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# City of Grants Land Use Code

## Article I: General Provisions

### 1.1 SHORT TITLE

The regulations of this Land Use Code shall be officially known and cited as the "Land Use Code of the City of Grants, New Mexico," although it may be referred to as the "zoning ordinance," or "this Code."

### 1.2 AUTHORITY

**1.2.1** This Land Use Code is adopted pursuant to the enabling authority contained in New Mexico Statutes Annotated, 1978 and specifically NMSA 1978, §§ 3-17-1 through 3-17-6 (General provisions for adoption of ordinances); NMSA 1978, §3-18-5 (Dangerous buildings or debris; removal; notice; right of municipality to remove; lien), § 3-18-7 (Additional county and municipal powers; flood and mudslide hazard areas; *floodplain* permits; land use control; jurisdiction; agreement); NMSA 1978, §§ 3-19-1 through 3-19-12 (Planning and platting); NMSA 1978, §§ 3-20-1 through 3-20-16 (Subdivisions, planning and platting); NMSA 1978, §§ 3-21-1 through 3-21-26 (Zoning regulations); NMSA 1978, §§ 3-21A-1 through 3-21A-8 (Manufactured housing and zoning); NMSA 1978, §§ 3-22-1 through 3-22-5 (Historic districts and landmarks); §§ 3-39-16 through 3-39-26 (Municipal airport zoning law), and NMSA 1978, §§ 3-41-1 through 3-41-5 (Flood control).

### 1.3 PURPOSE

The purpose of the City of Grants Land Use Code is to promote and protect the public health, safety, peace, comfort and general welfare while allowing for cost-saving efficiencies. The City of Grants Land Use Code is a comprehensive, unified set of regulations which govern the subdivision of land, the development of land and the use of land. The City of Grants Land Use Code is adopted for the following particular purposes:

**1.3.1** To implement the goals and policies of the Comprehensive Plan of the City of Grants, approved and adopted by the City Council in 2007, as amended from time to time; as well as other goals and policies adopted by the City Council related to growth and development.

**1.3.2** To protect and improve the established community character of the City of Grants and the social and economic stability of the existing residential, commercial and other land uses within the City.

**1.3.3** To promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the City.

**1.3.4** To prevent the adverse impacts of development on the availability of water, waste water disposal, water quality, roads and transportation, erosion, floodplains and steep slopes in critical areas of the City.

**1.3.5** To secure safety from fire, panic, and other dangers.

**1.3.6** To encourage a more efficient use of land and public services and to reflect changes in technology of land development.

**1.3.7** To promote alternative land development practices that will otherwise promote the public health, safety and general welfare.

**1.3.8** To reduce sprawling development that results in the inefficient use of irreplaceable natural energy resources.

**1.3.9** To promote adequate provision for light and air.

**1.3.10** The flood hazard areas of the City of Grants are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage. To protect the public from flood damage, including:

**A.** Minimizing expenditure of public money for costly flood control projects;

**B.** Minimizing the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

**C.** Minimizing prolonged business interruptions resulting from flooding;

**D.** Minimizing damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

**E.** Helping to maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flooding of areas that could be blighted; and

**F.** Strongly encouraging that potential property buyers be notified that property is in a flood area.

**1.3.11** To encourage economical governmental expenditure and adequate reimbursement of the City for services performed.

**1.3.12** To promote safe, convenient and efficient transportation facilities for motor vehicles, bicycles and pedestrians.

**1.3.13** To establish accurate and complete surveying utilized in the preparation and recording of plats.

#### **1.4 JURISDICTION**

**1.4.1** This Land Use Code applies to all land, buildings and structures within the incorporated limits of the City of Grants. This Land Use Code is not applicable to federal activities on federally owned lands, where either the federal government has retained from the time of statehood or subsequently obtained the right to legislate in relation to such land or the State of New Mexico has ceded such jurisdiction to legislate back to the United States

on such lands. This Land Use Code is also not applicable to state activities or development on state-owned lands. Federal and State activities or development are also exempt from this Land Use Code. However, private activities or development for private purposes on Federal and State lands shall be subject to this Land Use Code.

**1.4.2** Sections pertaining to subdivisions, specifically Sections 5.1, 6.13.14, 6.13.15, and all applicable definitions in Article II of the Land Use Code apply to the City's extraterritorial planning and platting jurisdiction (ETJ) which includes all territory within three miles of the municipal boundary, except in the vicinity of the Village of Milan, where the boundary is set equidistantly from the Village of Milan's municipal boundary. The City of Grants and Cibola County share concurrent jurisdiction regarding subdivision plat approvals in this extraterritorial planning and platting area.

## **1.5 OFFICIAL ZONING MAP**

**1.5.1** The Official Zoning Map designates the location and boundaries of the various zoning districts within the City of Grants and is incorporated herein by reference. The Official Zoning Map shows zoning districts referenced in Article III District Regulations and Article IV Overlay District Regulations, including special flood hazard overlay districts and airport overlay districts, and may consist of multiple GIS data mapping layers, and more than a single map. The Official Zoning Map shall be kept on file in the office of the Code Enforcement Official and available for public inspection during normal business hours.

**1.5.2** All amendments to and changes to the Official Zoning Map shall be delineated on the Official Zoning Map by the Code Enforcement Official or his or her designee.

**1.5.3** Copies of the Official Zoning Map and this Land Use Code shall be available for purchase for a reasonable copying fee established by the City Clerk.

**1.5.4** Where due to the scale, lack of detail or illegibility of the official Grants Zoning Map, there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of zone district boundary lines shall be determined by the City Planning and Zoning Commission upon a written request.

**1.5.5** Abutting zone districts along frontage on a public right-of-way shall automatically extend to the center line upon vacation from public use of said right-of-way.

## **1.6 INTERPRETATION AND CONFLICT**

The regulations of this Land Use Code are held to include the minimum standards necessary to carry out the purposes of this Land Use Code. More stringent provisions may be required if it is demonstrated that different standards are necessary to protect the public health, safety and general welfare. This Land Use Code is not intended to interfere with, abrogate or annul any easement, covenant or other agreement between the parties or other valid ordinances. Where the provisions of this Land Use Code conflict with other rules, regulations, easements, covenants, agreements, or other City ordinances or resolutions, the provisions of this Land Use Code shall be controlling, except where case law or statutes require otherwise. Where this Land Use Code imposes greater restrictions than those imposed by other rules, regulations, easements, covenants, agreements, or City ordinances or resolutions, the provisions of this Land Use Code shall control.

## **1.7 COMPLIANCE WITH LAND USE CODE**

**1.7.1** Except as described in Article VII (Non-conformities), no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under his or her control except in conformance with all of the applicable provisions of this Land Use Code. The burden of proof shall rest with the applicant in all proceedings required by this Land Use Code. For purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in the building or land.

**1.7.2** No structure shall be erected, reconstructed, structurally altered, enlarged, or moved within or into a zone district, nor shall any building, structure, or land be used or designed to be used for any use other than is permitted in the zone in which such structure or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances.

**1.7.3** No yard, setback, or other open space provided around any structure for the purpose of complying with provisions of this Land Use Code shall be considered as providing a yard, setback, or open space for any structure on any other lot.

**1.7.4** No land may be divided into lots or tracts for sale or development within the City or within the planning and platting jurisdiction of the City, except in accordance with all of the provisions of this Land Use Code. In particular, no person may subdivide his or her land unless and until a final plat has been approved and recorded in the Office of the County Clerk.

## **1.8 INCORPORATION OF CODES BY REFERENCE.**

The following codes, relating to construction in New Mexico, as they may be amended from time to time, are hereby adopted and incorporated as part of this Land Use Code:

**1.8.1** 2006 New Mexico Commercial Building Code, 2006 International Building Code, and 2000 International Fire Code

**1.8.2** 2006 New Mexico Residential Building Code

**1.8.3** 2006 New Mexico Plumbing Code

**1.8.4** 2003 New Mexico Existing Building Code

**1.8.5** 2006 International Residential Code

**1.8.6** 2006 Uniform Mechanical Code

**1.8.7** 2008 National Electrical Code

**1.8.8** 2008 New Mexico Electrical Safety Code

**1.8.9** New Mexico Liquefied Petroleum Gas Standard (19.15.40 NMAC)

**1.8.10** National Fire Protection Association NFPA 58 Liquefied Petroleum Code

**1.8.11** National Fire Protection Association NFPA 54 National Fuel Gas Code

**1.8.12** 2006 International Energy Conservation Code

### **1.9 RESERVATIONS AND REPEALS**

Upon the adoption of this Land Use Code according to law, the following ordinances are repealed, except as to those sections expressly retained in this Land Use Code, and except as to any pending administrative, enforcement or other legal proceedings based thereon, as to which proceedings shall remain in effect for such purposes only and during the pendency of said proceedings and until final disposition thereof; subject to the foregoing. Additionally, if any provisions of this Land Use Code conflict with the provisions of any remaining ordinance, the provisions of this Land Use code shall prevail.

**1.9.1** Concrete Sidewalk Permits Ordinance 47

**1.9.2** Airport Zoning Ordinance of Grants Municipal Airport Ordinance 69

**1.9.3** Zoning Ordinance 110

**1.9.4** Residential Townhouse Ordinance 287

**1.9.5** Subdivision Requirements Ordinance 290

**1.9.6** Trailer Park, Mobile Home Subdivisions and RV Parks Ordinance 292

**1.9.7** Central Adult Entertainment District Ordinance 304

**1.9.8** Planning and Zoning Commission Powers, Duties, and Responsibilities Ordinance 315

**1.9.9** Zoning Ordinance 321

**1.9.10** Zone Districts Use Table Ordinance 321

**1.9.11** Airport Land Use Zoning Requirements Ordinance 322

**1.9.12** Changes to Allowable and Conditional Uses Ordinance 323

**1.9.13** Changes to Allowable and Conditional Uses Ordinance 342

**1.9.14** Mobile Homes in A-1 and A-R Ordinance 362

**1.9.15** Floodplain Management Ordinance 370

**1.9.16** Creation of MR-1 Zone Ordinance 95-1006

**1.9.17** Garage Sales Ordinance 95-1010

**1.9.18** Public Morals and Public Conduct As They Relate to Sexually Oriented Materials Ordinance 98-1016

**1.9.19** Floodplain Management Ordinance 04-1152

**1.9.20** Flood Damage Prevention Ordinance 10-1187

**1.10 SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Land Use Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Land Use Code. The City Council hereby declares that it would have passed this Land Use Code and Section, subsection, sentence, clause and phrase, thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**1.11 EFFECTIVE DATE**

The provisions of this Land Use Code were originally passed, adopted and approved by the City Council on September 11, 2012 and became effective on \_\_\_\_\_.



## Article II. Definitions

### 2.1 WORD CONSTRUCTION

For the purpose of this Ordinance, certain terms, words, or phrases used herein shall be interpreted as follows: The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as individual. Words used in the masculine include the feminine. The word “structure” includes the word “building.” The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The words “shall” and “must” are mandatory, the word “may” is permissive.

Whenever the Code Enforcement Official or any other City official is named, the reference to such official shall include his or her designee, and the named official shall not be required to take the specified action personally if the action has been delegated to another individual within the City administration.

### 2.2 DEFINITIONS

For the purpose of these regulations, the following terms, phrases, words, and their derivations shall be interpreted as follows:

**ACCESSORY** – Subordinate and incidental to the principal use or structure on the same lot.

**ACCESSORY BUILDING** – A detached subordinate building, the use of which is subordinate and customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

**ACCESSORY DWELLING UNITS** – A subordinate dwelling unit added to or detached from a single family dwelling containing kitchen and bathroom facilities. Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure.

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

- A live performance, act or escort service distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or
- Audio or video displays, computer displays, films, motion pictures, slides or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities.

**ADULT MATERIAL** – Items consisting of one or more of the following: Digital or printed books, magazines, periodicals, audio or video displays, computer displays, films, motion pictures, slides, or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or Devices, instruments, novelties or paraphernalia designed for use in connection with specified sexual activities or that depict or describe specified anatomical areas.

**ADULT STORE** – An establishment having 25% or more of its shelf space or square footage

devoted to the display, rental, sale or viewing of adult material for any form of consideration.

**ALLEY** – A public thoroughfare which affords only a secondary means of access to abutting property.

**ALLUVIAL FAN FLOODING** – Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows active processes of erosion, sediment transport, and deposition and unpredictable flow paths.

**ANIMAL SHELTER** – A facility providing animal care or boarding services with overnight accommodations, animal hospitals, boarding kennels, and/or maintaining, raising, harboring and/or boarding of four or more dogs or six or more cats, or six or more dogs and cats.

**APARTMENT** – One or more structures containing three or more dwelling units each, located on one lot.

**APEX** – A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPEAL** – A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance or a request for variance.

**AREA OF SHALLOW FLOODING** – A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** – The land in the floodplain within a community subject to 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI-99, VO, VI-30, VE or V.

**AREA PLAN** – A plat or a sketch of any planned future development of undeveloped land which is contiguous to a proposed subdivision and is under control or ownership of the subdivider. Such plan should indicate general land uses and major materials.

**ASSISTED LIVING FACILITY** – A residence for individuals who may need physical assistance with day-to-day living activities, none of whom are receiving on-site medical or psychological treatment, therapy or counseling. The number of individuals established in Section 3.3.C. shall include all unrelated persons living together in the dwelling unit on the premises. Nothing shall prohibit related persons from living in the same assisted living facility. An Assisted Living Facility may include any of the following:

- A non-profit group home for the aged or an owner-occupied group home for the aged;
- A state-licensed group home for the developmentally disabled; and
- A state-licensed group home for persons with mental illness.

**ARTERIAL STREET** – A street which is used primarily for serving large volumes of comparatively high-speed traffic from one area of the City to another.

**BASE FLOOD** – A flood that has a 1% chance of being equaled or exceeded in any given year.

**BASEMENT** – Any area of the building having its floor sub grade (below ground level) on all sides.

**BIKE PATHS** – A portion of a roadway or separate pathway designated for use by bicycles.

**BLOCK** – Property bounded on one side by a street and the other three sides by a street, railroad right-of-way, waterway, unsubdivided areas, or other definite barriers.

**BOARDING OR ROOMING HOUSE** – A dwelling unit containing up to and including five guest rooms where lodging is provided, with or without meals, for compensation.

**BUILD** – To erect, convert, enlarge, reconstruct, or structurally alter a building.

**BUILDING** – Any structure built for use of persons or animals.

**BUILDING LINE** – A line established by the setback requirements.

**BUILDING HEIGHT** – The vertical distance from the grade to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between eaves and ridge for gable, hip, and gambrel roofs.

**BUILDING, MAIN** – The building occupied by the primary use.

**CENTERLINE** – The line halfway between the street lines.

**CHURCH/RELIGIOUS FACILITY** – A building the primary use of which is regular assembly of persons for religious worship or services.

**CLEAR SIGHT TRIANGLE** – Areas where no obstruction of vision is permitted above the height of three feet and 15 feet back from a corner as measured along the intersecting property lines, and completed by the imaginary line connecting those two points. A corner includes street intersections as well as entries and exits of public streets.

**CLINIC** – An establishment occupied by one or more members of the medical or dental profession for the purpose of providing health services.

**CLUB** – Any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating and/or recreational uses, and further whose activities are not conducted for monetary gains; including but not limited civic, fraternal, charitable, religious, social and patriotic organizations.

**COLLECTOR STREET** – A street which carries traffic from local streets to the major arterial streets and highways

**CONDITIONAL USE** – A permit issued by the Planning and Zoning Commission that authorizes the recipient to make use of property for a conditional use in accordance with the requirements of this Land Use Code as well as any additional requirements imposed by the Commission.

**COMPREHENSIVE PLAN** – The plan adopted by the City Council of the City of Grants in September 2007, as amended from time to time, for the guidance of growth and improvement of the City and its environs.

**CONTAMINANTS** – Contaminating agents as defined by New Mexico Environment Department or United States Environmental Protection Agency or other competent authority, such as oil wastes, sewage, chemicals, etc.

**CONTRACTOR’S YARD** – Storage, either indoor or outdoor, of construction and trade materials and goods (e.g., lumber, paint, plumbing supplies) and service vehicles and equipment specifically related to a contractor’s business operation, with incidental repairs and preparation of materials for use; however, storage of bulk sand and gravel is prohibited.

**CONTIGUOUS** – Touching or separated only by an alley or street.

**COURT** – An open space that is more than half surrounded by a single building or buildings.

**CRITICAL FEATURE** – An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**CUL-DE-SAC** – A minor street with only one (1) outlet and culminated by a turn-around.

**DAY CARE** – Day Care uses provide care, protection and supervision for children on a regular basis away from their primary residence for less than 24 hours per day. Day Care does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. There are two types of day care:

**CHILD CARE CENTER** – A child care center is a facility licensed by the State of New Mexico that provides care, services, and supervision for any number of children. A child care center is located in a non-residential area and meets the applicable state and local building, zoning and safety codes.

**CHILD CARE HOME, FAMILY** – A family child care home is a private dwelling licensed by the State of New Mexico that provides care, services, and supervision for a period of less than 24 hours of any day for at least five but no more than 12 nonresident children. The licensee is the primary care giver in the home.

**DEVELOPMENT** – Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or material.

**DISTRICT** – Any section of the City of Grants where regulations governing the use of buildings and premises or the height and area of buildings and lot size are uniform.

**DRAINAGE COURSE** – A natural watercourse or indenture for the drainage of surface waters.

**DRAINAGE PLAN** – A plan indicating an on-site drainage proposal, the passage of storm waters through the development and safe discharge of runoff onto adjacent lands or into storm

drainage facilities. Also, a comprehensive analysis of (a) the existing storm drainage conditions of a proposed development, and (b) the disposal of the increased runoff which is generated by the proposed development.

**DRIVE PAD** – A concrete driveway entrance extending from the curb cut and gutter or edge of street to private property and development area.

**DUPLEX** – A building arranged, intended or designed to be occupied by two families living independently of each other and having separate cooking facilities in each dwelling unit.

**DWELLING** – All or part of a building designed exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, boarding and lodging houses.

**DWELLING UNIT** – One or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes.

**DWELLING, MULTIPLE FAMILY** – A building arranged or designed to be occupied by two or more families living independently of each other and having separate cooking facilities in each dwelling.

**DWELLING, SINGLE FAMILY** – A building arranged or designed to be occupied by one family (without more than two lodgers or boarders), the structure having only one dwelling unit, but not including a mobile home.

**EASEMENT** – A grant given by a property owner for the right to use specified property, for a specific purpose by the general public, a corporation, or a certain person or persons.

**ENGINEER** – A person who is engaged in the practice of engineering and is qualified to so practice as attested by his legal registration as a Professional Engineer in the State of New Mexico.

**ELEVATED BUILDING** – A nonbasement building (i) built, in the case of a building in *Floodplain* Overlay Zones AI-30, AE, A, A99, AO, AR, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AI-30, AE, A, A99, AO, AR, B, C, X, and D, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e) (5) of the National Flood Insurance Program regulations.

**EXISTING CONSTRUCTION** – For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MOBILE HOME PARK OR SUBDIVISION** – A mobile home park or subdivision for

which the construction of facilities for servicing the lots on which the mobile home are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of floodplain management regulations adopted by a community.

**EROSION CONTROL** – Treatment measures for the prevention of damages due to soil movement and to deposition.

**EXCAVATION** – Digging and removal of earth by mechanical means.

**EXPANSION TO AN EXISTING MOBILE HOME PARK OR SUBDIVISION** – The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FAMILY** – An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.

**FARM** – An area which is used for the growing of the usual farm products such as vegetables, fruit, fodder, trees and grain, and the storage on the area.

**FILL** – The placement of material such as soil or rock to replace existing material, or to create an elevated embankment. Fill also refers to the material which is placed.

**FLOOD OR FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** – An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** – The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

**FLOODPLAIN OR FLOOD-PRONE AREA** – Any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT** – The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** – Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY (REGULATORY FLOODWAY)** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOOD ZONE DESIGNATIONS** – Flood zones are geographic areas that the FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map. Each zone reflects the severity or type of flooding in the area.

- Zone A – Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas, no depths or base flood elevations are shown within these zones.
- Zone AE – The base floodplain where base flood elevations are provided. AE Zones are used on new format FIRMs instead of A1-A30 Zones.
- Zone B – Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods. Are used to designate base floodplains of lesser hazards, such as areas protected by levees from 100-year flood, or shallow flooding areas with average depths of less than one foot or drainage areas less than 1 square mile.
- Zone C – Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.

**FLOOR AREA** – The total gross areas of all floors of a building.

**FLOOR AREA RATIO** – Maximum non-residential density may be measured as the gross floor area of all buildings on a lot or parcel, divided by the lot area.

**FRONTAGE** – The distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead-end street. Lot frontage is the width of a lot measured along a street.

**FREEWAY** – A divided multi-lane highway for through traffic with all crossroads separated in grade with full control of access.

**FRONTAGE ROAD**: A local street which is parallel to and adjacent to another street, normally a highway or freeway.

**GARAGE, COMMERCIAL** – Any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired or equipped for a charge, and where the service and sale of gasoline and oil are incidental to the principal building use.

**GARAGE, PRIVATE** – Any accessory building for the primary purpose of housing vehicles which are owned and used by the occupants of the main building.

**GARAGE SALE** – Any sale or offering for sale of multiple items of personal property where the location of the sale or offering is at a location not zoned for commercial transactions or in a residential neighborhood. Garage sales include yard sales, rummage sales and any other similar disposal of personal property.

**GRADE** – The average of the finished ground level at the center of all walls of a building.

**GRANDFATHER CLAUSE** – Provisions permitting uses or conditions related to the use of property which were allowable before the passage of this ordinance or amendments hereto, but which would not be allowable under the current ordinance and which are allowed to continue upon meeting the requirements as a non-conforming use.

**GROUP LIVING FACILITY** – Any residence for unrelated individuals (e.g. fraternities, sororities, dormitories) that does not meet the definition of "Treatment Facility" or "Assisted Living Facility." A Group Living Facility may include, without limitation:

- A secure residential treatment center;
- A shelter for homeless persons;
- A group home including persons assigned to such home in lieu of being sentenced to a correctional facility, or upon their release from a correctional facility;
- A dormitory, defined as a residence hall providing rooms for individuals or for groups, usually without private baths;
- A fraternity or sorority associated with an academic institution, such as a college or university.

**HEIGHT (OF BUILDING)** – Building height is measured as the vertical distance between finished grade at the base of the building along the side of the building being measured and the average height level between the eaves and ridge line of a gable, hip, or gambrel roof; the highest point of a mansard roof; or the highest point of the parapet of a flat roof, or, if no parapet, the highest point of the flat roof.

*Figure 1. Illustration of Building Height.*



**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** – Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National



Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior or (d) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**HOME OFFICE OR SHOP** – An accessory activity that can be legally carried out without a business license.

**HOME OCCUPATION** – An activity conducted for profit purposes where all or part of the activity takes place on a residentially used lot, a business license is required, and the use is secondary and subordinate to residential use of the property.

**IMPROVEMENTS** – Includes infrastructure such as streets, alleys, curbs, gutters, sidewalk, fire hydrants, storm drainage facilities, bike paths, trails, parks, beautification, and water, sewer and gas systems or parts thereof, and electric service.

**KENNEL** – A facility providing boarding services with overnight accommodations, and maintaining, raising, caring for, and breeding of four or more dogs or six or more cats, or six or more dogs and cats.

**LAND SURVEYOR** – A person who engages in the practice of land surveying and is qualified to so practice as attested by his legal registration as a Land Surveyor in the State of New Mexico.

**LEVEE** - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM** – A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOT** – Any parcel of land platted and placed on record in accordance with laws and ordinances; a parcel described by metes and bounds and having frontage on a public right-of-way.

**LOT, AREA** –The aggregate lot area measured to property lines.

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

**LOT, DEPTH** – The average distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT, DOUBLE FRONTAGE** – The boundary of a lot bordering on a street. For the purpose of determining set-back requirements on corner lot and double frontage lots, all sides bordering on a street shall be considered the front.

**LOT LINE, REAR** – The lot boundary line which is opposite and most distant from and not coterminous with the front lot line.

**LOT LINE, SIDE** – Any boundary line not a front lot line or a rear lot line.

**LOWEST FLOOR** –The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

**MANUFACTURED HOME** – A multi-sectioned manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundation.

**MAJOR THOROUGHFARE** – A street of considerable length that carries or that planning evidence indicates will carry a large volume of traffic.

**MARGINAL ACCESS STREET** – A street parallel to and adjacent to a major thoroughfare which provides access from the thoroughfare to abutting properties.

**MASTER PLAN** – The comprehensive plan of the City of Grants or any of its parts, for the physical development of the area within the planning and platting jurisdiction of the City, which has been adopted by the City Council.

**MEAN SEA LEVEL** – For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MINOR INDUSTRIAL OR COMMERCIAL STREET** – A street of relatively short length that provides access to an industrial or commercial district and is designed to discourage its use by through traffic.

**MINOR RESIDENTIAL STREET** – A street of relatively short length that provides access to an industrial or commercial district and is designed to discourage its use by through traffic.

**MOBILE HOME** – A movable or portable housing structure larger than forty feet in length or eight feet in width, built on its own chassis and designed for and occupied by no more than one family for living and sleeping purposes, and includes any multi-sectioned manufactured home or modular home that does not fall within the definition of "manufactured home" contained in this Code. A mobile home shall be constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform

Building Code, as amended to the date of the unit's construction, or built to the standards of the municipal building code. Mobile homes manufactured on or after July 15, 1976 must display a HUD seal or HUD data plate to verify proper construction. Mobile homes manufactured before July 15, 1976 must demonstrate compliance with standards substantially similar to HUD standards or will be disallowed in all zones.

**MOBILE HOME PARK** – A parcel of land on which space is leased for terms of 12 months or less, or rented for occupancy for 30 days or more by mobile homes, and which contains permanent facilities for the use of mobile home occupants.

**MOBILE HOME SUBDIVISION** – A parcel of land equal to one city block or its equivalent, subdivided into lots individually owned and utilized as the site for placement of a single mobile home.

**MODULAR DWELLING UNIT** – A “manufactured home” as defined herein.

**NEW CONSTRUCTION** – For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MOBILE HOME PARK OR SUBDIVISION** – A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**NONCONFORMING USES, LOTS, STRUCTURES** – Any building, structure or portion thereof, or use of any building or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of those regulations with which it does not conform.

**PERFORMANCE BOND** – A surety bond made out to the City of Grants in an amount equal to the contract amount for improvements to be constructed under the contract and being legally sufficient to secure to the City of Grants that said improvements will be constructed in accordance with requirements made in compliance with the Land Use Code.

**PLAT OR REPLAT** – A map, chart, survey, or plan certified by a land surveyor and/or registered engineer which contains a description of subdivided or re-subdivided land with ties to permanent survey monuments.

**PUBLIC UTILITY STRUCTURE** – Transformer, switching, pumping, and similar technical operations essential to the operation of a public utility, but not including a power generation plant.

**PUBLIC RIGHTS-OF-WAY** – The total area of land deeded, reserved by plat, or otherwise acquired by the City of Grants, or the State of New Mexico.

**RE-SUBDIVISION** – The replatting of any lot or group of lots by a means including changes in existing lot lines.

**PREMISES** – Any lot or combination of contiguous lots held in single ownership, together with all development thereon.

**RECREATIONAL FACILITY (NON-PROFIT)** – Includes such facilities as a community center, swimming pool, or tennis club.

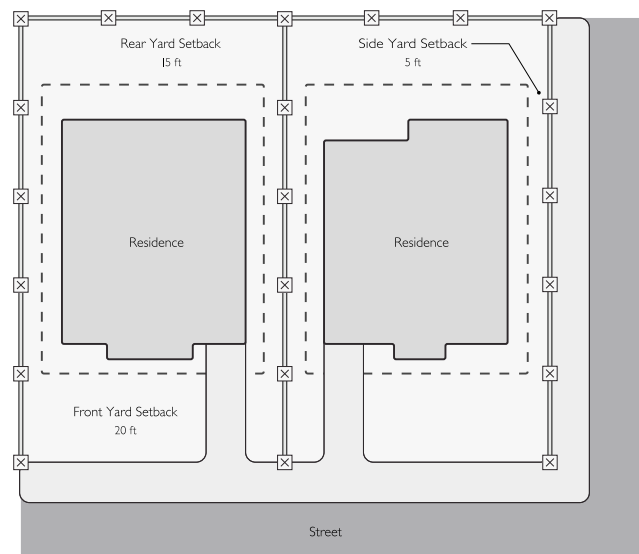
**RECREATIONAL VEHICLE** – A vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projections, (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**ROADWAY** – That portion of the street available for vehicular traffic.

**SECONDARY THOROUGHFARE** – A street of relatively short length that carries a considerable volume of traffic of more than neighborhood character.

**SETBACK** – The required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this ordinance. (See the following Figure 2.)

*Figure 2. Setbacks*



**SIDEWALK** – A pedestrian walkway with permanently improved surfacing.

**START OF CONSTRUCTION** – For other than new construction, including substantial improvement, the date that the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not

include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STREET** – A public way, which has been dedicated, or reserved by plat other than an alley which affords the principal means of access to abutting property.

**SUBDIVIDER** – An owner, or owner’s agent who undertakes the subdivision of land as set forth in these requirements.

**SUBDIVISION** – The subdivision of land into two (2) or more parts by platting, re-platting, or by metes and bounds description into tracts or laying out lots, including lot combinations and re-subdivision.

**SIGN** – A device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- Flags or government insignias, except when used in commercial displays.
- Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- Illustration of names of occupants, post office box numbers and property numbers when smaller than one square foot.
- Legal notice of identification, informational, or directional signs erected or required by governmental bodies.
- Private traffic signs bearing no advertising matter.
- Real estate advertising of the property on which the sign is located provided that the area of the sign or group of signs is less than five square feet.

**SIGN AREA** – The total area that will contain the entire sign excluding architectural embellishments and supports on neither of which there is displayed any advertising material nor any lighting.

**SIGN, FREE STANDING** – A sign attached to or supported from the ground and not attached to a building.

**SIGN, WALL** – A sign flush to the exterior surface of a building, whether applied directly on the building or a signboard attached flush to the building.

**STREET** – A thoroughfare which has been dedicated to the public or which has been made public by right-of-use and which affords the principal means of access to abutting property.

**STRUCTURE** – A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the

market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**TOWN HOUSE** – One of a group of two to eight attached dwelling units divided from each other by common walls and each having a separate entrance leading directly to the outdoors at ground level.

**TRAILS** – A narrow path designed for use by horseback riders and pedestrians.

- An adult day treatment facility, including an adult day care, that provides continuous care and supervision for three or more adults 18 years of age and over for at least four but less than 24 hours a day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting; and
- A physical/mental rehabilitation home.

**TRAVEL TRAILER COURT OR CAMPGROUND** – Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pickup campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes. It is not to be utilized for more than 30 days.

**TREATMENT FACILITY** - A residence for individuals, some or all of who are receiving on-site medical or psychological treatment, therapy, or counseling. The allowed number of individuals is limited by the zoning district according to Table 3.1.C, and shall include both those individuals receiving treatment and those providing treatment. A Treatment Facility may include any of the following:

- A nursing home;
- A nursing facility;
- Institutions providing life care;
- A state-licensed group home for the developmentally disabled or for persons with mental illness.

**VARIANCE** – A variance is a relaxation of the terms of 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 applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements.

**VARIANCE, FLOODPLAIN** – A grant of relief to a person from the requirement of this

ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION, FLOODPLAIN** – The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 6.3.9.A is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** – The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WRECKING OR JUNK YARD** – An area where automobiles or other types of equipment are dismantled for reasons of obtaining parts; or where wrecked or otherwise unserviceable automobiles are stored; or other cases where sufficient used metal has been allowed to accumulate so as to cover an area larger than 1,000 square feet.

## Article III: District Regulations

### 3.1 INTENT AND PURPOSE OF ZONING DISTRICTS

**3.1.1 A-1 Rural Agricultural.** The Rural Agricultural District is intended to accommodate, maintain and protect agricultural and ranching operations, and very low-density residential uses in areas remote from available public services. This district is sometimes intended for use in annexed areas until such time as other development is appropriate, at which time it will be rezoned.

**3.1.2 A-R Agricultural/Residential.** The Agricultural/Residential District is intended to accommodate agricultural activities and low- and medium-density residential uses that are conducive to a rural atmosphere

**3.1.3 R-1 Single-Family Residential.** The Single Family District is intended to accommodate low-density and medium-density single-family residential development, and to provide land-use protection for areas that develop in such a manner.

**3.1.4 R-T Townhouse Residential.** The Townhouse Residential District is intended to accommodate medium density residential development with both townhouse and single family development and to provide land-use protection for areas that develop in such a manner.

**3.1.5 R-MF Multi-Family Residential.** The Multi-Family Residential District is intended to accommodate low-, medium-, and moderate-density single-family, and multi-family residential development, not including single-wide mobile homes, and to provide land-use protection for areas that develop in such a manner.

**3.1.6 MR Mixed Residential.** The purpose of the Mixed Residential District is to provide for the development of a mix of housing types and densities, including single family, multi-family, modular housing and mobile homes, and certain institutional and civic and very limited commercial uses that are compatible with the character of the neighborhood.

**3.1.7 R-MHP Mobile Home Park and Attached Housing.** The purpose of the Mobile Home Park and Attached Housing district is to accommodate higher density, single-family conventional and mobile homes, duplexes and multi-family housing and to provide land use protection for areas that develop in such a manner.

**3.1.8 MR-1 Limited Mixed Residential.** The Limited Mixed Residential District is intended to accommodate a mix of detached housing types, including single family and mobile homes at low and medium densities.

**3.1.9 C-1 Light Commercial.** The Light Commercial District is intended to accommodate a mixture of limited commercial uses largely serving residents of neighborhoods and selected detached housing types. This district establishes and preserves areas for those commercial facilities which are essentially useful in close proximity to residential areas, while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service.

**3.1.10 C-2 General Commercial.** The General Commercial District is intended to accommodate a broad range of commercial uses serving residents and visitors to the



community. No residential uses are allowed in this district.

**3.1.11 M-1 Light Manufacturing.** The purpose of the Light Manufacturing District is to accommodate heavy commercial and light manufacturing operations subject to safeguards protecting the environmental health and safety for humans and the natural environment. The activities in this zone must be environmentally compatible to the City. Residential uses are not allowed.

**3.1.12 M-2 Heavy Manufacturing.** The Heavy Manufacturing District is intended to accommodate heavy commercial and heavy industrial uses, some of which may create noise, lights, and other impacts both on and off site that may not be compatible with the residential uses adjacent to such uses, or may demand a specialized locale. All required services shall be available to the site, including major utility lines, sewer and water facilities. Whenever appropriate, heavy manufacturing uses shall be located in areas where their impacts can be sufficiently mitigated on nearby uses and in areas where necessary services can be provided in an efficient and economical manner.

**3.1.13 SU-1 Special Use.** The Special Use District is intended to accommodate certain multi-family, institutional and civic, commercial and manufacturing uses that, due to their unusual nature, dimensions, or potential effects on surrounding properties, require special consideration to assure their compatibility within their locational context.

The boundaries of this zone shall be determined only on a case-by-case basis following the procedures for an amendment as provided in this Land Use code. Supplementary regulations and special conditions may be imposed by the City Council upon recommendations by the Planning and Zoning Commission. The City Council may not grant a zone change for Special Use without a public hearing and unless satisfactory provisions have been made.

Combinations of uses specified in the Use Table for SU-1, C-1, as well as C2 and M-1 districts shall be permitted subject to being evaluated and judged on individual merit.

**3.1.14 Airport Overlay Zone.** The Airport Overlay District is intended to accommodate an airport use through reducing external noise impacts and protecting airspace in the vicinity of the airport and its runway approaches from intrusion by high objects (natural or manmade) or other forms of interference that could compromise airport operations safety. Requirements of this Overlay Zone are in addition to those contained in any basic zone. Where the provisions of another zone conflict, the provisions which are most restrictive shall prevail.

The purpose and intent of the regulations adopted pursuant to this ordinance shall be to encourage land use patterns for housing and other local needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas and to facilitate the orderly development of areas around airports by establishing regulations that must be met before such development will be permitted.

**3.1.15 Floodplain Overlay Zone.** The purpose of the *Floodplain* Overlay Zone is to provide special regulations designed to reduce flood losses. The requirements of this Overlay Zone are in addition to those contained in any basic zone. Where the provisions of this Overlay Zone conflict with the provisions of another zone, the provisions which are most restrictive

shall prevail.

**3.1.16 Planned Unit Development (PUD) District.** The Planned Unit Development District is intended to accommodate not only uses that are allowed in other zoning districts, but to allow more innovative design, massing, orientation, and clustering in development patterns. The district is not intended to reduce quality standards below those applicable elsewhere in the City.

## **3.2 USE TABLE**

The principal uses allowed within all zoning districts are identified in Table 3.2 in this chapter.

**3.2.1 Use Categories and Specific Uses.** If a Specific Use Type is listed in the table, that use type is allowed only within the districts indicated, not within the districts that allow the broader Use Category.

Most of the Specific Use Types listed in Table 3.2 are defined in Article II.

**3.2.2 Allowed Uses.** An "A" indicates that the listed use is allowed by right within that zoning district. Allowed uses must comply with all other applicable standards of this Land Use Code and obtain a Zoning Permit where applicable.

**3.2.3 Conditional Uses.** A "C" indicates that the listed use is allowed within that zoning district only after review and approval of a Conditional Use Permit, pursuant to the review procedures of Section 6.3.6. Conditional Uses are subject to all other applicable standards of this Land Use Code. "C\*" means a conditional use permit lasting a maximum of 6 months is required. Permits can be renewed. "C\*\*" means a conditional use permit lasting a maximum of 1 year is required. Permits can be renewed.

**3.2.4. Uses Not Permitted.** A blank cell indicates that a use is not permitted within that zoning district.

Table 3.2. City of Grants Land Use Table

City of Grants Use Table

Specific Use Type	A-1	A-R	R-1	R-T	R-MF	R-MHP	MR	MR-1	C-1	C-2	M-1	M-2	SU-1	Use Specific Standard
Accessory building	X	X	X	X	X	X	X	X	X	X	X	X	X	
Adult amusement uses; adult store											C	C		3.3.1.A.
Agricultural activities	X	X												3.3.1.B.
Airports; aircraft sales and service													X	
Ambulance service									C	X				
Amusement parks; carnival; circus										C*			X	
Animal Shelter; dog pound; kennel										X	X	X		
Antique dealers									X	X				
Appliance store; repairs									X	X				
Armory											X			
Art gallery; art schools						C	C	C	C	X			X	
Auction Houses (excluding livestock)										X				
Automobile sales; service; repair; painting										C	X			3.3.1.O.
Automobile rental										X				
Automobile wrecking, dismantling, salvage											X	X		3.3.1.D.
Bakery, confectionery store (retail)									C	X				
Bakery, candy and confectionery manufacture (wholesale)										C	C			
Ballrooms; dancing instruction									C	X				
Bank; savings and loan; trust company									C	X				
Bars, lounges, and package liquor stores										C			C	
Barber or beauty shop									C	X				
Batching plant (concrete or asphalt)											X	X		
Boat dealers; marine supplies										X				
Book store									C	X				
Bottling plant											X	X		3.3.1.E.
Bowling alley										X				
Brick products; manufacture											C			
Building material storage or sales											X	X		3.3.1.F.
Buildings; prefab assembly											X	X		
Bus lines (depot and maintenance)										C	C			
Cabinet makers										X	X	X		
Camper equipment										X	X			
Candle manufacturing; wholesaling											X	X		
Car Wash									C	X				
Carpet and rug cleaners										X	X	X		
Castings; tool and die maker; foundry											C	X		
Cemetery; mausoleum; crematory													X	
Ceramics manufacturing										C	X	X		
Chemical manufacturing or processing												X		
Churches; places of worship	C	C	C	C	C	C	C	C	C	C			C	3.3.1.G.
Clinics, dental or medical		C	C	C	C		C		X	X			X	
Clothing and/or dry goods store (retail)									C	X				
Club or lodge (with liquor license)									C	C			C	
Club or lodge (without liquor license)							C		C	X				
Cold Storage plant											X	X		3.3.1.H.

**City of Grants Use Table**

Specific Use Type	A-1	A-R	R-1	R-T	R-MF	R-MHP	MR	MR-1	C-1	C-2	M-1	M-2	SU-1	Use Specific Standard
Concrete and asphalt products manufacture; sales											X	X		3.3.1.J.
Construction and heavy farm equipment sales											X	X		3.3.1.K.
Contractors-General, building and trades (outside, storage of materials and equipment plus sales, service, and maintenance)										C	X	X		
Correction, detention, or penal institution													X	
Dairy products and sales (wholesale)											C			
Data processing equipment; service										X	X			
Day care - child care center	C	C	C	C	C	C	C	C	C	A				3.3.1.L
Day care - family child care home	X	X	X	X	X	X	X	X	X	C				3.3.1.L.
Delicatessen; catering shop									C	X				
Delivery service (parcel and package)										C				
Department or variety store									C	C				
Drive-in theater										C				3.3.1.M.
Drug store; pharmacy; cosmetics									C	X				
Dwelling, single-family (conventional construction or manufactured home)	X	X	X	X	X	X	X	X	X					
Dwelling, single-family (mobile home)	X	X				X	X	X						3.3.1.V, W, X.
Dwelling, multiple-family (duplexes and apartments)					X	X	X						X	
Dwelling, townhouse				X	X		X						X	3.3.1.AE
Dwelling, boarding or rooming house	C*				X	C	X		X	X				
Dwelling: mobile home or trailer recreational vehicle during construction	C*	C*	C*	C*	C*	C*	C*		C*	C				3.3.1.U.
Dwelling, watchman or caretaker										C	X	X		3.3.1.I.
Dwelling, accessory	C	C	C		C	C	C	C	C	C	C	C	C	
Dwelling: townhouse													X	
Explosives storage, manufacture, or sales												C		
Fairgrounds, baseball park complex, stadium													X	
Farm supplies, equipment sale and service										C	X			
Farm, fur-bearing animals		C												
Farming; Ranching	X	X												
Feed lot operation; livestock auction													X	
Fertilizers (wholesale or manufacturing)												C		
Fiberglass fabricators; product manufacturing											X	X		
Fix-it shop (fenced outside storage)										C	X			
Fix-it shop (completely closed)										C	X			
Floral shop, plant store									C	X				
Food products (manufacturing and processing)											C			
Food products (wholesale, storage, and sales)										C	X			
Food store; grocery market; convenience store									C	X				
Fuel wholesalers and storage (gasoline, liquefied petroleum)												X		
Funeral home; mortuary										X			X	
Furniture sales and service; upholstery									C	X				
Gasoline service station									C	C				3.3.1.N.
Gift shop; crafts store; curios									C	X				
Glass products, installation, manufacturing										X	X	X		
Golf course; driving range													X	

**City of Grants Use Table**

Specific Use Type															Use Specific
	A-1	A-R	R-1	R-T	R-MF	R-MHP	MR	MR-1	C-1	C-2	M-1	M-2	SU-1	Standard	
Golf pitch-and-putt; miniature golf														X	
Greenhouse or nursery; landscaper		X								C	X	C	X		
Group Living; Group Living Facility	C	C	C	C	C	C	C	C	C	C					
Group Living; Assisted Living Facility	A	A	A	A	A	A	A	A	A	A				3.3.1.C.	
Group Living; Treatment Facility	C	C	C	C	C	C	C	C	C	C				3.3.1.C.	
Guns and gunsmiths										C					
Hardware store									C	X					
Home occupation	C**	C**	C**	C**	C**	C**	C**	C**	C**						
Hospital equipment and supplies										X	X	X			
Hospital; sanatorium; private nursing home		C	C		C		C		C	X			X		
Hotel; motel; motor lodge										C	X		X		
Home furnishings (sales and service)									C	X					
Ice cream store									C	X					
Ice plant											X	X		3.3.1.Q.	
Interior decorators									C	X					
Janitorial service; supplies										X					
Jewelry manufacture and wholesalers									C	X	X				
Jewelry store (retail)									C	X					
Judo, Karate instruction									C	X					
Junk yard; salvage operation											X	X			
Kennel	C**	C**	C**	C**	C**	C**	C**	C**		X	X	X			
Laboratory (dental, medical)										X	X				
Laboratory (research, testing)										C	X	X			
Laundromat; dry cleaning; linen supply									C	X					
Library		C	C	C	C	C	C	C	C	X					
Liquor wholesalers										C	X				
Locksmith									C	X					
Lumber yard (retail and wholesale)										C	X	X			
Machine shop; metal fabrication; products											X	X			
Manufacturing, general											X	X	X	3.3.1.R.	
Manufacturing, heavy												X	X	3.3.1.S.	
Manufacturing, special												C	C	3.3.1.T.	
Mobile home parks													X	3.3.1.W.	
Mobile home subdivision													X		
Mobile home and trailer sales; service; repair										X	X		C		
Motorcycle sales, service; repair										X					
Moving and transfer company										C	X				
Museum							C	C	C	C			X		
Music store									C	X					
Offices; professional and semi-professional					C				C	X					
Office; temporary (real estate sales, etc)		C*	C*	C*	C*	C*	C*		C*	C*	C*	C*			
Office equipment and supplies									C	X					
Optician; optical goods									C	X					
Paint store and related supplies									C	X					

**City of Grants Use Table**

Use Specific

Specific Use Type	A-1	A-R	R-1	R-T	R-MF	R-MHP	MR	MR-1	C-1	C-2	M-1	M-2	SU-1	Standard
Paper products manufacture											X	X		
Paper supplies (wholesale)										X	X			
Parking lot or structure					X				X	X	X	X		
Pawn shop									C	X				
Pest control; exterminator										C	X	X		
Pet shop (completely enclosed)										X				
Photographic equipment and supplies									C	X	X			
Photographic studio									C	X				
Plastics products (manufacture and wholesaling)											X	X		
Printing and all allied trades									C	X	X	X		
Public Buildings Structures and Facilities (SU-1)	X	X	C	C	C	C	C	C	X	X	X	X	X	
Public utility structure							C	C						
Ranch, farm, and dairy activities	X													
Radio or television station (with transmitter tower)	X	C	C	C	C	C				C	C		X	
Radio or television station (w/out transmitter tower)		C	C	C	C	C				C	C		X	
Railroad depot and maintenance facilities											X	X		
Real estate office connected to a specific development			C*	C*	C*	C*								3.3.1.Z.
Recreation facility (community, non-profit)		C	C	C	C	C	C	C	C	C				
Recreational facility (private or commercially operated)	X													
Recreation hall; billiard parlor, video, arcades, etc.									C	C	C			
Reducing salon; health spa									C	X				
Rental service stores									C	X				
Restaurant (with liquor license)									C	X				
Restaurant, café, cafeteria (w/out liquor license)(no curb service)									C	X				
Restaurant (drive-in)										X				
RV or Travel Trailer Parks								C	C				X	3.3.1.AA.
Sand and gravel operations											X	X		3.3.1.AB.
Schools; nursery day care or kindergarten		C	C	C	C	C	C	C	C	C				3.3.1.Y.
Schools; elementary and secondary		C	C	C	C	C	C	C	C				X	3.3.1.Y.
Schools; business, technical or trade								C		C				
Schools; university or college													X	
Shopping center complex										C			X	3.3.1.AC.
Sign shop										X				
Skating rink (indoor or outdoor)										X				
Specialty shop									C	X				
Sporting goods store									C	X				
Stable; riding school (commercial)													X	
Stone cutting and monument sales											X			
Storage (private) of boat, camper, trailer, or RV vehicle	X	X	X	X	X	X	X							
Surplus and salvage goods; second-hand store										X	X			
Tailor shop									C	X				
Taxidermist											X			
Theater (indoor)										X			X	
Theater (drive-in)										C			X	
Tire recapping or retreading											X	X		3.3.1.AD.
Truck terminal and maintenance										C				
Utility company service center or structure	C	C	C	C	C	C	C		C	C	C	C		
Veterinary hospital including kennel (small animals completely enclosed)	C	C								X				
Veterinary hospital (large animal)	X	C								C	C			
Vulcanizing shop; recapping											X	X		
Watch repair									C	X				
Welding shop										C	X	X		
Warehousing and outdoor storage yards (general)											X	X		
Warehousing with no outdoor storage (mini-type)									C	X	X	X		

**3.2.5 Uses Subject to Specific Regulation.** Many uses are subject to use-specific regulations, in addition to general regulations that apply to all development. The final column of the use table contains references to applicable use-specific standards.

**3.2.6 Planned Unit Development District Uses.** Uses allowed in the Planned Unit Development (PUD) districts are stated as follows rather than in the use table. Any use may be included in a PUD zoning district subject to review and approval of the PUD zone district established in the review procedures of Section 6.3.11. PUD uses are subject to all other applicable standards of this Land Use Code, unless these standards are modified by the terms of the approved PUD.

### **3.3 USE REGULATIONS**

#### **3.3.1 Use-Specific Standards.**

##### **A. Adult Amusement Uses and Adult Store**

1. Adult amusement uses shall not be established, operated, or maintained within 1,000 feet of any boundary of any residential zoning district, structure used for residential purposes, outdoor recreation facility, church/religious facility, public or private school, day care, or another adult amusement use.
2. Any adult amusement use lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of any use listed in subsection (1) above.
3. Advertisements, displays, or other promotional materials displaying or depicting adult materials shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks, or walkways, or from other areas outside the establishment.
4. All building openings, entries, and windows shall be located, covered, or screened in such a manner so as to prevent the interior of such premises from being viewed from outside the establishment.

**B. Agricultural Activities.** The following agricultural activities are allowed, provided the lot has an area of at least 6,000 square feet:

1. Home occupation related to the raising of agricultural products and/or animals.
2. Stand for display and sale of agricultural products, provided the number of stands is limited to one for each lot and that the size of the stand does not exceed 400 square feet of floor area in the A-R district. No maximum floor area is set for this activity in the A district.
3. Animals such as cattle, horses, pigs, sheep, and goats provided that one head of cattle or horse does not exceed one for each 10,000 square feet of open lot area, one sheep or goat for each 4,000 square feet or equivalent combination.
4. All livestock and poultry shall be kept in such a manner as not to constitute a nuisance through violation of the following regulations:
  - a. No offensive noise, odor or dust shall be produced in the A-R district.
  - b. Areas devoted to livestock and poultry, including accessory buildings and structures, shall be constructed and maintained to discourage concentration and breeding of insect pests.
  - c. All animals shall be confined within owner's property boundaries.
5. Raising of nursery products shall be allowed with no minimum area.

**C. Assisted Living Facilities and Treatment Facilities**

1. No kitchen facilities shall be located in any bedroom.
2. If located in an existing structure and designed to house more than five clients, such use shall meet the requirements set forth in the current IBC.
3. Adequate provisions shall be made for access by emergency medical and fire vehicles.
4. The number of unrelated individuals in residence at an assisted living facility or treatment facility, including staff, shall be based on zoning district, as follows (X = not allowed):

*Table 3.3.1C. Use-Specific Standards for Assisted Living and Treatment Facilities*

<b>Zoning District:</b>	<b>A-1, R-A, R-1</b>	<b>R-MF, MR, MR-1</b>	<b>C-1, C-2</b>	<b>M-1, M-2</b>
Assisted Living	10	15	unlimited	X
Treatment	10	20	unlimited	X

**D. Automobile Dismantling Yard**, provided that all activities are conducted within an area enclosed on all sides by a solid wall or fence at least six feet high and the structure is not within 200 feet of a residential or commercial zone. Inoperative automobile bodies shall not be stacked above the plain established by the top of the required surrounding wall.

**E. Bottling Plant** must be conducted within a completely enclosed building in the M-1 district.

**F. Building Material Storage or Sales** must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts land in a residential or commercial zone.

**G. Churches, Hospitals, Schools, and Religious and Philanthropic Institutions**, provided that such uses shall be located on sites of sufficient size to meet off-street parking requirements of this ordinance and to provide set back from all property lines a distance of at least one foot for each foot of building height.

**H. Cold Storage Plant** must be conducted within a completely enclosed building in the M-1 district.

**I. Caretaker Residence in M-1 District:** one dwelling unit, or mobile home for a watchman or caretaker on the same lot or parcel of land with an industrial structure or use.

**J. Concrete or Cement Products Manufacturing, Batching Plant and Processing of Stone** must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts land in a residential or commercial zone.

**K. Construction and Heavy Farm Equipment Rental, Sales, Display and Repair** must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts



land in a residential or commercial zone.

**L. Day Care Center**

Day Care uses provide care, protection and supervision for children on a regular basis away from their primary residence for less than 24 hours per day. Day Care does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. There are two types of day care:

1. **Child Care Center.** A child care center is a facility licensed by the State of New Mexico that provides care, services, and supervision for any number of children. A child care center is located in a non-residential area and meets the applicable state and local building, zoning and safety codes.
2. **Family Child Care Home.** A family child care home is a private dwelling licensed by the State of New Mexico that provides care, services, and supervision for a period of less than 24 hours of any day for at least five but no more than 12 nonresident children. The licensee is the primary caregiver in the home.
  - a. A zoning permit shall not be issued until the applicant has submitted evidence of a valid certificate or license by the New Mexico Department of Children, Youth, and Families. After approval, a copy of an annual report with evidence of continuing certification or licensing shall be submitted to the Code Enforcement Official in January of each year.
  - b. Adequate provisions shall be made for access by emergency medical and fire vehicles.
  - c. Any outdoor play area that is within or adjacent to a residential zoning district or residential use shall be enclosed by an opaque fence of four feet in height or a chain link fence that is six feet in height, with at least one latched gate for an emergency exit.
  - d. Outdoor play equipment must be safe and securely anchored. Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets.
  - e. Energy-absorbing surfaces shall be installed beneath climbing structures, swings, and slides.

**M. Drive-In Theater** provided that the theater screen is 500 feet from an arterial highway or aligned so that the screen may not be seen from the highway. All structures shall be a minimum of 50 feet from any street where there is ingress and egress.

**N. Gasoline Service Stations** primarily for automobiles and petroleum gas for consumption but not for resale, provided: Lubricating, minor repairs and associated activities are conducted within a completely enclosed building; A solid wall or fence at least six feet high shall be erected between the activity and any abutting of a contiguous residential zone.

**O. Garage for Automotive Repair and Painting** provided in the C-2 district, the operations comply with the following:

1. All repair and painting activities shall be conducted within a completely enclosed building.
2. Storage of not more than five automobiles provided that the outdoor area in which

such cars are stored shall be enclosed by a solid wall or fence at least six feet high.

**P. Home Occupation** subject to the following restrictions:

1. No person other than members of the household residing on the premises shall be engaged in such occupation. Babysitting up to a maximum of five children shall not require a home occupation conditional use permit.
2. 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, and not more than 25% of the floor area of the dwelling unit shall be used to conduct the home occupation, nor more than 600 sq. ft. of an accessory building.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area and non-illuminated.
4. There shall be no sales in connection with such home occupation that would disrupt the residential nature of the district.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal sense off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
7. The following uses and activities shall not be permitted or conducted as a home business, although they may be permitted as businesses in some zones under other provisions of this Land Use Code:
  - a. Adult amusement uses
  - b. Funeral homes
  - c. Hotels
  - d. Restaurants
  - e. Retail sales and services, except the following, which are permitted: catalog and mail order services that do not maintain stock for sale on the premises; home occupations which involve hand work, such as the making of rugs, blankets, clothing, pottery, jewelry, painting, and baskets; and artist studios
  - f. Vehicle or equipment sales, rental, or repair
  - g. Veterinary facilities/small animal clinics or kennels
  - h. Any occupation involving the storage of hazardous materials for commercial application; or
  - i. All industrial uses.
8. A conditional use permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void.
9. A conditional use permit for a home occupation shall be revocable by the Code Enforcement Official because of the failure of the owner or operator of the use covered by the conditional use permit to observe all requirements of the permit and the Land Use Code.

**Q. Ice Plant (Wholesale)** must be conducted within a completely enclosed building in

the M-1 district.

**R. Manufacturing - General**, including compounding, assembling, or treatment of articles from the following materials are permissive uses in the M-1 district:

1. Bone or shell
2. Cellophane
3. Cork
4. Fiber
5. Glass
6. Horn
7. Leather
8. Metals

**S. Manufacturing - Heavy** of the following are permissive uses in the M-2 district:

1. Acetylene gas
2. Alcohol
3. Ammonia, bleaching powder, chlorine
4. Asphalt
5. Brick, tile, terra cotta
6. Chemicals
7. Oilcloth, linoleum
8. Paint, oil (including linseed, shellac, turpentine, lacquer, varnish)
9. Petroleum
10. Plastics
11. Soap
12. Sodium compounds
13. Stove or shoe polish
14. Tar products
15. Metal Forge

**T. Manufacturing - Special and High Nuisance** of the following are conditional uses in the M-2 district

1. Cement, lime, gypsum, plaster of Paris
2. Explosives
3. Fertilizer
4. Glue
5. Landfill
6. Stock yard feeding pen
7. Slaughter of animals
8. Rendering
9. Cannery, curing of raw hides
10. Wool pulling or scouring

**U. Mobile Homes During Construction** may be used as living quarters during construction of a building on the premises. The mobile home must be connected to available utilities. The use shall be allowable only as a renewable conditional use requiring a 6-month permit. No more than one additional 6-month permit may be issued for such use, provided that construction remains active.

**V. Mobile Homes in the MR-1 District:** within forty-five (45) days of occupancy, each

mobile home unit shall be skirted.

**W. Mobile Home Parks** shall be allowed subject to the following regulations:

1. *Minimum area of tract.* The minimum park size shall be two acres.
2. *Maximum density.* Maximum density shall be ten mobile homes per acre.
3. *Spacing – minimum land area and width.* Each mobile home shall be located on a land space of at least 3,000 square feet with a minimum width of 30 feet.
4. *Spacing – separation between mobile homes.* No mobile home shall be located within 20 feet of any other. Any mobile home shall be at least 25 feet from the right-of-way line of any street and at least 10 feet from any property line of the mobile home park.
5. *Driveways in park.* All driveways shall be at least 30 feet wide.
6. *Site maintenance.* The site shall be graded, drained, and free of rubbish and litter.
7. *Utilities.* No mobile home shall be occupied unless it is connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored.
8. *Buffer area.* In all mobile home parks, a strip of land at least fifteen (15) feet wide surrounding the entire park shall be left unoccupied by mobile homes, and shall have shrubs, and trees, with a screening wall or fence, designed to afford privacy to the development.
9. *Business License.* An annual business license shall be obtained from the City before any mobile home park may be operated.
10. *Buffer.* A strip of land at least fifteen (15) feet wide surrounding the entire park shall be left unoccupied by mobile homes, and shall have shrubs and/or trees, with a screening wall or fence, designed to afford privacy to the development.
11. *Storm Drainage.* Storm drainage facilities shall be so constructed as to protect residents of the development as well as adjacent property owners. Such facilities shall be of sufficient capacity to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the development.
12. *Storage.* All storage outside the confines of any mobile home shall be housed in a closed structure compatible in design and construction to the mobile homes, and to any service buildings within the development; all patios, carports, garages, and other add-ons shall be compatible in design and construction with the mobile home.
13. *Security Compound.* A security compound for storage of vehicles, boats, and other large items, shall be provided equivalent to a minimum of three hundred (300) square feet of all-weather protection per trailer home space in trailer parks.
14. *Skirting.* Within forty-five (45) days of occupancy, each such home shall be skirted, or if shields are used, they are to be fireproof, well painted, 01" otherwise preserved.
15. *Common open space.* Not less than 4% of the gross land area shall be set aside for the joint use and enjoyment of occupants. The land covered by vehicular roadways, sidewalks and off-street parking shall not be construed as part of this 4% area required.
16. *Lighting.* Yard lighting with a minimum of two-tenths (0.2) feet candles of light shall be required for protective yard lighting along the full length of all access roads in trailer parks.
17. *Landscaping.* All areas not covered by mobile homes, hard-surfacing, or buildings, shall be landscaped as approved by the Planning Commission and such landscaping shall be permanently maintained.
18. Roadways shall be designed to accommodate anticipated traffic, including the following standards, unless modified by an approved planned unit development plan:
  - a. Two-way traffic: A minimum of thirty-five (35) feet back to back.

- b. Entrance roadways: A minimum of forty (40) feet in width.
  - c. Roadways: All roadways shall be hard surfaced and bordered by twenty-four (24) rolled gutters or an approved equivalent.
  - d. Screening Requirements: In a mobile home park that abuts an "R-1" Single Family District, "A-TH" Townhouse District, "R-MF" Multi-family District, "C-1, or C-2 " Commercial Districts are required to provide and maintain screening as defined and specified below:
    - 1. "Screening" - a wall, fence or planted area six (6) feet in height that screens the area in question from adjoining area
    - 2. Materials and design of screening must be reviewed by Planning and Zoning Commission.
    - 3. In the "R.V" Recreation Vehicle district, the owner of the facility will be responsible for installation and maintenance of the screening.
19. In addition to meeting the above requirements and conditions and conforming to the other laws of the local jurisdiction:
- a. All trailer parks shall also conform to all applicable state regulations.
  - b. No mobile home may be placed on a permanent foundation unless it is in compliance with the New Mexico Uniform Building Code.

**X. Mobile Home Subdivisions**, subject to the following regulations:

- 1. *Minimum area of tract.* The tract shall contain at least three (3) acres.
- 2. *Lot area.* The minimum lot area established for each mobile home shall not be less than six thousand (6,000) square feet.
- 3. *Setback dimensions.* The front yard setback shall be twenty (20) feet from property line, fifteen (15) feet from rear property line, five (5) feet from side property line, and corner lots ten (10) feet set back on street side.
- 4. *Ownership.* The area shall be in one ownership, or, alternately, if there are several owners, the application for approval of the development shall be filed jointly by all the owners of the property included in the subdivision.
- 5. *Architectural compatibility of accessory buildings.* All patios, garages, carports, and other add-ons must be compatible in design and construction with the mobile home. The service buildings shall be constructed in accordance with standard commercial practice and kept in good repair as approved by the Building Inspector.
- 6. *Skirting.* Within forty-five (45) days of occupancy, each mobile home shall be skirted or shielded. If shields are used, they are to be fireproof and painted, or otherwise preserved.
- 7. *Streets.* Roadway widths shall be as required in Section 5.2.4 of this Land Use Ordinance, except as may be modified by an approved planned unit development plan.
- 8. *Screening Requirements:* In a "MH" mobile home subdivision that abuts an "A" Single Family District, "A-TH" Townhouse District, "B" Multi-Family District, "C" Commercial District, or "D" Neighborhood Shopping District, screening shall be provided and maintained as defined and specified below:
  - a. In the "MH" Mobile Home Sub-division District each property owner abutting the screened area will be responsible for the maintenance of that part of the screening. This requirement shall be written into any sales agreement or contract for sale of property within "MH" District.
  - b. "Screening" – a wall, fence or planted area, six (6) feet in height that screens the area in question from adjoining areas.
  - c. Materials and design of screening must be reviewed by Planning and Zoning

Commission.

9. *Subdivision procedure.* Mobile home subdivisions shall be reviewed and approved in accordance with the subdivision process set forth in Sections 6.3.15 and 6.3.16 of this Land Use Code.

**Y. Nursery, Kindergarten and Other Private or Special Schools** where the open site area is not less than 40% of total lot area in the A-R district. The area needed to meet front and side yard set back requirements from property line is not to be considered as open area.

**Z. Real Estate Sales Office** in connection with a specific development, allowable only as a renewable conditional use requiring a 6-month permit.

**AA. Recreational Vehicle (RV) Court or Campground**

1. Maximum length of occupancy shall be 30 days and no individually metered utilities may be provided.
2. Facilities shall not be in conflict with the regulations established by the New Mexico State Engineers Office concerning water and sewage treatment facilities.
3. Travel trailer courts or recreational vehicle campgrounds are subject to the following regulations:
  - a. The minimum park size shall be two acres.
  - b. The site shall be graded, drained, and free of rubbish and litter.
  - c. The site shall have a wall, fence or planted area (6) feet in height that screens the site from adjoining areas.
  - d. An annual business license shall be obtained from the City before any travel trailer or recreational vehicle campground may be operated.
  - e. No recreational vehicle shall be located within 20 feet of any other.
  - f. Any recreational vehicle shall be at least 25 feet from the right-of-way lines of any street and at least 10 feet from any property line of the court or campground.
  - g. The area shall be in one ownership, or if in several the application for approval of the development shall be filed jointly by all owners of the property included in the plan.
  - h. In all RV parks, a plan for water and wastewater disposal, and sanitary services for solid waste disposal, must be provided.
  - i. In all RV parks, a landscaped strip around park must be provided and maintained by the owner.
  - j. Storm drainage facilities must be provided and approved by the Planning Commission.
  - k. Screening Requirements: All RV parks that abut or are within "R-1" Single Family District, "R-MF" Multi-Family Residential District, "MR" Mixed Residential District, or "C-1" Commercial District are required to provide and maintain screening as defined and specified below:
    1. "Screening" - a wall, fence or planted area at least six (6) feet in height that screens the area in question from adjoining areas.
    2. Materials and design of screening must be reviewed by the Planning and Zoning Commission.
  - l. In addition to meeting the above requirements and conditions and conforming to the other laws of the local jurisdiction, all RV parks shall also conform to all applicable state regulations.

**AB. Sand and Gravel Operations**, including dirt removal activity, stockpiling, processing or distribution and batching plant must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts land in a residential or commercial zone. No blasting or drilling shall be allowed.

**AC. Shopping Centers**

1. Applications for shopping centers shall submit a general development plan for the shopping center, or shopping center site, including: drawings showing the approximate location of proposed buildings; lighting control; protective screening; landscaping; the general design of pedestrian and vehicular entrance, and circulation; and the general design of parking, loading, and facilities and methods for handling traffic.
2. Access to the shopping center, or shopping center site, is limited to approaches designed according to accepted traffic engineering practice and laid out so as to be an integral part of the parking area and loading facilities.
3. Pick-up points must be designed so that vehicles stopped for this purpose do not create congestion on abutting public ways.
4. No loading or unloading is to be conducted on a public way.
5. Upon approval, the applicant is responsible for payment of cost for the necessary channelization, pick-up and loading areas, and areas for vehicular turning movements into the shopping center or shopping center site.
6. The responsibilities must be outlined and agreed upon between the applicant and the City at the time of approval of the general development plan.

**AD. Tire Recapping or Retreading** must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts land in a residential or commercial zone.

**AE. Townhouses** must provide a minimum of 750 square feet of useable open space per dwelling unit.

**3.3.2 Accessory Uses and Structures.**

**A. Allowed Uses and Structures.** Permitted uses and approved conditional uses shall be deemed to include accessory uses, structures, and activities that are necessarily and customarily incidental and subordinate to the principal uses allowed in the zoning district, including those uses and structures listed in this Section, unless specifically prohibited or unless they create a nuisance to the public in general or to neighboring properties. Accessory uses, structures, and activities shall be subject to the following regulations in addition to the regulations that apply to principal uses in each zoning district.

1. Accessory uses or buildings customarily incidental to a residential area include work shops, garages, *etc.*
2. In the R-1 district, storage of a boat, camper, trailer or other recreational vehicle, must meet the setbacks and height requirements set forth for the R-1 district. No unhitched boat or trailer or motor home shall be stored on public streets.

**B. Time of Establishment.** No accessory use shall be established and no accessory structures shall be allowed on the subject parcel until after all required permits and approvals for the principal use or activity have been obtained.

**C. Residential and Rural Accessory Uses.** Examples of residential and rural accessory uses shall include the following accessory uses, activities, and structures:

1. Accessory dwelling units, provided the following conditions are met:
  - a. The lot containing the primary structure and accessory dwelling unit must meet the applicable dimensional requirements, including but not limited to: minimum lot size and setback requirements.
  - b. Only one accessory dwelling unit is allowed per lot.
  - c. Mobile homes are not allowed as an accessory dwelling unit.
  - d. The accessory dwelling unit must be situated on a permanent foundation.
  - e. An accessory dwelling unit must meet the restrictions of subsection 3.3.2.E, Dimensional and Operational Standards for accessory buildings.
  - f. One on-site parking space is required per accessory dwelling unit.
  - g. Either the accessory dwelling unit or the primary residence may be rented under the condition that one or the other residence is occupied by an owner of the property as the owner's permanent and principal residence. If the owner is not living on the premises, only the primary residence may be rented out.
2. Barns and silos, provided the lot has an area of one acre or more.
3. Fences and walls meeting requirements set in Section 5.6.
4. Garage sale, provided the following conditions are met:
  - a. All sale items shall be limited to used domestic items or handcrafted goods owned by the applicant for the garage sale
  - b. No one shall accept or take in for sale any goods on a consignment basis or any goods owned by another
  - c. No signs shall be posted anywhere in the City advertising such sales except the property owner may install on the residential lot on which such sales are to be held a sign not larger than eighteen inches by thirty inches, advertising such sale. The signs shall be erected no sooner than one day prior to the date of the sale and shall be removed no later than one day after the sale ends.
  - d. Not more than four such sales in any 12-month period shall be held at the premises if occupied by the same family or any member of such family.
  - e. Any sale conducted pursuant to the provisions hereof shall be confined to the period of between 8:00 a.m. to 5 p.m. of any day and shall not extend in excess of two consecutive days.
  - f. Parking proposed for the garage sale shall be subject to the approval by the Code Enforcement Official. The Code Enforcement Official may impose requirements and limitation on parking so as to pervert hindrance to traffic or the provision of fire and police services to the premises.
  - g. Any person conducting a garage sale shall be required to obtain a permit from the Code Enforcement Official.
5. Gardens, provided no sales occur from the premises.
6. Greenhouse or hothouse, provided no sales occur from the premises.
7. Home office or shop.
8. Home occupation, subject to the standards set forth in subsection 3.3.1.P Use Specific Standards.
9. The keeping of domestic/household pets.
10. In the A-R District, cows, goats, horses, or sheep may be kept for non-commercial purposes but shall not exceed one cow, one horse, or one goat for each 10,000 square feet of lot area, or one sheep for each 4,000 square feet of lot area, or an



equivalent combination.

11. Playhouses, patios, cabanas, porches, gazebos, and incidental household storage buildings are allowed as residential accessory uses, provided that the height of such structures shall not exceed 15 feet.
12. Private garages, workshop, carports, and off-street parking areas used to serve the residents of the property are allowed as residential accessory uses, provided that:
  - a. the height of a garage or carport serving a single-family dwelling unit shall not exceed 25 feet; and
  - b. the garage or carport is located at least 20 feet back from the closest edge of the right-of-way of the street that provides access to the garage or carport.A private garage, workshop or carport may be detached from or attached to the principal structure, provided it complies with all applicable zone district regulations.
13. Private recreational facilities for use of the residents of the property and their guests, including swimming pools, provided that:
  - a. Outdoor lighting shall be shielded and shall not constitute a nuisance to adjacent property owners or neighbors;
  - b. The height of any recreational or play facility shall not exceed 15 feet.
14. Renting of rooms to not more than two persons per bedroom, provided that the dwelling is also occupied by the owner, and provided that the total number of unrelated persons, including roomers residing in any one dwelling unit, shall not exceed eight persons.
15. Satellite dish antennas 40 inches or less in diameter, provided that such satellite dish antenna shall be located in the rear or side yard of the residential use.
16. Solar energy systems.
17. Repair and restoration of residents' personal residential equipment including cars, trucks, and major recreational equipment, provided that equipment use is primarily personal and not for resale or service. Number of inoperable vehicles undergoing restoration shall be limited to a total of two.
18. Outdoor storage or parking of operable trucks, cars, boat trailers, subject to the restrictions set forth in subsection (E) below. No unhitched boat, camper or trailer or motor home shall be stored on public streets.
19. Parking of recreational vehicles, subject to the following requirements. Whenever this Section refers to recreational vehicles, the term shall include boats, motorized homes, horse trailers, boat trailers, or travel trailers.
  - a. A recreational vehicle may be parked:
    - i. Inside a structure; or
    - ii. Outside in the side yard on a driveway or the rear yard; or
    - iii. Outside in the front yard on a driveway, provided that the unit is parked perpendicular to the front curb; and the body of the recreational vehicle is at least 10 feet from the street right-of-way.
  - b. A parked recreational vehicle may not be used for dwelling purposes, except:
    - i. Any single recreational vehicle may be used for dwelling purposes for a maximum of 14 consecutive days in a calendar year on any given lot; and
    - ii. No recreational vehicle or parking space for a recreational vehicle shall be rented out.
  - c. No parked recreational vehicle can be permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes if the receptacle and the connection from the recreational vehicle have been inspected and approved by the city fire marshal.

- d. A parked recreational vehicle's electrical generator using internal combustion engines shall not be operated.
20. Other accessory uses that the Code Enforcement Official determines are similar in size and height to those listed above, and that do not create greater impacts on nearby properties than those listed above.
21. Accessory buildings and structures in residential zone districts shall not be rented out separately and independently from the entire property for commercial purposes, except as otherwise expressly allowed in this Section for accessory dwelling units and for home businesses.

**D. Non-Residential Accessory Uses and Structures.** Examples of commercial, retail, institutional, and industrial accessory uses and structures shall include the following:

1. Automated teller machine (ATM).
2. Cafeteria, dining halls, and similar food services when operated primarily for the convenience of employees, clients, customers, or visitors to the principal use.
3. Clubhouses, including space for the sale of golf or other sporting equipment, food, and refreshments, as accessory uses to golf courses or indoor recreational facilities only.
4. Dormitories, as an accessory use to a college, university, or boarding school.
5. Watchman or caretaker residence, subject to 3.3.1.I and provided no more than one business residence is established.
6. Gates and guard houses.
7. Outdoor and sidewalk dining or sales provided that such facilities do not block or interfere with pedestrian traffic. A minimum of three feet of thoroughfare on sidewalk must be maintained to allow for wheelchair passage.
8. Outdoor storage of goods not for display or sale provided that the storage area in C zone districts shall be visually screened from all adjacent building sites and public streets and alleys by a solid masonry wall, fence or landscaping. If chain link fencing is used for screening, it shall be screened with either slats or vinyl covering, in combination with a five-foot-wide landscaped area.
9. Parking garages and off-street parking areas for employees, customers, and guests.
10. Private recreational facilities for use by employees and guests, subject to the standards set forth in subsection (C)(13) above for swimming pools.
11. Restaurants, bars, newsstands, gift shops, clubs, and lounges when inside the principal building containing a permitted hotel use.
12. Retail sales of goods as part of another permitted commercial, institutional, or industrial use, subject to the following conditions:
  - a. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
  - b. Items for sale shall be either manufactured by the principal use or part of its stock;
  - c. Maximum gross floor area of the accessory retail use shall be either 10% of the total gross floor area of the principal use or 5,000 square feet, whichever is less; and
  - d. Parking for the retail accessory use is provided in accordance with the off-street parking standards for retail uses as set forth in Section 5.4 of this Land Use Code.
13. Satellite dish antennas that are 80 inches or less in diameter, provided that, to the maximum extent feasible, the satellite dish antenna is located to the rear of the principal building.
14. Storage of merchandise and non-hazardous materials when located in the same

- building as the principal use.
15. Swimming pools and tennis courts located on the same parcel of a permitted hotel use.
  16. Other accessory uses that the Code Enforcement Official determines are similar in size and height to those listed above, and that do not create greater impacts on nearby properties than those listed above.

**E. Dimensional and Operational Standards for Accessory Uses and Structures.**

The standards of this Section shall apply to all accessory uses and structures in all districts unless otherwise expressly stated.

1. *Distance from principal structure.* No part of any accessory building or structure shall be located closer than 10 feet to any principal structure, either on the same lot or an adjacent lot, unless it is attached to, or forms a part of, such principal structure.
2. *Front setback.* No accessory use, structure, or activity, except for allowed fences or walls, and off-street parking areas for non-residential uses, shall be located or take place within a required front street setback.
3. *Side setback.* No accessory building or structure except for allowed fences or walls shall be located within a required side yard setback. Accessory buildings or structures on corner lots shall be set back from the side street a distance not less than that required for the principal building.
4. *Rear setback.* Accessory structures shall comply with the rear setback/yard requirement for the principal use, with the following exceptions:
  - a. Allowed fences and walls may be located in the rear setback; and
  - b. If an alley of 20 foot width or greater is located to the rear of the property, garages or carports may be located within the rear setback with access from that alley.
5. *Easements.* No accessory structure, with the exception of allowed fences and walls, shall be located within any platted or recorded easement or over any known utility.
6. *Maximum building or structure size in residential areas.* Except as otherwise expressly limited or allowed in this Section, and except for accessory recreational facilities including swimming pools, the maximum floor area of accessory buildings and structures in residential areas shall be calculated as follows:
  - a. 600 square feet of gross floor area on any legal parcel; or
  - b. 1,000 square feet of gross floor area on parcels smaller than one-half acre or 50% of the gross floor area of the principal structure, whichever is less; or
  - c. 50% of the gross floor area of the principal structure on parcels one-half acre or larger located in areas where adjacent lots are one-half acre or larger.
7. *Height.* Playhouses, patios, cabanas, porches, gazebos, and incidental household storage buildings shall not exceed 15 feet in height. Except as otherwise expressly limited or allowed, no accessory structure shall exceed 25 feet in height.
8. *Other bulk regulations.* Accessory structures and uses shall otherwise comply with the bulk regulations applicable to principal buildings/structures in the zoning district in which they are located.

**3.3.3 Temporary Uses**

**A. Uses Allowed.** Temporary uses shall be allowed in accordance with the standards of this subsection. These uses may require an approved Temporary Event Permit from the Code Enforcement Official and in some cases a Business License.

1. *Fairs, carnivals and other public gatherings.* Fairs, carnivals and other public

gatherings shall be allowed as follows:

- a. In C-1, C-2, M-1 and M-2 zoning districts, such uses shall be allowed for up to five consecutive days subject to a temporary event permit.
2. *Natural disaster and emergencies personal assistance locations.* Temporary uses and structures needed to provide personal services as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.
3. *Parking lot sales.* Parking lot sales are allowed in C-1, C-2, M-1 and M-2 zoning districts for up to seven consecutive days at any one time. Up to four such sales are allowed per calendar year.
4. *Seasonal outdoor sales.* Seasonal outdoor sales associated with an existing commercial use are allowed for up to one month at any one time.
5. *Farmers market.* Seasonal outdoor sales of fresh produce and other items associated with the farming industry, subject to a temporary event permit.
6. *Short-term recreational and entertainment events.* Short-term recreational and entertainment events, such as concerts, shall be allowed in the C-1, C-2, M-1 and M-2 zoning districts for up to two consecutive days. Such events shall be subject to a temporary event permit.
7. *Other uses.* The Code Enforcement Official may approve other temporary uses and activities or special events if it is determined that such uses will not jeopardize the health, safety or general welfare, or be injurious or detrimental to properties near the proposed location of the activity.

**B. General Regulations.** All temporary uses shall comply with the provisions of this Section.

1. Permanent changes to the site are prohibited.
2. Permanent signs are prohibited. All temporary signs associated with the temporary use shall comply with the sign requirements in Section 5.7 and shall be removed when the activity ends.
3. Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.
4. All other required permits, such as health department permits, shall be obtained.
5. Temporary events shall be subject to site plan review as required by the Zoning Permit process.

**C. Approval Criteria.** The Code Enforcement Official shall approve a temporary use if it is determined that all of the following conditions are met:

1. That the proposed site is adequate in size and shape to accommodate the temporary use;
2. That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;
3. That adequate parking to accommodate vehicular traffic to be generated by such use will be available either on site or at alternate locations (with an approved alternative parking plan); and
4. That the operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

### 3.4 DENSITY AND DIMENSIONAL STANDARDS

#### 3.4.1 Measurements and Exceptions

**A. Exceptions to Lot Area.** No building permit or development approval shall be issued for a lot that does not meet the minimum area requirements of this Land Use Code except in the following cases:

1. *Utilities.* Utilities using land, or an unoccupied building covering less than 1,000 square feet of site area are exempt from minimum lot area standards.
2. *Detached dwelling unit exemption.* The minimum lot area standards of this Land Use Code shall not prohibit the construction of a detached dwelling unit on a lot that was legally platted or recorded before the adoption of this Land Use Code, provided that the dwelling unit is constructed in compliance with all applicable dimensional standards.

**B. Exceptions and Permitted Encroachments to Setbacks.** Setbacks must be unobstructed from the ground to the sky except that the following features may encroach into required front and/or rear setbacks:

1. Landscaping;
2. Bay windows, not to exceed three feet;
3. Chimneys, not to exceed two feet;
4. Clothesline post (rear setback only);
5. Driveways, curbs, and sidewalks;
6. Flagpoles;
7. Heating and cooling units (rear setback only);
8. Mailboxes;
9. Overhanging roof, eave, gutter, cornice, or other architectural features and awnings, not to exceed three feet;
10. Septic systems, well, and underground utilities;
11. On-site basins for storm drainage;
12. Steps, stairs, or fire escapes (non-enclosed), not to exceed five feet;
13. Uncovered, unenclosed terraces or porches not to exceed five feet;
14. Accessory buildings, within required rear setbacks only;
15. Fences or walls six feet or less in height, if otherwise allowed by City regulations;
16. Yard and service lighting fixtures, and poles; and
17. Approved accessory uses as outlined in Section 3.3.2.E.

**3.4.2 Density and Dimensional Standards.** Development in the respective zone districts shall conform to the requirements denoted in Table 3.4.2 and accompanying standards stated in subsections (A) Special cases.

Table 3.4.2. Dimensional Standards

City of Grants Zones Dimensional Standards

Zone		Maximum Floor Area Ratio	Minimum Lot Area (square feet unless specified)	Minimum Setbacks (feet)			Maximum Height (feet)	Minimum Interior Space
				Front	Side	Rear		
A-1	Agricultural	NA	5 acres	50	25	50	35	
AR	Agricultural/Residential	NA	6,000	20	5	15	35	
R-1	Single Family	NA	6,000	20	5	15	35	
R- T	Townhouses	NA	3,000 S.F. per unit	15	0	15	26	
R-MF	Multi-Family	1.0	6,000	15	NA	15	45	
MR	Mixed Residential	NA	6,000	15	NA	15	45	
MR-1	Limited Mixed Residential	NA	6,000	20	7.5	15	25	See Below*
C-1	Light Commercial	1.0	3,000	15	NA	15	45	
C-2	General Commercial	NA	NA	NA	NA	NA	45	
M-1	Light Manufacturing	NA	NA	NA	NA	NA	45	
M-2	Heavy Manufacturing	NA	NA	NA	NA	NA	45	

\*MR-1 Minimum Interior Space: 1,000 s.f. for modular or conventional home; 700 s.f. mobile or manufactured home

**A. Special Cases**

1. Maximum height

- a. The following types of structures may exceed the maximum height in Zones A-1, AR, R-1, R-MF, MR, and MR-1: silo, chimney, cooling tower, water tank, flag pole, antenna, spires, belfries, or other accessory objects usually required to be placed above the roof level and not intended for human occupancy.

2. Minimum setbacks

a. Corner lots or parcels

- 1. The owner of the parcel may determine which street the front of the lot shall face, provided that the street is not a major roadway corridor or primary arterial, in which case the front of the lot shall face the major street.
- 2. On corner lots a clear-sight triangle shall be maintained.
- 3. On a corner lot where 20' front setbacks are required on two sides, one setback may be reduced to a minimum ten feet (10') if not otherwise restricted by this code, provided that the clear sight triangle is not obstructed.
- 4. The minimum side yard for a corner lot in the R-MF district must be 10 feet.

b. Side yards

- 1. Side yards in Zones R-MF, MR, and MR-1 shall have a minimum side yard setback of 10 feet on a corner lot.
- 2. Side yards in Zones A-R, R-1, detached structures shall have a side yard setback of 2 ½ feet for accessory structures.

c. Front and rear yards

- 1. In the C-1 district, where the site faces or abuts a residential zone, the minimum setback requirements of the residential zone apply. In all other cases, the following shall apply:  
 Front - 15 feet  
 Rear - 15 feet

- 3. Planned unit development. Density and dimensional standards in a planned unit development shall be established in the final Planned Unit Development Plan approved by the City Council.

## Article IV. Overlay District Regulations

### 4.1 FLOODPLAIN OVERLAY ZONE

**4.1.1. Purpose.** It is the purpose of this section of the Land Use Code to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood-blight areas; and
- G. Ensure that potential buyers are notified that property is in a flood area.

**4.1.2. Methods of Reducing Flood Losses.** In order to accomplish its purposes, this section of the Land Use Code uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwater.
- D. Control filling, grading, dredging and other development which may increase flood damage.
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- F. Provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment or not increasing flood hazards to other lands.

### 4.1.3. Applicability

- A. **Basis for Establishing the Areas of Special Flood Hazard.** Floodplain district

standards shall apply to all areas of special flood hazard within the City of Grants as designated on the official zoning map. The basis for establishing the areas of special flood hazard is the Federal Emergency Management Agency in "The Flood Insurance 'Study for City of Grants," dated January 5, 1982, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM & FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

**B. Compliance.** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

**C. Abrogation and Greater Restrictions.** This section of the Land Use Code is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another section of the Land Use Code, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**D. Interpretation.** In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

**E. Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **4.1.4. Special Flood Hazard Overlay District Standards**

**A. General Standards.** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements.

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or



- eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
  7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**B. Specific Standards.** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.1.3.A, Section 4.1.9.C.8, or Section 4.1.5.C, the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 6.3.9.A.1 is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings, or devices provided that they permit the automatic entry and exit of floodwaters.
4. **Mobile Homes**
  - a. Require that all mobile homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, mobile homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
  - b. Require that mobile homes that are placed or substantially improved within Zones AI-30, AR, and AE on the community's FIRM on sites (a) outside of a

mobile home park or subdivision, (b) in a new mobile home park or subdivision, (c) in an expansion to an existing mobile home park or subdivision, or (d) in an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the mobile home is elevated to or above the base flood to resist flotation, collapse, and lateral movement.

- c. Require that mobile homes be placed or substantially improved on sites in an existing mobile home park or subdivision with Zones A1- 30, AR and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
  - i. the lowest floor of the mobile home is at or above the base flood elevation, or
  - ii. the mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AR, and AE on the community's FIRM either (i) be on the site fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 6.3.9.A and the elevation and anchoring requirements for "mobile homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

#### **4.1.5. Standards for Subdivision Proposals**

**A.** All subdivision proposals including the placement of mobile home parks and subdivisions shall be consistent with Sections 4.1.1, 4.1.2, and 4.1.6 of this ordinance.

**B.** All proposals for the development of subdivisions including the placement of mobile home parks and subdivisions shall meet Development Permit requirements of Section 4.1.3, Section 6.3.9.A and the provisions of Section 4.1.4 of this ordinance.

**C.** Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of mobile home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 4.1.3.A or Section 4.1.9.C.8.

**D.** All subdivision proposals including the placement of mobile home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

**E.** All subdivision proposals including the placement of mobile home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **4.1.6. Standards for Areas of Shallow Flooding (AO/AH Zones)**

Located within the areas of special flood hazard established in Section 4.1.3.A, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding

is characterized by ponding or sheet flow; therefore, the following provisions apply:

**A.** All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

**B.** All new construction and substantial improvements of nonresidential structures; (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), (ii) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

**C.** A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 6.3.9.A.1 are satisfied.

**D.** Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

#### **4.1.7. Standards for Floodways**

Floodways - located within areas of special flood hazard established in 4.1.3.A are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

**A.** Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**B.** If Section 4.1.6A above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.1.6.

**C.** Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

#### **4.1.8. Penalties for Noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements

(including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Grants from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **4.1.9 Administration**

**A. Establishment of a Floodplain Development Permit.** A Floodplain Development Permit shall be required in compliance with Section 6.3.9 of this Code to ensure conformance with the provisions of this Section.

1. Summary permits are required for properties located in Zone C and do not require an engineer's analysis, but do require the submittal of information describing conditions, calculations performed flooding including volumetric or hydraulic analysis, and improvements that mitigate flooding.
2. Full permits are required for properties located in Zones A, AE, and require an engineer analysis including stamped plans.

**B. Designation of Floodplain Administrator.** The Floodplain Administrator will be designated to administer and implement the provisions of this Section and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

**C. Duties and Responsibilities of Floodplain Administrator.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit applications to determine whether proposed building site, including the placement of mobile homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the State Floodplain Coordinator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Section 4.1.3, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other

- source, in order to administer the provision of Section 4.1.4.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones AI-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

## **4.2 AIRPORT OVERLAY ZONE**

### **4.2.1 Procedures**

All uses within the Airport Overlay Zone shall conform with the regulations set forth in the "Airport Zoning Ordinance of the Grants Municipal Airport," Ordinance No. 69, and the "Airport Land Use Zoning Regulations."

### **4.2.2 Purpose**

The purpose and intent of the regulations adopted pursuant to this ordinance shall be to encourage land use patterns for housing and other local needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas and to facilitate the orderly development of areas around airports by establishing regulations that must be met before such development will be permitted.

### **4.2.3 Definitions**

"Airport" means an area used or intended to be used for the landing and takeoff of aircraft.

"CNR Rating" means composite noise rating value as computed pursuant to federal aviation administration standards and procedures and arranged in contours on a map of airport area of influence. (Ref. "Land Use Planning Relating to Aircraft Noise," prepared by Bolt, Baranek and Newman, Inc., October 1964, with appendix A, May 1965).

"Designated Area" is that area around an airport for which land use controls are needed to prevent development that would be sensitive to aircraft noise.

"CNR Zone 2" is a designated area over which the noise rating is between 100 and 115 CNR.

"CNR Zone 3" is a designated area over which the noise rating exceeds 115 CNR.

"Compatible Use" means a use which is presumed to be compatible for the zone in which it is proposed and may be permitted pursuant to these regulations. A compatible use shall not be regarded as a use by right.

"Incompatible Use" means a use which shall not be permitted in the CRN zone where it is proposed.

#### **4.2.4 Scope**

These regulations shall apply to development within the airport CNR zones 2 and 3 as defined above.

#### **4.2.5 Nonconforming Uses**

The provisions of these regulations shall not apply to any nonconforming use existing on the effective date of the regulations, providing that when the nonconforming use is discontinued for a period of six months or the nonconforming structure is destroyed or damaged to the extent of over 50% of the assessed valuation of the nonconforming structure, any reuse, reconstruction or replacement shall be deemed a new use and shall be subject to the applicable provisions of these regulations.

#### **4.2.6 Establishment of Airport Zones**

17.5.1 In order to carry out the provisions of these regulations, the designated area around the City of Grants municipal airport shall hereby be divided into the following zones.

- A. CNR Zone 2
- B. CNR Zone 3

The boundaries of the above zones are hereby established as shown in the atlas of maps entitled "City of Grants Zoning Atlas." This atlas and all proposed amendments thereto are hereby incorporated by reference and made a part of these regulations.

In determining the boundaries of the above zones, the projected growth and the projected class of the airport as designated in the current approved airport master plan or the New Mexico airport system plan shall be considered.

#### **4.2.7 Land Use Schedule**

Except when permitted by a variance issued by the zoning authority:

**A.** Development upon land within the designated airport area shall be regulated in accordance with the following schedule of land uses for various airport zones.

**B.** Any development which is proposed that is in more than one zone shall be limited to the more restrictive use.

**C.** No designation of compatible use contained in this schedule shall be constructed to abrogate or contravene the provisions of any local zoning ordinance or other local, state or federal regulation.

**D.** The following are designated compatible uses in CNR Zone 3:

- a. Open space.
- b. Mining, fishing and agriculture except mink and poultry production.
- c. When operated on land owned or leased by the airport authority: golf courses, tennis courts, riding and hiking trails.

All other uses are designated as incompatible uses in CNR Zone 3.

**E.** The following are designed as compatible uses in CNR Zone 2.

- a. All uses designated as compatible in CNR Zone 3.
- b. Playgrounds and parks, including amusement parks.
- c. Golf courses, riding stables and cemeteries.

- d. Commercial establishments including wholesale manufacturing, transportation, communications and utilities, but excluding outdoor theaters and stadiums.
- e. Other agriculture.
- f. Hotels and motels, provided that construction techniques provide ten decibels extra noise reduction over the industry average for similar structures and that such reduction is certified to by a qualified architect, structural engineer or acoustical engineer registered in the State of New Mexico; and further provided that airport hazard insurance is available to said establishments. All other uses are designated incompatible uses in CNR Zone 2.

## Article V. Development Standards

### 5.1 SUBDIVISION

**5.1.1 Jurisdiction.** Whenever any subdivision of land shall be laid out within the incorporated limits of the City or within the Extraterritorial Platting Jurisdiction, the subdivider or his or her agent shall submit those documents and obtain those approvals required by Section 6.3. Such plans and plats, and any proposed improvements shall in all respects be in full compliance with the regulations of this Land Use Code.

All lands offered to the City for use as streets, alleys, parks and other public use, shall be referred to the City of Grants Planning and Zoning Commission for review and recommendation before being accepted by the City Council or by any other governing authority. Plat approval does not constitute such acceptance. Persons desiring to subdivide land within the ETJ of the City should be aware that Cibola County exercises concurrent subdivision authority over subdivision in such areas under NMSA 1978, Sections §§ 3-20-5 and 3-20-9.

**5.1.2 Availability of Water Resources.** Subdivision approval is contingent upon the City having adequate water supply, infrastructure, and water rights to provide units in the subdivision water for normal operation and fire protection at current and future levels. The required level for the City is a quantity that includes a buffer of 25% in addition to normal operation in order to be prepared for drought conditions. If adequate supplies are not available, obtaining adequate supplies may become a condition of subdivision approval.

**5.1.3 Suitability of the Land for Subdividing.** The City Council shall not approve the subdivision of land if, following thorough investigation by all agencies concerned (e.g., City staff, schools, County staff, State agencies), it is determined that in the best interest of public health, safety or welfare, the land is not suitable for platting and development purposes of the kind proposed (e.g., topography, or location within the floodplain or an arroyo). If a proposed subdivision is not approved, the reasons shall be in writing and dated and the disapproval verified by the signature of the Mayor.

Criteria for evaluating the suitability of land for subdividing include:

- A.** Land shall be suited to the purpose for which it is to be subdivided in accordance with the Comprehensive Plan and Article III of this Land Use Code pertaining to zoning districts.
- B.** Land that is not programmed within a reasonable time to have adequate public or private water, sanitary sewer service, or flood control facilities and streets, shall not be subdivided for purposes which require such services.
- C.** The availability of adequate paved street access, fire protection, police protection, refuse service, public schools, parks and recreation facilities, and individually provided utilities shall be evaluated in considering the subdividing of land.
- D.** Potential environmental problems shall be evaluated in considering the subdividing of land.
- E.** Land with the following types of problems may have subdivision approval withheld



until it is demonstrated by means of an engineering analysis submitted by the developer, that such hazards have been or will be eliminated.

1. Special drainage conditions
2. Difficult topography
3. Soil conditions which are unusually limiting
4. Other geographic hazards to life, health or property

#### **5.1.4 Area Master Planning and Phasing of Subdivisions**

**A.** If the subdivider owns or controls more land contiguous to the land he wishes to subdivide immediately, an area master plan for the adjacent properties shall be required along with the subdivision plat.

**B.** Approval of the larger area master plan may be required prior to the approval of the preliminary plat. Any plat submitted shall be a reasonable planning unit of the approved area master plan for the larger area.

**C.** Area master plan must show access to contiguous properties. The area plan must show all streets and land uses.

**D.** The proposed street system shall conform to City standards and desired alignments, and a letter of intent of dedication of right-of-way may be required.

**E.** A typical submittal of an area master plan includes a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a master plan map, a master plan report, a schematic streets map, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the applicant to fit the particular development proposal as long as the relevant information is included.

**5.1.5 Development Standards.** All subdivisions within the City and the Extraterritorial Platting Jurisdiction Area shall conform to the minimum development standards of this Land Use Code, including without limitation those standards related to the zone district within which the property is located. Subdivision design standards and layout are established below.

#### **A. Blocks**

1. The length or shape of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; needs for convenient access, circulation, control and safety of street traffic; and limitations and opportunities of topography.
2. Block lengths of local urban residential and commercial streets shall be no longer than 600 feet. Longer length will be considered if alternative pedestrian access means are presented or master plan standards addressed. For local rural streets, the maximum block length shall be 2,500 feet or the block length required for 30 dwelling units, whichever is less. Additional street design standards such as cul-de-sac lengths are established in Section 5.2

#### **B. Lots**

1. The minimum lot area, width and building setbacks shall conform to the requirements of the Land Use Code, including without limitation the requirements of the zoning

- district in which the property is located.
2. Corner lots shall be sufficiently large to assure maintenance of building setbacks on both streets.
  3. All lots shall abut on a dedicated public street in accordance with the frontage requirements of Table 3.4.2.
  4. Depth, width, area and shape of sites or lots for commercial or industrial purpose shall be adequate for off-street service, parking facilities, and landscaping required by the type of use and development contemplated and as specified in the Code.
  5. Lots abutting watercourses, drainageways, bluffs, channels or streams, shall have additional minimum width and depth as required by Section 5.5 to provide an adequate building site, drainageway, and easements, and afford the minimum useable area required in the zoning ordinance for front, rear, and side yards.

**C. Monuments.** Monuments shall be provided for all plats according to the following specifications: All exterior boundary corners of the subdivision, and each corner of each block within the subdivision, shall be defined by permanent monuments. Such monuments shall consist of a metal rod, at least 1/2 inch in diameter, and at least 18 inches in length, with a permanent cap attached to the top; and the rod set in at least one cubic foot of concrete. The surveyor who sets the corner will have his or her registration number, or name, or both, along with the position of the corner stamped into the cap.

**D. Streets.** Streets within a subdivision shall be developed according to Section 5.2 of this Land Use Ordinance.

**E. Street Lighting.** Street lights will be installed by the subdivider in all subdivisions within the municipal boundaries of the City of Grants. A street light is required at every intersection and at a minimum of every 300 feet.

**F. Drainage and Grading**

1. No person shall proceed with any grading in relation to a proposed subdivision until the City has approved a drainage and grading plan according to Section 5.6. Such grading shall be consistent with the recommendation of approved drainage and grading plan as required by these regulations.
2. The subdivider shall give consideration in the design of the drainage and grading permit to the preservation of trees, scenic points, historic places, and other community landmarks where feasible.
3. Subdivisions shall be laid out so as to match existing topography insofar as possible.
4. Grading shall be held to a minimum in subdivision preparation and shall be done only as needed for construction.
5. Drainage and grading shall adhere to recommendations in the City of Grants and Village of Milan Drainage Master Plan (April 2011), as amended.

**G. Design and Materials Specifications.** The City Engineer maintains design and material specifications observed by the City of Grants which reflect the requirements imposed by the New Mexico Standard Specification for Public Works Construction, American Society for Testing Materials, American Association of State Highway Officials, New Mexico State Highway Department, American Water Works Association, and the Basic Standards of the American Society of Civil Engineers; latest edition and supplements apply. Other standards may be specifically applied to conditions and

requirements of locality and policies within and of the City.

**H. Other Requirements.** The subdivision plat shall comply with all other requirements of this Article and other provisions of this Land Use Code.

### **5.1.6 Land Dedication and Fees-in-Lieu**

#### **A. Public Sites and Open Spaces**

1. The subdivider of a subdivision within the City Limits shall provide park and recreational facilities or an optional fee in lieu of land dedication.
  - a. Before any subdivider shall receive final plat approval for a subdivision within the City Limits, said subdivider shall dedicate to the City a portion of such land suitable for the purpose of park and recreational facilities for the future residents of the subdivision. Such land may be outside the boundaries of the subdivision, but shall be within one (1) mile of the subdivision taken in a straight line from one of the exterior boundaries of the subdivision as shown by the plat of the subdivision. Alternately, the land dedicated to the City for park and recreational facilities may be consolidated from more than one subdivision into a single tract or parcel and located within the boundaries of another subdivision, subject to the approval of the City.
  - b. By mutual agreement of the subdivider and the City, the subdivider may pay a fee to the City in lieu of land dedication for a park and recreational facility for use by the future residents of the subdivision.
  - c. After a plat with an area proposed for park dedication has been given preliminary approval by the Planning and Zoning Commission, it shall be the responsibility of the Parks and Recreation Department to draft a preliminary plan and calculate the City's development costs for the park area. The plan and estimated costs shall be submitted to the Planning and Zoning Commission for consideration at the time of their final approval for a subdivision.
2. Amount of land to be dedicated: Use of land dedicated.
  - a. Land shall be dedicated in the amount of 4% of total land development and shall be otherwise reasonably adaptable to park beautification, and recreational uses unless herein exempted.
  - b. Land received by the City pursuant to this section shall be used for the purpose of providing park and recreational facilities to serve the subdivision for which received.
  - c. All improvements which front on park acreage such as curb, gutter, and paving shall be provided by the subdivider.
  - d. Properties designated on subdivision plats and zoned for multiple family construction of more than four units per lot, may have park land dedication requirements waived, if developers provide covenants on the deed that all multi-family units construction in these areas shall include the provision of recreational facilities which will be maintained by the multi-family unit owner to serve residents of the multi-family units.
  - e. Minor subdivisions creating up to five lots shall be exempt from the park land dedication.
  - f. Land shall be dedicated in the amount of 1% of total land development in subdivisions creating lots of 5 acres or larger in size.
3. Amount of fee in lieu of land dedication and limitation on use of fees:
  - a. If the subdivider pays a fee in lieu of land dedication, the amount of the fee shall

be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to this section. "Fair Market Value" shall be determined at the time the final plat of the subdivided land is filed based upon the assessed value, modified to equal market value in accordance with current practice of the County Assessor, or other method which is mutually acceptable to the City and the subdivider.

- b. The fees received under this provision shall be placed in a separate "Public Park Recreational Purchase and Improvement Account," and shall be used by the City only for acquisitions, development, and improvement on park and recreational facilities.

**B. Street Dedication.** Subdivisions that adjoin existing streets shall dedicate additional right-of-way for such streets to meet the demand created by the future residents of the land to be subdivided if necessary, to meet the minimum street width requirements set forth in Section 5.2, as follows:

1. The entire additional right-of-way shall be provided where the subdivision is on both sides of the existing street.
2. When the subdivision is located on only one side of the existing street, one-half of the required additional right-of-way shall be provided. In no case shall the resulting right-of-way width be less than 50 feet.

#### **5.1.7 Utility Improvements**

**A.** The subdivider shall be responsible for costs of installing City water and sewer utilities within the subdivision and/or development. Design and construction shall be to City specifications and shall be approved by the Code Enforcement Official. Distributions and collector lines shall be available to each building lot in the development. Where requirements exceed 10" lines and such additional requirements are for the purpose of meeting master plan design for service other than to the immediate subdivision, the City may enter into an agreement to assist in funding the additional line size cost within its financial ability to do so.

**B.** The subdivider may be required to extend or share in the cost of utility lines from the subdivision to the existing City system, in which event the funding, rights, conditions and requirements shall be the subject of a special agreement with the City, and its rules, regulations and rates.

**C.** Alternate sources and availability of water supply shall be provided by the subdivider when water services cannot be obtained through the City of Grants water system. Any individual or private water system within the City, or within one (1) mile limit is required to be compatible with the Grants system and shall be approved by the Code Enforcement Official. The City will not approve any water source and distribution system within its city limits which is designed to serve the general public or other than the owner-consumer, and also, the City will not require conversion of any existing private water source and use to the City's system as long as that use is limited to the owner-consumer. Furthermore, no extension of the City water service beyond its city limits shall be approved for resale or distribution to the general public except as part of its general system and subject to its rules, regulations, and rates, and contract provisions, if any. The provisions of water and sewer regulations are subject to valid state or federal authorities.

**D.** The subdivider shall be responsible for costs of and the installations of fire hydrants. Type and locations shall be approved by the Code Enforcement Official. Subdivision outside the corporate limits, but within the planning and platting jurisdiction of the City shall have an approved fire protection and shall provide fire hydrants and/or other protective measures deemed necessary.

**E.** Subdivisions outside the City limits shall provide and adequate supply of potable water to each lot by a water system approved by the Environment Department with proper provisions for the maintenance thereof, shall serve each lot with a water main of the Grants water system, unless the City of Grants rejects an application submitted in accordance with these subdivision rules and regulations, and agrees that it is feasible and practical for an adequate water supply to be made available for every lot by the individual lot owner who shall present evidence to this effect and include deed restrictions on the final plat requiring any such individual water supply systems to comply with the requirements of the Environment Department.

**F.** Subdivisions within the corporate limits of the City shall have sewer lines connected to the sanitary sewer system of the City. Sewer lines shall be accessible to each lot within the subdivision. Alternate methods of sewage disposal shall be provided when sewer services cannot be obtained through the Grants sewage system. Said sewers shall be constructed in accordance with standards established by the City Engineer and shall be subject to the approval of the Code Enforcement Official.

**G.** Subdivisions outside the corporate limits, but within the extraterritorial platting jurisdiction of the City, shall connect to a public sanitary sewer system if feasible. Where lots cannot be connected with a public sewer system, provisions must be made for sanitary sewage disposal, consisting of a central treatment plant or individual disposal devices for each lot. On lots where individual septic tanks are to be utilized, lots shall not be less than 0.5 acres in size and may have to be larger depending on the soil type. The subdivision plat shall include deed restrictions requiring that all such disposal systems shall be constructed in accordance with Environment Department standards. Location of septic tanks should take into consideration possibilities of future connections to a community sewer system.

**H.** Where land subdivided within the corporate limits of the City cannot be served with water and/or sewer utilities, the subdivider shall be required to disclose this fact in writing and submit it to the lot buyers with the warranty deed for as long as this situation exists.

**I.** A storm drainage system adequate to serve the needs of the proposed new streets and the entire subdivision will be required in new subdivision. Where an adequate public storm sewer main is available, at the plat boundary the subdivider shall construct a storm drainage system and connect with such storm sewer main of adequate size. Drainage improvements shall maintain any natural water course insofar as practical and shall prevent the collection of water in any low spot unless it is to be specified as a ponding area in the drainage plan.

#### **5.1.8 Improvement Standards and Timing**

**A.** The proposed plans, specifications and construction drawings covering the construction of improvements on land designated for public use and the installation of utility facilities shall be submitted to the Code Enforcement Official for approval.

**B.** No improvements, such as sidewalks, water supply, stormwater drainage, sewage facilities, gas service, electric service or lighting, or grading, paving or surfacing of streets, shall be made within any such subdivision by any owner or owners, or his or her agent, or by public service corporation at the request of such owner or owners, or his or her agent, until the final plat for the subdivision and all plans, specifications and drawings for subdivision improvements have been formally approved by the Code Enforcement Official, the Planning and Zoning Commission, and the City Council.

**C.** The Code Enforcement Official shall have the right to inspect the course of the construction of improvements on land designated for public use and of the installation of the utility facilities and, further, the Code Enforcement Official shall have the right to require construction or installation halted if not in conformance with the approved plans, specifications and drawings and to require the remedy of defects before construction or installation is resumed.

**D.** The Code Enforcement Official shall have the authority to agree to changes which deviate from the design and construction standards or from the approved plans, specifications and drawings, or from both, if the changes will not adversely affect the quality of the improvements or of the utility facilities. This authority shall not include the power to agree to a change in location of any surface or above-ground improvement or utility facility.

**E.** The subdivider shall notify the Code Enforcement Official before starting the construction of improvements on land designated for public use or of the installation of utility facilities. The subdivider shall be required to enter into a Work Order agreement with the Code Enforcement Official, specifying, among other things, definition of the work to be completed and the completion deadlines.

**F.** Amendments to Section 5.1.5, following the preliminary approval of the proposed plans, specifications, and construction drawings, shall not affect the approval.

**5.1.9 Privately Developed Facilities.** Where the subdivision is to contain streets, sewage facilities (not including septic tanks), water supply systems, park areas or other physical facilities which will not be maintained by existing public agencies, provision shall be made by trust agreement, which is a part of the deed restrictions and which is acceptable to the City and other applicable public agencies, for the continuous maintenance, supervision, operation and reconstruction of such facilities by the lot owners in the subdivision, and such facilities shall meet the requirements of the New Mexico Environment Department.

#### **5.1.10 Development Agreements**

**A.** In connection with any Major Subdivision or PUD approval, the City Manager shall be authorized to enter into a Development Agreement with the applicant. Development Agreements may include provisions clarifying duties to construct specific improvements, the phasing of construction, the timing, location and financing of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods of not more than 10 years, assurances that adequate public facilities (including roads, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public or the environment. In

reviewing and acting upon proposed Development Agreements, review and decision-making bodies shall consider the Approval Criteria for the development application and the following additional criteria:

1. Whether the benefit of the Development Agreement to the City outweighs its costs;
2. Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable; and
3. Whether the City has received adequate assurances that the development will go forward as planned in return for any vesting of property rights.

**B.** Development agreements may contain but are not limited to the following:

1. Descriptions of the acceptable and prohibited uses on the property;
2. The density of proposed uses, including maximum floor area and height of buildings;
3. Provisions for the reservation or dedication of land for public purposes;
4. Proposed schedule for the construction of public improvements and requirements that public improvements will be available prior to the issuance of building permits and water and sewer taps;
5. Proposed timing and phasing of the development project;
6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of environmentally sensitive lands;
7. Provisions for public benefits or improvements in excess of what is required by current City policy or law;
8. Terms relating to applicant financing of facilities and subsequent reimbursement;
9. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time; and
10. Termination date for the Development Agreement.

**5.1.11 Completion Guarantee and Fees.** The subdivider shall agree to construct the improvement as required by these regulations, in accordance with the approved construction drawings and standards and within a time specified by the City or expressed in the Development Agreement. The agreement shall be recorded with the Cibola County Clerk. The agreement shall be insured by:

**A.** The completion of improvements, except those described in Section 5.1.6.A, and the installation of the utility facilities are required by these regulations before a building permit, or water and sewer tap is issued;

**B.** A performance bond, satisfactory in form, securing 100% of the estimated cost of the actual construction and installation of improvements and utility facilities, within the period of time specified by the City; or

**C.** A deposit, 100% of the estimated cost, under an escrow agreement approved by the City of a sum of money sufficient to pay the full cost of the construction of the improvements and of the installation of the utility facilities. The escrow agreement may provide for the release of not more than 90% of the funds escrowed as progress payments upon the certification of the Code Enforcement Official that the work to date has been in accordance with the approved plans and specifications therefore; or the escrow agreement may provide that no funds may be released until all the improvements have been constructed and accepted and until all the utility facilities have been installed and accepted.

D. As an alternative, and at the discretion of the City, the subdivider may be provided a method whereby the city identifies collateral equal to 100% of the estimated cost to construct the improvements or install the utility facilities, or any combination thereof.

## 5.2 STREETS

### 5.2.1 Street Location and Arrangement

A. The purpose of this section of the Land Use Code is to ensure that the character, extent, width, and location of all streets conform to the comprehensive plan and policies of the City Council and are consistent and appropriate in their relationship to existing and planned streets, topographic conditions, public convenience, safety, and the proposed uses of the land to be served by such streets.

B. The street standards of this section shall apply to all new streets built within a public right-of-way. Streets in all new major subdivisions, commercial developments and industrial developments shall meet the requirements below. Lots adjacent to streets that have been platted but not constructed may not be developed until new streets are built to these requirements.

C. Where an arterial or collector street is not shown in the comprehensive plan and there is not an adopted future street line, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation of appropriate projection of existing principal streets in surrounding areas, or
2. Conform to a plan for the neighborhood approved by the City to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impractical.

**5.2.2 Traffic Impact Studies.** To provide information on the capacity of streets serving new development, the Code Enforcement Official may require the applicant to conduct a traffic impact study, that assesses the impacts of a development and the proposed uses on existing roads, intersections, and circulation patterns, and that sets forth mitigation measures to eliminate or substantially reduce such impacts. The extent of the study depends on the size and types of land use for which access is requested. Particularly where access is proposed onto a state highway or an arterial street, a traffic analysis will be considered. Safety concerns along the street where the development is located and traffic volumes generated by a proposed development that may warrant deceleration or acceleration lanes or traffic signals will trigger a traffic impact study. The minimum trip generation threshold is 250 trips on a weekday or 25 trips in the PM peak hour. A traffic impact study may be required for subdivisions with 25 or more parcels, and apartments or mobile home parks with 25 or more dwelling units.

Based on the impact assessment completed for the traffic impact analysis or the site traffic analysis, contributory costs of identified improvements should be identified. In addition to implementing the necessary improvements within the street right-of-way at proposed site access points, the permittee shall be required to provide all or a portion of funding for mitigation of identified off-site impacts. The funding requirements shall be determined by the City through negotiations with the developer.



Approved traffic studies should remain valid for a period of one year following approval of the driveway permit application, or for a longer period of time as determined by the Code Enforcement Official.

For smaller developments, the requirement to perform a traffic impact study or a site traffic analysis may be waived if site-specific improvements approved by the Code Enforcement Official are implemented by the applicant as a condition of an access permit. The improvements shall be implemented prior to permanent use of the access.

**5.2.3 Alley Location.** Alleys shall not be provided where provisions are made for service access such as off-street loading, refuse collection, and parking consistent with and adequate for the uses proposed. If alleys are provided, they shall be paved by the developer in accordance with City specifications.

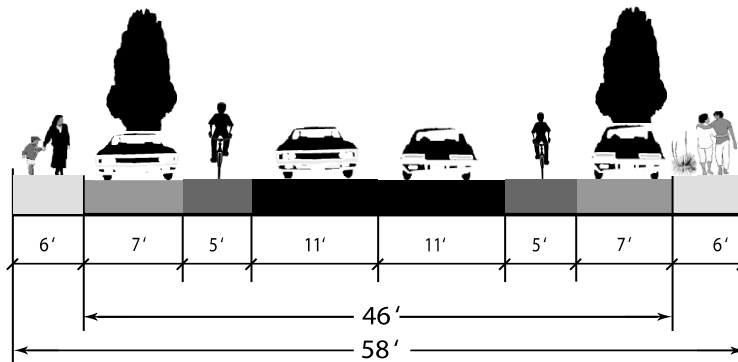
**5.2.4 Required Street and Alley Dimensions**

*Table 5.2.4. Required Street Dimensions*

**City of Grants Required Street Dimensions**

Street Functional Classification	Minimum ROW (feet)	Minimum Travel Lane Width	Curb/Gutter Widths	Shoulder Width	Parking Lane Width (including Curb and Gutter)	Bicycle Lane Width	Sidewalk Width	Maximum Cul-de-Sac Length	Maximum Grade	Design Speed
Major Thoroughfare	100	12	6"/18"		9	5	6		7%	35 MPH
Secondary Thoroughfare	80	11	6"/18"		9	5	6		7%	30 MPH
Collector Street	60	11	6"/18"		7	5	6	(12%<500')		30 MPH
Minor Industrial or Commercial Street	60	11	6"/18"		7	5	6			30 MPH
Minor Residential Street	50	10	6"/18"		NA	5	5	500		25 MPH
Rural Residential Street				4	7	NA	NA	500	(14%<300')	25 MPH
Alley	20	9			NA	NA	NA			NA
Frontage Road	60	11			NA	5	NA			30 MPH
Bicycle Trail	10									NA

*Figure 3. Collector 2-Lane (with bike lanes)*



**5.2.5 Paving of Streets and Curb and Gutter/Various Matters.** When rights-of-way and paved streets are required as stated in Section 5.2.4, the developer shall be required to pave the streets and provide curb and gutter on both sides of the street.

1. Pavement width of all streets except divided major thoroughfares shall be no less than thirty-five feet (35')
2. For pavement width of a planned divided major thoroughfare that lies within and through the subdivision, or along its borders, the City may require (a) sidewalk, curb and gutter and paving immediately abutting property line on each side, leaving a center median for future improvements, and in which event, the paving width shall be a minimum 25' for side lots and 33' for frontage lots.

3. Alternately, the City may require along the border the provision of one-half street, i.e., one side, of the improvements and right-of-way, within and through the subdivision, or along its borders.
4. Where a subdivision borders on or contains a railroad right-of-way or a freeway or limited access highway right-of-way, the Planning and Zoning Commission may require a street approximately parallel to and on each side, or on either side, of such right-of-way at a distance suitable for the appropriate use of the intervening land, for park or other recreational purposes, or for commercial or industrial purposes in appropriate areas. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.
5. Street jogs with centerline offsets of less than one hundred twenty five (125) feet shall not be permitted.
6. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any major or secondary thoroughfare or arterial street at less than seventy-five (75) degrees and no collector or minor street at less than sixty (60) degrees.
7. Property lines at street intersections shall be rounded with a radius whenever necessary to permit the construction of a curb having a radius without curtailing the sidewalk at a street corner to less than a normal width.
8. All naming and numbering of streets shall conform to an existing City plan for naming and numbering. Street names shall be used which will not duplicate or be confused with the names of existing streets. Where a proposed street is to be a continuation of an existing street, the proposed street shall have the name of the existing street. The use of the suffix "street", "avenue", "boulevard", "drive", "lane", "place", or "court," shall not be distinction sufficient to avoid confusion; therefore duplicates with different suffixes shall not be used.
9. Pavement widths shall be measured back-to-back of curbs where curbs are required.
10. All subdivisions within the corporate limits of the City shall include standard curb and gutter on both sides of the street, unless the Planning and Zoning Commission specifically authorizes and approves the subdivision without curb and gutter. Paving widths without curbs and gutter shall be specified by the Code Enforcement Official. Exceptions to curb and gutter may be waived if there are significant reasons, such as an undue hardship, creation of a drainage problem, environmentally infeasibility, or nonconformance to historical or architectural pattern.
11. All work in public right-of-ways shall meet or exceed City specifications established by the Code Enforcement Official, and shall be subject to his approval.
12. Subdivisions outside the City Limits, but within the one (1) mile platting and planning jurisdiction of the City, will include standard curbs, gutter, and paving; however, they may be waived under variances of these regulations.

## **5.3 SIDEWALKS AND DRIVE PADS**

### **5.3.1. Applicability**

**A.** The standards of this Section shall apply to all streets where sidewalks are required, as shown in Table 5.2.4, and to all drive pads.

**B.** It shall be unlawful for any person, firm or corporation to lay, construct or build any concrete sidewalk in the street right of way within the City of Grants without having obtained a permit from the Code Enforcement Official.

C. No curb will be permitted to be broken, altered, or filled in with concrete or asphalt without constructing a drive pad, except where a curb is being replaced no permit is required in order to break the existing curb..

### **5.3.2. Design Standards**

A. Sidewalks shall be constructed of Portland cement concrete at least four inches thick, with a minimum compressive strength of 3,000 pounds per square inch (PSI) and slope one-eighth of an inch per foot from the edge of the walk nearest the property line to the edge of the nearest street.

B. Drive pads shall be constructed of Portland cement concrete at least six inches thick and with a minimum compressive strength of 3,000 pounds per square inch (PSI).

C. The width of the drive pad shall be determined by its practical usage.

D. The concrete used in sidewalks and drive pads shall conform to New Mexico American Public Works Association latest edition Section 101 or New Mexico State Department of Transportation Standard Specifications for Highway and Bridge Construction latest edition Section 509. Open construction joints shall be not over twenty (20) feet with dummy joints not to exceed four (4) feet. Expansion joint of ½" width shall be laced between existing structures. The contractor shall remove all organic matter such as grass, sod, roots, etc., from the site and grade the ground, dig out soft or mucky spots to a minimum 12-inch depth, fill them with soil similar to the rest of the subgrade or with granular material such as sand, gravel, crusher fines, crushed stone.

E. Alternative all-weather surfacing may be used for off-street walking and bicycling paths with approval of the Code Enforcement Official.

### **5.3.3 Development Work Guarantee**

A. Sidewalks and drive pad work shall be performed only by a licensed and bonded sidewalk contractor.

B. The contractor laying sidewalks and drive pads shall guarantee the sidewalks and drive pads for a period of one (1) year from date of construction against any defects or improper construction. The Code Enforcement Official is hereby charged with the duty of inspection to determine if the sidewalk being constructed is in accordance with the terms and specifications of the City's Land Development Standards, and any sidewalk constructed in violation of the City's Land Development Standards shall be ordered removed by the Code Enforcement Official, and upon the failure of the property owner to remove the same, the City may remove the same, charging the cost of such removal to the property owner, which cost shall be in addition to the penalties provided for violations of this code.

**5.3.4 Exceptions to Standards.** Any exception shall require the express approval of the Planning and Zoning Commission.

## **5.4 OFF-STREET PARKING**

### 5.4.1 General

**A. Applicability.** The off-street parking standards of this Section apply (1) to all new buildings and uses, and (2) to the expansion or an enlargement of an existing use. In the latter case, additional off-street parking spaces will be required only to serve the enlarged or expanded area, not the entire building or use, provided that in all cases the number of off-street parking spaces provided for the entire use (pre-existing plus expansion) shall equal at least 75% of the minimum number of spaces established in Section 5.4.2. Shared parking is encouraged.

An applicant for a building permit must submit plans showing location, arrangement, and dimensions of the parking facilities, turning spaces, drives, aisles, and ingress and egress for approval by the City Code Enforcement Official.

**B. Location of Off-Street Parking.** Off-street parking must be provided on site or on another site dedicated to off-street parking within 300 feet of the use. When another site for off-street parking is proposed:

1. The Code Enforcement Official must make findings that the use of parking is compatible with surrounding uses and any noise and visual impacts of parking are appropriately mitigated.
2. The applicant must enter into an agreement, in form and substance required by the City, guaranteeing that parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of this article.

**C. Access.** All parking areas or facilities must have appropriate access to a street, alley, or public thoroughfare.

**D. Driveways to Parking Areas or Facilities.** All driveways shall be of sufficient width to permit access into spaces, but in no case less than ten feet wide.

**5.4.2 Minimum Required Off-Street Parking.** Table 5.4.2 establishes the minimum number of off-street parking spaces to be provided for the various land use categories.

**Table 5.4.2. Parking Requirements**

**Table 5.4.2 Parking Requirements**

Uses	Minimum Number of Vehicle Spaces
Single family (including conventional construction, mobile home, manufactured unit) and townhouse residential	2 per dwelling unit
Multi-family residential (including duplex and apartments)	2 per dwelling unit
Accessory dwellings	1 per dwelling unit
Group quarters including boardinghouse, assisted living facility)	1 per bedroom
Hotel, motel and motor lodge	1 per unit; plus additional requirements for any accessory uses such as restaurants.
Hospital, clinic	1 per 2 beds; one for each staff doctor
Private nursing home	1 per 5 beds; plus 1 for every two employees
Office	5 per 1,000 square feet of gross floor area
Places of public assembly, including churches, community centers, auditoriums, theaters, gymnasiums, arenas, and mortuaries	1 per every 4 seats of maximum occupancy in the main assembly hall
Club, lodge or fraternal organization	5 per 1000 square feet of gross floor area
Dance hall, skating rink	5 per 1,000 square feet of gross floor area
Restaurant, bar	1 per every 4 seats
Bowling alley	2 spaces per lane
Industrial, manufacturing and wholesale establishments	2 per 1,000 square feet of gross floor area
Shopping center	Less than 15,000 square feet: 5 spaces for every 1,000 square feet of net area; less than 100,000 square feet: 4.5 spaces for every 1,000 square feet of net area; over 100,000 square feet: 4 spaces for every 1,000 square feet of net area
Retail Sales, High Volume (e.g. grocery, discount, department, clothing)	5 for every 1,000 square feet of gross floor area
Retail Sales, Low Volume (e.g., furniture, jewelry, gift, art stores, auto parts, bicycle shops, veterinary clinics, feed store, landscape sales, pet supply store)	2.5 for every 1,000 square feet of gross floor area
Parks and Recreation Facilities	Determined by parking study
Public buildings (including public office, police and fire station, school, detention facility, )	Determined by parking study
Drive-through service	1 per employee, plus sufficient area for 6 stacking spaces per drive-in window. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or any abutting street.

**A.** The minimum required parking in Table 5.4.2 may be reduced through calculations of shared use reductions established below.

**B.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the fractional requirements of the various uses computed separately.

**C.** When calculating parking requirements and arriving at a fraction, the number of spaces shall be rounded up when over 0.5 and rounded down when under 0.5.

**5.4.3 Maximum Off-Street Parking.** An off-street parking lot shall contain no more than 150% of the minimum required off-street parking.

**5.4.4 Parking Requirements Special Cases.**

**A. Loading Spaces.** All uses requiring loading space for normal operations, including restaurants, bars/nightclubs/clubs/lodges, convenience stores, retail sales, manufacturing and production and other industrial services, shall provide an adequate number of loading space areas so that no vehicles being loaded or unloaded in connection with normal operations shall stand in, or project into, any public street,

sidewalk, alley, bicycle path or way. A minimum of one loading space of dimensions 15 feet by 25 feet shall be provided, with a maximum of two spaces allowed, except for high volume retail, manufacturing and production, and industrial services, which may provide more than two loading spaces. No loading or unloading is to be conducted in a public right-of-way in the M-1 district.

**B. Americans with Disabilities Act.** Parking spaces accessible for physically disabled persons shall be provided in compliance with the American Disabilities Act (ADA) Standards for Accessible Design.

**C. Shared Use Parking.** The number of spaces for shared uses may be reduced according to the provisions below:

1. The Code Enforcement Official may authorize the shared use of parking facilities for uses or activities when the criteria listed below are met. In no case shall the parking requirements be reduced where, based on substantial evidence, there is insufficient off-street parking to meet the needs of the neighborhood. A study shall be conducted establishing the needed number of parking spaces based upon:
  - a. A calculation of the number of originally required parking spaces in the project by use types.
  - b. The percentage of maximum parking required by uses that substantially coincide and overlap with each other according to the normal hours of operation of such uses or activities, typically divided into weekday daytime and evening and weekend daytime and evening.
  - c. Application of the percentages to the originally required parking spaces, and add up the totals for time divisions of, typically, weekday daytime and evening and weekend daytime and evening.
2. Shared use parking on or off site shall be subject to the following limitations and conditions:
  - a. No more than 50% of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
  - b. Shared parking facilities must be located within 600 feet of the uses served.
  - c. The applicant shall submit sufficient data to indicate that there is not substantial conflict in the principal operating hours of the uses proposing to make use of the joint parking facilities.
  - d. The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the city attorney as to form and content guaranteeing that said required parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such instrument, when approved as conforming to the provisions of this section, shall be recorded by the property owner in the office of the county recorder and a copy thereof filed with the City Clerk.

**D. Parking Space Dimensions.** The dimensions of required off-street parking areas shall be as follows:

1. Not more than 20% of the required off-street parking may be compact spaces with a width of not less than eight feet and a depth of not less than 16 feet. The remaining

- parking spaces shall have a width of not less than nine feet and a depth of not less than 20 feet. Structures covering vehicle spaces shall be at least seven feet high. Vehicle parking spaces shall be contained entirely within the property lines.
2. ADA parking spaces shall be sized to comply with the American Disabilities Act Standards for Accessible Design.
  3. Bicycle parking facilities typically provide for row parking with a rack or for paired parking using a center inverted U-rack or similar rack post as the anchor. A row will allow a minimum seventy-two (72) inch-length per bicycle parking space and a minimum eighteen (18)-inch width per bicycle parking space, with thirty (30) inches between outer spaces of posts or racks.
  4. Motorcycle spaces shall be at least five (5) feet wide and eight and one half (8½) feet long.
  5. Stacking spaces for drive-through facilities shall be a minimum of nine feet wide by 18 feet long.
  6. Parking areas should be designed to provide adequate aisle widths between rows of parked cars.
  7. Parking spaces that require backing onto the street shall not be allowed onto collector or arterial streets.

**E. Paving and Striping.** All required off-street parking areas shall have an all-weather surface (e.g. concrete, asphalt, brick pavers or gravel) in accordance with construction specifications of the Code Enforcement Official. Alternative parking area treatments may be accepted as part of an alternative parking plan if it can be demonstrated that the surface can be maintained dust free. ADA spaces and associated aisles shall be paved with concrete or asphalt surface.

**F. Sidewalks Fronting Medium-Sized Retail Developments.** All developments with a gross floor area of 20,000 square feet in the C-2 zone district and providing retail sales and service shall provide a continuous sidewalk no less than six feet in width along the portion of a building façade fronting a parking lot.

**G. Pedestrian Corridors.** All developments providing retail sales and service shall provide a sidewalk no less than six feet in width from the edge of the public right-of-way of an existing collector or arterial street where streets are not located in a right-of-way, to any sidewalk along the street. Any sidewalk traversing a parking lot shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete.

## 5.5 DRAINAGE AND GRADING PERMIT

**5.5.1** A stormwater management plan is required for residential, commercial, or industrial developments within the city which disturbs or modifies the ground surface topography within the municipal limits. A disturbance or modification of the land is any significant fill, excavation, earth moving, or grading on private property; even if no development is proposed.

**5.5.2** An application for a drainage and grading permit shall consist of:

**A. Minimum Disturbance:** A stormwater management plan is not required for the disturbance or modification of the ground surface topography less than five thousand (5,000) square feet. Developer, contractor, and/or property owner are responsible for

any alleged damages by associated storm drainage onto adjoining or downstream property caused by their disturbance or modification of the ground surface topography.

**B. Grading Plan:** A stormwater management plan, called a "grading plan", is required for the disturbance or modification of the ground surface topography equal to or greater than five thousand (5,000) square feet and less than one acre. The grading plan:

1. Shall address issues and conform to the requirements in the latest published editions of the international building code and international residential code as adopted by the city council.
2. Shall clearly identify the area being disturbed and the limits of grading along with the concentrations and directions of any drainage flows.
3. Shall clearly identify both temporary (during site grading) and permanent erosion control.
4. Does not require a stormwater detention basin.

**C. Drainage Plan:** A stormwater management plan, called a "drainage plan", is required for the disturbance or modification of the ground surface topography equal to or greater than one acre. In addition, site activities disturbing less than one acre are also regulated; if, they are part of a "larger common plan of development or sale" with a planned disturbance of equal to or greater than one acre.

1. Plan Information: The drainage plan must provide information on existing or undisturbed conditions, existing "pass-through" drainage flows, proposed surface alterations on the property, and methods to be used for the control and maintenance of stormwater drainage including:
  - a. Site drainage system control methods such that the off site release rate does not exceed the undeveloped condition for the same design storm event by providing that all excess runoff is detained and released in a controlled manner without erosion. To this end, a detention basin shall be provided where necessary in order to limit postdevelopment flows to predevelopment flow rates and sediment loading. Such basin(s) shall be capable of handling the calculated difference between historic flows and the anticipated postdevelopment flows shall use a 100-year storm event as the design basis for development.
  - b. Base line for historic flows and conditions is the FEMA flood insurance study dated January 5, 1982, for predevelopment conditions and the City of Grants and Village of Milan Drainage Master Plan, April 2011. Post development flows must adhere to the recommendations in accordance with the Drainage Master Plan.
  - c. Ponding of storm drainage water in retention ponds shall be permitted provided ponds are drained within 96 hours and percolation tests demonstrate adequate subsurface drainage.
  - d. Detention ponds shall be designed to release runoff at the undeveloped rate. The release rate may be increased if analysis shows that the downstream capacity exceeds the design storm event release rate. The release rate shall be decreased if it can be shown that a significant adverse impact will occur to existing property.
  - e. Any possible contamination of the surface flows must be controlled such that any spills or other source of pollution is controlled. Discharge leaving the site shall conform to all applicable federal, state, and local laws.
2. Plan Requirements: All storm drainage plans and calculations must be prepared and stamped by a New Mexico licensed professional civil engineer, and a minimum of



three (3) copies delivered to the city's planning department. Each must include the following:

- a. A vicinity map indicating the on site and off site drainage areas with acreage and runoff coefficients identified.
  - b. A detailed site plan indicating the limits of the property with elevations and contours that shows the flow location(s), concentration(s), and direction(s). It must also show the area being disturbed and clearly identify the limits of grading. It shall include any silt settlement or erosion protection features, easements, and all storm drainage facilities.
  - c. Details for erosion control, both temporary (during site grading) and permanent, shall be part of the drainage plan.
  - d. Detailed drainage calculations with volumes and velocities for the predeveloped and postdeveloped conditions using a recognized, published suitable methodology as determined by a professional engineer.
  - e. Detailed engineering plans for all improvements and structures.
  - f. Identification of maintenance responsibility for any drainage easements, improvements, and structures.
3. **Public or Private Maintenance:** Maintenance of all such drainage improvements shall be the responsibility of the property owner; unless otherwise accepted by the city for ownership and maintenance. If accepted by the city for public maintenance, the site drainage control mechanism must be "passive"; that is the system must be such that it will meet performance criteria without human activity, be self-regulating, and not require excessive maintenance, pumping, or the opening or closing of valves or structures.

**D. Plan Approval:** Approval by the city engineer is required prior to any issuance of a grading or building permit, approval of a site plan or other development plan, or beginning any work on the site whether a permit is otherwise required or not at any time. Examples include, but are not limited to, paving an existing parking area, preliminary grading, or earth moving.

**E. Plan Waiver:** The city engineer may waive the requirement for a drainage plan for building permits upon request by the property owner substantiated by information as may be required, and a field review with the finding that the proposed work does not alter drainage patterns or volumes, or contribute to any known surface drainage problem.

**F. Grandfathered Drainage and Grading Development:** A stormwater management plan is not required for existing development as follows:

1. Any remodel or similar work that does not expand the footprint of an existing structure.
2. Resurfacing an existing asphalt or concrete parking lot; provided, such work does not change the existing dimensions of the parking area.

**G. Public rights of way** shall be exempt from the terrain management regulations of this section.

## 5.6 FENCING REQUIREMENTS

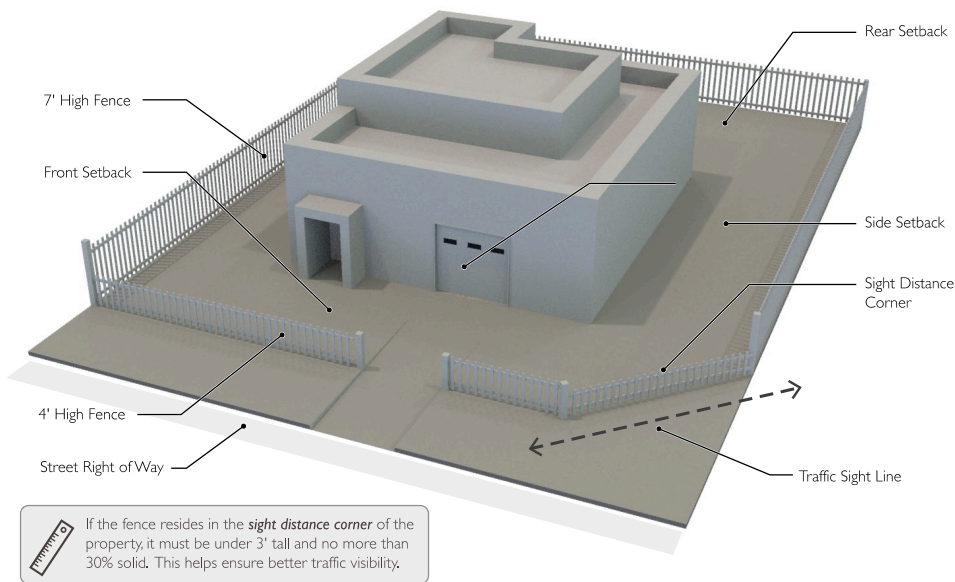
### 5.6.1. Height and Location

**A. Fences** less than seven feet high may be erected in any part of a lot as far back or further back from a street than the building line, solid or otherwise.

**B. Fences** less than four feet high may be located on any part of a lot.

**C. No fence** more than 30% solid and no fence or planting more than three feet above street level shall be located within 15 feet of the curb line at the street intersection in order to maintain a clear-sight triangle.

*Figure 4. Fencing Height and Locations*



**5.6.2. Fencing Materials Not Allowed.** It shall be unlawful to build, construct or maintain within the City any fence of barbed wire, brush or branches of trees, corrugated metal siding or junk materials within all zones except Rural Agricultural (A-1) and Agricultural Residential (A-R), and except for the use of barbed wire around vacant properties larger than 12,000 square feet. Any fence built of barbed wire, brush or branches of trees within all zones except where expressly allowed above shall be removed within twenty days after notice by the Code Enforcement Official has been given to the owners or occupants of lots on which such fences are built. If the fence is not so removed, then the Code Enforcement Official shall remove the same and the cost to the owner of such lots and the expenses thereof shall become a lien against the property.

**5.6.3. Deviations.** A Zoning Permit is required for deviations from this regulation to ensure compliance with fire safety regulations and traffic safety guidelines.

## 5.7 SIGNS

**5.7.1 Purpose.** The sign regulations of this chapter are intended to promote traffic safety and to enhance the visual appearance of the City.

**5.7.2. Applicability.** The following provides for the erection of new signs in the City; provided, however, that, in areas within 660 feet of the right-of-way of state highways or interstate highways, the New Mexico Highway Beautification Act (Section 67-12-1 through 67-12-15) and rules promulgated under that Act shall also apply. Should the Act and this Code conflict, the more restrictive provision shall apply. No new sign may be erected unless such sign conforms to the following schedule of types of uses and classification of signs permitted.

**5.7.3 General Standards for All Signs.** The following requirements shall apply to signs in all zoning districts unless otherwise indicated.

**A. Permits Required.** Permits shall be required for all new signs and for alterations to existing signs, which include altering the sign size, area, and/or height. Permits are not required for temporary signs and portable special signs, exempt signs listed in Section 5.7.5 or for alterations to existing sign faces by painting, overlay, or change of message or design.

**B. Wind Load Standard.** All exterior signs shall be engineered to withstand a minimum wind load set by the International Building Code.

**C. Illumination.** The light from any illuminated sign shall be shielded and directed so that the light intensity does not generate glare onto nearby adjacent residential areas or into roadways or directly upward. All service lines to signs shall be located underground.

**D. Clear-Sight Triangle.** To ensure traffic safety, signs shall not impede the clear-sight triangle. The clear-sight triangle is defined as an unobstructed vision determined by measuring: below the height of eight feet and 25 feet back from a corner as measured along the intersecting property lines, and completed by the imaginary line connecting those two points. A corner includes street intersections as well as entries and exits of public streets.

**E. Dangerous Signs.** No property owner shall retain on any premises any sign which is in a dangerous or defective condition. In cases of immediate danger to the public due to the defective nature of a sign, the Code Enforcement Official may cause the immediate removal of the sign and may assess the costs of the removal against the owner of the property.

**5.7.4 Sign Type and Size Classification.** The classification of signs is as follows:

**A. Type A. Identification Signs**

1. Purpose: to identify premises, occupants of premises or services performed thereon.
2. Size: 4 square feet maximum per sign with a minimum width of 1 foot.
3. Number: one for each street upon which the property faces.
4. Illumination: none, except for identification of housing numbers.
5. Height: Identification signs shall not have a total height greater than 8 feet.

**B. Type B. Directional Signs**

1. Purpose: to direct the flow of traffic in and out of drives, parking areas or buildings.
2. Size: 4 square feet maximum per sign.

3. Number: two for each premise upon which a sign is necessary, plus 2 for each street on road upon which each premise faces.
4. Illumination: indirect only.
5. Height: Directional signs shall be no higher than the height of the wall to which they attached or if free standing, no taller than 12 feet.

#### **C. Type C. Business Signs**

1. Purpose: to announce the name of a business or service establishment and/or to indicate the type of goods sold or services performed on the premises.
2. Size: 400 square feet per sign, with a minimum width of 8 feet. For monument signs, the maximum size shall apply only to the sign face.
3. Number: one per premise.
4. Illumination: indirect, non-flashing; except direct and/or flashing illumination is permitted where such sign would not reflect into a residential zone. Neon lighting is permitted. LED direct lighting shall also be permitted subject to brightness limited to federal standards and the New Mexico Dark Skies Statute.
5. Height: Business signs shall be no higher than two feet taller above the wall, roof or façade to which they are attached, or, if free standing, no taller than 25 feet, except for freestanding signs located within 1,000 feet of Interstate 40 advertising to interstate traffic shall be no higher than 80 feet and except as provided elsewhere in this Section.
6. No temporary sign shall be permitted except as provided in Paragraph F.

#### **D. Type D. Non-Residential Identification**

1. Purpose: to announce the name, location, sponsor or occupant of a building or premise, including bulletin boards for churches, but not including a dwelling, farm, or ranch.
2. Size: 32 square feet maximum per sign with a minimum width of 3 feet.
3. Number: two signs per each street upon which the premise faces.
4. Illumination: Indirect only.
5. Height: no higher from the ground than its distance to the nearest point on the property line; but in no case higher than the roof line or parapet of the highest building on the premises. Non-residential identification signs shall be no higher than the height of the wall to which they attached or if free standing, no taller than 12 feet.
6. No temporary sign shall be permitted except as provided in Paragraph F.

#### **E. Type E. Outdoor Advertising Signs**

1. Purpose: to advertise anything that may or may not be sold on the premises.
2. Size: not to exceed 400 square feet per sign, minimum width 8 feet.
3. Number: One per premise
4. Illumination: passive only shall be allowed. Interruptive illumination with wig-wag or strobe lite flashing shall not be allowed. Light that shines into a residential zone will not be allowed.
5. Height: 35 feet.

#### **F. Type F. Temporary Signs and Portable Special Signs**

1. Purpose: to announce the sale or leasing of a property building; public events to be held; the building, architect or tenant of a proposed building or property; election campaigns; special sales.
2. Size: 80 square feet maximum per sign.

3. Number: one for each street frontage upon which the property faces, and place so that only one sign faces each street.
4. Illumination: same as E.4. above.
5. Height: Temporary signs and portable special signs shall be no higher than 10 feet.
6. Time limit: No temporary signs or portable special signs shall be erected or displayed for longer than 120 days per calendar year. The business owner or property owner shall remove any temporary signs on or before the expiration date.
7. Signs which are towable, or otherwise temporary must meet the following conditions:
  - a. Towable, or other temporary signs must be permitted by the City.
  - b. The location shall be on private property but not in a site triangle or otherwise a hazardous location. The number of such sign shall be no more than one per property. The size of such sign shall be no bigger than a panel van. The City will also establish the length of time that such sign may be on display.
  - c. If illuminated, such sign must meet the State electric code relative to safety, structure, and placement as approved by the City Building Official for each placement.

*Table 5.7.4. Permitted Sign Types*

**City of Grants Sign Types Permitted by Zone District**

Zoning Districts		Sign Types Permitted
A-1	Rural Agricultural	A,B,D,F
A-R	Agricultural/Residential	A,B,D,F
R-1	Single-Family Residential	A,B,D,F
MR	Mixed Residential	A,B,D,F
MR-1	Limited Mixed Residential	A,B,D,F
R-MF	Multi-Family Residential	A,B,D,F
C-1	Light Commercial	A,B,C,D,E,F
C-2	General Commercial	B,C,D,E,F
M-1	Light Manufacturing	B,C,E,F
M-2	Heavy Manufacturing	B,C,E,F

**5.7.5. Exemptions**

The following types of signs are exempt from regulation to the extent stated.

**A. Safety and Information Signs.** Signs erected by or on the order of a public officer in the performance of their duty.

**B. Integral Signs.** Names of buildings, dates of erection, monument citations, and the like when carved into stone or similar material or made of metal and made an integral part of the structure.

**C. Directional Signs.** Signs directing traffic movement into a premise or within a premise, not exceeding five square feet in area for each sign, and horizontal directional signs on and flush with paved areas regardless of size.

**D. Nameplates.** Nameplate, not exceeding two square feet in area containing only the name of the resident, title of person, address, name of building and name of agent as applicable.

**E. Holiday Decorations.** Temporary decorations or displays clearly incidental, customary and commonly associated with national or local holiday celebrations.

## Article VI. Administration

### 6.1 REVIEW AND DECISION-MAKING BODIES

#### 6.1.1 Mayor and City Council

**A. Responsibility.** In addition to the responsibilities conferred by New Mexico Statutes upon the City Council as the Governing Body of the City of Grants, the City Council shall have the following powers and duties under the provisions of this Land Use Code.

1. Appointments. The Mayor, as leader and representative of the City Council, shall have the responsibility of appointing and removing for cause any member of the Planning and Zoning Commission.
2. Final Action. The City Council is authorized to hear and take final action on the following:
  - a. Decide appeals taken from the final decisions of the Planning and Zoning Commission or the final decisions of the Code Enforcement Official for those decisions that are appealable directly to City Council;
  - b. Make final decisions on Annexation, Encroachment Permits, Map Amendment, Planned Unit Development, Special Use Permit, Land Use Code Text Amendment, Preliminary and Final Subdivision Plat, and Vacations of Street Right-of-Way or Subdivision Plat;
  - c. Enact amendments to this Land Use Code and the Official Zoning Map;
  - d. Review the recommendations forwarded by the Planning and Zoning Commission and/or Code Enforcement Official regarding applications for Annexation, Map Amendment, Major and Preliminary Subdivisions, Planned Unit Development, and Land Use Code Text Amendment, and make final decisions regarding such matters;
  - e. Defer authority to make decisions on specific types of items to the City Manager as an administrative delegation;
  - f. Study all issues that may impact the future growth, development and preservation of the environment of the City, and adopt ordinances, regulations and policies related to such issues;
  - g. Establish from time to time such policies and rules not in conflict with other laws as the Council may deem necessary to assure the proper administration and enforcement of this Land Use Code; and
  - h. Coordinate planning and development review processes for the City's extraterritorial planning jurisdiction with the Board of County Commissioners of Cibola County, New Mexico.

#### 6.1.2 Planning and Zoning Commission

**A. Creation.** The Planning and Zoning Commission (P&Z) shall consist of five members, each of whom shall be appointed by the Mayor with the confirmation of the City Council. Members shall be residents of the City.

**B. Membership; Terms**

1. Members of the P&Z shall serve staggered terms of 2 years each.
2. Vacancies shall be filled for the remainder of the unexpired term by the Mayor with

- the confirmation of the City Council.
3. After a public hearing and for cause stated in writing and made part of the public record, the Mayor with the approval of the City Council may remove a member of the Planning and Zoning Commission in the manner specified in NMSA 1978, §3-19-2.

### **C. Rules of Operation**

1. **Chair and Vice-chair.** The Planning and Zoning Commission shall elect from its members a chair and vice-chair for one-year terms. Officers may be re-elected for an indefinite number of years.
2. **Meetings.** The Planning and Zoning Commission shall hold regularly scheduled meetings at least once a month. All meetings of the Planning and Zoning Commission must conform to the open meeting resolution adopted annually by the Governing Body of the City, including giving notice in the manner provided by the resolution in accordance with state law.
3. **Records.** A public record shall be kept of all actions and considerations undertaken by the Planning and Zoning Commission. The records shall be filed with the City Clerk and kept available for public inspection in the office of the City Clerk during normal office hours.
4. **Conduct of Business.** The Planning and Zoning Commission shall adopt and publish such rules, regulations, and procedures for the conduct of business as seem appropriate to its members.
5. **Quorum.** A quorum shall be a majority of the membership of the Planning and Zoning Commission.

### **D. Powers and Duties**

1. **Responsibilities.** The P&Z shall have those powers and duties provided herein and by state law (NMSA 1978, § 3-19-4 or as subsequently amended). Among other things, the Commission may:
  - a. Adopt a hearing schedule outlining submittal deadlines and staff review periods, and identify other timetables and requirements;
  - b. Make studies and recommend to the City Council plans, goals, and objectives relating to the growth and development of the City and the surrounding extraterritorial planning area;
  - c. Develop and recommend to the City Council policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
  - d. Render final decisions on applications for Conditional Use Permits, Floodplain Development Permits, and Variances;
  - e. Make recommendations to the City Council concerning Amendments to the text or maps of this Land Use Code, Annexations, Planned Unit Developments, Minor Subdivisions, and Preliminary and Final Plats;
  - f. Consider and decide appeals taken from administrative decisions made by staff;
  - g. Enter upon any land which is the subject of an application or enforcement proceeding to make examinations and surveys and place and maintain necessary monuments and markers;
  - h. Coordinate planning and development review processes in the City's ETJ with its counterpart in Cibola County;
  - i. Possess all such other powers as may be necessary to enable the Commission to fulfill and perform its functions, promote municipal planning and carry out the purposes of this Land Use Code; and



- j. Perform any other duties assigned by the City Council.

### **6.1.3 City Manager**

The Code Enforcement Official and Floodplain Administrator shall be City employees appointed by the City Manager in accordance with the City's Personnel Ordinance, and shall be subject to the City's Manager's direction and supervision. On the date of adoption of this Land Use Code, the services of the City Engineer and City Attorney are procured in accordance with the New Mexico Procurement Code.

### **6.1.4 Code Enforcement Official**

**A. Designation.** The person designated by the City Manager as the Code Enforcement Official shall have the primary responsibility for administering and enforcing this Land Use code.

#### **B. Duties and Responsibilities**

1. Review, consider and render interpretations of the text of this Land Use Code;
2. Review and decide whether applications are complete and eligible for processing pursuant to the terms of this Land Use Code;
3. Review and prepare staff reports with recommendations for the disposition of applications made pursuant to the terms of this Land Use Code;
4. Ensure that adequate public notice is provided pursuant to the terms of this Land Use Code;
5. Maintain the permanent files of each application and for each enforcement action undertaken pursuant to the provisions of this Land Use Code;
6. Review site plans, drawings and specifications for building permits in coordination with the City's Building Official;
7. Undertake the current and long-range comprehensive planning responsibilities;
8. Maintain the Official Zoning Map;
9. Review demolition plans of registered historic landmarks and discuss potential alternatives to demolition with the owners of such structures;
10. Coordinate other local, regional, state and federal planning and permitting processes affecting the City and serve as liaison to such local, regional, state and federal planning agencies having jurisdiction over development; and
11. Enter upon any land which is the subject of an application or enforcement proceeding to make examinations and surveys and place and maintain necessary monuments and markers.

**6.1.5 City Attorney.** The City Attorney shall have the following responsibilities and duties under this Land Use Code:

#### **A. Duties and Responsibilities**

1. Review, upon request, the written findings of fact and resolutions drafted by the Code Enforcement Official, Planning and Zoning Commission and City Council;
2. Review upon request, development agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documents;
3. Initiate legal proceedings against violators of this Land Use Code as may be directed by the City Council;
4. Ensure, upon request, that the public hearings required by this Land Use Code are

- conducted in the manner required by law; and
5. Advise the City Council, the Planning and Zoning Commission and the Code Enforcement Official in regard to legal issues which may arise during the implementation of this Land Use Code.

**6.1.6 City Engineer.** The City Engineer, or his or her designee, shall have the following responsibilities and duties under this Land Use Code:

**A. Duties and Responsibilities**

1. Inspect, upon request, the progress of construction of improvements on land designated for public use and inspect the installation of public facilities (including utilities, water, sewer, and roads) and halt construction if the City Engineer finds that the required construction or installation is not in conformance with the approved plans, specifications and drawings; and require that defects be remedied before construction or installation is resumed.
2. Review and make recommendations, upon request, regarding applications where required by this Land Use Code or requested by the Code Enforcement Official.
3. Establish criteria, procedures, standards and specifications for design and construction of flood control, drainage control, erosion control, and utilities and street improvements, within the City.
4. Produce, approve, make and retain records of all drainage plans, drainage reports, design analyses, design drawings, as-built drawings and maintenance schedules related to all drainage control, flood control and erosion control facilities constructed within the City's rights-of-way or easements.
5. Review and make determinations regarding applications for flood drainage and grading permits and other permit applications requiring engineering review.

**6.1.7 Building Official.** The City's Building Official, delegated by the City to the State of New Mexico Construction Industries Division, shall have such powers and duties as are enumerated in the Building Code adopted by City Council of the City of Grants and as set forth in the current editions of the New Mexico Building Code. The duties and responsibilities of the City's Building Official are separate and distinct from the duties and responsibilities of the Code Enforcement Official. Where this code calls for the City's Building Official and the City's Code Enforcement Official to coordinate activities, this code does not expand the jurisdiction of either party.

**6.1.8 Floodplain Administrator.** The City's Floodplain Administrator shall have the responsibilities and duties under this Land Use Code, as described in Section 4.1.9 related to the Floodplain Development Permit.

**6.2 GENERAL ADMINISTRATIVE PROVISIONS**

**6.2.1 Pre-Application Conference**

To expedite the application review process and reduce subdivision, site design and development costs, an applicant may request an informal pre-application conference with the Code Enforcement Official. No fee shall be required at the pre-application stage.

- A.** The applicant may submit any information that he or she believes will assist the Code

Enforcement Official in understanding the type and scale of the proposed development, including any available drawing of the proposed development.

**B.** The Code Enforcement Official shall summarize the requirements of the Land Use Code and the applicable goals and policies of the Comprehensive Plan. The Code Enforcement Official shall make a preliminary determination of the type of development approvals and permits required by the applicant, discuss the procedures for application submittal and review, and provide the applicant with the appropriate application and a checklist of the submittal requirements.

**C.** The pre-application stage is for the informal exchange of information only, and neither the applicant nor the City staff, Planning and Zoning Commission nor the City Council, shall be bound by any statements or determinations made during the pre-application conference. Any time limits imposed by this Land Use Code will not be applicable to the pre-application conference.

**6.2.2 Types of Plats.** Land may not be divided into lots or tracts for sale or development except in accordance with and pursuant to one of the following types of plats:

- A.** Minor plat
- B.** Major plat
  - 1. Preliminary plat
  - 2. Final plat

**6.2.3. Types of Permits.** The use of property may not be substantially changed, substantial clearing, grading, or excavation may not commence, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one or more of the following permits:

- A.** Building Permit
- B.** Conditional Use Permit
- C.** Drainage and Grading Permit
- D.** Encroachment Permit
- E.** Floodplain Development Permit
- F.** Garage Sale Permit
- G.** Sidewalk and Drive Pad Permit
- H.** Sign Permit
- I.** Special Use Permit
- J.** Temporary Event Permit

## K. Zoning Permit

**6.2.4 Application Process.** Applications shall be made on the forms provided by Code Enforcement Official.

**A.** When the applicant is not the owner of record, the application shall be accompanied by an owner's affidavit approving of the application and authorizing the agent to act on the owner's behalf in processing the application. When the owner of record resides out-of-state, the affidavit shall designate a local agent capable of receiving notices and service of process.

**B.** With respect to all plans and other documents required by this Land Use Code, the applicant shall submit the number of copies (not to exceed 15) that the Code Enforcement Official deems necessary to expedite the review process and to provide necessary permanent records.

**C.** Applications shall be submitted to the Code Enforcement Official, who shall have responsibility for determining whether the submitted application is complete.

1. The time frames for review and action set forth in this Land Use Code shall begin when the Code Enforcement Official deems the application complete.
2. If the Code Enforcement Official determines that the application is not complete, he or she shall provide the applicant with a written statement of the additional items required within 10 days of submission of the application.
3. Applications shall be deemed abandoned when information and/or fees identified as necessary by Code Enforcement Official for the completion of the application are not received by the Code Enforcement Official within 90 days of notification. During the 90-day time period, the applicant may request an extension of up to 180 days to complete the application. No review or public hearings shall be conducted on incomplete or abandoned applications.

**D.** If more than one permit or review process is required, the applicant may elect to submit a consolidated application for review. Consolidated applications shall be reviewed, considered and decided by the highest level decision-maker that would have decided any part of the development proposal if it had been submitted, processed and considered as separate development applications. Decision-makers, from highest to lowest level, are the City Council, the Planning and Zoning Commission, and the Code Enforcement Official.

**6.2.5 Fees.** Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants. The amount of the fees shall be set forth by resolution of the City Council. Reasonable fees for consultants may be charged in those cases where the proposed development is unusually complex or requires additional review beyond the expertise of the City staff. Fees shall be paid at the time the application is submitted, and shall not be refunded for applications that are withdrawn, abandoned, or denied.

**6.2.6 Applications to be Processed Expeditiously.** Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs to the applicant or appellant, the City shall make every reasonable effort to process permit applications and appeals as expeditiously as possible, consistent with the need to ensure that all

development conforms to the requirements of this Land Use Code.

### 6.2.7 Information Required

**A. Written Applications.** Every applicant shall complete a written application containing at least the following information as deemed appropriate by the Code Enforcement Official:

1. The name, address, and phone number of the applicant.
2. If the applicant is not the owner of the property in question, (i) the name, address, and phone number of the owner, and (ii) the legal relationship of the applicant to the owner that entitles the applicant to make application.
3. The date of the application.
4. Identification of the particular permit, or development approval sought.
5. A succinct statement of the nature of the development proposed under the permit or the nature of the variance.
6. Identification of the property in question by street address and tax map reference.
7. The zoning district within which the property lies.
8. The number of square feet in the lot where the development is to take place.
9. The gross floor area of all existing or proposed buildings located on the lot where the development is to take place.

**B. Site Plans.** The Code Enforcement Official shall inform the applicant if a site plan is required to accompany the application. Generally, site plans will be required for projects involving commercial, industrial or multi-family development. The site plan may include the following as deemed appropriate by the Code Enforcement Official:

1. Include a location map that shows the location of the project in the broad context of the City.
2. Be drawn to scale, using such scale that all features required to be shown on the plan are readily discernible.
3. Show on the first page the name of the applicant, the name of the development (if any), north arrow, legend and scale.
4. Show all existing and proposed natural, man-made and legal features on the land where the development is to take place, including, but not limited to, the following:
  - a. Existing natural features, including:
    - i. Tree line of wooded areas;
    - ii. Streams, ponds, drainage ditches, boundaries of floodways and floodplains;
    - iii. Base flood elevation data for proposed subdivisions; and
    - iv. Topographical contour lines (shown as dotted lines) with no larger than two-foot contour intervals.
  - b. Existing and proposed man-made features, including:
    - i. Buildings, structures and signs (including dimensions of each);
    - ii. Streets, private roads, sidewalks and other walkways and/or trails;
    - iii. Vehicle accommodation areas (including parking areas, loading areas, circulation areas), surface materials and the layout of existing parking spaces and direction of travel lanes, aisles or driveways;
    - iv. Curbs and gutters and other stormwater or drainage facilities;
    - v. Underground and aboveground utility lines and facilities;
    - vi. Fire hydrants;
    - vii. Location of exterior light fixtures; and

- viii. Finished grades, cut and fill slopes, landscaping, revegetation plans, and drainage facilities.
- c. Existing legal features, including:
  - i. Zoning of the property, including zoning district lines where applicable;
  - ii. Property lines, with dimensions identified;
  - iii. Street right-of-way lines; and
  - iv. Utility or other easement lines.
- d. Proposed new legal features on the land where the development is to take place, including:
  - i. New property lines;
  - ii. Street right-of-way lines;
  - iii. Utility and other easements; and
  - iv. Proposed new man-made features.

**C. Additional Information Required.** In addition to a written application and/or a site plan, whenever the nature of the proposed development makes information or documents such as the following relevant, the Code Enforcement Official may require that such information or documents be provided by the applicant.

1. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such person.
2. Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided.
3. Legal documentation establishing a homeowners' association or other legal entity responsible for control and maintenance of required common areas and facilities that will not be dedicated to the City.
4. Bonds, letters of credit, or other surety devices.
5. Complete documentation justifying any requested deviation from specific requirements established by this Land Use Code.
6. Time schedule for completion of phases in staged development.
7. The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.
8. Traffic impact study or analysis.

**D.** Every applicant shall submit those items identified for the application or approval requested, as set forth in Section 6.3.

**6.2.8 Staff Report.** For applications requiring review by the Planning and Zoning Commission or the City Council, the Code Enforcement Official shall refer the application to the appropriate review agencies and prepare a Staff Report that indicates whether, in the opinion of the Code Enforcement Official, the development application complies with all applicable standards of this Land Use Code. Conditions for approval may also be recommended to eliminate any areas of existing non-compliance or mitigate any adverse impacts of the development proposal. Prior to the public hearing, the Code Enforcement Official may request appropriate City departments and public agencies to comment on the application. Comments received shall be made a part of the record of the public hearing.

**6.2.9 Public Hearings.** All public hearings shall follow the provisions of this Section.

**A.** When the Code Enforcement Official determines that the application is complete and that a public hearing is required by this Land Use Code, the hearing shall be scheduled for the next regular meeting according to the adopted schedule of the Planning and Zoning Commission or City Council, whichever is the decision-making body, providing adequate time to ensure that the public notice requirements can be satisfied, or such later time as is mutually agreed upon by the applicant and the Code Enforcement Official.

**B.** The hearing shall be open to the public and all persons interested in the outcome of the appeal or the application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

**C.** The applicant or designated agent should be present at the public hearings in order for the case to be heard by the decision-making body.

**D.** Knowing and willful submission of false or misleading testimony or evidence shall be a violation of this Land Use Code. Testimony offered by any party or witness appearing during the course of an application proceeding shall be presumed to be true and correct. If reliable information, however, shall come to the attention of the Code Enforcement Official, the Planning and Zoning Commission, or the City Council that false or misleading evidence was given by any person appearing in any proceeding, either in person or by written submission, where such false or misleading evidence was material to the outcome of the application process, the Code Enforcement Official or the adjudicating body so involved shall take such steps as are required to investigate the matter. Evidence presented shall be deemed by the chair who is officiating the public hearing to be relevant and non-redundant. Applications shall remain pending during such investigation. Any application which has been found to have been affected by such false or misleading evidence shall be reconsidered by the adjudicating person or body, and the matter referred to the City Attorney for consideration.

**E.** The public hearing shall be conducted in the following manner:

1. Testimony and evidence shall be taken under oath or affirmation.
2. Any person may appear at a public hearing and submit evidence. If the person represents an organization, the Chairman may request written evidence of that person's authority to speak on behalf of the organization in regard to the matter under consideration.
3. Each person appearing at a public hearing shall state his or her name, state an address, and if appearing on behalf of an organization, state the name and mailing address of the organization.
4. The body conducting the public hearing may impose reasonable time limits on testimony given at a public hearing.

**F.** The order of the proceedings shall be as follows:

1. All parties providing testimony are sworn and the packets provided to Commissioners or Councilors are made part of the record.
2. The Code Enforcement Official, or designated representative, shall present a written Staff Report which includes a narrative and/or graphic description of the application and a recommendation.

3. The applicant and staff shall answer questions and present any information required by the decision-making body.
4. Public testimony shall be heard, and the public may question the applicant or staff.
5. The applicant may respond and question any person providing testimony or evidence.
6. The Code Enforcement Official, the City Attorney, the City Engineer, and any other city staff may respond to any statement made by the applicant or any public comment.

**G.** The decision-making body may continue the public hearing to a fixed date, time and place announced prior to recess. An applicant shall have the right to one continuance of the public hearing, if he or she so requests within the 72 hours preceding the hearing. The request must be filed in writing with the Code Enforcement Official. Any subsequent continuances requested by any party shall be granted at the discretion of the body conducting the public hearing, and only upon a showing of good cause.

**H.** In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Planning and Zoning Commission or City Council, whichever the case may be, the applicant may agree to modify his or her application, including the plans and specifications submitted. Unless such modifications are so substantial or extensive that the decision-maker cannot reasonably be expected to understand the nature and impact of the proposed changes without revised plans before it, the decision-maker may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Code Enforcement Official.

**I.** The decision-making body conducting the public hearing shall record the public hearing. The written or taped record of the proceedings, including testimony and statements of personal opinions, the minutes of the Secretary, all applications, exhibits and papers submitted, the Staff Report and the decision of the decision-making body shall constitute the record.

**J.** All records of decision-making bodies, including findings and a statement of the basis upon which such facts were determined, shall be public records, open for inspection at City Clerk's office during normal business hours upon reasonable notice.

**K.** A copy of the public hearing record may be obtained by any person upon applying to the Code Enforcement Official and paying the cost for duplication of the record.

**6.2.10 Notice Required.** Notices required pursuant to this Land Use Code shall conform to the requirements of this Section in order to afford the applicant, the public and interested citizens an opportunity to fully participate in the processes.

**A.** Notice of public hearings shall be provided for each item below in accordance with the following requirements.

1. Adoption and/or amendments to the Official Zoning Map (B, C, D, E, F, G, and H below).
2. Adoption and/or amendments to the text of this Land Use Code (B and C below).
3. Adoption and/or amendments to any regulations, rules, resolutions which implement a specific provision of this Land Use Code, excluding policy guides of a technical



- nature used for design purposes (B, C, and E below).
4. Adoption and/or amendments to the Comprehensive Plan (B and C below).
  5. Development applications (e.g. subdivisions and annexations) which require a public hearing pursuant to the terms of this Land Use Code (B, C, D, E, F, G, and H below).
  6. Appeals taken pursuant to the terms of this Land Use Code (B, C and D below).
  7. Variances to the requirements of this Land Use Code, Conditional Use Permits, vacations, and encroachments (B, C, D, E, F, G and H below).

**B.** All notices shall include the date, time and place of hearing, a brief description of the application or matter to be considered, a map or physical description of the land involved and the place where copies of the application or information to be considered may be obtained.

**C.** Notice of all public hearings shall be published one time in a paper of general circulation in the City of Grants at least 15 days prior to the date of the public hearing.

**D.** Notice shall be provided to the applicant by first class mail at least 10 days prior to the date of the public hearing.

**E.** The applicant shall post and maintain on the property one or more signs regarding the public hearing, as provided by the Code Enforcement Official, at least 15 days prior to the date of the public hearing. One sign shall be posted along each public right-of-way abutting the property that the application would affect, in a location visible from the nearest public right-of-way. The applicant shall be responsible for removing the sign(s) within five days following the public hearing. Failure to properly post and maintain sign(s) during the posting period is grounds for deferral or denial of the application.

**F.** Notice shall be given to neighboring property owners by first class mail at least 10 days prior to the public hearing. Neighboring property owners include all owners of real property as shown on the latest County Assessor's records where property lies partially or entirely within 100 feet of the property, excluding public right-of-way, that is the subject of the public hearing.

**G.** The same notice provided in subsection (F) above shall be given to all tenants of any mobile home park that is located within 100 feet of the property, excluding the public right-of-way, that is the subject of the public hearing.

**H.** The owners of real property to be noticed pursuant to this Section shall be those owners identified on the latest County Assessor's ownership maps and records. The mailed notice is satisfied when notice is mailed to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless that person can provide evidence that they were not notified according to the provisions of this Section.

**6.2.11 Notification of Decision.** After the close of the public hearing, the decision-making body conducting the public hearing shall consider the application, the relevant supporting materials, the Staff Report and the public testimony given at the public hearing and shall render a decision or recommendation, as appropriate, either to approve, approve with conditions, or disapprove the application based on the standards of this Land Use Code.

**A.** Decisions shall be reduced to writing and include findings of fact or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were determined, with specific reference to the relevant standards set forth in this Land Use Code.

**B.** The Code Enforcement Official shall notify the applicant of the written decision by certified mail within five business days of the decision. A copy of the decision shall also be made available to the public at the office of the Code Enforcement Official.

**6.2.12 Opportunity for Appeal.** All administrative decisions made by the Code Enforcement Official shall be reviewed on appeal by the Planning and Zoning Commission. All final decisions made by the Planning and Zoning Commission shall be reviewed by the City Council if appealed. Final decisions of the City Council may be appealed to District Court pursuant to NMSA 1978, Section 39-3-1.1. A decision made pursuant to this Land Use Code is final unless an appeal is filed with the Code Enforcement Official within 30 days following the date the decision is mailed to the applicant.

**6.2.13 Compliance with Permit Conditions.** Permits are issued only when a review of the application submitted indicates that the development will comply with the provisions of this Land Use Code if completed as proposed.

**A.** Permits shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed.

**B.** Approved plans and applications are incorporated into any permit issued, and all development shall occur strictly in accordance with such approved plans and applications.

**6.2.14 Effect of Permit on Successors and Assigns.** The permits issued pursuant to this Land Use Code authorize the permittee to make use of land and structures in a particular way. Such permits are transferable with the title or use of the property to which they relate. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

**A.** No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purpose authorized in the permit except in accordance with all terms and requirements of that permit.

**B.** The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having an interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain an interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice of the existence of the permit at the time they acquired their interest.

**C.** Whenever a permit is issued to authorize development (other than a single-family residence) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Cibola County Clerk's Office and indexed under the record owner's name as grantee.

#### **6.2.15 Minor Deviations from Permits and Plans**

**A.** Minor deviations from permits issued or plans approved by the City Council, the Planning and Zoning Commission, or the Code Enforcement Official are permissible and Code Enforcement Official may authorize such minor deviations. A deviation is minor if it has no discernible impact on the neighboring properties, the general public, or those intended to occupy or use the proposed development. No request for an increase in approved density, an increase in structure height, a decrease in open space, or a reduction in any required setback may be processed as a minor deviation.

**B.** All other deviations or modifications from approved permits or plans will be processed as new applications. If such requests are required to be acted upon by the City Council or Planning and Zoning Commission, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his or her request for an amendment and may then proceed with the construction as originally approved under the previously issued permit.

**C.** The Code Enforcement Official shall determine whether a request qualifies as a minor deviation under the standard set forth above.

**D.** Applicants for minor deviations shall submit a written request for such approval to the Code Enforcement Official, and that request shall identify the changes requested and the reasons why such changes are needed. No fee shall be charged, and no public hearing shall be held. The Code Enforcement Official shall approve or deny all changes in writing.

#### **6.2.16 Expiration of Permits**

**A.** All permits issued pursuant to the terms of this Land Use Code, regardless of type and placement within any Article of this Land Use Code shall expire automatically if, within one year after the issuance of such permits:

1. The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
2. Less than 10% of the total cost of all construction, erection, alteration, excavation or similar work on any development authorized by such permits has been completed on the site.
3. Notwithstanding the provisions of subsections A and B of this section, the use authorized by such permits shall result in completion of the entire project for which the permit was issued within a time period of three (3) years, unless otherwise provided for by the terms of this Land Use Code.

**B.** If, after some physical alteration to land or structures begins to take place pursuant to

a permit, and such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire.

**C.** The Planning and Zoning Commission may extend for a period up to six months the date when a permit would otherwise expire if he or she concludes that:

1. The permit has not expired, and
2. The permit recipient has proceeded with due diligence and in good faith, and
3. The conditions have not changed so substantially as to warrant a new application.

**D.** Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

**E.** Notwithstanding any of the provisions of Article VII (Non-conformities), this Section shall be applicable to permits issued prior to the date this Land Use Code becomes effective.

#### **6.2.17 Expiration or Vacation of Final Plats**

**A.** Final plats approved in accordance with this Code shall lapse and shall not be effective to result in the creation of legal lots or parcels for sale or development if the Final Plat has not been recorded within one year after final approval by the City Council.

**B.** Recorded Final Plats shall be eligible for vacation or partial vacation by action of the City Council if, within three (3) years of their recording:

1. No lots or tracts have been sold for consideration through deeds referencing the plat; and
2. No work has commenced to complete improvements required by the terms of the plat or in any related Development Agreement.

**C.** Vacation of a plat, or a portion of the plat, may be initiated by either the City Council, the developer, or the property owners of the affected parcels.

**D.** Before vacating or partially vacating an approved Final Plat, the City Council shall hold at least one public hearing and shall give the same notice of such hearing as would be required for approval of the Final Plat; except that in addition to such notice, all property owners of the affected parcels shall receive notice by first class mail of the public hearing.

**E.** The City Council may vacate, or partially vacate, a Final Plat if it finds that: (1) it is unlikely that the subdivision will be developed as reflected on the Final Plat or that required improvements will be constructed; (2) vacation or partial vacation of the plat will not result in denial of access to any parcel offering legal access through streets shown on the Final Plat; and (3) the vacation or partial vacation of the Final Plat is reasonable to protect the health, safety and general welfare. The City Council shall not vacate or partially vacate a Final Plat if it will adversely affect the interests or rights of persons in contiguous territory or within the subdivision being vacated.

**F.** In the event that the City Council decides to vacate or partially vacate a Final Plat, the revised plat shall be filed in the office of the County Clerk provided that the owners of the land in the territory proposed to be vacated sign a statement, duly acknowledged,

declaring the plat or a portion of the plat to be vacated and the statement is endorsed "Approved" by the City Council.

**G.** The County Clerk shall mark the applicable words "Vacated" or "Partially Vacated" across the plat.

**6.3 SPECIFIC SUBMITTAL REQUIREMENTS AND REVIEW PROCESSES**

*Table 6.3.1. Procedural Chart/Administrative Procedures*

PROCEDURE	Code Enforcement Official or designated staff	Planning & Zoning Commission	City Council
Annexation	R	RH	DH
Building Permit (1)	D		
Conditional Use Permit	R	DH	AH
Drainage & Grading Permit	D		AH
Encroachment Permit	R	RH	DH
Floodplain Development Permit	D	AH	AH
Floodplain Development Permit (with Variance)	R	DH	AH
Garage Sale Permit	D		A
Interpretation	D	AH	2 <sup>nd</sup> AH
Map Amendment	R	RH	DH
Planned Unit Development	R	RH	DH
Sidewalk and Drive Pad Permit	D	AH	2 <sup>nd</sup> AH
Sign Permit	D	AH	AH
Special Use Permit	R	RH	DH
Subdivision, Minor	R	DH	AH
Subdivision, Major			
Preliminary Plat	R	RH	DH
Final Plat	R		DH
Land Use Code Text Amendment	R	RH	DH
Temporary Event Permit	D		AH
Vacations			
Street Right-of-Way	R		DH
Subdivision Plat	R		DH
Variance	R	DH	AH
Zoning Permit	D	AH	2 <sup>nd</sup> AH

R-Review and recommendation, D-Decision-Maker, final action, H-Public hearing, A-Considers Appeal.

(1) Building Permits are issued by the Construction Industries Division (CID) and may be appealed to the CID general construction bureau chief, then to the CID director, then to the Construction Industries Commission.

**6.3.2 Amendments to Official Zoning Maps or Text of this Land Use Code.** This Section provides a means for changing the boundaries of the Official Zoning Maps or the text of this Land Use Code. Amendments are for the purpose of making necessary adjustments in light of changed conditions or changes to the Comprehensive Plan.

**A. Initiation of Amendments**

1. An amendment to the Official Zoning Map may be proposed by the City Council, the Planning and Zoning Commission, the Code Enforcement Official, or the landowner by application.
2. An amendment to the text of this Land Use Code may be proposed by the City Council, the Planning and Zoning Commission, or the Code Enforcement Official.
3. An amendment shall be introduced in the form of an ordinance.
4. Regarding zoning map amendments to SU-1:
  - a. At a minimum, an application for a change to SU-1 zoning must state the proposed use and must be accompanied by a plot plan showing the location and dimensions of the property.

- b. An amendment to this Ordinance implementing a change in the Official Zoning Map to SU-1 must designate the specific use permitted, and a building permit may be issued only for the specific use and in accordance with the approved development plan. The name of each special use must be recorded in the Official Zoning Map.
- c. A certified copy of the approved development plan for SU-1 zoned property shall be provided to the applicant, and a second copy shall be kept on file with the city clerk.

**B. Review Procedure**

1. The Code Enforcement Official shall prepare a Staff Report concerning the proposed amendment which shall include his or her recommendation to approve, modify or deny the proposed amendment.
2. The Planning and Zoning Commission shall conduct at least one public hearing and make a recommendation to the City Council to approve, modify or deny the proposed amendment.
3. Following the public hearing and recommendation by the Planning and Zoning Commission, the City Council shall conduct at least one public hearing to make the final decision.
4. The City Council shall also consider any opinions and recommendations submitted by interested state and local agencies and the Cibola County Board of County Commissioners.
5. At the conclusion of the public hearing on a proposed amendment, the City Council may proceed to vote on the proposed amendment, refer it back to the Planning and Zoning Commission for further study, or take any action consistent with its rules of procedure.

**C. Protests.** If the owners of 20% or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or the owners of 20% or more of the area of the lots and of land within 100 feet, excluding the public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change, then it shall not become effective unless the change is approved by a majority vote of all of the members of the City Council.

**D. Findings Required.** When the Planning and Zoning Commission makes its recommendation to the City Council, and when the City Council makes the final decision, they shall, at a minimum, make at least one of the following findings:

1. The proposed amendment is in substantial compliance (or not in substantial compliance) with the City's Comprehensive Plan;
2. The proposed amendment will not adversely affect the implementation of the goals and policies of the City's Comprehensive Plan (or it will adversely affect the implementation of the goals and policies of the City's Comprehensive Plan);
3. The proposed amendment is justified in order to correct a mistake in the City's Comprehensive Plan (an error in the assumptions about the property, surrounding uses, population forecasts, rate of land consumption or other factors);
4. The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code (or it will adversely impact the public health, safety or general welfare and will not promote the original purposes of the Land Use Code);
5. The proposed amendment responds to changed conditions, such as changes in

- assumptions on capital investments, road locations, population trends, land committed to development, density, use or further studies that have been completed since adoption of the Land Use Code (or does not respond to changed conditions);
6. The proposed amendment is necessary in order to respond to State and/or Federal legislation;
  7. The proposed amendment provides additional flexibility in meeting the objectives of this Land Use Code without lowering the standards of the Land Use Code.

### **6.3.3 Annexation**

**A. Statutory Compliance.** Annexation of lands to the City shall be in accordance with the laws of the State.

**B. Initiation of Annexations.** An annexation may be initiated in one of the following ways:

1. The City Council, by resolution of intent filed with the County Clerk, may seek to annex contiguous territory through the arbitration process (NMSA 1978, § 3-7-5);
2. The City Council may petition the municipal boundary commission (appointed according to State Statute, NMSA 1978, § 3-7-11 through § 3-7-16 or as amended from time to time) to annex territory to the municipality; or
3. Property owners may petition the City Council to annex contiguous territory to the municipality. Annexation requests shall be accompanied by the appropriate applications for development, including subdivision application(s) and Conditional Use Permit application(s), where applicable. The applicant for an annexation undertaken by the petition method shall agree in writing to the timing of future capital expenditures necessary for major streets, water, sanitary sewer, and stormwater control facilities and is responsible for the costs of these improvements. The applicant must deed all water rights to the City attached to the parcel to be developed and necessary to serve the new development. All applications and petitions for annexation shall be filed with the Code Enforcement Official. The applicant is responsible for all fees associated with the annexation including, but not limited to surveying, engineering analysis, traffic impact studies, and legal fees.

**C. Information Required**

1. *Concept Plan.* A Concept Plan is a generalized land use plan and development envelope for the area proposed to be annexed. A Concept Plan must cover all of the land area to be included in the annexation and identify the type, total amount, and location of all development to occur within the area (dwelling units and non-residential floor area); a proposed plan for pedestrian and vehicular circulation within and leading to the area to be annexed; and identification of all facilities and services, including water and sewer provision. The Concept Plan shall be used to assess the potential impact of the proposed annexation and shall not constitute approval of any specific pattern or land use.
2. *Fiscal Impact Analysis.* A fiscal impact analysis shall be prepared for all annexation requests. The analysis shall project increased demands for the City's services and facilities as a result of the annexation and projected growth within the annexed area. Revenue projections which offset increased financial demands should be considered and may include: increased property taxes, changes in water rates, and short-term stimuli resulting from new construction (e.g. Gross Receipts Taxes). An unfavorable fiscal impact analysis does not require that an annexation proposal be rejected, if it is

determined that other favorable impacts to the community will result from the annexation.

3. *Levels of Service.* The City will identify the level of services existing within the City and the level of services to be provided to areas proposed for annexation. City services for which level of services shall be identified shall include, but may not be limited to, the following: water, sewer, streets, parks and recreation, fire, police, stormwater drainage and library. Applications for annexation shall be reviewed for potential impacts on the level of services identified by the City.

**D. Review Procedures**

1. The Planning and Zoning Commission shall conduct a public hearing in accordance with the notification and hearing procedures of this Code concerning the proposed annexation and forward its recommendation to approve, modify or deny the proposed annexation to the City Council. The recommendation shall also include a recommendation on the proper zoning for the lands to be annexed.
2. The City Council shall conduct a public hearing following its receipt of the recommendation from the Planning and Zoning Commission. Following the public hearing, the City Council shall determine whether to initiate the annexation process through either the arbitration method or the municipal boundary commission. Only if the public hearing is held to consider an annexation petition filed by property owners, shall the City Council make the final decision.

**E. Criteria.** The following criteria shall apply to petitions for annexation to the municipal limits. Furthermore, applications for subdivision plats in the City's ETJ will be reviewed by the City for consistency with the following criteria and the requirements of this Land Use Code.

1. The territory to be annexed shall be contiguous to the City limits and result in a more uniform and distinguishable City form. This form may be defined by: (a) natural features such as drainage or ridges; (b) major roadways; (c) service boundaries; or (d) established lot lines.
2. The territory to be annexed should be similar in character to the City. Features to determine similar character may include lot size or land use for developed areas, or natural features such as a valley or ridge line for undeveloped areas. A similarity in density patterns between the City and the territory to be annexed is also indicative of similar character.
3. The territory to be annexed shall provide a positive long-term economic benefit to the City as determined by a fiscal impact analysis.
4. The territory to be annexed may include community features desired by the City and identified in adopted community plans and policies. Examples include the opportunity to site a public facility not easily sited elsewhere (such as a landfill), or unique natural features (such as an undeveloped ridgetop), or an economic development opportunity.
5. The territory to be annexed may include environmental features which enhance the City or may be preserved by incorporation into the City's municipal limits.
6. The territory to be annexed may include areas developed, or proposed to be developed, pursuant to a comprehensive mixed land use plan.
7. The territory to be annexed, upon build-out, shall not diminish the level of services identified by the City, unless such impacts can be mitigated within a reasonable period of time through development impact fees or other methods.
8. The applicant has agreed to remedy any conditions of the property which are



- designated by the City as adversely affecting health, safety, or general welfare or that constitutes a nuisance or a hazard to the public.
9. The applicant acknowledges that no building or utility permits shall be issued for the property until all applicable conditions have been met.
  10. The City shall designate zoning districts to annexed land in accordance with the procedures of Section 6.3.2.

#### **6.3.4 Appeals**

**A. Aggrieved Persons May Appeal.** The following persons may be considered aggrieved by a decision of the Code Enforcement Official, the City Engineer, the City Attorney, other City staff, or the Planning and Zoning Commission, and may file appeals with the Code Enforcement Official.

1. The applicant;
2. Any person(s) having a legally protected personal interest, a pecuniary interest, a property right or property interest in the subject matter of the hearing which is adversely affected by the decision;
3. Any person(s) owning a property interest within 100 feet of the subject site (excluding public rights-of-way).

**B. Requirements for Application.** An appeal is made by filing a written notice of appeal with the Code Enforcement Official which clearly articulates the reasons for the appeal, specifically citing and explaining one or more alleged errors:

1. In applying adopted City plans, policies and ordinances in arriving at the decision;
2. In the appealed action or decision, including its stated facts;
3. In acting arbitrarily or capriciously or manifestly abusing discretion.

#### **C. Review Procedures**

1. An appeal must be filed with the Code Enforcement Official within 30 days after the date that the notice of decision or order being appealed is mailed. Untimely appeals shall not be considered.
2. Upon receipt of a notice of appeal, the Code Enforcement Official shall transmit to the City Council or the Planning and Zoning Commission, whichever will hear the appeal, all the papers and other documents which constitute the record relating to the action appealed from. The appeal shall be heard no later than 45 days from receipt of the appeal by the Code Enforcement Official, unless a waiver is mutually agreed upon by all concerned parties.
3. An appeal stays all actions by the Code Enforcement Official seeking enforcement of or compliance with the order or decision appealed from, unless the Code Enforcement Official certifies to the City Council that a stay would cause imminent peril to life or property, because of facts stated in the certificate. In that case, proceedings shall not be stayed except by order of the City Council or a court.
4. If it appears that some additional evidence is necessary for the proper disposition of the appeal, the City Council or Planning and Zoning Commission, whichever the case may be, shall be permitted to hear new evidence and/or remand the matter back to the person or body from which the original decision came with the specific reasons for the remand.
5. The City Council or the Planning and Zoning Commission whichever the case might be, may reverse, affirm (wholly or partly), remand back or modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the

case before it in order to remedy those situations noted in subsection (B) above.

**D. Appeal Standards.** The purpose of the appeal is to determine if the decision being appealed meets the requirements of this Land Use Code, limited to the following determinations:

1. The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
2. Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
3. The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Land Use Code.
4. The decision-maker made an error in applying a standard or measuring a standard.
5. The Appellant has provided evidence demonstrating that the decision appealed from creates an undue hardship or unfairness when balanced against the strict enforcement of the Land Use Code.

**E. Judicial Review.** The final decision on any application may be appealed to District Court, pursuant to NMSA 1978, Section 3-21-9 provided all administrative remedies have been exhausted. Denials that could be approved through a variance shall be submitted to the courts only upon the completion of the procedures contained in this Land Use Code.

#### **6.3.5 Building Permit**

**A. Review Procedures.** No building shall be erected, improvements constructed or mobile home moved upon any premises within the City without prior approval of the City Building Official.

**B. Criteria.** Before the building permit is issued, the Building Official shall obtain an opinion from the Code Enforcement Official whether the proposed building(s) complies with the provisions of this Land Use Code and the terms of any approvals granted for the parcel pursuant to this Land Use Code. The Building Official shall notify the applicant if there are any additional approvals or permits needed. The building permit shall be issued if the applicant is in conformity with this Land Use Code and all applicable building codes as adopted by the City.

**C. Appeals.** The decision of the Building Official may be appealed to CID general construction bureau chief, then to the CID director, then to the Construction Industries Commission.

#### **6.3.6 Conditional Use Permit**

**A. Purpose.** A Conditional Use Permit shall be required for those uses that are not permitted in the district 'by right', "A", but denoted as a "C" in the Use Table 3.2 in order to ensure that the use will not be detrimental to the public health, safety, and welfare of the community and will not impair the integrity and character of the zoning district in which it is located.

##### **B. Review Procedures**

1. The Code Enforcement Official shall prepare a Staff Report concerning the

- application for a Conditional Use Permit which may include his or her recommendation to approve, modify or deny the Conditional Use Permit.
2. The Planning and Zoning Commission shall conduct at least one public hearing in accordance with the notification and hearing procedures of this Code and make a determination to approve, modify or deny the Conditional Use Permit.
  3. All conditions and restrictions shall be in writing and given to the applicant within five days of the decision by the Planning and Zoning Commission. The applicant shall acknowledge and agree in writing to the conditions within 10 days of receipt. If there is no signed agreement within such time, the application shall be considered denied.
  4. The decision of the Planning and Zoning Commission shall be final unless appealed to the City Council in accordance with the procedures for appeals provided herein.

**C. Criteria for Approval/Findings Required.** The Planning and Zoning Commission, in approving a Conditional Use Permit, shall make the following findings and may attach to the permit such reasonable requirements, in addition to those specified in this Land Use Code, to ensure that the development in its proposed location:

1. Will not endanger the public health or safety,
2. Will not injure the value of adjoining or nearby properties,
3. Will be in harmony with the area in which it is located, and
4. Will be in conformity with the City's Comprehensive Plan, or other plans officially adopted by the City.

**D. Issuance of Permit.** If the applicant has agreed to the conditions, they shall be entered on the Conditional Use Permit and shall be enforceable in the same manner and to the same extent as any other applicable requirement of this Land Use Code. A Conditional Use Permit may be issued for a specified duration.

### **6.3.7 Drainage and Grading Permit**

**A. Purpose.** A Drainage and Grading Permit authorizes the applicant to undertake grading, paving or other activity which is in compliance with design requirements of this Land Use Code. The design, construction and maintenance of all drainage control, flood control and erosion control facilities within the City shall be performed in accordance with the procedures, criteria, and standards contained in the Land Use Code. A Drainage and Grading Permit shall be required for the following:

1. Major subdivisions and re-subdivisions, prior to subdivision preliminary plat approval (including mobile home parks, and recreational vehicle parks).
2. Any residential, commercial or industrial development, meeting the following criteria, prior to the time of construction or Building Permit application, whichever is sooner:
  - a. Grading, cut, fill or importation of material in excess of 500 cubic yards or grading of any area of one acre or more.
  - b. Any platting or construction within a designated flood hazard area or adjacent to a major arroyo.
  - c. An increase in impermeable surface area of over 1,000 square feet.
  - d. Any development requiring off-site drainage facilities for access.

#### **B. Submittal Requirements**

1. In addition to the general submittal requirements contained in Section 6.2.7, the applicant shall provide drainage control, flood control and erosion control information and/or commitments. The particular nature, location and scope of the proposed development will define the degree of detail required. A Drainage Plan, Drainage

Report or other level of submittal may be required based on the criteria as specified by the Code Enforcement Official.

2. Applications for development of areas known to have been sanitary landfills shall be accompanied by a report which discusses the potential health and soil mechanics problems and their solutions. A geotechnical report may be required by the City Engineer for cut and fill slopes which pose safety hazards. Such reports shall be prepared by a New Mexico Professional Engineer competent in soil mechanics.

**C. Review Procedures**

1. The Code Enforcement Official shall have responsibility for reviewing and making determinations regarding applications for Drainage and Grading Permits, based on the criteria below and in consultation with the City Engineer. The determination of the Code Enforcement Official shall be in writing and state the reasons for the decision.
2. The decision of the Code Enforcement Official may be appealed to the City Council.

**D. Criteria.** The Code Enforcement Official shall issue a Drainage and Grading Permit if he or she finds the following:

1. The requested permit complies with the requirements of Section 5.5 of this Land Use Code;
2. The proposed activity or change in the land affected will not result in post-development discharge from the site exceeding discharge from natural conditions prior to grading or other development immediately downstream of the proposed site. Downstream capacity shall not be exceeded as a result of development. Exemptions from this provision are:
  - a. When drainage improvements built in compliance with Section 5.5 and the *Drainage Policy Guide* have been provided for the fully developed watershed that includes the proposed development. For purposes of this Section, the term "fully developed watershed" refers to a hydrologic condition in which all areas upstream and downstream of a point in question are assumed completely developed, including any undeveloped areas which are assumed to be developed in accordance with development densities established in the Official Zoning Map of the City of Grants, adopted facilities master plans, and the hydraulic and hydrologic standards established by Section 5.5.
  - b. When it can clearly be demonstrated that detention/retention at the site does not provide off-site flood relief due to the parcel size, location or other factors, and when a drainage fee has been paid, and such fee collected will be used to construct public flood control improvements that will be designed to mitigate the potential flood damage of floodwaters associated with the property from which the fees were paid.
3. The requested permit complements and supports the goals of Section 5.5.1.

**6.3.8 Encroachment Permit**

**A. Purpose.** An Encroachment Permit authorizes the applicant to encroach upon the public right-of-way with a building or structure under certain conditions.

**B. Review Procedures**

1. The Code Enforcement Official shall have responsibility for reviewing applications for Encroachment Permits and making a recommendation to the City Council to either approve or deny the request.

2. The City Council shall conduct a public hearing in accordance with the notification and hearing procedures of this Code on the request and at the close of the hearing shall render a decision to approve, conditionally approve, or deny the request.
3. Approval of the request shall be in the form of a resolution.

**C. Criteria.** The City Council may approve an Encroachment Permit if it finds that:

1. The requested permit conforms to the City's Comprehensive Plan, the Land Use Code, and any relevant policies adopted by the City, and
2. The proposed encroachment does not endanger the health, safety or general welfare of the community, and
3. The proposed encroachment is the minimum necessary to make reasonable use of the applicant's property.

**D. Removal of Encroachment.** The City may require removal of all or part of any encroaching structures or use that did not receive encroachment permits after 90 days written notice to the property owners.

### **6.3.9 Floodplain Development Permit**

**A. Requirements for Application.** An application for a Floodplain Development Permit shall be presented to the City's Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of mobile homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation (in relation to mean sea level) to which any non-residential structure shall be flood proofed;
3. A certificate from a registered professional engineer or architect that the non-residential flood proofed structure shall meet the flood proofing criteria of Section 4.1.4.B.2 of this Land Use Code; and
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Section 4.1.9.C.1.

#### **B. Review Procedures**

1. The City's certified Floodplain Administrator shall have responsibility for reviewing applications for Floodplain Development Permits and rendering a decision to grant or deny such a permit.
2. The City's certified Floodplain Administrator shall also have responsibility for granting variances in accordance with the provisions of paragraph C below.
3. The decision of the Floodplain Administrator may only be appealed to the City Council when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these provisions.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the FEMA upon request.

**C. Criteria.** The Floodplain Administrator shall approve or deny the request for a Floodplain Development Permit based on all of the provisions of Section 4.1 and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative location, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

**D. Floodplain Variance Procedures**

1. The appeal board as established by the community shall hear and render judgment on requests for floodplain variances from the requirements of this ordinance. The Planning and Zoning Commission is designated as the appeal board.
2. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Floodplain variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Floodplain variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 6.3.9.C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Land Use Code Section 1.3.10.
8. Floodplain variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Floodplain variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not

preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:
  - a. Floodplain variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b. Floodplain variances shall only be issued upon (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
11. Floodplain variances may be issued by a community for new construction and substantial improvements provided that (i) the criteria outlined in Section 6.3.9.D.1 through 9 are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**6.3.10 Interpretation.** An interpretation may be required when the provisions of this Land Use Code are not clear or when a use is proposed that is not listed in the Use Table 3.2.

**A. Review Procedures**

1. The Code Enforcement Official shall have responsibility for providing interpretations of this Land Use Code upon the request of any member of the public, the Planning and Zoning Commission or City staff. Such requests shall be in writing and the Code Enforcement Official shall provide his or her interpretation, in writing, within 10 days of the request.
2. The Code Enforcement Official shall maintain records of all written interpretations to ensure consistency and to provide guidance in the implementation of this Land Use Code in the future. Such records shall be public and available for public inspection.
3. The Code Enforcement Official's interpretation may be appealed to the City Council.

**B. Criteria**

1. Uses that are not listed in Use Table 3.2 shall be placed in the most similar category, or the category with the most similar impacts on nearby streets and properties.
2. When evaluating a provision of this Land Use Code as to its meaning or application, the intent of the City's Comprehensive Plan and the purposes listed in Section 1.3 and other sections of this Land Use Code shall be applied.
3. Interpretations shall not reduce protection to the public, but may provide greater flexibility in meeting the objectives of this Land Use Code.
4. Interpretations shall protect the public health, safety, and welfare of the nearby residents and property and the City as a whole.

**6.3.11 Planned Unit Development (PUD) Review**

**A. Purpose.** The purpose of the PUD review is to provide a process for reviewing large, self-contained development applications, for developments greater than one acre in size, with a range of residential densities and/or a mix of residential and non-residential uses, and to allow for more innovative and efficient layout and design of such projects than would be possible through strict application of other zone districts.

**B. Review Procedures.** PUDs are approved in two steps. The first step involves review and approval of a re-zoning application to the PUD district and an accompanying Concept Plan. The second step involves review and approval of a Final PUD Plan for the development. Any major subdivisions proposed as part of a PUD shall be processed according to the subdivision procedure, as well. Applications for subdivision approval may be filed simultaneously with the PUD application; however, preliminary subdivision approval is contingent upon approval of the PUD.

1. *Sketch Plan and Pre-application Meeting.* Applicants are required to attend a pre-application meeting and to present a Sketch Plan of the proposed PUD, in a format established by the Code Enforcement Official. The Code Enforcement Official and other City administrative staff will meet with the applicant, review the Sketch Plan and discuss the goals and policies of the City's Comprehensive Plan, the requirements of the Land Use Code and any other matters that will assist the applicant in preparing the PUD Concept Plan.
2. *Concept Plan and PUD Re-zoning.* A Concept Plan is a generalized land use plan and development envelope for the area proposed to be included within a PUD district. It is required as a means of allowing early review of a proposed PUD before substantial planning work has been undertaken and before substantial expenses have been incurred. A Concept Plan must be processed and approved concurrently with a re-zoning to a PUD district. A Concept Plan must cover all of the land area to be included in the PUD and identify the type, total amount, and location of all development to occur within the PUD (dwelling units and non-residential floor area); a proposed plan for pedestrian and vehicular circulation within and leading to the PUD; and identification of all facilities and services, including water and sewer provision.
  - a. The Concept Plan and the PUD Re-zoning applications, along with the required fees, shall be submitted to the Code Enforcement Official.
  - b. The Code Enforcement Official may request review and comments from other City staff. The Code Enforcement Official shall review the Concept Plan and PUD Re-zoning applications, along with written comments provided by administrative staff, and prepare a Staff Report to the Planning and Zoning Commission.
  - c. The Planning and Zoning Commission shall conduct a public hearing and make a recommendation for the City Council to approve, approve with conditions, or deny the application, based on the criteria in subsection (C) below.
  - d. After receiving the recommendation of the Planning and Zoning Commission, the City Council shall hold a public hearing on the proposed Concept Plan and PUD Re-zoning applications. At the close of the public hearing, the City Council shall approve, approve with conditions or deny the re-zoning and PUD Concept Plan, based on the criteria provided below. The decision of the City Council shall be accompanied by written findings.
3. *Final PUD Plans.* Final PUD Plan approval shall be required before the issuance of any permit for construction within the PUD district.



- a. Applications for Final PUD Plan approval shall be submitted to the Code Enforcement Official.
- b. The Code Enforcement Official shall review the application to determine whether the application meets all of the applicable requirements of this Land Use Code; the approved Concept Plan and the PUD regulations and prepare a Staff Report with his or her determination.
- c. The Planning and Zoning Commission shall conduct at least one public hearing and make a recommendation of approval if the Final PUD Plan meets all of the applicable requirements of this Land Use Code, the approved Concept Plan and the PUD regulations.
- d. After receiving the recommendation of the Planning and Zoning Commission, the City Council shall hold a public hearing on the Final PUD Plan. At the close of the public hearing, the City Council shall approve the Final PUD Plan if the Final PUD Plan meets all of the applicable requirements of this Land Use Code, the approved Concept Plan and the PUD regulations. The decision of the City Council shall be accompanied by written findings.

**C. Criteria.** PUD Re-zonings, Concept Plans, and Final Plans may be approved by the City Council only if they find that all of the following criteria have been met:

1. The proposed Concept Plan is consistent with the City's Comprehensive Plan.
2. The Concept Plan is necessary to address a unique situation or represents a substantial benefit to the City, compared to what could have been accomplished through strict application of otherwise applicable base zoning district standards.
3. The proposal is not significantly different from surrounding land uses in terms of density, intensity and impacts, and it mitigates any potential adverse impacts to the maximum extent practical. For example, a PUD cannot be used to create a free-standing parking lot in a residential area.
4. The facilities and services (e.g. sewage and waste disposal, domestic and irrigation water, gas, electricity, police and fire protection, roads and transportation, and schools, as applicable) will be available to serve the subject project while maintaining adequate levels of service to existing development.
5. The same development could not be accomplished through the use of other techniques, such as re-zoning to a non-PUD district, or variances.

**D. Development Agreements.** Development Agreements are required for all PUDs in accordance with Section 5.1.9.

**E. Effect of Approval.** A Concept Plan setting forth specific uses, densities, and locations shall be approved concurrently with each PUD Re-zoning. No Concept Plan may be approved without a PUD Re-zoning, and no PUD Re-zoning application may be approved until a Concept Plan for the development has been approved. Approval of a Concept Plan shall constitute acceptance of the uses, development intensities and general layout proposed for the PUD development. The Concept Plan shall govern the preparation of the required Final PUD Plans. Approval of the Concept Plan does not constitute approval of any subdivisions within the PUD.

**F. Lapse of PUD Plans**

1. *Concept Plan.* All provisions of a PUD Concept Plan that differ from the previous zone district (prior to the PUD re-zoning) shall lapse and be of no further force and effect if a complete Final PUD Plan application for the PUD or a phase of the PUD

has not been submitted within one year of the date of the Concept Plan approval by the City Council. If the PUD is to be developed in phases, a phasing plan with lapse dates shall be approved as part of the Concept Plan approval. Once any applicable lapsing dates pass without approval of a Final PUD Plan, the Concept Plan shall be deemed to include only the uses, dimensional standards, and other provisions of this Land Use Code applicable to the prior zone district. In the event of a lapse, the Code Enforcement Official shall record a lapse of approval affidavit with the Cibola County Clerk and initiate action to re-zone the property to a zoning classification that is consistent with the City's Comprehensive Plan.

2. *Final PUD Plan.* The right to develop in accordance with an approved Final PUD Plan shall lapse and be of no further effect if all development shown on the approved Final Plan is not completed within three years of the date of Final PUD Plan approval or within any deadline set forth in the Final PUD Plan, whichever is greater. Once such date has passed, the Final PUD Plan shall be deemed to include only the uses, dimensional standards, and other provisions of this Land Use Code applicable to the property under the prior zone district. If approval lapses, the Code Enforcement Official shall record a lapse of approval affidavit with the Cibola County Clerk and shall initiate action to re-zone the property to a zoning classification that is consistent with the City's Comprehensive Plan.

### **6.3.12 Sidewalk and Driving Pad Permit**

#### **A. Review Procedures**

1. The Code Enforcement Official shall have the responsibility for reviewing application for Sidewalk and Driving Pad Permits and rendering a decision to grant or deny such a permit.
2. The Code Enforcement Official's decision may be appealed to the City Council.

#### **B. Submittal Requirements**

1. A plan for the design and construction specifications for a new sidewalk or driving pad shall be submitted by the applicant.

### **6.3.13 Sign Permit**

#### **A. Review Procedures**

1. The Code Enforcement Official shall have responsibility for reviewing applications for Sign Permits and rendering a decision to grant or deny such a permit.
2. The Code Enforcement Official's decision may be appealed to the City Council.

**B. Criteria.** The Code Enforcement Official shall issue a Sign Permit unless he or she finds that:

1. The requested permit is not in compliance with Section 5.7, or
2. If completed as proposed in the application, the sign will not comply with one or more requirements of the Land Use Code

### **6.3.14 Special Use Permit.**

- A. Purpose.** The purpose of the Special Use Permit review is to provide a process for reviewing proposed uses allowed within the Special Use SU-1 zone or uses proposed in rezoning to SU-1, to establish development standards and any special

conditions or supplementary land use regulations that assure that within the mix of uses allowed, significant impacts on nearby uses are mitigated. Innovative and efficient layout and design of the project are encouraged.

**B. Review Procedures.**

1. The applicant shall submit a special use development plan application for development within the Special Use SU-1 zone following the general submittal requirements contained in Section 6.2.7 and providing other information required by the Code Enforcement Official that details the particular nature, location and scope of the proposed development.
2. The Code Enforcement Official may request review and comments from other City staff. The Code Enforcement Official shall review the application to determine whether the application meets all of the applicable requirements of this Land Use Code. The Code Enforcement Official shall review the application along with written comments provided by staff, and prepare a Staff Report to the Planning and Zoning Commission.
3. The Planning and Zoning Commission shall conduct a public hearing and make a recommendation for the City Council to approve, approve with conditions, or deny the application, based on the criteria in subsection (C) below.
4. After receiving the recommendation of the Planning and Zoning Commission, the City Council shall hold a public hearing on the proposed Plan. At the close of the public hearing, the City Council shall approve, approve with conditions or deny the re-zoning and SU Concept Plan, based on the criteria provided below.

**C. Review Criteria.** Special Use Permits may be approved only if they find that all of the following criteria have been met:

1. The proposed special use development plan is consistent with the City's Comprehensive Plan.
2. The proposed special use development plan is necessary to address a unique situation or represents a substantial benefit to the City.
3. The proposal is not significantly different from surrounding land uses in terms of density, intensity and impacts, and it mitigates any potential adverse impacts to the maximum extent practical. For example, a special use permit cannot be used to create a free-standing parking lot in a residential area.

**6.3.15 Subdivision – Minor**

**A. Purpose.** The minor platting process allows the Planning and Zoning Commission to approve or disapprove minor subdivisions, in an expedited manner. This process is intended to be consistent with the alternate summary procedure provided by state law (NMSA 1978, § 3-20-8). Subdivisions which qualify as minor subdivisions are:

1. Re-subdivisions, where the combination or recombination or portions of previously platted lots does not increase the total parcels of land; or
2. Lot line adjustments to relocate a property boundary between two adjoining lots when: a) no new lots or units result, and b) the lot line adjustment does not result in any remnant land; or
3. Vacation of easements upon written acknowledgement from utility providers
4. Creation of a subdivision with up to 5 lots.

All other proposed subdivisions shall be reviewed and approved as Major Subdivisions.

**B. Submittal Requirements.** In addition to the general submittal requirements contained in Section 6.2.7, the subdivider shall present a final plat certified by a licensed, registered surveyor.

1. The plat shall refer to permanent monuments and shall accurately describe each lot, number each lot in progression, give its dimensions and the dimensions of all land dedicated for public use or for the use of the owners of lots fronting or adjacent to the land. The plat shall also include the location of existing buildings or structures, utilities, street rights-of-way, recorded easements and floodplain boundaries in relation to the proposed new parcel lines.
2. The plat shall contain a statement that the subdivision of [insert a correct description of the land being subdivided], appearing on the plat is with the free consent and in accordance with the desire of the undersigned owner and proprietor of the land and shall be acknowledged by the owner and proprietor or his or her authorized agent in the manner required for the acknowledgment of deeds. If the plat is filed by a corporation, the acknowledgment shall be made by its president and secretary. (NMSA 1978, § 3-20-3)

**C. Review Procedures**

1. The Minor Plat shall be reviewed by the Planning and Zoning Commission.
2. If the Planning and Zoning Commission denies the Minor Plat, the Commission shall promptly furnish the applicant with a written statement of the reasons for disapproval.
4. The decision of the Planning and Zoning Commission may be appealed to the City Council.
5. Approval of the Minor Plat is contingent upon the plat being recorded within 6 months after its approval. Plats that are not recorded within such time shall be of no further effect. A copy of the filed plat shall be provided to the Code Enforcement Official.

**D. Findings Required.** The Planning and Zoning Commission shall approve the Minor Plat if findings are made that:

1. The plat is in substantial conformity with the requirements of this Land Use Code;
2. The plat complies with all applicable requirements as to lot size, lot frontage, street width, setbacks, and the granting of right-of-way and easements for streets, utilities, drainage, and other matters identified in Table 3.4.2 and Section 5.1, unless exempted herein; and
3. The same parcel has not been subdivided within the previous 12 months to create a new lot. Resubdivisions and lot line adjustments that do not create new parcels, and easement vacations created through administrative subdivisions shall not be restricted to fewer than one per 12 month period; and
4. Approval furthers the goals and policies of the City's Comprehensive Plan.

**6.3.16 Subdivision – Major**

**A. Purpose.** The subdivision review process is intended to ensure that new parcels are created in conformity with the requirements of state law and the standards of the Land Use Code. Whenever feasible, the submittal requirements and reviews for subdivisions, PUDs, and any other development applications will be consolidated. The subdivision review process is a three-step process, unless the subdivision qualifies for review and approval as a minor plat (see Section 6.3.15).

1. The first step is submittal and an informal staff review of a sketch plat to assist the applicant with the procedures and requirements of the Land Use Code.
2. The second step is submittal, review and approval of a preliminary plat.
3. The third step is submittal, review and approval of the final plat.

**B. Submittal Requirements.** In addition to the general submittal requirements contained in Section 6.2.7, the subdivider shall provide the following:

1. **Sketch plat.** A sketch plat drawn on a topographic survey map of the area showing the general layout of streets and lots of the proposed subdivision and the area to be developed.
2. **Preliminary plat.** Six (6) copies of the preliminary plat shall be submitted and shall include the following:
  - a. Vicinity map showing all existing subdivisions and the existing or dedicated streets, alleys and tract lines or acreage of parcels of land, and existing buildings on adjacent unplatted property, together with the names of the record owners of such parcels immediately adjacent to the proposed subdivision. The vicinity map shall also show the proposed subdivision in relationship to any landmarks or arterial streets which serve to influence the proposed subdivision.
  - b. Location of, and principal dimension of, all existing or recorded section lines, streets, alleys, easements, watercourses, private sewers, floodplain boundaries or water mains and other important features within and immediately adjacent to the proposed subdivision.
  - c. Topographic survey map with not more than two-foot vertical contour intervals.
  - d. Location and direction of surface drainage flow.
  - e. Location and principal dimension of the right-of-way of all proposed streets, alleys, easements and other areas designated for public use, as well as the projected future street system of the adjacent land.
  - f. Proposed street names.
  - g. Location of the existing and proposed utility lines and proposed street lighting plan, along with letters of approval or disapproval from appropriate officials of the power, telephone and gas companies.
  - h. Zoning district boundary lines.
  - i. A summary of site characteristics indicating the gross acreage of the subdivision; acreage devoted to various categories of land use by category; acreage designated for public use (streets, parks and other uses); lot areas; and maximum, minimum and average lot sizes.
  - j. Reference to permanent monuments and accurate description and numbering of each lot in progression. The plat shall also include the location of existing buildings or structures in relation to the proposed new parcel lines, lot dimensions and the dimensions of all land dedicated for public use or for the use of the owners of lots fronting or adjacent to the land.
  - k. A statement that the subdivision of [insert a correct description of the land being subdivided], appearing on the plat is with the free consent and in accordance with the desire of the undersigned owner and proprietor of the land and shall be acknowledged by the owner and proprietor or his authorized agent in the manner required for the acknowledgment of deeds. If the plat is filed by a corporation, the acknowledgment shall be made by its president and secretary. (NMSA 1978, § 3-20-3)
  - l. The preliminary plat shall be accompanied by: (l) the profile of each street with

- tentative grades; (ii) typical cross-section of the proposed streets; and (iii) a plat and profile of proposed sanitary, stormwater, sewers and transverse drainage structures, with grades and pipe sizes indicated and a plat of the proposed water distribution system showing pipe sizes and location of valves and fire hydrants.
- m. In addition to the above requirements, one copy of a drainage plan or report as specified in Section 5.5, shall be submitted concurrent with the preliminary plat.

**3. Final Plat.** The final plat shall be drawn on mylar with all drawings and signatures in waterproof ink. Fifteen copies of the final plat shall be prepared and submitted in a form suitable for recording with the County Clerk in accordance with the requirements of state law.

- a. The final plat shall include the following:
- i. All information required on the preliminary plat.
  - ii. Accurate dimensions of all lines, angles, and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use.
  - iii. An identification system for all lots and blocks and names for streets.
  - iv. Signatures of approval on the final plat from appropriate officials of all public utilities (i.e., power, telephone and gas companies).
  - v. Certification of a registered land surveyor, with his or her New Mexico registration number, as to the accuracy of the survey and plat and identification of the planning and platting jurisdiction.
- b. The applicant shall also submit proof that title to the land to be subdivided is vested in fee simple absolute in the owner who has signed the final plat. This proof shall be either an opinion of title signed by an attorney licensed to practice law in New Mexico, or an owner's policy of title insurance showing title vested in the applicant. The applicant shall also submit proof that the property taxes have been paid in full for the past 10 years.

**C. Review Procedures**

**1. Preliminary Plats**

- a. When the Code Enforcement Officer deems the preliminary plat and application complete, he or she shall distribute copies of the preliminary plat to the appropriate City staff and other agencies (including the Grants/Cibola County School District) for review and comments. If the land to be subdivided is located within the ETJ of the City, the preliminary plat shall also be distributed to the appropriate officials in Cibola County for review and comments.
- b. The Code Enforcement Officer shall prepare and present a Staff Report with a recommendation to approve, conditionally approve, or deny the preliminary plat. The Staff Report may incorporate any of the comments received by the City staff and reviewing agencies.
- c. The Planning and Zoning Commission shall conduct a public hearing on the preliminary plat, in accordance with the notice and hearing procedures of this Land Use Code. Following the public hearing, the Planning and Zoning Commission shall consider the Staff Report and testimony and exhibits submitted at the public hearing and shall recommend to approve, conditionally approve, or deny the preliminary plat.
- d. The Planning and Zoning Commission is authorized to recommend disapproval even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the City's Comprehensive Plan, if the criteria listed in paragraph (B)(2) above are not

- met.
- e. Following review and recommendation by the Planning and Zoning Commission, the preliminary plat shall be considered by the City Council. The City Council shall conduct a public hearing on the preliminary plat, in accordance with the notice and hearing procedures of this Land Use Code. Following the public hearing, the City Council shall consider the recommendation of the Planning and Zoning Commission, the Staff Report and testimony and exhibits submitted at the public hearing and shall either approve, conditionally approve, or deny the preliminary plat.
  - f. The approval of a preliminary plat shall be effective for a period of one year from the date the preliminary plat is approved by the City Council, at the end of which time the applicant must have submitted a final plat for approval. If a final plat is not submitted within the one year period, the preliminary plat shall be null and void, and the applicant shall be required to submit a new preliminary plat for review subject to the Land Use Code, policies, and regulations then existing.

## **2. Final Plat**

- a. A final plat may be submitted for a portion (phase) of the approved preliminary plat or for the entire area encompassed by the approved preliminary plat. If a subdivision is submitted for approval as an entire area, the developer must enter into a Development Agreement and provide a completion guarantee that the work shall be completed within two years. If the subdivision is too large to complete within two years, it must be phased and each phase shall go through the final plat process separately.
- b. When the Code Enforcement Officer deems the preliminary plat and application complete, he or she shall distribute copies of the preliminary plat to the appropriate City staff and other agencies (including the Grants/Cibola County School District) for review and comments. If the land to be subdivided is located within the ETJ of the City, the preliminary plat shall also be distributed to the appropriate officials in Cibola County for review and comments.
- c. The Code Enforcement Officer has 30 days to confirm that all conditions of preliminary plat approval have been met. If all conditions have not been met, the final plat and application shall be returned to the applicant for completion and resubmission. The 30-day period for determination of completeness is restarted upon resubmission of the final plat and application.
- d. The Code Enforcement Official shall prepare and present a Staff Report with a recommendation to approve or deny the final plat. The Staff Report may incorporate any of the comments received by the City staff and reviewing agencies. Although the recommendation may require additional information or suggest additional conditions to address items addressed in the preliminary plat review, it shall not suggest conditions inconsistent with the result of the preliminary plat review and approval.
- e. The City Council shall conduct a public hearing within 35 days from the date the Code Enforcement Official deems the final plat and application complete. This time period may be waived with the written consent of the applicant.
- f. The City Council shall approve the final plat if it determines that the final plat is in substantial conformance to the approved preliminary plat and any conditions of approval attached to the preliminary plat.
- g. Approval of the final plat shall be indicated by the signatures of the Mayor and the Chair of the Planning and Zoning Commission on the final plat, along with the

following language: "Approval of the final plat does not constitute acceptance by the City of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on the plat. However, the City may accept any such offer of dedication by resolution of the City Council or by actually exercising control over and maintaining such facilities, following inspection and approval by the Code Enforcement Official to ensure that until the subdivider has presented a certificate signed by a Registered Engineer that all roads and other public facilities have been constructed to these approved plans and specifications."

- h. The final plat, with all the necessary signatures and endorsements, shall be filed and recorded with the County Clerk within 30 days following approval of the City Council. Recordation shall be the responsibility of the subdivider. If the subdivider fails to record the final plat within this time period, the final plat approval shall lapse. If the approved final plat is not recorded with the County Clerk within one year of the date of approval of the final plat, the preliminary plat shall lapse and be of no further effect. If approval lapses, the Code Enforcement Official shall record a lapse of approval affidavit with the City Clerk.
- i. The subdivider must submit a copy of the recorded final plat to Code Enforcement Official prior to entering into a Development Agreement.
- j. If the City suspends final plat approval for any subdivision, it shall record a document with the County Clerk declaring that final plat approval for the subdivision is suspended and that the further sale, lease or development of the property within the subdivision is prohibited except that this prohibition shall not apply to persons or parties who have acquired the property from the subdivider. If any court of competent jurisdiction invalidates final plat approval for any subdivision, the City shall record a document with the County Clerk declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited.

**D. Approval Criteria.** In making their decision regarding approval of a subdivision within City limits or the ETJ, the Planning and Zoning Commission and the City Council shall consider the following factors:

1. Whether the proposed subdivision furthers the goals and policies of the City's Comprehensive Plan; and
2. Whether the proposed subdivision complies with the standards and design requirements of this Land Use Code; and
3. Whether the proposed subdivision provides a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed; and
4. Whether the proposed subdivision has made adequate provision for sewage disposal which complies with federal, state and local laws and regulations; and
5. Whether the proposed subdivision is compatible with the soil, topography, drainage, and other natural features and physical conditions of the site; and
6. Whether the subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state and local laws and regulations.

### **6.3.17 Variance**

**A. Purpose.** A variance allows a building or structure to be built if strict enforcement of the Land Use Code would result in practical difficulties or unnecessary hardships for the



applicant and that, by granting the variance, the spirit of the Land Use Code will be observed, public safety and welfare secured, and substantial justice done. Under no conditions shall a variance permit a use that is not otherwise permitted in the zone district where the property is located.

**B. Initiation of Variances.** A variance request is initiated by filing an application with the Code Enforcement Official. The applicant may request a variance to any requirement of this Land Use Code, provided, however, that he or she cannot request the approval of a use that is not permitted in the zoning district where the property is located.

**C. Review Procedures**

1. The Code Enforcement Official shall distribute copies of the request to the appropriate City staff for review and comment. The Code Enforcement Official shall prepare a Staff Report concerning the variance request which may include his or her recommendation to approve, modify or deny the variance, and may include comments from other City staff.
2. The Planning and Zoning Commission shall conduct at least one public hearing in accordance with the notification and hearing procedures of this Code and render a decision on the variance request. The decision will be final unless appealed to the City Council.

**D. Findings Required.** The Planning and Zoning Commission shall only approve a variance if it makes the following findings:

1. The hardship of which the applicant complains is one that is unique to the applicant rather than one suffered by the neighbors or the general public,
2. The hardship relates to the applicant's land, rather than personal circumstances,
3. The hardship is not the result of the applicant's own actions,
4. The granting of the variance is consistent with the City's Comprehensive Plan,
5. The granting of the variance is in harmony with the purposes and intent of the Land Use Code,
6. The variance granted is the minimum necessary to make possible the reasonable use of the land or building, and
7. The granting of the variance will not be injurious to the neighborhood surrounding the property where the variance is proposed, and otherwise is not detrimental to the public welfare, and
8. The variance will not result in the extension, expansion or enlargement of a non-conforming structure in violation of Article VII, and will not authorize the initiation of a non-conforming use of land.

**E. Issuance of a Variance.** In granting variances, the Planning and Zoning Commission may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties, and will create as few impacts as practicable on such properties. A variance may be issued for an indefinite duration or a specified duration only. The nature of the variance and any conditions attached to it shall be entered on the face of the Zoning Permit for the property. All such conditions are enforceable in the same manner as any other applicable requirement of this Land Use Code.

### 6.3.18 Zoning Permit

**A. Purpose.** The purpose of the Zoning Permit is to provide a method for reviewing proposed uses of land to determine if the uses have the potential to adversely affect other land uses, transportation or facilities in the area and to ensure that the proposed development or land use complies with the standards in this Land Use Code. Every new or relocated mobile home and new or relocated business within City limits is required to complete and submit a Zoning Permit. This permit must be approved prior to opening a proposed business and/or prior to consideration of any liquor license by the City. A Zoning Permit shall also be required prior to the issuance of a Building Permit, Business License, or moving a mobile home onto a lot or parcel.

#### **B. Review Procedures**

1. An application for a Zoning Permit shall be submitted to the Code Enforcement Official who shall have responsibility for reviewing the application and making a determination whether to grant or deny the Zoning Permit. No hearing shall be required.
2. The Code Enforcement Official shall request opinions from other City departments and staff, as appropriate, to coordinate other reviews that must occur prior to issuance of the Zoning Permit. A Zoning Permit related to additional action which requires review by the Planning and Zoning Commission or City Council shall be consolidated into one review before the appropriate decision-making body, which shall make the decision on the Zoning Permit.
3. The decision of the Code Enforcement Official to approve or deny the Zoning Permit request shall be in writing and be given to the applicant within five business days of the decision.
4. The decision of the Code Enforcement Official may be appealed to the Planning and Zoning Commission.

**C. Findings Required.** The Code Enforcement Official shall issue the Zoning Permit unless it is found that:

1. The proposed use is not in compliance with the Use Table in Section 3.2 for the zoning district in which it is located, or
2. If completed as proposed in the application, the development will not comply with one or more requirements of the Land Use Code; or
3. The applicant has not obtained other necessary permits or approvals for the development, which are a prerequisite for issuing a Zoning Permit; or
4. The site is physically not suitable for the type of development and for the intensity of development proposed; or
5. Issuance of the Zoning Permit would be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

**D. Modification of a Zoning Permit.** The Code Enforcement Official may approve plans for an alteration of an approved use or structure, by annotating and signing the original Zoning Permit, when the alteration complies with all of the following conditions:

1. The structure or use expansion is incidental to the existing use; and
2. The structure or use expansion does not result in a change of use; and
3. The structure or use expansion does not increase the floor area covered by existing structures associated with the use by more than 10%; and

4. The building or use expansion complies with existing requirements of the Land Use Code and with the requirements of all regulatory agencies having jurisdiction.

## **Article VII. Non-Conformities**

### **7.1 NON-CONFORMITIES**

Any use lawfully occupying a building or land on the effective date of this Land Use Code or of subsequent amendments to it, that does not conform to the regulations of this Land Use Code, as adopted or amended, or which is not specifically addressed in this Land Use Code, shall be deemed to be a non-conforming use and may be continued, and the right to engage in such use shall run with the land, subject to the conditions of this Article. No changes in the type, scale or intensity of the use are permitted, except those resulting in conformity of the use.

**7.1.1** Allow these non-conforming uses to continue until they are removed.

**7.1.2** Any structure lawfully existing on the effective date of this Land Use Code, or of subsequent amendments to it, that is constructed contrary to the regulations of this Land Use Code shall be deemed to be a non-conforming structure and may continue to be used, and the right to use the structure shall run with the land, subject to the provisions of this Article.

**7.1.3** Any lot lawfully existing at the effective date of this Land Use Code, or of subsequent amendments to it, that does not meet the lot size or dimensional requirements of this Land Use Code as adopted or amended, can be used in conformity with all the regulations applicable to its intended use, subject to the provisions of this Article. However, no use that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a non-conforming lot.

**7.1.4** A non-conforming structure, improvement or premises may not be used as grounds for adding other structures, or uses prohibited in the same district.

**7.1.5** No attachment of additional signs to a building used for a non-conforming use shall be allowed if such additions would be prohibited in the zoning district.

**7.1.6** Existing buildings that are in violation of lot area requirements may be remodeled or repaired but may not be reconstructed expanded or structurally altered unless made to conform to these requirements.

### **7.2 VARIANCE OR PERMIT AUTOMATICALLY GRANTED**

A variance is automatically granted so as to permit the continuation of any structure or lot existing immediately prior to the time this Land Use Code or any amendment to it becomes effective, if such existing building, structure, improvement or premises was not in violation of any other ordinance or law at the time this Land Use Code was adopted or amended.

### **7.3 NO EXTENSION, EXPANSION OR ENLARGEMENT**

A non-conforming structure, improvement or premises may not be extended, expanded, or enlarged unless the following conditions can be met:

**7.3.1** All proposed extensions, expansions, and/or enlargements are limited to a maximum of 25% of the gross floor area of the non-conforming building, as it existed on the date this Land Use Code was adopted.

**7.3.2** The proposed extension, expansion, or enlargement does not create any new violation

of any provisions of this Land Use Code.

**7.3.3** The proposed extension, expansion and/or enlargement shall not adversely impact adjoining properties.

**7.3.4** The owner complies with all requirements set forth by the Construction Industries Division and any other State and/or Federal requirements.

**7.3.5** The extension, expansion, or enlargement conforms to all other regulations of the zone in which it is located.

#### **7.4 DAMAGE OR DESTRUCTION OF NON-CONFORMING BUILDINGS**

**7.4.1** If a building with a non-conforming use is unintentionally damaged or destroyed to an extent of more than 50% of its replacement cost at the time of destruction, then restoration must be for a permitted use.

**7.4.2** If a non-conforming building is unintentionally damaged to an extent of more than 50% of its replacement cost at the time of destruction, then restoration must be in full compliance with the provisions of this Land Use Code as to building and use.

#### **7.5 NON-CONFORMING SIGNS**

All signs that are or that become non-conforming at the time of adoption of this Land Use Code may be maintained so long as they are kept in a state of good repair and so long as they are not relocated, replaced, structurally altered, abandoned for a period of more than six months or damaged by wind, fire or other cause to the extent that 75% or more of their value has been destroyed. Such abandoned or damaged signs shall not be allowed to continue as non-conforming uses.

## **Article VIII. Enforcement and Penalties**

### **8.1 COMPLAINTS REGARDING VIOLATIONS**

Whenever the Code Enforcement Official receives a written, signed complaint alleging a violation of this Land Use Code, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.

### **8.2 PROCEDURES UPON DISCOVERY OF VIOLATIONS**

**8.2.1** If the City finds that any provision of this Land Use Code is being violated, the Code Enforcement Official shall send a written notice to the person 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 Code Enforcement Official's discretion.

**8.2.2** The final written notice (and the initial written notice may be the final notice) shall state what action the Code Enforcement Official intends to take if the violation is not corrected.

**8.2.3** Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Land Use Code or pose a danger to the public health, safety or welfare, the Code Enforcement Official may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 8.4 or 8.5.

### **8.3 PENALTIES AND REMEDIES FOR VIOLATIONS**

**8.3.1** Violations of the provisions of this Land Use Code or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits shall constitute a petty misdemeanor, punishable by a fine up to \$500, or a maximum of 90 days imprisonment, or both. (NMSA 1978, § 3-17-1).

**8.3.2** Any owner, or agent of the owner, of any land located within the City who transfers, sells, agrees to sell, or negotiates to sell the land by reference to or exhibition of or by other use of a plat or subdivision of the land before the plat has been approved and recorded, shall be guilty of a misdemeanor. Upon conviction, the owner or his or her agent shall pay a penalty of \$100 for each lot transferred or sold, or agreed or negotiated to be sold. The City may enjoin the transfer or sale or agreement by action for injunction or may recover the penalty by civil action. (NMSA 1978, § 3-20-14)

**8.3.3** A public utility company (water, sewer, electric or gas) that serves or connects land within an unapproved subdivision is guilty of a misdemeanor and the City may require the utility disconnected. (NMSA 1978, § 3-20-15)

**8.3.4** Each day that any violation continues after notification by the Code Enforcement Official that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this Section

### **8.4 PERMIT REVOCATION**

**8.4.1** A permit issued pursuant to this Land Use Code may be revoked by the City Council if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Land Use Code, or any additional requirements lawfully imposed by the City/ No person may continue to make use of land or buildings in the manner authorized by any permit after such permit has been revoked in accordance with this Section.

**8.4.2** Before a Conditional Use Permit may be revoked, the City Council shall comply with all of the notice and hearing requirements of Sections 6.2.9 and 6.2.10. The notice shall inform the permit recipient of the alleged grounds for the revocation.

**A.** A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.

**B.** The burden of presenting evidence sufficient to authorize the City Council to conclude that a permit should be revoked shall be upon the party advocating that position.

### **8.5 DECLARATION OF NUISANCE AND ABATEMENT**

Any building or structure constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Land Use Code and/or any use of any land, building or premises conducted, operated or maintained contrary to the provisions of this Land Use Code shall be declared to be unlawful and a public nuisance and the City Attorney shall, upon direction of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law.

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***FEES (to be considered in separate Resolution)***