paid by the construction permit holder. Verification of payment for retesting shall be provided to the ESD prior to final acceptance.

**6.2.7 One-Year Construction Warranty**

If, after final inspection and acceptance of work performed and prior to the expiration of 1 year from the date of acceptance or such longer period of time as may be prescribed by the law or by the terms of any applicable special guarantee required by the contract documents associated with the approval of the subdivision, any work is found to be defective, whether the failure is due to construction or materials failure, the applicant shall promptly and without cost to the County, in accordance with an engineer's written instruction, either correct such defective work or, if it has been rejected by the County, remove it from the site and replace it with the terms of such instructions. The County may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect cost of such removal and replacement, including compensation for additional professional services, shall be paid by the developer. All subdivisions shall be insured by a one-year warranty of improvements that shall obligate the applicant to repair to County standards any improvements that fail within 1 year of the County's final inspection of construction in the subdivision. In order to insure compliance with this Article, all subdivision improvements performed in the construction of roads and drainage rights-of-way of a subdivision shall be subject to a warranty binding the applicant to such terms as are mentioned above. This warranty shall follow the sample forms in the Appendix.

**6.2.8 Dedications**

Where the developer wishes to dedicate facilities and/or rights-of-way to the County, a written request by the owner shall be submitted for review by the ESD and CDD. The dedication in the final plat shall be submitted to the BOCC for acceptance or denial, for the facilities and rights-of-way described in the subdivision's disclosure statement and the terrain management plan.

**6.2.9 Traffic Impact Analysis (TIA)**

A TIA is used to assess the effects of a particular development on the surrounding transportation network, to determine what provisions are needed for safe and efficient site access and traffic flow, and to establish mitigation requirements where off-site impacts require improvements.

a. Off-site improvements shall not be required to be constructed by the developer in order to address existing transportation system deficiencies. However, any decrease in the LOS arising from the development shall be corrected before a

development/construction permit can be issued. The degree of degradation shall be measured from the desired LOS for the intersection on the Major Thoroughfare Plan. A site threshold assessment (STA) application shall be required for all development, excluding a single-family residential dwelling on an existing lot. Attached to the STA shall be a sketch showing traffic counts for pre- and post-development and traffic count data from the Institute of Transportation Engineers (ITE) Trip Generation Manual.

b. The level and extent of the required residential TIA shall conform to the following warranting criteria, unless the ESD determines that a higher level is required based on surrounding existing and proposed development:

i. A Level One TIA shall address safety issues related to and the impact of site-generated traffic upon the intersection created at the primary point of access from the development to a County-maintained road, to be evaluated at the point in time after projected full build-out and occupancy of the development (generally for 6 to 25 residential units);

ii. A Level Two TIA shall incorporate the requirements of the Level One TIA, and shall also be expanded to address off-site thoroughfare and intersection improvements that may be required due to an increase in vehicle miles traveled (VMT) or due to a compromise in safety that is caused by traffic from the development. It is to be evaluated at the time of projected full build-out and occupancy of the development, and 5 years from the projected full build-out and occupancy (generally for 26 to 100 residential units); or

iii. A Level Three TIA shall incorporate the requirements of the Level Two TIA, and shall also be evaluated at an additional horizon year, which shall conform to the horizon year utilized by the regional planning organization (RPO), Metropolitan Planning Organization (MPO), or state highway plan for long-term transportation system modeling, projection and planning (generally a 20 year horizon and for 101 or greater residential units).

c. All nonresidential development shall require an STA. The level and extent of the required TIA shall be determined by the ESD based on the review of the STA and will conform to the following warranting criteria:

i. A Level One TIA, generally for 6 to 25 peak-hour trips.

ii. A Level Two TIA, generally for 26 to 100 peak-hour trips.

iii. A Level Three TIA, generally for 101 or more peak-hour trips.

d. TIAs shall address the following:

i. Introduction and summary, consisting of: the purpose and objectives of the report; principal findings and conclusions; and recommendations for improvements required to address impacts caused by traffic from the development upon the existing

transportation system.

ii. Description of the proposed development, consisting of: description of the site location and study area; brief description of the development; and identification of any phasing or timing for implementation.

iii. Description and extent of study, consisting of: identification of study area, whether Level One, Two or Three; and if Level Two or Three, identification of areas of influence and traffic impact.

iv. Description of study time frames, consisting of: Level One TIA: first year after projected full build-out and occupancy; Level Two TIA: first year after projected full build-out and occupancy, and 5 years after full build-out; and Level Three TIA: first year after projected full build-out and occupancy, 5 years after full build-out, and horizon year (generally 20 years).

v. Existing land use and development within the study area, including: existing land uses in the vicinity of the development; concurrent development, including any subdivisions or development approved or under construction; and future development currently in the planning stage.

vi. Description of existing conditions of the transportation system, including identification of existing: Access and thoroughfare characteristics, including the presence of any existing or future collector or arterial roads as identified on the regional planning organization (RPO) or Metropolitan Planning Organization (MPO) plan or state highway plan in the vicinity of the proposed development; traffic control and transportation system conditions; safety issues and concerns, including, but not limited to, sight distance and accident rates; and (Background) traffic volumes, including turning volumes, capacity and level of service.

vii. Projected traffic and traffic impacts, consisting of: computation of vehicle trips generated by the development, in accordance with the requirements of the Trip Generation Manual, Institute of Transportation Engineers, as amended; identification and discussion of estimated a.m. and p.m. peak-hour traffic, including turning volumes, daily and seasonal variations, if appropriate, and pass-by trips; trip distribution and assignment; and effects of site-generated traffic upon capacity, level of service, and safety of the thoroughfare system.

viii. Improvement analysis, including: evaluation of number of lanes, lane and shoulder widths, lateral clearances, design speeds, deceleration/acceleration lanes, horizontal and vertical alignments, sight distance, pavement conditions, existing access and use, traffic control, and pedestrian uses; and identification of and cost estimates for transportation system improvements required to

accommodate existing traffic, as well as existing and projected site traffic.

ix. Findings and recommendations, including: appropriateness and adequacy of site access; existing and projected traffic impacts; and required improvements, including those required as a condition of approval of the subdivision or development.

x. The following documents are incorporated by reference, and shall be used in the preparation of TIAs, including their data, requirements, and procedures: Trip Generation Manual, Institute of Transportation Engineers, as amended; A Policy on the Geometric Design of Highways and Thoroughfares, American Association of State Highway and Transportation Officials as amended; Manual on Uniform Traffic Control Devices for Thoroughfares and Highways, as amended; Highway Capacity Manual 2000, Transportation Research Board, and the Highway Capacity Software, McTrans HCS2000, latest upgrade or the approved equal; and Access Management Manual, New Mexico Department of Transportation, or other as amended applicable design standard.

xi. Designers shall strive to provide the lowest Vehicle Miles Traveled (VMT) feasible with anticipated conditions.

xii. Prior to final plat approval, improvement requirements determined to be necessary to maintain, restore or improve existing thoroughfare LOS on highways, major arterials, arterials, collectors and major locals may be subject to a cooperative agreement between the County and the developer. The agreement shall be in place prior to the filing of the final plat.

xiii. Travel Demand Management Strategies: Include an outline of travel demand management strategies to mitigate traffic impacts created by proposed development and implementable measures for promoting alternate modes of travel, including but not limited to the following: Incorporate design features that facilitate walking, biking, and the use of transit services to access a proposed development, including features such as transit shelters and benches site amenities, site design layouts, orientations and connections to other components of the multi-modal transportation system to increase convenience for alternate modes and reduce multiple trips to and from the site; provide connections to existing offsite pedestrian, bicycle, and transit systems that are as direct as possible given the existing limitations of obstructions, terrain and land ownership.

xiv. Trip Generation Reductions: Credit for any trip reductions is subject to review and approval in advance by the ESD. Any anticipated trip reduction assumptions shall be discussed and approved by the ESD prior to the preparation of the TIA. Trip

reductions typically fall into 1 of 2 categories: those that reassign some portion of the trip generation from the Thoroughfare network adjacent to the project site (pass by and diverted trip reductions), and those that remove trips generated from the land use trip generation (internal and modal split reductions).

## 6.3 ACCESS AND PARKING

### 6.3.1 Operation

Access and driveways shall operate as at-grade intersections. They shall be designed to provide for adequate sight distance, acceptable levels of traffic operations, and provide control and geometry that is consistent with the intensity of use of the driveway, the intended function of the thoroughfare and to comply with this Article.

### 6.3.2 State Permit

A permit shall be obtained from the New Mexico Department of Transportation (NMDOT) district office for all driveways accessing state-maintained roads prior to the approval of any development and construction documents.

### 6.3.3 Access Permit

An access permit obtained from the ESD is required for all driveways accessing existing and proposed County roads prior to the approval of any construction documents or issuance of a building permit. See Section 6.1.5.

### 6.3.4 Single-Family Residential Requirements

For residential driveway requirements, driveway widths shall be governed by Tables 3.7 through 3.11 and 5.3 through 5.16 and Lots and Driveways 3.4.4 and 5.2.3.

### 6.3.5 Private Driveway Access to Single-Family Lots

Private driveway access to single-family lots shall be from local thoroughfares. See Table 6.4 Thoroughfare Classification Context. However, if this is the only legal access to an existing parcel of land, 1driveway permit will be permitted.

a. A common driveway is a mutual entrance to 2 lots. The minimum width allowed is 20 feet. A letter of concurrence, signed by both property owners, shall be provided prior to issuance of the permit.

b. For lots with a 40 foot frontage or less, the driveway shall be located where it is common for 2 lots, and provides an on-thoroughfare parking area, where possible.

c. The minimum distance between 2 driveways on 1 lot is 22 feet.

d. The minimum distance between 2 driveways on adjacent lots is 30 feet.

e. The minimum length of frontage for 2 driveways is 120 feet.

f. For corner properties, the location of the drivepad on local thoroughfares shall be a minimum of 20 feet from the curb return.

g. The driveway shall be designed so that the drainage patterns will not allow stormwater to either enter or leave the public ROW, unless otherwise provided for in the original development.

### 6.3.6 Nonresidential, Mixed-Use, and Multiple-Family Residential Driveways

For nonresidential driveways and multiple-family housing developments, the number of driveways and type of construction are dependent upon the classification of the thoroughfare and the traffic to be generated by the proposed development. Driveway widths shall be governed by the site standards per Tables 3.7 through 3.11 and 5.3 through 5.16 and for Lots and Driveways 3.4.4 and 5.2.3.

a. Thoroughfare Classification. The County's thoroughfare classification is determined by the analysis of its current functional classification and projected land uses and as defined by this Article. The Major Thoroughfare Plan, as recommended by local MPOs, shall be used as a basis for the classification of thoroughfares within Doña Ana County. Thoroughfare classification is based upon the community type according to Table 6.4 Thoroughfare Classification Context.

b. Traffic Generation Factors. Points of access shall be designed to a high standard to minimize operational and safety problems. Driveway characteristics may include reduced entrance grades, and deceleration lanes. (See Tables 3.7 through 3.11 and 5.3 through 5.16 and Lots and Driveways 3.4.4 and 5.2.3.)

c. Spacing of Driveways from Intersections and Driveways. The distances in Table 6.12 Spacing of Driveways from Intersections shall be used as minimums for existing parcels less than 2 acres in size when determining the spacing of driveways from intersections and other driveways.

**Table 6.12 Spacing of Driveways from Intersections**

| | **Arterial** | | **Collector** | | **Local** | |
|---|---|---|---|---|---|---|
| **Type of Thoroughfare** | Approach Distance (feet) | Departure Distance (feet) | Approach Distance (feet) | Departure Distance (feet) | Approach Distance (feet) | Departure Distance (feet) |
| **Principal arterial** | 300 | 200 | 200 | 150 | 150 | 100 |
| **Minor arterial** | 200 | 150 | 150 | 100 | 100 | 100 |
| **Collector** | 150 | 150 | 100 | 100 | 75 | 75 |
| **Local** | 150 | 150 | 100 | 100 | 75 | 75 |

**Notes:**
**(1) Additional distance may be required based upon queuing requirements.**
**(2) Multi-use driveways will be classified the same as local thoroughfares for the purpose of this table.**

d. Driveways with Median Access.

i. Thoroughfares with median channelization shall have driveways located with the center line of the driveway approximately centered on the median openings. Where a driveway exists on the opposite side of the thoroughfare, the center line of the new driveway that utilizes the median opening shall be located within 10 feet of the existing driveway center line. Driveways not meeting these criteria shall be located a minimum of 75 feet from the existing median

opening.

ii. Driveways on thoroughfares without median channelization shall be constructed on opposite sides of the thoroughfare. If driveways are not to be opposite each other, they are offset a minimum of 50 feet for local thoroughfares and a minimum of 75 feet for collector and arterial thoroughfares. The center lines shall be within 15 feet of each other.

e. Curb Return Construction. Curb returns may be allowed on arterials if vehicles are entering and exiting large-scale commercial/industrial developments. They may be permitted in other cases given sufficient traffic generation or substantial use by vehicles with a large turning radius. Vehicle swept path and turning movement analyses are required submittals.

f. Drivepads for minor and principal arterials, collectors, major local and walkable urban thoroughfares:

i. Two-way drivepads require a 24 foot minimum width.

ii. One-way drivepad shall be 20 feet in width. These are only permitted where the circulation is self-enforcing; that is, when angle parking and one-way aisles are used in establishing the one-way pattern from entrance to exit.

iii. Drivepad widths for larger vehicles may be up to 36 feet for tractor-trailer combinations and mobile homes.

g. Drivepads for Local Thoroughfares.

i. Twenty-foot minimum for two-way access; however, 24 feet may be permitted for commercial or mixed-use properties.

ii. No backing from designated parking stalls into the thoroughfares is permitted.

iii. One-way drivepad shall be 18 feet in width. These are only permitted where the circulation is self-enforcing; that is, when angle parking and one-way aisles are used in establishing the one-way pattern from entrance to exit.

h. Curb Return Entrances. The width and radius of the entrance are dependent upon the design vehicle in all use zoning districts and must be modeled via vehicle swept path and turning movement analyses. See Table 6.13 Arterial and Collector Access.

i. All curb return entrances require ADA ramps and valley gutters.

ii. Additional right-of-way or public thoroughfare easement may be required to be dedicated or granted.

**Table 6.13 Arterial and Collector Access**

| | | **Single Entrance/Exit Widths (feet)** | | **Divided Entrance/Exit Widths (feet)** | | |
|---|---|---|---|---|---|---|
| | | | | Entrance | Exit | |
| **Design Vehicle** | Radius at Back of Curb (feet) | No Median Access | With Median Access | | No Median Access | With Median Access |
| **Car only** | 20 to 30 | 20 | 20 to 30 | 12 | 12 | 20 |
| **SU-30[1]** | 24 to 30 | 30 | 36 to 40 | 20 | 18 | 22 |
| **WB-40[2]** | 30 to 40 | 30 to 40 | 40 to 45 | 22 | 20 | 24 |
| **WB-50[3]** | 35 to 40 | 40 to 45 | 45 | 25 | 20 | 24 |

**Notes:**
**[1]Single-unit truck, 30 feet long, wheel base 20 feet (refuse truck).**
**[2]Tractor-trailer, 50 feet long, wheel base 40 feet.**
**[3]Tractor-trailer, 55 feet long, wheel base 50 feet (18-wheeler).**

i. Striping and Signing.

i. Entrances and exits of any driveway shall be marked with arrows to define direction, such as one-way exit and entrance signs and turn restriction signs. For further details on appropriate signing and striping used for entrances, see the Manual for Uniform Traffic Control Devices (MUTCD), as amended.

ii. The developer shall provide a NMPE certified traffic control plan for review and approval by the ESD in accordance with the MUTCD. The developer shall implement the approved plan at the developer's/applicant's expense for work within the County right-of-way.

j. Grades. The maximum initial grades for curb return entrances with left-turn access shall be a positive 4% (+4%) for right-turn-in-only entrances and a positive 6% (+6%) for right-turn-out-only entrances. Drivepads shall be constructed to the thoroughfare right-of-way line per Section 6.8.2 Drivepad and Intersect Drawings, except that a minimum drivepad depth of 6 1/2 feet shall be used.

k. Visibility for Driveways. Visibility shall be maintained in accordance with the AASHTO Guidelines for Intersection Visibility. Landscaping, fencing and/or berming shall meet the requirements for driveway visibility. See Section 6.2.3.

l. Right-turn Deceleration Lanes for Tapers. A modified right-turn deceleration lane or a taper is required on arterial thoroughfares where the right-turning volumes will not exceed the following numbers in Table 6.14 Right-Turn Deceleration Lanes or Tapers for either the a.m. or p.m. peak of the adjacent thoroughfare traffic.

**Table 6.14 Right-Turn Deceleration Lanes or Tapers**

| Taper Required | Design Speed of Thoroughfare (mph) | Length (feet) |
|---|---|---|
| **1 to 15 trips / day** | 45 to 50 | 200 |
| | 35 to 45 | 150 |
| | Under 35 | Not required |
| **Deceleration Lane Required** | | |
| **15 or more trips / day** | 45 to 50 | 200 |
| **15:1 taper** | 35 to 45 | 150 |
| | Under 35 | Not required |

**Note: Additional right-of-way for deceleration lanes or tapers shall be dedicated, if necessary.**

m. Left-turn Lanes. Left-turn lanes shall be required if a driveway utilizing a median opening is constructed. The left-turn lane provides for both the stacking and deceleration of left-turning vehicles. Left-turn lane lengths are dependent upon a number of factors, including the cycle length of the upstream signal, left-turn arrival rate, and queuing factor. For unsignalized left turns, the formula in Table 6.15 Turnbay Length for Unsignalized Left Turns shall be used to determine turn bay length.

**Table 6.15 Turnbay Length for Unsignalized Left Turns**

| Mean Arrival Rate (vehicles / minute) | Turnbay Length (feet) | Width (feet) |
|---|---|---|
| **0.25** | 100 taper | 10 |
| **0.25 to 1.0** | 50 + transition | 10 |
| **1.5** | 75 + transition | 10 |
| **2.0** | 100 + transition | 10 |

**For mean arrival rates above 2 vehicles/minute, the following formula should be used:**
**Length = Vl/C *v*L**
**Where:**
**Vl = number of left turns in the peak hour**
**C = cycle length of upstream signal**
**Vl/C = mean arrival rate**
**V = Poisson arrival factor for 95% confidence level**
**L = average vehicle length — use 20 feet per vehicle for queues with 1% trucks**

**Transitions**

| **Design Speed (mph)** | Taper Length |
|---|---|
| **30 to 55** | 15:1 x lane width |

n. Channelized right and left turns. Right- and left-turn channelization shall be required based upon factors such as one-way thoroughfares, the necessary restriction of movements at a driveway or to meet applicable standards as set forth in NMDOT's State Access Management Manual.

o. Signalization. When a development causes a significant increase in traffic to warrant a signal (per MUTCD), the developer will be financially responsible for the signal installation as set forth in the NMDOT State Access Management Manual. A financial guarantee for a future signal shall be submitted for approval by the BOCC.

p. Abandoned Driveways. Any drivepad/driveway that has a change in use shall be replaced by the property owner with driveways meeting these minimum standards.

q. Common Driveways. Driveways that straddle property lines or share access shall be recorded by a grant of easement document prior to the issuance of an access permit. This easement shall also recognize any existing lot lines, utilities, or other easements.

r. Driveway Construction. Driveways and parking areas shall be constructed and surfaced per the approved design and specified in the permit application. No surfacing shall be placed upon a driveway until an inspection is made and the grading work is approved by the ESD.

s. Lighting. Exterior lighting is required for all employee and visitor parking areas, walkways, building entrances and exits, and ingress and egress. No light standard shall exceed 10 feet in height. No light source shall be fixed to any building so that rays are perpendicular to the building face. All direct rays of the light source shall be confined to the site.

t. Driveway Apron Maintenance. The County does not assume any responsibility for the removal or clearance of snow, sleet, ice, silt, vegetation, wind-blown debris or the opening of windrows of such materials upon any portion of any driveway or entrance along any County road.

u. Drainage. Drainage design shall conform to NMDOT requirements and to all applicable local regulations and requirements. Drainage on side ditches shall not be altered or impeded. The applicant/owner shall provide suitable and approved drainage structures as required by the County based on acceptable engineering practices. The following engineering practices and information shall be submitted by permit applicants when any changes are made in drainage conditions:

    i. A report including a description of the existing drainage conditions, the proposed revisions and the effect of the proposed changes on existing conditions. It shall include, but not be limited to, proposed drainage structures that shall carry the design flow of water in the side ditches.

    ii. Maps and drawings shall address all pertinent features of the proposed modification. This may include, but not be limited to, site maps, drainage area maps, contour maps, grading plans, structure profiles, and channel profiles.

    iii. Hydrologic and hydraulic calculations are required for design discharge, headwater elevations, tailwater elevations, flow depths and flow velocities in channels, design discharge, and headwater

elevations in culverts.

v. Pipe culverts placed parallel to thoroughfares shall have a concrete blanket placed on both ends of the structure. The concrete blanket shall have horizontal 2-inch steel pipes (extra-strong AISC designation) placed such that the spacing shall not exceed 24 inches and shall be designed so that the grate can be lifted up or removed for cleaning purposes.

**6.3.7 Parking Requirements.**

Parking requirements for multi-family and all non-residential uses shall follow the Institute of Transportation Engineers (ITE) Parking Generation Manual, most current edition.

## 6.4 FLOOD DAMAGE PREVENTION

**6.4.1 Basis for Establishing Area of Special Flood Hazard**

The areas of special flood hazard identified by the effective Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Doña Ana County, New Mexico," with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM), and any revisions thereto are hereby adopted by reference and declared to be a part of this section.

**6.4.2 Duties and Responsibilities of Floodplain Administrator**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

a. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.

b. Review permit application to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.

c. Review all applications for Floodplain Development Permits required by adoption of this chapter.

d. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

e. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.

f. Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the New Mexico State Engineer, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

g. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

h. When base flood elevation data have not been provided in accordance with Section 6.4.9, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Sections 6.4.6 through 6.4.9.

i. When a regulatory floodway has not been designated, the Floodplain Administrator shall require that new construction, substantial improvements, or other development (including fill) shall not be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community.

j. Under the provisions of 44 CFR Chapter I, Subchapter B, Part 65, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A, AE, AH and AO on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first applies for a conditional FIRM revision through FEMA.

**6.4.3 Floodplain Development Permit**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter. See Section 6.1.7.

**6.4.4 Interpretation**

In the interpretation and application of this chapter, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

**6.4.5 Warning and Disclaimer of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**6.4.6 General Standards**

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads,

including the effects of buoyancy;

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters; and

g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**6.4.7 Specific Standards**

In all areas of special flood hazards where Base Flood Elevation (BFE) data have been provided as set forth in Sections 6.4.1, 6.4.2.h, or 6.4.8.a, the following provisions are required:

a. Residential Construction. New construction and substantial improvement of any insurable structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this Section is satisfied.

b. Nonresidential Construction. New construction and substantial improvements of any insurable commercial, industrial or other nonresidential structure shall be designed so that below the BFE, the structure is watertight. This requires either that the lowest floor (including basement) is elevated to or above the BFE or, together with attendant utility and sanitary facilities, walls are substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction. A registered professional engineer or land surveyor shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Section. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

c. Enclosures. New construction and substantial improvements shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing

for the entry and exit of floodwaters. This includes fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement, which are subject to flooding. Designs for meeting this requirement shall either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i. A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than 1 foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters.

d. Manufactured Homes.

i. All manufactured homes to be placed within Zones A, AE, AH and AO on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes shall be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

ii. Manufactured homes that are placed or substantially improved within Zones A, AE, AH and AO on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood are required to be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

iii. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A, AE, AH and AO on the community's FIRM that are not subject to the provisions of this Section shall be elevated so that either:

(a) The lowest floor of the manufactured home is at or above the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no

less than 36 inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

e. Recreational Vehicles. Recreational vehicles placed on sites within Zones A, AE, AH and AO on the community's FIRM shall either (i) be on the site for a maximum of 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 6.1.7a and the elevation and anchoring requirements for manufactured homes in Section 6.4.7d of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

**6.4.8 Standards for Subdivision Proposals**

a. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 6.4.1 or Section 6.4.2h.

b. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

c. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**6.4.9 Standards for Areas of Shallow Flooding (AO/AH Zones)**

Located within the areas of special flood hazard established in Section 6.4.1, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 foot to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Therefore, the following provisions apply:

a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the BFE specified in feet on the community's FIRM (at least 2 feet if no BFE is specified).

b. All new construction and substantial improvements of nonresidential structures shall:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or

ii. Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with

structural components having the capability of resisting hydrostatic and hydrodynamic loads of effect of buoyancy.

c. A registered professional engineer or surveyor shall submit a certification to the ESD, for review by the Floodplain Administrator, that the standards of this section, as proposed in Section 6.1.7 are satisfied.

d. Within Zone AH or AO, adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

## 6.5 GRADING AND DRAINAGE

### 6.5.1 General Provisions

No grading shall be done within the County without complying with the requirements of this Article and by an appropriately licensed contractor in the State of New Mexico. A grading permit shall be obtained from the County prior to the start of construction by an engineer licensed in the State of New Mexico. A copy of the grading permit shall be posted on site during hours of operation. See Section 6.1.8.

a. Work for which a grading permit has been issued under this Article shall be executed in conformance with the grading plan approved by the ESD and shall not be abandoned or left incomplete. Failure to continue significant work on a site once grading has begun may be determined by the County to be an abandonment of the work required by the permit, and such abandonment will constitute a violation of this Article.

i. The permittee is responsible for notifying the County within seven days of stoppage for extenuating circumstances.

ii. Having persons or equipment at a site, but not performing the work, is not construed to be significant work.

iii. Projects shall not be considered complete until notice of termination has been made in accordance with all County and state regulations, and the National Pollutant Discharge Elimination System requirements.

### 6.5.2 Clearing and Grubbing

Clearing and grubbing may require a grading permit as determined by the County based on the following circumstances:

a. The grading of a driveway/access or road to a site;

b. To clear vegetation when work is necessary to allow proper preliminary engineering on the site;

c. To provide security for a site from unauthorized grading or dumping by clearing, loosening and berming the soil in a narrow band around the perimeter of the property;

d. The construction of building pads; and

e. For such other purposes as the County may determine are proper but do not

entail reshaping or contouring of the land to any significant degree.

**6.5.3 Exceptions from Permits**

Exceptions concern only the obligation to apply for a permit, and do not relieve the landowner from complying with the remaining provisions of this Article. Grading permits will not be required under the following circumstances:

a. Residential new construction, remodeling, additions or other alterations to existing structures are exempt from the requirements of Section 6.1.8 provided that they meet the following conditions:

   i. Average slopes across the area to be developed in excess of 4% are not disturbed; and

   ii. Existing drainage patterns are not changed on the property, do not change the location of entrance or exit points or that would increase the amount of stormwater runoff leaving the property.

b. Commercial new construction, remodeling, additions or other alterations to existing structures are exempt from the requirements of Section 6.1.8 provided that they meet the following conditions:

   i. Less than 1,000 square feet of total land area and less than 6 inches in depth is disturbed;

   ii. Average slopes across the property are greater than 4% and are not disturbed; and

   iii. Existing drainage patterns are not changed on the property, do not change the location of entrance or exit points or would not increase the amount of stormwater runoff leaving the property.

c. Other exceptions, where the work is:

   i. Routine agricultural or land management operations necessary for cultivation of the soil of a farm or ranch (NMSA 1978, §47-9-1, Right to Farm Act);

   ii. Trenching operations for the construction or repair of pipelines and other underground utilities; or

   iii. Small in depth, area or effect such as, but not limited to, tree planting, intermittent and minor landscaping.

d. For the placement of a Mobile Home on lot, where permitted, and where no grading is done.

**6.5.4 Erosion Control Plan (ECP)**

Any grading, construction, demolition, or development requiring a permit or other form of approval under any County ordinance shall have an approved ECP in place prior to receiving a permit. The ECP may be separate documents, or incorporated as part of required construction plans.

a. New Development. Any development that requires a permit under any County ordinance shall require an ECP be submitted consistent with this section. Grading for all construction, including single-family dwelling units, shall be

limited to the building pad, pond, driveway, and an additional 5 feet in all directions from these areas, unless a need for additional area is demonstrated.

b. Existing Conditions. If the condition of a property is determined to pose a significant health threat because of its vulnerability to erosion by natural forces due to the human development of the property, or if the location of the property is near concentrations of vulnerable populations (i.e., school children, ill or elderly persons), the owner of such property will be required to submit an Erosion Control Plan (ECP) consistent with this Section.

i. Determination. The initial determination that a property is in such a condition may be made in writing by any law or code enforcement or other County agent authorized to make such a determination and is subject to review by the ESD.

ii. Plan Submission Requirement. Upon receipt of the determination, the property owner shall submit a proposed ECP within 30 days to the County representative who made the determination. The ECP shall include the BMPs presented within this section, or any other BMPs for eliminating or mitigating the vulnerable condition of the property. The plan shall include a proposed timeline for implementation.

iii. Review of ECP. Upon receipt of the proposed ECP, the County Engineer, or their designee, will determine if the ECP is sufficient. If the ECP is determined to be insufficient, such determination and reasons therefore shall be provided to the property owner in writing. The property owner shall be given 10 working days to revise the ECP and address the insufficiencies.

c. Exempt Activities. Although the County encourages the use of best management practices (BMPs) in all activities, the following activities are exempt from the regulations and restrictions of this section:

i. Regular agricultural operations covered by the Right to Farm Act, NMSA 1978, §§47-9-1 through 47-9-7, including cultivating, tilling, growing, and harvesting crops, and the raising of farm animals or fowl.

ii. Governmental activities during life-threatening situations, other emergencies, or in connection with any officially declared disaster or state of emergency.

iii. Operations conducted by essential service utilities to provide electricity, natural gas, oil and gas transmission lines, telephone, water, and sewage during or to avoid service outages and emergency disruptions.

iv. Temporary use of unpaved roads and parking lots that generate fewer than 20 vehicle trips per day for fewer than 3 successive days.

d. ECP Documentation. The following shall constitute the information required within the ECP to describe the best management practices (BMPSs) proposed for the project or existing land surface. BMPs shall be outlined and approved as part of the overall review of construction drawings (or ECP if construction drawings do not apply) through the ESD and CDD. The ECP shall be developed by a Professional Engineer licensed in the State of New Mexico.

i. Name(s), address(es) and phone number(s) of person(s) responsible for the preparation, submittal and implementation of the ECP, and for the dust-generating operations.

ii. A site plan or plat of survey of the site that describes the following. This may be combined with the grading plan if applicable. See Section 6.5.8.

(a) The total disturbed area and the total area of the entire project site, in acres or square feet, depending on the scale.

(b) The operation(s) and activities to be carried out on the site.

(c) All anticipated sources of fugitive dust emissions on the site.

(d) Temporary drainage and ponding facilities to minimize soil erosion and localized flooding of adjacent properties from water utilized on site for development or dust control.

(e) Delivery, transport, and storage area locations, types of materials, and size of stockpiles for each type of material proposed for the site.

iii. A description of BMPs to be applied during all periods of dust-generating operations to each of the fugitive dust sources on the site plan or plat. At minimum, required information, including specific details, are listed below.

(a) If dust suppressants are to be applied, the type of suppressant; method, frequency, and intensity of application; the number and capacity of application equipment to be used; and any pertinent information on environmental impacts and/or certifications related to appropriate and safe use for ground applications shall be clearly indicated.

(b) The specific surface treatment(s), and/or other BMPs utilized to control material track-out and sedimentation, where unpaved and/or access points join paved surfaces shall be clearly indicated.

(c) For each fugitive dust source identified, at least 1 BMP shall be implemented. The same BMP may be used for more than 1 dust-generating activity. In addition, at least 1 auxiliary BMP shall be designated as a contingency measure and be clearly described. Should the original BMP prove ineffective, immediate and effective implementation of the contingency measure shall obviate the requirement of submitting a revised ECP.

(d) BMPs to be implemented prior to any period of inactivity, due to any reason other than extended rainfall, of 10 days or more shall be clearly indicated.

iv. A description of BMPs or combination thereof to be used to minimize the negative effects of water usage on site during the development activities. All approved BMPs should be continued until final stabilization is achieved.

v. The person responsible for implementing the objectives of the ECP shall keep accurate records and document all activities in carrying out the ECP. These records shall be made available upon request by the County staff.

e. ECP Review and Acceptance. Review and acceptance of a proposed ECP shall be the responsibility of the ESD, or other authorized County staff members. Acceptance may be conditioned upon the implementation of additional measures, actions, or other activities, in addition to those included in the proposed ECP. Acceptance and issuance of the building permit and/or construction permit, and the approval of all outlined BMPs contained within the ECP shall constitute a mandate that the accepted BMPs be implemented by the developer, operator, builder, owner, and/or agents as part of construction activities.

f. Best Management Practices (BMPs). BMPs included within an ECP required by this section may include any 1 or more of the following measures:

i. Designing subdivisions or building sites to maintain existing, predevelopment grades.

ii. Watering disturbed areas on a regular, yet minimum, basis throughout daily construction activities.

iii. Applying palliatives or chemical soil suppressant/stabilizer for idle construction periods.

iv. Constructing snow and/or wind fences.

v. Reseeding or natural cover restoration within graded or disturbed areas.

vi. Grading for street and utility placement only as part of subdivision construction.

vii. Building some or all interior and perimeter cinder block, rock walls, and retaining walls as part of the overall construction of all subdivisions and not part of the individual building permit for each lot.

viii. Preserving natural vegetation during the construction phase of buildings, excluding the building pad site.

ix. Utilizing existing or natural vegetation as part of the required landscaping for the site as elsewhere required within these design standards, to limit grading activities, to promote water

conservation, and to reduce dust generation.

x. Installing vegetation or non-natural landscaping elements in the latter part of construction to reduce the amount of disturbed area and the potential for dust generation.

xi. Implementing any other reasonable dust-suppressing agent or activity.

xii. Active operations in construction areas and other land disturbances:

(a) Short-term BMPs

(1) Regularly scheduling wet suppression.

(2) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(3) Incorporating temporary upwind windbreaks, including fabric fences with the bottom of the fence sufficiently anchored to the ground to prevent material from blowing underneath the fence.

(4) Starting construction upwind and stabilizing disturbed areas before disturbing additional areas.

(5) Stopping active operations during high wind periods.

(b) Long-term BMPs

(1) Stabilizing the site using dust suppressants applied in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(2) Reseeding with native grasses or vegetation.

(3) Xeriscaping.

(4) Tree planting.

(5) Permanent perimeter and interior fencing.

xiii. Specific Construction Guidelines. The following BMPs may be incorporated in a proposed ECP to mitigate the effects of specific activities:

(a) Unpaved Roadways

(1) Paving using asphalt, recycled asphalt, asphaltic concrete, concrete, or double-penetration (consistent with subdivision or zoning requirements).

(2) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(3) Scheduling regular wet suppression.

(4) Using traffic controls, including decreased speed limits with appropriate enforcement, vehicle access restrictions and controls, road closures and barricades, and off-road vehicle access controls and closures.

(b) Trucks Hauling Bulk Materials on Public Roadways

(1) Properly securing tarps or cargo covering that cover the entire surface of the load.

(2) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(3) Maintaining 6 inches of clear, vertical distance from the highest portion of the load to the lowest portion of the truck beds.

(4) Preventing leakage from the truck bed, sideboards, tailgate or bottom dump gate.

(c) Bulk Material Handling

(1) Using spray bars.

(2) Adding wetting agents (surfactants) to bulk material.

(3) Manually applying wet suppression.

(4) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(5) Avoiding bulk material handling during high wind conditions.

(6) Reducing process speeds.

(7) Reducing drop heights.

(d) Industrial Sites

(1) Paving roadways and parking areas with asphalt, recycled asphalt, asphaltic concrete, or concrete.

(2) Regularly scheduling vacuum street cleaning.

(3) Scheduling regular wet suppression of unpaved areas.

(4) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(5) Incorporating wind breaks or enclosures.

(6) Increasing wet suppression applications during high wind conditions.

(7) Stopping or slowing active operations during high wind conditions.

(e) Demolition and renovation activities when asbestos-containing materials are not present. If asbestos-containing material may be present, all demolition or renovation activity shall be performed in accordance with the federal standards referenced in 20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources. In other instances, the following BMPs may be utilized:

(1) Applying constant wet suppression on debris piles during demolition.

(2) Applying dust suppressants in amounts and rates recommended by the manufacturer and maintaining as recommended by the manufacturer.

(3) Incorporating enclosures, curtains, or shrouds.

(4) Using negative-pressure dust collectors.

(5) Stopping demolition during high wind conditions.

(f) Milling, Grinding or Cutting of Paved or Concrete Surfaces

(1) Applying constant wet suppression.

(2) Continuing ongoing cleanup of milled, ground or cut material.

(3) Dust suppression applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer.

(4) Incorporating enclosures, curtains, or shrouds.

(5) Using negative-pressure dust collectors.

(g) Pressure Blasting Operations

(1) Using nonfriable abrasive material.

(2) Incorporating curtains or shrouds.

(3) Using negative-pressure dust collectors.

(4) Applying constant wet suppression.

(5) Continuing ongoing cleanup of abrasive material.

### 6.5.5 General Nonconstruction Activity Standards

a. Ground Cover Removal Prohibited. No person shall disturb the topsoil or remove ground cover on any real property within County unless reasonable actions are taken to prevent generation of dust caused by the disturbed condition.

b. Weed Eradication and Dust Suppression.

i. Weed eradication is limited to removal of specific weeds; clearing

of the entire lot is prohibited.

ii. Once weeds are removed or mowed, options for dust suppression include watering, chemical suppressant application, or the expansion of natural vegetation areas on the site. Expansion of natural vegetation areas is encouraged.

c. Storage of Materials and Material Transport. Actions shall be taken to ensure that material storage, transport, and use areas and/or practices with the potential of becoming or generating fugitive dust and particulate matter shall be covered, moistened, compacted, or otherwise treated to prevent fugitive dust creation.

**6.5.6 Engineering Controls for Stormwater and Drainage Runoff**

a. Authority. This Section is adopted in accordance with the authority granted by the New Mexico Water Quality Act NMSA 1978, §74-6-1 *et seq.* and the United States Clean Water Act. See 33 U.S.C. §1251 *et seq*. Under the National Pollutant Discharge Elimination System (NPDES) established by the Clean Water Act (33 U.S.C. §1342), Doña Ana County is required to obtain a permit for stormwater discharges from its municipal separate storm sewer system (MS4). In 2007 the U.S. Environmental Protection Agency (EPA) issued an NPDES Final General Permit (Federal Register Volume 72, Number 113, Page 32654) for small municipal separate storm sewer systems in New Mexico under which the County has obtained permit authorization for its stormwater discharges. The permit requires the County to adopt an ordinance that prohibits non-stormwater discharges into the MS4 and requires construction site operators to control erosion, sediment and wastes.

b. Purpose. The purpose of this Section is to promote the elimination or reduction of pollutants that enter the MS4 and to establish control over discharges to and from the MS4. The purpose of this section is to:

i. Maintain and improve the quality of surface water and groundwater within the County limits;

ii. Prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the MS4, channels, watercourses, and waters of the U.S.;

iii. Promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, and other contaminants into the MS4, channels, watercourses, water, and waters of the U.S.;

iv. Minimize destruction of the natural landscape by reducing erosion and sedimentation;

v. Control the adverse impacts associated with accelerated stormwater runoff on natural channels, watercourses, and all MS4 structures due to increased development and creation of new impervious surfaces;

vi. Minimize erosion and degradation of channels and watercourses and improve their condition where possible;

vii. Respect, protect, maintain, and restore natural channels and watercourses, wetlands, bosques, floodplains, steep slopes, riparian vegetation, and wildlife habitat areas;

viii. Facilitate compliance with state and federal standards and permits by owners and operators of construction sites;

ix. Enable the County to comply with all federal and state laws, regulations and permits applicable to stormwater discharge; and

x. Protect the health and welfare of and improve the quality of life for the citizens and residents of the County.

c. Administration and Enforcement. The County Engineer designee shall administer and coordinate the implementation and enforcement of the provisions of Section 6.5.6. Engineering Controls for Stormwater and Drainage Runoff. Duties and responsibilities of the County Engineer shall include, but are not limited to, the following:

i. Ensure the provisions of MS4 are met, including but not limited to dams, detention and retention basins, storm drains, outlets, pumping stations, channels, watercourses, water, and waters of the U.S. within the County;

ii. Maintain and hold open for public inspection all records pertaining to the provisions of this section;

iii. Review and accept stormwater pollution prevention plans (SWPPP) required by this section;

iv. Supervise the operation and maintenance of the MS4 to ensure its safe and effective functioning and notify the appropriate staff of any required maintenance and/or repair work;

v. Establish and implement a program to locate and eliminate illicit discharges and improper disposals to the MS4; and

vi. Establish and implement a program to control pollutants in stormwater discharges from construction activities.

d. General Prohibitions

i. No person shall introduce or cause to be introduced into the MS4, channels, watercourses, water, or waters of the U.S. within the County any discharge that is not composed entirely of stormwater.

ii. It is an affirmative defense to any enforcement action for violation of this section that the discharge was composed entirely of 1 or more of the following categories of discharges:

(a) Any authorized by and in full compliance with an NPDES Construction General Permit (other than the NPDES permit for discharges from the MS4);

(b) Agricultural stormwater runoff;

(c) Residential lawn watering, residential landscape irrigation, or crop irrigation water;

(d) A discharge from a diverted stream flow or natural spring;

(e) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20) to the MS4;

(f) Uncontaminated water from a foundation drain, crawl space pump, footing drain, or sump pump;

(g) A discharge from a potable water source not containing any pollutant or material from the cleaning or draining of a storage tank or other container;

(h) An uncontaminated discharge from riparian habitat or wetland; or

(i) A discharge of de-chlorinated swimming pool water.

iii. No affirmative defense shall be available under Section 6.5.6.d.ii of this section if the discharge or flow in question has been determined by the County to be a source of a pollutant or pollutants to the MS4, channels, watercourses, water, or waters of the U.S. and written notice of such determination has been provided to the discharger.

iv. The burden of proof that a discharge was composed entirely of 1 or more of the categories in Section 6.5.6.d.ii and that it was not a source of a pollutant or pollutants to the MS4, channels, watercourses, water, or waters of the U.S. is upon the person responsible for the discharge.

e. Specific Prohibitions and Requirements. The specific prohibitions and requirements in this section are within, but do not limit, the general prohibition of all the discharges prohibited by the general prohibitions in Section 6.5.6.d.

i. No person shall introduce, or cause to be introduced, into the MS4 any discharge that causes or contributes to causing the County to violate a water quality standard, the County's NPDES permit, or any state or federal issued discharge permit for discharges from the County's MS4.

ii. No person shall release, cause, allow, or permit the introduction of any of the following substances into the MS4 or the channels, watercourses, water, or groundwater within the jurisdiction of the County:

(a) Used motor oil, antifreeze, hydraulic fluid, or any other motor vehicle fluid;

(b) Industrial waste or wastewater;

(c) Hazardous waste, including household hazardous waste;

(d) Domestic sewage or septic tank, grease trap, or grit trap waste;

(e) Wastewater from a commercial car wash facility and commercial vehicle washing, cleaning, or maintenance at any new or used automobile, or other vehicle, dealership, rental agency, body shop, repair shop, or maintenance facility;

(f) Wastewater from the commercial washing, cleaning, deicing, or other maintenance of aircraft(s);

(g) Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior where the wastewater contains any soap, detergent, degreaser, solvent, other cleaning substance, or a pollutant from the surface that is being cleaned, or that has been produced by wash water applied at pressures elevated above the distribution system pressure, or that is at a temperature that has been elevated by induced heating;

(h) Wastewater from commercial floor, rug, or carpet cleaning;

(i) Wastewater from the wash down or other cleaning of pavement that contains any soap, detergent, degreaser, solvent, other cleaning substance, or a pollutant from the surface that is being cleaned, or that has been produced by wash water applied at pressures elevated above the distribution system pressure, or that is at a temperature that has been elevated by induced heating; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all quantities of such released material have been previously removed;

(j) Effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler containing harmful quantities of a pollutant;

(k) Ready-mixed concrete, mortar, ceramic, asphalt base material, hydromulch material, soil stabilizers, or runoff from the cleaning of commercial vehicles or equipment containing, transporting, or applying such material;

(l) Contaminated filter backwash from a swimming pool, fountain, or spa;

(m) Fountain, swimming pool, or spa water that is chlorinated (containing 0.1 milligram/liter or more of chlorine when tested with a standard pool chlorine test kit) or contains pollutants, to include any filter backwash water;

(n) Discharge from water lines disinfected by super chlorination or other means, if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

(o) Water from a water curtain in a spray room used for painting vehicles or equipment;

(p) Contaminated runoff from a vehicle wrecking yard;

(q) Substance or material that will damage, block, or clog the MS4;

(r) Release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge complies with all state and federal standards and requirements;

(s) Garbage, rubbish, yard waste, or other floatable material;

(t) Runoff, wash-down or other discharge from an animal pen, kennel, or fowl or livestock containment area, unless the discharge is authorized by an NPDES permit for a concentrated animal feeding operation; or

(u) Rubble, debris, tile, concrete, brick, asphalt or other building material.

iii. No person shall introduce, or cause to be introduced, into the MS4, channels, watercourses, water, or waters of the U.S. any quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities, or associated with land filling, other placement, or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing erosion and sedimentation control measures to the maximum extent practicable under prevailing circumstances.

iv. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

v. Parking lot storm drain inlets shall be maintained free of garbage, rubbish, yard waste, and other debris. Such material removed from the inlets shall be disposed of in a container and shall not be allowed to enter the MS4.

f. Release Reporting and Cleanup. The person operating any facility, vehicle, or other source of spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4, channels, watercourses, water, or waters of the U.S., shall immediately notify the Mesilla Valley Regional Dispatch Center at (575) 526-0795, or 911 and the County Engineering Services Department and the County's Flood Commission on the next business day:

i. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established in 40 CFR Part 302;

ii. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;

iii. An amount of oil that either:

(a) Violates applicable water quality standards; or

(b) Causes a film or discoloration of the surface of the water or a bordering ground or causes a sludge or emulsion to be deposited beneath the surface of the water or upon a bordering ground; or

iv. Any harmful quantity of any pollutant as defined in Section 6.5.6.e.

v. The immediate notification required by Section 6.5.6.f. shall include the following information:

(a) The identity or chemical name of the substance released, chemical classification, and whether the substance is an extremely hazardous substance;

(b) The exact location of the release, including any known name of the waters involved or threatened, and any other environmental media affected;

(c) The time and duration of the release;

(d) An estimate of the quantity and concentration (if known) of the substance released;

(e) The source of the release;

(f) Any known or anticipated health risks associated with the release, and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;

(g) Any precautions that should be taken as a result of the release;

(h) Any steps that have been taken to contain and clean up the released material and minimize its impacts; and

(i) The names and telephone numbers of the person or persons to be contacted for further information.

vi. Within 14 days following such release, the person operating the facility, vehicle, or other source of the release shall submit a written report to the County Engineering Services Department containing each of the items of information specified above in Section 6.5.6.f.v of this section, as well as the following additional information:

(a) The ultimate duration, concentration, and quantity of the release;

(b) All actions taken to respond, contain, and clean up the released substances, and all precautions taken to minimize the impacts;

(c) Any known or anticipated acute or chronic health risks associated with the release;

(d) Where appropriate, any advice regarding medical attention necessary for exposed individuals;

(e) The identity of any governmental/private sector representatives responding to the release; and

(f) The measures taken, or to be taken, by the responsible person(s) to prevent similar future occurrences.

vii. Any release report required by a state or federal authority containing the information described in Sections 6.5.6.f.v and 6.5.6.f.vi of this section shall be adequate to meet County reporting requirements.

viii. The notifications required by Sections 6.5.6.f.v, 6.5.6.f.vi, and 6.5.6.f.vii of this section shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the County, natural resources, or any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this chapter or to state or federal law.

ix. Any person responsible for any release as described in Section 6.5.6.f of this section shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

x. Any person responsible for a release described in Section 6.5.6.f of this section shall reimburse the County for any cost incurred by the County in responding to the release, within 30 days of being invoiced by the County.

**6.5.7 Stormwater Pollution Prevention Plan (SWPPP)**

Except for small construction activities with the waiver described in Section 6.5.7.o, all operators of a construction activity shall prepare a SWPPP for review and approval by the County. In cases where more than 1 person meets the definition of "operator," the persons may cooperate to prepare and implement a single, comprehensive SWPPP for the entire construction site and all phases of construction activity. The SWPPP shall be submitted to the County a minimum of 30 days prior to any land disturbance. For subdivision plans, a SWPPP shall be included with the final subdivision plan submittal. The County will review a SWPPP submittal or resubmittal and either accept it or provide a written notice of deficiencies within 30 days of the County receiving the SWPPP.

a. Contents of the SWPPP. The SWPPP shall be in accordance with the requirements for the effluent limits, and the conditions applicable to the State of New Mexico in the NPDES General Permit for Discharges from Construction Activities that is effective at the time the SWPPP is submitted to the County for review. The site map, or ECP, required by the CGP shall consist of drawings that are a minimum of 11 inches by 17 inches and sealed by a Professional Engineer in the State of New Mexico or a CPESC. At a minimum, the SWPPP shall contain, but is not limited to, the following:

i. Name, address, phone number, fax number, e-mail address and

SWPPP responsibilities of all operators using the SWPPP;

ii. Name, address, phone number, fax number, and e-mail address of the property owner(s);

iii. Site map, grading plan or ECP, see Section 6.5.8 and Section 6.5.4;

iv. Sequence and timing of activities that disturb soil, including phasing to minimize the amount of area disturbed at 1 time;

v. Delineation and fencing or other protective measures for existing vegetation and natural resources to be preserved;

vi. Controls to minimize the disturbance of natural channels, watercourses, and steep slopes;

vii. Controls to minimize water and wind erosion during construction;

viii. Controls to minimize sediment discharges in stormwater runoff during construction;

ix. Pollution prevention measures to minimize the discharge of pollutants from on-site materials and wastes, including, but not limited to, concrete truck washout, water from equipment and vehicle washing, wheel wash water, washout of stucco or paint, any other wash water, fuels, oils, other equipment and vehicle maintenance fluids, chemicals, building materials, building products, construction wastes, rubbish, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and spills and leaks;

x. Controls to minimize off-site vehicle tracking of sediment onto paved surfaces;

xi. Sediment basins and/or turbidity treatment processes for drainage locations that serve an area with 10 or more acres disturbed at 1 time, as required by the CGP;

xii. Temporary and permanent outlet structures and velocity dissipation devices at stormwater discharge locations to protect against erosive velocities during and after construction;

xiii. Practices to stabilize all disturbed areas, including off-site areas that were disturbed in support of the construction activity, when construction activity is completed (final stabilized) or has halted (temporarily stabilized), and will not resume within 14 days;

xiv. Controls to remove suspended soil particles and other pollutants in water discharged from dewatering activities, including discharges from dewatering of trenches and excavations;

xv. Using soil loss prediction models or equivalent and generally accepted soil loss prediction tools, documentation that implementation of the site-specific practices in the SWPPP will result in sediment yields and flow velocities that, to the maximum

extent practicable, will not be greater than the sediment yield levels and flow velocities from preconstruction, predevelopment conditions;

xvi. Inspection and maintenance procedures for best management practices and other control measures; and

xvii. Signature and certification of each operator using the SWPPP, in accordance with the CGP requirements for who is authorized to sign and certify for the operator.

b. SWPPP Inspections. Qualified personnel (provided by the operator of the construction site) shall inspect all disturbed areas of the construction site that are not stabilized and areas used for storage of materials that are exposed to precipitation at the frequency required in the CGP and its Permit Conditions for the State of New Mexico. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the MS4, channels, watercourses, water or waters of the U.S. Erosion and sediment control measures identified in the SWPPP shall be observed by the operator to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether BMPs are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking. A report shall be prepared for each inspection and maintained with the SWPPP.

c. SWPPP Maintenance. BMPs and other controls shall be maintained in effective, operating condition. If inspections described in Section 6.5.7.b identify BMPs that are not operating effectively, the BMPs shall be repaired or replaced within 14 days and before the next storm event, whenever practicable. Sediment shall be removed from sediment traps, silt fence, sedimentation basins, and other sediment controls before it reaches half the height of the control, reduces the control capacity by 50%, or more frequently if specified in the SWPPP or by the control's manufacturer.

d. Stabilization. Within 14 days of stopping or completing construction activities, the construction site operator shall initiate stabilization in accordance with this chapter and the CGP. Temporary stabilization measures may be used if construction activity is anticipated to resume in the future. If temporary stabilization measures are used, inspection and maintenance requirements remain in effect until the criteria for final stabilization are met, regardless of whether construction activity resumes. A Notice of Termination (Section 6.5.7.l) will not be accepted by the County unless final stabilization is implemented.

e. If the construction project is completed, the final stabilization shall meet the requirements in this chapter and the CGP, including the Permit Conditions for the State of New Mexico.

f. Temporary stabilization measures in the SWPPP shall be appropriate for and include, but are not limited to, the following:

i. Size of the disturbed area;

ii. Soil type and susceptibility to wind and water erosion;

iii. Slope steepness and slope stability;

iv. Conveyance of stormwater runoff around or through the site without causing erosion on the site or downstream;

v. Velocity dissipaters and other protection for temporary discharge points to prevent erosion and damage to the downstream MS4, channel, or watercourse;

vi. Effective life of temporary stabilization measures in comparison to length of time the disturbed area is anticipated to be without construction activity; and

vii. Inspection and maintenance procedures, at least monthly, to ensure effectiveness of the stabilization measures until construction resumes or final stabilization is established.

g. Final stabilization measures in the SWPPP shall be appropriate for and include, but are not limited to, the following:

i. Soil type and susceptibility to wind and water erosion;

ii. Slope steepness and its effect on erosion potential;

iii. Structural measures to provide slope stability for any cut/fill slope or natural slope disturb by construction that is steeper than 3 horizontal on 1 vertical;

iv. Permanent structures to convey stormwater around and across slopes in a non-erosive manner;

v. For vegetative stabilization methods using live plantings (e.g., landscaping), inspection and maintenance procedures until stabilization is established and shown to be effective in satisfying the criteria for final stabilization. Vegetative stabilization methods using seed require 70% predevelopment plant coverage to achieve final stabilization. For landscaping requirements refer to Article 5.7. A vegetative stabilization plan shall include:

(a) Temporary controls (turf reinforcement mats, erosion control blankets, etc.) with a minimum life of 3 years to stabilize the surface until establishment of vegetation;

(b) Seed mix appropriate for the climate and soil conditions;

(c) Soil amendments and fertilizers as appropriate for soil conditions;

(d) Annual (at a minimum) inspection and maintenance procedures until criteria for final stabilization are met; and

(e) An inspection report form in accordance with the Permit Conditions for the State of New Mexico in the CGP; and

vi. For individual lots transferring from a developer or builder to a

homeowner:

(a) Perimeter controls in good, effective condition; and

(b) Copy of the letter to be given to the homeowner informing the homeowner of the need for and benefits of final stabilization.

i. SWPPP Revisions. The SWPPP shall be revised to provide different or additional controls whenever a control is determined by the operator or the County to be ineffective in controlling its targeted pollutant.

j. Notice of Intent (NOI). All operators of construction activities shall submit to the County a copy of the signed NOI and EPA's acknowledgement of its receipt at least 14 days before commencing any soil-disturbing activities at the construction site. A copy of the completed NOI shall also be conspicuously posted near the main entrance of the construction site. For linear projects, the NOI shall be posted at a publicly accessible location near the active part of the construction project.

k. Operator Changes. When the construction activity operator changes, the new operator shall submit a revised SWPPP, signed certification statement, and a copy of the new NOI to the County before starting work at the site.

l. Notice of Termination (NOT). All operators who have submitted an NOI for construction activities, shall submit to the County a copy of the signed NOT within 30 days of one of the following conditions:

i. Final stabilization has been achieved on all portions of the site for which the operator is responsible;

ii. BMPs and other controls are in place and have passed to another operator who has submitted an NOI and SWPPP to the County, in accordance with the CGP and Sections 6.5.7.j-k of this section;

iii. Coverage under an individual or alternative general NPDES permit has been obtained; or

iv. For residential construction only, the operator has established temporary stabilization, including perimeter controls of the individual lot, the lot has been transferred to the homeowner, and the operator has given the homeowner written notification of the need for and benefits of final stabilization.

v. The County will not accept a NOT without evidence of one of the above conditions.

m. Appeal. An operator who submits a SWPPP for County review and approval under this chapter and is denied approval, may administratively appeal a decision of the County Engineer to the BOCC. The appeal shall be initiated by filing a written notice of appeal with the County Engineer within 10 working days from the date of the final written determination by the County Engineer. The notice of appeal shall cite the factual basis for the appeal and the relief sought, and shall be accompanied by relevant supporting documents and any

required fee. The BOCC may affirm, reverse, or modify the decision of the County Engineer.

n. SWPPP and Permit Denial. The County may deny approval of a SWPPP if it does not meet the requirements of this chapter or the CGP in effect at the time the SWPPP is submitted to the County. In addition, the County may deny approval of any County building permit, grading permit, subdivision plat, site development plan, or any other County permit, inspection, or approval necessary to commence or continue construction, or to assume occupancy, in the absence of an approved SWPPP required by this chapter, or whenever best management practices, controls, and stabilization measures described in a SWPPP, or observed upon a site inspection, are determined not to control and minimize erosion, the discharge of sediment, or other materials and pollutants associated with the construction activities.

o. Waivers. If the construction activity qualifies for an EPA waiver of the CGP (refer to http:\www.epa.gov/npdes/pubs/construction_waiver_form.pdf) and is for a residential development, the County may waive the requirements of this section; however, the construction site shall still comply with the general and specific prohibitions. Specifically, the operator shall ensure no harmful substances are introduced into the MS4, channels, watercourses, water, or waters of the U.S. It is the operator's sole responsibility to meet the requirements of the EPA waiver. To qualify for the County waiver of this section, the operator shall submit a copy of the EPA waiver certification and acknowledgement of its receipt by the EPA to the County for review and acceptance. The County reserves the right to require the construction activity to have a SWPPP even if an EPA waiver is obtained. If the operator fails to meet the conditions of a waiver, the operator shall be required to immediately comply with this section. Failure to do so will constitute a knowing violation of this section.

p. Flood control studies shall be performed by a qualified design engineer licensed within the State of New Mexico, and, if required, a completed drainage report shall be submitted to the County for approval (see Section 6.5.9 below). The County will approve or require additional information or modifications to the report. Stormwater drainage reports, runoff reports and designs shall be approved before a grading permit is issued.

q. Analysis of any and all watershed areas affecting the proposed site development and the design of flood control/drainage structures shall be incorporated into the report.

r. Total surface runoff from the proposed improved site into existing or future developments shall not exceed the runoff from the area of land prior to development. The engineer may utilize retention/detention ponds, swales, drainage channels, pumping facilities or any other approved methods to restrict runoff to accomplish this task.

s. Surface and subsurface drainage shall not be altered or diverted in any way that creates drainage or flooding to adjacent and/or downstream properties.

t. Stormwater Drainage Improvements.

i. Construction plans and details for drainage structures shall be included in the basic improvement plans for the proposed site development. All drainage structures shall be designed to carry the 100 year stormwater runoff. All drainage ponds shall be designed to hold the 125% volume of the 100 year storm runoff. All plans and details for drainage structures shall be subject to review and approval by the County.

ii. The design engineer shall be responsible for showing all necessary supporting calculations, data and criteria on plans, specifications and if required, a drainage report with respect to flow capacities, structural soundness, public safety, etc. See Section 6.5.9 below.

iii. All drainage structures and construction methods shall conform to the New Mexico Standard Specifications for Public Works Construction, as amended. Drainage structures and construction methods shall also conform to the NMDOT specifications for Highway and Bridge construction. Drainage structures and construction details shall be clearly indicated on the construction plans.

iv. Drainage/Flood control facility maintenance plans shall be submitted as part of the drainage report.

v. All water containment structures, which have water open to the air, shall empty either through percolation into the soil or through outlet structures designed to ensure a controlled release of water that will not cause flooding or erosion. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do no empty within 72 hours.

vi. Ponds with depths greater than 3 feet or slopes greater than 4:1 shall be fenced.

### 6.5.8 Grading and Drainage Plan

The purpose of the plan shall be to protect property from the effects of development. As required by this section, the grading and drainage plan shall address the control of drainage and erosion and shall calculate and analyze the measures necessary to adapt development to the existing soil characteristics and topography. This material should incorporate the terrain management, or grading, information necessary to address the requirements of the New Mexico Subdivision Act. The developer shall fulfill the proposals contained in the plan, and the plan shall be reviewed and approved by the appropriate reviewing agencies. All grading and drainage plans shall be certified by a Professional Engineer registered in the State of New Mexico and shall comply with Section 6.4 above.

a. The requirement for grading permits may differ due to local conditions of the land use, proposed site development, drainage patterns, topography, soil conditions, soil type and other items. The principal burden of designing a proper grading plan shall fall upon the landowner, developer, contractor, or

engineer concerned with the project. In view of this circumstance, the following requirements have been developed as an aid for operations covered by this Article. Under no circumstances should these conditions be construed to replace the basic requirements of judgment, experience or competence that are a part of good engineering and land development. The County, in order to assure that the correct grading practices are followed as directed by this statement of purpose, may impose any of the following requirements as part of the issuance of a grading permit.

b. Grading and drainage plan specifications, see Section 6.1.8.

c. Soil Erosion Control. The requirements for soil erosion control measures depends largely upon the extent of the destructive and nuisance potentials due to erosion that may develop from the work to be performed. Thus, the need for erosion control measures is largely determined by prevailing winds, drainage patterns, soil characteristics and the proximity and potential hazards to downwind and downstream residences, businesses, thoroughfares and other facilities. See Section 6.5.4 for Erosion Control Plan requirements.

d. Earthwork for Longer than 14 days. Where any project area is to be exposed to the effects of wind or water for extended periods of time, erosion control measures shall be continued and/or maintained until natural growth comparable to that removed by the work has been reestablished or until a stable, final development project has been wholly completed.

e. Earthwork Requirements. All permitted earthwork shall be designed by a registered Professional Engineer licensed in the State of New Mexico. An approved grading plan stamped and certified by a licensed New Mexico Professional Engineer will generally govern in determining the specific requirements of significant earthwork.

i. General.

(a) Fill material will be free of material detrimental to construction of stable fills.

(b) Excavations will not be made close to property lines so as to endanger adjoining property without providing support and protection to prevent damage due to erosion, sliding or settlement.

(c) Fills will not be placed where they can slide or wash onto the property of others; nor will they be placed where they can cause encroachment upon arroyos or other natural drainageways without provision of facilities to assure the capacity of the drainageway as approved by the County.

(d) Fill material placed above the top of an existing or proposed surface with a slope steeper than 3 feet horizontal to 1 foot vertical shall be set back from the top of the slope face at least 5 feet.

(e) Prior to placing fill on natural surfaces, all organic material shall be removed and the natural surface shall be scarified to a depth of 12 inches.

(f) Temporary drainage facilities will be provided to protect the earthwork from erosion, overflow or ponding generally indicated as in Section 6.5.4.

ii. Compaction.

(a) Load-bearing fills upon streets, lanes or public facilities are to be located and shall comply with the requirements of the County road standards as to the quality of fill materials, placement and compaction. The plasticity index (PI) of structural fills shall not exceed a value of 12 without specific recommendations from a New Mexico registered Professional Engineer.

(b) Non-load-bearing fills shall be compacted to a minimum density of 95% as per the American Society for Testing and Materials (ASTM D-1557). Fills will be placed and compacted to minimize erosion and produce a stable surface.

f. Other Conditions. The following conditions may be imposed by the County:

i. Flagmen may be required as part of the grading permit.

ii. Any use of vibratory rollers shall be approved by the County.

iii. The County shall be notified 24 hours in advance of any work; such as placing curb, pavement, and storm sewer in County rights-of-way.

iv. The County may impose hours of operation and truck routes to be based on individual site locations, which shall be indicated on the permit.

v. Limits on the amount and length of time materials may be stockpiled.

g. General Design Standards. Compliance with the following criteria is essential to the proper preparation of a plan:

i. Runoff analysis shall take into consideration all contributing runoff from areas outside the development. The analysis of storm runoff from existing developed area outside the development shall be based upon present land use and topographic features. Runoff from undeveloped land outside the development shall be calculated using coefficients appropriate for the current land use of the runoff source. When calculating the runoff from land outside the development area, the land area included shall be that area inclusive of the uppermost part of the watershed.

ii. Flow patterns in undeveloped areas adjacent to the proposed development shall be based on existing natural topographic features.

iii. Average land slope in both developed and undeveloped areas may be used in computing runoff.

iv. Planning and design of drainage systems shall be such that flooding problems are not transferred beyond the project's boundaries.

v. Outfall points shall be designed in such a manner that they will not cause damage to areas downstream due to increased flooding. Irrigation facilities shall not be used as outfall points.

vi. Drainage easements or dedicated rights-of-way may be required where concentrated flow or ponding occurs. Acceptance of the rights-of-way shall be approved by the County; any dedication of drainage system components shall be agreed to and accepted by the County and included in the subdivision's disclosure statement per Article 8.

vii. Encroachment that impairs drainage easements or rights-of-way shall be prohibited.

viii. On-lot ponding shall be permitted on lots greater than 0.750 acre. For lots between 0.500 and 0.749 acre, on-lot ponding may be permitted, provided the proposed on-lot slopes do not exceed 4% in the developed area of the lot and the permeability of the soil allows the pond to drain within 72 hours. For lots less than 0.500 acre in size, alternative drainage plans on private lots may be approved as part of an overall drainage plan. These alternative drainage plans shall be certified by a Professional Engineer registered in the State of New Mexico. The minimum depth of the pond shall be 18 inches. Secure fencing shall be required if the depth of the pond exceeds 3 feet, unless the pond is designed as an amenity with slopes less than 4:1. Fencing requirements may be waived if an alternate drainage design demonstrates safe conditions and is approved by the County. The ponds shall be maintained by the property owners and shall be enforced through any drainage maintenance agreement concerning drainage from the public right-of-way (see sample forms in Appendix A). The side slopes (rounded to the nearest whole number) shall be treated with the applications found in Table 6.16 Treatment Applications for Ponding Areas.

**Table 6.16 Treatment Applications for Ponding Areas**

| Side Slope | Typical Treatment Required or Other Acceptable Applications |
|---|---|
| **Side Slope 2:1** | Grouted rock, concrete, or wire-tied rip-rap |
| **2:1 < Side Slope < 3:1** | Hand placed rip-rap |
| **Side Slope < 3:1** | Permanent Best Management Practices (BMPs), such as vegetation, landscape rock, etc. are required |

ix. All ponding should be designed to complement the landscape and return to native conditions.

x. Community ponding areas may be taken over by Doña Ana County upon mutual agreement between the developer and the County. The developer shall demonstrate that a proposed ponding area is in

good operational condition. Maintenance schedules shall be submitted as well as support documentation indicating the source of water that is routed to ponding areas. Design considerations shall take into account location, depth, side slopes, erosion control, maintenance, access, landscaping, and fencing. The proposed ponding areas shall be reviewed and accepted by ESD and/or the Flood Commission prior to moving forward to the BOCC. The ponds shall be offered for dedication and considered for acceptance by the BOCC and shall be subject to a one-year warranty period. The agreement shall be approved prior to final plat approval.

xi. The primary purpose of streets is the safe conveyance of vehicular traffic. Any runoff carried by a street shall comply with the requirements of Table 6.18 Street Capacity Criteria.

h. Wind erosion control shall be required per Section 6.5.4.d.iii.

**6.5.9 Drainage Report**

A drainage report shall be required for all developments that meet any of the following criteria:

a. The entire development, or a portion thereof, lies within a FEMA special or flood hazard area or other flood hazard areas as determined by the DAC Office of the Flood Commission;

b. Grades within the area to be developed in excess of 4%; or

c. A major arroyo, stream, or channel exists within the area to be developed.

d. Required calculations, analysis and documentation:

i. Peak flow from all off-site tributary drainage areas;

ii. Peak flow within the proposed development for all on-site drainage basins for pre- and post-development;

iii. Closed sub-basin analysis, including identification of water into or out of sub-basins;

iv. Potential drainage problems that are anticipated within the development and downstream from the development;

v. Effects of 10 year and 100 year 24 hour storm events;

vi. Routing and cumulative flows for 10 year (if applicable) and 100 year 24 hour storms at all critical points in the drainage system, which may include points of intersection, change of flow, change of slope, change of structural elements, and any other critical point in the drainage system;

vii. Function, analysis and capacity calculations for all drainage system components that are part of the development proposal, which may include inlets, storm drains, channels, streets, culverts, ponds, swales, dams, berms, etc.; and

e. Overall drainage area boundaries and drainage subarea boundaries depicted on a map.

**6.5.10 Runoff Analysis Method**

a. Developments of Less than 3 Acres. Runoff analysis for developments of less than 3 acres can be based on general runoff coefficients for valley and mesa areas. The runoff coefficient is a value used to approximate the amount of runoff a developer or home builder shall retain on-site to maintain existing drainage characteristics. The following simplified approach may be used, but other methods may also be considered.

i. Identify area classification:

(a) Valley Areas: Land slopes less than 1 percent.

(b) Mesa Areas: Land slopes greater than or equal to 1 percent

ii. Runoff and Flow Coefficients

(a) Valley Areas: 2.8"

(b) Mesa Areas: 2.0"

(c) Flow Coefficient: 1.6 cfs/acre-in

iii. Calculate the impervious area of the lot to be developed in square feet.

iv. Find required storage volume by multiplying the impervious area (square feet) by the runoff coefficient (inches) and a conversion factor of 1 foot/12 inches.

(a) Area x Runoff Coefficient x Conversion Factor = Runoff Volume

v. Indicate on the construction plans how the required runoff volume will be controlled on site. Include details on asphalt and lot grades, walls and/or berms that will control or direct runoff, and method of overflow of the storage area.

vi. Acceptable types of drainage structure are listed below; however, other methods may be acceptable upon approval by the County.

(a) Open Ponding. Open retention ponds are recommended in areas that have good percolation of water into the soil. Open ponds offer the maximum amount of storage for a given land area. The minimum depth shall be 18 inches, and the pond shall be located a minimum of 5 feet from adjacent property lines and 10 feet from any structures.

(b) French Drain. Acceptable in areas that have poor percolation rates, i.e., areas where clay is present. A French Drain shall be used only to provide increased percolation rates for runoff. French Drains shall have an open pond above rock level with a minimum clearance of 12 inches.

(c) Underground Storage. Underground storage is recommended in areas with good percolation and limited space. Credit is given for the open

volume only; no credit is given for rock voids. No credit will be given for "rock ponds". Some acceptable products include, but are not limited to, perforated CMP, perforated HDPE, Rainstore©, infiltrator systems, etc. Designs shall include a method to maintain the structure's effectiveness.

b. Developments Equal to or Greater than Three Acres: Runoff analysis for development equal to or greater than 3 acres shall be based on the Soil Conservation Service (SCS) Method as modified for New Mexico, or other method approved by the County. When utilizing the SCS Method, the NRCS Type II-75 storm distribution (see Table 6.17 NRCS Type II-75 Storm Distribution) shall be used. Other storm distributions may be accepted by the responsible departments if valid written justification is provided by the applicant's engineer. This storm distribution assumes 75% of the total rainfall occurs within the 6th hour of a 24-hour rainfall event. Furthermore, the following limitations apply to the SCS Method:

   i. Minimum Initial Time: 5 minutes.

   ii. Minimum Time of Concentration T.: 6 minutes

c. Overland flow portions of time of concentration are to be calculated for a maximum reach length of 300 feet.

**Table 6.17 NRCS Type II-75 Storm Distribution**

| Time (hours) | Fraction of 24- hour Rainfall (Type 11-75) | Time (hours) | Fraction of 24- hour Rainfall (Type 11-75) |
|---|---|---|---|
| 0.00 | 0.0000 | 7.00 | 0.8740 |
| 1.00 | 0.0080 | 7.50 | 0.8875 |
| 2.00 | 0.0177 | 8.00 | 0.8977 |
| 3.00 | 0.0301 | 9.00 | 0.9122 |
| 4.00 | 0.0475 | 10.00 | 0.9923 |
| 4.50 | 0.0591 | 11.00 | 0.9318 |
| 5.00 | 0.0754 | 12.00 | 0.9392 |
| 5.25 | 0.0863 | 14.00 | 0.9524 |
| 5.50 | 0.1016 | 16.00 | 0.9640 |
| 5.75 | 0.1280 | 18.00 | 0.9743 |
| 6.00 | 0.7895 | 20.00 | 0.9836 |
| 6.25 | 0.8323 | 22.00 | 0.9922 |
| 6.50 | 0.8516 | 24.00 | 1.0000 |
| 6.75 | 0.8644 | | |

### 6.5.11 Construction Plans

A registered Professional Engineer licensed in the State of New Mexico who has experience and demonstrated competence in this area shall certify all construction plans. A traffic control plan shall be submitted and approved by the Engineering Services Department prior to issuance of a construction permit. The construction plans shall be submitted on 24 inch by 36 inch sheets, and shall contain at least the following:

a. General Requirements. Construction plans shall include, at a minimum:

i. Title sheet;

ii. Copy of proposed subdivision plat, showing existing and proposed easements and rights-of-way;

iii. Copy of final grading and drainage plan;

iv. Plans and profiles for all components of the storm drainage system proposed to be constructed within and adjacent to the subdivision/development;

v. Details for all drainage system components as required to define structural or construction methods and requirements;

vi. General construction notes;

vii. Detail sheets;

viii. Traffic control plan, to include construction signing, permanent signing and pavement markings; and

ix. A subdivision schematic indicting proposed permanent roadway signage.

b. Plan and Profile Details. Construction drawings shall include, at a minimum:

i. North arrow and scale;

ii. Subdivision/Development limits and individual lot lines, existing and proposed easements and rights-of-way;

iii. All street and paving improvements, including street names, and widths;

iv. Existing and proposed utilities affected by the proposed construction;

v. Existing ground surface and proposed ground surface grades clearly delineated;

vi. Project benchmarks;

vii. Information on proposed pipes and culverts, including:

(a) Stationing;

(b) Profile;

(c) Size of pipes;

(d) Grades of pipes;

(e) Length between manholes or other access points;

(f) Construction details, station numbers, invert elevations and top elevations for all inlets and outlets, manholes, and all connections to existing drainage systems; and

(g) Construction notes, including pipe composition and specification references as required; and

viii. Details on proposed open channels, including:

(a) Stationing;

(b) Profile indicating grade of invert of channel, top of lining (if any), and adjacent ground grade;

(c) Typical cross sections;

(d) Rip-rap details with rock gradation requirements;

(e) Lining details;

(f) Structural details; and

(g) Construction notes and specification references as required.

c. Drainage Maintenance Agreement. This agreement defines the responsibilities and requirements of the individuals or groups responsible for maintaining all elements of the drainage system, using the sample format provided Appendix A. The agreement shall be substantially in the form provided in the sample; however, it may be modified as needed to accommodate the specific drainage system as required by the Flood Commission.

**6.5.12 Geotechnical Analysis**

A geotechnical analysis will be provided, unless otherwise exempted by this Article, to assess the properties of soils within project areas, shall, following all applicable ASTM standards, be submitted to ESD, and shall contain, at a minimum, the following criteria:

a. A detailed description of the project area, including proposed land use, terrain, slopes, drainage patterns and vegetation.

b. A detailed description of the geology found in the general area of the project site.

c. An outline and description of the methodology and procedures used in the sampling of soils within the project area.

d. A site vicinity map of appropriate scale indicting the location of the project.

e. A site map of appropriate scale indicating the location of the test borings.

f. A boring log for each test hole location showing the depth of each soil sample retrieved, a visual description of each soil sample retrieved, the method of soil sampling, the thickness of each soil layer encountered, standard penetration test results and any other applicable information gained during sampling.

g. A summary of the laboratory analysis of each soil sample collected, to include gradation, Atterburg limits, moisture content, etc.

h. A summary of the soil classifications determined for each soil sample.

i. A summary of the soil bearing capabilities found within the project area, if applicable; results of percolation test rates within the project area, if applicable.

j. Foundation recommendations for structures within the project area, if applicable.

k. Pavement design recommendations within the project area, if applicable.

l. Recommendations for earthwork practices within the project area, to include compaction, soil blending, over excavation, benching, etc.

m. Recommendations for inspection and material testing frequencies during the construction phases of the project.

n. Structures built on unacceptable materials shall require an alternative design, to include geotextiles, geogrid, limestone stabilization or other acceptable process approved by County Engineering Services.

**6.5.13 Driveway Culverts and Road Drainage Requirements.**

There are 2 systems that will provide stormwater control in and along a roadway: curb and gutter designs and roadway swales. Alternate systems are encouraged and may be approved by the County Engineer. All systems shall be designed to provide a 4 foot shoulder/walking path that is not on the roadway surface or in the stormwater runoff flow area necessary for a 10 year storm event.

a. Curb and Gutter. The developer may use curb and gutter to control storm runoff flows, see the Design Drawings. In addition, swales behind the curb shall be used to contain a minimum volume of stormwater equal to the volume of increased runoff from the site due to development of the roadway. Erosion control and energy dissipation measures shall be designed and installed at the boundary of any development using curb and gutter with outlets for stormwater flows onto an unlined surface.

b. Roadway Swales. Roadway swales may be used to convey and/or store stormwater flows along the roadway, under the following conditions:

i. Swales shall be designed for velocities not to exceed those listed in Table 6.24 Maximum Velocity of Unlined Channels and Swales.

ii. Stormwater storage requirements for swales shall be based on the fully developed stormwater flow conditions of the development. Roadway swales with a longitudinal slope of less than 1/2% shall be constructed within an easement outside the road right-of-way, and shall be sized to contain a minimum volume that represents the increase in stormwater runoff due to development. Swales shall also be designed to control the increased runoff due to roadway development.

iii. Conveyance capacities of swales shall be based on the developed flow and any existing or anticipated exterior flows entering the development. Swales shall be designed as channels per Section 6.5.14. Underground drainage systems may be used if the inlets will not present a maintenance problem and concentrated flows at any outlet will not cause any damage to adjacent lands. Swales for roadway gradients of 0.0051 foot per 1 foot or greater shall be analyzed and designed for conveyance of the maximum storm runoff (100 year storm) from the development site and any existing external flows routed through the development.

iv. For swales that require conveyance of flow to maintain existing drainage patterns, the driveway crossings shall be incorporated in the roadway/swale drainage system. Driveway crossings may consist of a minimum of a "dip section" with 6-inch-thick concrete (concrete used in the right-of-way shall have a minimum strength of 3,000 pounds per square inch. Driveways subjected to nonresidential traffic shall be designed and properly reinforced. The dip section shall be shown to have adequate cross-sectional area and slope to convey the ten-year storm. Other methods to convey storm runoff across driveways may be used if the design is

reviewed and approved by the County Engineer. The depth for a dip section shall be a minimum of 8 inches.

v. Ponds located on private property that are not designed to convey storm runoff to another location are not required to be interconnected through driveway crossings. They may interconnect, provided that no landowner is required to "store" any additional stormwater on his/her property, without the landowner's consent. (A purchaser of property with stormwater storage requirements made by the developer of the property as part of the development approval process shall be responsible to meet the development conditions of stormwater drainage).

c. Storm Drains and Storm Inlets. Storm drains and inlets shall be of sufficient capacity to adequately convey the expected runoff from the 100 year 24 hour storm. The storm drain system and subsequent storm inlets shall commence at all locations where the allowable street capacity is exceeded or at locations where ponding of water is likely to occur. See Table 6.18 Street Capacity Criteria.

**Table 6.18 Street Capacity Criteria**

| | | **Storm Type** | |
|---|---|---|---|
| **Street Type** | | **10-Year, 24-Hour[1]** | **100-Year, 24-Hour[1]** |
| **Local** | Roadway swales | Collected flow spread shall allow for 1 10-foot lane clear of runoff[2] | Collected flow shall be contained within right-of-way and/or easements |
| | Cross flow | N/A | Cross flow not to exceed 12 inches deep above pavement surface[3] |
| | Curb and gutter | Collected flow spread shall allow for 1 10-foot lane clear of runoff[2] | Collected flow shall be contained within the curb and gutter; cross flow not to exceed 6 inches deep above pavement surface or gutter flow line[3] |
| **Collector** | | Collected flow spread shall allow for 1 10-foot lane clear of runoff. Crossing flow cannot exceed 6 inches deep above pavement surface or gutter flow line[3] | Collected flow shall be contained within the curb and gutter; cross flow not to exceed 6 inches deep above pavement surface or gutter flow line[3] |
| **Arterial** | | Collected flow spread shall allow for 2 10-foot lanes clear of runoff; no crossing flow allowed on surface | Collected flow within the curb and gutter cannot exceed 6 inches deep above gutter flow line; no cross flow allowed at arroyos and channel crossings; cross flow not to exceed 3 inches deep at street intersections[3] |

**NOTES:**
**(1) Flows exceeding these criteria shall be removed from the street and conveyed by a storm sewer system or open channel system.**
**(2) Flow collected in roadway swales shall be controlled in such a way as not to threaten the integrity of street pavements.**
**(3) Cross flow velocities shall be maintained at less than 5 feet per second.**

i. Minimum Pipe Diameter. The minimum allowable pipe size to be used in storm drains shall be a minimum of 24 inches in diameter.

ii. Minimum culvert cover. The minimum culvert cover shall be 2 feet, but additional cover may be required by design.

iii. Allowable Pipe Materials/Applications for Storm Drains. PVC, HDPE, RCP Class III, IV or V and C**M**P application is dependent on soil conditions and pipe application. All pipes and conduits shall be designed to withstand all anticipated structural loads. NMDOT standards shall be the minimum used.

iv. Allowable Pipe Materials for Culverts. RCP and CMP applications are dependent on soil conditions and pipe application. All pipes and conduits shall be designed to withstand all anticipated structural loads. NMDOT standards shall be the minimum used.

v. Manhole Spacing. The maximum allowable spacing between manholes or other provisions for clean-outs shall not exceed those listed in Table 6.19 Allowable Manhole Spacing.

vi. All pipe systems shall be pressure tight.

**Table 6.19 Allowable Manhole Spacing**

| Pipe Diameter (inches) | Maximum Allowable Spacing Between Manholes (feet) |
|---|---|
| **24 to 36** | 400 |
| **42 to 60** | 500 |
| **Greater than 60** | 750 |

**NOTE: Additional manholes will be required with a change in vertical or horizontal deflection greater than the manufacturer's installation specifications.**

vi. Calculation Flow Capacities in Drainage Conduits. The capacities of conduits shall be computed using Manning's formula with flow nomographs, recognized accepted standards or computer analysis. The value of the roughness coefficient (n) to be used shall not be less than those specified in Table 6.20 Values for n for the Manning Formula. Included in the table are roughness coefficients that can be used in open channel flow calculations. The average full-flow velocity in conduits shall not be less than 2 feet per second. See Table 6.20 Values for n for the Manning Formula.

**Table 6.20 Values for n for the Manning Formula**

| | Flow Condition | Roughness Coefficient (n) |
|---|---|---|
| **Conduits** | Smooth metal<br>Plastic pipe, PVC, HDPE<br>Ordinary concrete<br>Concrete pipe<br>Corrugated metal pipe | 0.010<br>0.012<br>0.013<br>0.015<br>0.023 |
| **Natural channels** | Clean, straight, no pools<br>As above, with weeds and stones<br>Winding, pools and shallows, clean<br>Very weedy | 0.029<br>0.035<br>0.039<br>0.040 |

| | | |
|---|---|---|
| **Lined channels** | Smooth finish | 0.015 |
| | Brick, dressed stone | 0.016 |
| | Smooth earth | 0.018 |
| | Unfinished | 0.020 |
| | Firm gravel | 0.020 |
| | Mortared stone | 0.020 |
| | Dry rubble or rip-rap | 0.035 |
| | Rough asphalt | 0.016 |
| | Smooth asphalt | 0.013 |
| **Note: or currently published values as approved by ESD.** | | |

vii. Storm Drainage Inlets. Storm drainage inlets may be a combination curb/gutter or curb opening inlet or off-road sump inlet. Combination curb/gutter inlets or off-road sump inlets shall be used at all points where ponding or sump conditions exist. The theoretical capacity and spacing of storm inlets will be analyzed using the criteria outlined in this Article. The allowable capacity will be determined using the reduction factors listed in Table 6.21 Inlet Reduction Factors. These reduction factors compensate for debris plugging, pavement overlaying, variations in design assumptions and other factors that decrease capacities. The size of outlet pipes from stormwater inlets shall be based upon the theoretical capacity on the inlet, but in no case shall pipes be smaller than 24 inches in diameter. See Table 6.21 Inlet Reduction Factors.

**Table 6.21 Inlet Reduction Factors**

| Inlet Type | Percentage of Theoretical Capacity Allowed |
|---|---|
| **Combination curb and gutter opening with grate** | 65% |
| **Curb opening only** | 85% |
| **Grate only** | 50% |

**NOTES:**
**(1) Computations for storm drain and inlet design capacities shall be submitted as part of the storm drainage report.**
**(2) The details of the proposed storm drain system, inlets and manholes shall be addressed in the drainage report and shown on the construction drawings.**
**(3) Theoretical flow capacities shall be reduced by the reduction factors outlined in this table to obtain design flow capacities.**

d. Crossing structures and culverts.

i. Crossing structures and culverts shall be sized to comply with the requirements of Table 6.18 Street Capacity Criteria and shall convey the 100 year storm through the structure with additional design that provides for overflow capacity in the event that the culverts' capacity is reduced due to trash or debris accumulation. All drainage structures shall be designed with emergency overflow

that will help convey the major storm event. In no case shall a crossing structure or culvert have a diameter of less than 24 inches. In determining the amount of overflow required, the following capacity credit in Table 6.22 Capacity Credit for Structures shall apply:

**Table 6.22 Capacity Credit for Structures**

| Cross-Section Area of Structure | Capacity Credit Percentage of Full Flow Capacity | Percentage of Major Storm Flow to be Added to Culvert Capacity or Considered as Overflow |
|---|---|---|
| **Less than 20 square feet** | 0% | 100% |
| **20 square feet or greater** | 50% | 50% |

ii. The emergency overflow onto streets shall be taken into account when analyzing storm runoff and allowable street capacities for the major storm. The following design criteria shall be used for all culvert designs:

(a) Culvert. All inlet and outlet structures shall be designed to convey the flow of water and address traffic loading and debris at all stages of flow.

(b) Inlets. Culvert inlets shall be designed to minimize entrance and friction losses. Inlets shall be either flared-end sections or headwalls with wing walls. Projecting ends will not be acceptable. Provisions shall be made to resist possible structural failure due to hydrostatic uplift forces.

(c) Outlets. Culvert outlets shall be designed to avoid sedimentation, undermining the culvert or erosion of the downstream channel. Outlets shall be either flared-end sections or headwalls with wing walls. Additional outlet control in the form of rip-rap, channel shaping, etc., may be required where excessively high discharge velocities occur.

(d) Slopes. Culvert slopes shall not allow silting, excessive velocities or scour. The minimum slope of culverts shall be limited to 0.5%.

(e) Headwater. The headwater-to-diameter ratios should not exceed the criteria in Table 6.23 Recommended Maximum Headwater-to-Diameter Ratios. Any ponding above culvert entrances is unacceptable. Such ponding may cause property or roadway damage, culvert clogging, saturation of fills, detrimental upstream deposits, or inundate existing or future utilities or structures.

**Table 6.23 Recommended Maximum Headwater-to-Diameter Ratios**

| Storm Frequency | HW/D |
|---|---|
| **10-year** | 1.0 |
| **100-year** | 1.25 |

(f) Tailwater. The height of tailwater at outlets shall have a headwater-to-diameter ratio of less than 1.0.

(g) Dip section and low water crossings shall be concrete and designed in accordance with the criteria in Table 6.18 Street Capacity Criteria, and shall provide for erosion protection at the edges of pavement.

e. Roadway Drainage Best Management Practices

i. Description. Best practice will infiltrate storm water into plantings and soil, and safely release remaining water.

ii. Methods. Best practice will filter storm water through soil media and plant roots, then release treated storm water runoff into the landscape (e.g. pasture, native vegetation areas, plantings, and permeable areas) and storm drain system. Best practices should be designed in collaboration with EDS and CDD staff.

### 6.5.14 Open Channels

Channel capacities shall be computed using the Manning formula for uniform flow. Open channels shall be designed for a 100 year storm with analysis showing the effects of the ten-year storm. Channels shall have subcritical flow characteristics, be wide and natural in appearance and functional. Analysis and proposed solutions for anticipated erosion problems shall be in the drainage plan. Channels shall be designed to avoid flows at or near critical depth.

a. Hydraulics. The type of channel cross sections shall be most suited to the location and use. The drainage report and design hydraulics of flow in channels shall include analysis of the hydraulics indicating the following parameters for existing and proposed channels and drainageways:

i. Flow cross-section geometry for each different configuration of proposed channel shape in critical areas and channels left in their natural state;

ii. Flow cross-sectional area;

iii. Wetted perimeter;

iv. Hydraulic radius;

v. Manning's roughness coefficient (n);

vi. Flow velocity;

vii. Design discharge;

viii. Bed slope;

ix. Froude number; and

x. Freeboard requirements.

b. Erosion. All channels shall be designed with the proper and adequate erosion control features and shall comply with Section 6.5.4.

c. Water Surface Profile. A water surface profile for the major storm runoff shall be computed for all channels and clearly shown on final drawings submitted for approval. Computations for the water surface profile shall utilize standard backwater methods, taking into consideration all losses due to velocity changes, drops, bridge and culvert openings, and other obstructions. Computations shall be submitted with the final design plan. The energy gradient line should also be computed and shown on the final drawings.

d. Channels. Mild slope channels shall be classified as channels whose slope maintains flows with a Froude number of less than 0.8. Drops may be used to maintain this criterion. Unlined channels can be used when the Froude number is less than 0.8. Drops may be used to maintain this criterion. Unlined channels can be used when the Froude number is 0.8 or less. Maximum velocities of unlined channels shall follow the requirements in Table 6.24 Maximum Velocity of Unlined Channels and Swales. Side slopes of 4H:1V shall be considered a normal minimum. Any side slope steeper than this will require approval from the County.

**Table 6.24 Maximum Velocity of Unlined Channels and Swales**

| | **Classification of Soils** | |
|---|---|---|
| **Cover** | Erosion Resistant (clay) Soil (feet per second) | Easily Erosive (sandy) Soil (feet per second) |
| **No cover, dirt lines** | 4.0 | 2.5 |
| ***Buffalo Grass, Bluegrass, Smooth Brome, Blue Gramma, Native Grass Mix** | 7.0 | 5.0 |
| ***Lespedeza, Lovegrass, Kudzu, Alfalfa, Crabgrass** | 4.5 | 3.0 |

**NOTE: Table data assumes detailed soils analysis.**
*** Grass cover assumed to be a good stand and well maintained**

e. Lined Channels. Channels exhibiting hydraulic characteristics that result in a Froude of 0.8 or more during the 10 year or 100 year storm will require stabilization in the form of a lining. These channels are defined as those exhibiting characteristics that would require lining of the channel to ensure structure stability, to achieve the desired design life of the channel, and to protect areas adjacent to the structure. Contributing factors in the analysis of channel lining requirements include an urban setting, bed slope, flow rate, soil type and stability, and any flow conditions that cause velocity changes.

f. Lining Materials. Lining material shall be composed of one of the following:

i. Concrete of sufficient strength and thickness to support all design loads, including maintenance equipment, with a minimum cross section of concrete 6 inches thick, 3,000 pounds per square inch minimum compression strength. Roughening of concrete surfaces is encouraged. Roughening may be accomplished by use of suitable methods approved by the County Engineer.

ii. Asphalt of sufficient strength (including base materials) to support all anticipated design loads, including maintenance equipment. Asphalt lining shall be of a mix design that will resist damage due to erosion for the design life of the lining, which shall be 20 years.

iii. Rip-rap set in concrete or mortar shall have the rock size and weight sufficient to resist displacement of the rock by the energy present in the flow of the 100 storm. Rip-rap may be stabilized by grouting, can be set in concrete, or may be wire-tired. Standard gabions may be used to stabilize soil under some conditions.

iv. Other material, such as soil cement, may be used when approved by the County Engineer.

g. Depth of Flow. Considering velocities involved and land area needed for drainage easements, the depth of flow shall be kept to a minimum. The maximum design depth for the 100 year storm runoff shall be 4 feet in open channels, unless otherwise authorized by the County Engineer.

h. Freeboard. The design of channels shall take into account requirements for freeboard to provide a factor of safety against splash and hydraulic jump phenomenon.

i. For conditions of uniform flow, the minimum lined elevation shall include freeboard above the flow surface of the 100 year storm and be calculated using the following equation:

Freeboard (in feet) = d/4 + 0.025*(v) *(d)1/3

Where d = depth of flow in feet (ft)

Where v = velocity of flow in feet per second (fps)

ii. For conditions where the total energy content of the flow shall be considered, such as bends, drops, abrupt changes in grade or areas, convergence of flows, obstructions within the channel, and other conditions that may produce a hydraulic jump, the minimum freeboard above the flow surface of the major storm runoff shall be calculated using the flowing equation:

Freeboard (in feet) = $0.5+(v^2/(2*g))$*

Where g = gravitational constant 32.2 $fps^2$

Where v = velocity of flow in feet per second (fps)

*Minimum freeboard under bridges shall be 2 feet.

### 6.5.15 Detention and Retention Regional Pond Design

a. Detention and Retention Regional Pond Design. The use of on-site detention or retention is required for the purpose of limiting the 100 year storm runoff rates to historical levels. The type of design for each facility is subject to approval by the County. Ponding facilities shall adhere to the following:

i. Detention pond facilities shall be designed using a storage outflow

relationship for the facility and a flood hydrograph routing procedure.

ii. Off-site runoff entering the development may occur in the drainage basin, and if this is the case, the analysis for the ponding facility shall take the flows into account. Off-site runoff shall be analyzed and may be routed around the ponding facility. However, entrance and exit points of storm runoff shall not be altered.

iii. For any ponding facility design, a soils report shall be included. This report shall include, but shall not be limited to, soil boring logs, water table elevations and soil classifications. Sufficient and representative soil borings shall be required to characterize the infiltration capacity of the soils located at the pond bottom.

iv. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do not drain within 72 hours.

v. The banks of any pond shall be no steeper than a 4H:1V slope unless an access ramp for vehicles is provided and measures are taken to provide erosion protection of the banks. Any deviation from side slope standards shall be justified by a geotechnical analysis and shall be approved by the County Engineer.

vi. All detention or retention facilities shall be provided with a minimum 20 foot access easement for operation and maintenance of the facility. The minimum freeboard shall be one foot. The pond shall be located a minimum of 5 feet from property lines and 10 feet from any structures.

b. The construction plans shall show the locations of all structures and how the required volume will be controlled on site. Details on walls and berms to control or direct runoff, asphalt and lot grades, dimension and method of overflow of the storage area shall also be depicted. The following are acceptable types of drainage structures:

i. Open ponds offer the maximum amount of storage for a given land area and are recommended in areas having good percolation of water into the soil. Open ponds shall have a minimum depth of 18 inches, with the top of the pond located no closer than 5 feet to the property lines and 10 feet to structures. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do not drain within 72 hours. Pond bottoms shall not be located in poor percolation rate layers such as clay soil types.

ii. French drains are acceptable in areas with poor percolation rates and shall only be used to provide increased percolation rates. French drains shall have an open pond above the rock level with a minimum depth of 12 inches.

iii. Dry wells are generally used for drainage areas of one acre or less and are designed exclusively to accept rooftop runoff from residential and commercial buildings. They are similar to

infiltration trenches but smaller with inflow from pipe and commonly covered with soil. The well shall be placed at a depth sufficient to contain the required storage volume.

c. Detention Pond Best Management Practice

i. Description. Best practice will combine detention ponds with other site elements to reduce the area needed to fulfill detention pond volume and storage requirements.

ii. Method. Best practice will utilize Active Landscape Features, where applicable, to design areas required for retention/detention basins, into multiple integrated features fulfilling total volume requirements. Incorporate elements which work in combination with required detention pond volume and storage. Integrate components of existing site characteristics, topography, Active Landscape Features, building structures, and parking lot drainage. Best practices should be designed in collaboration with EDS and CDD staff.

### 6.5.16 Drainage System Operations and Maintenance

Proper operations and maintenance of storm drainage and flood control facilities, including natural drainage systems such as arroyos, includes both cleaning and minor repair to the facilities as well as completely rebuilding some facilities that have, through weathering or lack of maintenance, been rendered useless or present a threat to public safety. In order to increase system efficiency, maintenance guidelines are outlined in Table 6.25 Maintenance Guidelines and shall be incorporated in the drainage maintenance agreement (see sample form in Appendix A). The drainage maintenance agreement shall be adopted by operators of private drainage systems to establish maintenance procedures of those systems. The agreement is to be signed and recorded as a condition of final plat approval and shall be disclosed and acknowledged by subsequent property owners.

**Table 6.25 Maintenance Guidelines**

| Facility | Maintenance, As Necessary | Inspection |
|---|---|---|
| **Channels** | May to October | Semi-annual |
| **Pump stations** | May to October | Semi-annual |
| **Detention and retention facilities** | May to October | After any major storm greater than 1 inch within a 24-hour period |
| **Storm sewer systems** | Annual | Biannual |
| **Storm sewer inlets** | After rainfall events or biweekly during rainy periods | Semi-annual |

### 6.5.17 As-built/Record Drawings

An as built/record plan shall be submitted after project completion to ensure that the construction complies with the approved plans. The as built/record plan shall be stamped and certified by a licensed New Mexico Professional Engineer.

## 6.6 WATER AND WASTEWATER SYSTEMS

### 6.6.1 Water and Wastewater Facilities

a. Standards; Review. All water and wastewater facilities shall meet the requirements of the American Water Works Association (AWWA), the New Mexico Standards for Public Works Construction (NMSPWC), the New Mexico Environment Department (NMED), the New Mexico Office of the State Engineer (OSE), and Doña Ana County's water and wastewater specifications, see Chapter 319, Wastewater Systems, and Chapter 324, Water Systems, where appropriate. If a proposed utility is to be owned and maintained by the County or any utility company, the design shall be reviewed and approved by the appropriate utility company.

### 6.6.2 Water Supply Guidelines

a. Water Conservation Measures

i. The following water conservation measures are recommended for housing units in all subdivisions:

ii. All new construction shall conform to the requirements of the International Building Code, International Residential Code, and Uniform Plumbing Code, as adopted by Doña Ana County.

iii. Low-water-use landscaping techniques applying the principles of xeriscaping are highly recommended.

b. Quantification of Annual Water Requirements. The following procedures shall be used to quantify the maximum, annual water requirements for all subdivisions:

i. The maximum annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision, shall be 0.75 acre-feet per year, unless a detailed water demand analysis approved by the State Engineer's Office justifies the use of a different figure. The total annual water requirement for the subdivision in acre-feet per year is computed by multiplying the number of parcels by 0.75.

ii. The applicant may, at his/her option, prepare a detailed water demand analysis using the step-by-step computational procedure presented in the relevant State Engineer Technical Report.

iii. A detailed water demand analysis shall be prepared for all nonresidential subdivisions and all water uses not directly related to residential uses within a mixed development subdivision. Annual water requirements shall be estimated using the relevant State Engineer Technical Report.

c. Final Plat Approval Requirements. In acting on the permit application, the State Engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.

d. Water Conservation Best Management Practice

i. Description. Best practice will utilize passive water harvesting to collect stormwater, which promotes water infiltration, stormwater reduction, less complex erosion control and infrastructure systems, and optimal landscaping. Utilizing harvested stormwater will provide or offset landscape water needs.

ii. Method. Best practice will include passive water harvesting functions, which utilize gravity to direct the flow of stormwater into Active Landscape Features. Best practices should be designed without additional tanks, piping, metering, pumps, or other infrastructure associated with containment systems.

iii. In certain configuration, additional infrastructure components will be needed to route overflow water, convey water under roads or parking lots, or for other purposes conducive to effective functioning of the passive system. Best practices should be designed in collaboration with EDS and CD Department staff.

**6.6.3 Water Quality; Liquid and Solid Waste Disposal**

a. Water Quality Documentation. For an applicant to document conformance with the water quality requirements of these guidelines and the New Mexico Subdivision Act, NMSA 1978, §47-6-1 *et seq*. A water quality documentation package shall accompany the preliminary plat submission.

i. The water quality documentation package shall:

(a) State the applicant's name and mailing address;

(b) State the date the package was completed;

(c) State the applicant's proposal for meeting the water quality requirements of these guidelines;

(d) Be accompanied by a copy of the applicant's disclosure statement on water quality;

(e) Be accompanied by the information listed in Sections 6.6.3.a.ii, 6.6.3.a.iii, or 6.6.3.a.iv of this section as applicable to the water supply proposal; and

(f) Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these guidelines.

ii. If a new public water supply system (15 or more connections) is proposed, the following information shall be submitted as part of the water quality documentation package:

(a) A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming

agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(b) For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters may be required;

(c) The location and description of the source of water sampled for the water quality analysis;

(d) An engineer's report and preliminary plans for the proposed public water supply system; and

(e) Maps identifying and showing the location of all identifiable potential sources of contamination and the floodplain of all watercourses and surface bodies of water within 1,000 feet of the proposed water supply system source.

iii. If a connection to an extension of an existing public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

(a) A water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(b) A statement of availability of water service signed by an official of the existing public water supply system; and

(c) An engineer's report and preliminary plans for the proposed extensions to the existing water system.

iv. If private water supply systems (individual wells, or cluster wells serving fewer than 15 connections) are proposed, the following information shall be submitted as part of the water quality documentation package:

(a) A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;

(b) For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters may be required;

(c) The location and description of the source of water sampled for the water quality analysis;

(d) Preliminary plans for the private water supply systems if the system will serve more than one connection; and

(e) Maps identifying and showing the location of all identifiable potential sources of contamination and the floodplain of all watercourses and surface bodies of water within the subdivision and within 500 feet of the proposed subdivision boundaries.

v. Documentation of approval for the construction or modification of a public water supply system from the New Mexico Environment Department will be required for final plat approval.

b. Liquid Waste Disposal Documentation. For an applicant to document conformance with the liquid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, see NMSA 1978, §47-6-1 *et seq*., a liquid waste disposal documentation package shall accompany the preliminary plat submission.

i. The liquid waste disposal documentation package shall:

(a) State the applicant's name and mailing address;

(b) State the date the package was completed;

(c) State the applicant's proposal for meeting the liquid waste disposal requirements of these guidelines;

(d) Be accompanied by a copy of the applicant's disclosure statement on liquid waste disposal;

(e) Be accompanied by the information required in Section 6.6.3.b.ii, 6.6.3.b.iii, or 6.6.3.b.iv of this section as applicable to the applicant's liquid waste disposal proposal; and

(f) Be accompanied by other relevant information required by the State Environment Department as may be necessary to determine whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, NMSA 1978, §74-1-1 *et seq*.; the Water Quality Act, NMSA 1978, §74-6-1 *et seq*.; and the Solid Waste Act, NMSA 1978, §74-9-1 *et seq*.; and whether the applicant can fulfill the proposals contained in his/her disclosure statement concerning water quality and concerning liquid waste disposal facilities.

ii. If the applicant proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:

(a) An engineer's report and preliminary plans for the proposed community liquid waste system;

(b) Maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within 1,000 feet of the proposed liquid waste treatment and liquid waste disposal site; and

(c) Documentation of the filing of a notice of intent to discharge with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.

iii. If the applicant proposes a liquid waste system, by connection to and extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:

(a) A statement of availability of liquid waste service signed by an official of the existing liquid waste system; and

(b) An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.

iv. If the applicant proposes a subdivision utilizing individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:

(a) Percolation rate for the soils present within the proposed subdivision, and, if the general geologic characteristics of the area in which the subdivision is located indicate that either the seasonal high groundwater level or the surface of bedrock or other competent substrata may be located within 8 feet of the ground surface, a soils investigation report (soil survey, soil borings to a minimum depth of 8 feet, soil test results and analysis of the soil survey, soil boring, and soil tests) defining soil depth to bedrock, seasonal high water groundwater table or other limiting soil layer. If a soils investigation is required, soil borings shall be conducted within the property at a rate of one boring per ten acres or part thereof;

(b) Maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within the proposed subdivision and within 500 feet of the proposed subdivision boundaries;

(c) Preliminary plans for the individual liquid waste systems if a system will serve more than one connection; and

(d) Other relevant information required by the State Environment Department as may be necessary for determination whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, NMSA 1978, §74-1-1 *et seq.*; the Water Quality Act, NMSA 1978, §74-6-1 *et seq.*; and the Solid Waste Act, NMSA 1978, §74-9-1 *et seq.*; and whether the applicant can fulfill the proposals contained in the disclosure statement concerning water quality and concerning liquid waste disposal facilities.

v. Documentation of approval for the discharge from a community liquid waste system from the New Mexico Environment Department will be required for final plat approval.

c. Liquid Waste Disposal Requirements. Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

i. Community Liquid Waste Systems. Community liquid waste systems shall be required for all subdivisions:

(a) In which any lot created by the subdivision is less than 0.75 acre in size, unless detailed engineering studies and designs are provided that meet the requirements for approval of a variance from the Environment Department; or

(b) Which create more than 100 lots, any of which is less than 1.5 acres in size.

(c) A community liquid waste system shall be permitted, designed, and constructed, by the time of first occupancy within the subdivision, to comply with the Water Quality Control Commission Regulations; and be operated, maintained, and expanded as necessary to ensure that the system will comply with the Water Quality Control Commission Regulations.

(d) The lot minimum sizes for individual liquid waste systems are per Table 6.26 Lot Sizes for Individual Liquid Waste Systems Minimum Lot Size*

ii. Individual liquid waste systems. Individual liquid waste systems shall be located, installed, operated, and maintained in a manner which will not cause a hazard to public health or degrade any body of water.

(a) Individual liquid waste systems shall not be installed:

(1) Where an existing community liquid waste system has been designed and constructed for use within the subdivision;
(2) In subdivisions or on lots with sizes less than shown in Table 6.26 Lot Sizes for Individual Liquid Waste Systems Minimum Lot Size*
(3) At less than the setback distances shown in Table 6.27 Setback Distances for Individual Liquid Waste Systems;
(4) Consisting of privies (outhouses) or cesspools; and
(5) Consisting of holding tanks if an individual water supply system is to be used.

(b) The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.

(c) Prior to certificate of occupancy approval for a residence or business, the applicant for certificate of occupancy shall demonstrate the installation of an individual liquid waste disposal system in accordance with a permit approved by the Environment Department, or connection to a community liquid waste system, if available.

**Table 6.26 Lot Sizes for Individual Liquid Waste Systems Minimum Lot Size***

| **Community water system** | **0.75 acre(2)** | **0.75 acre(2)** | **1.0 acre** | **(3)** |
|---|---|---|---|---|
| **Individual water supply** | 0.75 acre(2) | 1.0 acre | 1.25 acre | (3) |
| **Percolation rate (minutes per inch)** | 5 to 15 | 16 to 30 | 31 to 60 | Less than 5 or more than 60 |
| **Soil depth(4)** | More than 7 feet | More than 7 feet | More than 7 feet | Less than 7 feet |
| **Slope (percent)** | Less than 8% | Less than 8% | 8% to 25% | More than 25% |
| **Design flow** | 375 gallons/day(5) | (5) | (5) | (5) |

**Notes:**
**(1) In the use of this table, the minimum allowable lot size is to be based upon the largest minimum lot size determined by any one of the limiting characteristics listed in the table.**
**(2)Lots smaller than 0.75 acre in size shall be provided with a) service from a community liquid waste system, or b) detailed engineering studies and designs meeting the requirements for variance approval from the Environment Department.**
**(3)Any lots with any of these characteristics shall be provided with individual liquid waste disposal systems based upon detailed engineering studies and designs approved by the Environment Department or be provided with alternative means of liquid waste disposal.**
**(4)Soil depth is measured from the ground surface to any one of the following: a) seasonal high groundwater level; b) bedrock; or c) the upper surface of any limiting soil layer.**
**(5)The minimum lot size required for individual liquid waste systems based upon design flow (375 gallons per day minimum) shall be computed as follows: Lot Size (acres) = Total Design Flow (gallons per day)/500, except where detailed engineering studies and designs have been approved for a variance from the Environment Department.**
***pending NMED review and approval**

**Table 6.27 Setback Distances for Individual Liquid Waste Systems**

| | **Required Minimum Setback Distance (feet)** | |
|---|---|---|
| **Object** | **Treatment Unit** | **Disposal System** |
| **Lot line** | 5 | 5 |
| **Individual water supply system source** | 50 | 100 |
| **Public water supply system source** | 100 | 200 |
| **Edge of watercourses, except canals and arroyos** | 50 | 100 |
| **Edge of unlined canals and arroyos** | 15 + depth of channel | 25 + depth of channel |
| **Edge of lined canals** | 10 + depth of channel | 10 + depth of channel |
| **Public lakes** | 50(a) | 100(a) |

**Notes:**
**(a) Setback distance to artificially controlled lakes and reservoirs is measured from the closest projected shoreline at the maximum controlled water level.**
**(b) All components of individual liquid waste systems shall be constructed so as to not be affected by floodplains.**

d. Solid Waste Disposal Documentation. For an applicant to document conformance with the solid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, NMSA 1978, §47-6-1 *et seq*. A solid waste disposal documentation package shall accompany the preliminary plat submission.

i. A solid waste documentation package shall:

(a) State the applicant's name and mailing address;

(b) State the date the package was completed;

(c) State the applicant's proposal for meeting the solid waste disposal requirements of these guidelines;

(d) Be accompanied by a copy of the applicant's disclosure statement on solid waste disposal;

(e) Be accompanied by the information required in Section 6.6.3.d.ii of this section as applicable to the applicant's solid waste collection and disposal proposal; and

(f) Be accompanied by other relevant information required by the State Environment Department as may be necessary to determine whether there are sufficient solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, NMSA §74-1-1 *et seq*.; the Water Quality Act, NMSA 1978,§ 74-6-1 *et seq*.; and the Solid Waste Act, NMSA 1978, §74-9-1 *et seq*. and whether the applicant can fulfill the proposals contained in the disclosure statement concerning water quality and concerning liquid waste disposal facilities.

ii. The disclosure statement for the subdivision shall contain a description of the means of solid waste disposal for the subdivision, including the following information:

(a) For subdivisions in which solid waste collection service is available, the disclosure statement shall include a statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service.

(b) For all other subdivisions, the disclosure statement shall include:

(1) The name of the nearest legal solid waste disposal site or transfer station; and

(2) The travel distance from the center of the subdivision to the nearest disposal site or transfer station.

## 6.7 FIRE PROTECTION

### 6.7.1 Access Roads; Water Supplies and Fire Hydrants; Plans

a. Access roads to all developments shall meet the provisions of this Chapter, and shall be improved and maintained in accordance with Ch. 195, Fire Prevention.

b. Water supplies and fire hydrants shall be located, positioned and constructed in accordance with the current Doña Ana County adopted fire code. Such equipment shall be installed and maintained to meet fire flow, be compatible with Fire Department equipment and shall be approved by the County Fire

Chief's office.

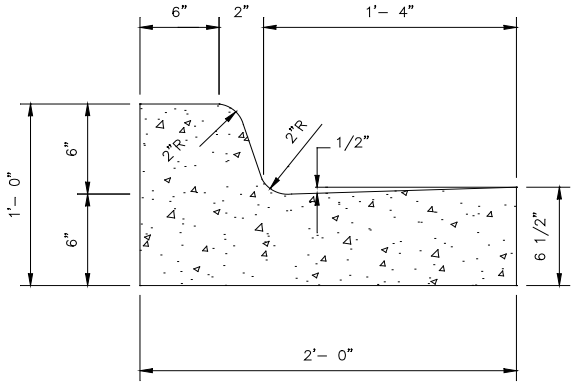
c. The fire protection plans shall be submitted along with the preliminary plat and shall be stamped and certified by a licensed New Mexico Professional Engineer, indicating that the fire plans meet the specifications of the Doña Ana County adopted fire code. A letter from the local water district stating that the water supply and fire hydrants shall be maintained by that local water district shall be submitted with the plans.

## 6.8 DESIGN DRAWINGS

### 6.8.1 Acceptable Curb & Gutter Designs

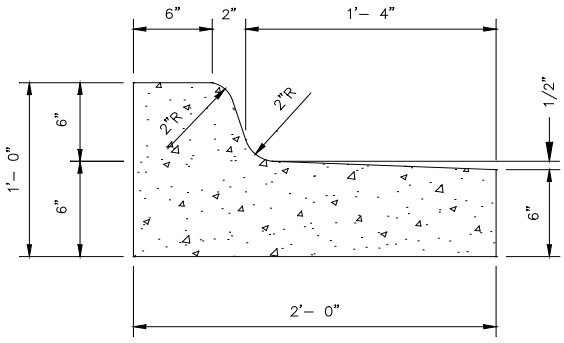
CURB TYPES

FOR USE ON ALL COUNTY STREET CLASSIFICATIONS AS A FUNCTION OF DRAINAGE AND TRAFFIC CONTROL.



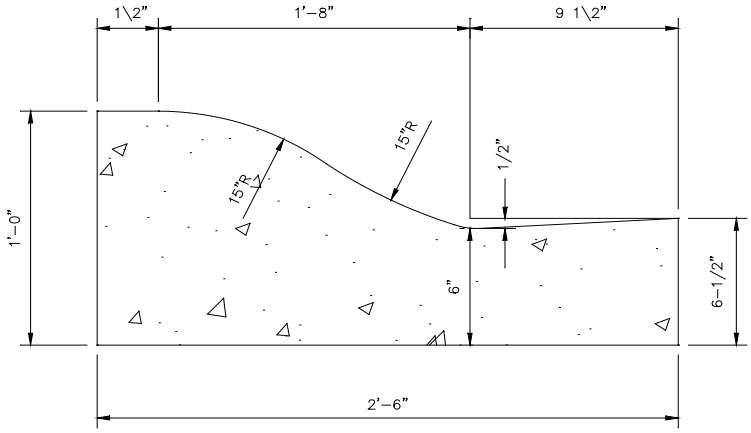

TYPE "A" CURB & GUTTER
N.T.S.

FOR USE ON ALL COUNTY STREETS WHERE THE ROADWAY IS SUPERELEVATED. I.E. THE PAVEMENT SLOPES AWAY FROM THE CURB AND DRAINAGE IS TO BE DIVERTED FROM THE GUTTER SECTION.



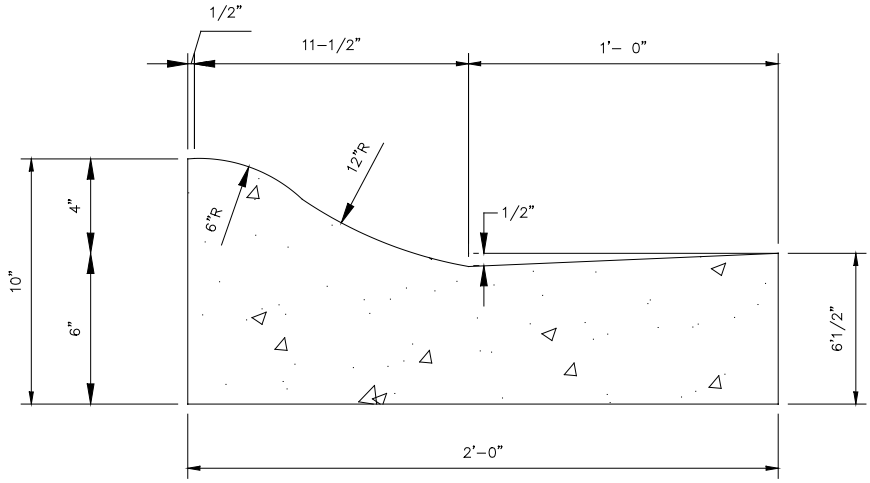

TYPE "B" MODIFIED CURB & GUTTER
N.T.S.

FOR USE ON MINOR LOCAL STREETS IN RESIDENTIAL DEVELOPMENTS HAVING ACCESS BY INDIVIDUAL DRIVEWAYS TO STREETS.



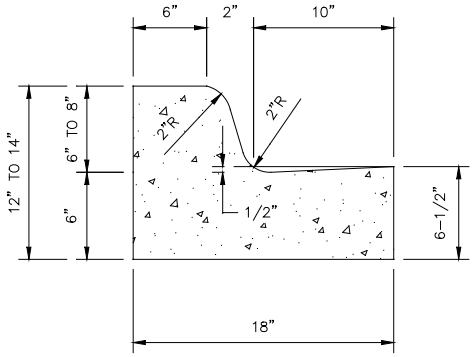

TYPE "C" MODIFIED ROLLOVER CURB & GUTTER
N.T.S.

FOR USE ON MINOR LOCAL STREET IN RESIDENTIAL DEVELOPMENTS HAVING ACCESS BY INDIVIDUAL DRIVEWAYS TO STREETS.



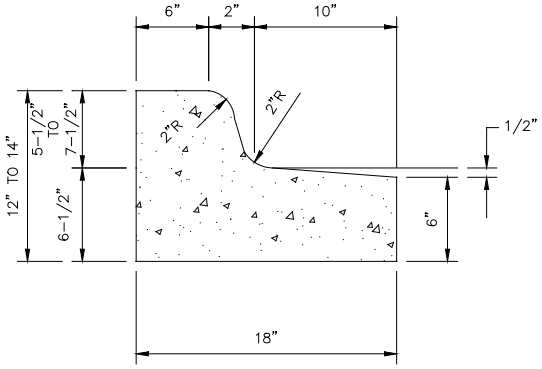

TYPE "D" ROLLOVER CURB & GUTTER
N.T.S.

FOR USE ON CENTER LANE MEDIANS ON COLLECTOR OR ARTERIAL STREET SECTIONS TO CONVEY DRAINAGE. THE SLOPE OF THE GUTTER SHALL BE REQUIRED TO MATCH THE SLOPE OF THE STREET. 8" CURBING MAY BE REQUIRED AS DICTATED BY DRAINAGE NEEDS.



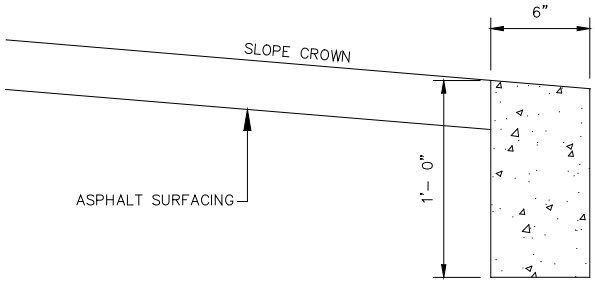

TYPE "E" MEDIAN CURB & GUTTER
N.T.S.

FOR USE ON CENTER LANE MEDIANS ON COLLECTOR OR ARTERIAL STREET SECTIONS TO CONVEY DRAINAGE. THE SLOPE OF THE GUTTER SHALL BE REQUIRED TO MATCH THE SLOPE OF THE STREET. 7–1/2" CURBING MAY BE REQUIRED AS DICTATED BY DRAINAGE NEEDS.



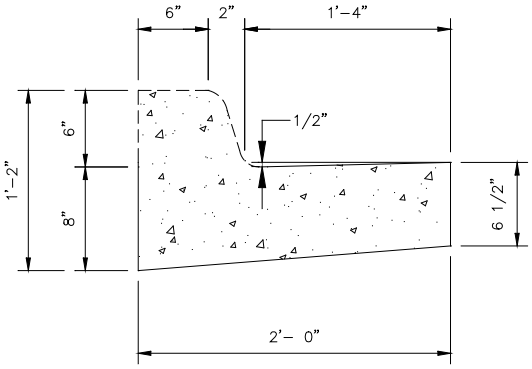

TYPE "F" MODIFIED MEDIAN CURB & GUTTER
N.T.S.

TO BE USED TO MAINTAIN THE STREET EDGE AND WHEN SIDEWALKS ARE NOT REQUIRED.



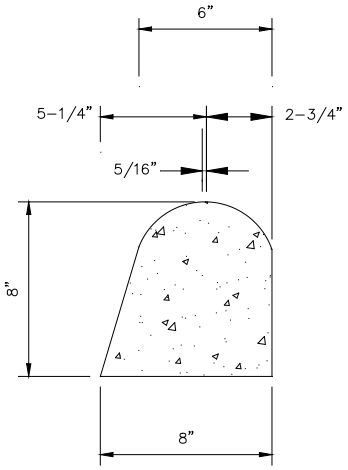

TYPE "G" HEADER CURB

N.T.S.

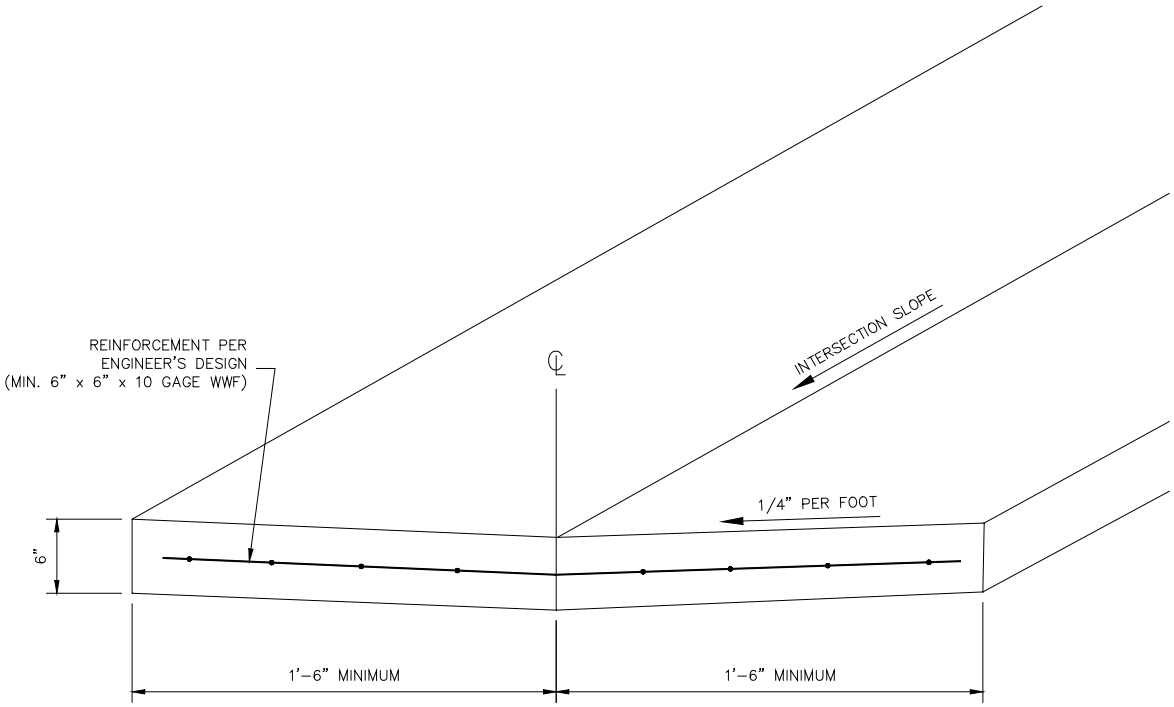



TYPE "H" RUNDOWN INLET

N.T.S.



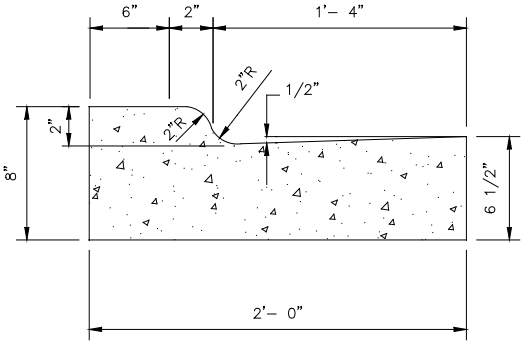

TYPE "J" TEMPORARY ASPHALT CURB
N.T.S.



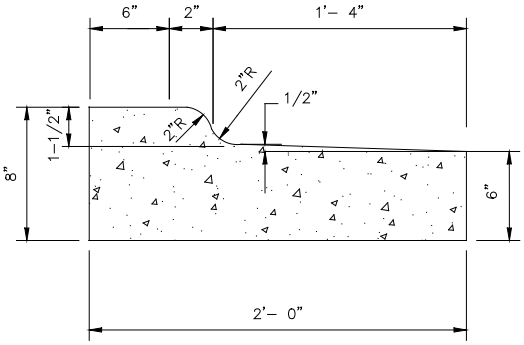

TYPE "K" VALLEY GUTTER
N.T.S.

**CURB TYPES**

DRIVEWAY CURB SECTIONS



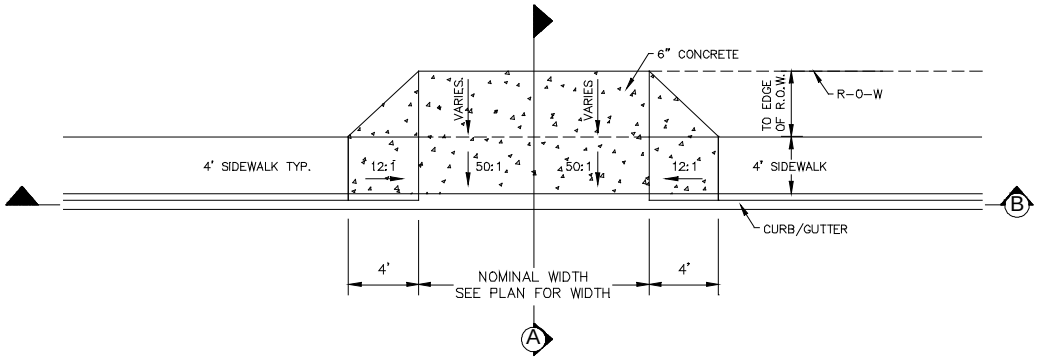

TYPE "A" WATER TO CURB
N.T.S.

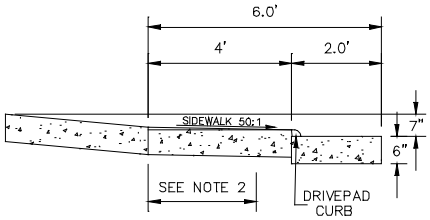



TYPE "B" WATER AWAY FROM CURB
N.T.S.

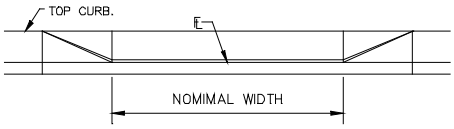
### 6.8.2 Drive Pad and Intersection Drawings

DRIVEPAD DESIGN




A SECTIONS
NTS




B SECTIONS
NTS

NOTES: 1. USE 1/2" EXPANSION JOINT WHERE SIDEWALK OR DIRVE PAD ABUTS BUILDINGS, FENCES, WALLS OR OTHER IMMOVABLE OBJECTS.

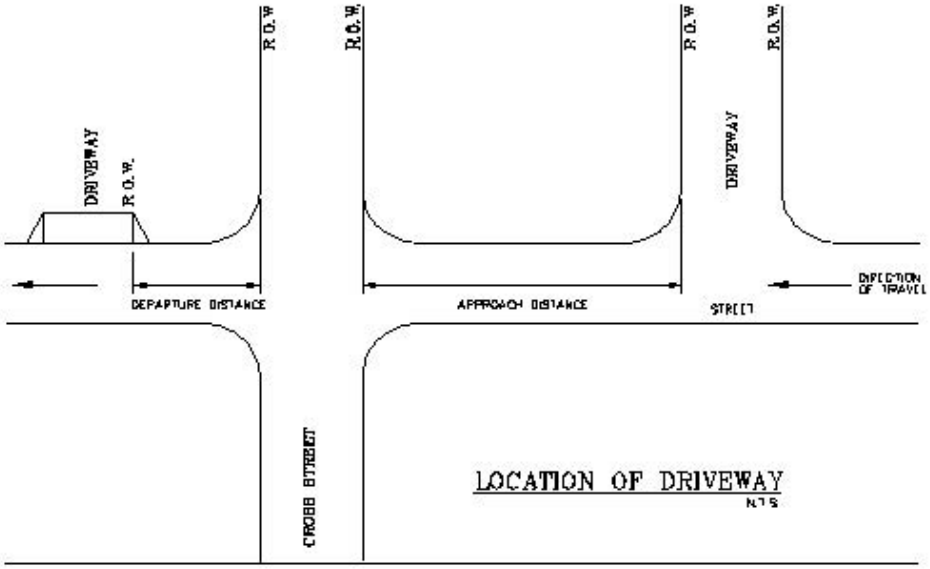
2. ALL DRIVE PADS SHALL BE CONSTRUCTED FROM BACK OF CURB TO PROPERTY LINE, UNLESS OTHERWISE SHOWN ON PLANS.

3.DRIVE PADS WIDER THAN 18' (NOMINAL) ARE TO HAVE 1/2" EXPANSION JOINT AT MIDPOINT. DRIVE PADS WIDER THAN 22' ARE TO HAVE 1/2" EXPANSION JOINT EQUALLY SPACED WITH NO MORE THAN 20' BETWEEN JOINTS. CONSTRUCTION JOINTS ARE TO BE MADE NOT EXCEEDING 5'-0" INTERVALS AND MATCHING CONSTRUCTION JOINTS ON CURBING WHENEVER POSSIBLE.

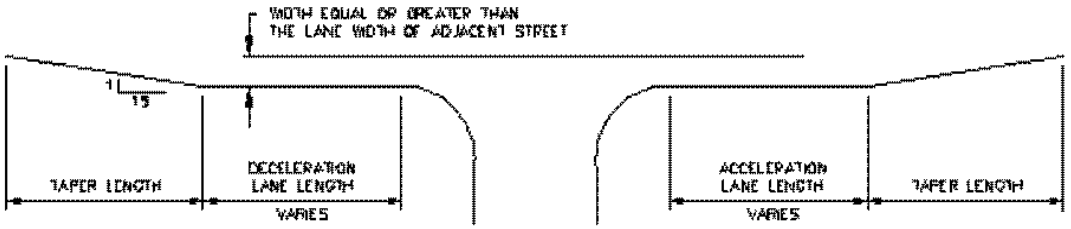
4. PAYMENT FOR SUBGRADE PREPARATION UNDER SIDEWALKS, DRIVE PADS AND CURB & GUTTER SHALL BE CONSIDERED INCIDENTAL TO THE SIDEWALK, DRIVE PAD AND CURB & GUTTER CONSTRUCTION.

5. STATIONING SHOWN ON PLAN AND PROFILE SHEET IS AT CENTER OF DRIVE PAD.

**INTERSECTION DRAWINGS**

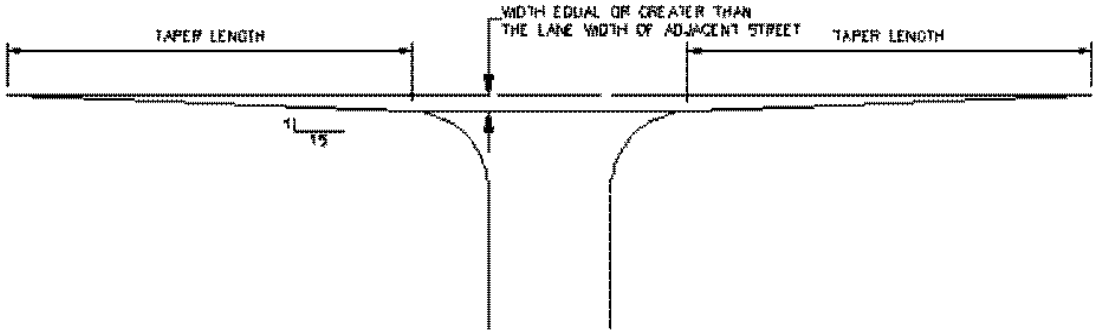



NOTE: REFER TO TABLE 6.12 FOR APPROACH & DEPARTURE DISTANCE.




ACCELERATION – DECELERATION LANE

N.T.S.

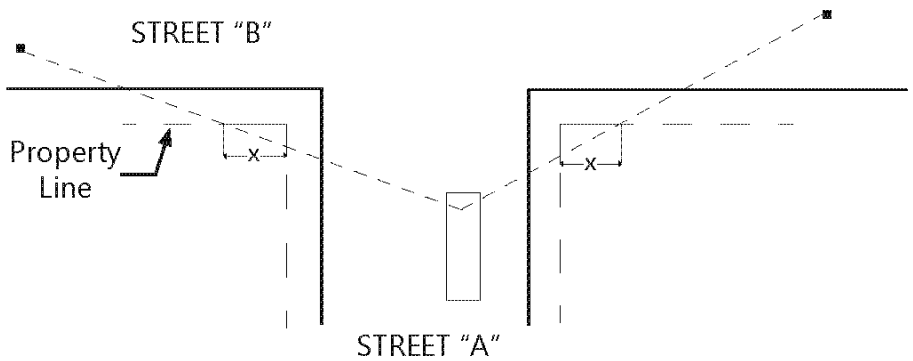



ACCELERATION – DECELERATION TAPER

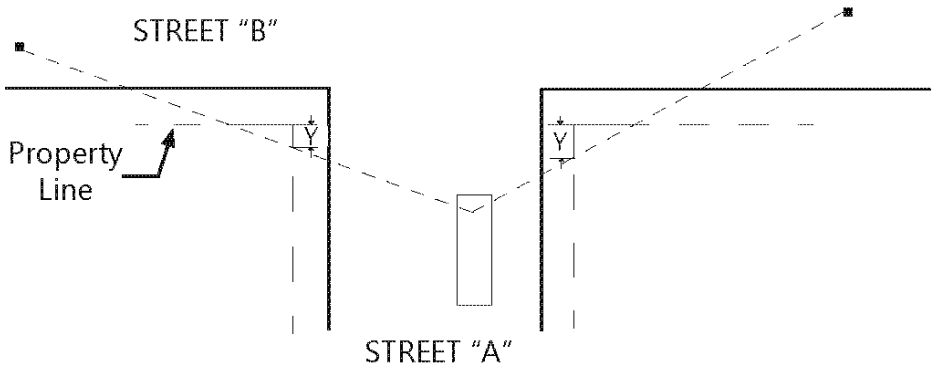
N.T.S.

NOTE: REFER TO TABLE 6.14 FOR TAPER LENGTHS.

### 6.8.3 Clear Sight Triangle Drawings




| | Posted Speed of Street " B" | | | | | |
|---|---|---|---|---|---|---|
| | **25 MPH** | **30 MPH** | **35 MPH** | **40 MPH** | **45 MPH** | **50 MPH** |
| **Classification of Street "A"** | **"X" Feet** | | | | | |
| Local | 20 | 30 | 40 | 50 | 60 | 65 |
| Major Local | 20 | 25 | 35 | 45 | 55 | 60 |
| Collector | 20 | 20 | 30 | 30 | 40 | 50 |
| Arterial | 20 | 20 | 30 | 30 | 40 | 50 |




| | Posted Speed of Street " A" | | | | | |
|---|---|---|---|---|---|---|
| | **25 MPH** | **30 MPH** | **35 MPH** | **40 MPH** | **45 MPH** | **50 MPH** |
| **Classification of Street "B"** | **"Y" Feet** | | | | | |
| Local | 20 | 30 | 40 | 50 | 60 | 65 |
| Major Local | 20 | 25 | 35 | 45 | 55 | 60 |
| Collector | 20 | 20 | 30 | 30 | 40 | 50 |
| Arterial | 20 | 20 | 30 | 30 | 40 | 50 |

# ARTICLE 7 GLOSSARY OF TERMS

For the purpose of this Chapter, certain words and terms are hereby defined. Words used in the present tense shall include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "lot" includes the words "plot," "parcel," "property", and "tract"; the word "building" includes the word "structure"; and the words "is," "are," "shall," and "will" are mandatory. The word "should" is discretionary and strongly suggested, and the word "may" is discretionary and permissive. The word "including" shall mean "including, but not limited to." Any words not herein defined shall be constructed as defined in the statutory and common laws of the State of New Mexico; if not defined therein, then as defined in the International Building Code and subsequent versions as adopted by Doña Ana County, New Mexico, and if not defined therein, then defined in accordance with Webster's Unabridged Dictionary, latest edition, or by terms defined by the American Planning Association.

A list of Acronyms follows the Glossary.

## Glossary

As used in this Chapter, the following terms shall have the meanings indicated:

**AASHTO**

See Association of Amercian State Highway and Transportation Officials.

**ABANDONMENT (Specific to WCF and WSS)**

Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this Article.

**ACCELERATION LANE**

A speed-change lane for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate to safely merge with through traffic.

**ACCENT PLANT**

A plant with succulent structure and stems, often with spines and without woody growth, and taller than 6 inches; they are common native plants in the Chihuahuan Desert.

**ACCESS LANE**

A vehicular way located to the rear of lots providing access to service areas, parking, and containing utility easements. Access lanes may be gravel or paved lightly to driveway standards. The streetscape consists of gravel or landscaped edges and is drained by percolation.

**ACCESS PERMIT**

A permit for vehicular access off of a County-maintained roadway of an abutting property.

**ACCESSORY BUILDING**

A building which is on the same lot as a principal building and the use of which is incidental to the use of the Principal Building.

**ACCESSORY DWELLING**

A separate, complete unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is detached from the primary dwelling on the lot and shall not be used for the commercial sheltering or rental for individuals or families.

**ACCESSORY EQUIPMENT (Specific to WCF and WSS)**

Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

**ACCESSORY STRUCTURE**

Any structure that does not meet the definition of "accessory building," but is located on the same lot and is clearly incidental and subordinate to a principal building or use.

**ACTIVE LANDSCAPE FEATURE**

A landscape element that functions to generate plant growth by utilizing 1 or more of the following: existing hydrological functions; water harvesting; storing and infiltrating storm water; erosion control; low water-use native plants; and tree shading. Active landscape features are part of low impact development (LID) and green infrastructure (GI).

**ACTIVE OPERATIONS**

Any human activity that is capable of generating or generates visible fugitive dust, including bulk material storage, handling, and processing; earth moving; construction, renovation, and demolition activities; and the movement of motorized vehicles on any unpaved roadways and parking areas.

**ADA**

See Amercian with Disabilities Act.

**ADJUSTED PEDESTRIAN SHED**

A pedestrian shed that has been modified to reflect boundaries of property and existing conditions such as arroyos, thoroughfares, and slopes to create the regulatory boundary of a community type.

**ADMINISTRATIVE APPROVAL**

Approval by the Zoning Administrator or after administrative review and compliance with this Chapter.

**ADMINISTRATIVE VARIANCE**

A Variance granted by the Zoning Administrator.

**ADT**

See Average Daily Traffic.

**ADULT ENTERTAINMENT**

A use consisting of one or more of the following: (1) an establishment that provides amusement or entertainment that is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas; (2) an establishment that features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment; (3) a book or video store having a

substantial or significant portion of its trade in books, magazines, periodicals or other materials that are distinguished or characterized by their emphasis on specified sexual activities or specified anatomical areas; or (4) a theater used exclusively or primarily for presenting material distinguished or characterized by specified sexual activities or specified anatomical areas for observation by persons 18 years of age or older on the premises.

**AGENT**

A person or persons legally empowered to act for another.

**AGGRIEVED PERSON OR PARTY**

A person or party who can demonstrate a specific personal or legal interest, as distinguished from a general interest, who has been or is likely to be specifically and injuriously affected by a final decision.

**AGRICULTURAL PACKAGING AND WAREHOUSING**

A facility used for the storing, sorting, cleaning, sacking, or transshipment of agricultural products; does not include processing functions. "Sorting and cleaning" means handling to the generally recognizable minimum level of marketability.

**AGRICULTURAL PROCESSING FACILITY**

A facility used for the cooking, freezing, dehydrating, refining, bottling, canning or other treatment of agricultural products that changes the naturally grown product for consumer use; may include warehousing and packaging as secondary uses.

**AGRICULTURAL STORMWATER RUNOFF**

Any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24.

**AGRICULTURAL STRUCTURE**

Structures intended primarily or exclusively for support of agricultural functions.

**AIRPORTS**

Any area of land that is used or intended for the use of landing and taking off of aircraft; and appurtenant areas that are used or intended for use by airport buildings or other airport facilities or rights-of-way located thereon.

**ALLEY**

An access lane, generally of an urban character, that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**ALTERNATIVE SITE DESIGN**

Design, construction, and engineering practices that use natural features of the landscape with bio-engineered solutions (e.g., infiltration and water storage), to treat, manage, and control stormwater on-site.

**AMERICAN WITH DISABILITIES ACT (ADA)**

The 1990 Federal Civil Rights Law that prohibits discrimination on the basis of disability. This law dictates specific levels of compliance for both the public sector (Title II: State and Local Governments) and the private sector (Title III: Public Accommodations).

**ANTENNA (Specific to WCF and WSS)**

Communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

**APARTMENT**

A part of a multi-family housing unit consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family.

**APPEAL**

Formal process initiated by an aggrieved party to seek a review of the following: (1) a decision made by the Zoning Administrator; (2) a decision made by the P&Z; or (3) a decision made by the BOCC.

**APPLICANT**

A property owner or any person or entity acting as an agent for the property owner in an application for a development proposal, permit, or approval.

**ARCHITECTURALLY INTEGRATED (Specific to WCF and WSS)**

A facility that is visually blended into the landscape or existing vertical infrastructure, by means of design, placement, height, size and/or treatment, so not readily apparent to a casual observer as a Wireless Communications Facility.

**AQUACULTURE**

The breeding, rearing, and harvesting of aquatic plants and animals in all types of water environments including ponds, rivers, lakes, in natural or man-made features. Aquaculture utilizes controlled conditions to produce various species of fish, shellfish, plants and other aquatic organisms. Aquaculture serves a variety of uses including research and fish food production. Also known as aquafarming.

**AREA OF NOTICE**

An area, generally measured as a radius, surrounding property in which property owners are advised of a land use action that requires public notification. See Article 2 for Area of Notice requirements.

**ARROYO**

A clearly defined natural channel formed by the passage of water and subject to flash flooding during seasonal or irregular rainfall events. Also a dry wash or draw through which water flows only occasionally.

**ARTERIALS**

Are one of the following: (1) Principal Arterials that provide higher-speed travel and mobility for long-distance trips. These roads function within the region or community to carry large volumes of traffic to minor arterials and collector routes. Access may be limited by medians. (2) Minor Arterials serve a mobility function for longer-distance trips but handle moderate volumes of traffic at moderate speeds. Minor arterials provide connections to collector routes, which serve communities and local areas. Access from some major traffic generators is allowed to minor arterials.

**ASSOCIATION OF AMERICAN STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO)**

A standards-setting body that publishes specifications, test protocols and guidelines used in highway design and construction.

**AVERAGE DAILY TRAFFIC (ADT)**

The total volume of traffic passing a given point or segment of a road facility, in both directions, during a twenty-four-hour period. It is commonly obtained during a given time period, in whole days greater than one day and less than one year, divided by the number of days in that time period.

**AUCTION YARD**

A place in which the public may consign livestock for sale by auction open to public bidding.

**AWNING SIGN**

Lettering or graphics on valance or canopy of an awning.

**BAND SIGN**

A band of text or graphics across the width of a building.

**BASE FLOOD ELEVATION (BFE)**

The elevation shown on the Flood Insurance Rate Map for special flood hazard areas that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

**BASE STATION (Specific to WCF and WSS)**

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

**BED AND BREAKFAST**

A residence built expressly for, or converted to, the rental of 1-6 rooms to paying guests and providing breakfast to paying guests on a daily or weekly basis. The residential appearance of the structure is maintained, and the owner resides on the lot. This definition does not include a hotel, motel or boardinghouse.

**BEDROCK**

Solid rock underlying unconsolidated surface materials or appearing at the surface where these are absent.

**BERM**

A bank or mound of earth, used especially as a water barrier.

**BEST MANAGEMENT PRACTICE (BMP)**

Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the MS4 and waters of the U.S. BMPs also include treatment requirements, operating procedures, and practices to control fugitive dust, site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, and other site development work that optimizes resources.

**BFE**

See Base Flood Elevation.

**BICYCLE LANE (BIKE LANE)**
A separate path or a portion of a roadway that has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicycles (AASHTO).

**BILLBOARD OR BILLBOARD SIGN**
A large outdoor sign, typically designed to be read from a moving vehicle.

**BIO-RETENTION AREAS**
The use of vegetation and soils to clean, slow, and infiltrate and/or store storm water runoff.

**BIO-SWALES**
Vegetated, shallow, landscaped depressions design to capture, treat, and infiltrate stormwater run-off as it moves downstream.

**BLADE SIGN**
A small, pedestrian-oriented sign that projects perpendicularly from a structure such as a bracket and which is hung from the fascia above ground-floor doors and windows.

**BLOCK**
The aggregate of private lots, passage, rear alleys and rear lanes, bounded by thoroughfares.

**BLOCK FACE**
The side of a block, extending between its lateral lot lines.

**BMP or BMPs**
See "Best Management Practice (BMP)."

**BOARD OF COUNTY COMMISSIONERS (BOCC)**
The governing body of Doña Ana County, New Mexico.

**BOARDING HOUSE**
A residential dwelling unit with two or more rooms that are rented or intended to be rented independently.

**BOCC**
See Board of County Commissioners.

**BORROW**
Excavating material from borrow pits or areas selected by the contractor, when sufficient quantities of suitable material are not available from other excavations, and disposing of all excavated borrow material as specified and in conformity with the lines, grades, and dimensions shown on the drawings, or as directed by the Engineer. The widening of roadway cuts and ditches will be considered as general excavation, and not as borrow.

**BOULEVARD**
A divided thoroughfare designed for high vehicular capacity and moderate speed, traversing a built-up area.

**BUFFER**
An area of land inside a property serving as a screen, using walls, fencing, berms, vegetation, or a combination of the above. Buffering visually separates new development from an adjacent property or roadway, and mitigates negative impacts; it can be a part of LID and GI practices such as water harvesting.

**BUILDING**

Any structure that is enclosed by means of walls and a roof, generally intended for use as a working, storage or dwelling place.

**BUILDING ARRANGEMENT**

The form of a building, based on its massing, private frontage, and height.

**BUILDING HEIGHT**

The height of a building counted in stories for development intensities or measured in feet for use zones.

**BULK MATERIAL**

Any solid material capable of releasing fugitive dust when stored or handled (i.e., sand, gravel, soil, rock aggregate and any other inorganic or organic matter).

**CALIPER**

Diameter of a tree trunk measured 6 to 12 inches from the ground.

**CANAL**

A man-made ditch or channel that carries water for purposes other than domestic consumption.

**CARRIER ON WHEELS OR CELL ON WHEELS (Definitions Specific to WCF and WSS)**

A portable self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

**CATCHMENT**

The area designated to collect stormwater runoff.

**CEMETERY**

A burial place or grounds.

**CDD**

See Community Development Department.

**CFR**

See Code of Federal Regulations.

**CGP**

See NPDES General Permit for Discharges from Construction Activities.

**CHANNEL**

A natural or artificial watercourse, including arroyos, streams, swales, ditches and diversions, with a definite bed and banks that conveys flowing water continuously or periodically.

**CHARACTER**

The image and perception of a property, neighborhood or community defined by its built environment, such as natural features, density, land uses, pattern of development and similar features.

**CHEMICAL SOIL STABILIZATION/SUPPRESSION**

A method of dust control implemented by any person to mitigate PM10 emissions by applying asphaltic emulsions, acrylics, adhesives, or any other approved materials that are not

prohibited for use by the New Mexico Environment Department, the U.S. Environmental Protection Agency, or any other law, rule, or regulation.

**CHICANE**

Offset curb extension on residential, commercial, and low volume streets resulting in slower traffic speeds with possible environmental functions.

**CHIHUAHUAN DESERT**

An arid North American ecoregion, the Chihuahuan Desert is shrubland and desert grassland, often high elevation and in the watersheds of mountains, with a drier cool season and a wetter late summer monsoon. The Chihuahuan Desert lies mostly in Mexico, with portions extending into the southwest United States, and it includes all of Doña Ana County.

**CIVIC SPACE**

An indoor or outdoor area dedicated for community use.

**CLEAN WATER ACT (CWA)**

The Federal Water Pollution Control Act originally enacted in 1948, amended numerous times, including substantial amendments called the Federal Water Pollution Control Act Amendments of 1972 and the Water Quality Act of 1987, and other subsequent amendments collectively known as the Clean Water Act (CWA). The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the U.S. and regulating quality standards for surface waters. See 33 U.S.C. § 1251 et seq.

**CLEAR SIGHT TRIANGLE**

(e.g., site visibility triangle) Specified areas along intersection approach legs and across their included corners that are to be clear of obstructions which might block a driver's view of potentially conflicting vehicles, as defined by AASHTO's Geometric Designs of Highways and Streets (AASHTO Green Book, 2004, or most current edition).

**CLINIC**

An establishment where patients are not lodged overnight but are admitted for outpatient services.

**CO-LOCATION (Specific to WCF and WSS)**

The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

**CODE OF FEDERAL REGULATIONS (CFR)**

The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. All references to "CFR" are to specific parts, sections, tables, or appendices of the Code of Federal Regulations, as amended.

**COLLECTOR**

A roadway that serves as a connection between two or more minor thoroughfares and a major thoroughfare. A collector serves large subdivisions and should be designed so that no residential properties face onto it.

**COMMENCEMENT OF CONSTRUCTION ACTIVITIES**
The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).

**COMMERCIAL**
Any land use or activity conducted for financial gain through the sale of goods and services, including industrial uses.

**COMMERCIAL DISPLAY**
The permanent or temporary display of goods and signage for rentals, sales, or contract sales of goods or services outside of a building.

**COMMERCIAL FEED LOT**
Any tract on which the principal use is the raising of, or the concentrated feeding of, livestock, fowl, or any other edible animals, the sale of such animals or the sale of products derived from such animals; does not include dairies.

**COMMON DESTINATION**
An area of focused community activity that may include, without limitation, one or more of the following: a civic space, a commercial center, or a transit station, and may act as the social center of a neighborhood.

**COMMUNITY**
An area within the County that may consist of a variety of neighborhoods and/or land uses that is self-identified by residents of the area.

**COMMUNITY BUILDING, PRIVATE**
A place where people from a particular community, neighborhood or subdivision meet for social, educational, or recreational activities used strictly for those residents and their families.

**COMMUNITY BUILDING, PUBLIC**
A place where people meet for social, educational, or recreational activities, whose participation or attendance is not limited by residence or membership.

**COMMUNITY, COMMERCIAL**
A parcel of land used for shopping or services generally serving an area of several neighborhoods in a given community.

**COMMUNITY DEVELOPMENT DEPARTMENT (CDD)**
A department of Doña Ana County government that includes staff with responsibilities for administering this Chapter.

**COMMUNITY DEVELOPMENT DIRECTOR**
See Zoning Administrator.

**COMMUNITY GARDEN**
A piece of land cultivated by a group of people, utilizing either individual or shared plots on private or public land.

**COMMUNITY TYPE**
A regulatory category that defines the physical form, density, character, and extent of a new development or community. These include Small Village, Village, Town, General Neighborhood, and Urban Center.

**COMPACTION**

The process in which a stress applied to a material/soil causes densification as air is displaced from the pores between the soil grains

**CONCEALED WIRELESS FACILITY (Specific to WCF and WSS)**

Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

**CONCEPTUAL SITE PLAN**

A scaled drawing that provides a general concept of what is proposed to be developed on a site.

**CONDOMINIUM (CONDO)**

A single unit in a multi-unit dwelling or structure that is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

**CONSTRUCTION**

The act of breaking ground or erecting a building or structure as defined elsewhere in this section.

**CONSTRUCTION ACTIVITY**

Any activity that: (1) disturbs equal to or greater than one acre of total land area; (2) disturbs less than one acre of total land area but is part of a larger common plan of development that will ultimately disturb equal to or greater than one acre of area.

**CONSTRUCTION PLANS**

The maps or drawings accompanying a building permit or subdivision plat application that show the specific location and design of improvements to be installed on a property or subdivision in accordance with the requirements of this Chapter.

**CONSTRUCTION SIGN**

A temporary sign announcing construction, typically located on the same site as the construction, and usually displaying the name of the project, the firm developing it, the construction firm, and other information.

**CONTAMINATED**

Containing a harmful quantity of pollutant.

**CONTIGUOUS**

At least one boundary line of one lot touching a boundary line or lines of another lot.

**CONTINUUM OF INTENSITY**

An array of conditions ranging from the rural to the urban and used in this Chapter, by arranging development intensities or zones within that range. These development intensities and zones describe the physical form and character of a place, according to the intensity of its land use and urbanism.

**CORRIDOR**

A street or roadway identified as a principle link or gateway and adjacent land uses within the County.

**COUNTY**
The County of Doña Ana, New Mexico, or Doña Ana County staff and/or administration.

**COUNTY CLERK**
The elected Clerk of the County of Doña Ana, New Mexico, or the Clerk's authorized representative.

**COURT YARD**
An uncovered area partly or wholly enclosed by buildings or walls and used primarily for supplying access, light, and air to abutting buildings.

**COW (Definitions Specific to WCF and WSS)**
See Carrier on Wheels or Cell on Wheels.

**CRITICAL ROOT ZONE (CRZ)**
A circular area centered on the trunk of an existing tree that has a radius of 12 inches to every inch of Diameter at Breast Height (DBH) of the tree.

**CROWN**
The cross slope or difference in elevation between the high and low point of a cross section of a street normally measured from center line to edge of pavement or gutter line.

**CRZ**
See Critical Root Zone

**CUL-DE-SAC**
A thoroughfare (other than an alley) that terminates in a vehicular turnaround.

**CURB CUT**
A keyed section void in the curb to allow the passage of stormwater flow from impervious surfaces (e.g., streets) to pervious surfaces (e.g., rain gardens).

**CURB RETURN**
A curved segment of curb used at each end of an opening in the roadway.

**CUT**
See Excavation.

**CWA**
See Clean Water Act.

**DAIRY**
An area of land on which cows are kept for the purpose of producing dairy products in commercial quantities, as well as the related buildings, equipment and processes.

**DAYCARE**
A commercial use for the daytime care of people who cannot be left to their own devices, such as children or the elderly.

**DECELERATION LANE**
A speed-change lane for the purpose of enabling a vehicle to slow to a safe turning speed when exiting a roadway.

**DEDICATED RIGHT-OF-WAY**
A public right-of-way that is dedicated and accepted by the BOCC for public use and is recorded as such in the Office of the County Clerk.

**DEGRADE A BODY OF WATER**

This definition applies only to water quality, liquid and solid waste disposal guidelines. To reduce the physical, chemical, or biological qualities of a body of water. It includes the release of material which could result in the exceeding of standards established in the Water Quality Standards for Interstate and Intrastate Streams, by the Water Quality Control Commission Regulations, and by the Drinking Water Regulations.

**DENSITY**

The number of families, persons, or housing units per unit of land.

**DESIGN CRITERIA**

Standards set for specific improvement requirements.

**DESIGN FLOW**

The liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable system performance. It is generally governed by regulations, standards, codes, and accepted references.

**DESIGN SPEED**

The velocity at which a thoroughfare tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: very low (below 20 MPH), low (20-25 MPH), moderate (25-35 MPH) and high (above 35 MPH).

**DETENTION BASIN OR DETENTION POND**

A water-storage facility that gradually releases water by means of an outlet with the goals of controlling peak discharge.

**DEVELOPED LAND OR DEVELOPED AREA**

Any human-caused change to improved or unimproved property.

**DEVELOPER**

Any person creating, or having created, a subdivision individually or as part of a common promotional plan, or a person improving a property, or any person engaged in the sale or lease of subdivided land which is being sold or leased by the owner in the ordinary course of business; however, the term "developer" does not include any duly licensed real estate broker or salesperson not acting on personal account.

**DEVELOPMENT**

For the purpose of determining the applicability of the zoning provisions contained within this Chapter, "development" is defined as the construction or property improvement, either of which results in a change of land use or character of the property, or the subdivision of land. However, development does not include the repair or maintenance of existing buildings or structures and related infrastructure not resulting in a change of land use or character.

**DEVELOPMENT AGREEMENT**

A contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval – the development will not be subject to subsequent changes in regulations. Development agreements should also benefit the local jurisdiction. The County may include conditions (mitigation measures) that must be

met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and local jurisdiction.

**DEVELOPMENT INTENSITY**

The degree to which land is used for community types; refers to levels of concentration or activities in use in a gradient of light, medium, and high intensity.

**DEVELOPMENT PERMIT**

A permit is required to construct or for property improvement, either of which results in a change of land use or character of the property. Individuals must obtain a permit from the Floodplain Administrator.

**DEVELOPMENT REVIEW COMMITTEE (DRC)**

A committee consisting of the Directors of Utilities, the Flood Commission, Community Development, the County Fire Chief, and the County Engineer. The purpose of the DRC is to review development proposals, deviation of development standards, and provide a recommendation to the appropriate decision-making body.

**DIRECTIONAL SIGN**

A sign located on private property which displays warnings, instructions, or directions and on which no other form of business promotion or advertising appears.

**DISCHARGE**

Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the Municipal Separate Storm Sewer System, channels, watercourses, water, or waters of the U.S.

**DISCHARGER**

Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site.

**DISCLOSURE STATEMENT**

A statement required to be given to persons acquiring an interest in subdivided land; this statement must comply with the requirements of NMSA 1978, §47-6-17 and Appendices I and J.

**DISPLAY CASE OR DISPLAY CASE SIGN**

A glazed enclosure for the display of directories or printed materials.

**DISTURBED AREA**

Any land surface area in which the soil will be altered by grading, leveling, scraping, cut-and-fill activities, excavation, brush and timber clearing, grubbing, and unpaved soils on which vehicle operations and/or movement will occur or has occurred.

**DITCHES**

A channel made on or in the ground for draining or irrigating land.

**DOMESTIC SEWAGE**

Human excrement, gray water (from home clothes washing, bathing, showers, dish washing, and food preparation), other wastewater from household drains, and waterborne waste

normally discharged from the sanitary conveniences free from industrial waste, such as commercial enterprises.

**DRAINAGE**

The natural or artificial removal of surface and sub-surface water from an area.

**DRAINAGE AREA (DRAINAGE BASIN)**

An area enclosed by a topographic divide which contributes to the runoff at a particular location.

**DRAINAGE CHANNEL**

Any depression into which stormwater flows along a defined course.

**DRAINAGE MAINTENANCE AGREEMENT**

An agreement signed by a property owner defining the property owner's responsibilities for maintaining all elements of the drainage system.

**DRAINAGE PLAN**

A plan indicating the existing storm drainage conditions of a proposed development and how the increased run-off generated by the proposed development will be handled.

**DRC**

See Development Review Committee.

**DRIVE**

A thoroughfare along the boundary between a built-up and a natural condition, usually along a waterfront, park, or promontory. One side has the character of a thoroughfare, with sidewalk and building, while the other has the qualities of a road or parkway, with naturalistic planting and rural details.

**DRIVEWAY**

A point of vehicular access between a right-of-way or easement and an abutting property.

**DRIVEWAY WIDTH**

When measured at the lot line, the length parallel to the traveled way. When measured in the private frontage, the narrowest dimension across a driveway measured perpendicular to the direction of travel.

**DRY UTILITIES**

Utilities including electric, gas, telephone, fiber optics, and cable.

**DUPLEX**

A residential building with two attached dwelling units each of which has direct access to the outside.

**DUST GENERATING OPERATION**

Any activity, process, or project capable of generating fugitive dust, including activities associated with creating a disturbed area.

**DUST SUPPRESSANT**

Any water, hygroscopic material, or nontoxic chemical stabilizer used as a treatment to reduce visible fugitive dust emissions. Dust suppressant uses, concentrations, and application frequencies shall be as recommended by the manufacturer and shall not violate this Chapter.

**DWELLING UNIT**

Any structure or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation.

**EARTHWORK**

The excavation, grading, filling or any other alteration of the contour, topography or natural cover of land.

**EASEMENT**

A nonpossessory interest held by one person, party, or entity in land of another, whereby that person is accorded partial use of such land for a specific purpose. An easement restricts, but does not abridge, the right of the fee owner to the use and enjoyment of this land. A road easement shall be considered a private road and shall not be maintained by the County.

**ECOREGION**

An area of interdependent geography, climate, plants, and wildlife, which is unique from other ecoregions, including those adjacent.

**ECP**

See Erosion Control Plan.

**EDGE OF A WATERCOURSE, CANAL OR ARROYO**

That point of maximum curvature at the upper edge of a definite bank or, if no definite bank exists, the highest point where signs of seasonal high water flow exist.

**ELECTRICAL TRANSMISSION TOWER (Specific to WCF and WSS)**

An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

**ELEVATION**

An exterior wall of a building not along a frontage line. See Façade.

**ELEVATION CERTIFICATE**

A certificate issued by the County Floodplain Administrator in order to obtain the elevation of the lowest floor (including basement) of all new and substantially improved buildings. It is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a letter of map amendment or revision (LOMA or LOMR-F). See also Ch. 207, Flood Damage Prevention.

**ELIGIBLE FACILITIES REQUEST (Specific to WCF and WSS)**

A request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

**EMBANKMENT**

An earthen or artificial mound raised above immediately adjacent land.

**EMERGENCY SERVICES**

Police, fire or ambulance services, in addition to other services which stem from circumstances which pose a threat to life or property and require immediate attention.

**ENCROACHMENT**

To extend across and into the limits of rights-of-way, parkways, surrounding properties, or above a height limit. When not specifically permitted by this Chapter, encroachment is synonymous with infringement, invading, trespassing or intruding.

**ENGINEER**

A person who is engaged in the practice of engineering and is qualified to so practice as attested by a legal registration as a professional engineer in the State of New Mexico. When used in connection with the requirements of this Chapter, an engineer has a legal registration permitting him or her to fulfill the requirements.

**ENGINEERED WETLAND**

Integrated system of water, plants, animals, microorganisms, and the environment.

**ENGINEERING SERVICES DEPARTMENT**

The Engineering Services Department for the County of Doña Ana, New Mexico.

**ENVIRONMENTALLY SENSITIVE AREA (ESA)**

A geographic area providing key ecological functions, which may also contain natural, scenic and/or cultural features of such significance, that warrants their conservation in a comprehensive manner.

**EPA**

See U.S. Environmental Protection Agency.

**EPHEMERAL FLOW**

A briefly occurring flow of water that occurs following rainfall in close proximity.

**EQUIPMENT COMPOUND (Specific to WCF and WSS)**

An area surrounding or near the base of a wireless support structure within which are located wireless facilities.

**EROSION**

The dislodging and transport of soil particles, or mass movement of soil (mass wasting) by water, wind, gravity or other mechanical means.

**EROSION CONTROL**

Treatment measures for the prevention of damages due to soil movement from wind, water, gravity, or mechanical means.

**EROSION CONTROL PLAN (ECP )**

A written description of all best management practices to be implemented at a work site and/or in transit to and from a work site for any earth moving, construction, or potential dust-generating operation. Such written description may be incorporated into construction plans, or a separate document submitted with said plans.

**EXCAVATION**

The removal of earth material by artificial means; also referred to as a "cut." May be further defined by referenced construction specifications.

**EXISTING STRUCTURE (Specific to WCF and WSS)**

A wireless support structure, erected prior to the application for an eligible facilities request, co-location or substantial modification under this Chapter, which is capable of supporting the attachment of wireless facilities. The term includes, electrical transmission towers, buildings, and water towers. The term shall not include any utility pole.

**EXOTIC PLANT**

A plant species not considered native, which may or may not be adapted to the built and desert environments. Such a plant may be included in, or fulfill, required landscaping, if not

invasive and negative characteristics are unlikely. Refer to Table 5.21 Plant List, Recommended and Table 5.22 Plants, Prohibited or Not Recommended.

**EXTREMELY HAZARDOUS SUBSTANCE**

Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

**FAÇADE**

The exterior wall of a building that is set along a frontage line. See Elevation.

**FAIR HOUSING ACT (FHA)**

The Fair Housing Act of 1968, as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

**FALL ZONE (Specific to WCF and WSS)**

The area within a determined radius referred to as the potential fall radius, in which a wireless support structure may be expected to fall in the event of a structure failure, as certified by a registered New Mexico Professional Engineer.

**FAMILY**

One or more persons living together in a single dwelling unit as a family or the functional equivalent of a family.

**FARMING AND RANCHING**

Any use of land for the growing and harvesting of crops, the open-range grazing of livestock, or irrigated pasture for grazing livestock for sale or profit, or uses that are directly ancillary to these on-farm scalable activities, which is the exclusive or primary use of the lot, including processing, packaging and warehousing.

**FARMLAND/RANGELAND**

Consist primarily of open lands used for agriculture or the raising of livestock.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

The federal agency under which the National Flood Insurance Program (NFIP) is administered. In March 2003, FEMA became part of the newly created United States Department of Homeland Security.

**FEMA**

See Federal Emergency Management Agency.

**FENCE**

(e.g., fencing) An enclosure or barrier used as a boundary, means of protection, or privacy. Fencing is constructed of open or solid materials, permitting some amount of light, visibility, and/or air movement.

**FENCE AT A FRONTAGE**

A fence at the primary frontage or a fence at the secondary frontage.

**FENCE AT A PRIVATE LOT LINE**

A fence generally in proximity to and parallel to the boundary between two lots.

**FENCE AT AN ALLEY**
A fence generally in proximity to and parallel to a rear alley or rear lane.

**FENCE AT THE PRIMARY FRONTAGE**
A fence generally in proximity to and parallel to the primary frontage.

**FENCE AT THE SECONDARY FRONTAGE**
A fence generally in proximity to and parallel to the secondary frontage.

**FHA**
See Fair Housing Act.

**FILL**
Deposition of earth materials by artificial means.

**FINAL PLAT**
A survey plat prepared by a professional surveyor licensed to practice in the State of New Mexico which contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing of record, meeting the requirements of this Chapter.

**FINAL STABILIZATION**
The covering of areas, exclusive of permanent structures, by vegetation or non-vegetation methods, such that the site is protected from erosion.

**FIRE DEPARTMENT**
The County Fire Chief or Fire and Emergency Services Department, or any duly authorized representative thereof.

**FIRE LANE**
Any area appurtenant to a building deemed necessary by the County Fire Chief or his/her designee to remain free and clear of parked vehicles for access to such building in case of fire or other emergency and designated by him as such; may include sidewalks, driveways, portions of parking lots or any other area adjacent to or near a building or fire hydrant, as required by the County Fire Chief.

**FIRM**
See Flood Insurance Rate Map.

**FLAG LOT**
A lot having the configuration of an extended flag and pole. The flag represents the width of a lot suitable for a principal building and front setbacks conforming to the zoning district. The pole represents the portion of the lot that serves as the access from the flag to a thoroughfare.

**FLOOD**
A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is the policyholder's property) from overflow of inland or tidal waters; unusual and rapid accumulation or runoff of surface waters from any source; mudflow; or collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

**FLOOD CONTROL**
The measures necessary or taken to protect the public's health, safety or welfare from the effects of flooding.

**FLOOD HAZARD AREA**
An area subject to flooding from storm runoff.

**FLOOD INSURANCE RATE MAP (FIRM)**
The official map of a community on which FEMA has delineated both the special hazard areas and the risk-premium zoning districts applicable to the community.

**FLOODPLAIN**
Any area susceptible to flooding by water from storm runoff as designated on the Flood Insurance Rate Map (FIRM) prepared by the United States Department of Housing and Urban Development, or similar maps prepared by the United States Army Corps of Engineers, Federal Emergency Management Agency (FEMA) or other similar agency or per the Flood Commissioner's designation based on findings of fact.

**FLOODWAY**
A watercourse channel and that portion of the adjoining floodplain required to provide for the passage of a one-hundred-year flood.

**FOOD TRUCKS**
Motorized vehicles with on board power, refrigeration, food preparation facilities, and usually room for two to four employees, which are mobile food units and are not site-specific vendors.

**FOURPLEX**
A residential building with four attached dwelling units each of which has direct access to the outside.

**FREESTANDING SIGN**
Any non-movable sign not affixed to a building that is not a portable sign.

**FRONT FAÇADE OR PRINCIPAL FAÇADE**
The face of the building occurring at the primary frontage.

**FRONT SETBACK**
The distance from the primary frontage at which a building or streetscreen must be located. It is generally indicated by a range of distances from the frontage line.

**FRONTAGE**
The area between a façade and the vehicular lanes, including both built and planted components. Frontage is divided into private and parkway.

**FRONTAGE BUILDOUT**
The percentage of the lot width that is occupied by a façade at the front setback.

**FRONTAGE LINE**
A lot line bordering a street or access.

**FUGITIVE DUST**
Any particulate matter entrained in the ambient air that is caused from human or natural activities without first passing through a stack or duct designed to control flow, including, emissions caused by movement of soil, vehicles, equipment, windblown dust, or other

human or natural activities. Excluded particulate matter includes matter emitted directly from the exhaust of motor vehicles, or from other combustion devices, portable brazing, soldering or welding equipment, and pile drivers.

**FURNISHING ZONE**

The area of the parkway assembly that is available for street furniture such as benches, wastebaskets, and newspaper boxes.

**FUTURE USE SIGN**

A sign indicating the future use of the site, building, or tenant space.

**GARAGE**

A building or portion thereof other than a private storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term "repairing" shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

**GARAGE AND YARD SALES**

An informal event for the sale of used goods by private individuals, in which sellers are not required to obtain business licenses or collect sales tax.

**GARBAGE**

Any animal or vegetable waste that is liable to decompose or rot resulting from the handling, preparation, cooking or consumption of foods, offal, scum, dregs, sediment, sweepings, trash, debris, remains, or dross.

**GI**

See Green Infrastructure**.**

**GLARE**

A degree of luminance caused by direct light or reflection.

**GRADING**

Any excavation or fill or combination thereof, including clearing and grubbing.

**GRADING PERMIT**

A permit to excavate or fill or a combination thereof, including clearing and grubbing of land for the construction and development of permitted buildings or structures, or to conduct other legal land uses.

**GREEN, CIVIC SPACE**

A civic space type for unstructured recreation, spatially defined by landscaping rather than building frontages.

**GREEN INFRASTRUCTURE (GI)**

An approach to water management that protects, restores, or mimics the natural water cycle. GI includes the physical and biological processes found in each ecoregion's natural landscape, informing low impact development and water harvesting.

**GROUND COVER**

Low-growing, spreading plants generally used to prevent weeds.

**GROUNDWATER**

This definition applies only to water quality, liquid and solid waste disposal guidelines. Interstitial water which occurs in saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.

**GROUP HOME**

A dwelling unit where 6 or fewer unrelated people in need of care, support, or supervision can live together.

**GRUBBING**

The removal of stumps and roots.

**HARMFUL QUANTITY**

Discharges of any substance in a quantity determined to be harmful to the public health, public welfare, or the environment.

**HAZARD TO PUBLIC HEALTH (Specific to NMED liquid waste)**

The indicated presence in water or soil of chemical, biological or other agents under such conditions that they may adversely impact human health.

**HAZARDOUS SUBSTANCE OR HAZARDOUS WASTE**

Any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment.

**HEAVY INDUSTRIAL USE**

Manufacturing or other enterprises that pose significant risks due to the use or storage of explosives or radioactive materials, or of poisons, herbicides, or other hazardous materials in reportable quantities under the standards of the Environmental Protection Agency.

**HELIPORT**

See Airport.

**HHW**

See Househole Hazardous Waste.

**HIGH WIND CONDITIONS**

On-site average wind speed greater than 15 miles per hour, gusts of 20 miles per hour, or an active wind advisory issued by the National Weather Service for Doña Ana County.

**HIGHWAY**

A rural and suburban thoroughfare of high vehicular speed and capacity.

**HOTEL**

A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress to and egress from all rooms are made through an inside lobby or office supervised by a person in charge at all times.

**HOUSEHOLD HAZARDOUS WASTE (HHW)**

Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

**HUNDRED-YEAR FLOOD OR 100-YEAR FLOOD**

A flood having an average frequency of occurrence in order of once in 100 years, although the flood may occur in any year.

**HYDROLOGICAL FUNCTION**

The naturally ability of landscape features to absorb, store, and release intercepted water.

**ILLICIT DISCHARGE**

Any discharge to the MS4 that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire-fighting activities.

**IMMEDIATE FAMILY MEMBER**

Means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption;

**IMPROVED ROADWAY**

A road enhanced in value or quality by application of an all-weather surfacing material, including asphalt or cement treated base course, soil cement, double penetration, seal coating, pervious concrete, palliative sprays or an engineered surface design based on traffic loading and drainage, which will impede and reduce dust emissions and protect against potholes and erosion when maintained on a regular basis.

**IMPROVEMENTS**

Infrastructure including streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, water, sewer, electric, telephone, cable and gas systems or parts thereof.

**INDIVIDUAL LIQUID WASTE DISPOSAL SYSTEM**

A disposal system that receives liquid waste from one lot and includes, including, septic tank systems and aerobic disposal systems, is subject to the New Mexico Environment Department Regulations.

**INFRASTRUCTURE**

Facilities and services needed to sustain industry, residential, commercial and all other land use activities.

**INN**

A lodging expressly for, or converted to, the rental of 7-12 rooms to paying guests and providing breakfast to paying guests for 14 days or less. The owner or resident manager resides on the lot. This definition does not include a hotel, motel or boardinghouse.

**INSTITUTE OF TRANSPORTATION ENGINEERS (ITE)**

An international educational and scientific association of transportation and traffic engineers and other professionals who are responsible for meeting mobility and safety needs.

**INTERMITTENT FLOW**

An unsteady flow of water characterized by repeated starts and stops.

**INTERSECTION**

A point where two or more streets meet or cross.

**INVASIVE PLANT**

A plant species not considered native, which is prohibited from use in landscaping due to strong negative characteristics within the built and desert environment. Such a plant cannot

be included in, or fulfill, required landscaping, including if existing on the property. Refer to Table 5.22 Plant List, Prohibited, or Not Recommended.

**ITE**

See Institute of Transportation Engineers.

**JETPORT**

See Airport.

**JUNKYARD**

The use of premises for the open storage of old, wrecked, inoperable, dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof; scrap building materials, scrap contractor's equipment, tanks, cases, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper excelsior, hair, mattresses, beds, or bedding; or any other kind of scrap or waste material.

**KENNEL**

A commercial establishment for the breeding, sale, grooming, or boarding of small animals and household pets.

**LABORATORY**

A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not including facilities for manufacture of products for sale.

**LAND DEVELOPMENT**

The development of one or more lots by any means and for any purpose, but that does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

**LAND USE**

Any activity that is subject to the regulations of this Chapter that is conducted on, below and in the space above the surface of the earth to a height of 500 feet.

**LANDING FIELD**

See Airport.

**LANDSCAPE**

See Landscaping.

**LANDSCAPE AREA**

The area of a property or parcel, and adjoining right-of-way, which can be used for all required landscaping and plant quantities.

**LANDSCAPE TYPE**

Landscaping is categorized based on location within or adjacent to a property and the density of plantings and other landscape treatments, using the following types: general or ornamental landscaping is overall enhancement and beautification of a space; revegetation is replacing disturbance of a space by recreating original grading, drainage and vegetation patterns, including site-specific native plants (also called restoration or reclamation); erosion control addresses potential drainage and erosion issues with a mix of living and non-living covers to better bind the soil, including ponding area slopes and basins; vehicular use area landscaping is general landscaping but applied to unique requirements of parking, parking area driveways, and pedestrians in vehicular areas.

**LANDSCAPING**

An area that has been enhanced and/or mitigated through a harmonious combination of introduced, live vegetation, irrigation, and mulch. Landscaping may contain hardscape areas and natural topping materials such as, boulders, rock, stone, granite, other approved material, or existing and naturally occurring live vegetation and site features.

**LANE**

A minor access way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**LANE, VEHICULAR**

The portion of a roadway for the movement of a single line of vehicles, not including the gutter or shoulder of the roadway.

**LEASE**

A contract by which a rightful possessor of real property conveys the right to use and occupy the property in exchange for consideration, usually rent.

**LEGAL DESCRIPTION**

A metes-and-bounds description of a parcel of land filed in accordance with the requirements of the State of New Mexico and Doña Ana County.

**LEGISLATIVE ACTIONS**

Action by the P&Z or BOCC that reflects public policy relating to matters of a permanent or general character, that is not usually restricted to individual persons or groups and is usually prospective, including, by way of example text amendments that are not quasi-judicial in nature or comprehensive County-wide rezoning.

**LESSEE OR LEASEHOLDER**

A tenant, or any person to whom land or structures are leased.

**LESSOR**

A landlord, or any person who leases land or structures to another.

**LEVEL OF SERVICE (LOS)**

Characterizes the operating conditions on the facility in terms of traffic performance measures related to speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience.

**LID**

See Low Impact Deveopment.

**LIGHT INDUSTRIAL USE**

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from processed or previously manufactured materials and produces minimal if any external effects from the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

**LIQUID WASTE**

Domestic wastewater containing human excreta or other water-carried waste.

**LIQUID WASTE SYSTEM**

A system which is designed, constructed, operated, and maintained to receive, treat, and dispose of liquid wastes. It usually consists of collection, treatment, and disposal components.

**LIVE PLANT COVER**

The percentage of living vegetation, compared to the total area of bare soil and/or mulch or rock cover, in required and provided landscaping and based on mature size and plant area in the plant list.

**LIVE-WORK**

A mixed-use unit consisting of a residential use and a commercial use that is not necessarily incidental to or accessory to the residential use. The commercial use may be anywhere in the unit.

**LIVESTOCK PEN**

A place where small and large animals are kept on a seasonal or occasional basis as part of an agricultural enterprise or operation as distinguished from a stockyard.

**LOCAL THOROUGHFARE**

A thoroughfare whose primary function is to provide access to abutting properties and to other thoroughfares from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes or other utilities.

**LOS**

See Level of Service.

**LOT**

A tract or parcel or a portion of a subdivision or other parcel of land described by metes and bounds, as shown on the records in the County Clerk's office.

**LOT COVERAGE**

The portion of a lot occupied by impervious surfaces, such as buildings, sheds, enclosures, structures, patios, decks, pavements, driveways, parking areas, walkways or other similar surfaces.

**LOT WIDTH**

The distance between side lot lines measured across the front yard, parallel to the street or access.

**LOW IMPACT DEVELOPMENT (LID)**

Development that integrates infrastructure and Active Landscape Features, preserves natural landscape functions and minimizes impervious surfaces, to create functional drainage strategies. LID promotes water capture near the source, and is most effective when considered in a project's pre-development phases.

**MAIN CIVIC SPACE**

The primary indoor or outdoor gathering place for a community.

**MAINTENANCE**

The cleaning, shaping, grading and repair of roads, drainage, flood control and erosion control facilities and structures.

**MAJOR ARROYO**

Any channel or watercourse that carries more than 100 cubic feet per second or has a contributing drainage basin of more than 40 acres.

**MANDATORY**

A matter that is required to be as described.

**MANUFACTURED HOME**

A single-family dwelling with a heated area of at least 864 square feet, and measuring at least 36 feet by 24 feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development (HUD), the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.) and the Housing and Urban Development Zone Code II or the latest Building Code adopted by the County, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, Chapter 60, Article 14) and with the regulations made pursuant thereto relating to ground-level installation. A manufactured home is distinct from a mobile home.

**MANUFACTURING**

Establishments engaged in the initial processing or treatment of raw materials or creation of products that required additional processing, fabrication, or assembly.

**MARQUEE OR MARQUEE SIGN**

A canopy or roof-like projection over the entrance to a theater, hotel, or other building, usually bearing a sign on its face or sides.

**MEDIUM INDUSTRIAL USE**

Enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses, including compounding, processing, packaging, storage and assembly and/or treatment of material or other enterprises which produce external effects such as smoke, noise, soot, dirt, vibration, odor, etc.

**MEETING HALL**

A building available for gatherings, including conferences.

**METROPOLITAN PLANNING ORGANIZATION (MPO)**

A federally regulated agency responsible for long- and short-range transportation planning and determining air quality conformity for the regional transportation air shed. The two MPOs that have jurisdiction within Doña Ana County are located in Las Cruces, NM and El Paso, TX.

**METROPOLITAN TRANSPORTATION PLAN**

The Mesilla Valley Metropolitan Planning Organization Metropolitan Thoroughfare Plan or the El Paso Metropolitan Transportation Plan, as applicable.

**MINOR ARTERIAL**

Minor arterials serve a mobility function for longer-distance trips but handle moderate volumes of traffic at moderate speeds. Minor arterials receive connections from collector routes, which serve communities and local areas. Access from some major traffic generators is allowed to minor arterials.

**MINOR MODIFICATION (Specific to WCF and WSS)**

The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that minimally changes the physical dimensions of the support structure.

**MIX USE**

(eg., Mixed Use). Denotes multiple uses within the building, lot, block, or other area to which the term refers.

**MOBILE HOME**

A structure that meets the definition of a mobile home in the Manufactured Housing and Zoning Act, NMSA 1978, §3-21A-2, or any future enactment that revises or substantially replaces said Act.

**MOBILE HOME PARK**

A business operation on a single lot on which 5 or more mobile home spaces are located, either free of charge or for revenue purposes. Such business operations are not considered subdivisions under these regulations.

**MOBILE HOME SUBDIVISION**

A subdivision created for the purpose of placing mobile homes on individually platted lots.

**MODULAR BUILDING**

A standardized factory-fabricated transportable building module not having a chassis or wheels of its own, designed and constructed in accordance with all applicable local building codes and intended to be placed on a permanent foundation, meeting all local zoning codes and to be used by itself or incorporated with similar units at a building site. Modular buildings can be used for residential or commercial uses when located in appropriate zoning districts.

**MOISTURE CONTENT**

The percentage of moisture within the subgrade or embankment material.

**MONOPOLE (Specific to WCF and WSS)**

A single freestanding pole-type structure supporting one or more antennas. For the purposes of this section, a monopole is not a tower or a utility pole.

**MONUMENT SIGN**

A low level freestanding sign supported by a solid base, where poles or supports are hidden or covered.

**MOTEL**

A building in which lodging or boarding and lodging are provided and offered primarily to the motoring public for compensation and in which ingress to and egress from all rooms need not be made through an inside lobby or office.

**MOTOR VEHICLE FLUID**

Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.

**MPO**

See Metropolitan Planning Organization.

**MS4**

See Municipal Separate Storm Sewer System.

**MULCH**

A material covering bare soil to insulate plant roots and conserve moisture for optimal plant growth, or minimize erosion when used with plants. Inorganic mulches are aggregate with mineral composition, including gravel, rock, rip-rap, crusher fines, or decomposed granite, compatible with low and some medium water-use plants. Organic mulches are from living material, including shredded cedar or cypress, and pecan shells, compatible with high and some medium water-use plants.

**MULTI-FAMILY DWELLING UNIT**

A building designed for two or more families.

**MULTIPURPOSE FIELD**

A civic space type for structured recreation and stormwater management. It may be spatially defined by landscaping rather than frontages.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the County and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

The permitting system established by the Clean Water Act for all discharges to waters of the U.S. and administered by the EPA for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements.

**NATIVE PLANT**

A plant species that is indigenous to the Chihuahuan Desert or adjacent ecoregions; this can include plant species naturally-occurring within 200 miles and 1000 feet in elevation of the project site. A native plant tends to establish in disturbed and wild areas without cultivation. This excludes exotic and invasive plants. Refer to Table 5.21 Plant List and Table 5.22 Plant List, Prohibited or Not Recommended.

**NATURAL CONDITION**

A condition that arises from or is found in nature and not modified by human intervention.

**NATURAL COVER**

Any vegetation that exists on the property, prior to construction activity or achieved through vegetation restoration to a natural state, including native plant areas, proposed plantings, and/or the placement of turf (e.g., lawn or sod).

**NATURAL RESOURCE CONSERVATION SERVICE (NRCS)**

Also referred to as Soil Conservation Service (SCS). An agency of the federal government that provides leadership in a partnership effort to help people conserve, maintain, and improve natural resources and the environment.

**NEIGHBORHOOD, COMMERCIAL**

Retail sales and services, personal services and business and office services generally intended to serve a neighborhood of up to a one-mile radius. The scale of development and traffic generated is accommodated by access to a collector street.

**NEIGHBORHOOD, COMMUNITY TYPE**

A term for one of several community types regulated by this Chapter.

**NEIGHBORHOOD**

An area of a community with characteristics that distinguish it from other community areas and that may include schools, or boundaries defined by physical barriers or natural features.

**NEW MEXICO ENVIRONMENT DEPARTMENT (NMED)**
The state department that is responsible for promoting a safe, clean and productive environment through implementing environmental programs and regulations within the State of New Mexico.

**NEW MEXICO OFFICE OF THE STATE ENGINEER (OSE)**
The New Mexico office charged with administering the state's water resources, e.g. the Office of the State Engineer or State Engineer's Office.

**NIGHTCLUB**
A place of entertainment where alcohol may be served.

**NMED**
See New Mexico Environmental Department.

**NOI**
See Notice of Intent.

**OSE**
See New Mexico Office of the State Engineer.

**NOT**
See Notice of Termination.

**NOTICE OF INTENT (NOI)**
The form, written or electronic, that must be filed with the EPA, when required, for authorization of coverage under NPDES General Permit for Discharges from Construction Activities (CGP).

**NOTICE OF TERMINATION (NOT)**
The form, written or electronic, that must be filed with the EPA, when required, for terminating coverage under the NPDES General Permit for Discharges from Construction Activities.

**NPDES**
See National Polutant Discharge Elimination System.

**NPDES GENERAL PERMIT FOR DISCHARGES FROM CONSTRUCTION ACTIVITIES (CGP)**
The permit issued by the EPA under the authority of the Clean Water Act (CWA) to regulate the discharge of pollutants from construction activities. The permit is revised and reissued by the EPA at regular intervals. Construction site owners and/or operators obtain authorization under the permit to discharge stormwater from their construction site by preparing a SWPPP and submitting an NOI to the EPA.

**NRCS**
See Natural Resource Conservation Service.

**ODD SHAPED LOTS**
A lot that due to shape or frontage has irregular property lines, such as multi-sided or triangular shaped lots that do not fit the definition of front, side and rear lot lines making the setbacks difficult to determine.

**OFF-SITE**

Any area not located within the boundaries of the property to be developed, whether or not in the ownership of the applicant.

**OFF-STREET PARKING SPACE**

A location not in a street or alley, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a driveway that affords ingress and egress for a vehicle.

**OFFICE, GENERAL**

An interior space available for the transaction of general business but excluding retail, artisanal and manufacturing uses, generally larger than 1,500 square feet.

**OFFICE, SMALL**

An interior space limited to 1,500 square feet and available for the transaction of general business but excluding retail, artisanal and manufacturing uses.

**ON-LOT PONDING**

A retention area used to store runoff within an individual lot.

**ONE-HUNDRED-YEAR STORMWATER RUNOFF**

The flood event that has a one-percent chance of being equaled or exceeded in any given year. It is also known as the "base flood."

**OPEN HOUSE SIGN**

A sign indicating that an open house for real estate is in progress.

**OPEN SPACE**

Land intended to remain undeveloped, or when required within a lot, a publicly or privately owned and maintained ground area that satisfies visual and physiological needs of the community for light and air.

**ORDERING BOARD**

Any sign displaying the items offered at a business, typically for the convenience of drivers.

**ORDINARY MAINTENANCE (Specific to WCF and WSS)**

Ensures that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity, such as, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape, color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.

**OWNER**

Any person, association, partnership, or corporation that has dominion over, ultimate control of, or title to real property.

**PARCEL**

See Lot.

**PARK**

A civic space type that is a natural preserve available for unstructured recreation.

**PARKING AREA**
A portion of a development set aside for off-street parking.

**PARKING LOT**
An area, typically paved, designed for vehicular parking.

**PARKWAY**
An area of a public street that is between the curb and the property line.

**PARKWAY ASSEMBLY**
The combination of the items that make up the parkway, including the sidewalk, planting strip, lighting, street signs, and street furniture, if applicable.

**PARTICULATE MATTER**
Any material emitted or entrained into the air as liquid or solid particulate, with the exception of uncombined water.

**PATH**
A pedestrian way traversing a park or rural area, with landscape matching the contiguous open space, and which usually connects directly with any nearby sidewalk network.

**PAVEMENT STRUCTURE**
The combination of sub-base, base course, and/or surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

**PEDESTRIAN EASEMENT**
An area providing pedestrian access with a dedicated easement such as a sidewalk, path, or passage.

**PEDESTRIAN SHED**
An area centered on a common destination. Its size is related to average walking distances for the applicable community type. (Informally "ped shed.")

**PERCOLATION RATE**
This definition applies only to these water quality, liquid and solid waste disposal guidelines. The rate of entry of water into soil. It is determined from a standard percolation test performed on the soil at the depth of the proposed soil absorption system.

**PERMIT**
When used as a noun, any duly authorized permit for construction issued by the County or any authorization that includes soil disturbance; when used as a verb, a legal grant of permission.

**PERSON**
Any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns or an individual who has control over day-to-day activities. This definition includes all federal, state, and local governmental entities.

**PERSONAL SERVICES**
Uses such as beauty shops, barbershops, dry cleaners, mailing services, self-service laundromats and similar uses that provide service to the public individually.

**PERVIOUS PAVEMENT**

Pavement compiled in a manner to effectively treat, detain and infiltrate storm water run-off where landscape-based strategies are restricted or less desired.

**PETROLEUM PRODUCT**

A product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene distillate fuel oil, and No. 1 and No. 2 diesel.

**PETROLEUM STORAGE TANK (PST)**

Any one or a combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

**PHASE**

Refers to a portion of a multi-unit subdivision which is intended to be developed as a unit.

**PHASING**

A construction BMP that is sequencing disturbing activities during construction, on lots in distinct areas of the project, with the stabilization of each area before the disturbing of the next.

**PLANNING AND ZONING COMMISSION (P&Z)**

The Planning and Zoning Commission of Doña Ana County, New Mexico whom are appointed by the BOCC.

**PLANT AREA**

Overall area coverage of plant canopy, calculated in the following manner including the plant list - trees at 50 percent of the canopy width times that same canopy width, rounded up (example: a tree listed with a 20 foot canopy width is 20' x 20' = 400 square feet x 50% = 200 square foot area); other plants at 100 percent of the canopy width times that same canopy width (example: an accent plant listed with a 5 foot canopy width is 5' x 5' = 25 square feet x 100% = 25 square feet area) Refer to Table 5.21. Plant List.

**PLANT, EDIBLE**

Plant with fruit or parts, eaten or used by humans in the preparation of food. Refer to Table 5.21. Plant List.

**PLANT, HEIGHT**

Typical, mature height of plant canopy. Refer to Table 5.21. Plant List.

**PLANT, HIGH WATER-USE**

Plant that mostly survives on over 25 inches of water per year; also called a mesic or phreatophytic plant; grows best in a high water use zone with other high water-use plants. high water-use plants can require less water where moisture availability is higher, mostly where specialized soil types and higher water tables combine in valley locations; unless in such locations and/or when other documentation is provided, high water-use plants shall not be counted towards required landscaping. Refer to Table 5.21. Plant List.

**PLANT, LOW WATER-USE**

Plant that mostly survives on the under 10 inches of water per year, once established (about the average annual precipitation in Doña Ana County); also called a xeric plant; grows best in a low water use zone with other low water-use plants. Refer to Table 5.21. Plant List.

**PLANT, MEDIUM WATER-USE**

Plant that mostly survives on between 10 and 25 inches of water per year; also called a mesic plant; grows best in a medium water use zone with other medium water-use plants. Refer to Table 5.21. Plant List.

**PLANT, WIDTH**

Typical, mature width of plant canopy. Refer to Table 5.21. Plant List.

**PLANTER**

The element of the parkway that accommodates street trees (whether continuous or individual).

**PLAT**

A map, chart, survey, plan or replat certified by a State of New Mexico licensed land surveyor and meeting the requirements of the Minimum Standards for Surveying in New Mexico.

**PLAYGROUND**

A civic space designed and equipped for children's recreation.

**PLAZA**

A civic space type designed for civic purposes and commercial activities. A plaza is generally paved and spatially defined by building frontages.

**PLOT**

See Lot.

**POLE SIGN**

Any outdoor sign that is mounted on one or more freestanding poles or other support so that the bottom edge of the sign face is not in direct contact with a solid base or the ground.

**POLLUTANT**

Generally, any substance introduced into the environment that adversely affects the usefulness of a resource or the health of humans, animals or ecosystems. Pollutants may include dredged spoil, solid waste, incinerator residue, sewage, garbage, rubbish, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, and agricultural waste discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or stormwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

**POLLUTION**

The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**PORTABLE SIGN**

A sign that is not permanently affixed to the ground. Portable signs are sometimes located on trailers or are trailers with writing or logos affixed to them.

**PORTAL**

A private frontage conventional for retail use wherein the facade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

**POTENTIAL SOURCE OF CONTAMINATION**

This definition applies only to water quality, liquid and solid waste disposal guidelines. Any source which could release substances resulting in the degradation of a body of water and a hazard to public health.

**PRELIMINARY PLAT**

A map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it.

**PRIMARY FRONTAGE**

On corner lots, the private frontage designated to bear both the address and primary entrance to the building, and the measure of minimum lot width. See Frontage.

**PRINCIPAL ARTERIAL**

Principal arterials provide higher-speed travel and mobility for long-distance trips. These roads function within the region or community to carry large volumes of traffic to minor arterials and collector routes. Access may be limited by medians.

**PRINCIPAL BUILDING**

The main building on a lot or that houses a primary use usually located near the primary frontage.

**PRINCIPAL ENTRANCE**

The main point of access for pedestrians into a building.

**PRIVATE FRONTAGE**

The portion of the frontage between the facade and the frontage line.

**PRIVATE PROPERTY**

A lot together with the building or structures thereon owned by an individual person, company, or interest.

**PRIVATE WATER SUPPLY SYSTEM**

This definition applies only to water quality, liquid and solid waste disposal guidelines. A water supply system that has fewer than 15 service connections or serves fewer than 25 individuals per NMED standards.

**PROCESS**

A series of acts of changes proceeding one to the next; a method of manufacturing or conditioning; or to submit something to a treatment or preparation.

**PROFESSIONAL ENGINEER**

A person who has been duly licensed and registered by the State Board of Licensure for Professional Engineers to engage in the practice of engineering in the State of New Mexico.

**PROPERTY LINE**

(e.g., lot line) A legal boundary of a lot or property.

**PROPERTY OWNER**

Any legal entity or person who holds superior title to and can evidence superior title on real or personal property.

**PST**

See Petroleum Storage Tank.

**PUBLIC HEARING**

A proceeding held by the BOCC or the P&Z, preceded by notice, at which time applicants and other members of the public may be heard on matters listed on the BOCC or P&Z agenda.

**PUBLIC PROPERTY**

Property owned by any political subdivision not specifically exempted by state or federal law.

**PUBLIC REALM**

The civic spaces, public rights-of-way, and the private frontages generally applicable to community types and transect zones.

**PUBLIC RIGHT-OF-WAY**

Land area, property or interest therein, usually in a strip, acquired for or devoted to transportation and/or utility purposes which is acquired, by the city, County, state or federal government for public use.

**PUBLIC WATER SUPPLY SYSTEM**

A water system which has at least 15 service connections or serves at least 25 individuals. It is subject to the Drinking Water Regulations per NMED standards.

**PURCHASER**

Any person who buys a real property interest.

**P&Z**

See Planning and Zoning Commission.

**QUALIFIED PERSONNEL**

A person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit (as demonstrated by sufficient education, training, experience, or any required certification or licensing).

**QUASI-JUDICIAL ACTION**

Action by the P&Z or BOCC that involves a determination of the rights, duties or obligations of specific individuals on the basis of the application of currently existing legal standards or policy considerations of past and present facts developed at a hearing conducted for the purpose of resolving the particular interest in question. For example, small-scale rezoning directed at a small number of properties that newly restrict (or expand) the uses of those properties in ways that are not applicable to the surrounding area, such restriction (or expansion) being limited to identifiable properties and not being general policy decisions that apply broadly. The characterization of an action as quasi-judicial carries with it important procedural consequences such as the right to individual notice, an opportunity to be heard, the opportunity to present and rebut evidence, to a tribunal that is impartial in the matter - i.e., having had no pre-hearing or ex-parte contacts concerning the question at issue, and to a record made and adequate findings executed.

**REAR SETBACK**

The distance from the rear lot line at which a building or structure may be located. It is generally indicated by a range of distances per zoning classifications from the rear lot line.

**RECOMMENDED**

A matter that is not required to be as described, but which this Chapter advises as the intended or optimal condition.

**RECREATIONAL VEHICLE**

A vehicle on wheels with sleeping, cooking and washing or sanitary facilities designed to be used as a temporary dwelling unit; and defined as a recreational vehicle by the New Mexico Motor Vehicle Code.

**RECREATIONAL VEHICLE PARK (RV PARK)**

A lot where travel trailers or other nonpermanent types of shelters are erected or maintained. Permitted related buildings and facilities may include an office, delicatessen and/or grocery store, laundry facilities, showers, bathrooms, and playgrounds to be operated during operating hours of the park for the patrons of the park.

**REGIONAL COMMERCIAL**

An area of land used for shopping centers and commercial activities of a size intended to generally serve a major portion of Doña Ana County and/or nearby settlements in adjoining counties or states; may include retail, services, entertainment, and wholesale activities.

**RELEASE**

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4, channels, watercourses, water, waters of the U.S., or onto the ground that is not authorized by an NPDES or RCRA permit.

**RENEWABLE ENERGY FACILITY**

Any facility that generates power from resources which are naturally replenished on a human time scale.

**REPLACEMENT POLE (Specific to WCF and WSS)**

Pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate co-location. Requires removal of the wireless support structure it replaces.

**REPORTABLE QUANTITY (RQ)**

For any hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; and for any extremely hazardous substance, the quantity established in 40 CFR Part 355 and thereof listed in its Appendix A.

**RESIDENTIAL**

Activities within land areas used predominantly for housing.

**RETAIL**

The sale of goods, wares, or merchandise directly to the consumer.

**RETENTION BASIN OR RETENTION POND**

A water storage facility that has no outlet for storm events with a 100-year storm frequency.

**RIGHT-OF-WAY**

A general term denoting land, property, or interest therein, usually in a strip, acquired for the public intended for transportation or other related uses.

**RIGHT-OF-WAY, DEDICATED**

Land legally acquired by the County for the public intended for transportation or other related uses.

**ROAD**

A local, rural and suburban thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural zoning districts.

**ROAD MAINTENANCE AGREEMENT**

A written agreement signed by a property owner defining the property owner's responsibilities for maintaining all elements of a roadway.

**ROADSIDE**

A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

**ROADSIDE STAND**

A structure that is used solely for the display or sale of farm products produced on the premises.

**ROADWAY**

A public or private way (other than an alley) which may be dedicated or reserved by plat that affords the principal means of access to abutting properties.

**RQ**

See Reportable Quanity.

**RUBBISH**

Solid waste, excluding food waste and ashes, from homes, institutions and workplaces.

**RUNOFF OR SURFACE RUNOFF**

Water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground.

**SANITARY SEWER OR SEWER**

The system of pipes, conduits, and other conveyances which carry waste sewage to a sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

**SCREEN**

An opaque wall or fence used to obscure or block unsightly views or visual conflicts and may be part of a buffer.

**SCS**

See Soil Conservation Service.

**SEASONAL HIGH GROUNDWATER LEVEL**

The highest level to which the upper surface of the groundwater may be expected to rise within a 1 year period.

**SECONDARY FAÇADE**

All sides of a building not considered a primary façade shall be considered a secondary façade. Buildings which have side and rear facades facing a primary street shall treat all such facades as primary façades.

**SECONDARY FRONTAGE**

On corner lots, the private frontage that is not the principal frontage as it affects the public realm.

**SECTOR**

Per the Comprehensive Plan, a term for identified land areas that are recommended for specific land policies in this Chapter.

**SECTOR PLAN**

A map within the Comprehensive Plan, indicating the location of Sectors.

**SEDIMENTATION**

The act or process of depositing sediment by human or natural forces.

**SELL**

Per the State of New Mexico Subdivision Act, to give up property to another for money or any other valuable consideration and to hand over or transfer title.

**SEPTIC TANK SYSTEM**

A tank and attached absorption field that is designed and constructed to separate solids from liquids in the effluents from a lot or lots to digest organic matter through anaerobic processes, and disperse the liquid excess into the soil.

**SEPTIC TANK WASTE**

Any domestic sewage removed from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**SETBACK**

The minimum distance between the property/lot line and the foundation, wall, or main frame of a building or structure or any projection thereof measured from the exterior lot line to the greatest projection. Where a site abuts a road or highway having only a portion of its required right-of-way (ROW) width dedicated or reserved for roadway purposes, setbacks shall be measured from the line establishing the additional width required for ROW purposes. Where a site abuts an easement for access or a private access road is located within the boundary lines of the site, the setback shall be measured from the easement or from the private road. On a site that is not rectangular or approximately rectangular in shape, the required setbacks shall be measured in a manner prescribed by the Zoning Administrator.

**SEWAGE OR SANITARY SEWAGE**

The waste that is discharged into sanitary sewer systems and flows to a sewage treatment plant for treatment.

**SFHA**

See Special Flood Hazard Area.

**SHINGLE SIGN**

A very small pedestrian-oriented sign suspended from a bracket below the fascia and near the top of the ground-floor windows and doors.

**SHOPFRONT**

A private frontage conventionally for retail use, with substantial glazing, wherein the façade is aligned close to the frontage line with the entrance to the retail use at sidewalk grade.

**SHOPPING CENTER**

A group of commercial business establishments operated as a unit with off-street parking provided on the property, and related in locations, size and types of shops to the trade area that the unit serves.

**SHRUB**

a) A woody plant that is generally smaller than a tree, having several main stems; b) Vines that are woody, self-supporting or requiring other large plants or structures for support.

**SIDE SETBACK**

The distance from the common lot line between two lots at the side of a lot, at which a building or structure may be located. It is generally indicated by a range of distances from the common lot line per the zoning classification.

**SIDEWALK**

A pedestrian walkway with permanently improved surfacing.

**SIDEWALK SIGN**

A small, highly portable sign, typically in the form of a folding A-frame, and placed in the parkway.

**SIGHT DISTANCE**

The length of the roadway ahead that is visible to the driver.

**SINGLE-FAMILY DWELLING**

Any housing unit designed for the use of one family that has a private, ground-level entrance and a private outdoor space for the use of the residents of such dwelling units.

**SINGLE-FAMILY DWELLING, MOBILE HOME**

A single-family dwelling consisting of or including a mobile home. This definition does not include an existing mobile home which has been enclosed within a permanent structure.

**SINGLE-FAMILY DWELLING, SITE-BUILT**

A single-family dwelling that is not a single-family dwelling, mobile-home. This definition includes modular buildings that are assembled on-site as well as site-built homes that are moved to the site from another location.

**SITE**

The total area to be used for development of a project or activity.

**SITE MAP**

A detailed sketch, including a North arrow, scale and all road/street names, or a cut-out of a vicinity map and sufficient detail to find the specific location of the property.

**SITE PLAN**

A plan to scale showing existing and proposed uses and structures on a lot as required by this Chapter.

**SKETCH PLAN**

A map showing proposed street layout, lots, drainage structures, arroyos, and land proposed for public use, with estimated dimensions. A sketch plan shall include a general vicinity map showing the location of the proposed subdivision or development with reference to existing roadways, municipalities, and other landmarks.

**SLOPE**

The measurement of an incline or decline (rise/run).

**SMALL VILLAGE**

A term for one of several community types regulated by this Chapter.

**SOIL CONSERVATION SERVICE (SCS)**

Also referred to as Natural Resource Conservation Service (NRCS). An agency of the federal government that provides leadership in a partnership effort to help people conserve, maintain, and improve natural resources and the environment.

**SOIL SURVEY**

A national cooperative soil survey conducted by the USDA, Natural Resources Conservation Service in cooperation with the State Agricultural Experiment Station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standards for an Order 2 survey.

**SOLID WASTE**

Any solid or semi-solid discarded material which results from household, commercial, municipal, industrial, mining, agricultural or other operations which is not waterborne in a sewage system.

**SPECIAL FLOOD HAZARD AREA (SFHA)**

A portion of the floodplain subject to inundation of the base flood. Special flood hazard areas in Doña Ana County currently include Zones A, AO, AH, and AE.

**SPECIAL USE PERMIT (SUP)**

Authorization for a specific land use that is potentially appropriate in**,** and compatible with other uses in its zoning district, but due to the scale and nature of the use, has the potential to make a major negative impact on other uses in the district.

**SPECIFIED ANATOMICAL AREAS**

Less than completely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**

Includes human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**SPOT ZONING**

An attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the parcel. Spot zoning is determined on an ad hoc basis depending on the facts and circumstances of each case. Factors to be considered are:

1) the disharmony with the surrounding area;
2) the size of the area to be rezoned; and
3) the benefit of the rezoning to the community or the owner of the parcel.

**SQUARE**

A civic space type designed for unstructured recreation and civic purposes, spatially defined by building frontages and consisting of paths, lawns and trees, formally disposed.

**STABILIZED OR STABILIZATION**

The state of or the process necessary to reduce a surface's capability of generating fugitive dust by paving, dust suppression, watering, compacting, or restoring natural cover to the disturbed surface sufficient to prevent a violation of this Chapter.

**STABLE**

A building having stalls or compartments where domestic animals are sheltered and fed.

**STADIUM**

A large building or structure with tiers of seats for spectators at sporting or other recreational events.

**STANDARD PEDESTRIAN SHED**

A pedestrian shed that is an average 1/4 mile radius or 1,320 feet, about the distance of a five-minute walk at a leisurely pace.

**STATE ENGINEER**

See New Mexico Office of the State Engineer.

**STOOP**

A private frontage wherein the façade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance.

**STORM DRAIN**

A system and series of pipes (separate from sanitary sewers) used to convey runoff from precipitation that falls on buildings and land surfaces.

**STORMWATER OR STORMWATER RUNOFF**

Precipitation runoff, snowmelt runoff, and surface runoff and drainage.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A document required by the Construction General Permit (CGP) that describes and ensures the implementation of controls and practices to reduce the pollution resulting from construction activity.

**STORY**

A habitable level within a building, excluding an attic or basement.

**STREET**

A local thoroughfare of low speed, generally allocated to the more intense zoning districts.

**STREET SIGN**

An official sign erected to designate an approved or accepted street name.

**STREETSCREEN**

A freestanding wall built along the frontage line, or coplanar with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm. As used in this Chapter, a streetscreen is a form of screen which need not be part of a landscape buffer.

**STRIP ZONING**

A zoning action that would give an area different zoning and benefit than the surrounding zoning to a strip of land along a thoroughfare.

**STRUCTURE**

Anything that is constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

**SUBDIVIDE**

To divide a surface area of land into a subdivision as defined by this Chapter and NMSA 1978, §47-6-2.

**SUBDIVIDER**

Any person who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale, lease, or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.

**SUBDIVISION**

The division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future; but "subdivision" does not include:

1) the sale, lease or other conveyance of any parcel that is 35 acres or larger in size within any twelve-month period; provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978, §7-36-20 for the preceding three years;
2) the sale or lease of apartments, offices, stores or similar space within a building;
3) the division of land within the boundaries of a municipality;
4) the division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
5) the division of land created by court order where the order creates no more than one parcel per party;
6) the division of land for grazing or farming activities; provided the land continues to be used for grazing or farming activities;
7) the division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;
8) the division of land to create burial plots in a cemetery;
9) the division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;
10) the division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction;
11) the sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty acres;

12) the division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity; or

13) the division of a tract of land into two parcels that conform with applicable zoning ordinances; provided that a second or subsequent division of either of the two parcels within five years of the date of the division of the original tract of land shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey, and a deed if a parcel is subsequently conveyed, shall be filed with the county clerk indicating that the parcel shall be subject to the provisions of the New Mexico Subdivision Act if the parcel is further divided within five years of the date of the division of the original tract of land.

14) The purchase of land by a government entity for the purpose of constructing a public works project.

**SUBDIVISION, TYPES**

1) "type one subdivision" means any subdivision containing five hundred or more parcels, any one of which is less than ten acres in size;

2) "type two subdivision" means any subdivision containing not fewer than twenty-five but not more than four hundred ninety-nine parcels, any one of which is less than ten acres in size;

3) "type three subdivision" means any subdivision containing not more than twenty-four parcels, any one of which is less than ten acres in size;

4) "type four subdivision" means any subdivision containing twenty-five or more parcels, each of which is ten acres or more in size; and

5) "type five subdivision" means any subdivision containing not more than twenty-four parcels, each of which is ten acres or more in size.

**SUBDIVISION INFRASTRUCTURE IMPROVEMENTS**

Infrastructure improvements which are essential for the protection of health, safety, and welfare, required by the approved subdivision construction improvement plans, including the construction, installation and operation of the following: roadways; utilities including water, fire flow, wastewater, electric, natural gas and telephone; drainage systems and facilities; earth-retaining structures; and erosion control measures.

**SUBSTANTIAL COMPLETION OR SUBSTANTIALLY COMPLETE**

That degree of completion of construction of a required subdivision infrastructure improvement necessary for such infrastructure improvement to operate and function appropriately as designed and to be utilized for the purpose for which it is intended and permitted.

**SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of a building when the cost of the improvement equals or exceeds 50% of the market value of the building before the start of construction of the improvement.

**SUBSTANTIAL MODIFICATION (Specific to WCF and WSS)**

The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure.

**SURVEYOR**

A person who is qualified to practice surveying in the State of New Mexico, defined by the Engineering and Surveying Practice Act. See NMSA 1978, §61-23-1 et seq.

**SUP**

See Special Use Permit.

**SWALE (ROADSIDE SWALE)**

A shallow drainage feature used to convey and/or store runoff, generally located at the side of a thoroughfare.

**SWPPP**

See Storm Water Pollution Prevention Plan.

**TEMPORARY STABILIZATION**

A condition where exposed soils or disturbed areas are provided a protective cover or other structural controls to prevent the erosion of soil when construction has halted for at least 14 days and is anticipated to resume at some time in the future.

**TEN-YEAR DESIGN STORM**

The flood event that has a 10% chance of being equaled or exceeded in any given year.

**TERMINATED VISTA**

A location at the axial conclusion of a thoroughfare.

**TERRACE**

A private frontage type with a shallow setback and front elevated patio, usually with a low wall at the frontage line. This type buffers residential use from sidewalks.

**TERRAIN MANAGEMENT**

Control of floods, drainage and erosion, and measures necessary to adapt proposed development to existing soil characteristics and topography.

**THOROUGHFARE**

A public way that affords the principal means of access from a lot, or area of land to other lots, or areas of land, and which has been dedicated or reserved by plat. A thoroughfare may be maintained by the County, or may be privately maintained.

**THOROUGHFARE ASSEMBLY OR THOROUGHFARE ASSEMBLIES**

The particular assembly of driving and parking lanes, planters, sidewalks, and other elements that characterize a type of thoroughfare.

**THOROUGHFARE NETWORK PLAN**

A plan indicating the location, extent, and type of thoroughfares within a regulating plan and land development plat.

**THOROUGHFARE TYPE**

The functional classification for a particular type of thoroughfare.

**THOROUGHFARE, INSIDE**

The direction toward the center of a thoroughfare shall be termed its "inside" direction.

**THOROUGHFARE, OUTSIDE**

The direction toward the lateral limit of a thoroughfare shall be termed its "outside" direction.

**THOROUGHFARE, PRIVATE**

A strip of property devoted to transportation purposes which is not dedicated to the County.

**TIME OF PURCHASE, LEASE OR OTHER CONVEYANCE**

The time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land.

**TOPPING**

The severe cutting back of limbs to stubs larger than three inches within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**TOTAL DESIGN FLOW**

The sum of liquid waste design flows for all liquid waste systems on a lot. See NMED standards.

**TOWER (Specific to WCF and WSS)**

A lattice-type structure, guyed or freestanding, that supports one or more antennas.

**TOWN**

A term for one of several community types regulated by this Chapter.

**TOWN HALL MEETING**

A structured meeting held by an applicant or the applicant's representative for the purpose of presenting a proposed development and seeking public input.

**TOWNHOUSE**

A single-family dwelling that shares at least one party wall with another of the same type and occupies the full frontage line on the attached side(s).

**TRACK-OUT**

Visible bulk material deposited on a paved, public or private roadway capable of going airborne due to human or natural activity.

**TRACT**

See Lot.

**TRAFFIC IMPACT ANALYSIS**

A study that assesses the effects that a particular development's traffic will have on the transportation network. These studies vary in their range of detail and complexity depending on the type, size and location of the development, which are regulated by this Chapter.

**TRANSECT ZONE**

One of several zones that reflect the historic development patterns of the County and are predominately compact mixed-use zones, which are also available for new development.

**TREE**

a) A woody plant with an expected mature height of a minimum of 12 feet and/or 1 story , possessing either a single trunk or multiple trunks. Trees are often described in subcategories by common attributes and the uses they serve. They can be some combination of evergreen, deciduous, coniferous, and/or broadleaf, and be used for shade, screening, understories to

larger trees, or ornamental uses such as flowering; b) Skyline accent: usually evergreen succulents, sometimes developing woody trunks, providing functions and heights similar to smaller trees via visual impact, enclosure, or structure against the sky or architecture, but often lacking shade. This includes many commonly-used and often native plants that do not meet typical plant categories, such as yuccas, ocotillos, and fan palms.

**TRIPLEX**

A residential building with three attached dwelling units each of which has direct access to the outside.

**U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)**

The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

**UNCONTAMINATED**

Not containing a harmful quantity of any pollutant.

**URBAN CENTER**

A term for one of several community types regulated by this Chapter.

**USE ZONE**

One of several zones that are developed and regulated primarily by specific uses and are typically characterized by adjacent or similar development.

**UTILITY POLE (Specific to WCF and WSS)**

A structure owned and/or operated by a public utility or municipality that is designed specifically for and used to carry lines, cables or wires for telephone, cable television, electricity or to provide lighting.

**UTILITIES**

Governmental entities, nonprofit organizations, corporations, or any entity defined as a public utility for any purpose by and used in connection with the production, delivery, transmission, collection, or storage of water, sewage, gas, oil, electricity, or electronic signals.

**VACATION**

The act of rescinding (canceling) all or part of a recorded subdivision plat, including legal descriptions and grants of easements.

**VARIANCE**

A grant of permission by the Zoning Administrator, P&Z or the BOCC that authorizes the recipient to do that which, according to the letter of this Chapter, the recipient could not otherwise legally do.

**VEGETATION**

Living plants or flora, the planted portion of landscaping.

**VERGE**

The portion of a parkway located between the sidewalk (including future and potential locations for a sidewalk) and the curb, curb line, or edge of the roadbed.

**VICINITY MAP**

A map used to locate the subdivision, showing relationship to existing roadways, municipalities and other landmarks.

**VILLAGE**

A term for one of several community types regulated by this Chapter.

**WALL**

An enclosure or barrier used as a boundary, means of protection, or privacy. A wall is constructed of solid materials, allowing minimal light, visibility, and/or air movement.

**WALL SIGN**

Any sign painted on or attached to an exterior wall of a building parallel to the wall surface.

**WATER HARVESTING**

The manipulation of stormwater runoff, to lessen erosion and provide extra water that benefits plantings. Water harvesting is often a part of low impact development and green infrastructure, classified into methods that are passive (using grading, rock cover and vegetation, also called rain gardens) and/or active (using storage systems such as cisterns or barrels, with gravity or pump conveyance to plantings).

**WATER SUPPLY SOURCE**

This definition applies only to water quality, liquid and solid waste disposal guidelines. A well, spring, infiltration gallery, surface water intake structure, or other source of water used to furnish water to a public or private water supply system.

**WATER SUPPLY SYSTEM OR WATER SYSTEM**

A system which is designed, constructed, operated, and maintained to provide water suitable for end users. It usually consists of source, treatment, transmission, storage, pumping, and distribution facilities.

**WATER TOWER (Specific to WCF and WSS)**

A water storage tank, standpipe or elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

**WATER USE ZONE**

An area of vegetation within an ecoregion, having similar water and cultural requirements and unique from nearby but different water use zones; they correspond with low, medium, and high water-use plants and planting areas within a landscape.

**WATERCOURSE**

A permanent, intermittent, or occasional river, arroyo, stream, creek or other depression, either natural or man-made, having definite limits and evidence of the gathering and conveying surface water.

**WATERSHED**

See Drainage Area.

**WCF**

See Wireless Communications Facility or Wireless Facility.

**WEED FABRIC**

Also called "weed barrier" or "filter fabric", this is a material that can minimize perennial weed growth (grows back and reseeds / spreads from roots and seed each year during growing season - nightshades, bindweeds included), but rarely minimizes annual weed growth (does not grow back from roots each year during growing season, relying on seed to germinate - goatheads / puncture vine, tumbleweeds included). Weed fabric is more applicable for use with inorganic mulches; it is rarely applicable for use with organic

mulches, often with few to counterproductive effects in the purpose of organic mulches adding organic nutrients to soil for higher water-use plants.

**WET UTILITIES**

Utilities including water, wastewater and drainage.

**WETLAND**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**WHOLESALE**

The sale of goods to a person or company which may sell products to the ultimate consumer.

**WIDE CURB LANE**

The lane nearest the curb that is wider than a standard lane and provides extra space so that the lane may be shared by motor vehicles and bicycles.

**WILDLIFE CORRIDOR**

An area of habitat indicated on a plan, to connect wildlife populations that would otherwise be separated by human-induced changes in the natural landscape.

**WINDOW SIGN**

A sign placed or painted on the interior of a window or the window of a door.

**WIRELESS COMMUNICATIONS FACILITY OR WIRELESS FACILITY (WCF) (Specific to WCF and WSS)**

The set of equipment and network components exclusive of the underlying wireless support structure including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

**WIRELESS SUPPORT STRUCTURE (WSS) (Specific to WCF and WSS)**

A freestanding structure such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.

**WRECKING SERVICES**

Any place where motor vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation; any land, building or structure used for the dismantling or storing of such motor vehicles or the parts thereof.

**WSS**

See Wireless Support Structure.

**YARD SIGN**

Small freestanding sign that is not a monument sign. A yard sign is typically supported by one or two pole-like supports, and rises to head-height or below.

**YARD WASTE**

Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

**ZONING**

The classification of land into different areas and districts that regulates land use, building height, intensity, density, design, and placement of buildings, which are generally referred to as "zones", "districts" or "zoning districts".

**ZONING ADMINISTRATOR**

The Director of the Community Development Department or designee responsible for administering this Chapter.

## Acronyms

### A

**AASHTO** Association of American State Highway and Transportation Officials.
**ADA** American with Disabilities Act.
**ADT** Average Daily Traffic

### B

**BFE** BaseE Flood Elevation
**BMP, BMPs** Best Management Practice
**BOCC** Board of County Commissioners

### C

**CDD** Community Development Department
**CFR** Code of Federal Regulations
**CGP** NPDES General Permit for Discharges from Construction Activities
**COW** Carrier on Wheels or Cell on Wheels
**CRZ** Critical Root Zone
**CWA** Clean Water Act

### D

**DRC** Development Review Committee

### E

**ECP** Erosion Control Plan
**EPA** U.S. Environmental Protection Agency

### F

**FHA** Fair Housing Act
**FEMA** Federal Emergency Management Agency
**FIRM** Flood Insurance Rate Map

## G

**GI** Green Infrastructure

## H

**HHW** Household Hazardous Waste

## I

**ITE** Institute of Transportation Engineers

## J

## K

## L

**LID** Low Impact Development
**LOS** Level of Service

## M

**MPO** Metropolitan Planning Organization
**MS4** Municipal Separate Storm Sewer System

## N

**NPDES** National Pollutant Discharge Elimination System
**NRCS** Natural Resource Conservation Service
**NMED** New Mexico Environment Department
**NOI** Notice of Intent
**NOT** Notice of Termination

## O

**OSE** New Mexico Office of the State Engineer

## P

**PST** Petroleum Storage Tank
**P&Z** Planning and Zoning Commission

## Q

## R

**RV PARK** Recreational Vehicle Park
**ROW** Right of Way
**RQ** Reportable Quantity

## S

**SCS** Soil Conservation Service.
**SFHA** Special Flood Hazard Area
**SUP** Special Use Permit
**SWPPP** Stormwater Pollution Prevention Plan

## T

## U

## V

## W

**WCF** Wireless Communications Facility or Wireless Facility
**WSS** Wireless Support Structure

## X

## Y

## Z

**ZA** Zoning Administrator

# ARTICLE 8 APPENDICES

## APPENDIX A. DRAINAGE MAINTENANCE AGREEMENT

**Drainage Maintenance Agreement**

This Drainage Maintenance Agreement, between (state the name of the present real property owner exactly as shown on the real estate document conveying title to the present owner and state the legal status of the owner, for example, "single person", "husband and wife," corporation of the state of X," "partnership") _____

_____

(owner) (his, her, their, or its) heirs, executors, successors, assigns and transferees, whose address is

_____

_____

and the County of Doña Ana, a New Mexico political subdivision (County), whose address is 845 N. Motel Blvd., Las Cruces, New Mexico 88007, is made in Las Cruces, Doña Ana County, New Mexico and is entered into as of this date owner signs this Agreement.

1. Recital. Owner is the owner of certain real property located at (give general description, for instance, subdivision, lot and block or street address):

   _____

   _____

   in Doña Ana County, New Mexico (the property).

   Pursuant to county ordinances, regulations and other applicable laws, the owner is required to construct and maintain certain drainage facilities on and/or running to or from the property, and the parties wish to enter into this agreement to establish the obligations and responsibilities of the parties.

2. Description and Construction of Drainage Facilities. Owner shall construct the following "drainage facilities" within the property and/or running to or from the development at the owner's sole expense in accordance with the standards, plans and specifications approved by the County:

   _____

   _____

   The Drainage Facilities are more particularly described in the attached Exhibit A. The owner shall not permit the drainage facilities to constitute a hazard to the health or safety of the general public.

3. Maintenance of Drainage Facilities. The owner shall maintain the drainage facilities at owner's cost in accordance with the approved construction and grading and drainage plans.

4. County's Right of Entry. The County has the right to enter upon the property at any time and perform whatever inspection of the drainage facilities it deems appropriate, without liability to the owner.

5. Demand for Removal, Construction or Repair. The County may send written notice (Notice) to the owner requiring the owner to construct, to remove or repair the Drainage Facility within 60 days (Deadline) of receipt of the Notice as provided in Section 11, and the owner shall comply with the requirements of the Notice. The owner shall perform all the required work by the deadline, at the owner's sole expense.

6. Failure to Perform by Owner and Emergency Work by County. If the owner fails to comply with the terms of the Notice by the deadline, or the County determines that an emergency condition exists, the County may perform the work itself. The County may then assess the owner for the cost of the work and for any other expenses or damages that result from owner's failure to perform. The owner agrees promptly to pay the County the amount assessed. If the owner fails to pay the County within 30 days after the County gives the owner written notice of the amount due, the County may impose a lien against owner's property for the total resulting amount plus interest.

7. Liability of County for Repair after Notice or as a Result of Emergency. The County shall not be liable to the owner for any damages resulting from the County's repair, removal or maintenance following notice to the owner as required in this Agreement or in an emergency situation unless the damages are the result of reckless conduct or gross negligence on behalf of the County.

8. Indemnification.

   A. As a part of the consideration for this Agreement, subject to the provisions of the New Mexico Tort Claims Act and all other applicable New Mexico laws, the County does not agree to save owner harmless from any liability that may arise from owner's use or misuse of the drainage facility and property.

   B. The owner hereby agrees to hold harmless, indemnify and defend the County, its officers, agents and employees from and against any and all liability, suits, actions, claims, damages, costs of defense and fees arising out of or resulting from the owner's and/or any of his employee's, agent's, or officer's conduct, performance, act(s), errors or omission(s), relating in any manner whatsoever to this Agreement.

   Such indemnity shall not extend to liability, claims, damages, losses or expenses, including attorney's fees, arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the indemnitee, or the agents or employees of the indemnitee, or the agents or employees of the indemnitee, where such giving or failing to give directions or instructions is a primary cause of bodily injury to persons or damage to property.

9. Cancellation of Agreement. This Agreement may be canceled and owner's obligation released by the County by the County's mailing to the owner notice of the County's intention to record a Cancellation and Release in the Doña Ana County Clerk's Office. The Cancellation and Release shall be effective 30 days of mailing the notice to the owner unless a later date is stated

in the notice or the Cancellation and Release. After the effective date, the County will record the Cancellation and Release with the Doña Ana County Clerk.

10. Assessment. Nothing in this Agreement shall be construed to relieve the owner, his heirs, assigns, transferees and successors from an assessment against owner's property for improvements to the property under a duly authorized and approved Special Assessment District or applicable law. The Parties specifically agree that the value of the Drainage Facility will not reduce the amount assessed by the County.

11. Notice. For the purpose of giving formal written notice to the owner, owner's address is:

_____

Notice may be given to the owner either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the owner within 6 days after the notice is mailed if there is no actual evidence of receipt. The owner may change owner's address by giving written notice of the change by certified mail, return receipt requested, to the Doña Ana County Engineering Services Department, 845 N. Motel Blvd., Las Cruces, New Mexico 88007.

12. Term. This agreement shall continue until terminated by the County pursuant to Section 9 above.

13. Binding On-lot Owner's Property. The agreement and obligations of the lot owner set forth herein shall be binding on-lot owner, his heirs, assigns, transferees and successors and on-lot owner's property and shall constitute requirements running with the lot owner's property until released by the County.

14. Entire Agreement. This agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

15. Construction and Severability. If any part of this agreement is held to be invalid or unenforceable, the remainder of the agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

16. Captions. The captions to the sections or paragraph of this agreement are not part of this agreement and will not affect the meaning or construction of any of its provisions.

17. Acknowledgment by Lot Owner (Buyer). By signing this form, the lot owner (buyer) acknowledges the lot location and their responsibility for the proportional share of the maintenance costs in accordance with the ratio of the total number of lots owned divided by the total number of lots within the subdivision.

LOT OWNER (BUYER)

By: _____

Dated: _____

STATE OF NEW MEXICO ) ss
COUNTY OF DOÑA ANA )

The foregoing instrument was acknowledged before me this ___ day of _____, 20___ by (name of person signing) _____ (title of capacity, for instance, "President" or "Owner"): _____of (name of entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture): _____.

My Commission Expires: _____ _____
Notary Public

SUBDIVIDER (Seller)

By: _____

Dated: _____

STATE OF NEW MEXICO ) ss
COUNTY OF DOÑA ANA )

The foregoing instrument was acknowledged before me this ___ day of _____, 20____ by (name of person signing): _____ (title of capacity, for instance, "President" or "owner"): _____ of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture): _____.

My Commission Expires: _____ _____
Notary Public

## APPENDIX B. WARRANTY OF IMPROVEMENTS

### One-Year Warranty of Improvements

This agreement is made and entered into this ____day of _____, 20____, by and between _____, hereinafter referred to as The Developer(s), and the Board of County Commissioners of Doña Ana County, New Mexico, hereinafter referred to as The County.

**WHEREAS,** _____ is/are The Developer(s) of the subdivision known as (Subdivision Name) _____, (hereinafter "The Subdivision") in Doña Ana County, New Mexico; and,

**WHEREAS**, in order to comply with the Doña Ana County Subdivision Regulations as they pertain to The Subdivision, certain performance guarantees for the improvements to The Subdivision are required; and

**WHEREAS**, The Subdivision has received final approval by the County, and The County has released The Subdivision's final subdivision plat for filing.

**NOW, THEREFORE**, in consideration of the premises hereinabove expressed and the terms, covenants, conditions and agreements hereinafter stated, The Developer(s) and The County agree as follows:

1. _____ is/are The Developers of The Subdivision known as_____, in Doña Ana County, New Mexico, and in order to comply with the Doña Ana County Subdivision Regulations in force at the time of The County's approval of The Subdivision, certain performance guarantees for the improvements to The Subdivision are required.
2. The Developer(s) shall indemnify The County from any and all costs expenses, damages, liabilities and fees to attorney(s) that The County suffers and/or incurs as a result of the Indemnitee having to repair the improvements in The Subdivision to County standards and specifications.
3. The Developer(s) shall, for a period of one year dating from the date of final inspection by The County of the improvements in The Subdivision, repair to County standards and specifications the improvements for The Subdivision in compliance with the Doña Ana County Land Subdivision Regulations and their subsequent amendments and such improvement plans in effect as of the date of final approval of The Subdivision by The County.
4. The law of the State of New Mexico shall govern this Agreement.
5. Any covenant, term, agreement, condition or provision herein contained that is held to be invalid by any court of competent jurisdiction shall be considered deleted from this Agreement, but such deletion shall in no way affect any other covenant, term, agreement, condition or provision herein. Indemnitee in its rights contained in the valid covenants, terms, agreements, conditions or provisions of this Agreement.

WITNESS THEREOF, the parties have executed this Agreement on the date and year first written above.

INDEMNITOR(S)/DEVELOPER(S)

ACKNOWLEDGEMENT

By: _____ Dated: _____

STATE OF NEW MEXICO) ss
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by _____.

My Commission Expires: _____ _____
Notary Public

INDEMNITEE/THE COUNTY:

_____ Chair

ATTEST:_____
Doña Ana County Clerk

## APPENDIX C. CONSTRUCTION OF DRIVEWAY IN PUBLIC R-O-W

### APPLICATION FOR PERMIT TO CONSTRUCT DRIVEWAY IN PUBLIC R-O-W

Applicant: _____ Permit No.: _____

Mailing Address: _____

_____ Permit Fee: _____

Date Issued: _____

Approximate Starting Date: _____ Date Expires: _____

Construction Value: _____ Builder/Contractor NM/Lic. #: _____

Construction Address: _____ ( ) Commercial Property

Subdivision: _____ Lot No.(s): _____

County Road Name/No.: _____ Road Surface: _____

✯✯✯

_____ Acceleration/Deceleration lanes require AASHTO specifications.

**NOTIFY THE COUNTY ENGINEERING DEPARTMENT**
**48 HOURS PRIOR TO DRIVEWAY CONSTRUCTION**

**A copy of the approved driveway permit and an acceptable traffic control plan should be in possession of the builder/contractor at the job site while the driveway is under construction.**

---

**Please Read Carefully**

I hereby acknowledge that I have read and understand this application/permit and state that the above is correct and agree to comply with all County resolution/regulations and state law regulation of construction. The issuance of this permit shall not prevent the County or state from thereafter requiring the correction of any error. I will call for the inspections as indicated above (575) 647-7108.

_____ _____
Signature of Applicant Date

_____ _____
Issued By (DAC designee signature & title) Receipt/Check No.

# APPENDIX D. GRADING PERMIT APPLICATION

**DONA ANA COUNTY**
**GRADING PERMIT APPLICATION**

CONSTRUCTION VALUE:_____

PERMIT FEE: _____

PLANS SUBMITTED: ____ YES ____ NO

PLANS APPROVED: ____ YES ____ NO

COMMENTS:_____

APPROXIMATE
STARTING DATE:_____

PERMITTEE:
BUILDER/CONTRACTOR NM/LIC.#:_____

NAME:_____

ADDRESS:_____

CITY:_____PHONE NO.:_____

ARCHITECT/ENGINEER:_____

_____

ADDRESS:_____

CITY:_____PHONE NO.:_____

NM LIC./NO.:_____

PERMIT NUMBER:_____

DATE:_____

ROAD NAME/NO.:_____

ROAD SURFACE:_____

ROAD R/W:_____

PROJECT NAME:_____

LIMIT & TYPE OF WORK AUTHORIZED:

NEW___ ADDITION___ ALTERNATION___

PAVING:_____

CURB & GUTTER:_____

DRIVEWAYS:_____

DRAINAGE:_____

LIGHTING:_____

UTILITIES:_____

SIGNING:_____

OTHER:_____

**********

PLEASE READ CAREFULLY

I hereby acknowledge that I have read and understand this application and state that the above is correct and agree to comply with all County Resolutions/Regulations and State Laws regulating construction. The issuance of a grading permit shall not prevent the County or State from thereafter requiring the correction of an error. This grading permit and its expiration shall be governed under the provisions of the Dona Ana County Design Standards

I WILL CALL FOR THE INSPECTIONS AS INDICATED ABOVE.

SIGNATURE:_____ DATE:_____

ISSUED BY:_____ RECEIPT/CHECK NO.:_____

REF: RESOLUTION NO. 78-20 (GRADING PERMITS)
NO. 78-21 (STANDARD SPECIFICATIONS)

**NOTE: NO GRADING PERMIT WILL BE ISSUED WITHOUT APPROVED PLANS.**

## APPENDIX E. SITE THRESHOLD ASSESSMENT (STA)

### SITE THRESHOLD ASSESSMENT (STA)

*A Site Threshold Assessment is required of all developing or redeveloping properties within Doña Ana County.*

**Permit Application**

Applicant Name: _____

Business Name: _____

Business Address: _____

City: _____ State: _____ Zip Code: _____

*Site Description*

| **Development Type** | | **Site Information** (fill in all that apply) | | | |
|---|---|---|---|---|---|
| Residential | ____ | Building Size (sf) | ____ | Dwelling Units | ____ |
| Retail | ____ | Parcel Size (ac) | ____ | Rooms | ____ |
| Office | ____ | Roadway Frontage (ft) | ____ | Beds | ____ |
| Industrial | ____ | Parking Spaces | ____ | Students | ____ |
| Institutional | ____ | Employees | ____ | Seats | ____ |
| Lodging | ____ | Other | ____ | Fuel Pumps | ____ |
| Restaurant | ____ | | | Courts | ____ |
| Convenience/Gas | ____ | | | Storage Units | ____ |
| Other | ____ | | | | |

The STA examines existing roadway volumes and anticipated site trip generation for the purpose of determining if additional analyses are required. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a TIA, as determined by the County Engineering Services Department, the STA should be approved and the traffic study requirement for the proposed development will be complete. If additional analysis is required based on the results of the STA, the County Engineer should indicate to the applicant the level of analysis that is required.

*Existing Roadway Data*

Road Name: _____

Road ATD: _____

Count Year: _____

Number of Lanes (two-way): _____

*Trip Generation*

ITE Trip Generation Land Use Category: _____

AM Peak Hour Trips Enter: _____ Exit: _____

PM Peak Hour Trips Enter: _____ Exit: _____

---

To be filled out by County Engineering Services Department:

Exceeds Threshold: Y or N If yes, is a TIA required? Y or N

Notes: _____

_____

_____

## APPENDIX F. RIGHT OF WAY PERMIT

# Doña Ana County

***ENGINEERING DEPARTMENT***
***845 N. Motel Blvd.***
***Las Cruces, NM 88007***
***Phone (575) 525-6164***
***Fax: (575) 525-6179***

**Permit #**_____

Permit application will be made in triplicate. Construction must be started prior to permit expiration date, or permit will be voided.

DATE ISSUED:_____

DATE EXPIRED:_____

LOCATION:
CO. ROAD #_____NAME_____
SUBDIVISION NAME:_____
TOWN:_____

Applicant_____ Street_____ City_____
Phone #_____
Contractor _____ Street_____ City_____
Phone #_____
Engineer _____ Street_____ City_____
Phone #_____

NOTES:
1. The Contractor or Permittee must notify the County Engineering Division 24 hours before starting to excavate and immediately after completing the backfill operation.
2. Pavement cuts will not be allowed unless approved by the County Engineer or his designated representative.
3. Backfill shall be compacted in 10" lifts to 95% Modified Proctor or other approved compaction. The County Engineering Division may require laboratory testing of the density of the backfill material.
4. The Contractor is required to have a copy of this permit on the job site at the time of construction.

OTHER PERMIT CONDITIONS:

This Permit is issued pursuant to Doña Ana County Ordinance No. 176-98 and is subject to the applicable requirements, terms and conditions of that Ordinance.

This Permit grants the Permittee non-exclusive use of the County's right-of-way to place its facilities within the right-of-way and with authority to enter upon the right-of-way premises to place, operate, remove, maintain and inspect the Permittee's facilities, all as identified in the application section of this Permit.

By accepting this Permit, the Permittee agrees to comply with and be bound by the applicable requirements, terms and conditions.

Description:
Size and Type of Facility _____
The facility will be located _____feet on the _____side of the center line of the county road.
The proposed installation shall be:
Crossing _____Parallel_____
Subsurface _____Overhead_____
Boring _____Pavement Cut_____
The work is scheduled to start on or about _____

Trench size:
Width_____ Depth_____ Length_____
FEE _____

_____
County Engineering Division Representative

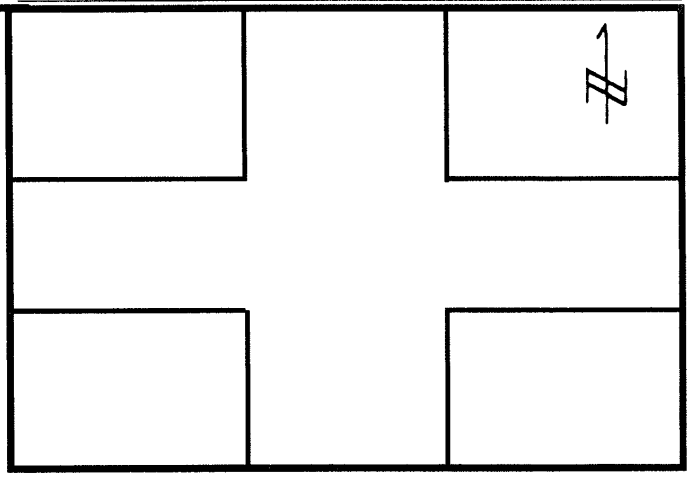
_____
PERMITTEE

_____
Final Inspection Date

COMMENTS: _____

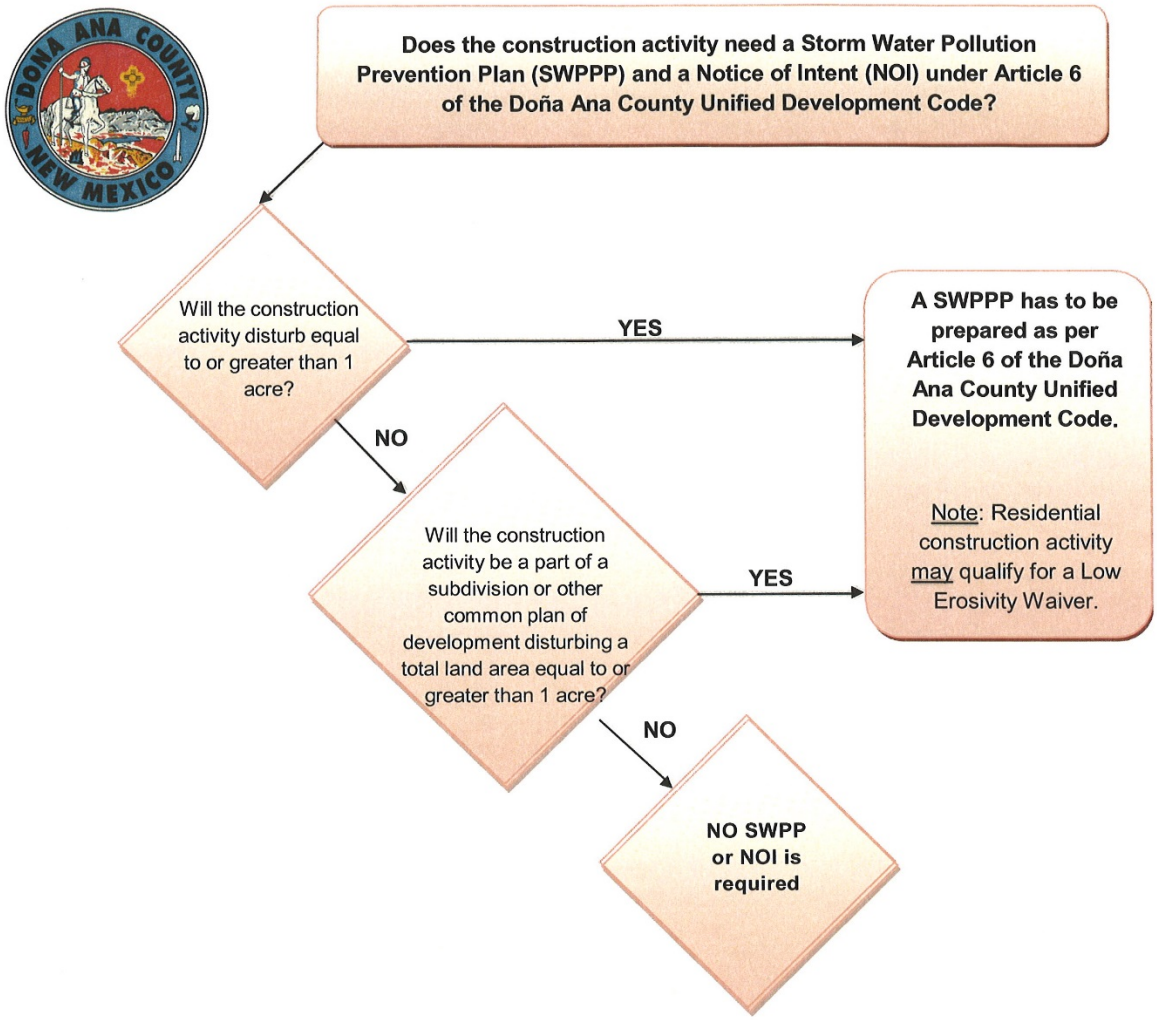
_____

_____



ATTACH DRAWING / PLANS OF IMPROVEMENTS / WORK TO BE ACCOMPLISHED

## APPENDIX G. SWPPP FLOW CHART




### Additional Information:

**NPDES Construction General Permit**

http://cfpub.epa.gov/npdes/stormwater/cgp.cfm

**SWPPP for Construction Activities**

http://cfpub.epa.gov/npdes/stormwater/swppp.cfm

September 2016

## APPENDIX H. DEVELOPMENT AGREEMENT.

### DEVELOPMENT AGREEMENT SAMPLE FORM
### DOÑA ANA COUNTY, NEW MEXICO

This Agreement is made this _____ day of _____, 20__ by and between Doña Ana County, a political subdivision of the State of New Mexico, 845 N. Motel Boulevard, Las Cruces, New Mexico, 88007, hereinafter "County",

AND

| | | |
|---|---|---|
| Development Company Name: | | |
| Developer's Name: | Title: | |
| Street Address:<br><br>City: | | |
| State: | Zip Code: | Telephone: |
| Development Address:<br><br>City, State, Zip Code: | | |
| Project Name (Include phase and section number if applicable): | | |
| Doña Ana County Case #:<br><br>Location:<br><br>Resolution No. | | |

hereinafter "Developer."

## 1. RECITALS

1.A. The Developer desires to develop approximately _____ acres of land in Doña Ana County, New Mexico for the purpose of _____, known as _____ (hereinafter the "Development") and in connection therewith certain improvements (including certain grading and other earthwork) related to the Development, which Development was given _____ approval by the Board of County Commissioners of Doña Ana County, New Mexico in Resolution #_____, on the _____day of _____, 20___, which is attached as Exhibit "A"; and

1.B. The Developer and the County desire to enter into this Development Agreement (hereinafter the "Agreement") for the purpose of memorializing the terms and conditions with which the Developer must comply in connection with the Development and the construction of the related improvements.

**NOW THEREFORE**, in consideration of the mutual agreements, conditions, and promises hereinafter set forth, the parties hereto agree to be legally bound as follows:

## 2. INCORPORATION OF RECITALS

2.A. The aforementioned recitals are incorporated into this Agreement and made a part hereof.

## 3. DEFINITIONS AND RULES OF CONSTRUCTION

3.A. **Definitions.** For purposes of this Agreement, the following definitions shall apply:

3.A.1. **As-Built Plans.** Plans and mylars that identify the site and all site improvements, as constructed, which include the final as-built location, elevation and depth, size, materials, profiles, cross sections and construction details of all completed improvements.

3.A.2. **Construction Drawings.** The drawings that are created to account for the requirements or conditions of the approval by the Board of County Commissioners ("BOCC") and further described in Exhibit "B" attached hereto.

3.A.3. **Construction Inspection Deposit.** A cost percentage, as specified in Chapter 179 of the County Code, of the Financial Security for Improvements costs for purposes of offsetting the County-incurred costs related to construction inspection of all improvements, including, but not limited to, sewer and water line extensions.

3.A.4. **Deposit Account.** An account which consists of development deposit

funds, posted by the Developer, that are credited against development expenses incurred by the County.

3.A.5. **Development.** The location, site, area or address on which the work is to take place and that is subject to County approvals as described in Exhibit "C".

3.A.6. **Facility Fees.** Fees for connection to the public sewer system, connection fee, customer facility fee, capacity component, and distribution component (*note that these fees apply individually to sewer connections) related to the use of a public sewage treatment and collection system.

3.A.7. **Final Plats.** The maps or plans of a final subdivision or final land development approved by the County for recording with the Office of the County Clerk, Doña Ana County, New Mexico, including: _____ (specifically identify plans, drawings and revision no.).

3.A.8. **Financial Security for Improvements.** Surety in a form and amount as described in Section 6 of this Agreement, including cash, certified check, irrevocable letter of credit, restrictive or escrow account, or set aside agreement from a Federal or State chartered lending institution or corporate performance bond or labor and material payment bond from a surety company authorized to conduct business in the State of New Mexico, which guarantees the satisfactory completion of the improvements or provides financial recourse for failure to complete same.

3.A.9. **Financial Security for Maintenance.** Surety in a form and amount as described in Section 6 of this Agreement, including cash, certified check, irrevocable letter of credit, restrictive or escrow account, or set aside agreement from a Federal or State chartered lending institution or corporate performance bond or labor and material payment bond from a surety company authorized to conduct business in the State of New Mexico, which guarantees the continued structural functioning and integrity of the Public Improvements pursuant to the Detailed Site Plan, Final Plat, Construction Drawings and County approvals.

3.A.10. **Private Improvements.** Improvements, as required in the Unified Development Code, Article 6 of this Chapter and as specifically shown on the Approved Site Plan Drawings, that will not be dedicated to the public.

3.A.11. **Public Improvements.** Improvements shown on the Approved Site Plan Drawings to be conveyed or otherwise dedicated to the County or other

public body for public use and which shall comply with the standards, codes, regulations, and specifications of the County. Public Improvements shall include but need not be limited to streets, rights-of-way, water service line connectors and distribution facilities, and sanitary sewer lines and facilities as deemed required by the County.

3.A.12. **County Approvals.** Approvals of the Board of County Commissioners of Doña Ana County, copies of which are attached hereto as Exhibit "A" approving applications for detailed site plans, subdivisions, community types, master plans, specifically including: _____ (insert description of approvals here).

3.A.13. **Doña Ana County Code.** The codification of the ordinances of the County of Doña Ana, as may be amended from time to time.

3.A.14. **Work.** The construction of Public Improvements and Private Improvements in accordance with the Approved Site Plan, Preliminary and Final Plats, County approvals and permits, NMDOT Permits, and applicable federal and state laws and the Doña Ana County Code.

3.B. **Rules of Construction.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words and the singular number shall be held to include the plural, and vice versa, unless the context otherwise requires. Words or phrases which are not defined in this Agreement are first to be given the definition assigned in the Doña Ana County Code, and if not defined there, such words or phrases are to be given their common ordinary meaning.

## 4. PERFORMANCE OF THE WORK

4.A. The Developer shall perform the work at its total cost and expense and comply with all conditions of all County approvals.

4.B. Developer covenants, promises and agrees to build, construct, and install all Public Improvements and Private Improvements in accordance with the Approved Site Plan Drawings, all County approvals and permits, and applicable provisions of the Doña Ana County Code prior to the expiration or release of the Financial Security for Improvements.

4.C. All Public and Private Improvements must be certified as complete in accordance with the Approved Site Plan, Final Plat, Construction Drawings and County Approvals by the County Engineer prior to the release of Financial Security for Improvements. The Developer shall provide to the County one copy of the as-built plans (mylar) sealed by a Professional Engineer licensed to practice in the State of

New Mexico, three paper copies, and one digital copy of the Public and Private Improvements prior to formal acceptance and final release of Financial Security for Improvements.

4.D. The Developer shall obtain all other required county, state and federal permits and approvals and shall abide by the rules and regulations governing said permits and approvals in effect at the time of such approval.

4.E. Developer shall not perform any work or permit work to be performed at any time on Sundays or between the hours of 9:00 p.m. and 7:00 a.m., Monday through Saturday and must comply with Article 6 of this Chapter and Chapter 261 Noise.

4.F. The Developer agrees to comply with all regulations, approvals and specifications enacted or promulgated by the federal government, New Mexico Environmental Department (NMED), New Mexico Department of Transportation, Soil and Water Conservation Districts, State Historical Preservation Department, appropriate school district, County Fire Chief, County Engineering Services, County Flood Commission and any other affected state or local agency.

4.G. The Developer hereby gives specific permission to the County, its employees, agents or contractors to conduct inspections of the work. The inspections may take place at any time and with any frequency as the County deems appropriate. The Developer shall notify the County 24 hours prior to all inspection requests for the following activities: excavating, embankment construction, detention ponds, storm sewers, underdrains, subgrade, base course, binder course, wearing course and seeding.

4.H. Where contractors are installing improvements located on existing public road rights-of-way, the County may require the Developer, its contractors and subcontractors to obtain and maintain liability and other insurance coverage in a form and amount approved by the County, and to furnish certificates of insurance to the County.

4.I. The Developer shall not to begin work until the Final Plat(s) are recorded in the Office of the County Clerk; however, if a valid grading permit is issued, the Developer may proceed with grading in accordance with the permit issuance prior to recordation of the final plat(s).

4.J. All natural vegetation, specifically mature trees, must be left undisturbed to the extent possible and in accordance with the approvals of the County. Additional plantings may be required when, at the County's sole and reasonable discretion, it is determined that indiscriminate removal has occurred. The Developer shall be responsible for such plantings as determined by the appropriate County official as to type, location and amount of the same.

## 5. FINAL PLATS AND MYLARS

5.A. The Developer shall submit three (3) sets of reproducible mylars of the Final Plat with all the appropriate signatures and signature blocks to the County for recording at the Office of the County Clerk,.. Fees for said recording shall be paid for by the Developer. No building permit shall be issued for the Development, unless and until the approved Final Plat has been recorded with the Office of the County Clerk.

## 6. FINANCIAL SECURITY

6.A. Financial Security for Improvements

The Developer is required to secure all of the Public Improvements and Private Improvements together as set forth in this paragraph. Prior to the recording of the Final Plat , the Developer shall provide to the County Financial Security for Improvements in the amount of $_____ for the Public Improvements and Private Improvements. The financial security shall name the County as obligee or beneficiary. The amount of the financial security to be posted for the completion of the required improvements shall be equal to 125% of the cost of completion.

Periodically, the County may require the amount of the financial security to be adjusted, hereinafter referred to as the "Adjusted Financial Security," by comparing the actual cost of the improvements which have been completed versus the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the County may require the Developer to post additional security in order to assure that the financial security equals 125%)of the uncompleted improvements. If the Developer requires more than two years from the date of posting of the financial security to complete the required Public and Private Improvements, the amount of the financial security may be required to be increased an additional 10% for each one year period beyond the first anniversary date from posting. The amount of the Adjusted Financial Security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the Developer and prepared by a professional engineer licensed as such in the State of New Mexico and certified by such engineer to be a fair and reasonable estimate of costs as approved by the County Engineer or designee. The County, upon the review and recommendation of the County staff and County Engineer, may refuse to accept such estimate if determined inadequate pursuant to a review.

The Financial Security for Improvements (or Adjusted Financial Security) for the Public Improvements and Private Improvements shall not terminate except upon the following: total completion of all improvements with certification from the County Engineer, written consent from the County to the bonding or lending agent stating that all conditions of approval and this Development Agreement have been met, and

the posting of a maintenance bond for improvements as required by this Agreement.

As the installation of the Public and Private Improvements proceeds, the Developer may request that the County release or authorize the release of, from time to time, such portions of the applicable Financial Security for Improvements or Adjusted Financial Security as the Private and Public Improvements have been completed. Requests for release shall be in writing and completion of the Public and Private Improvements must be approved by County staff prior to authorization by the County for release. All such releases and release requests shall comply with the Doña Ana County Code and any applicable state requirements. The County will require a minimum of 10% of the estimated cost of completed improvements to remain secured until the County accepts full dedication of all Public Improvements and the Developer submits the required Financial Security for Maintenance, As-Built Plans, digital CAD plans, and such other information and documents as required herein and pursuant to the Doña Ana County Unified Development Code or regulations and guidelines promulgated in accordance with said ordinance. As a condition precedent to the release by the County of all Financial Security for Improvements provided herein, the Developer shall deliver to the County a certificate signed by the Developer, setting forth the names of all contractors, subcontractors, materialmen and other persons who have supplied labor or materials in respect of the construction of the Public Improvements, stating that all such contractors, subcontractors, materialmen and other persons have been paid in full.

The Financial Security for Improvements shall be initially posted for a period of 18 months and shall thereafter be evergreen. Should the Developer be unable to complete the Public and Private Improvements in accordance with the Construction Drawings and County approvals, the County shall at its sole discretion, have the right to seize the applicable Financial Security for Improvements or grant an extension, thereto.

6.B. Financial Security for Maintenance

Where the County accepts dedication of the Public Improvements following completion, acceptance and adoption, and prior to the final release of the remaining Financial Security for Improvements, the County shall require the posting of the Financial Security for Maintenance for 18 months from the date of acceptance of dedication to secure structural integrity and functionality of the Public Improvements in accordance with the design and specifications. The amount of the Financial Security for Maintenance shall be equal to 15% of the actual cost of installation including materials for the Public Improvements. The Developer hereby covenants and agrees to make all such replacements, repairs and perform any necessary maintenance within 30 days from notice by the County of the failure of the applicable improvements. The County may proceed to seize Developer's Financial Security for Maintenance to repair, replace and maintain the Public Improvements or

contract to have the same done and charge the full cost of such repairs to the Developer or the against the applicable Financial Security for Maintenance.

## 7. INDEMNIFICATION OF COUNTY

7.A. Developer shall indemnify, defend and hold harmless the County, its elected and appointed officials, agents and employees from any and all costs and damages, losses, claims, suits and actions including cost of defense and attorneys' fees which the County, its elected and appointed officials, agents and employees may sustain or suffer by reason of Developer failing to adequately and properly perform the terms and conditions of this Development Agreement, including the construction of Public and Private Improvements. This Paragraph shall survive the expiration of this Agreement.

## 8. VIOLATION OF AGREEMENT

8.A. Developer specifically agrees that any permits issued in accordance with applicable provisions of the Doña Ana County Code, shall be revoked by the County for the failure of the Developer, its contractors, subcontractors, or builders to comply with any portion of this Agreement. Said revocation shall occur only after notification by the County to the Developer and the Developer's failure to correct such condition within 48 hours of notification.

8.B. In instances involving dust, mud or debris on the roads, the 48 hours period for correction permitted in the previous paragraph shall not apply, and Developer shall be required to immediately correct such violation(s).

## 9. UTILITIES AND TRAFFIC SIGNALS

9.A. Developer, in accordance with applicable provisions of the Doña Ana County Code and County approvals and permits, shall cause all utilities to be installed as shown on the Construction Drawings. All traffic signals and related improvements shall be installed per County and NMDOT approvals, standards and requirements.

9.B. Developer shall provide one, two-sided 4'x5' project sign for each separate and distinct public improvements project. The County Engineer shall determine what public improvements projects will require project signs and the location of said sign. The specific details for layout and developing the sign can be found at www.donaanacounty.org. The sign shall be included in a financial security calculation as a separate line item within the project. Such calculation shall include the purchase price and cost to maintain the sign. The sign shall be installed not later than one week before the project begins and shall remain in place until the release of the financial security. The material used and installation method used shall be suitable to last the length of the project. The sign shall be kept in good repair and unobstructed

for the length of the project. The Developer is responsible for obtaining all property and underground utility clearances.

9.C. All exposed concrete bases for light poles shall be colorized with an integral coloring mixed in the concrete (not painted on) similar in color to RAL 3005.

## 10. MAINTENANCE AND SAFETY OF WORK SITE AND SURROUNDING AREAS

10.A. The Developer, its contractors, sub-contractors and builders shall keep public roads, private drives and highways surrounding the property, which are used by vehicles entering and leaving the Development, in good repair, clean and free of mud, dirt, dust and debris, and maintain existing drainage patterns on all roadways.

10.B. During development of the project, the Developer shall police all construction sites on a daily basis, keeping the same safe and free and clear of all rubbish, refuse, brush, debris and discarded building materials so as not to create a public nuisance. The Developer may accumulate said material in an area approved by the County until such time as the accumulated matter is removed from the site by the Developer, provided that the County, at its sole discretion, may require the removal of said material by written communication indicating the reasons therefore, at any time during development of the project. The Developer shall remove from the site and dispose of all rubbish, refuse, brush, debris and discarded building materials resulting from the development of the project, leaving the Development free and clear of the same prior to the release of any remaining Financial Security or final acceptance of any Public Improvements. The burning of any rubbish, refuse, debris or discarded building materials shall be approved in advance of any burning activity by the Doña Ana County Fire and Emergency Services.

10.C. Prior to commencement of any work, the Developer shall make all arrangements necessary in order to comply with the Doña Ana County Code, in effect at the time of Development Approval, for hauling equipment and building materials over weight-restricted County roadways. Said requirements and regulations may include, but need not be limited to fees or road financial security requirements.

10.D. The Developer shall, prior to the issuance of any building permits for the Development, install any and all street identification and traffic warning and regulatory signage in accordance with Doña Ana County Code, specifications, and guidelines.

10.E. During construction of any phase of the approved development, parking for vehicles related to any work shall be arranged so as not to create a potential or actual traffic hazard. On-street parking shall be discouraged and a minimum of 20 feet of the required right-of-way width must remain unobstructed at all times.

10.F. When street extensions are to occur within subsequent phases of development, a temporary turnaround at the terminus of the uncompleted street, including a full width radius, "hammerhead" or other acceptable option approved by the County Engineer and County Fire and Emergency Services, must be installed for access by maintenance and emergency vehicles. At such times as the street is completed or extended, the Developer shall remove and restore the area of such temporary turnaround at its sole expense. When Developer extends a street to connect to a public street in a previously approved plan which is outside the boundaries of the Development, the Developer shall remove and restore any temporary turnaround in such plan at its sole expense.

10.G. The Developer shall, at its expense, provide temporary sanitary facilities for the area(s) of the Development on which work is being performed. The Developer shall be responsible for maintenance, replacement and installation of all temporary sanitary facilities.

## 11. DEDICATION OF PUBLIC STREETS, RIGHTS-OF-WAY, AND EASEMENTS

11.A. Developer shall offer for dedication, all proposed public streets by formal written communication to the County sent certified or registered mail, accompanied by metes and bounds legal descriptions, as-built plans, mylars, and executed deeds of dedication. Developer shall provide a certification from a professional land surveyor licensed to work in the State of New Mexico that all specified permanent right-of-way monuments have been installed in accordance with the Final Plat(s). It is within the sole discretion of the County to determine the time of acceptance of any public street; however, no street shall be accepted unless and until a separate Financial Security for Maintenance is provided in accordance with this Agreement.

## 12. CONSTRUCTION INSPECTION DEPOSIT

12.A. Developer shall submit a Construction Inspection Deposit approved by the County Engineer in an amount of $_____ for the inspection of improvements, including sewer or water line extensions. Inspection fees set in accordance with Chapter 179 of the Doña Ana County Code in effect at the time of the application date will be deducted from the Construction Inspection Deposit for all inspections required for improvements or the extension of any utilities. The Construction Inspection Deposit shall be submitted on or before the date of this Agreement. If, during the construction period it is determined by the County that the balance of the Construction Inspection Deposit is or will be inadequate to cover remaining inspection costs, the Developer will be notified that the Construction Inspection Deposit must be supplemented in a reasonable amount, as determined by the County Engineer, equal to the remaining inspections plus any inspection fees incurred by the County as a result of the Construction Inspection Deposit shortage. The Developer shall submit such additional deposit within 10 days of notification by the County.

Developer specifically understands that failure to submit any required deposit within the specified time shall be cause for immediate suspension of review or issuance of any and all permits. At the completion of the work and when the improvements have been dedicated and formally accepted, and the Financial Security for Maintenance with respect to the improvements has been released, any remaining balance of the Construction Inspection Deposit shall be returned to the Developer upon written request.

## 13. SIGNS

13.A. The Developer shall, prior to the start of any Work, obtain from the County all appropriate permits and approvals in accordance with the requirements of all applicable provisions of the Doña Ana County Code. Violation of any section or provision of this Agreement: 1) shall be deemed a violation of any such permits, approvals and code, and 2) shall subject the Developer to any fines and penalties pursuant thereto, and 3) shall authorize the County to revoke any and all approvals and permits issued concerning the Development and take any other remedial action provided for in this Agreement or available under applicable law.

13.B. Developer shall not erect or permit any agent of Developer (including, but not limited to, builders, real estate agents, contractors) to erect any sign related to the Development that is not in conformance with the Unified Development Code. The installation of off-site signs is prohibited except where provided for in the Unified Development Code.

## 14. STORMWATER MANAGEMENT, SEDIMENTATION AND EROSION CONTROLS

14.A. All erosion and sedimentation controls shall be installed in accordance with state and county regulations prior to any earthmoving activity on the project site. The erosion and sedimentation controls shall be properly maintained throughout the project site and until all disturbed areas have been stabilized to the satisfaction and in the sole discretion of the County Engineer. A construction entrance shall be installed in accordance with the approved construction drawings and shall be maintained throughout the duration of the work, so as not to carry mud, dirt, dust and debris onto adjoining streets. The Developer shall keep the roads of the County free and clear of all mud, dirt, dust and debris caused by any work and shall cause the immediate removal of the same. If at any time during the performance of the work, at the sole discretion of the County, the construction entrance is not functioning adequately, the Developer shall make such repairs as required to restore the entrance.

14.B. The Developer shall maintain the stormwater management detention system serving the development in accordance with federal, state and county regulations including any and all approved permits. The Developer may be permitted to transfer title of

commonly shared stormwater management detention systems to whomever shall retain ownership and maintenance responsibility for such system upon submission and approval of legal documentation. Such legal documentation shall specifically identify the manner in which the system shall be maintained, providing for inspections of the same, and shall identify the party or parties who shall cause such maintenance to be effected. The transfer of common detention systems may include but need not be limited to a transfer to homeowner's associations in residential subdivisions, and groups of property owners on commercial sites. Such documentation shall also include provisions for county intervention in the event the responsible party or parties fail to maintain the system, and provisions for the assessment of fees related to the cost of maintenance. The Developer shall grant to the County discharge easements for the conveyance of stormwater runoff over, under or through any street within the Development that is accepted by the County to any stormwater detention facility owned and maintained by the Developer. This easement shall be binding on the Developer's successors and assignees and shall survive the expiration of this or any other Agreement.

14.C. The Developer shall be responsible for re-vegetating and stabilizing all areas of disturbed soils within the Development in accordance with the approved plans, and state or county regulations.

14.D. The Developer, if applicable, shall be required to enter into a Drainage and Maintenance Agreement with the County for the management and access of the stormwater facilities on the site. The agreement shall be fully executed prior to construction of any stormwater facility _____ (if applicable).

## 15. FEES

15.A. Utility Tie-in Fees. The Developer or applicant for all building permits shall pay all utility tap fees at the time of building permit issuance or provide the County Building Services Division with an original signed "will-serve" letter from the utility provider prior to issuance of any building permit.

## 16. CIVIC SPACE

16.A. The Developer shall annually pay all real estate taxes, (local, school, county), assessed upon any civic space, active or passive, until such time as the civic space is officially dedicated to and accepted by the homeowners' association for the development. The Developer shall provide proof of payment of taxes to the County annually by the 30th day of January of the subsequent year. If the Developer transfers the common properties to the Association, but retains a controlling interest of the

Association through number of lots, votes, Board Designations or whatever legal means, then the Developer shall be solely responsible to guarantee payment of taxes by the Association.

**17. BINDING ON SUCCESSORS**

17.A. It is specifically understood that this Agreement is personal to the Developer named herein, its successors, and assigns approved by the County in writing. It is further specifically understood that the Developer may not assign or transfer its rights or responsibilities hereunder without prior, written consent of the County. This paragraph shall survive expiration of the Agreement.

**18. RECORDING**

18.A. This Agreement may be recorded by either party. If so recorded by the County, the Developer shall pay for all recording fees.

**19. AMENDMENT**

19.A. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing by all parties hereto.

**20. EXPIRATION**

20.A. The terms of this Agreement, unless otherwise stated herein, expire upon final release of the Financial Security for Maintenance.

**21. APPLICABLE LAW**

21.A. This Agreement shall be governed, construed and enforced in accordance with the laws of Doña Ana County and the State of New Mexico.

IN WITNESS WHEREOF, the parties, having read, understood and freely agreed to the conditions contained herein, and being duly authorized and intending to be legally bound hereby, and to legally bind the successors, assigns, grantees, agents and officers of the parties, do hereby seal and deliver this Agreement on the day set forth below.

Signed and sealed this _____ day of _____, 20__.

DOÑA ANA COUNTY

_____

Julia T. Brown, Esq., County Manager

DEVELOPER

By: _____

(signature)

_____

(print name)

_____

(title)

STATE OF NEW MEXICO )
COUNTY OF DOÑA ANA ) ss

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

_____ My Commission Expires: _____

Notary Public

## APPENDIX I. DISCLOSURE STATEMENT FOR FIVE (5) PARCELS OR LESS

### Disclosure Statement for Subdivisions Containing Five (5) Parcels or Less

### YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

**If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have 6 months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the 6 month period, you have 3 days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within 3 days after the date of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the County Clerk.

**Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.**

**1. NAME OF SUBDIVISION**

_____

**2. NAME AND ADDRESS OF SUBDIVIDER**

_____

_____

**3. CONDITION OF TITLE**

Include at least the following information where applicable:

Number of mortgages: _____

Name and address of each mortgagee: _____

Balance owing on each mortgage: _____

Summary of release provisions of each mortgage: _____

Number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser: _____

Name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser: _____

_____

Balance owing on each real estate contract: _____

Summary of default provisions of each real estate contract: _____

_____

Summary of release provisions of each real estate contract: _____

_____

Statement of any other encumbrances on the land: _____

_____

Statement of any other conditions relevant to the state of title: _____

_____

**4. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**

State here all deed and plat restrictions affecting the subdivided land:_____

_____

**5. UTILITIES**

Name of entity providing electricity, if available:

_____ Est. cost to purchaser: _____

Name of entity providing gas service, if available:

_____ Est. cost to purchaser: _____

Name of entity providing water, if available:

_____ Est. cost to purchaser: _____

Name of entity providing telephone, if available:

_____ Est. cost to purchaser: _____

Name of entity providing liquid waste disposal, if available:

_____ Est. cost to purchaser: _____

Name of entity providing solid waste disposal, if available:

_____ Est. cost to purchaser: _____

## 6. INSTALLATION OF UTILITIES

Electricity: _____ Date: _____

Gas: _____ Date: _____

Water: _____ Date: _____

Telephone: _____ Date: _____

Liquid waste disposal: _____ Date: _____

Solid waste disposal:_____ Date:_____

## 7. UTILITY LOCATION

If all utilities are to be provided to each parcel in the subdivision, please state here: ____

_____

If utilities are to be provided to some but not all parcels in the subdivision, state which utilities will be provided to each parcel: _____

State whether each utility will be above ground or underground:

| | **Above Ground** | **Underground** |
|---|---|---|
| Electricity | _____ | _____ |
| Gas | _____ | _____ |
| Water | _____ | _____ |
| Telephone | _____ | _____ |
| Liquid waste disposal | _____ | _____ |
| Solid waste disposal | _____ | _____ |

## 8. WATER AVAILABILITY

Describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses: _____

Describe the availability and sources of water to meet the subdivision's maximum annual water requirements: _____

Describe the means of water delivery within the subdivision: _____

_____

Describe any limitations and restrictions on water use in the subdivision: _____

_____

Summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures: _____

_____

Describe what measures, if any, will be employed to monitor or restrict water use in the subdivision: _____

**9a. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS (if applicable)**

Name and address of entity providing water: _____

Source of water and means of delivery: _____

Summary of any legal restrictions on either indoor or outdoor usage: _____

_____

Statement that individual wells are prohibited, if such is the case: _____

_____

**9b. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS (if applicable)**

State whether wells will be provided by the subdivider or by the prospective purchaser/lessee/ conveyee: _____

If wells are provided by purchaser/lessee/conveyee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities:

_____

_____

If wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee:

_____

_____

Summary of legal restrictions on either indoor or outdoor usage: _____

_____

Average depth to groundwater and the minimum and maximum well depths to be reasonably expected: _____

Recommended total depth of well: _____

Estimated yield in gallons per minute of wells completed to recommended total depth: _____

_____

**10. WATER QUALITY**

Describe the quality of water available for domestic use within the subdivision: _____

_____

Describe water quality in laymen's terms relating to taste, discoloration of clothes, irritation to skin, odor, and degree of hardness of water: _____

_____

**11. LIQUID WASTE DISPOSAL**

Describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision: _____

_____

**NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS**

**SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS. PRIOR TO OCCUPANCY, ALL LOTS MUST HAVE EVIDENCE OF A FUNCTIONING LIQUID WASTE DISPOSAL SYSTEM INSTALLED BY A LICENSED CONTRACTOR OR PLUMBER IN ACCORDANCE WITH PERMITS ISSUED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT, INSPECTED BY THE CONSTRUCTION INDUSTRIES DIVISION, AND VERIFIED BY THE OFFICE OF BUILDING INSPECTION.**

**12. SOLID WASTE DISPOSAL**

Describe the means of solid waste disposal that is proposed for use within the subdivision:

_____

_____

**13. TERRAIN MANAGEMENT**

Describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation District's soil survey for Doña Ana County: _____

_____

Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures: _____

_____

Identify by lot and block numbers all parcels within the subdivision that are subject to flooding:

_____

Identify by lot and block number all parcels within the subdivision located in whole or in part on slopes in excess of 4%: _____

_____

Describe the surface drainage for all lots in the subdivision: _____

Describe the subsurface drainage for all lots in the subdivision: _____

Describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision:_____

_____

**NOTE: AN EXCERPTED COPY OF THAT PORTION OF THE APPROVED GRADING AND DRAINAGE PLAN FROM THE TERRAIN MANAGEMENT PLAN APPLICABLE TO THE LOT BEING PURCHASED IS TO BE ATTACHED TO THIS DISCLOSURE STATEMENT TO BE PROVIDED TO THE BUYER, AND SAID COPY SHALL BE ATTACHED TO AN APPLICATION FOR A BUILDING PERMIT ON THE LOT BEING PURCHASED.**

**14. SUBDIVISION ACCESS**

Name of town nearest to subdivision: _____

Distance from nearest town to subdivision and the route over which that distance is computed:

_____

_____

Describe access roads to subdivision: _____

_____

State whether or not subdivision is accessible by conventional vehicle: _____

State whether or not subdivision is ordinarily accessible at all times of the year and under all weather conditions: _____

Describe the width and surfacing of all roads within the subdivision: _____

State whether the roads within the subdivision have been accepted for maintenance by the County: _____

If the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe lot owners' responsibilities and obligations with respect to road maintenance: _____

_____

**15. MAINTENANCE**

State whether the roads and other improvements within the subdivision will be maintained by the county, the subdivider or an association of lot owners, and what measures have been taken to make sure that maintenance takes place: _____

_____

_____

**16. CONSTRUCTION GUARANTEES (if applicable)**

Describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale:

_____

Describe all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement: _____

**NOTE: UNLESS THERE IS A SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.**

**17. ADVERSE OR UNUSUAL CONDITIONS**

State any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement plants or airports that would subject the subdivided land to any unusual conditions affecting its use or occupancy: _____

**18. FIRE PROTECTION**

Distance to nearest fire station from subdivision: _____

Route over which that distance is computed: _____

State whether the fire department is full-time or volunteer: _____

**19. POLICE PROTECTION**

List the various police units that patrol the subdivision.

Sheriff's department, if applicable: _____

Municipal police, if applicable: _____

State police, if applicable: _____

## 20. PUBLIC SCHOOLS

Name of and distance to nearest public elementary school serving the subdivision: _____

_____

Name of and distance to nearest public junior high or middle school serving the subdivision: ___

_____

Name of and distance to nearest public high school serving the subdivision: _____

_____

## 21. AGRICULTURE

New Mexico law includes statute (NMSA 1978, §47-9) cited as the Right to Farm Act. According to this law, any agricultural operation or facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the operation or facility, if the operation was not a nuisance at the time it began and has been in existence for more than a year. The Right to Farm Act includes, but is not limited to, operations and facilities within the farm or ranch such as: chemical application, field preparation, irrigation, cultivation, conservation practices, pruning, plowing, planting, roadside market or any other use of the land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry or fish.

## 22. CULTURAL AND HISTORIC PROPERTIES PROTECTION

There are/are not any properties within the boundary of this subdivision that have been entered into the New Mexico Register of Cultural Properties. Any such properties entered into the Register must comply with the requirements of the Cultural Properties Act NMSA 1978, §§ 18-6-1 through 18-6-17 and all applicable laws regarding cultural properties and archaeological sites.

No investigation into unmarked burials has been made. Should unmarked human burials be discovered during construction, local law enforcement shall be notified, which will then notify the State Medical Investigator and the State Historic Preservation Office.

## 23. CERTIFICATION AND NOTARY

I certify that the information provided by me in this disclosure statement is true and correct.

| | |
|---|---|
| _____ | _____ |
| Signature | Print your name here |
| _____ | _____ |
| Address | City, state and zip code |
| _____ | _____ |
| Telephone number(s) | Corporation or Partnership |

STATE OF NEW MEXICO )
COUNTY OF DOÑA ANA ) ss

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

_____ My Commission Expires: _____
Notary Public

# APPENDIX J. DISCLOSURE STATEMENT FOR SIX (6) PARCELS OR MORE

**Disclosure Statement for Subdivisions Containing Six (6) Parcels or More**

**YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING**

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

**If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have 3 days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within 3 days after the date of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the County Clerk.

**Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.**

## 1. NAME OF SUBDIVISION

Name of subdivision: _____

## 2. NAME AND ADDRESS OF SUBDIVIDER

Name of subdivider: _____

Address of subdivider: _____

## 3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES, LEASING OR OTHER CONVEYANCE IN NEW MEXICO

Name of person in charge of sales, leasing or other conveyance: _____

Address of person in charge of sales, leasing or other conveyance: _____

Telephone number of person in charge of sales, leasing or other conveyance: _____

**4. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED**

Present: _____ Anticipated: _____

Number of parcels: _____ Number of parcels: _____

Number of acres in subdivision: _____ Number of acres in subdivision: _____

**5. SIZE OF LARGEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION**

Size of largest parcel in acres: _____

**6. SIZE OF SMALLEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION**

Size of smallest parcel in acres: _____

**7. PROPOSED RANGE OF PRICES FOR SALES, LEASES OR OTHER CONVEYANCES**

$ = lowest amount: _____
Size of parcel sold, leased or conveyed: _____
$ = highest amount: _____
Size of parcel sold, leased or conveyed: _____

**8. FINANCING TERMS**

Interest rate: _____ Term of loan or contract: _____

Minimum down payment: _____ Service charges and/or escrow fees: _____

Premium for credit life or other insurance if it is a condition for giving credit: _____

Closing costs: _____

Any other information required by the Truth in Lending Act and Regulation Z if not set forth above: _____

**9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE**

Name of person who is recorded as having legal title: _____

Address of person who is recorded as having legal title: _____

**NOTE: IF ANY OF THE HOLDERS OF LEGAL TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.**

**10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE**

Name of person who is recorded as having equitable title: _____

Address of person who is recorded as having equitable title: _____

**NOTE: IF ANY OF THE HOLDERS OF EQUITABLE TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.**

**11. CONDITION OF TITLE**

Include at least the following information where applicable:

Number of mortgages: _____

Name and address of each mortgagee: _____

Balance owing on each mortgage: _____

Summary of release provisions of each mortgage: _____

Number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser: _____

Name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser: _____

Balance owing on each real estate contract: _____

Summary of default provisions of each real estate contract: _____

Summary of release provisions of each real estate contract: _____

Statement of any other encumbrances on the land: _____

Statement of any other conditions relevant to the state of title: _____

**12. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**

State here all deed and plat restrictions affecting the subdivided land: _____

**13. ESCROW AGENT**

Name of escrow agent: _____

Address: _____

Statement of whether or not the subdivider has any interest in or financial ties to the escrow agent: _____

**14. UTILITIES**

Name of entity providing electricity, if available:

_____ Est. cost to purchaser: _____

Name of entity providing gas service, if available:

_____ Est. cost to purchaser: _____

Name of entity providing water, if available:

_____ Est. cost to purchaser: _____

Name of entity providing telephone, if available:

_____ Est. cost to purchaser: _____

Name of entity providing liquid waste disposal, if available:

_____ Est. cost to purchaser: _____

Name of entity providing solid waste disposal, if available:

_____ Est. cost to purchaser: _____

## 15. INSTALLATION OF UTILITIES

Electricity: _____ Date: _____

Gas: _____ Date: _____

Water: _____ Date: _____

Telephone: _____ Date: _____

Liquid waste disposal: _____ Date: _____

Solid waste disposal:_____ Date:_____

## 16. UTILITY LOCATION

If all utilities are to be provided to each parcel in the subdivision, please state here: _____

_____

If utilities are to be provided to some but not all parcels in the subdivision, state which utilities will be provided to each parcel: _____

State whether each utility will be above ground or underground:

| | **Above Ground** | **Underground** |
|---|---|---|
| Electricity | _____ | _____ |
| Gas | _____ | _____ |
| Water | _____ | _____ |
| Telephone | _____ | _____ |
| Liquid waste disposal | _____ | _____ |
| Solid waste disposal | _____ | _____ |

## 17. WATER AVAILABILITY

Describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses: _____

Describe the availability and sources of water to meet the subdivision's maximum annual water requirements: _____

Describe the means of water delivery within the subdivision: _____

_____

Describe any limitations and restrictions on water use in the subdivision: _____

_____

Summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures: _____

_____

Describe what measures, if any, will be employed to monitor or restrict water use in the subdivision: _____

**18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS**

Name and address of entity providing water: _____

Source of water and means of delivery: _____

Summary of any legal restrictions on either indoor or outdoor usage: _____

_____

Statement that individual wells are prohibited, if such is the case: _____

_____

**19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS**

State whether wells will be provided by the subdivider or by the prospective purchaser/lessee/ conveyee: _____

If wells are provided by purchaser/lessee/conveyee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities:

_____

_____

If wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee:

_____

_____

Summary of legal restrictions on either indoor or outdoor usage: _____

_____

Average depth to groundwater and the minimum and maximum well depths to be reasonably expected: _____

_____

Recommended total depth of well: _____

Estimated yield in gallons per minute of wells completed to recommended total depth: _____

_____

**20. LIFE EXPECTANCY OF WATER SUPPLY**

State the life expectancy of each source of water supply for the subdivision under full development of the subdivision: _____

_____

**21. SURFACE WATER***

*Not applicable where subdivider intends to provide water for domestic use.

Provide a detailed statement of the source and yield of the surface water supply and any restrictions to which the surface water supply is subject: _____

**22. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico State Engineer regarding:

Whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses: _____

Whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality: _____

**23. WATER QUALITY**

Describe the quality of water available in the subdivision available for human consumption:

_____

Describe any quality that would make the water unsuitable for use within the subdivision: _____

_____

State each maximum allowable water quality parameter that has been exceeded with the approval of the Board of County Commissioners and the name of the element, compound or standard that has exceeded that parameter: _____

_____

**24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations: _____

Whether or not the subdivider can fulfill the water quality proposal made in this disclosure statement: _____

Whether or not the subdivider's proposal for water quality conforms to the County's water quality regulations: _____

**25. LIQUID WASTE DISPOSAL**

Describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision: _____

_____

**NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS. PRIOR TO OCCUPANCY, ALL LOTS MUST HAVE EVIDENCE OF A FUNCTIONING LIQUID WASTE DISPOSAL SYSTEM INSTALLED BY A**

**LICENSED CONTRACTOR OR PLUMBER IN ACCORDANCE WITH PERMITS ISSUED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT, INSPECTED BY THE CONSTRUCTION INDUSTRIES DIVISION, AND VERIFIED BY THE OFFICE OF BUILDING INSPECTION.**

**26. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations: _____

_____

Whether or not the subdivider can fulfill the liquid waste proposals made in this disclosure statement: _____

Whether or not the subdivider's proposal for liquid waste disposal conforms to the County's liquid waste disposal regulations: _____

**27. SOLID WASTE DISPOSAL**

Describe the means of solid waste disposal that is proposed for use within the subdivision:

_____

_____

**28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not there are sufficient solid waste disposal facilities to fulfill the needs of the subdivision in conformity with state regulations: _____

_____

Whether or not the subdivider can fulfill the solid waste proposals made in this disclosure statement: _____

Whether or not the subdivider's proposal for solid waste disposal conforms to the County's regulations on solid waste disposal: _____

**29. TERRAIN MANAGEMENT**

Describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation District's soil survey for Doña Ana County: _____

_____

Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures: _____

_____

Identify by lot and block numbers all parcels within the subdivision that are subject to flooding:

_____

Identify by lot and block number all parcels within the subdivision located in whole or in part on slopes in excess of 8%: _____

_____

Describe the surface drainage for all lots in the subdivision: _____

Describe the subsurface drainage for all lots in the subdivision: _____

Describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision:_____

_____

**NOTE: AN EXCERPTED COPY OF THAT PORTION OF THE APPROVED GRADING AND DRAINAGE PLAN FROM THE TERRAIN MANAGEMENT PLAN APPLICABLE TO THE LOT BEING PURCHASED IS TO BE ATTACHED TO THIS DISCLOSURE STATEMENT TO BE PROVIDED TO THE BUYER, AND SAID COPY SHALL BE ATTACHED TO AN APPLICATION FOR A BUILDING PERMIT ON THE LOT BEING PURCHASED.**

**30. NATURAL RESOURCE CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT**

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil & Water Conservation District on:

Whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion: _____

Whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement: _____

Whether or not the subdivider's terrain management proposals conform to the County's regulations on terrain management: _____

**31. SUBDIVISION ACCESS**

Name of town nearest to subdivision: _____

Distance from nearest town to subdivision and the route over which that distance is computed:

_____

_____

Describe access roads to subdivision: _____

_____

State whether or not subdivision is accessible by conventional vehicle: _____

State whether or not subdivision is ordinarily accessible at all times of the year and under all weather conditions: _____

Describe the width and surfacing of all roads within the subdivision: _____

State whether the roads within the subdivision have been accepted for maintenance by the County: _____

If the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe lot owners' responsibilities and obligations with respect to road maintenance: _____

**32. MAINTENANCE**

State whether the roads and other improvements within the subdivision will be maintained by the county, the subdivider or an association of lot owners, and what measures have been taken to make sure that maintenance takes place: _____

_____

_____

**33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS**

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway and Transportation Department on:

Whether or not the subdivider can fulfill the state highway access requirements for the subdivision in conformity with state regulations:

_____

Whether or not the subdivider can satisfy the access proposal made in this disclosure statement:

_____

Whether or not the subdivider's access proposals conform to the County's regulations on access:

_____

**34. CONSTRUCTION GUARANTEES**

Describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale:

_____

Describe all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement: _____

**NOTE: UNLESS THERE IS A SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.**

**35. ADVERSE OR UNUSUAL CONDITIONS**

State any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement plants or airports that would subject the subdivided land to any unusual conditions affecting its use or occupancy: _____

**36. RECREATIONAL FACILITIES**

Describe all recreational facilities, actual and proposed in the subdivision: _____

_____

State the estimated date of completion of each proposed recreational facility: _____

_____

State whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe any such bond, letter of credit or other collateral: _____

**37. FIRE PROTECTION**

Distance to nearest fire station from subdivision: _____

Route over which that distance is computed: _____

State whether the fire department is full-time or volunteer: _____

**38. POLICE PROTECTION**

List the various police units that patrol the subdivision.

Sheriff's department, if applicable: _____

Municipal police, if applicable: _____

State police, if applicable: _____

**39. PUBLIC SCHOOLS**

Name of and distance to nearest public elementary school serving the subdivision: _____

_____

Name of and distance to nearest public junior high or middle school serving the subdivision:

_____

Name of and distance to nearest public high school serving the subdivision: _____

_____

**40. HOSPITALS**

Name of nearest hospital: _____

Distance to nearest hospital and route over which that distance is computed: _____

_____

Number of beds in nearest hospital: _____

**41. SHOPPING FACILITIES**

Description of nearest shopping facilities including number of stores: _____

_____

Distance to nearest shopping facilities and route over which that distance is computed: _____

**42. PUBLIC TRANSPORTATION**

Describe all public transportation that serve the subdivision on a regular basis: _____

_____

**43. AGRICULTURE**

New Mexico law includes statute (NMSA 1978, §47-9) cited as the Right to Farm Act. According to this law, any agricultural operation or facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the operation or facility, if the operation was not a nuisance at the time it began and has been in existence for more than a year. The Right to Farm Act includes, but is not limited to, operations and facilities within the farm or ranch such as: chemical application, field preparation, irrigation, cultivation, conservation practices, pruning, plowing, planting, roadside market or any other use of the land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry or fish.

## 44. CULTURAL AND HISTORIC PROPERTIES PROTECTION

There are/are not any properties within the boundary of this subdivision that have been entered into the New Mexico Register of Cultural Properties. Any such properties entered in the Register must comply with the requirements of the Cultural Properties Act NMSA 1978, §§ 18-6-1 through 18-6-17 and all applicable laws regarding cultural properties and archaeological sites.

No investigation into unmarked burials has been made. Should unmarked human burials be discovered during construction, local law enforcement shall be notified, which will then notify the State Medical Investigator and the State Historic Preservation Office.

## 45. CERTIFICATION AND NOTARY

I certify that the information provided by me in this disclosure statement is true and correct.

| | |
|---|---|
| _____ | _____ |
| Signature | Print your name here |
| _____ | _____ |
| Address | City, state and zip code |
| _____ | _____ |
| Telephone number(s) | Corporation or Partnership |

STATE OF NEW MEXICO )
COUNTY OF DOÑA ANA ) ss

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

My Commissioner Expires: _____ _____
Notary Public

# APPENDIX K. ROAD MAINTENANCE AGREEMENT

## ROAD MAINTENANCE AGREEMENT

This Road Maintenance Agreement, between (state the name of the present real property owner exactly as shown on the real estate document conveying title to the present owner and state the legal status of the owner, for example, "single person", "husband and wife," corporation of the state of X," "partnership")

_____

(owner) (his, her, their, or its) heirs, executors, successors, assigns and transferees, whose address is

_____

_____

and the County of Doña Ana, a New Mexico political subdivision (County), whose address is 845 N. Motel Blvd., Las Cruces, New Mexico 88007, is made in Las Cruces, Doña Ana County, New Mexico and is entered into as of the date owner signs this Agreement.

1. Recital.
   Owner is the owner of certain real property located at (give general description, for instance, subdivision, lot and block or street address:)

   _____

   _____

   in Doña Ana County, New Mexico (the property).

   Pursuant to County ordinances, regulations and other applicable laws, the owner is required to construct and maintain certain roadway and drainage facilities on and/or running to or from the property, and the parties wish to enter into this Agreement to establish the obligations and responsibilities of the parties.

2. Description and Construction of Roadway Facilities.
   Owner shall construct the following "roadways" within the property and/or roadways linking the development to the nearest County- or state-maintained roads at owner's sole expense in accordance with the standards, plans and specifications approved by the County:
   [Name(s) of roadway(s)]

   _____

   _____

   The roadway is more particularly described in the attached Exhibit A. The owner shall not permit the roadway to constitute a hazard to the health or safety of the general public.

3. Maintenance of Roadways.
   The owner shall maintain the Roadway at owner's expense in accordance with the approved construction, grading and drainage plans.

4. County's Right of Entry.
   The County has the right to enter upon the property at any time and perform whatever inspection of the Roadways it deems appropriate, without liability to the owner.

5. Demand for Removal, Construction or Repair.
The County may send written notice (Notice) to the owner requiring the owner to construct, remove or repair the roadway within 60 Days (Deadline) of receipt of the Notice as provided in Section 11, and the owner shall comply with the requirements of the Notice. The owner shall perform all the required work by the deadline, at the owner's sole expense.

6. Failure to Perform by Owner and Emergency Work by County.
If the owner fails to comply with the terms of the Notice by the deadline, or the County determines that an emergency condition exists, the County may perform the work itself. The County may assess the owner for the cost of the work and for any other expenses or damages that result from owner's failure to perform. The owner agrees to promptly pay the County the amount assessed. If the owner fails to pay the County within 30 days after the County gives the owner written notice of the amount due, the County may impose a lien against owner's property for the total resulting amount plus interest.

7. Liability of County for Repair after Notice or as a Result of Emergency.
The County shall not be liable to the owner for any damages resulting from the County's repair, removal or maintenance following notice to the owner as required in this Agreement or in an emergency situation, unless the damages are the result of reckless conduct or gross negligence of the County, subject to the provisions of the NM Tort Claims Act.

8. Indemnification.
   A. As a part of the consideration for this Agreement, subject to the provisions of the New Mexico Tort Claims Act and all other applicable New Mexico laws, the County does not agree to hold the owner harmless from any liability that may arise from owner's use or misuse of the roadway and the property.

   B. The owner hereby agrees to hold harmless, indemnify and defend Doña Ana County, its officers, agents and employees from and against any and all liability, suits, actions, claims, damages, costs of defense and fees arising out of or resulting from the owner's and/or any of his employee's, agent's, or officer's conduct, performance, act(s), errors or omission(s), relating in any manner whatsoever to this Agreement.

9. Cancellation of Agreement.
This Agreement may be canceled and owner's obligation released by the County by mailing to the owner notice of the County's intention to record a Cancellation and Release with the Doña Ana County Clerk. The Cancellation and Release shall be effective 30 days of mailing the notice to the owner unless a later date is stated in the notice or the Cancellation and Release. After the effective date, the County will record the Cancellation and Release with the Doña Ana County Clerk.

10. Assessment.
Nothing in this Agreement shall be construed to relieve the owner, his heirs, assigns, transferees and successors from an assessment against owner's property for improvements to the property under a duly authorized and approved Special Assessment District or applicable law. The Parties specifically agree that the value of the roadway will not reduce the amount assessed by the County.

11. Notice.
For the purpose of giving formal written notice to the owner, owner's address is:

_____

_____

Notice may be given to the owner either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the owner within six days after the notice is mailed if there is no actual evidence of receipt. The owner may change owner's address by giving written notice of the change by certified mail, return receipt requested, to the County Engineering Services Department, 845 N. Motel Blvd., Las Cruces, New Mexico 88007.

12. Term.
This Agreement shall continue until terminated by the County pursuant to Section 9 above.

13. Binding on Lot Owner's Property.
The Agreement and obligations of the lot owner set forth herein shall be binding on lot owner, his/her heirs, assigns, transferees and successors and on-lot owner's property and shall constitute covenants running with the lot owner's property until released by the County.

14. Entire Agreement.
This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

15. Construction and Severability.
If any part of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement will remain valid and enforceable.

16. Captions.
The captions to the sections or paragraph of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.

17. Acknowledgment by Lot Owner (Buyer).
By signing this form, the lot owner (buyer) acknowledges the lot location and their responsibility for the proportional share of the maintenance costs in accordance with the ratio of the total number of lots owned divided by the total number of lots within the subdivision.

LOT OWNER (BUYER)

By: _____

Dated: _____

(STATE OF NEW MEXICO)
ss
(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 _____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____

My Commission Expires: _____
Notary Public

SUBDIVIDER (Seller)

By: _____

Dated: _____

(STATE OF NEW MEXICO)
ss
(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 _____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____

My Commission Expires: _____
Notary Public

# APPENDIX L. CLAIM OF EXEMPTION

I, _____, owner(s) of property in Book _____, Page(s) _____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Dona Ana County Code, Section 300. "Subdivision of Land", as amended, for the following reason:

☐ 1. The sale, lease or other conveyance of any single parcel that is thirty-five acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with NMSA 1978, § 7-36-20, for the preceding three years **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PARCEL.**

☐ 2. The sale or lease of apartments, offices, stores or similar space within a building.

☐ 3. The division of land within the boundaries of a municipality.

☐ 4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

☐ 5. The division of land created by court order where the order creates no more than one parcel per party. **ATTACH CERTIFIED COPY OF COURT ORDER.**

☐ 6. The division of land for grazing or farming activities, provided a deed restriction ensures that the land continues to be used for grazing or farming activities.

**ATTACH COPY OF PROPOSED CONVEYANCE DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES. SUCH DOCUMENTS MUST CONTAIN A DEED RESTRICTION RUNNING WITH THE LAND THAT THE DIVIDED LAND WILL BE USED FOR GRAZING OR FARMING ACTIVITIES.**

☐ 7. The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased.

**ATTACH CERTIFIED SURVEYS SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATION.**

☐ 8. The division of land to create burial plots in a cemetery.

**ATTACH CERTIFIED SURVEYS AND DOCUMENTS CREATING OR VERIFYING THE EXISTENCE OF A CEMETERY.**

☐ 9. The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;

**ATTACH COPY OF PROPOSED CONVEYANCE DOCUMENT(S) AND BIRTH CERTIFICATE(S), ADOPTION CERTIFICATE(S) OR OTHER DOCUMENT(S) DEMONSTRATING FAMILY RELATIONSHIP CLAIMED. BAPTISMAL CERTIFICATES ARE NOT ACCEPTABLE DOCUMENTATION.**

☐ 10. The division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction.
**ATTACH COPIES OF ALL FINANCING DOCUMENTS, WHICH MUST INCLUDE A DEED RESTRICTION IDENTIFYING THAT THE DIVISION IS FOR FINANCING PURPOSES ONLY TO PROVIDE SECURITY FOR MORTGAGES, LIENS OR DEEDS OF**

**TRUST, PROVIDED THAT THE DIVISION OF LAND IS NOT A RESULT OF A SELLER-FINANCED TRANSACTION.**

☐ 11. The sale, lease or other conveyance of land that creates no parcel smaller than 140 acres. **ATTACH CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL(S).**

☐ 12. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in § 501(c)(3) of the United State Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity.

**ATTACH COPIES OF I.R.S. EXEMPTION LETTER, AND/OR DOCUMENTS DEMONSTRATING ENTITLEMENT TO EXEMPTION AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONATED.**

☐ 13. The division of a tract of land into two parcels that conform with applicable zoning ordinances; provided that a second or subsequent division of either of the two parcels within five years of the date of the division of the original tract of land shall be subject to the provisions of the New Mexico Subdivision Act and these regulations; provided further that a survey, and a deed if a parcel is subsequently conveyed, shall be filed with the county clerk indicating that the parcel shall be subject to the provisions of the New Mexico Subdivision Act and these regulations if the parcel is further divided within five years of the date of the division of the original tract of land. **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PARCEL(S) PROPOSED TO BE DIVIDED, AND PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL PARCEL AND DATES OF ALL DIVISIONS, ALONG WITH THE PROPOSED CONVEYANCE DOCUMENT(S).**

☐ 14. The purchase of land by a government entity for the purpose of constructing a public works project. **ATTACH CERTIFIED SURVEY OF PROJECT SHOWING LOCATION AND SIZE OF TRACT.**

Printed Name: _____
Physical Address of Property: _____
Mailing Address of Applicant: _____
Telephone #: _____ Email: _____

I certify that I am the owner of the property subject to this application and that the information provided by me in this application is true and correct and that all the documents attached to this application are originals or true, complete and correct copies of the originals.

Signature: _____ Date: _____
Signature: _____ Date: _____

**ACKNOWLEDGMENT**

STATE OF NEW MEXICO}
COUNTY OF DONA ANA}

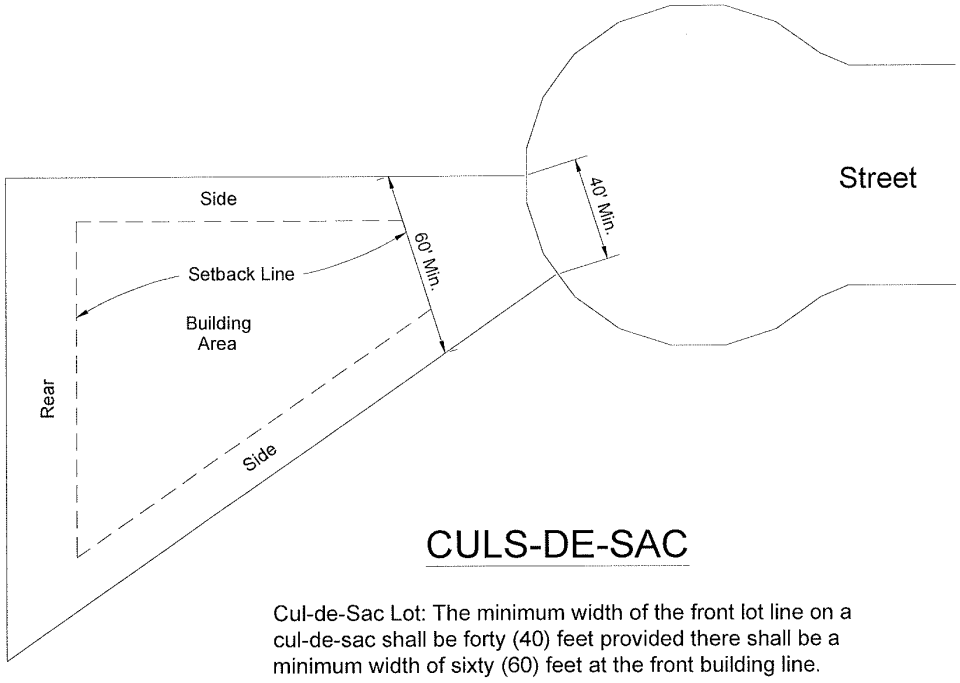
The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by ___

Notary Public _____
My Commission expires: _____ {Seal}

==========

Application Fee Receipt # APPROVED DENIED
If denied, reason: _____
County Planner: _____ Date: _____

# APPENDIX M. LOT SIZE MODIFICATIONS



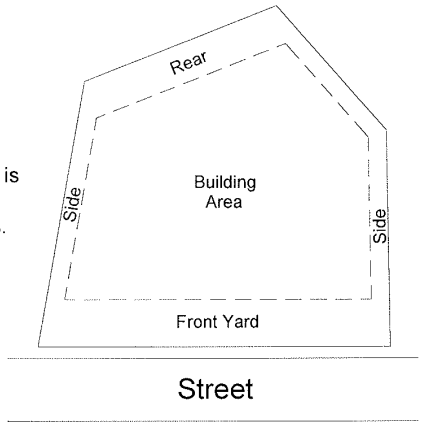

## CULS-DE-SAC

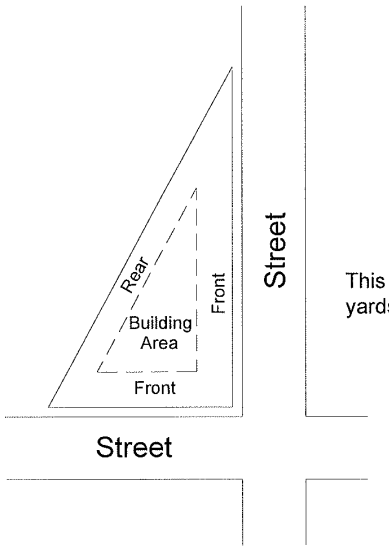
Cul-de-Sac Lot: The minimum width of the front lot line on a cul-de-sac shall be forty (40) feet provided there shall be a minimum width of sixty (60) feet at the front building line.

# APPENDIX N. YARD REQUIREMENTS FOR ODD SHAPED LOTS

## PENTAGONAL LOT

On odd shaped lots the rear yard is determined by the rear line that is most parallel to the front yard. This pentagonal shaped lot would require one (1) front yard, one (1) rear yard and three (3) side yards.



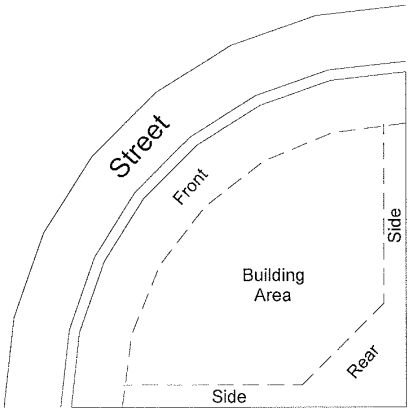




## TRIANGULAR LOT

This triangular lot would require two (2) front yards and one (1) rear yard.

## PIE-SHAPED LOT

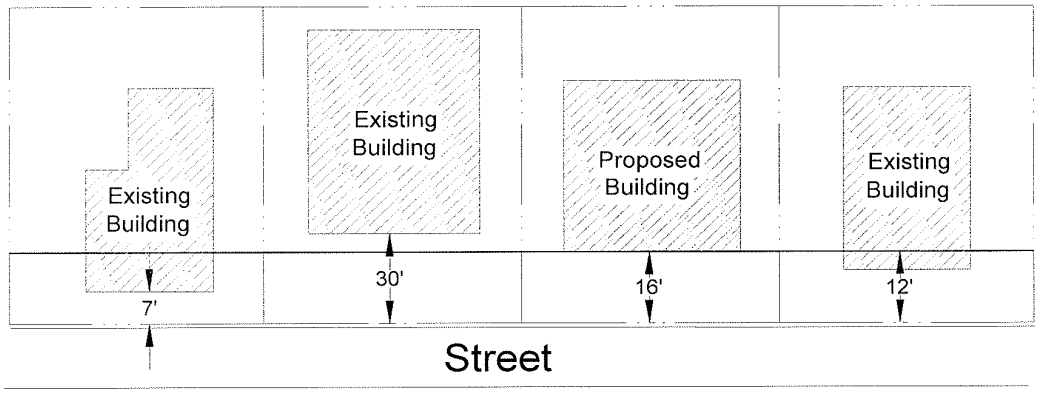
This pie-shaped lot requires calculation of the rear yard at a line measured from the corner a distance of the required rear yard, mid-point between the two side property lines.



**APPENDIX O. NON-CONFORMING SETBACKS**

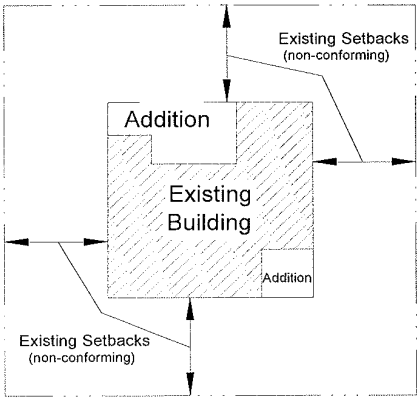
# AVERAGE SETBACKS

## YARD MODIFICATIONS

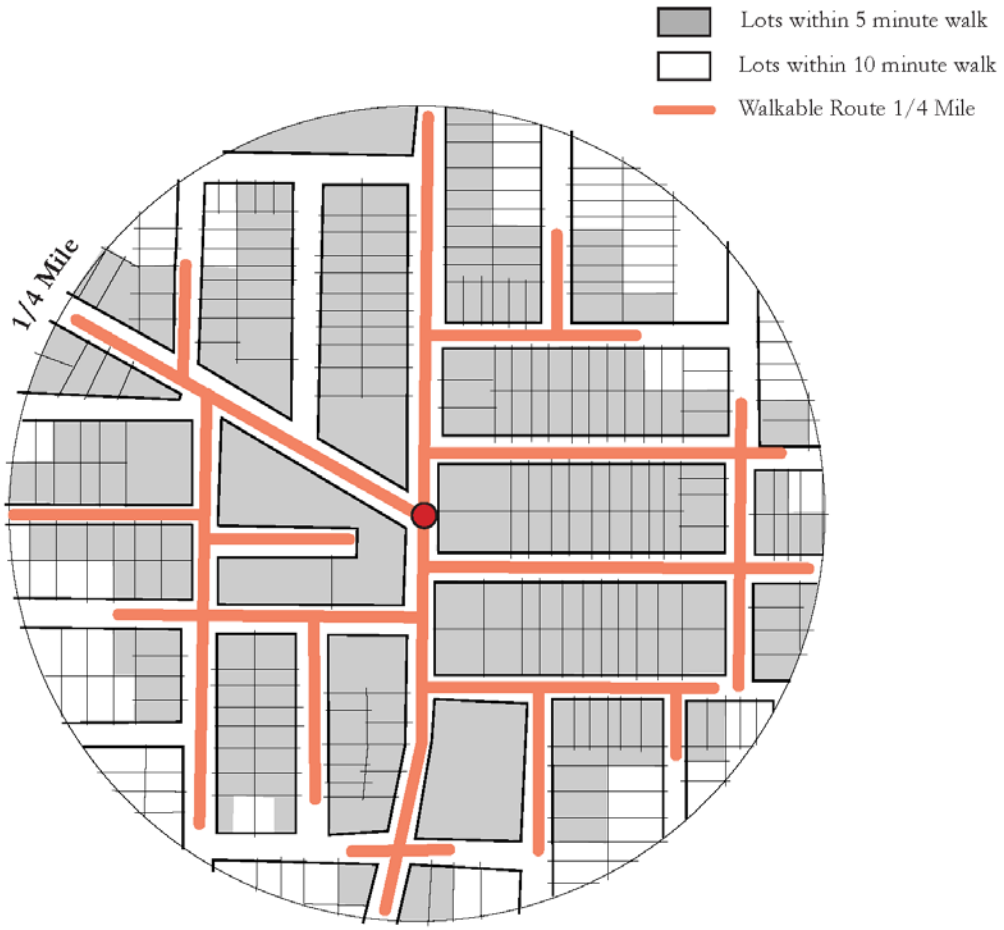



A proposed front yard setback that is an average of all of the front yard setbacks existing on the entire side of a block is permitted on lots of record. 40% (forty) or more of the lots on the same side of the street must be developed.

# NON-CONFORMING SETBACKS AND DWELLING ADDITIONS



# APPENDIX P. PEDESTRIAN SHED – WALKABLE CATCHMENTS




## PEDESTRIAN SHED-WALKABLE CATCHMENTS

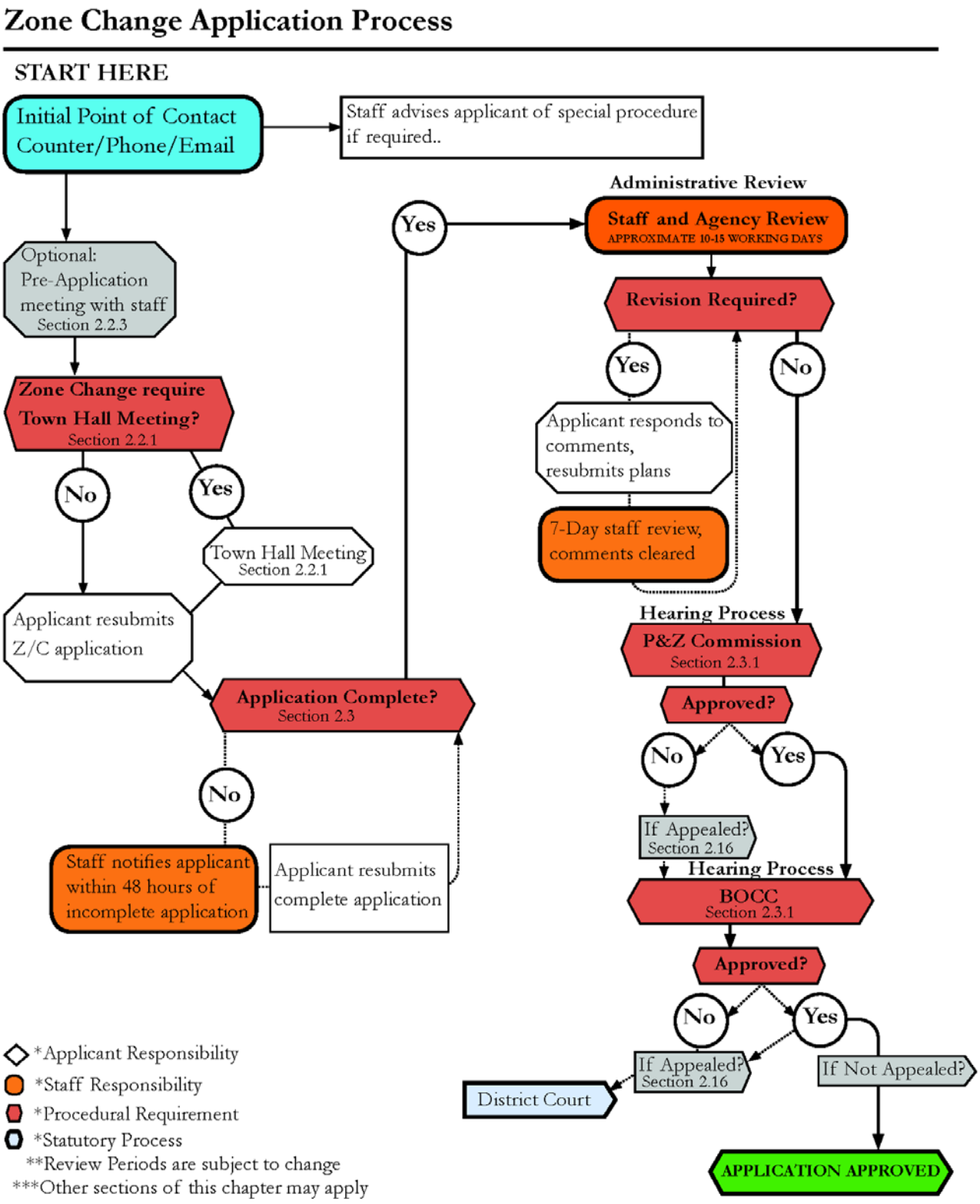
Diagram for a well connected community

Walkable catchments sometimes referred to as "pedsheds" are maps showing the actual area within a five minute walking distance from any center , or ten minutes from any major transport stop such as a railway station. The center could be a neighborhood or town center.

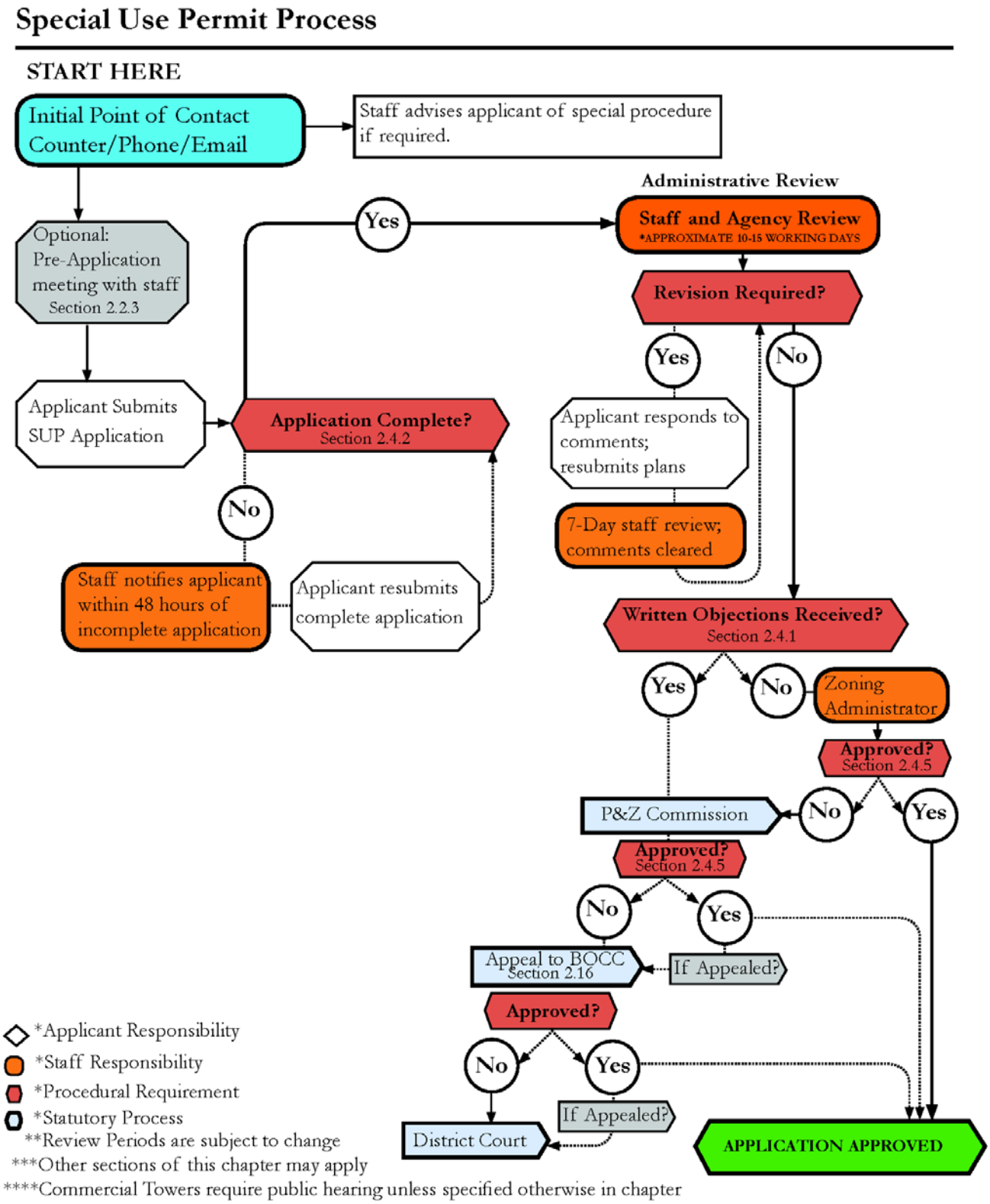
Walkable catchment calculations are expressed as the actual area within a five minute walking distance as a percentage of the theoretical area with a five-minute walking distance. The theoretical five-minute walking distance is shown as a circle with a radius of about 1/4 mile drawn around any particular center. This is an area of 125 acres. When calculating a ten minute walking distance, the radius used is about 1/2 mile, resulting in a circle area with an area of 500 acres.

**Liveable Neighbourhoods (WAPC 2009)**

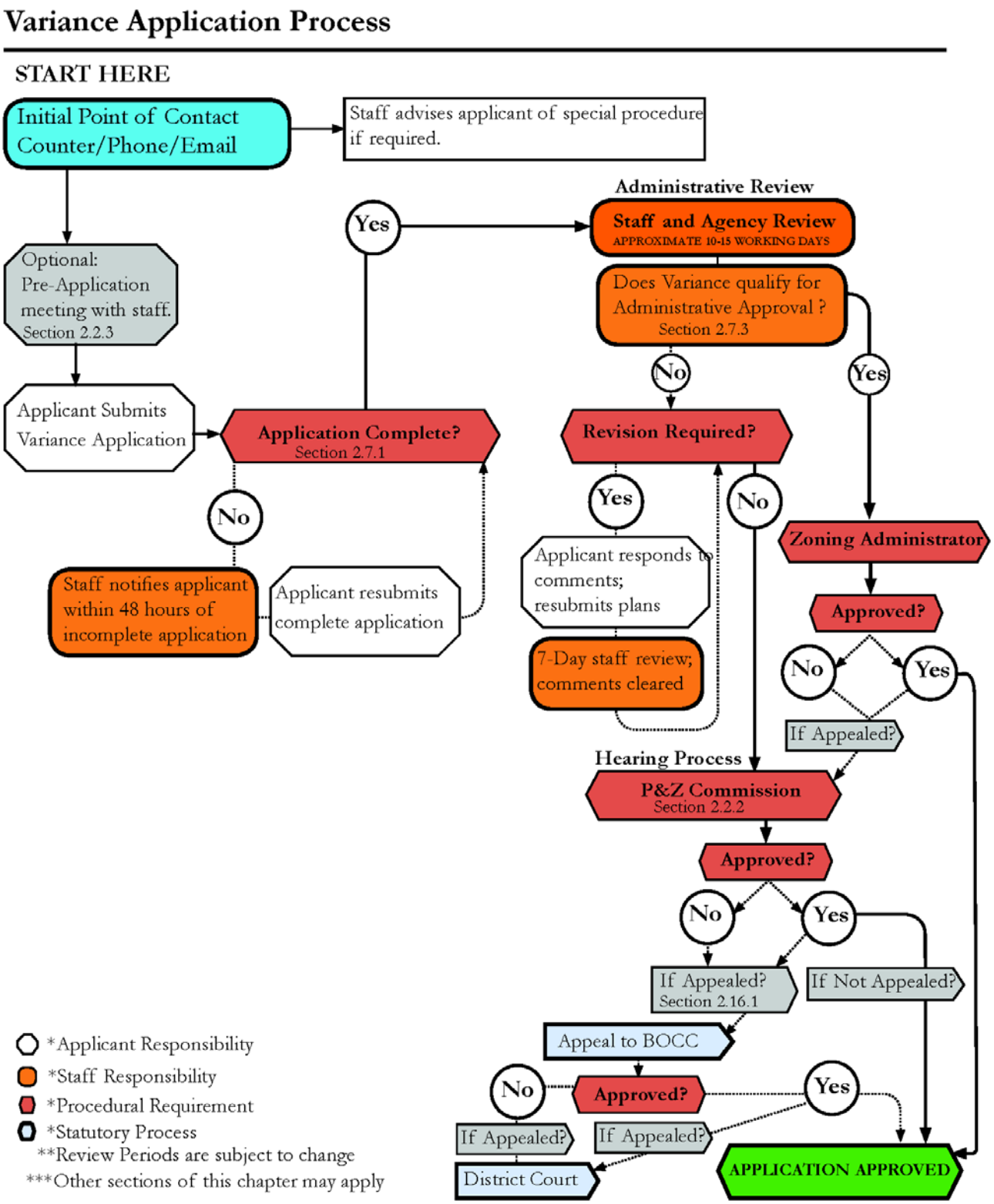
**APPENDIX Q. ZONE CHANGE – FLOW CHART**



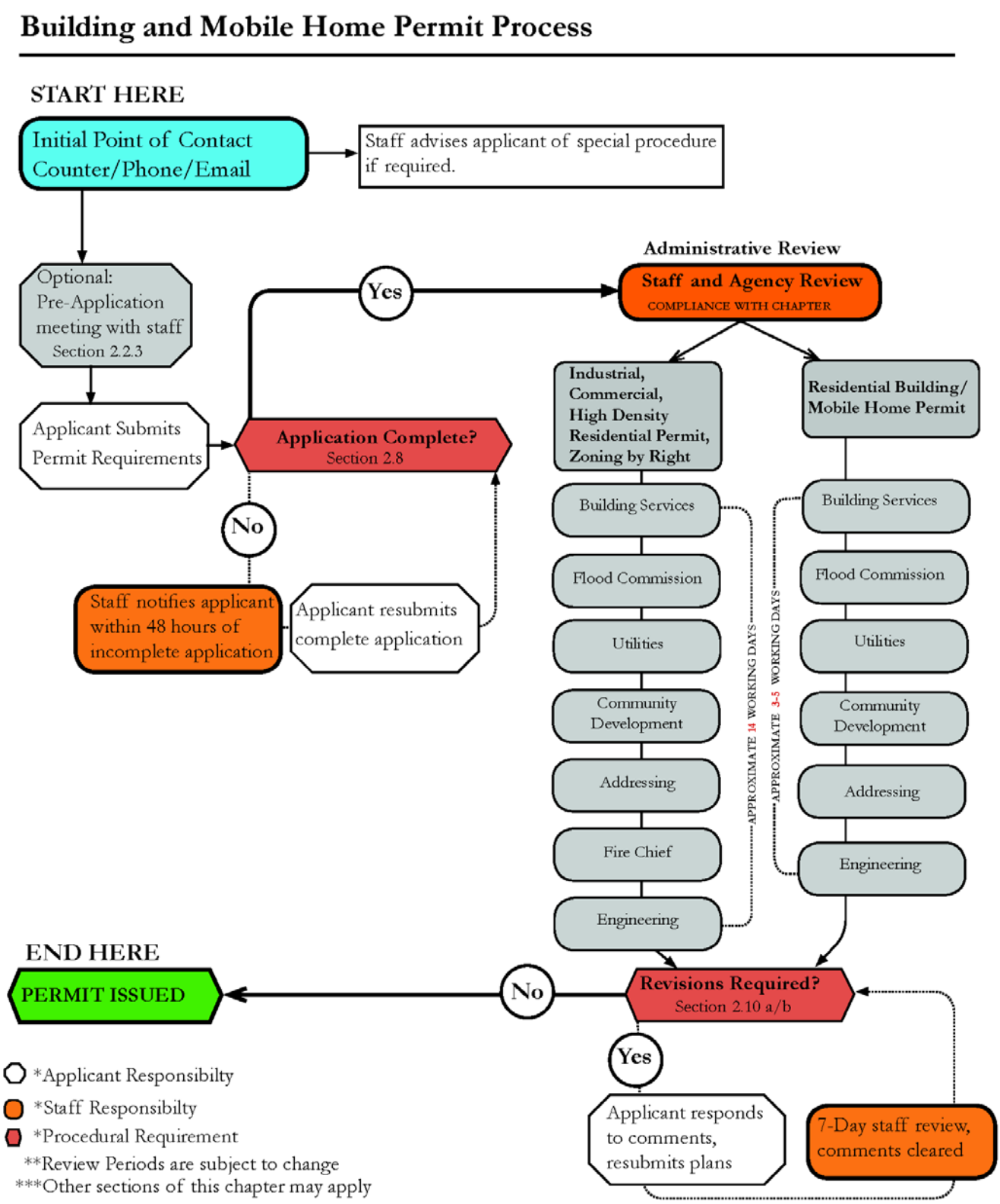
**APPENDIX R. SPECIAL USE PERMIT – FLOW CHART**



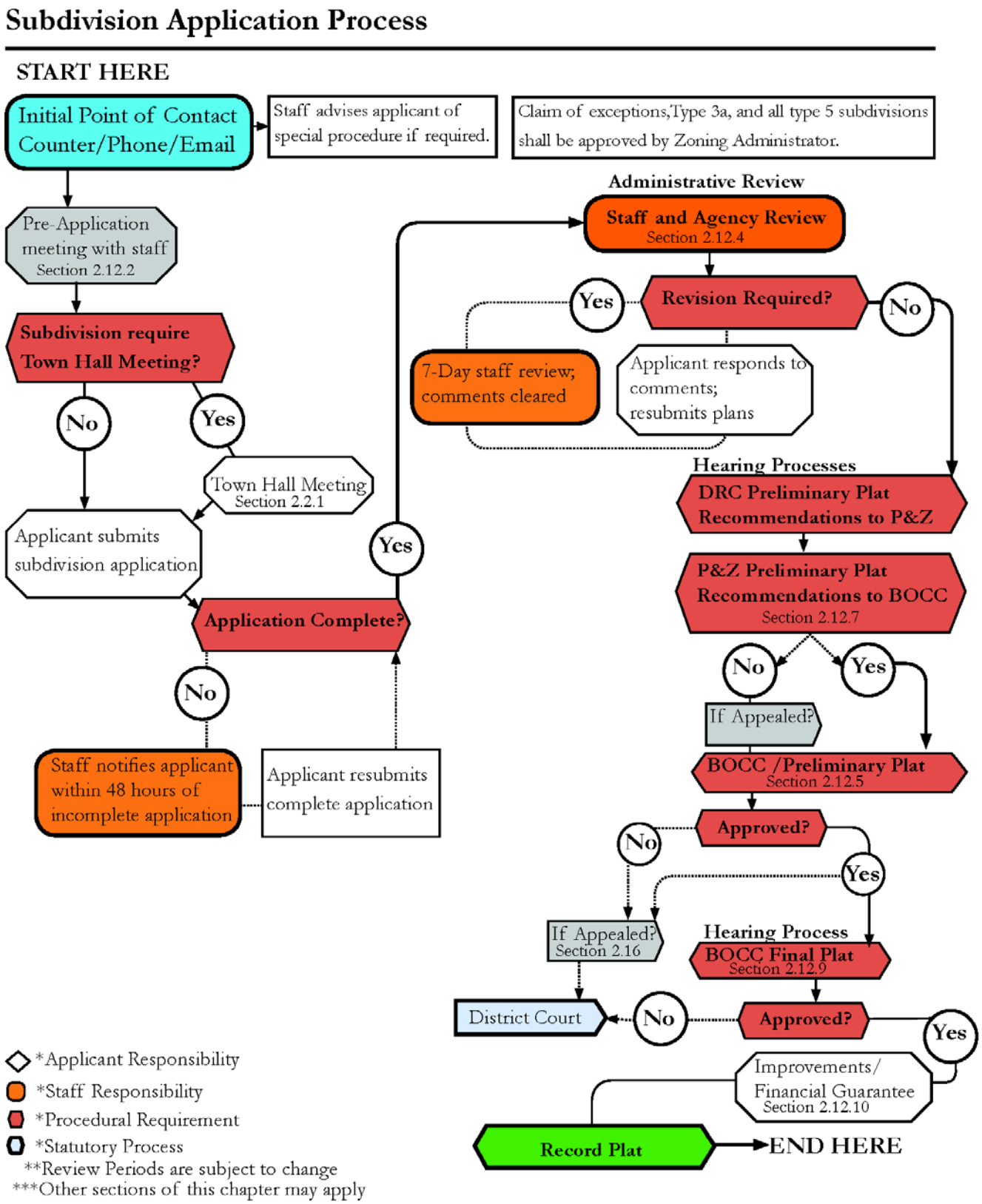
**APPENDIX S. VARIANCE – FLOW CHART**



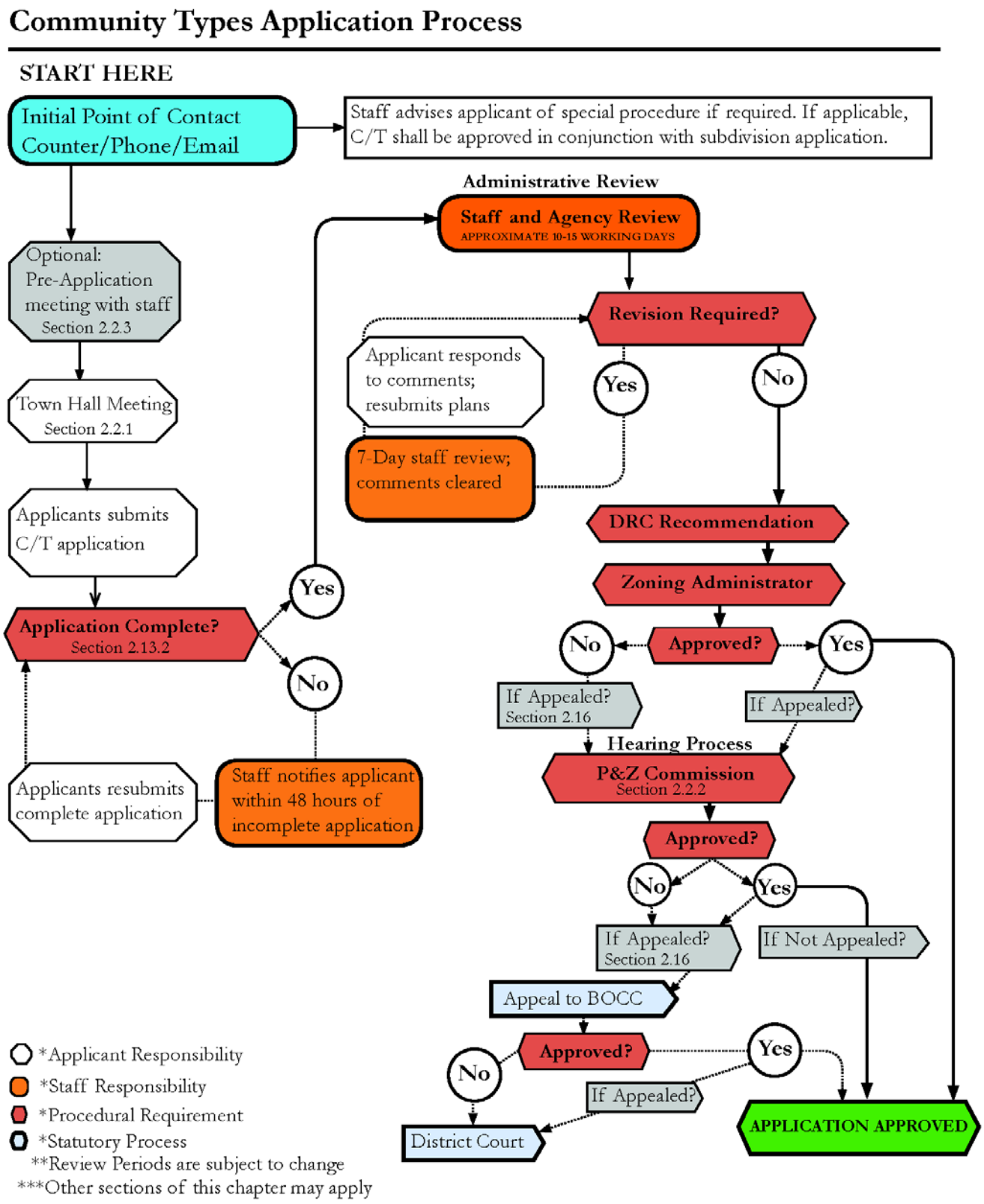
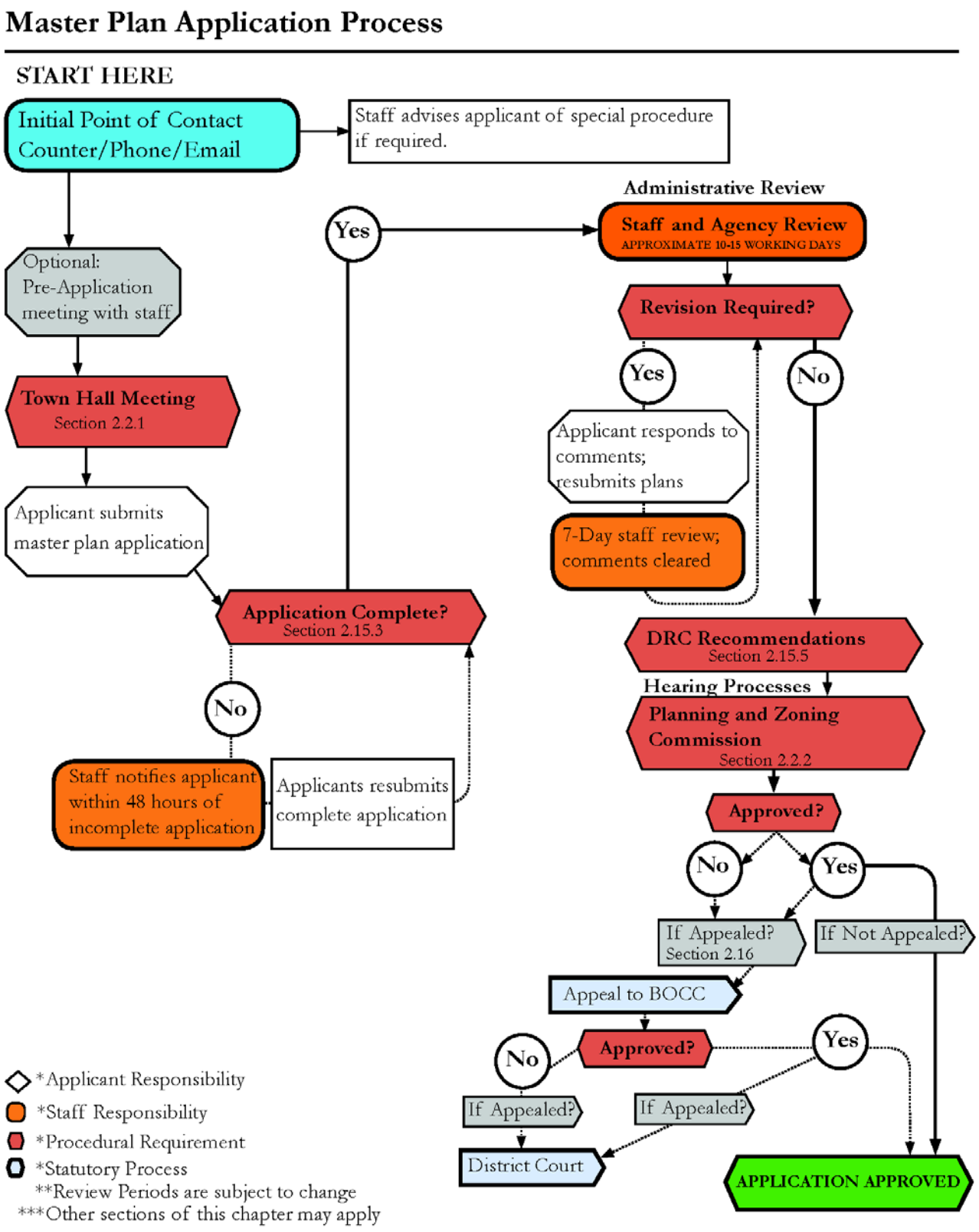
# APPENDIX T. BUILDING AND MOBILE HOME PERMITS – FLOW CHART



**APPENDIX U. SUBDIVISIONS – FLOW CHART**



**APPENDIX V. COMMUNITY TYPES – FLOW CHART**



**APPENDIX W. MASTER PLAN – FLOW CHART**