

**Los Lunas, New Mexico, Code of Ordinances**  
**Title 17 ZONING\***

**ARTICLE I. GENERAL PROVISIONS**

**17.04.010 Title**

This Title shall be known as the Village of Los Lunas Comprehensive Zoning Ordinance and is referred to as this "Title" or this "Ordinance".

**17.04.020 Authority**

This Title is created pursuant to the authority granted by the New Mexico Statutes Annotated, 1978, Chapter 3, and associated Articles. Regulations of this ordinance are designed to implement several powers, duties, and privileges established by the State Statute.

**17.04.030 Purpose**

The purpose of the Village of Los Lunas Municipal Zoning Ordinance is to:

- (1) Facilitate orderly and coordinated development;
- (2) Protect the health, safety, and general welfare of the public and provide protection from possible nuisances and hazards to enhance quality of life and public health; and
- (3) Allow for the efficient administration of land use and development regulations established by this Ordinance and related, adopted regulations.

**17.04.040 Applicability and Jurisdiction**

This Ordinance applies to all private land within the Village's planning jurisdiction. The owners and occupants of all private land within the Village's planning jurisdiction shall comply with the regulations contained in this Ordinance applicable to the zone district in which the property is located. The Village's planning jurisdiction comprises the area within the corporate boundaries of the Village.

**17.04.050 Effective Date**

The provisions in this Ordinance became effective on June XXX, 2024.

**17.04.060 Transition from Previous Regulations**

- A. This Ordinance replaces the previous Los Lunas Municipal Zoning Code originally adopted in 2001, as amended, in its entirety.
- B. Any development approved before the effective date of this Ordinance may be carried out in accordance with the terms and conditions of its approval and the development procedures and standards in effect at the time of approval, provided the approval has not expired and otherwise remains valid. If the prior approval expires, is revoked, or otherwise becomes invalid (i.e., for failure to comply with time limits or the terms and conditions of approval) any subsequent development of the site shall be subject to the procedures and standards of this Ordinance.

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- C. To the extent a prior approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be considered nonconforming and subject to the provisions of Section XXXX, Nonconformities.
- D. If any use, lot, structure, sign, or site feature legally existed on the effective date of this Ordinance (see Section 17.04.050, Effective Date), but does not fully comply with the standards of the Ordinance as amended, then that use, structure, lot, sign, or site feature shall be considered nonconforming and subject to the provisions of Section 17.14.040, Nonconformities.

### **17.04.070 Relationship to Comprehensive Plan**

The Village of Los Lunas Comprehensive Plan, as amended, establishes the official policy of the Village concerning designated future land uses and guides decisions regarding the appropriate manner in which property within the Village should be zoned. This Ordinance is the primary tool used by the Village to implement the goals, policies, and strategies of the Comprehensive Plan.

### **17.04.080 Compliance Required**

No permit, certificate, or approval of any use that is subject to this Ordinance shall be issued or granted without a finding of compliance with this Ordinance. Except as otherwise specified in this Ordinance through a special exception process as outlined in Article VI, Administration and Enforcement, land and buildings may not be constructed, enlarged, altered, or occupied except in compliance with the provisions of this Ordinance.

### **17.04.090 Interpretations and Conflicting Regulations**

Unless otherwise specified in this Ordinance, if two or more regulations in this Ordinance conflict with each other, the more restrictive regulation shall apply, with the following exceptions.

- A. When any regulation contained in an Overlay Zone conflicts with any other regulation in this Ordinance, the regulations of the Overlay Zone prevail regardless of whether the Overlay Zone regulations are more or less restrictive than the other regulations. Where the Overlay Zone is silent, the other regulations in this Ordinance shall prevail.
- B. When any regulation in the Supplementary Use Regulations conflicts with any other regulation in this Ordinance, the Supplementary Use Regulation shall prevail regardless of whether the Supplementary Use Regulation is more or less restrictive than the other regulation. Where the Supplementary Use Regulations are silent, the other Development Standards shall prevail.
- C. When any adopted Area Plan regulation or standard conflicts with any other regulation in this Ordinance, the Area Plan regulation or standard shall apply to development within the specified area regardless of whether the Area Plan regulation is more or less restrictive than the other regulation. Where the Area Plan is silent, the other regulations in this Ordinance prevail.
- D. If any regulation in this Ordinance conflicts with Articles 14-1, 14-2, and 14-3 of ROA 1994 (Uniform Administrative Code and Technical Codes, Fire Code, and Uniform Housing Code) or any other building safety codes, the provisions in those codes shall prevail.
- E. If any regulation in this Ordinance conflicts with other applicable laws or regulations of the Village, or conflicts with applicable State or federal law, the more restrictive provision shall prevail, unless the provisions of State or federal law, as interpreted by the courts, prevent that result.

#### **17.04.100 Relationship to Private Agreements and Covenants**

This Ordinance applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use than a private agreement or restriction but shall have no impact on the applicability or enforceability of any private agreement or restriction between the parties to that agreement or restriction. The Village shall have no obligation to conform the terms or applicability of this Ordinance to any private agreement or restriction and shall have no obligation to enforce any private covenant or agreement unless it is a party to the covenant or agreement. If the Village is a party to the covenant or agreement, enforcement shall be at the discretion of the Village.

#### **17.04.110 Severability**

It is the intention of the Village Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such declaration shall not affect any of the remaining title.

#### **17.04.120 Definitions**

The following definitions are provided for terms used in Title 17 Zoning. Terms that are not defined in this Ordinance follow common usage as defined in standard dictionaries. For the purpose of this Ordinance, certain terms or words used in this Ordinance shall be interpreted as follows:

- (1) "Person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual. The present tense includes the future tense.
- (2) "Shall" is mandatory; "may" is permissive.
- (3) The words and phrases defined in Section 17.04.120 shall have the following meanings indicated when used in this Ordinance.

## **A**

**Accessory Dwelling Unit** - A dwelling unit that is accessory to a primary single-family dwelling unit on a single-family lot, and containing living, sleeping, kitchen, and bathroom facilities.

**Accessory Use** - A land use that is subordinate in use, area, or purpose to a primary land use located on the same lot.

**Accessory Structure** - A structure detached from and located on the same lot as a primary building, customarily used with and clearly incidental and subordinate to the primary building and is compatible with the primary principal use of the lot or building permitted under zoning regulations applicable to the property. Accessory structures include but are not limited to garages and storage sheds.  The use of mobile homes for storage is expressly prohibited as an accessory structure or use.

**Accommodations, Bed and Breakfast** - A house with a permanent resident and up to 6 guestrooms which may be rented for overnight lodging with breakfast served to overnight guests only; guestrooms may be in an accessory dwelling unit. This use is subordinate and incidental to the main residential use of the house.

**Accommodations, Boarding House** - A residence consisting of at least one dwelling unit together with more than two rooms but which do not constitute separate dwelling units, where at least one room is available for rent by a vendor to a vendee as a permanent residence for a period of at least 30 consecutive days and that is not intended for temporary lodging.

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**Accommodations, Campground** - A parcel of land developed or used to provide campsites for occupancy by tents and/or recreational vehicles for temporary sleeping accommodations. May include recreational amenities, picnic tables, refuse containers, toilets, showering facilities, and water and electrical services.

**Accommodations, Hotel or Motel** - An establishment that provides guest rooms for temporary sleeping accommodations within completely enclosed portions of a building for rental at market rates. This use does not include Bed and Breakfast establishments, which are regulated separately for the purposes of this Ordinance.

**Accommodations, Recreational Vehicle (RV) Park** - A parcel of land upon which 2 or more recreational vehicles are parked and occupied as temporary living quarters for recreation or vacation purposes and a fee is charged for such accommodations. May include limited community facilities such as laundry facilities, showering facilities, and play areas.

**Accommodations, Short-term Rental** – A dwelling unit or a portion of a dwelling that is rented by the vendor to a vendee for less than **30** consecutive days.

**Administrator** - The person primarily responsible for administering and enforcing this Title. The Village Council may assign the responsibility to one or more individuals. The terms "staff" or "planning staff" are used interchangeably with the term "Administrator."

**Adult Entertainment** - An establishment where minors are excluded and that features nude dancing or other live or recorded performances that depict, describe, or relate to specified sexual activities. Adult entertainment is a primary use and is not accessory to any other use.

**Adult Retail** - A retail establishment where minors are excluded and 25 percent or more of its gross area is devoted to sell or rent adult material, including books, magazines, newspapers, videos, slides, photographic or written material, and other items or devices that are distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities. Adult retail is a primary use and is not accessory to any other use.

**Affordable Housing** - See Title 18.

**Agricultural** - Farming, including plowing, tillage, cropping, seeding, cultivating, or harvesting for the production of food products for humans or animals; grazing or raising of livestock; nurseries; etc.

**Annexation** - The process that municipalities use to expand their boundaries and municipal services, regulations, voting privileges, and tax authority to new territory. In New Mexico, there are three methods of annexing territory to a municipality: (1) the arbitration method as provided in Sections 3-7-5 through 3-7-10 NMSA 1978; (2) the boundary commission method as provided in Sections 3-7-11 through 3-7-16 NMSA 1978; and (3) the petition method as provided in Section 3-7-17 NMSA 1978. Territory may be annexed to a municipality by any one of the three methods of annexation provided for in Sections 3-7-5 through 3-7-18 NMSA 1978 except where limitations of annexation are provided by law. The provisions of this section apply to annexations of all municipalities except those that are otherwise specifically provided by law. The arbitration method of annexation may be used for municipal annexation of a traditional historic community only upon petition of a majority of the qualified electors of the territory within the traditional historic community.

**Antenna** - Any system of wires, poles, rods, or similar devices use for the transmission or reception of electromagnetic signals external to or attached to the exterior of any building.

**B**

**Bakery, Retail** - An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site.

**Bar** - An establishment where the principal business is the sale of alcoholic beverages to be consumed on the premises and the service of food is incidental to the consumption of such beverages.

**Beacon** - Light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source. Also includes any light with one or more beams that rotate or move that are intended to attract or divert attention. This term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Agency or similar agencies.

**Breezeway** - A roofed passageway, open on at least two sides, that connects the main structure on a site to another main structure or accessory use on the same site.

**Brewery, Micro** - A manufacturing facility producing specialty beers in limited or small amounts, wholesaling of products manufactured at the facility, and direct sales to consumers and associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978. Annual production shall be limited by State statute.

**Buildable Area** - The portion of a lot exclusive of easements, minimum setbacks, and yard area requirements.

**Building** - A fully enclosed structure with a roof supported by columns or walls resting on its own foundation that is built and maintained for the support, shelter, or enclosure of persons, animals, or property of any kind.

**Building Façade** - The entire exterior wall area of a building, including windows, doors, parapets, canopies, and mansard, but not including a pitched roof.

**C**

**Cannabis** - See New Mexico Statutes Chapter 26 – Drugs and Cosmetics, Article 2C-2 – Cannabis Regulation for cannabis definitions.

**Care Facility, Assisted Living** - A building, structure, or facility for persons over the age of 18 that reside for a period of more than 24 hours and is designed to assist residents with Activities of Daily Living (ADLs) such as dressing, oral hygiene, bathing, grooming, mobility, and toileting. The facility may provide hospice care but shall not provide continuous nursing care or elevated medical services.

**Care Facility, Community Residential** - A facility, building, or structure for persons that reside for a period of more than 24 hours and is designed to help the residents integrate into the community and used for letting rooms, providing meals, and/or providing personal assistance, personal services, personal care, and protective care, but not skilled nursing care, to more than 5 persons. The residents shall meet the definition of a handicapped person, or another person protected against housing discrimination under the federal Fair Housing Act Amendments of 1988 (as amended) and court decisions interpreting that Act.

**Care Facility, Daycare Center** - A facility, other than a private residence, that is licensed by the state and whose purpose is to provide care during the day for children or adults; not including overnight care. .

**Care Facility, Day Care Home** - A private residence that is licensed by the state to provide care during the day to 8 or less children or adults; not including overnight care.

**Care Facility, Group Home** - A single-family home for persons that reside for a period of more than 24 hours and used for letting rooms, providing meals, and/or providing personal assistance, personal services, personal

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care, and protective care, but not skilled nursing care, to not more than 5 persons. The residents shall not meet the definition of a handicapped person, or another person protected against housing discrimination under the federal Fair Housing Act Amendments of 1988 (as amended) and court decisions interpreting that Act.

**Care Facility, Nursing Home** – A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than 5 persons.

**Care Facility, Nursing Care Institution** - A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than 5 persons.

**Care Facility, Overnight Shelter** - A facility maintained for the purpose of providing temporary or transitional sleeping accommodations at no charge to more than 5 persons. Such facilities may provide meals, personal assistance, social services, and protective care.

**Care Facility, Respite Care** - A building or facility used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the facility.

**Caretaker's Unit** - A dwelling unit on a commercial premise that is occupied by the employee who oversees the commercial operation.

**Carport** - A permanent roofed structure designed to provide overhead coverage for standard-size passenger vehicles, trucks, recreational vehicles, and agricultural equipment unenclosed on at least three sides, located over a parking area and/or driveway, and designed to complement the architecture of the adjacent structure.

**Car Wash** - A commercial establishment containing special equipment for washing, waxing, and vacuuming of motor vehicles.

**Cemetery** - Designated land used for the burial of the dead, including burial plots. May include columbariums, crematoriums, mausoleums, and funeral establishments when operated within the same property as the cemetery.

**Circulation** - A system that allows for the movement and access to buildings, parking areas, loading areas, or other destinations by vehicles and pedestrians.

**Circus** - A travelling commercial enterprise that features feats of physical skill and daring acts, wild animal acts, and performances by clowns.

**Clear Sight Triangle** - An area of unobstructed vision at street intersections between 3 feet and 8 feet above the gutter line forming a triangular shaped area at the street corner. Three points and the corresponding lines that connect those three points shall define the area of the clear sight triangle for any given street corner. Point A shall be the corner of the curb of two intersecting streets, or if no curb exists, the corner of the two intersecting streets at the edge of the pavement. Points B and C shall be the appropriate distance along the curb line or street edges. Minimum sight distance is based on speed limit, per the AASHTO Green Book, 2011 or latest edition. When extraordinary conditions exist as determined by the Village Public Works Department, the Public Works Director has the authority to determine the appropriate clear sight triangle area.

**Cluster Development** - A development type for a single-family subdivision that permits smaller lots that would otherwise be allowed in the zone district in return for the preservation, dedication, and maintenance of common space in perpetuity by the homeowners' association established for the subdivision, and provided there is no increase in the number of lots permitted by the zoning district.

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**Commercial Parking Lot** - Land designation for the parking of motor vehicles for a fee.

**Conditional Use Permit** - A permit issued by the Village Planning and Zoning Commission that authorizes the recipient to make use of their property in accordance with the conditional uses listed in the zoning district designated on the property, as well as any additional limitations and requirements imposed by the Commission.

**Condominium** - A development containing individually owned dwelling units and the remainder of which is designated for common ownership solely by the dwelling unit owners.

**Convenience Store** - A small retail establishment that sells a limited line of groceries, and household items and may also sell gasoline.

**Cool Season Grass** - Grass types that grow well in cooler temperatures (e.g. Kentucky Bluegrass, Fescue, Perennial Ryegrass) and require large volumes and frequent applications of water.

**Correctional Facility** - A facility where people awaiting trial or persons serving a sentence after being found guilty of committing a crime are kept; includes a prison, jail, and adult or juvenile detention center.

**Council** - The Village Council of the Village of Los Lunas.

**Crematorium** - A commercial establishment or structure that burns the remains of deceased people or animals.

### **D**

**Density** - The maximum number of dwelling units per acre allowed by the regulations listed in the individual zoning district and determined by dividing the property area by the minimum lot size.

**Density Bonus** - A density increase over the otherwise allowable maximum density allowed under a residential zone district.

**Designated Use Permit** - A permit issued by the Village Council that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements recommended by the Village Planning and Zoning Commission to the Council, who has the authority to impose restrictions and make the final decision.

**Developer** - An individual or business that improves land within the Village for the purpose of constructing buildings projects and who may or may not be the owner of the property.

**Director** - For the purposes of this Ordinance, this means the director of the Village Community Development Department or his or her designee.

**Dog Breeding** - The intentional practice of mating male and female dogs for the purpose of producing new offspring.

**Drainage Facility** - The structures used to collect, convey, and store surface and stormwater runoff.

**Drive-through Facility** - An establishment that offers goods and services directly to customers waiting in vehicles, including, but not limited to financial institutions, restaurants, pharmacies, dry cleaners, and similar uses. Does not include car washes, gas stations, and alcohol or cannabis sales.

**Drainage Facility** - A system of man-made structures designed to collect, convey, hold, divert, or discharge storm water runoff, including storm drain pipes, canals, and detention or retention structures.

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**Dry Cleaner** - A commercial facility that provides cleaning of clothes and garments using a nonaqueous organic solvent instead of water.

**Dwelling, Temporary** - A portable dwelling not attached to a permanent foundation or connected to municipal utilities other than in a recreational vehicle park used during temporary events, such as friends and family accommodation, construction, emergency, disaster, natural, or otherwise and occupied only by persons authorized by the property owner, including friends, family, or persons having construction or security responsibilities over such site.

**Dwelling** - A building or part of a building containing living, sleeping, kitchen, and bathroom facilities installed on a permanent foundation; does not include boat, mobile home, storage shed, motorized or non-motorized recreational vehicles, bed and breakfast, boarding house, campground, hotel or motel, recreational vehicle park, or short-term rental.

### E

**Electric Vehicle Charging Station** - An electric power device that recharges batteries of electric-powered or hybrid-powered vehicles. Electric Vehicle Charging Station is incidental to the primary use of the property.

**Equestrian Center** - A facility where horses, mules, donkeys, or ponies are hired, bred, shown, or boarded, and for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, and similar events, and including accessory stables and exercise areas.

**Extraterritorial Planning Area** - The 2-mile area of the Village's planning jurisdiction that lies outside the corporate limits of the Village.

### F

**Family** - An individual; 2 or more persons related by blood, marriage, legal guardianship, or adoption, plus household staff; a group of not more than 5 unrelated persons living together in a dwelling that do not meet the definition of group home; or a group of 5 persons or more that has a right to live together pursuant to the federal Fair Housing Act Amendments of 1988 (or as amended).

**Farmers' Market** - A recurring public assembly of farmers or their representatives selling the food they produced directly to consumers. May also include the sale of crafts.

**Film Production** - A temporary use that involves filming a movie, television show, commercial, or other type of televised media as the primary use of the property. Film production includes temporary structures, such as sets, lighting rigs, sound stages, and the parking of large vehicles.

**Financial Institution** - A building or portion of a building devoted to providing financial and/or banking services to customers or clients (i.e., banks, credit unions, savings banks, savings and loan associations, lending establishments, and investment companies).

**Foot Candle** - The amount of light that will illuminate a surface that is one foot from a uniform light source to an intensity of one lumen per square foot.

**Fully-shielded Light Fixture** - (1) A luminaire that is certified by the manufacturer as "full cut off" [as defined by IESNA (Illuminating Engineering Society of North America)] and supported by a photometric test report from a third party testing agency and installed according to the manufacturer's instructions; (2) A luminaire approved by the International Dark-Sky Association (IDA) as dark sky friendly and bearing the IDA fixture seal of approval and installed according to the manufacturer's instructions; (3) A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the

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horizontal plane through the luminaire's lowest light-emitting part. (4) A luminaire that is shielded by building canopies, overhangs, roof eaves, and similar types of construction which prevents direct or reflected emission of light above the horizontal.

**Funeral Home** - A commercial establishment where deceased people are prepared for burial or cremation, where the body may be viewed, and where funeral services may be held.

### G

**Grade** - The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**Gross Floor Area** - The total area of a building, including basement, ground floor, garage, mezzanine, and upper floors, expressed in square feet and measured from the outside dimensions of the building.

### H

**Health Club** - A commercial establishment designated and equipped for the activities of exercise, physical fitness, and sports.

**Holiday Decoration** - Non-commercial signs or displays, including lighting, temporarily displayed on traditionally accepted civic, patriotic, and/or religious holidays.

**Home Occupation** - A commercial activity that is conducted by a person on the same lot as the dwelling unit in a residential district where the operator resides and is clearly incidental to that dwelling.

**Horticultural Sales** - The growing, producing, and selling of fruits, vegetables, flowers, and nursery stock, including ornamental plants, trees, and sod.

**Hospital** - An institution where patients are given medical or surgical care, and treatment under the care of doctors and nurses, overnight accommodations, and is licensed by the state as a general, limited, or special hospital. Includes related facilities such as laboratories, outpatient departments, training facilities, and staff offices that are integral parts of the facility.

### I

**Infill** - The development of vacant or partially developed parcels that are surrounded by or in close proximity to areas that are substantially or fully developed with municipal services.

**Infrastructure** - The physical framework of a town that includes streets and bridges; sidewalks and trails; water distribution lines; sewer collection and treatment; storm drainage collection; street lighting; electric and gas utilities; and broadband, data, and telephonic lines.

**Inspector** - The Community Development Director or their designee.

### J

(not used)

### K

**Kennel** - A premise on which 5 or more domesticated animals over the age of 3 months are kept, maintained, or boarded for profit; such care does not include medical care or engage in the breeding of animals for sale.

**Kitchen** - An area of a dwelling unit that is principally intended to be used for cooking where there is a sink of adequate size and shape for washing dishes; a cooking stove, range, or oven for food preparation; and a refrigerator for storing perishable food items.

**L**

**Land, Lot** - A parcel of land that has been legally designated through an approved subdivision, with is intended as a unit for transfer of ownership, for development, or for both, and is of sufficient size to meet minimum zoning requirements for area coverage and use, and that can provide yards and other common spaces as required by the zoning district in which it is located.

**Land, Parcel** - A contiguous quantity of land capable of being described by location and boundaries in possession of, owned by, or recorded as property of the same claimant person or company.

**Land, Plat** - A map and a written description prepared by a professional land surveyor showing the location and boundaries of individual parcels of land subdivided into lots and containing streets, alleys, easements, etc., with survey reference ties to permanent monuments related to the subdivision, re-subdivision (i.e., replat), or consolidation of land. See Village Subdivision Ordinance for reference to platting procedures.

**Land, Subdivision** - The division of land, lot, tract, or parcel into two or more lots, tracts, parcels, plats, or sites, or other divisions of land.

**Land, Tract** - A parcel of any size, which retains the original description established through field surveys by the Middle Rio Grande Conservancy District between 1926 between 1928 or retains a map-and-tract based or other tract-based description through subsequent land divisions recorded with Valencia County.

**Library** - A public facility for the use and loan, but not sale, of literary, musical, artistic, or reference materials.

**Livestock** - Grazing animals kept either in open fields or structures for training, boarding, home use, or breeding and production, including but not limited to cattle, horses, sheep, goats, and pigs weighing over 120 pounds and standing 20 inches or less at the shoulder that are kept as pets.

**Loading and Unloading Area** - The portion of the vehicle accommodation area used to satisfy the requirements of delivery or shipment of goods, merchandise, or equipment to or from a place of business.

**Lot Depth** - The dimension measured from the front lot line to the extreme rear lot line. In case of irregularly shaped lots, the mean depth shall be taken.

**Lot Frontage** - The portion of a lot contiguous to a street.

**Lot Size** - The total square footage of the lot as described by the platted lot lines.

**Lot Width** - The distance between side property lines measured parallel to the street right-of-way line or tangent line. In case of irregularly shaped lots, the mean width shall be taken.

**Luminaire** - A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

**M**

**Manufacturing, Light** - The assembly, fabrication, or processing of goods and materials in a fully enclosed building using processes that do not create noise, fumes, odors, or health and safety hazards outside the building.

**Manufacturing, Heavy** - The assembly, fabrication, or processing of goods and materials using processes that have significant impacts on the environment or on the use and enjoyment of other surrounding properties relative to noise, smoke, fumes, odors, glare, or health or safety hazards.

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**Medical Clinic** - A healthcare facility that is primarily focused on the care of outpatients, offering routine or specialty services. Clinics are smaller than hospitals but offer a broader range of services, is larger than a doctor's office, and does not allow overnight care.

**Medical Clinic, Major** - A healthcare facility that is primarily focused on the care of outpatients, offering routine or specialty services, and may include expanded level of services such as X-rays, MRIs, and other imaging scans, lab tests and bloodwork, outpatient surgeries, colonoscopies, mammograms, specialty care for some medical issues, routine physical exams, and chemotherapy or radiation for cancer patients.

**Military Reserve and National Guard Centers** - A facility occupied by either the Military Reserve or the National Guard. The Military Reserve is a federal-based group of reserve military personnel or units that is initially not committed to a battle. The National Guard is a state-based military force that is part of the reserve forces of the US Army and US Air Force.

**Mixed-use Development** - Development with residential and non-residential uses combined on the same lot, premise, or in the same building. The non-residential uses are limited to those allowed as permissive or conditional in the zone district in which the mixed-use development is located.

**Motor Vehicle Fueling and Service Station** - A commercial establishment primarily engaged in the retail sale of light vehicle fuels, including but not limited to gasoline, gas/oil mixtures, diesel fuel, compressed natural gas, electricity, and hydrogen through fixed, approved dispensing equipment. Incidental activities include but are not limited to car washes and the retail sale of convenience items, food and beverages, and household items.

**Mobile Food Truck** - A large, motorized vehicle or trailer that parks on private property and is equipped with a kitchen from which food or beverages are prepared and sold to customers.

**Municipal Facility** - A facility or building that houses personnel and functions provided by local government, including but not limited to Village Hall, Police or Fire Stations, wastewater treatment plants, etc.

**Mural** - A graphic illustration applied directly to the exterior wall of a building that does not advertise or promote a particular business, service, or product. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

**Museum** - A structure that displays, preserves, and/or exhibits objects of community interest in art, antiquities, or similar items, operating with or without an admission fee.

## N

**Nonconforming, Dimension** - A situation that occurs when the height, size, or minimum floor space of structures does not conform to the regulations applicable to the district in which the property is located.

**Nonconforming, Lot** - A legally platted and recorded lot existing at the effective date of this Ordinance that does not meet the minimum lot size requirement of the zoning district in which the lot is located.

**Nonconforming, Structure** - Any building, structure, or portion thereof existing at the effective date of the ordinance codified in this title which exceeds maximum height, density, or setback requirements of the district in which the structure is located.

**Nonconforming, Use** - A use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is located.

**Nuisance** - The use of property or land that creates unusual, unnecessary, or undue problems or situations for persons in the vicinity that would not have normally occurred otherwise.

**O**

**Open Air Market** - A retail business that sells or rents goods or products that are displayed or merchandised outside of an enclosed, permanent structure.

**Outdoor Concert** - A single event outdoor event that features live performance and operates under an event permit from the Village.

**Overlay Zone** - A zoning designation that is placed on top of an underlying zoning district that imposes special regulations in addition to those of the underlying zone.

**P**

**Pad Site** - A freestanding parcel of commercial real estate located in front of a large commercial development or anchor that may be ground leased or purchased and may share parking spaces with other tenants of the commercial development.

**Parapet** - The portion of an exterior wall projecting vertically above the roofline of the building.

**Parking Area** - An outdoor area intended for the accommodation of off-street parking of motor vehicles by customers, clients, employees, or residents; includes parking spaces and drive aisles; and provides ingress and egress from and to a street or alley.

**Parking, Vehicle Storage** - A building used or occupied for the storing of motor vehicles, recreational vehicles, or boats.

**Pawn Shop** - A commercial establishment engaged in the business of lending money on the deposit or pledge of personal property; the purchase of personal property with the expressed or implied agreement or understanding to sell it back at a stipulated price; or engaged in the business of purchasing items of precious metals or gems and reselling the product.

**Planned Residential Development** - Development constructed on a tract of at least five acres, under single ownership, planned and developed as an integral unit, and consisting of single-family detached dwelling units combined with either two-family dwelling units or multi-family dwelling units.

**Planned Unit Development** - A development constructed on a tract of at least 10 acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses.

**Planning and Zoning Commission** - A 5-member board appointed by the Mayor for a two-year term and whose responsibility it is to make recommendations to the Village Council concerning applications for designated use permits and zone map amendments; final decisions on appeals from any order, decision, requirement, or interpretation by the Community Development Director; applications for conditional use permits and variances; and interpretations of the zoning map, including zoning district boundary lines.

**Plate Line** - The top of the highest horizontal framing member or solid wall of a building or structure upon which roof beams or ceiling rafters rest.

**Premises** - A lot or combination of contiguous lots held in single ownership, together with the development on that lot or lots.

**Principal Building** - The building in which the principal use of the lot on which it is located is conducted. Lots with multiple principal uses may have multiple principal buildings, but accessory structures shall not be considered principal buildings.

**Public Safety Facility** - A facility that provides police or fire protection and related administrative facilities.

**Q**

(not used)

**R**

**Real Estate Office** - A facility or area used as a temporary office to sell or lease land or buildings or interests in land or buildings within a specified area. May also include a model home.

**Recreational Vehicle and Park** - A vehicle including but not limited to camping trailer, motor home, minimotor home, travel trailer, truck camper, van camper, boat, and boat trailer used primarily for travel and recreational purposes and not used commercially, as well as any vehicle bearing recreational vehicle registration (license) plates, not permanently connected to utilities, and is not considered an accessory dwelling unit or tiny house regardless of the installation of an axle(s). A recreational vehicle park is land dedicated to parking of recreational vehicles and may include support services such as restroom, shower, and laundry facilities.

**Religious Institution** - A building that houses an organization founded on an established religion, such as a church, synagogue, mosque, temple, or other house of worship.

**Residence, Duplex** - A residential building consisting of two attached dwelling units, each of which is occupied by one household and divided by common walls, situated on the same parcel. Each dwelling unit shall have a separate entrance.

**Residence, Horizontal Multi-family Detached** -Three or more single-family detached dwelling units rented or leased and situated on the same parcel with no more than 8 dwelling units per acre.

**Residence, Manufactured Home** - A movable or portable single-family dwelling unit with a heated area of at least 36 feet by 24 feet and at least 864 square feet designed to be moved on its own chassis in one or more separate units, installed with or without a permanent foundation, and constructed in a factory to the Housing and Urban Development National Manufactured Housing Construction and Safety Standards Act of 1974.

**Residence, Mobile Home** - A movable or portable single-family dwelling unit with a heated area larger than 40 feet by 8 feet and is more than 320 square feet designed to be moved on its own chassis, installed without a permanent foundation which cannot be construed as real property, and constructed in a factory prior to 1976 but not to the Housing and Urban Development National Manufactured Housing Construction and Safety Standards Act of 1974. Mobile home does not include a recreational vehicle or recreational travel trailer.

**Residence, Modular Home** - A factory-built home that is constructed in modules and built to the same Uniform Building Codes as site-built homes, and transported to and installed on the home site, but not built on a chassis. Modular home does not include manufactured home.

**–Residence, Multi-Family Attached** - One or more residential buildings with three or more attached dwelling units divided by common walls rented or leased and situated on the same parcel.

**Residence, Patio Home** - A site built residential building intended for occupancy by one family. These structures may be built on a zero lot line such that they are attached along a side lot line by a garden wall, a cross wall, or common wall with another unit.

**Residence, Tiny House** - A single-family dwelling unit of 200 to 400 square feet in floor area, excluding lofts, containing living, sleeping, kitchen, and bathroom facilities, installed on a permanent foundation with or without a chassis and the axle(s) removed, and does not include recreational vehicles.

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**Residence, Townhouse** - A site built residential building consisting of two or more but not exceeding 6 attached dwelling units divided by common walls and situated on separate parcels. Each dwelling unit shall have a separate entrance at ground level.

**Residence, Single-Family Detached** - A site built residential building used for occupancy by one household that is not attached to any other dwelling unit through shared walls, ceilings, or floors and is located on a single lot.

**Residence, Zero Lot Line** - A site built detached single-family dwelling with one exterior side wall that is located on a side property line, thus reducing the side yard setback on one side to zero feet in favor of a larger side yard setback on the opposite side of the lot.

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

**Retail, General** - A commercial establishment engaged in the sale of new or used goods directly to the final consumer but not for the purpose of resale or wholesale, including but not limited to the sale of general merchandise or food; clothing, shoes, and other apparel; flowers and household plants that are not grown on-site; dry goods; convenience and specialty foods; hardware and similar consumer goods;; or other retail sales not listed as a separate use in Table 17.08.020.1.

**Right-of-way** - The public property that is dedicated or deeded for public use, under the control of a public agency, and intended to be occupied by a street, water line, sanitary sewer or other public utilities or facilities.

**RV Park** - Commercial land designated for the temporary parking of recreational vehicles used for travel or vacation purposes. Does not include places where unoccupied recreational vehicles are stored or offered for sale or lease.

## S

**School** - An accredited public or private institution for the teaching of children or adults including primary and secondary schools, colleges, trade schools, and similar facilities.

**School, Charter** - A public institution authorized by the state Public Education Commission or the Los Lunas School District to provide for the teaching of children and typically offer alternative educational options.

**Setback** - The required distance between a structure or parking lot and a lot line; includes front, side, and rear areas of the lot.

“Front yard” is the portion of the lot at grade between the front lot line and the front wall of the primary building, unoccupied and unobstructed by any portion of a structure from the ground upward to the sky, except for permitted projections from the ground such as landscaping, fencing, or walls.

“Side yard” is the portions of the lot at grade on each side of the primary building, bounded by the side wall of the primary building on one side, the side lot line on the opposite side, beginning from the front wall of the building and extending to the rear wall.

“Rear yard” is the portion of the lot at grade between the rear wall of the primary building and the rear lot line, unoccupied and unobstructed by any portion of a structure from the ground upward to the sky, except for permitted projections from the ground such as landscaping, fencing, or walls.

**Shopping Center** - A premise containing a group of commercial establishments designed, organized, and managed as a unit that share parking areas, pedestrian walkways, and loading facilities.

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**Sign** - Any device, including but not limited to letters, words, numerals, figures, emblems, logos, or a combination, used for visual communication, that is intended to inform or attract the attention of the public and visible from the public right-of-way or other properties.

**Sign, Abandoned** - Any sign that describes, directs attention to, gives directions for locating any business or establishment that is no longer in operation, or advertises a product no longer being marketed or any sign structure lacking a sign face or sign copy for a period that exceeds 90 days.

**Sign, Animated** - A sign that uses graphics displayed in a progression of frames that give the illusion of movement.

**Sign Area** - The entire face of a sign as measured from the outer area of all letters, characters, and delineations, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

**Sign, Awning** - A sign that is attached to, or painted, stamped, perforated, stitched, onto an awning.

**Sign, Banner** - A sign of lightweight fabric or similar material that is not permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**Sign, Billboard** - An off-premise sign which advertises or directs attention to a business, product, service, or event that is not conducted, sold, or offered at the premises where the billboard is located.

**Sign, Building Identification** - A sign that identifies only the name, address, suite number or building identifier, and lawful use of the premises upon which it is located and provides no other advertisements or product identification.

**Sign, Building-mounted** - A sign entirely supported by or through a building, including canopy sign, marquee sign, projecting sign, rooftop sign, or wall sign.

**Sign, Cabinet** - A sign that contains all the text and/or logo symbols within a single enclosed case.

**Sign, Canopy** - A sign that is mounted, painted, or applied on or attached to a freestanding canopy or structural protective cover over an outdoor entry or doorway. Canopy signs are frequently supported by poles and extend over a sidewalk or entry. An awning or a marquee is not a canopy sign.

**Sign, Development Identification** - A type of temporary sign used to identify a shopping center, industrial park, or other type of development being, or to be, constructed. Also referred to as a construction sign.

**Sign, Directional** - A sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on the site.

**Sign, Electronic** - A sign that displays words, symbols, figures, or images that can be changed by remote or automatic means and may be animated but static for a minimum of 8 seconds. Does not include neon signs.

**Sign, Flag** - Any fabric or flexible material that is attached to or designed to be flown from a flagpole and which is used to symbolize a government, political subdivision, institution, or other entity.

**Sign, Flashing** - An illuminated sign on which artificial or reflected light is not maintained stationary or constant in intensity and color at all times when in use. An animated sign shall not be considered a flashing sign.

**Sign, Flex-pole** - A temporary sign that consists of a flag that includes an advertising message that is attached to a flexible pole that attracts attention by the flag and pole moving by the wind.

**Sign, Freestanding** - A sign supported by a structure that is placed on or anchored in or below the ground and is not attached to a building or other structure; includes monument signs and pole signs.

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**Sign, Garage Sale** - A sign used to advertise a garage sale, rummage sale, or moving sale, for the resale of used personal property. For the purposes of this Ordinance, this also pertains to community sales, which may involve several individuals at the same location.

**Sign, Government** - A sign erected and maintained by or on behalf of the government, or required by law, ordinance, or other regulation, including legal notices, advertisements, traffic, identification, direction, and information signs on government property. Government signs are exempt from regulation.

**Sign, Hanging** - A sign that is suspended from, and located entirely under, a covered porch, covered walkway, or an awning.

**Sign, Home Occupation** - A sign located on a residentially zoned lot that only contains advertising for goods and services legally offered on the premises where the sign is located, with the requirement that the service offered at the location conforms to all requirements of this Ordinance.

**Sign, Identification** - A sign used to display only the name or address that identifies the area or premises where the sign is located and bearing no advertising.

**Sign, Illegal** - A sign erected without first obtaining a permit and without complying with all regulations in effect at the time of its construction or use; a sign that was legally erected but whose use has ceased because the business it identifies is no longer conducted on the premises; a sign that is a danger to the public or is unsafe; or a sign that pertains to a specific event that has not been removed within 5 days after the event has occurred; or is otherwise in violation of this Ordinance.

**Sign, Illuminated** - A sign that is illuminated from a source of light within the interior of the sign or directed toward the sign and shielded so that no light is visible on the lot or premise where the illumination occurs.

**Sign, Incidental** - A sign, generally informational, that has a purpose secondary to the use of the lot or premise on which it is located, such as "no parking," "entrance," "loading only," "telephone", "beware of dog" and other similar messages. No sign with a commercial message or advertisement that is readable from a location off the lot on which the sign is located shall be considered an incidental sign.

**Sign, Informational** - A sign that includes information of a general directive or informational nature such as no parking, handicapped parking, loading area, self-service, and rest rooms, and which bears no advertising.

**Sign, Kiosk** - A freestanding sign consisting of 3 to 5 sides that list the names of and direction to businesses located on a property or in a building.

**Sign, Marquee** - A permanent horizontal sign attached to a marquee that projects out from a building wall at a building entry and includes lettering that is changeable, fixed, or both. A marquee sign is not a canopy or awning sign.

**Sign, Mobile Billboard** - A sign attached to a vehicle, typically a truck, that contains advertising or messages and is driven around the community; not intended to be stationary.

**Sign, Monument** - A detached, freestanding sign supported primarily by an internal structural framework or by a permanent base that is affixed to the ground or other solid structural feature other than support poles, pylons, or attached to a building.

**Sign, Multi-tenant** - A sign for a commercial or office property with multiple tenants that displays the name of each tenant on the property but does not carry any advertising information.

**Sign, Nonconforming** - A sign which was legally installed under the Title in effect at the time of its installation, but which no longer conforms with the current provisions of this Title.

**Sign, Off-Premise** - Any sign advertising or identifying a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

**Sign, Open House** - A temporary sign used to advertise the sale of a house and direct potential buyers to the house for sale.

**Sign, On-site** - A sign that advertises a business, commodity, or service sold, offered, and existing on the same lot or premise where the sign is displayed.

**Sign, Pennant** - A geometric shaped cloth, fabric, or other lightweight material, normally fastened to a stringer and secured or tethered so as to allow movement in the wind.

**Sign, Permanent** - A sign attached to a building, structure, or to the ground in a manner that requires a permit, and which is constructed of durable materials and intended to exist for the duration of time that the use or occupant is located in the building or premises.

**Sign, Political** - A temporary sign identifying and urging support or opposition for a particular election issue, political party, or candidate for public office. Political signs shall be considered a type of incidental sign.

**Sign, Portable** - A sign whose principal structure is intended by design and construction to be used by resting upon the ground for support and may be easily moved or relocated for reuse.

**Sign, Projecting** - A building-mounted sign that projects perpendicularly from a building above the building entry and advertises the commercial business or entity housed inside the building.

**Sign, Promotional** - A temporary sign that includes posters, pennants, banners, streamers, balloons, flags, and other displays of a commercial nature used to promote a grand opening or sales event.

**Sign, Pylon/Pole** - A freestanding sign that is attached to or supported from the ground by a single pole or post and is not attached to a building or structure.

**Sign, Real Estate** - A temporary sign placed upon property that indicates the sale, lease, or rental of the building or property, or to construction activities on the site.

**Sign, Revolving** - A sign or a sign structure that revolves or partially revolves in a circular pattern by means of a mechanical method around an axis, which includes, but is not limited to, a pole, building or other type of support.

**Sign, Roof** - A sign erected upon and over a roof structure and wholly supported by the roof structure.

**Sign, Single Event** - A temporary sign that advertises or announces a single event that is conducted for less than 24 hours, is not permanently attached to the ground or sign surface and is removed once the event has finished.

**Sign, Special Event** - A temporary sign that advertises or announces a special event that is conducted for more than one day but not longer than 7 calendar days, is not permanently attached to the ground or sign surface and is removed once the special event has finished.

**Sign, Subdivision** - A permanent sign placed on private property within a private easement and located at the entrance of residential subdivisions for the purpose of identifying the subdivision.

**Sign, Subdivision Directional** - A temporary sign that is designed and erected for the purpose of directing the public to a residential subdivision for the sale of homes or lots thereon. These signs may be placed on property other than property located within the subdivision.

**Sign, Temporary** - A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a specified period of time. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

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**Sign, Tethered Balloon** - A non-porous bag of light material filled with heated air or a gas lighter than air so as to rise and float in the atmosphere and tethered to a fixed place.

**Sign, Wall** - A sign mounted flat against a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure that is supported by the wall or building. Any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.

**Sign, Window** - Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window, on the windowpanes, or door with its message or image visible from the exterior of the window. Window wraps and windows with messages or images are considered window signs.

**Site Plan** - A 2-dimensional drawing that is drawn to scale and illustrates the buildings, structures, setbacks, parking, access, driveways, and drive aisles proposed in the development, as applicable.

**Special Events** - Temporary events, including circuses, fairs, carnivals, parades, races, festivals, or other types of special events that run for longer than one day but not longer than 7 calendar days. These activities are likely to attract substantial crowds and are unlike the customary or usual activities generally associated with the property where the special event is to be held.

**Stacking Lane** - A paved surface designed to accommodate vehicles whose occupants will be patronizing a drive through facility, such as financial institutions, restaurants, pharmacies, and dry cleaners.

**Stepback** - The horizontal distance in a multi-story building between the vertical plane of the ground level building façade and the vertical plane of the building façade above the ground floor.

**Storage, Self** - A development consisting of 3 or more individual, fully enclosed units that are leased or owned for the indoor storage of business, household goods, or contractors' supplies. May include individual units within a single enclosed building with access to the units through interior corridors or individual storage units with direct access from the outdoors.

**Storage, Outdoor** - The storing of any goods, materials, or merchandise outside of a building in the same place for more than 24 hours.

**Storage, Outdoor Vehicle** - The storing of any motor vehicles or boats not used for transportation purposes on an active, regular, or continuing basis outside of a building, generally for a period of 7 calendar days or more, regardless of whether the motor vehicle is titled, licensed, or operable, but not including a salvage yard.

**Street** - A public right-of-way or private way that is primarily devoted to vehicular use and can be designated as a street, drive, highway, throughway, boulevard, avenue, lane, place, way, road, circle, or court.

**Street, Cul-de-Sac** - A roadway that has one end open to vehicular traffic and the other end terminating in a vehicular turnaround.

**Street, Functional Classification System** - A system that groups roads into classes based on their intended function and their ability to move traffic and provide access to adjacent properties, with access control being a key factor in functional classification. The three main functional classes include arterial, collector, and local.

**Street, Major Collector** - A roadway that connects traffic from local roads and funnels it to the arterial network, with a lower speed limit than Arterials. Major Collectors are longer in length; have lower connecting driveways densities; have higher speed limits; are spaced at greater intervals; have higher annual traffic volumes; and may have more travel lanes than Minor Collectors. Major Collectors offer more mobility than Minor Collectors.

**Street, Minor Collector** - A roadway that connects traffic from local roads and funnels it to the arterial network, with a lower speed limit than Arterials or Major Collectors. Minor Collectors are typically shorter in length; have greater connecting driveway densities; have lower speed limits; are spaced at closer intervals;

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have lower annual traffic volumes; and typically have less travel lanes than Major Collectors. Minor Collectors offer more access than Major Collectors.

**Street, Minor Arterial** - A roadway that serves trips of moderate length, usually connecting to and augmenting Principal Arterials. Minor Arterial offers less mobility than a Principal Arterial, but a higher level of accessibility typically without penetrating residential neighborhoods.

**Street, Principal Arterial** - The highest classification of roadways that serve major activity centers and have the highest traffic volumes, higher speed limits, and limited access.

**Street, Local** - The most common type of roadway in the functional classification system whose function is to provide direct access to adjacent land and is not intended for use in long distance travel.

### T

**Tap Room/Tasting Room** - An establishment that is associated with a local brewery, winery, or distillery where beer, wine, or spirits are available for on-site consumption and the sale of packaged alcohol for offsite consumption is allowable.

**Truck Stop** - A facility including but not limited to retail fueling services, repair shops, automated washes, restaurants, overnight parking, and motels for tractor-trailer or semi-truck drivers and companies.

### U

**Usable Common Space** - An area that is not encumbered with any substantial structure, is not devoted to use as a roadway, parking area or sidewalk, is landscaped for ballfields, picnic areas, or similar facilities or is capable of being used for purposes of informal and unstructured recreation and relaxation, and is legally dedicated and practicably accessible to the residents of the development or to the public if dedicated for public use.

**Variance** - Exceptions to dimensional standards or variations from the strict application of standards contained in this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicants, a literal enforcement of title would result in unnecessary and undue hardship.



**Vehicle, Heavy** - A vehicle with a gross vehicle weight rating of 10,000 pounds or greater, including but not limited to tractors, semi-trucks and/or trailers, buses, harvesters, and loaders.

**Vehicle, Passenger** - A light vehicle that has a gross vehicle weight rating of less than 10,000 pounds, including but not limited to automobiles, light trucks, sport utility vehicles, and vans.

**Vendee** - A person to whom goods or services are furnished.

**Vendor** - A person furnishing goods or services.

### W

**Warehouse** - A building or premises in which goods, merchandise, or equipment are stored and frequent heavy trucking activity may occur. Open storage of material, or nuisances, such as dust, noise, and odors, shall not be part of this use. Use shall not include manufacturing or production.

**Warm Season Grass** - Grass species that thrive during late spring and summer months when temperatures are over 75 degrees and in soils with low moisture holding capacity, low pH, and low phosphorus levels. Warm season grass becomes dormant and turns brown in the cool temperatures of late fall and winter.

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**Wireless Transmission Facility (WTF)** - Unmanned facilities used for wireless communications, usually consisting of a support structure for antennas, equipment shelters or cabinets, and/or other transmission and reception devices used for business or commercial purposes.

1. **WTF Equipment Storage Shelter** - An unmanned structure used for freestanding telecommunication facilities or, when necessary, roof or building-mounted facilities to house WTF equipment.
2. **WTF Roof or Building-mounted Facility** - A facility where antenna is mounted to an existing structure, on the roof of a building, or on the building face(s). The facility will include both antenna(s) and related equipment. The equipment will be located in the existing structure or within an unmanned equipment storage shelter.

### X

**Xeriscaping** - The practice of designing landscapes that conserve water in arid regions by using plant materials that require little water, placing plants with similar water needs together, and employing efficient irrigation techniques.

### Y

(not used)

### Z

(not used)

## **ARTICLE II. ZONE DISTRICTS**

### **17.06.010 Adoption of the Official Zoning Map**

The regulations contained in this Ordinance apply to specific zone districts and overlays illustrated on the Village of Los Lunas Official Zoning Map. The Official Zoning Map is incorporated herein, including the zone districts and zone boundaries as established and shown on the Official Zoning Map. The latest version of the Official Zoning Map as approved or amended by the Village Council to the extent authorized by this Ordinance and is maintained in electronic form by the Village Community Development Department. No changes of any nature shall be made on the Official Zoning Map except in conformity with the procedures set forth in this Ordinance. Any unauthorized changes shall be considered a violation of this Ordinance.

### **17.06.020 Interpretation of Zone District Boundaries**

Where uncertainty exists in regard to the boundaries of zone districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Where a zone district boundary is indicated as approximately following the centerlines of streets, highways, or alleys, such centerlines shall be construed to be the district boundary.
- B. Where a district boundary is approximately following platted lot lines, such lot lines shall be construed to be the district boundary.
- C. Whenever any street, alley, rail line, or other public way is vacated, the zone district adjoining each side of such street, alley, rail line, or other public way shall be automatically extended to the center of such vacation, and the area included in the vacation shall be subject to the regulations of the extended zone districts; except if the ownership of the vacated street, alley, rail line, or other public way is divided other than at the center, the zone district boundary shall be construed to correspond to the ownership line.
- D. Where physical features existing on the ground are not consistent with the official zoning map, the Planning and Zoning Commission shall interpret the zone district boundaries.

### **17.06.030 Zone Districts Established**

- A. The zone districts and overlay zones listed in Table 17.06.030.1 are hereby established. These zone districts shall have the boundaries shown on the official zoning map and maintained in electronic format by the Village Community Development Department and available for viewing on the Village of Los Lunas website.
- B. The zone districts are categorized into five types, including residential zone districts; commercial and office zone districts; industrial and manufacturing zone districts; transit-oriented zone districts; special use district; and Main Street overlay district.
- C. The overlay zone districts supplement, but do not replace, the underlying zone districts. Where there is a conflict between the provisions of a zone district and the provisions of an overlay zone, the provisions of the overlay zone shall prevail regardless of whether the overlay zone regulations are more or less restrictive than the other regulations.

**Table 17.06.030.1.: Zone Districts**

|   |  |
|---|--|
| Residential Zone Districts                  | Agricultural Rural (A-R)                           |
|   | Rural Residential (R-R)                            |
|   | Single-family Detached Residential (R-1)           |
|   | Single-Family Attached Residential (R-2)           |
|   | Multi-Family Attached Residential (R-3)            |
|   | Horizontal Multi-Family Detached Residential (R-4) |
| Commercial and Office Zone Districts        | Neighborhood Commercial Retail (C-1)               |
|   | Community Commercial (C-2)                         |
| Industrial and Manufacturing Zone Districts | Light Manufacturing (M-1)                          |
|   | Heavy Manufacturing (M-2)                          |
| Transit-Oriented Development Zone Districts | Transit-Oriented Development-Mixed Use (TOD-MU)    |
|   | Transit-Oriented Development-Residential (TOD-R)   |
| Special Use Zone District                   | Special Use (SU)                                   |
| Overlay Zone District                       | Main Street Overlay (MSO-1 through MSO-4)          |

## **17.06.040 Residential Zone Districts**

### **A. Agricultural and Residential Zone District (A-R)**

The purpose of the A-R zone district is to accommodate and preserve agricultural and rural residential land uses on large lots where residents engage in agricultural, horticultural, and animal husbandry activities and where served by public water and sewer facilities. Uses incidental or accessory to dwelling units are listed in Table 17.08.020.1.

#### **(1) A-R District Standards**

- (a) A maximum of 1 primary dwelling unit shall be allowed on A-R zoned property.
- (b) Accessory structures shall be permitted on A-R zoned property provided they meet the setback standards listed in Table 17.06.040.1. and separation standards contained in Section 17.10.060.B Accessory Structure, except only one accessory dwelling unit (ADU) shall be allowed on an A-R zoned lot.

#### **(2) A-R Dimensional Standards**

**Table 17.06.040.1.: A-R Zone District Dimensional Standards**

|                          |                             |
|--------------------------|-----------------------------|
| Lot size, minimum        | 1 acre (43,560 square feet) |
| Lot width, minimum       | 100 feet                    |
| Front setback, minimum   | 25 feet                     |
| Rear setback, minimum    | 25 feet                     |
| Side setback, minimum    | 10 feet                     |
| Building height, maximum | 30 feet                     |

### **B. Rural Residential Zone District (R-R)**

The purpose of the R-R zone district is to preserve rural character where low-density residential development on large lots is the principal use and where served by public water and sewer facilities. Uses incidental or accessory to dwelling units are listed in Table 17.08.020.1.

#### **(1) R-R District Standards**

- (a) A maximum of 1 primary dwelling unit shall be allowed per R-R zoned lot.

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(b) Accessory structures shall be permitted per R-R zoned lot provided they meet the setback standards in Table 17.06.040.2. and separation standards listed in Section 17.10.060.B. Accessory Structure, except only one accessory dwelling unit (ADU) shall be allowed on an R-R zoned lot.

### **(2) R-R Dimensional Standards**

| <b>Table 17.06.040.2.: R-R Zone District Dimensional Standards</b> |                             |
|--|-----------------------------|
| Lot size, minimum  | ½ acre (21,780 square feet) |
| Lot width, minimum   | 75 feet                     |
| Front setback, minimum   | 25 feet                     |
| Rear setback, minimum  | 20 feet                     |
| Side setback, minimum  | 10 feet                     |
| Building height, maximum   | 30 feet                     |

### **C. Single-Family Detached Residential (R-1)**

The purpose of the R-1 zone district is to promote and accommodate single-family detached residential neighborhoods (not including mobile homes, single-wide manufactured homes, or single-wide modular homes) at medium densities in areas served by public water and sewer facilities. Limited uses that support single-family development, such as recreational and civic uses, and religious facilities, and uses incidental or accessory to single-family detached dwelling units are listed in Table 17.08.020.1.

#### **(1) R-1 District Standards**

(a) A maximum of 1 primary dwelling unit shall be allowed per R-1 zoned lot.

(b) Accessory structures shall be permitted per R-1 zoned lot provided they meet the setback standards in Table 17.06.040.3. and separation standards listed in Section 17.10.060.B. Accessory Structure, except only one accessory dwelling unit (ADU) shall be allowed on an R-1 zoned lot.

### **(2) R-1 Dimensional Standards**

| <b>Table 17.06.040.3.: R-1 Zone District Dimensional Standards</b> |  |
|--|--|
| Lot size, minimum  | 7,500 square feet (.17 acre)                     |
| Lot width, minimum   | 50 feet  |
| Front setback, minimum   | 20 feet  |
| Rear setback, minimum  | 15 feet  |
| Side setback, minimum  | 7.5 feet; 10 feet for street side of corner lots |
| Building height, maximum   | 30 feet  |

### **D. Single-Family Detached Residential Mixed (R-1A)**

The purpose of the R-1A zone district is to accommodate mobile homes, manufactured and modular homes (single or double-wide), and site-built homes in areas served by public water and sewer facilities.

#### **(1) R-1A District Standards**

(a) A maximum of 1 primary dwelling unit shall be allowed per R-1A zoned lot.

(b) Accessory structures shall be permitted per R-1A zoned lot provided they meet the setback standards in Table 17.06.040.4. and separation standards listed in Section 17.10.060.B. Accessory Structure, except only one accessory dwelling unit (ADU) shall be allowed on an R-1A zoned lot.

**(2) R-1A Dimensional Standards**

| <b>Table 17.06.040.4.: R-1A Zone District Dimensional Standards</b> |  |
|---|--|
| Lot size, minimum   | 3,000 square feet (.07 acre)                   |
| Lot width, minimum  | 30 feet  |
| Front setback, minimum  | 20 feet  |
| Rear setback, minimum   | 10 feet  |
| Side setback, minimum   | 5 feet; 10 feet for street side of corner lots |
| Building height, maximum  | 30 feet  |

**E. Single-Family Attached Residential (R-2)**

The purpose of the R-2 zone district is to provide for medium-density, single-family detached and attached residential structures on smaller lots in areas served by public water and sewer facilities.

**(1) R-2 District Standards**

- (a) A maximum of 1 primary dwelling unit shall be allowed per R-2 zoned lot.
- (b) Accessory structures shall be permitted per R-2 zoned lot provided they meet the setback and separation standards in Table 17.06.040.5.

**(2) R-2 Dimensional Standards**

| <b>Table 17.06.040.5.: R-2 Zone District Dimensional Standards</b> |   |
|--|---|
| Lot size, minimum  | 3,000 square feet (.07 acre)                                    |
| Lot width, minimum   | 30 feet   |
| Front setback, minimum   | 20 feet   |
| Rear setback, minimum  | 15 feet   |
| Side setback, minimum  | 0 feet <sup>1, 2</sup> ; 10 feet for street side of corner lots |
| Building height, maximum   | 30 feet   |

1. Multi-unit townhouse structures containing attached dwellings shall maintain a minimum separation of 15 feet between structures.
2. Patio homes shall maintain a minimum separation of 10 feet between structures.

**F. Multi-Family Residential (R-3)**

The purpose of the R-3 zone district is to provide for higher-density multi-family residential development in areas served by public water and sewer facilities.

**(1) R-3 District Standards**

- (a) There shall be no maximum number of dwelling units per R-3 zoned lot.
- (b) A minimum of 10 percent of the gross area of the lot shall be designated as useable common space for the enjoyment of the residents.
- (c) Accessory structures shall be permitted per R-3 zoned lot provided they meet the setback and separation standards in Table 17.06.040.6.

**(2) R-3 Dimensional Standards**

| <b>Table 17.06.040.6.: R-3 Zone District Dimensional Standards</b> |                               |
|--|-------------------------------|
| Lot size, minimum  | 15,000 square feet (.34 acre) |
| Lot width, minimum   | 60 feet                       |
| Front setback, minimum   | 20 feet                       |
| Rear setback, minimum  | 15 feet                       |

|                          |   |
|--------------------------|---|
| Side setback, minimum    | 5 feet; 10 feet for street side of corner lots  |
| Building height, maximum | 35 feet   |
| Useable common space     | <ul style="list-style-type: none"> <li>• 15% of residential site area designated for publicly accessible useable common spaces (e.g. patios, plazas, courtyards, or widened sidewalks)<sup>3</sup></li> <li>• 8-foot minimum width</li> </ul> |

1. Multi-unit townhouse structures containing attached dwellings shall maintain a minimum separation of 15 feet between structures.

## **G. Multi-Family Detached Residential (R-4)**

The purpose of the R-4 district is to provide for residential development where there are multiple dwelling units (i.e. site built, modular, manufactured, mobile homes, or tiny houses) on the same lot in areas served by public water and sewer facilities.

### **(1) R-4 District Standards**

- (a) R-4 zoned sites shall be serviced by private streets that meet the requirements of the Village Development Process Manual standards.
- (b) A minimum of 10 percent of the gross total site area shall be designated for useable common space for the enjoyment of the residents.
- (c) R-4 zoned sites may include spaces for lease or rent and may include a leasing office and common services and amenities for the use by the residents of such development.

### **(2) R-4 Dimensional Standards**

**Table 17.06.040.7.: R-4 Zone District Dimensional Standards**

|                          |                                   |
|--------------------------|-----------------------------------|
| Lot size, minimum        | 130,680 SF (3 acres) <sup>1</sup> |
| Lot width, minimum       | 50 feet                           |
| Front setback, minimum   | 20 feet                           |
| Rear setback, minimum    | 10 feet                           |
| Side setback, minimum    | 10 feet                           |
| Building height, maximum | 26 feet <sup>2</sup>              |

1. Minimum lot size for a tiny house development shall be 87,120 SF (2 acres).
2. Maximum building height for leasing office and clubhouse on the same lot shall be 30 feet.
3. All structures shall maintain a minimum separation of 15 feet.

## **17.06.050 Commercial and Office Zone Districts**

### **A. Neighborhood Commercial (C-1)**

The purpose of the C-1 zone district is to accommodate the neighborhood-scale commercial and office needs of the community.

### **(1) C-1 District Standards**

- (a) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned or is in use for single-family residential purposes shall step down to a maximum height of 30 feet.
- (b) Where commercial development abuts a residential zone, the commercial development shall meet the setback requirement for the lot line of the residential zone to which it is contiguous. For example, if the side area of the commercial development is contiguous to a residential zone that

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requires a 10-foot minimum side setback, the commercial development shall be required to provide a 10-foot minimum side setback, for a total separation of 20 feet.

### **(2) C-1 Dimensional Standards**

| <b>Table 17.06.050.1.: C-1 Zone District Dimensional Standards</b> |  |
|--|--|
| Lot size, minimum  | 5,000 square feet (.11 acre)   |
| Lot width, minimum   | 40 feet  |
| Front setback, minimum   | 5 feet   |
| Rear setback, minimum  | 15 feet <sup>(b)</sup>   |
| Side setback, minimum  | 0 feet (interior); 10 feet for street side of corner lots <sup>(b)</sup> |
| Building height, maximum   | 35 feet  |

## **B. Community Commercial (C-2)**

The purpose of the C-2 zone district is to accommodate heavy commercial, office, and institutional needs of the community. These uses typically require a large lot and may be highway oriented, generally not available in the C-1 district, and generate a higher level of traffic and noise.

### **(1) C-2 District Standards**

- (a) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned or is in use for single-family residential purposes shall step down to a maximum height of 30 feet.
- (b) Where commercial development abuts a residential zone, the commercial development shall meet the setback requirement for the lot line of the residential zone to which it is contiguous. For example, if the side area of the commercial development is contiguous to a residential zone that requires a 10-foot minimum side setback, the commercial development shall be required to provide a 10-foot minimum side setback, for a total separation of 20 feet.
- (c) Development within C-2 lots shall have frontage along a principal arterial.

### **(2) C-2 Dimensional Standards**

| <b>Table 17.06.050.2.: C-2 Zone District Dimensional Standards</b> |  |
|--|--|
| Lot size, minimum  | 21,780 square feet (.5 acre)   |
| Lot width, minimum   | 40 feet  |
| Front setback, minimum   | 5 feet   |
| Rear setback, minimum  | 15 feet <sup>(b)</sup>   |
| Side setback, minimum  | 0 feet (interior); 10 feet for street side of corner lots <sup>(b)</sup> |
| Building height, maximum   | 45 feet  |

## **17.06.060 Industrial and Manufacturing Districts**

### **A. Light Industrial and Manufacturing (M-1)**

The purpose of the M-1 zone district is to provide for the manufacturing, assembly, fabrication, processing, warehousing, and storage activities to occur within a fully enclosed building..

### **(1) M-1 District Standards**

- (a) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned or is in use for single-family residential purposes shall step down to a maximum height of 35 feet.

(b) Where commercial development abuts a residential zone, the commercial development shall meet the setback requirement for the lot line of the residential zone to which it is contiguous. For example, if the side area of the commercial development is contiguous to a residential zone that requires a 10-foot minimum side setback, the commercial development shall be required to provide a 10-foot minimum side setback, for a total separation of 20 feet.

## **(2) M-1 Dimensional Standards**

**Table 17.06.060.1.: M-1 Zone District Dimensional Standards**

|                          |  |
|--------------------------|--|
| Lot size, minimum        | 1 acre (43,560 square feet)  |
| Lot width, minimum       | 60 feet  |
| Front setback, minimum   | 5 feet   |
| Rear setback, minimum    | 15 feet <sup>(b)</sup>   |
| Side setback, minimum    | 0 feet (interior); 10 feet for street side of corner lots <sup>(b)</sup> |
| Building height, maximum | 55 feet <sup>1</sup>   |

1. Maximum building height may be increased by 1 additional foot for each additional foot of setback above the minimum requirement.

## **B. Heavy Industrial and Manufacturing (M-2)**

The purpose of the M-2 zone district is to provide for the manufacturing, assembly, fabrication, processing, warehousing, and storage activities in appropriate locations while protecting surrounding properties from any adverse impact of those activities.

### **(1) M-2 District Standards**

- (a) Development on an M-2 zoned lot shall incorporate a 150-foot buffer where the M-2 lot is adjacent to or facing across a public right-of-way from a lot that is zoned or is in use for single-family residential purposes.
- (b) No objectionable byproducts of the use, such as light, glare, odors, smoke, dust, refuse, vibrations, radiation, electromagnetic interference, fire/explosion hazards, and noise greater than what is typical for loading/unloading and handling of goods and materials, shall extend beyond the lot lines on which the industrial or manufacturing use is located.

### **(2) M-2 Dimensional Standards**

**Table 17.06.060.2.: M-2 Zone District Dimensional Standards**

|                          |   |
|--------------------------|---|
| Lot size, minimum        | 1 acre (43,560 square feet)                               |
| Lot width, minimum       | 60 feet   |
| Front setback, minimum   | 5 feet  |
| Rear setback, minimum    | 15 feet   |
| Side setback, minimum    | 0 feet (interior); 10 feet for street side of corner lots |
| Building height, maximum | 65 feet <sup>1</sup>                                      |

1. Maximum building height may be increased by 1 additional foot for each additional foot of setback above the minimum requirement.

## **17.06. 070 Special Use District**

### **A. Special Use Zone District (SU)**

The purpose of the Special Use Zone is to accommodate uses that cannot be located in other zone districts because of their unusual nature infrequency of occurrence, effect on surrounding property, or other such

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reasons. This zone district is applied on a case-by-case basis and typically includes special standards as recommended by the Planning and Zoning Commission and imposed upon future development by the Village Council.

### **(1) SU District Standards**

- (a) A SU zone district shall not be allowed for any proposed development that could be achieved under a different zone district.
- (b) A SU zone district may contain any combination of uses listed in Table 17.08.020.1 provided those uses do not create significant adverse impacts on surrounding properties.
- (c) All allowable uses in the SU zone district are subject to Article IV. Supplementary Standards for Specific Uses, unless modified on the project site plan by the Planning and Zoning Commission.
- (d) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned or is in use for single-family residential purposes shall step down to a maximum height of 35 feet.

### **(2) SU Dimensional Standards**

- (a) Lot size, setbacks, and building height shall be negotiated on a case-by-case basis, except the building shall not be substantially different than adjacent development relative to building height and scale.

## **17.06.080 Transit-Oriented Development Districts**

### **A. Transit-Oriented Development Mixed-Use (TOD-MU)**

The purpose of the TOD-MU zone district is to promote development characterized by neighborhood-scale commercial combined with multi-family development that supports transit ridership, walking, and bicycling in proximity to the NM Rail Runner Express station.

### **(1) TOD-MU District Standards**

- (a) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned or is in use for single-family residential purposes shall step down to a maximum height of 30 feet.
- (b) The required minimum front setback is waived for buildings with ground-floor commercial uses.

### **(2) TOD-MU Dimensional Standards**

| <b>Table 17.06.080.1.: TOD-MU Zone District Dimensional Standards</b> |  |
|---|--|
| Lot size, minimum   | 7,500 square feet  |
| Lot width, minimum  | 30 feet  |
| Front setback, minimum / maximum                                      | 10 feet <sup>(b)</sup> / 15 feet   |
| Rear setback, minimum   | 15 feet  |
| Side setback, minimum   | 0 feet (interior); 10 feet for street side of corner lots <sup>1</sup>   |
| Building height, maximum  | 35 feet <sup>(a)</sup>   |
| Density, minimum / maximum  | 12 dwelling units per acre / 25 dwelling units per acre  |
| Useable common space  | <ul style="list-style-type: none"><li>• 15% of residential site area designated for publicly accessible useable common spaces (e.g. patios, plazas, courtyards, or widened sidewalks)</li><li>• 8-foot minimum width</li></ul> |

1. Multi-unit townhouse structures containing attached dwellings shall maintain a minimum separation of 15 feet between structures.

**B. Transit-Oriented Development Residential (TOD-R)**

The purpose of the TOD-R zone district is to provide for residential densities and uses supportive that encourage transit ridership, while protecting the existing scale and development intensity of surrounding residential neighborhoods.

**(1) TOD-R District Standards**

- (a) Any portion of a primary building within 75 feet of a lot line that abuts a lot that is zoned and in use for single-family residential purposes shall step down to a maximum height of 30 feet.
- (b) Where commercial development is contiguous to a residential zone, the commercial development shall meet the setback requirement for the lot line of the residential zone to which it is contiguous. For example, if the side area of the commercial development is contiguous to a residential zone that requires a 10-foot minimum side setback, the commercial development shall be required to provide a 10-foot minimum side setback, for a total separation of 20 feet.

**(2) TOD-R Dimensional Standards**

| <b>Table 17.06.080.2.: TOD-R Zone District Dimensional Standards</b> |   |
|--|---|
| Lot size, minimum  | 7,500 square feet   |
| Lot width, minimum   | 30 feet   |
| Front setback, minimum   | 20 feet   |
| Rear setback, minimum  | 15 feet <sup>b</sup>  |
| Side setback, minimum  | 0 feet (interior) <sup>(b), 1, 2</sup> ; 10 feet for street side of corner lots   |
| Building height, maximum   | 35 feet <sup>a</sup>  |
| Density, minimum / maximum   | 8 dwelling units per acre / 20 dwelling units per acre  |
| Useable common space   | <ul style="list-style-type: none"><li>• 15% of residential site area designated for publicly accessible, useable common space (e.g., patios, plazas, courtyards, or widened sidewalks)<sup>3</sup></li><li>• 8-foot minimum width</li></ul> |

1. Multi-unit townhouse structures containing attached dwellings shall maintain a minimum separation of 15 feet between structures.
2. Patio homes shall maintain a minimum separation of ten feet between structures.
3. Useable common space is not required if the property in question is within 1/4-mile walking distance of a designated park, plaza, or useable common space that is accessible to the public.

**17.06.090 Overlay Zones**

The regulations in Section 17.060.090 apply to Overlay Zones. Where there are conflicts with any other regulations in this Ordinance, the regulations of the Overlay Zone shall prevail regardless of whether the Overlay Zone regulations are more or less restrictive than the other regulations. Where the Overlay Zone is silent, the other regulations in this Ordinance prevail.

**A. Main Street Overlay District (MSO)**

The purpose of the MSO-1 zone district is to preserve the distinctive character, identity, and walkability of the Main Street corridor. Variations in lot size, building height, access, and adjacent uses exist along the corridor, which require different development standards. The Main Street corridor is divided into four segments that are described in this section.

**(1) Applicability**

- (a) The entire length of the Main Street corridor as delineated on the Village Zoning Map.
- (b) New construction of multi-family residential, mixed-use, and non-residential structures.
- (c) Expansion of existing multi-family residential, mixed-use, and non-residential structures by 30 percent or more of building floor area. This shall include façade improvements that are within 30 feet and visible from the Main Street right-of-way, where feasible.

**(2) MSO-1 (Western municipal boundary to Los Morros Road) District Standards**

- (a) Vehicle access to the development site shall be provided from Main Street and/or a side street in accordance with the Village Development Process Manual and as regulated by the New Mexico Department of Transportation.
- (b) Multi-family attached and single-family detached or attached residential development is permitted along the south side of Main Street only.
- (c) Large off-street parking areas containing 100 or more parking spaces and facing Main Street shall be screened with a 3- to 4-foot opaque wall and landscaping between the Main Street right-of-way and the screen wall.
- (d) Residential development shall incorporate a 30-foot setback from Main Street, a perimeter wall with a maximum height of 6 feet, and landscaping between the Main Street right-of-way and the perimeter wall. The landscaping shall contain a minimum of 25% evergreen trees for sound attenuation purposes.
- (e) Residential development shall incorporate pedestrian access from the public sidewalk or trail along Main Street into the residential development area at a minimum frequency of 1 access point per 600 feet.

**(f) MSO-1 Dimensional Standards**

| <b>Table 17.06.090.1.: MSO-1 Zone District Dimensional Standards</b> |                              |
|--|------------------------------|
| Non-residential lot size, minimum                                    | 87,120 square feet (2 acres) |
| Non-residential lot width, minimum                                   | 100 feet                     |
| Residential setback from Main Street, minimum                        | 30 feet                      |
| Non-residential off-street parking setback from Main Street, minimum | 30 feet                      |

**(3) MSO-2 (Los Morros to Los Cerritos Road) District Standards**

- (a) Vehicle access to the development site shall be provided from a side street, where feasible. In locations where this is not feasible, vehicle ingress and egress to the development site shall be provided as follows: one ingress/egress location from Main Street for development sites greater than 2 acres (see Subsection (b) below), no more than 36 feet in width, or as regulated by the New Mexico Department of Transportation.
- (b) Shared vehicle access between adjacent development sites smaller than 2 acres shall be provided, where feasible, to lessen the number of driveway cuts within MSO-2.
- (c) The front building façade and primary pedestrian entry to the building shall face Main Street.

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- (d) A pedestrian connection from the public sidewalk along Main Street to the primary building entry shall be provided. Where multiple buildings are provided on a single development site, more than one pedestrian connection may be required as determined in consultation with the Public Works Department.
- (e) Large off-street parking areas containing 100 or more parking spaces and facing Main Street shall be screened with a 3- to 4-foot opaque wall and landscaping between the Main Street right-of-way and the screen wall.
- (f) Multi-family attached residential development shall incorporate a 30-foot setback from Main Street, a perimeter wall with a maximum height of 6 feet, and landscaping between the Main Street right-of-way and the perimeter wall.
- (g) Multi-family attached residential development shall incorporate pedestrian access from the public sidewalk along Main Street into the residential development area at a minimum frequency of 1 access point per 600 feet.
- (h) The following uses shall not be allowed in the MSO-2 zone, regardless of the underlying zoning district:
  - (i) Multi-family detached residential
  - (ii) Patio homes
  - (iii) Single-family detached or attached residential development

(i) **MSO-2 Dimensional Standards**

| Table 17.06.090.2.: MSO-2 Zone District Dimensional Standards |   |
|---|---|
| Lot size, minimum   | 43,560 square feet (1 acre)                               |
| Lot width, minimum  | 100 feet  |
| Front setback, minimum  | 15 feet   |
| Rear setback, minimum   | 15 feet   |
| Side setback, minimum   | 0 feet (interior); 10 feet for street side of corner lots |
| Off-street parking setback, minimum                           | 15 feet   |
| Building height, maximum                                      | 35 feet   |

### **(4) MSO-3 (Los Cerritos Road to Los Lentes Road) District Standards**

- (a) The required minimum front setback is waived for buildings that contain ground-floor commercial use with residential use above.
- (b) Vehicle access to the development site shall be provided from the alley or side street, where feasible. In locations where this is not feasible, vehicle ingress and egress to the development site shall be provided as follows: one ingress/egress location from Main Street per development site (see Subsection (c) below), no more than 30 feet in width, or as regulated by the New Mexico Department of Transportation.
- (c) Shared vehicle access between adjacent lots is encouraged to lessen the number of driveway cuts within MSO-3.
- (d) A minimum of 40 percent of the Main Street frontage shall be building. The remaining 60 percent may be courtyard, landscaping, outdoor patio, or a combination thereof.
- (e) The front façade and primary pedestrian entry to the building shall face Main Street.

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- (f) A pedestrian connection from the public sidewalk along Main Street to the primary building entry shall be provided.
- (g) Multi-family attached residential development and mixed-use is permitted in the MSO-3 zone.
- (h) The following uses are not allowed in the MSO-3 zone, regardless of the underlying zoning district:
  - (i) Car wash
  - (ii) Drive-in theater
  - (iii) Drive-through facility (restaurant, pharmacy, or bank)
  - (iv) Hospital or major medical clinic
  - (v) Motor vehicle fueling or service station
  - (vi) Multi-family detached residential
  - (vii) Patio homes
  - (viii) Self-storage facility
  - (ix) Single-family detached or attached residential development
  - (x) Truck stop or heavy vehicle fueling

(i) **MSO-3 Dimensional Standards**

| Table 17.06.090.3.: MSO-3 Zone District Dimensional Standards |   |
|---|---|
| Lot size, minimum   | 3,000 square feet   |
| Lot width, minimum  | 100 feet  |
| Front setback, minimum  | 15 feet   |
| Rear setback, minimum   | 15 feet   |
| Side setback, minimum   | 0 feet (interior); 10 feet for street side of corner lots |
| Off-street parking setback, minimum                           | 15 feet   |
| Building height, maximum                                      | 26 feet within 100 feet of Main Street right-of-way       |
| Density, minimum / maximum                                    | 12 dwelling units per acre / 25 dwelling units per acre   |

### **(5) MSO-4 (Los Lentes Road to Valencia Road [east municipal boundary]) District Standards**

- (a) The required minimum front setback is waived for buildings that contain ground-floor commercial use with residential use above.
- (b) Vehicle access to the development site shall be provided from a side street, where feasible. In locations where this is not feasible, vehicle ingress and egress to the development site shall be provided as follows: one ingress/egress location from Main Street for development sites greater than 2 acres (see Subsection (b) below), no more than 36 feet in width, or as regulated by the New Mexico Department of Transportation.
- (c) Shared vehicle access between adjacent development sites smaller than 2 acres shall be provided, where feasible, to lessen the number of driveway cuts within MSO-4.
- (d) The front façade and primary pedestrian entry to the building shall face Main Street.
- (e) A pedestrian connection from the public sidewalk along Main Street to the primary building entry shall be provided. Where multiple buildings are provided on a single development site, more than one pedestrian connection may be required as determined in consultation with the Community Development Department.

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- (f) Multi-family residential development and mixed-use is permitted in the MSO-4 zone.
- (g) Large off-street parking areas containing 100 or more parking spaces and facing Main Street shall be screened with a 3- to 4-foot opaque wall and landscaping between the Main Street right-of-way and the screen wall.
- (h) Multi-family attached residential development shall incorporate a 30-foot setback from Main Street, a perimeter wall with a maximum height of 6 feet, and landscaping between the Main Street right-of-way and the perimeter wall.
- (i) Multi-family attached residential development shall incorporate pedestrian access from the public sidewalk or trail along Main Street into the residential development area at a minimum frequency of 1 access point per 600 feet.
- (j) The following uses are not allowed in the MSO-4 zone, regardless of the underlying zoning district:
  - (i) Drive-in theater
  - (ii) Motor vehicle fueling or service station, except at signalized intersections
  - (iii) Multi-family detached residential
  - (iv) Patio homes
  - (v) Single-family detached residential development
  - (vi) Truck stop or heavy vehicle fueling
- (k) **MSO-4 Dimensional Standards**

| <b>Table 17.06.090.4.: MSO-4 Zone District Dimensional Standards</b> |   |
|--|---|
| Lot size, minimum  | 43,560 square feet (1 acre)                               |
| Lot width, minimum   | 100 feet  |
| Front setback, minimum   | 15 feet   |
| Rear setback, minimum  | 15 feet   |
| Side setback, minimum  | 0 feet (interior); 10 feet for street side of corner lots |
| Off-street parking setback, minimum                                  | 15 feet   |
| Building height, maximum   | 35 feet <sup>(1)</sup>                                    |
| Residential density, minimum / maximum                               | 12 dwelling units per acre / 25 dwelling units per acre   |

1. Building heights over 26 feet shall incorporate a minimum stepback of 6 feet from the Main Street facing front façade.

## **ARTICLE III. ALLOWABLE USES – PERMISSIVE, CONDITIONAL, DESIGNATED, & ACCESSORY**

### **17.08.010 Abbreviations**

The following abbreviations are used to designate whether and how a principal use is allowed in a particular zone district:

- P      Permissive Primary. Indicates the use is permitted by right within the respective zone district as a primary use and may be subject to compliance with Article IV, Supplementary Standards for Specific Uses as indicated in the right-hand column of the table.
- C      Conditional. Indicates a conditional use permit shall be obtained from the Planning and Zoning Commission pursuant to Section 17.14.020.F. and may be subject to compliance with Article IV, Supplementary Standards for Specific Uses as indicated in the right-hand column of the table.
- D      Designated. Indicates a designated use permit shall be obtained from the Village Council pursuant to Section 17.14.020.F. and may be subject to compliance with Article IV, Supplementary Standards for Specific Uses as indicated in the right-hand column of the table.
- A      Accessory. Indicates the use is permitted as a permissive accessory use.

A blank cell indicates the use is prohibited within the respective zone district.

### **17.08.020 Allowable Uses**

The allowable use table lists the land uses allowed within all zone districts. The table contains use codes, general categories of land uses, specific land uses allowed, and indicates applicable supplementary development standards established under Article IV, Supplementary Standards for Specific Uses.

| <b>Table 17.08.020.1: Allowable Uses</b>                        |                                 |       |     |     |      |     |     |     |     |     |     |     |    |        |       |
|---|---------------------------------|-------|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |                                 |       |     |     |      |     |     |     |     |     |     |     |    |        |       |
|   |                                 | ZONES |     |     |      |     |     |     |     |     |     |     |    |        |       |
|   |                                 | A-R   | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R |
| <b>RESIDENTIAL</b>  |                                 |       |     |     |      |     |     |     |     |     |     |     |    |        |       |
| <b>Household Living</b>   |                                 |       |     |     |      |     |     |     |     |     |     |     |    |        |       |
| 1.100   | Planned residential development |       |     |     |      |     |     |     |     |     |     |     | P  |        |       |
| 1.200   | Planned unit development        |       |     |     |      |     |     |     |     |     |     |     | P  |        |       |
| 1.300   | Residence, cluster development  |       |     |     |      |     |     |     |     |     |     |     | P  |        |       |
| 1.400   | Residence, duplex               |       |     |     |      | P   | P   |     |     |     |     |     | P  | P      |       |

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| Table 17.08.020.1: Allowable Uses                               |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|---|--|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| ZONES   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| Use Codes   | Use  | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |
| 1.500   | Residence, horizontal multi-family detached  |     |     |     |      |     |     | P   |     |     |     |     |    |        |       | 17.10.020.D.               |
| 1.600   | Residence, manufactured home or modular home | P   | P   | P   | P    |     |     |     | C   |     |     |     |    |        |       |                            |
| 1.700   | Residence, mobile home                       | P   | P   |     | P    |     |     |     |     |     |     |     |    |        |       |                            |
| 1.800   | Residence, multi-family attached             |     |     |     |      | P   |     | C   | D   |     |     |     |    | P      | P     |                            |
| 1.900   | Residence, patio homes                       |     |     |     |      | P   |     |     |     |     |     |     |    |        | P     |                            |
| 2.100   | Residence, single-family detached            | P   | P   | P   | P    | P   |     |     | C   |     |     |     |    |        |       |                            |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 2.200   | Residence, tiny house                        | P   | P   |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 2.300   | Residence, townhouse                         |     |     |     |      | P   | P   |     |     |     |     |     | P  | P      |       |                            |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| <b>Congregate Living</b>  |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 2.400   | Assisted living facility or nursing home     | C   | C   | C   |      | C   |     |     | P   | P   |     |     |    |        |       |                            |
| 2.500   | Boarding house                               |     |     |     |      | D   |     |     |     |     |     |     |    |        |       |                            |
| 2.600   | Community residential facility               | D   | D   | D   |      | D   |     |     | C   | C   |     |     |    |        |       | 17.10.020.B.               |
| 2.700   | Group home                                   | C   | C   | C   |      | C   |     |     |     |     |     |     |    |        |       | 17.10.020.C.               |
| <b>CIVIC AND INSTITUTIONAL USES</b>                             |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 2.800   | Cemetery                                     |     |     |     |      |     |     |     |     |     |     |     | P  |        |       |                            |
| 2.900   | Correctional facility                        |     |     |     |      |     |     |     |     |     |     |     | P  |        |       |                            |
| 3.100   | Crematorium                                  |     |     |     |      |     |     |     |     |     |     |     | P  |        |       |                            |
| 3.200   | Day care center                              |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |

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| Table 17.08.020.1: Allowable Uses                               |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
|---|--|-----------|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|--------------|----------------------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
|   |  | ZONES     |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
|   |  | Use Codes | Use | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R        | Supplemental Use Standards |
| 3.300   | Funeral home                               |           |     |     |     |     |      |     |     | P   | P   | P   |     |     |    |        |              |                            |
| 3.400   | Hospital or major medical clinic           |           |     |     |     |     |      |     |     |     | C   | P   |     |     |    |        |              | 17.10.040.A.               |
| 3.500   | Library or museum                          |           |     |     |     |     |      |     |     | P   | P   |     |     |     | P  |        |              |                            |
| 3.600   | Military reserve, national guard centers   |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |              |                            |
| 3.700   | Municipal facility                         |           |     |     |     |     |      |     |     | P   | P   | P   |     |     |    |        |              |                            |
| 3.800   | Overnight shelter                          |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        | 17.10.040.B. |                            |
|   |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
| 3.900   | Public safety, civil defense operation     |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |              |                            |
| 4.100   | Public safety, ambulance or rescue service |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |              |                            |
| 4.200   | Public safety, police or fire station      |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |              |                            |
| 4.300   | Religious institution                      |           |     |     |     |     |      |     |     | P   | P   | P   |     |     | P  |        | 17.10.040.C. |                            |
| 4.400   | School, private university or college      |           |     |     |     |     |      |     |     | P   | P   | P   |     |     | P  |        |              |                            |
| 4.500   | School, private primary or secondary       |           |     |     |     |     |      |     |     | P   | P   | P   |     |     | P  |        |              |                            |
| 4.600   | School, private vocational                 |           |     |     |     |     |      |     |     | P   | P   | P   |     |     | P  |        |              |                            |
| <b>COMMERCIAL</b>   |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
| <b>Accommodations</b>   |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |
| 4.700   | Bed and breakfast                          | C         | C   | C   |     | C   | P    |     |     |     |     |     |     |     | P  | P      |              |                            |
| 4.800   | Hotel or motel                             |           |     |     |     |     |      |     |     | C   | P   | P   |     |     | P  |        |              |                            |
| 4.900   | RV park and campground                     |           |     |     |     |     |      |     |     | C   | P   |     |     |     |    |        |              |                            |
| <b>Agriculture and Animal Related</b>                           |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |              |                            |

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| Table 17.08.020.1: Allowable Uses                               |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
|---|---|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|--------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| ZONES   |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| Use Codes   | Use                                     | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |              |
| 5.100   | Agriculture, including livestock        | P   | P   |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| 5.200   | Agriculture, excluding livestock        |     |     | P   |      | P   | P   | P   |     |     | P   |     |    |        | P     |                            |              |
| 5.300   | Cannabis, cultivation / production      |     |     |     |      |     |     |     |     | D   | P   | P   |    |        |       |                            | 17.10.050.D. |
| 5.400   | Commercial greenhouse, nursery          | D   |     |     |      |     |     |     |     | P   | P   |     |    |        |       |                            |              |
| 5.500   | Dog breeding                            | C   | C   |     |      |     |     |     | D   |     |     |     |    |        |       |                            |              |
| 5.600   | Equestrian center                       | P   |     |     |      |     |     |     |     | P   | P   |     |    |        |       |                            |              |
| 5.700   | Farmers' market                         | P   | P   |     |      |     |     |     | P   | P   |     |     |    | P      |       |                            |              |
| 5.800   | Horticultural sales                     | P   | P   |     |      |     |     |     |     | P   |     |     |    |        |       |                            |              |
| 5.900   | Kennel                                  | C   |     |     |      |     |     |     | C   | P   | P   |     |    |        |       |                            |              |
| 6.100   | Veterinary clinic or hospital           | C   |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            | 17.10.030.M  |
| <b>Food, Beverage, and Indoor Entertainment</b>                 |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| 6.200   | Bar or nightclub                        |     |     |     |      |     |     |     |     | P   |     |     |    |        |       |                            | 17.10.030.C. |
| 6.300   | Cannabis consumption area               |     |     |     |      |     |     |     |     |     | P   |     |    |        |       |                            | 17.10.050.C. |
| 6.400   | Mobile food truck court                 |     |     |     |      |     |     |     | P   | P   | P   |     |    | C      |       |                            | 17.10.030.H. |
| 6.500   | Restaurant                              |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            | 17.10.030.J. |
| 6.600   | Tap room, tasting room                  |     |     |     |      |     |     |     | P   | P   | P   |     |    | C      |       |                            |              |
| <b>Motor Vehicle Related</b>                                    |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| 6.700   | Car wash                                |     |     |     |      |     |     |     | D   | P   | P   |     |    |        |       |                            | 17.10.030.E. |
| 6.800   | Commercial parking lot, vehicle storage |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       |                            |              |

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| Table 17.08.020.1: Allowable Uses                               |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
|---|--|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|--|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| ZONES   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| Use Codes   | Use                                      | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |  |
| 6.900   | Motor vehicle fueling or service station |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       | 17.10.030.I                |  |
| 7.100   | Manufactured home sales and rentals      |     |     |     |      |     |     |     |     |     | P   |     |    |        |       |                            |  |
| 7.200   | Motor vehicle sales and rentals          |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       |                            |  |
| 7.300   | Motor vehicle repair and maintenance     |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       |                            |  |
| 7.400   | Motor vehicle painting and body work     |     |     |     |      |     |     |     | C   | C   | P   | P   |    |        |       |                            |  |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| 7.500   | Truck stop or heavy vehicle fueling      |     |     |     |      |     |     |     |     |     | P   | P   |    |        |       | 17.10.050.H.               |  |
| <b>Office and Services</b>                                      |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| 7.600   | Appliance repair                         |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |  |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| 7.700   | Dry cleaner or laundromat                |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |  |
| 7.800   | Financial institution                    |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |  |
| 7.900   | Household equipment rental               |     |     |     |      |     |     |     | C   | P   | P   |     |    | C      |       |                            |  |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| 8.100   | Medical or dental office                 |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |  |
| 8.200   | Mortuary, funeral home                   |     |     |     |      |     |     |     | P   | P   | P   |     |    |        |       |                            |  |
| 8.300   | Personal care services                   |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |  |
| 8.400   | Self-storage facility                    |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       | 17.10.030.K.               |  |
|   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |
| <b>Retail Sales</b>   |  |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |  |

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| Table 17.08.020.1: Allowable Uses                               |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|---|---|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| ZONES   |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| Use Codes   | Use   | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |
| 8.500   | Adult retail                                |     |     |     |      |     |     |     |     |     | C   | C   |    |        |       | 17.10.030.A.               |
| 8.600   | Art gallery                                 |     |     |     |      |     |     |     | P   | P   |     |     |    | P      |       |                            |
| 8.700   | Bakery goods, confectionery shop            |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |
| 8.800   | Building and home improvement store         |     |     |     |      |     |     |     | P   | P   | P   | P   |    |        |       |                            |
| 8.900   | Cannabis, retail                            |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       | 17.10.030.D.               |
| 9.100   | General retail                              |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |
| 9.200   | Grocery store                               |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |
| 9.300   | Liquor sales, off-premises consumption      |     |     |     |      |     |     |     | P   | P   | P   |     |    | C      |       |                            |
| 9.400   | Pawn shop                                   |     |     |     |      |     |     |     | C   | P   |     |     |    |        |       |                            |
| <b>Recreation and Entertainment</b>                             |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 9.500   | Adult entertainment                         |     |     |     |      |     |     |     |     |     | C   |     |    |        |       | 17.10.030.A.               |
| 9.600   | Amphitheater                                |     |     |     |      |     |     |     |     | C   | P   |     |    | C      |       |                            |
| 9.700   | Drive-in theater                            |     |     |     |      |     |     |     | P   | P   |     |     |    |        |       | 17.10.030.F.               |
| 9.800   | Health club or gym                          |     |     |     |      |     |     |     | P   | P   |     |     |    | P      |       |                            |
| 9.900   | Indoor recreation, entertainment activities |     |     |     |      |     |     |     | P   | P   | P   |     |    | P      |       |                            |
| 10.100  | Movie theater                               |     |     |     |      |     |     |     | P   | P   |     |     |    | P      |       |                            |
| 10.200  | Open air market                             |     |     |     |      |     |     |     |     | D   |     |     |    | C      |       |                            |
| 10.300  | Social club or event facility               |     |     |     |      |     |     |     | P   | P   | P   |     |    |        |       |                            |
| 10.400  | Sports stadium                              |     |     |     |      |     |     |     |     | D   | D   |     |    |        |       |                            |
| <b>Transportation</b>   |   |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 10.400  | Airport                                     |     |     |     |      |     |     |     |     |     |     |     | P  |        |       |                            |
| 10.500  | Park and ride facility                      |     |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       |                            |

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| <b>Table 17.08.020.1: Allowable Uses</b>                        |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|---|--|-----------|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|   |  | ZONES     |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|   |  | Use Codes | Use | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |
| 10.600  | Rail facility                            |           |     |     |     |     |      |     |     |     |     |     | P   | P   |    |        |       |                            |
| 10.700  | Transit facility                         |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |       |                            |
| <b>INDUSTRIAL USES</b>  |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| <b>Manufacturing, Production, and Extraction</b>                |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 10.800  | Brewery, winery, or distillery           |           |     |     |     |     |      |     |     |     |     |     | P   | P   | P  |        | C     | 17.10.050.B.               |
| 10.900  | Cannabis, manufacturing                  |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |       | 17.10.050.E.               |
| 11.100  | Cannabis, research / testing laboratory  |           |     |     |     |     |      |     |     |     |     |     |     | P   |    |        |       | 17.10.050.F                |
| 11.200  | Heavy manufacturing                      |           |     |     |     |     |      |     |     |     |     |     |     |     | P  |        |       |                            |
| 11.300  | Light manufacturing                      |           |     |     |     |     |      |     |     |     |     |     | P   | P   | P  |        |       |                            |
| 11.400  | Natural resource mining and extraction   |           |     |     |     |     |      |     |     |     |     |     |     |     |    | P      |       |                            |
| <b>Telecommunications and Utilities</b>                         |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 11.500  | Community or regional utility facilities |           |     |     |     |     |      |     |     |     |     |     |     | P   | P  |        |       |                            |
| 11.600  | Electric facility                        |           |     |     |     |     |      |     |     |     |     |     |     | P   | P  |        |       |                            |
| 11.700  | Solar energy generation                  |           |     |     |     |     |      |     |     |     |     |     |     | P   | P  |        |       |                            |
| 11.800  | Wind energy generation                   |           |     |     |     |     |      |     |     |     |     |     |     | P   | P  |        |       |                            |
| 11.900  | Wireless telecommunication facility      |           |     |     |     |     |      |     |     |     |     |     | C   | P   | P  |        |       | 17.10.050.I.               |
| <b>Waste and Salvage</b>  |  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
| 12.100  | Recycling facility                       |           |     |     |     |     |      |     |     |     |     |     | C   | C   | P  |        |       |                            |
| 12.200  | Salvage, junk yard                       |           |     |     |     |     |      |     |     |     |     |     |     |     | D  |        |       |                            |
| 12.300  | Salvage Yard                             |           |     |     |     |     |      |     |     |     |     |     |     |     | D  |        |       |                            |
| 12.400  | Solid waste facility                     |           |     |     |     |     |      |     |     |     |     |     | D   | D   |    |        |       |                            |

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| Table 17.08.020.1: Allowable Uses                               |   |       |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
|---|---|-------|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|--------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |   |       |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
|   |   | ZONES |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
|   |   | A-R   | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |              |
| <b>Wholesaling and Storage</b>                                  |   |       |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| 12.500  | Above ground feed storage                   | P     |     |     |      |     |     |     |     |     | P   |     |    |        |       |                            |              |
| 12.600  | Outdoor storage                             |       |     |     |      |     |     |     | C   | C   |     | P   |    |        |       |                            | 17.10.050.G. |
| 12.700  | Warehousing                                 |       |     |     |      |     |     |     | C   | P   | P   | P   |    |        |       |                            |              |
| 12.800  | Wholesaling and distribution center         |       |     |     |      |     |     |     |     | P   | P   | P   |    |        |       |                            |              |
| <b>ACCESSORY</b>  |   |       |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |              |
| 12.900  | Accessory dwelling unit                     | A     | A   | A   |      |     |     |     |     |     |     |     |    |        |       |                            | 17.10.060.A. |
| 13.100  | Cannabis, homegrown / homemade              | A     | A   | A   | A    | A   | A   | A   |     |     |     |     | A  | A      | A     |                            | 17.10.060.C. |
| 13.200  | Caretaker's unit                            |       |     |     |      |     |     |     | A   | A   | A   | A   |    |        |       |                            |              |
| 13.300  | Home occupation                             | A     | A   | A   | A    | A   | A   | A   |     |     |     |     | A  | A      | A     |                            | 17.10.060.F. |
| 13.400  | Poultry and livestock keeping (residential) | A     | A   | A   | A    |     |     |     |     |     |     |     |    |        |       |                            | 17.10.060.G. |
| 13.500  | Mobile food truck                           |       |     |     |      |     |     |     | A   | A   | A   | A   | A  | A      |       |                            |              |
| 13.600  | Recreational vehicle storage                | A     | A   | A   | A    | A   | A   | A   |     |     |     |     | A  |        | A     |                            | 17.10.060.H. |
| 13.700  | Short-term rental                           | A     | A   | A   | A    | A   | A   | A   |     |     |     |     | A  | A      | A     |                            |              |
| 13.800  | Circus, carnival, seasonal outdoor sales    | C     |     |     |      |     |     |     | P   | P   | P   |     | P  | P      |       |                            |              |
| 13.900  | Construction staging, trailer, or office    | P     | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P  | P      | P     |                            |              |
| 14.100  | Dwelling, temporary                         | A     | A   | A   | A    | A   | A   | A   | A   | A   | A   | A   | A  | A      | A     |                            | 17.10.070.C. |
| 14.200  | Film production                             | P     | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P  | P      | P     |                            | 17.10.070.A. |

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| Table 17.08.020.1: Allowable Uses                               |                                  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|---|----------------------------------|-----------|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|----|--------|-------|----------------------------|
| P = Permissive; C = Conditional; D = Designated ; A = Accessory |                                  |           |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|   |                                  | ZONES     |     |     |     |     |      |     |     |     |     |     |     |     |    |        |       |                            |
|   |                                  | Use Codes | Use | A-R | R-R | R-1 | R-1A | R-2 | R-3 | R-4 | C-1 | C-2 | M-1 | M-2 | SU | TOD-MU | TOD-R | Supplemental Use Standards |
| 14.300  | Real estate office or model home | P         | P   | P   |     | P   | P    |     |     |     |     |     |     |     |    |        |       | 17.10.070.B.               |
| 14.400  | Outdoor concert                  | C         |     |     |     |     |      |     |     |     | C   | C   | C   |     | C  | C      |       |                            |

### 17.08.030 Unlisted Uses

- A. The presumption established by Article III is that all legitimate uses of land are permissible, conditional, temporary, designated, or a temporary use within at least one zoning district in the Village's planning jurisdiction.
- B. When a land use is not explicitly listed in Table 17.08.020.1 Allowable Uses, the Community Development Director shall determine the appropriate use type for the proposed use.
- C. If a land use is included in the definition of a listed use or is consistent with the size, scale, operating characteristics, and external impacts of a listed use, it should be treated as the same use.
- D. If the land use is determined to be a new or unlisted use, the Community Development Director may determine that such a new or unlisted use requires a text amendment of this zone code.
- E. The Community Development Director may also determine that text amendments for additional use-specific standards are necessary to reduce potential impacts to surrounding properties or the community.

### 17.08.040 Previously Allowed Uses

Each land use that exists on the effective date of this Ordinance that requires a conditional or designated use permit and was permissive and received a conditional or designated use permit prior to the effective date of this Ordinance is deemed to have a valid conditional or designated use permit that allows continuation of the use.

### 17.08.050 Prohibited Uses

- A. The following uses are specifically prohibited in all districts:
  - 1. Any use that involves the manufacturing, handling, sale, distribution, or storage of any explosive materials.
  - 2. Use of a recreational vehicle as a permanent dwelling.

## **ARTICLE IV. SUPPLEMENTARY STANDARDS FOR SPECIFIC USES**

### **17.010 Purpose**

This Article contains supplementary standards that are applicable to specific types of land uses. Where the supplementary standards differ from regulations in other sections of this Ordinance, the provisions of this Article shall prevail.

#### **17.10.020 Residential**

##### **A. Cluster Development**

- (1) A cluster subdivision shall be limited to a Planned Residential Development or Planned Unit Development. The minimum gross site area required for a cluster development is 2 acres.
- (2) The number of single-family detached dwelling units allowed in a cluster development shall be determined by dividing the gross site area by the minimum lot size permitted in the property's designated zone district and rounding to the nearest whole number.
- (3) The cluster development shall include common space designated for landscaping, gardening, outdoor recreation activities, or a combination, for the use and benefit of the residents of the development.
- (4) A minimum of 30 percent of the gross area, or 100 percent of the area gained through lot size reductions, whichever is greater, shall be designated as common space.
- (5) The common space shall have a minimum width of 30 feet.
- (6) The cluster development and common space shall be designated on a site plan and subdivision plat with each dwelling on an individual lot and the common space on a separate lot.
- (7) Maintenance of the common space shall be the sole responsibility of the homeowners' association established as part of the cluster development.

##### **B. Community Residential Facility**

- (1) This use shall be developed and maintained in compliance with all applicable local, state, and federal regulations.
- (2) This use shall not include persons currently using or addicted to alcohol or controlled substances who are not in a recognized recovery program; it shall not include half-way houses for persons in the criminal justice system or residential facilities that divert persons from the criminal justice system.
- (3) A community residential facility is prohibited within a half mile (2,640 feet) in any direction of a lot containing any other community residential facility, group home, daycare, or school, as measured from lot line to lot line.
- (4) A community residential facility may be in a facility, building, or structure, and shall be limited to no more than 12 persons.

##### **C. Group Home**

- (1) This use shall be developed and maintained in compliance with all applicable local, state, and federal regulations.
- (2) This use shall include halfway houses for persons currently receiving treatment in a recognized recovery program for addiction to alcohol or controlled substances, residential facilities for persons in the criminal justice system, or residential facilities to divert persons from the criminal justice system.

- (3) A group home is prohibited within a half mile (2,640 feet) in any direction of a lot containing any other group home, community residential facility, daycare, or school, as measured from lot line to lot line.
- (4) A group home shall be in a single-family dwelling and shall be limited to no more than 5 persons.

**D. Horizontal Multi-Family Detached**

- (1) The maximum density in the R-4 zone is 8 dwelling units per acre.
- (2) The applicant shall submit a site plan showing the location of proposed dwelling units, accessory structures, setbacks, common spaces, lighting, landscape buffers, and the parking layout for residents and guests.
- (3) All private roadways within the development shall conform to the regulations set forth in the Village's Development Process Manual.
- (4) All horizontal multi-family detached developments shall be connected to municipal utility systems.
- (5) Three types of developments are allowed: 1) Prefabricated home park with mobile homes, modular homes, manufactured homes, or any combination thereof; 2) Site-built homes; and 3) Tiny houses.
  - (a) Prefabricated home park
    - (i) No mobile home, manufactured home, or modular home shall be located within 20 feet of any other home. The units shall include a minimum setback of 20 feet from the right-of-way or easement line of any street and at least 10 feet from any property or designated rental lot line of the prefabricated home park.
    - (ii) Manufactured and modular homes shall be placed on permanent foundations.
    - (iii) Mobile homes shall be skirted with a durable material and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico.
    - (iv) The minimum parcel acreage for prefabricated home parks shall be 3 acres.
    - (v) A site plan shall be submitted to, reviewed, and approved by the Development Review Committee.
  - (b) Multiple site-built dwelling units
    - (i) The minimum separation between dwelling units shall be 7 feet.
    - (ii) The minimum parcel acreage for multiple site built dwelling unit projects shall be 3 acres.
    - (iii) A site plan shall be submitted to, reviewed, and approved by the Development Review Committee.
  - (c) Tiny houses
    - (i) Tiny houses shall be no less than 200 square feet and no more than 400 square feet in gross floor area excluding loft space.
    - (ii) Tiny houses may be constructed with or without a chassis but shall be placed on a permanent foundation with all axles removed and shall comply with the New Mexico Building Residential Codes, including Appendix AQ (Tiny Houses) of the IRC.
    - (iii) Tiny houses constructed on a chassis with permanent axle(s) shall be considered recreational vehicles. They shall meet codes for and be licensed as recreational vehicles so long as the axle remains in place.
    - (iv) The minimum separation between dwelling units shall be 7 feet.

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- (v) The minimum parcel acreage for tiny house projects shall be 2 acres.
- (vi) A site plan shall be submitted to, reviewed, and approved by the Development Review Committee.

### **E. Planned Residential Development**

- (1) This use requires a minimum of 5 acres (217,800 square feet).
- (2) Uses allowed within a planned residential development include single-family detached dwellings, single-family attached dwellings, townhomes, multi-family dwellings, or a combination thereof.
- (3) Where planned residential development is adjacent to a lot that is zoned or developed for single-family detached use, only single-family detached dwelling units within the planned residential development shall be provided along the shared property line. No further restrictions relative to the type of residential dwelling unit are required.

### **F. Planned Unit Development**

- (1) This use requires a minimum of 10 acres (435,600 square feet).
- (2) Uses allowed within a planned unit development include single-family detached dwellings, single-family attached dwellings, townhomes, multi-family dwellings, or a combination thereof; neighborhood scale commercial retail and services that are primarily intended to serve the residents of the development are permitted.
- (3) A planned unit development shall include a minimum of 75 percent of the property in residential use.

## **17.10.030 Commercial Uses**

### **A. Adult Entertainment or Adult Retail**

- (1) Adult entertainment or adult retail uses are prohibited within 1,000 feet (as measured from property line to property line) of the following:
  - (a) A residential zone district or lot containing any residential use
  - (b) A religious institution
  - (c) A public or private elementary, middle, or high school
  - (d) A daycare facility
- (2) Within 1,000 feet in any direction of another premises containing an adult entertainment or adult retail use.

### **B. Agricultural Livestock Keeping**

- (1) The use shall comply with all applicable state, federal, and local regulations related to animal care and protection.
- (2) This use is allowed in the AR and RR zones provided that the following requirements are met:
  - (a) The number of livestock shall not exceed 1 cow or horse for each 10,000 square feet of open lot area or 1 sheep, pig, or goat for each 4,000 square feet of open lot area, a minimum of 4 square feet of coop area and 8 square feet of run space of pervious surface area shall be provided for each poultry, and a minimum of 12 square feet of hutch area and 28 square feet of run space of pervious surface area in an enclosed structure shall be provided for each rabbit.
  - (b) Structures in excess of 120 square feet require a permit per Article VI of this Ordinance.

- (c) Animals under 4 months old are not counted.
- (3) The use may be operated outside of an enclosed structure. Animals shall be contained on the property by a wall, fence, or enclosure.
- (4) All animals shall be kept in such a manner that will not create a nuisance through the violation of the following regulations:
  - (a) No offensive noise, odor, or dust shall be produced.
  - (b) Areas devoted to animals, including accessory buildings and structures, shall be constructed, and maintained to discourage concentration and breeding of insects or pests.

**C. Bar or Nightclub**

- (1) Alcohol sales for on-premises consumption shall comply with required distances from other uses or facilities as regulated under the Liquor Control Act and administered by the New Mexico Regulation and Licensing Department.
- (2) For bars or nightclubs that operate a commercial kitchen, a refuse enclosure that includes a grease interceptor and floor drain connecting to the municipal sanitary sewer shall be provided.

**D. Cannabis Retail**

- (1) Cannabis retail and transportation, as defined and authorized by §26-2C NMSA 1978, is permitted within a State licensed cannabis establishment without limit on the number of licensees occupying a single premises so long as the activity is located in a permissive zone or a zone requiring a designated use permit, in accordance with Section 17.08.202 Allowable Uses.
  - (a) Retail sales shall be conducted entirely within an enclosed building and shall not be visible from the exterior of the cannabis establishment or public right-of-way.
  - (b) Commercial cannabis activity where retail sales of cannabis occurs, must comply with the requirements of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (c) Commercial cannabis activity where retail sales occurs, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (d) Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale, or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m. the following day.
  - (e) The resale, sale, or consignment of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.
  - (f) Any combination of cannabis activity in addition to cannabis retail, listed in Section 17.08.202 Allowable Uses, may co-occur at the same establishment so long the zone designation for which the establishment is located allows for such uses permissibly or with an approved designed use permit and holds a state license to operate multiple uses. Secure areas shall be separated from the general public to prevent unauthorized entry to storage, cultivation, production, manufacturing, research and testing, or processing areas.
- (2) The wastage of any cannabis products shall be in strict compliance with §16.8.2 NMAC.

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- (3) Commercial cannabis establishments are prohibited less than three hundred feet from the property line of a daycare center or school. The distance shall be measured from the property line of the daycare center or school to the closest controlled access area of the licensed premises where cannabis activity occurs.
- (4) The total number of State-licensed cannabis establishments within the exterior boundaries of the Village of Los Lunas shall not exceed a density of more than one establishment per 2,000 residents, as determined by the most recent population data published by the US Census Bureau.
- (5) See Section 17.XX.XX for Cannabis Establishment licensing.
- (2) For other cannabis uses, see the following sections:
  - (a) 17.10.050.C. Cannabis Consumption Area
  - (b) 17.10.050.D. Cannabis Cultivation or Production
  - (c) 17.10.050.E. Cannabis Manufacturing
  - (d) 17.10.050.F. Cannabis Research/Testing Laboratory
  - (e) 17.10.060.C. Cannabis Homegrown/Homemade

### **E. Car Wash**

- (1) This use shall comply with the Village's stormwater quality requirements.
- (2) A car wash building and any associated outdoor activities, including vacuum stations, drying or polishing stations, and queuing lanes, are prohibited within 50 feet in any direction of any residential zone district or any lot containing a residential use.
- (3) A minimum of 12 stacking spaces shall be provided, as measured from the end of the queuing lane to the outside of the washing bay.

### **F. Drive-in Theater**

- (1) The theater screen shall be located a minimum of 500 feet from an arterial or highway and be oriented or shielded so that the screen may not be seen from the arterial or highway.
- (2) All structures shall be 50 feet from any street where ingress and egress are permitted.

### **G. Drive-through Facility**

- (1) For the purposes of this Ordinance, drive-through facility does not include motor vehicle fueling or service station or car wash.
- (2) Audible electronic devices, such as loudspeakers or service order devices, shall not be audible outside of the development's property line.
- (3) A minimum 50-foot separation shall be provided between a drive-through service window or order board and a residentially zoned property or a residential use.
- (4) A minimum of 12 stacking spaces shall be provided for each restaurant drive-through facility.
- (5) A minimum of 6 stacking spaces shall be provided for each bank, pharmacy, or retail store drive-through facility.
- (6) Each stacking space shall be 20 feet in length and shall be located in lanes leading up and adjacent to a drive-through service window.

- (7) Where this use is adjacent to a residential zone district or any lot containing a residential use and the residential use does not contain an existing 6-foot opaque wall or fence, the drive-through facility shall provide a 6-foot opaque wall or fence on the property line.
- (8) Where this use is adjacent to a residential zone district or any lot containing a residential use, the drive-through facility shall provide a minimum 15-foot landscaped buffer, as measured from the shared property line.
- (9) Drive-through lanes located adjacent to public rights-of-way shall be screened by vegetation.

**H. Mobile Food Truck or Mobile Food Truck Court**

- (1) All mobile food trucks shall comply with all local and state safety and sanitation regulations.
- (2) The operator of a mobile food truck shall secure written permission for the use of the property from the owner of the property and shall store a copy of the document in the mobile food truck at all times.
- (3) The operator of a mobile food truck shall provide trash receptacles and dispose of the trash on a daily basis after the mobile food truck has closed operations.
- (4) All mobile food trucks and mobile food truck courts shall be placed so as to maintain clear sight distances and adequate site circulation.
- (5) Single Mobile Food Trucks: The number of mobile food trucks permitted on a commercial lot shall be determined by the Development Review Committee.
- (6) Mobile Food Truck Court: Generators are prohibited where more than 5 mobile food trucks are parked permanently or semi-permanently on a lot, in which case, electric pedestals shall be provided by the developer of the mobile food truck court.
- (7) Mobile Food Truck Court: Where more than 5 mobile food trucks are parked permanently or semi-permanently on a lot, a site plan shall be submitted to, reviewed, and approved by the Development Review Committee.

**I. Motor Vehicle Fueling or Service Station**

- (1) This use shall comply with the Village's stormwater quality requirements.
- (2) No inoperable vehicles shall be stored outside a building at any time.
- (3) All under-canopy lighting shall be recessed so that no light lens projects below the ceiling canopy and the canopy fascia shall not be internally illuminated.

**J. Restaurant**

- (1) This use shall comply with State of New Mexico's Environmental Health standards and procedures.
- (2) Alcohol sales for on-premises consumption shall comply with required distances from other uses or facilities as regulated under the Liquor Control Act and administered by the New Mexico Regulation and Licensing Department.
- (3) A refuse enclosure that includes a grease interceptor and floor drain connecting to the municipal sanitary sewer shall be provided to ensure the sanitary sewer system is protected.

**K. Self-Storage Facility**

- (1) All storage shall be within a fully enclosed building.

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- (2) Where this use is adjacent to a residential zone district or any lot containing a residential use and the residential use does not contain an existing 6-foot opaque wall or fence, the self-storage facility shall provide a 6-foot opaque wall or fence on the property line.
- (3) Where this use is adjacent to a residential zone district or any lot containing a residential use, the self-storage facility shall provide a minimum 15-foot landscaped buffer, as measured from the shared property line.
- (4) Where this use is adjacent to a residential zone district or any lot containing a residential use, access to the self-storage facility is prohibited between the hours of 10:00 p.m. and 7:00 a.m.
- (5) Internal lighting within a self-storage facility shall be extinguished between the hours of 10:00 p.m. and 6:00 a.m.

### **L. Short Term Rental**

- (1) Short-term rental - general provisions
  - (a) No more than one rental is allowed within a period of 7 days.
  - (b) No dwelling unit shall be rented for more than 180 cumulative days in one calendar year as a short-term rental.
  - (c) Short-term rental permits shall not be issued for more than 2 short-term rentals units directly adjoining each other on a residentially zoned street. For the purposes of this subsection, "directly adjoining" means sharing a common boundary along a public street frontage, as well as adjoining units in a duplex, multi-family townhomes, patio homes, or multi-family apartments.
  - (d) Off-street parking shall be provided per Section 17.12.010.C.
  - (e) Short-term rental units shall be used exclusively for residential purposes and shall not be used for commercial activities or events, defined as intending to make money, offering goods or services for sale, or any other event or activity that is not residential in nature. An activity "not residential in nature" includes gatherings in excess of three times the number of legally allowed occupants in the short-term rental unit (including renters), unless the activity or event is otherwise permitted by the village.
  - (f) The total number of persons 3 years of age and older that may occupy the short-term rental unit is twice the number of bedrooms.
  - (g) Nothing contained within the short-term rental regulations shall be construed to abridge the ability of bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this section. Such covenants and deed restrictions shall not be enforceable by the Village but remain the responsibility of property owners to ensure compliance within the applicable neighborhood. Real estate brokers listing residential property in the Village shall provide prospective buyers a current copy of Section 17.10.030.L.
- (2) Short-term rental - owner/operator provisions
  - (a) The owner/operator shall obtain a short-term rental permit and business registration for their property prior to listing as a short-term rental.
  - (b) The owner/operator shall pay all applicable local, state and federal taxes, including lodgers' tax, gross receipts tax and income taxes.
  - (c) Should the owner/operator fail to pay all applicable taxes, the owner/operator shall be subject to penalties pursuant to Section 17.14.030.

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- (d) The owner/operator shall make available to the Village for its inspection all records relating to the operation of the short-term rental unit to determine compliance with Section 17.10.030.L.
- (e) The owner shall maintain adequate short-term rental insurance coverage for the short-term rental unit. Proof of insurance shall be required at the time the permit is issued and such other times as requested by the Community Development Director.
- (f) The owner/operator shall make the following information clearly visible and legible within the short-term rental unit, on or adjacent to the interior of the front door, or within the informational material provided to renters:
  - (i) A copy of the short-term rental permit;
  - (ii) The name of the owner of the unit, or local contact person, managing agency, agent, or property manager as appropriate, and a telephone number at which that party can be reached on a 24-hour, 7 day a week basis;
  - (iii) The maximum number of occupants 3 years of age and older permitted to stay in the unit;
  - (iv) The maximum number of vehicles allowed to be parked on the property;
  - (v) The number of on-site parking spaces and any parking rules that may apply;
  - (vi) The specific procedures regarding the disposal of trash and refuse;
  - (vii) A notification that it is the renter's responsibility to comply with the laws of the State of New Mexico and the ordinances of the Village of Los Lunas, including but not limited to Title 8, Health and Safety, and Title 9, Public Peace, Morals and Welfare;
  - (viii) Notice that the noise provisions of the Village code will be enforced;
  - (ix) Notice that animal leash laws of the Village apply and will be enforced; and
  - (x) The E911 address for the property.
- (g) Except as allowed and in accordance with Section 17.12.050, the owner/operator is prohibited from posting any exterior signage advertising the availability of the property.
- (h) Upon the transfer of ownership of a short-term rental unit, the short-term rental permit shall terminate. If the new owner wishes to use the property as a short-term rental unit, a new application shall be submitted to the Community Development Department.
  - (i) As a condition of the issuance of a short-term rental permit to an owner/operator, the owner/operator consents to the Community Development Department conducting random inspections of the property, including the dwelling unit, to ensure compliance with Section 17.12.030.L.

### (3) Short-term rental - renter provisions

- (a) Renters shall park recreational vehicles only in designed areas supplied on the short-term rental property.
- (b) Noise or other disturbance outside the short-term rental unit shall not be of such a volume or nature that it violates Chapter 9.08, including decks, courtyards, porches, balconies, or patios.
- (c) All renters shall be informed in writing by the owner/operator of the short-term rental that they shall comply with Los Lunas Municipal Code, as provided in Section 17.10.030.L(2)(f).

**M. Veterinary Clinic or Hospital**

- (1) An outdoor animal pen is permitted as an incidental use to the primary use of veterinary clinic or hospital provided they are enclosed by a 6-foot opaque wall or fence.
- (2) Animals are prohibited from staying outdoors overnight.

**17.10.040 Institutional Uses**

**A. Hospital or Major Medical Clinic**

- (1) Hospital or major medical clinic use shall require the following requirements:
  - a. The minimum lot size shall be 2 acres regardless of the minimum lot size requirement for the designated zoning district on the property.
  - b. No primary or accessory structure shall be located within 20 feet of the property lot line.
  - c. **Where** adjacent to residentially zoned property, an opaque 7-foot wall or fence shall be provided by the hospital or major medical clinic on the subject property.
  - d. Heliports are allowed as an incidental use for hospital and major medical clinic uses.

**B. **Overnight Shelter****

- (1) An overnight shelter is prohibited within a half mile (2,640 feet) in any direction of a lot containing any other overnight shelter, daycare, or school, as measured from lot line to lot line.
- (2) This use shall be conducted within a fully enclosed building.

**C. Religious Institution**

- (1) Incidental uses, including but not limited to recreation and education, are permitted provided the following requirements are met:
  - a) All incidental uses shall be operated by the religious institution.
  - b) All incidental uses shall comply with applicable federal, state, and local laws and regulations.
  - c) All incidental uses shall comply with any applicable supplementary standards.

**17.10.050 Industrial and Manufacturing Uses**

**A. Automobile Dismantling Yard**

- (1) This use shall be conducted in an enclosed building or shall be enclosed by an opaque 7 foot tall wall or fence.
- (2) The stacking height of inoperative automobile bodies or portions thereof shall not exceed the height of the required opaque wall or fence.

**B. Brewery, Winery, or Distillery / Tap Room**

- (1) This use requires a Small Brewer's License per Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License per Section 60-6A011 NMSA 1978, or an approved Craft Distiller's License per Section 60-6A-6.1 NMSA 1978 where beer, wine, or spirits are available for on-site consumption.
- (2) The brewery, winery, or distillery operations shall be conducted within a fully enclosed portion of a building.

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(3) The tap room use allows for on-site consumption, including an outdoor patio, of beer, wine, or spirits.

### **C. Cannabis Consumption Area**

- (1) Cannabis consumption area, as defined and authorized by §26-2C NMSA 1978, is permitted within a State licensed cannabis establishment without limit on the number of licensees occupying a single premises so long as the activity is located in a permissive zone or a zone requiring a designated use permit, in accordance with Section 17.08.202 Allowable Uses.
  - (a) Cannabis smoking or vaporizing shall not be visible from the exterior of the cannabis establishment or public right-of-way and is within a designated smoking area in an enclosed building from which smoke does not infiltrate other indoor workplaces or other indoor or outdoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.
  - (b) Commercial cannabis activity relating to consuming, smoking, or vaporizing cannabis shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m. the following day.
  - (c) Cannabis consumption areas or otherwise consuming, smoking, or vaporizing cannabis is prohibited in public and within or upon the grounds of Village owned property.
  - (d) Any combination of cannabis activity in addition to cannabis consumption listed in Section 17.08.020 Allowable Uses, may co-occur at the same establishment so long the zone designation for which the establishment is located allows for such uses permissibly or with an approved designed use permit and holds a state license to operate multiple uses. Secure areas shall be separated from the general public to prevent unauthorized entry to storage, cultivation, production, manufacturing, research and testing, or processing areas.
- (2) The wastage of any cannabis products shall be in strict compliance with §16.8.2 NMAC.
- (3) Commercial cannabis establishments are prohibited less than three hundred feet from the property line of a daycare center or school. The distance shall be measured from the property line of the daycare center or school to the closest controlled access area of the licensed premises where cannabis activity occurs.
- (4) The total number of State-licensed cannabis establishments within the exterior boundaries of the Village of Los Lunas shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau.
- (5) See 17.XX.XX for cannabis establishment licensing.
- (6) For other cannabis uses, refer to the following sections:
  - (a) 17.10.030.D. Cannabis Retail
  - (b) 17.10.050.D. Cannabis Cultivation/Production
  - (c) 17.10.050.E. Cannabis Manufacturing
  - (d) 17.10.050.F. Cannabis Research/Testing Facility
  - (e) 17.10.060.C. Cannabis Homegrown/Homemade

### **D. Cannabis Cultivation/Production**

- (1) Cannabis cultivation, production, and transportation, as defined and authorized by §26-2C NMSA 1978, is permitted within a State licensed cannabis establishment without limit on the number of licensees occupying a single premises so long as the activity is located in a permissive zone or a zone requiring a designated use permit, in accordance with Section 17.08.202 Allowable Uses.

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- (a) Cannabis cultivation or production shall be conducted entirely within an enclosed primary building, accessory building, or accessory structure such as a greenhouse or similar and shall not be visible from the exterior or public right-of-way. Cultivation or production areas must be secured by lock and key or other security devices which prevent unauthorized entry. Open-air cultivation or production is not permitted.
- (b) Commercial cannabis activity where cultivation or production of cannabis occurs must comply with the requirements of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
- (c) Commercial cannabis activity where cultivation or production, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
- (d) Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale, or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m. the following day.
- (e) The resale, sale, or consignment of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.
- (f) Any combination of cannabis activity in addition to cannabis retail, listed in Section 17.08.202 Allowable Uses, may co-occur at the same establishment so long the zone designation for which the establishment is located allows for such uses permissibly or with an approved designed use permit and holds a state license to operate multiple uses. Secure areas shall be separated from the general public to prevent unauthorized entry to storage, cultivation, production, manufacturing, research and testing, or processing areas.

(2) The wastage of any cannabis products shall be in strict compliance with §16.8.2 NMAC.

(3) Commercial cannabis establishments are prohibited less than three hundred feet from the property line of a daycare center or school. The distance shall be measured from the property line of the daycare center or school to the closest controlled access area of the licensed premises where cannabis activity occurs.

(4) The total number of State-licensed cannabis establishments within the exterior boundaries of the Village of Los Lunas shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau.

(5) See 17.XX.XX for cannabis establishment licensing.

(6) For other cannabis uses, refer to the following sections:

- (a) 17.10.030.D. Cannabis Retail
- (b) 17.10.050.C. Cannabis Consumption Area
- (c) 17.10.050.E. Cannabis Manufacturing
- (d) 17.10.050.F. Cannabis Research/Testing Facility
- (e) 17.10.060.C. Cannabis Homegrown/Homemade

**E. Cannabis Manufacturing**

- (1) Cannabis manufacturing, as defined and authorized by §26-2C NMSA 1978, is permitted within a State licensed cannabis establishment without limit on the number of licensees occupying a single premises so long as the activity is located in a permissive zone or a zone requiring a designated use permit, in accordance with Section 17.08.202 Allowable Uses.
  - (a) Cannabis manufacturing shall be conducted entirely within an enclosed primary building, accessory building, or accessory structure such as a greenhouse or similar and shall not be visible from the exterior or public right-of-way. Manufacturing areas must be secured by lock and key or other security devices which prevent unauthorized entry. Open-air cultivation or production is not permitted.
  - (b) Commercial cannabis activity where manufacturing of cannabis occurs must comply with the requirements of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (c) Commercial cannabis activity where manufacturing, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (d) Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale, or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m. the following day.
  - (e) The resale, sale, or consignment of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.
  - (f) Any combination of cannabis activity in addition to cannabis manufacturing, listed in Section 17.08.202 Allowable Uses, may co-occur at the same establishment so long the zone designation for which the establishment is located allows for such uses permissibly or with an approved designed use permit and holds a state license to operate multiple uses. Secure areas shall be separated from the general public to prevent unauthorized entry to storage, cultivation, production, manufacturing, research and testing, or processing areas.
- (2) The wastage of any cannabis products shall be in strict compliance with §16.8.2 NMAC.
- (3) Commercial cannabis establishments are prohibited less than three hundred feet from the property line of a daycare center or school. The distance shall be measured from the property line of the daycare center or school to the closest controlled access area of the licensed premises where cannabis activity occurs.
- (4) The total number of State-licensed cannabis establishments within the exterior boundaries of the Village of Los Lunas shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau.
- (5) See 17.XX.XX for cannabis establishment licensing.
- (6) For other cannabis uses, refer to the following sections:
  - (a) 17.10.030.D. Cannabis Retail
  - (b) 17.10.050.C. Cannabis Consumption Area

- (c) 17.10.050.D. Cannabis Cultivation/Production
- (d) 17.10.050.F. Cannabis Research/Testing Facility
- (e) 17.10.060.C. Cannabis Homegrown/Homemade

**F. Cannabis Research/Testing Facility**

- (1) Cannabis research and facility, as defined and authorized by §26-2C NMSA 1978, is permitted within a State licensed cannabis establishment without limit on the number of licensees occupying a single premises so long as the activity is located in a permissive zone or a zone requiring a designated use permit, in accordance with Section 17.08.202 Allowable Uses.
  - (a) Cannabis research and testing shall be conducted entirely within an enclosed primary building, accessory building, or accessory structure such as a greenhouse or similar and shall not be visible from the exterior or public right-of-way. Research and testing areas must be secured by lock and key or other security devices which prevent unauthorized entry. Open-air cultivation or production is not permitted.
  - (b) Commercial cannabis activity where research and testing of cannabis occurs must comply with the requirements of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (c) Commercial cannabis activity where research and testing, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
  - (d) Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale, or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m. the following day.
  - (e) The resale, sale, or consignment of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.
  - (f) Any combination of cannabis activity in addition to cannabis research and testing, listed in Section 17.08.202 Allowable Uses, may co-occur at the same establishment so long the zone designation for which the establishment is located allows for such uses permissibly or with an approved designed use permit and holds a state license to operate multiple uses. Secure areas shall be separated from the general public to prevent unauthorized entry to storage, cultivation, production, manufacturing, research and testing, or processing areas.
- (2) The wastage of any cannabis products shall be in strict compliance with §16.8.2 NMAC.
- (3) Commercial cannabis establishments are prohibited less than three hundred feet from the property line of a daycare center or school. The distance shall be measured from the property line of the daycare center or school to the closest controlled access area of the licensed premises where cannabis activity occurs.
- (4) The total number of State-licensed cannabis establishments within the exterior boundaries of the Village of Los Lunas shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau.
- (5) See 17.XX.XX for cannabis establishment licensing.

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(6) For other cannabis uses, refer to the following sections:

- (a) 17.10.030(D) Cannabis Retail
- (b) 17.10.050(C) Cannabis Consumption Area
- (c) 17.10.050(D) Cannabis Cultivation/Production
- (d) 17.10.050(E) Cannabis Manufacturing
- (e) 17.10.060(D) Cannabis Homegrown/Homemade

### **G. Outdoor Storage**

- (1) All outdoor storage shall be screened by a 7-foot opaque wall or fence along the property lines.
- (2) The height of any items stored outside shall not exceed the height of any screening wall or fence unless the item is setback a minimum of 100 feet into the property.

### **H. Truck Stop or Heavy Vehicle Fueling**

- (1) This use is permitted only where the lot is adjacent to an arterial street
- (2) All areas of the lot that are not dedicated to building pads, landscaping, or ponding areas shall be paved.
- (3) All maintenance and repair work to trucks shall be done within a completely enclosed building. Outdoor storage of parts, equipment, lubricants, fuels, or materials related to maintenance and repair is prohibited.
- (4) A truck stop shall have sanitary facilities that are connected to the municipal water and sewer systems.

### **I. Wireless Telecommunication Facility**

- (1) No cellular antenna or tower shall be located within 500 hundred feet of any residentially zoned property or any residential dwelling unit as measured from the residential lot line to the cellular antenna or tower structure.
- (2) This use shall be screened by landscaping, earthen berms, or an opaque wall or fence, depending on site conditions.
- (3) The minimum setback for a cellular antenna or tower shall be equal to the maximum height of the tower.
- (4) Cellular antennas or towers shall be located to avoid blocking a significant view.
- (5) The maximum size of an equipment storage shelter shall not exceed 450 square feet.
  - i. When telecommunication facilities are abandoned, or technology makes them obsolete, the owner of the facilities must provide the village with a copy of the notice to the FCC of intent to cease operations. Within 30 days of ceasing operations, the abandoned facilities shall be removed.

## **17.10.060 Accessory Uses**

### **A. Accessory Dwelling Unit**

- (1) Only 1 accessory dwelling is permitted per lot.
- (2) Accessory dwelling units shall not exceed 40 percent of the gross floor area of the primary dwelling unit and are capped at a maximum size of 750 square feet.

- (3) The setback requirements for accessory dwelling units are the same as the overall setback requirements of the designated zoning of the property.
- (4) Where an accessory dwelling unit is detached, it shall be no taller than the primary dwelling unit on the property.
- (5) An accessory dwelling unit may be detached, attached to or above a garage, or attached to or above a primary unit.
- (6) Access to the accessory dwelling unit through the primary dwelling unit structure is prohibited. Pedestrian access to an accessory dwelling unit shall be independent from the primary dwelling
- (7) For non-fire rated structures, the accessory unit shall maintain a minimum separation of 7 feet between the unit and the primary structure.
- (8) No off-street parking is required for accessory dwelling units.
- (9) Accessory dwelling units may be rented and/or occupied by persons unrelated to the occupants of the primary dwelling unit.

**B. Accessory Structure**

- (1) Primary structures are only allowed in the buildable area of all zones, unless otherwise permitted in this section.
- (2) Accessory structures within any residential zone may be located within the buildable area in the rear or side yard and shall be placed a minimum of 7 feet from the primary building or another accessory building.
- (3) Detached private garages and carports shall be allowed to be located less than 7 feet from the primary building, provided they are attached to the primary building by an enclosed walkway or an open breezeway.
- (4) Detached accessory buildings shall be permitted to occupy up to 30 percent of the rear or side yard, provided they shall not be used for dwelling purposes.
- (5) Open, unenclosed porches may encroach 180 square feet into a required rear setback with a minimum setback of 5 feet from the rear property line.

**C. Cannabis Homegrown/Homemade**

- (1) Cannabis homegrown and homemade, as defined and authorized by §26-2C NMSA 1978, is permitted within a single private residence, or inside an accessory structure located on the grounds of a private residence, and shall be in strict compliance with the following requirements:
  - (a) Possessing, planting, cultivating, harvesting, drying, manufacturing cannabis products, or transporting not more than six mature cannabis plants and six immature cannabis plants per person; provided that despite a household having multiple residents, no more than twelve mature cannabis plants may be present in one household; and provided further that if the person does not exceed the maximum number of cannabis plants, the person may possess the cannabis produced by the cannabis plants notwithstanding any weight limits and shall be stored in such a manner not to be visible from public view.
  - (b) Cannabis cultivation is permitted within a private residence and shall not be visible from the exterior of that residence. In addition, cannabis cultivation is permitted within a fully enclosed accessory structure within the rear or side yard of a private residence such as a greenhouse, shed, or similar. Cultivation areas must be secured by lock and key or other security devices which

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prevent unauthorized entry and shall not be visible from a public right-of-way. Open-air cannabis cultivation is not permitted.

- (c) Obtaining or manufacturing cannabis extract using nonvolatile solvents, alcohol or carbon dioxide, or no solvents is permitted.
- (d) Cannabis cultivation, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
- (e) The dwelling unit shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms may not be used for Cannabis cultivation where cultivation will prevent their primary use for cooking meals, sleeping, and bathing. Chemicals used for cannabis cultivation shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public right-of-way.
- (f) Consumption of cannabis, whether smoking, vaporizing, or ingesting, is permitted within or upon the grounds of a private residence pursuant to the Dee Johnson Clean Indoor Air Act.
- (g) Cultivation of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

(2) For other cannabis uses, refer to the following sections:

- (a) 17.10.030(D) Cannabis Retail
- (b) 17.10.050(C) Cannabis Consumption Area
- (c) 17.10.050(D) Cannabis Cultivation and Production
- (d) 17.10.050(E) Cannabis Manufacturing
- (e) 17.10.050(F) Cannabis Research/Testing Facility

### **D. Carports**

(1) Carports placed in the front portion of a property between the front of the house and the street shall conform to the following requirements:

- (a) Carports shall not extend into any clear sight triangle.
- (b) Carports shall be unenclosed on three or more sides, and at a minimum, shall be 75 percent open.
- (c) Square footage for carports shall be limited to between 120 and 600 square feet.
- (d) The total area of the carport shall not exceed 25 percent of the front yard setback.
- (e) The maximum height of the carport shall not exceed the height of the adjoining house.
- (f) Carports are prohibited in the front yard setback in the TOD-MU and TOD-R zone districts.

### **E. Daycare Home**

- (1) The operator of the daycare home shall obtain and at all times maintain a current state permit or license required for the operation of this use.
- (2) Only members of the household may provide care at a daycare home.
- (3) Any outdoor play areas shall be enclosed by a 6-foot opaque wall or fence.

**F. Home Occupation**

- (1) A home occupation requires the approval of a business registration by the Village Administrator on an annual basis.
- (2) Only members of the residing family shall be engaged in work at the home occupation.
- (3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. No greater than 25 percent of the floor area of the dwelling unit shall be devoted to the home occupation.
- (4) A home occupation shall maintain an outward residential appearance, except for a sign as permitted by Section XXXX Sign Permits.
- (5) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood. Any parking needs generated by the home occupation shall be met off- street in the driveway or garage of the home occupation and not in a front yard or sidewalk.
- (6) No equipment or process shall be used that creates noise (see Section 9.08.060 of this code), vibration, glare, fumes, or odors.
- (7) Only goods and services created or provided on the premises may be sold on the premises.
- (8) All commercial business activities shall be conducted in the dwelling unit or a permissive accessory structure and shall not disrupt the residential nature of the residential zone district.
- (9)  The following uses and activities are prohibited as home occupations:
  - (a) Any uses allowed under the Industrial Use category
  - (b) Any uses allowed under the Motor Vehicle related category
  - (c) Any uses involved in the manufacturing, storage, or use of hazardous materials
  - (d) Cannabis retail, consumption area, or manufacturing
  - (e) Construction contractor facility and yard
  - (f) Crematorium or mortuary
  - (g) On-premises retail sales
  - (h) Pawn shop or pawnbroker
  - (i) Restaurants
  - (j) Veterinary clinic or hospital
  - (k) Occupations similar to those listed above as determined by the Community Development Director
- (10) Uses permitted as home occupations that require a Conditional Use Permit:
  - (a) Beauty salons, nail salons, or barber shops
  - (b) Carpenter workshops
  - (c) Federal firearms license (Type 1, 3, and 8)
  - (d) Furniture repair workshops
  - (e) Home-made food preparation for direct sale
  - (f) Wrought iron workshops
  - (g) Occupations similar to those listed above as determined by the Community Development Director

**G. Poultry and Livestock Keeping (Residential)**

- (1) The number of poultry shall not exceed 6 per residential property not specifically zoned for the keeping of livestock.

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- (2) This use is allowed in the AR and RR zones provided that the following requirements are met:
  - (a) The number of livestock shall not exceed 1 cow or horse for each 10,000 square feet of open lot area or 1 sheep, pig, or goat for each 4,000 square feet of open lot area, and a minimum of 12 square feet of hutch area and 28 square feet of run space of pervious surface area in an enclosed structure shall be provided for each rabbit.
  - (3) A minimum of 4 square feet of coop area and 8 square feet of run space of pervious surface area in an enclosed structure shall be provided for each poultry, except for AR and RR zones, an enclosure is not required.
    - (a) Structures in excess of 120 square feet shall require a Development Plan application.
    - (b) Roosters shall not be permitted on properties not specifically zoned for the keeping of **livestock**.
  - (4) All poultry shall be kept in such a manner that will not create a nuisance through the violation of the following regulations:
    - (a) No offensive noise, odor, or dust shall be produced.
    - (b) Areas devoted to poultry, including accessory buildings and structures, shall be constructed and maintained to discourage concentration and breeding of insects or pests.
    - (c) Poultry shall be contained on the property by a wall, fence, or enclosure.

### **H. Recreational Vehicle Storage**

- (1) The storage of recreational vehicles (RVs) is permitted in the rear yard or side yard of properties with a residential use or residentially zoned property. No more than 2 RVs are allowed to be stored on these properties.
- (2) RVs shall not be connected to municipal utilities.
- (3) RVs shall remain unoccupied during storage.

### **I. Yard Sales**

- (1) Yard sales or garage sales shall not be conducted on the same lot or parcel for more than 3 days a month.

## **17.10.070 Temporary Uses**

### **A. Film Production**

- (1) The operator of the film production shall acquire and maintain a permit for this use.
- (2) Film production shall not exceed a total of 60 days on any property within a 180-day period.
- (3) Noise, glare, or light spillage off the property from the film production between the hours of 10:00 p.m. and 7:00 a.m. shall be prohibited.

### **B. Real Estate Office or Model Home**

- (1) This use shall be limited to no greater than 30 calendar days prior to site construction and may continue until no more than 30 calendar days after the construction of the last dwelling unit.

(2) If project construction has ceased for a period of 6 months or more, the structure containing this use shall be removed unless an extension is granted by the Community Development Director based on an anticipated construction restart date.

**C. Temporary Dwelling**

- (1) No more than one temporary dwelling is permitted on the same lot as a primary structure during temporary events, such as friends and family accommodation, construction, emergency, or disaster, natural, or otherwise and occupied only by persons authorized by the property owner, including friends, family, or persons having construction or security responsibilities over such site.
- (2) The number of occupants shall conform to the number of adequate beds contained within the temporary dwelling.
- (3) An approved temporary dwelling permit shall be required prior to the placement of the temporary dwelling.
- (4) A temporary dwelling may include a recreational vehicle or similar.
- (5) Temporary dwellings shall not be connected to the municipal utility systems.
- (6) Recreational vehicles shall be road-ready at all times and shall not be placed on a permanent foundation.
- (7) The use shall be removed within 48 hours upon the expiration of a temporary dwelling permit or at the completion of a project, whichever comes first.
- (8) Three types of temporary dwellings are permitted: 1) Family and friends accommodation; 2) New construction or remodeling; and 3) Construction related to a disaster, natural or otherwise.
  - (a) Family and friends accommodation
    - (i) A temporary dwelling is permitted for up to 14 consecutive or non-consecutive days within a 3-month time period.
    - (ii) Occupants of the temporary dwelling shall not be residents of the primary or accessory dwelling unit.
    - (iii) Temporary dwellings shall be placed in the rear or side yard of a property.
  - (b) New construction or remodeling
    - (i) A temporary dwelling for 14 days or less shall require an approved temporary dwelling permit from the Village Community Development Department.
    - (ii) A temporary dwelling for more than 14 days but less than 6 months shall require approval from the Village Planning and Zoning Commission, and an approved temporary dwelling permit. A one-time extension of up to 3 months may be granted at the discretion of the Community Development Director.
    - (iii) Occupants of a temporary dwelling may be residents of the primary or accessory dwelling unit on residentially zoned parcels for which the temporary dwelling resides.
    - (iv) Occupants of a temporary dwelling may be the property owner or authorized persons having construction or security responsibilities over the commercially zoned parcels for which the temporary dwelling resides.

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- (v) Temporary dwellings shall be placed in the rear or side yard of a property.
- (c) Construction related to an emergency or disaster, natural or otherwise
  - (i) A temporary dwelling for 14 days or less shall require an approved temporary dwelling permit from the Village Community Development Department.
  - (ii) A temporary dwelling for more than 14 days but less than 6 months shall require approval from the Village Planning and Zoning Commission, and an approved temporary dwelling permit. A one-time extension of up to 3 months may be granted at the discretion of the Community Development Director.
  - (iii) Occupants of a temporary dwelling may be residents of the primary or accessory dwelling unit on residentially zoned parcels for which the temporary dwelling resides.
  - (iv) Occupants of a temporary dwelling may be the property owner or authorized persons having construction or security responsibilities over the commercially zoned parcels for which the temporary dwelling resides.
  - (v) Temporary dwellings shall be placed in the rear or side yard of a property.

## ARTICLE V. DEVELOPMENT STANDARDS

### 17.12.010 Parking and Loading

#### A. Purpose

Section 17.12.010 establishes standards for off-street vehicle, motorcycle, and bicycle parking for all uses and new development in any zoning district. The standards address the supply, size and layout, and placement of parking and loading areas.

#### B. Applicability

The provisions of Section 17.12.010 apply to:

- (1) Construction of a new primary building.
- (2) A change in use of a primary building that increases the minimum off-street parking requirements for the building by more than 25 percent.
- (3) Expansion of the gross floor area of an existing building by more than 25 percent from the square footage originally approved by the Village.
- (4) Construction of a new parking lot, including any required off-street parking.

#### C. Minimum Off-Street Parking

Off-street parking spaces shall be provided in accordance with Table 17.12.010.1. below. For unlisted uses, the required off-street parking shall be determined by the Community Development Director. If a conditional use or designated use is approved and the approval requires a different parking requirement than the parking requirements listed in Table 17.12.010.1., the parking requirement in the conditional use, designated use, or special use shall apply.

**Table 17.12.010.1.: Minimum Off-Street Parking Requirements**

| Land Use  | Minimum Parking Spaces Required   |
|---|---|
| <b>RESIDENTIAL</b>  |   |
| <b>Household Living</b>                                   |   |
| Dwelling, manufactured home, modular home, or mobile home | 2 spaces per dwelling unit  |
| Dwelling, multi-family                                    | 1.5 spaces for each studio or one-bedroom unit and 2 spaces for each unit with two or more bedrooms |
| Dwelling, single-family detached                          | 2 spaces per dwelling unit; 3 spaces per dwelling unit with more than 3 bedrooms                    |
| Dwelling, two-family attached (duplex)                    | 2 spaces per dwelling unit  |
| Dwelling, cluster development                             | 2 spaces per dwelling unit; 3 spaces per dwelling unit with more than 3 bedrooms                    |
| Dwelling, townhouse                                       | 2 spaces per dwelling unit  |
| <b>Congregate Living</b>                                  |   |
| Assisted living facility or nursing home                  | Assisted living: 1 space per 3 beds; Nursing home: 1 space per 5 beds, but not less than 2 beds     |
| Boarding house  | 1 space per bedroom   |
| Community residential facility                            | 1 space per 3 beds  |
| Group home  | 1 space per 3 beds  |
| <b>COMMERCIAL</b>   |   |
| <b>Accommodations</b>                                     |   |
| Bed and breakfast   | 1 space per guest room, plus 1 space for manager  |

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**Table 17.12.010.1.: Minimum Off-Street Parking Requirements**

| Land Use   | Minimum Parking Spaces Required  |
|--|--|
| Hotel and motel  | 1 space per room, plus 1 space per every two employees   |
| RV park or campground                                      | 1 space per campsite   |
| <b>Agriculture and Animal Related</b>                      |  |
| Agricultural, including livestock                          | No requirement   |
| Agricultural, excluding livestock                          | No requirement   |
| Cannabis cultivation                                       | 1 space per 200 square feet of gross floor area.   |
| Commercial greenhouse, nursery                             | 1 space per 200 square feet of gross floor area  |
| Dog breeding   | 1 space per employee on the maximum shift  |
| Equestrian center  | 1 space per employee on the maximum shift  |
| Farmers market   | No requirement   |
| Kennel   | 3 spaces per 1,000 square feet of gross floor area   |
| Veterinary clinic and hospital                             | 3 spaces per 1,000 square feet of gross floor area   |
| <b>Food, Beverage, and Indoor Entertainment</b>            |  |
| Bar, nightclub   | 8 spaces per 1,000 square feet of gross floor area, plus 1 space per 200 square feet of outdoor patio area |
| Indoor entertainment venue                                 | 1 space per three persons designed capacity  |
| Restaurant, bars, night clubs                              | 6 spaces per 1,000 square feet of gross floor area, plus 1 space per 200 square feet of outdoor patio area |
| Tap room, tasting room                                     | 6 spaces per 1,000 square feet of gross floor area, plus 1 space per 200 square feet of outdoor patio area |
| <b>Motor Vehicle Related</b>                               |  |
| Car wash   | 2 spaces per 1,000 square feet of gross floor area of retail, office, and waiting area                     |
| Commercial parking lot, vehicle storage                    | No requirement   |
| Manufactured home sales and rentals                        | 2 spaces per 1,000 square feet of gross floor area   |
| Motor vehicle fueling and service station                  | 3 spaces per 1,000 square feet of gross floor area of building devoted to gas sales operation              |
| Motor vehicle repair, maintenance, painting, and body work | 2 spaces per 1,000 square feet of gross floor area   |
| Motor vehicle sales and rentals                            | 2 spaces per 1,000 square feet of gross floor area   |
| Truck stop   | 1 space per 1,000 square feet of gross floor area  |
| <b>Office and Services</b>                                 |  |
| Appliance repair   | 2 spaces per 1,000 square feet of gross floor area   |
| Bank, financial institutions                               | 3 spaces per 1,000 square feet of gross floor area   |
| Crematorium, mortuary                                      | 1 space per 1,000 square feet of gross floor area  |
| Dry cleaner, laundromat                                    | 1 space per 1,000 square feet of gross floor area  |
| Office   | 3 spaces per 1,000 square feet of gross floor area   |
| Medical or dental clinic                                   | 5 spaces per 1,000 square feet of gross floor area   |
| Self-storage   | 3 spaces, plus 1 space per 100 storage units   |
| <b>Recreation and Entertainment</b>                        |  |
| Adult entertainment  | 1 space per 4 seats in main assembly area  |
| Amphitheater   | 1 space per 4 seats in main assembly area  |
| Cannabis consumption area                                  | 1 space per 4-person design capacity   |
| Drive-in theater   | No requirement   |
| Health club, gym   | 3 spaces per 1,000 square feet of gross floor area   |
| Indoor recreation, entertainment activities                | 1 space per 3-person design capacity   |
| Movie theater  | 1 space per 4 seats  |

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**Table 17.12.010.1.: Minimum Off-Street Parking Requirements**

| <b>Land Use</b>                                  | <b>Minimum Parking Spaces Required</b>  |
|--|---|
| Open air market                                  | 1 space per 1,000 square feet of lot area used for storage, display, or sales                                     |
| Social club, event facility                      | 1 space per 4 persons <span style="background-color: #ffff00;">design</span> capacity                             |
| Sports stadium                                   | 1 space per 4 seats in main assembly area   |
| <b>Retail Sales</b>                              |   |
| Adult retail                                     | 3 spaces per 1,000 square feet of gross floor area  |
| Art gallery                                      | 3 spaces per 1,000 square feet of gross floor area, but not less than 2 spaces                                    |
| Bakery, confectionery shop                       | 3 spaces per 1,000 square feet of gross floor area  |
| Building and home improvement store              | 2 spaces per 1,000 square feet of gross floor area  |
| Cannabis retail                                  | 3 spaces per 1,000 square feet of gross floor area  |
| General retail                                   | 4 spaces per 1,000 square feet of gross floor area  |
| Grocery store                                    | 3 spaces per 1,000 square feet of gross floor area  |
| Liquor sales, off-premises consumption           | 3 spaces per 1,000 square feet of gross floor area  |
| Pawn shop  | 3 spaces per 1,000 square feet of gross floor area  |
| <b>Transportation</b>                            |   |
| Airport  | 3 spaces per 1,000 square feet of gross floor area of passenger terminal area                                     |
| Park and ride facility                           | To be approved by site plan   |
| Transit facility                                 | 5 spaces per 1,000 square feet of gross floor area  |
| <b>CIVIC AND INSTITUTIONAL USES</b>              |   |
| Cemetery   | To be determined by Development Review Committee  |
| Correctional facility                            | 3 spaces per 1,000 square feet of gross floor area  |
| Crematorium                                      | 1 space per 1,000 square feet of gross floor area   |
| Daycare center                                   | 4 spaces per 1,000 square feet of gross floor area  |
| Funeral homes                                    | 1 space per 4 seats in main assembly area   |
| Golf course and golf driving range               | 4 spaces per hole, in addition to 4 spaces per 1,000 square feet of gross floor area for restaurant, bar, or club |
| Hospital   | 2 spaces per 3 patient beds   |
| Library and museum                               | 4 spaces per 1,000 square feet of gross floor area  |
| Overnight shelter                                | 2 spaces per 1,000 square feet of gross floor area  |
| Religious institution                            | 1 space per every four seats in the main assembly area  |
| School, private elementary or middle school      | 2 spaces per classroom  |
| School, private high school                      | 5 spaces per classroom  |
| School, private vocational                       | 3 spaces per 1,000 square feet of gross floor area  |
| <b>INDUSTRIAL USES</b>                           |   |
| <b>Manufacturing, Production, and Extraction</b> |   |
| Cannabis, manufacturing                          | 1 space per 1,000 square feet of gross floor area   |
| Cannabis, research / testing laboratory          | 1 space per 1,000 square feet of gross floor area   |
| Heavy manufacturing                              | 1 space for every two employees on the maximum shift  |
| Light manufacturing                              | 1 space per 1,000 square feet of gross floor area   |
| Manufacturing, brewery or distillery             | 1 space per 1,000 square feet of gross floor area   |
| Natural resource mining and extraction           | No requirement  |
| <b>Telecommunications and Utilities</b>          |   |
| Community or regional utility                    | No requirement  |
| Drainage facility                                | No requirement  |
| Electric facility                                | No requirement  |
| Solar energy generation                          | No requirement  |
| Wind energy generation                           | No requirement  |
| Wireless transmission facility                   | No requirement  |

| <b>Table 17.12.010.1.: Minimum Off-Street Parking Requirements</b> |   |
|--|---|
| <b>Land Use</b>  | <b>Minimum Parking Spaces Required</b>  |
| <b>Waste and Salvage</b>   |   |
| Recycling facility   | 1 space per employee  |
| Salvage, junk yard   | 1 space per employee  |
| Solid waste facility   | 1 space per employee  |
| <b>Wholesaling and Storage</b>                                     |   |
| Above ground feed storage  | 1 space per employee on the maximum shift   |
| Outdoor storage  | 1 space per employee on the maximum shift   |
| Warehousing  | .5 space per 1,000 square feet of gross floor area  |
| Wholesaling and distribution center                                | .5 space per 1,000 square feet of gross floor area  |
| <b>ACCESSORY</b>   |   |
| Accessory dwelling unit  | No requirement  |
| Cannabis, homegrown  | No requirement  |
| Caretaker's unit   | 1 space per dwelling unit   |
| Daycare home   | No requirement  |
| Home occupation  | No requirement  |
| Recreational vehicle storage                                       | No requirement  |
| Residential poultry keeping  | No requirement  |
| Short-term rental  | 1 space for each bedroom  |
| <b>TEMPORARY</b>   |   |
| Circus, carnival, seasonal outdoor sales                           | 4 spaces per 1,000 square feet of site area where attendees circulate, participate, or observe activities |
| Construction staging, trailer, or office                           | 2 spaces per 1,000 square feet of gross floor area  |
| Dwelling, temporary  | 1 space per dwelling unit   |
| Film production  | No requirement  |
| Model home / office  | 2 spaces per 1,000 square feet of gross floor area of office space  |
| Outdoor concerts   | 4 spaces per 1,000 square feet of site area where attendees circulate, participate, or observe activities |

#### **D. Unlisted Uses**

For any use not listed in Table 17.12.010.1., the Community Development Director is authorized to determine the minimum off-street parking space requirement by any of the following methods:

- (1) Apply the minimum off-street parking space requirement in Table 17.12.010.1. for the listed use that the Community Development Director determines is most similar to the proposed use.
- (2) Establish the minimum off-street parking space requirement by reference to standard parking resources published by the National Parking Association, American Planning Association, or another recognized parking reference resource.
- (3) Establish the minimum off-street parking space requirement based on a parking demand study prepared by the developer that estimates parking demand by reference to standard parking resources published by the National Parking Association, American Planning Association, or another recognized parking reference resource.

#### **E. Parking Reductions**

The minimum amount of off-street parking required by Table 17.12.010.1. may be reduced by **certain** factors. The reductions may be applied individually or in combination but shall not exceed 30 percent of the off-street parking required.

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- (1) Shared parking: Minimum parking requirements may be reduced if two uses share the same parking areas and can demonstrate that their hours of peak parking demand do not overlap. The Community Development Director has the discretion of determining whether a shared parking reduction may be granted, but in no case shall the reduction be more than 25 percent.
- (2) Satellite parking lot: Off-street parking requirements in non-residential and mixed-use zone districts may be met through parking provided on a satellite parking lot. The Community Development Director has the discretion of determining whether a satellite parking lot is appropriate for the development, but in no case shall the reduction be more than 25 percent.
  - (a) Accessible parking spaces required to serve the development shall not be located in a satellite parking lot.
  - (b) Satellite parking lots shall be adjacent to or within 300 feet of the development, as measured from the development property line to the property line of the satellite parking lot.
  - (c) The satellite parking lot shall be subject to the standards for parking lots contained in this Article and the Development Process Manual and shall be maintained and operational at all times the development is in operation.
  - (d) The applicant shall be responsible for any required improvements between the development site and the satellite parking lot, including but not limited to sidewalk or walkway.
  - (e) The applicant may submit a parking agreement for the satellite parking lot in connection with the development to satisfy off-street parking requirements, for review by the Community Development Director. If the parking agreement is deemed acceptable, the document shall be recorded with the Valencia County Clerk.

### **F. Accessible Parking**

- (1) Accessible parking spaces shall be provided for all multi-family and non-residential uses in accordance with Table 17.12.010.2. Accessible Parking Requirements.
- (2) The number and design of accessible parking spaces shall be pursuant to the International Building Code (IBC), Americans with Disabilities Act (ADA), and the New Mexico Statutes Annotated, as amended.
- (3) Accessible parking spaces shall be dispersed amongst accessible entrances and shall be located on the shortest accessible route to the entrance they serve.
- (4) All accessible parking spaces shall have an access aisle that allows a person using a wheelchair or other mobility device to get in and out of their car or van.
- (5) Access aisles shall be 5 feet in width. If the parking space is van accessible, the adjacent access aisle shall be 8 feet in width.
- (6) Two accessible parking spaces shall be permitted to share a common access aisle.
- (7) Accessible parking spaces shall be identified by the International Symbol of Accessibility (ISA); a clearly visible depiction of the symbol shall be painted blue on the pavement surface at the rear of the space.
- (8) The access aisles shall be clearly marked by blue, diagonal striping and shall have the words "NO PARKING" in capital letters, each of which shall be at least 1-foot in height and at least 2-inches in width, placed at the rear of the parking space.

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(9) Each access aisle must adjoin a pedestrian access route with a minimum of 4 feet in width.

(10) A 12-inch by 18-inch sign with the International Symbol of Accessibility shall be provided at the head of each ADA accessible parking space. The sign shall be mounted a minimum of 60 inches above the ground surface, as measured to the bottom of the sign. The sign shall have the required language per 66-7-352.4C NMSA 1978 "Violators Are Subject to a Fine and/or Towing".

(11) If the accessible route is in front of the parking space, wheel stops are required to keep vehicles from reducing the clear width of the accessible route below 36 inches.

(12) The minimum number of accessible parking spaces required shall be based on the total number of vehicle parking spaces provided:

| <b>Table 17.12.010.2.: Accessible Parking Requirements</b> |   |   |
|--|---|---|
| <b>Total Number of Vehicle Parking Spaces Required</b>     | <b>Minimum Number of Required Accessible Parking Spaces</b>                   | <b>Minimum Number Required to be Van Accessible</b>         |
| 1 to 25  | 1   | 1   |
| 26 to 35   | 2   | 1   |
| 36 to 50   | 3   | 1   |
| 51 to 100  | 4   | 1   |
| 101 to 300   | 8   | 2   |
| 301 to 500   | 12  | 2   |
| 501 to 800   | 16  | 3   |
| 801 to 1,000   | 20  | 4   |
| >1,000   | 20 spaces, plus 1 space for every 100 spaces, or fraction thereof, over 1,000 | 1 of every 6 accessible parking spaces, or fraction thereof |

### **G. Electric Vehicles**

(1) Where the minimum required off-street parking spaces for commercial or industrial development is 100 spaces or greater, a minimum of 5% of those spaces shall include electric vehicle charging stations with a rating of 240 volts or higher.

(2) Where multi-family residential apartment developments containing 100 or greater dwelling units are proposed, a minimum of 5% of the parking spaces provided shall include vehicle charging stations with a rating of 240 volts or higher.

### **H. Motorcycle Parking**

(1) In addition to the vehicle parking spaces required by Table 17.12.010.1., motorcycle parking spaces shall be provided for all new multi-family, mixed-use, and non-residential development in accordance with Table 17.12.010.3.

(2) Motorcycle parking spaces shall be located in a well-lit area that is visible from the primary building entrance on the site.

(3) Motorcycle spaces shall be clearly signed and marked "Motorcycle Only" per the Manual on Uniform Traffic Control Devices (MUTCD) standards.

(4) All motorcycle parking stalls shall be 4 feet in width by 8 feet in length.

(5) The minimum number of required motorcycle parking spaces shall be calculated based on the total number of off-street vehicle spaces required.

| <b>Table 17.12.010.3.: Minimum Motorcycle Parking Space Requirements</b> |   |
|--|---|
| <b>Total Number of Vehicle Parking Spaces Required</b>                   | <b>Minimum Number of Required Motorcycle Parking Spaces</b> |
| 1 to 25  | 1   |
| 26 to 50   | 2   |
| 51 to 100  | 3   |
| 101 to 150   | 4   |
| 151 to 300   | 5   |
| 301 to 500   | 6   |
| 802 to 750   | 7   |
| 751 to 1,000   | 8   |
| >1,000   | 8 spaces, plus 1 space per each 500 additional spaces       |

## **I. Bicycle Parking**

(1) In addition to the vehicle parking spaces required by Table 17.12.010.1., bicycle parking spaces shall be provided for all new multi-family, mixed-use, and non-residential development in accordance with Table 17.12.010.4.

(2) The required bicycle parking spaces in Table 12.010.H.2 may be reduced by the Community Development Director based on site-specific conditions.

(3) Bicycle parking spaces shall be conveniently located within 100 feet in any direction of the primary pedestrian entrance and in highly visible, well-lighted areas that do not interfere with vehicle or pedestrian circulation.

(4) Bicycle parking spaces should be located adjacent to a clear aisle at least 5 feet in width to allow for maneuvering of the bicycle. Where bicycle parking is located next to a sidewalk, the maneuvering area may extend into the sidewalk.

(5) The minimum number of required bicycle parking spaces shall be calculated based on the total number of off-street vehicle spaces provided.

| <b>Table 17.12.010.4.: Minimum Bicycle Parking Space Requirements</b> |  |
|---|--|
| <b>Total Number of Vehicle Parking Spaces Provided</b>                | <b>Minimum Number of Required Bicycle Parking Spaces</b>                       |
| 1 to 25   | 2  |
| 26 to 50  | 5  |
| 51 to 100   | 8  |
| >100  | 8, plus 1 space per each 50 vehicle spaces provided after the first 100 spaces |

## **J. Parking Location, Design, and Dimensions**

(1) Minimum parking stall dimensions for standard and compact spaces are provided in Tables 17.12.010.5. and 17.12.010.6., respectively. Dimensions for accessible parking stalls and access aisles are provided in Section 17.12.010.F.

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- (2) If more than 50 off-street parking spaces are provided, 25 percent of the spaces may be compact parking spaces. Designated compact parking spaces shall include the word "Compact" painted on the pavement surface of each space.
- (3) Vehicles may overhang onsite sidewalks and landscape areas provided the overhang does not negatively impact the plant materials or reduce the required pedestrian access route to less than 4 feet wide. The maximum overhang of parking spaces is 2 feet for standard parking spaces and 1.5 feet for compact spaces.
- (4) Curbs or wheel stops shall be required on the periphery of all parking lots so that vehicles do not encroach into the public right-of-way or strike a building, fence, or landscaping.
- (5) Vehicles shall not overhang rights-of-way or accessible ramps.
- (6) Parking areas shall be designed so that vehicles do not have to directly back out of the parking area into the public right-of-way.
- (7) Parking areas shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- (8) All parking spaces must be clearly identified through the use of painted striping and wheel stops or curbs.
- (9) Large parking lots containing more than 100 parking spaces shall be divided into smaller subareas containing no more than 50 spaces each and separated by pedestrian walkways.
- (10) Parking light passenger vehicles in residential zones is prohibited on any portion of the front setback except for a driveway, carport, garage, or drive aisle containing designated parking spaces, in accordance with this Title.
- (11) Parking heavy vehicles in residential zones is prohibited on any portion of the lot except when a heavy vehicle is primarily used for agricultural purposes in the A-R and R-R zones.

**Table 17.12.010.5.: Standard Angle Parking and Drive Aisle Dimensions**

| Angle | Stall Length | Stall Width | Stall Depth | Drive Aisle <sup>1</sup> |
|-------|--------------|-------------|-------------|--------------------------|
| 30°   | 32.7 feet    | 17 feet     | 16.4 feet   | 11 feet                  |
| 45°   | 26.5 feet    | 12 feet     | 18.7 feet   | 11 feet                  |
| 60°   | 22.9 feet    | 9.8 feet    | 19.8 feet   | 15 feet                  |
| 75°   | 20.3 feet    | 8.8 feet    | 19.6 feet   | 22 feet                  |
| 90°   | 20.0 feet    | 8.5 feet    | 20 feet     | 24 feet                  |

**Table 17.12.010.6.: Compact Angle Parking and Drive Aisle Dimensions**

| Angle | Stall Length | Stall Width | Stall Depth | Drive Aisle <sup>1</sup> |
|-------|--------------|-------------|-------------|--------------------------|
| 30°   | 28 feet      | 15 feet     | 14 feet     | 11 feet                  |
| 45°   | 22.5 feet    | 10.6 feet   | 15.9 feet   | 11 feet                  |
| 60°   | 19.3 feet    | 8.7 feet    | 16.7 feet   | 15 feet                  |
| 75°   | 17 feet      | 7.8 feet    | 16.4 feet   | 22 feet                  |
| 90°   | 15 feet      | 7.5 feet    | 15 feet     | 24 feet                  |

1. Drive aisles for one way travel may be reduced to 20 feet in width.

- (11) Parking areas, drive aisles, and drive lanes shall be graded and surfaced in accordance with requirements in the Development Process Manual and that will provide equivalent protection against potholes, erosion, and dust.

(12) Front Yard Parking - Parking within front yards is prohibited, and such parking shall be discontinued within the timeframe specified by the Community Development Department in notice provided to the property owner, with the following exceptions.

- (a) Where lots are large, irregularly shaped, or of agricultural nature, the Community Development Director or their designee may issue a site plan deviation for front yard parking.
  - (i) The site plan deviation shall be granted based on a review of the specific circumstances and potential impacts, with consideration given to maintaining the intent and objectives of this Ordinance.
  - (ii) Any deviation granted shall be documented and may include conditions or requirements to mitigate potential adverse effects on neighboring properties or the surrounding environment.

**K.  Loading and Unloading Areas**

- (1) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area shall be provided to accommodate the delivery or shipment operations in a safe and convenient manner.
- (2) All non-residential uses with more than 25,000 square feet of gross floor area shall provide off-street loading spaces and related access and maneuvering areas as listed in Table 17.12.010.7.

| <b>Table 17.12.010.7.: Off-Street  Loading Space Requirements</b> |                                 |
|--|---------------------------------|
| <b>Gross Floor Area</b>  | <b>Minimum Number of Spaces</b> |
| Less than 25,000 square feet   | None                            |
| 25,000 to 49,999   | 1                               |
| 50,000 to 99,999   | 2                               |
| 100,000 to 125,000   | 3                               |
| Each additional 50,000 square feet above 125,000 square feet   | 1                               |

- (3) The Community Development Director shall have the discretion of waiving the required loading spaces or require additional loading spaces if the proposed use or extraordinary site characteristics warrant it.
- (4) The minimum dimensions for off-street loading spaces shall be 12 feet in width by 55 feet in length, with an overhead clearance of 14 feet from the developed adjacent grade.
- (5) Loading spaces shall be located on the same lot as the use and structure they serve.
- (6)  Loading areas shall not be permitted in any required front setback area or the public right-of-way.
- (7) Loading areas located within 100 feet of any residential zone district shall be screened by any applicable standards of Section 17.12.020 Landscaping and Screening Standards.
- (8) Vehicles parked in the loading areas shall not encroach into required parking spaces, required setbacks, access aisles, or fire lanes.
- (9) Loading areas shall be designed so that delivery vehicles do not have to back into or out of the loading area from a public street or interfere with any parking space or drive aisle.
- (10) The required loading area shall not be used to satisfy the requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

## **17.12.020 Landscaping and Screening Standards**

### **A. Purpose**

This section provides standards for the installation and maintenance of landscaping to enhance the visual quality of development with regionally appropriate, sustainable landscapes that benefit the community by:

- (1) Promoting the use of native and low water-use species that are appropriate for the high desert climate to conserve water resources and reduce the demand for potable water.
- (2) Enhancing the visual appearance of commercial, industrial, and multi-family residential developments.
- (3) Providing buffers between non-residential and residential land uses.
- (4) Mitigating road noise, controlling soil erosion, and reducing dust.

### **B. Applicability**

- (1) The provisions of Section 17.12.020 apply to:
  - (a) Private property only.
  - (b) Subdivision applications where landscaping is proposed for subdivision entry features, medians, or utility strips adjacent to sidewalks.
  - (c) Commercial developments that include new construction of an enclosed structure with a gross floor area greater than 500 square feet.
  - (d) Additions or remodeling of existing structures that disturb more than 100 square feet of land area or have a valuation of over \$80,000.
  - (e) Construction of a new parking lot containing 50 or more spaces, or expansion of an existing parking lot by 50 spaces or more.
  - (f) Section 17.12.020 Landscaping and Screening Standards does not apply to applications for new single-family dwelling units.

### **C. Required Landscape Plan**

- (1) A landscape plan showing the proposed landscape areas and location of existing and proposed plant materials and features.
- (2) Species and size of existing plant material to be preserved.
- (3) Extent and location of all plant material and other landscape features.
- (4) Plant schedule including common and botanical names, size at installation, size at maturity, quantities, and method of transplant.
- (5) The landscape plan shall be drawn to a scale no smaller than 1 inch equals 30 feet (1"= 30') to ensure readability of the landscape design.
- (6) The landscape plan shall clearly indicate proposed treatment of all ground surfaces (i.e. paving, gravel, turf, grading, etc.)

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- (7) Irrigation system operation information and water budgets based on gallons used for landscape plantings shall be included on the landscape plan or with attached documents (for list of plants and worksheet, see Village of Los Lunas Community Development Department).
- (8) A minimum of 15% of the net lot area for each development shall contain landscaping, which is determined by subtracting the square footage of the building footprint from the square footage of the gross lot area.
- (9) Tree canopies and ground level plantings shall cover a minimum of 60% of the total required landscape area, as measured by the canopy width.
- (10) The landscape design shall utilize a variety of plant materials to avoid the creation of a monoculture and destruction of a singular species from plant disease.
- (11) Existing plant materials that are healthy and proposed for preservation shall be indicated as such on the landscape plan and shall count towards meeting the minimum landscape requirements.
- (12) Mulch shall be provided in all planting beds at a minimum depth of 2 inches.
- (13) Turf, sod, or grass seeding shall not be installed in areas that are less than 15 feet in width or length.
- (14) Cool season grasses shall be limited to no more than 10% of the required landscape area. Warm season grasses are not limited in landscape area. Public parks and athletic fields are exempt from this restriction. These locations shall install only the minimum cool season turf required for active recreational use.
- (15) Water features, including but not limited to fountains, streams, and ponds, are classified as high water use and shall be limited in size.
- (16) All underground utility lines shall be located and shown on the landscaping plan. Tree plantings shall not interfere within the functioning of utility lines, either at installation or later.
- (17) Clear-sight triangles shall be shown on the landscape plan and maintained at all street and driveway intersections.

### **D. Required Irrigation System**

- (1) An irrigation plan shall be submitted as part of the required landscape plan and development plan application.
- (2) The irrigation system shall include the installation of an automatic irrigation timer with programmable settings, installation of a backflow preventer, and pipes, valves, and irrigation heads of adequate size to properly irrigate the landscape areas.
- (3) The irrigation system shall be designed to minimize the use of water.
- (4) The irrigation system shall be designed to avoid over spraying onto paved surfaces, including streets, driveways, sidewalks, and parking areas.

### **E. Water allocation.** Landscape plans shall reference the Water Allocation by Plant Type Per Year contained in the Development Process Manual.

### **F. Prohibited Species**

- (1) Russian olive (*Elaeagnus angustifolia*) and Salt cedar (*Tamarix ramosissima*) are prohibited because of their classification as noxious weeds.
- (2) Tree species that carry harmful allergens are prohibited, including Cypress (*Cupressus* sp.), Juniper (*Juniperus* sp. – male specimens are prohibited; females are allowed), and Mulberry (*Morus* sp.).

**G. Installation and Maintenance**

- (1) Required minimum plant sizes at installation:
  - (a) Deciduous shade trees: 2-inch caliper trunk measured 6 inches above grade
  - (b) Accent trees: 1.5-inch caliper trunk measured 6 inches above grade
  - (c) Multi-trunk trees: minimum of 2 trunks, with a combined caliper of 2 inches
  - (c) Evergreen trees: 6 feet in height
  - (d) Shrubs: 1 gallon container
- (2) All landscape plantings and irrigation systems shall be installed and operational prior to the issuance of a Village business registration.
- (3) All required landscaping and irrigation systems shall be regularly maintained by the property owner. Landscape areas shall be maintained free from disease, pests, weeds, and litter, in accordance with acceptable horticultural practices.
- (4) Plant materials shown on the approved landscape plan that have died shall be replaced within 30 days of its demise or during the next appropriate season.
- (5) Failure to maintain the improvements or landscaping required by Section 17.12.020 Landscaping and Screening Standards constitutes a zoning violation.

**H. Street Trees**

- (1) All new developments shall provide trees along street frontages at a rate of every 30 feet on center and planted between the back of curb and abutting sidewalk. For the purpose of determining the number of street trees required, driveway widths are not required to be included in the calculation.
- (2) Street trees may be planted in random clusters, provided the number of street trees meets the total required number as if they were planted evenly.
- (3) In situations where there is no planting strip between the back of curb and abutting sidewalk, the street trees may be planted within 20 feet of the back of curb.
- (4) Vertical clearance below the lowest tree branch shall be 7 feet above abutting pedestrian walkways and streets.
- (5) Maintenance and replacement of street trees shall be the responsibility of the owner of the property on which the tree is located or planted in front of the property.
- (6) Street trees shall be selected from the list of approved street trees in the Development Process Manual.

**I. Parking Lot Landscape**

- (1) Parking areas facing public rights-of-way shall be screened with vegetation, planters, earthen berms, or a combination, at a minimum height of 3 feet and maximum height of 4 feet.
- (2) A minimum of 1 tree per 12 parking spaces shall be required for all off-street parking areas, except for industrial development west of I-25, the rate of tree planting shall be 1 tree per 20 spaces.
- (3) The minimum size of tree planters shall be 36 square feet per tree.
- (4) All trees and plantings within parking lots shall be placed in planting areas or landscape islands and protected by vertical curbs or wheel stops.

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(5) Street trees located within 25 feet of the parking lot serving the development may count toward the parking lot landscape requirements for that parking lot.

### **J. Landscape Buffers**

- (1) Where non-residential development are proposed adjacent to residential zones, a 10-foot wide landscaped buffer and a 6-foot tall **opaque** wall or fence shall be provided on the non-residential property, unless a different buffer and/or fence standard is required under Article IV. Supplemental Standards for Specific Uses.
- (2) Where small lots are proposed to be converted from residential to commercial, and the required landscape buffer will prevent the required amount of parking, the landscape buffer width can be reduced to not less than 3 feet, with the provision that the proposed use of the lot will not be considered a nuisance to adjacent residential properties.
- (3) Within the TOD-MU and TOD-R districts, a landscape buffer between residential zones and non-residential developments shall not be required in the front or side yards.

### **K. Landscape Screening**

- (1) All ground-mounted mechanical equipment visible from public rights-of-way shall be screened with vegetation or an opaque wall or fence. Such screening shall not impede access to the mechanical equipment.
- (2) The vegetative screen shall be planted along the full length of the equipment to be screened and of a height equal to or greater than the equipment.
- (3) Outdoor storage areas shall be screened from public rights-of-way using a combination of landscaping or opaque walls or fences at a minimum height of 6 feet, unless a different height is specified in Article IV. Supplemental Standards for Specific Uses.

## **17.12.030 Fences and Walls**

### **A. Purpose**

- (1) Section 17.12.030 Fences and Walls regulates walls, fences, and retaining walls for the purpose of:
  - (a) Establishing an attractive streetscape and promoting neighborhood character.
  - (b) Providing for adequate privacy and security without degrading the visual aesthetic of the community.
  - (c) Providing visual separation between non-residential and residential land uses.

### **B. Applicability**

- (1) The standards provided in Section 17.12.030 Fences and Walls apply to new fences or walls and replacement of existing fences or walls.
- (2) **A fence or wall** shall be erected only after obtaining a Development Plan application from the Community Development Department.
- (3) Where the minimum height requirement for fences or walls are taller under Article IV. Supplemental Standards for Specific Uses than the maximum height allowed in this section, the taller wall requirement shall prevail. All other applicable standards in this section shall apply.

**C. Fence and Wall Location**

- (1) A fence or wall is permitted to be placed anywhere on a lot, including but not limited to the front, side, or rear setback area or on a property line, except as provided in this section or as limited by clear sight triangle regulations.
- (2) A fence or wall shall not encroach onto any public rights-of-way without an approved encroachment agreement from the Village Public Works Director that shall be recorded with the Valencia County Clerk.
- (3) A fence or wall shall not encroach onto any adjacent properties without prior written consent of that property owner.

**D. Maximum Fence and Wall Height**

- (1) The height measurement of a wall or fence shall be made on the side of the wall or fence at the lowest non-artistically raised grade level. In cases of topographic variations, the grade average shall be used for wall/fence height measurement.
- (2) The maximum height for fences and walls is 7 feet, except as provided in this section or under Article IV. Supplemental Standards for Specific Uses. Fences and walls less than seven feet high may be erected in any part of a lot that is setback as far as the main building face.
- (3) A fence or wall no taller than 4 feet in height may be erected with in the front yard setback area, provided that it meets the clear sight triangle regulations. An additional 2 feet may be added to the overall height provided the fence or wall is no more than 30% opaque and meets the clear sight triangle regulations.
- (4) Tennis courts and security fences for nonresidential uses may be constructed to a maximum height of 12 feet, provided they are constructed from materials that do not obstruct visibility, such as chain link. Such fences shall be placed 7 feet inside the property line. Tennis court fences on residential properties shall be placed in the rear or side yard.
- (5) Swimming pools, spas, or hot tubs, in-ground or above-ground, shall be completely surrounded by a fence, wall, building wall, or combination thereof, with a height of 4 feet above grade as measured on the side of the fence that faces away from the swimming pool, spa, or hot tub and include a locking device on a self-closing gate, per N.M. Code § 14.7.3.24 - Chapter 42 - Swimming Pools. Spas and hot tubs may utilize a lockable cover in lieu of an enclosed fence or wall.

**E. Retaining Walls**

- (1) All retaining walls that are 36-inches in height or greater shall apply for a Development Plan application and be properly designed and engineered by a licensed structural engineer registered in the State of New Mexico.
- (2) Retaining walls taller than 6 feet in height shall be terraced to minimize the visual impact from neighboring properties and public rights-of-way. Terracing shall not exceed 3 tiers.
- (3) Where required, the terrace shall have a minimum depth of 4 feet to provide an area for landscaping and screening. A reduction in the required depth to 3 feet may be approved at the discretion of the Village Public Works Director where site constraints limit the area to accommodate the terracing.
- (4) Retaining walls shall incorporate a setback from the property line to avoid encroachment of the footing onto public right-of-way or adjacent properties.

**F. Fence and Wall Materials and Design**

- (1) Fences and walls shall be constructed of durable materials intended for exterior use and weather and decay resistant.
- (2) Acceptable fence and wall materials include, but are not limited to, concrete masonry unit (CMU) blocks, split-face blocks, stabilized adobe, wood (including **latillas**) brick, stone, glass block, tubular steel, wrought iron, or any other material approved at the discretion of the Community Development Director.
- (3) Walls visible from public rights-of-way shall be architecturally integrated with the building design to the maximum extent feasible.
- (4) Prohibited fence and wall materials include railroad ties, wood pallets, tires, barbed wire, razor wire, barbed tape, or brush, except barbed wire fences may be allowed in the AR and RR zones for the purposes of animal containment and agricultural cropland protection, provided the fence is not placed within 5 feet from a pedestrian walkway.
- (5) The property owner shall remove any fence or wall built of prohibited materials contained in Section 17.12.030 of this Ordinance within 30 days following written notification by the Village Code Enforcement Officer. If such fence is not removed within 30 days, the Village shall remove such fence and the property owner shall be charged for the removal expense.

**G. Maintenance**

- (1) All fences, walls, and retaining walls shall be maintained in good condition, and shall not become dilapidated or a danger to adjoining properties or the general public.
- (2) Fences, walls, and retaining walls that have become dilapidated and a nuisance through neglect, manner of construction, or method of placement, shall be repaired, replaced, or removed by and at the expense of the property owner.

**17.12.040 Outdoor Lighting**

**A. Purpose**

Section 17.12.030 is intended to reduce light pollution, prevent obtrusive lighting, and protect the safety and security of residents.

**B. Applicability**

- (1) All new multi-family, mixed-use, and non-residential development on private property. The provisions contained in Section 17.12.030 shall not apply to public property.
- (2) Change in use of an existing private property.
- (3) Expansion or renovation to existing private property that increases the developed square footage, occupant capacity, or parking spaces by 25 percent or more.

**C. Exemptions**

- (1) Navigational lighting at airports and other lighting required for aircraft safety.
- (2) Sports lighting at playing fields and tennis courts provided the light poles are extinguished by 10:00 p.m., except to complete the sports activity in progress prior to 10:00 p.m.

(3) Existing outdoor lighting on private property that was installed prior to the effective date of this Title shall be exempt and considered nonconforming until natural maintenance, modifications, change of use, or code enforcement obligate meeting the standards.

**D. Prohibited Lighting**

The following types of exterior lighting sources, fixtures, and installations shall be prohibited:

- (1) Mercury vapor lighting.
- (2) Lighting that is animated, blinks, flashes, moves, revolves, or changes intensity.
- (3) Unshielded floodlights, spotlights, searchlight, aerial lasers, or beacons.
- (4) Site lighting that produces direct light or glare onto public rights-of-way that could cause the operator of a motor vehicle to lose visibility or that could be misconstrued as a traffic control device.

**E. Required Lighting Plan**

- (1) An exterior photometric lighting plan shall be prepared in compliance with Section 17.12.030 by an electrical engineer registered in the State of New Mexico and shall be submitted as part of the development plan application.
- (2) All exterior lighting plans shall comply with the "Night Sky Protection Act", Section 74-12-1 through 74-12-10 NMSA 1978.
- (3) All site, parking lot, and building-mounted outdoor lighting shall be shielded using full cut-off light fixtures.
- (4) All outdoor lighting shall be aimed so that light spillover onto the area 10 feet beyond the property line shall not exceed 200-foot lamberts as measured from the property line facing the light source.
- (5) ~~All~~ outdoor light fixtures within any residential, mixed-use, or non-residential zone district shall be extinguished between 10:00 P.M. and sunrise, except for the minimum necessary for security purposes or to illuminate pedestrian walkways, driveways, drive aisles, equipment yards, and parking lots.

**F. Light Fixture Height**

- (1) The maximum height for all light fixtures shall be measured from the finished adjacent grade to the top of the light fixture per Table 17.12.040.1.

**Table 17.12.040.1.: Maximum Height for Light Poles and Building-Mounted Lights**

| Zone Districts   | Maximum Height   |
|--|--|
| Residential zones                                      | 16   |
| Mixed-use zones  | 20   |
| Non-residential zones                                  | 30   |
| Within 100 feet in any direction of a residential zone | 16   |
| Adjacent to parks and open space                       | 20   |
| Building-mounted                                       | Between 7 feet and 15 feet above finished adjacent grade |

**G. Pedestrian Lighting**

- (1) Pedestrian walkways in parking areas shall be lit with pedestrian-scale lighting.
- (2) The maximum height of pedestrian light fixtures shall be measured from the adjacent finished grade to the top of the light fixture per Table 17.12.040.2.

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| Table 17.12.040.2.: Maximum Height for Pedestrian Lighting |                |
|--|----------------|
| Type   | Maximum Height |
| Light poles  | 12             |
| Bollard lights   | 4              |

### 17.12.050 Signs

#### A. Purpose

Section 17.12.050 establishes sign regulations for residential and non-residential development, institutions, and other places of interest that are intended to promote and protect the small-town atmosphere of the while enhancing development and improving the appearance of the Village by:

- (1) Establishing a permit system to allow a variety of types of signs in non-residential zones and a limited variety of signs in residential zones.
- (2) Allowing certain signs that are unobtrusive and incidental to the primary use of the property on which they are located.
- (3) Providing for temporary signs in limited circumstances within public rights-of-way.
- (4) Identifying signs that are prohibited within the Village.
- (5) Ensuring compliance with all applicable federal and state laws regarding the First Amendment of the United States Constitution and free speech, and avoiding regulating signage based on content, viewpoint, or message.

#### B. Applicability

- (1) All signs and support structures shall be designed, installed, and maintained in conformance with the standards, procedures, and other requirements of Section 17.12.050, except for those signs deemed exempt in Section C.
- (2) When any regulation in Section 17.12.050 conflicts with any other regulation in this Title, the most strict interpretation shall apply, except when the Community Development Director determines otherwise. When any regulation in the Supplementary Use Regulations conflicts with any other regulation in this Ordinance, the Supplementary Use Regulation shall prevail.

#### C. Exemptions

The signs listed in this section shall be exempt from the standards contained in Section 17.12.050.

- (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- (2) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than 3 feet beyond the property line of the lot or parcel on which the sign is located.
- (3) Works of art that do not include a commercial message, place name, or logo.
- (4) Holiday lights and decorations with no commercial message, except that the decorations may contain sponsor names that are uniform in design with no other advertising, logos, or any other words or graphics that are unique to a sponsor.
- (5) Traffic control signs on private property, such as "Stop," "Yield," and similar signs, the faces of which meet New Mexico Department of Transportation standards and that do not contain a commercial message of any sort.

#### D. Prohibited Signs

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(1) The following signs listed in this section are prohibited in all districts. These signs shall be removed or brought into conformance with the standards contained in this section or shall be considered in violation and subject to the penalty provisions contained in this Article.

- (a) Abandoned signs located on a property that is vacant, unoccupied, or where the use has been discontinued for a period of 90 days or longer.
- (b) Signs with mechanical movement (e.g. moving parts or rotation) and/or flashing, oscillating, or rotating lights or other illuminating devices that change in brightness or intensity of color.
- (c) Billboards.
- (d) Roof signs.
- (e) Signs that exceed 2 square feet in area on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.
- (f) Signs with exposed incandescent, metal halide, or fluorescent light bulbs.
- (g) Signs with direct illumination by incandescent light bulbs rated at above 375 lumens.
- (h) Signs that contain a beacon of any type and/or contain a spotlight providing direct illumination to the public.
- (i) Additions, tag sign streamers, attention-getting devices, or other accessories attached to any permanent or temporary sign.
- (j) Signs, permanent or temporary, located within 15 feet of the pavement edge in either direction of an intersection and greater than 3 feet in height or that otherwise obstructs the clear sight triangle, or obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, such as a tripping hazard.
- (k) Signs designed in a manner that could be confused with an authorized traffic sign, signal, or device, or utilizing the words "stop," "look," "drive-in," "danger," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse drivers.
- (l) Signs on trees, rocks, or other natural objects, or on any human-constructed object not intended to support a sign, such as a utility pole, light pole, or fire escape; whether attached or painted onto such object.

### **E. Signs Allowed on Private Property**

(1) Primary signs are considered permanent and require a sign permit. Primary signs identify an establishment or premises while the establishment is in operation and/or while the premises are occupied. Primary signs include:

- (a) Awning signs
- (b) Freestanding signs (i.e. pole, pedestal, pylon, monument)
- (c) Hanging signs
- (d) Marquee signs
- (e) Projecting signs
- (f) Wall signs

(2) Secondary signs provide information that is secondary to identifying the major activities occurring on the premises and as described under Section E.(1). Secondary signs may be permanent or temporary, but do not require a sign permit. Permanent and temporary secondary signs include:

- (a) Building/establishment identification wall signs

- (b) Bulletin boards
- (c) Collection box signs
- (d) Directional signs
- (e) Home occupation signs
- (f) Incidental signs
- (g) Memorial signs or tablets
- (h) Public utility signs
- (i) Signs required by law
- (j) Window signs

(3) Temporary signs are used for a specific reason and for a specific length of time, as described in Section 17.12.050(H). Temporary signs on private property do not require a sign permit if they are in compliance with the regulations contained in Section 17.12.050. Temporary signs located in the public right-of-way shall require a sign permit. Temporary signs include:

- (a) Banner signs
- (b) Development/construction signs
- (c) Garage sale signs
- (d) Inflatable displays
- (e) Open house directional signs
- (f) Pennants, flags, streamers, and other similar devices
- (g) Portable signs
- (h) Real estate signs
- (i) Subdivision directional signs
- (j) Window signs
- (k) Yard signs

#### **F. Signs Allowed Within Public Rights-of-Way**

For the purpose of Section 17.12.050 regulations, right-of-way excludes State of New Mexico right-of-way, including Interstate 25, NM Highway 6, NM Highway 314, and NM Highway 47). Signs are prohibited from being placed within public rights-of-way, except for the following:

- (1) Permanent signs. This includes public signs erected by or on behalf of a governmental body to post legal notices; governmental approved community signs (e.g. Adopt-A-Spot); directional kiosk signs; signs to identify public property, convey public information, or direct or regulate pedestrian and vehicular traffic; bus stop signs erected by a public transit company; and informational signs of a public utility regarding its poles, lines, pipes or facilities.
- (2) Temporary signs. Signs posted in accordance with Section 17.12.060.
- (3) Emergency warning signs. This includes signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way that serve to warn the public of emergencies.
- (4) Other signs forfeited:
  - (a) Any sign installed or placed on public property, except in conformance with the requirements of Section 17.12.050, shall be forfeited and subject to confiscation by the Village.
  - (b) The Village shall have the right to recover the full cost of removal and disposal of the sign from the owner or person that placed the sign in violation of Section 17.12.050.

**G. Signs Allowed on a Temporary Basis**

- (1) Temporary signs are allowed only so long as they do not violate the purpose and intent of Section 17.12.050.
- (2) Temporary signs may be posted on property in all zone districts, subject to the following requirements and applicable provisions within Section 17.12.050:
  - (a) A temporary sign may be posted only with the consent of the property owner or occupant.
  - (b) All temporary signs must be constructed and designed of materials durable enough to withstand the elements and inclement weather.
  - (c) Temporary signs shall not be illuminated or painted with light-reflecting paint.
- (3) Temporary signs on private property in residential zone districts shall be subject to the type, size, and number of signs permitted and as described in Section 17.20.060(H) and the following regulations:
  - (a) The total square footage for temporary signs posted within a residential zone district, in the aggregate, shall not exceed a total of 32 square feet in area.
  - (b) No individual temporary sign within a residential zone district shall exceed 8 square feet in area or 6 feet in height if freestanding.
  - (c) One development sign, not to exceed 32 square feet or 6 feet in height, may be placed at the entrance of a subdivision or model home village until such time as the subdivision has been built out and complete.
  - (d) Temporary signs in a residential zone are prohibited from advertising or promoting any off-premises commercial enterprise.
- (4) Temporary signs on private property in non-residential zone districts shall be subject to the type, size, and number of signs permitted and as described in Section 17.12.050(H) and the following regulations:
  - (a) The total square footage for all temporary signs posted within a non-residential zone district, in the aggregate, shall not exceed 64 square feet.
  - (b) No individual temporary sign within a non-residential zone district shall exceed a total of 32 square feet in area.
  - (c) Development located on a single lot, premises, or tract of land that is 20 or more acres is permitted to post temporary signage that does not, in the aggregate, exceed a total of 128 square feet in area.
  - (d) Temporary signs in a non-residential zone are prohibited from advertising or promoting any off-premises commercial enterprise.
- (5) The following temporary signs are allowed in the public right-of-way. A permit is required for subdivision directional signs, kiosk signs, political signs, and ~~special~~ event signs. A permit is not required for directional, noncommercial, and single event signs.
  - (a) Subdivision Directional Signs. Permits for temporary signs in the public right-of-way are allowed on a limited basis during periods of new construction activity that require the need for subdivision directional signs. Directional signs may only be used to direct traffic to subdivisions that are less than 90 percent complete. The purpose of such signs is to minimize confusion among prospective homebuyers who wish to inspect development projects, while promoting traffic safety and reducing the visual blight of sign proliferation. This type of sign is allowed as follows:

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- (i) Subdivision directional signs shall not exceed 8 square feet in area.
- (ii) The maximum number of subdivision directional signs that may be posted with a permit is 6 signs per builder, per subdivision.
- (iii) A permit is valid for one calendar month; however, permits may be purchased in advance for a period not to exceed 12 months.
- (iv) The sign message on subdivision directional signs shall be limited to the builder's name, subdivision identification, and a directional arrow.
- (b) **Directional Kiosk Signs.** Directional kiosk signs shall be allowed as a means to direct the public to businesses or projects located on a property or in a building. Village-owned directional kiosk signs in the public right-of-way may be erected at sites administratively approved by the Community Development Director.
- (c) **Directional, Noncommercial, and Single Event Signs.** The purpose of directional, noncommercial, or single event signs is to provide a method of providing the public with directions to events of a limited duration with changing locations. These signs include, but are not limited to, signs that provide direction to garage sales, open house events, voting or polling locations (restricted to government agencies), and public community meetings, such as neighborhood association meetings.
  - (i) Directional, noncommercial, or single event signs may be placed in the public right-of-way no sooner than one week before the event and must be removed no later than 24 hours after the conclusion of the event, except for garage sale signs, which may be placed in the public right-of-way on Friday and remain until Sunday after the conclusion of the garage sale.
  - (ii) The maximum number of directional, noncommercial, or single event signs that may be posted is 10 per event.
  - (iii) The maximum size allowed for a directional, noncommercial, and single event sign is 3 square feet, with a maximum height of 3 feet.

### H. Signage Type, Frequency, Location and Placement, and Size Regulations

| Table 17.12.050.1.: Signage Type, Frequency, Location and Placement, and Size |                    |             |                                     |                                     |  |
|---|--------------------|-------------|-------------------------------------|-------------------------------------|--|
| SIGN TYPE   | ZONES              |             |                                     |                                     |  |
|   | A-R, R-R, R-1, R-2 | R-3, R-4    | C-1, C-2                            | M-1, M-2                            | TOD-MU, TOD-R  |
| <b>PERMANENT SIGNS ON PRIVATE PROPERTY</b>                                    |                    |             |                                     |                                     |  |
| Hanging (4)   | Not allowed        | Not allowed | 1 sign up to 12 SF per tenant space | 1 sign up to 12 SF per tenant space | 1 sign up to 4 square feet per street level business, situated 7.5 feet to 11 feet above pedestrian walkway, made of wood, metal, or similar material, oriented perpendicular to adjacent wall of business identified, attached in a |

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| Table 17.12.050.1.: Signage Type, Frequency, Location and Placement, and Size |  |   |  |   |  |  |  |
|---|--|---|--|---|--|--|--|
| ZONES   |  |   |  |   |  |  |  |
| SIGN TYPE   | A-R, R-R, R-1, R-2   | R-3, R-4                                      | C-1, C-2   | M-1, M-2  | TOD-MU, TOD-R  |  |  |
|   |  |   |  |   | manner so as to prevent swinging   |  |  |
| Awning (5)  | Not allowed  | 20% of awning at leasing office building only | 50% of awning for each tenant space or building  | 50% of awning for each tenant space or building | 1 sign per street level business façade, up to 50% of awning                               |  |  |
| Building identification (6)   | 1 sign up to 1 SF per building  | 1 sign up to 4 SF per building                |  |   |  |  |  |
| Canopy  | Not allowed  |   | 1 sign per entry to tenant space or building; 50% of tenant space or building width and letters not to exceed 18 inches in height  |   |  |  |  |
| PERMANENT SIGNS ON PRIVATE PROPERTY   |  |   |  |   |  |  |  |
| Electronic(8)   | Not allowed  |   | Max 50 SF message area, 8 seconds minimum per display; Max 1 Electronic sign per development   |   | Not allowed  |  |  |
| Directional   | Permitted per Sec.17.12.050(G))  |   |  |   | Permitted per Sec.17.12.050(G), up to 30 SF total aggregate sign area allowed per business |  |  |
| Flags (14)  | Permitted  |   |  |   |  |  |  |
| Freestanding monument   | Not allowed  |   | 1 sign per street frontage, not to exceed the smaller of: (1) the width of the lot in linear feet or (2) 200 SF; Signs shall not exceed 20 ft. in height. A minimum of 100 ft. shall be maintained between freestanding signs on subject property and adjacent properties        |   | 1 sign up to 32 SF, 10 ft. in height, with enclosed base                                   |  |  |
| PERMANENT SIGNS ON PRIVATE PROPERTY   |  |   |  |   |  |  |  |
| Freestanding pole (9)(10)(11)   | Not allowed  |   | 1 sign per street frontage, not to exceed the smaller of: (1) the linear width of the lot in square feet or (2) 200 SF; Signs shall not exceed 20 ft. in height; A minimum of 100 ft. shall be maintained between freestanding signs on subject property and adjacent properties |   | Not allowed  |  |  |
| Freestanding signs on pad sites   | Not allowed  |   | 1 sign up to 32 SF, 5 ft. in height  |   | 1 sign up to 32 SF, 5 ft. in height when designed as a monument with an enclosed base      |  |  |
| Freestanding subdivision monument   | 1 sign per principal subdivision entrance, not to exceed 64 SF and 6 ft. in height                               |   | 1 sign per principal subdivision entrance, not to exceed 64 SF and 10 ft. in height  |   |  |  |  |

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**Table 17.12.050.1.: Signage Type, Frequency, Location and Placement, and Size**

| ZONES   |  |                                |   |  |  |  |  |  |
|---|--|--------------------------------|---|--|--|--|--|--|
| SIGN TYPE   | A-R, R-R, R-1, R-2   | R-3, R-4                       | C-1, C-2  | M-1, M-2   | TOD-MU, TOD-R  |  |  |  |
|  Home occupation wall sign | 1 sign, no greater than 2 square feet in area and mounted on the wall of the dwelling unit |                                | N/A   |  |  |  |  |  |
| <b>PERMANENT SIGNS ON PRIVATE PROPERTY</b>  |  |                                |   |  |  |  |  |  |
| Illuminated   | Not allowed  | Permitted per Sec.17.12.050(H) |   |  | Except for illuminated clocks and thermometers, illuminated signs shall be turned off at 11 PM or closing, whichever is later; No illuminated sign shall be located as to shine directly into adjacent conforming residential property |  |  |  |
|  Incidental              | Not allowed  |                                | 5 signs up to 4 SF each   | 10 signs up to 4 SF each   | 2 signs up to 4 SF each  |  |  |  |
| Marquee   | Not allowed  |                                | Allowed on the perpendicular or parallel face of marquee; min. of 8 ft. clearance between bottom of sign to the ground; max height 20 ft.                                   |  |  |  |  |  |
| Municipal / traffic   | Permitted per Section 17.12.050(C) and 17.12.050(F)  |                                |   |  |  |  |  |  |
| Off-premises advertising sign   | Not allowed  |                                |   |  |  |  |  |  |
| Projecting (12)   | Not allowed  |                                | 1 sign per tenant space, or 1 per freestanding business, up to 12 SF; max projection 5 ft.; min. of 8 ft. clearance between bottom of sign to the ground; max height 20 ft. |  |  |  |  |  |
| Revolving   | Not allowed  |                                |   |  |  |  |  |  |
| Roof  | Not allowed  |                                |   |  |  |  |  |  |
| <b>PERMANENT SIGNS ON PRIVATE PROPERTY</b>  |  |                                |   |  |  |  |  |  |
| Wall  | Not allowed  |                                | All signs in aggregate shall not exceed 30% of building elevation   | All signs in aggregate shall not exceed 30% of the building elevation; signs shall project up to 1-foot into public ROW provided bottom edge of sign is 8 feet or more above adjacent curb |  |  |  |  |

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| Table 17.12.050.1.: Signage Type, Frequency, Location and Placement, and Size   |   |  |   |                            |  |  |  |  |  |
|---|---|--|---|----------------------------|--|--|--|--|--|
| ZONES   |   |  |   |                            |  |  |  |  |  |
| SIGN TYPE   | A-R, R-R, R-1, R-2  | R-3, R-4   | C-1, C-2  | M-1, M-2                   | TOD-MU, TOD-R  |  |  |  |  |
|   |   |  |   |                            | or sidewalk grade  |  |  |  |  |
| Window (13)   | Not allowed   |  |   | Permitted per 17.12.050(E) | Street level businesses: Max 2 signs, not to exceed the smaller of 15% of the window area or 9 SF; Upper floor businesses: Max 1 sign, not to exceed 15 SF, not directly illuminated |  |  |  |  |
| <b>TEMPORARY SIGNS WITHIN THE PUBLIC RIGHT-OF-WAY</b><br>(Sections 17.12.060(F) and 17.12.060(G) are applicable to these signs) |   |  |   |                            |  |  |  |  |  |
| Single event,  yard sign                       | 410 signs up to 3 SF, 3 ft. in height per approved single event                 | 10 signs up to 3 SF, 3 ft. in height per approved single event   |   |                            |  |  |  |  |  |
| Directional kiosk   | Refer to Section 17.12.050(G)   |  |   |                            |  |  |  |  |  |
| Open house, garage sale (15)  | 4 signs up to 3 SF, 3 ft. in height within .5 mile of open house or garage sale |  |   |                            |  |  |  |  |  |
| Subdivision directional   | 6 signs per builder, per subdivision; signs not to exceed 8 SF                  |  |   |                            |  |  |  |  |  |
| <b>TEMPORARY SIGNS ON PRIVATE PROPERTY</b><br>(Sections 17.12.050(E) and 17.12.050(G) are applicable to these signs)            |   |  |   |                            |  |  |  |  |  |
|  Portable                                    | Not allowed   |  | Individual signs not to exceed 2 ft. wide by 4 ft. in height, so long as such signs do not block sidewalks or rights-of-way, and do not obstruct the vision of any driver who may be entering the roadway |                            |  |  |  |  |  |
| Tethered balloon  | Not allowed   | Not allowed  | Maximum 1 balloon, 50 SF sign area, not to exceed a height of 100 ft. provided placement is set back from the property line a minimum of 1 ft. for every 1 ft. of height                                  | Not allowed                |  |  |  |  |  |
| Special event, banner   | Not allowed   | Permitted up to 30 days prior and 72 hours following grand opening event   |   |                            |  |  |  |  |  |
| Single Event, banner (16)   | Not allowed   | Permitted up to 1 week prior and 72 hours following event to which banner refers; Allowed once per quarter in any year |   |                            |  |  |  |  |  |
|  Promotional, banner                         | Not allowed   | Permitted up to 14 days  |   |                            |  |  |  |  |  |
| Development   | 1 sign, on site, up to 32 SF  |  |   |                            |  |  |  |  |  |
| Flags (flexpole) - model home   | 1 flag per model home.  | 3 flags per development  | N/A   |                            | Not allowed  |  |  |  |  |

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| Table 17.12.050.1.: Signage Type, Frequency, Location and Placement, and Size |   |  |   |  |  |
|---|---|--|---|--|--|
| ZONES   |   |  |   |  |  |
| SIGN TYPE   | A-R, R-R, R-1, R-2  | R-3, R-4   | C-1, C-2  | M-1, M-2   | TOD-MU, TOD-R  |
|   |   | below 5 acres, 6 flags per development above 5 acres   |   |  |  |
| Flags (flexpole) - non-residential lots                                       | N/A   |  | Up to 2 flags per business, shall be located on the lot in which the business is located  |  | Not allowed  |
| Flags (flexpole) - subdivision  | 4 flags per subdivision along the exterior boundary of the subdivision.                               | 3 flags per development below 5 acres, 6 flags per development above 5 acres.                                      | N/A   |  | Not allowed  |
| Open house, garage sale   | 2 signs up to 3 SF, 3 feet in height, shall be located on the lot in which the garage sale is located |  | 4 signs up to 3 SF, 3 feet in height, shall be located on the lot in which the garage sale is located5  |  | 2 signs up to 3 SF, 3 feet in height, shall be located on the lot in which the garage sale is located5 |
| Mobile billboard  | Not allowed   |  | Mobile billboard may not be parked, except during lunch from 12:00 PM to 1:00 PM, on any property except where it may be legally parked for storage |  |  |
| Pennants / streamers  | Not allowed   | 1 linear ft. per linear ft. of street frontage, min. of 14 ft. clearance between pennants/ streamers to the ground |   |  | Not allowed  |
| Real estate   | 1 sign not to exceed 8 SF, 6 ft. in height per street frontage for listed property                    | 1 sign not to exceed 8 SF, 6 ft. in height per street frontage for listed property                                 | 1 sign not to exceed 32 SF, 10 ft. in height per street frontage for listed property  | 1 sign not to exceed 32 SF, 10 ft. in height per street frontage for listed property | 1 sign not to exceed 8 SF, 6 ft. in height per street frontage for listed property                     |
| Real estate office or model home  | 1 sign, no greater than 8 square feet in area, 6 ft. in height  | 1 sign, no greater than 8 square feet in area, 6 ft. in height   | Not allowed   | Not allowed  | 1 sign, no greater than 8 square feet in area, 6 ft. in height   |
| Signs required by law   | Permitted per 17.12.050(C) and 17.12.050(F)   |  |   |  |  |

1. One sign is permitted for 1 premise with street frontage of 50 feet or less. A composite group of small signs integrated into one framed unit shall constitute 1 sign.
2. The maximum sign face area for 1 sign is 32 square feet, and the total maximum aggregate sign face area for all signs for one property shall be 132 square feet.
3. Businesses with frontage on more than one street shall be allowed an additional 50 percent sign face area for the secondary frontage.
4. Hanging signs located within a plaza shall not count against wall signage and are permitted in addition to wall signage.
5. Awning signs shall not count against wall signage and are permitted in addition to wall signage.

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6. Shall not count against wall signage and are permitted in addition to wall signage.
7. Shall not count against wall signage and are permitted in addition to wall signage.
8. Digital signs shall be limited to freestanding signs and in accordance with Section 17.12.160(I). All existing digital signs shall come into compliance Section 17.12.050 as it pertains to animation and brightness within 90 days of the effective date of this Ordinance. Digital signs shall not be located within 40 feet of a residential zone.
9. Any freestanding sign shall be set back a minimum of 3 feet from existing or planned sidewalks.
10. The highest point of a freestanding sign located on property that abuts both a controlled access highway and a state or federal numbered highway shall not exceed 20 feet above the plane of pavement of the highest road at that intersection.
11. Regional shopping centers, industrial parks, or institutional uses, such as government complexes, may install freestanding signs at major intersections of entrance and exits bordering their development.
12. Projecting signs shall be counted towards wall signage, but shall not project beyond a pedestrian walkway, and shall not be permitted within 300 feet of a residence.
13. Window signs shall not count against wall signage and are permitted in addition to wall signage.
14. Must be installed in accordance with all applicable regulations including but not limited to building permits.

### **I. Electronic Signs**

Electronic signs are prohibited within residential zone districts but are permitted elsewhere in accordance with Section H. Signage Type, Frequency, Location and Placement, and Size Regulations and shall conform to the following:

- (1) Electronic signs shall be prohibited from displaying animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.
- (2) Electronic signs shall be prohibited from containing any audio message.
- (3) Electronic signs shall be displayed for a minimum period of eight seconds. The transition from one message to the other shall appear instantaneous as perceived by the human eye. Each sign message shall be complete in itself and shall not continue on a subsequent sign message.
- (4) Electronic signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths foot candles above ambient lights, as measured using a foot candle meter.
- (5) Light measurements shall be taken with the light meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face. Measurements shall be taken as shown in Table 17.12.050.2.:

| <b>Table 17.12.050.2.: Electronic Sign Luminance Measurements</b> |  |
|---|--|
| <b>Sign Area (square feet)</b>                                    | <b>Distance of Measurement (linear feet)</b> |
| 1 to 15   | 36   |
| 16 to 25  | 47   |
| 26 to 35  | 56   |
| 36 to 50  | 67   |
| 51 to 75  | 83   |
| 76 to 100   | 96   |
| 101 to 125  | 107  |
| 126 to 150  | 118  |
| 151 to 200  | 136  |
| 201 to 250  | 150  |

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- (6) Ambient light. An ambient light measurement shall be taken using a foot candle meter at the time period between 30 minutes past sunset and 30 minutes before sunrise with the electronic sign turned off to a black screen. Immediately following the ambient light measurement, an operating sign light measurement shall be taken with the sign turned on to full white copy. The brightness of a sign conforms to the brightness requirements of Section H. if the difference between the ambient light measurement and the operating sign light measurement is three-tenths foot candles or less.
- (7) Default mechanism. All electronic signs shall contain a default mechanism that will cause the electronic sign to revert immediately to a black screen if the sign malfunctions.

### **J. Measurement and Calculation of Permissible Sign Area**

- (1) The sign face area permitted for all signs, except freestanding signs, shall be calculated by measuring the area of the smallest regular geometric shape (rectangle, circle, etc.) or a combination of regular shapes, that encompasses all words, letters, figures, emblems, of the sign area, including the space between the different elements, but shall not include the area that is part of the architecture of the building or supporting structure.
- (2) Wall signs.
  - (a) The method for determining the permissible sign area for wall signs is based on the front first floor elevation of the building or the tenant space (i.e. building unit) within a shopping center..
    - (i) The primary frontage of any tenant space or building unit shall include the building elevation(s) facing a public right-of-way, facing a primary parking area for the building or tenants, or containing the public entrance(s) to the building or building units.
    - (ii) The secondary frontage of any tenant space or building unit shall include those frontages containing secondary public entrances to the building or building units, and all building walls facing a public street or frontage or primary parking area that are not designated as the primary building frontage by subsection I.(c)(i). .
  - (b) The method of determining the length of any primary or secondary building frontage shall be the sum of all lengths parallel, or nearly parallel, to such frontage, excluding any wall length determined by the Community Development Director as clearly unrelated to the frontage criteria.
    - (i) For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated to one total length.
    - (ii) The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.
  - (c) The surface area of a mansard roof shall be included in total area of wall if the mansard roof is to be utilized for the placement of wall signs.
- (3) Freestanding signs. The total sign area of a freestanding sign shall include the frame, if any, but shall not include:
  - (a) A pole or other structural support unless such is intentionally illuminated or otherwise designed to constitute a display device, or a part of a display device.
  - (b) Architectural features that are either part of the building or freestanding structure and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.
- (4) Multi-faced signs. The measurements for a multi-faced sign shall be calculated as follows:

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- (a) For signs containing 2 back-to-back displays of which both faces advertise the same business, only one face shall be considered the sign face area.
- (b) For signs containing 2 back-to-back displays of which each face advertises a separate business, the area of both faces added together shall be considered the sign face area.
- (5) Calculation of Height. The height of a sign shall be calculated as the distance from the base of the sign at the adjacent sidewalk or street, whichever is higher, to the top of the highest attached component of the sign.

### **K. Signage Construction, Maintenance, and Removals**

- (1) Construction. All signs shall be installed, constructed, placed, and supported in such manner so they will not be or become dangerous to the general public or to surrounding property.
- (2) Maintenance. Complete maintenance is required for all signs, whether or not in existence prior to adoption of this Title. Maintenance shall include periodic cleaning; replacement of flickering, burned out, or broken light bulbs or fixtures; repair or replacement of any faded, peeled, cracked, rusting, or otherwise damaged or broken parts of a sign; and any other activity necessary to restore the sign so that it continues to conform to the requirements and contents of the sign permit issued for its installation and provisions of Section 17.20.060.
- (3) The numerical address of the business/development shall be included on freestanding signage.
- (4) Illumination of signs may be direct or indirect; however, all lighting shall comply with the lighting provisions contained in Section 17.12.040 Outdoor Lighting and the State of New Mexico Night Sky Protection Act.
- (5) If any permanent or temporary sign becomes a nuisance as defined in Section 17.12.050, such signs may be subject to removal, relocation, or other actions to eliminate the nuisance, either by the owner of the temporary sign or by the Village.

### **L. Nonconforming Signs**

- (1) Except as may be provided by the terms of Section 17.12.050, signs lawfully established before the effective date of new regulations may continue to be displayed without modifications to their dimensions, appearance, or location, notwithstanding the effect of any more restrictive regulation. As used under Section 17.12.050, "modification" shall not include maintenance as defined in Section 17.12.050(Q).
- (2) The following nonconforming signs shall be subject to the regulations contained in Section 17.12.050 and Section 17.12.070(C) Nonconformities:
  - (a) Any nonconforming sign established without complying with the signage regulations in effect at the time the sign was established.
  - (b) Any nonconforming sign that has been discontinued or abandoned for a period of at least 90 days, or which has been destroyed or damaged to an extent greater than 50 percent of its in-place replacement cost.
  - (c) Any nonconforming sign that is a part of a remodel or expansion that requires such sign to be relocated.
  - (d) Any temporary sign.
  - (e) Any sign that is unsafe or that is a hazard to the public.

## **ARTICLE VI. ADMINISTRATION AND ENFORCEMENT**

### **17.14.010 Review and Decision-Making Bodies**

#### **A. Village Council**

- (1) Authority and duty. The Village Council is the zoning authority for the Village of Los Lunas and has authority to make decisions on applications shown as Council responsibilities in Table 17.14.020.1. The Village Council has delegated some of its broad planning and zoning authority to the Planning and Zoning Commission and the Community Development Department, as authorized by law, and the effect of those delegations is shown in this Title.
- (2) Appeals. Appeals of decisions by the Planning and Zoning Commission or Community Development Department shall be heard by the Village Council for a final decision.

#### **B. Planning and Zoning Commission**

- (1) Authority and duty. The Planning and Zoning Commission shall have the authority to make recommendations to the Village Council concerning applications for designated use permits and zone map amendments. The Planning and Zoning Commission shall also have the authority to hear and make final decisions on the following:
  - (a) Appeals from any order, decision, requirement, or interpretation made by the Community Development Director.
  - (b) Applications for conditional use permits and variances.
  - (c) Interpretations of the zoning map, including zoning district boundary lines.
- (2) Appointments. The Planning and Zoning Commission is a 5-member board that is appointed by the Mayor and affirmed for a two-year term by the Village Council. There is one at-large member and four district members, each representing an individual district, which follow the same boundaries as the Village Council districts.
  - (a) Members of the Planning and Zoning Commission are compensated for their service.
  - (b) If a vacancy occurs prior to the expiration of a Commission member's term, it shall be filled within 90 days of its occurrence by appointment by the Mayor, with consent by the Village Council, for the remainder of the unexpired term.
  - (c) Any Planning and Zoning Commission member who is absent for 3 consecutive meetings or 5 meetings during any calendar year is automatically removed. The Mayor, with approval of the Village Council, may remove a member of the Planning and Zoning Commission after a public hearing and for cause(s) stated in writing and made part of the public record.
- (3) Public hearings. Planning and Zoning Commission hearings shall be held twice a month in the Village Council Chambers at Village Hall. The Planning and Zoning Commission shall approve a public hearing schedule at the end of each calendar year for the following calendar year. Special meetings may be held as needed.
  - (a) A quorum shall consist of 3 members.
  - (b) All applications for approval or recommendation heard by the Planning and Zoning Commission shall require a majority vote of the Planning and Zoning Commission.

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- (c) Any member of the Planning and Zoning Commission who has a personal interest or a conflict of interest in any application or issue presented to the Planning and Zoning Commission for a recommendation or approval shall abstain from discussion and voting on such.
- (d) Each recommendation and decision by the Planning and Zoning Commission shall be recorded by a written determination that contains findings of fact.
- (e) Records of official actions shall be filed in the Community Development Department and shall be a public record.
- (f) The Community Development Department shall provide staffing support to the Planning and Zoning Commission in the performance of its duties.

### **C. Community Development Department**

- (1) Authority and duty. The Community Development Department shall have the authority and duty of interpreting, administrating, and enforcing this Title, including the inspection of premises and the issuing of permits. The person or persons to whom these functions are assigned shall be employees of the Community Development Department.
- (2) Administrative decisions. The Community Development Department shall have the authority to approve site plan deviations of certain dimensional standards contained in this Title and as follows:
  - (a) Deviations to lot size, lot width, setbacks, building height, or off-street parking shall not exceed 10 percent.
  - (b) Deviations to wall and fence height shall not exceed 1 foot.
- (3) Authority to inspect premises. Whenever necessary to make an inspection to enforce any of the provisions of this Title, the Community Development Department shall have the authority to enter buildings or premises for the purpose of inspection, as necessary, to perform any duty imposed on the Village by this Title, provided that if such building or premises is occupied, the inspector shall first present proper credentials and request entry from the owner of the building or premises. No building or premises may be entered without the consent of the owner or occupant unless at least 24 hours' notice of intent to enter has been served upon the owner or occupant.
  - (a) If entry to the building or premises is refused, the Village Administrator or designee shall obtain a search warrant for the inspection by filing a complaint to the municipal court. The complaint shall include:
    - (i) Identification of the building, premises, or portion thereof sought to be inspected.
    - (ii) Statement that the owner or occupant of the building, premises, or portion thereof has refused entry.
    - (iii) Statement that the inspection of the building, premises, or portion thereof is necessary to determine whether it complies with the regulations contained in this Title.
    - (iv) Identification of the provision(s) of the Title sought to be enforced.
    - (v) Identification of any other reason necessitating the inspection, including knowledge or belief that a condition exists in the building, premises, or portion thereof that constitutes a violation of this Title.
    - (vi) Statement that the Community Development Department is authorized by this Title to make such inspection.

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(b) Inspectors from the Community Development Department shall be furnished with a Village identification card, which must be available and presented during the performance of the inspectors' duties.

### **17.14.020 Development Procedures**

#### **A. Procedures Summary**

Table 17.14.020.1. below lists the types of development applications authorized by this Ordinance. For each type of development application, the table indicates which decision-making body reviews the application and whether it can be approved administratively or requires a public hearing or a quasi-judicial hearing.

| Table 17.14.020.1.: Summary of Development Review Procedures |                                  |                              |                 |
|--|----------------------------------|------------------------------|-----------------|
| R = Review   D = Decision                                    |                                  |                              |                 |
| Type of Application  | Community Development Department | Planning & Zoning Commission | Village Council |
| <b>Administrative Decisions (no hearing required)</b>        |                                  |                              |                 |
| Development Plan Application                                 | D                                |                              |                 |
| Short-Term Rental Permit                                     | D                                |                              |                 |
| Sign Permit  | D                                |                              |                 |
| Site Plan Deviation  | D                                |                              |                 |
| <b>Quasi-Judicial Decisions (hearing required)</b>           |                                  |                              |                 |
| Conditional Use Permit                                       | R                                | D                            |                 |
| Designated Use Permit  | R                                | R                            | D               |
| Sign Special Exception                                       | R                                | D                            |                 |
| Variance   | R                                | D                            |                 |
| Zone Map Amendment / Special Use                             | R                                | R                            | D               |
| <b>Legislative Policy Decisions (hearing required)</b>       |                                  |                              |                 |
| Amendment to Area Plan                                       | R                                | R                            | D               |
| Annexation   | R                                | R                            | D               |
| Text Amendment to Comprehensive Plan                         | R                                | R                            | D               |
| Text Amendment to Zoning Ordinance                           | R                                | R                            | D               |

#### **B. Staff Consultation Prior to Application**

(1) Scheduling a meeting with the Community Development Department prior to submitting an application is required to ensure the applicant or agent understands the requirements, provisions, and procedures contained in this Ordinance.

#### **C. Burden of Applicant**

(1) The applicant bears the burden of submitting a complete application for the requested action to the Community Development Department.

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- (2) The applicant bears the burden of presenting a sound justification for approving the requested action, based on substantial evidence.
- (3) The applicant bears the burden of showing compliance with required standards and criteria for the requested action through written analysis and maps, illustrations, photos, or other exhibits.

### **D. Actions by Decision-Making Bodies**

- (1) The applicable decision-making body shall take 1 of the following actions:
  - (a) Approve or recommend approval of the application as presented.
  - (b) Approve or recommend approval of the application and impose conditions, as applicable.
  - (c) Deny or recommend denial of the application.
  - (d) Defer or continue the discussion of the application to a future hearing, as applicable.

### **E. Administrative Applications**

- (1) Short-term rental permit
  - (a) All short-term rentals operating within the Village require an annual permit, which must be submitted on or before December 31 each calendar year. Permits not renewed by December 31 shall expire. Renewals submitted after March 15 shall be subject to a late fee, per Section 17.14.060.
  - (b) A valid permit number shall be included in all advertising of the short-term rental, including listings on web-based sites.
  - (c) Permits shall specify the maximum number of vehicles and the maximum number of occupants.
  - (d) Permits shall not be transferable to another person or property.
  - (e) An application for a short-term rental permit shall include the following:
    - (i) A complete application form, to include the name and phone number of the owner/operator who is available 24 hours per day, 7 days per week to respond to complaints regarding the operation or occupancy of the short-term rental unit.
    - (ii) A statement signed by the owner/operator that the short-term rental shall be operated in compliance with Section 17.10.030.L. and all other applicable Village codes.
    - (iii) A certificate of occupancy.
    - (iv) Payment of all required fees, in accordance with Section 17.14.060.B.
    - (v) For initial applications, proof of all required inspections and proof of adequate short-term rental insurance coverage.
  - (f) For renewal applications, a statement of compliance with all applicable fire, health, and safety requirements.
  - (g) The Community Development Director or their designee shall be authorized to approve short-term rental permits administratively.
  - (h) Short-term rentals shall require a business registration in addition to a short-term rental permit, which can be submitted and renewed concurrently.
  - (i) An owner of an expired short-term rental permit may submit a new application for a short-term rental permit to the Community Development Director in accordance with Section 17.14.030.B.

(2) Sign permit

- (a) If a sign requiring a permit under the provisions of Section 17.20.060 is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the placement, construction, erection, or modification of a sign in accordance with Section 17.20.060 requirements.
- (b) The following modifications to a legally installed sign shall be considered maintenance and shall not require a sign permit:
  - (i) Updating the phone number, street address, and other contact information of the sign owner or lessee in order to ensure that such information is current.
  - (ii) Adding, changing, or removing content, such as letters, on a sign.
  - (iii) Any and all maintenance as required in Section 17.12.060(Q)(2) of this section.
- (c) No signs shall be erected in the public right-of-way, except in accordance with Sections 17.12.060(F) and 17.12.060(N)(5).
- (d) No sign permit of any kind shall be issued for an existing or proposed sign unless the sign is consistent with the requirements of Section 17.20.060 (including those protecting existing signs) and/or any other approvals in effect for the property.
- (e) Placement of a sign in a public utility easement is subject to an approved encroachment agreement with the utility company providing for the installation, maintenance, and removal of the sign and shall be recorded with the Valencia County Clerk.
- (f) Sign application. Applicants requesting approval of a sign permit of any kind shall submit the request to the Community Development Department, and include a completed application form and the following information:
  - (i) Name, address, telephone number, and/or email address of the applicant and/or agent.
  - (ii) Name of person, firm, corporation, or association installing the sign.
  - (iii) Written consent of the owner of the building, structure, or lot to which or on which the sign is to be installed.
  - (iv) One copy of the sign plans and specifications, which shall be submitted as either photocopies or digitally as pdf, or both, and shall include:
    - a) Location of building, structure, or lot to which or upon which the sign is to be installed.
    - b) Location and orientation of the sign or other advertising structure in relation to nearby buildings or structures.
    - c) Method of construction and attachment to the building or inground installation
    - d) A plan set displaying the dimensions (height, depth, width) for each proposed sign and the dimensions of any face of a building or structure to which or upon the sign is to be installed.
- (g) Sign permit fees. A sign permit shall not be deemed valid until such time that the applicable fees set forth by Section 17.14.060.C. have been paid by the applicant.
- (h) Sign application completeness. The Community Development Director or their designee shall review an application for a sign permit for completeness within 10 working days of receiving the application. If the Director or their designee finds that the application is incomplete, the Director

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or their designee shall notify the applicant within 5 working days of the specific ways in which the application is deficient relative to specific provisions within Section 17.20.060.

- (i) Action on sign permit. The Community Development Director or their designee, within 10 working days of the submission of a complete application for a sign permit, shall either:
  - (i) Issue the sign permit, confirming the sign conforms in every respect with the requirements of Section 17.20.060; or
  - (ii) Reject the sign permit, finding that the sign fails in some way or ways to conform to the requirements of Section 17.20.060. In case of a notice of rejection, the Community Development Director or their designee shall specify the section or sections of Section 17.20.060 with which the sign is inconsistent.
- (j) If the work authorized under an approved sign permit has not been completed within 6 months after the date of issuance, the sign permit shall become null and void.

**(3) Site plan deviation**

- (a) An application for a site plan deviation to a dimensional standard required by this Ordinance shall be submitted to the Community Development Department for review and determination if the deviation is justified.
- (b) Deviations to a dimensional standard shall not exceed 10 percent. Requests to vary from a dimensional standard by more than 10 percent shall follow the variance procedures as outlined in Section 17.14.020(E).
- (c) Deviations to a dimensional standard may only be authorized for minimum lot size, lot width, setback, building height, off-street parking spaces, and wall or fence height.
- (d) An application for a site plan deviation shall be approved if it meets all the following criteria:
  - (i) The site is subject to constraints not generally shared by adjacent or surrounding properties.
  - (ii) The site constraints were not created by the actions of the applicant.
  - (iii) The approval of the request for deviation shall not cause adverse impacts on adjacent or surrounding properties.
- (e) Any deviation granted that is associated with a site plan shall be noted on the approved site plan.
- (f) Site plan deviation application shall include:
  - (i) The name and contact information of the applicant.
  - (ii) The legal description of the subject property.
  - (iii) The specific provisions of Title 17 of which the applicant desires a site plan deviation.
  - (iv) A site plan, drawn to scale, that illustrates the extent and effect of the deviation requested for the subject property.
  - (v) A written response to each criterion listed under Section 17.14.020.D.(3).

**(4) Development Plan Application**

Any property within the municipal limits of the Village shall not be altered, including but not limited to substantial topographic modifications, installation of major infrastructure, the construction, erection, movement, placement, or significant alteration to buildings or other structures intended to be permanent, temporary, or otherwise except when in strict compliance with the following provisions or as provided in Section 17.14.020(X)(X)(c):

- (a) A development plan application shall be submitted to the Community Development Department for review and decision.
- (b) The following is exempt from the provisions of Section 17.14.020(X)(X):
  - (i) Buildings and other structures intended to be permanent, temporary, or otherwise 120 square feet or less shall comply with the provisions set forth in §14.5.2 NMAC or as amended.
  - (ii) Residential roof-mounted solar.
  - (iii) Residential re-roofs where the building or structure is not expanded vertically or horizontally, and no structural modifications are made.
  - (iv) Temporary buildings or structures such as recreational vehicles or similar, provided they are in strict compliance with the provisions of Section 17.10.070.
- (c) The Community Development Director or their designee shall determine if a site plan deviation, conditional use or designated use permit, zone change, or variance is required and, if so, notify the applicant that a request for such permit or application must be submitted. A permit or application must be approved prior to when site modifications are performed.
- (d) Residential development plan application:
  - (i) Development plan applications shall include 1 set of the following:
    - a) A completed Development Plan Application on the prescribed form.
    - b) A completed New Mexico Construction Industries Division application on the prescribed form.
      - (1) For manufactured and mobile homes, a complete New Mexico Manufactured Housing Division application on the prescribed form.
    - c) Proof of ownership such as a warranty deed, tax card, or similar.
      - (1) In the event the applicant is not the property owner, a document from the property owner acknowledging the application shall be included.
    - d) A Site Plan drawn to scale and shall include the following:
      - 1) Scale (numeric and graphic).
      - 2) North arrow.
      - 3) Length and width of the property, measured in feet and rounded to the nearest foot.
      - 4) Public right-of-way adjacent to and within 150 feet of the site.
      - 5) Location of all proposed and existing structures on site.
      - 6) Length, width, and height of all proposed structures measured in feet and inches.

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- 7) Distance from each exterior side of the proposed structure to the closest parallel property line measured in feet and inches.
- 8) Distance from all other proposed and existing structures on site measured in feet and inches.
- 9) Location of proposed access and/or curb cuts.
- e) Applications for manufactured and mobile homes shall include the following:
  - 1) Tie-down or foundation plans.
  - 2) A description of skirting, also known as underpinning.
  - 3) A certification label, also known as a Housing and Urban Development (HUD) Tag, for manufactured homes.
- f) Properties located within a FEMA designated Special Flood Hazard Area (SFHA) shall include the following:
  - 1) A completed Floodplain Development Application.
  - 2) Documents as required by the Floodplain Administrator and the provisions of Chapter 15.24.
- g) The Community Development Director or their designee may determine that additional documents are necessary for a complete development review.
- (ii) Upon receiving an approved development plan application for a site-built or modular structure from the Community Development Department, an application for a building permit and/or trade permit shall be submitted to the State of New Mexico Construction Industries Division. The Village does not issue building and trade permits or conduct inspections of such permits.
- (iii) Upon receiving an approved development plan application for a manufactured or mobile home from the Community Development Department, an application for an installation application shall be submitted to the State of New Mexico Manufactured Housing Division for. The Village does not issue installation permits or conduct inspections of such permits.

(e) Commercial and Industrial development plan applications:

- (i) Development plan applications shall include one (1) set of the following:
  - a) A completed Development Plan Application on the prescribed form.
  - b) A completed New Mexico Construction Industries Division application on the prescribed form.
  - c) Proof of Ownership such as a warranty deed, tax card, or similar.
    - 1) In the event the applicant is not the property owner, a document from the property owner acknowledging the application shall be included.
- d) A Site Plan that shall be drawn to scale and include the following:
  - 1) Scale (numeric and graphic).
  - 2) North arrow.
  - 3) Length and width of the property, measured in feet and rounded to the closest foot.

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- 4) Public right-of-way adjacent to and within 150 feet of the site.
- 5) Location of all proposed and existing structures on site.
- 6) Length, width, and height of all proposed structures measured in feet and inches.
- 7) Identified applicable setbacks as required by Section 17.XX.XXX.
- 8) Distance from each exterior side of the proposed structure to the closest parallel property line measured in feet and inches.
- 9) Distance from all other proposed and existing structures on site measured in feet and inches.
- 10) Location of proposed access and/or curb cuts.
- 11) Dumpster location.
- 12) Parking locations and calculations.
- 13) Drainage pond(s) location.

- e) Properties located within a FEMA designated Special Flood Hazard Area (SFHA) shall include the following:
  - 1) A completed Floodplain Development Application.
  - 2) Documents as required by the Floodplain Administrator and the provisions of Chapter 15.24.
- f) Certified fire plans.
- g) Certified grading and drainage plans.
- h) Landscape plans.
- i) Parking plans.
- j) Lighting plans.
- k) Utility plans.
- l) Driveway / curb cut plans.
- m) The Community Development Director or their designee may determine that additional documents are necessary for a complete development review.

- (ii) Upon receiving an approved Development Plan Application from the Community Development Department, an application for a building and/or trade permit shall be submitted to the State of New Mexico Construction Industries Division. The Village does not issue building and trade permits or conduct inspections of such permits.

- (f) Development plan application longevity of approval:
  - (i) Construction must commence within 180 days from the date of approval.
  - (ii) An approved Development Plan Application shall be valid for one (1) year from the date of approval unless the Community Development Director grants an extension and concludes that the applicant has proceeded with due diligence, in good faith, and conditions have not changed so substantially as to warrant a new application.

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(iii) If a State of New Mexico Construction Industries Division building and/or trade permit has expired or been revoked at any time, the associated Village Development Plan Application shall expire. A new Development Plan Application shall be submitted, reviewed, and approved prior to reinstatement of a building and/or trade permit.

### **F. Quasi-judicial Applications**

- (1) Conditional use permit. An application for a conditional use permit shall be submitted to the Community Development Department for review and consideration by the Planning and Zoning Commission.
  - (a) An application for a conditional use permit shall be approved if it meets all of the following criteria:
    - (i) The requested conditional use is listed as a conditional use in the Allowable Use Table 17.08.020.1.
    - (ii) The conditional use shall not cause a significant adverse impact on adjacent or nearby properties, or be contrary to the public health, safety, or welfare.
    - (iii) The conditional use shall not create adverse impacts on adjacent or nearby properties through a substantial increase in traffic congestion, parking congestion, or noise without adequate mitigation, as determined by the Planning and Zoning Commission.
    - (iv) The conditional use shall be in general conformance with the goals and policies in the Comprehensive Plan.
  - (b) Conditional use permit application. An application for a conditional use permit shall include the following information:
    - (i) The name and contact information of the applicant and the agent, if applicable.
    - (ii) The legal description of the property for which the conditional use permit is requested by the applicant.
    - (iii) A site plan (drawn in engineers' scale) for the subject property that contains the following:
      - a) Scale (written and graphic) and north arrow
      - b) Proposed buildings, off-street parking areas, loading areas (if applicable), and landscape areas
      - c) Any existing structures on the subject property and on adjacent property within 30 feet of the subject property
      - d) Existing and proposed easements within the subject property
      - e) Existing and proposed utilities within and adjacent to the subject property
      - f) Public rights-of-way adjacent to the subject property, including curb and gutter lines, travel lanes, and turn lanes.
      - g) Legal description of the subject property
      - h) Existing zoning and land use on adjacent properties
      - i) Location map showing the subject property in relation to Village limits

(c) Conditional use permit procedures.

- (i) An application for a conditional use permit shall be scheduled for review at a public hearing by the Planning and Zoning Commission within 30 working days of receiving the application and payment of the applicable fee.
- (ii) The Planning and Zoning Commission shall approve, deny, or defer the conditional use permit application.
- (iii) Longevity of Approval. An approved conditional use permit shall have longevity of 1 year from the date of approval by the Planning and Zoning Commission to commence with the conditional use. If the project associated with the conditional use has not commenced within 1 year from the approval date, approval of a new conditional use permit shall be required, or the conditional use shall be deemed expired.

(2) Designated use permit. An application for a designated use permit shall be submitted to the Community Development Department for review and recommendation by the Planning and Zoning Commission and final action by the Village Council.

(a) An application for a designated use permit shall be approved if it meets all of the following criteria:

- (i) The requested use is listed as a designated use in the Allowable Use Table 17.08.020.1.
- (ii) The designated use shall not cause a significant adverse impact on adjacent or nearby properties, or be contrary to the public health, safety, or welfare.
- (ii) The designated use shall not create adverse impacts on adjacent or nearby properties through a substantial increase in traffic congestion, parking congestion, or noise without adequate mitigation, as determined by the Planning and Zoning Commission and the Village Council.
- (iii) The designated use shall be in general conformance with the goals and policies contained in the Comprehensive Plan.

(b) Designated use permit application. An application for a designated use permit shall include the following information:

- (i) The name and contact information of the applicant and the agent, if applicable.
- (ii) The legal description of the property for which the designated use permit is being requested by the applicant.
- (iii) A site plan (drawn in engineers' scale) for the subject property that contains the following:
  - a) Scale (written and graphic) and north arrow
  - b) Proposed buildings, off-street parking areas, loading areas (if applicable), and landscape areas
  - c) Any existing structures on the subject property and on adjacent property within 30 feet of the subject property
  - d) Existing and proposed easements within the subject property
  - e) Existing and proposed utilities within and adjacent to the subject property
  - f) Public rights-of-way adjacent to the subject property, including curb and gutter lines, travel lanes, and turn lanes.
  - g) Legal description of the subject property

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- h) Existing zoning and land use on adjacent properties
- i) Location map showing the subject property in relation to Village limits

 A written response to each criterion listed under Section 17.14.020.F.(2)(a).

(c) Designated use permit procedures.

- (i) An application for a designated use permit shall be scheduled for review at a public hearing by the Planning and Zoning Commission within 30 working days of receiving the application and payment of the applicable fee.
- (ii) The Planning and Zoning Commission shall provide a recommendation to the Village Council whether to approve or deny the designated use permit application.
- (iii) The Village Council shall schedule a public hearing on the designated use permit application within 30 working days of the Planning and Zoning Commission hearing.
- (iv) The Village Council shall consider the recommendation provided by the Planning and Zoning Commission; however, the Village Council shall not be bound by the recommendation in determining whether to approve or deny the designated use permit application.
- (v) The Village Council shall approve, deny, or defer the designated use permit application.
- (vi) Longevity of Approval. An approved designated use permit shall have a longevity of 1 year from the date of approval by the Village Council to commence with the designated use. If the project associated with the designated use has not commenced within 1 year from the approval date, approval of a new designated use permit shall be required, or the designated use shall be deemed expired.

(3) Variance. A variance may only be authorized for minimum lot size, lot width, building height, setback, off-street parking, and off-street loading requirements. An application for a variance shall be submitted to the Community Development Department for review and consideration by the Planning and Zoning Commission.

(a) An application for a variance shall be approved if it meets all of the following criteria:

- (i) There are special circumstances or conditions applicable to the property that are not self-imposed and do not generally apply to other properties in the same zone district, including but not limited to size, shape, topography, location, surroundings, natural forces, or by government actions for which no compensation was paid.
- (ii) Strict compliance with the provisions contained in this Ordinance would deprive the applicant of development rights commonly enjoyed by other properties in the same zone district, causing extraordinary hardship resulting in a substantial limitation on the use of the property or practical difficulties.
- (iii) The variance is the minimum necessary to overcome the extraordinary hardship and provide reasonable use of the property.
- (iv) Financial gain or loss to the applicant shall not be the determining factor in the decision whether to approve or deny a variance.
- (v) The variance shall not cause a significant adverse impact on adjacent or nearby properties, or be contrary to the public health, safety, or welfare.

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- (vi) The variance shall not undermine the intent or purpose of this Ordinance or the zone district in which the property is located.
- (vii) The variance shall not result in the expansion of a nonconforming use or structure, and no nonconforming use of adjacent properties or buildings shall be considered grounds for granting of the variance
- (b) Variance application. An application for a variance shall include the following information:
  - (i) The name and contact information of the applicant.
  - (ii) The legal description of the subject property.
  - (iii) The specific provisions of Title 17 of which the applicant desires a variance.
  - (iv) The nature of the hardship and the extent to which the applicant believes the property meets the acceptable grounds for a variance.
  - (v) A site plan, drawn to scale, that illustrates the extent and effect of the variance requested for the subject property.
  - (vi) A written response to each criterion listed under Section 17.14.020.E.(3)(a).
- (c) Variance procedures.
  - (i) An application for a variance shall be scheduled for review at a public hearing by the Planning and Zoning Commission within 30 working days of receiving the application and payment of the applicable fee.
  - (ii) The Planning and Zoning Commission shall decide whether to approve the variance application at a public hearing.
  - (iii) An application for a variance shall not be approved until any necessary conditional use permit, designated use permit, or zone map amendment has been approved by the applicable approval body.
  - (iv) Any variances granted by the Planning and Zoning Commission that are associated with a site plan shall be noted on the site plan and filed with the Community Development Department.
  - (v) Any variances granted by the Planning and Zoning Commission shall be recorded with the Valencia County Clerk.
  - (vii) Longevity of Approval. An approved variance shall have a longevity of 1 year from the date of approval by the Planning and Zoning Commission to commence with the variance. If the project associated with the variance has not commenced within 1 year from the approval date, approval of a new variance shall be required, or the variance shall be deemed expired. An approved variance shall not be modified or expanded upon, or the variance shall be deemed void. A new variance shall be required for any modifications or expansions to a previously approved variance.
- (4) Zone map amendment. An application for a zone map amendment (zone change) shall be submitted to the Community Development Department for review and recommendation by the Planning and Zoning Commission and final action by the Village Council. These procedures also apply to an application for Special Use.
  - (a) An application for a zone change shall be approved if it meets all of the following criteria:

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- (i) The proposed zone change is consistent with the public health, safety, and general welfare of the Village by demonstrating consistency with the goals and policies contained in the Comprehensive Plan and other applicable land use plans adopted by the Village Council.
- (ii) The proposed zone change would better serve the community's social, economic, or environmental interests than the existing zoning district.
- (iii) The existing zoning is inappropriate because:
  - a) There was a mapping error when the existing zoning district was applied to the subject property;
  - b) There has been a significant change in neighborhood or community conditions relevant to the subject property;
  - c) A different zone district is more beneficial to the Village as articulated by the Comprehensive Plan and other applicable land use plans adopted by the Village Council; or
  - d) The zone district boundary divides a lot area into 2 or more zoning districts thereby making development of the subject property difficult.
- (iv) The permissive or conditional uses allowed in the requested zone shall not be harmful to adjacent or nearby properties unless the applicable Supplementary Standards for Specific Uses adequately mitigates those impacts.
- (v) Financial gain or loss to the applicant shall not be the determining factor in the decision whether to approve a zone change.
- (vi) The existing infrastructure adjacent to or in close proximity to the subject property has adequate capacity to serve the development made possible by the zone change or will have adequate capacity once the applicant fulfills their infrastructure obligations per the Development Process Manual.
- (vii) The zone change does not create a spot zone unless the zone change clearly facilitates the goals and policies of the Comprehensive Plan and meets one of the following criteria:
  - 1) The subject property can function as a transition between zone districts; or
  - 2) The subject property is not suitable for the uses allowed in the existing zone district due to physical constraints, such as topography, traffic, access, or existing land uses adjacent to the subject property.

(b) Zone map amendment application. An application for a zone change shall include the following information:

- (i) The name and contact information of the applicant.
- (ii) The legal description of the property for which the zone change is being requested by the applicant.
- (iii) A written response to each criterion listed under Section 17.14.020.F.(4)(a). 
- (iv) Description and exhibit of the proposed use.
- (v) A Site Plan that shall be drawn to scale and include the following:

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- 1) Scale (numeric and graphic).
- 2) North arrow.
- 3) Length and width of the property, measured in feet and rounded to the closest foot.
- 4) Public right-of-way adjacent to and within 150 feet of the site.
- 5) Location of all proposed and existing structures on site.
- 6) Length, width, and height of all proposed structures measured in feet and inches.
- 7) Identified applicable setbacks as required by Section 17.XX.XXX.
- 8) Distance from each exterior side of the proposed structure to the closest parallel property line measured in feet and inches.
- 9) Distance from all other proposed and existing structures on site measured in feet and inches.
- 10) Location of proposed access and/or curb cuts.
- 11) Dumpster location.
- 12) Parking locations and calculations.
- 13) Drainage pond(s) location.

(c) Zone map amendment procedures.

- (i) An application for a zone change shall be scheduled for review at a public hearing by the Planning and Zoning Commission within 30 working days of receiving the application and payment of the applicable fee.
- (ii) The Planning and Zoning Commission shall provide a recommendation to the Village Council whether to approve or deny the zone change application.
- (iii) The Village Council shall schedule a public hearing on the zone change application within 30 working days of the Planning and Zoning Commission hearing.
- (iv) The Village Council shall consider the recommendation provided by the Planning and Zoning Commission; however, the Village Council shall not be bound by the recommendation in determining whether to approve or deny the zone change application.

(5) Reconsideration of action. In the case where an application for a zone change, conditional use permit, designated use permit, or a variance is denied, a new application for the same action shall not be accepted for consideration by the applicable decision-making body within one year after the denial.

**G. Quasi-judicial Hearings/Due Process**

- (1) Quasi-judicial hearings held by the Planning and Zoning Commission and the Village Council are intended for discretionary decisions that result in changes to property rights or entitlements on a specific property or affecting a small area of the Village.
- (2) An appearance of record in a quasi-judicial hearing is made through a written statement of the applicant's name and address, signed by the applicant or their agent, and submitted to the Community Development Department for consideration by the appropriate decision-making body.
- (3) All testimony at a quasi-judicial hearing given by Village staff, the applicant or agent, and members of the public shall be conducted under oath.

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- (4) All parties to the application shall be given an opportunity to present evidence and to question witnesses on relevant issues.
- (5) The decision-making body may impose reasonable limitations on the number of witnesses heard and the nature and length of their testimony.
- (6) A full record of the quasi-judicial hearing shall be created through recording or transcription, which shall be made available to the applicant, parties to the application, and interested members of the public.
- (7) Prior to making the decision on the application at a quasi-judicial hearing and prior to the expiration of the applicable appeal period, the decision-making body shall refrain from:
  - (a) Communicating, directly or indirectly, with any party or party representative in connection with the merits of any application.
  - (b) Using or relying on any communication, reports, or other materials prepared in connection with the application unless they were made a part of the case record.
  - (c) Inspect the property applicable to the application with any party or their representative unless all parties are given an equal opportunity to be present during the inspection.

### **H. Permit Required**

- (1) The use of any property, building, or structure may not be substantially changed, constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
  - (a) A building permit or mobile home parking permit issued by the Construction Industries Division.
  - (b) A Conditional Use Permit approved by the Planning and Zoning Commission;
  - (c) A Designated Use Permit approved by the Village Council.
  - (d) A Special Use Permit approved by the Village Council.
  - (e) A sign permit approved by the Community Development Department.
- (2) Conditional Use Permits, Designated Use Permits, Special Use Permits, and sign permits are approved and issued under this Ordinance only when a review of the application submitted has been deemed complete and indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Issuance of such permit authorizes the applicant to commence the approved activity (subject to a building permit being issued) or to make necessary improvements to subdivision. The intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Ordinance have been complied with.
- (3) Physical improvements to land to be subdivided shall not proceed forward except in accordance with a Final Plat approval by the Village Council.
- (4) A Conditional Use Permit, Designated Use Permit, Special Use Permit, or sign permit shall be issued in the name of the applicant, shall identify the property involved and the proposed use, and shall contain any special conditions or requirements imposed by the approval body that issued the permit.

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### **I. Permit Revocation**

(1) A conditional use or designated use permit may be revoked by the Village Council if the applicant fails to develop or maintain the property in accordance with the approved Conditional Use, Designated Use, or Special Use, the requirements of this title, or any additional requirements lawfully imposed by the Planning and Zoning Commission or the Village Council.

### **J. Legislative Policy Applications**

(1) Text amendment. An application for a text amendment to this Ordinance or the Comprehensive Plan shall be submitted to the Community Development Department for review and recommendation to Planning and Zoning Commission and final action by the Village Council.

(a) An application for a text amendment to this Ordinance or Comprehensive Plan shall be approved if it meets all the following criteria:

- (i) Changed economic, social, environmental, or other conditions necessitate the text amendment.
- (ii) The text amendment will protect the public health, safety, or welfare better than the existing Ordinance or Comprehensive Plan.
- (iii) The text amendment does not apply to one parcel or development project.
- (iv) The text amendment will be beneficial to a large portion of the residents or property owners in the Village.
- (v) The text amendment is consistent with the spirit and intent of the Comprehensive Plan.

(b) Text amendment application. An application for a text amendment shall include the following information:

- (i) The name and contact information of the applicant.
- (ii) A written response to each criterion listed under Section 17.14.020.I.(1)(a). 

(c) Text amendment procedures.

- (i) An application for a text amendment shall be scheduled for review at a public hearing by the Planning and Zoning Commission within 30 working days of receiving the application and payment of the application fee, if applicable.
- (ii) The Planning and Zoning Commission shall provide a recommendation to the Village Council whether to approve or deny the text amendment application.
- (iii) The Village Council shall schedule a public hearing on the text amendment application within 30 working days of the Planning and Zoning Commission hearing.
- (iv) The Village Council shall consider the recommendation provided by the Planning and Zoning Commission; however, the Village Council shall not be bound by the recommendation in determining whether to approve or deny the text amendment application.

### **K. Notice of Hearing**

(1) The Community Development Department shall provide notice of any required hearing as follows:

(a) A written notice shall be mailed or emailed to the appellant or applicant a minimum of 15 calendar days before the hearing.

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- (b) Public notice shall be published a minimum of 15 calendar days before the hearing in a newspaper of general circulation in the area.
- (c) Owners of property within 200 **feet** of the property line of the application or appeal shall be notified in writing by certified mail, or first-class mail if the application is larger than 1 block in area.
- (d) Public notice shall be provided by prominently posting signs along each the street frontage of the subject property. Such signs shall be posted a minimum of 15 calendar days prior to the hearing.
- (e) The required notice shall state the date, time, and place of the hearing, general location of the subject property, and a brief description of the proposed action.

### **L. Development Plan and Building Permit**

- (1) An application for a building permit shall be submitted to the Construction Industries Division. The Community Development Department does not issue building permits. See Section XX for Development Plan Application requirements.
- (2) A copy of the building permit issued by the Construction Industries Division shall be furnished upon request by the Community Development Department.
- (3) An application for a mobile home and manufactured home placement permit shall be submitted to the Manufactured Housing Division. The Community Development Department does not issue installation permits.
- (4) A copy of the installation permit issued by the Manufactured Housing Division shall be furnished upon request by the Community Development Department. (5) No building or structure shall be erected, improvements constructed, nor mobile or manufactured home moved upon any premises without prior approval of the Community Development Department.
- (6) The Community Development Director or their designee shall determine if a variance, zone change, conditional use permit, or designated use permit is required, and if so, will notify the applicant that such application must be requested and approved prior to any building being constructed or mobile home being moved to the premises.

### **17.14.030 Appeal Procedures**

#### **A. Filing an Appeal**

- (1) Any decisions made by the Planning and Zoning Commission may be appealed within 15 working days after the decision. Appeals shall be filed with the Community Development Department and heard by the Village Council for a decision.
- (2) The appeal shall state the section of this Ordinance or condition applied to a decision that the appellant believes has not been interpreted correctly.
- (3) Any appeals of decisions by the Village Council shall be filed at District Court within 30 working days of the Council's final action and shall follow the District Court's required procedures.

**B. Appeal Hearings**

- (1) Once the appeal has been received by the Community Development Department, the Department shall prepare and transmit a complete record of the case and the decision made by the applicable body.
- (2) The Village Council shall schedule a hearing within 30 calendar days of receiving the appeal.
- (3) The appeal hearing shall be open to all persons with an interest in the outcome of the appeal and the general public. Parties having an interest in the outcome of the appeal are defined as those parties entitled to mailed notice of the original application per Section 17.14.020(J). .
- (4) The Village Council may place reasonable limitations on the presentation of evidence and arguments so that the appeal may be heard and decided upon without undue delay.
- (5) **The** Village Council may decide to continue the appeal hearing to a future hearing and may keep the hearing open to take additional information up to the point a final decision has been made by the Village Council. No further notice of a continued hearing need be published, except if a period of 6 weeks or more elapses between hearing dates.
- (6) The Village Council shall make findings based exclusively on the record of the appealed decision and supplemented by any evidence allowed to be introduced at the appeal hearing.
- (7) The Village Council may affirm, reverse, or modify the decision to deny or approve the application. Modifications may be required to bring the application into compliance with this Ordinance.
- (8) The Village Council may remand the matter to the Planning and Zoning Commission and shall set forth the matters in part or in whole to be reconsidered.

**17.14.040 Nonconformities**

**A. Purpose**

The purpose of Section 17.14.040 is to regulate land uses, buildings, lots, signs, and site features that were legally established under previous versions of the Zoning Ordinance, but do not conform to the current requirements of this Ordinance. These regulations are intended to reduce or eliminate over time any nonconformity that creates adverse impacts on adjacent or surrounding properties.

**B. Applicability**

- (1) The regulations in Section 17.14.040 apply to land uses, structures, buildings, lots, signs, and site features, including:
  - (a) Those that were legally established prior to the effective date of this Ordinance but became nonconforming due to the adoption of this Ordinance.
  - (b) Those that were legally established after the effective date of this Ordinance but became nonconforming at the time of future adoption of an amendment to this Ordinance.

**C. Nonconforming Use**

- (1) A nonconforming use that was otherwise legally established under previous versions of the Ordinance may be continued as follows:

- (a) A nonconforming use may be allowed to continue regardless of any change in ownership or occupancy of that use, unless the use is discontinued for a period of 6 months, in which case the nonconforming use shall not be allowed to continue.
- (b) When determining whether a right to continue a nonconforming use is allowed, all of the structures, buildings, activities, and operations maintained on a lot shall be considered as a whole.
- (c) Certificate of nonconformance. A nonconforming use shall be issued a certificate of nonconformance as determined by the Community Development Director or their designee. 

**D. Nonconforming Lot**

- (1) Where a nonconforming lot can be used in conformity with the regulations contained in this Ordinance that are applicable to the intended use, except that the lot size does not meet the required minimum lot size, the nonconforming lot may be used as if it were conforming.
- (2) If an undeveloped nonconforming lot relative to minimum lot size adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest shall take advantage of the provisions of Section 17.14.040(D).
- (3) Nonconforming lots shall be combined with other undeveloped lots to create conforming lots that meet the minimum lot size of the zoning district in which the subject property is designated, where feasible.

**E. Nonconforming Structure**

- (1) A nonconforming building or structure that was otherwise legally constructed under previous versions of the Ordinance may continue to be used:
  - (a) Regardless of any change in ownership or occupancy of that building or structure, unless the building or structure is vacant for a period of 12 months, in which case the use of the nonconforming building or structure shall not be reestablished.
  - (b) Anonconforming building or structure may be maintained, repaired, or altered, but shall be in accordance with (d) and € of this subsection.
  - (c) A building or structure containing a nonconforming use may be maintained, repaired, or altered, but shall not be expanded.
  - (d) A building or structure that does not conform to maximum height regulations in the applicable zoning district shall not be expanded to in such a way that expands the building height nonconformity.
  - (e) A building or structure that does not conform to the minimum setback regulations in the applicable zoning district shall not be added to in such a way that expands the setback nonconformity.
  - (f) A building or structure maintained as a nonconforming use may continue to be maintained, repaired, or altered provided the repair or alteration does not create new nonconformities or increase the extent of existing nonconformities with respect to setback, parking, and building height regulations contained in this Ordinance.
  - (g) Where the nonconforming use involves a mobile home, the nonconforming use shall be extended to the life of that particular mobile home but shall not be reestablished.

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- (2) A nonconforming building or structure that is damaged through natural or other causes may be restored or repaired provided the restoration or repair is started within 6 months of the damage and such restoration or repair is diligently continued until completion.
- (3) A nonconforming fence or wall may remain for the life of the structure, except where such fence or wall does not meet the clear sight distance requirements.

### **F. Nonconforming Sign**

- (1) A nonconforming sign that was legally constructed under previous versions of this Ordinance may continue to be used:
  - (a) Regardless of any change in ownership or occupancy of the sign, unless the sign is empty of any advertising or messaging for a period of 6 months, in which case the nonconforming sign shall not be reestablished.
  - (b) A nonconforming sign may be maintained, repaired, or altered, but no maintenance, repair, or alteration may increase the size, height, illumination, or configuration of the nonconforming sign shall be allowed.

### **G. Repair, Maintenance, and Reconstruction**

- (1) Minor repairs to and routine maintenance of nonconforming structures or buildings are permitted and encouraged.
- (2) Major renovations estimated to cost more than 50 percent of the appraised value of the structure or building to be renovated may be completed only if the renovation is intended to make the structure or building conforming.
- (3) Repair or replacement of a damaged nonconforming structure or building may be allowed.
  - (i) Structures or buildings used for single-family residential purposes may be reconstructed pursuant to a development plan application.
  - (ii) If the damage exceeds 50 percent of the appraised valuation of the damaged structure or building, then the damaged structure or building may be repaired or replaced with prior approval by the Village Council.

## **17.14.050 Violations, Enforcement, and Penalties**

### **A. Purpose**

Section 17.14.050 defines what constitutes a violation of this Ordinance, how the standards and requirements of this Ordinance will be enforced, and what penalties the Village may impose for different types of violations.

### **B. General Violations**

- (1) The following activities and actions constitute a violation and are subject to the enforcement and penalty provisions of this Ordinance:
  - (a) A building, structure, or sign erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of this Ordinance.
  - (b) Any building, structure, sign, or land used in violation of this Ordinance.
  - (c) Providing false or misleading information in an application for any permit or approval granted by the Village.

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- (d) Failure to comply with the terms or conditions attached to any permit or approval granted by the Village.
- (2) The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is in violation with the requirements of this Ordinance may be held responsible for the violation and be subject to the penalties and remedies provided in Section 17.14.050.

### **C. Enforcement Authority and Procedures**

- (1) The Community Development Department Director has the authority and duty to enforce the provisions of this Ordinance pursuant to Section 17.14.010.
- (2) A permit or license issued in conflict with the provisions of this Ordinance is void.
- (3) The Village may use any enforcement powers allowed by the State of New Mexico, in any order. The choice of one method of enforcement does not preclude the Village from pursuing other methods if the violation has not been remedied.
- (4) Whenever the Community Development Department Director receives a written, signed complaint alleging a violation of this Ordinance, he/she shall investigate the complaint, take whatever action is warranted per the remedies provided in Section 17.14.050, and inform the complainant regarding actions that have been or will be taken.
- (5) If the Community Development Department Director finds that any provision of this Ordinance is being violated, they shall send a written notice to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Community Development Department Director's discretion.
  - (a) The final written notice shall state what action the Community Development Director intends to take if the violation is not corrected and shall the person(s) who is responsible for the violation that the decision or order may be appealed to the Planning and Zoning Commission.
  - (b) In cases when a delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Community Development Director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 17.14.050.
- (6) The Village may enforce this Ordinance through any of the following powers:
  - (a) Institute proceedings to prevent the unlawful action.
  - (b) Deny, delay, or withhold permits and approvals.
  - (c) Revoke permits and approvals after giving the property owner or applicant notice of intent to revoke the permit or approval.
  - (d) Issue a stop work order requiring that all work on a property or structure or operation of a use that is in violation of this Ordinance cease, or if a violation is suspected but not known, until the existence or absence of the violation can be confirmed.
  - (e) Order the removal of any sign or violating portion of a sign that is erected or maintained in violation of the provisions contained in Section 17.12.050 and Section 17.14.040.

### **D. Sign Violations and Enforcement**

 If any permanent or temporary sign becomes a nuisance as defined in Section 17.12.050 or Section 17.14.050.D, such signs may be subject to removal, relocation, or other actions to eliminate the nuisance, either by the owner of the temporary sign or by the Village.

- (2) Any of the following actions shall be a violation of Section 17.12.050 and shall be subject to the enforcement remedies provided in this section:
  - (a) To install, create, erect, or maintain any sign in a way that is inconsistent with any approved plan or permit governing the sign or the lot on which the sign is located.
  - (b) To install, create, erect, or maintain any sign requiring a permit without obtaining a sign permit.
  - (c) To fail to remove any sign that is installed, created, erected, or maintained in violation of Section 17.12.050, or for which the sign approval or permit has lapsed.
  - (d) Each day of a continued violation of Section 17.12.050 shall be considered a separate violation when applying the penalty portions of this Ordinance.
- (3) Removal of unused signs or support structures. Removal of unused signs or support structures is required if a sign or sign support structure meets any of the following conditions:
  - (i) Vacant and/or unused sign support structures, angle irons, sign poles, or other remnants of old signs that are not currently in use or proposed for reuse.
  - (ii) Obsolete or abandoned signs that no longer advertise a currently existing business or product sold.
  - (iii) Any sign or sign structure that has become so dilapidated as to be a menace to public safety and welfare.
- (4) Sign violations. Signs found to be in violation of Section 17.12.050 shall be subject to the following enforcement procedures:
  - (a) The property owner shall receive a written notice outlining a compliance limit of 10 working days. Failure to remedy the violation or comply with the provisions of Section 17.12.050 within 10 working days shall constitute a misdemeanor.
  - (b) Conviction of such misdemeanor shall result in a fine of not less than \$50 or more than \$500.
  - (c) Should the property owner fail to remedy the violation in question within the 10-day compliance limit, the Community Development Director is authorized to enter upon the property and cause to be removed such sign and all expenses shall be paid by the owner of the property, building, or structure to which such sign is attached. A lien for the cost of the removal shall be assessed against the subject property. The reasonable cost of the removal shall constitute a lien against the sign and the real property on which it is located. The lien shall be foreclosed in the manner provided in NMsa 1978, §§ 3-36-1 through 3-36-6.
  - (d) Should the violation require additional remedies, the following may apply:
    - (i) Issuing a stop-work order for all work on any signs on the same lot.
    - (ii) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign or correction of the non-conformity.
  - (e) The Village shall not be responsible for damages to confiscated signs.
- (5) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties provided under Section 17.14.050.

**E. Short-term Rental Violations and Enforcement**

(1) Violations of Section 17.10.030.L. and Section 17.14.020.E. shall include:

- (a) Operating a dwelling unit as a short-term rental without a permit;
- (b) Knowingly assisting an owner of property in advertising or renting a dwelling unit as a short-term rental, when said property does not have a permit;
- (c) Failure to pay all applicable fees and taxes associated with the short-term rental, including lodgers' tax;
- (d) Three or more violations of Village ordinances by the owner/operator or renter relating to or occurring at a dwelling unit operating as a short-term rental resulting in the issuance of a citation from the Village to the owner/operator or a renter within a period of 36 months;
- (e) Two or more violations of Village ordinances by the owner/operator or renter relating to or occurring at a dwelling unit operating as a short-term rental resulting in convictions of the owner/operator or renter in Los Lunas Municipal Court within a period of 12 months;
- (f) Any conduct by a renter of a dwelling unit operating as a short-term rental that results in citation for noise violations, disorderly conduct, or any criminal complaint during the rental period;
- (g) Outstanding nuisance, building code or fire code violations relating to a dwelling unit operating as a short-term rental; and
- (h) An owner/operator refusing to permit the Community Development Department to conduct random inspections of a short-term rental in accordance with procedures set forth in Section 17.10.030.L.

(2) Except as provided in Section 17.10.030.L., the Village shall give the owner/operator of a short-term rental a written notice of the violation, which shall be mailed either to the owner's local, business, or agent's address, informing the owner of the violation.

- (a) Renters who violate any Village ordinance may also subject the owner/operator to enforcement action by the Village.
- (b) The owner/operator shall correct the violation within 15 days or shall receive a citation to Los Lunas Municipal Court, except violations that endanger public health, safety, and welfare of residents or violations of Title 8 and Title 9 shall not require a 15-day notice period, and may result in the immediate issuance of a citation to the owner/operator.
- (c) An owner/operator who is convicted of a violation of this Ordinance or other applicable ordinances relating to or occurring at a dwelling unit operating as a short-term rental, or whose renter is convicted of a violation of this Ordinance or other applicable ordinances relating to or occurring at a dwelling unit operating as a short-term rental, shall be subject to penalties as described below:
  - (i) Upon conviction of a first violation, the Village shall revoke the short-term rental permit for a period of 12 months and operation of the short-term rental shall cease within 30 calendar days;
  - (ii) Assess a fine not to exceed \$500;
  - (iii) Each day after the initial written notice of violation is a separate violation subjecting the owner/operator to the issuance of additional citations for violations of 17.10.030.L and other applicable Village ordinances; and

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- (iv) If the Village is awarded a money judgment following a court hearing and defendant does not make timely payments to the Village, the Village may bring an action in lien or equity for the collection of any amounts due.
- (d) An agent who knowingly aids or abets an owner/operator in advertising or renting a dwelling unit as a short-term rental unit that is not permitted under this Ordinance is subject to the issuance of a citation for violating this Ordinance and the agent's business license is subject to revocation.
- (e) Should a short-term rental permit be revoked, the owner/operator may reapply for a new permit after the 12-month period has concluded and after the payment of all applicable fees.
- (f) The Community Development Director shall establish administrative procedures necessary to implement, manage and enforce the short-term rental regulations contained in this Ordinance.

### **17.14.060 Fees**

#### **A. Application fees**

- (1) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters shall be charged to applicants for mobile home parking permits, sign permits, variances, conditional use permits, designated use permits, zone map amendments, appeals, and other administrative relief.
- (2) The application fees charged shall be as established by resolution of the Village Council filed in the office of the Clerk.

#### **B. Short-term Rental Fees**

- (1) The following fees shall apply to short-term rentals:

- (a) Initial application fee: \$100.00
- (b) Reinspection fee, which shall apply to properties not found compliant at initial inspection within 30 working days of permit issuance: \$40.00
- (c) Annual permit fee: \$50.00
- (d) Late application fee: \$50.00

- (2) An annual permit fee shall not be prorated for portion of the year.
- (3) An additional business registration fee applies.

#### **C. Sign Permit Fees**

- (1) Sign permit fees for primary signs, as defined by Section 17.12.060, shall be assessed as follows:

- (a) Minimum permit fee: \$50.00
- (b) Additional fee determined by square footage: For all signs exceeding 32 square feet in area, an additional 25 cents shall be charged per excess square foot. Area shall be calculated by the measurement and calculation procedures described in Section 17.12.060.J.